



April 15, 2024

Manager, Strategic Collections and Clearance
Governance and Strategy Division
U.S. Department of Education
400 Maryland Ave., S.W.
LBJ Building, Room 6W203
Washington, D.C. 20202-8240

Re: Gainful Employment/Financial Value Transparency Reporting Requirements
[ED-2024-SCC-0030-0001]

To Whom It May Concern:

Thank you for the opportunity to comment on the Department's proposed information collection request related to the gainful employment and financial value transparency regulations. These regulations are critical to ensuring higher education pays off, both for students and for taxpayers, and to providing high-quality information to prospective students so they can make informed decisions about where to go to college. While the current higher education system leaves students making decisions about whether and where to go to college largely without access to reliable information about their expected labor market outcomes, these regulations would ensure that students are not caught unaware by programs that leave them worse off than if they had never gone to college, or drowning in debt.

We are aware that the Department has announced plans to delay the implementation of these reporting requirements. However, we urge the Department to move as quickly as possible to issue this guidance, establish reporting systems, and develop the completer lists that will begin the process of gainful employment reporting on October 1. We especially urge the Administration to ensure that, even if reporting happens on a delayed basis, its timeline for producing data and beginning to hold programs accountable for the warning, attestation, and program eligibility requirements in the rules does not shift.

To ensure this overall timeline is able to remain on track, we believe it is essential that the Department issue robust and comprehensive guidance on the data elements to be reported via this information collection request. To that end, we propose several areas for clarification and improved guidance within the reporting items that will be required from institutions. In addition, we urge the Department to carefully consider comments submitted by the public that include requests for clarification, and to address those in the final information collection documents, too.

Our comments are divided into the same categories as the proposed information collection request, and draw on comments from the Department in the final regulations as well as past

guidance used to support the implementation of the 2014 gainful employment regulations, to provide additional feedback.

Annual Program Information

- The **six-digit Classification of Instructional Programs (CIP) code** used to identify academic programs is updated each decade, most recently in 2020. The Department should clarify whether institutions should report the program CIP code that was in effect for the year in which the student attended, or whether those codes should instead be provided for the most current CIP classification. (For instance, the Department should clarify whether a program offered in 2019 needs to be provided in accordance with the 2010 CIP codes that were in effect then, or whether the program should be reported in alignment with the 2020 CIP codes that are in effect today.)
- In addition to CIP codes, we recommend that the Department collect data on the primary occupations that the program prepares students to enter, as measured by the **Standard Occupational Classification (SOC) code**. This item is included in the final regulations as a data point that the Secretary may opt to include on the program information website (34 C.F.R. § 668.43(d)(1)(ii), and would necessarily be otherwise available to the Secretary. The current CIP-to-SOC crosswalk is available at <https://www.onetonline.org/crosswalk/CIP/>.
- With respect to **credential levels**, the Department should further clarify how institutions should expect to report those levels. For instance, based on other Department reporting, the following taxonomy might apply:
 - 01: Undergraduate certificate or diploma program
 - 02: Associate degree
 - 03: Bachelor's degree
 - 04: Post-baccalaureate certificate
 - 05: Master's degree
 - 06: Doctoral degree
 - 07: First professional degree
 - 08: Graduate/professional certificate
- The proposed information collection request calls for institutions to report both **whether the program meets licensure requirements (yes/no) and any states in the institution's metropolitan statistical area (MSA) in which the program does not meet licensure requirements**. However, it is unclear from the proposed

documentation how the initial question should be reported if the institution meets licensure requirements in any or most states, but not in all states, or not in all states within the institution's MSA. The specific reporting element in question (34 C.F.R. § 668.408(a)(iii)) specifically refers to "whether the program meets licensure requirements or prepares students to sit for a licensure examination in a particular occupation for each State in the institution's metropolitan statistical area." We recommend updating this reporting item to more specifically capture that intended reporting, with the yes/no element referring to meeting licensure requirements in all states in the institution's MSA, and the subsequent element referring to the states within the MSA in which the program does *not* meet licensure requirements.

More broadly, we urge the Department to consider how best to aid institutions in fulfilling this reporting requirement, which we recognize is not a straightforward question (even as it remains an exceedingly important one for students seeking employment in the field). If there are opportunities to directly collect these licensure requirements from states and publish them, and/or to work with outside organizations affiliated with states to do so, we urge the Department to do so.

- The **total number of students both taking and passing licensure exams** will provide important insights into the academic and workforce outcomes of a program's graduates. To ensure that this item represents the best available information for students and regulators, we encourage the Department to clarify that the data to be reported must include the most recent information available as of the reporting deadline. This will help to address possible timing mismatches between when the institution must report these data elements and when the data on licensure exam pass rates are made available by state boards or licensure exam entities.
- The Department seeks reporting on the **total number of enrolled students** in a program. However, it is unclear from the Department's language whether this should include students enrolled at all levels (e.g., freshmen, sophomores, juniors, and seniors in a bachelor's degree program), or only those students who are expected to graduate in that year (e.g., only those seniors). We urge the Department to confirm the definition it intends institutions to use for this reporting item.
- The Department includes some information in its proposed information collection request regarding **qualifying graduate programs**, which require additional post-graduate training such as a medical residency. However, the final gainful employment and financial value transparency regulations include considerably more guidance about these fields, which we recommend the Department incorporate into its final information collection request. Specifically, the final rules specify that such programs

will be in the fields of medicine, osteopathy, dentistry, clinical psychology, marriage and family counseling, clinical social work, and clinical counseling; and that such programs qualify only if the institution attests that at least half of the graduates of the program obtain licensure in a state where the postgraduation training requirements apply. The Department also notes that these fields are subject to change in the future. To facilitate institutional understanding and inform the field as fulsomely as possible, the Department should incorporate this and any other applicable guidance into the explanation of qualifying graduate programs in the final information collection request. Additionally, the Department may need to incorporate the institutional attestation as a separate data element, unless it intends to instead incorporate that requirement via a different process.

