IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

American Federation of Labor and Congress of Industrial Organizations,
815 16th St., NW
Washington, DC 20006

American Federation of State, County & Municipal Employees,
1625 L Street, NW
Washington, DC 20036-5687

American Federation of Teachers,
555 New Jersey Ave., NW
Washington, DC 20001

National Nurses United
8455 Colesville Road
Silver Spring, MD 20910

Plaintiffs,

v.

United States Department of Education,
400 Maryland Ave SW
Washington, DC 20202

Linda McMahon, *in her official capacity as United States Secretary of Education*,
400 Maryland Ave SW
Washington, DC 20202

Defendants.

Case No. ________________

Jury Trial: No

COMPLAINT

INTRODUCTION

1. The Department of Education (Department or ED) recently promulgated a rule that defies the very statute it purports to implement. The Reimagining and Improving Student Education (RISE Rule), 91 Fed. Reg. 23768 (May 1, 2026), purports to define "professional student" as

someone enrolled in one of only eleven named programs, even though the statute the Department claims to implement—the Act to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14 (Reconciliation Act or Act), Pub. L. 119-21, 139 Stat. 72 (July 4, 2025)—expressly sets forth an open-ended three-part functional test, expressly incorporated from an existing regulation, to determine whether a program of study qualifies as a "professional" program. While the regulation from which that open-ended definition was drawn listed ten of these eleven named programs as *illustrative* examples, its coverage extended to many more degrees than those eleven.

2. Qualifying as a "professional" has significant consequences. It allows a student to borrow up to $50,000 per year (or $200,000 in aggregate) in unsubsidized, federal loans, rather than only up to the $20,500 per year ($100,000 in aggregate) limit applicable to graduate students in programs deemed non-professional by the Reconciliation Act.

3. The Department's new, unprecedented regulatory constraint thus cuts in half the federal student loans that advanced practice nurses, teachers, social workers, librarians, and public health practitioners—among many others—would be entitled to borrow under the statute.

4. Limiting access to federal student loans for professional study in this arbitrary manner is not only bad policy, it violates the Administrative Procedure Act (APA) in several ways.

5. First, by defining "professional student" in a manner that conflicts with the statutory definition set forth in the Reconciliation Act, the Department's rule does not accord with the law and must, therefore, be vacated and set aside under 5 U.S.C. § 706(2)(A).

6. Second, by issuing a regulatory definition without statutory warrant, the Department exceeded its statutory authority and the Rule must, therefore, be vacated and set aside under § 706(2)(C).

7. Third, by excluding professions based on irrelevant criteria, using administrative codes for disclaimed and arbitrary purposes, exacerbating short-staffing crises in many bona fide professions, and rejecting viable, lawful alternatives without reasoned explanation, the RISE Rule is arbitrary, capricious, and an abuse of discretion. It must therefore be vacated and set aside under § 706(2)(A).

8. But the definition of "professional" is not the only fatal flaw in the regulation. By restricting the transitional provision—an interim exception for student borrowers enrolled in a higher education program as of June 30, 2026—with additional regulatory criteria that, again, have no statutory warrant, the rule again discords with its organic statute, exceeds the Department's authority, and is arbitrary and capricious. The unauthorized restrictions on the interim exception must also be vacated and set aside.

9. Finally, the Department has flouted express statutory provisions set forth in the Higher Education Act of 1965 (HEA), which require any change in the direct loan program to be published by November 1 before a loan-award year in order to become effective by the second award year—i.e., July 1—after the November 1 publication. 20 U.S.C. § 1089(c)(1). Under the HEA, therefore, the RISE Rule had to be published before November 1, 2025, to be effective by July 1, 2027. The RISE Rule, however, was published in May 2026 and purports to go into effect on July 1, 2026, a full year early. The rule thus flouts statutory commands and directly undermines the predictability Congress sought to afford federal student lending. It therefore must be vacated and set aside for these reasons, too.

10. Plaintiffs are unions—the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); American Federation of State, County & Municipal Employees (AFSCME); American Federation of Teachers (AFT); and National Nurses United (NNU)—

that objected to the RISE Rule because its several legal defects, if allowed to stand, will harm their members by requiring them to either take on more expensive, riskier private loans or forgo their professional study entirely. Doing so, Plaintiffs and their members fear, will hamper their careers and their professions more generally. And these financial obstacles to the professional development of advanced practice nurses, teachers, social workers, librarians, and public health practitioners will ultimately harm patients, children, readers, American health, and Americans who depend on social service. The Reconciliation Act and HEA preclude the Rule from effectuating these harms.

JURISDICTION AND VENUE

11. This Court has jurisdiction under 28 U.S.C. § 1331.

12. Venue is proper in this district under 28 U.S.C. § 1391(b)(1)–(2) and (e)(1), as well as 5 U.S.C. §§ 702 and 703. Defendants are a United States agency or officers sued in their official capacities who reside in this judicial district and who promulgated the challenged rule in this judicial district.

PARTIES

I. Plaintiffs

13. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) is a federation of 65 national and international labor organizations that represent 15 million working people.

14. The AFL-CIO brings this lawsuit on behalf of its affiliated unions' members affected by the RISE Rule.

a. AFL-CIO affiliated unions represent members across a wide range of professions: nurses, educators, social workers, journalists, musicians, public health practitioners, to name just a few.

b. Many of these members are directly harmed by the RISE Rule. Many would be considered "professional students" under the 2025 Reconciliation Act but not under the RISE Rule. As a result, many would be entitled to borrow up to $50,000 annually ($200,000 in aggregate) under the statute but only $20,5000 annually ($100,000 in aggregate) under the rule. The rule's lower caps on federal student loans require these members either to borrow additional financing from other sources, generally, on less favorable terms, or to forgo (or delay) career-advancing graduate education. These members have standing to challenge the RISE Rule in their own right.

c. As set forth in Article II of its Constitution, the AFL-CIO's principal objectives include aiding workers in securing improved working conditions; securing legislation that promotes the rights of workers; and promoting inclusion in the economy, in government, and throughout society. These objectives include assisting workers in obtaining access to education needed to foster their careers. This lawsuit thus pursues objectives germane to the AFL-CIO's purposes.

15. The American Federation of State, County & Municipal Employees, AFL-CIO (AFSCME) is a national labor organization and unincorporated membership association with approximately 1.4 million members organized into approximately 3,400 local unions, 58 councils, and other affiliates in 46 states (including Maryland), the District of Columbia, and Puerto Rico, and is headquartered in Washington, D.C.

16. AFSCME brings this lawsuit on behalf of its members affected by the RISE Rule.

a. AFSCME represents members across a wide range of professions, including nurses, social workers, library scientists, and public health workers. Its members all have one thing in common: dedication to making our communities stronger, healthier, and safer.

b. Many of these members will be directly harmed by the RISE Rule. Many would be considered "professional students" under the Act but not under the RISE Rule. As a result, many would be entitled to borrow up to $50,000 annually ($200,000 in aggregate) under the statute but only $20,5000 annually ($100,000 in aggregate) under the rule. The rule's lower caps on federal student loans require these members either to borrow additional financing from other sources, generally, on less favorable terms, or to forgo (or delay) career-advancing graduate education. These members have standing to challenge the RISE Rule in their own right.

   i. For example, AFSCME has a member in Michigan who works as a licensed Registered Nurse. This member has been successful in his nursing practice, having obtained multiple certifications and experience in a variety of specialties. This member would like to become a Nurse Practitioner, which would require this member to complete a Master of Science in Nursing (MSN). Because the RISE Rule does not define MSN as a professional degree, however, this member cannot afford to obtain an MSN. This member will miss out on the opportunity to advance in his career, to enhance his earning potential, and to contribute the full extent of his skills to this country's healthcare system.

   ii. AFSCME also has a member in California who works as a licensed Registered Nurse. This member has been a nurse for six years and would like to become a Nurse Practitioner so that she can help address the lack of access to primary care providers in her area.

Becoming a Nurse Practitioner requires getting a MSN. However, because the RISE Rule does not define MSN as a professional degree, this member no longer believes it is financially possible to pursue MSN programs. She does not know how she would be able to finance her degree without sacrificing her housing stability. As a result, this member will lose out on career advancement opportunities that would provide greater job stability and allow her to give back to her community.

c. AFSCME's mission is to represent its members, advocate for fairness in the workplace, safety on the job, fair wages, good benefits, a secure retirement, and excellence in public services. This includes ensuring its members have access to educational opportunities, as reflected by the fact that many AFSCME-negotiated collective bargaining agreements (CBAs) contain provisions designed to facilitate AFSCME-represented employees pursuing graduate education. Federal educational loan programs help AFSCME members afford the educational opportunities necessary to advance in their careers serving their communities. This lawsuit thus pursues objectives germane to AFSCME's purposes.

d. AFSCME itself will be harmed as an entity as well. Many AFSCME-negotiated CBAs contain provisions designed to facilitate AFSCME-represented employees' pursuit of graduate education. These include commitments from AFSCME members' employers to offer tuition reimbursement up to specified dollar amounts for members to pursue graduate degrees. With graduate education financially out-of-reach for many AFSCME members under the RISE Rule, this benefit will lose much of its value to many members. AFSCME will have to then bargain for better tuition reimbursement provisions, thereby expending its bargaining power where it otherwise would not have to. Otherwise, the value of this bargained-for benefit will be severely diluted.

17. The American Federation of Teachers (AFT) is a labor organization of that represents 1.8 million members who work in education, healthcare, and public services.

18. AFT brings this lawsuit on behalf of its members affected by the RISE Rule.

   a. AFT represents K-12 educators, academic workers (including full- and part-time faculty, academic professionals, and graduate employees), healthcare workers, and other public service workers.

   b. Many of these members are directly harmed by the RISE Rule. Many would be considered "professional students" under the Act but not under the RISE Rule. As a result, many would be entitled to borrow up to $50,000 annually ($200,000 in aggregate) under the statute but only $20,5000 annually ($100,000 in aggregate) under the rule. The rule's lower caps on federal student loans require these members either to borrow additional financing from other sources, generally, on less favorable terms, or to forgo (or delay) career-advancing graduate education. These members have standing to challenge the RISE Rule in their own right.

      i. For example, AFT has an associate member who is a senior in college, majoring in Exercise Science. This member planned to pursue a career in healthcare as an Occupational Therapist, working with children. This summer, she plans to work as a volunteer with children with physical disabilities. She has begun exploring advanced degree programs to pursue her career goal of Occupational Therapist by obtaining a Doctorate in Occupational Therapy. However, the RISE Rule does not define such a degree as "professional," meaning she will be subject to lower federal student loan caps. This member is uncertain that she can finance her continued education. Even if she can, she will be harmed by the lower loans caps because fewer of her loans will be entitled to forgiveness through Public Service Loan Forgiveness and she will likely have to take private loans at a higher interest rate and without the benefits that come from federal student loans.

ii. AFT also has a member who works in the healthcare field who intends to pursue a Psychiatric Mental Health Nurse Practitioner (PMHNP) degree. The RISE rule's narrow definition of "professional" degree creates a dilemma for this member. Public universities in her state offer only a doctorate degree in this field, and due to the length of the program she would likely need to borrow more than the "graduate"" degree cap to complete the degree. Ironically, she is considering doing a shorter master's program with a higher tuition rate at a private university in order to stay within the borrowing limits and avoid taking out private loans.

iii. Lastly, AFT has a member who is pursuing her Doctor of Public Health (DrPH) degree to advance her career as a public health advocate. At the same time, she is raising a family and working full time as an assistant dean at a top-rated university. Given the many competing commitments, she has considered withdrawing from her degree program to focus on her family and career. Because the RISE rule does not define a DrPH as a professional degree, she is concerned that she will not be able to afford to continue her advanced degree if she were to withdraw and later reenter.

c. As set forth in Article II of its Constitution and Bylaws, AFT principal objectives include promoting the welfare of children and its members by providing progressively better educational, health and social service opportunities; to improve standards for teachers, paraprofessionals and school-related personnel, higher education faculty and professionals, state and local public employees, healthcare employees and other workers, by promoting better preparation; to improve the standards for registered nurses, allied health professionals and other healthcare employees by promoting continuing education; to improve standards for public employees by promoting continuing education; and to encourage retention of competent teachers including by promoting educational programs. These objectives include assisting workers in obtaining access to education needed to foster their careers. This lawsuit thus pursues objectives germane to AFT's purposes.

19. AFT will also be harmed as an organization. The RISE rule's exclusion of both teaching degrees and nursing degrees from the definition of "professional" will make it more difficult and less attractive for students to enter the nursing and teaching profession. This will exacerbate worker shortages in these fields resulting in fewer potential members for AFT and additional stress on existing AFT members related to understaffing. AFT also regularly bargains CBA provisions that would provide financial assistance to members seeking professional degrees. The RISE rule's limitations on borrowing will create additional financial need for AFT members to pursue professional degrees in their field, thus diluting the value of these benefits. And finally, AFT expends substantial resources to assist members navigating student loan repayment issues in the form of student debt clinics and debt counseling services. The RISE rule's lower borrowing caps for nursing and teaching degrees will result in new AFT members entering these professions having greater private student debt burdens. Accordingly, AFT will need to divert additional resources to its student loan assistance programs to help members navigate more complex student loan challenges.

20. NNU is a labor organization that represents 225,000 RNs across the nation, many of whom pursue advanced nursing degrees after becoming RNs. NNU is headquartered in Silver Spring, MD.

21. NNU brings this lawsuit on behalf of its members affected by the RISE Rule.

    a. NNU represents nurses. Many of these members are directly harmed by the RISE Rule. Many—particularly those enrolled in Masters of Science in Nursing (MSN) and Doctor of Nursing Practice (DNP) programs—would be considered "professional students" under the Act but not under the RISE Rule. As a result, many would be entitled to borrow up to $50,000 annually ($200,000 in aggregate) under the statute but only $20,5000 annually ($100,000 in aggregate) under the rule. The rule's lower caps on federal student loans require these members either to borrow additional financing from other sources, generally, on less favorable terms, or to forgo (or delay) career-advancing graduate education. These members have standing to challenge the RISE Rule in their own right.

    b. As set forth in Article I of its Constitution, NNU's principal objectives include advocating for direct care nurses on all public policy matters related to nursing practice. These objectives include assisting workers in obtaining access to education needed to foster their careers. This lawsuit thus pursues objectives germane to NNU's purposes.

II. Defendants

22. The United States Department of Education is a federal agency within the executive branch of the United States government. 20 U.S.C. § 3411.

23. Linda E. McMahon is the United States Secretary of Education. She is charged with the supervision and management of all decisions and actions of the United States Department of Education. Plaintiffs sue her in her official capacity. 20 U.S.C. § 3412.

STATEMENT OF FACTS

I. The Higher Education Act and the William D. Ford Federal Direct Loan Program

24. In 1965, Congress enacted the Higher Education Act, Pub. L. No. 89-329, 79 Stat. 1255 (1965). That law, among other things, created a Guaranteed Student Loan program. Under that program, the federal government did not itself extend loans to students; it instead guaranteed loans made by participating private lenders in the event of a student default.

25. In 1993, Congress enacted the Student Loan Reform Act of 1993, Pub. L. 103-66, 107 Stat. 340 (1993), which amended the HEA and established the William D. Ford Direct Loan program (Direct Loan Program). *See* 20 U.S.C. §§ 1087–87j. Under this program, the federal government itself directly made loans to undergraduate and graduate students, rather than guaranteeing loans extended by private institutions.

26. The Student Loan Reform Act continued the GSL program but renamed it the Federal Family Education Loan (FFEL) program. *See* 20 U.S.C. §§ 1071 to 1087–4.

27. Initially, Congress anticipated that the Direct Loan program would replace the guarantee program, FFEL. But, in 1998, Congress amended HEA (Pub. L. 105-244), to repeal the provisions anticipating that the Direct Loan program would ultimately succeed FFEL. From 1994 through 2010, both the Direct Loan and the guarantee programs operated side-by-side.

28. In 2010, Congress ended FFEL. Health Care and Education Reconciliation Act of 2010. Pub. L. No. 111-152, 124 Stat. 1029 (2010). As a result, since 2010, the Direct Loan program has been the principal federal student loan program for postsecondary education.

29. The Direct Loan program made three types of loans available, and also allowed for a fourth, consolidation option: (1) Direct Subsidized Loans were available only to undergraduate students with financial need; (2) Direct Unsubsidized Loans were available both to undergraduate students and graduate students; (3) Direct PLUS Loans could be borrowed by

graduate students; and (4) Direct Consolidation Loans allowed borrowers to combine debt from multiple existing federal student loans into a single new loan.

30. From the student-borrowers' perspective, the Direct Loan program offers several advantages over private loans. The main advantage is that the terms of the loan are set by law, rather than by private entities making market-based decisions. This results in several specific advantages. Federal student loans are not due until after graduation, whereas private lending institutions may (and often do) require repayment while the student is still enrolled in school. Federal student loans have fixed interest rates, which are often lower than private loans and much lower than credit card interest rates, whereas private student loans can have variable or fixed interest rates and are often much higher than federal rates. Federal student loans (other than PLUS loans) do not require a credit check to qualify, whereas private loans often require either an established credit record or a cosigner. Federal student loans can be consolidated into a Direct Consolidation Loan, whereas private loans cannot (but may be refinanced). Federal student loans impose no prepayment penalty fee, whereas private loans may. Federal student loans may be eligible for forgiveness if the student goes on to work in public service, whereas private lenders typically do not offer loan forgiveness for public service work.

31. From July 1, 2012, through the enactment of the Reconciliation Act in 2025, the Direct Loan program offered graduate students two main kinds of loans. First, if financially independent, graduate students could obtain up to $20,500 annually ($138,500 in aggregate) in Direct Unsubsidized Loans. Second, they could obtain additional Direct PLUS loans not subject to any statutory limit—except that all federal loans, in combination, could not exceed the cost of attendance of the program. Neither program determined loan availability based on financial need.

32. The Direct PLUS loans were available regardless of the type of graduate program the student enrolled in.

33. Additionally, students pursuing certain degrees that entail "specialized training requiring exceptionally high costs of education" had access to higher Stafford Unsubsidized loan limits, as set by the Secretary of Education under the Higher Education Act. 20 U.S.C.A. § 1078-8(d)(2)(A). Since 1998 the Secretary had "increased the aggregate loan limits for graduate and professional students enrolled in certain approved health profession programs (as defined by Section 703(a) of the Public Health Act)." 91 FR 4254-01.

II. The Reconciliation Act

34. On July 4, 2025, Congress enacted into law an Act to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14, Pub. L. 119-21, 139 Stat. 72 (July 4, 2025).

35. Title VIII, Subtitle B of the Reconciliation Act addressed loan limits under the HEA.

36. Section 81001 of the Reconciliation Act amended section 455(a) of the HEA, 20 U.S.C. § 1087e(a), in several ways. It eliminated Direct PLUS loans for graduate and professional students, and it imposed annual and aggregated caps on unsubsidized loans for graduate and professional students.

