

TEACH-OUT PROPOSAL

Submitted by Aaron Lacey | Private Nonprofit Institutions | January 7, 2026

This document proposes a teach out framework to be included in the draft rule presented to negotiators by the U.S. Department of Education on December 29, 2025. This draft rule would implement the accountability framework included in the “One Big Beautiful Bill Act,” which was signed into law on July 4, 2025, and became Public Law No. 119-21.¹ This statutory accountability framework, sometimes referred to as the Do No Harm (“DNH”) framework, is located in Section 454 of the Higher Education Act of 1965 (20 U.S.C. § 1087d).

The Proposed Teach Out Framework

We propose creating a voluntary teach-out option for institutions with a program that fails the accountability test once, meaning that the program has been notified by the Department that it has failed the earnings premium test. Salient points of the proposal are as follows:

- At the time an institution is notified by the Department that a program has failed the earnings premium test for the first time, the institution would be given a set period of time to elect to voluntarily teach out the program. We would suggest that this period be 120 days, to afford the institution sufficient time to assess the long-term viability of the program and to make informed decisions regarding whether to enter into a teach out.
- If the institution does not elect the teach-out option within the required time frame, the program continues to be subject to the existing regulatory framework.
- If the institution does elect the teach-out option, it would be required to timely execute an addendum to its Program Participation Agreement (PPA) with the Department.
- The PPA Addendum would require the institution to immediately cease new enrollments (all enrollments, not just Title IV enrollments) in the program and to timely file a teach out plan for the program with its accreditor that satisfies any applicable state, accreditor, and federal requirements for program teach outs.
- The PPA Addendum also would provide that at the completion of the teach out, the program would be treated the same as any program that has failed the earnings premium twice in a three-year period. For example, the program would be subject to any “period of ineligibility” requirements applicable to such programs, including the ineligibility of substantially similar programs, which would run from the date the teach out was completed.
- If the institution were to violate the terms of the addendum, it would be in violation of its PPA and subject to the full range of actions available to the Department.
- The institution would make all required student warnings upon notification that the program failed the first year, without regard to whether it elected this teach out option.
- The Department, for its part, would continue to collect all data and calculate the annual median earnings rate for the program.
- If the program failed any year during the teach out, the Department would not initiate any termination or other action under subpart G.

¹ This document has been prepared and submitted by Aaron Lacey, primary negotiator representing private nonprofit institutions of higher education, including institutions eligible to receive Federal assistance under Title III and Title V of the HEA, Tribal Colleges and Universities, and Historically Black Colleges and Universities.

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- If the program passed any year during the teach out, it would not be permitted to reverse the teach out.

Statutory Harmonization

The DNH framework obligates the Department to calculate the median annual earnings for programs and to determine whether those programs are “low-earnings outcome programs.” The DNH framework does not, however, obligate the Department to initiate a termination action, or to take any action, following a determination that a program is a low-earnings outcome program (meaning it has failed 2 out of 3 years). Instead, the statute prohibits institutions from funding such programs. Specifically, the statute provides that “an institution of higher education subject to this subsection shall not use funds under this part for student enrollment in [low-earnings outcome program].”²

We believe that the Department can reasonably take the position that an institution that has signed the PPA Addendum, ceased all new enrollments, and entered into an approved teach out of the program is no longer using Direct Loans “for student enrollment” in the program, as contemplated in the statute. The Department would continue to fulfill its obligations under the statute by each year calculating the median annual earnings and reaching a determination regarding whether the program was a low-earnings outcome program. And the institution would remain compliant with the statutory restriction because even if the program failed twice and it was determined to be a low-earnings outcome program, it would not be deemed to be using Direct Loans “for student enrollment.”

The Rationale

Under the current draft rule, it is possible that students in programs that exceed two years in length could lose access to Direct Loans before they are able to complete their programs. The purpose of this proposal is to create a pathway for those students to complete their program and to afford institutions a structured path to wind down failing programs that cannot function without Title IV aid. We believe this proposal would benefit multiple parties:

- Students would benefit because it allows them to complete their program with funding, if they so desire. In some cases, institutions may still be able to offer programs that lose Direct Loan access, and they may also be able to offer the programs at a discounted rate to accommodate students who lose loan funding. But in many cases, institutions will not be able to continue to offer a program that loses Direct Loan access. And even in those cases where they are able to continue offering the program, if the institution is unable to discount the program, students may not be able to finance the remainder of their education. This proposal would permit institutions to teach out the program, significantly increasing the likelihood that students will be able to complete their education. As was discussed today during negotiations, data shows that when a student drops out, there is a marked increase in their risk of default and of never completing a college program in the future.
- Institutions would benefit because having this option available would allow them to take the proactive, responsible step of winding down programs that are at risk of losing Direct Loan eligibility while ensuring that currently enrolled students have the ability to complete their desired program.

² 20 U.S.C. § 1087d(c)(1).

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- This proposal will also protect student veterans, servicemembers, and their dependents who, like traditional students, have in the past been left with very little options when their institution had lost eligibility, and this will further encourage collaboration between VA, DoD, and ED on higher education.
- Taxpayers would benefit because institutions would be incentivized to cease enrollment in at risk programs a year earlier. The total period during which new students would not be enrolled would also be increased, as it would include the years of the teach out, as well as the period of ineligibility. Taxpayers would further benefit from students completing their programs of study, which would increase the likelihood of students repaying their federal student loans, reducing the government's subsidy cost directly.
- The Department of Education would benefit because this agreement would not substantially change the processes under the accountability framework – they would continue to collect and calculate the same data for the same programs. And it would create an “off-ramp” for programs that minimizes disruption to students and maximizes the long-term financial return of federal student loans.