



National Association  
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Colleges and Universities

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January 30, 2015

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

Re: Docket ID ED – 2014 – OPE – 0057

Dear Ms. McArdle:

On behalf of the more than 1,000 member institutions and associations of the National Association of Independent Colleges and Universities (NAICU), and in conjunction with the undersigned associations, I write in response to the notice of proposed rulemaking on Teacher Preparation Issues, published in the December 3, 2014, *Federal Register*.

NAICU is the national public policy association for the nation's private, non-profit colleges and universities. Our 963 member institutions include major research universities, church-related colleges, historically black colleges, art and design colleges, traditional liberal arts and science institutions, women's colleges, two-year colleges, and schools of law, medicine, engineering, business, and other professions. With over three million students attending independent colleges and universities, and 825 institutions with teacher preparation programs, the private, non-profit sector of American higher education has a dramatic impact on the teaching profession, as well as our nation's larger public interests.

Independent colleges and universities have a long history of preparing highly-qualified teachers for America's classrooms. Our education programs range from modest teacher education departments at relatively small institutions to large research institutions, with distinct colleges of education encompassing doctoral programs, and traditions of multi-disciplinary research in teaching, learning, and human development.

We agree that high quality and rigor are essential for effective professional teacher preparation programs. We believe that there should be appropriate accountability for teacher preparation programs at independent colleges and universities; that teacher preparation programs should be fairly evaluated, through multiple scientifically valid and reliable measures; and that providers should have access to the data on which they are being judged.

We also strongly believe that assessments are most effective when made at the institutional level; and that teacher licensure and certification should remain the responsibility of the state, not the federal government.

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With these principles in mind, the core of our opposition to this regulatory package stems from the following concerns about the proposed regulations:

- The regulations require states to adopt a federally-mandated, four-tier rating system for teacher preparation programs based on federal quality standards that was not envisioned by the Higher Education Act. We believe the rating system violates Title II, Section 207 of the Higher Education Act, which states “levels of performance shall be determined solely by the state.”
- The rating system is based on value-added metrics that do not meet professional standards for validity and reliability when applied to teacher preparation programs. These metrics are then embedded throughout the regulations, as the definitions of “student learning outcomes,” “student growth,” and “student achievement” each link to children’s test scores on mandated standardized tests.
- This invalid and unreliable rating system would determine institutional eligibility for federal TEACH grants, and student eligibility for all Title IV student aid used in a teacher preparation program. Specifically, the rating system would be used to judge and potentially deny the use of Title IV aid for an individual academic program at an otherwise eligible institution by implying States must remove program approval based on federally mandated quality standards. It is inappropriate and unacceptable to use the regulatory process to fundamentally change Title IV eligibility requirements by expanding them to include the federal government’s assessment of a program’s academic quality.
- The proposed regulation sets a disturbing precedent by effectively mandating specialized accreditation as a requirement for demonstrating program quality. Specialized program accreditation should be voluntary, evolve from the profession, and be independent of the federal government.

Overall, we believe this regulatory package is premised upon a questionable use of statutory authority and evaluates teacher preparation programs on the basis of invalid and unreliable metrics. Most importantly, it does not reflect cutting edge practices in the profession, and will undermine the significant progress being made in the field to reform teacher preparation programs.

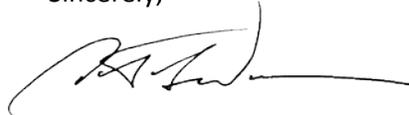
We do appreciate the procedural improvements made in the Notice of Proposed Rulemaking (NPRM), including a 5-year implementation plan with the first rating linked to TEACH eligibility in July of 2020; an acknowledgement of student privacy concerns by increasing the reporting threshold from 10 to 25 students; the inclusion of institutions serving minority and low-income students in state stakeholders meetings; and the availability of technical assistance for low-performing programs.

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However, we do not believe these modest improvements address the fundamental flaws in the proposal. We strongly recommend the Department withdraw the proposed regulations.

More detailed comments about the sections of the NPRM with which we have concerns are attached.