37. Those caps, for the first time, differed by program of study. Graduate students in non-professional programs, as defined by the Act, are subject to annual caps of $20,500 and aggregate caps of $100,000 in unsubsidized loans. By contrast, professional students, as defined in the Act, are subject to annual caps of $50,000 and aggregate caps of $200,000 in unsubsidized loans.

38. The Act sets forth express definitions to distinguish between graduate and professional students.

39. It defines a graduate student to mean "a student enrolled in a program of study that awards a graduate credential (other than a professional degree) upon completion of the program." *See* 139 Stat. 335.

40. It defines a professional student to mean "a student enrolled in a program of study that awards a professional degree, as defined under section 668.2 of title 34, Code of Federal Regulations (as in effect on the date of enactment of this paragraph), upon completion of the program." *Id.*

41. President Trump signed the Reconciliation Act into law on July 4, 2025, making that date the effective date for purposes of the professional student definition under § 81001.

42. As of July 4, 2025, 34 C.F.R. 668.2 defined a "professional degree" as:

> A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a professional degree include but are not limited to Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), and Theology (M.Div., or M.H.L.).

43. The Act also imposes a lifetime aggregate cap of $257,500 on all federal loans a student may borrow, whether for undergraduate, graduate, or professional degrees.

44. The Act did not amend the Secretary's authority to set higher Stafford Unsubsidized loan limits for degrees entailing "specialized training requiring exceptionally high costs of education" under the Higher Education Act. 20 U.S.C.A. § 1078-8(d)(2)(A).

45. The Act further affects parent borrowers who take out student loans to finance their dependent's undergraduate education. Before the Act, parents could take out Direct PLUS loans up to the estimated cost of attendance. The Act now caps parent loans at $20,000 per year and $65,000 total per dependent student. 20 U.S.C. § 1087e(5).

46. For certain students and parent borrowers, Section 81001 also sets forth an "interim exception" to its new loan limits. 139 Stat. 336 (Paragraph 8). Under that exception, the new annual and aggregate caps on unsubsidized loans (paragraph 4) and the lifetime cap (paragraph 6) shall not apply "during the expected time to credential [defined in the Act] with respect to an individual who, as of June 30, 2026—(i) is enrolled in a program of study at an institution of higher education; and (ii) has received a loan under this part for such program of study." *Id.* (Paragraph 8(A)). The Act, in turn, defines "expected time to credential" as the time remaining to complete a program or three academic years, whichever is less. *Id.* (Paragraph 8(B)).

47. By its terms, this interim exception allows graduate students enrolled in a graduate program on June 30, 2026, and borrowing federal unsubsidized loans, to continue borrowing unsubsidized loans—not subject to the Reconciliation Act's caps—until they complete their program. The same is true for parents of similarly situated undergraduate students.

III. The RISE Rule negotiated rulemaking and notice of proposed rulemaking

48. The HEA requires the Secretary of Education to adhere to statutorily specified calendar dates in administering the Direct Loan program and other student assistance programs. Relevant here, HEA provides that "any regulatory changes initiated by the Secretary affecting the programs under this subchapter that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date." 20 U.S.C. § 1089(c)(1). The beginning of the award year is defined as July 1. 20 U.S.C. § 1088(a)(1).

49. On April 4, 2025—three months before the enactment of the Reconciliation Act—ED announced its intent to engage in negotiated rulemaking regarding the various student assistance programs the agency administers under Title IV of the HEA.

50. On May 12, 2025—nearly two months before the Reconciliation Act's enactment—ED announced a schedule of committee meetings for that negotiated rulemaking.

51. On July 25, 2025, ED announced its intent to establish negotiated rulemaking committees regarding Title IV, HEA programs. Intent to establish negotiated rulemaking committees, 90 Fed. Reg. 35261 (July 25, 2025). The HEA itself requires ED to use negotiated rulemaking when making changes to student loan regulations. 20 U.S.C. § 1098a(b).

52. Following that announcement, ED convened a Reimagining and Improving Student Education (RISE) negotiated rulemaking Committee.

53. The Committee was composed of representatives of educational institutions, students and borrowers, State officials, financial aid administrators, loan servicers, and other groups.

54. The Committee met in two sessions, from September 29 to October 3, 2025, and again from November 3 through 7, 2025.

55. On September 29, 2025, ED opened the negotiations by proposing to define a "professional student" as a student enrolled in one of the ten programs listed as illustrative examples in the 2025 regulation, 34 C.F.R. § 668.2, unless the Secretary separately designated an additional program through further rulemaking.

56. The next day, a representative of student borrowers, Deborah Lilly, circulated a proposal that identified two issues.

57. First, she noted that the "proposed definition of 'Professional Student' introduces a fixed list of degree types that qualify as 'professional degrees,' suggesting that it is exhaustive. However, this approach diverges from the current regulatory language in 34 CFR § 668.2, which defines 'professional degree' using functional criteria and a non-exhaustive list of

examples. The proposed language risks excluding students in rigorous, licensure-dependent programs not explicitly named, despite meeting the established criteria."

58. Second, she noted that the "proposed definition fails to account for graduate programs that have historically qualified as health professions under the existing loan limit exemptions." She added that omitting "these programs from the new definition risks reducing access to necessary funding for students pursuing careers in critical health professions. These students undergo extensive post-baccalaureate training, clinical or supervised practice, and often require professional licensure, which meets the functional criteria of professional education. Yet, by excluding them from the enumerated list, the proposed regulatory definition imposes disadvantages and financial inequities on a cohort that has previously been recognized for its professional rigor and public service impact."

59. Ms. Lilly thus recommended revising the proposed definition of "professional student" to reflect that the degrees listed in the then-current regulation were "illustrative and not exhaustive." Doing so, she explained, would "ensure consistency with the statutory framework under *Pub. L. 119-21* and the existing regulatory definition in 34 CFR § 668.2."

60. During the negotiating sessions, the Department made a few modifications to its original proposed definition of "professional student." But it never acknowledged the force of the student borrower representative's October 1, 2025, objections and certainly never modified its proposed rule to address those objections.

61. On January 30, 2026, ED published a notice of proposed rulemaking (NPRM), titled Reimagining and Improving Student Education (RISE). 91 Fed. Reg. 4254 (Jan. 30, 2026).

62. The proposed rule sought to define "professional student" as a student enrolled in a program that awards a professional degree upon completion, which it further defined as one that (1)

signified completion of academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree; (2) is generally at the doctoral level and requires six academic years of postsecondary education; (3) generally requires professional licensure to begin practice; and (4) includes a four-digit program Classification of Instructional Programs (CIP) code, in the same intermediate group as eleven specified programs. 91 Fed. Reg. 4254, 4332.[1]

63. CIP codes are six-digit numbers the National Center for Education Statistics (NCES) developed as general categories for taxonomic purposes. NCES specifically disclaimed any intent to use CIP codes as "a regulatory device." NCES, *Introduction to the Classification of Instructional Programs: 2020 Edition (CIP-2020)*.

64. Ten of the eleven programs specified in the proposed rule had been listed as illustrative examples in the pre-Reconciliation Act version of 34 C.F.R. § 668.2. Clinical psychology is the only profession that did not appear in the codified regulation and was new to the proposed rule.

65. The Department stated the reasons it proffered for this regulatory definition at pages 4260–68 of the RISE NPRM.

66. The RISE NPRM specifically set forth reasons for excluding business, education, occupational therapy, naturopathic medicine, nursing, physical therapy, physician assistant, public health, social work, and pilot training and licensure from the programs deemed professional under the NPRM. *Id.* at 4265–67.

[1] These are pharmacy, dentistry, veterinary medicine, chiropractic, law, medicine, optometry, osteopathic medicine, podiatry, theology, and clinical psychology.

67. The RISE NPRM also proposed to exclude any students who "withdr[ew] or otherwise cease[d] to be enrolled in the program of study" from the interim exception. *Id.* at 4333. In the Department's view, the exception is available only "to borrowers who remain enrolled in a program of study as required by Section 81001" of the Reconciliation Act. *Id.* at 4275. If a borrower transfers or withdraws, even temporarily, the borrower "is no longer enrolled." *Id.* As a result, the Department would apply the Reconciliation Act's new loan caps to any borrower enrolled in a qualifying program as of June 30, 2026, who later transferred programs or temporarily withdrew before reenrolling. This same limitation of the interim exception would subject parent borrowers who borrow on behalf of their dependent undergraduate to the updated limits on parental loans, if their dependent were to transfer or temporarily withdraw.

68. Finally, the RISE NPRM explained that "the increased annual and aggregate loan limits established by the Secretary for graduate and professional students enrolled in certain approved health profession programs will not apply to loans made on or after July 1, 2026." 91 FR 4277. In other words, students in high-cost programs would no longer have access to higher Unsubsidized Stafford loan limits.

69. Over 80,000 comments were submitted in response to the RISE NPRM. Approximately 97% of these comments objected to the proposed rule.

70. Each of the Plaintiff unions submitted comments objecting to the rule's proposed definition of "professional student." Those comments are attached as Exhibits 1–4.

71. Specifically, among other points, the unions objected that the proposed rule (1) requires a program to be one of eleven specified programs to be professional, whereas the statute used open-ended functional criteria, illustrated by examples; (2) excludes professions that allow practitioners to begin practice without a degree or license, or that require supervision by a

licensed practioner, and thus invents extra-statutory requirements or illicitly converts statutory conditions sufficient for professional status into regulatory requirements; (3) misuses CIP codes for disclaimed purposes, does so without any empirical showing that they track the statutory criteria, and excludes many CIP codes that meet the statutory criteria; (4) excludes programs historically recognized as professional; (5) imposes roadblocks to student financing that erect barriers to entry to short-staffed professions, with devastating impacts on education, health care, and other critical public-minded services; and (6) fails to consider other public policy impacts of the rule.

72. Other commenters objected to additional aspects of the RISE Rule NPRM, including ED's extra-statutory requirements narrowing the interim exception to pre-existing borrowers who do not change qualifying programs or temporarily withdraw before reenrolling. Commenters pointed out that the Rule's limitations on the interim exception were not derived from the statutory text and that revoking transfer students' eligibility to obtain the interim exception would be significantly disruptive. *See* 91 Fed. Reg. at 23,814. Commenters also noted that students who temporarily withdraw from a program of study and then re-enroll will not be eligible for the interim exception, even though the statutory language does not contemplate such a result. *Id*. at 23,813.

73. Commenters also objected to the Department's decision to end the practice of setting higher loan limits for high-cost degrees under the Higher Education Act. Commenters pointed out that "preserving this eligibility makes certain that qualified students can pursue medical and other health professions degrees without unnecessary financial barriers," and that "tuition, fees, and clinical requirements" for advanced nursing degrees "exceed even the professional student loan caps." 91 Fed. Reg. at 23,818.

IV. The final RISE Rule

74. On May 1, 2026, ED published its final rule. *Reimagining and Improving Student Education—Federal Student Loan Program Final Regulations*, 91 Fed. Reg. 23768 (May 1, 2026).

75. By its terms, the final RISE Rule became effective on July 1, 2026.

76. The final rule made no changes to the NPRM's proposed definition of "professional degree." *Id.* at 23,783–84.

77. The Department recognized some, but not all, objections to its proposed definition. *Id.* at 23783. It made no changes based on the objections it received.

78. It set forth its position at 91 Fed. Reg. 23,783–23,809.

79. The Department also made no changes to its regulatory limits on the interim exception, high-cost degree exceptions, or the PSLF program.

V. The RISE Rule's impacts

80. The RISE Rule will exclude several professions that meet the statutory criteria for professional students, thereby imposing the lower loan caps on students seeking to enroll in such programs even though they would qualify for the higher caps under the Reconciliation Act.

81. As a result, individuals pursuing these programs will have fewer financial resources available than authorized under the Reconciliation Act. Students that cannot afford their program without borrowing up to the higher caps "may have to drop out of their program" due to their inability to pay. Final Rule, 91 Fed. Reg. at 23,856. Those who had planned on enrolling may no longer be able to afford to pursue their degrees at all. Thus, the lower loan limits are likely to yield a drop in graduates in these programs which will impose a host of negative impacts on the critical public services that graduates of these programs provide.

82. Healthcare is one such example. The Rise Rule treats students pursuing advanced nursing degrees—including those in Masters of Science in Nursing (MSN) and Doctor of Nursing Practice (DNP) programs—as non-professionals. This will preclude many nurses from becoming Advanced Practice Registered Nurses (APRNs), like Nurse Practitioners (NPs), Certified Registered Nurse Anesthetists (CRNAs), and Certified Nurse Midwives (CNMs), as the degree programs required for those advanced practice nursing certifications typically cost far more than the student loan limits for "graduate" degrees under the RISE Rule. For those nurses who choose to pursue advanced nursing degrees, the RISE Rule will thus force them to take out additional private loans, generally on more onerous terms, thus exposing them to greater financial risk. For nurses that cannot afford to pursue these degrees, the RISE Rule will prevent them from entering these advanced roles. Either way, the provision of health care will suffer from exacerbated shortages and from APRNs practicing under additional stress: the new financial barriers will reduce access to primary care services for countless patients by limiting NPs, will reduce access to anesthesia services and procedures that require anesthesia by limiting CRNAs, and will limit access to labor and delivery services by limiting CNMs. Reducing the availability of new APRNs will also disproportionately impact rural areas, urban safety net providers, and medically underserved communities, where APRNs constitute a growing percentage of providers providing these critical services, and in many regions are already the majority providers.

83. Another example is education. The Rise Rule also treats advanced teaching programs as non-professional, even though many states do require teachers to obtain a master's degree within a specified period after beginning their teaching career—and many require advanced degrees for various specialty teaching positions. These specialized positions include Reading Specialists

and Instructional Coaches and Specialized Instructional Support Personnel (SISP), including School Librarians and Media Specialists, School Counselors, Social Workers, Nurses, and Speech-Language Pathologists. For educators that are either required to or wish to obtain advanced degrees so that they can enter these positions, the RISE Rule will force them to take out additional private loans, generally exposing them to more financial risk. In the alternative, the Rise Rule will force educators to forgo teaching entirely or abandon their plans to enter specialized roles. Not only will individual educators be harmed by the RISE Rule as a result, but the quality of public education will suffer nationwide as shortages emerge in these critical positions.

84. Social services is yet another example. The RISE Rule excludes social work (MSW) from professional programs even though such degrees meet the statutory requirements set forth by the Reconciliation Act. At the same time, social work is experiencing a crisis in staffing, with researchers predicting a "massive social worker shortage by 2030."[2] The RISE Rule threatens to exacerbate this shortage. One of the drivers of the social worker shortage is stagnation of wages, and limiting access to loan financing will only heighten the financial strain that social workers already face. The RISE Rule may force individuals to take out additional private loans, generally on more onerous terms, thus exposing them to greater financial risk. This may lead more graduates to pursue higher-paying private sector jobs, negatively impacting community institutions that rely on social workers. Others may choose to forgo their plans to become social workers. The result is there will be fewer social workers at a time when the need for the services such workers provide is accelerating.

[2] Columbia School of Social Work, *Bridging the Gap: The Urgent Need for Social Workers* (Sept. 23, 2023), available online at https://socialwork.columbia.edu/news/bridging-gap-urgentneed-social-workers

85. Library services are also threatened by the RISE Rule. The RISE Rule excludes Library science (MLS) even though these degrees also meet the statutory requirements set forth by the Reconciliation Act. Librarians are often certified before they may work in public libraries or K-12 school settings. Often, this certification hinges on completion of post-baccalaureate studies. The RISE Rule means that many individuals may choose not to pursue a librarian career path because they cannot afford to do so without the full array of loan financing, and those that do opt to pursue the degree may be forced to take out additional private loans, generally on more onerous terms. This will likely lead to staffing shortages in a field that is already faced with the challenges of new technologies, budget cuts, and low morale.

86. Finally, public health is another example of a field that will be negatively impacted by the RISE Rule. While public health professionals are not licensed, biostatisticians and epidemiologists, for example, often receive their specialized training via graduate level coursework and are not hired by state or local health departments (or promoted to such positions within those departments) without the applied skills and overall public health background and competencies provided by such training. The RISE Rule will likely prevent individuals from pursuing these specialized positions because they cannot afford to do so without the full array of loan financing, and if they do choose to pursue the degrees, may require more private loan financing, generally with more onerous terms. As a result, graduates may be dissuaded from entering the public sector, instead opting for higher-paying private sector jobs. Thus, the Rise Rule will have negative impacts on state and local health departments at the same time they are contending with emerging public health crises.

87. As highlighted, many professions excluded by the RISE Rule currently face significant shortages and retention crises. The practical result of the final RISE Rule, unless set aside, will

be to impose yet further barriers to recruiting and retaining skilled professionals in the several public-service-minded professions excluded by the RISE Rule from access to the higher loan limits associated with "professional" programs of study, impacting not just would-be graduates, but the availability and quality of these essential services.

Subsequent Developments

88. On June 24, 2026, Hon. Beryl A. Howell, United States District Judge of the District Court for the District of Columbia, preliminarily enjoined implementation of part of the RISE Rule's definition of "professional degree." Specifically, the Court stayed subpart (i) of the Department's definition of "professional degree," as well as the requirement in the preamble to the Rule that professional degrees cannot "lead[] to employment that ordinarily must be supervised by a licensed professional in a different occupation and cannot be performed independently." *See Am. Ass'n of Nurse Prac.*, 1:26-cv-1780-BAH, ECF No. 45 (June 24, 3036). In response, the Department issued an interim announcement that expanded the universe of degrees that it would treat as professional, while making clear that it was doing so only for the duration of the Court's stay. *See id*. ECF No. 47-1. The Department then updated that revised list on July 10. *See id*. ECF No. 50-1.

89. The updated list of degrees does not explain what criteria, beyond the statutory definition, the Department used to arrive at its updated list of professional degrees. The guidance includes certain advanced nursing degrees, like MSN and DNP degrees as professional. It does not include master degrees in social work, public health, library science, or education, as professional.

STATEMENT OF CLAIMS

COUNT ONE—APA §706(2)(A)
DEFINITION OF "PROFESSIONAL STUDENT" (34 C.F.R. § 685.102)

DOES NOT ACCORD WITH LAW

90. Plaintiffs incorporate by reference the allegations in the preceding paragraphs as if fully set forth here.

91. The Department is an "agency" under the APA. 5 U.S.C. §551(1)

92. The APA requires a reviewing court to "hold unlawful and set aside agency action, findings, and conclusions found to be … not in accordance with law." 5 U.S.C. § 706(2)(A).

