MEMORANDUM

TO: John Kolotos, U.S. Department of Education
FROM: Kevin Jensen, College of Western Idaho
Rich Heath, Anne Arundel Community College
DATE: December 9, 2013
RE: 11/20/13 Draft Gainful Employment Rule: Proposals for Low-Risk Programs

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Overview

As defined under federal law, the majority of programs required to prepare students for gainful employment are offered by the nearly 1,200 community colleges across the country. Community colleges pride themselves on offering low-cost degrees and certificates so that the vast majority of students do not need to borrow. As stated by the U.S. Department of Education in 2010, standards for gainful employment programs *"are necessary to protect taxpayers against wasteful spending on educational programs of little or no value that also lead to high indebtedness for students."* [1] The Department would consider that a program prepares students for gainful employment if the loan debt incurred by the typical student attending that program is reasonable.

Unfortunately, under the current GE proposal, low-cost programs – where borrowing is largely unnecessary and where the majority of students choose not to borrow – are likely to be unfairly jeopardized because the proposed metrics will in many cases consider only small, unrepresentative portions of the students who actually enroll in and benefit from these programs. By definition, program performance will be measured by students who are NOT "typical."

For nearly all of these low-cost community college programs, the loan debt incurred by a typical student is better than "reasonable." **The loan debt incurred by a typical student is zero**.

While there certainly are local and regional variations, the national data suggest that low-cost programs do result in lower borrowing rates and therefore, are relatively "low-risk" in terms of taxpayers' investment of Title IV dollars and the potential to produce high levels of student indebtedness. For example, while 59 percent of certificate-seeking students at all other institutions borrow federal loans, just 9 percent of certificate-seeking community college students do.[2]

The Department has already acknowledged that programs with low borrowing rates should be positively recognized. The final 2011 gainful employment rule stated that programs with a median loan debt of zero would automatically meet the metrics based on the sound policy and *"logical extension of the debt measures"* that federal policy should encourage institutions to keep borrowing to a minimum. Unfortunately, the Department abandoned this concept in more recent proposals. While the decision to remove this concept may be a response to the court decision prohibiting the collection of student-level information for non-Title-IV students, there is no reason why the rule cannot retain a protection for low-borrowing programs even without student-level information (suggestions below).

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[1] Preamble, Notice of Proposed Rulemaking, Federal Register: July 26, 2010 (Volume 75, Number 142)
[2] U.S. Department of Education, National Center for Education Statistics, *2011-12 National Postsecondary Student Aid Study* (NPSAS:12). Computation by NCES PowerStats on December 4, 2013.

In contrast with a stated goal of the Department to "reward" colleges and programs that are serving students well, abandoning this provision moves the rule backwards in that it fails to acknowledge low levels of risk to students and taxpayers from affordable programs with low rates of borrowing.

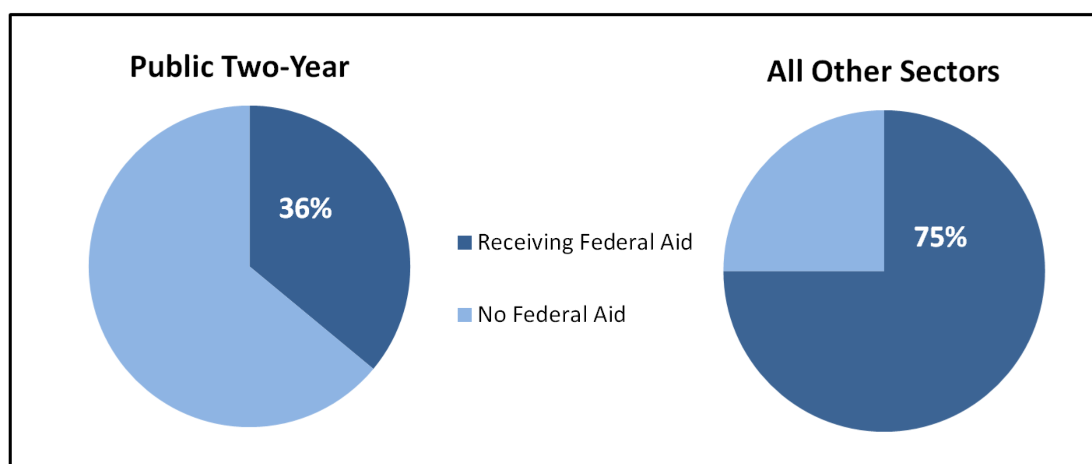
The liability placed upon institutions to meet complex metrics and borrower relief provisions that may be triggered by an extremely small percentage of overall participants will ultimately increase program costs and reduce access for all students, and especially low-income, first generation, and minority students who community colleges typically serve. At a minimum, the metrics will challenge some institutions' ability to remain in the Direct Loan program, and will potentially lead to the closure of smaller programs that provide low-risk, low-cost opportunities for students.

