VETERANS EDUCATION SUCCESS®

February 10, 2023

Jean-Didier Gaina
U.S. Department of Education
400 Maryland Ave. SW, Room 2C172
Washington, DC 20202

RE: Docket ID ED-2022-OUS-0140
Document Citation: 88 FR 1567
Document Number: 2022-28606

Dear Mr. Gaina,

I write to submit comments on behalf of Veterans Education Success in response to the Department of Education's Request for Information (RFI) Regarding Public Transparency for Low-Financial-Value Postsecondary Programs, published in the *Federal Register* on January 11, 2023. Veterans Education Success is a nonprofit research, policy, and student veteran advocacy organization. We work on a bipartisan basis to advance higher education success for veterans, service members, and military families, and to protect the integrity and promise of the GI Bill® and other federal postsecondary education programs.

Background

We applaud and appreciate the series of student and borrower protection actions that the Department has already implemented under Secretary Cardona's leadership. These have included internal operational and management improvements as well as significant regulatory changes to better protect borrowers and impose greater accountability on participating institutions. These actions have brought billions of dollars in relief for victims of fraud and institutional closures, while strengthening institutional oversight. In addition, we support the Department's ongoing efforts to improve institutional integrity through pending regulations and more robust enforcement. We also particularly support the Secretary's efforts to create affordable and humane Income-driven repayment (IDR) pathways for students who had to borrow to participate in higher education. The proposed framework will prove life-changing to those individuals, their families, and their communities. The leniency that the Department seeks to extend to borrowers, however, will be susceptible to abuse by unscrupulous schools, which may view it as a green light to maximize borrowing by their students while shortchanging them on the quality of the educational services they offer. As the RFI states:

> Although the affordable monthly payments on IDR plans provide a critical safety net to borrowers, they do 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.

The RFI more pointedly articulates the specific unintended consequence of the proposed IDR option in explaining its interest in defining "low-financial-value" programs:

> Moreover, IDR plans can transfer some of the cost of financing a low-financial-value postsecondary program to taxpayers through debt forgiveness. The goal of the IDR program is to reduce the burden of loans for low- and middle-income borrowers, not to subsidize programs that fail to help many of their students graduate and achieve their goals.

Transparency is not a substitute for effective gatekeeping

While we certainly support the publication of *post-facto* programmatic outcomes such as those contemplated in the RFI, it is important to note that neither a published list nor an exchange of letters with institutions should be viewed as an effective alternative to robust upfront gatekeeping. It is far better to keep shoddy and overpriced programs out of the federal financing system than to allow them to proliferate and fester, only to warn prospective students of their unacceptable outcomes or extract nebulous promises of improvements from the institutions marketing them. We acknowledge the significant steps that the Department has already taken to improve institutional and programmatic accountability, but believe that much more can and should be done through improved regulations and more robust enforcement to keep predatory providers and overpriced and subpar programs out of the federal student aid system. In particular, we urge long-overdue enforcement of the Department's standards on substantial misrepresentations.

Meaningful information about financial outcomes

Even as we emphasize the urgent need for stronger gatekeeping, we agree that accessible and meaningful outcomes data would prove enormously helpful not only to prospective students, but also to the Department, state agencies of jurisdiction, and accreditors in the discharge of their respective oversight responsibilities. We therefore support the Department's continued exploration of the criteria it may use to define "low financial value."

As it continues to develop a framework for the task, we would encourage the Department to maximize the use and analysis of available data, appended with a minimized set of truly necessary new data elements that would add greater granularity or meaning to the vast amount of information already collected. As the holder of their loans, for example, the Department has access to repayment information for all Direct Loan borrowers. While the College Scorecard uses these data to provide some broad indications of *institutional* repayment patterns, we believe the data could be disaggregated at various sub-institutional levels (at the broad division or more specific programmatic levels, as well by completer/non-completer status). In addition, the Department could explore more graduated indicators of repayment than those currently captured in the Scorecard by replacing the overbroad categories of "Making progress/Not making progress" with more meaningful dollar amounts of each institutional division or program's aggregate loan portfolio performance. In general, greater disaggregation, for example, by credential level, would yield more meaningful information while adding to both complexity and to data-disclosure limitations associated with small enrollments.

We would encourage this same narrowing of focus on divisions and programs at institutions for other data currently reported through the College Scorecard. Depending on availability and practicality of generating such outcomes measures in a sufficiently uniform manner, a subset of financial indices—e.g. ratios of divisional/programmatic median earnings to tuition or divisional/programmatic portfolio performance—could then be used to rank outcomes, the lowest of which below an empirically defined threshold could be defined as generating low financial values.

Public dissemination

As noted above, we believe the primary benefit of generating the list would accrue to the Department and other regulatory and oversight agencies tasked with protecting students and preventing institutions from generating externalities at the expense of the taxpayers. Incorporating the data into a public platform such as the Scorecard would significantly improve the latter's utility to prospective students and to other college-search entities as well as to the media and the policy community. We would also support an active mandate on institutions marketing such programs to prominently feature and actively distribute specifically worded warnings about their programs in all marketing, advertising, and recruitment efforts. Despite this, it is important to acknowledge the numerous ways in which institutional marketing and face-to-face pitches to prospective students can neutralize even the strongest warnings.

Institutional responsibilities

The RFI indicates that the Department intends to communicate with institutions that offer low-financial-value programs to elicit information about their plans to improve the outcomes of said programs. We view such a perfunctory exchange of letters and the submission of a plan to be so ineffective as to border on meaningless. Instead, we urge the Department to exercise its existing statutory authority regarding Secretarial recognition of accrediting agencies to create real incentives and meaningful consequences for institutions that market programs generating unrepayable debt and low financial returns. Under existing statutory authority, the Department should mandate an accreditation review of such institutions. In addition, we urge regulatory changes to the recognition process to require accreditors to determine, as part of this review of low-financial-value programs, whether institutions marketing these programs are spending an adequate share of programmatic tuition revenues on instruction and support services for enrolled students. Accreditors that prove unable to arrive at an affirmative finding should be required to initiate a process of withdrawing institutional accreditation as a condition of being recognized as reliable authorities by the Secretary. We would also call for more direct Departmental oversight of institutions marketing low-financial-value programs through compliance audits and imposition of appropriate new restrictions on the terms of their participation in Title IV programs.

We appreciate the opportunity to provide comments on this important topic and urge the Department to continue its efforts to improve institutional accountability as well as transparency.

Sincerely,

Barmak Nassirian
Vice President for Higher Education Policy