

House Education and Labor Committee
Thursday, March 14, 2019 Members Day Hearing
Testimony for the Record
Rep. Paul Mitchell (R-MI) and Rep. Raja Krishnamoorthi (D-IL)

Opening Statement

Chairman Scott, Ranking Member Foxx, and all Members of the House Education & Labor Committee, we sincerely appreciate this Members Day opportunity to submit our testimony to your committee as you consider legislative priorities for the 116th Congress. As you and your staff evaluate ways to improve access to a high-quality education, invest in American workers, and expand economic opportunities for working families, we ask that you please explore efforts to reform and strengthen postsecondary data systems across the country. Specifically, we ask that you support the bipartisan, bicameral College Transparency Act, and that you work earnestly to ensure this important legislation becomes law.

According to the U.S. Federal Reserve,¹ there are currently 44.7 million Americans saddled with student loan debt equaling an astounding \$1.56 trillion. In fact, 11.5% of student loans are 90 days or more delinquent or are in default. Further, the average monthly student loan payment is nearly \$400.

At the same time, according to the Bureau of Labor Statistics,² there is a skills gap of approximately 7.3 million unfilled jobs, where employers cannot locate candidates with the adequate skills or training in expanding fields like healthcare, information technology, and agriculture. In other words, too few Americans are pursuing educational opportunities that help them obtain in-demand skills and a good-paying, family-sustaining career.

It is apparent that students want and need to know which schools, and which programs, best fit their needs before they make one of the largest investments in their lives. For all the tremendous components of the American higher education system, it severely lacks transparency, which hinders the strength of our workforce and the health and prosperity of working families.

The Problem

The vast majority (85 percent) of college freshman rate “to get a better job” as “very important” in their decision to go to college.³ Yet, the data to help students discern which programs and institutions will best help them achieve their career goals is severely lacking. There are a few crucial reasons why:

- 1) Since 2008, there has been a ban on a federal student-level data system, which makes it impossible to connect existing data systems to improve consumers’ ability to make the decisions that are right for them or to build evidence to improve student success.

¹ <https://www.federalreserve.gov/publications/2017-economic-well-being-of-us-households-in-2016-education-debt-loans.htm>

² <https://www.bls.gov/news.release/jolts.nr0.htm>

³ <https://www.heri.ucla.edu/monographs/TheAmericanFreshman2015.pdf>

- 2) Colleges currently report postsecondary data in a manner that is highly burdensome, yet provides inadequate information to consumers and policymakers. Institution-level data is significantly more complex for colleges to report than student-level data because they have to aggregate and calculate various cohorts and duplicative metrics to satisfy current federal reporting requirements.
- 3) Colleges only report on-time graduation rates for first time, full-time students, and other outcomes, such as post-college earnings, are only available for students who receive federal aid.

Simply put, existing postsecondary data systems are incomplete, duplicative, inefficient, and burdensome, and current law prohibits the federal government from collecting and reporting accurate data on student outcomes. Without this information, students and families are not empowered to make well-informed choices about their education, policymakers and institutions cannot craft evidence-based policies to help students succeed, and employers do not have the talent pipeline they need to grow the economy.

For years, students and families have been making one of the most important and expensive decisions of their lives without reliable data on post collegiate outcomes. The College Transparency Act changes that once and for all, while simultaneously establishing strong security standards and data governance protocols that protect student privacy.

The College Transparency Act

The bipartisan, bicameral College Transparency Act was introduced today (March 14th, 2019) by Representatives Paul Mitchell (R-MI), Raja Krishnamoorthi (D-IL), and two members of this committee: Representatives Elise Stefanik (R-NY) and Josh Harder (D-CA). Senators Elizabeth Warren (D-MA) and Bill Cassidy (R-LA) are leading this effort in the Senate.