Sample of students inaccurately represents community college programs

The current proposal tries to measure low-cost programs through an inappropriate lens leading to an inaccurate representation and collateral damage to effective programs. Under the current draft rules, program completer debt levels would be judged on two measures: annual and discretionary debt-to-earnings ratios that calculate annual debt payments relative to yearly income. National data indicate that typical community college completers have no federal loan debt and therefore are likely to carry low ratios of debt-to-earnings on average.

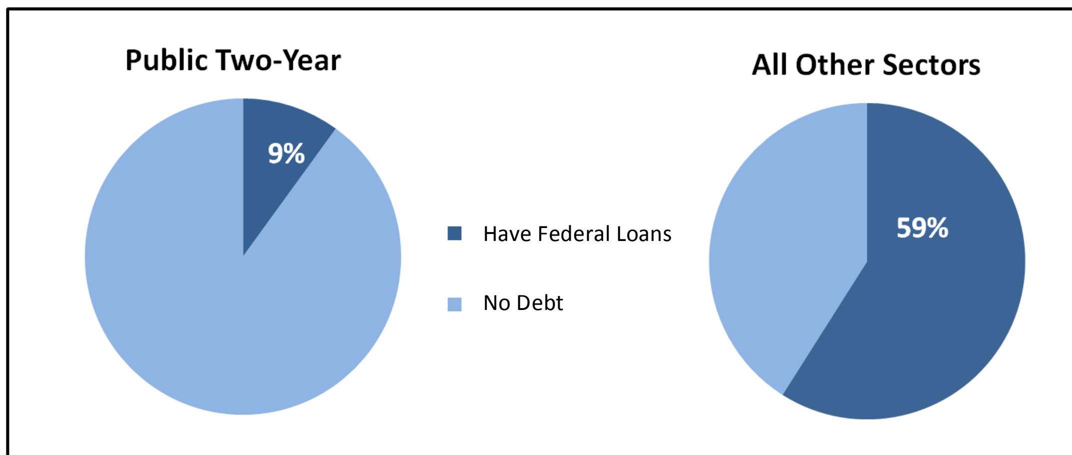
However, under the current draft rules, debt measures will be based on data matches with *Title IV* completers only. This sample skews the data to a highly unrepresentative subgroup of completers, because 64 percent of certificate students at public two-year institutions nationally receive no Title IV federal aid whatsoever, subsequently discounting the outcomes of a majority of completers.

Certificate Students Receiving any Federal Aid (excluding Veterans'/DOD) by Sector, Award Year 2011-12



Source: U.S. Department of Education, National Center for Education Statistics, 2011-12 National Postsecondary Student Aid Study (NPSAS:12). Computation by NCES PowerStats on December 4, 2013.

Certificate Students Borrowing Federal Student Loans by Sector, Award Year 2011-12



Source: U.S. Department of Education, National Center for Education Statistics, 2011-12 National Postsecondary Student Aid Study (NPSAS:12). Computation by NCES PowerStats on December 4, 2013.

The Title IV sample also artificially inflates borrowing statistics among completers. Low-income federal aid recipients often borrow to account for non-tuition and fees related expenses. Overall, 26 percent of *federal aid recipients* in community college certificate programs borrow compared to the 9 percent of *all* community college certificate students who do. While restricting the universe of students to Title IV completers is partly in response to the court's opinion on the 2011 rules, it does not preclude ED from collecting or reporting aggregate information about program borrowing in order to protect low-risk programs. **There are multiple ways that the Department can collect aggregate-level information to identify programs that have low levels of indebtedness.**

At colleges and programs where few students borrow, the risk to students of enrolling and attending is relatively low

For students, low levels and rates of borrowing means that few face the risks of unaffordable payments, or eventual default. Students who attend and complete these affordable programs can enter high-paying jobs and begin to build their financial future without the specter of student loan debt hanging over them. Many students who start search for postsecondary education and training are specifically looking for programs that allow them to do just that – attend a valuable program that won't saddle them with any debt.

Even when most don't borrow, there will be some students who do. But for those who do, their financial risk remains low because their educational costs remain low. That's because the average tuition and fees for one year of full-time study at a community college is less than the maximum Pell grant, and has been for years. Low borrowing almost always goes hand-in-hand with low tuition and fee charges.

Further, no measure will adequately capture every student outcome. Individual students from any program may graduate with no debt, or with burdensome debt. What is important in crafting a rule to assess outcomes at the programmatic level is how students overall are faring. In this case, assessments of the extent of problematic debt should take into account how the majority of students are doing. If the

majority of completers have no debt, then the program should pass the gainful employment test. If the majority of completers do have debt, then the appropriateness of the level of debt must be assessed.