Sincerely,



David L. Warren  
President

#### Attachment

Association for Biblical Higher Education  
Association of Independent Colleges of Art and Design  
Association of Reformed Colleges and Universities  
Conference for Mercy Higher Education  
Council for Christian Colleges and Universities  
Council of Independent Colleges  
Lutheran Educational Conference of North America  
The New American Colleges and Universities  
UNCF

**NAICU Comments**  
**NPRM on Teacher Preparation Programs**

**New Part 612 – Title II Reporting System**

**§612.2 (d) Definitions:** This subsection of the proposed regulations creates 24 new terms and definitions used throughout this new Part 612.

*Comment:* We are concerned that, by way of introducing and defining new terms in regulation, the Department is creating a federal performance rating system not envisioned by the underlying statute. We believe this violates Title II, Section 207 (a), which states that “levels of performance shall be determined solely by the state.” We have particular concerns about: the four definitions of teacher performance levels; “quality clinical preparation;” “rigorous teacher candidate entry requirements;” three definitions related to student learning outcomes; and the definition for teacher evaluation measures.

Specifically, we have concerns with the following definitions:

- 1) **The regulations propose four definitions of teacher preparation program performance for the purpose of establishing a federal rating of teacher preparation programs that is not envisioned by the law.** The four levels of program performance (“at-risk teacher preparation program,” “effective teacher preparation program,” “exceptional teacher preparation program,” and “low-performing teacher preparation program,”) are theoretically based on state-established assessments, but -- in fact -- they are premised on quality indicators established and defined by the federal government. These federal indicators drive the four new definitions of program quality, and those definitions are used to create a rating system.
- 2) The definitions of “quality clinical preparation,” and “rigorous teacher candidate entry requirements,” set the troubling precedent of **establishing federal program entry and exit qualifications. Inserting these accreditation standards in federal regulation is a troubling precedent** for the independence of a profession to set its own standards and to evolve as the profession continues to change.
- 3) The terms “student achievement on tested and non-tested grades and subjects,” “student growth,” and “student learning outcomes,” are linked to Elementary and Secondary Education Act (ESEA) standardized test scores; value-added metrics (VAM); and Race to the Top and ESEA waiver definitions. **Value-added metrics are not valid and reliable when applied to teacher preparation programs.**
- 4) The definition of “teacher evaluation measures” is based on “student growth,” and thus, value-added metrics, which are not valid and reliable for this purpose. (See American Statistical Association [statement](#), “Using Value-Added Models for Education Assessment,” of April 8, 2014).

**§612.3 Regulatory Reporting Requirements for the Institutional Report Card:** Each institution that conducts teacher preparation programs or alternative routes to certification and enrolls students receiving Title IV Higher Education Act (HEA) funds must: 1) report to the state on the quality of the programs using an institutional report card (IRC) prescribed by the Secretary, consistent with the statute; 2) prominently and promptly post the IRC on the institution’s and program’s websites; and 3) make the IRC available to the public and in promotional materials.

*Comment:* While the content of the IRC is not mandated *in this section*, **changes to the IRC are mandated** as a result of the requirements proposed in the state report card (see below). Institutionally-based teacher preparation programs already collect data on their students based on state, accreditation and current Title II requirements. This provision increases the data collection burden on the program.

**§612.4 Regulatory Reporting Requirements for the State Report Card:** Each state must report to the Secretary, using a state report card prescribed by the Secretary, on the quality of all teacher preparation programs in its state. These reports must include programs at institutions of higher education, by alternative route providers, and via distance education -- whether or not they receive federal assistance under HEA.

Beginning in April 2019, the state must make “meaningful differentiations” in teacher preparation program performance using at least four performance levels – low-performing, at-risk, effective and exceptional – based on the indicators set out in §612.5 including, in significant part, employment outcomes for high-need schools and student learning outcomes. States may identify the performance level of a teacher preparation program as effective or higher – *only if* it has satisfactory or higher student learning outcomes.

