



January 8, 2024

The Honorable April Tabor
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
Washington, DC 20580

Re: FTC Proposed Rule on Unfair or Deceptive Fees NPRM, R207011

Dear Secretary Tabor:

On behalf of the National Association of College and University Business Officers (NACUBO) and the American Council on Education (ACE), we write to submit our comments in response to the Notice of Proposed Rulemaking (NPRM) published in the *Federal Register* on November 9, 2023, on “Unfair or Deceptive Fees.” We recognize and commend the FTC’s ongoing commitment to safeguarding consumer interests and fostering a fair marketplace.

NACUBO represents college and university business officers at more than 1,700 public and private nonprofit colleges and universities across the country. NACUBO works to advance the economic vitality and business practices of higher education institutions, supporting them in pursuit of their missions.

ACE is a membership organization that mobilizes the higher education community to shape effective public policy and foster innovative, high-quality practice. As the major coordinating body for the nation’s colleges and universities, ACE’s strength lies in the diverse membership of more than 1,700 colleges and universities, related associations, and other organizations in America and abroad.

We appreciate the opportunity to provide feedback and contribute to the development of impactful policies that shape our education system.

The proposed rule aims to address practices that may mislead or harm consumers, which is a goal NACUBO strongly supports. However, we are concerned that the application of these rules to higher education institutions might not fully recognize the unique and complex nature of tuition and fee structures in our sector, as well as the existing regulations on price transparency.

Higher education institutions operate within a highly regulated environment. For example, the Higher Education Act and the FAFSA Simplification Act require detailed disclosures about a student’s cost of attendance (COA) including tuition, fees, books, supplies, room and board, and transportation costs. The FAFSA Simplification Act

requires institutions to publish COA disclosures on every section of their website that lists tuition and fees.

This extensive regulatory framework, which promotes transparency in tuition, fees, and other costs, may intersect with and potentially duplicate aspects of the FTC's proposed rules on fee transparency. We are concerned that this could lead to redundant regulatory burdens for institutions of higher education, diverting resources from their missions and the educational and support services critical to student success.

Our member institutions work to ensure that students and families are well-informed about the costs associated with higher education. Higher education institutions provide a net price calculator, mandated by the Higher Education Opportunity Act of 2008, a crucial tool for prospective students and their parents. While improvements can be made, this calculator provides personalized estimates of a student's net price after accounting for potential financial aid, which offers a more realistic view of the actual cost of attendance.

Higher education institutions also contribute to the Integrated Postsecondary Education Data System (IPEDS), which provides the Department of Education's College Navigator tool with data on tuition, fees, and other educational costs. This public resource further enhances transparency and allows for informed decision-making by consumers.

To ensure the FTC's proposed rule aligns effectively with the existing regulatory landscape, we welcome collaborative discussions. Our past successful collaborations with regulatory bodies, such as our joint work on student financial aid transparency, demonstrate our commitment to finding mutually beneficial solutions.

We believe that the FTC's proposed rule on fees should consider the unique aspects of higher education. While the intent to protect consumers from unfair or deceptive practices is commendable, it is crucial to acknowledge that nonprofit higher education institutions are not typical "businesses." They operate with the primary mission of educating students, and any revenue is reinvested into this mission.

We suggest that the FTC's definition of "business" in the context of this rule be refined to exclude public and private nonprofit institutions of higher education. A clear distinction would prevent unnecessary overlap with existing regulations and avoid imposing additional administrative burdens on our institutions. This approach would ensure consumer protection goals are met without compromising the operational integrity of institutions that are already adhering to stringent transparency and disclosure standards.

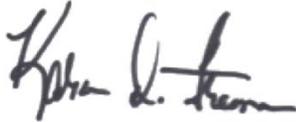
We advocate for rules that are thoughtfully tailored to different sectors, including higher education, and we are committed to working alongside the FTC to ensure that any new regulations serve the best interests of both consumers and the higher education sector.



We appreciate your consideration of our comments as you work to finalize this rule.

Please contact Ashley Jackson, director of government affairs at NACUBO, at ajackson@nacubo.org or Emmanuel Guillory at equillory@acenet.edu for any additional information that may be helpful.

Sincerely,



Kara D. Freeman
President and Chief Executive Officer
National Association of College and University Business Officers



Ted Mitchell
President
American Council on Education



NACUBO