



May 8, 2025

Tamy Abernathy
U.S. Department of Education
Office of Postsecondary Education
400 Maryland Avenue SW, 5th Floor
Washington, DC 20202

Dear Ms. Abernathy,

I write on behalf of the undersigned higher education organizations in response to the notice (Docket ID ED-2025-OPE-0016) by the U.S. Department of Education (Department) announcing the possible formation of negotiated rulemaking committees. As the representatives of the full spectrum of American higher education, we appreciate the opportunity to provide feedback on the topics the Department has proposed as well as to offer new topics for consideration.

We are also encouraged by the Department's intention to focus greater scrutiny on areas of concern while providing for expedited review where institutions have consistently demonstrated compliance and where the risk to students and taxpayers is low. Similarly, we welcome efforts to address the regulatory swing back and forth between different administrations that has caused significant cost and confusion as campuses attempt to repeatedly understand and implement radical shifts in regulatory requirements within a space of only a few years' time.

With those broad considerations in mind, we offer our response to the Department's proposed topics as well as additional suggestions for items to consider below.

Pay As You Earn (PAYE) and Income Contingent Repayment (ICR) repayment plans - We have long supported efforts to simplify and streamline the existing repayment options available to borrowers to ensure that they have a clear understanding of their obligations and have access to repayment options that reflect their individual financial circumstances.

As we have stated in prior comments to the Department regarding repayment options, our preference is that Congress address student loan repayment through a long-overdue reauthorization of the Higher Education Act. This would ensure that all elements of our financial aid system can be considered as a whole, rather than through the piecemeal legislative and regulatory manner of the last 17 years.

Refining definitions of a qualifying employer for the purposes of determining eligibility for the Public Service Loan Forgiveness program - We would have concerns with efforts to implement elements of the March 7, 2025 "Restoring Public Service Loan Forgiveness" Executive Order that would deny eligibility for Public Service Loan Forgiveness (PSLF) to employees of nonprofit organizations solely because they support views or policies that the Administration disagrees with. There are already sufficient existing measures to remove the nonprofit status of organizations, and

thus the eligibility of their employees for PSLF, if they are violating the law. The Department does not need, and it would be inappropriate, to create a differentiation of organizations based on differing viewpoints.

Reporting Requirements Under Section 117 of the HEA - We share Congress and the Administration's concerns with ensuring accurate reporting of foreign gifts and contracts as required under Section 117 of the Higher Education Act. Institutions take their obligations in this area seriously and seek clear definitions and functional reporting systems to ensure they are both understanding and meeting their reporting requirements. For that reason, we would welcome a negotiated rulemaking on this subject in order to convene stakeholders for this purpose in a public and transparent manner.

Gainful Employment and Financial Value Transparency (GE/FVT) - Our institutions appreciate the Department's efforts to work with us to address numerous concerns about meeting the GE/FVT reporting and other deadlines set by the previous administration coupled with efforts to ensure that the administrative burden associated with this rule is minimized.

We have previously expressed a number of serious concerns with the rule. While the new administration has moved quickly to provide institutions more time to address the numerous technical and definitional issues with reporting under GE/FVT, there is still significant burden and uncertainty on college campuses related to this rule. For these reasons, we would encourage the Department to include the full scope of the GE/FVT rule in any future rulemaking.

Bundled Services Guidance - The last administration proposed to significantly revise guidance dating back to the Obama administration that allowed institutions to contract with third parties to manage the provision of services and handling of administrative functions. The proposals offered would have had a massive negative impact on institutional operations and would have been particularly harmful to existing innovative practices that institutions have relied on to provide better service at lower cost for students. This was only possible because the bundled services exceptions are only provided through guidance, and not regulation. We would encourage the Department to consider formally codifying this guidance into regulation.

Financial Responsibility Standards - While numerous prior efforts have been made to revise the existing Financial Responsibility Standards (FRS) to bring them in line with modern accounting and auditing practice, those changes have been insufficient to address the fundamental remaining problems. Private institutions continue to be penalized under the existing FRS rules for making sound financial decisions such as refinancing existing debt at lower rates.

Exacerbating the situation, the new regulations imposition of mandatory triggers and minimal thresholds for institutions to secure expensive and onerous letters of credit have been financially punitive and forcing greater costs onto students. Additionally, the new regulations under FRS related to changes in ownership have resulted in a variety of negative consequences, including requiring members of nonprofit boards to publicly disclose sensitive personal information. Most problematic has been the impact on institutions seeking to merge with, or acquire, other

institutions. The result has been to make the process extraordinarily protracted and difficult, causing substantial cost and uncertainty to institutions navigating these transitions.

Administrative Capability - The changes in regulations finalized under the last administration placed a number of new requirements on institutions to participate in Title IV. While we support the intent of many of these provisions, the regulations themselves are often unclear or duplicative, and additional rulemaking to better target and clarify requirements in this area is necessary. In particular, new requirements on institutions to provide: adequate financial aid counseling; adequate career services; and accessible clinical or externship opportunities that are related to, and required by, the program that the students are enrolled in; among other new requirements add significant complexity to institutional operations and would benefit from revision.

Certification Procedures - The new requirements imposed by the last administration around certification procedures covered a number of areas that pose significant complexity for institutions, often due to ambiguity as to what compliance entails. Of particular concern are new rules for managing transcript policies and new requirements on institutions to meet state licensing requirements in all states where students are enrolled or intend to work, while simultaneously negating existing reciprocity under NC-SARA for institutions in certain circumstances.

Additionally, requirements on institutions to meet state licensure requirements for every state in which they enroll students will be immensely difficult to manage for any program with a distance education component. These provisions, along with several others, represent a problematic expansion of federal regulations in a way that run contrary to innovative distance education offerings that have grown substantially over the last decade.

We appreciate your attention to these comments and look forward to supporting any effort to appropriately calibrate regulations to meet the needs of students, institutions, and borrowers.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Mitchell".

Ted Mitchell

President

On behalf of:

American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
Association of American Universities
Association of Public and Land-grant Universities
National Association of Independent Colleges and Universities