

Congress of the United States
Washington, DC 20515

June 5, 2024

Secretary Miguel Cardona
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Cardona,

We write to ask for an extension regarding the compressed timeline for community colleges, career colleges, and adult education programs at Career and Technical Centers (CTCs) with clock hour programs to align their programs with their state's minimum number of hours. This is necessary to ensure that students will continue to have access to federal financial aid in order to complete educational and training programs that will lead to family-sustaining jobs.

As you know, on October 24, 2023, the U.S. Department of Education (the Department) published in the Federal Register updates to regulations impacting "Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB)" (88 FR 74568).¹ Within these updates, the Department made a change to 34 C.F.R §668.14(b)(26)(ii) and (iii) that eliminates the current "clock hour rule" that allows institutions offering programs of study that align to state licensure or certification to have ability to offer programs that exceed up to 150 percent of their state's minimum number of hours.

The Department provided flexibility to institutions through the clock hour rule because it recognized that many state minimum hour requirements were "floors," the bare minimum needed to educate and prepare a student for a specific skilled trade career. The new rule change now requires all clock hour programs across the country to change their program hours to be exactly 100 percent of their state's minimum number of hours – with no deviation – or students will be unable to utilize federal financial aid for those programs.

There are many reasons why schools have extended their programs' number of clock hours. For example, programs must be able to include curriculum material that has expanded over time with new technologies, adequately prepare students to pass state licensure exams, allow students to command a higher starting wage, and ensure students are both marketable to employers and capable of running small businesses.

Under the Department's October 2023 rule, clock hour programs must be aligned with their state's minimum hours by July 1, 2024. This is a lengthy process that involves multiple state, federal, and accreditation approvals, which generally need to be completed one at a time.

¹ <https://www.federalregister.gov/documents/2023/10/31/2023-22785/financial-responsibility-administrative-capability-certification-procedures-ability-to-benefit-atb>

Typically, each step of the approval process takes months to achieve. Considering the number of clock hour programs that will make these changes at the same time, it is anticipated that there will be additional delays for program change approvals. Additionally, state agencies and accreditors have reported to schools that many are currently understaffed and approvals are backlogged.

On top of these challenges, there are significant concerns that the Department may not be able to process all the program change applications it will receive in a timely manner. With the Department prioritizing the processing of students' Free Application for Federal Student Aid (FAFSA) applications, it is reasonable to question whether the Department has the administrative capacity to approve these program change applications before July 1, 2024.

Responding to the concerns of educational institutions, the Department announced that, between July 1, 2024, and January 1, 2025, it will use "enforcement discretion" regarding programs' compliance with the new rules.² While additional flexibility is appreciated, discretionary enforcement by the Department does not give schools the assurance they need in order to properly plan for this transition. The Department released more guidance on April 15, 2024, which stated that some schools are able to move forward with new programs and will not need to request the Department's approval while other schools must have the Department's approval before being offered Title IV aid.³ With so much overlapping guidance, schools and students are struggling to find the path forward.

We, the undersigned Members of Congress, respectfully request that the Department fully extend the deadline to July 1, 2025, for schools to align their clock hour programs with their state's minimum number of hours, without utilizing "enforcement discretion." This will permit institutions to secure alternative funding options for students who will be ineligible for Title IV federal financial aid and Pell Grants, prepare new curriculum, adjust marketing materials to comply with the regulations, adjust their budgets so they comply with state, federal, and accreditor regulations, and other related efforts.

Career-oriented programs are preparing students for success in careers that meet the demands of our modern workforce. Institutions that offer education and career preparation for students should be given a longer runway when preparing to comply with the Department's October 2023 rule that revoked the prevailing clock hour rule. We urge the Department to extend the deadline until July 1, 2025, in order to ensure that students participating in these programs continue to have access to education that will launch them into a successful career.

Sincerely,

² <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2024-04-09/updates-new-regulatory-provisions-related-certification-procedures-and-ability-benefit>

³ <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2024-04-15/implementation-program-length-restrictions-gainful-employment-ge-programs>



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Member of Congress



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Dan Meuser
Member of Congress



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