

## **AHEAD Negotiated Rulemaking | Similar Programs Gaining Eligibility**

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### **Summary**

In Workforce Pell, the committee came to consensus around the idea that the Department should put protections in place to prevent gaming by institutions that have had a program lose eligibility while also preserving the ability for otherwise eligible institutions to gain eligibility for programs that are sufficiently different from the program that lost eligibility. We agreed on a definition that looked at the combination of CIP and SOC codes to reach a level of granularity that is somewhere between the four-digit and six-digit CIP codes. We would propose a similar solution here to achieve similar ends given it is (i) administratively viable as evidenced from Workforce Pell, (ii) achieves valuable policy goals balancing the interests of anti-gaming and maximal connectivity between higher education programming and labor market needs, and (iii) is within the Secretary's broad statutory discretion pursuant to OBBBA.<sup>1</sup>

### **Proposed Revision to § 668.604(b)(2)<sup>2</sup>**

(2) An institution may not update its list of Direct Loan eligible programs to include a ~~program, or a program-sharing~~ **substantially similar program sharing both (i)** the same four-digit CIP code, **and (ii) identical SOC codes according to the CIP SOC Crosswalk that is provided by a Federal agency**, as a failing program that the institution voluntarily discontinued or became ineligible as described in § 668.603(c), at the same credential level that was subject to the two-year loss of eligibility under § 668.603(c), until that period expires.

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<sup>1</sup> OBBBA specifically speaks to this in H.R.1 SEC. 84001(7) stating: "Regaining programmatic eligibility.—The Secretary shall establish a process by which an institution of higher education that has an educational program that has lost eligibility under this subsection may, after a period of not less than 2 years of such program's ineligibility, apply to regain such eligibility, subject to the requirements established by the Secretary that further the purpose of this subsection."

<sup>2</sup> Marked against Department's proposed language as of 01/07/2025.