Neg Reg and Regulatory Changes: Where We Are and What's Still to Come

Mid-Atlantic Association of Career Schools
Lancaster, Pennsylvania
July 22, 2026

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Presentation Preamble

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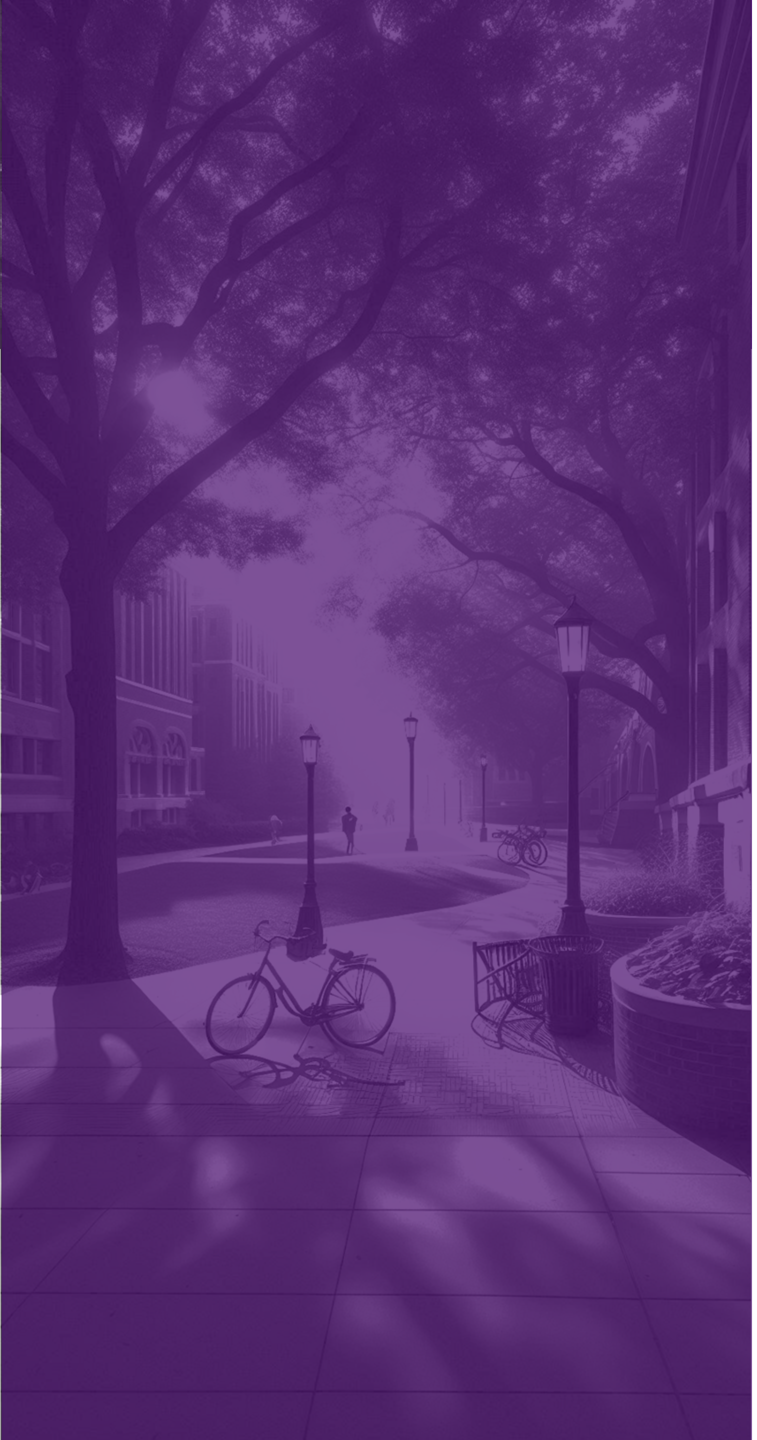
TC Extra Credit

- All TC resources referenced in the presentation are free and can be accessed here or by scanning the QR code to the right.

Magical QR Code

Syllabus

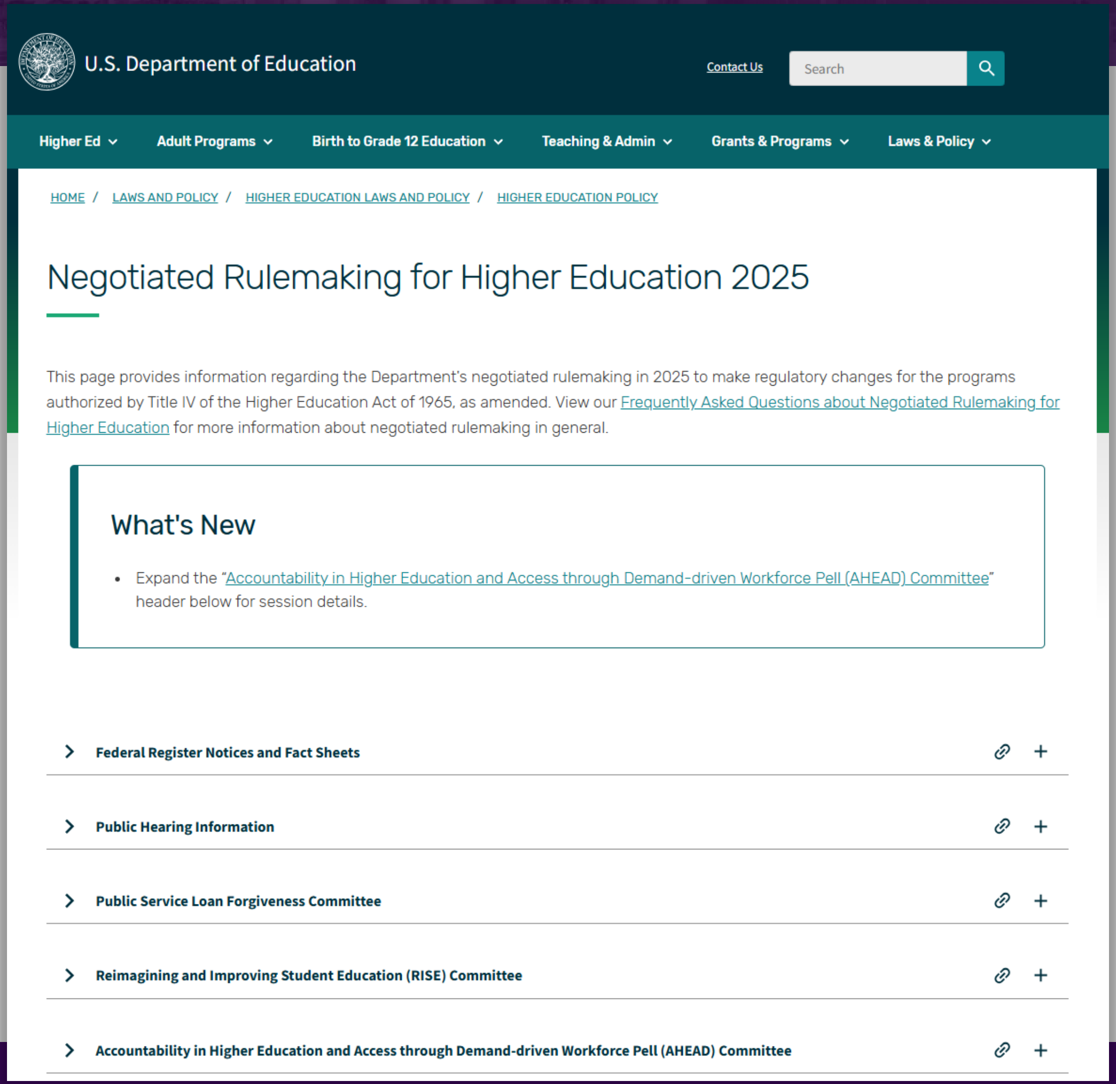
- 2025-2026 Negotiated Rulemaking
- RISE Committee
- AHEAD Committee
- AIM Committee
- "Christmas Tree" Committee and Other Potential Rulemaking



2025-2026 Negotiated Rulemaking

Negotiated Rulemaking 2025-2026

- In 2025-2026, ED has already convened four negotiated rulemaking committees to implement changes made by OB3 and “other Administration priorities.”
- For more information, check out ED’s “Negotiated Rulemaking for Higher Education 2025” and “Negotiated Rulemaking for Higher Education 2026” websites.



ED’s Title IV Rulemaking Agenda

Public Service Loan Forgiveness Committee

- Negotiations: One 3-day session (June - July 2025); no consensus.
- NPRM: August 18, 2025 (90 FR 40154)
- Final Rule: October 31, 2025 (90 FR 48966)
- Effective Date: July 1, 2026
- Vacated by U.S. District Court in Massachusetts: June 30, 2026

The Reimagining and Improving Student Education (RISE) Committee

- Negotiations: Two 5-day sessions (Sept. - Nov. 2025); consensus.
- NPRM: January 30, 2026 (91 FR 4254)
- Final Rule: May 1, 2026 (91 FR 23768)
- Effective Date: July 1, 2026

The Accountability in Higher Education and Access through Demand-driven Workforce Pell (AHEAD) Committee

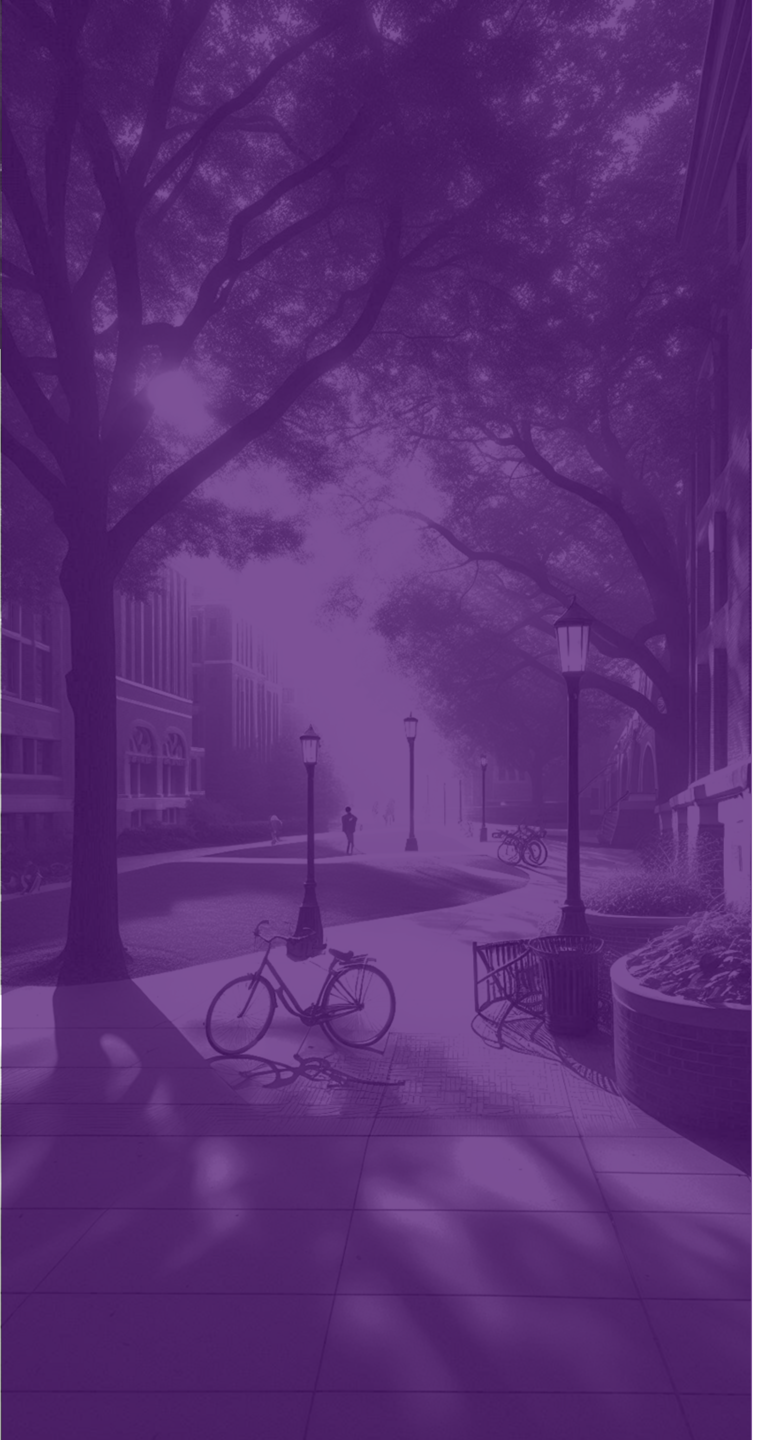
- Negotiations: Two 5-day sessions (Dec. 2025 - Jan. 2026); consensus.
- NPRM Workforce Pell: March 9, 2026 (91 FR 11378)
- NPRM Earnings Accountability: April 20, 2026 (91 FR 21088)
- Final Rule Workforce Pell: May 19, 2026 (91 FR 29254)
- Final Rule Earnings Accountability: July 1, 2026 (91 FR 40136)
- Effective Dates: July 1, 2026 / July 1, 2027

ED’s Title IV Rulemaking Agenda

The Accreditation, Innovation, and Modernization (AIM) Committee	• Negotiations: Two 5-day sessions in April - May 2026; consensus. • NPRM: Projected Fall 2026 • Effective Date: Projected July 1, 2028
“Christmas Tree” Committee	• Negotiations: Project two 5-day sessions in late 2026 • NPRM: Projected 2027 • Effective Date: Projected July 1, 2028
Other Potential Rulemaking	• Negotiations (if subject to Neg Reg): Projected 2027 • NPRM: Projected 2027 • Effective Date: Projected 2027-2028

Impact Opportunities in Rulemaking

- Coordinate with trade associations, participate in public meetings, nominate or serve as a negotiator.
- Before rulemaking begins, schedule meetings with ED and submit written suggestions.
- Support negotiators during rulemaking (review draft language, crunch data).
- Comment on proposed rules, encourage others to comment, lobby Congress.
- Schedule an EO 12866 meeting with OMB.
- Challenge rule through litigation.



