Chairman Bobby Scott
1201 Longworth House Office Building
Washington, DC 20515

Ranking Member Virginia Foxx
2462 Rayburn House Office Building
Washington, D 20515

Dear Chairman Scott, Ranking Member Foxx and Members of the Committee:

As the Committee conducts bipartisan hearings in preparation for reauthorizing the Higher Education Act, I am writing to share The Institute for College Access & Success' (TICAS') recommendations for how to hold colleges accountable for routinely leaving students with debts they cannot afford to repay. TICAS is a trusted source of research, design, and advocacy for student-centered public policies that promote affordability, accountability, and equity in higher education. Our recommendations include efforts to preserve and improve the cohort default rate (CDR) as well as to preserve and fully implement the gainful employment rule (GE rule).

The CDR is a critical tool for understanding how often students experience the most devastating student loan repayment outcome: default. Holding colleges accountable for their CDRs effectively focuses schools on reducing borrowers' risk of default, and tying institutional Title IV eligibility to CDRs has worked to reduce default. Schools can and do meaningfully lower their CDR through strategies that target and reduce risk of default without limiting students' access to federal loans. The CDR is an effective, well-established, and widely understood metric grounded in protecting both students and taxpayers against unaffordable debt. As you work to reauthorize the Higher Education Act, Congress must consider ways to strengthen the metric so that defaults further decline.

The GE rule is a complementary tool that seeks to ensure that students enrolling in career programs are not overpaying for programs that under-deliver, by looking at the average debt compared to the average earnings of graduates of those programs. We are particularly concerned with the efforts of the current Administration to rescind the GE rule, including efforts to roll back even basic transparency measures that help students understand when high-cost, low-quality programs could result in unmanageable debt.

Below we provide additional details on the value of the CDR and recommendations for ensuring it continues to effectively reduce default and underscore the importance of ensuring the GE rule is fully implemented.

The Cohort Default Rate Has Worked to Reduce Default

The CDR is the share of each school's federal student loan borrowers who default before the end of their third fiscal year in repayment. Schools with unacceptably high CDRs risk losing their ability to offer students federal student loans and/or Pell Grants.[1] The metric was established almost 30 years ago with bipartisan support, and it is grounded in the strong federal interest in protecting students and taxpayers against unaffordable debt. The metric serves as a critical backstop to allowing taxpayer dollars to flow freely to institutions that pose unacceptably high risk of default to their students. It is a reliable measure that includes an established process for data verification and appeals, and it retains wide legitimacy among all sectors of higher education. Since its first use as an accountability metric in 1990, the CDR has provided colleges effective incentives to reduce borrowers' risk of default, resulting in significant declines in CDRs such that only a handful of colleges exceed the established CDR thresholds. The fact that very few schools fail the measure currently is a sign of its success in driving down defaults, not its failure.

Student loan default is the most devastating borrowing repayment outcome, and Congress should strengthen policies to continue to reduce defaults. Over 1 million students default a year, and these students suffer punitive consequences that can drive them deeper into debt and, ironically, make it harder for them to repay their loans.[2] Borrowers in default on their student loans are foreclosed from receiving federal student aid; can face increased loan costs; and may see their tax refunds, wages, and even Social Security benefits garnished. To keep as few students as possible from facing these consequences, it is critical that Congress maintain the CDR as a key metric. However, Congress can and should strengthen the CDR.

The Cohort Default Rate Must be Strengthened

There is abundant evidence that some colleges evade CDR accountability by taking advantage of forbearance options that allow students to temporarily postpone payments. This includes the use of consulting firms that encourage or mislead borrowers in repayment to use forbearance to simply delay payments, postponing rather than preventing default, and not encouraging borrowers to enter an income-driven repayment (IDR) plan.[3] Such moves can mask severe borrower distress and often push eventual defaults outside of the time period for which schools are held accountable. While forbearance is intended to be a short-term option for the benefit of borrowers, an April 2018 GAO report calling for improved oversight of CDRs identified concerning patterns of students being misled into long-term forbearances that not only increase costs to the government but also bring severe financial consequences to borrowers.[4]

CDR manipulation through forbearance abuse can and must be addressed by ensuring that forbearances are granted in the interests of the borrower, as required under federal law. Because many borrowers placed in forbearance would be better served by being placed into an IDR plan,

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[1] The current rules establish a threshold of CDR at 30% or more for three years in a row or 40% or more in a single year. 34 CFR 668.206.
[2] TICAS. 2018. CDR: What is Good For? Absolutely Something. https://bit.ly/2Dvv9Uu.
[3] United States Senate Health, Education, Labor and Pensions Committee. 2012. For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success. http://bit.ly/NbKeiW.
[4] United States Government Accountability Office (GAO). 2019. Federal Student Loans: Actions Needed to Improve Oversight of Schools' Default Rates (GAO-18-163). https://www.gao.gov/assets/700/691520.pdf.

servicers, schools and the consultants they hire must be held accountable for providing guidance that is in the best interest of the borrower. To this end, schools and servicers seeking to assist students in securing consecutive forbearances should be required to document the reasons why an additional forbearance is a better solution for the borrower than an IDR plan.