93. The Reconciliation Act defines a professional student as a student who satisfies three, and only three, criteria. The student must be enrolled in a program of study that awards a degree that, first, "signifies completion of the academic requirements for beginning practice in a given profession," and, second, signifies "a level of professional skill beyond that normally required for a bachelor's degree." Reconciliation Act, § 81001 (incorporating 34 C.F.R. § 668.2). Third, "[p]rofessional licensure is also generally required" to practice the student's profession. *Id.*

94. The RISE Rule is final agency action that conflicts with the Reconciliation Act in several ways.

95. Among other conflicts, the RISE Rule (1) requires a program to be one of eleven programs enumerated in the regulation, even though the statute contains an open-ended functional test (merely illustrated with a non-exhaustive list of examples); (2) requires a degree to be necessary to enter a profession, even though the statute requires only that the degree communicate publicly an educational institution's belief that the graduate is ready to begin practice (regardless of whether the profession actually insists on a degree as a prerequisite to practice[3]); (3) requires a degree as a universal prerequisite to practice a profession, even though

[3] This distinction is made pellucid by the statute's inclusion of law and theology as exemplars of professional programs. In neither program is a degree universally required to begin practice of the profession. The Rule is thus contrary to law by insisting that a professional universally require a degree as a prerequisite to practice.

the statute requires only that a degree be generally required—and thus subject to exception; (4) excludes professions whose practitioners are supervised by other licensed professionals, even though the statute contains no such requirement; and (5) specifically excludes several professions that satisfy all statutory criteria.

96. The Department's regulatory definition of "professional student" is thus contrary to the statutory definition established by the Reconciliation Act.

97. Plaintiffs are entitled to a declaration that the RISE Rule violates the APA because the regulatory definition of "professional student" is contrary to the Reconciliation Act.

98. Plaintiffs are entitled to an order vacating and setting aside the RISE Rule to the extent it is contrary to the Reconciliation Act.

COUNT TWO—APA §706(2)(C)
DEFINITION OF "PROFESSIONAL STUDENT" (34 C.F.R. § 685.102)
EXCEEDS STATUTORY AUTHORITY

99. Plaintiffs incorporate by reference the allegations in the preceding paragraphs as if fully set forth here.

100. The Department is an "agency" under the APA. 5 U.S.C. §551(1)

101. The APA requires a reviewing court to "hold unlawful and set aside agency action, findings, and conclusions found to be …. in excess of statutory jurisdiction, authority, or limitations". 5 U.S.C. § 706(2)(C).

102. In our system of government, federal agencies have only the authority Congress confers upon them. *See, e.g.*, *W. Virginia v. EPA*, 597 U.S. 697, 723 (2022) ("Agencies have only those powers given to them by Congress, and "enabling legislation" is generally not an "open book to which the agency [may] add pages and change the plot line."); *FEC v. Cruz*, 596 U.S. 289, 301 (2022) ("An agency, after all, 'literally has no power to act'—including under its

regulations—unless and until Congress authorizes it to do so by statute.”), *Louisiana Pub. Serv. Commn. v. F.C.C.*, 476 U.S. 355, 357 (1986) (“an agency literally has no power to act, let alone pre-empt the validly enacted legislation of a sovereign State, unless and until Congress confers power upon it.”).

103. The Reconciliation Act defines a professional student as a student who satisfies three, and only three, criteria. The student must be enrolled in a program of study that awards a degree that, first, “signifies completion of the academic requirements for beginning practice in a given profession,” and, second, signifies “a level of professional skill beyond that normally required for a bachelor’s degree.” Reconciliation Act, § 81001 (incorporating 34 C.F.R. § 668.2). Third, “[p]rofessional licensure is also generally required” to practice the student’s profession. *Id.*

104. The RISE Rule is final agency action that conflicts with the Reconciliation Act in several ways.

105. Among other conflicts, the RISE Rule (1) requires a program to be one of eleven programs enumerated in the regulation, even though the statute contains an open-ended functional test (simply illustrated with a non-exhaustive list of examples); (2) requires a degree to be necessary to enter a profession, even though the statute requires only that the degree communicate publicly an educational institution’s belief that the graduate is ready to begin practice (regardless of whether the profession actually insists on a degree as a prerequisite to practice); (3) requires a degree as a universal prerequisite to practice a profession, even though the statute requires only that a degree be generally required—and thus subject to exception; (4) excludes professions whose practitioners are supervised by other licensed professionals, even though the statute contains no such requirement; and (5) specifically excludes several professions that satisfy all statutory criteria.

106. The Reconciliation Act does not authorize the Department to adopt a definition of "professional student" in conflict with the statutory definition.

107. Neither does HEA. Although HEA authorizes the Department to make rules, the Department may do so only "pursuant to law" and "subject to limitations as may be otherwise imposed by law." 20 U.S.C. §1221e-3.

108. Neither the Reconciliation Act nor HEA authorizes the Department to adopt a definition of "professional student" that conflicts with the statutory definition.

109. Plaintiffs are entitled to a declaration that the Department has no authority to issue a rule that defines "professional student" in a manner that conflicts with the Reconciliation Act.

110. Plaintiffs are entitled to an order vacating and setting aside the RISE Rule to the extent its definition of "professional student" exceeds the agency's rulemaking authority.

COUNT THREE—APA §706(2)(A)
DEFINITION OF "PROFESSIONAL STUDENT" (34 C.F.R. § 685.102)
IS ARBITRARY, CAPRICIOUS, AND AN ABUSE OF DISCRETION

111. Plaintiffs incorporate by reference the allegations in the preceding paragraphs as if fully set forth here.

112. The Department is an "agency" under the APA. 5 U.S.C. §551(1)

113. The APA requires a reviewing court to "hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, [or] an abuse of discretion … ". 5 U.S.C. § 706(2)(A).

114. Agency action is arbitrary and capricious when "the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product

of agency expertise." *Motor Vehicle Manufacturers Ass'n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). An "agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made." *Id*. (quotation marks omitted).

115. The RISE Rule is final agency action that is arbitrary and capricious because it conflicts in several ways with the Reconciliation Act. It thereby relied on factors Congress did not intend it to rely on.

116. The Rise Rule is also arbitrary and capricious including because it (1) excludes professions whose practitioners may enter the profession without a degree or license, and who are supervised by other licensed professions; (2) relies on CIP codes, which have been disclaimed for use in regulation and which the Department has failed to show—or even attempt to show—track the statutory criteria for professional students; (3) excludes several professions from the higher loan limits applicable to "professional students," even where the professions are short-staffed and the exclusions will have the foreseeable effect of exacerbating challenges in the delivery of health care, teaching, public health, social work, and other vital professions; (4) excludes several professions from the higher loan limits applicable to "professional students," even where the cost of obtaining a degree to pursue that profession far exceeds the lower graduate student loan limits, rendering those degrees effectively out of reach for many, if not most, prospective students; (5) fails to reasonably engage with and explain why it rejected commenters' suggestion to maintain higher loan caps for programs entailing specialized training and exceptionally high costs; and (6) fails to reasonably engage with and explain why it rejected the multiple comments advocating for more expansive definitions of "professional student" that accord with the Act.

COUNT FOUR—APA §706(2)(A)
LIMITATIONS ON INTERIM EXCEPTION (34 C.F.R. § 685.203)
DO NOT ACCORD WITH LAW

117. Plaintiffs incorporate by reference the allegations in the preceding paragraphs as if fully set forth here.

118. The Department is an "agency" under the APA. 5 U.S.C. §551(1)

119. The APA requires a reviewing court to "hold unlawful and set aside agency action, findings, and conclusions found to be …. not in accordance with law." 5 U.S.C. § 706(2)(A).

120. The Reconciliation Act provides that its new loan limits "shall not apply" "during [a student's] expected time to credential" for any student who, "as of June 30, 2026," meets two criteria: (1) they must be "enrolled in a program of study at an institution of higher education," and (2) they must have "received a loan . . . for such program of study." 20 U.S.C. § 1087e(a)(8)(A). The Act does not impose any other criteria to qualify for the interim exception.

121. The RISE Rule is final agency action that conflicts with the Reconciliation Act because it excludes from the interim exception students who meet these two criteria, but who, subsequent to June 30, 2026, either withdraw temporarily from their degree program or transfer to a different institution, even if they maintain the same program of study. *See* 91 Fed. Reg. at 23,813-14.

122. The statute's mandatory language that the Reconciliation Act's changes to federal educational lending "shall not apply" to students who meet the two statutory criteria does not admit of these additional criteria. The RISE Rule is thus contrary to law.

123. Plaintiffs are entitled to an order vacating and setting aside the RISE Rule to the extent it is contrary to the Reconciliation Act.

COUNT FIVE—APA §706(2)(C)
LIMITATIONS ON INTERIM EXCEPTION (34 C.F.R. § 685.203)
EXCEED STATUTORY AUTHORITY

124. Plaintiffs incorporate by reference the allegations in the preceding paragraphs as if fully set forth here.

125. The Department is an "agency" under the APA. 5 U.S.C. §551(1)

126. The APA requires a reviewing court to "hold unlawful and set aside agency action, findings, and conclusions found to be … in excess of statutory jurisdiction, authority, or limitations." 5 U.S.C. § 706(2)(C).

127. "Agencies have only those powers given to them by Congress, and "enabling legislation" is generally not an "open book to which the agency [may] add pages and change the plot line." *W. Virginia v. EPA*, 597 U.S. 697, 723 (2022).

128. The Reconciliation Act provides that its new loan limits "shall not apply" "during [a student's] expected time to credential" for any student who, "as of June 30, 2026," meets two criteria: (1) they must be "enrolled in a program of study at an institution of higher education," and (2) they must have "received a loan … for such program of study." 20 U.S.C. § 1087e(a)(8)(A). The Act does not impose any other criteria to qualify for the interim exception.

129. The RISE Rule is final agency action that exceeds this statutory provision because it excludes from the interim exception students who meet these two criteria, but who, subsequent to June 30, 2026, either withdraw temporarily from their degree program, or transfer to a different institution, even if they maintain the same program of study. *See* 91 Fed. Reg. at 23,813-14.

130. The statute's mandatory language that the Reconciliation Act's changes to federal educational lending "shall not apply" to students who meet the two statutory criteria does not admit of these additional criteria. The RISE Rule thus exceeds ED's authority under the Reconciliation Act.

131. Plaintiffs are entitled to a declaration that the Department has no authority to issue a rule that places additional limitations on who may be exempted from the Rule's changes to federal loan financing.

132. Plaintiffs are entitled to an order vacating and setting aside the RISE Rule to the extent it exceeds the agency's rulemaking authority.

COUNT SIX—APA §706(2)(A)
LIMITATIONS ON INTERIM EXCEPTION (34 C.F.R. § 685.203) ARE ARBITRARY, CAPRICIOUS, AND AN ABUSE OF DISCRETION

133. Plaintiffs incorporate by reference the allegations in the preceding paragraphs as if fully set forth here.

134. The Department is an "agency" under the APA. 5 U.S.C. §551(1)

135. The APA requires a reviewing court to "hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, [or] an abuse of discretion … ". 5 U.S.C. § 706(2)(A).

136. Agency action is arbitrary and capricious when "the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Motor Vehicle Manufacturers Ass'n of the United States, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). An "agency must examine the relevant data

and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made." *Id*. (quotation marks omitted).

137. The RISE Rule is final agency action that is arbitrary and capricious because it excludes students who transfer institutions but maintain the same program of study, and students who temporarily withdraw from a program of study, from the Reconciliation Act's interim exception. In doing so, the Department failed to explain why it imposed this additional limitation and certainly did not offer a reasoned basis for doing so. Indeed, in rejecting commenters' concerns regarding the effect of the rule on transfer students, the Department provided no reasoning, merely asserting that "[i]f a student transfers to a different institution, even in the same program of study, the Department would consider that to be a new program of study." 91 Fed. Reg. at 23,814. The Department offered a similarly unreasoned explanation for rejecting concerns regarding students who withdraw temporarily. *Id*. at 23,813. Moreover, in excluding students who meet the statutory interim exception from its coverage, the Department failed to consider the reliance interests of students and schools that will be affected by this additional hurdle to educational financing.

COUNT SEVEN—APA §706(2)(A) , 702(2)(D)
UNLAWFUL WAIVER OF HEA MASTER CALENDAR REQUIREMENTS

138. Plaintiffs incorporate by reference the allegations in the preceding paragraphs as if fully set forth here.

139. "To assure adequate notification and timely delivery of student aid funds" under the Direct Loan program, the HEA requires the Department to "adhere to [specified] calendar dates in the year preceding the award year." 20 U.S.C. § 1089(a)).

140. Subject to certain exceptions inapplicable here, "any regulatory changes initiated by the Secretary affecting the [Direct Loan programs] that have not been published in final form by

November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date." 20 U.S.C. § 1089(c)(1).

141. The Department did not publish the final RISE Rule in the Federal Register until May 1, 2026.

142. Under the master calendar requirements set forth in 20 U.S.C. § 1089, the RISE Rule cannot become effective until July 1, 2027.

143. Yet, the RISE Rule purports to become effective on July 1, 2026, a full year early. 91 Fed. Reg. 23,768, 23,770.

144. The Department attempts to justify this violation of the HEA master calendar requirements by contending that the Reconciliation Act implicitly waived the master calendar requirements by requiring the Department to implement several provisions by July 1, 2026. 91 Fed. Reg. 23,770.

145. It further contends, without explanation, that "[m]any of these provisions are not self-executing and could not be implemented absent the Department promulgating regulations to provide details for institutions on how to comply with the Working Families Tax Act." *Id.*

146. The Department makes no specific contention that the Reconciliation Act's definition of "professional student" is one of the provisions that is not self-executing.

147. Nor could it. The Reconciliation Act defines "professional student" expressly, leaving no discretion to the Department to depart from that express definition. The statutory definition of "professional student," in other words, *is* self-executing and did not require further regulation to become operative.

148. The Reconciliation Act thus does not waive the HEA master calendar requirements, expressly or impliedly.

149. As a result, the RISE Rule's definition of "professional student" cannot lawfully go into effect before July 1, 2027 (if it can lawfully go into effect at all).

150. By purporting to become effective on July 1, 2026, the RISE Rule is "not in accordance of law" and must be held "unlawful and set aside." 5 U.S.C. § 706(2)(A).

151. By purporting to become effective on July 1, 2026, the RISE Rule is 'without observed of procedure required by law"—namely, the HEA master calendar requirements—and must be held "unlawful and set aside." 5 U.S.C. § 706(2)(D).

152. By purporting to become effective on July 1, 2026, the RISE Rule is arbitrary and capricious. It flouts the factors Congress intended the Department to consider and fails to account for reliance interests by introducing confusion and chaos into the federal student loan scheme. 5 U.S.C. § 706(2)(A).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask this Court to enter judgment in their favor and

1. Declare the RISE Rule violates the Reconciliation Act and the Higher Education Act, exceeds ED's statutory authority, and is arbitrary, capricious, and abusive of ED's discretion.
2. Vacate and set aside the RISE Rule. 5 U.S.C. § 706(2).
3. Issue an injunction barring ED and its agents and employees from implementing and enforcing the RISE Rule, at least to the extent that it runs afoul of the Reconciliation Act's requirements.
4. Postpone the effective date of the RISE Rule as necessary to prevent irreparable injury. 5. U.S.C. § 705.
5. Award Plaintiffs costs, including reasonable attorney's fees.

6. Grant such other relief as is just and proper.

Dated: August 11, 2026

Respectfully submitted,

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EXHIBIT 1:
AFL-CIO COMMENTS

AFL-CIO

AMERICA'S UNIONS

American Federation of Labor and Congress of Industrial Organizations

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March 2, 2026

Submitted via www.regulations.gov

Linda McMahon
Secretary, Department of Education
400 Maryland Ave., SW
Washington, DC 20202

Re: Comments from AFL-CIO on the Department of Education's NPRM *Reimagining and Improving Student Education*, Docket No. ED-2025-OPE-0944, RIN 1840-AD98

Dear Secretary McMahon:

The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) respectfully submits these comments in response to the Department of Education's (ED or Department) proposed rule, *Reimagining and Improving Student Education* (RISE Rule), published on January 30, 2026.

The AFL-CIO is a federation of 64 national and international labor organizations that represent 15 million working people. Many of its affiliated unions represent members across a wide range of professions: nurses, educators, social workers, journalists, forest managers, information technology administrators, engineers, interpreters, librarians, economists, musicians, public health practitioners, and nutritionists—to name just a few. In representing these professional workers, the AFL-CIO and its affiliated unions have developed significant expertise in the nature of these professions.

In our view, the proposed definition of "professional student"—to be set forth in an amended 34 C.F.R. § 685.102—(1) exceeds ED's authority under Section 81001 of the One Big Beautiful Bill (OBBB), Pub. L. 119-21 (July 4, 2025), and discords with that law by straying from the definition of "professional degree" under 34 C.F.R. § 668.2 as of July 4, 2025, by substituting a close-ended exhaustive list for an open-ended functional criteria, treating as necessary conditions deemed sufficient by the codified regulation, misusing the National Center for Education Statistics' Classification of Instructional Programs (CIP) codes for purposes the center has specifically disclaimed, and otherwise misusing those codes arbitrarily and capriciously in defining professional student; and (2) devalues professions and professionals while imposing roadblocks to their ability to obtain financing at a time when many of the professions excluded by ED's proposed definition are short-staffed and thus need more, not fewer, new entrants.

For these reasons, elaborated below, the AFL-CIO urges ED to replace the RISE Rule's proposed definition of "professional student" with a definition that honors the OBBB's statutory directive to follow the definition under 34 C.F.R. § 668.2 as it existed in July 2025 (the current, codified regulation). That approach would provide an open-ended definition based on functional criteria, not a definition effectively limited to 11 designated professions—without any statutory warrant for the limitation.

I. The Proposed Definition of "Professional Student" Does Not Accord with Law and Exceeds ED's Statutory Authority.

The proposed RISE Rule purports to implement the OBBB's amendments (§ 81001, 139 Stat. 335) to the Higher Education Act of 1965 (HEA) federal loan program by amending the definition of "professional student." 91 Fed. Reg. 4254, 4254 (Jan. 30, 2026).

The OBBB itself defines "professional student" to mean

> a student enrolled in a program of study that awards a professional degree, as defined under section 668.2 of title 34, Code of Federal Regulations (as in effect on the date of enactment of this paragraph), upon completion of the program.

OBBB, § 81001(2) (amending 20 U.S.C. § 1087e to add 1087e(a)(4)(C)).

By its terms, the OBBB pegs HEA's "professional student" definition to the regulatory definition of professional degree as it existed on July 4, 2025. *See* 20 U.S.C. § 1087(a)(4)(C). The OBBB confers on ED no discretion to expand or contract the definition in that current, codified regulation—34 C.F.R. § 668.2.

Thus, while ED cites its general rulemaking authority under 20 U.S.C. § 1221e-3 as the statutory authority for its proposed rule, 91 Fed. Reg.

4254, 4256, the Secretary has authority to make rules only "pursuant to law" and only "subject to limitations as may be otherwise imposed by law." 20 U.S.C. § 1221e-3. Because OBBB § 81001(2) specifies the precise definition of "professional student" it authorizes, the statute confers no discretionary authority on ED to narrow the statutorily prescribed definition. *Cf.*, *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 394–95 (2024) (whether statute confers a degree of discretion on an agency to fill up the details is itself a question of statutory interpretation, and only the "best reading" of the statute on that question is law).