The RISE Committee

RISE: Outcome

- On Friday of the second week of negotiations, the RISE Committee **reached consensus** on all issues.
- ED published its Final Rule on May 1, 2026.
- The final rule became effective on July 1, 2026.

DEPARTMENT OF EDUCATION

34 CFR Parts 674, 682, and 685

[Docket ID ED–2025–OPE–0944]

RIN 1840–AD98

Reimagining and Improving Student Education—Federal Student Loan Program Final Regulations

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final rule.

SUMMARY: The Secretary amends the regulations for the Federal student loan programs authorized under title IV of the Higher Education Act (HEA) of 1965, as amended (the title IV, HEA programs) to implement the statutory changes to the title IV, HEA programs included in Public Law 119–21, the Working Families Tax Cuts Act signed into law by President Trump on July 4, 2025. The Department previously referred to the Working Families Tax Cuts Act as the "One Big Beautiful Bill Act," including in the Notice of Proposed Rulemaking published on January 30, 2026. These changes include establishing new loan limits for graduate students, professional students, and parents, and phasing out the Graduate PLUS (Grad PLUS) Program. The Working Families Tax Cuts Act also simplifies the current broken and confusing myriad of Federal student loan repayment plans by phasing out the existing Income-Contingent Repayment (ICR) plans, creating a new Tiered Standard repayment plan option, and establishing a new income-driven repayment plan known as the Repayment Assistance Plan. The Working Families Tax Cuts Act also enables borrowers in default who have previously rehabilitated a defaulted loan a second chance to rehabilitate their loan(s) and resume repayment.

DATES: This final rule is effective on July 1, 2026.

FOR FURTHER INFORMATION CONTACT: Tamy Abernathy, Office of Postsecondary Education, 400 Maryland Ave. SW, 5th Floor, Washington, DC 20202. Telephone: (202) 245–4595. Email: *Tamy.Abernathy@ed.gov*.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

A brief summary of these final regulations is available at *www.regulations.gov/docket/ED-2025-OPE-0944*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Abbreviations

APA: Administrative Procedure Act
CFR: Code of Federal Regulations
CIP Code: Classification of Instructional Programs Code
DL: Federal Direct Loans
E.O.: Executive Order
FFEL: Federal Family Education Loan Program
FSA: Federal Student Aid
Grad PLUS: Direct PLUS Loan made to graduate or professional students
HEA: Higher Education Act of 1965, as amended
IBR: Income-Based Repayment
ICR Plan: Income-Contingent Repayment plan
NPRM: Notice of Proposed Rulemaking
OIRA: Office of Information and Regulatory Affairs
PRA: Paperwork Reduction Act of 1995
PAYE: Pay As You Earn plan
PDF: Portable Document Format
Parent PLUS: Direct PLUS Loan made to parents of dependent undergraduate students
PSLF: Public Service Loan Forgiveness
RAP: Repayment Assistance Plan
RFA: Regulatory Flexibility Act
RIA: Regulatory Impact Analysis
Title IV, HEA Programs: Student financial assistance programs authorized under title IV of the HEA
rtf: Rich Text Format
RISE: Reimagining and Improving Student Education
SAVE Plan: Saving on a Valuable Education plan
SBREFA: Small Business Regulatory Enforcement Fairness Act of 1996
txt: text format

II. Executive Summary

The Secretary implements the amendments made to the HEA relating to the Federal student loan programs made by Public Law 119–21, the Working Families Tax Cuts Act, through these final regulations.

These regulations revise the Direct Loan Program under 34 CFR part 685 by amending the annual and aggregate loan limits for graduate, professional, and parent loan borrowers. The regulations also implement two new streamlined student loan repayment plans, the Repayment Assistance Plan and the Tiered Standard repayment plan. The regulations also make conforming amendments to current regulations on consolidation, deferment, forbearance, and Public Service Loan Forgiveness (PSLF). The regulations also provide borrowers in default a second opportunity to rehabilitate their loans and resume repayment, even if they previously rehabilitated a defaulted loan.

1. Summary of Major Provisions of This Regulatory Action

These final regulations:

- Amend §§ 674.39, 682.215, and 682.405 to allow loan rehabilitation up to twice per each loan borrowed under the Federal Perkins Program, Federal Family Education Loan Program, and the Direct Loan Program, up from only one.
- Amend § 685.102 to include new definitions for the following terms: expected time to credential, graduate student, professional student, and program length.
- Amend § 685.200 to include Direct PLUS Loan eligibility for graduate and professional students.
- Amend § 685.201 to establish the limited Direct PLUS Loan eligibility for a graduate or professional student.
- Amend § 685.203 to include new Direct Loan annual and aggregate limits, create a new lifetime maximum aggregate limit, establish less than full-time reduction of annual loan limits, and permit institutions to limit borrowing for specific programs.
- Amend § 685.204 to clarify conditions and borrower eligibility for the unemployment deferment and the economic hardship deferment.
- Amend § 685.205 to establish the modified eligibility criteria for borrowers to receive a forbearance.
- Amend § 685.208 to establish the terms for the Tiered Standard repayment plan, set the minimum payment for the Tiered Standard repayment plan, and restructure each Fixed repayment plan's terms under their respective plan.
- Amend § 685.209 to establish terms for the Repayment Assistance Plan and sunset ICR plans and conditions.

Loan Terminations and Limitations

- Termination of Grad PLUS loan program
- New annual and aggregate limits for Grad & Professional Loans
- New annual and aggregate limits for Parent PLUS Loans
- New lifetime maximum aggregate loan limits for all students

Limits, Proration, and Repayment

Institutional Authority to Limit Loans

- Notwithstanding the annual loan limits established by Congress, beginning on July 1, 2026, institutions may limit the total amount of Direct Loans made for a program of study for an academic year that a student may borrow, or that a parent may borrow on behalf of the student, provided the limit is applied consistently to all students enrolled in the program. 20 U.S.C. § 1087e(a)(7)(B).
- Dear Colleague Letter GEN-26-02 (June 26, 2026) – Additional guidance and best practices

Loan Proration for Less than Full-Time

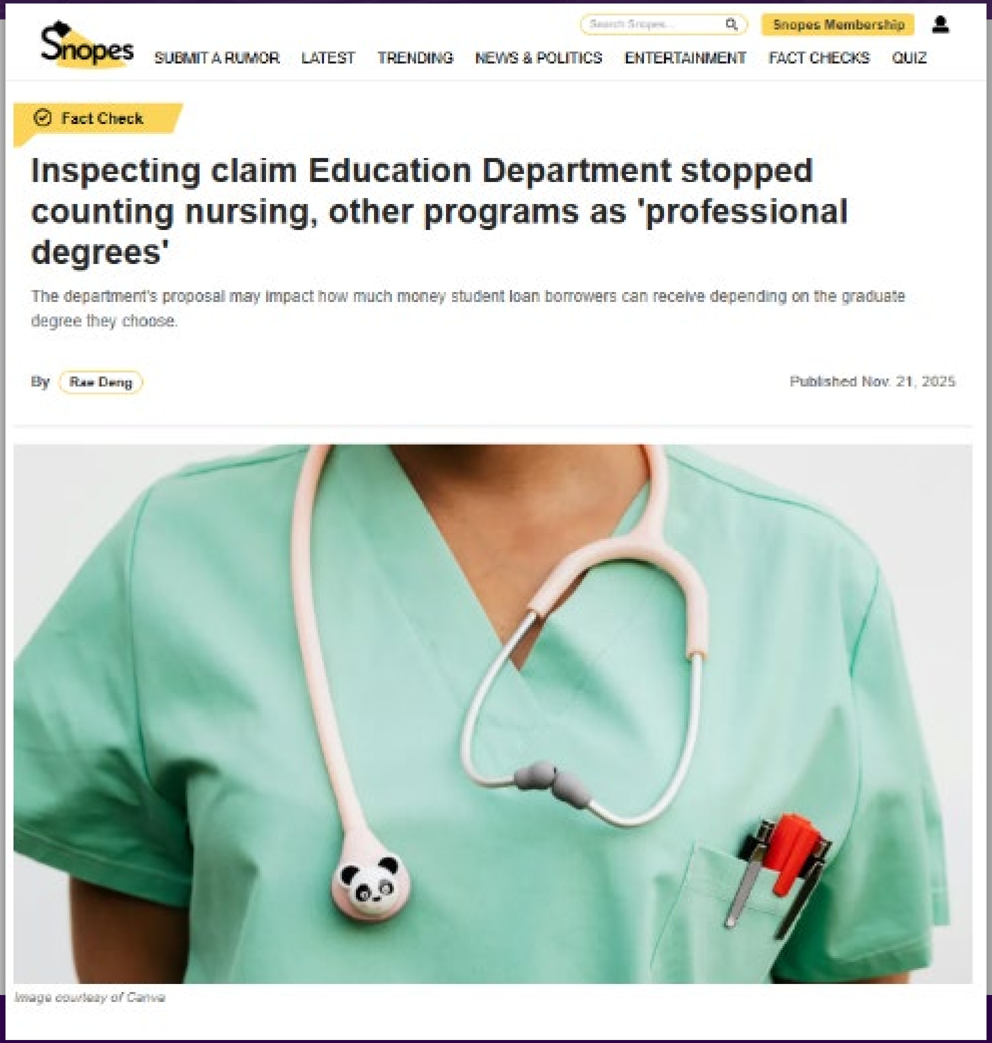
- Institutions also will begin prorating annual loan amounts in proportion to the percent of full-time status the student is enrolled. 20 U.S.C. § 1087e(a)(7)(A).

Simplification of Loan Repayment

- The repayment plan landscape will be simplified to require all borrowers who receive loans made after July 1, 2026, to choose from one of two repayment plans. 20 U.S.C. § 1087e(d)(7)(A).

What Is a Professional Degree?

- The point of greatest contention during the RISE Committee negotiations (and afterward) was ED's proposal to re-define the term "professional degree."
- This was interpreted by some as a broader commentary by ED on what types of practitioners might be deemed "professionals."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Fact Check

Inspecting claim Education Department stopped counting nursing, other programs as 'professional degrees'

The department's proposal may impact how much money student loan borrowers can receive depending on the graduate degree they choose.

By Rae Deng Published Nov. 21, 2025

Image courtesy of Canva

What Is a Professional Degree?

- Located within the definition of “professional student,” a “professional degree”:
  - Signifies both completion of the academic requirements for beginning practice in a given profession, and a level of professional skill beyond that normally required for a bachelor's degree;
  - Is generally at the doctoral level, and that requires at least six academic years of postsecondary education coursework for completion, including at least two years of post-baccalaureate level coursework;
  - Generally, requires professional licensure to begin practice; and
  - Includes a four-digit program CIP code, as assigned by the institution or determined by the Secretary, in the same intermediate group as the fields listed in paragraph (ii)(A) of this definition.
- A professional degree may be awarded in the following fields:
  - Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (DC or DCM.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), Theology (M.Div., or M.H.L.), and Clinical Psychology (Psy.D. or Ph.D.).

34 C.F.R. § 685.102.

Litigation Begins

- On May 19, more than 20 state attorneys general filed suit in the U.S. District Court of Maryland asking that ED's new definition of Professional Degree be overturned, arguing that it is inconsistent with Congressional intent.
- At least 3 additional lawsuits were filed by various nursing and other professional associations.

EDUCATION

States sue over new student loan limits on certain nursing and healthcare degrees

MAY 19, 2026 · 12:19 PM ET

Cory Turner

A nurse checks a patient's heart rate.
kieferpix/Getty Images

A coalition of 24 states and the District of Columbia filed a lawsuit in federal court Tuesday challenging a Trump administration rule that limits access to federal student loans for borrowers earning a graduate degree in several popular, healthcare-related fields.

Litigation Begins

- On June 24, 2026, the U.S. District Court in DC hearing the consolidated cases brought by the nursing and physician assistant issued a temporary stay preventing ED from implementing additional tests not in the regulations cited by Congress.
- On June 29, ED issued Electronic Announcement GENERAL-26-42 making clear that it will defend its rule but expanding the list of programs it will consider Professional programs pending resolution of the litigation.
- On July 1, the judge holding a hearing in a separate case brought by another nursing association in U.S. District Court in Massachusetts confirmed her agreement with the DC court decision.
- On July 10, ED updated Electronic Announcement GENERAL-26-42 to further clarify the list of Professional programs.

