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May 20, 2026

The Honorable Linda E. McMahon
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Attn: Mr. Joe Massman, Office of Postsecondary Education

Re: Notice of Proposed Rulemaking, Accountability in Higher Education and Access through Demand-driven Workforce Pell: Student Tuition and Transparency System (STATS) and Earnings Accountability, Docket ID ED-2026-OPE-0100.

Dear Secretary McMahon:

On behalf of the National Association of Independent Colleges and Universities (NAICU), the more than 1,700 private, nonprofit colleges and universities it represents, and the undersigned associations, I submit these comments on the Department of Education's (Department) proposed rule implementing the earnings accountability and Student Tuition and Transparency System (STATS) provisions enacted in the One Big Beautiful Bill Act (OB3).

NAICU's member institutions share the Department's interest in an accountability framework that protects students and taxpayers while supporting the broad range of programs that prepare students for meaningful work and further study. We appreciate the Department's effort to bring the new statutory framework into operation on a tight timeline, and we commend several features of the proposed rule, including the removal of the debt-to-earnings (D/E) measure given the substantially constrained federal lending environment that will take effect under OB3; the inclusion of a teach-out pathway with a generally permissive posture toward approval absent material concerns raised by a third party; and the Department's general willingness during negotiated rulemaking to consider feedback from a wide range of stakeholders.

At the same time, several elements of the proposed rule depart from the statute, exceed the Department's regulatory authority, or rely on methodological choices that will produce inaccurate determinations and unintended consequences for programs that demonstrably and successfully serve students. Consistent with the principle that a new accountability framework should do no harm to students and the well-functioning programs that serve them, we urge the Department to consider making the changes described below before issuing a final rule.



Recommendations

I. The administrative capability test that the Department created exceeds the Department's statutory authority and should be removed.

Our most fundamental concern with the proposed rule is the provision that triggers the loss of all Title IV eligibility, including Pell Grants, when more than 50% of an institution's Title IV-aided students or Title IV dollars are associated with "low-earning" programs in two of three consecutive years. We recognize that this trigger was added to the framework on the final day of negotiated rulemaking to reach consensus, but we respectfully submit that this consequence is not authorized by OB3 and should be removed from the final rule.

The statute establishes an earnings premium test for certain Title IV-eligible programs and specifies the consequence of failure: loss of Direct Loan eligibility for the program. Congress did not authorize the loss of Pell Grant eligibility, campus-based aid, or any other form of Title IV assistance for a failing program, much less for entire swaths of programs across an entire institution, based on the aggregate share of its students enrolled in such programs. When Congress attached consequences to the earnings premium determination, it did so explicitly, and the one consequence it chose was bounded at Direct Loan eligibility.

The Department's authority to set administrative capability standards is legitimate, but that authority does not provide a basis for bootstrapping a narrowly bounded statutory test into a much broader institutional sanction. Administrative capability rules are intended to address an institution's ability to administer Title IV programs; they are not a vehicle for re-legislating the consequence of a statutory accountability test that Congress carefully calibrated. Using the administrative capability framework to attach the loss of all Title IV eligibility to a statutory test that Congress limited to the loss of Direct Loan eligibility appears to be an inappropriate expansion of the Department's authority under OB3.

We urge the Department to remove this new administrative capability trigger from the final rule. If the Department concludes that future additional institution-level safeguards are warranted, the proper course is to return to Congress for express authorization rather than to attach unauthorized consequences through rulemaking.

II. Strengthen the appeals process to ensure accurate and fair earnings-premium determinations.

NAICU appreciates the Department's recognition that institutions and programs subject to a low-earning-outcome determination must have access to an appeals process. We respectfully submit, however, that the appeals framework as currently proposed is insufficient to ensure accurate determinations and inconsistent with the institutional due process protections that Congress provided in the Higher Education Act (HEA). We urge the Department to expand both the substantive grounds on which an institution may appeal a determination and the procedural protections available during that appeal.