As a result, the RISE Rule's proposed definition of "professional student" is lawful only if it is consistent with the July 2025 definition of "professional degree." It is not.

In fact, the proposed definition strays from the current, codified definition in at least three ways: (a) it replaces the existing definition's open-ended, functional approach with a closed universe of professional programs; (b) it misreads the existing definition's recognition that a degree is sufficient to signify readiness to practice a profession with a requirement that a degree is necessary to enter a profession; and (c) it misuses CIP codes for disclaimed purposes and does so arbitrarily and capriciously.

A. By limiting the universe of professional degrees eligible for the higher annual and aggregated loan limits, the proposed rule flouts the existing regulation's open-ended approach, which deploys a functional criteria coupled with an expressly non-exhaustive list of illustrative examples.

The current, codified regulation defines a "professional degree" as:

> A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a professional degree include but are not limited to Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic

> Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), and Theology (M.Div., or M.H.L.).

34 C.F.R. § 668.2 (in effect on July 4, 2025).

ED itself recognizes that this definition is "open-ended" and that the OBBB "codif[ied]" it. 91 Fed. Reg. 4254, 4257. That recognition should be the end of the story. By codifying an open-ended definition, Congress did not authorize ED to convert the open-ended definition into a narrow, closed universe that encompasses only 11 named professions.

Yet, that is exactly what ED is proposing. Its proposed definition begins with the codified regulation by noting that a professional degree signifies "both completion of the academic requirements for beginning practice in a given profession, and a level of professional skill beyond that normally required for a bachelor's degree." Proposed § 685.102 – *professional student* (1)(i), set forth at 91 Fed. Reg. 4254, 4332). Beyond that first step, though, the remainder of the ED's proposal exceeds its statutory authority.

The proposed rule would require professional degrees "generally" to be "at the doctoral level" (proposed (1)(ii)) even though the existing regulation contains no such requirement.

Next, the proposed rule would generally "require professional licensure to **begin** practice" (proposed (1)(iii), emphasis added), even though the existing regulation simply notes that professional licensure is generally required, without regard to whether it is required to enter the profession and begin practice. The NPRM's discussion (91 Fed. Reg. 4254, 4265) of several excluded professions—education, nursing, public health, and social work—demonstrates that this departure from the existing regulation, while occupying few words, erects a significant roadblock to professions qualifying under the proposed rule. In each case, ED excluded them because these professions don't always require advanced degrees to begin the practice, even if they often do require them to progress in the practice.

Then, the proposed rule closes the universe of programs entitled to the higher annual and aggregate loan limits available to students seeking progressional degrees (*see* 20 U.S.C. § 1087e(a)(4)) by requiring the program to include a four-digit CIP code (either assigned by the educational institution or as determined by the ED Secretary) "in the same intermediate group" as the 11 fields specifically named in the proposed rule. Proposed (1)(iv), (2)(i).

The Department purports to derive the doctoral and CIP-code requirements, proposed (1)(ii) and (1)(IV), from the *noscitur a sociis* canon of construction. 91 Fed. Reg. 4254, 4262–64. According to the Department, because the current, codified regulation contains an illustrative list of examples, the OBBB requires ED to identify the commonality across those examples and limit the definition accordingly.

To support that position, the Department relies on a case that involved a criminal statute with a closed list of verbs; there, the Court relied on the canon to interpret two ambiguous words in the list—"promotes" and "presents"—in accord with their neighbors, thus narrowing their multiple meanings to those, like the neighboring verbs, reflecting a transactional context. *United States v. Williams*, 553 U.S. 285, 294–95 (2008). That use of the *noscitur* canon is typical. In a closed list of statutory terms, the canon can help eliminate ambiguities that might arise had any particular term been read in isolation by reading the term to accord with its listmates. *See, e.g.*, *Dubin v. United States*, 599 U.S. 110, 124–27 (2023) (a statutory term, indeterminate when read in isolation, construed to accord with its neighboring terms in a list); *Lagos v. United States*, 584 U.S. 577, 582 (2018) (similar); *Yates v. United States*, 574 U.S. 528, 543–545 (2015) (similar).

But the proposed RISE Rule definition of "professional student" doesn't deploy the *noscitur* canon to clear up ambiguities in one listed term by consulting the context of its listmates. Instead, the proposed rule contends that the Department has authority to search for commonalities among non-exhaustively enumerated illustrative examples in order to convert those illustrations into a closed universe of eligible professions. 91 Fed. Reg. 4254, 4263–64. And it makes that argument in the face of clear language from the codified regulation underscoring the non-exhaustive nature of the illustrations. 34 C.F.R. § 668.2 ("Examples of a professional degree include but are not limited to … .").

Nothing in the *noscitur a sociis* canon justifies this rewriting of the current, codified regulation. Quite the contrary, a "statutory definition declaring what something 'includes' is more susceptible to extension by construction than a definition declaring what a term 'means.'" 2A Sutherland Statutory Construction § 47:7 (7th ed.). That's because the "word 'includes' is usually a term of enlargement, and not of limitation, and conveys the conclusion that there are other items includable, though not specifically enumerated." *Id.* (citing, inter alia, *Burgess v. United States*, 553 U.S. 124, 131 n.3 (2008); *Federal Land Bank of St. Paul v. Bismarck Lumber Co.*, 314 U.S. 95, 100 (1941)).

The current, codified regulation, § 668.2, has already told us what a "professional degree" **means**. It means a degree that satisfies the open-ended functional criteria set forth in the regulation's first sentence. By misapplying the *noscitur* canon to convert the regulation's expressly non-exhaustive illustrative examples into a close-ended definition that circumscribes all possible professions that could qualify for higher-limit loans, the Department flips the ordinary meaning of "including" and the *noscitur* canon on their heads.

It has no statutory warrant for this misinterpretation. In short, the proposed rule is "not in accordance with law" and exceeds ED's statutory authority and, unless withdrawn or substantially amended to mirror currently existing 34 C.F.R. § 668.2, would have to be set aside upon judicial review. *See* 5 U.S.C. § 706(2)(A), (C).

B. By excluding professions that allow some practitioners to begin practice without a degree and that don't require licensing, the proposed rule insists on necessary conditions that the existing regulation treated simply as sufficient for professional status.

As noted above, prong (1)(iii) of the proposed definition inserts a timing requirement (requiring licensure "to begin practice") nowhere found in the codified regulation. *Cf.,* 34 C.F.R. § 668.2. The Department does not attempt to justify this unauthorized restriction. It, too, doesn't accord with law and exceeds the ED's statutory authority. *See* 5 U.S.C. § 706(2)(A), (C).

Worse still, the proposed rule misreads the codified regulation's functional criteria as one that makes a professional degree a necessary condition for practice, rather than a sufficient one.

The codified regulation and the proposed rule both use the same words for the functional criteria. *Compare* 34 C.F.R. § 668.2 (defining a professional degree as "[a] degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree") *with* proposed definition (1)(i) (defining a professional degree as one that "[s]ignifies both completion of the academic requirements for beginning practice in a given profession, and a level of professional skill beyond that normally required for a bachelor's degree").

While the words are the same, ED's proposed rule makes clear that it construes the words to mean the profession for which a degree is sought must be one that requires a degree to commence practice. 91 Fed. Reg. 4254, 4263, 4265–66 (excluding business, education, naturopathic medicine, nursing, physical therapy, public health, and social work because some practitioners of those professions start working in the profession before obtaining advanced degrees).

The rule gets off on the right foot by noting that the word "signify" means "to be a sign of something." 91 Fed. Reg. 4254, 4262 (citing www.merriam-webster.com). *Accord* New Oxford American Dictionary 1579 (2d ed. 2005) (defining "signify" as "to be an indication of," to "be a symbol of; have as meaning"). And the proposed rule rightly recognizes that, as applied to the codified regulation, this means that completion of the degree signifies to the world—i.e., is a sign for the world, indicates to the world, declares to the world—that the graduate "has completed all academic requirements to begin practicing in a profession." 91 Fed. Reg. 4254, 4262.

The proposed rule then errs by contending that "the profession the graduate enters must require a level of professional skill beyond what is normally required for a bachelor's degree." *Id.* In fact, the codified rule provides that a professional degree is one that "signifies … a level of professional skill beyond that normally required for a bachelor's degree." 34 C.F.R. § 668.2.

In other words, the codified regulation sets forth a criteria about what the *degree* signifies. According to that regulation, a professional degree signifies—declares to the world—that the holder is more skilled than the typical bachelor's degree holder. The regulation speaks to the significance and meaning of the degree and establishes a sufficient condition: a professional graduate is typically skilled.

The proposed rule, by contrast, mangles the language of the codified regulation (and its own proposed rule) into a requirement of the profession itself. According to the proposed rule, the profession itself must require a level of skill beyond that required of typical bachelor's degree holders.

That leap converts a sufficient condition into a necessary condition, and a characteristic of the degree and its significance into a characteristic of the profession itself. Both leaps are unjustified and wrong.

To illustrate the point, consider two of the examples from the codified regulation: law and theology.

In law, the typical way to start the profession is to get a legal degree, either a JD or an LLM. But several states—including two of the biggest legal markets—still allow lawyers to begin their practice in the same way several Supreme Court Justices[1] and U.S. Presidents[2] did: by reading law, that is, by apprenticing under the mentorship of an experienced lawyer. *See, e.g.,* Debra Cassens Weiss, *Students try to avoid law school costs with 'reading law' path to law license* (ABA Journal July 30, 2014)[3] (California, Virginia, Vermont, Washington, New York, Maine, and Wyoming allow legal practice without law school).

Under the existing, codified regulation, the practice of "reading law" is fully consistent with law appearing on the illustrative list. After all, the codified rule is solely about what a JD signifies, not about what the profession requires. Under the existing regulation, a JD signifies that its holder has completed the academic requirements to practice law

[1] Seven of the first eight Supreme Court chief justices read law. More recently, Robert H. Jackson and George Sutherland did as well.
[2] Abraham Lincoln, John Adams, and Thomas Jefferson, along with several other Presidents, read law.
[3] Available online at https://www.abajournal.com/news/article/want_to_avoid_the_costs_of_law_school_these_students_try_reading_law_path_t.

(true) and that a JD signals that its holder typically has more professional skill than an undergraduate (also true). But a JD's appearance on this list does not mean that the legal profession absolutely requires a JD to start practicing law. Indeed, the seven states, including California and New York, that allow reading law demonstrate unequivocally that a lawyer can begin legal practice without a JD. So a JD is not a necessary condition to practice law, even if it is usually a sufficient condition. The approach in the NPRM's proposed rule, which would make a professional degree a necessary condition instead of simply a sufficient condition for practice, is thus more restrictive than the codified regulation—and without statutory warrant for the further restriction.

Similarly, it requires little argument to show that, in America, a person can practice theology without a professional degree. Indeed, it would offend the First Amendment if the government could prescribe professional requirements needed to practice one's religion, including by regulating which persons are qualified to preach, teach, or otherwise provide leadership in religious matters. *See, e.g.*, *Hosanna-Tabor Evangelical Lutheran Church and Sch. v. EEOC*, 565 U.S. 171, 181–90 (2012) (recognizing ministerial exception to Title VII, precluding governmental interference with a church's selection of its own ministers, out of respect for First Amendment freedom of religion). So, as a matter of constitutional right, theologians can practice ministry without the M.Div. or M.H.L. identified in the current regulation. Like practicing law without a JD, the upshot is yet again that a professional degree (M.Div. or M.H.L.) may well be a sufficient condition to practice theology but it is not a necessary condition. The NPRM's contrary approach, which makes a professional degree necessary even to enter a professional field and excludes professions for which it isn't absolutely necessary, doesn't accord with law and exceeds statutory authority.

Finally, we note that when it comes to licensure requirements, the current, codified regulation says only that they are "generally required." 34 C.F.R. § 668.2. The proposed rule correctly recognizes that this language plainly means licenses aren't always required. 91 Fed. Reg. 4254, 4262. Yet, when it applies this language to specific professions, ED excludes several on the ground that they do not strictly, always require licenses. 91 Fed. Reg. 4254, 4265–66 (excluding several professions on this ground). This approach elevates recognition of a trend into absolute necessity. The plain language of the regulation the ED purports to implement, however, cannot carry the attempted lift.

For these reasons, too, ED's proposed definition of professional student is "not in accordance with law" and exceeds ED's statutory authority and, unless withdrawn or substantially amended to mirror currently existing 34 C.F.R. § 668.2, would have to be set aside upon judicial review. *See* 5 U.S.C. § 706(2)(A), (C).

C. The proposed rule misuses CIP codes and does so arbitrarily and capriciously.

The discussion in Part I(A), above, is enough to show the lack of authority for the entire project of using CIP codes to limit the open-ended functional definition set forth in the current, codified regulation. Even if they could somehow lawfully be marshalled as converters from open-ended definitions to closed systems (and they cannot), the codes are particularly ill-suited to achieve that task. That's for three reasons.

First, ED's own publications admit that the "CIP is not intended to be a regulatory device." National Center for Education Statistics, *Introduction to the Classification of Instructional Programs: 2020 Edition (CIP-2020)*.[4] That's because CIP codes are "general categories"—compiled for taxonomic purposes—"into which program completions data can be placed, not exact duplicates of a specific major or field of study titles use by individual institutions." *Id.* at 1. They are "not intended to correspond exclusively to any specific degree or program level." *Id.* Yet, the proposed definition of *professional student* would use CIP codes precisely for the regulatory purposes disclaimed by the Department. Acting against disclaimed uses and intentions is surely arbitrary and capricious.

Second, the NPRM makes no attempt to show that the particular four-digit program codes it has singled out as eligibility criteria (prong

[4] Available online at https://nces.ed.gov/ipeds/cipcode/Files/2020_CIP_Introduction.pdf.

(1)(iv), (2)(i)) actually track the functional definition of a professional degree set forth in the current, codified regulation. *Cf.*, 91 Fed. Reg. 4254, 4264. Instead, it resorts to CIP codes as a way to identify degrees that have content and objectives that are comparable to the programs enumerated in the current, codified regulation. *Id.* This method is simply a technical way of recapitulating its misuse of *noscitur a sociis*, discussed above. When a definition contains an open-ended criteria followed by a list of non-exhaustive illustrations, the proper way to interpret the definition is with careful attention to the criteria, in a way that captures the exemplars while allowing other potential candidates to fit the bill where the criteria are met. The wrong way to interpret a definition so structured is to take the examples, (mis)treat them as exhaustive or nearly exhaustive, and then add in a few additional candidates only where they are similar (in some unspecified way) to the examples.

Put another way, when an illustrative list follows a determinative criteria, the right way to see if a candidate profession is **relevantly similar** to the examples is not to hunt for some unspecified commonality lurking in implications from the list; it is instead simply to check whether the candidate satisfies the express criteria. That's because the express criteria **is** the commonality that Congress identified across the illustrative examples. Jettisoning the express commonality in favor of an unspecified commonality to be divined from the examples is a doubly mistaken interpretive approach.

For CIP codes to serve as a device capable of administering the current, codified definition, ED would need to show that some set of codes accurately tracks the professions that meet the current, codified regulatory criteria, while excluding those that fail to meet the criteria. ED's RISE Rule does not even attempt to make that showing, let alone carry its burden to do so accurately.

Third, many excluded CIP codes would appear to meet the current, codified regulation criteria. To name just a few examples, architects (04.0201), morticians (12.0301–12.0399), teachers and school administrators (13.0101–13.9999), engineers (14.0101–14.9999), mental and social health service workers (51.1501–51.1599), nurses (51.3801–51.3999)—along with many others—appear to qualify under the current, codified regulation. That's because (1) their degrees signal readiness to enter a profession; (2) their degrees also signal the graduate has more professional skill than the typical undergraduate; and (3) these professions are typically licensed. 34 C.F.R. § 668.2. The proposed regulation arbitrarily and capriciously excludes all these CIP codes.

II. The proposed rule devalues professionals while imposing roadblocks to their ability to obtain financing at a time when many of the excluded professions are short-staffed and thus need more, not fewer, new entrants.

Many excluded professions face significant shortages and retention crises. *See, e.g.*, U.S. Dept. of Ed., Office of Postsecondary Education, *Teacher Shortage Areas Nationwide Listing*, 1990–91 through 2017–18 (June 2017), available online at https://www.ed.gov/sites/ed/files/about/offices/list/ope/pol/bteachershortageareasreport201718.pdf; Columbia School of Social Work, *Bridging the Gap: The Urgent Need for Social Workers* (Sept. 23, 2023), available online at https://socialwork.columbia.edu/news/bridging-gap-urgent-need-social-workers; Asia Antig, Shaniah Arañez, Chariemae Cañazares, Daisy Palompon, *Nursing Faculty Shortage Impact on Nursing Students*, available online at https://pmc.ncbi.nlm.nih.gov/articles/PMC11537749/. (This list of citations is intended to be illustrative, not exhaustive.)

If Congress had deployed statutory language in OBBB that affirmatively required ED to develop a definition of professional students that excluded so many professions suffering from short-staffing, Americans would have to either accept that result or take it up with Congress.

But, as shown above, Congress did precisely the opposite in the OBBB, codifying an existing regulation that left ED no discretion to exclude the many professions that satisfy the existing regulation's open-ended definition. Excluding those professions in the face of understaffing superadds arbitrariness to lawlessness.

American workers, including the many publicly minded students who seek to enter (or stay in) any of the noble professions excluded by ED's proposed rule, deserve better. So, too, do the many Americans who depend on nurses, teachers, social workers, and several other service-oriented professions plagued by understaffing.

Nothing in OBBB requires ED to add new financial obstacles to these understaffing challenges. Quite the opposite, the OBBB precludes ED's exclusionary proposal.

Conclusion

The NPRM, and particularly its proposed definition of "professional student," is unlawful, exceeds statutory authority, and is arbitrary and capricious. It unnecessarily adds fuel to understaffing crises plaguing several service professions.

The Department should therefore revise its proposed rule to honor the OBBB and the current, codified regulation. Doing so would require the Department to maintain that regulation's open-ended definition of "professional degree," not to replace it with a closed-ended definition that excludes many professions from access to the higher annual and aggregate loan limits provided by OBBB.

Respectfully submitted,

/s/

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EXHIBIT 2:
AFSCME COMMENTS

AFSCME
We Make America Happen

March 2, 2026

Linda McMahon
Secretary
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Submitted via regulations.gov.

Re: Reimaging and Improving Student Education; ED-2025-OPE-0944

Dear Secretary McMahon:

The American Federation of State, County & Municipal Employees (AFSCME) is pleased to respond to the U.S. Department of Education (the Department) on its proposed rule implementing major changes to federal student loan programs stemming from the One Big Beautiful Bill Act (OBBBA). These comments focus on the proposed definition of professional student and redefinition of professional degree to be added to 34 C.F.R. Sec. 685.102(b), which are critical to determining which students are eligible for larger federal student loan amounts that can help them afford pursing advanced degrees in critical public service fields.