Left Turn

Cuomo and the Student Loan Scandal

- In early 2007, the Attorney General of the State of New York launched a highly visible campaign to identify and reform what he claimed were unethical practices in the student loan industry.
- The "unholy alliance" of schools, lenders and guaranty agencies participating in the Federal Family Education Loan (FFEL) program were the primary focus of these inquiries, but private loan relationships were also under review.
- He alleged kickbacks, revenue-sharing, and conflicts of interest.
  - e.g., FA officers were getting perks from student loan companies, and college executives were receiving stock, in exchange for steering loan traffic to lenders.

Cuomo and the Student Loan Scandal

- Cuomo would go on to investigate and settle with scores of institutions.
- Further, Congress, ED, other states' Attorneys General, and the news media all would join Cuomo in shining a spotlight on school-lender relationships and calling for reforms.

THE CHRONICLE OF HIGHER EDUCATION 60

NEWS

36 Colleges and a Lender Accept Settlement Offers to End Student-Loan Investigations by Cuomo

By Josh Keller

April 3, 2007

New York's attorney general, Andrew M. Cuomo, dropped his investigations into student-loan practices at 36 colleges and a major student-loan provider on Monday after they agreed to settlements drawn up by his office.

The settlements prohibit many of the practices that Mr. Cuomo has targeted in a more than five-month-old investigation, which is looking into what he says are conflicts of interest in the student-loan industry.

Regs, Statutes, and Regs Again

- In response to heavy criticism from Congress and others, ED promulgated regulations in November 2007 with new provisions relating to school-lender relationships, including prohibited inducements and preferred lender lists.
- Then, effective August 14, 2008, Congress reauthorized the HEA and included extensive new provisions relating to private education loans and preferred lender arrangements, including the form and content of preferred lender lists.
- In response, ED issued a second set of regulations in October 2009, effective July 1, 2010, which implemented and advanced the new statutory framework.

72 FR 61960 (Nov. 1, 2007); Pub. L. No. 110-315 (Aug. 14, 2008); 74 FR 55626 (Oct. 28, 2009).

And More Regs...

- When Congress reauthorized the HEA, it also amended the Truth in Lending Act to require certain disclosures and protections for private education loans.
- The Federal Reserve Board issued a new final rule in 2009 amending Regulation Z to implement these changes.

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–1353]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; official staff commentary.

SUMMARY: The Board is publishing final rules amending Regulation Z, which implements the Truth in Lending Act (TILA) following the passage of the Higher Education Opportunity Act (HEOA). Title X of the HEOA amends TILA by adding disclosure and timing requirements that apply to creditors making private education loans, which are defined as loans made for postsecondary educational expenses. The HEOA also amends TILA by adding limitations on certain practices by creditors, including limitations on "co-branding" their products with educational institutions in the marketing of private education loans. The HEOA requires that creditors obtain a self-certification form signed by the consumer before consummating the loan. It also requires creditors with preferred lender arrangements with educational institutions to provide certain information to those institutions.

DATES: *Effective Date:* September 14, 2009.

Compliance Date: Compliance is optional until February 14, 2010.

FOR FURTHER INFORMATION CONTACT: Brent Lattin, Senior Attorney, or Mandie Aubrey, Attorney; Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412 or (202) 452–3667. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

A. Current Regulation Z Student Loan Disclosure Requirements

Congress enacted the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.*, to regulate certain credit practices and promote the informed use of consumer credit by requiring uniform disclosures about its costs and terms. Under TILA section 128, creditors must provide TILA disclosures to consumers in writing before consummation of certain closed-end credit transactions. Extensions of consumer credit over $25,000 are exempt from TILA with the exceptions of credit secured by real property, and, following enactment of the HEOA, private education loans. Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 *et seq.*) are also exempt from TILA.

TILA mandates that the Board prescribe regulations to carry out the purposes of the statute. 15 U.S.C. 1604(a). Accordingly, the Board has promulgated Regulation Z, 12 CFR part 226. An Official Staff Commentary, 12 CFR part 226 (Supp. I) interprets the requirements of the regulation and provides guidance to creditors in applying the rules to specific transactions.

To implement TILA section 128, 15 U.S.C. 1638, Regulation Z requires disclosures for certain closed-end loans, including for education loans that are not exempt Federal education loans. Sections 226.17 and 226.18 require a creditor to provide the consumer with clear and conspicuous disclosures before consummation of the transaction. Current § 226.17(i) contains special rules for student credit plans which are education loans where the repayment amount and schedule of payments are not known at the time that the credit is advanced. In such cases, creditors may make all the TILA cost disclosures at the time credit is extended based on the best information available at that time, and state clearly that the disclosures are estimates. Alternatively, creditors may provide partial disclosures at the time the credit is extended and later provide a complete set of disclosures when the repayment schedule for the loan is established.

B. The Higher Education Opportunity Act of 2008

On August 14, 2008, the Higher Education Opportunity Act of 2008 (HEOA) was enacted. Title X of the HEOA, entitled the "Private Student Loan Transparency and Improvement Act of 2008," adds new subsection 128(e) and section 140 to TILA. These TILA amendments add disclosure requirements and prohibit certain practices for creditors making "private education loans," defined as loans made expressly for postsecondary educational expenses, but excluding open-end credit, real estate-secured loans, and Federal loans under title IV of the Higher Education Act of 1965. The HEOA also amends TILA section 104(3) to expressly cover private education loans even if the amount financed exceeds $25,000.

1. Overview of the HEOA's Amendments to TILA

Substantive Restrictions. The HEOA prohibits a creditor from using in its marketing materials a covered educational institution's name, logo, mascot, or other words or symbols readily identified with the educational institution, to imply that the educational institution endorses the loans offered by the creditor.[1] With respect to private education loans, the HEOA also amends TILA in the following ways:

- Creditors must give the consumer 30 days after a private education loan application is approved to decide whether to accept the loan offered. During that time, the creditor may not change the rates or terms of the loan offered, except for rate changes based on changes in the index used for rate adjustments on the loan.
- The consumer has a right to cancel the loan for up to three business days after consummation. Creditors are prohibited from disbursing funds until the three-day cancellation period has run.

Disclosure Requirements. The HEOA adds a number of new disclosures for private education loans, which must be given at different times in the loan origination process. Specifically, the HEOA's amendments to TILA require the following disclosures for private education loans:

- *Disclosures with applications (or solicitations that require no application).* Creditors must provide general information about loan rates, fees, and terms, including an example of the total cost of a loan based on the maximum interest rate the creditor can charge. These disclosures must inform a prospective borrower of, among other things, the potential availability of Federal student loans and the interest rates for those loans, and that additional information about Federal loans may be obtained from the school or the Department of Education Web site.

[1] The HEOA adds a new section 140 to TILA that includes other restrictions regarding private education loans. The Board is only required to issue regulations to implement subsection (c) of TILA section 140, the prohibition on co-branding. The other subsections of section 140 became effective when the HEOA was enacted and the Board is not issuing regulations to implement them at this time. The other subsections of TILA Section 140 prohibit creditors from giving gifts to educational institutions or their employees, and prohibit revenue sharing between creditors and educational institutions. In addition, they restrict creditor payments to financial aid officials who serve on creditors' advisory boards, and require disclosure of any payments made to financial aid officials for advisory board service expenses. Prepayment penalties or fees for early repayment are prohibited for private education loans.

74 FR 41194 (Aug. 14, 2009).

Prelude to the Private Lender Exodus

2006

- The Direct Graduate PLUS loan program becomes effective, making it possible for most graduate students to fund their entire education with federal loans.

2008

- The Great Recession takes hold following the collapse of the housing market.

2010

- The FFEL program is terminated in March 2010 as part of budget reconciliation, ending the participation of private lenders and guaranty agencies in the federal student loan marketplace after 45 years.

Private Lenders and PLLs Go Quiet

- In the wake of these events, many private lenders exited the student loan space entirely.
- Most institutions ceased entering into preferred lender arrangements; instead providing students with a "historical lender list," based on commentary guidance that accompanied ED's 2010 rule.
- The regulatory framework governing private education loans and preferred lender arrangements remained on the books but lay largely dormant as students funded their education through federal programs.
- Similarly, there is no significant body of case law providing guidance or interpretation in this area.

The OB3 Catalyst

- In 2025, Congress passed the One Big Beautiful Bill Act, which, among other things, provides that effective July 1, 2026, the Graduate PLUS loan program will be terminated, and new annual and aggregate loan limits will apply to borrowers in undergraduate, graduate, and professional degree programs.
- These changes will reduce the amount of federal student aid available to many students, with the result that they likely will require private loans in order to finance their education.

Caution Flags

There is significant pressure on institutions to rapidly identify solutions.

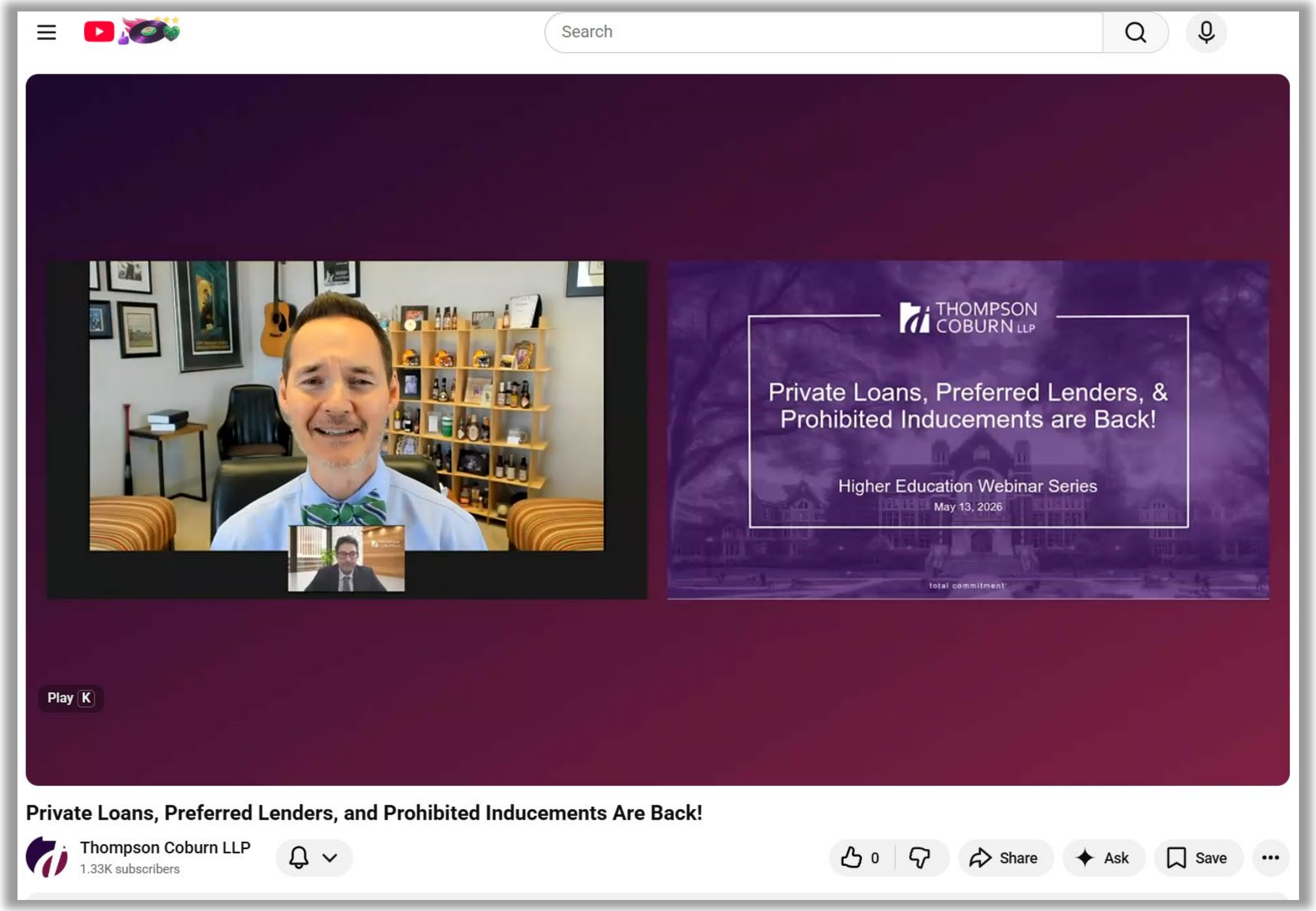
A generation of lawyers and compliance officers are largely unfamiliar with the rules governing preferred lender arrangements and prohibited inducements.

Similarly, there is a generation of *lenders* and *regulators* who lack familiarity with these requirements.

The rules were largely drafted for a federal lending program that no longer exists (FFEL), and we have no meaningful body of case law or guidance.

