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U.S. Department of Education
400 Maryland Ave. SW, 5th Floor
Washington, DC 20202

RE: Comments to the Department of Education on the AHEAD: Student Tuition and Transparency System (STATS) and Earnings Accountability Notice of Proposed Rulemaking [Docket ID ED-2026-OPE-0100]

To Whom It May Concern:

Thank you for the opportunity to comment on the U.S. Department of Education's (the Department) Notice of Proposed Rulemaking (NPRM), ED-2026-OPE-0100. Congress's recent legislative changes through the One Big Beautiful Bill Act (OBBB) introduced significant shifts to federal higher education policy that will have lasting implications for students, families, institutions, and taxpayers. In particular, provisions in OBBB and this set of proposed regulations make significant changes to program eligibility and introduce an earnings accountability framework to hold all programs accountable and limit Direct Loan eligibility for programs that leave their students with persistently and exceptionally low post-enrollment earnings. The rule also builds upon the existing regulatory framework to provide students, institutions, and the public with the most comprehensive set of program-level data to date on program costs and outcomes. Implementation of these policies will be an enormous undertaking, made more challenging by operational and staffing uncertainty at the Department and other high-priority OBBB rulemakings.

New America's Higher Education Program is a team of researchers, writers, policy experts, and advocates dedicated to examining federal student aid policy and advancing solutions that prioritize students and families while also protecting taxpayer resources. We have particular expertise in loan policy, accountability standards, and postsecondary data and our comments offer recommendations focused on ensuring students receive value from enrollment in their academic programs and are not left worse off.

We look forward to continuing to engage with the Department on ways to strengthen our higher education system. For any questions about our comments, please reach out to Rachel Fishman at fishman@newamerica.org and Amy Laitinen at laitinen@newamerica.org.

Sincerely,

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The Department Must Continue to Include Certificates in Its Earnings Premium Accountability Framework

The Department's proposed inclusion of certificate programs within the "earnings premium measure" accountability framework is an important and necessary safeguard for students and taxpayers alike. We strongly support the Department's decision to ensure that short-term and certificate programs receiving federal support are held to meaningful quality and value standards. New America firmly believes that students should not be left worse off than if they had never attended a postsecondary program, and institutions receiving taxpayer dollars have a responsibility to provide sufficient economic value to continue to access Title IV. Accountability standards should not exempt certificate programs from accountability simply because they were not included directly in the OBBB legislation. Indeed, it was Congress's documented intent that certificate programs be held accountable, with the understanding that they were already subject to a similar earnings threshold under the Department's existing Gainful Employment (GE) rule.[1]

[1] See also Congressional intent of application of the earnings accountability framework in U.S. Senate Committee on Health, Education, Labor & Pensions, "Frequently Asked Questions," PDF document, accessed May 14, 2026, https://www.help.senate.gov/imo/media/doc/faq_docpdf.pdf.

The Department is correct to continue to apply such accountability under the existing GE authority to ensure undergraduate certificate programs remain subject to earnings accountability. As the Department notes in the NPRM, certificate programs remain covered under the Higher Education Act's (HEA) GE provisions even though the statutory OBBB framework applies directly to undergraduate and graduate degree programs and graduate certificates. Department data show that, in 2022 alone, 1,329 certificate programs left their graduates earning less than the typical high school graduate, enrolling over 827,000 students and collecting more than $3.4 billion in Pell and loan dollars, all for them to end up without the earnings premium that should come with pursuing postsecondary education.[2]

Available evidence demonstrates the need for stronger oversight of certificate programs. According to analysis from American University's Postsecondary Equity and Economics Research Center (PEER), certificate students borrow less on average than students pursuing longer-term credentials, yet they experience among the highest default rates within three years of entering repayment.[3] These outcomes indicate that the problem is not simply the amount borrowed, but whether these programs provide sufficient labor market value to allow borrowers to successfully repay their loans.

Furthermore, research from Third Way found that most certificate-granting institutions left more than half of their students earning less than peers with only a high school diploma.[4] The findings were even more troubling at predominantly for-profit certificate-granting colleges: nearly 75 percent left the majority of their students earning less than the typical high school graduate, even ten years after enrollment.[5] These outcomes are especially concerning because certificate programs enroll many low-income students and students of color, who deserve the same protection from low-value programs as students enrolled in degree programs.

Additionally, the Department's own analysis demonstrates why certificate programs must remain covered. Programs enrolling almost one third of undergraduate certificate students are projected to fail the earnings premium test, compared with programs enrolling just four

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[2] Wesley Whistle, "Don't Stop at Earnings: Why Congressional Republicans Must Tackle Student Debt in Reconciliation," *New America* (blog), June 29, 2025, , https://www.newamerica.org/insights/dont-stop-at-earnings-why-congressional-republicans-must-tackle-student-debt-in-reconciliation/.

[3] Clare McCann, Tia Caldwell, and Jordan Matsudaira, "Accountability for All Programs: The Senate's Proposal Needs Change," Postsecondary Education & Economics Research (PEER) Center, American University School of Public Affairs, accessed May 14, 2026, https://www.american.edu/spa/peer/accountability-for-all-programs.cfm.

