



April 22, 2024

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PRA Coordinator
Strategic Collections and Clearance Governance and Strategy Division
Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

RE: Docket No.: ED-2024-SCC-0030

Dear Ms. Mullan,

As president of the Association of Public and Land-grant Universities (APLU), I write in response to the Department of Education's request for comment on implementation challenges associated with the Gainful Employment (GE) and Financial Value Transparency regulations. As the Department of Education (ED) begins publishing guidance on the regulation, I urge your consideration of APLU's perspectives and an extension on the October 1 reporting deadline. APLU recommends improvements detailed in this letter to further an effective rule while minimizing the enormous administrative stresses that will ultimately impact not just institutions, but also the students they serve.

I note that the regulations come as campuses continue to grapple with the unprecedented challenges associated with the new FAFSA, new Title IX regulations with an August 1 implementation date, extensive Program Integrity and Institutional Quality regulations in the pipeline, uncertainty following ED's moves on Third Party Servicers guidance, delayed regulations across federal agencies such as the Department of Labor's updates to the Fair Labor Standards Act "overtime rule," and an active regulatory arena for public institutions at the state level.

APLU has a long history of support for a gainful employment regulation that holds applicable programs accountable for workforce outcomes given such programs are intended and designed to deliver short-term occupational outcomes. Similarly, we have strongly supported efforts to enhance available higher education data to inform students, families, and policymakers, and equip institutions with better information to assess their programs. We offer comments to strengthen the quality and useability of data to be published under the regulation while maximizing the efficiency of the data reporting process.

ED's recent announcement delaying the gainful employment and financial value transparency reporting requirements until October 1 is a positive first step to address enormous implementation challenges, and yet is inadequate in the current environment. As the Department rightfully notes in its press release, institutions need additional time to understand the regulation and create internal systems to collect and report this data. While ED has begun publishing policy and operational guidance, further resources from ED are needed for institutions to successfully implement this regulation. Beyond resources, institutions need time

to interpret the complex data requirements from the rule and build the infrastructure necessary to report timely, accurate, and reliable data.

While delaying the reporting deadline to October 1 allows ED additional time to provide guidance and definitions colleges and universities have requested, it does not provide institutions with significant additional time to implement the vast and complex regulations. For example, ED plans to send institutions the list of Title IV completers in July, but institutions then only have 60 days to make corrections to that list and, in some cases, just an additional 30 days to report private and institutional debt, tuition/fees assessed, and institutional grants for those students. We urge ED to explore further flexibilities on the reporting timeline for institutions and to expedite their own release of data definitions, processes, reporting tool, and Title IV completers list. Specifically, we request ED further extend the October 1 reporting deadline commensurate with the delays associated with the FAFSA and ensure institutions have ample time to collect new data elements upon their publication in the Federal Register.

In our [comments](#) on the proposed rule, APLU offered recommendations to ease burden on financial aid offices; enhance data quality and comparability of outcomes across programs; and strengthen the value of earnings data. I urge the Department to consider these previous recommendations alongside our responses to the questions for consideration provided by ED in its February 2024 request for comment.

Is this collection necessary to the proper functions of the Department?

As noted in our initial comments to the proposed rule, APLU believes ED should focus its efforts on using the robust information available on the College Scorecard and the Census Bureau's Postsecondary Employment Outcomes (PSEO) data to accomplish the regulation's intended outcomes on program-level accountability. ED should hold off on requiring and publishing new non-GE program data until the College Scorecard allows for the use of longer-term earnings data, which is a more appropriate measure for such programs. Additional requirements on data collection and reporting should balance the benefits of additional data and the resources needed for compliance. By improving upon existing data sources and tools, ED can accomplish a strong and effective gainful employment rule while minimizing substantial administrative challenges for institutions that are not commensurate with the value of the data returned for their efforts. As policymakers bemoan administrative expenditures in higher education, these are the exact kinds of regulations that require a shift of resources from student supports and towards regulatory compliance.

Is the estimate of burden accurate?

APLU believes ED underestimates the cost and challenge of implementation. ED's estimate of burden relies on the implementation of the 2014 gainful employment regulation. At that time, ED provided operational guidance to institutions five months ahead of the regulation's effective date, offering colleges and universities more time to plan and process data accordingly. However, ED still faced challenges in smoothly implementing the regulation and providing clear and concise support to institutions. Under the most recent iteration of the regulation, ED has both expanded the data requirements and not provided reporting guidance with similar lead time to enable colleges and universities to successfully implement the regulation. We caution ED

that prior experience implementing a different gainful employment regulation does not guarantee a successful implementation of this regulation under a condensed timeframe.