A. Substantive grounds for appeal should encompass the full range of measurement issues that affect the determination.

The proposed appeals framework appears to only accommodate challenges to the calculation itself. In other words, errors in subtracting one number from the other. While such errors should plainly be appealable, an institution may also have legitimate grounds to challenge the determination based on issues with how the underlying data were constructed. The final rule should expressly recognize the following as appropriate grounds for appeal:

- i. Errors in cohort construction, including improper inclusion or exclusion of individuals from the program completer cohort (e.g., the systematic exclusion of program completers enrolled in further graduate or professional study);
- ii. Errors in benchmark construction, including credible institutional evidence that the Census-based comparison group does not accurately represent the population Congress intended (e.g., the “high school diploma only” comparison group, including individuals holding non-degree credentials such as occupational licenses or industry certifications, which inflate the benchmark above the statutory comparison in a materially negative way);
- iii. Errors in earnings measurement, including the failure to capture all IRS-reportable forms of self-employment income (e.g., Schedule C, Schedule F, partnership K-1, and S-corporation pass-through earnings); and
- iv. Labor-market or geographical mismatch, where the assigned benchmark (national or state) demonstrably does not reflect the labor market in which the program’s graduates actually work.

B. Institutions should be permitted to present alternative or supplementary evidence in support of an appeal.

Where the Department's standard methodology produces a determination that an institution believes is materially inaccurate, the institution should be permitted to submit institution-specific evidence in support of an alternative determination. This may include, where statistically reliable: institutional graduate-outcomes surveys; state longitudinal data-system records; documentation of cohort composition (for example, evidence of further-education enrollment rates among completers); employer or licensure-board data on graduate earnings; or more localized Census Bureau data than the Department's default benchmark.

The Department’s framework already contemplates the use of multiple data sources and benchmarks. An appeals process that allows institutions to present additional accurate data within those frameworks is consistent with the proposed rule’s purposes and with the statutory directive to measure programs against an accurate earnings benchmark.

C. The Department should provide a structural-exception determination for programs the earnings premium framework cannot accurately measure.

Beyond appeals of individual cohort determinations, the Department should establish a structural-exception determination process for programs where the design and student population systematically depart from the assumptions on which the earnings-premium framework is built. The framework is calibrated to a particular pipeline: a student completes a credentialed program; enters the labor market in a field connected to that credential; and earns W-2 wages reported to the IRS within four years of completion.

Where a program's educational purpose, mission, or graduate-outcome profile systematically diverges from that pipeline in ways the framework cannot accommodate through aggregation or the appeal of individual determinations, the result is not a meaningful measurement of program quality but a structural mismeasurement that misallocates Title IV consequences. The Department should recognize this distinction in the final rule.

Specifically, the Department should establish a process by which an institution may petition for a determination that a particular program is structurally outside the scope of the earnings-premium test, based on documented evidence regarding the program's design and graduate-outcome profile. Categories that should be eligible for such a determination include, at a minimum:

- i. Programs where graduates enroll in further graduate or professional education at substantial rates (e.g., programs at institutions where pre-medical, pre-law, and pre-graduate-school pathways are explicit features of the program design);
- ii. Programs at religious institutions where graduates predominantly enter ministry, missionary work, or service in religiously-affiliated nonprofit organizations, where labor-market earnings are systematically low by vocational choice rather than by deficiency of program quality; and
- iii. Programs where graduate-outcome profiles demonstrably and systematically fall outside the framework's measurement assumptions in ways that aggregation across years cannot resolve.

A structural-exception determination is consistent with the statutory purpose Congress enacted in OB3, not a departure from it. Congress directed the Department to identify and penalize programs that fail to produce a meaningful earnings premium for graduates. Congress did not direct the Department to penalize programs when graduates pursue further education, enter religious or public-service vocations, or are otherwise disadvantaged in the early stages of their careers; paths that are themselves educationally and socially valuable and that the federal government supports through other parts of its programs (including Public Service Loan Forgiveness and various religious-organization tax preferences).

