Robbing from the Poor to Give to the Rich: The Flawed Logic and Failed Methodology Behind the *Do No Harm* Earnings Test

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Abstract

This report critically examines the Do No Harm (DNH) earnings test, a highly flawed and scientifically unsound higher education accountability metric enacted by Congress as part of the One Big Beautiful Bill Act. Although Congress requires this metric to be applied to undergraduate degree programs, graduate degree programs and graduate certificate programs, the Department of Education (the Department) has proposed to use its regulatory authority to expand the test to include undergraduate certificate programs. The Department's desire to hold all schools and programs to the same standards is commendable; however, the metric imposed upon them by Congress lacks validity and merit, rendering it an arbitrary and capricious regulatory test.

This report evaluates the DNH metric against accepted standards of experimental design, including those established by the Department [1] as the minimum required to demonstrate suitability for policy-making decisions, and finds that it fails in numerous and significant ways. The report demonstrates that the metric's design systematically disadvantages low-income students and the institutions that serve them and in particular, has disparate impact at the certificate level on non-traditionally-aged females and students of color. Importantly, the DNH metric ignores well understood employment trends, including that earnings grow significantly during the first 10 years of one's career, that individuals from low-income families tend to take lower-paying jobs initially and experience slower wage growth than those from more advantaged families, and that women aged 24 to 35 are more likely than others to seek part-time rather than full-time work. Though this report points out the many reasons why earnings tests are not a valid form of quality assessment or regulatory control, it includes recommendations that would at least align earnings-based accountability frameworks with accepted standards of scientific rigor and the access-oriented mission of Title IV programs.

I. Introduction

The One Big Beautiful Bill Act (OBBBA, P.L. 119-21) introduced a new higher education accountability metric—the Do No Harm (DNH) earnings test—designed to terminate access to federal student loans and Pell Grants[2] for students who enroll in postsecondary programs whose prior graduates, four years after completion, earn less than a designated threshold. For undergraduate degree programs, that threshold is the median earnings of so-called high school graduates ages 24 to 35 in the state in which the institution is located, or nationally when 50 percent or more of students are enrolled online. Congress authorized the DNH earnings test for undergraduate degree programs, graduate degree programs, and graduate certificate programs, and

[1] What Works Clearinghouse, U.S. Dep't of Educ., *What Works Clearinghouse Procedures and Standards Handbook, Version 5.0* (2022), https://ies.ed.gov/ncee/wwc/Docs/referenceresources/Final_WWC-HandbookVer5.0-0-508.pdf.

[2] If an Institution of Higher Education enrolls 50 percent of more of its students in the "failing" program, then future students also lose access to Pell grants.

specifically exempted undergraduate certificate programs from the statutory accountability scheme. Despite this exemption, the Department has proposed to use its regulatory authority to apply the same earnings test to undergraduate certificate programs. This approach holds merit only if the Department has evidence that the earnings premium associated with certificate completion is equal to that associated with associate or baccalaureate degree completion. Research suggests otherwise.[3]

As applied by the Department, the DNH metric operates as a binary pass-fail determination. A postsecondary program fails the earnings test if the median annual earnings of its Title IV completers—measured using IRS administrative records four years after program completion—fall below the median annual earnings of a group incorrectly referred to as high school graduates ages 24 to 35 in the relevant state, as derived from the American Community Survey (ACS). Programs that fail the test face termination of eligibility for federal student loans and potentially Pell Grants, with no intermediate sanctions, gradations, or probationary measures. The metric thus stakes the viability of specific academic programs of study and entire institutions of higher education (IHEs) on a single, illegitimate arithmetic comparison between two fundamentally dissimilar data sources measuring two fundamentally dissimilar populations, with no adjustment for confounding variables, no matching of comparison groups, and no accommodation for the known limitations of the underlying data.

Although the DNH metric may appear intuitive, it lacks methodological rigor and relies on data ill-suited to measuring educational quality or value added. It relies on an artificially inflated wage attributed to a group erroneously labeled as high school graduates to stimulate an emotional response and exaggerate the truth. Indeed, the metric does not compare completer wages with those who have earned *only* a high school diploma. The metric also ignores the wealth of research that makes clear how earnings are significantly influenced by "supply and demand for workers, labor market institutions, workplace organization and practices, and macroeconomic trends."[4] While college graduates, in the aggregate, do earn more than high school graduates, in aggregate, several variables affect earnings for individuals, regardless of their educational status. It is well understood that different occupations pay different wages – what the Congressional Research Service (CRS) refers to as labor market institutions – and that the value of a college education does not peak 4 years after completion.

In addition, the impact of credential inflation on employment opportunities is well known and not limited to graduates of a specific educational sector or group of programs.[5] Jobs that were available to high school graduates 10 years ago may now require new entrants to hold a baccalaureate degree or higher, yet the wage and job responsibilities may not track with the new credential requirement. Even the Census Bureau's infamous projection of the million-dollar college earnings premium made clear that while the aggregate college premium reaches that threshold, individual earnings differ considerably from person to person because of individual students' selected occupation, geographic location, aptitude, ambition, and decisions about

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[3] Sarah A. Donovan & David H. Bradley, *Real Wage Trends, 1979 to 2019* (Cong. Rsch. Serv., R45090, 2020), https://www.congress.gov/crs-product/R45090.
[4] *Id.*
[5] Joseph B. Fuller & Manjari Raman, *Dismissed by Degrees* (Accenture, Grads of Life, Harv. Bus. Sch. 2017), https://www.hbs.edu/managing-the-future-of-work/Documents/dismissed-by-degrees.pdf.

lifestyle and work-life balance.[6] The DNH metric does not account for the impact of any of these critical variables.

This report analyzes the DNH metric as follows: Section II discusses background information supporting the rationale for the accountability rule and the confounding variable problem; Section III presents a methodological critique of the DNH metric's research design; Section IV analyzes the metric's data sources; Section V considers these findings as they would affect careers in personal services and healthcare fields; Section VI examines the concept of "harm" as deployed by the metric; and Section VII offers policy recommendations.

II. Background

A. Student Loan Defaults and the Rationale for Accountability

The DNH metric evolves from legitimate concern about the growing size of the outstanding federal student and parent loan portfolio, which now totals $1.7 trillion, and low rates of loan repayment. However, low rates of loan repayment are the direct result of legislative and regulatory changes that, over the last two decades, have significantly expanded income-based repayment programs and promises of loan forgiveness. Promises of loan forgiveness by President Biden and years of administrative forbearance due to COVID-19 have also affected borrower repayment behaviors. The DNH metric is based on the flawed assumption that graduate earnings are the primary predictor of student loan repayment behaviors. Since nearly every borrower is now eligible for an income-driven repayment plan, which reduces their monthly payment obligation to a nominal amount (which previously included zero-dollar payment requirements), student loan defaults can no longer be blamed on borrower earnings. It makes no sense to assert a causal relationship between earnings and student loan default when a borrower can have a $0 payment obligation and *not* be considered in default. It is complicated to navigate the consolidation loan process, which is the first step toward entering income-driven repayment, so until that process is changed, we cannot come to the lazy conclusion that defaults are caused by low earnings.

Student and parent loan defaults are harmful to borrowers given the penalties and fees that accumulate. However, defaulted loans are not the source of greatest risk to taxpayers since around 70 percent[7] of defaulted loans are rehabilitated, and among those that are not, the government can offset tax refunds and Social Security benefits to make taxpayers whole. During the first Trump administration, a more careful analysis of the outstanding student and parent loan portfolio revealed that the greatest risk to taxpayers was the numerous income-based repayment programs, and in particular the REPAYE program which the Obama Administration created using the regulatory process.[8] This program incentivized borrowers to minimize their monthly payment

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[6] Jennifer Cheeseman Day & Eric C. Newburger, *The Big Payoff: Educational Attainment and Synthetic Estimates of Work-Life Earnings*, (U.S. Census Bureau, Report No. P23-210 2002), https://www.census.gov/content/dam/Census/library/publications/2002/demo/p23-210.pdf. f

[7] Jason D. Delisle, Preston Cooper & Cody Christensen, *Federal Student Loan Defaults: What Happens After Borrowers Default and Why* (Am. Ent. Inst. Aug. 13, 2018), https://www.aei.org/research-products/report/federal-student-loan-defaults-what-happens-after-borrowers-default-and-why/.

[8] Federal agencies are not permitted to use their regulatory authority in such a way that it significantly increases federal expenditures beyond the levels authorized or appropriated by Congress. The Obama administration relied on a budgetary sleight of hand to make it appear as though the REPAYE program would cost no more than the congressionally-authorized PAYE program. By requiring higher earning borrowers in the program to pay more than

(including by misrepresenting the truth about earnings or family size[9]) so that, eventually, the borrower could shift his or her loan balance to taxpayers. So significant was the problem of large loans in a negative amortization status, as a direct result of being enrolled in an income-based repayment program, that the Congressional Budget Office (CBO) revised its cost estimates for the federal student loan program to reflect its transition from a negative subsidy (revenue generating) program, to a positive subsidy (revenue consuming) program that would thrust considerable costs upon taxpayers.[10] Many Americans forget that a primary justification for federalizing the student and parent loan program was that ostensibly revenue from the program would offset some of the costs of federal health insurance subsidies authorized by the Affordable Care Act.

