February 10, 2023

U.S. Department of Education
Office of the Under Secretary
400 Maryland Ave., SW
Washington, DC 20202

Docket ID # ED-2022-OUS-0140

To Whom It May Concern:

Thank you for the opportunity to comment in response to the request for information regarding opportunities for the Department of Education to increase public transparency into low-financial-value programs (ID # ED-2022-OUS-0140). Arnold Ventures is a philanthropy dedicated to tackling some of the most pressing problems in the United States. For the past six years, we have invested in research, policy development, litigation, and advocacy to end predatory behavior in higher education and increase the return on investment of higher education for both students — especially students who have been historically marginalized — and taxpayers. Should you have further questions regarding these comments, we welcome the opportunity to discuss them further.

As the Department noted in its request for information, far too many students in higher education enroll in "low-financial-value" programs that leave them struggling to find a job, repay their loans, or support their families after leaving schools. Americans today are deeply concerned with these questions: The vast majority agree that a higher education will help adults to advance their careers; yet more than half say that college is a "questionable investment" when considering student debt and employment opportunities.[1] Young adults without a higher education are most skeptical, with fewer than one in three saying that a college education is a good investment.[2]

Such low-value programs could become even more prevalent through unintended consequences of other reforms and actions. For instance, if broad-based debt cancellation and income-driven repayment plans become so generous that institutions do not expect that their students will need to repay their loans, unscrupulous or financially struggling institutions may seize the opportunity to increase tuition to capture more aid. As living costs continue to rise and borrowers face the

[1] "America's Hidden Common Ground on Public Higher Education: What's Wrong and How to Fix It," Public Agenda, July 11, 2022, https://www.publicagenda.org/reports/americas-hidden-common-ground-on-public-higher-education/.
[2] Ibid.

growing challenge of filling in gaps in the cost of enrolling in higher education, borrowers may also alter their behavior and take on additional — and excessive — levels of debt.

To that end, the White House wisely included in its August 2022 debt cancellation announcement a continued commitment to accountability in higher education, noting that the President would ensure that "students are not left with mountains of debt with little payoff."[3] One planned action relates to this request for information, with a goal of providing information on low-value programs "so that students registered for the next academic year can steer clear of programs with poor outcomes" and requesting that the institutions offering such programs submit "institutional improvement plans."[4]

Arnold Ventures strongly supports the goal of correcting longstanding informational imbalances that allow institutions to set tuition at high levels, offer low-value programs, and enroll students in low-quality educational offerings with few consequences. This information should be readily available to students and their families as they are making one of the most important — and expensive — decisions of their lives. Too often, students are left in the dark about the exact types of outcomes they expect to see from their colleges, only learning when it is too late that their time and money was not well-spent. In many cases, the costs of this challenge have been borne by taxpayers, as well, as such former students later seek student loan discharges under the false certification or borrower defense authorities.

Importantly, we recognize that a transparency approach must only be a first step. The Department has taken critical action to reinstate and strengthen the gainful employment regulations, pending as of the submission of this comment, which provide for accountability for low-performing programs. These regulations must be published as quickly as possible and implementation effectuated immediately; students in these programs deserve the protections these critical rules will provide. But the gainful employment rules will not address the needs of students outside of the for-profit and non-degree sectors, because the law requires that only those sectors demonstrate their programs lead to gainful employment in a recognized occupation.

Nonetheless, we urge the Department to act quickly to increase transparency in higher education and to put in place the strongest possible requirements for disclosures that will protect consumers regardless of where they go to school. These comments provide more specific feedback on the right ways to do that; we are confident that the Department will also receive robust comments through the rulemaking process, and has already received considerable feedback through negotiations with experts and stakeholders across the board. Most critically, we urge the Department not to delay in taking these steps.

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[3] White House, "President Biden Announces Student Loan Relief for Borrowers Who Need It Most," Fact Sheet, August 24, 2022, https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/24/fact-sheet-president-biden-announces-student-loan-relief-for-borrowers-who-need-it-most/.

[4] Ibid.

Should you have any questions regarding these comments, please contact us at kmcmanus@arnoldventures.org and cmccann@arnoldventures.org.

