



June 4, 2013

Ms. Wendy Macias
U.S. Department of Education
1990 K Street NW, Room 8017
Washington, DC 20006

Re: Docket ID ED-2012-OPE-0008

Ms. Macias:

On behalf of more than 3 million members, the National Education Association submits the following comments on the U.S. Department of Education's intention to establish a negotiated rulemaking committee to prepare proposed regulations for the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965 as outlined in the May 13, 2013 *Federal Register* notice (78 Fed. Reg. 27880). Among its members, NEA represents more than 215,000 faculty and staff, and more than 60,000 students on college and university campuses around the country.

It is important to note that the issues raised in the comments below involve NEA's commitment to both quality education and social justice. In addition to the Association's longstanding commitment to quality education at all levels, NEA strongly advocates for a social justice agenda encompassing and securing civil rights for all. We advocate for equal access to all levels of education—early childhood, primary, secondary, and post-secondary. Post-secondary education encompasses two- and four-year institutions, liberal arts programs, community and technical colleges, career, and adult education. We oppose discrimination in all its forms, racial, ethnic, gender, religion, or sexual orientation.

We look forward to the negotiated rulemaking process and would like to offer comments on three specific subjects at this time:

- Gainful Employment
- Changes made by the Violence Against Women Act Reauthorization Act of 2013, Public Law 113-4, to the campus safety and security reporting requirements of the Higher Education Act (HEA).
- The definition of "adverse credit" for borrowers in the Federal Direct PLUS Loan Program

Gainful Employment

At a time when some type of post-secondary education is becoming more essential for adults of all ages, sensible protection is more important than ever. We must not, in the name of protecting student access, protect programs that leave students without prospects and with excessive debt. Our goal must be to increase student access to quality and affordable education. A strong enforceable gainful employment regulation will help do that.

HEA has always required that in order to be eligible for funding under the Title IV programs, an educational program must:

- lead to a degree (associate, bachelor's, graduate, or professional), or
- prepare students for "gainful employment in a recognized occupation." In addition, virtually all programs—degree and non-degree—offered by proprietary institutions must prepare students for "gainful employment in a recognized occupation."

Despite this longstanding statutory requirement, the Department had never defined "gainful employment" until recently. NEA has called for a strong rule defining gainful employment for several years now, and welcomed the issuing of the June 2011 regulation requiring programs to meet metrics on repayment rate and debt-to-income ratios. We were extremely disappointed when the court vacated this regulation, but were pleased that the judge emphatically upheld the Department of Education's authority to issue such regulations in this area.

Over the past several years, numerous investigations have identified serious problems in the for-profit sector of higher education. The Senate Committee on Health, Education, Labor, and Pensions issued a major report last year, and the General Accounting Office issued several reports on the issue. The Justice Department, Securities and Exchange Commission, and Consumer Financial Protection Bureau are all now investigating misconduct by for-profit colleges. A bipartisan group of 32 state attorneys general is cooperating to investigate and combat alleged fraud and other alleged unlawful actions by companies in this sector. The facts are that students at for-profit institutions represent just 12 percent of all higher-education students—but 26 percent of all student loans and 46 percent of all student loan dollars in default. Their students carry a median debt of \$14,000, while most of their counterparts at public community colleges don't borrow a single penny.

Far too many for-profit institutions have used marketing programs that promise job readiness and target minority communities and groups where the existing public and not-for-profit higher education systems have not been as effective as they should be in bringing people in. The for-profit marketing plays heavily on this feeling of exclusion, and promises high paying jobs—a result that these metrics attempt to measure precisely. In these circumstances, it is entirely appropriate that they be judged on their claims.

The need for a strong enforceable rule was demonstrated with the release of data under the 2011 rule published by the Department. These results found that:

- 35 percent of the programs tested are meeting all three metrics
- 31 percent of the programs tested are meeting two of the three metrics
- 29 percent of the programs tested are meeting one of the three metrics

- 5 percent (193 programs in 93 different institutions) did not meet any of the three metrics.

These results suggest two critical facts. First, slightly more than a third of the institutions in the for-profit sector did meet all three of the metrics, and are providing a real education to their students. Second, almost two-thirds did not do so. With the explosive growth in the sector over the past decade, an unacceptably large number of institutions seem to be entering the sector more concerned with profit than education. It is in the interest of students, taxpayers, and the legitimate career education institutions to police these institutions, and ensure that value is being provided.

Campus Reporting

NEA has strongly supported the Violence Against Women Act (VAWA) since its inception and continues to advocate for it as a matter of social, moral, and criminal justice. The original VAWA represented a historic recognition on the part of the federal government that domestic violence devastates victims and degrades our society. The legislation has proven its effectiveness every day since, resulting in anti-stalking legislation in every state, and stronger rape laws.

The rate of domestic violence incidents has been halved since the enactment of VAWA, and the rate of reporting has increased by 51 percent. And the number of people who die at the hands of an intimate partner fell 34 percent for women and 57 percent for men.

The NEA-supported VAWA reauthorization bill passed this spring included the Campus SaVE Act, which requires colleges to establish sexual assault policies and judicial response. Schools also will need to report more than just the number of sexual assaults on campus—including greater transparency about dating violence, domestic violence, and stalking. Under the act, victims also are expected to be provided with information on counseling, health services, school disciplinary proceedings, and legal options.

The requirement for publishing clear explanations of university sexual assault policies is long overdue—inadequacy and lack of clarity in sexual assault policies are the primary barriers to victims reporting crimes. By spreading awareness and expanding resources available to students, the act aims to reduce sexual assault, dating violence, domestic violence, and stalking on campus, while also encouraging victims to seek help and report the crimes.

NEA strongly supports these efforts to incorporate the SaVE Act requirements into campus safety and security reporting procedures under the HEA.

PLUS Loans Credit Eligibility

In the last couple of years, the Department changed the means by which it evaluates credit eligibility for applicants for Federal PLUS loans. Previously, the pattern was to judge an applicant's 90-day credit history. However, the Department began judging applicants' five-year credit history in 2011, resulting in thousands of parents' and graduate students' loans being denied. The situation has been especially pronounced for applicants intending to obtain

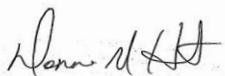
financial aid to attend or send their sons and daughters to Historically Black Colleges and Universities, but has affected many students in other minority serving institutions.

NEA strongly urges the Department to revisit the underwriting rules associated with the PLUS Loans and to promote dramatic expansion of students' and families' eligibility for grant aid to help students attend—and complete—their postsecondary programs without accumulating impossibly large debt loads.

Conclusion

The NEA respectfully submits the above comments for your consideration. Please do not hesitate to contact me at dharris-aikens@nea.org should you have any questions.

Sincerely,



Donna M. Harris-Aikens
Director, Education Policy and Practice