May 12, 2025

Director
Office of Management and Budget
Room 252
Eisenhower Executive Office Building
17th Street and Pennsylvania Avenue, NW
Washington, DC 20504

Russell T. Vought
Docket ID: OMB-2025-003

Dear Director Vought:

Thank you for the opportunity to share comments with the Office of Management and Budget about reducing the amount of burdensome and unnecessary regulations hindering faith-based organizations, including Christian colleges from the autonomy needed to ensure student flourishing (Docket ID: OMB-2025-003).

The Council for Christian Colleges & Universities (CCCU) represents over 170 institutions around the world, including over 140 in the United States. Our institutions enroll approximately 520,000 students annually, with over 11 million alumni. The CCCU's mission is to advance the cause of Christ-centered higher education and to help our institutions transform lives by faithfully relating scholarship and service to biblical truth. We are committed to graduating students who make a difference for the common good as redemptive voices in the world.

We support the Office's goals of streamlining regulations, while cutting those that are unnecessary and harmful. These comments are intended to further those interests. We stand ready to engage and assist.

Partnerships with Faith-Based and Neighborhood Organizations

The nine agency regulation entitled "Partnerships with Faith-Based and Neighborhood Organizations" includes many good things to ensure faith-based organizations are able to participate in social services funding. However, the CCCU and other organizations pushed back against the Biden administration's narrow interpretation of Title VII 702(a) and 703(e) exemptions as simply protecting the liberty of a religious employer to prefer its co-religionists (i.e. in hiring). We made clear that these sections may be raised by a religious employer as an affirmative defense to any claim brought under Title VII—not just claims of *religious* discrimination—when that employer bases its adverse employment decision on its religious convictions (i.e. firing, suspension, discipline, etc.). For our letter in response to the proposed regulations, please see here. The regulations deleted existing regulatory text stating that "An

organization qualifying for [a religious] exemption may select its employees on the basis of their acceptance of or adherence to the religious tenets of the organization." In any revision of the regulations, please retain that language to ensure that religious organizations are able to hire and fire for mission.

Nondiscrimination in Health Program and Activities

Under the Biden administration, the Department of Health and Human Services promulgated a rule called "Nondiscrimination in Health Program and Activities" with language that went beyond the standard "access to care" by suggesting that health care providers must provide, and that health plans must cover, procedures that may violate religious and moral convictions. Especially problematic was the suggestion that HHS might be open to imposing requirements with respect to abortion. Also problematic in the language was the text of the proposed regulations that related to "gender identity" and that, read in conjunction with the preamble, would effectively mandate the provision and coverage of "gender transition" procedures. For more information, please see our comment letter here.

Safeguarding the Rights of Conscience as Protected by Federal Statutes

In a rule called "Safeguarding the Rights of Conscience as Protected by Federal Statutes" (45 CFR Part 88), the Department of Health and Human Services attempted to reduce statutory rights of conscience to a balancing test that minimized and undermined the right to conscience. We made clear that the Medicare and Medicaid programs secure a physician's right to inform patients about their full range of treatment options and to decline participation in a patient's health care directive, as well as to decline on moral or religious grounds to refer for abortion. We also explained that these rights of conscience and ethical autonomy extend to those who would decline to become involved in hormone therapy and surgery for gender transition. For our letter in response to these regulations, please see here.

Rescission of Implementing Legal Requirements Regarding the Equal Opportunity Clause's Religious Exemption Rule

The Office of Federal Contract Compliance Programs (OFCCP) rescinded the Federal Contractor Religious Exemption Rule. The CCCU shared our concern that the rescission would negatively impact religious higher education institutions so that they would not be able to fully and freely compete for federal contracts that could benefit our faculty and students. The OFCCP rescission was inconsistent with the religious exemption provided by Title VII. That religious exemption is a complete exemption to the Title VII discrimination requirements when it involves an employment decision of a religious educational institution (or other applicable organization) fulfilling its faith-based mission. Please reissue this important religious exemption rule to ensure faith-based organizations can participate in federal contracts without giving up their distinctive religious identity and ability to hire those who agree with and support the institution's mission. For more detail on the problem with rescinding the religious exemption, please see here.

Implementation of the Pregnant Workers Fairness Act
On April 19, 2024, the Equal Employment Opportunity Commission published "Implementation of the Pregnant Workers Fairness Act." The regulation limits the religious exemption and includes abortion as a pregnancy-related condition. For more detail on the problematic pieces of this regulation, please see our comment letter on the proposed regulations here.