[4] Michael Itzkowitz, Kylie Murdoch, Michelle Dimino, and Emmi Navarro, *The State of American Higher Education Outcomes in 2023* (Washington, DC: Third Way, 2023), accessed May 14, 2026, https://www.thirdway.org/report/the-state-of-american-higher-education-outcomes-in-2023.

[5] Ibid.

percent of associate degree students and less than one percent of bachelor's degree students.[6]

The Department's projected failure rates are therefore consistent with a broader body of evidence showing that certificate programs, particularly in the for-profit sector, disproportionately leave students with low earnings outcomes. Cosmetology provides a clear example of why certificate programs should not be exempted. New America's own research shows that a cosmetology graduate of a Title IV-eligible program earns only about $20,000 four years after completing the credential.[7] This is well below the earnings of the average high school graduate, yet the median graduate is still repaying roughly $10,000 to $14,000 in student loan debt. Even when national unemployment was low in 2023, more than 10 percent of students who graduated from a for-profit, Title IV-eligible cosmetology program were unemployed—nearly three times the national unemployment rate at that time.[8]

The Department is also on firm legal ground in applying an earnings metric to non-degree programs under its GE authority. As the Department recognized in the proposed rule, the court in *American Association of Cosmetology Schools v. U.S. Department of Education* affirmed that the HEA provides authority to issue earnings metrics pursuant to GE statutory language. The court agreed that 'gainful employment' refers to programs that actually prepare students for jobs they would be less likely to obtain without that training and preparation.[9] As the Department explains in the NPRM, the ordinary meaning of 'gainful' is 'profitable,' so when programs fail to satisfy the statutory gainful employment requirement, it means they leave students financially worse off than they would have been absent enrollment.

Regardless of credential length, students should be able to trust that a federally aided program will improve their economic prospects. Including certificate programs in the earnings accountability framework provides consistent protection for students and taxpayers and ensures that federal dollars do not subsidize programs that routinely leave students with debt they cannot repay and wages too low to justify enrollment. The Department should maintain the earnings metric coverage for certificate programs in the final rule.

The Department Should Maintain and Strengthen Data Transparency Requirements

[6] U.S. Department of Education, *Estimated Impact of the Program Level Earnings Test and Changes to Gainful Employment* (Washington, DC: U.S. Department of Education, January 5, 2026), accessed May 14, 2026, https://www.ed.gov/media/document/2025-ahead-results-of-earnings-test-and-ge-changes-112932.pdf.
[7] Jeremy Bauer-Wolf, Olivia Cheche, Rachel Fishman, and Ewaoluwa Obatuase, *Cut Short: The Broken Promises of Cosmetology Education* (Washington, DC: New America, March 6, 2025), accessed May 14, 2026, https://www.newamerica.org/insights/cut-short-the-broken-promises-of-cosmetology-education/.
[8] Bauer-Wolf et al., *Cut Short: The Broken Promises of Cosmetology Education*.
[9] *American Association of Cosmetology Schools v. Department of Education*, 2025 WL 4219345 (N.D. Tex. Oct. 2, 2025).

Transparency is a foundational consumer protection tool. Students and families should be able to understand not only what a college or program costs but also the likelihood that students complete, earn enough to repay debt, and experience improved economic outcomes after attendance. Publicly accessible program-level data helps students compare options across institutions and avoid programs that consistently leave graduates with low earnings or unmanageable debt.

The Department's proposal to publicly release program-level outcomes data through the Student Transparency and Accountability Reporting System (STATS) is essential for improving transparency, accountability, and informed decisionmaking in higher education. New America strongly supports the Department's efforts to ensure that students, families, researchers, policymakers, and the public have access to clear, comparable program-level information such as cost, median loan debt, completion rates, and earnings premium outcomes. Critical information about whether programs actually improve students' economic prospects is often fragmented, inaccessible, or unavailable altogether. Publicly available data through STATS will help ensure that students can make more informed enrollment decisions and that policymakers and researchers have a better understanding of postsecondary programs.

We encourage the Department to publicly report debt-to-earnings (DTE) information, along with the other key outcomes data that the Department intends to already include. DTE rates are among the most important indicators available to students and policymakers because they measure whether the debt students take on is reasonably manageable relative to post-completion earnings. DTE is an important outcome measure and is strongly supported by research about unaffordable debt levels. New America believes that DTE must be retained as part of the final rule, which we discuss at length later in this comment. However, if DTE is not directly incorporated into the accountability determinations under the NPRM, it remains critically important that this metric should at least be publicly available through STATS. Students considering enrollment deserve access to information not only about earnings outcomes but also about the affordability of repayment burdens associated with those programs.

We also encourage the Department to retain requirements in the existing Financial Value Transparency (FVT) framework that institutions report the total amount of institutional debt students owe after completing or withdrawing from programs. This information is essential for calculating DTE rates and is necessary for students to understand the true cost of attendance and make informed decisions when enrolling. Institutional debt is a hidden cost students face that can represent a significant financial burden otherwise not captured in federal data sources.[10] Without this information, their decisions cannot be truly informed.