AFSCME members provide the vital services that make America happen. With 1.4 million members in communities across the nation, serving in hundreds of different occupations — from nurses to corrections officers, child care providers to sanitation workers — AFSCME advocates for fairness in the workplace, excellence in public services and freedom and opportunity for all working families. Many AFSCME members have taken or will take on student debt in the pursuit of advanced degrees to acquire the skills and credentials for their desired career in public service and therefore have a direct interest in operation of the federal student loan program.

The Department's proposed rule excluding all but a narrowly limited set of fields from what counts as a professional degree will harm workers looking to pursue advanced degrees in a long list of fields that would otherwise qualify as a professional degree under the Department's current rules. These include advanced programs of study in nursing (e.g., D.N.P.), social work (e.g., M.S.W.), library science (e.g., M.L.S.) and public health (e.g., M.P.H.) among others.

The OBBBA dramatically changes federal student loan limits. Effective July 1, 2026, students enrolled full-time in graduate programs may not borrow more than $20,500 per year or $100,000 in aggregate. Meanwhile, students enrolled full-time in programs deemed "professional" may not borrow more than $50,000 per year or $200,000 in aggregate. This creates a significant practical distinction from the perspective of the borrower.

With the OBBBA's elimination of Grad PLUS loans, which set maximum borrowing at the cost of attendance minus other financial aid received, combined with the Department's proposed exclusion of so many fields from eligibility for the professional degree loan limits, we are concerned many prospective graduate students seeking to advance their careers via programs deemed "graduate" programs will not enroll or face higher debt burdens, given the constraints imposed by these limits on federal student loans in relation to the total program cost. Notably, these limits are set in law without an inflation adjustment, meaning they will not increase over time even as program costs increase. As a result, we are concerned about the impacts this will have on public service fields with chronic staffing challenges, including but not limited to direct patient care positions.

The Department claims the task before it need not incorporate broader policy concerns or potential adverse impacts on certain professions. We disagree. The Department has the responsibility to faithfully carry out programs within the confines of the law. When it has the legal authority to ameliorate potential unintended consequences, it should absolutely do so.

Not only is the Department's proposed approach to defining what constitutes a professional degree bad policy that will harm potential and future students, as well as the public they would ultimately serve, it also runs counter to the plain meaning of the OBBBA and Congress' clear intent.

Congress did not give the Department the authority to newly define what a professional degree is for purposes of determining who is a professional student eligible for the higher loan amounts when pursuing an advanced degree. Instead, it explicitly provided that "the term 'professional student' means a student enrolled in a program of study that awards a professional degree, *as defined under section 668.2 of the title 34, Code of Federal Regulations (as in effect on [July 5, 2025])*, upon completion of the program."[1] That now statutorily prescribed definition provides broad criteria for what qualifies as a professional degree and an open ended list of 10 fields and their associated degrees as examples of professional degrees.[2]

The proposed rule clearly conflicts with the plain language of the statute and the now codified regulatory definition of professional degree by substituting a closed list of fields and associated degrees that qualify as professional degrees in place of the open-ended list in the existing definition. If the purpose or intent behind creation of the initial example list was to create a closed universe, once and for all, of programs deemed "professional" it would not have been qualified by referring to them as examples ("Examples of a professional degree include but are not limited to…."). Similarly, the Department's willingness to acknowledge and include clinical psychology programs as "professional" implies that others must necessarily pass the test.

Below, we discuss each of the four pillars the Department seeks to incorporate as a test to determine a program's "professional" status and why we believe (1) certain aspects of these criteria are unnecessary and improper conditions; and (2) nonetheless, even within the proposed language, each of advanced nursing, social work, library science and public health are examples of additional post-baccalaureate programs that could reasonably pass the test.

Proposed Criterion (i) – [the program] signifies both completion of the academic requirements for beginning practice in a given profession, and a level of professional skill beyond that normally required for a bachelor's degree

This factor is pulled directly from the existing regulatory definition. Advanced degrees in nursing, social work, library science and public health each unequivocally meet this requirement. Any student coming into such programs without any undergraduate training or prior work experience in the field (e.g.,

[1] An Act To provide for reconciliation pursuant to title II of H. Con. Res. 14, Pub. L. No. 119-21, § 81001, 139 Stat. 72, 335 (2025) (emphasis added).
[2] 34 C.F.R. § 668.2.

in social work, library science or public health) will leave the program with both the tools to begin practicing the profession and a level of skill beyond what is normally required for a bachelor's degree. By definition, this is what makes these programs accredited post-baccalaureate degrees.

Furthermore, despite broad assertions from the Department to the contrary, each of these programs is either itself a distinct, long-recognized profession or provides interdisciplinary training with a core set of competencies to allow for applied professional practice (e.g., public health). In particular, the notion that a nurse practitioner or other advanced practice nurse is not a member of a profession is especially confusing and insulting to these professionals.

Proposed Criterion (ii) – [a program] is generally at the doctoral level, and that requires at least six academic years of postsecondary education coursework for completion, including at least two years of post-baccalaureate level coursework

While this piece is largely pulled from the original regulatory language, the Department attempts to convert being a doctoral level degree from a consideration into a requirement used to exclude some programs from what counts as a professional degree. Nothing, however, requires the Department to bind itself to a definition that requires a program to be at the doctoral level to be deemed "professional." The specific inclusion of two master's degrees in theology in the proposed rule further indicates this condition is not binding in every case. Further, the inclusion of those same two master's degrees as examples of professional degrees in the professional degree definition referenced in the OBBBA means Congress clearly did not intend to limit professional degrees to doctoral level degrees. Therefore, we urge the Department to remove the criteria that a professional degree must be at the doctoral level. Or, at the very least, the Department must be willing to grant additional master's level programs "professional" status by providing an overall assessment.

Advanced nursing, social work, library science and public health programs are all examples of fields that typically require at least six academic years of postsecondary education, including at least two years of post-baccalaureate level coursework. Nonetheless, even if a doctoral requirement were to remain in place, doctoral degrees in advanced nursing (D.N.P.), social work (Ph.D., D.S.W.), library science (Ph.D.) and public health (Ph.D., Dr.P.H.) would still qualify as "professional."

Proposed Criteria (iii) – generally requires professional licensure to begin practice

This factor is pulled directly from the existing regulatory definition. Crucially, the Department is not bound to apply this condition in the manner it is pursuing. If it were a categorical constraint, the word "generally" would not be present. The Department could choose to grant "professional" status to other programs given a totality of the evidence, regardless of eventual professional licensure. As with the above criterion, the lack of licensure typically being granted to graduates of master's level theology programs serves as an indicator that eventual professional licensure is not a binding constraint.

Nonetheless, advanced nursing professionals come into their program with a license and leave on track to achieve a new license. They may not practice as a certified registered nurse anesthetist or nurse midwife without such license.

Additionally, master's level social workers may generally not begin independent practice until they are licensed; in that way, they are similar to doctors and lawyers. Likewise, not every graduate of medical or law school will ultimately seek and be granted a license to practice in their field. Just because not every graduate of a program may ultimately seek and obtain licensure should not categorically exclude a given program.

Librarians are often certified before they may work in public libraries or K-12 school settings. Often, this certification hinges on completion of post-baccalaureate studies. For example, the state of Maryland requires individuals employed as public librarians to hold an American Library Association accredited master's degree and ultimately be licensed.[3]

While public health professionals are not licensed, biostatisticians and epidemiologists, for example, often receive their specialized training via graduate level coursework and are not hired by state or local health departments without the applied skills and overall public health background and competencies provided by such training.

Proposed Criterion (iv) – includes a four-digit program Classification of Instructional Program (CIP) code

This criterion is not present in the longstanding regulatory definition incorporated by Congress. We recognize the need for the Department to implement law and administer student aid programs in an efficient manner. While defaulting to an administrative classification system such as CIP codes may be convenient to regulators, there is no rational, substantive justification for codifying its inclusion in a closed set of CIP codes as a requirement for qualifying as a professional degree. The universe of graduate level programs is not particularly unwieldy, so the Department should be able to go through graduate programs one-by-one and decide on its "professional" status. To the extent the inclusion of this factor reduces possible inclusion as a "professional" program, solely on its own, it should be removed.

Conclusion

Congress created a mess by instituting firm student loan limits. In turn, the Department has chosen to add to this mess by proposing an overly and inappropriately narrow definition of "professional" degree that will only exacerbate future workforce challenges. The Department must alter its proposal by reverting to the existing regulation's broad criteria, which allow for an open set of post-baccalaureate programs to qualify as professional degrees.

Sincerely,

/s/ Dalia R. Thornton

Dalia R. Thornton
Director
Department of Research and Collective Bargaining Services

[3] https://marylandpublicschools.org/about/pages/dee/certification/apply/publiclibrarian.aspx#

EXHIBIT 3:
AFT COMMENTS

Education
Healthcare
Public Services

AFT, AFL-CIO

AFT Teachers
AFT PSRP
AFT Higher Education
AFT Public Employees
AFT Nurses and Health Professionals
AFT Retirees

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202-879-4400
www.aft.org

March 2, 2026

U.S. Department of Education
Office of Postsecondary Education
400 Maryland Ave. SW
5th Floor
Washington, DC 20202

re: Docket ID ED-2025-OPE-0944

On behalf of the 1.8 million members of the AFT who work in education, healthcare and public services, I write to urge you to maintain the professions of nursing and teaching. Please do not force those who make a difference in the lives of our students and our patients pay for tax cuts for the rich. That is exactly what is happening in this notice of proposed rulemaking, and it's why we oppose several of its provisions. It will make higher education less accessible and less affordable, and will make it more complicated to repay education loans, which will harm our communities by restricting students' ability to pursue careers that serve the public.

Why would we, in this country, forsake the professions of nursing and teaching? This rule would do exactly that, and as detailed below, would cause so much other harm as well.

The One Big Beautiful Bill Act (Public Law 119-21) was a massive and unprecedented transfer of wealth from everyday people to billionaires, paid for by—among other things—defunding higher education. The bill makes accessing funding for higher education more difficult and costly. Unfortunately, several of the provisions in this NPRM greatly exacerbate the harm of the underlying law.

For example, the law severely limited access to federal student loans, especially for education beyond a bachelor's degree. This change in law is detrimental enough on its own, but the proposed rule uses an overly restrictive definition of what constitutes a "professional" program.

Despite broad recognition that the jobs of workers such as nurses, physical therapists, architects, educators, physician assistants, audiologists, accountants and social workers are rigorous, complex and technical, and require a postbaccalaureate degree, the department's new proposal defines "professional" programs so narrowly that these trained professionals remain excluded—severely limiting student loan access for those who want to pursue such careers.

Moreover, nursing education routinely requires advanced credentials that extend beyond a bachelor's degree. According to the American Association of Colleges of Nursing, enrollment in graduate nursing programs has grown substantially to meet workforce shortages, even as students face increasing educational costs. When federal options are constrained, students must either forgo entry into the profession or turn to private loans, which typically carry variable interest rates, require co-signers, and lack income-driven repayment or Public Service Loan Forgiveness protections. This shift exposes future nurses to higher monthly payments and greater long-term financial risk—precisely the opposite of what is needed to strengthen the healthcare workforce.

The impact of this forced migration to private credit will not fall evenly. Nursing is a profession disproportionately composed of women, and women of color represent a growing share of the nursing workforce. Black women, in particular, borrow at higher rates and in higher amounts to finance their education, and they experience greater repayment challenges due to persistent racial wealth gaps and labor market disparities. Restricting access to federal student loans, while simultaneously weakening PSLF eligibility and income-driven repayment safeguards, will compound these inequities.

Because of the new lower loan limits—and the enormous gap in limits between those programs considered "professional" and those considered "graduate"—whether a degree counts as professional or nonprofessional is now a determining factor in how much financial support students are able to receive. If confirmed, these changes will have major consequences for the healthcare workforce, public employees, K-12 educators, higher education faculty and staff, and communities.

This is not simply an individual choice; whether we have enough workers in these critical professions will affect anyone who needs medical care or sends their kid to school. Young people who once aspired to these professions will be pushed into risky private lending options, if they even qualify for this option with a limited credit history. Even more devastating, they could avoid or leave these fields altogether.

Together, the law and the proposed rule will undermine the Public Service Loan Forgiveness program, a program enacted with bipartisan support that has benefited communities in every congressional district—lifting the burden of student debt for educators, healthcare professionals, and countless other public service workers who have dedicated their careers to serving our communities.

Since its inception, PSLF has been available to student loan borrowers who are in a standard or income-driven repayment plan and are paying their loans while working in public service. Changes in the OBBBA and this NPRM threaten that basic premise. The inclusion of the standard plan was critical because it rewarded borrowers for following the rules and paying their bills on time. A borrower did not have to do anything to change their repayment plan to start accruing qualifying payments toward PSLF.

Now, for the many borrowers who are paying back their loans as part of the new tiered standard plan, their months of loan payments—and years of public service—will not count toward PSLF. From new parent PLUS borrowers, whose only repayment option will be the tiered standard plan, to borrowers who are auto-enrolled in a tiered standard plan, to those who chose a tiered standard plan based on more than a decade of being told that standard repayment plans are PSLF-eligible, this change will be devastating—for both individuals and communities. Mid-career professionals who want to help their children afford college may now have to leave public service in order to afford student loan repayment. Current educators and healthcare workers who go back to school to increase their skillset may unknowingly end up with some loans that qualify for PSLF and some that don't, even if all are being repaid under a "standard" plan.

Our years of experience providing student debt clinics to tens of thousands of AFT members has made crystal clear to us that for much too long, a large number of public service workers had been making their student loan payments in good faith, but that bad information from servicers and from the department itself, as well as counterproductive regulations, have blocked student debt relief for public workers—with devastating financial consequences. The last administration worked to clear these hurdles, and the court-approved status report we jointly filed in October 2025 has significantly helped borrowers, but that progress is threatened by the OBBBA and these proposed rules.

Old and new borrowers alike will be subject once again to high-stakes choices about repayment plans—at the same time this administration has cut back on oversight of student loan servicers and actively worked to shut down assistance for student loan borrowers through an office of the ombudsman at the Department of Education and by gutting the Consumer Financial Protection Bureau.

Adding to this obstacle course for student loan borrowers is the new definition of on-time (PSLF-qualifying) payments for borrowers in the new income-driven repayment plan, the Repayment Assistance Plan. Yet again the department creates an overly narrow definition in this NPRM, which will harm borrowers who work in public services and the communities they serve. For example, not only will borrowers under different repayment plans be operating under different definitions of "on-time" payments, but we fear we will once again start hearing countless stories from our members about their good faith efforts to repay loans—such as by making an extra loan payment that puts all future payments into "paid ahead" status instead of being considered "on-time"—that will not be deemed PSLF-qualifying payments under these new rules.

Furthermore, the department's proposal to explicitly exclude certain months from reconsideration credit—as stated in the NPRM, to "make certain that such months may not be counted toward PSLF through the reconsideration process, even when the borrower was employed full-time by a qualifying employer"—adds an additional layer to this administration's efforts to take PSLF back to the bad old days of the first Trump administration, when 99 percent of applicants for PSLF were denied, resulting in both Congress and the Biden administration taking action to reverse course to make the program work as intended.

The proposed rule further reverses changes made in just the last few years to eliminate artificial barriers to loan relief for public service workers when it comes to forbearance. The existing regulations recognize that poor loan servicing and the complexities of borrowers' lives have often led borrowers into situations that unnecessarily halted their progress toward PSLF relief. Under the proposed rule, being placed in forbearance, deferment or loan consolidation would disrupt progress toward PSLF relief instead of facilitating it. This is especially unfair for borrowers placed into mandatory administrative forbearance when a servicer—not at the request of the borrower and for administrative reasons—pauses a borrower's payments while the servicer reviews information. The proposal to reverse course on these forbearances would lead to months of public service workers not having the option of making a qualifying payment, even as they continue their public service work. This would both undermine the spirit of the PSLF program and cause added confusion, as borrowers under different PSLF-qualifying repayment plans will have different rules of what counts as a PSLF-qualifying month.

The OBBBA makes higher education less affordable and accessible, and unfortunately this NPRM exacerbates the harm. The department should change course and revise the NPRM to mitigate the damage from the law instead.

Sincerely,

Randi Weingarten
President, AFT

RW : emc opeiu #2 afl-cio

EXHIBIT 4:
NNU COMMENTS

National Nurses United
The National Voice for Direct-Care RNs

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BY INTERNET TO: Federal eRulemaking Portal; http://www.regulations.gov

March 2, 2026

Chris McCaghren
Assistant Secretary for Postsecondary Education, Delegated
Attn: Tamy Abernathy, Policy Coordination Group Director
Office of Postsecondary Education
U.S. Department of Education
400 Maryland Ave. SW, 5th Floor
Washington, DC 20202

RE: Reimagining and Improving Student Education, Docket ID: ED-2025-OPE-0944; 91 Fed. Reg. 4,254 (January 30, 2026)

Dear Acting Assistant Secretary McCaghren:

Representing 225,000 registered nurses ("RNs") across the nation, National Nurses United ("NNU") submits these comments in response to the Department of Education's ("Department") Proposed Rule "Reimaging and Improving Student Education," 91 Fed. Reg. 4,254 (January 30, 2026) ("Proposed Rule"). **NNU strongly opposes the Proposed Rule because it would exclude Masters of Science in Nursing ("MSN") and Doctor of Nursing Practice ("DNP") degrees from the definition of "professional degrees," limiting the amount of federal student loans students studying to become Nurse Practitioners ("NPs"), Certified Registered Nurse Anesthetists ("CRNAs"), and Certified Nurse Midwives ("CNMs") can receive.** This fundamentally misunderstands the distinct and important role these professionals play in our health care system, and will make it substantially harder for new NPs, CRNAs, and CNMs to enter the workforce. In so doing, the Proposed Rule will have a catastrophic impact on access to health care, as these professionals are critical to care delivery for countless patients across the country. In addition, the Department lacks the authority under the One Big Beautiful Bill Act ("OBBBA") to amend the definition of "professional degree" beyond how it was used on the date of enactment, a definition under which MSN and DNP degrees clearly qualify. Even if the Department did have some authority to amend this definition, the Proposed Rule's definition of "professional degree" is arbitrary and capricious, and thus violates the Administrative Procedures Act ("APA"). **NNU therefore urges the department to withdraw the portions of the Proposed Rule related to the definition of "professional degree."**

There can be no doubt that all nurses are professionals. Nursing is a complex, highly-skilled profession that is based on scientific knowledge and attention to detail. It requires years of education and clinical experience to perform competently, and demands an ability to address the physical, psychological, and emotional needs of a patient with compassion, empathy, and advocacy to honor the dignity in all people. Nursing care includes a multitude of different skilled tasks that require specialized training and intelligent effort to apply. Nurses are often portrayed as bedside care providers and patient advocates, and this is unquestionably true; providing personalized care and advocating for our patients is a crucial element of nursing care, but it is important to acknowledge these come alongside advanced and specific clinical knowledge applied consistently to a patient's evolving health condition and psychosocial needs. Nurses must also meet complex and onerous licensure requirements, including graduating from an accredited registered nursing program, completing the National Counsil Licensure Examination for Registered Nurses (NCLEX-RN), engaging in extensive pre-licensure clinical training, and meeting initial and ongoing requirements of state licensure boards. All of this makes clear that nurses are "professionals" within any reasonable meaning of the word. To conclude otherwise is frankly insulting to the largest and most integral component of the health care workforce, primary providers of day-to-day, around-the-clock patient care, and backbone of the health care industry.