Lochner and Monge-Naranjo's study of 10-year repayment rates among baccalaureate completers found that race—and the related absence of intergenerational wealth transfer—was the strongest predictor of student loan default, regardless of institution attended, major completed, or earnings level.[11] Their findings further revealed that low-income completers defaulted at higher rates and earlier in the repayment process, while higher-income completers who defaulted did so later, likely because parental subsidies came to an end, and on larger balances. These results confirm that student loan default is driven primarily by pre-existing socioeconomic conditions rather than by institutional or program quality—a finding that directly undermines the central premise of the DNH metric. Because elite colleges bias enrollments toward wealthier students, their defaults tend to happen later in repayment, thus they are not captured in the cohort default rate (CDR)[12] measurement. The CDR measurement does not capture the true source of risk to the taxpayer, which is high participation rates in income-driven repayment plans that cause outstanding balances to grow rather than shrink, and that ultimately transfer the debt to taxpayers through loan forgiveness. IHEs that serve wealthier students evade public scrutiny because unlike the much publicized annual 3-year CDR measurement, longer-term default and loan repayment rate data are not readily available to the public.

In 2017, the Department published a more comprehensive annual report on 3-year student loan cohort default rates to illustrate how the focus on *percentage* of defaulters belies the truth about where the greatest nonrepayment risk lies. These data further undermine the DNH metric's implicit assumptions about the source of financial risk to students and taxpayers. The 2017 National Cohort Default Rate[13] report showed that four-year public and private institutions—not proprietary schools and certainly not those that offer undergraduate certificate programs—were the source of the largest number of defaulters and the highest dollar amounts in default. For the

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their required payment under a 10 year standard repayment plan, budgeters were able to make the program appear cost neutral; however, since the program allowed borrowers to exit the program one time, such as when their earnings now increased their monthly payment obligation above the standard repayment amount, the program was not cost neutral.

[9] U.S. Government Accountability Office,, *Federal Student Loans: Education Needs to Verify Borrowers' Information for Income-Driven Repayment Plans* (GAO 19-347 June 2019), https://www.gao.gov/assets/gao-19-347.pdf.

[10] U.S. Congressional Budget Office,, *Income-Driven Repayment Plans for Student Loans: Budgetary Costs and Policy Options* (Publication 55968 2020), https://www.cbo.gov/publication/55968.

[11] Lance J. Lochner & Alexander Monge-Naranjo, *Default and Repayment Among Baccalaureate Degree Earners* (NBER Working Paper 19882, 2014), https://www.nber.org/system/files/working_papers/w19882/w19882.pdf.

[12] Cohort default rates report the percentage of borrowers who entered student loan repayment three years earlier and at some point since then have entered into default.

[13] U.S. Dep't of Educ., Fed. Student Aid, *National Default Rate Briefing: FY 2017 Official Cohort Default Rates* (2020), https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2020-09-30/national-default-rate-briefing-fy-2017-official-cohort-default-rates.

2017 student cohort, public four-year institutions accounted for 121,110 defaulters with a collective defaulted balance of $1,830,153,971, while private four-year institutions accounted for 64,491 defaulters with $1,108,799,940 in default. Proprietary four-year colleges accounted for 68,532 defaulters with $917,513,348 in default. Among two-to three-year institutions, public colleges accounted for 97,795 defaults totaling $790,416,619, while proprietary two- to three-year colleges—the category that includes many certificate programs—accounted for only 35,366 defaults totaling $320,551,423. In 2026, public institutions were responsible for generating $686.1 billion of debt in the Direct Loan portfolio, whereas private institutions generated $550.7 billion and proprietary institutions generated $230.5 billion.[14]

These figures demonstrate that moderate default rates among large populations with substantial outstanding balances represent far greater systemic risk to taxpayers than higher default rates among the small populations and modest loan balances characteristic of most certificate programs. The focus on default *rates* rather than the number of borrowers or dollars in default has mislead the public about the source and nature of risk. We cannot ignore that student loan defaults are harmful to borrowers. We do need to reduce defaults for a variety of reasons, but policy makers must acknowledge that a defaulted loan is not a forgiven loan. On the other hand, loans that are in an income-driven repayment program, and that are in a negative amortization status for many years, will be forgiven, meaning that the repayment liability will be transferred to the taxpayer. In the era of income-driven repayment programs, defaults are no longer a relevant predictor of portfolio risk. Instead, they are merely a reliable proxy for the socioeconomic background and race of the students a school serves. The focus on default rates as a proxy for quality has merely allowed policy makers to appease the interests of middle-class voters and justify the gradual redistribution of Title IV funds away from the institutions that serve high risk students toward those that operate more like private membership clubs.

B. Accountability Metrics & the Problem of Confounding Variables

Institutional accountability is a legitimate policy objective, but prior earnings-based and other metrics have consistently failed to control for the confounding variables that influence student outcomes. Previous accountability frameworks have relied on college completion rates, job placement rates, loan default rates, and debt-to-earnings ratios. Each of these metrics has suffered from the same fundamental deficiency as the DNH test: the failure to isolate the effect of institutional quality from confounding variables—including pre-enrollment socioeconomic status, geographic labor market conditions, family structure, and demographic characteristics—that independently influence student performance and post-completion earnings. As a result, these metrics reward institutions for the selectivity of their admissions processes, in which they sort for wealthy students, rather than for the quality of their instruction, systematically disadvantaging open-access programs and institutions that are doing the hard work of serving the highest risk students. Title IV programs were designed to expand college access to low-income students, but over time, program spending has shifted dramatically to middle class and wealthier students and the institutions that work diligently to entice them.

The DNH metric similarly does not account for institutional demographics and selectivity ratings. Dale and Krueger demonstrated that students admitted to highly selective institutions

[14] U.S. Dep't of Educ., *Fed. Student Aid Data Warehouse*, https://studentaid.gov/data-center/student/portfolio (last visited Apr. 15, 2026).

earned similar lifetime incomes regardless of whether they enrolled at those institutions or less selective institutions, suggesting that family wealth – which correlates strongly with both elite college admissions and pathways to the highest paying jobs—rather than instructional quality, accounts for much of the earnings premium associated with elite schools.[15]

I contend that a high-value institution, by contrast, is one that enrolls higher-risk students and helps them exceed the outcomes predicted by their demographic and socioeconomic profiles. Despite suggestions by some that low-income students should simply enroll at "better" colleges to enjoy stronger outcomes, there is substantial evidence that institutions with strong outcomes enroll very few higher-risk students and almost no high-risk undergraduate students. High-risk students are those over the age of 24 who enroll part-time, work in off-campus jobs more than 10 hours per week and have dependents. There is no evidence that if selective institutions enrolled substantial numbers of high-risk students, their strong outcomes would persist. Institutions of higher education serve different missions, operate on different per-student budgets, rely on different admissions strategies, offer different academic programs, and serve students of vastly different socioeconomic and demographic characteristics. An accountability metric that fails to account for these differences—including the DNH metric—is merely measuring student socioeconomic and demographic profiles, not educational quality.

III. Methodological Critique

The DNH metric implemented by Congress and expanded to certificate programs by the Department of Education does not satisfy the Department's own methodological standards[16] for validity and reliability in that it relies on unmatched comparison groups and inconsistent data sources while also failing to sufficiently limit confounding variables in performing the earnings comparison. The DNH metric also has a persistent retroactive effect, fails to consider the significant differences in economic conditions across an individual state and the nation, fails to consider the impact of time on earnings, and holds institutions accountable for earnings, which are determined by consumers and employers – not colleges and universities.

A. Experimental Design Standards

The fundamental requirement of a well-designed study is the presence of a valid counterfactual—a treatment group and a control or comparison group whose composition is critical to the reliability and validity of the findings. Experimental design must ensure that both groups are identical in all relevant respects except for the treatment, or that random assignment results in a distribution of confounding variables that is equal among both groups. When neither experimental nor quasi-experimental design is possible, statistical techniques must be employed to suppress the many confounding variables that could be responsible for the observed outcome.

The Department of Education uses these high standards to identify research that qualifies for inclusion in the "What Works Clearinghouse," its own curated repository of research findings that inform policy decisions. The methodology behind a high-stakes regulatory scheme like the

[15] Stacey Dale & Alan B. Krueger, *Estimating the Payoff to Attending a More Selective College*, 117 Q. J. of Econ. 1491, 1527 (1999); Stacy Dale & Alan B. Krueger, *Estimating the Return to College Selectivity over the Career Using Administrative Earning Data*, 49 J. Hum. Resources 323 (2014).
[16] What Works Clearinghouse *supra* note 1.

DNH metric must meet no less demanding a standard since regulatory sanctions that terminate students' or institutions' access to Title IV funds are among the most consequential policy determinations a federal agency can make. Because the DNH metric does not meet the standard of experimental or quasi-experimental design, or even the lesser standard of relying on statistical techniques to suppress confounding variables, the DNH metric is invalid and unreliable, thus an arbitrary and capricious regulatory standard.

B. Unmatched Comparison Groups

The DNH metric commits a fundamental methodological error by comparing small numbers of graduates from postsecondary programs – often who work in the same occupation for which the program prepared them - against an unmatched comparison group of thousands of individuals who work in the full range of occupations. For comparison results to be reliable, control and treatment groups must be matched on all relevant characteristics other than the treatment applied, or, at the very least, confounding variables must be suppressed using statistical techniques. Table 1 lists the numerous points of mismatch between the DNH metric's treatment and comparison groups, making clear that the DNH metric neither matches control group members to completer group members on observable characteristics nor employs any statistical method to control for the confounding variables that distort the true relationship between the treatment (postsecondary education) and observed effect (median earnings).

