

February 2, 2015

Sophia McArdle
U.S. Department of Education
1990 K Street, N.W.
Room 8017
Washington, DC 20006

Dear Ms. McArdle:

On behalf of the higher education associations listed below, I write to offer comments on the Notice of Proposed Rulemaking (NPRM) regarding teacher preparation published in the *Federal Register* on December 3, 2014, Docket ID ED-2014-OPE-0057.

As the representatives of the colleges and universities that will be directly impacted by the proposed rule, we have serious concerns with the approach it takes. While the stated goals are admirable, and ones our members share deeply, the proposed regulation will not meet those goals. Instead, it will exacerbate existing challenges while undoing much of the progress made by states and institutions to improve program quality. Most significantly, this rule if enacted, will harm those students seeking to become educators by producing confusing and inaccurate assessments of program quality, and tying financial aid eligibility to those assessments.

To be specific, the proposed regulation:

1. represents an unprecedented intrusion by the federal government into the academic policies of colleges and universities;
2. employs a problematic assessment model that is dependent on questionable data and discredited metrics;
3. portends significant negative consequences, especially for high-need schools and fields;
4. federalizes specialized accreditation;
5. eliminates the uniform approach to federal financial aid eligibility for a piecemeal approach with the likelihood of enormous variation and confusion;
6. impacts distance education programs in a powerfully negative way;
7. imposes substantial financial costs and new burdens on states and institutions; and
8. does not recognize real progress in the field and will undermine meaningful reform.

Federal Overreach

We believe this rule threatens the American tradition of federal noninterference with academic judgments, and makes the Department of Education the national arbiter of what

teacher preparation programs should teach, who they should teach, and how they should teach their students. This intrusion into academic policy is far beyond what was ever intended by Congress. Quite simply, if Congress wanted the Secretary of Education have such authority, the existing statutes would have given it to the Department.

In the seven years since TEACH Grants were created, and the six years since the Higher Education Act was last reauthorized, there has been no indication that any of the relevant statutes envisioned the creation of a massive approach such as the one contained within the proposed regulation. This represents a profound and unwelcome shift in the historic relationship between colleges, states and the federal government.

The Department's effort to use the student eligibility process for TEACH Grants to determine program quality ratings and subsequent Title IV eligibility for all teacher preparation programs is clearly far in excess of what was intended in legislation. TEACH Grants are a small program, awarded to students at only 635 institutions out of 7,021 Title IV eligible institutions. The use of such a small program as a regulatory lever over all teacher preparation programs, including those that would willingly forego TEACH Grant funding, is inappropriate and undesirable.

It is also not an appropriate use of the regulatory process to make substantive changes to long-standing policy on eligibility for federal financial aid. Any such changes should be addressed through the legislative process, and not amended through regulation.

Problematic Model

Most education observers believe that the "test-and-punish" model of education, which has become a central fixture of American education since the 2001 enactment of No Child Left Behind (NCLB), has failed. It is therefore worrisome that in spite of this widespread consensus, the Department would seek to push ahead with the same approach for evaluating teacher preparation. The research is unambiguous: using standardized testing of students to determine the quality of teacher preparation programs completely lacks validity and reliability.

While entirely unsupported by any meaningful scholarly consensus, policy research or data analysis, the proposed rule articulates an untested framework for evaluating teacher preparation programs. Furthermore, the Department's approach imposes an unfunded mandate on states and institutions. It seeks to do so through a number of criteria, many of which are problematic. For example:

- The proposed rule requires states to make determinations about teacher preparation programs based on employment outcomes, which are more directly affected by the macro-economy, local labor-markets, and specific fiscal and institutional conditions of school districts. Because the data necessary to control for these external factors are not readily available, this measure will inevitably result in inconsistent and inaccurate results.

- The proposed rule requires that programs be assessed based on “student outcomes,” and provides rigid definitions to states on how to measure such outcomes. While the regulation attempts to sidestep a specific mandate to use methods such as Value Added Measures, the Department’s use of the waiver process for NCLB makes this approach a de facto requirement for assessing student outcomes. Rather than embrace broader and proven measures of assessing teacher performance, the proposed regulations will instead “double down” on a widely discredited methodology. That the Department would choose to pursue this approach at the same time that promising new models for student assessment are being adopted is inherently counter-productive.
- The proposed rule requires the states to conduct expensive customer satisfaction surveys of third parties, despite little evidence to support the value of such surveys. It is unclear why a reputational opinion survey in this setting would represent a meaningful measure of the quality of a program.
- Finally, the proposed rule is unclear as to who within each state will be tasked, empowered, and mandated to evaluate these postsecondary programs. Irrespective of which particular unit of the state education agency is assigned the task, this regulation effectively appends the Higher Education Act program eligibility triad by adding a fourth leg to that process.

Negative and Unintended Consequences

The proposed regulation, if adopted, will have obvious negative consequences. Fundamentally, the approach outlined in the NPRM will not meet the valuable goals it seeks to address. Instead it will provide misinformation more likely to confuse students, and impose eligibility determinations based on widely discredited assessment measures. It would impose these inaccurate assessments at great cost and burden to institutions, making their decisions to offer teacher preparation programs both expensive and risky.

The process outlined in the NPRM would create a high-risk gamble particularly for programs educating teachers for high-need schools and in high-need fields. While quality measures for the programs would be given extra weight for sending graduates to those areas, they also risk lower evaluations based on test scores due to factors (such as poverty, parental involvement, facilities and school culture) beyond the teachers’ control.

In addition, the proposed regulation will create incentives that contradict national needs. We are particularly concerned about the impact on teacher candidates of color who are disproportionately likely to be students attending minority-serving institutions, including Hispanic Serving Institutions, Historically Black Colleges and Universities, and Tribal Colleges and Universities. Several minority-serving institutions have significant percentages of their students receiving TEACH Grants. Using an arbitrary and inaccurate assessment process to deny students in those programs access to financial aid will necessarily have a negative impact on graduates of these institutions, especially those who

want to return to their communities and serve as teachers. This will widen the already troubling racial and ethnic diversity gap within the profession.

The proposed rule exacerbates existing concerns regarding the distribution of quality teachers across schools and undermines the Administration's efforts to address this issue through the Teacher Equity guidelines. It is not difficult to foresee institutions (especially those whose graduates serve high-need fields and schools) responding to the rule by directing their students to other communities or other fields, or dropping their programs altogether.

Federalization of Accreditation

The NPRM would federalize accreditation. The rule would require federally mandated programmatic accreditation by a single accreditor, or a substantially equivalent state certification (which must match the sole specialized accreditor's standards). We are alarmed by the unprecedented regulatory decision to condition student aid eligibility on the requirement that every single education program have programmatic accreditation from a single programmatic accreditor or its equivalent. Institutions should decide what accreditations they choose to pursue, not the federal government.

This approach gives a government-granted monopoly to a sole specialized accreditor. Government-granted monopolies always result in increased costs. It would necessitate a "one-size-fits-all" approach to programmatic improvement. And, finally, the requirement would undermine accreditation as a voluntary process that is owned by the field, promoting innovation and spurring improvement. If implemented, these rules would set an ominous precedent.

Requiring States to Determine Title IV Eligibility

For nearly fifty years, the method for determining institutional eligibility for federal financial aid has followed a uniform federal process that is informed by the states and accreditors. This regulation establishes a troubling precedent by outsourcing this critical federal role to states, while at the same time superseding state authority by mandating the criteria states must use to make these determinations. While the statutory authority exists for programs to lose their Title IV eligibility if states decide to withdraw their approval or financial support, it was never intended to be coupled with a prescriptive federal mandate governing how those determinations should be made.

The implications of such an approach are very clear. This would upend current law that is well-understood by all stakeholders, and replace it with a piecemeal approach that must by its nature vary by state based on individual states' weighting of the elements they are required to assess. This will inevitably result in a vast array of similar but distinct evaluations, often of the same program. A program could be judged low-performing in one state (eliminating Title IV eligibility for students in that state), yet be rated in one of the other three rankings (and thus eligible for federal financial aid) in another state. Institutions serving students from more than one state would necessarily struggle to

ensure that their programs met multiple, different state ratings, while simultaneously determining their students' individual eligibility for federal financial aid.

Consequences for Distance Education

Different state approaches to program eligibility determinations create an obvious problem for distance education programs which operate in multiple states. The NPRM is unclear how the process would work for programs large enough to meet a state's threshold for inclusion on their report card, but that lack a physical presence within that state. The impact on financial aid eligibility that may result from a state finding a program that is not physically located in their state "Low-Performing" is similarly unclear.

