

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

**From:** Tamar Hoffman and Zoe Kemmerling, representing legal assistance organizations that represent students and borrowers, consumer advocates, and civil rights groups that represent students; Eric Atchison and Magnus Noble, representing students who receive Title IV aid.

**Re:** Debt-to-Earnings Standards for Gainful Employment Programs

**Date:** January 5, 2026

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The Department’s proposed regulations establishing accountability for gainful employment (GE) and other programs entirely withdraw a valuable measure of return on investment: programs’ typical debt levels among graduates, relative to their earnings. The Department also noted that it would like to discuss with negotiators the “positive and negative consequences” of eliminating these debt-to-earnings (DTE) rates; to that end, we submit this memo as documentation of the overwhelmingly negative impacts on students and taxpayers of revoking this accountability standard.

### **The Debt-to-Earnings Standards**

Since the Department began considering accountability measures under the gainful employment authority, its rules have incorporated very similar measures of debt relative to earnings.<sup>1</sup> Under the 2023 regulation – which remains in effect today – a program fails the debt-to-earnings standard if its median annual debt service is greater than 20 percent of its median discretionary earnings (median earnings minus 150 percent of the federal poverty level) and greater than 8 percent of its median earnings, provided the typical debt load is greater than zero. (34 CFR Subparts Q and S.)

Importantly, the One Big Beautiful Bill Act (OBBBA) left the gainful employment rules -- including the debt-to-earnings standards for those programs -- intact. While a previous version of the reconciliation bill would have eliminated the 2023 GE rule while instating a new accountability framework, the final version of the law excluded that earlier proposal and allowed the GE rule to remain in place, as-is. Senate Health, Education, Labor, and Pensions (HELP) Committee lawmakers affirmed that intention in a Frequently Asked Questions [document](#) published shortly after the law was passed, which noted that the gainful employment regulation would remain in place to cover undergraduate certificate programs. Given that, the more legally viable option -- with a stronger policy impact, greater protection for students, and greater savings for taxpayers -- is to leave the GE rule in place, unchanged. But if the Administration is not open to that option, as it suggests in the proposed rules, the Department should at least retain the debt-to-earnings standards from the rule.

### **Why Is a Debt-to-Earnings Standard Important?**

These standards carry significant benefits to students and taxpayers, and eliminating them would carry considerable costs and consequences. The Department [wrote](#) in the 2023 rule that programs that fail the

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<sup>1</sup> I.e., the 2011, 2014, and 2023 gainful employment rules all include a debt-to-earnings standard for programs.

proposed DTE standards (whether GE or non-GE programs) account for just 4.1 percent of federally aided students, but nearly three times as many – 11.2 percent – who default on their loans within just three years of entering repayment.

Though the 2023 GE rule used a different earnings premium measure than the OBBBA and these proposed rules do, Table 3.8 in the NPRM of the 2023 rule reveals an important detail: **Whereas the earnings premium is especially effective in identifying low-value programs in the undergraduate certificate sector, the debt-to-earnings standard is more critical at higher credential levels.** Earnings are typically higher for those with degrees that took longer, but those earnings cannot be considered sufficient if the credential comes with excessively burdensome debt loads. We are particularly concerned that removing a debt-to-earnings standard may send a signal to institutional leaders that -- as long as their programs can keep their typical graduates' earnings above the new benchmark -- they can charge tuition even at excessively high levels. This could undermine the OBBBA's accountability framework, as well as the goals of the GE rules, by enabling colleges to keep tuition costs and debt levels high, backed by Title IV dollars and at the expense of taxpayers and students.

The data in the NPRM suggest that programs failing the DTE rate, but passing the GE 2023 earnings premium, are concentrated in the GE sector. While fewer than 3 percent of federally aided students are in such programs across the entire higher education system, 9 percent of those in GE programs are. And as the Department has previously [said](#), **GE programs enroll only about 15 percent of students receiving federal financial aid, but half of students across higher education who are enrolled in programs that leave graduates with unaffordable levels of debt, and 66 percent of those who defaulted on their loans within three years.**

While the Department's proposal emphasizes the importance of "harmonizing" accountability across sectors, this suggests the need for greater accountability – and therefore the rationale for applying such accountability to the GE sector, consistent with the Department's current authority – is not equivalent across all types of programs. It also indicates that integrating an effective accountability framework requires consideration not just of typical graduates' earnings, but also of how much of those earnings remain *available* to the typical graduate; in other words, graduates in higher-debt programs need to earn more than graduates in lower-debt programs do to bear the burden of those loans.