This legislation includes numerous reforms to promote greater transparency in student outcomes within our postsecondary education system:

- 1) The legislation amends the Higher Education Act by overturning the harmful ban on student-level data collection
- 2) It directs the Commissioner for Education Statistics to develop and maintain a secure, privacy-protected post-secondary student level data system. The goals of the system are to provide accurate, complete, and customizable information about institutions and programs for students and families, while supporting transparency, institutional improvement, and analysis of federal student aid programs. [Section 2, Subsection 1(A)]
- 3) To determine the appropriate data elements to include in the system and reduce duplicative reporting, the Commissioner must work with the Postsecondary Student Data System Advisory Committee, which is comprised of agency security officials, representatives of state higher education bodies, student representatives, representatives from relevant federal agencies, and postsecondary researchers [Section 2, Subsection 2(B)]
- 4) The post-secondary data system must include aggregate information on student earnings and outcomes. In compiling this information, the Commissioner must work with other

federal agencies, including the U.S. Census Bureau and Departments of Treasury, and Veterans Affairs [Section 2, Subsection 3]

- 5) The Commissioner must make the summary information about colleges and programs readily available to the public on a user-friendly website for students, families, and the public. At a minimum, this information must include measures of student access, completion, costs, and post-collegiate outcomes for each college and major, disaggregated by student characteristics [Section 2, Subsection 4]
- 6) The Commissioner must comply with Federal Information Processing Standards (FIPS) and all relevant privacy or security laws [Section 2, Subsections 1(C), 4(D)]
- 7) Importantly, there are numerous security standards and data governance protocols to protect student privacy. In fact, the version introduced today significantly expands on the student privacy provisions included in the bill introduced in the 115th Congress. Among numerous important provisions, the new legislation:
 - a. Requires the Commissioner to give notice to students about what data the system includes and how it will be used. [Section 2, Subsections 1(C), 4(D)]
 - b. Establishes a Postsecondary Student Data System Advisory Committee, whose members will include the Chief Privacy Officer and Chief Security Officer of the Department of Education (ED), representatives of state higher education entities, representatives of diverse postsecondary institutions, student representatives, representatives from relevant federal agencies, and other stakeholders, including individuals with data privacy and security expertise [Section 2, Subsection 2(A)]
 - c. Requires a public comment period and consultation with the Advisory Committee before adding new elements to the system to minimize data collection and ensure that all data collected are consistent with the purpose and goal of the system [Section 2, Subsection 2(C)]
 - d. Prohibit ED and other federal agencies from using the data to limit services offered to students. [Section 2, Subsection 5(D)]
 - e. Protect students from federal, state, and local law enforcement using any data in the system to harm them or their families. [Section 2, Subsection 5(E)]
 - f. Expand categories of information that cannot be included in a postsecondary student data system to specify physical or mental health data, and include migrant status, and national origin status for families as well as for students. [Section 2, Subsection 2(F)]
 - g. Increase the penalty for unlawful willful disclosure to a class E felony, imprisonment for not more than 5 years, and a fine not more than \$250,000. [Section 2, Subsection 7(B)]
 - h. Increase and clarify data security by requiring regular audits, invoking the Confidential Information Protection and Statistical Efficiency Act (CIPSEA), and mandating NCES to develop data retention, destruction, minimization, and breach management protocols. [Section 2, Subsection 8]

In short, the College Transparency Act will reform and improve the current student-level data reporting system to provide accurate, timely, and high-quality aggregate data in a user-friendly, transparent way to help students make informed decisions about where to go to college and what

programs to pursue. At the same time, the bill uses strong security standards and data governance protocols to ensure student information is safe and protected.

These reforms are sincerely needed, so it should come as no surprise that more than 130 advocacy groups endorsed this legislation last Congress. The College Transparency Act was supported by a range of workforce development organizations, community youth organizations, veteran's groups, higher education institutions, business associations, and the list goes on. We look forward to securing the same wide range of support this Congress.

Conclusion

We again would like to thank Chairman Scott, Ranking Member Foxx, and the distinguished Members of the House Education & Labor Committee. We believe our bill – The College Transparency Act – is a comprehensive, bipartisan, and common-sense answer to a pressing question: How can we better inform working families with quality data when they make one of the largest investments of their lifetime? We look forward to working with you on this issue and respectfully request that the committee give it serious consideration.