[10] See, for example: Laura Trapley and Sarah Silbert, "The 28/36 Rule Lays Out How Much Debt You Can Have and Still Qualify for Most Mortgages," *Business Insider,* November 3, 2022,

The availability of transparent debt and earnings data is especially important because prospective students often rely heavily on institutional marketing materials that may not accurately reflect typical outcomes. Research and prior federal accountability efforts have repeatedly demonstrated that low-quality programs can produce poor labor market outcomes and high default rates, even after accounting for student demographics and backgrounds.[11] Public disclosure of debt, earnings, completion, repayment, and earnings premium information creates a counterweight to misleading or incomplete institutional claims and empowers students to make choices grounded in evidence rather than advertising.

Public transparency is also necessary for effective policymaking and oversight. Policymakers at the federal and state level require reliable data to identify low-performing programs, understand trends in student borrowing and repayment, evaluate the effectiveness of federal investments, and target reforms where they are most needed. The Department itself has emphasized that insufficient accountability and transparency structures have allowed some institutions to saddle students with debt without adequate attention to whether graduates succeed in the labor market.[12] STATS can help close these information gaps by creating a centralized, publicly accessible system of outcomes data across programs and institutions.

Researchers likewise depend on publicly available administrative data to evaluate higher education outcomes and identify areas where students may be poorly served. Some of the strongest evidence informing accountability policy—including research on earnings outcomes, repayment trajectories, default, and the effects of low-quality programs—has been made possible through access to program-level data. Public access to STATS data will support

https://www.businessinsider.com/personal-finance/28-36-rule-mortgages; Julie Compton, "How Much House Can You Afford? The 28/36 Rule Will Help You Decide," *NBC News*, September 7, 2018, https://www.nbcnews.com/better/pop-culture/how-much-house-can-you-afford-28-36-rule-will-ncna907491; Elvis Picardo, "What Is a Reasonable Amount of Debt? This Rule Can Help You Know," *Investopedia*, March 28, 2023, https://www.investopedia.com/ask/answers/12/reasonable-amount-of-debt.asp; Miranda Marquit, "Buying a House With Student Loan Debt: Here's How to Do it," *Lendingtree*, February 16, 2021, https://www.lendingtree.com/student/buy-house-with-student-loan-debt/; and Sandy Baum and Saul Schwarz, *How Much Debt Is Too Much? Defining Benchmarks for Manageable Student Debt* (New York, NY: The College Board, 2006), https://files.eric.ed.gov/fulltext/ED562688.pdf.

[11] See, for example: Stephanie Riegg Cellini and Nicholas Turner, "Gainfully Employed? Assessing the Employment and Earnings of For-Profit College Students Using Administrative Data" (NBER, 2018); Clive Belfield and Yuen Ting Liu, *Evaluating For-Profit Higher Education: Evidence from the Education Longitudinal Study* (2014); Judith Scott-Clayton, "The Looming Student Loan Default Crisis Is Worse Than We Thought" (Brookings, 2018); and Luis Armona, Rajashri Chakrabarti, and Michael Lovenheim, "Student Debt and Default: The Role of For-Profit Colleges," *Journal of Financial Economics* 144, no. 1 (April 2022): 67-92. https://doi.org/10.1016/j.jfineco.2021.12.008.

[12] U.S. Department of Education, "U.S. Department of Education Reminds Colleges and Universities of Their Obligations to Help Struggling Borrowers," press release, May 5, 2025, accessed May 14, 2026, https://www.ed.gov/about/news/press-release/us-department-of-education-reminds-colleges-and-universities-of-their-obligations-help-struggling-borrowers.

continued independent research that can inform future policymaking and improve institutional practices. Transparency also promotes trust in the accountability system itself by allowing outside researchers and advocates to validate findings and identify emerging trends.

Importantly, transparency can help influence institutional behavior. When outcomes are made public, institutions face greater pressure to improve program quality, reduce costs, strengthen advising and career supports, and ensure students are prepared for employment. Public reporting creates reputational incentives that complement formal accountability mechanisms. Institutions often don't have an understanding of their own programmatic performance, and this data should help them understand whether their programs are close to failing accountability standards and how they could make student-centered adjustments to improve outcomes before sanctions become necessary.

Finally, New America supports the Department's decision to make this information public rather than limiting access only to institutions or government entities. Federal student aid dollars are a public investment, and students and taxpayers alike deserve transparency regarding whether those investments are producing meaningful value. Public access to outcomes data through STATS—including debt-to-earnings information, earnings premium measures, debt levels, completion outcomes, and repayment-related metrics—will improve accountability, strengthen consumer protection, and support a more equitable and evidence-based higher education system.

The Department Must Extend the Consequences of Earning Metric Failure for GE Programs to Include All Title IV Eligibility

New America strongly opposes the proposal to limit consequences of failure for GE programs only to loss of Direct Loans, while continuing to allow programs to retain eligibility for the Pell Grant. We urge the Department to ensure that GE programs that fail the earnings premium measure lose eligibility for all Title IV aid, not just Direct Loans.

