

CONCERN ABOUT ED'S PROPOSED RULE RE: PROCESS FOR VALIDATING HIGH SCHOOL DIPLOMAS

Background

The U.S. Department of Education's ("ED" or the "Department") recently proposed changes to the process that institutions of higher education must use to validate high school diplomas when students apply for Title IV Federal student loans and grants. The changes are well intentioned as they are designed to root out diploma mills and confirm that "a student is qualified to train at a postsecondary level," 68 Fed. Reg. 32,000, 32,373 ([NPRM](#) May 19, 2023).

However, as written, the proposed rule is needlessly vague and confusing, which could be detrimental to students from unfamiliar high schools. This is because the rule uses broad and confusing language that would seem to require a college (typically through the financial aid administrator) to understand the nuances in how 50+ States oversee private schools and the process by which each State recognizes high school diplomas, which varies widely. This would put financial aid administrators in the position of needing to become experts on each state's practice, likely causing them to unfairly question diplomas from unfamiliar schools and denying aid to deserving students.

Broad Community Support

A broad community encompassing K-12 schools and institutions of higher education raised this concern in [public comments](#). Below are quotes directly pulled from some of these written comments.

[National Association of Student Financial Aid Administrators \(NASFAA\)](#)

NASFAA, a nonprofit association whose membership consists of more than 29,000 financial aid professionals at nearly 3,000 colleges, universities, and career schools across the country, noted: "New proposed language specifying adequate procedures requires postsecondary institutions to determine whether a state, tribal agency, or Bureau of Indian Education oversees or regulates the high school in question and, if so, collect documentation that the high school meets the requirements established by that entity. This could prove quite burdensome for institutions that might need to locate this information for every U.S. state, but it will be especially difficult to determine that a high school is not regulated (essentially proving a negative) by a state, tribal agency, or Bureau of Indian Education. ... As written, postsecondary institutions might be more likely to determine a high school diploma was invalid simply to err on the side of caution, potentially denying Title IV aid to students with valid high school diplomas...Institutions already have procedures for ensuring the validity of a student's high school diploma when they have reason to question its validity... this is not an area of pervasive fraud and ED already has enforcement authority to cite them for inadequate procedures without imposing prescriptive requirements on the majority of institutions that are already in compliance."

[National Association of Independent Colleges and Universities \(NAICU\)](#)

NAICU, which serves as the unified voice of private, nonprofit higher education, representing nearly 1,000 institutions, stated: "New requirements regarding validation of high school diplomas will likely lead to confusion and additional burden as institutions of higher education seek to decipher if and how a high school is "regulated or overseen" by a state agency, which could, in turn, lead to the denial of student aid for deserving students from legitimate private secondary schools. The Department should clarify that

documentation from a state agency is required to validate a diploma only when the state has a mandatory licensing or registration requirement for private secondary schools in a given state.”

Council for American Private Education (CAPE)

CAPE, a coalition of twenty national organizations and thirty-seven state affiliates serving the broad array of private, religious, and independent elementary and secondary schools across the U.S., stated: “ED’s proposal is not as simple as it sounds given that there is no one standard across all 50 states. Some states have no standards for nonpublic schools, while other states have multiple and complex regulations and laws. Faced with the requirement to analyze technical, nuanced, ever-changing, and multi-faceted state regulations and laws to confirm whether a diploma is valid, CAPE is concerned that institutions of higher education will err and/or be extra cautious and deny financial aid, particularly to students from unfamiliar nonpublic schools... Students who attend high schools, private or otherwise, familiar or unfamiliar, that prepare students to succeed in institutions of higher education should not endure the denial of financial aid and lost opportunity for postsecondary education due to an unnecessarily vague rule... At the very least, ED should clarify that documentation from a State agency is required to validate a diploma only where the State has a mandatory licensing or registration requirement for private secondary schools in a given State.”

National Association of Independent Schools (NAIS)

NAIS, which is a membership organization for more than 1,600 nonprofit, private K-12 schools in the U.S., expressed: “The NPRM seems to assume that regulation of nonpublic high schools is simple, straightforward, and consistent across all 50 states. This is not the case, and this broad and imprecise language will make it difficult if not impossible for financial aid officers to even know whether a state regulates or oversees private schools and if it does, whether any individual school meets or does not meet that standard. This may result in unequal access to student aid, particularly for students from newer or lesser-known schools... NAIS agrees with CAPE’s proposed comments, including that the Department should instead use the clearer, more precise and more standard terms “licensed and registered” in the final rule to provide more certainty and to enable financial aid administrators to realistically obtain the required documentation. It will be easier for a college financial aid officer to determine whether a given State has a mandatory licensing or registration requirement for private secondary schools, as opposed to the NPRM’s much more amorphous language.”