

**United States Senate  
Committee on Health, Education, Labor and Pensions**

**Accountability and Risk to Taxpayers  
January 30, 2018**

**Written Testimony of President José Luis Cruz**

**Lehman College of The City University of New York  
The Bronx, New York**

## **JOSÉ LUIS CRUZ — BIO SKETCH**

José Luis Cruz began his tenure as the third president of the Herbert H. Lehman College of The City University of New York on August 15, 2016.

A leading advocate for policies to expand opportunities and improve educational outcomes for all students—especially those who have historically been underserved—President Cruz is a frequent keynote speaker and writer on higher education issues. He has testified before the U.S. Congress, and his work has been featured in *The Chronicle of Higher Education* and widely covered by many news media outlets.

Previously, President Cruz served as provost of California State University, Fullerton. He is a former vice president of Higher Education Policy and Practice at The Education Trust in Washington, D.C. and a former vice president of Student Affairs for the University of Puerto Rico system. He began his career as a faculty member in engineering at the University of Puerto Rico, Mayagüez, rising through the ranks and serving as chair of the Electrical and Computer Engineering Department and dean of Academic Affairs.

President Cruz is a professor of physics in Lehman's School of Natural and Social Sciences and serves on the board of directors of The Education Trust, the New York Botanical Garden, and the Institute for Higher Education Policy. He is a Senior Member of the Institute of Electrical and Electronics Engineers as well as a National Science Foundation Career Award recipient. His work on optical interconnections for massively parallel processing systems has been published in scientific journals and presented at international conferences.

He earned his bachelor's degree in electrical engineering (*magna cum laude*) from the University of Puerto Rico, Mayagüez and his doctorate from the Georgia Institute of Technology.

Born in Puerto Rico, President Cruz spent his formative years on the island and in various cities in California, Florida, and Honduras. He and his wife live in The Bronx and have five children.

## SUMMARY OF TESTIMONY

Chairman Alexander, Ranking Member Murray, and members of the Committee, thank you for the opportunity to testify before you this morning on the critical issue of accountability in higher education.

My name is José Luis Cruz, and I am the President of Lehman College of The City University of New York, located in the proud, resilient borough of The Bronx.

We are here to discuss accountability and the role equity must play to ensure colleges help students of color and students from low-income families succeed. To better serve students, the new Higher Education Act (HEA) should protect them from the tyranny of low expectations, defend their right to seek to meet their full potential, provide a level playing field as they work to improve their lot in life through postsecondary education and recognize the critical role institutions play in a student's success.

We also need to remember that the higher education sector is diverse and a federal accountability system must be tailored to account for differences in institutional missions, student demographics, program objectives, and governance structures. But, for accountability to work, we need to have the courage to confront those who are currently abusing the system.

The good news is that designing an equity-focused accountability system is possible. Here are several recommendations.

**First, equity must matter in accountability metrics.** There should be minimum standards for the enrollment of Pell students, graduation rates, and loan repayment – for all students and by race and income. We need to couple increased expectations with focused investments and provide time for campuses to improve before any sanctions attach.

**Second, work to provide focused investments in building the capacity of colleges to use evidence-based innovation, particularly for the 2- and 4-year public institutions that serve the majority of America's students.** You heard last week from my colleague about CUNY ASAP. Programs like that show what is possible with the right incentives and supports necessary to ensure that all students have equitable opportunities and outcomes in higher education.

**Finally, be unwavering in your commitment to protecting students and taxpayers from fraud and abuse.**

Congress must ensure that every dollar the federal government invests in higher education is used effectively, efficiently, and in the best interest of the increasingly diverse public. An equity-focused accountability system for higher education can address this need and help improve student outcomes across the board by better serving our historically underserved low-income students and students of color.

## WRITTEN TESTIMONY

Chairman Alexander, Ranking Member Murray, and members of the Committee, thank you for the opportunity to testify before you this morning on the important issue of accountability in higher education.

My name is José Luis Cruz, and I am the President of Lehman College of The City University of New York. Located in the storied and resilient borough of The Bronx, Lehman College serves as a driver of transformative change to approximately 13,000 undergraduate and graduate students across 90 degree programs, plus 12,000 students in certificate and workforce development programs. Fifty percent of Lehman undergraduates have a household income of \$30,000 or less; 80 percent are students of color; and 41 percent speak a language other than English at home. Lehman's students embody the aspirations of over 140 different ancestries and exhibit the drive of those who strive to make their life, in the world's greatest City, the City of New York.