Table 1: DNH Methodological Weaknesses: A Departure from Accepted Scientific Practice

	Control or Comparison Group	**Treatment or Completer Group**
Data Source	Voluntary reports by household members to the **American Community Survey.** Household members may report earnings for other members of the household	W-2 and 1099 wage reports annual tax returns submitted to the **Internal Revenue Service, U.S. Treasury Department**
Time Since Credential Completion	6 – 17 years beyond high school completion, or equivalent (workers ages 24 – 35)	4 years beyond credential completion
Frequency of Data Collection	Annually, except for communities with fewer than 65,000 residents, in which case every 5 years (75% of counties in America have fewer than 65,000 residents). Survey occurs through mostly samples of around 295,000 households.	Annually
Geographic Coverage	50 U.S. States and Washington, DC Puerto Rico Community Survey, which is part of the ACS	50 U.S. States and Washington, DC Puerto Rico residents and bona fide residents of U.S.

	Excludes U.S. Island areas: American Samoa, Guam, Northern Mariana Islands, U.S. Virgin Islands.	Island areas do not report income earned within Puerto Rico or the Island territory to the IRS – only worldwide income and earnings from self-employment.
Verification	None	Reports from employers, financial institutions, and other third parties; Taxpayer Audits
Earnings Data	Estimates based on the 12 months prior to the survey	January 1 – December 31st tax year (for most taxpayers)
Cohort Size	3.5 million households	At least 30 graduates
Treatment of Part-time, full-time and non-workers	DNH appears to include part-time and full-time earners, though in the past, ACS has reported high school median earnings only for full-time, year-round workers Zero earners excluded	Part-time and full-time workers included Zero earners excluded
Occupational Diversity	Numerous occupations, including some that are no longer available to individuals who do not have a college credential	Potentially a single occupation (for vocationally focused programs)
Credential Inclusion	High School Completers Completers of non-college post-secondary education programs, such as apprenticeships, manufacturer-provided education programs and employer-provided training and education programs. May include individuals who have some college, including a certificate, but less than an associate's degree.	The credential associated with the academic program. Note that for undergraduate programs, excluded from the median earnings calculation will be students enrolled in graduate or professional education programs.
Gender Composition	Approaches representation of women and underrepresented minority that correlates with state and national demographic profiles, though lower earners are more likely to be non-responders to the survey	For programs leading to female-dominated occupations (such as education, allied health, cosmetology and social services), mostly or all female students. Proprietary Schools serve a higher percentage of female

		students than other schools or than national or local gender demographics.
Race and Ethnicity	Approaches representation of local or national demographic mix, although low response rate among low earners may bias these results toward White respondents.	Depending upon the location and selectivity of a school's admissions process, the school could serve mostly White students, mostly Black students, mostly Hispanic Students or mostly Native American students.
Inclusion of Tip Income	Respondents are more likely to include tip income in earnings estimates since comparisons between survey and administrative data sources indicate that lower-earning workers tend to overreport their income.	Workers report tips to employers and the IRS directly – IRS reports that tips are underreported by 45% Employers are required to pay FICA taxes on the tip earnings their employees report OBBB now alleviates payroll tax obligations for up to $25,000 for individuals who earn below a threshold wage.
Geographic Region Represented	ACS State-level data ACS National Data (for programs that enroll 50 percent or more students on-line)	Program completers could disperse nationally or could be concentrated in smaller localities. Vocationally-focused certificate programs are more likely to graduate students who live – and remain – in the local service area of the college.

Mismatched Length of Workforce Participation

Primary among the inappropriate mismatches between the control and treatment group is the significant difference in time after credential completion when earnings are measured for each. When applied to undergraduate programs, the comparison group consists of a sample of high school graduates ages 24 to 35—individuals who have been in the workforce for 6 to 17 years post-high school completion. The treatment group consists of individuals who completed a particular post-secondary degree or certificate program at one institution of higher education 4 years prior to the earnings measurement year. Even graduates of the same program will have significant wage differences when measured 4 years after completion versus 17 years after

completion. This mismatch, alone, makes the DNH calculation irrelevant and its related claims of "harm" to be exaggerated and unfounded.

There is no empirical basis for using the 4-year measurement point to measure college completer wages, since the wealth of research shows that during the first 8 to 10 years, wage growth is considerable. According to a recent RAND study, on average, workers experience a 50 percent growth in wages during the first 8 years of employment, though wage growth is slower for women (32 percent) and Black workers (28 percent), potentially due to differences in labor force participation and hours of employment.[17] The 4-year mark is certainly not indicative of the full earnings premium associated with college completion, and while students are in their student loan repayment period at this point, graduated payment plans are the best way to align payment obligations with the realities of how careers evolve. For degree programs, the 4-year mark will reflect the earnings of a program's lowest earners since the graduates most likely to achieve higher earnings are, at the 4-year mark, typically enrolled in graduate or professional programs.

The selection of 4 years as the measurement point was likely based on the current measurement period used for reporting wages through the College Scorecard. In other words, it was a choice that prioritized convenience over empiricism. During the first Trump administration, I participated in a revision of the College Scorecard which required the Department to enter into a memorandum of understanding with the U.S. Treasury Department to receive earnings data from that point forward on new cohorts of graduates. In the first year, the College Scorecard reported first year earnings of program graduates, not because first year earnings are indicative of program value, but because first year earnings were the only earnings data available to the Department under the terms of the new agreement. The goal was to increase the time between graduation and earnings measurement each year, until eventually earnings would be reported at the more relevant 10-year mark. Since the DNH metric will rely on IRS earnings data provided for use in the Scorecard, the 4-year mark aligns with the progress that has been made toward the 10-year wage reporting goal of the College Scorecard.

The purpose of the College Scorecard is to help students compare colleges and programs they are considering, in which case the shortcomings of relying on first year earnings were at least equally distributed among all colleges and programs represented in the Scorecard – and the Scorecard properly explained that first year wages are not indicative of the lifetime value of a college credential. It is an entirely different matter when those earnings data are being used for a high stakes regulatory test. At a minimum, Congress and the Department should justify the use of the 4-year measurement point with empirical evidence. Agency convenience is not a sufficient justification for an otherwise arbitrary selection criteria, especially when the results could undeservedly defame an academic program and harm program graduates by devaluing their credential.

Control (or comparison) group wages come from the American Community Survey (ACS), which typically reports median earnings in age categories, including the 24 – 35-year-old category. In the past, the ACS included only full-time, year-round earnings in its calculation of median high

[17] Lisa Abraham, Christine Mulhern, Isaac M. Opper, Prateek Puri & Elizabeth Roth, *Wage Growth and Initial Occupations: Examining Differences Across Worker Demographics Using Longitudinal Data* (RAND Corp., Research Brief No. RB-A3492-1, 2024), https://www.rand.org/pubs/research_briefs/RBA3492-1.html.

school graduate wages. The way in which "high school graduate" is defined will significantly influence the calculated wage median, but limiting the calculation to only full-time, year-round workers misrepresents the truth about what a typical high school graduate with no additional education or training can expect. The DNH metric at least makes the adjustment of adding part-time workers to the median wage determination, but it still fails to account for the higher rate of unemployment experienced by high school graduates as compared to college completers because it excludes zero earners from the calculation.

At a minimum, either the ACS comparison data should be based on earnings of high school graduates 4 years after high school completion (or at age 22-23) to align with the 4-year post completion measurement point for the completer group, or the completer group earnings report must be delayed until such time that the group includes graduates who are in the 6th through 17th years post-graduation. Only then does the wage comparison begin to approach the standard of matched comparison groups.

Mismatched Occupational Diversity

The comparison and completer groups are also mismatched regarding the diversity of occupations represented. The comparison group encompasses workers across the full range of occupations available to high school graduates, including those who have completed rigorous non-college, post-secondary education programs. On the other hand, the completer group is limited to graduates of a particular academic program, which in the case of certain degree and certificate programs, may limit that group to a single occupation. Earnings discrepancies between the comparison and completer group may reflect well-established differences in occupation-based prevailing wages (what the CRS refers to as Institutional Factors[18]) rather than program quality or value-added. It is irrelevant that electricians earn more than social workers since a student is unlikely to be choosing between those two options and workers in both occupations are a necessary part of the economy. For decades, national leaders have encouraged young Americans to follow their passions and dreams – and to go to college. Despite that rhetoric, Congress now seems intent on preventing future students from pursing their passions, simply because others before them did so and then did not pursue the highest paying job possible. The stated point of income-driven repayment programs, especially when coupled with the Public Service Loan Forgiveness program created by the College Cost and Reduction Act of 2007 (P.L. 110-84), was to encourage and enable students — regardless of their level of debt — to take lower-paying jobs in the non-profit and public sectors.

Even within a single institution, where the quality of education is presumably similar across academic majors, there are significant wage differences between those who complete an engineering degree versus those who complete an education degree. The median earnings of all graduates of a college may differ from the median earnings of graduates from a particular major, which may be helpful information as a student is selecting a major. It is not, however, evidence that one program is of lower quality than another or of less value to consumers, employers, parents or taxpayers. Different college majors serve students with different aptitudes and interests, and the purpose of Title IV programs is to enable lower-income Americans to have the same set of choices regarding their postsecondary education that wealthier students have always taken for granted.

[18] Donovan & Bradley *supra* note 3.