While we appreciate the Department's goal of harmonizing the OBBB and GE accountability frameworks, the consequences for failure is an area where having different approaches is both necessary and appropriate. OBBB did not cover undergraduate certificate programs which are subject to the Department's GE authority, applicable to all Title IV HEA eligibility. Congress also did not alter the Department's authority with respect to GE programs. New America believes the Department's proposed interpretation that limits consequences for failing GE programs primarily to Direct Loan eligibility is legally unsupportable, contrary to the structure of the HEA, and inconsistent with Congress's intent. This decision has significant consequences for students who are harmed by continuing to use limited Pell dollars in failing programs. Students enrolled in undergraduate certificate programs may only rely on Pell Grants and not borrow at all given the short length of these programs, which

would allow these programs to continue to operate. It also has significant consequences for taxpayers, resulting in an almost $6 billion cost that will further increase and exacerbate the growing Pell shortfall. The Department must abandon the proposal to limit the consequences of failure for GE programs only to Direct Loans and maintain the approach used under the existing GE rules.

The approach is legally unsupportable. The HEA does not establish Gainful Employment (GE) as a condition solely for participation in the Direct Loan program. Rather, Congress made GE a condition of Title IV eligibility generally for proprietary institution programs and certain nondegree programs at public and nonprofit institutions. The statutory framework ties GE status to Title IV eligibility itself, not to a single aid stream and the Department has long recognized that failure to satisfy GE requirements implicates continued participation in title IV programs broadly. While the Department now argues that the statute does not explicitly require loss of all Title IV eligibility as the sole remedy for noncompliance, that interpretation conflicts with both the statutory structure and the Department's own historical interpretation of the law.

The Department's attempt to rely on HEA Section 454 to create a loan-only accountability regime improperly rewrites the statute. Section 454 governs the administration of the Direct Loan program. It does not authorize the Department to redefine the consequences Congress attached to failure to satisfy statutory GE requirements elsewhere in the HEA. Although the NPRM argues that the Department may fill statutory gaps or resolve ambiguities, the statute is clear that GE applies to all Title IV eligibility generally. The proposal is also internally inconsistent, as the NPRM simultaneously acknowledges broader Department authority over GE eligibility while attempting to limit consequences primarily to Direct Loan participation. The Department does not adequately justify departing from its longstanding interpretation that failure to meet GE standards affects eligibility for all Title IV aid. The Department should therefore retain the consequence of loss of all Title IV eligibility for programs subject to the GE requirement.

The approach raises costs for taxpayers, while failing to protect students. In passing OBBB, Congress intended to reduce costs on taxpayers, and the accountability framework specifically was intended to reduce federal spending to low-value programs that leave students worse off. Instead, allowing GE programs to maintain access to Pell significantly increases costs on taxpayers.

The Department's Regulatory Impact Analysis demonstrates the significant cost to taxpayers as a result of allowing GE programs to maintain access to Pell. What should be a proposal that results in significant savings since it now applies to all institutions, instead does the opposite. The Department notes that taxpayers will incur costs of almost $5 billion in Pell transfers as a result of programs maintaining Pell eligibility. Under the Department's

proposed rule, failing programs are projected to lose a smaller amount of Title IV HEA funds, compared to the Department's current regulations. The impact is greatest for undergraduate certificate programs projected to lose 28 percent of their revenue, in contrast to 49 percent under current regulations; this is driven mostly by the fact that these programs only lose eligibility for loans.[13] Instead of saving taxpayers money, the proposal results in significant costs as a result of federal aid for low-income students continuing to flow to programs that fail the earnings premium measure.

Despite an accountability framework that now applies to all institutions, the proposal also protects fewer students, particularly as a result of its decision to allow GE programs to maintain access to Pell. The Department's analysis finds that even though more programs are failing the framework, fewer students are impacted. The impact is greatest on students enrolled in undergraduate certificate programs, which impacts 39 percent of students under existing regulations, compared to 25 percent under proposed regulations.[14] Research from PEER Center supports these findings, showing that fewer students are protected under the proposed framework despite the rules now applying to all institutions.[15] Their research shows that because half of all federal financial aid recipients receive only Pell Grants, allowing programs to remain eligible for Pell dramatically reduces the financial consequences while also protecting fewer students.[16] The Department's own analysis acknowledges this impact, noting that students face additional costs from programs that remain eligible for Title IV funds, despite these programs still leaving them with lower earnings. These earnings are lower for passing programs under the proposed regulation compared to current regulations.[17] The Department's proposal creates the appearance of accountability, while allowing failing programs to retain substantial federal subsidies and continue enrolling vulnerable students.

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[13] Table 3.14. Accountability in Higher Education and Access Through Demand-Driven Workforce Pell: Student Tuition and Transparency System (STATS) and Earnings Accountability, U.S. Department of Education, accessed May 20, 2026, https://www.federalregister.gov/documents/2026/04/20/2026-07666/accountability-in-higher-education-and-access-through-demand-driven-workforce-pell-student-tuition.

[14] Table 3.11, Accountability in Higher Education and Access Through Demand-Driven Workforce Pell: Student Tuition and Transparency System (STATS) and Earnings Accountability, U.S. Department of Education, accessed May 20, 2026, https://www.federalregister.gov/documents/2026/04/20/2026-07666/accountability-in-higher-education-and-access-through-demand-driven-workforce-pell-student-tuition.