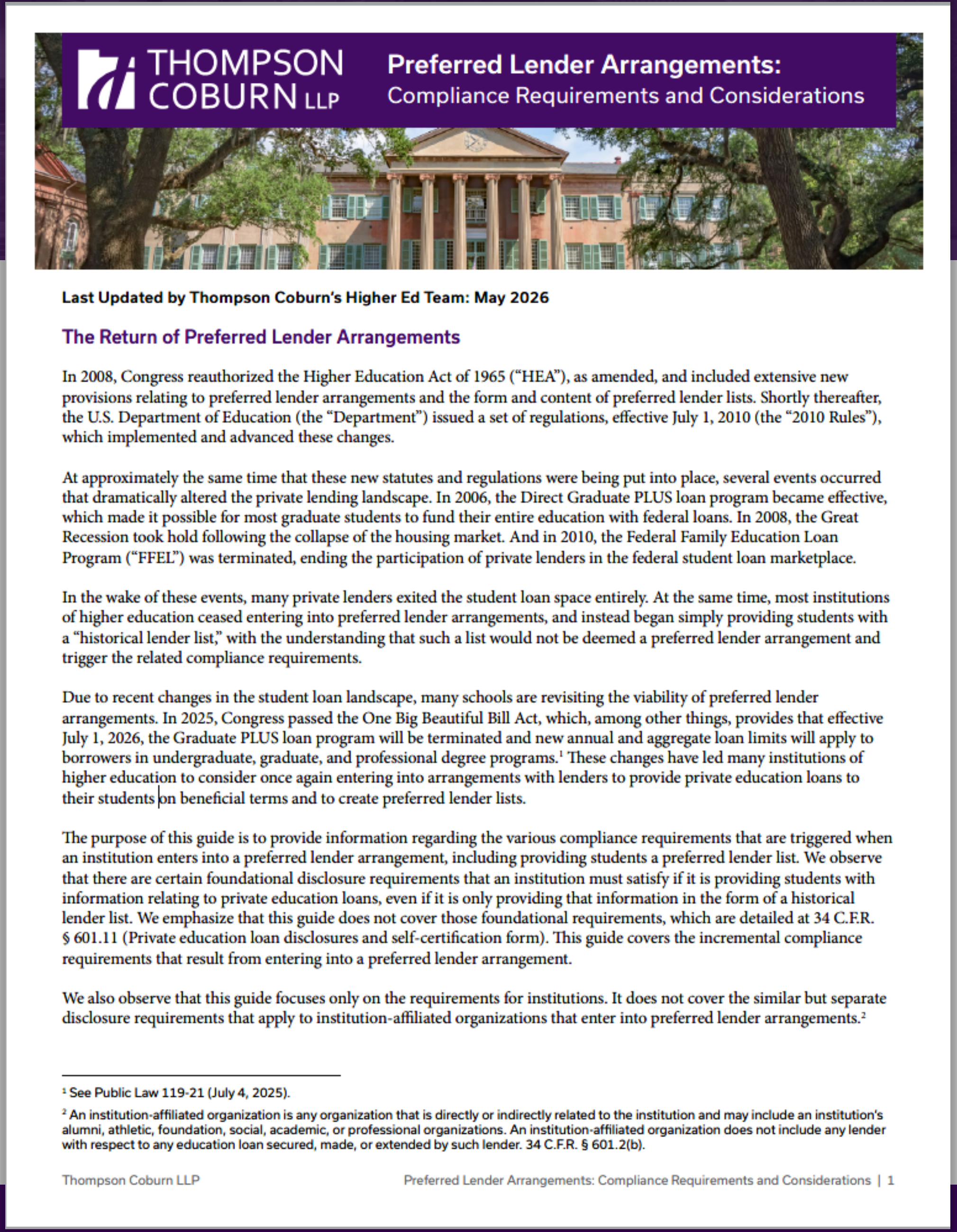
Private Education Loans Webinar

- For a detailed discussion of the rules regarding historical lender lists, preferred lender arrangements, and prohibited inducements, please check out our recent webinar on these topics.
- It is available free on our YouTube channel.



PLA: Compliance Resource

- We also invite institutions to make use of our new, PLA compliance guide.
- This free guide provides information regarding the incremental compliance requirements that are triggered when an institution enters a preferred lender arrangement, including requirements relating to preferred lender lists, codes of conduct, and required disclosures.


THOMPSON COBURN LLP

Preferred Lender Arrangements:
Compliance Requirements and Considerations

Last Updated by Thompson Coburn's Higher Ed Team: May 2026

The Return of Preferred Lender Arrangements

In 2008, Congress reauthorized the Higher Education Act of 1965 ("HEA"), as amended, and included extensive new provisions relating to preferred lender arrangements and the form and content of preferred lender lists. Shortly thereafter, the U.S. Department of Education (the "Department") issued a set of regulations, effective July 1, 2010 (the "2010 Rules"), which implemented and advanced these changes.

At approximately the same time that these new statutes and regulations were being put into place, several events occurred that dramatically altered the private lending landscape. In 2006, the Direct Graduate PLUS loan program became effective, which made it possible for most graduate students to fund their entire education with federal loans. In 2008, the Great Recession took hold following the collapse of the housing market. And in 2010, the Federal Family Education Loan Program ("FFEL") was terminated, ending the participation of private lenders in the federal student loan marketplace.

In the wake of these events, many private lenders exited the student loan space entirely. At the same time, most institutions of higher education ceased entering into preferred lender arrangements, and instead began simply providing students with a "historical lender list," with the understanding that such a list would not be deemed a preferred lender arrangement and trigger the related compliance requirements.

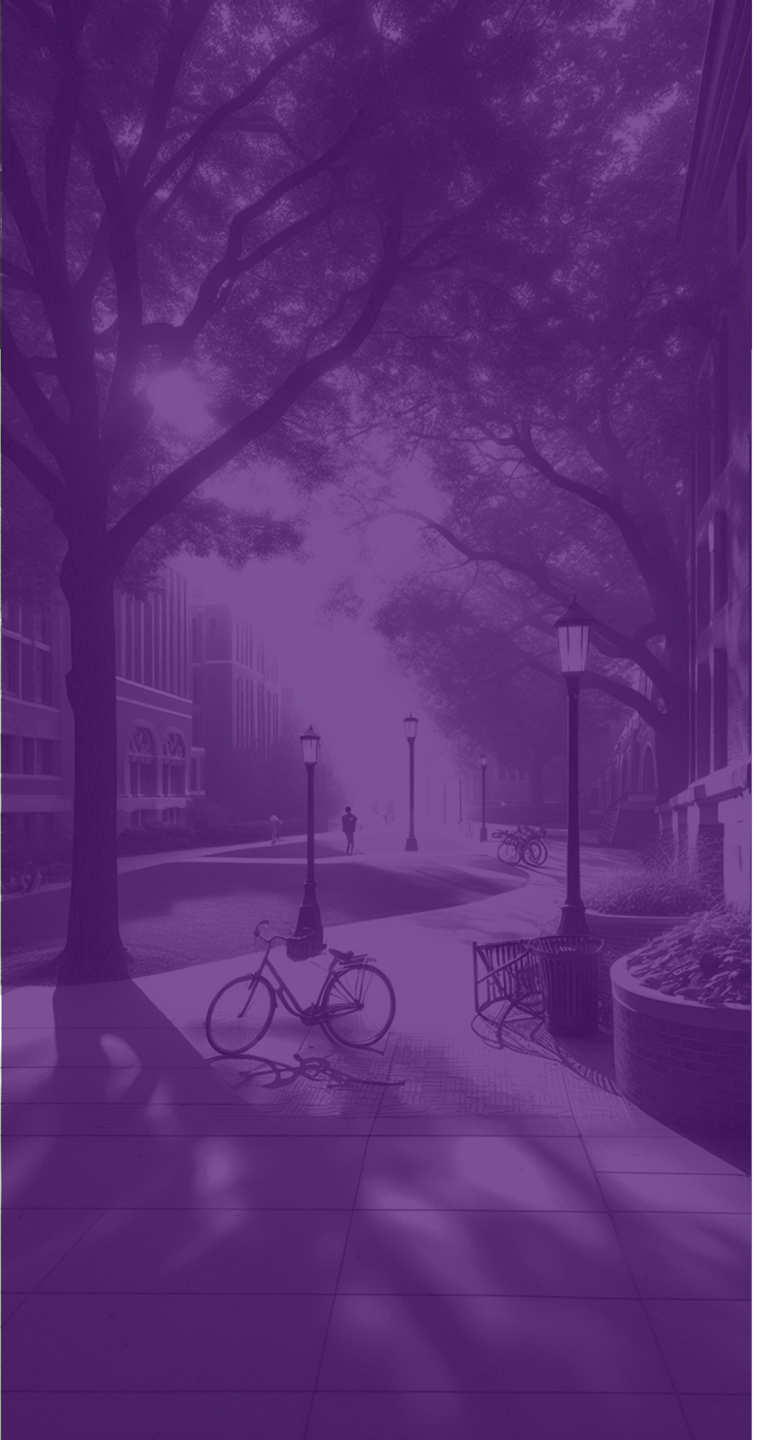
Due to recent changes in the student loan landscape, many schools are revisiting the viability of preferred lender arrangements. In 2025, Congress passed the One Big Beautiful Bill Act, which, among other things, provides that effective July 1, 2026, the Graduate PLUS loan program will be terminated and new annual and aggregate loan limits will apply to borrowers in undergraduate, graduate, and professional degree programs.[1] These changes have led many institutions of higher education to consider once again entering into arrangements with lenders to provide private education loans to their students on beneficial terms and to create preferred lender lists.

The purpose of this guide is to provide information regarding the various compliance requirements that are triggered when an institution enters into a preferred lender arrangement, including providing students a preferred lender list. We observe that there are certain foundational disclosure requirements that an institution must satisfy if it is providing students with information relating to private education loans, even if it is only providing that information in the form of a historical lender list. We emphasize that this guide does not cover those foundational requirements, which are detailed at 34 C.F.R. § 601.11 (Private education loan disclosures and self-certification form). This guide covers the incremental compliance requirements that result from entering into a preferred lender arrangement.

We also observe that this guide focuses only on the requirements for institutions. It does not cover the similar but separate disclosure requirements that apply to institution-affiliated organizations that enter into preferred lender arrangements.[2]

[1] See Public Law 119-21 (July 4, 2025).

[2] An institution-affiliated organization is any organization that is directly or indirectly related to the institution and may include an institution's alumni, athletic, foundation, social, academic, or professional organizations. An institution-affiliated organization does not include any lender with respect to any education loan secured, made, or extended by such lender. 34 C.F.R. § 601.2(b).



The AHEAD Committee

AHEAD: Outcome

- The AHEAD Committee reached consensus on issues relating to both Pell grants and accountability.
- ED published its Final Rule on Pell grants on May 13, 2026, and it is (mostly) effective July 20, 2026.
- ED published the Final Rule on Accountability on July 1, 2026, which is effective on July 1, 2027.

29254 Federal Register / Vol. 91, No. 96 / Tuesday, May 19, 2026 / Rules and Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 600, 668, and 690

[Docket ID ED–2026–OPE–0133]

RIN 1840–AD99

Accountability in Higher Education and Access Through Demand-Driven Workforce Pell: Pell Grant Exclusion Relating to Other Grant Aid; and Workforce Pell Grants

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final rule.

SUMMARY: The Secretary of Education (Secretary) amends the regulations governing institutional eligibility, general provisions, and the Federal Pell Grant (Pell Grant) Program under title IV of the Higher Education Act (HEA) of 1965, as amended (the title IV, HEA programs). The final regulations implement statutory changes to the title IV, HEA programs included in the Working Families Tax Cuts Act (WFTCA), signed into law by President Trump on July 4, 2025. In the NPRM, we referenced the WFTCA as the "One Big Beautiful Bill"; however, for clarity and consistency in this final rule, we will instead use WFTCA. The WFTCA made numerous changes to the HEA, including changes to student eligibility requirements for the Pell Grant Program and the establishment of Workforce Pell Grants for students who enroll in a new type of eligible program called an "eligible workforce program," intended to be a high-quality, performance-based, short-term program that supports America's workforce needs.

DATES: This rule is effective July 20, 2026, except for amendatory instructions 10 and 13, which are effective May 19, 2026.