Inclusion of Individuals with Considerable Post-Secondary Education in the High School Graduate Median Wage

While the comparison wage for the purpose of evaluating undergraduate programs is referred to as the median high school wage, that is a misleading characterization since the comparison group includes individuals who have completed significant structured and unstructured education and training beyond high school completion, but outside of the college setting. Because of the way in which the ACS asks questions about educational attainment, it fails to capture the many types of rigorous and worthwhile post-secondary education and training that takes place outside of the college classroom. Professionals that have considerable post-high school education and training through apprenticeships, manufacturer-provided instructional programs, and structured work-based learning experiences – individuals who have been historically stigmatized and marginalized by educationalists and public policy officials for decades – are inappropriately included in the high school median wage calculation, even though their earnings are not attributable to their high school diploma.

It is inappropriate to include in the high school median wage calculation those individuals who have "middle-skill" jobs, which require considerable post-high school education and training. Additionally, since the comparison wage is calculated for individuals who have been on the job for as many as 17 years, it likely includes wages earned by those who have moved into management and supervisory roles, not as a result of having earned a high school diploma, but because of years of on-the-job learning and experience. A college completer only 4 years after program completion will not likely have experienced such upward mobility within their career. According to CRS, "formal education is a common measure of worker skill, but it is not the only one. Workers can gain skills and expertise through nondegree postsecondary programs (e.g., certifications, apprenticeship, and on-the job training (formally and informally acquired)."[19]

Failure to Recognize the Differences between Certificate, Associate's Degree and Baccalaureate Degree Programs

The Department's proposal to apply the same metric to certificate programs that Congress has applied to two-year degree programs and four-year degree programs reflects an insufficiently rigorous approach that fails to account for the fundamental differences in the depth, duration, and scope of instruction across program types. The Department must provide empirical evidence to justify the application of the same earnings test to programs that differ considerably in scope and length.

Cohort Size Mismatch

There are also significant cohort size mismatches between the comparison group and the completer group since the comparison group includes thousands of ACS respondents, whereas the treatment group can include as few as 30 individuals. Comparison groups must be matched in size so that the natural variation among humans - and relatedly the many confounding variables that impact earnings – are more likely to be equally represented among both groups. If the DNH relied on wages of program completers who are between 6 and 17 years post-completion, thus aligning

[19] *Id.*

with the high school wage cohort, the number of participants in the control and treatment groups may start to even out.

C. State Versus Regional Data

The DNH metric's reliance on statewide earnings data introduces another significant source of error for colleges and universities, and especially for occupationally focused programs whose graduates typically live in the communities where they went to school and whose earnings are therefore heavily influenced by local market conditions. The DNH earnings metric evaluates most postsecondary programs at the state level based on the state in which the school is located, but if more than 50 percent of students are enrolled online, national wage data apply. The Department's organizational hierarchies for colleges and universities serve as a significant source of error in the wage comparison. The Department permits institutions to identify a main campus in one state that oversees branch campuses in other states. As a result, under the DNH metric, programs at a Mississippi branch campus could be evaluated based on median earnings in California if the main campus is in California and the branch campus is in Mississippi. Earnings tests were not anticipated when the Department formulated regulations regarding the definition of a college and the hierarchy that permits branch campuses and additional locations to function under the auspices of a main campus. Campuses cannot now simply reorganize their structure to eliminate cross-state affiliations since doing so would require branch campuses and additional locations to meet the standards of a main campus and operate for two years without access to Title IV programs.

The U.S. Department of Labor acknowledges real and measurable earnings differences within states, such as between metropolitan and non-metropolitan areas, which is why the U.S. Bureau of Labor Statistics typically reports wages based on sub-state regions. Therefore, there is no rational basis for conducting wage comparisons at the state level, especially when the completer group could represent a small cohort of non-traditionally aged students who live and work in socioeconomically disadvantaged urban or rural areas. The reliance on state wages rather than sub-state local wages is another element of the DNH metric that is based on agency convenience rather than empirical justification.

D. Risk Adjustment: A Model from Medicine

Efforts to evaluate the quality of physician care have faced challenges like those faced when evaluating educational outcomes. Preexisting health conditions, socioeconomic status, education level, race and other social determinants of health negatively impact healthcare outcomes in the same way that socioeconomic disadvantage and poor primary and secondary education negatively impact education outcomes. Were physician payments to be based on absolute outcomes, such as mortality rates or hospital readmission rates, policy makers feared they would engage in sorting to treat the wealthiest and healthiest patients, thus protecting their reputations and preserving their high earnings potential. Therefore, the Centers for Medicare and Medicaid Services (CMS) developed a system for assigning patient risk scores and risk adjusting outcomes assessments and benefits allocations to better serve the interests and needs of high-risk patients. When experimental or quasi-experimental design is not possible, statistical tools like risk adjustments are the next best way to suppress confounding variables and better isolate the variable being tested.

That the DNH metric fails to incorporate risk adjustment or any other method to suppress confounding variables renders it invalid and unreliable as a high stakes regulatory test. University-affiliated medical schools have supported risk-adjusted healthcare outcomes since many are in distressed urban areas and treat large numbers of high-risk patients. Risk-adjusted assessments properly credit these hospitals for helping the highest-risk patients beat the odds. These same institutions have been reluctant to support risk adjustment in educational outcomes assessment because doing so does not similarly serve their interests. When it comes to their academic campuses, they do not serve whoever walks in the front door but instead engage in an expensive and excruciatingly intensive sorting process to fill their campuses with the wealthiest and lowest-risk students possible.

Complete College America has identified the risk factors that most strongly predict a student's likelihood to drop out of college prior to degree completion (see table 2). Students exhibiting three or more of these risk factors are considered high risk students. The Department already collects data on each of these risk factors through the Free Application for Federal Student Aid (FAFSA), and it has a large amount of outcomes data in its various databases – though surprisingly, student loan repayment data is held in private loan servicer databases and is not readily accessible to Department staff. The Department should contract CMS data scientists to develop an appropriate algorithm to risk score student cohorts and risk adjust their measured outcomes. That the DNH metric makes no adjustment for student risk factors further confirms that the test's standards are insufficiently rigorous. In addition to considering student risk profile, any legitimate outcomes assessment must also account for an institution's per-student resource level, its admissions selectivity, and the total amount of state and federal subsidies received since each of these factors will have a considerable impact on student outcomes.

Table 2: Key Risk Factors for Higher Education Non-Completion[20]

Part-time enrollment
Financial instability
First-generation status
Working long hours at off-campus jobs
Having dependents
Weak academic preparedness
Mental health challenges

E. Retroactive Application and Temporal Lag

The DNH metric's retroactive application compounds its methodological deficiencies. A college or university will not know the regulatory standard to which it will be held for a given cohort of students until many years after those students have enrolled, graduated, and entered the workforce. Because the Department requires a minimum of 30 completers in the treatment group, it will aggregate cohorts over multiple years until the threshold is met. A school enrolling a small cohort in a specialized program may not know for 10 to 15 years whether the program passes or

[20] This table is derived from the following source: Complete Coll. Am., *Complete College, America: Harnessing the Power of Higher Education to Renew American Democracy* (2024), https://completecollege.org/CompleteCollegeAmerica-RenewDemocracy.

fails the test. This creates a regime of perpetual retroactive application, in which significant technological, economic, and employment changes over time – and the effects of credential inflation - may render historical earnings data irrelevant to the conditions faced by current and future cohorts. But schools will still be held accountable for factors—namely employer- and consumer-determined wages, as well as macroeconomic conditions—over which they exercise no control.

IV. Data Source Analysis

A. The American Community Survey

The DNH metric's comparison group earnings are drawn from the American Community Survey (ACS), a data source whose known limitations render it insufficiently reliable for the high-stakes regulatory determinations that will directly affect colleges, universities and students who are otherwise eligible for Title IV assistance. Survey data is of sufficient quality for research purposes, but not for regulatory purposes given the well-known margins of error present in survey responses. Economists value the ACS for its breadth of data fields, and academics value it because the results are held in the public domain where they can easily extract and manipulate them. It is one of the few sources of earnings data that non-federal workers can access. Unfortunately, ACS earnings data is self-reported and unverified, making the ACS an inappropriate data source to use for administrative purposes, such as applying earnings-based regulatory tests.

Many ACS questions require respondents to estimate rather than report verified data. For example, the survey asks respondents to report hours worked during a "typical" week, but workers in seasonal or variable-demand occupations may have no meaningful basis for characterizing a typical week. The look-back period for reporting earnings is 12 months from the survey date, which is unlikely to correspond with a tax year, rendering tax returns largely useless as a reference for responses. Hourly workers, seasonal workers, and gig economy participants may resort to estimation, potentially multiplying a peak week's wages by 52 without accounting for weeks off. Salaried workers may not fully comprehend the challenges that hourly workers have in accurately estimating wages, especially when those estimates are not based on the same timeframe as a tax year.

Additional flaws in the ACS's data collection methods further undermine the reliability of the DNH metric's comparison benchmark against which college certificate or degree graduates are measured. Respondents can report earnings on behalf of others in their household, introducing additional sources of error. If a respondent fails to answer one of the eight earnings questions, the Census Bureau imputes an answer on behalf of that respondent. Comparisons between ACS survey data and Social Security Administration records revealed that lower earners tend to over-report earnings, with Black low-income earners more likely to over-report than White low-income earners.[21] The U.S. Census Bureau has reported higher survey nonresponse rates (called nonresponse bias) among lower-income earners, which they suggest biases income and poverty

[21] Barry W. Johnson & Kevin B. Moore, *Consider the Source: Differences in Estimates of Income and Wealth From Survey and Tax Data*, *in* Compendium of Federal Estate Tax and Personal Wealth Studies (Internal Revenue Serv. 2005), https://www.irs.gov/pub/irs-soi/11pwcompench9.pdf.

estimates.[22] Therefore, ACS likely overstates earnings of respondents incorrectly characterized as high school completers, not just because the definition includes individuals who have extensive post-secondary education and training after high school, but also because those who have the lowest earnings will be underrepresented in the survey results, and when they do participate, are more likely to overreport their earnings.