[15] Jordan Matsudaira and Kristen Allen, "What's the Harm in 'Do No Harm'?" PEER Center, accessed May 20, 2026, https://www.peer-center.org/research/harm-in-do-no-harm.

[16] Jordan Matsudaira and Kristen Allen, "What's the Harm in 'Do No Harm'?" PEER Center, accessed May 20, 2026, https://www.peer-center.org/research/harm-in-do-no-harm.

[17] Table 4.1, Accountability in Higher Education and Access Through Demand-Driven Workforce Pell: Student Tuition and Transparency System (STATS) and Earnings Accountability, U.S. Department of Education, accessed May 20, 2026, https://www.federalregister.gov/documents/2026/04/20/2026-07666/accountability-in-higher-education-and-access-through-demand-driven-workforce-pell-student-tuition.

Changes that significantly increase the cost of Pell at a time the Pell Grant program is facing a large shortfall are irresponsible and likely to have greater impacts on the sustainability of the Pell program and student eligibility in the future. In February 2026, the Committee for a Responsible Budget projected the Pell Grant program faces a cumulative 10-year shortfall, exceeding $100 billion with a $5 billion shortfall by the end of this fiscal year.[18] The Department should abandon this approach that significantly increases costs to the Pell program over the long-term, particularly when these programs are likely to leave students worse off.

Changes to administrative capability are not an adequate replacement. We strongly support revisions made to § 668.14 and 668.16 that would result in loss of Title IV eligibility to all low-earning programs at any institution where at least half of the institution's Title IV, HEA recipients or half of the institution's total Title IV HEA funds are in low-earning programs and urge the Department to maintain it. New America does not believe these changes are a sufficient replacement to applying a loss of all Title IV eligibility to failing GE programs or stem the overall implications of increased cost to taxpayers and harm to students. Including this language does not change the Department's legal responsibility to apply loss of all Title IV aid to failing GE programs as required by statute.

Given these concerns, New America believes that the Department should ensure that failing GE programs lose full Title IV eligibility, including Pell Grants.

Directed Question #1: General Definitions—Earnings (§ 668.2(b))
New America supports the Department's proposed definition of "earnings" and its proposed reliance on IRS-reported wages, income, and other earned income, including self-employment income, for purposes of calculating the earnings premium measure. The Department should not create occupation-specific or program-specific adjustments to earnings based on claims related to part-time work, student demographics, regional labor markets, tipped income, or age. Such adjustments should only be required by statute and supported by reliable, broadly applicable administrative data that can be applied consistently to both program graduates and the comparison group.

The Department is right to prioritize administrative earnings data. As the NPRM explains, IRS earnings data are already used for Title IV eligibility and income-driven repayment calculations, including requiring tip income to be reported. The Department's past experience with alternative earnings appeals showed that institution-submitted earnings data did not improve accuracy. The Department also notes that no survey or

[18] The Committee for a Responsible Federal Budget, "Pell Grant Program Faces Serious and Immediate Shortfall," last modified February 20, 2026, https://www.crfb.org/blogs/pell-grant-program-faces-serious-and-immediate-shortfall.

institution-provided data source has the same built-in oversight, enforcement, and legal penalties as the federal income tax reporting process.

Part-time work. The Department should reject arguments that earnings should be adjusted upward because some graduates choose or are expected to work part time. If typical earnings in a field are too low to support manageable repayment, that is directly relevant to whether students should be encouraged to borrow for that program. Student loan obligations do not adjust based on whether a graduate works full-time or part-time; borrowers owe the same debt regardless of the number of hours they are able or choose to work.[19] Federal student loans should not support programs that consistently leave students with unaffordable debt relative to realistic labor market outcomes. In fields where employment is often part time, programs should be structured and priced to reflect those outcomes, rather than relying on federal loans to finance tuition levels that graduates are unlikely to repay.[20]

This is especially important in cosmetology, where industry advocates often point to part-time work as a reason earnings are low. That argument does not justify weakening accountability. If a program primarily prepares students for an occupation with low or part-time earnings, the appropriate response is not to adjust earnings upward on paper; it is to lower program costs, expand lower-cost pathways, or ensure graduates earn enough to repay the debt they are asked to take on. Many cosmetology programs exist outside of Title IV, and they often come with lower tuition rates and similar licensure passage rates as peer institutions who access Title IV.[21] As New America has written, the question is not whether cosmetology and barbering training should exist, but whether taxpayers should subsidize programs through federal loans that consistently leave students with earnings too low to repay.[22]

Gender and student demographics. The Department should also reject adjustments based on the gender, race, parenting status, or other demographic characteristics of students served by a program. Such adjustments would weaken protections for the very students most likely to be harmed by low-value programs. Approximately 90 percent of cosmetology program graduates are women, and roughly one in three are parenting students, including large