FOR FURTHER INFORMATION CONTACT: Aaron Washington, Office of Postsecondary Education, 400 Maryland Ave. SW, 5th Floor, Washington, DC 20202. Telephone: (202) 987–0911. Email: *aaron.washington@ed.gov*.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

A brief summary of these final regulations is available at *www.regulations.gov/docket/ED-2026-OPE-0133*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Abbreviations

Department of Education (Department)
Working Families Tax Cuts Act (WFTCA)
Secretary of Education (Secretary)
Federal Pell Grant (Pell Grant) Program
Title IV of the Higher Education Act (title IV, HEA)
Cybersecurity and Infrastructure Security Agency (CISA)
Cost of Attendance (COA)
Inspector General (OIG)
Department of Labor (DOL)
Federal Information Technology Acquisition Reform Act (FITARA)
Eligibility and Certification Approval Report (ECAR)
Eligible Training Provider List (ETPL)
State Authorization Reciprocity Agreement (SARA)
Historically Black Colleges and Universities (HBCUs)
Tribal Colleges and Universities (TCUs)
Hispanic-Serving Institutions (HSIs)
Workforce Innovation and Opportunity Act (WIOA)
Prison Education Program (PEP)
Classification of Instructional Programs (CIP)
Online Program Management (OPM)
On-the-Job Learning (OJL)

II. Executive Summary

The Secretary codifies two changes made to the HEA by the WFTCA through these regulations. The two changes are:

1. *Pell Grant Ineligibility When Other Aid Covers Full Cost.* The WFTCA prevents students from qualifying for Pell Grant funds during any period for which they also receive grant or scholarship assistance from non-Federal sources—including States, eligible institutions, or private sources—that equals or exceeds their cost of attendance (COA) for such period.

2. *Workforce Pell Grants.* The WFTCA allows students to receive Pell Grants for eligible workforce programs that are 150–599 clock hours in length or an equivalent number of credit hours and that take at least 8 weeks but less than 15 weeks of instructional time to complete (also referred to as "Workforce Pell Grants"). The WFTCA establishes several other eligibility requirements for such programs, including approval by a Governor and the Secretary, and annual outcome metrics.

1. Summary of Major Provisions of This Regulatory Action Pell Grant Ineligibility When Other Aid Covers Full Cost

These final regulations:

- Unreserve § 690.5 and add language to prohibit a student from receiving a Pell Grant if the student received grant or scholarship assistance from non-Federal sources that equals or exceeds the student's COA for the award year.
- Add § 690.80(d) to require an eligible institution, in such cases where a student would receive non-Federal grant or scholarship assistance that equals or exceeds the student's COA, either to reduce that student's non-Federal grant or scholarship assistance, insofar as such grant or assistance is within the institution's control, or to return all Pell Grant funds disbursed to the student for the award year (if any funds are still undisbursed) and cancel any future disbursements of such funds.

Workforce Pell Grants

These final regulations:

- Amend § 600.10 to require the Secretary's approval of each eligible workforce program in order to establish Pell Grant eligibility.
- Amend § 668.5 to limit the amount of an eligible workforce program that can be offered by an ineligible institution or organization through a written arrangement to 25 percent or less, unless the written arrangement is part of a Registered Apprenticeship.
- Amend § 668.8 to add eligible workforce programs as a new type of Pell Grant eligible program.
- Amend § 668.20 to prohibit an eligible institution from taking into account any noncredit, remedial, or reduced credit remedial coursework outside of required coursework (including a course in English as a second language) when determining enrollment intensity and COA for a student enrolled in an eligible workforce program, as defined under 34 CFR 690.92.
- Amend § 668.32 to prohibit an individual that is enrolled or accepted for enrollment in a program that leads

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It’s Pell and It’s Prorated

- It is critically important to understand that Workforce Pell is not an entirely new type of Pell Grant. It is simply making existing Pell Grants available to a shorter class of program.
- This means that Pell Grants provided to students in an eligible workforce program will be prorated according to the standard Pell proration rules.
- As such, the amount of available Pell may be far less than what some in the higher education community were expecting for this opportunity.

Funding Could Be Tight

- Pell Grants are projected to begin running a deficit, which could increase to a $98 billion shortfall by FY 2035. A permanent fix to the shortfall is still needed.
- OB3 appropriates an additional $10 billion (and change) for fiscal year 2026 to address the projected Pell shortfall in the near term.
- Because “Workforce Pell” is an extension of the existing Pell Grant program, the funding for students in eligible workforce programs is coming from the same pot.

Eligibility Requirements Are Challenging

A program is an Eligible Workforce Program if:

- It is a program of at least 150 clock hours of instruction, but less than 600 clock hours of instruction, or an equivalent number of credit hours, offered by an eligible institution during a minimum of 8 weeks, but less than 15 weeks.
- It is not offered as a correspondence course.
- The Governor of a State, after consultation with the State board, determines that the program meets additional requirements.
- ED determines that the program meets additional, specified requirements, including 70/70 outcome thresholds.

The FVT/GE Rule

Disclosure and Reporting Requirements	• Includes significant reporting and disclosure requirements for all institutions.
Program Information Website	• The metrics, along with other data, would be made available to prospective and current students through a new program information website.
Two Accountability Tests for All Title IV Programs	• Requires ED to subject every Title IV program at every Title IV institution to a D/E Rates test and an Earnings Premium test.
Sanctions for GE Programs	• Only GE programs can lose Title IV eligibility.

The DNH Statutory Framework

One Accountability Test for Degree Programs and Graduate Certs

- Requires ED to subject every undergraduate degree, graduate or professional degree, and graduate certificate to an Earnings Premium test.

Loss of Direct Loans for Failing Degree Programs and Graduate Certs

- Failing programs must make warnings after one failing year and lose Direct Loan eligibility after two.

The Regulatory Framework

Disclosure and Reporting Requirements	• Largely maintains the significant reporting and disclosure requirements for all institutions included in the current FVT/GE regulation. Also, would require all institutions to report all new Title IV programs on their ECAR.
Program Information Website	• Maintains the publishing of the metrics and other data on ED's program information website, as required under the current FVT/GE rule.
One Earnings Premium Test for All Title IV Programs	• Requires ED to subject every Title IV program at every Title IV institution to an Earnings Premium test. The D/E test is eliminated.
Sanctions for All Title IV Programs	• All failing programs must make warnings after one failing year, and all failing programs lose Direct Loan eligibility after two of three years. Pell eligibility can also be lost by all failing programs if the number of failing programs exceeds certain thresholds.

Earnings Premium: Undergraduate Degree and Non-Degree Programs

- For Title IV Programs granting a **baccalaureate or lesser credential**.

Median Annual Earnings		Earnings Threshold
Median annual earnings of working completers who graduated about 4 years before the determination year	vs.	Median annual earnings of working adults aged 25-34 who only have a HS diploma or its recognized equivalent

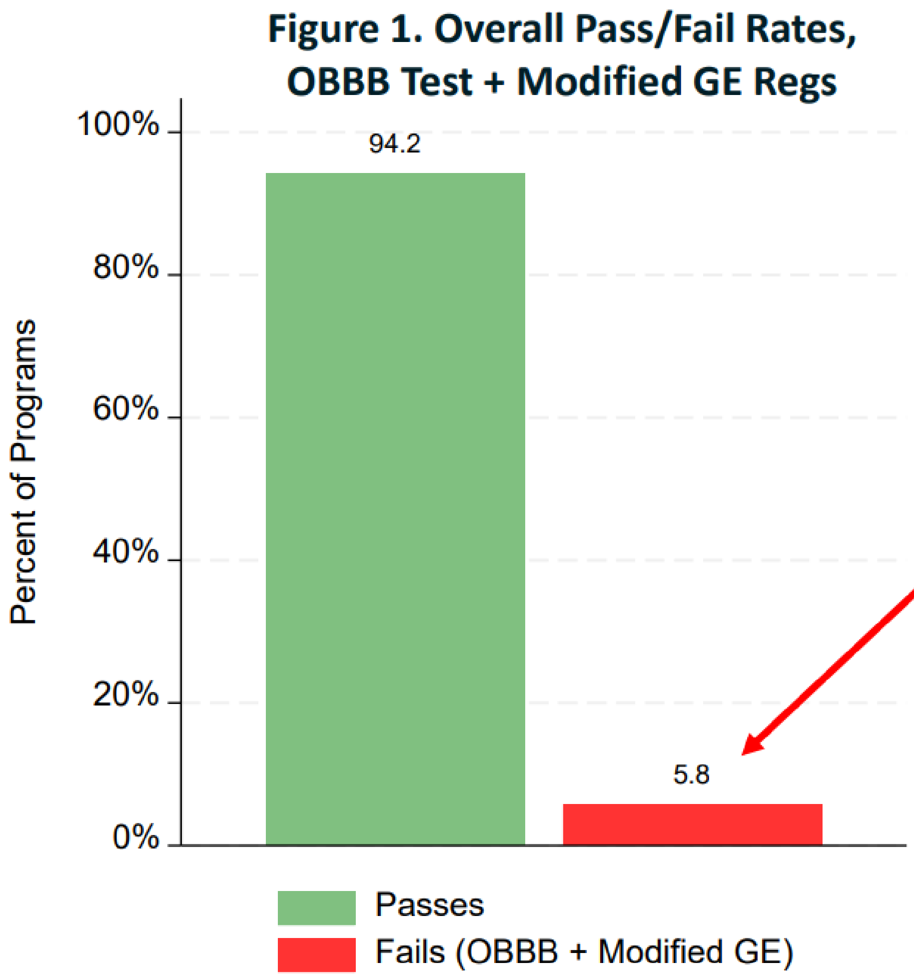
Earnings Premium: Graduate Degree Programs

- For Title IV Programs granting a **graduate or professional degree**.

Median Annual Earnings		Earnings Threshold
Median annual earnings of working completers who graduated about 4 years before the determination year	vs.	Median annual earnings of working adults aged 25-34 who have only a baccalaureate degree

Overall Pass/Fail Rate

Program-Weighted



The proposed rule would impact approximately **6%** of programs.