Additionally, APLU cautions this regulation places the most burden on financial aid offices currently stretched thin by ED's implementation of the Better FAFSA form and will require significant collaboration from departments across campuses. Institutions must devote substantial resources to understanding the impact of regulations on campus; identify staff in departments across campus responsible for collecting, collating, and reporting data; develop internal systems to collect and submit data; verify and clean collected data; and implement a workflow across campus to ensure these steps bring the institution into compliance with the regulation. The regulation requires the collaboration of institutional research, financial aid, information technology, and the registrar's office, among others, and requires the collection of data from multiple sources, such as the institution's student information system, veteran affairs and active service member enrollment management system, and the financial aid system. This is a tremendous undertaking of financial and human resources towards compliance with the regulation.

To provide one example of the burden placed on institutions, one comparatively better-resourced public research university in the Mid-Atlantic, convened a working group of 15 leaders across nine departments, including institutional research, enrollment management, academic technologies, and legal counsel, among others, to begin planning for institutional compliance with the regulation. The working group began meeting in fall of 2023 and has met monthly to process the impacts of the regulation. Members of the working group include vice presidents, deans, and staff-level technical experts. While similar arrangements of cross-campus collaboration can be found at public research universities across the country, we also know many public research universities, including 1890s land-grant institutions, lack the resources to organize collaborations of this level over months and are bogged down with FAFSA challenges. In fact, one smaller and comparatively less-resourced institution APLU contacted, was unaware of the substantial differences between the new regulation and the prior Gainful Employment rule in how it would require much more attention and work for the institution as it relates to non-GE programs. APLU is unable to calculate the enormous cost burden to institutions, but any estimate must account for the sizeable amount of time devoted to the regulation by senior leaders and staff across campus and impacts to the work that is not being accomplished due to the shift of resources to implementation of the regulation.

How might the Department enhance the quality, utility, and clarity of the information to be collected?

Reiterating our earlier comment, ED would vastly enhance the quality, utility, and clarity of collected data by providing institutions a list of data requirements, accompanied by clear definitions of which grants and loans are required to be reported and the students for whom data reporting is required as soon as possible. ED would further enhance the quality of collected data by providing institutions sufficient time following receipt of this information to implement the regulation.

In the absence of clear definitions from ED, institutions will make their best efforts at reporting data under definitions that may vary by institution. For example, one public research university

shared they consider a student “withdrawn” once the student is unenrolled for one semester. Another public research university considers a student “withdrawn” once they have remained unenrolled for two consecutive semesters, thus requiring the student to reapply to the institution. Without clear definitions from ED, institutions will report data according to their best understanding of definitions, leading to poor published data.

ED’s intention in collecting and publishing this data is to provide clarity and transparency to students and their families on outcomes and future earnings for various programs. In the absence of sufficient time to process technical requirements and develop accurate collection and reporting processes, data quality will suffer, limiting the utility of data to students, families, and institutions. A rushed data collection is a poor data collection.


ED should also provide institutions with a way to validate the calculated debt-to-earnings and earnings-premium metrics before it is used in the gainful employment certification process or released publicly. ED can accomplish this by sharing either the earnings data for the high school graduation cohorts to which program earnings are compared or the institution’s calculated debt-to-earnings and earnings-premium metrics along with data used in the calculation. Doing so would enable institutions to project their own metrics before certification and quickly validate ED’s methodology and calculations. At a minimum, given the high stakes nature of these metrics, ED must provide institutions a way to validate these derived variables following their calculation.

How might the Department minimize the burden of this collection on the respondents, including through the use of information technology?

Beyond providing detailed definitions of data elements and sending lists of Title IV recipient completers to institutions as soon as possible, ED can further minimize the burden of this collection by sharing clarifying information on the platform for reporting the data collected under this regulation. ED’s recent electronic announcement says institutions will report data to the National Student Loan Data System (NSLDS). However, only financial aid administrators have access to NSLDS. Institutional research offices, a key component in collecting, verifying, and cleaning the data for reporting, are unable to access this system. ED can ease the burden of this data collection by allowing institutional research offices, at a minimum, access to the portion of the NSLDS pertaining to gainful employment and financial value transparency data.

We thank you for consideration of APLU’s comments in response to the agency’s collection request. Please know APLU is eager to continue to serve as a resource.

Sincerely,



Mark Becker
President
Association of Public and Land-grant Universities