[19] Rachel Fishman and Ewaoluwa Obatuase, "Cosmetology Students Deserve Better Than Debt and Broken Promises," *New America*, May 7, 2026, accessed May 14, 2026, https://www.newamerica.org/insights/cosmetology-students-deserve-better-than-debt-and-broken-promises/.
[20] Fishman and Obatuase, "Cosmetology Students Deserve Better Than Debt and Broken Promises."
[21] Stephanie Riegg Cellini and Lesley J. Turner, *The Returns to Cosmetology Education: Evidence from the Federal Gainful Employment Regulations* (Washington, DC: Postsecondary Equity & Economics Research Project, American University School of Public Affairs, 2022), https://www.american.edu/spa/peer/upload/peer_cosmetology_b.pdf.
[22] Jeremy Bauer-Wolf et al., *Cut Short: The Broken Promises of Cosmetology Education*.

shares of students of color.[23] These students deserve stronger protections from programs that leave them with low wages and debt they struggle to repay, not lower standards that allow those programs to continue accessing federal loans.

A gender-based adjustment would also reward institutions for enrolling large numbers of women and other marginalized students into programs that do not produce sufficient earnings, while doing nothing to improve actual economic outcomes. In the prior administration's GE/FVT rulemaking, the Department recognized that some cosmetology programs aggressively recruit women and students of color and then blame poor outcomes on the demographics of those same students.[24] Accountability should not allow institutions to use the students they enroll as the excuse they should be held to a lower standard. That is especially true where outcomes in cosmetology lag behind other career programs with similar gender and racial compositions, such as practical nursing and dental support, which have much higher passage rates, according to the Department's program performance data.[25]

The NPRM also correctly declines a proposal to adjust the earnings threshold downward for certificate programs with high shares of female completers. The Department notes that the statute does not indicate Congress intended the Department to establish different earnings standards based on sex, and that distinctions based on sex raise serious legal concerns.

Regional differences. The Department should not apply additional regional price parity or local labor market adjustments to program earnings. The statute already specifies the relevant comparison factors, including age, working status, education level, and geography. Additional regional adjustments would reduce comparability and increase opportunities for gaming. The purpose of the earnings premium measure is to determine whether graduates earn more than an appropriate comparison group. The NPRM already uses state or national earnings data as appropriate, and the Department notes that American Community Survey (ACS) is the only Census Bureau dataset it identified that is nationally representative, annually updated, and contains the necessary elements to calculate the required earnings thresholds. The Department also examined concerns about rural institutions and found that

[23] Please see: Carolyn Fast, Peter Granville, and Tiara Moultrie, "Cosmetology Training Needs a Make-Over," *The Century Foundation*, July 14, 2022, accessed May 14, 2026, https://tcf.org/content/report/cosmetology-training-needs-a-make-over/ and Jeremy Bauer-Wolf et al., *Cut Short: The Broken Promises of Cosmetology Education*.

[24] U.S. Department of Education, "Financial Value Transparency and Gainful Employment," *Federal Register* 88, no. 195 (October 10, 2023): 70004, accessed May 14, 2026, https://www.federalregister.gov/documents/2023/10/10/2023-20385/financial-value-transparency-and-gainful-employment.

[25] U.S. Department of Education, "Financial Value Transparency and Gainful Employment," Docket No. ED-2023-OPE-0089, Regulations.gov, October 10, 2023, accessed May 15, 2026, https://www.regulations.gov/document/ED-2023-OPE-0089-3916.

rural institutions would be affected at roughly similar rates under the proposed rule as under current regulations, weakening the case for additional regional carveouts.

Tipped income. The Department should reject requests to adjust earnings for tipped occupations. Tip income is legally required to be reported to the IRS, including through W-2 wages or additional wage income reported on tax forms. The Department correctly notes that IRS data are the most reliable and administrable source for earnings measurement and that alternative data sources, including surveys and institutional submissions, have proven unreliable.

The strongest available evidence does not support the claim that unreported tipped income explains why outcomes appear poor in cosmetology. Research by Stephanie Riegg Cellini and Kathryn Blanchard found that underreported income in cosmetology accounts for roughly an eight percent increase in earnings—far too small to explain widespread failures under earnings accountability metrics.[26]

The Department's own NPRM further supports this conclusion. It states that institution-submitted alternate earnings data from initially failing cosmetology programs were 82 percent higher than the median reported earnings the Department received from federal administrative data, far exceeding the estimated eight percent effect of underreported tipped income. The Department also found that even with an eight percent earnings boost, 84 percent of cosmetology programs would still fail under the proposed rule.

This evidence shows why the Department should rely on administrative earnings data rather than industry-sponsored or institution-submitted surveys. Adjusting earnings upward based on unsupported claims about hidden income would overstate graduates' actual ability to repay debt and undermine the purpose of the accountability framework.

Age. The Department should also decline to create age-based adjustments beyond the age ranges specified in statute. The earnings threshold compares program graduates to working adults aged 25 to 34 with the relevant education level. That comparison provides a reasonable and consistent benchmark for evaluating whether a program produces economic value. Creating additional age-based adjustments would make the metric harder to understand, harder to administer, and easier to manipulate.

