

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 receiving Title IV aid

Re: Transparency for Students and Borrowers

Date: January 6, 2026

Transparency and disclosures are no substitute for accountability; as we have often seen among our clients, those disclosures are frequently lost in the shuffle, come too late in the process to change students' higher education pathways, or obfuscate or even mislead students and borrowers about their educational experiences. But for students who do get and absorb information about their programs through disclosures, it can help them to avoid the expense of enrolling in a program that won't pay off for them, that will leave them too deeply indebted, or that will steer them only into low-wage jobs.

To that end, we believe that the Student Tuition and Transparency System (STATS) framework that the Department has proposed takes a significant step backward in giving students the best possible information about their prospective or current programs, and in making sure that information is timely, relevant, and visible to them. Below, we recommend several places that we believe the Department should revert its proposal to the current regulatory language – and places where the Department could go even further. These proposals are consistent with the Department's efforts to advance transparency in other ways, including via the [inclusion of data on the FAFSA](#).

Disclosures on Program Websites

The Department proposes to strike a requirement in 34 CFR § 668.43(d) that institutions provide a link to the Education Department-maintained website with program outcomes on any website they have that contains information about the academics, costs, financial aid, and admissions to the school or program. While it maintains the requirement that this information be shared directly with prospective and enrolled students, we are concerned that not having the information readily available on the website will inhibit students' ability to shop across programs in the early stages of their college searches. Under this framework, a prospective student need only be close to signing an enrollment agreement or sending a check to the school before they receive the disclosure from the school – an important just-in-time disclosure, but for some students, too late in the process for them to be likely to alter their course. This also makes the institution itself a gatekeeper to critical information about earnings, costs, and more – information that should be freely and readily available.

This is also concerning given that past efforts to require institutions to provide this transparency directly often ran into widespread noncompliance. For instance, a [joint report](#) in 2011 by AEI's Andrew Kelly and Education Sector's Kevin Carey surveyed colleges' compliance with disclosure requirements that had been added to the Higher Education Act three years prior, and found that only one in four of those

surveyed, for instance, provided their Pell Grant recipients' graduation rate either online or upon request. The report also found that, even when the disclosures were made, they were often buried on websites or difficult to obtain – making language that would allow the Secretary to enforce the requirement by demanding the school modify its website to ensure the information is clear, conspicuous, and prominent especially important.

While the Department is proposing this change to reduce burden, the Department has previously [stated](#) in finalizing these requirements that providing such information is a requirement that institutions could reasonably meet without significant burden and that it does not expect that monitoring and enforcing this requirement would require significant resources or hinder the Department's other compliance and enforcement efforts.

We recommend reinstating the below language (and renumbering the other items in this section accordingly).

§ 668.43 Institutional and programmatic information.

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(d)

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(2) Program webpages. The institution must provide a prominent link to, and any other needed information to access, the website maintained by the Secretary on any web page containing academic, cost, financial aid, or admissions information about the program or institution. The Secretary may require the institution to modify a webpage if the information is not sufficiently prominent, readily accessible, clear, conspicuous, or direct.

Student Acknowledgements Before (Re-)Enrollment in Failing Programs

The Department also proposed to eliminate 34 CFR § 668.407, which provided that students in programs failing the debt-to-earnings measure in the 2023 gainful employment rules acknowledge they have viewed a warning about the program prior to enrolling or continuing enrollment in the program. The Department's rationale relates to administrative burden; the proposed language also notes that this process of obtaining acknowledgements "would have added an additional layer of administration for the Department and schools while adding an additional layer of transparency and information to students." We believe that added transparency to students is well worth it; and we note that the GE rules already removed substantial records-collection and -retention burden from institutions related to these acknowledgements, relative to the 2014 GE rule's acknowledgement framework

In fact, we would recommend the Department expand upon the language from the 2023 rule. The acknowledgements in that rule were only required of programs that failed debt-to-earnings standards, not the earnings premium; and undergraduate degree-seeking students were exempted because of challenges in understanding the intended programs of students with undeclared majors. We believe any accountability standard – which we hope will include both the earnings premium and (for GE programs, as discussed in a separate memo) debt-to-earnings standards – should have an accompanying warning and student acknowledgement component.