A framework that categorically removes programs from Title IV eligibility on the basis of measured graduate paths that the federal government otherwise affirmatively supports would produce internal contradiction in federal education policy. The Department has recognized similar categorical accommodations elsewhere in Title IV, such as the separate accountability framework for Prison Education Programs, which reflects the recognition that a standard framework calibrated to typical labor-market entry is not appropriate for all student populations the federal government chooses to support. The same principle applies here.

Procedurally, the Department should establish these exceptions based on current data estimates of projected failure rates and reevaluate those exceptions at a regular interval to ensure that these protections do not outlast their necessity. In addition, the Department should allow programs to petition for such consideration and require support from evidentiary documentation of the program's design and historical graduate-outcome profile, subject to periodic renewal and continued reporting, and reviewable by the Department on a clear and reasonable timeline.

A determination should not constitute permanent exemption from accountability, and institutions receiving such a determination should remain subject to other applicable accountability frameworks and reporting requirements. But fundamentally, the Department should appropriately remove a program from earnings premium measurement when that measurement cannot accurately reflect program quality.

D. A robust appeals process serves the statutory purpose, not merely institutional interests.

The earnings premium framework Congress enacted in OB3 is intended to identify and remove programs from federal financial aid if they fail to produce meaningful earnings outcomes for their graduates. A framework that produces accurate determinations advances that statutory purpose while one that produces inaccurate determinations does not. The kinds of measurement and methodological issues that an expanded appeals process would surface, such as improperly constructed cohorts, inflated benchmarks, uncaptured forms of earnings, and statistical uncertainty at the margin, are precisely the issues that, left uncorrected, would cause the framework to misidentify programs and therefore fail to serve its statutory function. The Department should therefore view the procedural and substantive expansion we have outlined not as concessions to institutional interests but as integral to the accuracy and legitimacy of the framework Congress enacted.

III. To the maximum extent practicable, the Department's earnings premium determination process should minimize the influence of programs other than the one being evaluated.

The purpose of the accountability framework is to judge whether a program produces substantial enough earnings outcomes for its graduates that it should continue to have access to the Direct Loan program. NAICU recognizes that there are practical limitations to having accountability based solely on the graduates of a program and that some degree of cohort aggregation and other compromises are necessary to implement anything at all. However, to

the extent that structural features within the framework biases or systematically skews the results of a program evaluation away from the central principle – that a program should be evaluated on its own merits – they should be mitigated or eliminated.

We note three areas of concern we believe the Department should consider addressing prior to the release of the final rule.

A. Newly established programs should be exempt from the earnings premium determination process until they have produced at least one Title IV completer with earnings.

As proposed, the cohort aggregation process would attempt to create a group of at least 30 Title IV completers from a program to evaluate it. For the roughly 91% of Title IV-eligible programs that the Department estimates would not have 30 such completers in a single award year, the Department would roll up prior award-year cohorts at the six-, four-, and two-digit Classification of Instructional Programs (CIP) code level for programs to reach that threshold.

The unavoidable, and likely unintended, consequence is that a newly approved program could lose Direct Loan eligibility and, under the administrative capability trigger, contribute to broader Title IV consequences, *without ever having produced a single graduate of its own*, let alone one with earnings data. This outcome is impossible to reconcile with the statutory premise that earnings accountability is a measurement of how a program’s completers fare in the labor market four years after completion.

A new program has, by definition, no record of its own to evaluate. Holding it accountable based solely on the earnings of other programs’ graduates is neither a measure of the program’s value nor a sound foundation for an eligibility determination. We urge the Department to exempt programs from earnings premium determinations until they have produced at least one Title IV completer with earnings data in the determination year cohort.