Enforcement Guidance on Harassment in the Workplace
During the Biden administration, the Equal Employment Opportunity Commission (EEOC) redefined workplace protections based on "sex" to instead mean "gender identity." The EEOC issued guidance on harassment in the workplace, with a particular emphasis on gender identity. For example, the guidance stated that the wrong pronouns for a transgender employee could create a hostile work environment and violate Title VII. In our letter, the CCCU responded by reminding the EEOC that employers have a legal right to decline to accommodate, reinforce, or otherwise be complicit in an employee's request that supervisors or co-workers use particular pronouns or other descriptors, where this would violate an employer's sincere religious beliefs. In addition, employers have the legal right to protect the privacy, dignity, safety, and workplace environment for employees wishing to use a restroom or other sex-segregated space without exposure to persons of the opposite biological sex. This guidance should be significantly modified to both protect the individual but also the religious organization.

Review of Program Participation Agreements (PPAs).
The CCCU believes the Department of Education has impermissibly given itself broad authority to require additional entities to assume financial liability for an institution to participate in the Title IV student aid programs.

Historically, the Department has required that an institution's Title IV program participation agreement (PPA) be signed by an authorized representative of the institution (specifically, the operating entity). However, under the Biden Administration, the Department implemented 34 C.F.R. 668.14 (a)(3), requiring the PPA to be signed by any "entity with direct or indirect ownership of the institution, if that entity has the power to exercise control over the institution." This change has been a critical issue for faith-based and denominational colleges, as the Department's changes have required some sponsoring denominations to cosign the PPA.

We believe the Department has exceeded its authority by inserting unnecessary administrative red tape into the historic and sacred relationship between denomination, church entity, and private university. In addition, the Department has entangled itself in religious matters by attempting to make subjective judgments about ambiguous thresholds

of control that warrants cosigning — a process that interferes with denominational governance and religious autonomy. For example, one institution may receive no financial support from its denomination, but the denomination must confirm all board members. Another may receive modest funding while requiring that 25% of its board simply come from the denomination. A third may receive minimal funding but mandates that 15% of its board members be ordained clergy in the denomination. Under the Department's current policy, which of these arrangements, if any, would trigger a co-signature requirement? How is ED determining what level of influence constitutes "control"? These decisions force the Department into deeply subjective evaluations of religious organizational structure, and they burden longstanding, mission-driven affiliations that are constitutionally protected and integral to the identity of these institutions.

We strongly believe this requirement should be limited to for-profit entities. Alternatively, the requirement should apply only to individuals that have substantial control over institutions with materially failing compliance records, as set forth in the authorizing statue for 34 C.F.R. 668.14(a)(3). These requirements should not apply to historic relationships between religious entities and their relation to nonprofit colleges' missions. One suggestion has been to require a signature from the denomination, though the denomination would not have to serve as a guarantor. This proposal is still deeply problematic for many reasons. A future administration may revert to the Biden administration understanding, but the key reason is that this "solution" does not fix the entanglement concern. The Department is still treating some religious institutions differently than other religious institutions and making a subjective judgment about control. We strongly believe the best approach is to limit this requirement to for-profit entities.

Personal Liability Guidance.

The Department of Education's Personal Liability Guidance allows the federal government to hold leaders with "substantial control" over private, nonprofit colleges -- including executive officers and members of boards of trustees -- personally liable for financial losses related to Title IV programs. This is accomplished by treating these individuals as if they "own" nonprofit institutions, even though, by definition, nonprofit colleges have no owners, and control is typically shared among multiple leaders through a shared governance model. As currently implemented, this guidance deters and disincentivizes qualified leaders from serving as trustees or executives for any school who is at risk, either in the short- or long-term, of experiencing financial hardship. Thus, at a time when an institution needs bold leadership, this guidance directly undermines their ability to recruit and retain such quality leaders.

While the Personal Liability Guidance may be designed to protect federal funds by holding accountable those who the Department determines substantially control institutions with significant financial risk, its application to nonprofit colleges is fundamentally flawed. It blurs

the distinction between ownership and governance in the nonprofit sector, introduces new, unprecedented risks, and creates potential unintended consequences for institutional leadership. This guidance is not authorized by statute and is inconsistent with congressional intent, as nonprofit institutions are organized for public benefit, not private financial gain. Any revision to this regulation should clarify that nonprofit board members and executive officers are not "owners" under 34 C.F.R. 668.14.

Change-in-Ownership.

Recent changes to the Department of Education's change-in-ownership regulations and sub-regulatory practices have transformed the process into a prolonged, complex undertaking—hindering colleges and universities at a moment when agility is more critical than ever. As institutions face shifting enrollment patterns, financial pressures, and the urgent need to innovate, the current two-step merger process—now taking years to complete—delays strategic partnerships that could enhance student access, quality, and institutional sustainability. To better support innovation and responsiveness in higher education, these regulations should be revised to restore a streamlined, transparent approval process that enables institutions to adapt quickly and collaboratively to serve students and communities more effectively.

To this point, we note that, by law, institutions are only required to supply to the Department a total of nine items during the post-closing period. Through our members, we are aware that the Department is routinely requiring institutions to submit documentation for or respond to over 35 requests. This creates an excessive administrative burden for schools and undoubtedly hampers the Department's ability to efficiently process changes in ownership, as demonstrated by unreasonably protracted review timelines. In order to optimize the process for all parties involved the Department should, at a minimum, limit the documentation the agency requires institutions to supply post-closing to documentation specifically enumerated in the regulations.