For each teacher preparation program, the state must provide: disaggregated data on the indicators specified in §612.5 (student learning outcomes, employment outcomes, survey outcomes, and status of accreditation); assurance of specialized accreditation or equivalent standards; the states’ weighting of these indicators for program performance; and the state rewards and consequences associated with the performance levels.

*Comment:* The state report card is being used as the mechanism for the federal government to create a teacher preparation rating system, instead of being used for the public information purposes for which it was intended. The inter-relationship among §612.4, §612.5 and §612.6 are at the crux of our opposition to these proposed regulations. By regulating the elements of the state report card, the federal government is **mandating how states implement quality control** (§612.4), by requiring assessments of teacher preparation programs **based on indicators defined by the federal government** (§612.5) and **program performance levels based on those indicators** (§612.6). The federal government is stretching its authority over the states, with the possible consequence being the loss of all student aid for needy students enrolled in “low-performing” programs.

Specifically, we have the following concerns with the State Report Cards:

- 1) **The proposed performance assessments put too much emphasis on elements over which the teacher preparation program has no control.** Where teacher graduates work and for how long

may not be a direct result of the preparation program they attended, and can be influenced by multiple outside factors. How K-12 students fare on standardized tests can be influenced by multiple factors outside of the teacher's performance and are not a valid and reliable indicator of the quality of the teacher's preparation programs.

Forcing programs into these kinds of performance assessments could encourage teacher preparation programs to place graduates in high-income, high-scoring schools to avoid a low-performing designation; or could close teacher preparation programs with long-time missions to serve high-need, low-scoring schools.

- 2) The differentiated categories for teacher preparation program performance build upon the reward-and-punish construct that has been so controversial in K-12 reform. **The primary federal goal in teacher preparation should be to encourage, promote and provide incentives for program improvement.**
- 3) These regulations **federalize professional standards**. Including the assurance of specialized accreditation, or assurance that the program meets similar standards as an indicator of quality, is at best making the accreditor an agent of the federal government, and, at worst, effectively mandating specialized accreditation by the Council for the Accreditation of Educator Preparation (CAEP). **Professional accreditation should remain a voluntary, independent process based on the evolving standards of the profession.**

**§612.5 Indicators the state must use to report on teacher preparation program performance:** For the state report card, states must assess indicators of academic content knowledge and teaching skills of new teachers, which must include, at a minimum, student learning outcomes, employment outcomes, survey outcomes, and the status of accreditation.

*Comment:* We believe this section violates Title II, Section 207 (a) that states "levels of performance shall be determined solely by the state." In this section, states assess quality based on four federally defined factors: student learning outcomes; employment outcomes; survey outcomes; and whether the program is accredited (See definitions in §612.2). Federally-defined and -mandated performance indicators for the state are at the center of federal-overreach in these proposed regulations.

In addition, **the indicators of quality being defined are elements out of the control of the teacher preparation program:** "Student learning outcomes" means value-added metrics; "employment rates" means overall teacher placement and retention rates, and teacher placement and retention rates in high-need schools; and "survey outcomes" means the results of surveying teacher graduates and employers (school districts, principals). None of these indicators, while useful for program improvement, are solely a result of the quality of the teacher preparation program.

We are also concerned that these indicators, in effect, establish a federal mandate for specialized accreditation. A program that is not accredited would have to demonstrate that it meets the same

standards established by a specialized accreditor with respect to content and pedagogical knowledge, clinical preparation, and entry and exit qualifications based on student learning outcomes, using the definitions in §612.2. **States, accreditors and higher education are better positioned to make determinations about academic quality, and have the flexibility to evolve as the profession continues to change.**

On a practical level, making the linkages among the indicators (student learning outcomes, employment outcomes, and surveys), the teachers, and the teacher preparation programs is not possible in many states, despite federal funding for State Longitudinal Data Systems (SLDS).

