August 27, 2025

Tamy Abernathy
U.S. Department of Education
Office of Postsecondary Education
400 Maryland Avenue SW, 5th Floor
Washington, DC 20202

Re: Docket ID ED-2025-OPE-0151

To whom it may concern,

Thank you for the opportunity to submit comments on the U.S. Department of Education's rulemaking process to implement changes to higher education policy through Public Law 119-21.

The Institute for Higher Education Policy (IHEP) is a nonpartisan, nonprofit research, policy, and advocacy organization. We believe that all people—regardless of background—should have the opportunity to participate and succeed in postsecondary education and beyond. We lead the Postsecondary Data Collaborative, a coalition of organizations advocating for the collection and responsible use of high-quality postsecondary data. We also served as the managing partner for the Postsecondary Value Commission and continue to conduct research and advance policy recommendations to measure and improve the value that postsecondary education can provide to students, their families, the workforce, and society.

Pursuing a college degree or credential should translate to increased earnings and greater social mobility. Unfortunately, some programs consistently leave students worse off than if they had never attended. These programs waste students' time, leave them without a credential—or with one that does not meaningfully improve their ability to succeed in the workforce or in society—and often leave them with student debt to repay.

The outcomes-based accountability framework in Public Law 119-21 takes an important step toward ensuring that higher education provides strong outcomes for students. This law establishes an earnings premium test that assesses whether students are, on average, better or worse off after having attended a given program. For undergraduate degree programs, the median earnings of students who complete will be compared to the median earnings of high school graduates. For graduate certificate and degree programs, the median earnings of completers will be compared to the median earnings of bachelor's degree recipients. If a program fails the earnings premium test for two years in a three-year period, it can no longer offer federal loans to its students. By tying federal loan eligibility to a minimum standard for program graduates' outcomes, the earnings premium test creates incentives for institutions to ensure their programs leave students better off.

As the Department works to implement the "do no harm" accountability framework in Public Law 119-21, it is essential to ensure that all types of programs are covered by a minimum earnings test, as intended by Congress (see more detail below). That requires maintaining strong regulations for gainful employment (GE) and financial value transparency (FVT). To inform the upcoming rulemaking, we also urge the Department to calculate and release FVT and GE information as soon as possible.

Our four detailed recommendations are below.

1. **Maintain strong regulations for both financial value transparency and gainful employment.**

   The financial value transparency (FVT) framework will provide students, families, institutions, policymakers, and other stakeholders with new and essential data about program costs and outcomes. The FVT regulations currently in effect are critical for maintaining strong transparency and oversight, as well as enhancing the Department's data infrastructure on program-level costs, loans, grant and scholarship aid, and outcomes, which will support evidence-based policy decisions. These data will empower students and families to make more informed decisions about where to attend college and what to study, support institutional improvement efforts, help the Department ensure effective implementation of the law, and preserve the integrity of the Title IV programs.

   These new FVT data could also be used to develop new policy insights and provide critical consumer information to students and families. For example, because the FVT framework includes data on program length and costs for the entire length of the program, it could help inform future efforts to measure student investment as part of strengthening this new accountability framework. Along with their earnings after college, students' investments in college (such as tuition, fees, and other costs of attendance) are a crucial part of assessing their returns on investment from postsecondary education. Additionally, the FVT data would allow for more detailed and precise net prices by program, giving students a clearer picture of their out-of-pocket costs for pursuing a particular educational pathway. The Department could share detailed program-level cost and outcomes information directly with students and families via the College Scorecard, the Free Application for Federal Student Aid (FAFSA), or new tools.

Furthermore, by ensuring that federal dollars do not go to perpetually low-value programs, the gainful employment (GE) regulations uphold the "do no harm" standard in Public Law 119-21 and protect both students and taxpayers. Maintaining strong GE regulations would ensure that undergraduate certificate programs provide a minimum level of value, just like all other programs. The accountability framework in Public Law 119-21 omits undergraduate certificate programs, but a supporting document about the law released by Senate Health, Education, Labor, and Pensions Committee Chairman Sen. Bill Cassidy (R-LA) clarifies that lawmakers did not intend to exempt them from accountability. Instead, this supporting document notes that undergraduate certificate programs are covered by a similar earnings test in the GE regulation. Furthermore, Congress explicitly chose not to scale back, eliminate, sunset, or modify the GE regulations in any way in Public Law 119-21, while choosing to delay the implementation of other significant higher education regulations until 2035. Together, this shows clear congressional intent for the Department to establish an accountability framework that ensures oversight of all programs, regardless of sector or credential type.

