



## State of New Jersey

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July 1, 2021

Attn: Vanessa Gomez, U.S. Department of Education  
400 Maryland Avenue, S.W., Room 2C179  
Washington, DC 20202-1100

Re: Written Comment: Rulemaking for Higher Education Public Hearing: Docket ID ED-2021-OPE-0077

To Whom it May Concern:

The State of New Jersey's Office of the Secretary of Higher Education (OSHE), the Division of Consumer Affairs (DCA), and the Higher Education Student Assistance Authority (HESAA) offer these comments in response to the recent Federal Register notice from May 26, 2021, soliciting input on various regulatory topics, including potential approaches the U.S. Department of Education could take to define what it means for a program "to prepare students for gainful employment in a recognized occupation." Higher Education Act of 1965 § 102(b)(1)(A)(i) & (c)(1)(A), 20 U.S.C. § 1002(b)(1)(A)(i) & (c)(1)(A). The State of New Jersey is grateful for the opportunity to address the U.S. Department of Education's Office of Postsecondary Education on the need to reinstate the Gainful Employment (GE) regulations and to strengthen student and family borrower protections.

The 2019 repeal of the 2014 GE rule<sup>1</sup> opened the door for unscrupulous for-profit colleges to take advantage of students with deceptive recruiting tactics, high tuition rates, and low-quality programs.<sup>2</sup> Now, more than ever, we are concerned that the repeal of the 2014 GE rule and the national growth in for-profit enrollment<sup>3</sup> during the COVID-19 pandemic will fuel a rise in predatory practices. We are determined to protect New Jersey students as the State pursues an ambitious 65X25 goal of ensuring that 65 percent of its adult residents have a postsecondary credential by 2025, a goal designed to guarantee the future prosperity of the State's workforce and economy while addressing equity gaps in educational attainment.

Protecting the substantial investments of both time and money that students make in postsecondary education is crucial. A college credential or degree is vital for achieving economic mobility, and an

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<sup>1</sup> For more information, visit <https://www.federalregister.gov/documents/2019/07/01/2019-13703/program-integrity-gainful-employment>

<sup>2</sup> The Institute for College Access & Success. (2021). Why Students Need a Strong Gainful Employment Rule. Retrieved from <https://ticas.org/wp-content/uploads/2021/02/Why-Students-Need-a-Strong-Gainful-Employment-Rule.pdf>

<sup>3</sup> National Student Clearinghouse. Fall 2020 Undergraduate Enrollment Down 4% Compared to Same Time Last Year. October 15, 2020. <https://bit.ly/3qhQEkC>.

estimated two-thirds of jobs in the United States require at least some postsecondary education.<sup>4</sup> Obtaining a college credential is especially critical in the current economic climate, where many students are looking to retrain and reenter the workforce, including many vulnerable populations—such as lower-income students, single parents, veterans, and students of color—who are often targeted by predatory actors.<sup>5</sup>

In New Jersey, our vision is simple: every New Jerseyan, regardless of life circumstances, should have the opportunity to obtain a high-quality credential that prepares them for life after college. To make our vision a reality, we are making major investments in higher quality programs through legislative changes that link programs to labor market demand and increase transparency through student loan servicer oversight, among other actions that provide clear information to students. We encourage the Department to consider the same by incentivizing *good* actors and higher quality programs.

Specifically, the State of New Jersey recommends reinstating the 2014 GE regulations and, in particular, pursuing the following actions to protect students, reduce financial risks, and increase transparency:

### **1. Maintain and Strengthen Accountability for Federal and State Investments.**

Federal and state financial aid programs improve access for low-income students and help them afford and complete their programs. However, these investments are too often threatened by the overpriced, low-quality programs<sup>6</sup> offered at many for-profit colleges. Without quality control screening mechanisms, many vulnerable students exhaust their federal and state financial aid options in low-quality programs, hindering their ability to pursue a high quality degree-granting program that would have prepared them for the workforce and led to increased earnings.