Enclosures:

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2019 College Transparency Act Section by Section

Sec 1: Short title: College Transparency Act

Sec 2: Postsecondary Student Data System

- 1) Purpose: Directs the Commissioner for Education Statistics to develop and maintain a secure, privacy-protected postsecondary student-level data system. The goals of the system are to provide accurate, complete, and customizable information about institutions and programs for students and families, while supporting transparency, institutional improvement, and analysis of federal student aid programs. The system shall reduce reporting burdens for institutions by allowing the data compiled through the system to meet current reporting requirements and reducing duplicative reporting to various agencies; and shall meet high standards for privacy and security, including following data minimization practices.
- 2) Data elements: Directs the Commissioner to work with the Postsecondary Student Data System Advisory Committee – comprised of agency security officials, representatives of state higher education bodies, student representatives, representatives from relevant federal agencies, and postsecondary researchers – to determine required data elements to be included in the system and to reduce any duplicative reporting.
 - Establishes that, at a minimum, data elements must include the data currently reported by colleges to calculate the information within the student-related surveys in The Integrated Postsecondary Education Data System (IPEDS).
 - Establishes that, at a minimum, the data collected must allow for reporting student enrollment, persistence, retention, transfer, and completion measures for all credential levels and across institutions and programs. This data shall be disaggregated by a number of important student characteristics.
 - Includes prohibitions on collecting sensitive data, including citizenship status, health information, grades, entrance exam results, political affiliation, religion, and more.
- 3) Periodic Data Matching: Directs the Commissioner to coordinate with other federal agencies including Census Bureau and Departments of Treasury, Defense, and Veterans Affairs to ensure secure, temporary data matches that will produce valuable, aggregate information on student earnings and outcomes.
 - Allows for analysis of outcomes of students receiving veterans and military education benefits.
 - Allows for analysis of completion outcomes and post-completion outcomes such as earnings, employment, and further education.
 - Prohibits the creation of single Federal database at the Department of Education.
 - Directs the Commissioner to ensure data matches are not continuous and comply with several security and privacy protections.
 - Directs the Commissioner to establish process for students to access their information and make corrections to any inaccuracies.

- 4) **Publicly Available Information:** Directs the Commissioner to make the summary information about colleges and majors available to the public on a user-friendly website for students, families, and the public. At a minimum, this information must include measures of student access, completion, costs, and post-collegiate outcomes for each college and major, disaggregated by student characteristics.
 - Requires the Commissioner to use appropriate protocols for preventing disclosures of individual data.
 - Prohibits the summary aggregate information to include personally identifiable information.

- 5) **Permissible Disclosures of Data:** Directs the Commissioner to create a secure process for providing program-level, non-personally identifiable data on currently or formerly enrolled students back to institutions that participate in this postsecondary data system. This is to be used solely for approved vetted research, institutional improvement, and program evaluation.
 - Creates a process through which states may access program- and institutional-level aggregate data on student mobility and workforce outcomes for participating institutions located in their state.
 - Prohibits any sale of student data.
 - Prohibits the Commissioner from allowing any other federal agency to use data collected by this data system for purposes not outlined in the legislation.
 - Prohibits any personally identifiable information in this system from being used by law enforcement or any outside entity.
 - Prohibits the creation of a summative Federal ranking or ratings system.

- 6) **Data Submission:** Requires colleges and universities that participate in the federal student aid program to participate in this postsecondary data system. Allows institutions that do not participate in the federal student aid system to voluntarily participate in this postsecondary data system.

- 7) Prescribes criminal penalties for unlawful willful disclosure.

- 8) Directs the Commissioner to produce and update guidance and regulations relating to privacy and security to protect from unauthorized access, use, and disclosure.