The perspectives I bring today have been shaped by my experiences as an undergraduate and graduate student who benefited from a quality public higher education thanks to the support of many federal and state aid programs; a parent of five children — one who is currently completing her undergraduate degree in a public research institution and two who completed undergrad and grad degrees from private institutions within the past year; a faculty member and administrator at three large university systems; and a former vice president of Higher Education Policy and Practice at The Education Trust.

### **On the Formidable Goal of HEA Reauthorization**

Before I present my thoughts about the equity implications of accountability and recommendations for how best to consider equity in accountability, I want to commend you, Mr. Chairman, and Ranking Member Murray, for convening this hearing to “explore how federal policymakers can modernize federal higher ed accountability to better protect students and taxpayers and ensure schools provide students the opportunity to earn certificates and degrees that are worth the time and money students spend on them.”

It is my position that to achieve this goal, the Committee must proceed in a thoughtful, purposeful, and bipartisan way that recognizes the fundamental American values that are at stake in the reauthorization of the United States Higher Education Act and acknowledges that the legislation that results today will impact the America of tomorrow in ways as significant as the overhaul of the tax code, the reconceptualization of our health care system, and the redesign of our immigration system.

And as it works to do so, it is my hope that the Committee will take the time to fully parse, discuss, and reach a shared understanding of the goal they are trying to meet — as my initial attempt to do so below suggests it is a formidable goal indeed.

First, the Committee seeks to *modernize* federal higher ed accountability. The use of the word *modernize* suggests an interest in adapting the Higher Education Act to better respond to the challenges and opportunities faced by our country's increasingly diverse population as it relates to our nation's

multisector system of higher education. This is a most worthy objective as there are certainly myriad areas ripe for intervention, ranging from data transparency, misaligned incentive structures, lack of effective controls for toxic programs, etc. But it is important that the objective behind the word modernize not be misconstrued to mean a broad, indiscriminate dismantling of the regulatory structure that is in place under the guise of “less regulations lead to better outcomes” mantra that is so pervasive in our political discourse. In seeking to remove the regulatory burden, I encourage the Committee to first ask if the right inducements and system dynamics are in place to avoid regrettable unintended consequences that could exacerbate what one can only hope are the unintended outcomes of our current system. Indeed, it’s important to remember that many existing regulations were put in place to address real issues with low-quality institutions that leave students worse off than if they had never attended. While we should be thoughtful about the burden we are placing on good actors, protecting students must be our first priority in any and all regulations.

Second, the Committee wants an accountability system that *will better protect students and taxpayers*. In my opinion, to better serve students, the new HEA should protect them from the tyranny of low expectations, defend their right to seek to meet their full potential, provide a level playing field as they work to improve their lot in life through postsecondary education, and recognize that institutions play a big role in determining whether or not a student completes college or defaults on her student loans. And that the best way to protect taxpayers is by not losing sight that the overall return on their investments in individual students and the postsecondary institutions that educate them are not only measured by the cost of the federal student loan program, but also in terms of the contributions to the public good that students and institutions make.

Third, the Committee wants a reauthorized HEA that will *ensure schools provide students the opportunity to earn certificates and degrees that are worth the time and money students spend on them*. To achieve this objective, in crafting the new HEA, the Committee should recognize that what schools do matters; that while the standards for an accountability system *could* be designed such as to apply for institutions across all sectors of higher ed, a differentiated set of inducements and controls is needed to account for differences in institutional missions, student demographics, program objectives, and governance structures; and that for the incentives and penalties contemplated in the HEA to be credible, we need to have the courage to confront those who are currently abusing our accountability system.

The good news is that all of these considerations can be taken into account if the Committee views the hard, important work ahead through an equity lens. After all, as I indicated in my [testimony](#) to the U.S. House of Representatives Committee on Education and the Workforce on Feb. 7, 2017, if we are to preserve our democratic ideals, secure our nation, and compete in the global economy, we must significantly improve postsecondary educational attainment. And because of current demographic and economic shifts, the only way we can do this is by ensuring quality higher education options are accessible and affordable to all members of our increasingly diverse population.