**§612.5 (a)(2) Assessing employment outcomes for alternative route teacher preparation programs:**

For employment outcomes on the state report card, states are given the option to assess traditional and alternative route teacher preparation programs differently, if there are differences between the programs that affect employment outcomes. Varied assessments must result in equivalent levels of accountability and reporting. For example, a state might set a single uniform standard – top quartile of retention rates for “exceptional” designation -- but apply it differently to traditional and alternative programs – 80 percent retention for a traditional program, and 60 percent retention for an alternative program. Or, a state might weight indicators differently. For example, in states where employment is required for alternative programs, those programs would have retention rates of 100 per cent, but that indicator would carry less weight in the assessment.

*Comment:* **By allowing different metrics, comparisons among programs could result in misleading information** for potential candidates and employers, and offer an opportunity for states to privilege alternate route programs over traditional programs (or vice versa).

**§612.6 Identifying low-performing or at-risk teacher preparation programs:** In identifying low-performing or at-risk teacher preparation programs, the state is required to use the criteria that include the indicators of academic content knowledge and teaching skills identified in §612.5, including in significant part, student learning outcomes; and must provide technical assistance to low-performing programs to help them improve their performance.

*Comment:* Again, this rating relies on value-added metrics, not valid or reliable for this purpose; and violates Title II, Section 207 (a) stating that “levels of performance shall be determined solely by the state.”

Low-performing programs will be able to obtain technical assistance to improve their performance on certain indicators (student learning, job placement and retention, surveys); address the rigor of their entry and exit qualifications; help identify gaps in their preparation; and find resources and best practices for their improvement. However, they will still be at a **disadvantage for ever improving their rating** because program performance is based predominantly on value-added metrics and other outcomes affected by external factors beyond their control.

**§612.7 Consequences of withdrawal of state approval or financial support:** Any teacher preparation program for which the state has withdrawn approval or financial support because it has been deemed “low-performing” is ineligible for any funding for professional development from the Department of

Education; may not enroll students with Title IV HEA student financial aid in the teacher preparation program; and must provide transitional support out of the teacher preparation program for students. Any institution with a low-performing program that has lost state approval or financial support must notify the Secretary within 30 days; immediately notify students with Title IV HEA student financial aid in the program that the program is no longer eligible for such funding; and disclose on its website and promotional materials that it has been identified as “low-performing.”

*Comment:* **This proposal uses the federally-defined performance-based criteria, enforced by the state, to deny the use of federal Title IV HEA student aid funds in a program at an otherwise Title IV-eligible institution.** This would be a precedent-setting step that goes beyond the regulatory authority of the Department of Education. We do not believe this is Congressional intent, and is a stretch of the statutory authority in Title II, Section 207 (b), regarding the termination of eligibility.

### **Part 686 Teacher Education Assistance for College and Higher Education (TEACH) Grant Program**

**§686.2 Definitions:** The proposed regulation provides a definition for “high-quality teacher preparation program;” and “TEACH Grant-eligible STEM program,” among other definitions. “High quality teacher preparation program” is defined as one that has been identified as “effective” or higher, based on the indicators in §612.5.

*Comment:* The federal definition of “high quality teacher preparation program,” is used to link Title IV TEACH Grants and Title II state report card, which is then subsumed into defining Title IV eligibility for programs and institutions using TEACH Grants. **Using federally defined performance criteria to determine Title IV eligibility for students in an academic program is an overreach of departmental authority.**

The new definition for “TEACH Grant-eligible STEM program,” was not discussed during the negotiated rulemaking process, and creates yet another separate criteria for eligibility for TEACH, without the reporting required in the state report card. The proposed definition also attempts to remove foreign language, special education, bilingual education and reading specialists as areas of high-need, without amending the law.

**Cost and Burden:** As we noted in [separate comments](#) to OMB, we believe the economic impact of these regulations far exceeds the \$100 million threshold that determines a proposed regulation to be economically significant, and that the Department of Education's estimate that the 10-year cost of this proposal, between \$42 million and \$42.1 million, is excessively low.

The diversity of our membership means there is wide variance among institutions on the economic impact of these regulations. The proportionate impact will be particularly great on small institutions and those that do not already have specialized programmatic accreditation, or are not located in a state with parallel standards.

The substantial state and institutional resources for implementing this flawed system would be better utilized to support the implementation of cutting edge program improvements.