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Comments on Measures and Metrics and Data Elements

In deciding the appropriate measures by which to measure low-financial-value programs, the Department should carefully consider the areas that students say are most important to them in pursuing higher education. According to a survey of prospective college students, nearly all said their ability to improve their employment opportunities, make more money, and/or get a good job were important or very important factors in their decision to go to school.[5] In deciding which school to attend, how much the program costs, and employment and earnings outcomes, were all critical factors for the vast majority.[6] A study from the National Center for Education Statistics confirms these results; two-thirds of ninth-graders, measured again when most were in the eleventh grade, said that the cost of attendance was "very important" to their college choices, and employment outcomes rated even more highly.[7] Without a doubt, students' outcomes — especially in the context of what they'll pay for their education — are front of mind as prospective students consider their higher education. For some students, questions about the value of higher education may even be a deterrent to enrollment; 51 percent of Americans say that college is a "questionable investment" when considering significant student loan debt and limited career success.[8]

Identify low-financial-value programs through their debt-to-earnings rates and earnings threshold measures

Given students' focus on employment prospects, as well as students' and taxpayers' interest in ensuring they are able to afford to repay their loans, the Department should use the measures it is developing through the gainful employment rulemaking to identify low-value programs in all sectors — whether they are subject to the gainful employment rules or not — and provide warnings to prospective and enrolled students about such programs.

Specifically, the Department proposed two key measures during negotiations: a debt-to-earnings rate and an earnings threshold measure. A low-value ("failing") program based on its debt-to-earnings rate, as previously proposed, is defined as a discretionary earnings rate (the median annual loan payment of graduating students divided by (the median annual earnings of completers minus 150 percent of the Federal poverty guideline)) of more than 20 percent or an annual earnings rate (the median annual loan payment of graduating students divided by the median annual earnings of completers) of more than eight percent. A low-value ("failing") program based on the earnings threshold, as previously proposed, is defined as a program with

[5] Fishman, Rachel, "Deciding to Go to College," 2015 College Decisions Survey: Part I, New America, May 2015, https://d1y8sb8igg2f8e.cloudfront.net/documents/deciding-to-go-to-college.pdf.
[6] Ibid.
[7] "Factors that Influence Student College Choice," U.S. Department of Education, National Center for Education Statistics, Data Point, November 2018, https://nces.ed.gov/pubs2019/2019119/index.asp.
[8] "America's Hidden Common Ground on Public Higher Education: What's Wrong and How to Fix It," Public Agenda, July 11, 2022, https://www.publicagenda.org/reports/americas-hidden-common-ground-on-public-higher-education/.

median annual earnings of graduating students that are below the median earnings for a working adult aged 25-34 with only a high school diploma in the state in which the institution is located.[9]

We recommend that the Department also use both of these metrics to identify low-financial-value programs for its planned watch list and for disclosures to students. They are well-established metrics; the debt-to-earnings rate has been used in past gainful employment rules, and the earnings threshold measure has been used on the College Scorecard for years. The debt-to-earnings rate effectively identifies programs that leave students too deeply indebted for their educational programs, given the earnings outcomes of graduates; while the earnings threshold effectively identifies programs where students are not better off than they likely would be had they never enrolled in college, working with only a high school diploma. Both measures address outcomes that are important to students (job and earnings prospects, and the debt levels students will owe after leaving school) and to taxpayers (return on investment of higher education programs).

Moreover, the Department has already indicated it intends to propose these (or similar) measures through the gainful employment rulemaking. Using the same measures to assess other programs and provide valuable and actionable information to students through a watch list and/or other disclosures will ensure consistency and comparability. When students are deciding where to go to school, they may be considering a handful of institutions, usually in their area; and they may be considering a variety of educational programs, often within the same institution. Ensuring the information provided to consumers is clear, comparable, and aligned will help to facilitate informed decision-making.

Additionally, using these measures will enable the Department to continue to build on other accountability efforts. As the Department investigates institutions for misrepresentations (often related to job placement rates or other employment prospects), implements gainful employment rules, and considers opportunities to track schools that may be increasing their tuition or capturing additional federal aid, it should seek to ensure that other accountability efforts are aligned to inform similar goals.

Finally, the Department should consider the use of other, high-value information that may provide additional context to students, without overwhelming disclosures. While these measures would be supplemental and would not factor into the identification of low-financial-value programs, they could provide important context. The precise measures that should be included here should be subject to consumer testing, but may include some of the measures that the Department proposed in its March 2022 negotiated rulemaking session as "supplementary performance measures" for consideration in the Program Participation Agreement process (such as withdrawal rates; educational spending amounts; and licensure pass rates, for programs designed to meet license or certification requirements) and/or via the proposed disclosure website (such as completion rates; total cost of tuition and fees; median debt levels; median earnings;

[9] Several additional caveats apply to these definitions. The proposed definitions are available in the Department's Session 3 Issue Paper on Gainful Employment, at https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/isspap3gainempl.pdf.

programmatic accreditation information; and/or borrowing rates for Title IV and/or private education loans).[10]

Collect necessary data to support the use of these metrics in developing a watch list, and begin collecting additional data to inform future metrics

While the Department's data collection efforts have significantly advanced in recent years, enabling the production and publication of hundreds of variables on the College Scorecard website and seeding transparency efforts across dozens of outlets, data reporting remains far from perfect.