B. When both the four-digit and two-digit CIP median earnings benchmark data are available, the Department should use the lesser of the two in its earnings premium determination.

In the proposed rule, the Department notes that it will default to using two-digit CIP code groupings in its earnings benchmarks, while indicating that four-digit benchmarks may be considered in the future once such data are available. Given the lack of clear guardrails around when either option would be used by the Department and to safeguard against certain programs being structurally disadvantaged if one benchmark is used instead of the other, when both two-digit and four-digit CIP benchmark earnings are available for a program, the Department should use the lesser of the two values.

Using the lesser value when both are available would set a meaningful threshold for when either option would be used to evaluate a program and prevent programs from being penalized by an asymmetry in data availability.

C. The framework has a structural bias toward failure due to the cohort aggregation process.

The Department's own analysis indicates that approximately 91% of Title IV programs will require some form of cohort aggregation to reach a statistically reliable cohort size. When a program fails the earnings premium test in a given year on the basis of an aggregated cohort that includes earnings outcomes from completers of other programs, the proposed rule would carry that failing aggregated cohort forward into the next year's evaluation. This produces a mechanical bias toward continued failure that is unrelated to the actual performance of the program cohort under review. The Department notes that it expects as much in its proposed rule, stating, "We believe that most programs that fail in the first year will fail in the next."^a

We recommend that the Department exclude or otherwise mitigate the downward effect of prior failing cohorts from subsequent years' aggregation calculations, so that each evaluation reflects the most current available data and does not perpetuate a result driven by an earlier aggregation that may have included other programs' outcomes.

This change would not weaken the framework because programs whose own completers continue to underperform relative to the earnings threshold will continue to fail, but it would prevent the framework from systematically compounding aggregation effects across years.

IV. The limitation on starting a program similar to a "low-earning" program during an ineligibility period should be reverted to the originally proposed language.

The proposed rule would limit institutions from starting programs during another program's ineligibility period if the to-be-started program's four-digit CIP code is (1) the same as the ineligible program's and (2) shares even a single Standard Occupational Classification (SOC) code. This language is significantly more restrictive than the language initially included during negotiated rulemaking, which required *identical* SOC codes in addition to the four-digit CIP.

We urge the Department to revert to the original design, which reasonably prevents gaming while preserving institutional flexibility to launch legitimately distinct programs during the ineligibility period. Notably, this would be the same flexibility that the Department provided programs within the Workforce Pell regulations.^b

^a 91 Fed. Reg. 21088 (Apr. 4, 2026). <https://www.federalregister.gov/d/2026-07666/p-789>

^b 91 Fed. Reg. 11378 (Mar 9, 2026). <https://www.federalregister.gov/d/2026-04520/p-462>

Without this refinement, an institution that provides programs under a four-digit CIP would be prohibited from launching a meaningfully different program that leads to distinct career fields simply because it shares a single SOC code with another program in the same four-digit CIP grouping. This outcome would reach beyond the legitimate purpose of the limitation, which is to prevent starting new, but similar programs to failing ones to avoid accountability, and constrain institutional program offerings in ways that the statute does not require.

V. The Department’s earnings methodology choices should prioritize accuracy wherever possible.

The earnings premium determination process already contains several structural issues that predispose programs to failure. Given the serious nature of the consequences for failure, the Department should prioritize the accuracy of its earnings data and evaluation processes above convenience and ease of administration.

We note several areas where the Department should consider revisions to the proposed rule.

A. The Department should use the most current available tax year rather than CPI-U-inflated prior-year earnings.

The proposed rule would maintain a four-year interval between program completion and earnings measurement for each award year cohort added to the evaluated program’s cohort. To account for the year-over-year effects of inflation, the Department proposes to use the Consumer Price Index for All Urban Consumers (CPI-U) to inflate prior years’ earnings to a common base year. NAICU agrees with the policy goal of measuring earnings at a comparable point in graduates’ careers across cohorts, but the CPI-U is a poor proxy for wage growth as it is fundamentally a price index, not a wage measure, and wages do not move linearly with consumer prices.