Sec 3: Repeals the prohibition on a student data system

Sec 4: Aligns institutional requirements for data collection and submission

Sec 5: Transition provisions

- Establishes effective date for secs. 1, 2, and 4 as four years after enactment of this Act.
- Directs the Secretary and the Commissioner to ensure that transition and implementation of this system reduces reporting burden for institutions.

2019 College Transparency Act One Page Summary

Our existing postsecondary data systems are incomplete, duplicative, inefficient, and burdensome. Current law prohibits the federal government from collecting and reporting accurate data on student outcomes at each college and university in the U.S. Without this information, students and families are not empowered to make well-informed choices about their education, policymakers and institutions cannot craft evidence-based policies to help students succeed, and employers do not have the talent pipeline they need to grow the economy. Furthermore, current postsecondary data is incomplete and does not count all students.

The College Transparency Act:

- Overturns the ban on student-level data collection in the Higher Education Act
- Creates a secure, privacy protected student-level data network within the National Center for Education Statistics (NCES) using strong security standards and data governance protocols
- Accurately reports on student outcomes including enrollment, completion and post-college success across colleges and programs
- Leverages existing data at federal agencies and institutional data by matching a limited set of data to calculate aggregate information to answer questions critical to understanding and improving student success
- Protects all students by limiting data disclosures, prohibiting the sale of data, penalizing illegal data use, protecting vulnerable students, prohibiting the use of the data for law enforcement, safeguarding personally identifiable information, and requiring notice to students and regular audits of the system
- Streamlines burdensome federal reporting requirements for postsecondary institutions
- Provides information disaggregated by race, ethnicity and gender to identify inequities in students' success
- Requires a user-friendly website to ensure the data are transparent, informative, and accessible for students, parents, policymakers, and employers
- Feeds aggregate information back to states and institutions so they can develop and implement targeted, data-informed strategies aimed at supporting student success

2019 College Transparency Act Charge and Response

Charge: *CTA does not do enough to safeguard student privacy and security.*

Response: We worked hard this year to add even more privacy protections than the bill had last session to address these concerns. CTA abides by the same privacy and security laws that each federal agency must follow when handling sensitive data. Additionally, the legislation allows the use of the most relevant, modern privacy and security enhancing technology. For example, if the Commissioner of the Student Record Advisory Committee deems Secure Multi-Party Computation technology to be the best use of technology to protect data and security, and it meets the other requirements in the bill, then the Commissioner has every right and ability under the bill to use that technology. If a new technology comes on line that would better protect student data and privacy, the Commissioner has the authority to update and enhance the system as necessary. In addition to abiding by existing privacy and security laws, CTA also limits data disclosures, prohibits the sale of data, penalizes illegal data use, protects vulnerable students, prohibits the use of data for law enforcement, and the new version will require notice to students and regular audits of the system.

Charge: *The Wyden-Rubio bill, the Student Right to Know Before You Go Act, uses “Secure Multi-Party Computation” technology. Why doesn’t the College Transparency Act use that technology? I think it’s interesting and could get us the information we need without sacrificing student privacy.*

Response: CTA does nothing to prohibit the Department of Education from using Secure Multi-Party Computation if the Department of Education believes that the technology is best suited for the purpose of the data system. Unlike the Wyden-Rubio bill, which directs the Department to use this unproven technology, we believe the Commissioner of the data system should have the ability to determine if the technology is the best choice for the data system. Mandating the use of the Multi-Party Computation technology in the data system opens the data system up to potential vulnerabilities and limits further innovation in the data security space and limits the ability to adapt to changing circumstances. Lastly, there are serious concerns about whether Multi-Party Computation technology is capable to handle to capacity of the data system in question, as it has only been demonstrated to work on a very small scale. The last thing we need is the federal government mandating the use of a technology that does not work and stifles innovation.

