



Public Comment Guide for the Do No Harm (DNH) Provision

The U.S. Department of Education recently released, for public comment, [draft regulations](#) for the accountability provisions, including the *Do No Harm* provision, included in H.R. 1. This provision, and many of the other federal financial aid changes included in the legislation, goes into effect July 1, 2026. **The provision essentially requires that every program in institutions that participate in the (federal) Direct Loan Program demonstrate that its graduates make more than those who hold solely a high school diploma (for undergraduate programs) or who hold solely a baccalaureate degree (for graduate programs). If a program fails to demonstrate this two out of three consecutive years, it will be deemed a “low-earning outcome” program and students will not be able to access federal student loans in the program.** Given the low wages in the early childhood education field, NAEYC is concerned about the potential impact of this provision on the ECE profession and families’ access to quality early childhood education. To learn more about the “do no harm” provision please see the following NAEYC resources:

- [DNH Explainer with Example Cases](#)
- [Overview of Higher Education Provisions](#) in H.R.1/OBBB (this includes a detailed explanation of DNH on p.3)
- [State-by-State Median Wage Data](#)

NAEYC encourages its members and partners to submit comments to the U.S. Department of Education that outline concerns about the provision, make recommendations to mitigate the impact on high skill, high demand but low wage professions like early childhood education, and elevate the importance of young children and families having access to well-prepared early childhood educators.

The following guidance provides instructions for submitting comments on the [proposed rule](#) as well as suggested talking points to include in your comments. **All comments are due by May 20, 2026.**

Reading the Proposed Regulations

You can review the [Proposed Rule](#) online or in a [Federal Register PDF](#). You will notice that, as with many proposed rules, it is a very long document. The document is organized by the following sections (with page numbers referenced from the Federal Register PDF version):

- Parts I, II and III (pp. 21088-21091) include summaries of the provisions and specific questions the Department encourages respondents to address. It is important to note that you are not required to answer these questions. Your comments can address any aspect of the regulations.
- Part IV (p.21091) includes directions for submitting comments.
- Parts V-VII (pp.21092-291097) includes background information on the regulations, includes rationale for the Department’s authority to set these regulations, and describes

how the public helped inform the regulations.

- Part VIII (pp.21097-21198) includes a discussion of each of the provisions in the proposed regulations as it relates to points raised by negotiators during negotiated rulemaking and the Department's rationale for the current proposed regulations.
- **Pp. 21198-21204 are the actual proposed regulations. Focus on this section.**

General Guidelines for Responses

Submit your comments through the Federal Rulemaking portal at <https://www.regulations.gov/search?filter=ED-2026-OPE-0100%20>. **All responses must include the federal register ED-2026-OPE-0100 at the top of the comments and should include the full name, title, and contact information of those submitting the comments.** *Please keep in mind that the text of all comments is published at regulations.gov, so avoid including personal information such as a personal phone number or home address.*

Following are some tips for writing public comments:

- There is no required format for your comments. They can be formal or informal; they can be a sentence, paragraph, or long statement; they can express support and/or disagreement; and they can provide commentary and/or provide suggested revisions.
- Effective comments are constructive and respectful, connect to the lived experience of the writer, and highlight the potential impact of the proposed regulation.
- The Department must review and respond to each unique comment it receives. *Therefore, please customize your comments to describe the potential impact of the provision on yourself, your students, your program, and/or your communities as appropriate.*
- If you write your feedback directly into the comment box (rather than attaching a Word or PDF), your comments may be limited to simple text; hence, hyperlinks may not work and footnotes may not be visible.
- You can learn more about writing public comments through [this webinar](#) hosted by DataIndex.

Finally, remember that your voice DOES matter. You offer a uniquely informed perspective that is important for the Department to understand!

Suggested Structure and Talking Points for Your Comments

Be clear, at the beginning of your comments, that you are writing to urge that the regulations mitigate the impact of the *do no harm* provision on high-skill, high demand, and low-wage professions such as early childhood education.

1. Introduce yourself and, if relevant, your program/ institution/ organization.

For ECE higher education faculty/administrators: Describe the institution and your ECE program(s). Who are your students? As a collective what are their personal and professional backgrounds? How many of them attend full-time/part-time? What percentage typically rely on

federal student loans? Where do they work after completing your program? How do they contribute to your community, region, and state? Highlight how your institution and program are already very transparent with current and prospective ECE students about the wages in the ECE field (due to institutional accreditors' and existing U.S. ED requirements).