Older students deserve the same protection from low-value programs as younger students. In fact, many adult students have less time to recover financially from a poor educational

[26] Stephanie Riegg Cellini and Kathryn J. Blanchard, *Hair and Taxes: Cosmetology Programs, Accountability Policy, and the Problem of Underreported Income* (Washington, DC: Postsecondary Equity & Economics Research Project, January 2022), accessed May 14, 2026, https://www.american.edu/spa/peer/upload/peer_hairtaxes-final.pdf.

investment and may have family responsibilities that make unaffordable debt especially harmful. A program should not be excused from accountability because it enrolls older students, just as it should not be excused because it enrolls women, parents, or students of color. The relevant question is whether the program improves students' economic prospects enough to justify federal loan access.

Finally, the Department should maintain a consistent approach across both sides of the earnings premium calculation. Any special adjustment applied only to program graduates, but not to the comparison group, would distort the measure. As the Department explains in the NPRM with respect to underreported income, factors that affect earnings data may affect both program graduates and the benchmark group. The use of median earnings also limits the influence of outliers and provides a more stable basis for accountability than self-reported or adjusted estimates.

For these reasons, New America supports the Department's proposed earnings definition and urges the Department to decline requests for adjustments based on part-time work, demographics, regional differences, tipped income, or age, including through an appeals process. The Department should rely on consistent, reliable administrative data and preserve a clear accountability standard: federally aided programs should leave students better off financially than they would have been had they not enrolled.

Directed Question #2: Earnings Threshold (§ 668.2(b))
Utilizing the Census Bureau's ACS to evaluate the earnings premium for graduate students poses many challenges, including small sample sizes and broad fields of study. New America appreciates the Department's efforts to improve this calculation and supports the PEER Center's recommendations. The PEER Center suggests the Department use existing federal methodologies to address the statistical challenges of estimating median earnings for small populations or commission a study to help identify whether future changes to the methodology are warranted.[27]

The Department Should Maintain Debt-to-Earnings for Gainful Employment Programs
We strongly urge the Department to maintain the debt-to-earnings (DTE) metric as a core component of the accountability framework applicable to GE programs. While earnings is an important measure, it does not address the core concern of unaffordable debt. The DTE metric directly measures whether students can reasonably repay the debt incurred to attend a program based on the earnings received from the program. This is a concern acknowledged repeatedly by the Department. For example, the Administration has supported current GE regulations in court, stating that "Congress could not possibly have intended to waste

[27] Jordan Matsudaira, "Measuring the Earnings Premium for Graduate Programs in OBBBA's Accountability Scheme," accessed May 15, 2026, https://peer-center.squarespace.com/research/earnings-premium-for-grad-programs/.

taxpayer money on programs that leave students in unaffordable debt or no better off than when they started."[28] The Administration further argued that as responsible stewards of taxpayer dollars, the need is "particularly acute in light of the billions it disburses in Title IV aid and the high levels of unpaid student debt that continue to plague many Americans." Addressing unaffordable debt specifically, even for programs that may pass the earnings metric is an important goal worth maintaining.

While maintaining the measure does not appear to have a significant impact overall on program failures, it does have a measurable impact on particular program types. For example, as the Department acknowledges in its analysis, higher-level and higher-debt programs were more likely to be impacted by DTE. Doctoral programs, as well as professional and graduate certificate programs, have a noticeably higher rate of failure when DTE is maintained (Table 6.1). Students from these programs have higher earnings that result in programs passing the earnings test, but they also carry a level of unaffordable debt that is not justified based on the earnings they receive. The Department may believe that forthcoming changes to graduate lending will have an impact on lowering debt and make this result less likely, but that result remains to be seen. It is also likely that programs replace federal lending with private lending, which would be captured in the measure should the Department maintain it. Capturing this data is important for ensuring cuts to federal loans actually lead to affordability and not a scenario where costs just shift more to students who are reliant on loans with worse terms. The Department will have backtracked on its capability to capture these outcomes and hold programs accountable for leaving students with unaffordable debt where necessary in the future.

While the Department justifies removal of the DTE metric by suggesting that it is an unnecessary burden, it is not any additional burden for institutions compared to the baseline. It is a necessary protection that impacts thousands of students and millions of dollars in federal aid. If the Department does not maintain DTE as an accountability metric, it should, as we mentioned above, maintain it as a transparency measure and warnings to students.

The Department Should Not Allow Failing Programs to Continue Enrolling Students

The Department should eliminate § 668.603(c)(4), which allows a program that has failed the earnings premium measure in a single year the opportunity to voluntarily cease enrolling new students and engage in an orderly program closure. This change extends the timeline for a failing program to continue receiving Title IV aid while creating risk for students who may remain enrolled in a low earning program where better options may exist.

[28] *American Association of Cosmetology Schools v. Department of Education*. No. 4:23-cv-01267-O. (N.D. Tex. 2025).

The intent of OBBB in establishing a failure in two out of three consecutive years is to provide an opportunity for an institution to improve or lose Direct Loan eligibility, not to continue serving students and collecting aid in a program that does not leave them better off. This is less of an off ramp for students and more of a cushion for institutions to delay the loss of federal aid. Instead, the Department should ensure that students have adequate warning and options for transferring to another program or institution that will lead to better outcomes. Students that remain in a program that results in low earnings are less likely to be able to afford their loans, even for those who may ultimately complete.