Effective transparency needs to be personalized, timely, and salient. As we noted earlier, students often skip over the fine print, even when it's important or would potentially alter their decision-making. But the Department should seek to make the higher education marketplace work *better* by ensuring students have not only had the disclosure emailed to them (along with plenty of other disclosures and notices from the institution), but that they have been asked specifically to read and confirm their understanding of this key disclosure. The Department should use its broad disclosure authority to support the reinstatement of these acknowledgement requirements, in furtherance of the goals of the One Big Beautiful Bill Act's accountability and warnings to students.

We recommend reinstating an amended version of this language, as provided below. Note that we have not included debt-to-earnings rates in this language, but strongly recommend the Department add back that standard, as well; we provide a separate memo with our rationale for doing so. Adding these provisions as suggested will also require some renumbering of subsequent items.

§ 668.405 Determination of the ~~D/E rates and~~ earnings premium measure.

(a) For each award year for which the Secretary calculates ~~D/E rates and~~ the earnings premium measure for a program, the Secretary issues a notice of determination.

(b) The notice of determination informs the institution of the following:

* * *

(3) Whether the student acknowledgement is required under § 668.406.

* * *

§ 668.406 Student acknowledgments.

(a) Beginning on July 1, 2027, if an eligible GE or eligible non-GE program has a failing earning premium, the Secretary notifies the institution under § 668.405(b)(3) that student acknowledgments are required for such program in the manner specified in this section.

(b)

(1) If student acknowledgements are required, prospective students must acknowledge that they have viewed the information provided through the program information website established and maintained by the Secretary described in § 668.43(d).

(2) The Department will administer and collect the acknowledgment from students through the program information website.

(3) Prospective students must provide such acknowledgments until

(i) the Secretary notifies the institution pursuant to § 668.405 that the program has passing earnings premia; or

(ii) three years after the institution was last notified that the program had failing earnings premia, whichever is earlier.

(c)

(1) A prospective student must provide the acknowledgment before the institution enters into an agreement to enroll the student;

(2) The Secretary monitors the institution's compliance with the requirements in paragraph (c)(1) through audits, program reviews, or other investigations.

(d) The acknowledgment required in paragraph (c)(1) of this section does not mitigate the institution's responsibility to provide accurate information to students concerning program status, nor will it be considered as dispositive evidence against a student's claim if applying for a loan discharge.

Student Warnings

The Department also proposed to eliminate critical consumer information provided to students through warnings when a program fails the debt-to-earnings and earnings premium thresholds, limiting the effectiveness of any such warning on students ability to make effective choices. In particular, the Department proposed to eliminate the requirement that institutions provide a warning to students again if it has been more than a year since the last time the student received the warning, unless the program is no longer failing the accountability measures. The Department also proposed eliminating the provision of warnings to students in languages other than English; we have proposed reinstating that, albeit with a narrower application only to programs that are provided in languages other than English. To keep this section focused on transparency, we have not included other relevant changes in this section, like tying Pell Grant eligibility to failing these measures for GE programs, which are addressed in other proposals we submit, but we would recommend also incorporating those changes.

§ 668.605 Student warnings.

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(b) Subsequent warning. If a student or prospective student receives a warning under paragraph (a) of this section with respect to a program, but does not seek to enroll until more than 12 months after receiving the warning, the institution must again provide the warning to the student or prospective student, unless, since providing the initial warning, the program has passed the earnings premium measure for the two most recent consecutive award years in which the metrics were calculated for the program.

(c) Content of warning. The institution must provide in the warning—

(1) A warning, as specified by the Secretary in a notice published in the Federal Register, that—

(i) The program has not passed standards established by the U.S. Department of Education based on the amounts students borrow for enrollment in the program and the ~~their~~ reported earnings of program graduates, as applicable; and

(ii) The program could lose access to ~~Federal grants and~~ Direct Loans based on the next calculated program metrics;

(2) The relevant information to access the program information website maintained by the Secretary described in § 668.43(d); and

(3) A statement that the student must acknowledge having viewed the warning ~~through the program information website~~ before the institution may disburse any title IV, HEA funds to the student.;

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(d) Alternative languages. In addition to providing the English-language warning, the institution must also provide translations of the English-language student warning for students and prospective students in programs that are not taught in English.

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