A simpler and more accurate approach would be to identify the relevant prior-year cohorts and request earnings data from the Internal Revenue Service (IRS) for the most current tax year for those cohorts. This would eliminate an unnecessary inflation-adjustment step, improve accuracy by using actual rather than imputed earnings, and reduce administrative complexity.

Additionally, the statute does not require that a repeated four-year interval be maintained for each additional prior-year cohort added to the primary cohort. What it requires is that the median earnings of all program completers in the cohort who completed the program four years prior to the determination year be greater than the median earnings of the benchmark group.^c The statutory text regarding the cohort aggregation process does not stipulate a consistent 4-year interval, either.^d In our view, the more faithful interpretation of this language is that all students in the programmatic cohort being evaluated must have

^c Text - H.R.1 - 119th Congress (2025-2026): An act to provide for reconciliation pursuant to title II of H. Con. Res. 14. (2025, July 4). <https://www.congress.gov/bill/119th-congress/house-bill/1/text>.

^d Id.

their earnings measured for the same time period, which is four years prior to the determination year, because the controlling factor is the number of years following completion for the initial cohort group.

We recognize the Department's interest in measuring earnings at a consistent post-completion interval. That interest can be served by identifying the cohorts at the appropriate post-completion year and then collecting their actual most-recent earnings, without the intermediate step of inflating older earnings figures.

If the Department insists on using an index to inflate prior-year cohorts' wage data instead of simply requesting actual wage data, we recommend using the Social Security Administration's National Average Wage Index (AWI) instead of CPI-U due to its greater accuracy and more-closely aligned purpose, which is tracking wage growth over time directly instead of proxying purchasing power through price changes in a basket of goods and services.

B. The Department should reconsider the use of more localized benchmark earnings data from the Census Bureau.

The proposed rule relies on American Community Survey (ACS) 5-year estimates at the national or state level, depending on institutional enrollment. We recognize the Department is constrained by the statute's specification of Census Bureau data. We note, however, that the Census Bureau provides income and wage data at substantially more granular geographies than the proposed rule contemplates, including counties, places (cities), and congressional districts.

Where ACS provides reliable data at a more localized level than the state, and where an institution's enrollment is concentrated in a particular sub-state region, the Department should be open to using the most localized statistically reliable benchmark available. This is especially important for institutions whose graduates predominantly work in rural, urban, or otherwise distinctive labor markets whose earnings distributions differ materially from the state average.

C. The earnings premium test has a structural bias against programs that primarily prepare students to continue their education.

Some programs, including many in the liberal arts and pre-professional fields, primarily prepare students for further graduate or professional study. In those programs, the most academically successful completers are typically the ones who enroll in further education and are, accordingly, removed from the working/not-enrolled earnings cohort.

As a result, the proposed framework would evaluate programs solely on the earnings of completers who did not pursue further education, a non-representative sample that will systematically understate the program's actual return on investment for students. This is a structural feature of the cohort-construction rules as applied to all programs, so it is not a

transitional concern that aggregation across years will resolve, or an issue that can be overlooked due to minimal impact. Every cohort, every year, will exclude the further-education subset and thus systematically disadvantage pre-professional programs.

We urge the Department to address this structural issue, either by allowing institutions to demonstrate (and the Department to consider) further-education rates in the earnings determination or by establishing a clear appeal pathway for programs whose graduates' further-education rates demonstrably affect the cohort earnings calculation.

VI. Data quality questions the final rule should address.

The accuracy of the earnings premium determination depends on the quality and definition of the underlying data. We respectfully ask that the Department address the following questions in the preamble to the final rule.

A. Are the Department's proposed earnings measurement variables comprehensive?

The Department describes its earnings measurement for program completer cohorts as including data on "wages, salary, or self-employment," but it does not define what "self-employment" means operationally for IRS purposes.