The Bureau of Labor Statistics itself describes the ACS as a source of "social, housing and economic characteristic data"—characteristic data because they provide a general sense of economic wellbeing but lack the precision for absolute measurement. The ACS is a reasonable tool for following high-level trends and informing resource distribution decisions, which is the purpose for which it was designed. For the reasons discussed above, it lacks the precision to serve as a high-stakes regulatory tool that determines the fate of students and the programs in which they might otherwise choose to enroll.

B. IRS Administrative Records

The DNH metric measures postsecondary program completer earnings using IRS administrative records, which, although generally more reliable than survey data, contain systematic flaws that disproportionately depress reported earnings in tip-dependent fields and by self-employed workers. Data from administrative records, such as IRS records, is generally considered more reliable than survey data because administrative records are subject to verification. In the case of IRS records, there are penalties and fines associated with unreported earnings, but since not every taxpayer is audited each year, underreporting remains a perennial problem. IRS data, unlike ACS data, does not include metadata that allows for differentiation between full-time and part-time workers. So, while IRS records are more reliable than ACS survey data, to the extent that there are errors in earnings reporting, IRS data is more likely to involve underreporting, as compared to ACS survey results which are more likely to involve overreporting.

Tip earnings have been a significant source of error in the Department's prior efforts to evaluate program quality based on graduate earnings. Policy makers have attempted to ascribe blame for underreporting of tip income on the colleges and universities that educated workers who hold tip-dependent jobs. This is absurd. Colleges and universities lack the authority to perform tax audits of their graduates, whose tax reporting behaviors are likely to be driven by what others in the workforce tell them to do. Since tipped workers are required to report earnings to their employers so that the employer can pay their share of FICA taxes on those earnings, there may be considerable pressure in the workplace - from employers and peers - to underreport tip earnings. OBBB finally extends the tax credit on tip-based FICA payments beyond restaurant owners to other employers of tip-dependent workers, which may encourage employers to demand more accurate tip reporting by employees. However, it remains the IRS's responsibility – not that of

[22] Adam Bee & Jonathan Rothbaum, *Using Administrative Data to Evaluate Nonresponse Bias in the 2025 Current Population Survey Annual Social and Economic Supplement*, U.S. Census Bureau: Rsch. Matters Blog (Sept. 9, 2025), https://www.census.gov/newsroom/blogs/research-matters/2025/09/administrative-data-nonresponse-bias-cps-asec.html.

colleges and universities – to enforce accurate reporting of tip income. The IRS's own analysis reveals that tip earnings are underreported by 45 percent.[23]

Even when IRS auditors have sought additional FICA tax payments from companies based on auditor suspicions that employees underreported tip earnings, the IRS has not taken the next step to audit the employees who engaged in the alleged underreporting or to collect taxes owed from them.[24] Certainly colleges and universities are obligated to teach their students about the importance of ethical business practices, but they are not tax auditors and have no control over the behaviors of their graduates once in the workplace. If the IRS has not been able to solve the problems of underreported tip earnings, it is hard to see why colleges and universities should take the blame.

Importantly, the same legislation that imposes the DNH earnings test simultaneously undermines the data on which that test relies: the OBBB's No Tax on Tips provision, which eliminates taxes on tips of up to $25,000, creates a perverse incentive structure. Tip-earning workers may interpret the policy broadly and conclude that underreporting is now permissible, further depressing reported earnings in IRS records. It is internally contradictory for the same legislation to enact a policy that incentivizes reduced tip reporting while simultaneously imposing a regulatory framework that sanctions IHEs and their future students based on the adequacy of earlier graduates' reported tip earnings.

There are also considerable differences in the nature and accuracy of wages reported through W-2 and 1099 forms, and those reported by self-employed workers. The tax code provides certain tax benefits to self-employed workers that are not available to employees, which changes the nature of earnings reported by the self-employed, further eroding the reliability of IRS earnings calculations in a test of educational quality or value. Like wealthy families that take advantage of legal tax avoidance opportunities, self-employed workers will also take advantage of the tax benefits associated with self-employment that may result in legal reductions to reported gross income.

C. Puerto Rico and U.S. Island Areas

One limitation of both ACS and IRS data is that neither the ACS survey or the IRS collect information directly from residents of Puerto Rico or the Island areas of Guam, American Samoa, the Northern Mariana Islands or the U.S. Virgin Islands. The ACS does administer the Puerto Rico Community Survey but does not include the Island areas in its data collection efforts. Bona fide residents of Puerto Rico and the Island areas are not required to report earnings in Puerto Rico or the Island areas, respectively, unless they have self-employment income which must be reported for purposes of paying Medicare and Social Security Taxes. There may be differences in reporting biases among residents of Puerto Rico and the Island areas, in part due to long-standing traditions and significant income disparities between those territories and workers in the continental U.S. Given that lower-earners are less likely to respond to voluntary surveys, and to overreport income when they do, the reliability of survey data collected in Puerto Rico for earnings comparison

[23] Emek Basker, Lucia Foster & Martha Stinson, *Tip of the Iceberg: Tip Reporting at U.S. Restaurants, 2005–2018* (Ctr. for Econ. Stud., U.S. Census Bureau, Working Paper No. CES-24-68, 2024), https://www.census.gov/library/working-papers/2024/adrm/CES-WP-24-68.html.

[24] *See United States v. Fior D'Italia, Inc.*, 536 U.S. 238, 264 (2002) (assuming that the IRS might have recourse for FICA violations by auditing individual employees).

purposes may be lower than in the other 50 states or Washington, DC, especially since the survey is not designed for the purpose of regulating colleges and universities.

D. Incompatibility of Data Sources

The DNH metric violates a foundational principle of the scientific method by using different data collection instruments for its treatment and comparison groups, compounding the data reliability problems. As Johnson and Moore have noted, while combining administrative and research databases can fill gaps, the potential problems with survey data—"including difficulties in constructing a suitable frame, lack of legally mandated participation, high costs, nonresponse, and measurement error"— can be significant.[25] This makes survey data an insufficiently reliable basis for regulatory sanctions against colleges and universities or students who are otherwise eligible for Title IV benefits.

V. Application to Cosmetology

Cosmetology programs are the primary target of the DNH metric, or at least its application to certificate level programs, yet the test's flawed methodology and unreliable data make it particularly ill-suited for evaluating the quality of cosmetology education. Cosmetology is an attractive career option for many women – 89.3 percent of cosmetologists are women[26] - because it cultivates and rewards creativity, pays a good hourly wage, allows easy relocation, and provides significant control over work schedule and intensity. The U.S. Department of Labor has designated cosmetology as a Bright Outlook field, not only because it employs large numbers of Americans, but also because demand for new workers is expected to be higher than average in the coming years.

Cosmetology programs are short-term programs, meaning that a student's ability to borrow is limited by federal caps that align with program length. A 2023 report from the Department's Institute for Education Sciences found that the average cosmetology graduate borrows around $6000[27] to complete their program, some of which may be used to pay for housing, food and expenses *other* than tuition and fees. All things considered, these are small loans that do not support the mischaracterization of cosmetology graduates as being "mired in debt", as was alleged by a recent Hechinger Report[28]. The debt held by these students does not create the greatest risk to taxpayers because even if these borrowers default, they will eventually be forced to repay their loans and they are unlikely to qualify for loan forgiveness – which is the true source of risk to taxpayers.

The question is not whether engineers earn more than cosmetologists, but instead whether cosmetology pays a higher hourly wage than the occupational alternatives available and of interest to those who pursue a cosmetology career. Those who are interested in aesthetics or fashion may

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[25] Johnson & Moore *supra* note 21.

[26] Women's Bureau, U.S. Dep't of Labor, *Occupations with the Largest Share of Women Workers*, https://www.dol.gov/agencies/wb/data/occupations/largest-share-women-workers (last visited Apr. 2, 2026).

[27] Nat'l Ctr. for Educ. Statistics, U.S. Dep't of Educ., *IPEDS Data Feedback Report 2023: Cosmetology School of Arts & Sciences* (2023), https://nces.ed.gov/ipeds/dfr/2023/ReportHTML.aspx?unitId=445780.

[28] Meredith Kolodner, *Congress Exempted Beauty Schools from Rules About How Much Graduates Should Earn*, Hechinger Rep. (Sept. 26, 2025), https://hechingerreport.org/congress-wants-colleges-to-make-sure-graduates-can-earn-a-living-but-some-schools-got-a-carveout/.

determine that retail sales jobs are the only relevant alternative to cosmetology, and retail jobs are both notorious for paying lower wages than cosmetology. These jobs are also not generally a pathway to self-employment and rarely do they provide schedule flexibility. Similarly, one must consider the college alternatives available to students who would otherwise enroll in cosmetology programs. Some have recommended that these students would be better served by their local community college, but having worked at one for 10 years, I believe that recommendation is based more on ideology than empiricism. With relatively few public institutions offering cosmetology education programs due to the high administrative costs associated with offering them, the student is likely to be ushered into a general studies major – the most prominent major among community college graduates. Instead of accumulating $6029[29] in debt, qualifying for occupational licensure in cosmetology, and having a pathway to a flexible career and potentially even self-employment, the student is now likely to accumulate over $17,252[30,31] in student loan debt and earn a credential that provides little, if any, particularly marketable workplace skills or economic value[32].