To enable the most consistent and coordinated use of data, we recommend that the Department ensure data reporting for non-GE programs mirrors the production of data required to produce the debt-to-earnings and earnings threshold measures. In some cases, this might require additional data reporting; in particular, the Department should require reporting of institutional loans and/or certified private education loans, to ensure institutions do not seek opportunities to push their students into private borrowing instead of borrowing the federal loans that carry considerably more benefits and to more completely and comprehensively measure the debt burdens that the typical graduate of a program face. In others, it may simply require procedural changes to ensure accuracy of the information, such as by reminding institutions of their obligations to accurately and timely report on students' graduation status, program of study, and credential level, or by offering a challenge or appeals process that does not currently exist.

However, we note that the advancement of data reporting requirements in recent years has helped to make much of the needed information available already — including the program in which students are enrolled and their completion status. While the burden on institutions for reporting new elements can be significant during the transition, it will ease as the collection becomes part of the normal course. The Department should weigh the benefits of long-term improvements to data reporting and transparency against the costs to institutions of increased data reporting and — particularly when those costs are transitional and temporary — place the interests of students and taxpayers first.

Additionally, we recommend that the Department carefully consider opportunities to craft additional measures of higher education value in the future and begin laying the groundwork for such measures now.

Perhaps chief among these is the need to collect data on actual tuition paid. Currently, the Department does not collect data on the amounts paid. Certain measures available through the Integrated Postsecondary Education Data System (IPEDS) provide insights into *published* tuition and fees for in-state and out-of-state students — but since relatively few students pay the actual sticker price, once Pell Grants and other state, federal, and institutional grant aid is accounted for, those data are of limited utility. Some tuition data is also available through IRS records for tuition-

[10] Department's Session 3 Issue Paper on Gainful Employment, proposed § 668.43(d) and proposed § 668.13(e), both available at
https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/isspap3gainempl.pdf.

paying students, but not for students whose tuition is entirely covered by grants or scholarships, and not in a way that is easily available to the Education Department for analysis.

A new data collection by the Department of Education on tuition paid to colleges could offer significant new insights. For instance, colleges are not currently required to report what they charge students beyond their first year of school, even for measures like net price (which subtract out grants and scholarships, but which are not typically comparable across schools because living costs and other miscellaneous expenses are included). Perhaps enabled by this lack of transparency, many institutions therefore front-load their financial aid, drawing students in for an affordable freshman year before yanking that aid in later years and leaving students scrambling to cover tuition bills. (Transfer, of course, is a challenging option, since relatively few institutions have invested in seamless transfer agreements with other institutions.)

The Department also knows very little about the tuition paid for graduate programs. Yet this question has great importance to policymakers. Institutions are permitted to set the cost of attendance for their programs; and this figure is effectively the *only* limitation on graduate student borrowing. There is little information to parse graduate students' borrowing for living costs from tuition costs, but significant reason to believe institutions are jacking up their graduate tuition to make up for tight budgets and constraints on tuition-setting for undergraduate students.

Data on tuition relative to post-graduation earnings could also prove to be a useful and effective accountability mechanism. As the Department noted in its request for information, debt affordability mechanisms like income-driven repayment cannot ensure borrowers fully recoup the costs of a low-value education; in the Department's words, "IDR plans cannot give students back the time they invested in such programs," and "loans will also still show up on borrowers' credit reports." For taxpayers, and for future cohorts of students and borrowers, this may have real implications. As the Department described, "IDR plans can transfer some of the cost of financing a low-financial-value postsecondary program to taxpayers through debt forgiveness." That also means enabling the continued operation — and Title IV eligibility — of low-value programs, which ensures that additional future borrowers will bear the costs of those programs for years and even decades to follow.

Any income-driven repayment alterations must be accompanied by a strong and effective accountability mechanism if the Department is to avoid escalating these unnecessary and burdensome costs. Several researchers have proposed accountability frameworks that rely on tuition, rather than debt, to measure the return on investment of programs.[11] This would ensure a more fulsome measure that considers not just debt taken on, but also Pell Grant dollars that

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[11] Matsudaira, Jordan and Lesley Turner, "Towards a Framework for Accountability for Federal Financial Assistance Programs in Postsecondary Education," Brookings Institute, November 23, 2020, https://www.brookings.edu/research/towards-a-framework-for-accountability-for-federal-financial-assistance-programs-in-postsecondary-education/; and Delisle, Jason D. and Jason Cohn, "Tuition-to-Earnings Limits: An Alternative to the Gainful Employment Rule for Higher Education Accountability," Urban Institute, November 22, 2022, https://www.urban.org/research/publication/tuition-earnings-limits-alternative-gainful-employment-rule-higher-education.

can't later be spent instead on a high-value program and out-of-pocket costs that students may work part- or full-time to afford.