Comparatively, the Department's benchmark-side construction relies on the IPUMS variables INCWAGE and INCBUS00, which by Census Bureau methodology include pre-tax wages and salary income and self-employment income from both incorporated and unincorporated businesses, professional practices, and farms.

To ensure the earnings methodology is equivalent on both sides of the formula, the Department's program-side definition of 'self-employment' must similarly include earnings from all forms of self-employment, including Schedule C net earnings, Schedule F farm earnings, K-1 distributions from partnerships, and pass-through earnings from S-corporations. A narrower definition on the program side would create a structural mismatch in which the benchmark population's earnings are captured comprehensively while the program cohort's earnings are captured only partially, which is particularly problematic for programs whose graduates structure their professional practices through S-corporation or partnerships.

B. Will the Department receive from the IRS the actual median earnings figure for each program cohort, or a statistically perturbed ("noisy") version?

Institutions and the public need to know whether the earnings premium determination rests on the precise median or on an approximation that includes statistical disclosure noise, and how the Department will handle borderline cases under either approach.

The Department has acknowledged that the program earnings median it receives from the IRS includes statistical noise added for privacy protection. The Department should specify in the final rule: (1) the magnitude and distribution of that statistical noise; (2)

whether the noise varies by cohort size (such as whether smaller cohorts are subject to larger perturbations); (3) how the noise is incorporated into and accounted for in the pass/fail determination; (4) whether institutions will have the ability to learn the actual earnings value for its programs; and (5) how the Department can guarantee a program is correctly judged to have passed or failed the test in the absence of the true earnings value.

A program should not be determined to have failed the earnings premium test if the Department cannot guarantee that the median earnings value it is using for its test accurately represents whether the program passed or failed the earnings determination.

C. Does the high-school-only benchmark group include individuals with only a high school diploma, or could those individuals also possess other credentials?

The statute requires that the earnings benchmark group for bachelor's or lesser degree programs consist of, among other things, "only a high school diploma or its recognized equivalent."

If the ACS data the Department would use includes individuals who hold non-degree credentials (such as occupational licenses, industry-recognized certifications, or apprenticeship completions), that would materially bias the earnings benchmark upward. This would result in programs facing an inflated comparator that does not reflect the true earnings premium of postsecondary education.

We urge the Department to apply appropriate filters to exclude individuals with non-degree postsecondary credentials from the "high school only" group to ensure faithful compliance with statute and an appropriate evaluation of the value of postsecondary programs.

VII. Definitional, authority, and operational clarifications.

A. The Department should identify the statutory basis on which it is circumventing the master calendar to implement these changes.

The Department is implementing both the "Do No Harm" (DNH) and Gainful Employment (GE) frameworks outside of the master calendar schedule, which requires a final rule to be published by November 1 for a July 1 implementation date the following year. Congress may have expressed a desire to have its new accountability system in place on July 1, 2026, but it did not afford the Department enough time to comply with that effective date. Congress could have expressly waived the master calendar requirement, as it has repeatedly done in the past when seeking expedited implementation of new rules, but it did not. Absent that authorization from Congress, the Department is presuming authority it does not have.

Further, the statute does not address GE, yet the proposed rule makes substantial changes to the GE framework with an effective date of July 1, 2026. The master calendar generally requires that regulations affecting Title IV programs that are not published in

final form by November 1 of a given year take effect no earlier than July 1 of the second following year. This would mean the earliest effective date for GE-related changes under this rule would be July 1, 2027.

We respectfully request that the final rule identify the statutory and legal authority upon which the Department relies in making the DNH and GE framework changes through this rulemaking and clarify the effective date for those changes consistent with the master calendar.

B. The Department should clarify whether the definition of “eligible non-GE program” includes programs that do not participate in the Direct Loan Program.