It is noteworthy that in 2018, Cellini[33] found that graduates of proprietary cosmetology schools posted higher earnings than those of public cosmetology schools. Contrary to Cellini's earlier assertion that community college students and proprietary college students are demographically similar, the data in Figure 1 demonstrates a significant and meaningful contrast between these two groups – especially with regard to the risk factors most closely associated with non-completion, student loan defaults and lower earnings (being African American, over the age of 24 and being a single parent).[34] Community colleges do serve adult learners, but most of their students are traditionally-aged students who are more likely to live at home and receive financial support (even if just free housing and food) from their families, whereas proprietary school students are much more likely to be over the age of 24, and therefore financially independent, and to have children of their own.

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[29] IPEDS Data Feedback Report 2023 *supra* note 27.

[30] Matthew Dembicki, *Two-thirds of two-year grads don't borrow*, Community College Daily (Nov. 1 2023),. https://www.ccdaily.com/2023/11/two-thirds-of-two-year-students-dont-borrow/.

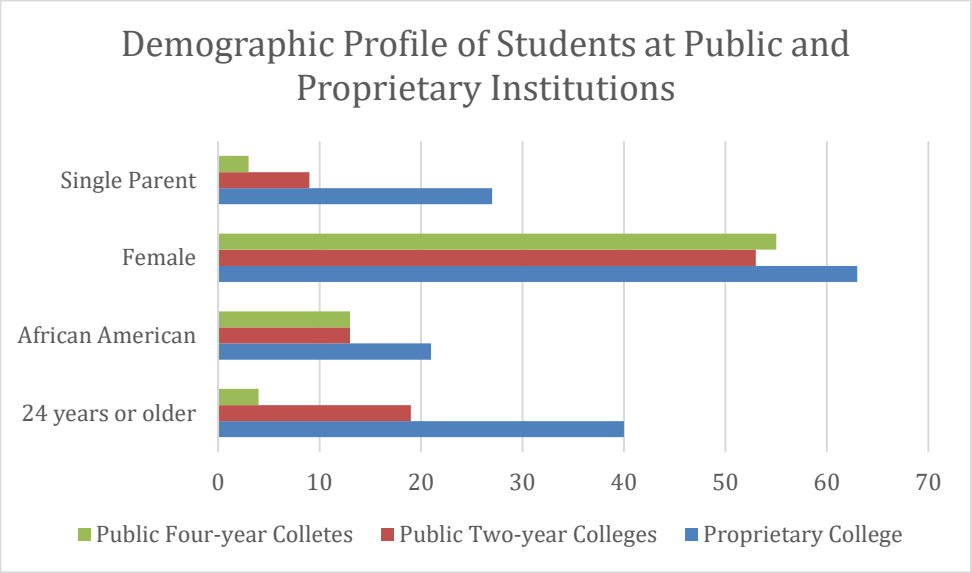
[31] A lower percent of community college students borrow to attend college, primarily because the majority of community college students are traditionally aged, dependents of their parents. Some calculations of average debt that include non-borrowers show a lower average borrowing total. However, this is irrelevant to students who need to borrow to attend college, including non-traditionally aged, financially independent students who are not only more likely to borrow, but are permitted by Congress to borrow larger amounts than dependent students. The more relevant data point excludes non-borrowers since those who need to borrow have different socioeconomic circumstances than non-borrowers.

[32]Sandy Baum & Harry Holzer, *Do Too Many Community College Students Major in Liberal Arts?*, Urb. Inst.: Urb. Wire (Aug. 31, 2017), https://www.urban.org/urban-wire/do-too-many-community-college-students-major-liberal-arts.

[33] Nicolas Acevedo Rebolledo, Kathryn J. Blanchard & Stephanie Riegg Cellini, *Cosmetology Gets a Trim: The Impact of Reducing Licensing Hours on Colleges and Students* (Nat'l Bureau of Econ. Rsch., Working Paper No. 33936, 2025), https://www.nber.org/papers/w33936.

[34] Ctr. for Analysis of Postsecondary Educ. & Emp., *For-Profit Colleges by the Numbers*, https://capseecenter.org/research/by-the-numbers/for-profit-college-infographic (last visited Apr. 1, 2026).

Figure 1: Demographic Profile of Students at Public and Proprietary Institutions[35]



The DNH metric's reliance on reported earnings as a proxy for quality is particularly flawed for cosmetology because the very characteristics that make the profession appealing—especially to women—are also those that lead to lower reported median earnings. Approximately 30 percent of cosmetologists work part-time, and 48 percent[36] are self-employed. Almost 80 percent[37] of barbers are self-employed. While some have suggested that part-time work is a reliable indicator of poor educational quality, this is based on the flawed assumption that all college graduates seek full-time jobs. Colleges serving traditionally-aged students may find that the majority of their graduates do pursue full-time employment in the early years after graduation, before they have children and family responsibilities. However, colleges that serve large numbers of female, returning adult students may find that their graduates choose part-time over full-time work. It should not be a forgone conclusion that an individual is harmed by her educational pursuits should she consider the unique needs of her children or the impact of childcare costs on total earnings, and therefore to choose part-time work.

According to BLS, women ages 24 to 35 are three to five times more likely than men to work part-time, which BLS attributes to caregiving and household responsibilities.[38] Studies of part-time workers showed that more than 80 percent of them report part-time work as their choice.[39] Lower-income women may also be more likely to work part-time because they lack access to affordable and reliable childcare. Given that the average cost of childcare is $13,000 per

[35] This figure is derived from the following source: Ctr. for Analysis of Postsecondary Educ. & Emp't, *For-Profit Colleges by the Numbers* (2018), https://capseecenter.org/research/by-the-numbers/for-profit-college-infographic/.
[36] Bureau of Labor Statistics, U.S. Dep't of Labor, Barbers, Hairstylists, and Cosmetologists: Work Environment, *Occupational Outlook Handbook*, https://www.bls.gov/ooh/personal-care-and-service/barbers-hairstylists-and-cosmetologists.htm#tab-3 (last visited Apr. 15, 2026).
[37] *Id.*
[38] Megan Dunn, *Who Chooses Part-Time Work and Why?*, Monthly Lab. Rev., Mar. 2018, at 1, https://doi.org/10.21916/mlr.2018.8.
[39] Haley Chinander, *Shifting Trends in Part-Time Employment*, Fed. Rsrv. Bank of Minneapolis (Apr. 20, 2023), https://www.minneapolisfed.org/article/2023/shifting-trends-in-part-time-employment; Dunn *supra* note 38.

year[40], a single mother who can earn $25,000 per year by working part-time (a wage that fails the DNH test), and therefore avoid daycare expenses, is financially better off than if she earned $35,000 per year (a wage that likely passes the DNH test) but had to pay for childcare and the many other expenses associated with full-time work.

People make rational decisions based on their own economic situations – decisions that may not be captured in the spreadsheets that economists pour over in search of a headline or purpose for their own life's work. In many ways, the DNH metric is just another form of "piling on" that many women experience in a society that demands they work full time to be financially responsible yet criticizes them for not being home when their children need them. Congress has never required Title IV recipients to commit to full-time employment, and as a society, we need to be open to the idea that not every mother sees full-time daycare as the best solution for their infants and toddlers.

Most states require cosmetology and barber workers to complete an academic program to qualify for occupational licensure, so the idea of simply shuttering these programs ignores that workers cannot enter the field without them. While I encourage states to establish evidence-based licensure requirements, the point of occupational licensure for personal services providers is to ensure worker, consumer and environmental safety as well as to educate business owners about state regulations. Cosmetology workers are chemical workers, which means that licensure is critical to consumer and environmental safety. Cosmetology schools cannot reduce the number of hours of instruction provided by their programs until states adjust occupational licensure eligibility requirements accordingly.

Apprenticeship is often held out as the better option for preparing middle-skills workers given the success of union-provided apprenticeships in preparing workers for traditional trades. However, one must understand that apprenticeship laws and regulations in the U.S. were designed to uphold prevailing wage requirements associated with federally funded building projects – which is why there is such a long and strong tradition of apprenticeships in the traditional trades. Apprenticeship programs provided the one opportunity for a federally-funded contractor to pay workers less than the prevailing wage, but as a result, unions carefully control the number of apprentices that can be on a given jobsite or that can be trained annually. Efforts to expand apprenticeships beyond the traditional trades are worthy of future investment, but to date they have had limited success.

Having served as the Senior Advisor on Apprenticeships to the U.S. Secretary of Labor, it is clear to me that apprenticeship is not a viable option for cosmetology workers – at least not at scale. Apprenticeships work best when large employers can independently, or collectively through shared intermediaries or unions, achieve the economy of scale needed to justify the high cost of operating an apprenticeship program, including that employers must pay wages to apprentices while they are involved in classroom and on-the-job learning, sponsors must hire qualified instructors, and employers must offset the reduced productivity of expert workers who serve as mentors to apprentices. Employers may even be required to pay higher insurance rates if novices work in roles that increase workplace liability. Employers must also hire staff to manage the

[40] First Five Years Fund, *Child Care Is an Affordability Issue*, https://www.ffyf.org/policy-priorities/child-care-affordability/ (last visited Apr. 1, 2026).

arduous process of registering an apprenticeship with the Department of Labor (DOL) and properly reporting wages and milestones for individuals participating in those programs.