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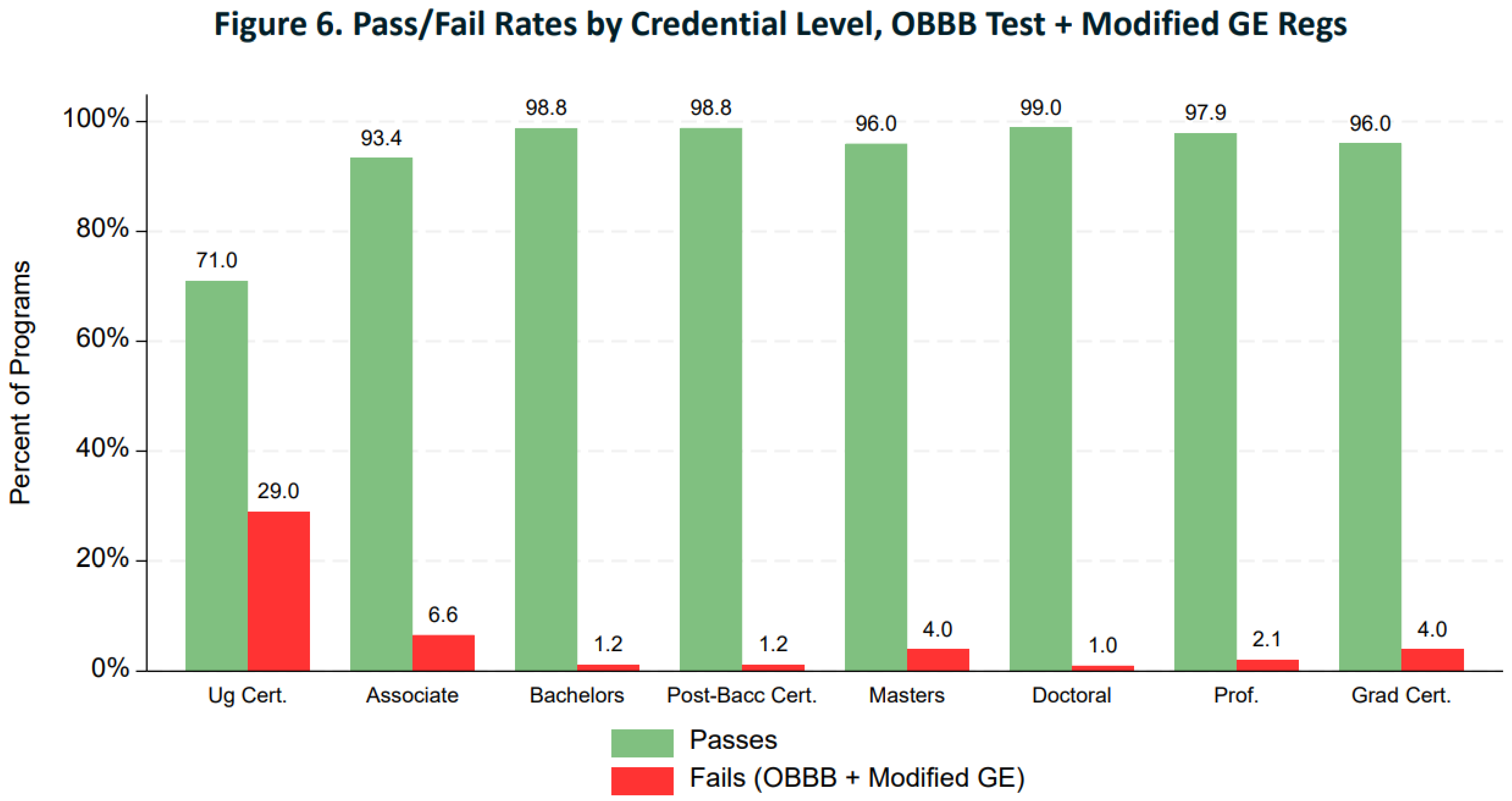
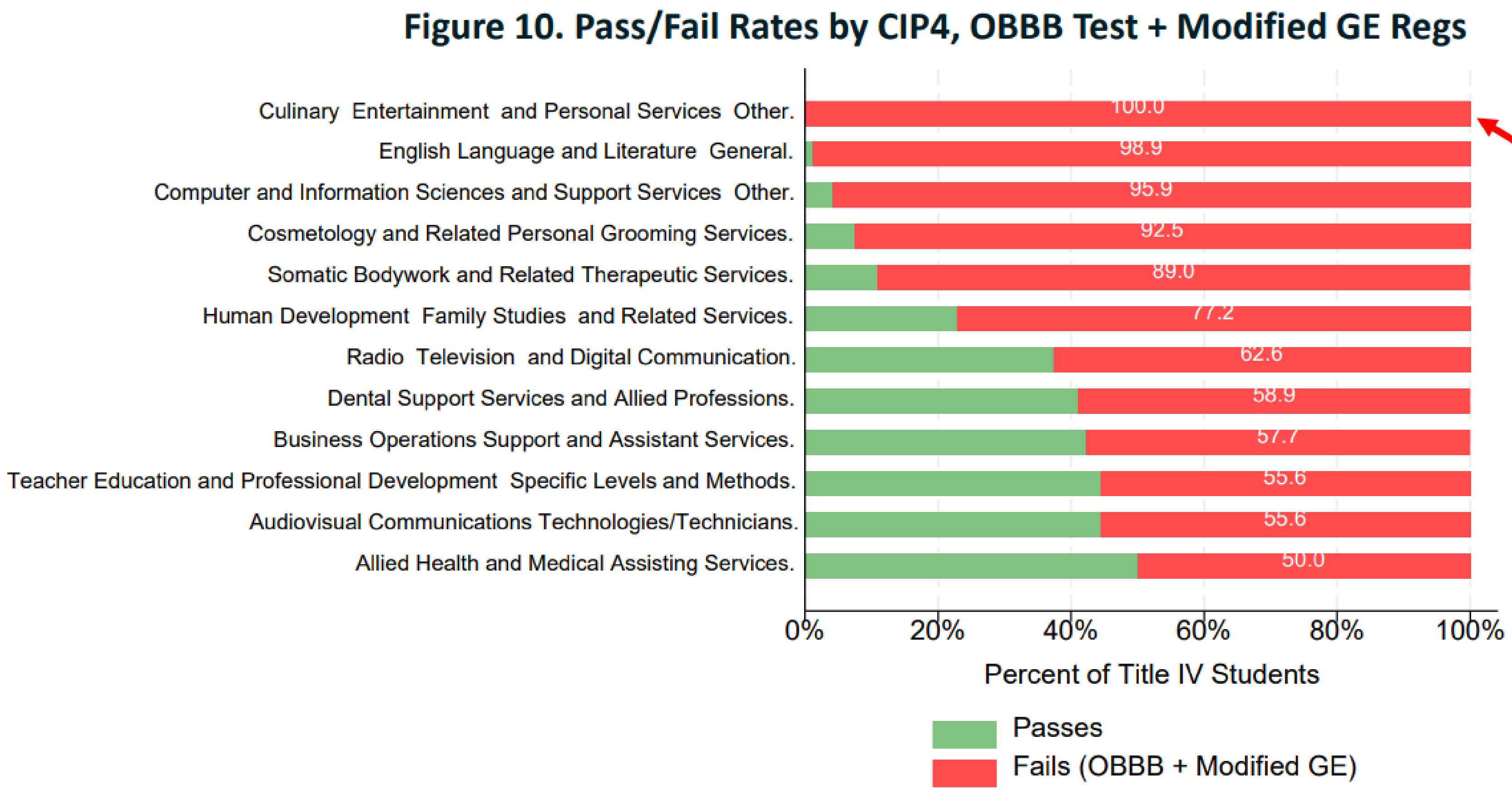
Pass/Fail Rate, by Credential Level

Program-Weighted



Most Common Undergraduate Certificate Programs That Fail

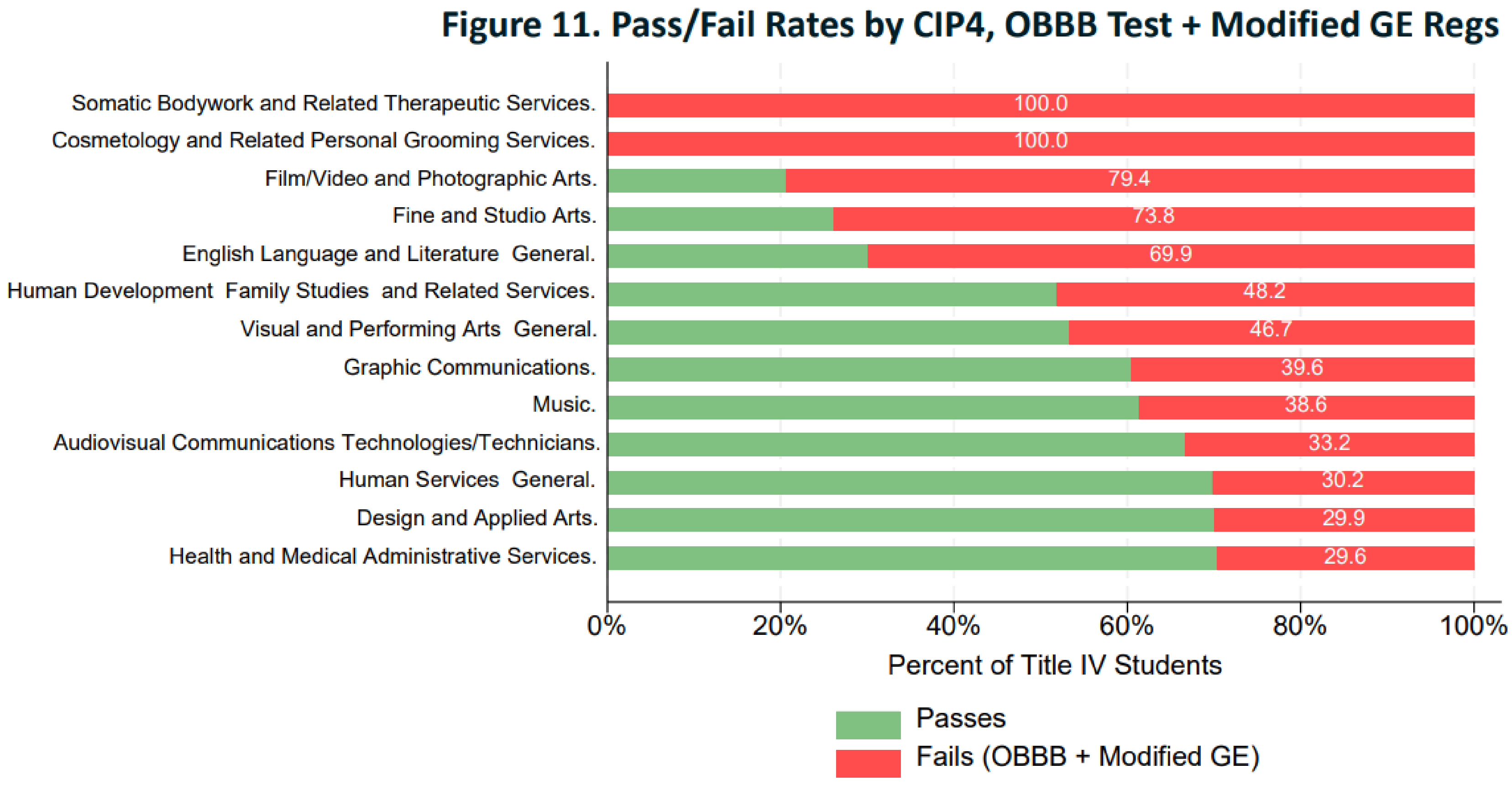
Student-Weighted



100% of Title IV students in undergraduate certificate programs in "Culinary Entertainment, Other" fail the proposed rule.

Most Common Associate Degree Programs That Fail

Student-Weighted



100% of Title IV students in associate degree programs in “Somatic Body Work & Related” and “Cosmetology & Related” fail the proposed rule.

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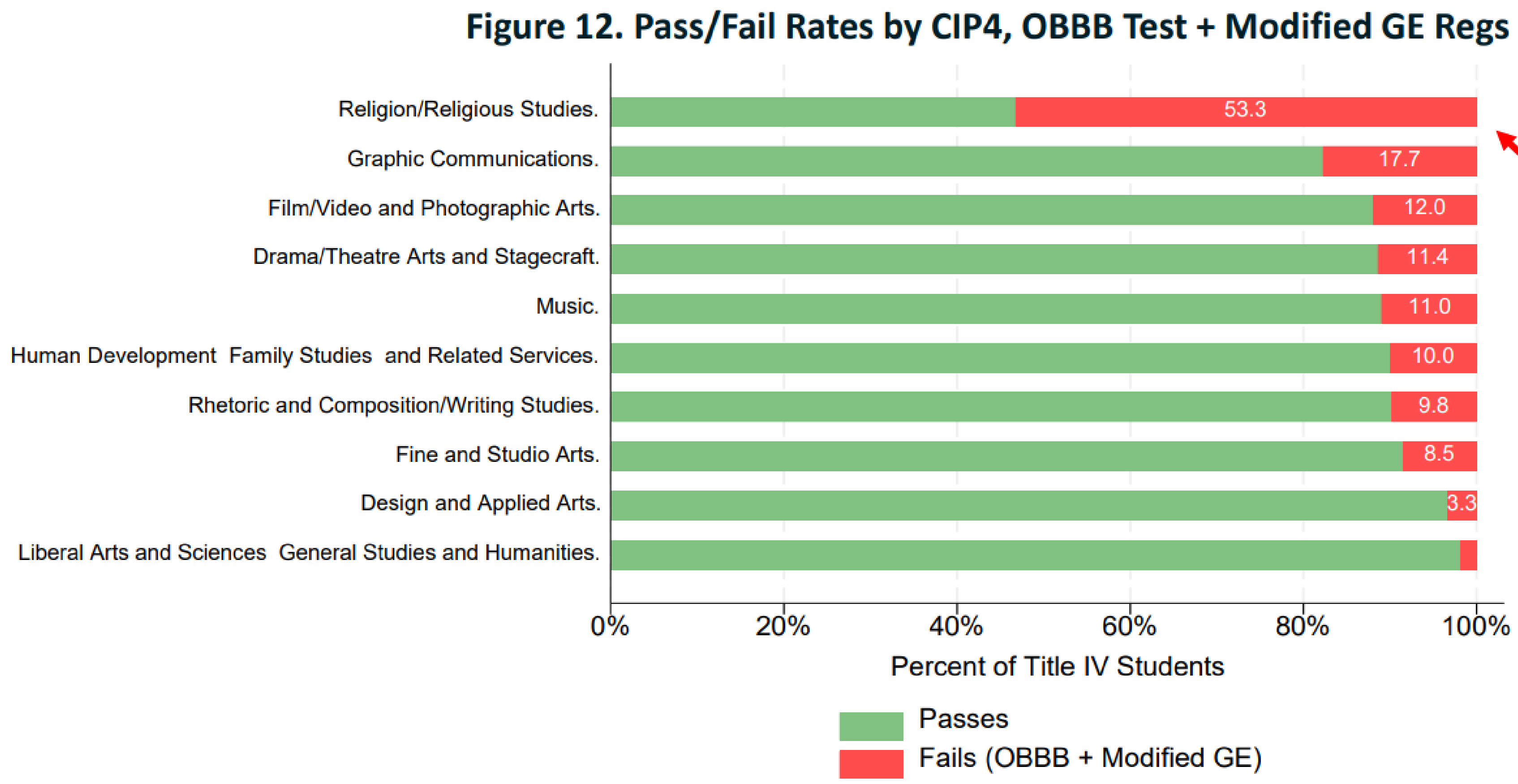
Most Common Bachelor Degree Programs That Fail

