

September 11, 2018

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Re: Comments of Career Education Colleges and Universities on the Proposed Rescission of the Gainful Employment Regulations (Docket ID ED–2018–OPE–0042)

Dear Secretary DeVos:

Career Education Colleges and Universities (“CECU”), a membership association of over 600 accredited postsecondary institutions offering career-related programs, respectfully submits comments in response to the request from the U.S. Department of Education (the “Department”) published in the *Federal Register* on August 14, 2018 (Docket ID ED–2018–OPE–0042).

We strongly support the Department’s proposal to rescind the Gainful Employment (“GE”) rule promulgated in 2014, including 34 CFR 668, subparts Q-R.¹ As we have contended for the better part of the last decade, the GE rule was a tool developed by the prior administration to fundamentally alter the historic and important role that proprietary institutions play in the American higher education system.² Construing just two ambiguous words in the Higher Education Act (*i.e.*, “gainful employment”), the Department constructed a complex and costly 845-page rule. The consequences of the rule disproportionately affect choice and access for millions of individuals seeking postsecondary career education, including minority, low-income, adult, and veteran students. We applaud the current administration for recognizing the GE rule is simply bad policy advanced by a hostile ideology that career and vocational programs should be held to a different accountability framework than traditional degree programs.

In the commentary to the proposed rule, the Department sets forth sound reasons for its decision to rescind the GE rule, including the flawed development of the debt-to-earnings (“D/E”) rates measure. The Department also recognized that substantial weight of the GE rule relies on cherry-picked research that was not appropriately used and the findings from which were not accurately represented during the development of the GE rule.³ We commend the Department for acknowledging the shortcomings in the GE rule and moving to correct these missteps before students and institutions are further harmed. The debate over the credibility of the calculations of

¹ 79 Fed. Reg. 64890 (Oct. 31, 2014).

² See generally: [Comments of the Association of Private Sector Colleges and Universities](#) on Program Integrity: Gainful Employment, 79 Fed. Reg. 16,426 (Mar. 25, 2014) [Docket ID ED2014-OPE-0039] (May 27, 2014), <https://www.regulations.gov/document?D=ED-2014-OPE-0039-1736>.

³ *Id.* at 52-53.

debt/earnings should have ended long ago! No objective person – even those advocating for some outcome metric for career programs – can defend those calculations. For example, two identical educational programs in content and cost would produce dramatically different results under the GE Rule; simply because of regional differences in wages for the same occupation.

We have always supported a common set of outcome metrics for all programs in all schools! But the basis for calculating those outcomes needs guidance from the Congress and further work from the Department in creating a fair set of such metrics. Until such time as there is universal consensus regarding the use of such metrics, we continue to believe that any new accountability framework that sets measures to determine institutional or program eligibility for title IV be left for Congress to decide.

The Department also requests comments on whether it should amend 34 CFR 668.14 to require institutions, as a condition of the Program Participation Agreement, to disclose on their program web pages and catalogues the following information:

1. net-price;
2. completion rates;
3. withdrawal rates;
4. program size; and
5. if applicable, whether the program meets the requirements for licensure in the State in which the institution is located, and whether it meets the requirements in any other States for which the institution has determined whether the program enables graduates to become licensed or work in their field.

Until such time as a policy consensus over outcome metrics is developed, we believe the first, important step, is moving towards the best possible transparency of program outcomes for all schools, and all programs. We support maximum disclosures for ALL institutions as a condition of Program Participation Agreements! But, we are not yet at the point where such disclosures should be used to determine eligibility for participation in title IV. We support disclosures on the program pages of an institution's website and in their catalogues. But we believe that a link to College Scorecard, or similar national website, for each program will allow for federal disclosures to be in one central location for ease of student use and comparisons.

Although not the subject of the proposed rule, the Department mentions its intent to update the College Scorecard, or a similar web-based tool, to provide program-level outcomes for all higher education programs at all institutions that participate in the title IV programs. Such outcomes information may include program-level earnings and debt. We fully support the Department expanding the focus of the College Scorecard to include program-level data as a way to increase transparency for all students and the public, as well as reduce the disclosure burden on institutions. We fully support maximum transparency across all programs at all institutions!

In our call for maximum transparency on all programs at all institutions, we also strongly recommend the use of one common federal standard of metrics. Otherwise such disclosures will only lead to further confusion. Additionally, we encourage the Department to avoid metrics that are not comparable due to differences in state and accreditor definitions. We also encourage the Department to focus on simple, easy-to-understand metrics for students; avoid confusing metrics with complex formulas.

This is an important moment for higher education. We can set aside the ideological and sector debates of the past and create the most comprehensive consumer information ever provided to current and prospective students. If we take such an important first step, the demand for consistency and clarity in defining such outcome metrics will increase. And then, over time, the Department, the Accreditors, and the schools will work together to resolve conflicts in definitions and calculations that produce a set of common outcome metrics universally supported by all. Then, and only then, can we consider what minimum outcomes should be required; and how do we best provide a set of risk-adjusted metrics that ensures continued access to all students.

Finally, this Department should be commended for advancing the most significant proposal by any U.S. Department of Education on complete transparency across all sectors of today's higher education programs. The proposal is universally fair and applies to all students and all programs – something that previous versions did not. When fully implemented, every student and every prospective student in America will know what to expect from the programs they are considering at any college or university. This may be the most significant consumer protection for students ever advanced at the federal level. We stand ready and willing to work with the Department, the Congress and all in higher education to achieve full implementation of such goals.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Gunderson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Steve Gunderson
President & CEO
Career Education Colleges and Universities