Given that the cosmetology industry consists mostly of small, independently operated salons and self-employed workers, there would be tremendous inefficiencies if every salon were to set-up their own apprenticeship program, making this approach far too expensive for employers, and likely subjecting apprentices to lower-quality instruction. Although intermediaries could help create cosmetology apprenticeship cooperatives, these efforts would still require significant investments by salon owners who do not have the kinds of resources that construction contractors or advanced manufacturing plant owners may have.

Some have suggested that cosmetology schools could simply operate without Title IV funding—because approximately 1,000 schools in Texas do so.[41] However, the authors who point to the 1000 schools as evidence of a viable non-Title IV option admit that they know little about these schools. Schools that operate outside of Title IV programs do not need to meet the same accountability, quality and reporting requirements as those that do. Some schools elect to operate outside of Title IV programs because they are too small to affordably distribute the high costs of regulatory compliance across their small student population. Others elect to operate outside of Title IV because they could not meet the Department's rigorous regulatory standards. It is likely that many of these non-Title IV schools serve 50 or fewer students, may offer only basic curricula (e.g. hair cutting but not chemical treatments), and are not required to publish completion or placement data.

In any other context, the Department has aggressively discouraged students from enrolling in non-title IV schools and has often characterized them as low-quality schools. The Department has also threatened Title IV participating institutions that they could lose their own Title IV eligibility if they accept credits or students from non-participating institutions. Worse yet, we have no idea whether non-Title IV schools are pushing their students into other types of loan programs that offer far fewer borrower benefits and protections than federal loan programs, or if these schools encourage students to rely on credit cards to pay for school at extremely high interest rates. We do not preclude private universities from participating in Title IV programs because Hillsdale College shows that it is possible to operate a successful liberal arts college without federal support. Similarly, we do not preclude elite institutions with large endowments from participating in Title IV programs, even though those schools could easily afford to subsidize student tuition and fees without relying on taxpayer assistance. The existence of 1,000 schools in Texas about which we know very little does not serve as a valid justification for precluding a student who seeks admission to a well-known and respected cosmetology school from relying on a widely available public benefit program (such as Title IV programs) to support their enrollment choices.

Cosmetology wages vary significantly by geographic location, with hairstylists in Washington, D.C., for example, posting mean wages of $70,000 per year. Wages are tightly linked with the socioeconomic levels of consumers in the area where services are provided, and graduates of small, non-Title IV schools may not have the experience with advanced services that high-end salons demand. Cosmetology students may select a college that is associated with highly respected salons and trusted haircare and styling products because it increases their chances of working in

[41] Acevedo et al. *supra* note 33.

salons where earnings are the highest. This is no different than a middle-class student paying more to attend a private college because doing so will increase her chances of being recruited by a particular firm or accepted into a desirable graduate or professional program.

The DNH metric's focus on earnings without regard to instructional costs also reflects an insufficiently rigorous standard, as cosmetology instruction costs significantly more than liberal arts instruction because it demands low student-to-faculty ratios, instructors with appropriate credentials *and* real-world experience, specialized facilities, consumable supplies, and equipment that must be regularly replaced. Higher utility costs, liability risks, and chemical storage and disposal requirements further increase program costs. A discussion of tuition costs without an accompanying discussion of program administration costs tells only half the story.

Despite their criticism of cosmetology education programs, Rebolledo, Blanchard, and Riegg Cellini acknowledge that an attack on cosmetology schools has equity consequences given the demographics of cosmetology professionals. Unfortunately, these equity consequences have been omitted from the national conversation, and these authors have failed to consider the demographic characteristics of cosmetologists in the context of graduate earnings and student loan repayment.

VI. The Question of Harm

A. Defining Harm Under the DNH Framework

The DNH metric's assertion that a college graduate's earnings, relative to an inflated and inaccurately characterized "high school" wage, constitutes "harm" inflicted by the school is both misleading and defamatory. These spurious allegations against the school rest on the same flawed data and insufficiently rigorous methodology that pervade the test's design. The Department of Education has previously determined that the act of taking a student loan does not constitute harm to a student. Students who believe their institution failed to deliver promised education and services have multiple existing remedies: seeking a refund, transferring to another institution, filing state consumer protection complaints, contacting accrediting agencies, and applying for Borrower Defense to Repayment loan cancellation. It is inappropriate to rely on a methodologically invalid, one-size-fits-all earnings test to level an unsubstantiated accusation of harm against an academic program or institution on behalf of students who may be entirely satisfied with the quality of their education and the career for which it prepared them.

The DNH metric inflicts collateral reputational harm on all graduates of a school, and in the case of cosmetology, on all workers in the field - not just those in the evaluated cohort—who worked hard, performed well, and passed licensure exams. Employers do not distinguish between graduating cohorts when headlines proclaim that a school "harmed" students, and they often assume that any allegation against a school is based on findings of poor educational quality – even though poor academic quality is rarely the cause of action taken by the Department or an accrediting agency against a school.

B. The Role of Public Assistance Earnings Cliffs

The DNH metric also fails to account for the role of public assistance earnings cliffs in the evaluation of post-graduation earnings—a critical confounding variable that depresses reported

earnings among women who have children and come from socioeconomically disadvantaged backgrounds. In 2025–26, a mother with two children can earn up to $2,888 per month and still qualify for Supplemental Nutrition Assistance Program (SNAP) benefits, which can also trigger eligibility for other programs including Medicaid and public housing assistance. These earnings caps function as cliffs: earning just one dollar over the threshold results in complete loss of benefits, yet the marginal increase in earnings does not provide sufficient resources to independently replace the lost benefits. There is a "valley of death" between the point where benefits end and the point where the recipient earns enough to come out ahead financially.

As a result, the DNH metric's earnings data will systematically understate the true economic value of an educational program if the program enrolls large numbers of single mothers who have depended upon public assistance programs while enrolled in the program. Low-income students have been encouraged to enroll in public assistance programs like SNAP while in school to avoid relying on student loans to pay for housing, rent, childcare and healthcare.[42] The system's design, however, discourages participants from pursuing significantly higher earnings unless the earnings increase is so large that it offsets the cost of lost public assistance benefits. A mother who pursues full-time work could find herself no longer eligible for public assistance benefits, responsible for high daycare costs, struggling with higher transportation and other work-related costs, and generally in much worse financial shape than if she worked only part-time, therefore supplementing her public assistance benefits rather than losing them. An earnings test will never serve as an accurate proxy for the quality of education if the program being evaluated serves adult learners who come from socioeconomically disadvantaged backgrounds. These graduates are not "working the system" as some might suggest. Instead, they are carefully following the program's rules to do their best to provide for their children. It is best for many low-income mothers to earn enough to supplement public assistance benefits but not lose them.

Baltimore City data illustrates how the DNH metric's flawed data and rigid standards would punish practically any certificate program serving large numbers of disadvantaged students in impoverished urban areas, even if those programs deliver meaningful economic gains to their students. The median earnings of high school completers in Baltimore City in 2009, 2010, and 2011, six years after graduation, were roughly $16,000.[43] Those who earned a certificate or degree generally increased their wages into the low $30,000s within 10 years after high school—a considerable increase and a sign that postsecondary education is a worthy investment. However, if students are earning $30,000 ten years after high school completion, they would likely have failed the DNH metric at the four-year post-college mark, and the students who follow them to enroll in these otherwise effective academic programs will be denied access to loans and potentially Pell Grants.

To the high school graduate earning $16,000 per year, the increase to $30,000 could be life-changing as could the sense of pride and accomplishment that comes from earning a post-secondary credential. This individual may be the first in her family to do so. Yet, if an academic program in Baltimore City served lots of similarly disadvantaged students, and generated median

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[42] Misale Endrias, *College Students, Food Insecurity, and SNAP Eligibility*, EdTrust Blog (Aug. 1, 2025), https://edtrust.org/blog/college-students-food-insecurity-and-snap-eligibility/.

[43] Rachel E. Durham & Juan B. Cortes, *Earnings Outcomes for Baltimore City Schools Graduates in Brief* (Balt. Educ. Rsch. Consortium 2025), https://files.eric.ed.gov/fulltext/ED674155.pdf.

earnings of $30,000, it would fail the DNH test. If the program is particularly appealing to women with children, earnings may never meet the DNH standard, especially if the inflated methodology used by the DNH metric to calculate high school earnings is equal to or greater than the earnings cap on public assistance programs. Public assistance programs have serious design flaws, with earnings cliffs serving as punishment for those edging their way toward financial security. This, however, is not under the control of colleges and universities working hard to give disadvantaged students a chance to grab the first rung of the career ladder.

VII. Policy Recommendations

I do not concede that earnings tests are ever an appropriate proxy for educational quality given all that we know about the many variables that influence an individual's earnings. However, if Congress remains intent on using earnings as a false proxy for quality, the methodology for calculating earnings should at least approach the requirements of the scientific method. Below are recommendations for an earnings-based alternative to the DNH metric that would provide a better way for evaluating undergraduate certificate programs. I also offer recommendations for ways in which the DNH metric could be improved to more closely align with accepted scientific standards. Finally, I recommend other changes Congress or the Department could made to improve Title IV programs and better serve the needs of the low-income students the program was designed to serve.

A. A Better Approach for Certificate Programs

Certificate programs typically focus on helping students build skills that are directly applicable to a particular job or job category. As a result, the Department can match the control and comparison groups by occupation in a way that may not be possible for liberal arts degree programs that do not have specific career outcomes. Importantly, if the certificate program is required for occupational licensure, then a new entrant with only a high school diploma would not be able to enter the field. In such a case, the comparison wage for high school completers in the same field would be zero. It does not matter how much other high school graduates working in other fields earn if a high school graduate cannot enter the occupation for which the completers were being prepared.

