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How Congress Can Protect the Pell Grant Within the "Do No Harm" Framework

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The new “do no harm” college accountability framework is a statutory earnings standard for higher education that is designed to protect students and taxpayers from programs that leave them worse off. Yet a closer look at the final regulations to implement the standard reveals that the students who need the most protection—low-income Pell Grant recipients—may face unintended risks under the Department of Education’s current approach. Fortunately, Congress can address these risks while preserving the core goals of the accountability framework. Here are two areas where legislative action can ensure college programs are held accountable for their outcomes *and* the Pell Grant program remains secure.

Restrict Failing Programs’ Access to Pell Grants

The most glaring problem with the rules for the new federal accountability framework is that programs that fail the “do no harm” standard will lose access to student loans but not to Pell Grants. This is a departure from prior accountability rules, which cut off all federal financial aid to failing programs. The Department of Education’s own cost analysis showed that the decision will cost taxpayers up to $6 billion over the next decade.

To address concerns about failing programs keeping access to Pell dollars, the Department created a secondary penalty, but it has significant gaps. For example, an institution can only lose Pell Grant eligibility if its failing programs account for at least half of the institution’s federal aid dollars or aid recipients. This threshold will be easy to avoid. A college could operate multiple low-performing programs, each just under the 50% mark, and continue drawing Pell dollars for all of them. Negotiated rulemaking participants flagged this loophole during sessions, warning that institutions could simply merge or blend underperforming programs with higher-performing ones to avoid triggering the penalty.

What Congress can do: Revisit the sanction structure to ensure that Pell Grants are subject to the same accountability standards as loans, so that low-income students have the same protections afforded to other aid recipients. In cases where more than half of a school’s programs have low earnings, Congress could consider a further institution-level sanction, such as a trigger for heightened oversight or forfeiture of all Title IV dollars.

Address the $100 Billion Pell Grant Shortfall

The new federal accountability rules are coming into effect amid a massive shortfall in the Pell Grant program that is projected to exceed $100 billion over the next decade. When the

Pell Grant faces a shortfall, policymakers must choose between cutting the size of students' awards, limiting eligibility, or both.

The Department's rule will accelerate this crisis by maintaining the flow of billions of taxpayer dollars to programs with weak earnings outcomes. According to the Department's own analysis, failing programs currently receive over $1.8 billion in Pell Grants annually. Under the new framework, most of those funds will continue flowing, even when programs fail the earnings test, because the loan-only sanction allows Pell dollars to continue flowing.

Low-income students who rely on Pell Grants will be able to continue enrolling in programs that leave them no better off financially. This scenario is doubly risky given that students have a limited amount of Pell funds available to them over their lifetime.

What Congress can do: Address the Pell shortfall through robust funding measures while also ensuring that the dollars flowing out of the program are directed only toward programs with genuinely positive student outcomes. Given that the Pell Grant has lost purchasing power over time, Congress should also advance legislation to significantly increase the maximum grant and index awards to inflation.

The Bottom Line

The "do no harm" standard is supposed to protect students from colleges and programs they would be better off avoiding. At its core, that remains a worthy and necessary goal. However, by preserving Pell access for failing programs, the Department has introduced risks that Congress can and should address. Legislative action, including closing the Pell-only loophole and shoring up Pell funding can ensure the "do no harm" framework lives up to its name, protecting students and the Pell Grant program for the long term.