Of course, in today’s America this is easier said than done — mainly because of how inequitable policies and practices across each level of the educational pipeline have undermined our ability to fulfill our twin promises of opportunity and upward mobility for all who work hard to reach their full potential.

## The Equity Imperative

Since the original Higher Education Act (HEA) was passed in 1965, the U.S. has made substantial progress in college access. College-going rates have climbed for students from all economic and racial groups. *Yet despite this progress*, low-income students today are [only just beginning](#) to catch up to the rate their high-income peers enrolled in college over 40 years ago.

One reason for this gap in college-going — a factor that also manifests itself in gaps in college completion — is that to this day, we as a country give students from historically underserved communities less of all the things they need: [less funding](#); [less access to effective, in-field, experienced teachers](#); [less access to a college or career-ready curriculum](#); and [less access to advanced coursework](#).

Moreover, there's the fact that low-income students and students of color who do enroll in college are *far less likely* than other students to enroll in institutions where most students graduate and *far more likely* to enroll in the institutions, including those in the for-profit sector, that graduate few of their students and create disproportionate debt.<sup>1</sup> These trends put students in a precarious position to successfully repay their student loan debt and emphasize the need to ensure colleges responsibly recruit, enroll, and graduate their students.

These disparities are complicated further by the negative impact that increased institutional costs, state disinvestments (down 20 percent since 1990), [inequitable state financial aid programs](#), and insufficient maximum award levels in the Pell Grant program ([down since its inception](#) from roughly 75 percent of the cost of attending a public four-year college to 30 percent) have had on the total cost of attendance for our lowest income students. The net effect? *Today, low-income students must find a way to finance an amount equivalent to 76 percent of their family's annual income to attend a public university for one year, even after accounting for all grant aid — a far higher burden than the 17 percent figure required for the highest income students.*<sup>2</sup>

These intergroup inequities have a profound impact on individual lives and our country's competitiveness. For every 100 white kindergartners, roughly 90 end up with a high school diploma, and, of those, 40 get at least a bachelor's degree. Plenty of opportunity for improvement, to be sure. But the bachelor's degree attainment rate among black adults is just over half that of white adults, and among Latino adults, only just over one-third. Similarly, students from high-income families are approximately [five times as likely](#) as students from low-income families to obtain a bachelor's degree by age 24.

It is because of the profound effect this state of affairs has on the ability of working families to succeed, the competitiveness of our economy, the security of our country, and the merit of our meritocracy, that I believe the **eradication of intergroup inequities** to be among the most important challenges that higher education institutions — and our nation — will face in the years ahead. To meet this challenge, we must develop, implement and scale equity-driven policies and practices that will restore faith in Horace

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<sup>1</sup> Ed Trust analysis of IPEDS Fall enrollment, Fall 2014 (by race) and NCES National Postsecondary Student Aid Study (NPSAS:12), 2011-12 (by Pell recipient status).

<sup>2</sup> Ed Trust analysis of NPSAS:12, using PowerStats. Results based on full-time, full-year, one-institution dependent undergrads at public and private nonprofit four-year colleges.

Mann’s articulation of education being “beyond all other devices of human origin... the great equalizer of the conditions of men, the balance-wheel of the social machinery.”

### **A Reason for Hope: Similar Institutions, Similar Students, Vastly Different Outcomes**

The good news is that — even under the current regulatory structure — there are many higher ed institutions that are bucking these trends, demonstrating that what institutions do matters in determining whether or not a student’s demography will determine their destiny. Indeed, evidence suggests that similar students can have drastically different outcomes at campuses serving similar students with similar resources.

For example, in The Education Trust’s recent [report on Latino student success](#), they found that two campuses, California State University-Fullerton and The University of Texas at San Antonio serve a student body that is nearly 40% Latino and nearly half low income; however there is an over 20 percentage point gap in their overall graduation rate. And what’s interesting to note is that Fullerton’s success was the result of [intentional action](#), and the impetus for that work was [equity-focused accountability from institutional and state leaders](#).

