



March 14, 2024

The Honorable Miguel Cardona  
Secretary  
U.S. Department of Education  
400 Maryland Ave. SW  
Washington, DC 20202

Dear Secretary Cardona,

On behalf of the undersigned higher education associations, I write to share the concerns institutions of higher education have regarding implementation of the rules on institutional and programmatic accountability finalized by the Department of Education (Department) last fall.

In 2022, the Department embarked on a negotiated rulemaking process focused on institutional and programmatic accountability.<sup>1</sup> The negotiated rulemaking committee covered the following topics: Financial Value Transparency (FVT) and Gainful Employment (GE); 90/10; Financial Responsibility; Certification Procedures; Administrative Capability; Ability to Benefit; and Change of Ownership and Change in Control. We offered comments on the issues in the Notice of Proposed Rulemaking that did not receive consensus and that had a direct, negative impact on students and institutions of higher education.<sup>2</sup>

While we await further clarification from the Department on how institutions can implement these rules, it is of the utmost importance that you delay all reporting requirements related to the FVT and GE portion of the rules beyond the July 31, 2024, deadline. Given the delays with the Free Application for Federal Student Aid (FAFSA) process, and the need for institutions to package student aid properly, we believe that the primary focus at this time should be ensuring the smoothest FAFSA process possible to help students best decide where to pursue their postsecondary education.

With this said, we would also like to provide direct feedback from impacted institutions to aid in the Department's development of sub-regulatory guidance around the institutional and programmatic accountability final rules. In collaboration with the National Association of College and University Business Officers (NACUBO) and the American Association of Collegiate Registrars and Admissions Officers (AACRAO), we sent a survey to our members requesting their feedback on the final regulations. This survey asked key questions regarding the ability of our members to comply with these regulations. It was sent to college and university presidents, business officers, chief admissions officers, chief enrollment officers,

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<sup>1</sup> Negotiated Rulemaking Committee; Negotiator Nominations and Schedule of Committee Meetings, 86 F.R. 69607 (proposed December 8, 2021). <https://www.federalregister.gov/documents/2021/12/08/2021-26571/negotiated-rulemaking-committee-negotiator-nominations-and-schedule-of-committee-meetings>

<sup>2</sup> American Council on Education. (2023, June 20). *Comments on the education department's May 2023 NPRM*. <https://www.acenet.edu/Documents/Comments-ED-May-2023-NPRM-062023.pdf>

chief executive officers, and registrars. The survey yielded a total of 461 respondents with 268 individuals providing complete responses. The majority of responses came from registrars (165 responses) and business officers (52 responses).

The survey found that many institutions foresee significant challenges to the ability of institutions to implement the final regulations covering FVT and GE programs. These challenges, as well as the rush to collect this information, may lead to missing or incomplete data which will not achieve the Department's goal of providing clearer information to students, prospective students, or families.

The following key concerns were identified:

- **Varied impact on different types of institutions** – From the responses, we learned that the impact of the reporting and overall compliance burden varied based on institutional types including size, level of resources, control of the institution, and the types of students the institution served.
- **Clarity and definitions** – There is a common theme of the need to provide greater clarity around compliance with all of the regulations; provide clear definitions to remove subjectivity; and provide additional sub-regulatory guidance on oversight and specific reporting requirements.
- **Impact to Institutional Work Processes** – Included in the regulations are changes to the manner in which institutions manage student transcripts, the one institutional document that tracks and measures a student's education attainment. Additional clarity around these new requirements is required.
- **Insufficient resources and financial impact** – Respondents shared a primary concern around the lack of resources to fully implement the regulations. Respondents shared that reporting requirements are being imposed without providing the necessary support to ensure that institutions can successfully meet their obligations.
- **Financial Responsibility** – Survey findings indicate significant concern among institutions regarding the financial responsibility requirements introduced by the new accountability regulations. Institutions are seeking clear guidance and support to navigate these requirements, which impose substantial financial and compliance burdens. These concerns emphasize the potential risk to operational budgets, potentially compromising the quality of education and student services.
- **Administrative burden** – Respondents expressed serious concerns with additional workload and staffing requirements to implement the regulations, and respondents highlighted a lack of clarity in guidelines and parameters.
- **Time constraints for implementation and compliance** – There were concerns about institutions' ability to implement the new regulations and their reporting requirements, such as those in FVT and GE, given the July 1, 2024, implementation date and the July 31, 2024, reporting deadline.

The attached document highlights the themes identified above and provides more information on how participants responded to each question that was asked.

We thank you for your attention to this letter. It is our hope that you will take these institutional responses into consideration, delay the July 31<sup>st</sup> GE and FVT reporting deadline, and address the concerns identified in this letter through sub-regulatory guidance.

Sincerely,



Ted Mitchell  
President

Attachment

On behalf of:

American Association of Colleges and Universities  
American Association of Colleges of Osteopathic Medicine  
American Association of Collegiate Registrars and Admissions Officers  
American Association of Community Colleges  
American Association of State Colleges and Universities  
American Council on Education  
Association of American Medical Colleges  
Association of American Universities  
Association of Catholic Colleges and Universities  
Association of Community College Trustees  
Association of Governing Boards of Universities and Colleges  
Association of Jesuit Colleges and Universities  
Association of Public and Land-grant Universities  
Career Education Colleges and Universities  
Council for Christian Colleges & Universities  
Council for Higher Education Accreditation  
Council of Graduate Schools  
EDUCAUSE  
National Association of Colleges and Employers  
National Association of Independent Colleges and Universities  
National Association of Student Financial Aid Administrators  
UPCEA