



Ms. Hilary Malawer
U.S. Department of Education
400 Maryland Avenue, S.W.
Room 6E231
Washington, D.C. 20202

RE: Comments on ED-2017-OS-0074

Dear Ms. Malawer:

Thank you for the opportunity to comment on regulations that may be appropriate for repeal, replacement, or modification under Executive Order 13777, “Enforcing the Regulatory Reform Agenda.” Higher Learning Advocates is a 501(c)(3) nonprofit organization based in Washington, D.C. that supports and advances policy changes to increase postsecondary attainment, specifically policies that support a system of higher learning that is student-centered, equitable, outcomes-based, and focused on educational quality. Higher Learning Advocates is a proponent of smart regulations that fit together to improve outcomes—including completion, employment, equity, and value—for today’s students in our postsecondary system. Higher Learning Advocates believes the U.S. Department of Education (the Department) should use this opportunity to holistically review and consider how its array of regulations and requirements work to advance student outcomes in postsecondary education.

General Comments

Today’s Students

As part of this regulatory review and future rulemakings, we encourage the Department to recognize the many ways in which today’s students attend college and access federal financial aid. Thirty-eight percent of today’s students are older than 25; 58 percent are working while in college; and 26 percent are parents of dependent children. Today’s students are more likely to attend part-time, and some are returning to college for retraining after years in the workforce. As such, regulations should meet this new reality and should support institutions in modifying and evolving program offerings and student supports to ensure the success of today’s students.

Streamlining Regulations

As the Department is undertaking important steps regarding regulatory action and review, Higher Learning Advocates believes the Department should use this opportunity to consider ways to reduce the complexity and confusion created by regulations, especially at a time when the Administration has proposed a decrease in resources for the Department. Streamlining and reducing the complexity of regulations may reduce challenges facing today’s students, such as simplifying the Free Application for Federal Student Aid (FAFSA) and timely loan forgiveness during Borrower Defense to Repayment claim processes.

Common Metrics and Definitions

As part of your examination, significant consideration should be given to how different requirements and metrics work with one another. For example, various Departmental reporting mechanisms use different timeframes for completion (*i.e.* 100, 150, or 200 percent of time) interchangeably. The lack of standardization leads to confusion and doubt about the validity and accuracy of federal data, increases burden on institutional reporting, and decreases the usefulness of information for students, families, and other consumers. To ensure compatibility and harmony across postsecondary data systems, Higher Learning Advocates believes the Department should align common metrics and definitions across regulations.

Gainful Employment, Data Improvements

Higher Learning Advocates believes it is critical that all institutions of higher education (IHEs)—public, nonprofit, and for-profit alike—work to protect today's students from fraud and misrepresentation. Higher Learning Advocates supports the original intent of the Gainful Employment regulations, but has recommendations for modifications that will benefit today's students.

Currently, federal postsecondary data systems lack common metrics and definitions and exclude meaningful data on today's students and therefore provide misaligned and incomplete information. Higher Learning Advocates believes the data required under the Gainful Employment regulations have been an improvement upon prior data collection and have been useful for today's students, institutions, and policymakers. For example, additional data and context provided under Gainful Employment's debt-to-earnings ratio requirements helps institutional leaders make informed decisions on whether to expand programs with favorable ratios or cut programs with unfavorable ratios. Additionally, the earnings data collected and reported under Gainful Employment is a vast improvement over currently reported earnings data and should be used as an example for how graduates' earnings can be securely and accurately reported to inform prospective students, policymakers, institutions, and taxpayers about the return on investment for programs at IHEs. Higher Learning Advocates believes the Department should preserve and build upon outcomes-based, program-level postsecondary data collection during negotiated rulemaking and when proposing future regulatory requirements.

Regulations to Repeal

Higher Learning Advocates believes the Department must place a greater emphasis on smart regulations that fit together to ensure student success and should reform and eliminate regulations that are unrelated to student success and safety. Some existing higher education requirements—such as having to register with the Selective Service, prohibitions on receiving student aid for those with a drug conviction, bans on illegal file sharing and foreign gifts, and mandatory vaccination policies—are statutory rather than regulatory. Therefore, the Department should work with Congress to streamline or repeal them and continue to focus regulations on student outcomes.

Regulations to Modify

Borrower Defense to Repayment, Repayment Rate

Higher Learning Advocates believes the loan repayment rate disclosure requirements under the current Borrower Defense to Repayment regulations are an important step toward enhanced

consumer information and transparency for postsecondary education, and the concept should be maintained when the Department re-regulates on this matter in the upcoming negotiated rulemaking. However, we recognize the current repayment rate calculations might not adequately account for income-driven repayment (IDR) programs, in which some borrowers are not reducing their loan principal, creating an inaccurate loan repayment rate for some IHEs. We urge the Department to address this reporting issue while also continuing to work with Congress to examine the best loan repayment structure for borrowers and taxpayers.

Accreditation

Our current postsecondary quality assurance system, including the accreditation system, is in need of review to ensure that students, and their outcomes, are at the center. Accreditation processes and requirements focus excessively on institutional operations and compliance, instead of validating high-quality learning and desirable outcomes – including degree completion, employment, equity, and value. The Department should examine current accreditation regulations and recognition processes and move to align them with quality, rather than compliance, and make clear the potential for use of differentiated accreditation.

Innovation

According to Lumina Foundation, research shows 87 percent of Americans think students should be able to earn college credit for previously-acquired knowledge and skills, and fully 72 percent would be more likely to enroll in a higher education program where they would receive credits for prior knowledge.¹ The Department has made strides to allow for innovative delivery models, such as competency-based education (CBE), in recent years. Higher Learning Advocates urges the Department during its regulatory review to examine and strengthen any requirements – including regular and substantive interaction and credit hour regulations – that interact with innovative delivery models, in an effort to make such models more widespread while maintaining quality protections for students.

Voter Registration

As you know, Section 487(a)(23) of the Higher Education Act requires colleges to make a “good faith effort” to make voter registration forms “widely available” to their student population. Higher Learning Advocates believes in the value of promoting civic engagement, including voter registration promotion on campus, and asks the Department to work with Congress to make voter registration regulations more clear and effective for institutions and students.

Verification of Eligibility

According to the National College Access Network (NCAN):

“In 2015-16, just 56 percent of Pell-eligible students who were selected for verification went on to receive a Pell Grant. Using the proportion of Pell-eligible students overall who were selected and the overall Pell Grant receipt rate among Pell-eligible students, we can determine that 78 percent of Pell-eligible students *not* selected for verification later went

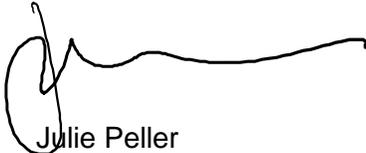
¹ <https://www.luminafoundation.org/files/resources/americas-call-for-higher-education-redesign.pdf>

on to receive a Pell Grant. The 22 percentage-point difference in Pell Grant receipt between those selected and not selected for verification is troubling.”²

Higher Learning Advocates believes the Department should work to update the verification process for Pell eligibility to ensure it does not disproportionately affect low-income students, is easy to understand and navigate, and requires documentation that is easy to obtain.

We thank you in advance for your review and consideration of our comments. To request further information, please contact our Policy and Advocacy Director, Emily Bouck, at ebouck@higherlearningadvocates.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Julie Peller', with a long horizontal flourish extending to the right.

Julie Peller
Executive Director

² <http://www.collegeaccess.org/BlogItem?dg=d6aa53e6-65a1-4c46-a4f3-2a6f64614482>