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Negotiators Reach Consensus on Accountability Framework

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Recently, the Accountability in Higher Education and Access through Demand-driven Workforce Pell (AHEAD) committee reached consensus in their second week of negotiations. The session focused on how the Department of Education (Department) will integrate the *One Big Beautiful Bill Act*'s (OBBBA) accountability provisions with current regulations. The committee dedicated most of its time to negotiating provisions around alignment with Gainful Employment (GE) and Financial Value Transparency (FVT) regulations.

Dubbed the "Super Bowl of Accountability" by a Department official, the session spotlighted a new accountability structure for all programs (with no Bad Bunny halftime show). The agreed upon draft text would subject all higher education programs to the new earnings test established by OBBBA, but it would also water down prior GE regulations, leaving students vulnerable to programs that burden them with unmanageable debt. Consensus was not a given and emerged gradually on the final day. Negotiators who remained hesitant about the proposal expressed their concern that, had they blocked consensus, the Department would have further dismantled GE protections. The text that negotiators agreed upon will create a unified accountability structure, but it also sacrifices guardrails that would have protected students and taxpayers. Below, you'll find more about the biggest outcomes from the negotiations.

OBBBA Earnings Test Is In, Debt-To-Earnings Is Out

One of the Department's primary stated goals of the rule-making was to align existing accountability regulations with OBBBA. To do so, the Department integrated the OBBBA earnings test into GE. This means that all higher education programs will now be subjected to the same earnings test: programs must demonstrate that most of their graduates earn more than an individual with a lower credential. The earnings threshold written in OBBBA only applies to associate, bachelor's, and graduate degree programs. By applying the earnings test to GE programs (non-degree programs offered at non-profit and public colleges and all programs offered at for-profit institutions), the final proposal also subjects undergraduate certificate programs to the metric. This is a crucial step for holding *all* programs accountable.

The Department also eliminated debt-to-earnings (DTE) metrics for both accountability for GE programs and for FVT data reporting. DTE ratios express debt compared to the borrower's annual or discretionary earnings and can serve as indicators of the affordability of a borrower's federal student loan debt. The Department's rationale for removing the metric was twofold—OBBBA does not have a DTE metric and, according to Department officials, preliminary data show that the earnings test in GE catches most (though not all—

40,000 would fail DTE but pass the earnings test) of the programs that also fail the DTE ratio. Negotiators in support of maintaining DTE, notably the primary negotiators representing legal aid and taxpayers and the public interest, pushed back. They argued that maintaining DTE is consistent with OBBBA (since the statute did not eliminate it, and published materials imply the Senate's belief that OBBBA would coexist alongside GE), and that the rates offer an important metric to prevent students from taking on unaffordable debt. Still, the Department moved forward with its proposal, and the consensus text does not include DTE for GE programs. It also removes the DTE reporting requirements for FVT, which will be renamed the Student Tuition and Transparency System (STATS).

New Off-Ramps For Failing Programs

Negotiators also proposed a new off-ramp for programs failing the earnings test, which the Department accepted. After a program fails the earnings metric for the first time, it will have the option to continue offering the program (until a second failure within three consecutive years). Or the program can amend its Program Participation Agreement with the Department to state that it will stop enrolling new students and wind down instruction until currently enrolled students graduate—an "orderly closure." While the program winds down, it could continue to receive federal direct loans until current students complete.

Helping students across the finish line is critical, but these failing programs may not provide students with the economic returns that should come with a college degree. The primary negotiators for the legal aid and taxpayer constituencies highlighted the risks associated with allowing failing programs to have continued access to federal loans. These programs have a proven track record of poor earnings outcomes, and the off-ramp puts students at risk of taking out years' worth of loans to complete a program that will not pay off. It can also take years for a program to wind down and teach out all its students. For example, if a bachelor's program fails the threshold and chooses to pursue the off-ramp, it could still collect loans for another three years to allow current students to complete. This option lets the program maintain loan access for longer than if it had failed the earnings threshold for a second year (after which it would have lost access to loans immediately).

Failing Programs Lose Access To Loans And (Possibly) Pell

A major change to the GE regulations is that GE programs that fail the earnings threshold will now lose access to Direct Loans only, rather than all Title IV funds. While consistent with the consequences of failing the OBBBA earnings threshold, this leaves students at risk of using their limited Pell dollars to attend low-earning programs. Negotiators raised concerns about this shortcoming, stating that it will not adequately protect student and taxpayer dollars from being used at failing programs.

The Department responded to those concerns by adding a provision to remove Pell Grant access for the worst actors. But programs can only be subjected to this sanction after they lose access to federal loans. The proposal amends administrative capability requirements and specifies that institutions must meet two new criteria to maintain access to Title IV funding, which includes Pell dollars. First, at least half of an institution's Title IV funding recipients must be enrolled in programs that are not low earning. Secondly, half of the institution's total Title IV funds must come from programs that are not low earning. If an institution fails to meet *either* condition, all its low-earning programs will lose access to Title IV funding.

Here's how this would play out for a program:

- The Department calculates the earnings metric for all programs, and a program can fail the metric for the first time. If the program fails, students are issued a warning that those programs could subsequently lose Title IV funding.
- If the program fails the threshold again the next year, it loses Direct Loan eligibility and is classified as a low-earning program. The Department then runs the numbers for the institution that houses the program and determines whether at least 50% of the institution's students and 50% of the institution's Title IV revenue are enrolled in or come from programs that are not low earning. If the institution fails to meet either one of these criteria, it goes on notice—but the school does not yet lose access to all Title IV funds.
- The Department runs the same institution-level test the next year. If the school fails to meet one of the criteria, *all* its low-earning programs lose all Title IV eligibility, including Pell Grants.

While this policy raises the stakes for the lowest-performing programs, it is still the bare minimum for institutional accountability. The additional test will catch the worst actors, but many programs will continue to receive Pell Grant funding while leaving students with poor economic returns. Additionally, under this policy, Pell Grants can continue to flow to failing programs for a whole year *after* they lose Direct Loan eligibility. This is risky for students who will be able to use their federal aid at failing programs and for taxpayers who fund schools that produce abysmal economic returns.

What To Watch

Now we wait for the Department to release the Notice of Proposed Rulemaking (NPRM), which publishes the agreed upon regulations from the AHEAD negotiations. After its publication, the Department will open a public comment period on the proposed rule. The elimination of the DTE ratio is expected to be a significant topic of discussion in the comments. Repealing DTE removes a critical safeguard that prevents students from taking on more debt than they can repay, and while the new earnings test will still catch many of the programs that would fail DTE, it doesn't catch them all. Comments will also likely focus on the legality of the off-ramp for failing programs, as the new policy will prolong loan access for low-earning programs, a substantive policy change that is not outlined in statute. The Department will have to address questions raised in public comment prior to issuing the final rule, which will take effect on July 1, 2026.