December 1, 2023

Eric Taylor, Esq.
Director, Office of Licensure
Office of the Secretary of Higher Education

Re: NJAC 9A:7--PQS proposal
Submitted electronically

Dear Mr. Taylor:

The Institute for College Access & Success (TICAS) is a nonprofit, nonpartisan organization working to advance affordability, accountability, and equity in higher education. Both organizationally and in collaboration with a diverse set of partners, TICAS has long advocated for stronger student and borrower protections in the form of institutional accountability measures, including the federal gainful employment rule. I write on behalf of TICAS to express our support and appreciation for the thoughtful rule the State of New Jersey has proposed to ensure students pursuing career training will not face excessive tuition costs that they cannot reasonably afford.

New Jersey’s effort should be seen as part of a larger racial equity agenda. We have seen – too often and for too long – low-quality and predatory programs targeting Black and Latino students, driving up debts and providing credentials of little to no value. For-profit operators disproportionately enroll students in such programs. Across the nation, 9 out of 10 Black and Latino students who graduated in 2015-16 from a for-profit undergraduate degree program borrowed, and they borrowed at least $10,000 more, on average, than those attending public colleges. Federal data from 2019 revealed both that students attending for-profit colleges had the worst default rates across all institution types and that Black for-profit students were more likely to default. One-third of all borrowers defaulted within six years of starting at a private for-profit institution, including 42 percent of Black borrowers.

Without stronger protections, programs that cost more than they should; burden students of color, low-income students, women, first-generation students, and student veterans with more debt than they can repay; and provide low-quality training for designated career fields will continue to operate.

Recently, the U.S. Department of Education published gainful employment regulations, set to take effect July 1, 2024, that tie programmatic eligibility to participate in federal financial aid programs to their demonstrated ability to meet a two-part test. First, program-level data must show graduates do not take on debt levels so high that their earnings won’t allow them to repay. Second, the majority of a program’s graduates must earn more than early-career professionals in their field whose highest educational credential is a high school diploma. We strongly support this rule, but also welcome the additional layer of support New Jersey’s state-level regulations will provide.

According to TICAS projections, under the forthcoming federal gainful employment regulations, two programs in New Jersey would fail the debt-to-earnings ratio; 28 programs would fail the earnings premium threshold. Further, other recent analysis showed the new federal rules should reduce levels of student debt compared to earnings for New Jersey residents. Failing programs have the opportunity to improve and maintain eligibility, just as the proposed regulations in New Jersey provide the opportunity for programs to improve and meet expectations to operate in your state.

States play crucial roles in ensuring all their residents have access to quality educational programs; their roles, along with those of accreditors and the federal government, are essential in ensuring academic program quality and appropriate allocation of taxpayer dollars. New Jersey’s effort with this rule complements the State’s academic and grant aid oversight roles, as well as its role establishing baseline requirements for entry into many career fields. The proposed Performance Standards Rule should provide a tool to enable New Jersey’s relevant authorities to play the state’s role even more effectively. The rule sets a fair and clear, sensible baseline standard for institutions to meet. By basing the protection on net price compared to earnings, the rule can both proactively deter and allow for more timely interventions to address predatory pricing practices when identified. When programs are not preparing students for post-completion success, students cannot afford to wait.

In looking for ways to further strengthen the proposed rule based on New Jersey’s tuition-and-fees-to-earnings ratio, we echo suggestions to which we concurred in a separate letter led by The Century Foundation. We urge the State to require teach-out agreements for suspended programs, rather than teach-out plans alone. Across the country, precipitous closures of low-performing institutions have, for years, left far too many students with few options. In many cases, the only places they could take their credits offered similarly low-performing programs to the ones in which they were previously enrolled. By requiring teach-out agreements, the State can ensure that, should students face the challenge of a program shutdown, they will not face the loss of all their previous investments of time, effort, and money. Students should not be obligated to accept teach-out plans or agreements from their original institutions that offer programs failing New Jersey’s rule.

Under the proposed rule, when the State suspends a career program, its host institution will be required to, “Use a template provided by OSHE to individually notify current and accepted students in the

---


2
program, including program applicants, that the career-oriented program of study is considered suspended....” We support this requirement, but encourage the State to add a timeline for student notification, in the same way specific numbers of days are allocated for other milestones of the proposed process.

We also underscore the importance of maintaining the proposed rule’s ban on institutions advertising terminated programs. Predatory actors offering postsecondary programs have a well-documented history of relying on deceptive, misleading, and false advertisements to lure students – especially Black and Latino students, low-income and first-generation students, and student veterans. Just last year, for example, ASA College agreed to a fine of more than $100,000 in a settlement with New York City’s Department of Consumer and Worker Protection. The fine arose from ASA’s use of advertisements “that targeted immigrants, low-income New Yorkers who may need financial assistance to attend higher education, and other vulnerable communities.” Prior research has shown the widespread phenomenon of reverse redlining – or predatory inclusion – that targets students from marginalized communities to enroll in high-cost programs that rarely lead to positive earning potential. The rule’s ban on advertising terminated programs represents a tool to proactively deter such targeting in New Jersey.

---

Thank you for the opportunity to provide comments on behalf of TICAS, as well as for your work to serve the interests of students and student loan borrowers across New Jersey. If you have any questions or need clarification on any of the above comments, please contact Dr. Kyle Southern from our team at ksouthern@ticas.org.

Sincerely,

Sameer Gadkaree
President

---
