

Higher Education Task Force on Teacher Preparation

July 24, 2014

Office of Management and Budget

RE: Pending Teacher Preparation Program Regulations

The higher education community is eager to work with the Administration and Congress to develop strong federal policies that scale up effective teacher preparation programs, provide meaningful accountability, and lead to program improvement. We strongly support efforts to improve teacher preparation programs; however, we are concerned about the pending release of proposed regulations by the U.S. Department of Education some two years after a negotiated rule-making process that failed to produce consensus.

The proposals the Department put forward during negotiated rule-making were problematic on several fronts, and we are alarmed that they may, by default, end up in the proposed rule. Those proposals circumvented existing statute, inappropriately applied the failed tenets of NCLB to higher education, prescribed an untested one-size-fits-all accountability model for teacher preparation, and infringed on states' legal authority to oversee their teacher preparation programs.

Following is a summary of our concerns:

The Timing of the Release of the Proposed Regulations for Public Comment

The Higher Education Task Force and others in the teacher preparation community expect the regulations to be released by OMB for public comment before the end of the summer, in fact as early as the first week in August.

The technical complexity of topics likely to be addressed in the proposed regulations and the fact that the previous negotiated rulemaking process did not result in consensus make it imperative that the public be provided with an adequate comment period of at least sixty days - which is the standard EO12866 comment period.

Economic Significance Threshold

To whatever extent the pending proposed regulations require state- or institutional-level surveys and state-level data tracking systems, realistic costs estimates for such mandatory activities or infrastructure should be factored into the clearance process. The cost history of comparable state-interoperable student unit-record data systems provides strong evidence that the construction of the data infrastructure that may be required under the proposed rule would exceed \$100 million by itself.

We strongly urge OIRA to review the likely costs of the pending regulations, which we believe qualifies as "economically significant."

The proposed regulations from 2012 apply tenets of No Child Left Behind to higher education.

- The proposed regulations under review might require states to rate every teacher preparation program on a 1-4 rating scale and to use criteria that have not been determined to be valid and reliable for this purpose. There is no statutory authority for such requirements, and their inclusion in the proposed regulations would be quite inappropriate.
 - Criteria such as value-added scores of K-12 students of program graduates, job placement rates, and job retention rates would be problematic and would violate the requirements of EO 12866:
 - These criteria have not been documented by research to be valid and reliable measures of preparation program effectiveness.
 - Multiple factors outside of graduates' preparation have an impact on their ability to find a job and their decisions to remain in or leave the teaching workforce.
 - Multiple factors influence K-12 student performance beyond the teacher's preparation, such as family circumstances, school working conditions, school leadership, and school resources.
 - The criteria represent federal overreach and may violate state laws.
- Earlier proposals provided waiver authority to the secretary even though there is no statutory authority to do so.

The 2012 proposed regulations presented several operational challenges.

- Although many states are building data systems, few of these systems are developed enough to follow graduates into the workforce, as would have been required by the 2012 proposed regulations.
- Any linking of program-ratings to eligibility for TEACH grant participation would cause unpredictability each year as to which programs are TEACH grant eligible. Such uncertainty would confuse students, significantly increase the workload of student financial aid offices, and impede programs' abilities to recruit and retain teacher candidates in high-need preparation fields.

The 2012 proposed regulations tied eligibility for student aid to the rating of the teacher preparation program—a unilateral, unprecedented and untested shift in federal policy with no specific authorization in statute .

- Student financial aid should be based on eligible students' financial need and the eligibility of the institution (as determined through the triad), not on an arbitrary regulatory judgment about the putative programs in which they enroll.
- Such a regulation could have unintended consequences on the diversity of the workforce based on accessibility to teacher preparation programs.

The 2012 proposed regulations increased regulatory burden on states and preparation programs without increasing funding or providing concomitant benefits to justify the additional costs.

- The 2012 proposals added multiple reporting requirements – not authorized by statute – to pre-existing institutional and state teacher preparation report cards.
- The cost for collecting the new data, such as for conducting annual employer and graduate surveys, would have been exorbitant.

The 2012 proposed regulations would have disproportionately impacted minority serving institutions (MSI) and programs that prepare educators for high-need schools or school populations.

- The 2012 proposed regulations relied heavily on graduates' putative impact on K-12 student performance (through standardized tests) as a measure of preparation program quality. Existing literature on the disproportionate impact of poverty and other risk factors on test score clearly indicates that MSIs and other programs preparing educators for high-need populations would have been at an unsurmountable disadvantage under such erroneous evaluation metrics.
- Regulations should seek to insure against unintended consequences, such as disproportionate impact on minority serving institutions, the diversity of the workforce, programs that serve high need students, such as students with disabilities.

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