I know this from first-hand experience as I served as the Provost and Vice President of Academic Affairs at Cal State Fullerton and am now using the experiences lived and lessons learned to [guide my work](#) as president of Lehman College of The City University of New York. And I know that it can be replicated, as my work with the [Access to Success Initiative](#) at the close of the past decade suggests.

So, the question really is how do we infuse equity into the reauthorization of HEA to replicate these results? I am pleased to present the following recommendations for your consideration.

### **Recommendations**

**First, I recommend that the Committee privilege equity in accountability metrics.** If issues of equity are not intentionally addressed in policy design, outcomes and inequity may increase simultaneously. This is what we have seen happen in a number of states with performance-based funding where the lack of intentionality on this front when establishing financial incentives to hold campuses more responsible for student completion outcomes resulted in [negative impacts on issues of equity](#), as campuses responded by [becoming more selective](#) in order to improve their outcomes

Although most existing and emerging state policy proposals incentivize completion for Pell grant recipients as a way to address equity, there are additional considerations to ensure equity isn’t just symbolic, but is a priority. Equity metrics should be mandatory, not optional and ensure equity measures are given their proper weight, so they are not perceived as an optional, or insignificant bonus on top of a rewards system that clearly prioritizes overall completion. And they should not be limited to income, which is unable to account for racial inequality. [Students of color less likely to apply, persist, complete college](#), and are more likely to have [unmet financial need](#), thus policies should include incentives for enrolling and graduating students of color. The [Center for Postsecondary and Economic Success at the Center for Law and Social Policy \(CLASP\)](#) suggests in the context of state Outcomes Based Funding that

the weight of the equity measures should be sufficient to counteract the strength of the incentives to increase selectivity.

In the “[Tough Love](#)” report, The Education Trust suggested that federal accountability policy should redefine the standards, so that “low performing” doesn’t just mean low graduation rates, but also means an unacceptable effort to enroll and graduate low-income students. Ed Trust suggested reducing or eliminating financial investments in colleges that were in the bottom 5% of Pell enrollment. This idea was also incorporated into the ASPIRE Act, introduced by Senators Isakson and Coons, which suggested giving colleges time to improve Pell enrollment or pay a penalty that would be redirected to under-resourced colleges struggling to graduate their students.

More recently, [Georgetown’s Center on Education and the Workforce](#) suggested that selective campuses with the highest completion rates can afford to increase their enrollment of Pell Grant recipients to 20%, a strategy they believe will increase outcomes for low income students.

These increased expectations must be coupled with increased investment and time for campuses to improve. Institutions should also be provided with technical assistance and rewards or incentives for making improvements. It is especially important that these resources be targeted to campuses serving large proportions of low-income students that are making active efforts to improve completion rates. For institutions already on the right track when it comes to access and completion, new incentives – both financial and non-financial – can be provided.

While there should be some consequence for a failure to improve, we must stop thinking about “accountability” as meaning all-or-nothing eligibility for Title IV aid, except in the most egregious cases of fraud and abuse. And we would do well to address the causes of regrettable outcomes, not just their symptoms.

The system of higher education is extremely stratified; students who require the most support are concentrated at institutions with the fewest resources and the lowest completion rates. Thus, federal accountability should be designed in way that considers campus type, resources, scope, size, and mission when defining institutional success and identifying peer groups. For example, limiting Title IV eligibility for institutions that may have low completion rates, but enroll larger proportions of low income students and students of color could have a major impact of higher education equity. Therefore using gradual sanctions like those suggested by [The Institute for College Access and Success \(TICAS\)](#), before Title IV eligibility loss, and providing support for improvement at at-risk institutions can ensure accountability policies enhance opportunities for students, rather than limit them.

Often proposals, like risk sharing, aimed at holding institutions of higher education more responsible for poor outcomes and increasing costs, use students’ ability to repay their student debt — as measured by cohort default and/or repayment rates — as a primary indicator of performance. These metrics are important because the student debt crisis has had a disproportionate impact on students of color, especially Black students who are nearly 20 percentage points more likely to borrow student loans and Black bachelor’s degree holders are five times more likely to default on their student loans than White college dropouts. But the metrics simply describe the symptom. And as it turns out, in this case, rather



than limit access to loans or repayment options, we'd do better by attacking the underlying causes. Namely, the facts that Black students disproportionately enroll in low-performing colleges, particularly for-profit institutions that have lower graduation rates and higher cohort default rates<sup>3</sup> and that the [strongest predictor of loan default is whether or not a student completes college](#). Thus, limiting the risk to taxpayers associated with our \$1.3 trillion federal loan portfolio is more about focusing on completion and strengthening protections for students against low-quality, fraudulent and predatory for-profit institutions, and less about the protections we provide borrowers (e.g., income-based repayment plans).

