United States Senate

WASHINGTON, DC 20510

February 10, 2023

U.S. Department of Education
Office of the Under Secretary
400 Maryland Ave., SW
Washington, D.C. 20202

RE: Docket ID # ED-2022-OUS-0140

Dear Under Secretary Kvaal:

We write in response to the U.S. Department of Education's ("Department") request for information (RFI) regarding public transparency for low-financial-value postsecondary programs. As the Department rightfully points out, there are postsecondary programs that saddle students with unaffordable debt and provide low financial returns. While we recognize a postsecondary education also provides many non-financial benefits, we share the Department's concern about the impact that low-financial-value programs have on students and taxpayers, and we believe it is important to consider multiple measures in identifying such programs.

At a time when tuition consistently has been increasing and need-based federal student aid has declined in purchasing power, students have increasingly had to incur student loan debt to pursue their postsecondary education.[1] Research published prior to the COVID-19 pandemic indicates that, while the income benefits associated with a college degree remain positive, declines in the wealth gains associated with receiving a degree have deepened, particularly among families with a non-white head of household.[2] The pandemic has created particular challenges for students and borrowers; projections show that disparities in student loan debt outcomes may have been exacerbated during the emergency and possibly could widen after the suspension of federal student loan payments, interest, and collections ends.[3] Defaulted borrowers, in particular, will face significant challenges. This will have major implications for racial equity given that Black borrowers' default rates remain higher than those for their peers.[4] Concern over the value that higher education provides also will have implications for enrollment in higher education. Public opinion research shows that a postsecondary education is becoming less attractive to adult Americans, in part due to high costs and debt loads.[5]

We applaud the Department's sweeping efforts to deliver on and expand relief to borrowers through both temporary and lasting reforms to the student loan system—including its recent proposed rule to improve income-driven repayment so that all borrowers may have access

[1] Table 330.10 – National Center for Education Statistics and College Affordability Gap Grows for Students from Low-Income Backgrounds - National College Attainment Network
[2] Is College Still Worth It? The New Calculus of Falling Returns – Federal Reserve Bank of St. Louis
[3] Student Loan Repayment during the Pandemic Forbearance – Federal Reserve Bank of New York
[4] The Continued Student Loan Crisis for Black Borrowers – Center for American Progress
[5] America's Hidden Common Ground on Public Higher Education: What's Wrong and How to Fix It – Public Agenda

to an affordable monthly payment.[6] However, as the Department notes in its request for information, this does "not address the underlying problems stemming from the high prices charged by some institutions and low graduation rates across postsecondary education over the last few decades."[7] The combination of high tuition prices and low graduation rates can culminate in unaffordable debts, causing borrowers to default on their loans, and loan default rates are not equal across different postsecondary industries. For example, the cohort default rates in 2018 for public institutions, private nonprofit institutions, and for-profit institutions were 7 percent, 5.2 percent, and 11.2 percent respectively.[8] Low-performing institutions must be held accountable, and the Department plays an important role in informing borrowers as they decide where to enroll.

Therefore, we believe it is critical for students, families, and student support professionals like school counselors to have easy access to information indicating which institutions set high tuition rates, enroll students in low-quality programs with little payoff, and capture large amounts of federal student aid while failing to produce student outcomes. The Department should consider a variety of measures and metrics presented together to help achieve this goal.

For example, a debt-to-earnings metric and a measure of programs that lead to low wages for graduates, presented alongside other data such as degree type, would help identify programs where research shows high indebtedness and low value are particularly concentrated, such as career education programs and certain graduate programs.[9] The Department also could consider incorporating measures of institutional inputs, such as previous receipt of grant funding key for student success, to account for under resourced public institutions or minority-serving institutions that tend to do more for students with fewer resources.[10] This could include whether an institution is designated a minority serving institution or received a Strengthening Institutions, Child Care Access Means Parents In School, or Basic Needs grant prior to the RFI.

While we share the Department's commitment to providing high-quality and critical information with students and families to help inform their decision-making about higher education, we urge the Department not to stop there. Disclosures cannot and must not replace or supplant other quality assurance policies and oversight responsibilities over bad actors in higher education. The Department's efforts to (1) regulate the closing of the 90/10 loophole; (2) reestablish and strengthen the Office of Federal Student Aid's Enforcement Office; (3) process backlogged borrower defense claims; (4) issue and recoup liabilities from the institutions that engaged in misrepresentations; (5) enforce program integrity rules; and (6) exercise its full oversight responsibility over accreditation matters all must remain a top priority for the Administration.

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[6] New Proposed Regulations Would Transform Income-Driven Repayment by Cutting Undergraduate Loan Payments in Half and Preventing Unpaid Interest Accumulation – U.S. Department of Education.

[7] Request for Information Regarding Public Transparency for Low-Financial-Value Postsecondary Program – Department of Education

[8] Table 332.50 – National Center for Education Statistics

[9] What Will Happen If We Reintroduce the Gainful Employment Rule – Third Way and Master's Degree Debt and Earnings: New Federal Data Exposes Risk for Students and the Government – Urban Institute

[10] Historically Black Colleges and Universities – Postsecondary National Policy Institute (PNPI)

To further ensure institutions are held accountable, we support the reinstatement and strengthening of the forthcoming proposed gainful employment rule to ensure career education programs at for-profit and non-degree institutions lead to a job in a graduate's field and allow a graduate to repay their student loan debt. We urge the Department to take immediate action to publish and implement the rule as soon as practicable to ensure harmful actors are held accountable for enrolling students into low-quality programs.

We also are concerned about the rise in high-priced graduate programs where students are unlikely to recoup the costs in the labor market after graduation. [11] These problems have been exacerbated by the proliferation of online program management companies (OPMs) that may receive half or more of the tuition revenue from the programs they operate on behalf of public and private non-profit colleges, with little oversight of their practices and outcomes.[12] While women, Black, and Latino adults disproportionately need a graduate degree to be able to receive pay akin to less-educated men and white individuals respectively, too many colleges have taken advantage of that reality to offer even higher-cost and lower-value programs.[13] The Department should take steps to hold institutions and OPMs to high standards of transparency, responsible recruitment, and fair prices, promoting more equitable access to postsecondary education for students.

The Department has committed to requiring improvement plans from institutions with postsecondary programs that are found to have low-financial-value. In addition to the Department's oversight responsibilities, we urge the Department to take enforcement measures, including adding conditions to an institution's Program Participation Agreement or providing the Department with a letter of credit, when a program fails to meet its goals outlined in its improvement plan. Thank you for your consideration of our comment.

Sincerely,

Richard J. Durbin
United States Senator

Bernard Sanders
United States Senator

[11] Graduate School Debt – Center for American Progress
[12] Higher Education: Education Needs to Strengthen Its Approach to Monitoring Colleges' Arrangements with Online Program Managers – U.S. GAO.
[13] Graduate School Debt - Center for American Progress

Christopher S. Murphy
United States Senator

Tina Smith
United States Senator

Elizabeth Warren
United States Senator

Richard Blumenthal
United States Senator

Chris Van Hollen
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Ron Wyden
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