It is equally beyond doubt that students pursuing MSN and DNP degrees with the goal of becoming NPs, CRNAs, and CNMs, are professional students seeking professional degrees. NPs, CRNAs, and CNMs are each a distinct health care professional that fills a distinct role in our health care system as compared to RNs and each other. By capping federal student loans for students seeking MSN and DNP degrees, the Proposed Rule will significantly reduce the number of students able to afford to enter these professions. Reducing the number of new APRNs will have disastrous and largely unpredictable downstream effects for our health care system, as APRNs fill important clinical roles, particularly in areas where there is a critical shortage of available clinicians, such as primary care, labor and delivery care, and anesthesia-related care. Moreover, this will disproportionately impact rural areas, urban safety net providers, and medically underserved communities, where APRNs constitute a growing percentage of providers providing these critical services, and in many regions are already the majority providers.

The Proposed Rule also exceeds the Departments authority under the OBBBA and APA. The OBBBA incorporates a clear definition of the term "professional degree" from existing regulations, and states that this definition must match that "in effect on the date of enactment," July 4, 2025. Nevertheless, the Proposed Rule would make significant changes to this definition through regulation, including changes that expressly contradict the definition incorporated into statute. This is a clear violation of the Department's statutory authority under the OBBBA as well as its duty under the APA. Moreover, even if the Department does have some authority to amend the definition of "professional degree" through rulemaking, the Proposed Rule's definition is entirely illogical, fails to consider important factors relevant to rulemaking, and in some places provides no reasoning at all. The Proposed Rule is therefore arbitrary and capricious in violation of the APA, particularly as applied to the exclusion of MSN and DNP degrees from the definition of "professional degree."

A. The Proposed Rule's Exclusion of MSN and DNP Degrees from the Definition of Professional Degree Will Reduce the Number of NPs, CRNAs, and CNMs Entering These Professions

Loan limits for graduate students set forth in the OBBBA - $20,500 per year, and $100,000 in the aggregate - are far below what is necessary to cover the cost of completing an APRN program and obtaining an MSN or DNP degree. This is particularly true for RNs leaving the workforce to enter these programs full-time, who must forgo their salary as a nurse and bear the additional costs of supporting themselves and their families as they attend professional school. As a result, the Proposed Rule will almost certainly substantially reduce the number of new APRNs entering the workforce each year.

While the specific requirements for becoming an NP, CRNA, and CNM vary, they all require, at a minimum, that students obtain a bachelor's degree, become licensed as a registered nurse, then complete an MSN or DNP program specific to their chosen field.[1] Accredited programs in these specialties include both classroom and clinical education, as well as courses in subjects such as advanced health assessment, pathophysiology, and pharmacology, in addition to coursework specific to the chosen APRN role.[2] Many of these programs, as well as all CRNA programs, require prospective students to have at least one year of experience working as a RN in a critical care setting, such as an acute care hospital, as a prerequisite for admission.[3] While state requirements vary, in nearly all circumstances, APRNs must also pass a national certification exam specific to their APRN profession, and obtain a state level license as an NP, CRNA, or CNM.[4]

MSN programs typically take anywhere from 2 to 3 years to complete, and DNP programs take anywhere from 3-4 years to complete, depending on the specific program and its requirements. Notably, this does not include time spent studying for and taking the required national certification exam and applying for and obtaining state licensure. While average costs across the continuum of schools is difficult to determine, it is clear that they are far above the proposed federal student loan limits for graduate students under the Proposed Rule. For instance, the Department's College Scoreboard shows that students graduating from APRN programs at well-known universities across the country, such as Georgetown University, University of Miami, Yale University, Columbia University, University of San Diego, Johns Hopkins University, University of Pennsylvania, University of Southern Mississippi, University of Iowa, and Duke University, as well as many others, graduate from DNP programs with median total debt ranging from $105,069.00 to $212,494.00 in the aggregate, and graduate from MSN programs with median total debt ranging from $105,629 – $156,938.00 in the aggregate.[5]

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[1] Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Nurse Anesthetists, Nurse Midwives, and Nurse Practitioners,
at https://www.bls.gov/ooh/healthcare/nurse-anesthetists-nurse-midwives-and-nurse-practitioners.htm (visited *February 23, 2026*).
[2] *Id.*
[3] *Id.*
[4] *Id.*
[5] The Department's College Scorecard website shows students graduating from doctoral degree programs in nurse midwifery at Georgetown University, University of Miami, Columbia University, University of Pennsylvania, University of Southern Mississippi, University of Iowa, University of San Diego, and Duke University with average student debt ranging from $105,069.00 – 212,494.00; The College Scorecard website shows students graduating from masters degree programs in nurse midwifery at Florida State University, Georgetown University, University of San Diego, Yale University, Columbia University, and Johns Hopkins University with aggregate student debt anywhere from $106,37.00 – $156,398.00; The College Scorecard website shows students graduating from doctoral degree programs for nurse anesthetists at Georgetown University, University of Miami, Columbia University, University of Pennsylvania, University of Southern Mississippi, University of Iowa, University of San Diego, and Duke University graduating with an aggregate student debt ranging from $105,069.00 – $212,494.00; The College Scorecard website shows students graduating from masters degree programs for nurse anesthetists at Florida State

As these figures make clear, the proposed caps for federal student loans for graduate students are woefully inadequate to finance the cost of attending MSN and DNP programs to become an APRN. The lack of sufficient federal student loans will force prospective APRNs to obtain loans on the private market, with significantly higher interest rates. Those who either cannot obtain approval for private loans or cannot afford monthly payments will be forced to forgo entering these professions entirely. Moreover, the Proposed Rule's cap on federal student loans will most significantly impact women and borrowers of color, who often rely on federal student loans to cover the cost of attendance. Students of color and those from lower income families will disproportionately struggle to get approval for private loans, due to credit and income disparities.[6] Likewise, research shows that Black and Latine students have more difficulty repaying their loans than white students and face steeper financial challenges when attempting to do so, putting them at greater risk of default.[7]

All told, capping the amount of federal student loans available to nurses attending MSN and DNP programs at $20,500 per year and $100,000 in the aggregate will make it substantially harder to attend these programs, and thus significantly reduce the number of students who enter these programs and ultimately become NPs, CRNA, and CNMs.[8]

B. APRNs Provide Critical Services in Our Health Care System, and Reducing the Number of Nurses Entering these Advanced Practice Professions Will Have Devastating Consequences on Access to Care

While all nurses are undoubtedly professionals, NPs, CRNAs, and CNMs are each distinct clinical professionals from RNs and each other. Each of these APRNs has distinct practice authority that allows them to fill distinct and important roles in our health care system. APRNs are particularly crucial to ensuring access to primary care services, anesthesia-related

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University, Georgetown University, University of San Diego, Yale University, Columbia University, Johns Hopkins University, and Seattle University with aggregate student debt ranging from $105,629 – $156,938.00; while data on nurse practitioner programs appears to be unavailable on the College Scoreboard website, it is fair to assume that aggregate student debt for these programs is at least as high as that for the other MSN and DNP programs listed. *See, e.g.,* U.S. Department of Education. (November 17, 2025). *College scorecard: Search Fields of Study*. U.S. Department of Education College Scorecard https://collegescorecard.ed.gov/search/fos-landing/.

[6] Granville, P. (July 21, 2025) *The FICO Factor: GOP Megabill Will Limit Who Gets to Access College*. The Century Foundation. https://tcf.org/content/report/the-fico-factor-gop-megabill-will-limit-who-gets-to-access-college/.

[7] Pew. (April 4, 2025) *The Student Loan Default Divide: Racial Inequities Play a Role.* https://www.pew.org/en/research-and-analysis/reports/2024/12/the-student-loan-default-divide-racial-inequities-play-a-role.

[8] While loans through the Stafford Loan program previously had an annual cap of $20,500.00, students attending MSN and DNP programs to become APRNs could previously qualify for loans through the Graduate PLUS program, which covered the total cost of attendance. The OBBBA will eliminate the Graduate PLUS program, removing this additional source of federal student loan funding. Thus, while annual limits for Stafford Loan program are not changing, the total amount of federal student loans that MSN and DNP students seeking to become ARPNs can receive will be changing substantially. The $20,500.00 annual cap for Stafford Loans is insufficient, on its own, to cover the annual cost of attending a professional MSN or DNP program, and thus subjecting MSN and DNP students to this cap and the $100,000.00 lifetime cap, without an additional source of federal student loans, will force countless students to forgo attending these programs and becoming APRNs.

services, and labor and delivery services, all areas that are experiencing critical shortages of clinicians. The advanced degrees in nursing practice required to obtain this expanded practice authority - MSNs and DNPs – should therefore be considered "professional degrees" under the OBBBA. Doing otherwise will reduce the number of new clinicians entering these advanced practice professions, with devastating consequences for our health care system.

1. Nurse Practitioners

Nurse Practitioners serve primarily as primary and specialty care providers.[9] In this role, NPs are responsible for assessing patients and determining how to improve or manage a patient's health.[10] While the scope of their duties varies by state, many nurse practitioners work independently, prescribe medication, order laboratory tests, and provide other general health care services.[11] NPs also provide specialty care for specific patient populations, including adult and geriatric health, pediatric health, or psychiatric and mental health.[12] NPs practice in a wide variety of settings, including hospitals, emergency rooms, urgent care sites, nursing homes, schools, colleges, public health departments, correctional facilities, Veterans Health Administration facilities, community health centers, specialty clinics, private physician practices, and, in many states, stand-alone NP practices.[13]

The majority of states (27) have passed laws allowing NPs to practice to the full extent of their licensure and training, without requiring supervision by a physician, and more and more states are updating their outdated laws to reflect this standard every year.[14] Such states generally permit NPs to perform the above-described tasks under the exclusive licensure authority of the state board of nursing. This is not surprising given that research has shown that physician supervision of NPs does not improve quality of care or population health.[15]

NPs play a particularly important role in the delivery of primary care. Primary care is when a provider assumes responsibility and accountability for the continuity of care when a patient first makes contact with the health care system.[16] Primary care providers often maintain long-term relationships with patients, treat a range of health-related issues, and coordinate a

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[9] Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Nurse Anesthetists, Nurse Midwives, and Nurse Practitioners,
at https://www.bls.gov/ooh/healthcare/nurse-anesthetists-nurse-midwives-and-nurse-practitioners.htm (visited *January 28, 2026*).
[10] *Id.*
[11] *Id.*
[12] *Id.*
[13] American Association of Nurse Practitioners (n.d.) *What's a Nurse Practitioner (NP)?* https://www.aanp.org/about/all-about-nps/whats-a-nurse-practitioner.
[14] O'Reilly-Jacob, M., Featherston, K., Poghosyan, L. (August 5, 2025) *Harnessing the Capacity of Nurse Practitioners to Increase Access to Primary Care in Disadvantaged Communities.* Milbank Memorial Fund. https://www.milbank.org/2025/08/harnessing-the-capacity-of-nurse-practitioners-to-increase-access-to-primary-care-in-disadvantaged-communities/.
[15] Buerhaus, P. (September, 2018) *Nurse Practitioners: A Solution to America's Primary Care Crisis*. American Enterprise Institute. https://www.aei.org/wp-content/uploads/2018/09/Nurse-practitioners.pdf?x85095.
[16] California Board of Registered Nursing (April 13, 2011) *General Information: Nurse Practitioner Practice*. State of California Department of Consumer Affairs. https://www.rn.ca.gov/pdfs/regulations/npr-b-23.pdf.

patient's care with specialists.[17] This means that, in many cases, NPs will be the only health professional to see and treat a patient.[18] According to the American Association of Nurse Practitioners, 89.7% of NPs are certified in an area of primary care and 69% deliver primary care.[19] The Milbank Memorial Fund found that in 2023, 53.4% of all primary care practices in the US employed an NP.[20] Moreover, the prevalence of NPs in primary care is only increasing, with the percentage of primary care practices employing an NP more than doubling since 2012.[21] With an anticipated shortfall of as many as 40,400 primary care physicians by 2036, as estimated by the Association of American Medical Colleges (AAMC), this trend of NPs being the sole primary care provider for many patients will almost certainly continue to grow.[22]

Limiting the number of new NPs entering the profession will reduce access to primary care services for countless patients, as NPs are crucial to maintaining access to primary care, particularly in rural and underserved communities. It is well-established that access to primary care improves health outcomes and reduces mortality across the lifespan.[23] However, it is also no secret that primary care is in a crisis, with the national primary care scorecard showing that every year more and more patients are going without a usual source of care.[24] Demand for primary care has been growing for decades and is expected to increase.[25] This is particularly true in rural, low-income, and historically disadvantaged communities, where early access to primary care can have the most impact on preventing and addressing health issues early, before they become expensive and clinically complex problems.[26] NPs provide cost-efficient and high-quality care that has been shown to have comparable or even better outcomes

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[17] CMS.gov (August 14, 2023) *Primary Care*. U.S. centers for Medicare and Medicaid Services. https://www.cms.gov/priorities/innovation/key-concepts/primary-care.
[18] California Board of Registered Nursing (April 13, 2011) *General Information: Nurse Practitioner Practice*. State of California Department of Consumer Affairs. https://www.rn.ca.gov/pdfs/regulations/npr-b-23.pdf.
[19] American Association of Nurse Practitioners (November 10, 2020) *The Path to Becoming a Nurse Practitioner (NP)*. https://www.aanp.org/news-feed/explore-the-variety-of-career-paths-for-nurse-practitioners.
[20] O'Reilly-Jacob, M., Featherston, K., Poghosyan, L. (August 5, 2025) *Harnessing the Capacity of Nurse Practitioners to Increase Access to Primary Care in Disadvantaged Communities.* Milbank Memorial Fund. https://www.milbank.org/2025/08/harnessing-the-capacity-of-nurse-practitioners-to-increase-access-to-primary-care-in-disadvantaged-communities/.
[21] *Id*.
[22] GlobalData Plc. (March 2024) *The Complexities of Physician Supply and Demand: Projections From 2021 to 2036*. Washington, DC: AAMC. https://www.aamc.org/media/75236/download.
[23] Kueakomoldej S, Turi E, McMenamin A, Xue Y, Poghosyan L. (February 17, 2022) *Recruitment and retention of primary care nurse practitioners in underserved areas: A scoping review.* Nurs Outlook. 2022 May-Jun;70(3):401-416. doi: 10.1016/j.outlook.2021.12.008. Epub 2022 Feb 17. PMID: 35183357; PMCID: PMC9232900. https://pmc.ncbi.nlm.nih.gov/articles/PMC9232900/.
[24] Milbank Memorial Foundation (n.d.) *2026 Primary Care Scorecard data Dashboard*, https://www.milbank.org/primary-care-scorecard/.
[25] Buerhaus, P. (September, 2018) *Nurse Practitioners: A Solution to America's Primary Care Crisis*. American Enterprise Institute. https://www.aei.org/wp-content/uploads/2018/09/Nurse-practitioners.pdf?x85095.
[26] Rural Health Information Hub (January 16, 2026) *Health Care Access in Rural Communities*. https://www.ruralhealthinfo.org/topics/healthcare-access; Okunrintemi, V., Khera, R., Spatz, E.S. *et al.* (June 15, 2019*) Association of Income Disparities with Patient-Reported Healthcare Experience*. J GEN INTERN MED 34, 884–892 (2019). https://doi.org/10.1007/s11606-019-04848-4.

than physician care.[27] Primary care practices with NPs are more likely to be in rural areas and communities of socioeconomic disadvantage than those without.[28] Indeed, research has shown that while the supply of physicians providing primary care in in rural and low-income areas has decreased, the supply of actively practicing NPs has grown.[29]

By limiting the number of new NPs entering the profession, the Proposed Rule would reduce access to affordable and high-quality primary care, particularly in areas experiencing primary care shortages, exacerbating an already substantial problem. This would have a devastating impact on the health of patients living in these areas, as health problems that could have been addressed easily and cheaply through basic interventions at the primary care level will be allowed to progress to more serious and complex problems. Such patients will also be more likely to report to hospital emergency departments, where treatment is more expensive and imposes a greater burden on the health care system. Worse still, delaying treatment until conditions become acute will almost certainly result in worse health outcomes for patients. It is therefore crucial that the Proposed Rule be withdrawn and not act as a barrier for more clinicians to enter this much-needed profession.

2. Certified Registered Nurse Anesthetists (CRNAs)

Certified registered nurse anesthetists (CRNAs) administer anesthesia and anesthesia-related care before, during, and after procedures that require sedation, including surgical, therapeutic, diagnostic, and obstetrical procedures.[30] CRNAs ensure that anesthesia can be safely administered by reviewing any medication a patient may be taking, as well as any allergies or illnesses a patient may have that might affect or interact with the anesthesia they are administering.[31] This includes both general anesthesia, to put a patient to sleep during surgery, as well as regional or local anesthesia to numb an area of the body.[32] CRNAs also monitor a patients vital signs and biological functions during surgery and adjust anesthesia delivery as necessary to ensure the best outcome for the patient.[33] In addition to overseeing anesthesia during medical procedures, CRNAs also oversee pain management and provide some emergency services.[34]

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[27] Kueakomoldej, S., Turi, E., McMenamin, A., Xue, Y., & Poghosyan, L. (February 17, 2022). *Recruitment and retention of primary care nurse practitioners in underserved areas: A scoping review*. Nursing outlook, *70*(3), 401–416. https://doi.org/10.1016/j.outlook.2021.12.008.
[28] O'Reilly-Jacob, M., Featherston, K., Poghosyan, L. (August 5, 2025) *Harnessing the Capacity of Nurse Practitioners to Increase Access to Primary Care in Disadvantaged Communities.* Milbank Memorial Fund. https://www.milbank.org/2025/08/harnessing-the-capacity-of-nurse-practitioners-to-increase-access-to-primary-care-in-disadvantaged-communities/.
[29] Kueakomoldej, S., Turi, E., McMenamin, A., Xue, Y., & Poghosyan, L. (February 17, 2022). *Recruitment and retention of primary care nurse practitioners in underserved areas: A scoping review*. Nursing outlook, *70*(3), 401–416. https://doi.org/10.1016/j.outlook.2021.12.008.
[30] Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Nurse Anesthetists, Nurse Midwives, and Nurse Practitioners,
at https://www.bls.gov/ooh/healthcare/nurse-anesthetists-nurse-midwives-and-nurse-practitioners.htm (visited *January 28, 2026*).
[31] *Id.*
[32] *Id.*
[33] *Id.*
[34] *Id.*

CRNAs practice in every setting in which anesthesia is delivered, including: hospital surgical suites, hospital obstetrical delivery rooms, critical access hospitals, ambulatory surgical centers, ketamine clinics, Public Health Services, Department of Veterans Affairs healthcare facilities, U.S. military care facilities, and the offices of dentists, podiatrists, ophthalmologists, plastic surgeons, and pain management specialists.[35] CRNAs also practice in every branch of the military, where they have full practice authority and are the primary providers of anesthesia care to soldiers on the front lines and in Navy ships.[36] All told, CRNAs administer more that 58.5 million anesthetics to patients in the United States each year.[37]

Limiting the number of CRNAs entering the profession will reduce access to anesthesia services and procedures that require anesthesia, as CRNAs often function as the sole anesthesia provider at many health care facilities. Indeed, according the American Association of Nurse Anesthesiologists, CRNAs represent over half of anesthesia providers in the United States, and more than 80% of anesthesia providers in rural counties.[38] Likewise, over half of US states have opted out of federal requirements that CRNAs be supervised by a physician.[39] As a result, CRNAs are often the sole provider of anesthesia services in many rural hospitals, and play an integral role in administering and overseeing the appropriate use of opioids for patients receiving anesthesia, sedation, and pain management services for acute and chronic pain.[40]

By reducing the number of new CRNAs entering the profession, the Proposed Rule will have a drastic impact on access to health care services that require anesthesia. This is particularly in facilities and geographic areas where CRNAs are the sole providers of anesthesia, such as many rural counties. This, in turn, will have a significant effect on health outcomes as procedures and treatments are delayed, and untreated conditions are allowed to progress and become more acute. This will also have a substantial impact on servicemembers in the armed forces, where CRNAs are the main providers of anesthesia.[41] Thus, as with NPs, it is crucial that the Proposed Rule's changes to the definition of "professional student" be withdrawn to ensure that it does not act as a barrier to students entering this much-needed profession.