Charge: *The College Transparency Act includes data from students who never participate in Title IV (Pell Grants, Loans, etc.). Why would we need data on non-Title IV students?*

Response: In order to truly reduce burdens on institutions by replacing IPEDS reporting, it is essential to include all students attending an institution, not just the students in the Title IV programs. Additionally, the information gathered for the data system is not only of use to students who receive Title IV funding, but for every student who enters post-secondary education, as well as for employers, policymakers and institutions. Further, if data collected was only limited to Title IV students, then prospective students—whether Title IV participating students or not—would not get an accurate picture of the value and outcomes of a given program. At some institutions – like the California Community Colleges – about 80% of students do not receive Title IV aid and would be omitted. Having the information on all post-secondary students is crucial for truly understanding the value of college. Finally, non-Title IV students

benefit from federal investments through tax benefits and research funding to institutions. In fact, the IRS already collects data on students to administer those tax benefits.

Charge: *This is increasing the role of the federal government and the Department of Education shouldn't have a data system with every student's earnings information.*

Response: Currently, institutions collect individual student data and report the required aggregate data to the National Center for Education Statistics (NCES). The College Transparency Act would eliminate the burden for them to calculate and the need for them to report the aggregate data to NCES. Instead, CTA simply requires institutions to send NCES the raw student data they already have and currently use to determine their aggregate student information – gender, race, program of study, etc. This change reduces the burden on institutions. Once the information is at Education, Education will connect the dots to aggregated data sets already sent to Education by the relevant agencies listed in the bill (Treasury, IRS, DOD, VA, etc.). In this process, the agencies will not be sending individualized data to Education.

Charge: *CTA isn't necessary and there are organizations such as the National Student Clearinghouse that are already doing this successfully.*

Response: CTA is necessary because students have the right to know the value of their education, and businesses, institutions and policymakers can do their jobs better with it. The higher education marketplace is broken and, instead of a massive overreach on the part of the Federal Government, the best way to fix the marketplace is to empower students to be educated consumers. If a student in Louisiana wants to be a nurse, they should be able to consider the difference in value and return on investment from a nursing program at Nicholls State, Tulane University, LSU, or Fletcher Technical Community College. While the Clearinghouse has plenty of information, it relies on self-reported data that is not accurate or reliable. Further, obtaining the information requires schools to send the Clearinghouse student information that is not protected by the same robust privacy and security standards that federal agencies must follow. Also, the National Student Clearinghouse data is not published at the institution or program-level, so students can't use it to help them make college choices. Only the federal government—not the Clearinghouse—has access to comprehensive earnings information to answer students' questions about return on investment. Finally, CTA provides the opportunity for a school like Fletcher Technical Community College to properly account for successful transfer students. The current prohibition on the use of student records prevents well-performing institutions from getting the credit they deserve when a student successfully leaves their institution and completes their education elsewhere.

Improvements to the College Transparency Act from 115th to 116th Congress

In the 115th Congress, a bipartisan group of Representatives and Senators introduced the College Transparency Act (CTA) to improve the way the federal government collects and disseminates data on postsecondary student outcomes. CTA will reform and improve the current system to provide accurate, timely, and high-quality aggregate data in a user-friendly, transparent way for students and families, policymakers, institutions and employers who have a right to know answers to key questions about student access and success.

By the end of the 115th Congressional session, this bill garnered support from 16 Senators, 33 Representatives, and more than 130 organizations from across the nation.⁴ Alongside this support of the bill, cosponsors received feedback on ways to strengthen the bill's already robust privacy and security protocols, value of data for stakeholders, and implementation considerations. This memo outlines the notable changes to the bill text.