Student-Weighted

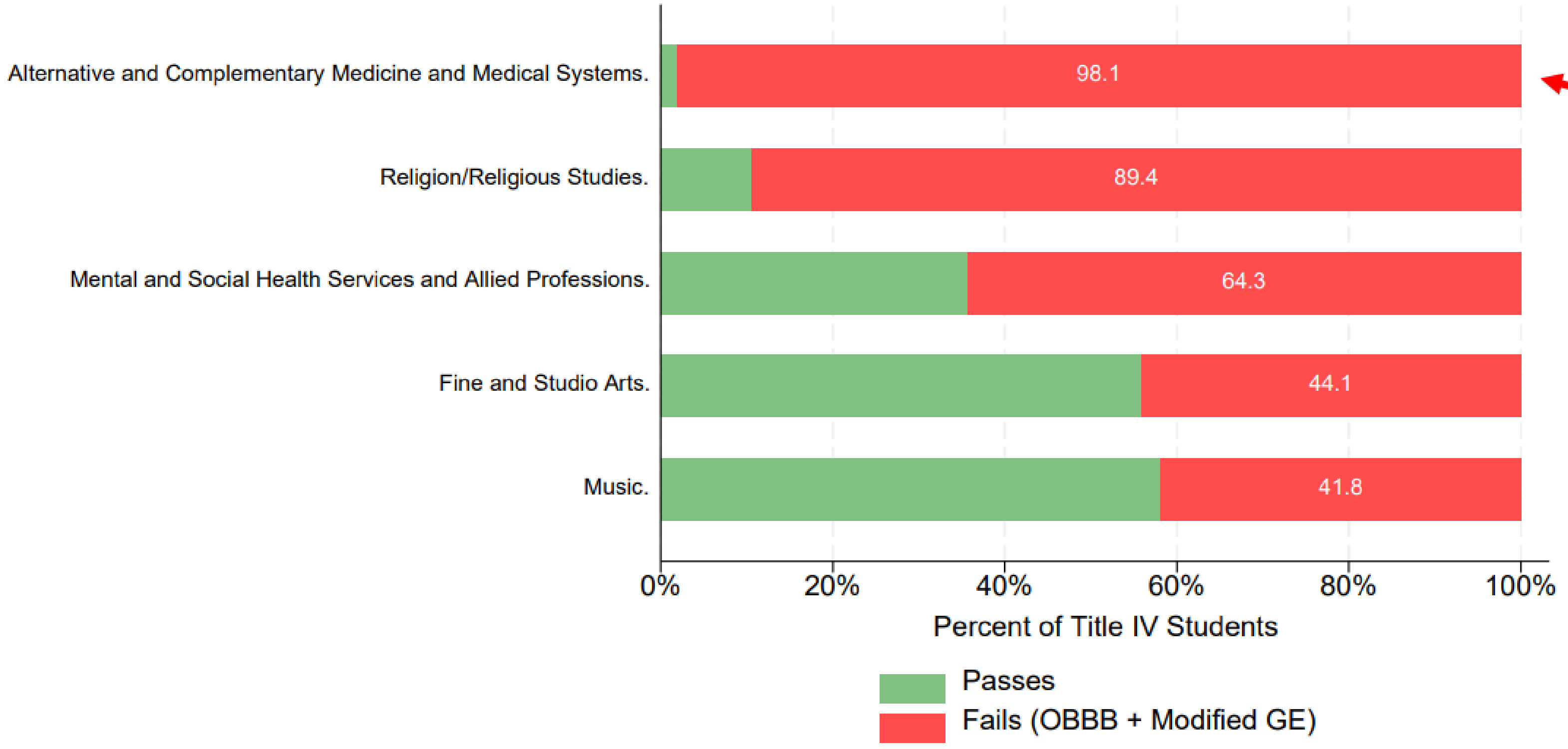


53% of Title IV students in bachelor degree programs in "Religion/Religious Studies" fail the proposed rule.

Most Common Master's Degree Programs That Fail

Student-Weighted

Figure 13. Pass/Fail Rates by CIP4, OBBB Test + Modified GE Regs



98% of Title IV students in master's degree programs in "Alternative & Complimentary Medicine" fail the proposed rule.

Where to find the PPD:26 Data Set

- Institutions can find the PPD: 26 data files on ED's "Negotiated Rulemaking for Higher Education 2025" website under the AHEAD section.
- Look under "Materials distributed by the Department Presession."
- The specific spreadsheet with the outcomes for programs can be downloaded by clicking this link.

Session 2 - Dates and Times:

January 5-9, 2026, 9:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., Eastern

Materials distributed by the Department Presession:

- Committee Agenda*
- AHEAD Session 2 Discussion Draft and Amendatory Text*
- AHEAD Session 2 Discussion Draft and Amendatory Text (Annotated)*
- AHEAD Session 2 Program Performance Data (Institution Characteristics and Completions) *
- AHEAD Session 2 Program Performance Data (Enrollments)*
- AHEAD Session 2 Program Performance Data (Financial Aid Part 1)*
- AHEAD Session 2 Program Performance Data (Financial Aid Part 2)*
- AHEAD Session 2 Program Performance Data (Financial Aid Part 3)*
- AHEAD Session 2 Program Performance Data (Debt, Earnings, and Earnings Test Metrics)*
- AHEAD Session 2 Program Performance Data Variable Codebook*
- AHEAD Session 2 Program Performance Data Fact Sheet*
- AHEAD Session 2 Program Performance Data Technical Appendix*

Materials distributed by the Negotiators Presession:

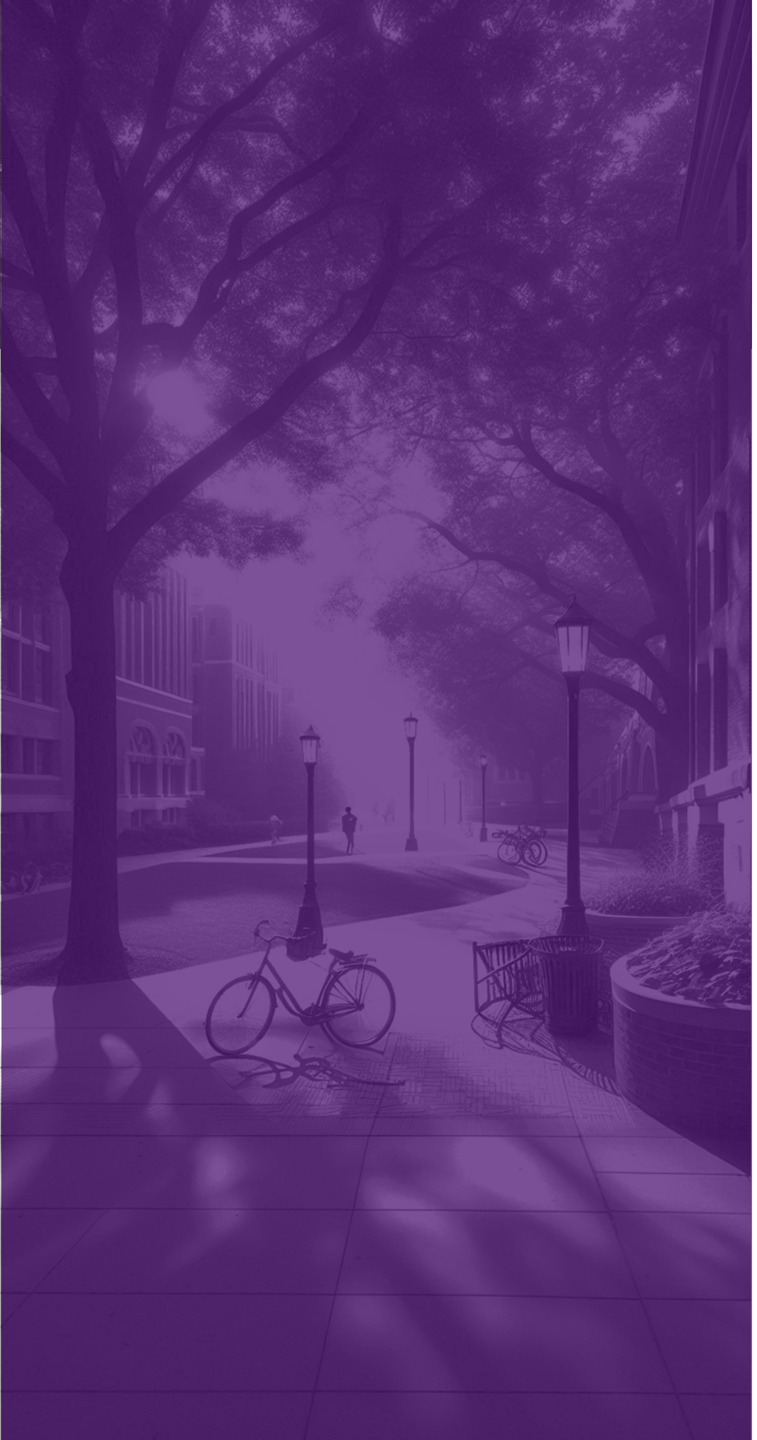
- OBBBA Accountability Framework and Licensed Professions (Submitted by Jeff Arthur)*
- Ensure Accurate Earnings Benchmarks and Methodology (Submitted by Jeff Arthur)*
- Policy Recommendations for an Undergraduate Certificate Program Accountability Framework (Submitted by D Cariello)*
- Military Affiliated Students Proposal Summary_02JAN26 (Submitted by Matt Feehan)*
- Memo_Requested Change to Variable Codebook (Submitted by Eric Atchison)*
- Memo_Proposal for Publishing Calendar Time to Complete a Program of Study (Submitted by Eric Atchison)*

Materials distributed by the Department Day 1:

- Explanation of Earnings Test and GE Changes*
- Process for Aggregating Small Programs*
- Definitions from ACS Data*
- Results of Earnings Test and GE Changes*

Institutional Action Plans

- Initiate conversations among institutional leadership, legal counsel, academics and others to begin developing a compliance plan for this rule.
- Determine which programs, if any, may fail the new earning premium test, and develop a plan for managing failing programs (replacement programs, institutional or private funding).
- Integrate earnings analysis into program development process.
- Comment on the proposed rule.



The AIM Committee

April 23 Higher Ed Executive Orders

- Transparency Regarding Foreign Influence at American Universities
- Reforming Accreditation to Strengthen Higher Education
- White House Initiative to Promote Excellence and Innovation at HBCUs
- Preparing Americans for High-Paying Trade Jobs of the Future
- Restoring Equality of Opportunity and Meritocracy

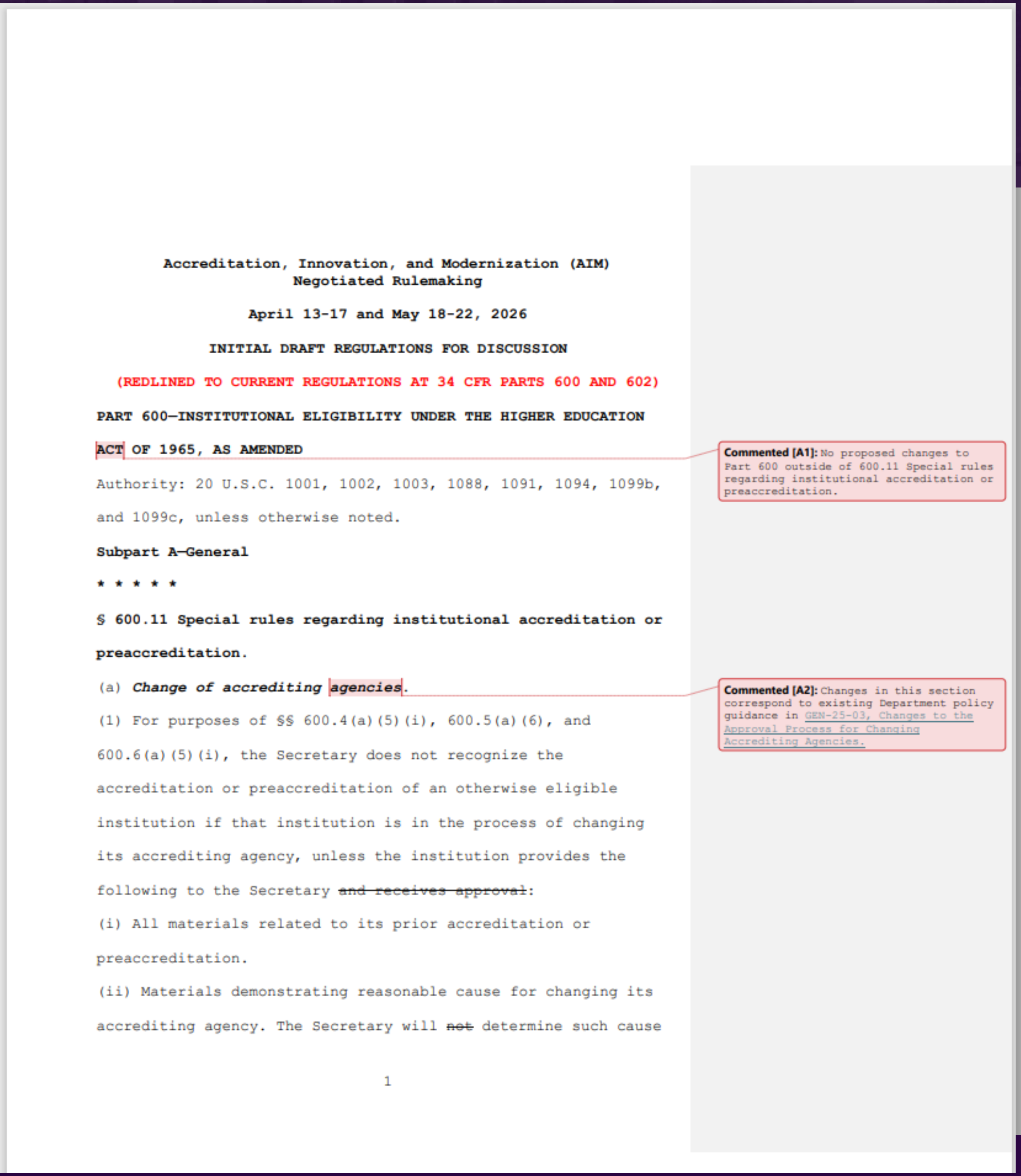
Accreditation Executive Order

- In the April 23 EO criticizing accreditors, the President accused accreditors of failing in their “responsibility to students, families, and American taxpayers” and abusing “their enormous authority.”
- The EO references poor student outcomes and rising debt and asserts that “accreditors have remained improperly focused on compelling adoption of discriminatory ideology, rather than on student outcomes.” The EO states that “federal recognition will not be provided to accreditors engaging in unlawful discrimination in violation of Federal law.”