### **Impact and Effectiveness of the GE Debt-to-Earnings Standards**

Though the GE rules have never had the opportunity to take effect fully, the DTE standards have still had an important impact on institutions. Research has found that even simply releasing the designation of failing programs in a single year of data, which did not affect programs' Title IV eligibility, led some institutions to adjust their practices and close down their low-value programs.<sup>2,3</sup>

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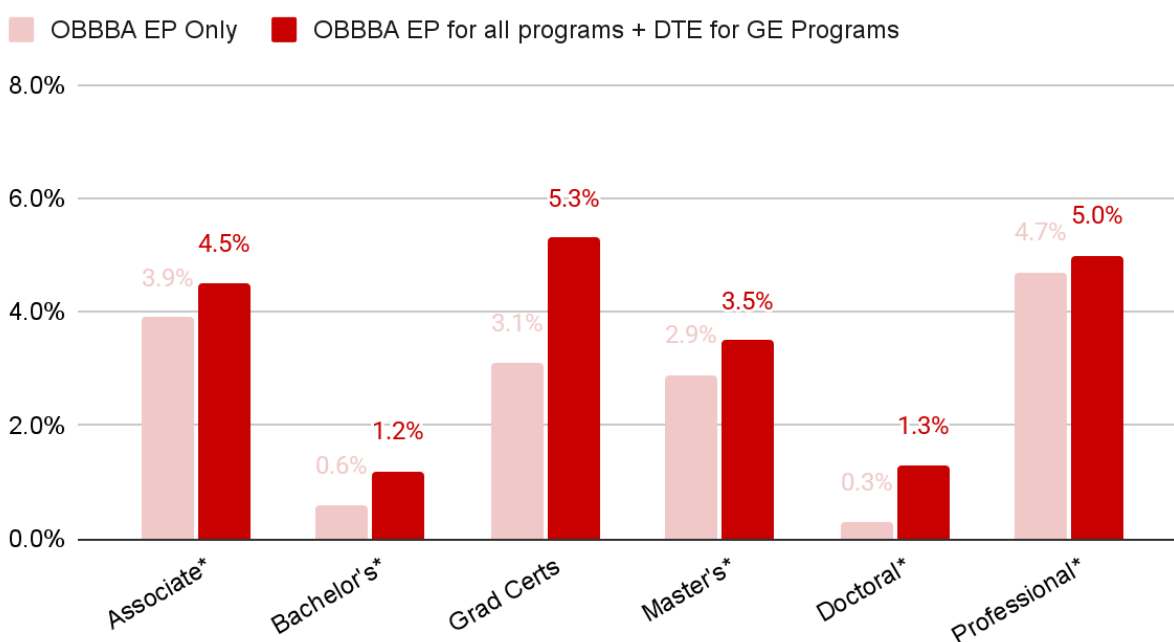
<sup>2</sup> "In [this paper](#), we provide the first empirical examination of whether the release of program-level outcomes data under GE led for-profit colleges to close low-performing programs or even entire institutions. **We find that the data release did affect the likelihood of program and college closure in the short term** before fading away by 2019."

<sup>3</sup> Perhaps most famously, Harvard University [shuttered](#) a graduate certificate program in theater – which falls under the gainful employment rules – after the program was designated as "failing" under the GE debt-to-earnings

## Which Programs Would Fail the Debt-to-Earnings Standards?

We have not yet had an opportunity to analyze the Department’s newest data release. However, analysis of data released during the regulatory process for the 2023 rules provide important direction about which programs are likeliest to fail. For instance, the Century Foundation [found](#) that about **169,000 students in 2022 received federal financial aid to attend programs that would pass the OBBBA earnings premium standard but fail the GE debt-to-earnings standard**. A [separate analysis](#) from the PEER Center found that the share of students enrolled in failing programs would increase across all types of degree programs when also applying a debt-to-earnings standard for GE programs (particularly among graduate certificate programs).

### Share of Students in Failing Programs



*SOURCE: [PEER Center](#), Table B2. Credential types with an asterisk represent only enrollment in the for-profit sector, because public and nonprofit programs at those levels are not considered GE programs.*

Importantly, these analyses use the data that were made available by the Department prior to the collection of data under the Financial Value Transparency rules, and prior to the new federal loan limits being put into place. It is not yet known whether those changed loan limits will significantly alter the share of students in programs failing the DTE standard. That’s because the DTE rates do not account only for federal student loan debt; they also include private and institutional loans. Many [expect](#) that a portion of graduate loan borrowers will, in response to the new limits, increase their uptake of private loans to compensate (and that private lenders will be actively seeking to increase their market share in

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standard. The GE rule has a track record of accountability across all sectors, and the Financial Value Transparency rules further applied these standards across all types of programs to provide important information to students and families.

response to the changes). Given that, the changes may be coming at a particularly important time; if borrowers take on more private debt in response to the new limits, it may lead some to slow their rates of federal repayment while they prioritize their private loans. Unaffordable debt levels could thus still carry considerable costs for borrowers and taxpayers.