PRIVACY AND SECURITY: CTA protects student privacy, secures student data, *and* promotes data use for decision-making. Data should only be used to help students, never to harm them. The revisions **strengthen security standards and data governance protocols, minimize data collection, give students more rights over their data, prohibit inappropriate data uses, and increase penalties for misuse.** Modifications to the bill:

- Require the Commissioner to comply with Federal Information Processing Standards (FIPS) and all relevant privacy or security laws. Added language prioritizes data minimization and requires notice to students about what data the system includes and how it will be used. [Section 2, Subsections 1(C), 4(D)]
- Establish a Postsecondary Student Data System Advisory Committee, that has appropriate staffing and resources, whose members will include the Chief Privacy Officer and Chief Security Officer of the Department of Education (ED), representatives of state higher education entities, representatives of diverse postsecondary institutions, student representatives, representatives from relevant federal agencies, and other stakeholders, including individuals with data privacy and security expertise. [Section 2, Subsection 2(A)]
- Require a public comment period and consultation with the Advisory Committee before adding new elements to the system to minimize data collection and ensure that all data collected are consistent with the purpose and goal of the system. [Section 2, Subsection 2(C)]
- Keep the system modern and compatible with any technological or governance changes by shortening the review period from five to three years. [Section 2, Subsections 2(D), 3(C)]
- Enhance students' rights to know how their data are used and to inspect their own personal information and correct inaccuracies. [Section 2, Subsection 3(C)(iii)(IV)]
- Prohibit ED and other federal agencies from using the data to limit services offered to students. [Section 2, Subsection 5(D)]

⁴ Postsecondary Data Collaborative and Workforce Data Quality Campaign Applaud Bipartisan, Bicameral College Transparency Act. 23 May 2017. Retrieved from: <http://www.ihep.org/press/opinions-and-statements/postsecondary-data-collaborative-and-workforce-data-quality-campaign>

- Protect students from federal, state, and local law enforcement using any data in the system to harm them or their families. [Section 2, Subsection 5(E)]
- Expand categories of information that cannot be included in a postsecondary student data system to specify physical or mental health data, and include migrant status, and national origin status for families as well as for students. [Section 2, Subsection 2(F)]
- Increase the penalty for unlawful willful disclosure to a class E felony, imprisonment for not more than 5 years, and a fine not more than \$250,000. [Section 2, Subsection 7(B)]
- Increase and clarify data security by: 1) requiring regular audits, 2) invoking the Confidential Information Protection and Statistical Efficiency Act (CIPSEA), and 3) mandating NCES to develop data retention, destruction, minimization, and breach management protocols. [Section 2, Subsection 8]

DATA VALUE FOR STAKEHOLDERS: Entities that report data should receive value in return. The newest iteration of CTA clarifies this value through **feedback reports and tools for states, institutions, and researchers, including specification of privacy protocols.** Modifications to the bill:

- In addition to a public website, add an analytical tool with reports that compare multiple institutions and programs. [Section 2, Subsection 4]
- Strengthen research disclosure restrictions to clarify that direct identifiers should be removed, and protocols should be reviewed by the National Center for Education Statistics (NCES) Disclosure Review Board. [Section 2, Subsection 5(A)]
- Allow both states and institutions to receive program- and institution-level feedback reports, including a new query option for states. The query tool allows states to submit lists of secondary graduates and receive aggregate workforce outcomes. These data will not be held in the postsecondary system. [Section 2, Subsection 5(A)(ii-iii)]

IMPLEMENTATION: The success of the data system created by CTA is predicated on a clearly defined system, and the latest bill **clarifies data sharing protocols, refines data disaggregates, and strengthens the implementation process.** Modifications to the bill:

- Update language throughout the bill from “linking” to “matching” to better reflect that all data would *not* be housed in a single, live-linked federal database. [Throughout bill text]
- Eliminate data on student athletes and add data on whether a student uses distance education or receives Federal loans. [Section 2, Subsection 2(B)]
- Add categories of disaggregated data to include recent transfer students and other non-first time students and Federal loan recipient status [Section 2, Subsection 2(C)]. Adds mean earnings as a measure to be reported in aggregate. [Section 2, Subsection 4(C)]
- Specifically describe the federal agencies that would enter into data sharing agreements with NCES and the purpose of each agreement. [Section 2, Subsection 3(A)]
- Extend the transition period from two to four years to ensure that NCES has time to design, test, refine, and transition to a new reporting schema. This extension is critical to allow NCES to consult appropriately with stakeholders on the governance committee. [Section 5]