If the Department were to rescind or substantially weaken GE rules, many students would risk attending programs that leave them worse off than if they hadn't attended. Undergraduate certificate programs are more likely than other programs to fail the earnings premium test. In fact, the PEER Center estimates that one in five students pursuing an undergraduate certificate is enrolled in a program that likely wouldn't pass the earnings test set out in Public Law 119-21—roughly 10 times the share of students in failing programs of any other credential type. To ensure that all programs deliver a minimum economic return to students, the Department must maintain a strong GE rule.

2. **Calculate and release financial value transparency data as soon as possible.**

To inform the rulemaking process, the Department should calculate and release data for FVT and GE as soon as possible. These data are essential for conducting a thorough rulemaking that utilizes the best information available to the federal government.

This Department has already publicly communicated that institutions must comply with the FVT and GE reporting requirements, including through electronic announcements posted in February 2025 and July 2025. Institutions are already reporting these data for the 2024 cycle, with a scheduled submission deadline of September 30, 2025, and for the 2025 cycle, with a scheduled submission deadline of October 1, 2025. After institutions report the necessary data, the Department will need to obtain earnings data from another federal agency and calculate the metrics.

We urge the Department to immediately issue a firm, unambiguous reminder to institutions that they are legally required to report these data, that the deadlines will not be extended, and that the Department will proceed with calculating the data immediately after the deadline. To ensure that institutions report their data before the deadlines, it is critical for the Department to reiterate that the deadlines will not be extended, despite the passage of Public Law 119-21. This is particularly important because the reporting deadline for the 2024 cycle has already been extended multiple times. After calculating the metrics, we urge the Department to publish a comprehensive data file that includes all the program-level FVT and GE information available, including the data reported by institutions, pulled from Department data systems, or obtained from other federal agencies.

These data will provide unique and important insights not available from other sources, such as the College Scorecard and the Integrated Postsecondary Education Data System (IPEDS). The FVT and GE data will provide clear, consistent information on key metrics, including program costs, program length, student debt, student earnings after graduation, debt-to-earnings ratios, and an earnings premium measure similar to the standard included in Public Law 119-21. Many of these program-level data elements will be available for the first time across all sectors and levels of higher education. For example, institutions currently do not report program-level cost data on tuition, fees, books, supplies, and equipment for all of their programs to IPEDS, and that program-level data is part of the FVT and GE data reporting.

Additionally, for the first time, these data will include programs reported at the 6-digit CIP code level – a level of detail previously not available via the College Scorecard or the data produced for the 2022 rulemaking on GE. The data institutions are required to report on whether programs lead to licensure would also provide critical information for the rulemaking on new graduate loan limits, since operating in a licensed field is one typical requirement of the current regulatory definition for professional degrees.[1]

3. **Provide warnings to prospective students, not just enrolled students, if a program fails the "do no harm" standard.**

   The statute explicitly requires institutions to notify students enrolled in programs that fail the "do no harm" standard in one year, since those programs will lose eligibility for federal loans after a second year of failure. We applaud lawmakers' focus on providing actionable information to students already enrolled in a program, and we urge the Department to require notice to prospective students as well. This would allow prospective students to make an informed decision before committing time and money to a program.

   Additionally, the Department should make the warnings and FVT information broadly available to the public, so students beginning their college search process have access to the information. The FVT regulations already include a framework for providing this type of broad transparency through a Department-run website that is broadly available and that logs attestations that students are aware of their selected programs' potential loss of eligibility. The Department could also share this information directly with students and families via the College Scorecard or the FAFSA.

[1] 34 CFR 668.2, definition of *Professional Degree*, specifies in relevant part (with emphasis added): "A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. **Professional licensure is also generally required…"**

4. **Provide clear and timely guidance and support to institutions around the implementation of these higher education policy changes, particularly around new data reporting.**

   The higher education provisions of Public Law 119-21 will require new data reporting from institutions. To ensure that institutions have the information needed to report accurate data, the Department should provide clear guidance through Dear Colleague Letters and Electronic Announcements, resources such as FAQs, detailed documentation such as user guides, and trainings such as webinars. We also urge the Department to set up a dedicated email address for Public Law 119-21 implementation (as it has for the FVT/GE regulations) and to respond to institutions' questions in a timely manner. A staffed help desk to provide ongoing assistance with implementation would further support institutions and facilitate accurate and streamlined reporting, enhancing institutions' ability to meet reporting deadlines and contributing to the overall success of the law's implementation.

Thank you again for the opportunity to provide feedback on this rulemaking process. If you have any questions about this comment, please contact Diane Cheng, Vice President of Policy at the Institute for Higher Education Policy, at dcheng@ihep.org.

Sincerely,
Institute for Higher Education Policy