

**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

**Re:** **Aligning reinstatement of eligibility requirements for failure to meet an accountability threshold**

**Date:** December 11, 2025

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This proposed language would establish the same reinstatement of eligibility process for programs that lose eligibility based on failure to meet value-added earnings as programs that lose eligibility based on failure to meet completion and job placement threshold requirements, and the requirements in the existing gainful employment (GE) regulations. The One Big Beautiful Bill Act establishes that the Secretary determines that the program meets three conditions for each award year: 1.) the program has a verified completion rate of at least 70 percent, 2.) the program has a verified job placement rate of at least 70 percent, and 3.) that the total amount of published tuition and fees of the program for such award year does not exceed the value-added earnings of students who received aid and who completed the program 3 years prior. Each of these requirements should be applied equally and result in the same consequences. This is critical because OBBBA explicitly created these three metrics as accountability measures to prevent unscrupulous institutions from using taxpayer dollars and students' lifetime Pell eligibility without delivering a meaningful education. Allowing schools to simply adjust their tuition and fees to maintain eligibility without instituting concrete program improvements or restoring the funds already used reduces meaningful accountability measures.

We also propose a 3-year timeline to align with the GE regulations. The prohibition against creating a substantially similar program over a set period of time at the four-digit CIP category is the same concept used in the Department's existing gainful employment regulations, and that regulation uses a three-year timeline. The proposed changes would align standards for the loss of eligibility for failure to meet an accountability metric.

### **§ 690.97 Regaining eligibility**

(a) If an eligible workforce program loses eligibility based on failure of completion or placement rates under 34 CFR § 690.94(a) (2) or the institution voluntarily discontinues a failing eligible workforce program, the institution may not seek

to reestablish the eligibility of the failing eligible workforce program, or to establish eligibility for a substantially similar eligible workforce program sharing the same four-digit CIP code, until ~~three two~~ years following the earlier of the date the program loses eligibility under 34 CFR § 690.96(b) or the date the institution voluntarily discontinues the failing workforce program.

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(c) If an eligible workforce program loses eligibility because its published tuition is higher than its value-added earnings under 34 CFR 690.89(e), ~~or the institution voluntarily discontinues a failing eligible workforce program, the institution may not seek to reestablish the eligibility of the failing eligible workforce program, or to establish eligibility for a substantially similar eligible workforce program sharing the same four-digit CIP code, until three two years following the earlier of the date the program loses eligibility under 34 CFR § 690.96(b) or the date the institution voluntarily discontinues the failing workforce program.~~

~~the institution may, through a process described by the Secretary, request that the program's eligibility be reinstated by~~

~~(1) Providing to the Secretary a new certification of the Governor's approval of the program as provided under 34 CFR~~

~~§690.93(c) that addresses how the institution complies with the value-added earnings requirement;~~

~~(2) Submitting to the Secretary documentation of the program's current published tuition and fees and an attestation that the tuition and fees will remain equal to or less than the program's recalculated value added earnings; and~~

~~(3) Requesting a recalculation of the program's value added earnings that will apply to the next award year.~~