Annual Student Information for All Enrolled Students

- A longstanding area of complication in gainful employment reporting relates to the treatment of **students who enroll in two or more programs** at the institution during the reporting period. In the past, the Department has clarified that “a student in more than one GE program must be reported separately for each of those programs.”¹ Similarly, the Department previously allowed that a student enrolled in more than one educational program could be reported with private loan or institutional debt amounts “attribute[d]... evenly among the GE programs or [based on] the actual amounts applied to each GE program.”² These clarifications would be helpful to provide to institutions, to the extent still applicable, in the final information collection request.
- The Department notes that institutions must flag **whether their reporting will be under the standard or transitional method(s)**, in which the transitional reporting allows institutions to report many of its data elements for only the two most recently completed award years, so that their financial value transparency metrics will be calculated using more recent information than would be the case under standard reporting. However, this data element is listed under the student-level flag. We note that the regulations suggest institutions must decide how to report their data for *all* Title IV-participating programs, and that reporting may not vary on a program-by-program – or student-by-student – basis. It is unclear to us whether this reporting is appropriately listed under the “annual student information for all enrolled students” reporting category, as opposed to under “annual program information” or via a

¹ “NSLDS Gainful Employment Guide,” 1.3.1, page 9, U.S. Department of Education, available at: <https://fsapartners.ed.gov/sites/default/files/attachments/nsldsmaterials/NSLDSGainfulEmploymentUserGuide.pdf>.

² “Gainful Employment Frequently Asked Questions,” R-Q14, U.S. Department of Education, available at: <https://fsapartners.ed.gov/knowledge-center/faqs/gainful-employment-frequently-asked-questions>.

different (institution-level reporting) process.

- The Department appropriately included a **flag for students who are enrolled in programs that are considered Comprehensive Transition and Postsecondary (CTP) programs**, given that such students are excluded from the debt-to-earnings and earnings premium calculations (34 C.F.R. §§ 668.403(e)(6) and 668.404(c)(6)). However, we note that there is no flag required for students enrolled in approved prison education programs, though such students are similarly excluded from the measures (34 C.F.R. §§ 668.403(e)(5) and 668.404(c)(5)). This may be because student-level reporting is already required under a separate information collection request, but we note the omission in case it is an oversight. We also recommend that the Department confirm whether it will require additional reporting to identify students who enroll in a higher credential level program or who were enrolled full-time in any other eligible program during the earnings year, or whether it will use existing administrative data to confirm those statuses, as both are also considered students excluded from the gainful employment and financial value transparency measures.
- The proposed information collection request includes reporting on the **program attendance status of students throughout the year**. However, the Department should further clarify how institutions should define a student who completed a program, given its import in determining which students are included in the measure. For instance, the Department has previously clarified that “A student is considered to have completed an educational program when the student has satisfied all of the academic requirements of the program, regardless of whether the degree, certificate, or other institutional credential has been awarded to the student.”³
- The Department seeks to collect data on **institutional grants and scholarships** awarded to students. However, it does not provide sufficient guidance for institutions seeking to assess this reporting. Consistent with the definition in the final gainful employment and financial value transparency, the Department should further clarify in the final information collection request that “typically, an institutional grant or scholarship includes a grant, scholarship, fellowship, discount, or fee waiver.”⁴
- A frequent point of confusion for institutions has been around how institutions should report **private education debt** – particularly when the debt is acquired outside of the

³ “Gainful Employment Frequently Asked Questions,” G-Q10, U.S. Department of Education, available at: <https://fsapartners.ed.gov/knowledge-center/faqs/gainful-employment-frequently-asked-questions>.

⁴ 34 C.F.R. § 668.2, definition of “institutional grants and scholarships.”

institution and without the necessary self-certification form. However, the Department has provided considerable guidance on this debt in the past, including in the final regulations. We urge the Department to include reference to that guidance here, in order to provide more clarity to institutions of higher education. For instance, the proposed definition should further clarify that private education loans are defined at 12 C.F.R. § 226.46(b)(5), and include “loans made expressly for educational expenses by financial institutions, credit unions, institutions of higher education or their affiliates, and States and localities.”⁵ Institutional debt, which should also be reported by institutions, includes “any loan, extension of credit, payment plan, or other financing mechanism that would otherwise not be considered a private education loan but that results in a debt obligation that a student must pay to an institution after completing the program.”⁶ As noted in the final regulations, private education loans include those “of which the institution is aware (including those made by an institution).”⁷

Completed or Withdrawn Student Information

- Consistent with the above comment on private education debt, we recommend providing additional clarity on the definitions of **total private and institutional debt amounts for enrollment in the program**. These clarifications should include reference to the private and institutional loan definitions, as well as note that private education loans should encompass all those of which the institution is aware.

Thank you for your consideration of these comments. If you have additional questions, please do not hesitate to contact us.

Sincerely,

Kelly McManus
Vice President of Higher Education

⁵ “Gainful Employment Frequently Asked Questions,” D-Q3, U.S. Department of Education, available at: <https://fsapartners.ed.gov/knowledge-center/faqs/gainful-employment-frequently-asked-questions>.

⁶ Ibid

⁷ 88 Fed. Reg. 70066