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[35] American Association of Nurse Anesthesiology (October 8, 2025) *Become a CRNA*. https://www.aana.com/about-us/about-crnas/become-a-crna/.
[36] American Association of Nurse Anesthesiology (October 8, 2025) *About CRNAs: 10 Things You Should Know About CRNAs/Nurse Anesthesiologists*. https://www.aana.com/about-us/about-crnas/.
[37] American Association of Nurse Anesthesiology (October 8, 2025) *Become a CRNA*. https://www.aana.com/about-us/about-crnas/become-a-crna/.
[38] American Association of Nurse Anesthesiology (October 8, 2025) *About CRNAs: 10 Things You Should Know About CRNAs/Nurse Anesthesiologists*. https://www.aana.com/about-us/about-crnas/.
[39] *Id.*
[40] Health Resources and Services Administration (2024) *Report to Congress: Nursing Workforce*. U.S. Department of Health and Human Services. https://bhw.hrsa.gov/sites/default/files/bureau-health-workforce/about-us/reports-to-congress/nursing-workforce-report-fy2023.pdf; American Association of Nurse Anesthesiology (n.d.) *7 Reasons You Might Be Happier in a Rural CRNA/NA Job*. https://www.aana.com/motion-crna-career-platform/7-reasons-you-might-be-happier-in-a-rural-crna-na-job/
[41] American Association of Nurse Anesthesiology (October 8, 2025) *About CRNAs: 10 Things You Should Know About CRNAs/Nurse Anesthesiologists*. https://www.aana.com/about-us/about-crnas/.

3. Certified Nurse Midwives (CNMs)

Certified nurse midwives (CNMs) are primary maternity care providers for women.[42] This includes providing a wide spectrum of perinatal care, such as independently delivering a baby in an uncomplicated vaginal delivery, providing postpartum care for the mother and infant, and providing care for healthy infants within the first 28 days of life.[43] CNMs also manage emergency situations during labor, repair lacerations, and may provide surgical assistance to physicians during cesarean births.[44] In addition to perinatal care, CNMs also perform gynecological exams, provide family planning services and wellness care, and provide care to their patient's partners for sexual or reproductive health issues.[45] CNMs provide these services in a wide variety of settings, including ambulatory care clinics, private provider offices, through community and public health systems, in hospitals, birth centers, and even patients' homes.[46]

Limiting the number of CNMs entering the profession will substantially limit access to labor and delivery services, particularly in rural areas and for urban safety net providers. Many regions in this country are currently experiencing a crisis in access to labor and delivery services. Research has shown that more than 400 hospital maternity wards in rural and urban communities stopped operating between 2006 and 2020, and the Center for Healthcare Quality and Payout Reform has noted that nearly 60% of rural hospitals no longer offer labor and delivery services at all.[47] These closures have left approximately 6.9 million women with little to no access to maternity care.[48] As many as 1,119 counties in the United States lack a hospital or birth center and have no obstetrics providers.[49] Two out of three of these so-called 'maternity deserts' are located in rural areas.[50] Much of this shortage is due to a lack of obstetrics providers.[51] A workforce report from the American College of Obstetricians and Gynecologists (ACOG) found a significant lack of obstetricians and gynecologists in rural and urban underserved communities, resulting in increasingly disparate access to care.[52] The lack of providers and closing of labor and delivery wards has exacerbated the already poor outcomes in

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[42] Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Nurse Anesthetists, Nurse Midwives, and Nurse Practitioners, at https://www.bls.gov/ooh/healthcare/nurse-anesthetists-nurse-midwives-and-nurse-practitioners.htm (visited *January 28, 2026*).
[43] https://www.cnma.org/whatisanursemidwife
[44] *Id.*
[45] *Id.*
[46] American College of Nurse-Midwives (December 2021) *Definition of Midwifery and Scope of Practice of Certified Nurse-Midwives and Certified Midwives.* https://midwife.org/wp-content/uploads/2024/10/Definition-of-Midwifery-and-Scope-of-Practice-of-Certified-Nurse-Midwives-and-Certified-Midwives.pdf.
[47] Roush, K. (2024). Maternity Care Is Increasingly Hard to Find in Rural Areas. *AJN The American Journal of Nursing*, *124*(10), 17.
[48] *Id.*
[49] *Id.*
[50] *Id.*
[51] Sheffield, E. C., Fritz, A. H., Interrante, J. D., & Kozhimannil, K. B. (2024). *The Availability of Midwifery Care in Rural United States Communities.* Journal of midwifery & women's health, *69*(6), 929–936. https://doi.org/10.1111/jmwh.13676.
[52] Whetstone, S. , McDonald, J. (July 2023) *Self-reported importance of working with underserved populations among obstetrics and gynecology residents*. American Journal of Obstetrics and Gynecology. https://www.ajog.org/article/S0002-9378(23)00164-3/fulltext.

these areas, resulting in increased rates of preterm birth, unplanned out-of-hospital births, ICU admissions, and infant and maternal death.[53]

CNMs play a crucial role in filling this gap in perinatal care and labor and delivery services. CNMs are trained and certified to independently oversee and perform the vast majority of deliveries, and thus can serve as primary clinicians for facilities providing labor and delivery services. It is therefore not surprising that research has highlighted a need for greater investment in midwifery care access for pregnant residents of rural communities.[54] Research has also found that outcomes for mothers and infants are in many ways superior when labor and delivery is overseen by a CNM, including "lower cesarean birth rates, higher successful vaginal birth after a past cesarean delivery, fewer episiotomies, less narcotic use, fewer medical interventions during labor, less perineal trauma, higher rates of breastfeeding, better outcomes for patients facing racial disparities, and better maternal and neonatal health outcomes both during and after pregnancy."[55] For this reason, midwifery care is often identified by experts as one strategic response to the rural maternal health care crisis.[56] By limiting the number of CNMs entering the profession, the Proposed Rule will undermine the ability of CNMs to address this growing crisis, and almost certainly result worse overall health outcomes for mothers and babies. It is therefore crucial that the Proposed Rule be withdrawn so that it does not act as a barrier for CNMs to enter this profession.

In sum, APRNs play a critical role in our health care system, functioning as key providers in essential areas of care such as primary care, anesthesia-related care, and labor and delivery care, particularly in areas already suffering from a shortage of clinicians. The Proposed Rule will make it substantially harder for students to enter these professions by capping federal student loans for MSN and DNP degrees at levels far below what is necessary to meet the costs of attendance**. As a consequence of fewer graduates entering these professions, there will be fewer APRNs available to perform these health care services and fill critical service gaps.** This will greatly exacerbate access shortages in primary care, perinatal and labor and delivery care, anesthesia-related care, as well as untold other areas, leading patients to delay or forgo necessary care, and resulting in worse health outcomes that are more expensive and difficult to treat. To avoid these negative outcomes, the Department should withdraw the portions of the Proposed Rule related to the definition of "professional degree."

C. MSN and DNP Degrees Clearly Fit Within the Statutory Definition of Professional Degree

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[53] Roush, K. (2024). Maternity Care Is Increasingly Hard to Find in Rural Areas. *AJN The American Journal of Nursing*, *124*(10), 17.
[54] Sheffield, E. C., Fritz, A. H., Interrante, J. D., & Kozhimannil, K. B. (2024). *The Availability of Midwifery Care in Rural United States Communities*. Journal of midwifery & women's health, *69*(6), 929–936. https://doi.org/10.1111/jmwh.13676 https://pmc.ncbi.nlm.nih.gov/articles/PMC11622357/#jmwh13676-sec-0130.
[55] Kicko, E., Smith, H. (n.d.) *What is a Nurse Midwife?* California Nurse-Midwives Association. https://www.cnma.org/whatisanursemidwife
[56] Sheffield, E. C., Fritz, A. H., Interrante, J. D., & Kozhimannil, K. B. (2024). *The Availability of Midwifery Care in Rural United States Communities*. Journal of midwifery & women's health, *69*(6), 929–936. https://doi.org/10.1111/jmwh.13676 https://pmc.ncbi.nlm.nih.gov/articles/PMC11622357/#jmwh13676-sec-0130.

The definition of "professional degree" set forth in the OBBBA clearly encompasses MSN and DNP degrees. The OBBBA defines "professional degree" for purposes of the statute "as defined under section 668.2 of title 34, Code of Federal Regulations (as in effect on the date of enactment of this paragraph)." On July 4, 2025, the time of enactment of the OBBBA, section 668.2 of title 34 of the Code of Federal Regulations defined 'professional degree' as follows:

> Professional degree: A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a professional degree include but are not limited to Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), and Theology (M.Div., or M.H.L.)

34 C.F.R. § 668.2 (Westlaw). Notably, this definition does not provide an exclusive list of degrees that meet this definition, but rather provides an open-ended, illustrative list. Likewise, this definition suggests that a requirement to obtain professional licensure prior to entering the program may indicate that a given degree is a 'professional degree,' but it very clearly does not require this to meet the definition. Indeed, the only explicit requirements to meet the statutory definition are that the degree signifies: (1) completion of the academic requirements for beginning practice in a profession, and (2) a level of professional skill beyond that normally required for a bachelor's degree.

MSN and DNP degrees clearly meet all of these statutory requirements. MSN and DNP degrees are required to become an APRN and obtaining one of these degrees signifies the end of the academic requirements necessary to take a national certification exam, apply for licensure, and begin practice as an NP, CRNA, or CNM. Moreover, these degrees obviously signal a level of professional skill beyond that normally required for a bachelor's degree, as APRNs must already have a bachelor's degree, and often years of experience working as an RN, prior to entering these programs. In addition, upon graduation from an APRN program, prospective APRNs must generally pass certification examinations demonstrating the additional professional skills they gained in these programs. Finally, while not required under the statutory definition, APRNs must obtain state licensure granting them authority to use these additional skills in a clinical setting before they can begin practice. Thus, MSN and DNP degrees meet both of the required elements of the statutory definition of "professional degree," as well as the optional factor of requiring licensure. They are therefore clearly "professional degree[s]" under the statutory definition.

D. The OBBBA Clearly Indicates that the Department Lacks the Authority to Amend the Definition of "Professional Degree" Beyond How that Term was Defined in the Code of Federal Regulation on the Date of Enactment of July 4, 2025

The Proposed Rule is improper because its proposal to amend the definition of "professional degree" beyond how that term was used in title 34, section 668.2 of the Code of

Federal Regulations on July 4, 2025 is contrary to the express terms of the OBBBA. Congress provided a clear definition for the term 'professional degree' in the OBBBA by incorporating an existing definition in the Code of Federal Regulations. Moreover, Congress explicitly indicated that this statutory definition was limited to how that term was used and "in effect on the date of enactment of this paragraph."[57] By attempting to impose a definition for 'professional student' that is contrary to how that term was defined in through rulemaking, the NPRM clearly exceeds the Department's statutory authority under the OBBBA.

It is well-established that when an agency exercises rulemaking authority, it is limited to taking actions authorized by law.[58] Thus agencies may not exceed the bounds of their statutory authority.[59] This principle is also affirmed in the Administrative Procedures Act ("APA"), which authorizes courts to "set aside" agency action, including rulemaking, that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right" or "otherwise not in accordance with law."[60] Notably, under the Supreme Court's decision in *Loper Bright*, agencies are afforded no special deference in determining the meaning of the applicable statute.[61]

Here, the Proposed Rule exceeds the Department's statutory authority by attempting to implement a definition of 'professional student' that conflicts with the express language of the OBBBA. As the NPRM acknowledges, rather than constructing a new definition for professional degree, Congress stated that it was using the term "as defined under section 668.2 of title 34, Code of Federal Regulations (as in effect on the date of enactment of this paragraph)." This clearly indicates that Congress intended to codify the definition of 'professional student' as used in 34 CFR 668.2 as of July 4, 2025, into statute. It also clearly indicates that Congress did not intend this statutory definition to be changed from how that term was used and "in effect on the date of enactment" through rulemaking. An ancient and patently logical cannon of statutory interpretation – the so-called surplusage cannon - holds that every word of a statute is assumed to have meaning and should be given effect (*verba cum effectu sunt accipenda*).[62] Here, it is difficult to imagine what the phrase "as in effect on the date of enactment of this paragraph" could possibly mean other than that this definition should not be changed from how it was used on the date of enactment of the OBBBA. Indeed, the NPRM appears to recognize the wisdom of this approach, acknowledging that "[c]ongress adopted and codified an agency regulation that had been remarkably consistent over time, as it remained unaltered for nearly 20 years, and changes to it before then had been minimal."

Nevertheless, the Proposed Rule proposes to introduce regulations that drastically alter and expressly conflict with this definition codified into statute by the OBBBA. Most notably, the Proposed Rule would limit which degrees meet this definition by providing an exhaustive list of degrees. This expressly conflicts with the statutory requirement that the definition be open-ended

[57] OBBBA, Section 81001.
[58] *La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374 (1986).
[59] *West Virginia v. EPA*, 597 U.S. 697, 723 (2022)
[60] 5 U.S.C. § 706.
[61] *Loper Bright Enters. V. Raimondo*, 603 U.S. 369, 412-413 (2024).
[62] See, e.g., Garner, B., Scalia, A. (2015) *A Dozen Canons of Statutory and Constitutional Text Construction*. Judicature. Vol. 99, No. 2. https://judicature.duke.edu/articles/a-dozen-canons-of-statutory-and-constitutional-text-construction/.

and "not limited to" the degrees listed, allowing decisionmakers to make determinations based on the facts of the specific degree programs on a case-by-case basis. The Proposed Rule thus exceeds the Department's authority under the OBBBA and APA on this basis alone.

The Proposed Rule would also add a number of additional requirements, including that a degree is: (1) generally at the doctoral level, (2) requires at least six academic years of postsecondary education coursework, (3) requires two years of post-baccalaureate level coursework, and (4) includes a four-digit program Classification of Instructional Program (CIP) code "in the same intermediate group of fields." None of these requirements are included in the definition of 'professional degree' codified by the OBBBA. Likewise, none of these requirements were used by the Department in interpreting or applying 34 CFR 668.2 before the OBBBA was passed or at the time of its enactment. The Department therefore lacks the power under the OBBBA and APA to "clarify" the definition by imposing these new requirements through rulemaking.

If Congress wanted to give the Department the authority to determine the definition of 'professional degree,' it could have expressly instructed it to do so in the OBBBA, or even simply left it undefined without reference to 34 CFR 668.2. It did not. To the contrary, Congress explicitly stated that the definition it was incorporating must remain the same "as defined under section 668.2 of title 34, Code of Federal Regulations (as in effect on the date of enactment of this paragraph)." This provides clear evidence that Congress explicitly denied the Department the power to alter or "clarify" this definition through rulemaking. By attempting to do so anyway through the Proposed Rule, particularly in ways the conflict with the statutory definition, the Department has clearly exceeded its authority in violation of the OBBBA and APA.

E. The Proposed Rule's Definition of 'Professional Student' is Arbitrary and Capricious in Violation of the Administrative Procedures Act

Even if the Department does have the statutory authority to change the definition of 'professional student' through rulemaking, the Proposed Rule violates the APA because it does so in a manner that is arbitrary and capricious.

The APA sets forth the procedures by which federal agencies are accountable to the public, and, among other things, requires agencies to engage in "reasoned decisionmaking."[63] In this regard, it instructs courts to "hold unlawful and set aside agency actions, findings, and conclusions found to be arbitrary, capricious, [or] an abuse of discretion."[64] Agency decisions have been invalidated as arbitrary and capricious when an agency fails to provide an adequate explanation for its decision,[65] when agency decisions are the product of illogical or inconsistent reasoning,[66] and when an agency simply fails to consider an important factor relevant to its

[63] *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 592 U.S. 1, 16 (2020).
[64] 5 U.S.C. § 706(2)(A).
[65] *See, e.g.*, *Cboe Futures Exch., LLC v. Sec. & Exch. Comm'n*, 77 F.4th 971, 974 (D.C. Cir. 2023) (vacating agency order after finding agency did not adequately explain the reasons for its decision); *Williams Gas Processing-Gulf Coast Co., L.P. v. FERC*, 475 F.3d 319, 329 (D.C. Cir. 2006)
[66] *See, e.g., Am. Fed'n of Gov't Emps., Local 2924 v. Fed. Lab. Rels. Auth.*, 470 F.3d 375, 380 (D.C. Cir. 2006);

action, such as the policy effects of its decision.[67] This standard applies to agency notice-and-comment rulemaking as well as most other policy determinations made by an agency.[68]

Here, many of the Department's determinations related to the definition of 'professional degree' set forth in the Proposed Rule violate the APA's arbitrary and capricious standard because they are the product of illogical or inconsistent reasoning. For instance, the Proposed Rule would require that "a degree must *generally* be at the doctoral-level to be considered a professional degree." However, the only explanation the Proposed Rule offers for this is that "the illustrative list of degrees suggests this must be the case, as it contains only three non-doctoral degrees." However, as the NPRM acknowledges, this list is illustrative, and does not represent the totality of the degrees that meet the definition. Moreover, this decision is horribly inconsistent, given that nearly 20% of the degrees and 10% of the professions listed in the exemplary list do not support this conclusion. This illogical and inconsistent reasoning is insufficient to support rulemaking under the APA.

