



# National College Access Network

*Building Connections. Advancing Equity. Promoting Success.*

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September 13, 2018

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

Re: Docket ID ED-2018-OPE-0042

Dear Secretary DeVos:

Thank you for the opportunity to respond to the Department of Education's proposed elimination of the existing Gainful Employment regulations. It is crucial that both students and the American taxpayers' dollars are safeguarded against the poorest quality institutions, and the complete rescission of the Gainful Employment regulation would run counter to this important objective. Consumer information, while a valuable addition that should be pursued, is not a substitute for accountability and will not, by itself, weed out the worst performers. It is paramount that the federal government maintain a measurement of gainful employment that includes loss of federal student aid eligibility. We urge you to withdraw this Notice of Proposed Rule-Making (NPRM) and maintain the existing rules in this area.

According to the Higher Education Act (HEA), in order to be eligible for Title IV funds under that law, an institution of higher education must provide an associate's or bachelor's degree, be accredited, and be a public or non-profit entity. There are two additional types of institutions that may be eligible to receive the Title IV federal student aid funding: proprietary institutions of higher education (which are neither public nor non-profit entities), and postsecondary vocational programs, which provide sub-associate level certificates. In order for any institution to retain its eligibility, it must "provide an eligible program of training to prepare students for gainful employment in a recognized occupation."<sup>1</sup>

The updated NPRM proposes to completely eliminate any definition of gainful employment to ensure compliance within section 102. The current measure of gainful employment enacted to regulate this portion of the law is the bare minimum needed to protect students from programs that will leave them worse off – such as having student loans without increasing earning potential – than they started, and could lead to irresponsible investment of taxpayer dollars into both Pell Grants and student loans that do not serve their intended purpose. A basic measure of accountability and quality control is necessary to protect students and taxpayers.

The proposed elimination of the gainful employment rule would greatly lessen the protections provided to students who are low-income or first in their family to go to college, students of color, and women. These subgroups are all least likely to have detailed information on college going and are over-represented at the institu-

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<sup>1</sup> Higher Education Act. Sec 102(b)(1)(A)(i) and Sec 102(c)(1)(A)



tions that currently must meet the gainful employment measure. Without the gainful employment metrics, which 803 programs failed last year, students and taxpayers will be vulnerable to these poor performing programs. Further, the Department's claim that this rule "could significantly disadvantage institutions or programs that serve larger proportions of women and minority students and further reduce the educational options available to those students" is careless. The Department is claiming that these students will have decreased access to postsecondary education if the gainful employment rule stays in effect, but "access" to a program that leaves a student in debt without the ability to earn what is needed to repay that debt is not access at all.

NCAN and our more than 475 members lead the college access field. Founded in 1995, NCAN's mission is to build, strengthen, and empower communities committed to college access and success so that all students, especially those underrepresented in postsecondary education, can achieve their educational dreams. With its members and partners, NCAN develops and supports programs and policy solutions that help more students aspire to, apply to, enter, and succeed in college or other postsecondary training. NCAN members work hard to help students make the best postsecondary education choice and rely on publicly available data from sources such as the College Scorecard. The proposal to add program-level earnings data to all programs on the Scorecard is a valuable one, particularly for counselors and advisors working with the populations previously discussed. However, given the 482-to-1 counselor to student ratio in high schools and the lack of supports for adult learners looking to return to school, information disclosures alone cannot protect our students or taxpayer dollars<sup>2</sup>.

Thank you for considering the position of college access providers from across the country who are working daily with low-income students, students who are first in their family to go to college, and students of color. If our country is to meet its economic goals, students who are new to postsecondary education should not be able to take their federal student aid dollars to programs known to leave students worse off than they started.

Sincerely,

A handwritten signature in black ink that reads "Kim Cook". The signature is written in a cursive, flowing style.

Kim Cook  
Executive Director

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<sup>2</sup> [https://www.schoolcounselor.org/asca/media/asca/Press%20releases/ASCA-Student-to-SC-Ratios-Press-Release-10\\_2017-Final.pdf](https://www.schoolcounselor.org/asca/media/asca/Press%20releases/ASCA-Student-to-SC-Ratios-Press-Release-10_2017-Final.pdf)