For early childhood educators: Share a little bit about where you work, why you became an early childhood educator (despite the wages), and how long you have been in the field. Talk about why access to ECE higher education certificates and degrees matters to you and your ECE colleagues. If you hold a higher education credential, share how it has impacted your practice and opportunities for career advancement and compensation increases. If you relied on federal student loans, talk about how that was essential to accessing higher education. If you have not yet started your higher education journey, talk about why you want to pursue it and why/whether accessing federal student loans would be important to you.

For AEYC Affiliates/ECE Employers/Advocates/Partners: Describe your organization and how it supports and/or relies on ECE higher education programs in your community/state. Talk about why ECE degrees and certificates matter to the quality of child care in your program/community/state. Talk about how this provision could impact access to those degrees, even for students who don't rely on student loans.

2. Provide some context about the ECE profession and why access to ECE higher education programs is important. In your own words touch on some/all of the points below.

- Early childhood educators provide an essential public good – they support the development, education and care of children birth through age 8.
- Their work in early childhood education settings – including in centers, family child care homes, comprehensive services programs like Head Start, elementary schools, faith-based programs, military communities – enables parents to participate in the workforce and supports better outcomes for the young children in their care.
- Access to quality early childhood education has been shown to increase social, health, economic, and education outcomes for young children.
- The supply of high quality early childhood education programs remains far less than the need and is exacerbated by the challenges programs face in hiring and retaining qualified educators.
- Research [shows](#) that early childhood educators that participate in higher education coursework and receive degrees or credentials are more likely than their peers to stay in the profession, supporting workforce quality and stability.
- Early childhood educators require specialized knowledge and skills to assess and support children's learning and development, to design, select, and implement curriculum, to use effective instructional practices, to identify children's potential learning or developmental needs that might require the additional support of specialists, and to collaborate with families and other professionals to support children, among other skills.
- ECE higher education programs provide the primary pathway for early childhood educators to gain preparation and supervised practice in these core competencies.
- Ideally, ECE students should not have to use any loans to afford an ECE degree or certificate, and many states, institutions, and communities offer funding and ECE higher education

pathways that minimize/eliminate the cost of ECE degrees.

- However, that funding is not always guaranteed in a given year, and some ECE students still rely on federal student loans (which offer better terms than private loans) to afford higher education. It's important for federal student loans to remain an option for ECE students to access degrees that are preparing them for the specific knowledge and skills they need to be effective early childhood educators.
- Because wages in the field are low and do not reflect the complex work required of early childhood educators ECE higher education programs, particularly at the certificate and associate degree level, may fail the earnings premium metric. This will limit current and prospective students' access to federal student loans in ECE higher education programs.
- Additionally, institutions may choose to preemptively close their ECE program(s) if they anticipate programs may not fare well on the earnings premium metric, and some states have already moved to require public institutions to eliminate programs outright if they fail on the metric. Collectively, limiting access to federal student loans in ECE higher education pathways and closing programs will hurt the quality of the ECE workforce and the quality and availability of child care programs in communities and states.

Resources with state data on the ECE workforce and access to child care that can support the introduction and context you provide in #1 and #2.

- [NAEYC State Fact Sheets](#)
- [NAEYC ECE Workforce Survey \(2026\) – National Results](#)
- [NAEYC ECE Workforce Survey \(2026\) – State Results](#)
- [CSCCE's 2024 ECE Workforce Index](#)

3. Ask for specific changes to the draft regulations (see A, B and C below).

- A. *[Everyone] Ask to exempt programs preparing individuals for high-skill, high-need, low-wage professions, like ECE, from the “do no harm” provision. If enacted, the proposed regulations will exacerbate workforce shortages and quality across these sectors as students may not be able to afford the required postsecondary degrees and credentials to enter and advance in these professions.***

You may want to draw from the following points:

- Recommend that the definition of “eligible non-gainful employment program” in section §668.2 be amended to exempt programs from being subject to the earnings premium measure that are preparing individuals for professions that are named as areas of national need in the Public Service Loan Forgiveness (PSLF) program and/or for professions that are experiencing extensive workforce shortages as designated by the federal government (such as through sources such as [Health Resources & Services Administration](#) and the Bureau of Labor Statistics) or by a state.
- Exempting programs preparing individuals for these professions will allow students to continue to afford higher education degrees and certificates required for these professions and to have the opportunity to participate in federal and state loan forgiveness programs.
- Through the Public Service Loan Forgiveness (PSLF) program, Congress has recognized that institutions of higher education prepare individuals for many professions that provide essential

services to the public such as early childhood education, social work and criminal justice. Many of these professions, or sectors within them, are low-wage, but all are in high-demand due to workforce shortages across the country.