Likewise, the Proposed Rule would include Doctorate in Clinical Psychology in its exhaustive list of degree programs that meet the definition of 'professional degree,' the only profession that was not included in the illustrative list incorporated into the OBBBA. However, its only explanations for this decision are that a doctorate in clinical psychology is explicitly required for licensure, which as explained above is entirely baseless, and that "in the definition of *qualifying graduate programs* in 34 CFR 668.2, Clinical Psychology programs are specifically included with other professional degree programs requiring postgraduate training to obtain licensure, including medicine (M.D.), dentistry (D.D.S. or D.M.D.), and osteopathic medicine (D.O.), and therefore are in the same class as these programs which are also specifically identified as professional degree programs." However, the NPRM fails to note that this definition of *qualifying graduate program* in 34 CFR 668.2 also includes programs in "marriage and family counseling, clinical social work, and clinical counseling," all of which the NPRM would *explicitly exclude* from the definition of 'professional degree.' The decision to include Doctorate in Clinical Psychology yet exclude all other professions in this statutory list is therefore also arbitrary and capricious within the meaning of the APA, as it is the product of entirely illogical and inconsistent decision making.

Furthermore, there are several determinations related to the Proposed Rule's definition of 'professional degree' for which no reasoning is provided in the NPRM at all, in violation of the APA. For instance, the Department states that it is "hesitant to classify degrees that lead to employment that must be supervised by a licensed professional, and cannot be performed independently, as professional degrees," and uses this conclusion as a basis to exclude some professions, including APRNs, from its exclusive list. However, the NPRM offers absolutely no reasoning to explain this decision. All that the NPRM states to support this decision is that it is "informed by the characteristics of programs in 34 CFR 668.2." Notably, however, it does not explain *why* or *how* this decision is informed by the characteristics of the programs in 34 CFR 668.2. This sort of conclusory statement has been consistently found to violate an agency's duty

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Venetian Casino Resort, L.L.C. v. EEOC, 530 F.3d 925, 934 (D.C. Cir. 2008).
[67] *Ctr. for Biological Diversity v. U.S. Bureau of Land Mgmt.,* 698 F.3d 1101, 1124 (9th Cir. 2012).
[68] 5 U.S.C. § 553.

under the APA.[69] Moreover, it is simply not true. Some of the professions listed in the statutory definition must be supervised by other professionals to practice in certain circumstances. For instance, pharmacists often work under collaborative practice agreements ("CPAs"), which allow them to manage a patient's medications under the supervision and direction of a licensed provider.[70] Indeed, according to the U.S. Centers for Disease Control and Prevention, in states such as Arizona, pharmacists working under CPAs *are supervised and overseen by nurse practitioners (NPs).*[71]

Finally, and perhaps most egregiously, the Proposed Rule is arbitrary and capricious because it fails to consider important factors relevant to its rulemaking, most notably, the policy effects of its decision. Indeed, the NPRM admits that it declined to consider "the need for workers in a given field," and instead, decided only to consider "its own historical practice, the characteristics of the existing programs, and the requirements of the profession." The NPRM provides two explanations for this decision. First, it claims, without explanation or reasoning, that "the definition of professional degree used in 34 CFR 668.2 … considered only the characteristics of the program and the requirements of the profession; it did not consider the need for workers in a given field." This conclusion is entirely unsupported by evidence. It is also irrelevant to the Department's duty under the APA in the instant rulemaking. Second, it states that "[c]ongress did not instruct the Department to take need into account when determining which programs are eligible for the higher loan limits." However, Congress did not instruct the Department to amend the definition of 'professional degree' through rulemaking at all. To the contrary, as explained above, Congress explicitly incorporated a definition of 'professional degree' that had been in effect for nearly two decades, *then told the Department to keep its hands off* - stating that the definition must match how it was "in effect on the date of enactment." This argument for refusing to consider the effects of its rulemaking is therefore equally specious.

The Department's failure to consider the impact of its policy choices on health care access across the country is therefore a clear abdication of its duty under the APA. The entire purpose of the federal student loan program is to allow students to finance their education with the goal of using that education to enter the workforce and serve the community. As explained above, APRNs are crucial to the functioning of our health care system and serve as primary providers in fields with critical access shortages. Limiting the ability of new APRNs to enter the workforce by capping their ability to receive federal student loans will have a drastic and

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[69] Courts require agencies to provide the "essential facts upon which the administrative decision was based" and explain what justifies their determinations with actual evidence beyond a conclusory statement. *Seventh Dimension, LLC v. United States*, 160 Fed. Cl. 1, 15 (2022) (quoting Bagdonas v. Dep't of the Treasury, 93 F.3d 422, 426 (7th Cir. 1996)); *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 224 (2016) ("Whatever potential reasons the Department might have given, the agency in fact gave almost no reasons at all [and] the Department's conclusory statements do not suffice to explain its decision."); Allied-Signal, Inc. v. Nuclear Reg. Comm'n, 988 F.2d 146, 152 (D.C. Cir. 1993

[70] Smith, T. (February 5, 2024) *What's the Difference Between Pharmacists and Physicians*. American Medical Association. https://www.ama-assn.org/practice-management/scope-practice/whats-difference-between-pharmacists-and-physicians.

[71] National Center for Chronic Disease Prevention and Health Promotion (October, 2013) *Collaborative Practice Agreements and Pharmacists' Patient Care Services: A Resource for Pharmacists.* U.S. Centers for Disease Control and Prevention. https://www.cdc.gov/high-blood-pressure/media/pdfs/2024/04/Translational_Tools_Pharmacists.pdf.

devastating impact on access to health care for untold numbers of patients. The Departments failure to consider the need for workers in a specific field and how the Proposed Rule might impact the American public therefore also provides clear evidence that the Proposed Rule is arbitrary and capricious in violation of the APA.

F. The Proposed Rule's Exclusion of MSN and DNP Programs from the Definition of Professional Degree Is Arbitrary and Capricious in Violation of the APA.

The NPRM's reasoning in support of the Proposed Rule's categorical exclusion of MSN and DNP degrees from the definition of 'professional degree' is also arbitrary and capricious in violation of the Department's obligations under the APA.

Most strikingly, while the NPRM discusses NPs in the context of evaluating whether MSN or DNP degrees meet the definition of 'professional degree,' it fails to analyze or consider CRNAs or CNMs at all. Indeed, CRNAs and CNMs are not mentioned once in the 93 page NPRM, despite the fact that obtaining an MSN and DNP degree is a necessary perquisite to enter these professions. The exclusion of MSN and DNP programs for the list of professional degrees without any analysis or consideration of CRNAs and CNMs – two of the largest and most important professions required to receive these degrees to begin practice - provides perhaps the strongest evidence that the Department failed to meet its duty to engage in "reasoned decisionmaking" or consider the policy impacts of its decisions, and that the Proposed Rule's definition of "professional degree" is therefore arbitrary and capricious in violation of the APA.

Furthermore, the NPRM's principal argument in support of excluding MSN and DNPs from the definition of professional degrees – that these degrees are not necessary for entry into the nursing profession - is equally baseless. The NPRM makes no attempt to define what it means by a profession or where the bounds of a given profession might lie. However, these degrees *are necessary* to become an NP, CRNA, or CNM, each of which is a unique clinical professional that is distinct from an RN. As explained in detail above, NPs, CRNAs, and CNMs each have distinct practice authority that allows them to perform a variety of clinical tasks, such as operating as primary care providers, independently overseeing anesthesia care, and independently overseeing perinatal care and labor and delivery of a newborn, all of which RNs are not legally allowed to perform. Moreover, NPs, CRNAs, and CNMs must obtain distinct licensure in order to do so, which requires them to meet distinct clinical training requirements, pass distinct certification examinations, and meet distinct continuing education requirements. While MSN and DNP students are already licensed professional nurses, they are entering these programs as a necessary prerequisite to become a different professional. Just because these students were already a separate type of professional before entering these programs has no logical connection to whether NPs, CRNAs, and CNMs are themselves distinct professionals.

The NPRM argues that NPs, in particular, are not distinct professionals from RNs because their practice authority varies from state to state. However, several of the other professions whose degrees are included within the Proposed Rule's definition also have practice authority that varies from state to state. For instance, practice authority for chiropractors with

D.C. and D.C.M. degrees varies considerably from state to state.[72] Likewise, the authority of clinical psychologists to prescribe psychotropic medication varies considerably from state to state.[73] Other degrees included in this list, such as M.Divs and M.H.L., have no legal restrictions on the authority of the professionals that receive them at all, and their authority to practice within a given religious traditional varies considerably between faiths, denominations, and even local religious communities. Using variation in professional practice authority to exclude NPs while other professions explicitly included under the statute and Proposed Rule also vary considerably from state to state, or even community to community, is entirely illogical and the definition of arbitrary and capricious.

Finally, the NPRM argues that NPs seeking MSNs and DNPs should not be considered distinct professional because, in some circumstances, they must be supervised by another professional with more education, training, and qualifications. However, as explained above, this requirement is made out of whole cloth without any explanation or justification, and thus cannot be used as a basis to exclude these programs. Moreover, this is also true of some other professions explicitly included in the statutory definition and Proposed Rule in certain circumstances. For instance, as explained above, pharmacists in some states are supervised by providers, including physicians and *nurse practitioners themselves*, when managing a patient's medication under a collaborative practice agreement.[74]

The Department's determination to exclude students seeking MSN and DNP degrees from the exhaustive list of professional degrees that qualify for higher student loan caps set forth in the Proposed Rule is therefore also arbitrary and capricious in violation of the APA.

G. Conclusion

In sum, NPs, CRNAs, and CNMs have distinct practice authority as compared to RNs, fill a distinct role in our health care system, and must meet distinct educational requirements, clinical training requirements, national certification requirements, and state licensure requirements in order to do so. The advanced degrees required to enter these professions – MSN and DNP degrees – should therefore be considered professional degrees under the Proposed

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[72]Chang, M., (July, 2014) *The Chiropractic Scope of Practice in the United States*. Journal of Manipulative and Physiological Therapeutics, V.37, I.6, pgs. 363-376. https://doi.org/10.1016/j.jmpt.2014.05.003; See, e.g., Federation of Chiropractic Licensing Boards (n.d.) *Chiropractic Regulatory Boards*. https://fclb.org/chiropractic-licensing-boards.php; American Chiropractic Association (n.d.) *State Licensing Boards*. https://www.acatoday.org/about/related-organizations/state-licensing-boards/.

[73] American Psychological Association Services, Inc. (January 2022) *About Prescribing Psychologists*. https://www.apaservices.org/advocacy/issues/prescriptive-authority/prescribing-psychologists; American Psychological Association (June 1, 2023) *Prescriptive authority gains new momentum.* https://www.apa.org/monitor/2023/06/prescriptive-authority-psychologists; APA Working Group on the Guidelines on Psychologists' Involvement in Pharmacological Issues (August 2025) *APA Guidelines for Psychologists' Involvement in Pharmacological Issues*. American Psychological Association https://www.apa.org/about/policy/guidelines-pharmacological-issues.pdf.

[74] National Center for Chronic Disease Prevention and Health Promotion (October, 2013) *Collaborative Practice Agreements and Pharmacists' Patient Care Services: A Resource for Pharmacists.* U.S. Centers for Disease Control and Prevention. https://www.cdc.gov/high-blood-pressure/media/pdfs/2024/04/Translational_Tools_Pharmacists.pdf.

Rule. Doing otherwise will greatly impair access to care – particularly primary care, anesthesia-related care, and labor and delivery care – for countless patients, with potentially devastating consequences to their health outcomes. The Department's attempt to change the meaning of "professional degree" from that which was explicitly incorporated into the OBBBA exceeds its discretion under that statute as well as the APA. Moreover, even if the Department does have the power to amend the definition of "professional degree" through rulemaking, the definition set forth in the Proposed Rule is arbitrary and capricious in violation of the APA, particularly in relation to its categorical exclusion of MSN and DNP degrees. NNU therefore strongly urges the Department to withdraw the portions of the Proposed Rule related to the definition of "professional degree."

Sincerely,

Michelle Grisat

Michelle Grisat
National Director of Health and Regulatory Policy
National Nurses United

CIVIL COVER SHEET

JS-44 (Rev. 8/2026 DC)

I. (a) PLAINTIFFS

American Federation of Labor and Congress of Industrial Organizations; American Federation of State, County & Municipal Employees; American Federation of Teachers; National Nurses United

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF ________
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

United States Department of Education; Linda McMahon

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT ________
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Matthew Ginsburg, Darin Dalmat
AFL-CIO
815 16th St., NW
Washington, DC 20006

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION
(PLACE AN x IN ONE BOX ONLY)

- ○ 1 U.S. Government Plaintiff
- ○ 3 Federal Question (U.S. Government Not a Party)
- ◉ 2 U.S. Government Defendant
- ○ 4 Diversity (Indicate Citizenship of Parties in item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!

	PTF	DFT		PTF	DFT
Citizen of this State	○ 1	○ 1	Incorporated or Principal Place of Business in This State	○ 4	○ 4
Citizen of Another State	○ 2	○ 2	Incorporated and Principal Place of Business in Another State	○ 5	○ 5
Citizen or Subject of a Foreign Country	○ 3	○ 3	Foreign Nation	○ 6	○ 6

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one Nature of Suit that best represents your Cause of Action. For Nature of Suit descriptions see here.)

A. *Antitrust*

- ☐ 410 Antitrust

B. *Personal Injury/Malpractice*

- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Medical Malpractice
- ☐ 365 Product Liability
- ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Product Liability

C. *Administrative Agency Review*

- ☐ 151 Medicare Act

Social Security
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

Other Statutes
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision

D. *Temporary Restraining Order/Preliminary Injunction*

☐ This category must be selected if the action is accompanied by a Motion for Temporary Restraining Order and/or Preliminary Injunction.

A corresponding nature of suit from any other category must also be selected for this category of case assignment.

(If Antitrust, then A governs)

E. *General Civil (Other)* OR **F. *Pro Se General Civil***

Real Property
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent, Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

Personal Property
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

Bankruptcy
- ☐ 422 Appeal 27 USC 158
- ☐ 423 Withdrawal 28 USC 157

Prisoner Petitions
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Conditions
- ☐ 560 Civil Detainee – Conditions of Confinement

Property Rights
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent – Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016 (DTSA)

Federal Tax Suits
- ☐ 870 Taxes (US plaintiff or defendant)
- ☐ 871 IRS-Third Party 26 USC 7609

Forfeiture/Penalty
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

Other Statutes
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 430 Banks & Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation

- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions
- ☐ 470 Racketeer Influenced & Corrupt Organization
- ☐ 480 Consumer Credit
- ☐ 485 Telephone Consumer Protection Act (TCPA)
- ☐ 490 Cable/Satellite TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 896 Arbitration
- ☐ 950 Constitutionality of State Statutes
- ☐ 890 Other Statutory Actions (if not Privacy Act)

G. *Habeas Corpus/2255*	H. *Employment Discrimination*	I. *FOIA/Privacy Act*	J. *Student Loan*
☐ 530 Habeas Corpus – General ☐ 510 Motion/Vacate Sentence ☐ 463 Habeas Corpus – Alien Detainee	☐ 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	☐ 895 Freedom of Information Act ☐ 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	☐ 152 Recovery of Defaulted Student Loan (excluding veterans)
K. *Labor/ERISA (non-employment)*	L. *Other Civil Rights (non-employment)*	M. *Contract*	N. *Three-Judge Court*
☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 740 Labor Railway Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Empl. Ret. Inc. Security Act	☐ 441 Voting (if not Voting Rights Act) ☐ 443 Housing/Accommodations ☐ 440 Other Civil Rights ☐ 445 Americans w/Disabilities – Employment ☐ 446 Americans w/Disabilities – Other ☐ 448 Education	☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholder's Suits ☐ 190 Other Contracts ☐ 195 Contract Product Liability ☐ 196 Franchise	☐ 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN

◉ 1 Original Proceeding ○ 2 Removed from State Court ○ 3 Remanded from Appellate Court ○ 4 Reinstated or Reopened ○ 5 Transferred from another district (specify) ○ 6 Multi-district Litigation ○ 7 Appeal to District Judge from Mag. Judge ○ 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
5 U.S.C. 706; APA challenge to Department of Education final rule

VII. REQUESTED IN COMPLAINT ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND $** **JURY DEMAND:** Check YES only if demanded in complaint YES ☐ NO ☒

VIII. RELATED CASE(S) IF ANY (See instruction) **YES** ☒ **NO** ☐ If yes, please complete related case form

DATE: 8/11/26 **SIGNATURE OF ATTORNEY OF RECORD** [signature]

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.

III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.

IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. **You may select only one nature of suit.** For nature of suit descriptions, see here.

VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.

VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

American Federation of Labor and Congress of Industrial Organizations; American Federation of State, County & Municipal Employees; American Federation of Teachers; National Nurses United

Plaintiff(s)

v.

United States Department of Education; Linda E. McMahon, in her official capacity

Defendant(s)

Civil Action No. 26-cv-2833

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* United States Department of Education
400 Maryland Ave., SE
Washington, DC 20202

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Darin M. Dalmat
AFL-CIO
815 16th St., NW
Washington, DC 20006

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: ______________________

____
Signature of Clerk or Deputy Clerk

Civil Action No. 26-cv-2833

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* ____________________
was received by me on *(date)* ____________ .

❒ I personally served the summons on the individual at *(place)* ____________________
____________________ on *(date)* ____________ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* ____________
____________________ , a person of suitable age and discretion who resides there,
on *(date)* ____________ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* ____________________ , who is
designated by law to accept service of process on behalf of *(name of organization)* ____________
____________________ on *(date)* ____________ ; or

❒ I returned the summons unexecuted because ____________________ ; or

❒ Other *(specify)*:

My fees are $ ________ for travel and $ ________ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: ____________

____
Server's signature

____
Printed name and title

____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

American Federation of Labor and Congress of Industrial Organizations; American Federation of State, County & Municipal Employees; American Federation of Teachers; National Nurses United

Plaintiff(s)

v.

United States Department of Education; Linda E. McMahon, in her official capacity

Defendant(s)

Civil Action No. 26-cv-2833

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Linda E. McMahon
400 Maryland Ave., SE
Washington, DC 20202

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Darin M. Dalmat
AFL-CIO
815 16th St., NW
Washington, DC 20006

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: ______________________

____
Signature of Clerk or Deputy Clerk

Civil Action No. 26-cv-2833

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* ______________________________
was received by me on *(date)* ______________ .

❒ I personally served the summons on the individual at *(place)* ______________________
______________________________ on *(date)* ______________ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* ______________
______________________________ , a person of suitable age and discretion who resides there,
on *(date)* ______________ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* ______________________________ , who is
designated by law to accept service of process on behalf of *(name of organization)* ______________
______________________________ on *(date)* ______________ ; or

❒ I returned the summons unexecuted because ______________________________ ; or

❒ Other *(specify)*:

My fees are $ ________ for travel and $ ________ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: ______________

____
Server's signature

____
Printed name and title

____
Server's address

Additional information regarding attempted service, etc: