



CFR Parts 600, 668, and 690  
[Docket ID ED-2026-OPE-0133]  
RIN 1840-AD99

April 8, 2026

Aaron Washington  
Office of Postsecondary Education  
400 Maryland Ave., SW  
Washington, DC 20202

Dear Mr. Washington:

On behalf of the nation's 1,019 community colleges and their students, the American Association of Community Colleges (AACC) and the Association of Community College Trustees (ACCT), we are pleased to submit comments on the March 9, 2026, Notice of Proposed Rulemaking on Accountability in Higher Education and Access Through Demand-Driven Workforce Pell, and other topics. These regulations will have a profound impact on the ability of community colleges across the country to realize the shared vision of enabling thousands of individuals to succeed in workforce education programs that are relatively short yet provide substantial opportunities in the ever-changing workforce.

In general, we commend the Department of Education (ED) for crafting regulations that, in most cases, represent a straightforward effort to faithfully implement the statute. This is important because the law itself contains a range of requirements that, in their totality, represent a very high bar that programs must meet to qualify – the variety of “guardrails” that were so extensively discussed in the legislative process. This general fidelity to the law is partially responsible for the consensus that was reached in the negotiations.

However, as outlined in our comments, the NPRM diverges from the clear language of the statute in several areas. In some cases, these divergences will make it more difficult for community colleges to secure program approvals. We urge ED to rethink its policies in these areas and avoid taking actions that, from our perspective, render program approvals more problematic and appear contrary to Congressional intent.



### **690.93 Components Determined by Governors**

#### **Interaction of “Stackable and Portable” and “Credit in Another Program” Requirements (690.93**

**(a)(3) and (4)):** The Department, following the statute, requires in subparagraph (a)(3) that eligible Workforce Pell (WP) programs lead to a credential that is stackable and portable, unless there is only one recognized postsecondary credential for a given occupation and the program awards that credential. Subparagraph (a)(4) implements the statute’s requirement that there must be a certificate or degree program, at the same institution or another, that awards credit for the work done in the WP program.

These two subsections deal with similar, if not identical, concepts, so the regulations should take steps to harmonize them to effect what appears to be the plain intention of the statute. “Stackable” credentials are commonly considered to be those that prepare students for a further program of study and for which credit will be awarded toward completing the further credential. Therefore, both subsections 690.93 (a)(3) and (4) concern the award of credit in a subsequent certificate or degree program for work done in the WP program.

The effective overlap between these two subsections suggests that they should be coordinated further in the regulations. Specifically, the regulations should state that programs that meet the requirements of subsection (a)(4) also satisfy the “stackable and portable” requirement of subsection (a)(3). The concepts embodied in both subsections are essentially the same, so they should be treated as such in the regulations.

For the same reason, the exception from the “stackable and portable” requirement for programs in occupations that have only one credential is essentially nullified if those programs are still subject to the requirement that another program must award credit for the work done in the WP program. As discussed, the same concept underlies both subsections, so applying (a)(4) to a program in an occupation for which there is only one credential is equivalent to imposing the (a)(3) “stackable and portable” requirement, nullifying the statutory exemption from that requirement for those programs. To avoid this, the regulations should specify that programs that are exempted from the “stackable and portable” requirement are also exempt from the “credit in another program” requirement in subsection (a)(4). The statute, by not defining the terms “stackable and portable”, leaves room for the regulations to take this necessary step.

**Evidence of Credit Awarded in Another Program (690.93 (b)(1)(iv)):** This subsection requires governors to develop a written policy requiring institutions to show “through written agreements, including established articulation agreements, transfer-of-credit agreements, consortium or



partnership agreements, or similar arrangements” that there is a certificate or degree program that will award credit for work done in the WP program. The Department reiterates in the NPRM that such certificate or degree programs may be at another institution or at the institution that offers the WP program. However, the listed methods of demonstrating credit articulation are formal arrangements that are generally associated with agreements between multiple institutions. The regulations should specifically allow for other methods of demonstrating that such credit will be awarded that are more generally applicable when the same institution offers both the WP and subsequent certificate or degree program. This process will, in fact, be common to many programs, and was explicitly envisioned by Congress. The regulations should explicitly accept notifications in the course catalog and other institutional publications as sufficient evidence that credit will be awarded in a certain certificate or degree program for work done in the WP program.

**12 Month Requirement (690.93(d)(4)):** Governors are required to certify to ED that the WP program currently meets, and “has met for the 12 months immediately preceding the certification, the requirements described in paragraph (a).” We object to this requirement, which clearly contradicts the statute, which unambiguously states that to be eligible “the program has been offered by the eligible institution for not less than 1 year prior to the date on which the Secretary makes a determination.” The statutory intent of this section was to ensure that only programs that had demonstrated reliable programming could be deemed WP-eligible. This is a reasonable requirement, and commensurate with the other metrics that are intended to prevent fraudulent programs from accessing Pell Grant funds, one of which is the fact that institutions must be Title IV-eligible in the first instance to qualify for Workforce Pell, which carries with it presumed quality safeguards.

Unfortunately, the NPRM diverges from the law’s plain language and threatens to considerably slow program approval by requiring that all the governor-determined metrics must be met for 12 months before being approved by ED. For instance, this requirement would delay approval for a program that has been in existence for 12 months but has more recently established a connection between the WP program and a certificate or degree program that will award credit for work done in that program. Such a delay hardly benefits students, in addition to ignoring the statute. This policy would also delay program approval based on factors over which the institution has no control. For example, the program may have existed for longer than 12 months, but the State may have more recently determined that the occupation it prepares students for should be included on its list of high-wage, high-skill or in-demand occupations.



For these reasons, the regulations should simply require that governors certify that a program has been in existence for 12 months and that it *currently* meets all the requirements overseen by the States.

**Bilateral Agreements Between States (690.93(h)):** In a directed question, ED seeks comment on “whether the requirement for bilateral agreements is appropriate to limit the unchecked proliferation of eligible workforce programs in areas where they are not aligned with labor market demand, while also providing adequate flexibility for eligible institutions to quickly establish programs that offer valuable training to students in other States through distance education.”

AACC is sympathetic to ED’s desire to check the promulgation of online WP programs that do not prepare students for high-skill, high-wage or in-demand programs, wherever they may reside. However, the proposed regulations require states to publish lists of occupations that they have determined to meet the requirements of 690.93 (a). The public availability of this information obviates the need for agreements between states, whether bilateral or multilateral, to determine if an online program located in State A meets the workforce needs of State B. In most cases, this would simply require the institution in State A, or State A itself, to consult State B’s list to make that determination. Requiring an agreement between the States for this purpose simply adds unnecessary obstacles to the approval process.

Elsewhere in the Title IV regulations, ED prohibits programs that lead to state licensure from enrolling a student located in another state unless the institution has determined that its program leads to licensure in the state in which he or she is located. In these cases, there is no requirement that States enter into agreements to make this determination, and there is no discernible reason why it should now be also required in the WP context.

The other reason posited for requiring bilateral agreements is so that States can share the data necessary to compute completion and placement rates. Computing placement rates based on state-specific data sources has presented challenges in other contexts for decades, including Workforce Innovation and Opportunity Act (WIOA) programs. For that reason, as detailed below, AACC and ACCT prefer using federal sources of data to make these determinations. We also note that WIOA and other statutes do not require bilateral state agreements for the purpose of data sharing, as is done here.

We also note that, as proposed, this requirement would apply only to online programs, and not for students attending the WP program in person. However, the concern about data availability also applies to in-person students who reside in a state other than the institution’s, which is often the case for institutions that are located near state borders.



Finally, the text of the proposed regulations does not clearly indicate that the bilateral agreement requirement applies only to online programs, as is made clear elsewhere in the NPRM. For that reason, if the bilateral agreement requirement is maintained, the regulations should include the word “online” before “programs located in the other State” in subsection 690.93 (h).

#### **690.94 Components Determined by the Secretary**

**Placement Rates Based on Program Exiters (690.94 (a)(2)):** The proposed regulations detail how the 70% completion and placement metrics are to be calculated, establishing a two-phase approach that starts with less stringent requirements for the first three award years before implementing a permanent methodology thereafter. The job placement rate calculation in each of these phases contains elements that are contrary to the authorizing statute and should be altered.

In the first phase, as laid out in subsection 690.94 (a)(2)(i)(B), the job placement rate is calculated based on all program exiters, rather than completers. This patently contradicts the authorizing statute, which states that a program must have a “verified job placement rate of at least 70 percent, measured 180 days *after completion*.” ED justifies using exiters rather than completers because WIOA job placement calculations are based on exiters, and therefore doing the same for WP programs will be easier in this initial phase. Though alignment between WIOA and WP programs is desirable, WP programs are not WIOA programs. For example, there is no requirement in the statute or proposed regulations that WP programs be listed on the WIOA Eligible Training Provider Lists maintained by each state.

Because completer lists for WP programs are needed to calculate completion rates, the data necessary to base placement rates on completers will have been assembled and be readily available.

**Placement In Certain Occupations (690.93 (a)(2)(ii)(B)):** In the second phase of calculating placement rates, beginning in award year 2029-30, placement rates are to be computed based on program completers who are “employed in the occupations for which the program prepares students.” Here again, the NPRM steps beyond the statute, creating a regulatory mandate not envisioned in the law. The statutory language quoted above does not include an “in-occupation” element. This was clearly done deliberately, strong evidence for which is reflected in the fact that Congress considered adding a similar requirement to the WIOA placement metric and rejected it. The Senate’s 2024 WIOA reauthorization, *A Stronger Workforce for America Act*, would have added an in-occupation element to the placement rate, but the final, conferenced version of that bill, which very nearly passed Congress, dropped the in-occupation requirement. The policymakers who decided that WIOA should not employ an in-occupation placement rate were overwhelmingly the same individuals who wrote the WP law.



The main reason that this requirement is not present in the WIOA metrics and in other contexts is that state administrative data often does not yield information on occupation. ED seems to be implementing this requirement in the hope that in three years the data will exist. This is not likely. But whether the data are available at that time or not, this requirement still is directly contrary to Congressional intent.

Furthermore, as even ED notes in this NPRM and as noted above, the WIOA placement metric does not have an “in-occupation” element. Including a new one here, therefore, is contrary to ED’s stated goal of closely aligning WP with WIOA. For all these reasons, ED should modify the regulations to eliminate the “in-occupation” element of the job placement metric in the second phase of implementation.

**Alternative Process Established by the Secretary (690.94 (c)(1)):** A cardinal feature of the regulations is that, although the authorizing statute assigns the computation of completion and placement rates to ED, the Department has essentially outsourced that function to states. The regulations also allow for the possibility that ED will establish another method for computing placement rates. For placement rates, we urge ED to consider utilizing a process at the federal level similar to the one proposed for generating Value-Added Earnings (VAE).

To do so, ED would either tap into a federal data source that includes employment as well as earnings data or simply use earnings as a proxy for placement, which would be possible if the “in-occupation” element is dropped from the placement rate (as we have argued it should be). Performing this computation at the federal level using the same data generated for VAE would greatly alleviate burdens otherwise placed on the states (and potentially institutions) and will capture data on students regardless of the state in which they currently live and work. Federal sources would also capture entrepreneurs, federal employees, and others who may not be part of state unemployment insurance records.

We appreciate the fact that the regulations as proposed may spur states to improve their data infrastructure and establish additional channels to share data within and between states. However, over decades, the federal government has encouraged this through statute and regulations and provided resources for this purpose, yet the shortcomings in these data continue. It is not likely Workforce Pell will dramatically change this situation. We strongly encourage ED to prioritize the straightest path to the smooth implementation of WP and believe that establishing a federally-based method for calculating job placement rates is commensurate with that priority.



**Students Enrolled in Higher Education (690.94 (e)):** This subsection lists categories of students who will not be factored into the completion or placement rates, including students who have died, experienced serious medical issues, been ordered to military service, or have become incarcerated.

However, students who are enrolled in a higher education program at the time the placement snapshot is taken have not been excluded from the job placement rate. After much conversation on this topic in the negotiated rulemaking session, ED has explicitly declined to take this step. The reason proffered for including these students in the placement rate is that the primary purpose of the WP program is to place program completers into jobs. While this may generally be the case, several negotiators convincingly argued that the “stackable and portable” and “credit in another program” requirements show that the program has a dual purpose, the other one being to prepare and encourage students to seek further education. Community colleges concur with this perspective and urge ED to rethink its policy in this area.