- While a blanket exemption for certain programs would be the simplest and clearest course of action, a second approach could be to expand the allowable reasons that an institution can appeal a program's performance on the earnings premium measure. In §668.603(b) the proposed regulations limit appeals to reasons related to the calculation of data. This section should be amended to also allow for an institution to appeal (and receive a waiver exempting the program from losing access to Title IV funds) a program's "low earning outcome" designation if the program is preparing individuals for professions that are named as areas of national need in the Public Service Loan Forgiveness program and/or if the institution can show that the program is preparing individuals for a profession that is experiencing a national or state workforce shortage.

B. *[Everyone] Ask to extend implementation of the DNH provision to at least July 1, 2027.*

You may want to draw from the following points:

- Delay the implementation of the DNH provision so that institutions and programs have more time to prepare for implementation and evaluate learnings from the recent financial value transparency (FVT) data collection (which includes data points that would be part of the earnings premium metric).
- This will also provide time for institutions and the U.S. Department of Education to ensure that the data (and processes used to collect them) are valid and reliable and to further explore the impact of this provision on high-need, low-wage professions such as early childhood education.
- There is past precedent at the Department for delaying implementation, including for the FVT and gainful employment regulations.
- Under [current statute](#), federal education regulations finalized after November 1 of a calendar year, "...shall not become effective until the beginning of the second award year after such November 1 date." As such, this provision as well as the other higher education provisions included in the OBBB should not go into effect until at least the 2027-2028 award year.
- Given that over the last year the U.S. Department of Education has lost half of its staff and many functions within the Department are in the process of shifting to other federal agencies, we are concerned about the Department's capacity to calculate the earnings premium measure (a high-stakes measure) in an accurate, timely fashion.

C. *[Higher Education/Affiliates/Advocates/Partners] Ask for changes to the earnings premium metric calculation. Specifically,*

- ***Ask for the earnings threshold to be a fair wage comparison to ECE program graduates' wages.***
 - The earnings threshold definition in section §668.2 will unfairly impact programs preparing individuals for early childhood education careers as it uses aggregated median

wages of all adults in a state/nation and does not take into account in-state geographic, gender and racial wage differences. ECE is a predominately female profession (98%) that also includes a large percentage of educators of color (40%+)ⁱ.

- For example, in my state, the median earnings of adults with a high school diploma is \$ while the median earnings for women is \$ and for black adults is \$. Wages also vary by region within my state. For example, in my county, the average adult earns \$. Given that the median wage of child care workers in my state is \$, you can see how the proposed earnings threshold could greatly skew the respective higher education program's performance on it. (You can find examples of median wages in your state (including by race and gender) at [this link](#) and by geographic regions via [this link](#). You can find within state geographic wage differences for early childhood educators [here](#). Consider creating a small table that outlines wages in your state, pulling from the data in the links.)
- **[Higher Education] – Ask for the regulations to streamline the cohort aggregation structure for small programs. The current proposal is complicated and not required by statute.**
 - The definition of “cohort” in section §668.2 proposes that for programs that have fewer than 30 completers in the reporting year, the Department will aggregate completers up to four years prior to reach the required 30 threshold. If the threshold for 30 completers is still not reached, the Department will expand to the 4-digit CIP code and include up to four years prior of completers. This increases the complexity of data collection and reduces the meaningfulness of the earnings premium metric for the six-digit CIP program being evaluated on the “earnings premium measure”.
 - The Department should use the same cohort aggregation definition that is currently used for the 2014 and 2023 gainful employment and financial value transparency rules (a two-year and four-year cohort structure). It should not aggregate program completers beyond the 6-digit program CIP code. Using the existing cohort aggregation structure would build on systems already in place at the Department and institutions of higher education.
 - If the threshold for 30 completers is still not reached under this structure, then programs should be exempted from the earnings premium metric for that year. ECE programs already publish ECE wage and employment data on their program pages because of existing federal reporting requirements as well as institutional and programmatic accreditor requirements. Thus, transparency about wages is already present in programs. Additionally, many ECE students are already working in the ECE profession and are well-aware of wages in the profession.

If you are faculty within an institution that is submitting a broader set of comments, make sure that ECE programs are included in any discussion of the DNH provision.

ⁱ <https://cscce.berkeley.edu/workforce-index-2024/the-early-childhood-educator-workforce/about-the-early-childhood-workforce/>