At colleges and programs where few students borrow, the risk to federal taxpayers of offering aid is relatively low

Typical students at community colleges, which offer most gainful employment programs, are far less likely to receive federal aid than students at any other type of college, and even those who do receive aid get far less on average.[4] On a per capita basis, community college certificate students receive less than one-fourth of the aid that students at all other sectors of higher education receive.

Per-Capita Federal Aid for Certificate Students, Award Year 2011-12[3]	
Public two-year	**$1,320**
All Other Sectors	**$5,904**

While provisions crafted to address low-risk or low-borrowing programs should not be limited to institutions of any one particular sector, data limitations make it challenging to assess low-risk or low-borrowing colleges individually. Therefore, the gainful employment metrics should ensure that all low-risk programs are rewarded for keeping borrowing to a minimum.

Shutting down low-risk options for students

Consider an aircraft maintenance and repair program with 50 students each award year. Wages are strong and employment prospects positive, and only 5 students borrow, primarily to cover non-tuition and fee related expenses as tuition is just $4,800 per year. Over a two-year period, the number of borrowers reaches 10, making the program eligible for the repayment performance metric. Of those 10 borrowers (among 100 total students) just 2 enter standard repayment in their first year – consistent with national trends – making minimum payments, while the rest enter forbearance, deferment, or income-based repayment plans and accumulate interest. The total cohort principal balance is slightly negatively amortized. The program then fails the repayment performance metric based on the repayment choices of just 8% of the students who enrolled in or completed the program. State officials, already struggling to absorb budget shortfalls, are unwilling to provide borrower relief provisions, and without Title IV eligibility the program must close.

Consider a surgical technician program near a large and expanding hospital complex that will provide many new positions for program graduates. Of approximately 120 students each year, 15 decide to borrow in order to cover tuition and fees, as they are not eligible for federal grants but can't afford to pay the $5,100 tuition, fees, and living expenses out of pocket. The majority of these borrowers enter repayment upon completing or leaving the program. Over a two-year period, the number of borrowers entering repayment reaches 30, making the program eligible for the pCDR metric for that cohort. The program has never had a previous problem with loan repayment, but the local economy suffers a slowdown and the hospital must lay off staff. Other related employers will not be hiring new graduates for a few years. Of the program borrowers, 12 default on their loans because they are unable to afford

[3] U.S. Department of Education, National Center for Education Statistics, *2011-12 National Postsecondary Student Aid Study* (NPSAS:12). Computation by NCESPowerStats on December 4, 2013.
[4] Average total federal aid (excluding Veterans'/DOD) received by public two-year certificate students who receive any federal aid is **$3,653**, compared to **$8,350** for certificate students in all other sectors. Source: NPSAS:12.

payments and find work. The successful program reaches an unprecedented 40% pCDR threshold, making them immediately ineligible for Title IV aid. State officials, already struggling to absorb budget shortfalls, move to close the program with no opportunity to improve or survive temporary economic conditions.

Examples like these – where the failing debt loads or repayment status of a small fraction of students is inappropriately projected onto the entire student body, even when it is clearly known that most students do not have problems with debt – are likely to be quite common under the current construction of the gainful employment regulations. In order to meet the metrics as conceived, colleges will streamline or close certificate programs or leave the Direct Loan program entirely. If low-risk programs are shut down because regulations inadequately accounted for their low risk, then students are left with only higher risk and higher cost options – the opposite goal of the gainful rule.

Recommendations to modify the gainful employment proposal to acknowledge the value of low-risk career education programs

The Department can easily acknowledge low-risk programs without colleges needing to verify any information independently by using existing reporting mechanisms, such as IPEDS. Alternatively, ED could allow institutions to sign statements about their median debt levels or borrowing rates that are subject to audit. Neither requires student-level information or any data matches on individual students.

We urge the Department to reinstate provisions similar to the 2011 final rule to recognize low-risk, low-cost programs. The following proposal is an effective way to recognize low-cost programs with low borrowing rates while not automatically passing programs with higher rates of borrowing.

UNDER:

§668.403 Gainful employment program framework:

INSERT:

(d) Low-risk programs

(1) A program is "passing" the GE measures if the program--

(i) has a federal median loan debt of zero for all program completers, both those who received title IV, HEA program funds and those who did not, as established by an institution or state reporting GE program borrowing rates below 50.0 percent or, alternatively, a certification signed by the institution’s most senior executive officer; AND

(ii) has a published cost of tuition and fees that a full-time student would incur during an award year that is less than or equal to the maximum Pell Grant for that award year.