**Second, I recommend that the Committee work to incentivize intentionality, unleash innovation, and reward success.** Enrolling low income students and students of color is not an excuse for poor outcomes. As you look to reauthorize the Higher Education Act, you have a prime opportunity to provide the incentives and supports necessary to ensure that all students have equitable opportunity and outcomes in higher education. An equity-focused accountability is a key lever for making that change.

There is evidence that certain student behaviors, such as taking summer courses, can increase their likelihood of completing their degree program. Federal policy can be designed in a way that incentivizes these behaviors, ultimately leading to increased college completion. For example, students who are able to work less and take more courses have [better grades](#) are [more likely to complete college](#), than their peers who work more hours and take fewer courses. Therefore, outcomes driven policies should provide additional resources and incentives for students to take more credits, such as year-round Pell grants – which I am grateful Congress has reinstated - and financial aid that can be applied to non-tuition, living expenses to ensure students can afford to take more credits per semester and complete college at higher rates.

Federal policy designed to increase college completion must invest in the capacity of campuses to better serve students, especially those that have the least resources, but maintain a commitment to educating the students least likely to complete college. This capacity building should be centered on campuses implementing evidence based strategies, such as those used by [Georgia State University](#) or in [City University of New York's Accelerated Study in Associate Programs](#) (ASAP), that are shown to improve student outcomes.

The average campus leader can identify several practices that can improve completion, like co-requisite remediation, guided pathways, intrusive advising, and data-based decision making, but often lack the financial or human capital needed to effectively implement these strategies. Implementing these strategies can improve student outcomes and ultimately save campuses resources that they can apply to sustaining and expanding these initiatives, however, many campuses require an initial investment to help them build the infrastructure and human capital needed to start the initiative.

There are examples of emerging proposals, such as the ASPIRE Act that couples the introduction of increased accountability for completion, with focused investments in the capacity of campuses – particularly those that are struggling but striving to improve - to implement effective strategies. I appreciate Senator Isakson's work on this legislation and hope to see Congress continue to explore its

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<sup>3</sup> Ed Trust analysis of IPEDS Fall enrollment, Fall 2014 (by race)

ideas. More broadly, Congress should also pursue additional investments in improvement targeted at campuses like community colleges and Minority Serving Institutions that serve large proportions of low income students and students of color, but also have limited institutional resources.

**Third, I recommend that the Committee be unwavering in its commitment to protect students and taxpayers from fraud and abuse.** For proprietary colleges, this means they must deliver on the promises of success they are making to students and taxpayers alike. The promise is clear and unambiguous, seen in the recruitment ads depicting happy graduates working in state-of-the-art jobs they acquired thanks to their newly earned for-profit college degrees. The ads of course do not include the “results are not typical” or “individual results may vary” disclaimers we are accustomed to seeing when the exception, rather than the rule, is showcased. But, unfortunately, they do present the exception. The [data show](#) that rather than getting a relevant credential and a job that pays a living wage, too many students walk away from these institutions with nothing but excessive debt and, ultimately, blame for their institutions’ low graduation and [high loan default rates](#).

On March 10, 2011, I testified before this Committee. I respectfully submit said [testimony](#) into today’s record. At the time, I unequivocally stated that for-profit college companies demanded new attention and a new approach to regulation, because existing structures were ill-equipped to deal with the aggressive business models that fueled their growth.

Since then, the implementation of the gainful employment rule, restrictions on incentive compensation, and enactment of borrower’s defense have gone a long way to protecting taxpayers and students from the worst corporate offenders. But it is extremely worrisome to see the current Department of Education walk away from these protections when they should in fact be strengthening them.

As part of this accountability conversation, we should be continuing these guardrails in addition to taking further steps such as requiring accreditation agencies to emphasize student outcomes and measures of academic quality and financial stability in their evaluations and accreditation decisions; and strengthening federal aid eligibility requirements like the 90/10 rule so that for-profit institutions are not mostly publicly funded.