The stakes of the DNH test are particularly high for undergraduate certificate programs that fail the DNH test since these programs are frequently offered by colleges that are focused on preparing students for a single job or employment sector – and therefore do not operate as comprehensive colleges. As such, it is likely that more than 50 percent of their students will be enrolled in the single program offered, so if it "fails" the DNH test, students will lose access to federal loans *and* Pell grants.

There is another, potentially more efficient and accurate way to evaluate certificate completer wages using data from the Bureau of Labor Statistics Occupational Employment and Wage Statistics (OEWS) survey. Like the ACS, the OEWS has some methodological weaknesses, and it remains the case that survey data should not be compared with administrative data for regulatory purposes. However, if the Department is intent on using earnings data to determine whether a certificate program's future students can receive Title IV loans and grants, the OEWS has several advantages over ACS. For example, since the OEWS survey is administered to business establishments, the reported wages – including tip income - may be more accurate than those reported by individuals to the ACS. To the extent that tips are included in credit card

transactions, the employer can better track them over time and make reasoned estimates of cash tips that workers received– a methodology that the IRS endorses.

Importantly, OEWS makes data available to the public in a format that enables sorting by occupation and metropolitan areas. By focusing on geographic regions smaller than the state, wage disparities between metropolitan and non-metropolitan areas can be accounted for, thus reducing the effect of location as a confounding variable in the methodology. Although OEWS does not report wages in terms of years in the workforce or age of workers, it does report average wages at the 10 percent, 50 percent and 90 percent thresholds, meaning the wage at which 90 percent, 50 percent or 10 percent of workers, respectively, have higher earnings. Given what is known about wage progression over the course of one's career, completers who are four years past graduation are still new in their occupation and far from hitting their earnings peak. In addition, since the 10 percent earnings level likely includes part-time workers, of which there are more among 24 – 35-year-olds, and among cosmetology workers more generally, it is reasonable to establish the 10 percent earnings level as the target that the completer group must meet since IRS earnings data include part-time workers. By comparing wages of individuals who work in the same field , this methodology approaches suppression of gender-based earnings differences since presumably the gender bias in educational programs would match the gender bias of incumbent workers. Similarly, by focusing on comparison wages based on locality, both the effects of geography and race are better suppressed.

I recommend that if the Department wishes to rely on an earnings test to establish Title IV participation for certificate programs, that it rely on a comparison between a program's graduates' earnings and the 10 percent earnings level posted by OEWS for the metropolitan or non-metropolitan area in which the school is located.

B. Methodological Corrections Needed to Improve the Scientific Integrity of the DNH Metric

Below I offer a set of recommendations that would move the DNH metric closer toward accepted scientific standards.

- Both comparison group and completer group earnings must come from the same administrative database – ideally the IRS database – though until the IRS can identify whether wages are from full-time or part-time work, these data will still have limited utility.
- Members of each group must be matched in every way other than the educational program they completed or statistical means should be used to suppress variables that cannot be controlled. This includes measuring earnings for each group four years after completion, ensuring that both groups are of similar size and that the diversity of occupations represented by both groups is equal.
- ACS questions about educational status must be expanded to more accurately differentiate between those who have *only* a high school diploma and those who have completed rigorous post-high school education and training, even if it did not result in college credits – and the DNH metric should exclude individuals who have completed any type of post-high school education or training from the median high school earnings calculation. Measuring high school completer earnings four years after high school graduation will also increase the likelihood that earnings more accurately represent the value of a high school diploma.

- Earnings calculations for both the control group and the post-secondary completer group must be done at the level of a locality rather than at the state, meaning that earning differences between rural, urban, metropolitan and non-metropolitan areas must be properly attributed to well-understood regional differences and not improperly attributed to educational quality.

- **Tip Income Adjustment**
  - Earnings reported by the IRS for tip-dependent occupations, including those listed by the IRS as eligible beneficiaries of the No Tax on Tips policy [44], should be adjusted by 45 percent (or the current IRS-determined underreporting rate).

- **Risk Adjustment**
  - A system of risk scoring should be developed to ensure that Title IV subsidies go to schools based on the risk level of the students served, and to ensure that outcomes assessments better isolate the impact of educational quality from the many other variables that affect student outcomes.

- **Occupations Unavailable to High School Graduates**
  - When an occupation requires an individual to complete a post-secondary credential to qualify for occupational licensure or to meet a federal program requirement, the comparison earnings for high school graduates under the DNH test should be zero since a high school graduate would not qualify to work in the job.

- **Public Assistance Reform**
  - Congress should restructure public assistance programs to eliminate earnings cliffs and rely on a sliding scale that rewards rather than penalizes Americans for progress they make toward financial independence.

- **Title IV Program Reforms**
  a. Eliminate the ability for students to receive cash stipends by borrowing amounts in excess of tuition, fees, books and required supplies.
  b. Decouple income-driven repayment from loan forgiveness and end the practice of requiring low-income students to pay twice as much for their education as wealthy students so that Congress can use interest generated from the student loan program to fund other priorities. Instead of compounding interest, Title IV loans should charge borrowers a one-time, percentage-based user fee that accounts for the time value of money tied up in student loans, but that ends the penalties associated with needing more time to repay student loans.
  c. End the 10-year Master Promissory Note and require student and parent borrowers to sign for their loans each time they take one.
  d. Add a "surgeon generals" type warning to the FAFSA to clarify that by completing the application, the student is also applying for government loans.

[44] U.S. Internal Revenue Service. Guidance Listing Occupations Where Workers Customarily and Regularly Receive Tips. https://www.irs.gov/newsroom/treasury-irs-issue-guidance-listing-occupations-where-workers-customarily-and-regularly-receive-tips-under-the-one-big-beautiful-bill.

e. Uphold provisions of the Higher Education Act of 1965, as amended, and the Department of Education Organizing Act that prohibit the Department from using its funding authority to interfere in the administrative and academic decisions of participating institutions.

- **Offset Loan Liabilities by Other Federal Contributions**
  - Rather than forgiving federal student loans to reward students for borrowing high and earning low, Congress should recognize the fungible nature of contributions to the U.S. Treasury and reduce a borrower's outstanding loan balance by the amount of increased federal taxes she pays following completion of an academic program and/or by the dollar value of reduced utilization of public assistance programs.

VII. Summary

In summary, the DNH metric fails to meet accepted standards for scientific rigor and integrity and therefore is an arbitrary and capricious regulatory test. In particular, the test holds IHEs accountable for an outcome – earnings – over which they have no control. The test is particularly inappropriate when occupational licensure requirements are such that a high school graduate would not qualify for the job, making the only appropriate comparison wage zero dollars. Like other flawed accountability metrics before it, the DNH test fails to suppress the many confounding variables that determine student outcomes and graduate earnings, making its results meaningless other than as a test for institutional selectivity and student socioeconomic background. I offer a set of recommendations for ways to move the DNH test closer to accepted practices under the scientific method by creating more evenly matched comparison groups, and suppressing confounding variables through risk adjustments – an approach that has worked well in evaluating healthcare outcomes, which are affected by the same socioeconomic and demographic factors. I offer recommendations for other reforms that would better serve the needs of low-income students and reward them for moving toward financial independence, such as eliminating earnings cliffs and replacing them with incremental transitions out of public assistance programs and offsetting outstanding student loan balances by other financial contributions the borrower makes to the U.S. Treasury.

I also recommend that if the Department seeks to rely on earnings as a test of program value for certificate programs, it should rely on a comparison between program completer earnings and the 10 percent earnings for a comparison group in the same occupation and locality, reported by the Bureau of Labor Statistics based on survey data from the Occupation and Employment Wage Survey (OEWS).

About the Author

Diane Auer Jones began her post-secondary career as a molecular biologist, moving from a research career into higher education in the 1990's, serving first as the director of an environmental chemistry laboratory located on the campus of Essex Community College and later as a member of the Biology faculty at the Community College of Baltimore County. In addition to teaching for 10 years at the Community College of Baltimore County, she later held senior administrative positions at Princeton University and Career Education Corporation. Jones also has considerable public policy experience, having served as the Acting Undersecretary of Education (Donald J. Trump Administration) and Assistant Secretary for Post-Secondary Education (George W. Bush Administration) at the U.S. Department of Education. She also held senior policy roles at the U.S. Department of Labor, the U.S. House of Representatives Committee on Science and Technology, the White House Office of Science and Technology Policy and was a program director at the National Science Foundation. She served as a Senior Fellow at the Urban Institute between 2015 and 2017, where she focused on expanding apprenticeship education in the United States. Over the course of her career, Jones has owned several small businesses, including a natural food store, an alternative wellness center (where she worked as a certified massage therapist and provided rental treatment facilities for 15 other practitioners of massage therapy, chiropractic medicine, acupuncture, naturopathy, and yoga) and an environmental biotechnology company. Jones is a graduate of Salisbury University (B.S. Biology) and UMBC (M.S. Applied Molecular Biology and Ph.D. coursework in Cellular and Molecular Biology), and the former Baltimore School of Massage. She often comments that the job that taught her the most about people and life more generally was one her first jobs – she worked as a nursing assistant while enrolled in a cooperative education program at Woodlawn Senior High School in Baltimore, MD and to support herself through college.

Compensation for this Work

The author received no compensation for this report – it represents her experiences and opinions as a scientist, an educator, a public policy official, and most importantly, as a low-income, first-generation college student who watched her mother struggle to navigate the challenges of single parenthood and entering the workforce later in life without the benefits of a college degree.