ED correctly assumes that the principal purpose of the WP program is, ultimately, job placement. Most students will likely enter employment after completing a WP program. The fact that job placement is a key metric is indicative of the program’s employment objective. However, the program’s orientation toward job placement should not mean that a student’s choice to pursue further education after completing a WP program constitutes a negative outcome. Including such students in the placement does just that by lowering the rate. Therefore, we believe students who are enrolled in a higher education program should be excluded from the placement rate calculation (or, alternatively, counted as placements).

### **690.95 Value-Added Earnings**

**Students Enrolled in Higher Education:** In a Directed Question, ED invites comment on whether students enrolled in a higher education program should be excluded from the VAE calculation. AACCC and ACCT maintain that they should be excluded. Our reasoning is similar to that applied in the immediately preceding comments on placement rates. The proposed regulations already limit the VAE calculation to program completers who are working at the time the earnings snapshot is taken. This concept should be logically extended to exclude from the calculation students who are enrolled in higher education. Even if these students are working while they pursue the higher education program, frequently that will be part-time employment specifically taken on to defray educational costs. But the central point here is that students enrolled in higher education are generally not considered to be “working” and therefore should not be included in the VAE calculation.



**Interim VAE Metric:** In another Directed Question, ED seeks comment on whether an interim VAE should be calculated and whether programs should face consequences for failing the interim metric. An interim VAE may have value for institutions and students, but imposing consequences based on an interim measure conflicts with ED’s statutory authority in this area, and, more importantly, is fundamentally unfair.

The authorizing statute specifies that a program may not charge more tuition than its VAE for that award year, and, in turn, the VAE is based on the earnings of students who completed the program three years prior. The proposed regulations follow this prescription. Given that the “look back” period for VAE is specifically mandated in statute, ED is not authorized to impose consequences based on an interim VAE utilizing a different period.

Should ED calculate VAE for informational purposes, it should adhere as closely as possible to the methodology used for determining the statutorily prescribed VAE. This could be achieved by simply using the earnings of program completers from more recent cohorts, e.g. a one-year look-back instead of three years. While students who completed the WP program more recently might generally be earning less than they will be two years later, an interim VAE measure may shed light on whether the program will pass the “regular” VAE metric at its current tuition rate.

**Published Tuition and Fees (690.95 (c), (d) and (e)):** The proposed regulations state that VAE will be published for a given program at least three months before the start of the award year, and that a program’s published tuition and fees for that program may not exceed the VAE in that award year. The final regulations should give institutions more opportunity to comply with the VAE metric. This could be accomplished by publishing the VAE sooner and/or determining whether a program has passed the metric based on the tuition actually charged to students in that award year.

As noted in the negotiated rulemaking session, institutions commonly publish their tuition and fees for programs far earlier than three months prior to the start of the award. As a result, institutions will often publish tuition and fees before a VAE is published for that program.

One way to remedy this situation is to require ED to publish the VAE earlier, perhaps six months before the start of the award year. However, the timeframe for calculating VAE may render this impracticable.

Alternatively, VAE could be measured against either published tuition and fees or the amount actually charged to students. To that end, paragraph (f) should be modified to add the phrase “or the tuition and fees charged, if lower than the published tuition and fees” after “published tuition and fees.” Fairness dictates that institutions should be able to reduce the price of a program to come into



compliance with the VAE metric. This flexibility would better achieve the goals of the WP program by holding program tuition to a certain level while providing students with the assistance they need to access the program. Under the proposed formulation, students may lose that assistance simply because the institution's timetable for publishing tuition and ED's timetable for publishing VAE do not align.

### **Conclusion**

Community colleges across the nation deeply appreciate the administration's commitment to WP's success, including by providing substantial resources for program development. We offer the comments above as suggestions for how our shared commitment to this new program might be best achieved. We look forward to working with the administration as this process unfolds.

Sincerely,

A handwritten signature in black ink, reading 'DeRionne P. Pollard'.

DeRionne P. Pollard  
AACCC President and CEO

A handwritten signature in black ink, reading 'Jee Hang Lee'.

Jee Hang Lee  
ACCT President and CEO