The proposed rule defines an “eligible non-GE program” as one that is subject to the HEA’s § 454(c). While § 454(c) was added by OB3, the broader HEA § 454 governs program participation agreements with institutions for the purpose of participating in the Direct Loan program. Since this is a change from the consensus language from the negotiated rulemaking process, it would appear to intentionally limit the accountability framework to only non-GE programs that participate in the Direct Loan program.

We believe that this change is aligned with the statutory text as it specifically amends HEA § 454, and the standard canons of interpretation require that statute be read in such a way that gives meaning to what Congress wrote. If Congress intended this framework to apply to institutions with any kind of program participation agreement with the Department, it would have amended, cross-referenced, or otherwise identified a different section of the law, such as HEA § 487, which governs all program participation agreements; § 413C, which governs Federal Supplemental Education Opportunity Grants; or § 443, which controls Federal Work-Study participation.

We ask that the Department clarify this definition in the final rule and, if it decides that “eligible non-GE programs” include those that are not subject to HEA § 454, to explain its reasoning.

C. The Department should provide guidance on how the loss of Direct Loans will be operationalized on campus.

Given the short timeframe in which institutions must implement the many changing regulations going into effect on July 1, 2026, the Department should publish guidance as soon as practicable to clearly explain how institutions are to comply with the restriction of Direct Loans for certain programs.

D. The Department should clarify that the ineligibility period of a “low-earning” program is not a two-year prohibition, but an indefinite prohibition with a two-year minimum.

Throughout the proposed rule, the Department refers to the loss of Direct Loan eligibility for a program as leading to a “two-year loss of eligibility.” This is inaccurate. The ineligibility period is an indefinite period with a two-year minimum.



The critical aspect of this change would be to remind institutions that their programs will be evaluated under the earnings premium test even during the ineligibility period. Such programs would need to pass the earnings test in each of the preceding two award years to regain eligibility, which would mean that a failed test at any point during the ineligibility period would restart the two-year clock.^e This process would appear to repeat indefinitely.

Further, NAICU urges the Department to clarify whether programs without sufficient Title IV completers to be evaluated during the ineligibility period will be considered as ‘passing’ for the sake of regaining eligibility.

E. The Department should clearly state whether the current reporting requirements under Financial Value Transparency and Gainful Employment will be due on October 1, 2026, or if the new reporting requirements will supersede.

The Department previously stated that the prior reporting requirements would remain in place for 2026 and the new reporting requirements under the proposed rule would go into effect on July 1, 2027.^f The NPRM appears to say the new reporting will go into effect immediately, so the Department should clarify this so institutions know precisely what is required of them and by when.

NAICU and its member institutions are committed to a meaningful earnings accountability framework that serves students, institutions, and taxpayers. Several elements of the proposed rule, however, depart from the statute, rely on methodological choices that will produce inaccurate determinations, or impose consequences that Congress did not authorize. The recommendations above would substantially strengthen the framework and bring it into closer alignment with both the statutory text and the Department's stated goals.

I thank the Department for the opportunity to comment and stand ready to provide additional information and analysis as the final rule is developed.

Respectfully submitted,

A handwritten signature in blue ink that reads 'Barbara K. Mistick'.

Barbara K. Mistick
President

On behalf of:
Alabama Association of Independent Colleges and Universities
Association for Biblical Higher Education
Association of Catholic Colleges and Universities

^e 91 Fed. Reg. 21088. (Apr. 20, 2026). <https://www.federalregister.gov/d/2026-07666/p-1058>

^f 91 Fed. Reg. (Apr. 20, 2026). <https://www.federalregister.gov/d/2026-07666/p-1024>



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Association of Independent California Colleges and Universities
Association of Independent Colleges & Universities in Massachusetts
Association of Independent Colleges & Universities of Rhode Island
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Association of Independent Colleges of Art & Design
Association of Independent Kentucky Colleges and Universities (AIKCU)
Association of Jesuit Colleges and Universities
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Work Colleges Consortium
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