Forbearance abuse can also be more effectively identified and prevented by providing increased transparency around longer-term default rates. To expose schools abusing forbearance, the Department of Education should publish five- and seven-year cohort default rates, in addition to the three-year rates currently used for accountability. Program reviews or other substantive investigations should be actively targeted at schools with large increases in default rates after the three-year window, and the Department of Education should be required to determine whether such schools are in compliance with the requirement that forbearances be provided for borrowers' benefit.

Some schools seeking to evade CDR accountability have also been known to modify their structure to mask problems in branch campuses.[5] To prevent this type of evasion, colleges seeking to make changes to their OPEID structure should be required to comply with CDR rules under both their new and old OPEID structures for at least three years after the change, with sanctions applying upon noncompliance of either.

The Gainful Employment Rule Has Led to Fewer Low-Quality, High-Cost Programs

The GE rule, finalized in 2014, defines the longstanding statutory requirement that career education programs "prepare students for gainful employment in a recognized occupation."[6] The rule seeks to ensure that career program graduates are not routinely left with student loan debts they cannot afford to repay. The rule distinguishes between programs that provide affordable, quality training and those that do not by measuring the typical debt of graduate compared to the typical earnings. It gives programs that fail to meet established thresholds two years to improve (more during a transition period) or face loss of access to federal student aid.

The GE rule also includes a transparency component that ensures schools provide consumer information that is comparable across programs to prospective students and the public. In the past, these disclosures have included what the typical graduate earns, how much debt graduates have, and what share of graduates find employment in their field. This helps to ensure that students have realistic expectations about the likely financial benefits and consequences of attending specific programs.

College officials and industry observers acknowledge that the GE rule has driven improvement at colleges, leading to free trial periods, more scholarships, lower tuitions, greater focus on employer needs, and other efforts to improve the value they offer students. In the words of one Capella executive describing the effect of the GE rule, "We have taken, and we'll continue to

[5] United States Senate Health, Education, Labor and Pensions Committee. 2012. For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success. p 150-158. http://bit.ly/NbKeiW.
[6] U.S. Department of Education. October 31, 2014. Program Integrity: Gainful Employment, Final Rule. 79 FR 64,889. https://bit.ly/2uB9d7z.

take steps, to improve affordability and outcomes for our programs, and we'll continue to make necessary adjustments. Our goal is to create the most direct path between learning and employment without waste of time, effort, or money, and we are well on our way."[7] According to the New America Foundation, 65 percent of failing programs in the first set of gainful employment data are no longer enrolling students.[8]

The Department of Education Has Failed to Implement the Gainful Employment Rule

While the GE rule is currently in effect, last year the Department of Education issued a Notice of Proposed Rulemaking that sought to repeal the rule. They did so despite the demonstrated positive impacts of the rule, and the fact that Department estimated that repealing the rule would cost $5 billion over ten years because the rule reduces the amount of student aid wasted at low-quality programs.[9] After receiving over 14,000 concerned comments, the Department missed its own deadline for repealing the GE rule in 2018, but Department officials have stated an intent to try again this year.

In the meantime, the Department has gutted the consumer disclosures that offer prospective students and the public the ability to evaluate the quality of career programs based on criteria including the average graduate's debt, the number of students graduating on time, the percent of students who borrow, and the average loan payments and earnings of graduates.[10] The Department also has not released the data necessary to determine which career programs should be ineligible because students cannot earn enough to repay the amount they borrow to attend. Even with just one set of data released, more than 350,000 students had graduated from programs that could not pass the standard, and they graduated with nearly $7.5 billion in student loan debt.[11] Many of these borrowers are unlikely to be able to repay their debt.

Both the CDR and the GE rule are mechanisms for helping ensure that institutions of higher education offer quality programs that do not overcharge and under-deliver. We look forward to working with the Committee to improve the CDR and to fully implement the GE rule.

Sincerely,

James Kvaal
President

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[7] Capella Education Company (CPLA). October 26, 2016. Q3 2016 Earnings Call Transcript. https://bit.ly/2MrkrCb.
[8] New America. September 13, 2018. Comments on Proposed Gainful Employment Rule. https://bit.ly/2x8XNJY.
[9] U.S. Department of Education. August 14, 2018. Program Integrity: Gainful Employment Notice of Proposed Rulemaking. 83 FR 40,167. https://bit.ly/2P0rnc0.
[10] U.S. Department of Education. February 13, 2019. "Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Gainful Employment Disclosure Template notice of final regulations." https://bit.ly/2V42WwR.
[11] TICAS. August 22, 2018. How Much Did Students Borrow to Attend the Worst-Performing Career Education Programs? https://ticas.org/sites/default/files/pub_files/ge_total_debt_fact_sheet.pdf.