



Joe Massman and Vanessa Gomez
Office of Postsecondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington DC 20202

Dear Mr. Massman and Ms. Gomez,

Thank you for the opportunity to comment on the Department of Education's (ED's) Notice of Proposed Rulemaking (NPRM) on Gainful Employment (GE) and Certification Procedures. We urge you to give further thought to applying the earnings premium metric proposed in the gainful employment portion of this NPRM before issuing a final rule that includes such policy and to delay any action impacting state reciprocity agreements until the upcoming negotiated rulemaking.

Higher Learning Advocates (HLA) is a non-profit advocacy organization working to shift federal policy from higher education to higher learning—education and training beyond high school that leads to a degree, credential, or employment. HLA advocates for policies and supports programs that ensure opportunity and promote inclusive pathways for today's students to succeed through an equitable system of higher learning, employment, and economic mobility.

First, as ED seeks to regulate the areas we are commenting on and other issues in this NPRM, **we urge ED to prioritize today's students' interests**. Too often, higher education policy does not adequately consider the needs of the student that is increasingly attending postsecondary education institutions – an adult student that is more likely to be working and raising a family, possibly as a single parent, than students of years past. Ensuring that student aid and other higher education programs operated by ED work for this population is critical as we seek to maximize outcomes and minimize time to degree.

Second, we appreciate that ED is moving forward with implementing the GE regulation. The regulation will ensure that Title IV aid does not go to programs that leave students with high debt and insufficient earnings and skills. For today's students, who often sacrifice hours at work or time with their children to better their life through higher learning, the time and effort they put into their education must leave them better off than before they started their program. **For these reasons, we strongly support ED**

moving forward with the debt-to-earnings metrics and the accompanying accountability provisions in a final rule.

While we empathize with ED's goal of requiring all programs at for-profit institutions and certificate programs at all other institutions to have the completers earn a salary above the average high school graduate in the state they are located, we are concerned that the measure does not adequately consider the different economic circumstances across a state. Something ED, in part, recognizes in the preamble to the NPRM. Many states have large urban areas associated with higher wages/expected earnings and rural areas with lower wages/expected earnings for in-demand occupations. Some occupations considered "in-demand" include CNAs and childcare workers. These are essential occupations in our society for which individuals are better off being trained under the auspices of the Title IV regulatory environment than other non-regulated providers that will undoubtedly "pop up" to fill the gap in training providers.

Therefore, **we urge ED to consider the following recommendations to strengthen the final intended outcomes.**

1. Broaden its perspective beyond state-level medians and instead consider using median earnings at the county or regional level. This approach would accurately represent economic disparities within a state, particularly in metropolitan areas where wages can significantly differ from rural areas.
2. Implement a dual metric system and require programs to meet either an earnings threshold or a wage progression metric. Individually, the wage progression metric and the bright-line earnings threshold are limited. On its own, the earnings threshold metric fails to address earnings disparities based on race, ethnicity, and gender, overlooks the lower earnings of part-time workers, and does not account for actual wage growth within a cohort. It struggles to assess return on investment accurately and disproportionately places programs in rural areas or those serving a higher proportion of women and students of color at a disadvantage. By adding a wage progression metric, low-earning programs that can show gains for its students can demonstrate programmatic value.

By considering median earnings at a more localized level and adopting a dual metric system, the Department of Education can enhance the accuracy and fairness of the rule. These adjustments would provide a more comprehensive evaluation of program outcomes and ensure that programs catering to diverse populations are not unfairly penalized.

Third, **concerning the changes made to certification procedures, we urge ED to forgo including section 668.14(b)(32) regarding the applicability of state consumer protection laws and include it and related matters as a topic for discussion in ED's next negotiated rulemaking effort.** We are concerned about the impact of this new provision that would allow states to apply consumer protection laws to out-of-state institutions. While we agree with ED's reasoning to ensure that federal student aid is spent efficiently and that students are protected, this rule will undermine the state reciprocity agreements under the National Council for State Authorization Reciprocity Agreements and the four regional compacts. We believe this regulatory change is better determined in the next negotiated rulemaking effort when ED will have the relevant stakeholders at the table to discuss the implications and impacts of such a rule.

We urge ED to consider HLA's recommendations so today's students can have as many opportunities as possible, while protecting them from low-quality programs. HLA stands ready to work with ED to address our concerns. Thank you for your consideration of our views.

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
Higher Learning Advocates