Reinstating the 2014 GE regulations would create an accountability framework to protect vital financial aid investments. These regulations should require institutions of higher education to:

- Meet the debt-to-earnings ratio and program cohort default rate benchmarks to be eligible for federal Title IV funding.<sup>7</sup>
- Meet necessary programmatic accreditation requirements and state licensure standards.<sup>8</sup>

### **2. Strengthen Protections for Vulnerable Students against Financial Risk.**

Programs of study in which debt levels far exceed the labor market value of the credential put former students at greater risk of loan default, which can result in damage to borrowers' financial solvency and career potential.<sup>9</sup> The evidence overwhelmingly shows that for-profit colleges yield higher debts and poorer labor market outcomes compared to other institutions of higher education. While for-profit colleges enroll roughly 10 percent of students, they account for half of all student loan defaults,<sup>10</sup> and because Black and

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<sup>4</sup> Carnevale, A. P., Smith, N., & Strohl, J. (2014). Recovery: Job growth and education requirements through 2020. Georgetown University Center on Education and the Workforce. [https://cew.georgetown.edu/wp-content/uploads/2014/11/Recovery2020.ES\\_Web\\_.pdf](https://cew.georgetown.edu/wp-content/uploads/2014/11/Recovery2020.ES_Web_.pdf)

<sup>5</sup> *A Profile of Enrollment Patterns and Demographic Characteristics of Undergraduates at For-Profit Institutions*, U.S. Department of Education, National Center for Education Statistics (2007) at 13, available at <https://nces.ed.gov/pubs2017/2017416.pdf>; Kevin Lang & Russell Weinstein, *Evaluating Student Outcomes at For-Profit Colleges*, National Bureau of Economic Research (2012) at 10, available at <http://www.nber.org/papers/w18201.pdf>.

<sup>6</sup> United States Senate, Health, Education, Labor and Pensions Committee. For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success. July 30, 2012. <https://bit.ly/33zZoJ8>.

<sup>7</sup> American Council on Education. (n.d.). Summary of 2014 Gainful Employment Regulation Proposed by The U.S. Department of Education. Retrieved from <https://www.acenet.edu/Documents/Gainful-Employment-2014-Proposed-Rule-Summary.pdf>

<sup>8</sup> The Institute of College Access & Success. (2019). Gainful Employment Disclosure Template. Retrieved from [https://ticas.org/wp-content/uploads/legacy-files/pub\\_files/coalition\\_disclosure\\_template\\_letter\\_january\\_2019\\_0.pdf](https://ticas.org/wp-content/uploads/legacy-files/pub_files/coalition_disclosure_template_letter_january_2019_0.pdf)

<sup>9</sup> PEW Trusts. (2020). Student Loan Default Has Serious Financial Consequences. Retrieved from <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2020/04/student-loan-default-has-serious-financial-consequences>

<sup>10</sup> Looney, A. & Yannelis, C. (2015). A crisis in student loans? How changes in the characteristics of borrowers and in the institutions they attended contributed to rising loan defaults. Retrieved from [https://www.brookings.edu/wp-content/uploads/2016/07/ConferenceDraft\\_LooneyYannelis\\_StudentLoanDefaults.pdf](https://www.brookings.edu/wp-content/uploads/2016/07/ConferenceDraft_LooneyYannelis_StudentLoanDefaults.pdf)

Latinx student enrollment is disproportionately high at for-profit colleges, this sector further exacerbates racial disparities that persist long after students complete their degrees and have to repay their debt.<sup>11</sup>

Reinstating the 2014 GE rule alongside reinforcing the Borrower Defense rule (20 U.S.C. § 1087e(h)), would provide even more protection to students. Together these regulations would establish safeguards against unmanageable debt by:

- Incentivizing institutions to produce good employment and earnings outcomes that allow students to repay their debt.
- Providing 100 percent discharge for students who have been defrauded by schools or affected by school closures.
- Improving the public interest loan forgiveness programs so that the repayment period and process are not too burdensome for those who are dedicating their careers to certain fields that benefit society writ large.

### **3. Improve the Accessibility, Transparency, and Disclosure of Postsecondary and Labor Market Outcome Data.**

As students make decisions about their college and programs of study, they should have clear information to avoid failing programs that do not lead to completion or employment in a remunerative, in-demand career. Numerous investigations have revealed widespread waste, fraud, and abuse in the for-profit college industry, including false or inflated job placement rates, dismal retention and completion rates, and high student loan debt.<sup>12</sup>

Reinstating strong GE regulations that mandate data collection and disclosure would provide students, states, institutions, and the public with valuable information on postsecondary outcomes. Such disclosures are urgently needed for New Jersey’s government to properly perform its State authorization and oversight roles in the “program integrity triad” established under the federal Higher Education Act of 1965, as amended. These regulations should require institutions of higher education to disclose and the Department to publish:

- Retention rate, completion rate, transfer rate (if applicable), employment, and financial aid information as well as other institutional information, such as cost of attendance to current and prospective students.
- Earnings, debt, repayment, and cohort default rate information for programs that prepare students for gainful employment in a recognized occupation.
- Disaggregated data by race/ethnicity, gender, and economic status, among other equity-related data points.