We can’t meet the high-skill workforce demands of tomorrow unless we clean up the for-profit college sector today. We have to rein in those that abuse our social investment and prey on our underserved population.

### **The Case for Investments in Public 2-year & 4-year Institutions**

Having been allowed to weigh in on the Committee’s deliberations, it would be irresponsible of me to not use the occasion to remind its members of the incredible opportunity the reauthorization of the Higher Education Act presents to unleash the transformative power of our country’s public 2-year and 4-year institutions, the institutions that because of who and how many they serve, predominantly and disproportionately shoulder the responsibility of increasing educational attainment in America.

Because, in my opinion the public 2-year and 4-year sector represents our country's best bet to once again lead the world in educational attainment. Particularly if we can find a way to build capacity within the sector so those institutions that are outperforming their peers, can model to others how they too can take more intentional action to better serve the millions of students who are coming of age in America today, but who — because of the color of their skin, the balance of their checking account, their place of origin, and/or the tenets of their faith—have historically been underserved as they have sought to meet their full potential.

Imagine the benefits that would accrue from additional investments in institutions such as The City University of New York — which according to [The Equality of Opportunity Project](#) has propelled almost *six times* as many low-income students into the middle class and beyond as all eight Ivy League campuses, plus Duke, M.I.T., Stanford, and Chicago, combined — that would allow them to scale their best practices to accelerate progress on their goals to expand access, improve learning, increase graduation rates, reduce time to degree, and prepare students for meaningful employment and future study.

I, for one, have a clear vision of what such investments would do for Lehman College: it would serve as a catalyst for the urgent action required to create the conditions whereby the promise of prosperity of a resurgent Bronx is within the reach of all those who seek to meet their full potential — action captured in our college's goal to double from 45,000 to 90,000 the number of high-quality degrees and credentials that lead to fulfilling careers and future education that we produce by the year 2030, an initiative we refer to as [90x30](#).

This is no easy feat. The Bronx is moving forward and trending upward —median income levels are up and unemployment rates are at historic lows. But the borough's poverty rates are on the rise and not all families are positioned to benefit from our booming economy. The largest demographic living in poverty in the Bronx today? Females aged 25-34. The income mobility rate for children in poor families? Among the lowest in the nation. The growth rate of the school-age population in the borough? Among the fastest in the state. And at 28%, the Bronx is next to last in educational attainment of the 62 counties in New York State.

The magnitude of this challenge could paralyze most. But imagining what a better educated Bronx would look like provides a powerful impetus for us to forge ahead.

Now, the crisis of educational inequality is not a local issue. But to truly reverse existing inequities in higher education, we need equity-driven policies and practices that will allow those institutions who can disproportionately contribute to our national goals to advance their missions and meet their full potential as vehicles of social mobility and drivers of transformative in their communities.

## **Conclusions**

Accountability in higher education is not a new conversation, nor is it a partisan one. Many of the ideas presented herein and others that will surely be discussed today — including the importance of looking at outcomes in a disaggregated way by student group — have been discussed since the George W. Bush

administration with the Spellings Commission. It is time for those conversations to ripen into policy action.

Congress must ensure that every dollar the federal government invests in higher education is used effectively, efficiently, and in the best interest of the increasingly diverse public. It is clear that a thoughtful, equity-focused accountability system for higher education is both necessary to safeguard the money invested by the taxpayers, protect students from fraudulent and predatory institutions, and improve student outcomes across the board, but particularly for low-income students and students of color.

I believe that the reauthorization of the Higher Education Act can help institutions make it not only possible, but probable that more low-income students and students of color can rise to the middle class, paving the way for less inequality, more social mobility, and better overall prosperity in America. And, as I've stated herein, I believe that the best ways to do this are by applying an equity-lens to the policies and practices that shape the work of higher education institutions across our nation and targeting resources to those 2-year and 4-year public institutions that have demonstrated the capacity to transform lives and communities.

On behalf of Lehman College, please know that we welcome the opportunity to work with you and other institutions across the country, as we move to do the hard, but important work required to ensure that our higher education system works for all Americans.

Thank you.