If the Department maintains this provision must explicitly limit programs from taking this option for students whose program is longer than three years.

The Department Should Provide Additional Disclosures to Students

New America supports the Department's proposal on providing warnings to students but believes the disclosures should be expanded in several ways.

1.) **Continued warnings after loss of eligibility.** The purpose of the student warnings in the proposed rule is to caution them about low-earnings and potential loss of Direct Loan eligibility. However, in the event a program loses access to Direct Loans and continues to enroll students using the Pell Grant to pay for it, the low-earnings do not suddenly improve, and it remains a risk to these students. They should continue to be informed of the program's low-earnings.

2.) **Provide warnings for potential loss of all Title IV aid.** As constructed in the Department's proposed regulations, institutions where either 50 percent of their Title IV recipients or Title IV aid comes from low-earning programs, are at risk of losing access to all Title IV aid. The Department should require the warning to extend to current and prospective students enrolled in programs where this loss is likely to occur. These students may need to transfer not just to a different program but potentially to a different institution, and they should be made aware of this outcome as soon as the Department is aware.

3.) Maintain information in warnings that assists students in decision making. The Department has proposed removing information that is vital to students enrolled in a program at risk of loss of Direct Loans or Title IV eligibility. This includes removing information on the academic and financial options available to them in the event that their program loses eligibility for Direct Loan funds, information about potential continuation of coursework or tuition refunds, and the availability of articulation agreements and options for credit transfer. Students should be given information that provides them the opportunity to make an informed enrollment decision, including transfer options. The Department has maintained some of this information for programs that opt to voluntarily close a program. The reality is that for some students, loss of Direct Loan eligibility or Title IV could mean the program ceases to operate or

that they become unable to reasonably afford it in the future, and they will need to make quick decisions in order to continue their education.

4.) **Maintain the Department-managed student acknowledgement.** The Department should maintain the Department-managed student acknowledgement. As proposed, the institution is expected to obtain an acknowledgement prior to a student enrolling in a program and does not not include any requirement that an institution document the acknowledgement. This runs the risk of institutions not complying with the acknowledgement and the Department being unable to conduct oversight. New America recommends the Department maintain this process to ensure students receive and acknowledge the information, which would reduce burden on institutions. The Department also does not explain or justify this decision in the NPRM or the history of how this requirement has played out over time. Reducing burden on institutions was precisely the reason why the Department proposed a process run through its own systems, and it should acknowledge that here. If the Department declines to make this change, it should require that institutions document these acknowledgements from students.

The Department Should Abandon Inclusion of Standard Occupational Classification

Proposed § 668.604 would prohibit an institution from adding to its Direct Loan-eligible program list any program that shares the same four-digit Classification of Instructional Programs (CIP) code and any overlapping Standard Occupational Classification (SOC) codes as a program that has been subjected to a two-year loss of eligibility. The principle behind the provision is correct: Institutions should not be able to evade a Subpart S failure by rebranding the same program under a different label. The execution, however, is flawed, and New America recommends the Department strike the SOC element from § 668.604 in the final rule.

By requiring a match on both CIP and SOC for the prohibition to attach, the proposed rule allows institutions to evade the substantially similar program rule simply by reassigning the rebranded program to a different SOC code. SOC mapping is, in practice, an institutional self-classification exercise: Institutions report the SOC codes a program prepares students for, and those reports are not subject to independent verification before being entered into Department data systems. Institutions that have already demonstrated, through a Subpart S failure, that their program does not deliver an earnings premium are precisely the institutions most likely to manipulate this classification. The history of Cohort Default Rate (CDR) management—in which institutions shifted student borrowing toward Parent PLUS loans to keep CDR-counted defaults artificially low—illustrates how quickly an anti-evasion provision can be neutralized.

The four-digit CIP grouping, by contrast, is content-based and is the appropriate unit for an anti-rebranding standard. Two programs that share a four-digit CIP code are programs of substantially similar academic content. That is what the substantially similar program rule is meant to capture. Layering an occupational classification on top of the academic content match introduces an additional element that institutions can manipulate without changing what they actually teach.

In effect, the inclusion of SOC codes allows institutions to repeatedly offer a program that is likely to result in low-earnings and evade accountability altogether. This is a risk to students that deserve to enroll in programs that leave them better off. It's also a risk to taxpayers who will continually pay for programs that don't deliver value for students.

New America therefore recommends that the final rule strike the SOC overlap requirement from § 668.604 and prohibit institutions from adding to their Direct Loan-eligible program list any program that shares the same four-digit CIP code as a program subject to a two-year loss of eligibility. The Department should additionally provide, by guidance, that an institution may petition for an exception where it can demonstrate with clear and convincing evidence that the new program is meaningfully distinct from the failed program in academic content, length, and delivery—placing the burden of proof on the institution rather than on the Department. Finally, should the Department maintain this language, it should document the outcomes of the new programs relying on a different SOC, to gain an understanding of how institutions are adding programs and whether it is actually to the benefit of students or an attempt to game the rules.