#### **New Jersey’s Commitment to Protecting Students and Providing Transparency**

New Jersey’s recent higher education initiatives can serve as a template as the Department contemplates a new Gainful Employment Rule.

Education is a critical part of the formula for advancing growth, prosperity, and opportunity across New Jersey. That is why we launched our statewide 65X25 attainment goal. To reach our goal, New Jersey has embarked on several innovative initiatives to improve consumer transparency and reinvest in our residents so that they may obtain the tools to succeed in the jobs of today *and* tomorrow. For example:

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<sup>11</sup> The Institute of College Access & Success. (2020). Student debt and the class of 2019. Retrieved from <https://ticas.org/wp-content/uploads/2020/10/classof2019.pdf>

<sup>12</sup> United States Senate, Health, Education, Labor and Pensions Committee. For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success. July 30, 2012. <https://bit.ly/37tCR1A>.

- In 2019, Acting Governor Sheila Oliver signed into law P.L. 2019, c. 201, creating the “financial aid shopping sheet,” a tool that provides clear information on financial aid to help students and families compare aid packages from different institutions and minimize long-term financial risks.<sup>13</sup>
- In 2019, Governor Murphy also enacted P.L. 2019, c. 200, requiring student loan servicers to be licensed and regulated by the New Jersey Department of Banking and Insurance (DOBI).<sup>14</sup> The law provides assistance for borrowers with questions or complaints about their student loans by creating a Student Loan Ombudsman within DOBI, which is charged with helping borrowers understand their rights and responsibilities under the terms of their student loans.<sup>15</sup>
- In 2021, the Governor signed into law P.L.2021, c.27 which increases OSHE’s oversight over academic program development and ensures new programs of study are high quality and linked to labor market demand so that students are ready to enter in-demand jobs within the state.<sup>16</sup>
- Through two landmark initiatives aimed at expanding college affordability, New Jersey offers a “College Promise” to students with adjusted gross incomes (AGI) of less than \$65,000, to attend public institutions of higher education that cost less and yield better outcomes than their for-profit counterparts. In 2021, Governor Murphy signed into law P.L. 2021, c. 26 establishing the Community College Opportunity Grant (CCOG), which allows eligible students to attend any New Jersey community college tuition- and fee-free. Building on the success of the CCOG, in Academic Year 2022-2023 New Jersey will implement the Garden State Guarantee (GSG), which will allow eligible students to attend any New Jersey public four-year institution tuition- and fee-free for their third and fourth year of enrollment, as well as providing transparent tuition discounts for students with AGI greater than \$65,000, and ensuring a predictable pricing guarantee for all students.

We encourage the Department to consider these and other initiatives as models during the process of issuing new regulations.

**Summary**

The Gainful Employment Rule, once reinstated, can play a critical role in protecting the investments in higher education by students, families, the federal government, and states. Promulgating a restored GE rule in accordance with the State of New Jersey’s recommendations will be a significant step forward in protecting students and borrowers from harmful programs and practices that may derail their postsecondary and career goals. We look forward to continuing to serve as a resource to the Department and providing further input that can facilitate equity, transparency, and high-quality programs that lead to good employment opportunities.

Sincerely,



Brian K. Bridges, Ph.D.  
Secretary of Higher Education  
State of New Jersey



David J. Socolow  
Executive Director  
Higher Education Student  
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Kaitlin Caruso  
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<sup>13</sup> HESAA. (2019, July). Acting Governor Oliver signs legislation to promote transparency for students and improve college affordability. Retrieved from <https://www.hesaa.org/Pages/HESAANewsPage.aspx?type=News&pid=164>.

<sup>14</sup> For more information, visit [https://www.state.nj.us/dobi/division\\_consumers/finance/studentloan/index.html](https://www.state.nj.us/dobi/division_consumers/finance/studentloan/index.html)

<sup>15</sup> For more information, visit [https://www.state.nj.us/dobi/division\\_consumers/finance/studentloan/index.html](https://www.state.nj.us/dobi/division_consumers/finance/studentloan/index.html)

<sup>16</sup> For more information, visit <https://www.state.nj.us/highereducation/documents/pdf/workinggroups/Research-Innovation-and-Talent-Full-Docuemnt.pdf>