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; Preston Cooper, representing the taxpayer and public interest; Eric Atchison and Magnus Noble, representing students receiving Title IV aid.
Re: Programs that Fail Gainful Employment Rule Accountability Standards Should Lose Access to All Title IV Funds, Including Pell Grants
Date: January 5, 2026

Under the 2023 Gainful Employment (GE) rule, programs that fail the rule's accountability standards for two out of three consecutive years lose eligibility for Title IV funds, including both Pell Grant funds and Direct Loans. Under the Department's discussion proposal, programs that fail the modified GE rule would lose eligibility to participate in the Direct Loan Program, but would continue to be eligible for funding through the Pell Grant program. This change removes a significant deterrent on institutions, who would face little consequence with regard to the thousands of GE programs that receive primarily Pell grants, rather than Direct Loans, as Title IV support, and thus would be likely to continue to offer failing programs that provide little value.[1] To adequately protect students' and taxpayers' investment, programs that fail the GE rule's accountability standards must lose access to Pell grants as well as Direct Loans.

Rationale

The Pell Grant program is a significant source of funding for many programs subject to the GE Rule. In fact, **roughly half of students enrolled in for-credit certificate programs use Pell grants to pay for the programs, and over 8,000 certificate programs receive more than 90% of their Title IV funding from the Pell Grant program**.[2] For such programs, the prospect of losing access to Direct Loan funding is a much weaker deterrent than the prospect of loss of eligibility for all Title IV funding. Accordingly, the Department's proposed change to the GE rule would render the rule significantly less effective, with wide-ranging ramifications for institutions, taxpayers, and students.

Ramifications for Institutions:
The prospect of losing Title IV funding for failing programs provides a strong incentive for institutions subject to the rule to shift their program offerings away from failing programs and instead steer students into passing programs, or to improve the quality of their programs. If institutions are able to

[1] It is also inconsistent with the Higher Education Act, which includes the expectation that non-degree and proprietary programs lead to gainful employment within the definition of an eligible institution – indicating that complying with the GE rules should be a condition of aid eligibility for all Title IV funds, not just loans.
[2] The latter figures are derived from the Department's Program Performance Data (PPD:26).

maintain access to Pell Grant funding despite failing to meet the rule's accountability metrics, institutions will have less of an incentive to shift their program offerings. In addition, certificate-seeking students can often cover their tuition costs with Pell alone; in those cases, federal loans often cover living costs and other expenses, so that loan revenue never accrues directly to the institution itself. For the thousands of GE programs whose Title IV funding comes primarily from Pell Grants rather than loans, the institution will have little or no incentive to adjust program offerings in an attempt to recapture those loan dollars. Institutions may instead seek to steer students toward less-favorable private or institutional loans as a replacement for lost federal loan eligibility – particularly if there are no consequences for leaving graduates with unaffordable levels of debt through a debt-to-earnings standard.

An overarching concern, then, is that tying only Direct Loan eligibility to the earnings premium undermines the Administration's and Congress's goals of ensuring accountability. Many institutions will continue to offer programs that fail the GE rule's accountability standard, leaving students vulnerable to enrolling in programs that provide no return on their investment.

Ramifications for Taxpayers:
By removing many institutions' incentive to shift program offerings, the Department's proposed change to the GE rule would lead to continued public investment in programs that provide little or no return on students' and taxpayers' investment. Pell Grant funding is limited, and Congress's recent expansion of Pell eligibility to short-term, workforce programs has created additional demands on the limited Pell Grant budget – with at least a [$61 billion shortfall] expected over the next decade, according to the Committee for a Responsible Federal Budget. These expanded demands on the Pell Grant budget makes it even more important that funds are not squandered on valueless programs.

The federal government currently wastes nearly $1 billion per year in Pell Grants in undergraduate GE programs that would fail the OBBBA earnings premium standard. If these failing programs were permitted to continue to receive Pell Grant funding, based on their 2022 Pell volume, the federal government would spend almost $9 billion over the next decade to fund programs that provide little or no financial value.[3] Thus, a decision to change the existing GE rule to permit failing programs to continue to receive Pell grants would mean that billions of dollars of public funds would be directed toward programs that do not even meet the minimal standards of the rule. With billions in federal funds at risk, the Department's duty to properly steward public funds requires the Department to reconsider its proposal to change existing regulations to permit failing GE programs to continue to receive Pell Grant funding.

Ramifications for Students:
Eliminating the penalty of loss of Pell Grant eligibility for programs that fail the GE rule's accountability standard would leave students vulnerable to wasting their time, effort, and limited Pell grant eligibility

[3] Derived from Appendix D for "How Do College Programs Measure Up Against the One Big Beautiful Bill Act's New Accountability Standard?" via the PEER Center at American University.

on low or no-value programs – exactly counter to the goals of outcomes-based accountability. Students invest in career training programs to increase their earnings, broaden their job prospects, and improve their ability to provide for their families. Students expect that programs that qualify for Pell dollars will, at minimum, leave them better off than they would have been if they had never enrolled. The GE rule holds applicable Title IV programs accountable for meeting this minimum standard. However, if the Department modifies the rule to allow failing programs to continue to receive Pell grant funding, many institutions will continue to offer failing programs, and students will continue to enroll in programs with a proven track record of failure. **Students who enroll in such low-earnings programs waste their time and limited Pell eligibility, and face harms caused by delaying their entry into the workforce, including lost wages and delayed career progression**.

There could be significant consequences for consumers and taxpayers if institutions and students turn to private loans to fill the gap. Private loans do not have the same income-driven repayment (IDR) options as federal loans – meaning that borrowers are more likely to be stuck with an unaffordably high payment, or end up with a court judgment opening them up to wage garnishment. Private loans can easily eat up a borrower's disposable income, making it more likely that they will default on their (existing) federal loans; high debt burdens that stem from layering private loans on top of federal loans may also increase the likelihood that borrowers will simply give up on repayment, to their own detriment and that of taxpayers.

In addition, the proposed change to the GE rule would likely erase some of the increases in earnings that would otherwise be expected as an outcome of the GE rule, by minimizing the extent to which institutions would be expected to respond. An analysis from The Century Foundation projected that if students in programs that failed the 2023 GE rule instead enrolled in a passing program, their annual earnings would be nearly 50 percent higher, a gain of nearly $10,000 per year. However, these projected student earnings increases would not materialize if institutions lack a financial incentive to close failing programs and redirect students to higher-value ones.

Accordingly, the Department should reconsider the proposal to change the existing regulation to permit programs that fail the GE rule to continue to qualify for Pell grant funding.