

## MEMORANDUM

**Date:** January 31, 2022

**To:** U.S. Department of Education

**From:** Amanda Martinez, negotiator for civil rights organizations

**Re:** Administrative Capability Proposal

The Department of Education's proposal to change regulations on standards of administrative capability is deeply important for ensuring students are provided with the support they need to succeed. As part of the standards of administrative capability, institutions are required to provide adequate financial aid counseling to eligible students who apply for Title IV, HEA program assistance. Institutions, however, are falling far too short in this area by providing confusing and often misleading information about college costs and financial aid through their financial aid offers (also known as financial aid award letters). The Department must strengthen the adequate financial aid counseling provision by including requirements around how institutions communicate personalized cost and aid information to students.

Financial aid award letters are a barrier for affordability among many marginalized students. Many students are eligible for and depend on financial aid due to the low economic status of their families. In 2016, 58 percent of Black students and 47 percent of Latino students had a zero Expected Financial Contribution (EFC) compared to 30 percent of White students.<sup>1</sup> Even so, many with the greatest need won't receive grants, scholarships, and loans because they must overcome a complex financial aid process that is not always clear or accessible, especially for first-generation students, limited-English proficient students, or those who may be afraid of sharing sensitive information that could put their parents at risk of deportation.

### *Background*

In 2018, research from New America and uAspire examined the formatting practices of financial aid offers made to predominantly low-income students of color (74 percent Pell Grant recipients, 37 percent Black, and 36 percent Latinx) from more than 500 colleges and universities.<sup>2</sup> Their research found that:

1. **Offers used inconsistent jargon and terminology.** Schools were using 136 different terms for the federal unsubsidized loan, 24 didn't even call it a loan.
2. **Cost of attendance was either not broken down or not mentioned at all.** Over a third of the letters examined did not include cost information anywhere. Approximately 20 percent only included direct costs, neglecting personal living expense estimates.

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<sup>1</sup> <https://nces.ed.gov/pubs2019/2019487.pdf>

<sup>2</sup> <https://www.newamerica.org/education-policy/policy-papers/decoding-cost-college/>

3. **Most mixed all aid types together.** About 70 percent of colleges and universities added all aid together, even though loans and grants come with very different terms and conditions.
4. **Institutions “zeroed” out cost using PLUS loans.** Nearly 15 percent of institutions packaged Parent PLUS loans in a way that made the school look more affordable by zeroing out cost, even though they didn’t make clear how this loan differs from a student loan and that the parent has to qualify.
5. **Institutions misused the federal definition of “net price.”** Only about 40 percent of institutions did the math for students to explain how much they’d owe once aid was applied. Instead of using the federal definition of net price, institutions engaged in 23 different calculations making any comparisons among institutions not meaningful for students.
6. **Many institutions did not provide next steps.** Letters lacked clear next steps on what students should do to accept, decline, or reduce aid or who to turn to with any questions.

### *Proposal*

In order to provide adequate financial aid counseling, institutions must provide students with standard information about their price and aid options. This can be accomplished by requiring institutions to provide transparent financial aid offers that align with the Department’s recent guidance to institutions.<sup>3</sup> The Department should consider an institution’s adoption of the Department’s College Financing Plan as a way for schools to meet this standard of administrative capability.<sup>4</sup> Suggested redline changes are below.

### **§ 668.16 Standards of administrative capability.**

To begin and to continue to participate in any Title IV, HEA program, an institution ~~shall~~**must** demonstrate to the Secretary that the institution is capable of adequately administering that program under each of the standards established in this section. The Secretary considers an institution to have that administrative capability if the institution -

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**(h)** Provides adequate financial aid counseling to eligible students who apply for Title IV, HEA program assistance. In determining whether an institution provides adequate counseling, the Secretary considers whether its counseling includes information regarding -

**(1)** The source and amount of each type of aid offered;

**(2)** A financing plan either provided by the Department of Education to institutions or by an institution’s financial aid offer or award letters which must contain at least:

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<sup>3</sup> <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-10-28/issuing-financial-aid-offers-what-institutions-should-include-and-avoid>

<sup>4</sup> <https://www2.ed.gov/policy/highered/guid/aid-offer/index.html>

- (i) Cost of attendance including direct costs and estimated indirect expenses;
- (ii) Separation of grants, student loans (excluding federal Parent PLUS loans, private loans, state loans, institutional loans, and income-share agreements), and work-study;
- (iii) A calculation of net price (Total cost of attendance, subtracting all grant aid);
- (iv) Additional options for paying the remainder such as Parent PLUS loans with a disclosure that these are loans borrowed by parents who must apply and pass an adverse credit history check, federal work study, or tuition payment plan offered by the institution;
- (v) Deadlines for students to accept, decline, or reduce aid; and
- (vi) Information on how students can appeal or request additional aid.

~~(2)~~ (3) The method by which aid is determined and disbursed, delivered, or applied to a student's account; and

~~(3)~~ (4) The rights and responsibilities of the student with respect to enrollment at the institution and receipt of financial aid. This information includes the institution's refund policy, the requirements for the treatment of title IV, HEA program funds when a student withdraws under § 668.22, its standards of satisfactory progress, and other conditions that may alter the student's aid package;