By collecting data on the amounts of tuition paid by each student, the Department could enable future analysis that would inform a range of policy efforts: free college programs (where data on tuition could help to ensure that states and institutions are maintaining their investments rather than shifting costs back to students); institutional aid practices; access for low-income students and students of color; graduate student borrowing; and much more.

Furthermore, the Department should refine its existing data to better understand enrollment of students in distance education programs. In recent years, distance education enrollment has exploded, with more institutions than ever before enrolling students in hybrid or online programs — particularly following the onset of the pandemic. At the same time, a number of public and nonprofit institutions, which have historically been smaller players in the online education sector than for-profit institutions, have acquired for-profit institutions in an effort to boost enrollment overnight. These institutions typically operate quasi-independently of the primary institution, with separate enrollment and academic standards and differing recruitment practices. Other institutions have created programs within their institutions that are operated by stand-alone, often for-profit companies called online program management companies.

As AV wrote to the Department in response to a comment period regarding the National Student Loan Data System (NSLDS), "we recommend that the Department seek to collect information on online program offerings. This information could be included in NSLDS by requiring institutions to report, for any program in which at least one course can be completed online, whether a Title IV participant is enrolled exclusively online (and within that category, whether the student is in distance education or in correspondence courses), exclusively as a brick-and-mortar student, or as a hybrid student. Additionally, the Department could establish location-level reporting for distance-education programs. While there are many more gradations that could be included to provide richer information, this minimal level of reporting would greatly enhance available information on distance education."

We reiterate this suggestion here because better data on distance education status will provide crucial insights into how the value and financial payoff of a program may differ for students —and for taxpayers — depending on the nature of that program and the modality of the offering. This may help to inform subsequent refinements in accountability measures and promote a more nuanced design for accountability going forward.

Comments on List Structure and Public Dissemination

The Department also asked for feedback on how best to issue the watch list, including the best opportunities to provide the information to students and families. As the Department works to prepare these important warnings for students, we urge you to keep students at the forefront. That means ensuring lists are constructed with consideration to how students make choices about higher education; providing information in ways that meet students where they are; and ensuring behavioral research is considered in constructing disclosures and warnings to improve college choice.

Provide the greatest amount of information available to students to inform their college choices

The Department asked whether it should include data at the 4-digit CIP code level if it is unable to produce information at the 6-digit level. We strongly urge the Department to do so. Privacy suppression in available data through the College Scorecard (at the 4-digit CIP code level) is significant, hampering students' ability to know the outcomes of their programs; at the 6-digit level, this suppression will be even greater. But while the Department cannot — and should not and would not — produce information that would put students' privacy at risk, it must seek to provide the most complete data possible, even where it requires broadening the measurement slightly to include multiple academic programs that fall within the same credential level and category of program. For instance, students pursuing a barbering program are better off with information that encompasses all cosmetology and personal grooming certificate programs at the institution than with no information at all.[12] Similarly, if a bachelor's degree-seeking student in public policy analysis cannot be provided information on that specific major, they are better off viewing information that includes public policy students alongside education policy analysis, health policy analysis, international policy analysis, and other public policy analysis than they would be offered no information at all.[13]

The Department also questioned how it should subdivide the list — by sector and/or by credential level, for instance. As noted elsewhere, we recommend that the Department publish this list as a supplement to other mechanisms for providing the information to students. However, we propose that the list that the Department provides include all manner of relevant data to how students consider colleges — in particular, state; ZIP code; and credential level (measured by the predominant degree offered by the institution). All of these are options listed on the College Scorecard "custom search" menu, because all have been determined to be relevant to students.

[12] Cosmetology programs fall within the 12.04 4-digit CIP code, and include cosmetology, barbering, electrolysis, make-up artistry, hair styling, facial treatment, aesthetician, facialists, nail technicians, permanent cosmetics, salon management, cosmetology instruction, master aesthetician, and other cosmetology arts. Measured within a single credential level, these fields are unlikely to see significant variation. Full CIP Code listing is available at: https://nces.ed.gov/ipeds/cipcode/browse.aspx?y=56.