The burden on institutions created by the proposed rule will be exponentially increased for those programs serving students from multiple states. It necessitates that institutions navigate an onerous process requiring compliance with separate state evaluation systems and reporting requirements, and the resulting Title IV aid eligibility determinations. The additional requirement for state certification of programs and specialized accreditation adds another layer of burden to the process. By needlessly complicating the ability to provide distance education programs, this rule necessarily results in a dramatic withdrawal by institutions from employing new and innovative approaches to the use of technology in teacher preparation.

Imposition of Substantial New Costs and Burdens

Finally, beyond the serious problems in the proposed regulation identified above, we remain deeply troubled by the massive costs and burdens imposed by the rule. While we provided more detailed analysis of this in earlier comments to the Office of Management and Budget, it is important to understand just how damaging the proposed regulation will be to institutions and states if promulgated.

Far from the \$42 million over ten years estimate contained in the NPRM, the actual costs are certain to be significantly higher. For example, the Kansas State Department of Education estimates that rather than the four hours per program the Department estimated it would take to update recordkeeping systems, it would actually take eighty hours. Similarly, the Kansas State Department of Education estimated that it would take twenty hours per program to determine whether a program had either specialized accreditation or met the specific criteria outlined in the NPRM, compared to the Department's estimate of two hours.

The Massachusetts Department of Elementary and Secondary Education estimates the total ten year cost to Massachusetts of these regulations to be over \$2.5 million, an estimate they labeled as "conservative." The state of California, in asking the Department to reject these regulations, provided perhaps the most detailed analysis of the likely costs this regulation will impose, finding that it will cost the state of California \$232,939,000 in upfront development costs and \$485,272,059 in ongoing, annual implementation costs.

Considering the magnitude of the burden imposed, and the fact that no new resources are provided to help institutions and states comply, it is clear that higher education broadly will suffer as a result of resources being stripped away to meet the demands of this regulation.

Does Not Account For Reforms Already Underway

The proposed rule ignores the real progress made in the profession in recent years, and is likely to undermine it. Tremendous effort and resources have been spent to develop accurate measures of assessing teachers' ability, preparedness and content knowledge. Institutions have worked to establish new standards and practices and continually seek to improve their performance.

Currently, a number of states have specific teacher evaluation models that are far more sophisticated than that which the NPRM proposes. We strongly believe that these various and distinct approaches to evaluation of programs, far from constituting a problem, represent the most promising path to reform. The multiple models used by the states are the best proofs-of-concept for real reform that works on the ground. Instead of this common-sense approach, the proposed rule seeks to impose a federal model that we know to be ineffective rather than empowering institutions and states to build on their own knowledge and experience.

In summary, the proposed regulation is likely to cause significant harm to teacher preparation programs, institutions of higher learning and the schools and communities their graduates serve. It is thoroughly at odds with congressional intent and represents a staggering overreach by the federal government through the rulemaking process. It accomplishes all this at massive cost and on a foundation of discredited data and metrics. We respectfully request that the proposed regulation be withdrawn pending further study and analysis. We stand ready to work with the Administration, Congress and all stakeholders to develop more workable policies for regulatory adoption or as part of the reauthorization of the Higher Education Act.

Thank you for the opportunity to comment on this NPRM and we appreciate your attention to our concerns.

Sincerely,



Molly Corbett Broad
President

MCB/ldw

On behalf of:

American Association of Colleges for Teacher Education
American Association of Community Colleges
American Association of State Colleges and Universities
American College Personnel Association
American Council on Education
American Dental Education Association
American Indian Higher Education Consortium
APPA, Leadership in Educational Facilities
Association of American Colleges and Universities
Association of American Universities
Association of Community College Trustees
Association of Governing Boards
Association of Jesuit Colleges and Universities
Association of Research Libraries
Council for Christian Colleges and Universities
Council for Higher Education Accreditation
Council for Opportunity in Education
Council of Graduate Schools
Council of Independent Colleges
EDUCAUSE
Hispanic Association of Colleges and Universities
NASPA - Student Affairs Professionals in Higher Education
National Association for Equal Opportunity in Higher Education
NAFEO Academic Deans of Education Council
National Association of College and University Business Officers
National Association of Independent Colleges and Universities
National Association of Student Financial Aid Administrators
Online Learning Consortium
UNCF
University Professional and Continuing Education Association
WCET (WICHE Cooperative for Educational Technologies)