Executive Order 14279, 90 Fed. Reg. 17529 (April 28, 2025).

AIM: Rulemaking

- On January 27, 2026, ED published its Intent to Establish Negotiated Rulemaking Committee, announcing its plans to establish the Accreditation, Innovation, and Modernization (AIM) Committee.
- The AIM Committee met April 13-17 and May 18-22.
- Materials, including the initial draft regulations and comments from Committee members throughout the negotiations can be found here.



Accreditation, Innovation, and Modernization (AIM)
Negotiated Rulemaking

April 13-17 and May 18-22, 2026

INITIAL DRAFT REGULATIONS FOR DISCUSSION

(REDLINED TO CURRENT REGULATIONS AT 34 CFR PARTS 600 AND 602)

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

Authority: 20 U.S.C. 1001, 1002, 1003, 1088, 1091, 1094, 1099b, and 1099c, unless otherwise noted.

Subpart A—General

* * * * *

§ 600.11 Special rules regarding institutional accreditation or preaccreditation.

(a) *Change of accrediting agencies*.

(1) For purposes of §§ 600.4(a)(5)(i), 600.5(a)(6), and 600.6(a)(5)(i), the Secretary does not recognize the accreditation or preaccreditation of an otherwise eligible institution if that institution is in the process of changing its accrediting agency, unless the institution provides the following to the Secretary ~~and receives approval~~:

(i) All materials related to its prior accreditation or preaccreditation.

(ii) Materials demonstrating reasonable cause for changing its accrediting agency. The Secretary will ~~not~~ determine such cause

1

Commented [A1]: No proposed changes to Part 600 outside of 600.11 Special rules regarding institutional accreditation or preaccreditation.

Commented [A2]: Changes in this section correspond to existing Department policy guidance in GEN-25-03, Changes to the Approval Process for Changing Accrediting Agencies.

AIM: Topics Covered

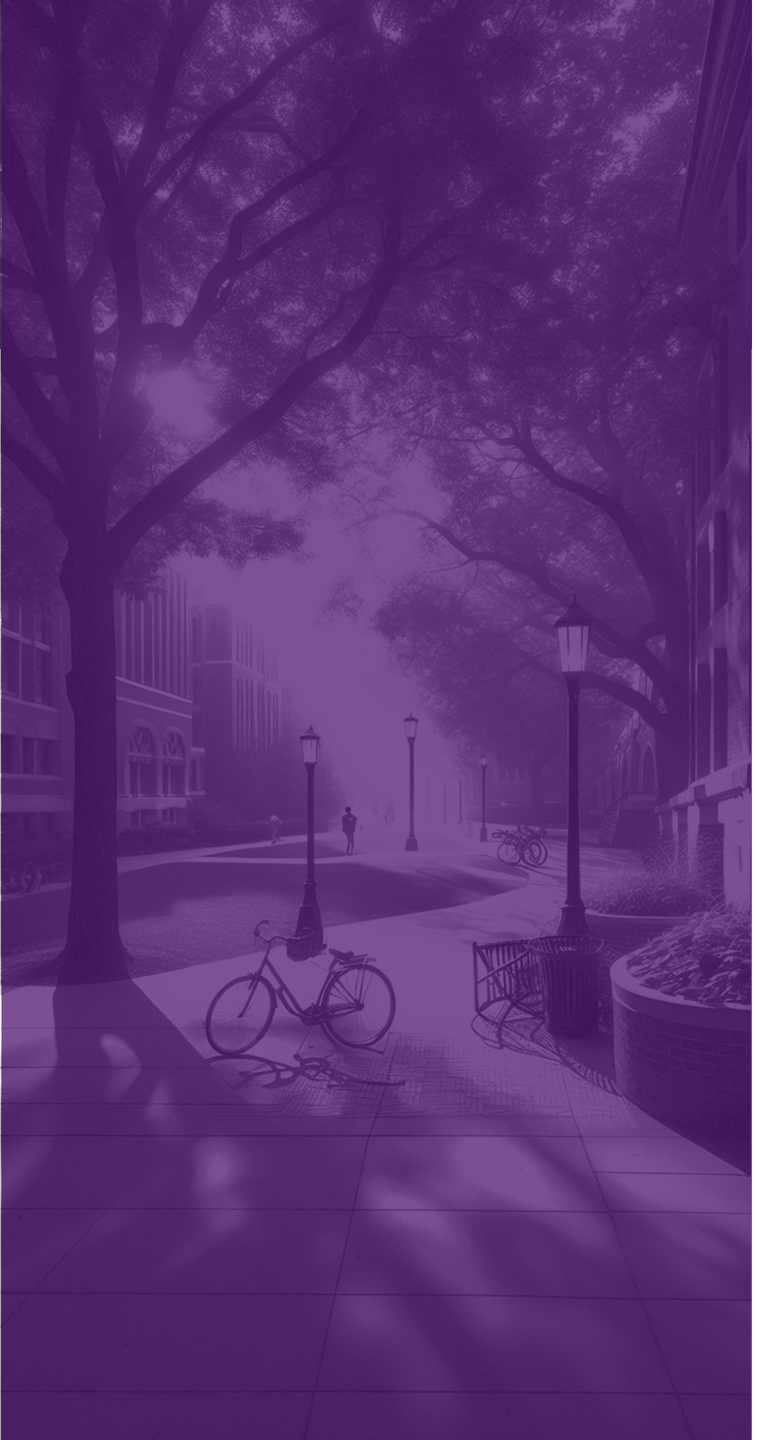
- Recognition of new accrediting agencies that increase competition and institutional choice.
- Procedures for institutions to change accrediting agencies so that institutions are not forced to comply with standards that are antithetical to their values and missions.
- Emphasizing criteria and standards requirements that effectively focus on student achievement and outcomes, high educational quality, and high-value programs and removing criteria that are anti-competitive, discriminatory, or which contribute to credential inflation and escalating tuition costs.
- Requiring all accrediting agencies and associations to have standards that consider program-level student achievement and outcomes data to improve such outcomes without reference to race, ethnicity, or sex.

AIM: Topics Covered

- Ensuring that accrediting agency procedures for taking action on noncompliance findings resulting from OCR investigations under Title VI or Title IX provide for expeditious resolution and actions.
- Review of the role that accrediting agency standards have played in promoting violations of Federal law, including unlawful discrimination by member institutions under the guise of accreditation standards for DEI.
- Expansion of current regulations on accreditation standards for faculty to include support for and appropriate prioritization of intellectual diversity amongst faculty in order to advance academic freedom, intellectual inquiry, and student achievement and learning outcomes.

AIM: Politicized, Spirited, Consequential

- ED specifically included a primary and alternative negotiator selected from the current membership of NACIQI on the Committee.
- During the President's campaign, he observed that accreditation would be the "secret weapon" for reclaiming higher education from the "radical left."
- In opening remarks for the Rulemaking, Undersecretary Kent indicated that accrediting agencies unwilling to accept federal reform may sever their relationship with ED.
- The negotiators ultimately reached consensus on every point.



The “Christmas Tree” Committee and Other Potential Rulemaking

"Christmas Tree" Committee and Other Expected Rulemaking

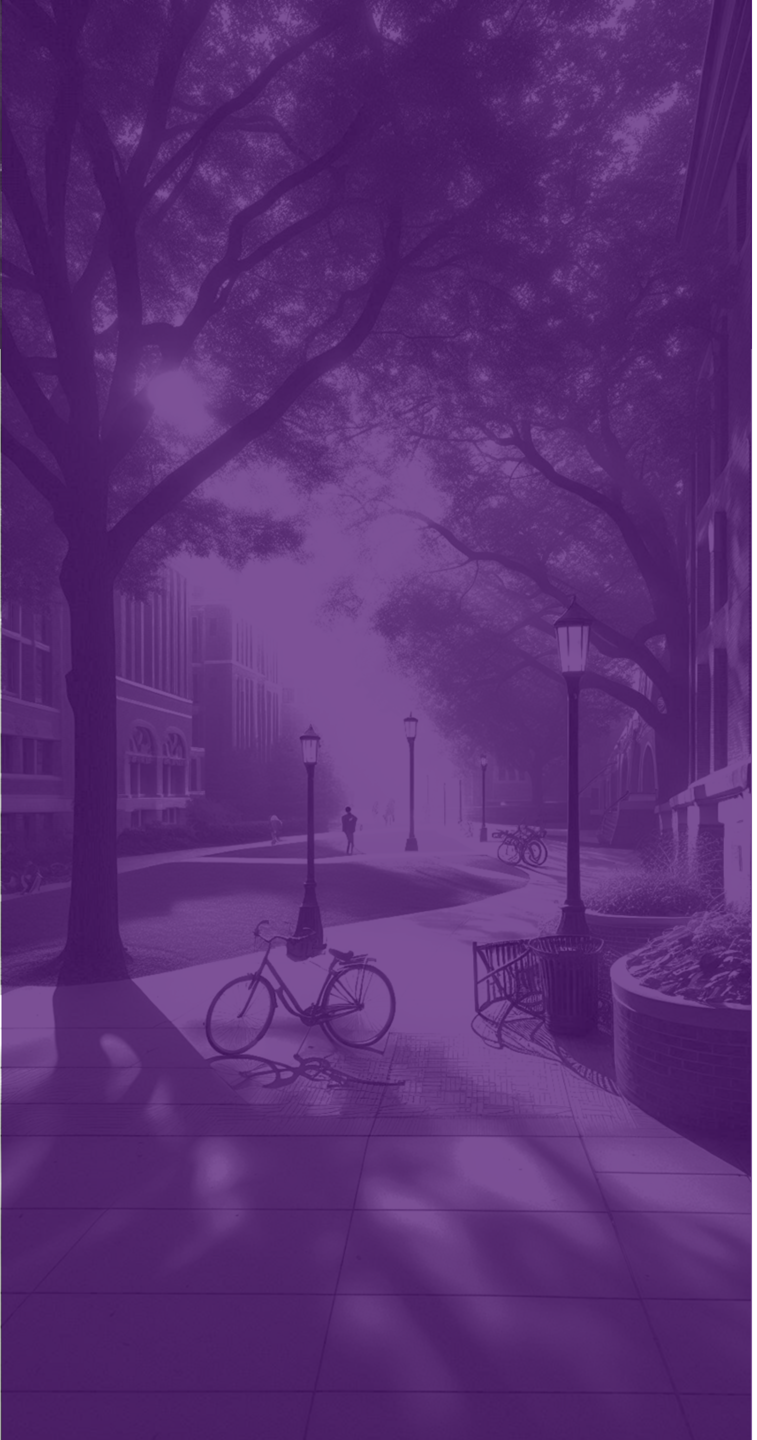
- ED says it intends to convene a rulemaking committee "to address Title IV eligibility issues to remove requirements that unnecessarily target faith-based or for-profit institutions and interfere with efficient and beneficial mergers, sales, and transfers of institutions of higher education."
- Expected topics for negotiation "include rules governing change of ownership, cash management, administrative capability standards, and financial responsibility requirements."
- Under Secretary Kent has made clear that ED does not intend to take on changes to financial responsibility score calculation.

“Christmas Tree” Committee and Other Expected Rulemaking

- ED will “remove” non-statutory 90/10 provisions regarding non-federal funds “that give public and nonprofit institutions a competitive advantage.”
- Other rules that may be reconsidered during this rulemaking include the PPA signatory requirement and the Bare Minimum rule.
- It’s also possible the new-ish definition of “distance education course” could be revisited, along with the rules around determining a student’s location.

“Christmas Tree” Committee and Other Expected Rulemaking

- Reducing Anti-Competitive Regulatory Barrier – Intended to Implement Executive Order 14267 on anti-competitive regulations
  - Set textbook packaging rules to spur competition among booksellers
  - Improve transferability of college credits
- Documentation of Foreign Source Gifts and Contracts
- FERPA
  - Update and clarify current regulations
  - Clarify “education record” and rules for non-consensual disclosure
  - Update procedures regarding enforcement



REGucation

(TC’s Free Resources Platform)

REGucation | TC’s Free Resources Platform

As part of our ongoing commitment to the postsecondary community, Thompson Coburn’s higher education practice routinely creates complimentary resources designed to assist institutions with navigating the legal complexities of the higher education sector. We have collected a number of these resources on this page, including our most recent webinars, training series, desk guides, whitepapers, blog posts, and litigation summaries. We hope you find these resources helpful, and if you have any questions, please contact a member of our team.

Compliance Resources ↘

Webinars/Training Resources ↘

Blog Posts ↘

Litigation Summaries ↘