[13] Public policy analysis programs fall within the 44.05 4-digit CIP code, and include the fields stated above. Full CIP Code listing is available at: https://nces.ed.gov/ipeds/cipcode/browse.aspx?y=56.

Ensure that programs and schools on the watch list are provided in effective ways to prospective and enrolled students to drive safer public choices

In providing the list to the public directly, we suggest prioritizing the outlets in which students already find themselves. While the Department may wish to provide its data, including a list of low-financial-value programs, in a downloadable data file that researchers, high school advisors, states, accreditors, and college counselors can use, it should not stop there.

Recognizing that few students will ever seek out a list of low-value programs to cross-reference with their higher education options, the Department should flag low-financial-value programs on the College Scorecard to indicate a warning to prospective students. It has used this approach in the past to identify institutions that have been placed on Heightened Cash Monitoring 2, indicating the school is a significant financial risk to students and taxpayers, which may have helped some avoid enrolling in a school that closed or faced significant sanctions shortly thereafter. A similar, visually effective "red flag" for low-value programs will help students to sort through their options by providing them with graphic cues and heuristics to aid in their search. Relatedly, the Department should work with the Departments of Defense and Veterans Affairs and with the Consumer Financial Protection Bureau to ensure postsecondary education consumer tools that those agencies offer incorporate the same information in similarly effective ways.

Additionally, the Department should flag institutions with a preponderance of low-value programs when a student adds the school to their FAFSA application. The vast majority of students only list one institution on their FAFSA; a recent survey found that two-thirds of survey respondents applied only to between one and five schools.[14] (Students may list up to 10 colleges on their FAFSA form.) For too many students, the one school they listed may be primarily low-financial-value. While the FAFSA does not collect information on the type of program in which the student is seeking to enroll, the Department could help students to better consider their options both by flagging institutions at which *most programs* offer low financial value, and by providing a link to further information (perhaps via the College Scorecard) where students can look up their programmatic interests at that school more specifically, whether or not the school itself is flagged.

Most importantly, however, we recommend that the Department provide these disclosures directly to students and require students attending a watch-list program to attest to the low financial value of the program prior to enrollment. Research has demonstrated that direct disclosures are most effective in reaching consumers in a time and place to affect their decision-making.[15] Given the enormity of the investment — both in time and money — that students and their families are making in these students' futures, the Department owes it to those students to share the information at its disposal about low-value programs. Students who still wish to enroll

[14] Ezarik, Melissa, "Students Approach Admissions Strategically and Practically," Inside Higher Ed, March 21, 2022, https://www.insidehighered.com/admissions/article/2022/03/21/survey-student-college-choices-both-practical-and-strategic.

[15] Robertson, Brett and Beth Stein, "Consumer Information in Higher Education," The Institute for College Access and Success, April 2019, https://ticas.org/files/pub_files/consumer_information_in_higher_education.pdf.

after seeing a warning about the program may do so — but only after attesting to having seen the disclosure, so that students can be confident they are making an informed choice.[16]

To enable timely, accurate, and well-delivered disclosures, the Department could provide these disclosures and warnings through its own website, linking the completion of the attestation to students' NSLDS profiles. This could be particularly useful in ensuring that institutions do not seek to bury the disclosures in a bevy of other materials, as past evidence has indicated colleges are wont to do.[17]

To protect and enforce these disclosure requirements, the Department should seek to codify them in regulations. During the institutional and programmatic accountability rulemaking sessions last year, the Department already proposed to incorporate into 34 CFR 668.43(d)(1) a website, established and maintained by the Secretary and informed by consumer testing, to provide key disclosures to students, including regarding debt and earnings levels. By incorporating warnings about the programs that offer low financial value, the Administration can achieve its goals of helping students to avoid low-quality programs — wherever they happen.

[16] Importantly, this attestation should not be treated as relevant in preventing the borrower from accessing a borrower defense claim to relief later if the institution engaged in other misrepresentations, omissions, aggressive and deceptive recruitment tactics, or other illicit behavior outlined in the borrower defense regulations. Borrowers would attest only to their awareness of this disclosure and not to any knowledge of other illegal action on the part of the school. Maintaining this protection for students will help protect students' access to relief, as they are promised under the law, and will deter institutions from engaging in illegal behavior under the illusion that borrowers will not have avenues for relief.

[17] Miller, Ben, "Colleges Are Supposed to Report Pell Graduation Rates – Here's How to Make Them Do It," New America, November 1, 2013, https://www.newamerica.org/education-policy/edcentral/colleges-are-supposed-to-report-pell-graduation-rates-heres-how-to-make-them-actually-do-it/.