Related-Party Disclosures.

On October 31, 2023, the Department of Education published a final regulation amending and revising the financial responsibility, administrative capability, certification procedures, and ability to benefit programs for educational institutions receiving federal Title IV funds. As part of that final regulation, the Department expanded the disclosures that higher education institutions must make concerning related parties beyond those required under ASC 850 and the Generally Accepted Accounting Principles (GAAP), serving primarily to identify specific individuals involved in any transaction -- regardless of its nature or materiality.

Institutions report that these expanded disclosures are causing significant concern among board members, particularly those from the business community who are also major donors. This regulation improperly impairs the First Amendment rights of religious higher education

entities who receive Title IV funding, to the extent they apply to disclosure of the related parties that are donors to the institution. The First Amendment concern from such a regulation comes from the chill that it might place on donors to the Christian higher education organization who do not wish their identity and donations to be disclosed to the Department. Moreover, the receipt of federal funds under Title IV of the Higher Education Act should not require diminishment of First Amendment rights of association.

This heightened level of scrutiny is having a chilling effect on trustee participation, deterring highly qualified individuals from serving and potentially diminishing philanthropic support. To preserve strong, engaged governance and ensure continued support from leaders in the private sector, these expanded disclosure requirements should be rescinded.

Regulations on Financial Responsibility, Administrative Capability, Certification Procedures, and Ability to Benefit.

These rules imposed significant new requirements on institutions of higher education in numerous areas. In many instances, these regulations intrude on functions that have traditionally remained at the discretion of institutions and/or place substantial new administrative and financial burdens on institutions. Problematic provisions include requirements on distance education programs' compliance with state licensure laws, transcript withholding, career services, limitations on program length, and a significant expansion of mandatory and discretionary triggers that may require institutions to submit a minimum of 10 percent of the prior year's Title IV funds as a letter of credit. In just one example, the regulations require "adequate financial aid counseling" and "adequate career services counseling." Conceptually, we recognize and support these requirements as institutional best practices; however, the vagueness of the regulatory language makes it difficult for schools to comply and needlessly reiterates standards already closely monitored and measured by the accrediting agencies. Further, not only are accreditors already reviewing the adequacy and effectiveness of services at each institution that they accredit, but they also do so with specificity tailored to different types of institutions, something that the Department's rule does not accomplish. These regulations collectively risk stifling institutional autonomy and innovation, while diverting resources away from student support and educational quality. We urge that these rules be substantially revised or rescinded to restore flexibility and reduce unnecessary burdens.

Financial Value Transparency and Gainful Employment Regulations.

The Financial Value Transparency (FVT) and Gainful Employment (GE) regulations have introduced substantial new compliance burdens for higher education institutions. These rules require colleges and universities to report extensive student-level and program-level financial and outcome data, not only for career-oriented programs but, under FVT, for all Title IV-eligible programs.

As a threshold matter, we do not believe the quality of an academic program can be measured solely by its financial return. Even if the FVT/GE could accurately measure a program's financial value to students, taxpayers, or society as a whole (which we do not believe to be the case), this still would only represent a single dimension of the program's value. There are myriad other factors that need to be taken into account to determine the overall quality and value of each individual program, and that combination of factors would differ from one program to the next. We believe that this fundamental flaw in the Department's reasoning alone warrants eliminating the FVT/GE framework. At a minimum, the Department should work with institutions to overhaul the entire framework to ensure that any rule embraces a holistic approach to program value and avoids overemphasizing material rewards at the expense of mission-based and institution-specific approaches to education. In contrast, here the Department proposes a one-size-fits-all framework that excludes all measures of quality except for financial value, and further, proposes to assess financial value in the same manner for every type of program at every kind of institution. This misguided approach from the prior administration, which prioritizes financial value above all other measures of quality, will not simply provide students with incomplete information; it will confuse and mislead.

Moreover, we believe this framework is contrary to the faith-based, service-based, and charity-based approach that many of our students and institutions view as central to their educational mission. We are committed to graduating students who make a difference for the common good as redemptive voices in the world. Our schools offer a wide variety of academic programs because we believe that Christians are called to use their vocations as vehicles to aid the marginalized, the underserved, and the oppressed. By elevating purely financial metrics, the Department also intrudes on the autonomy of institutions who would find themselves less free to devote curriculum space to other aspects of their students' personal and spiritual growth. The CCCU and its members are unified by their Christian faith, and by the values that are embodied in that faith. CCCU students understand their vocation is an extension of their faith, with 12.7% of our graduates going into human services fields like counseling, mental health support, and community service, compared to 4.2% of all four-year institutions. These roles may not provide a large paycheck, but they are vital to the communities in which these students serve.

In another example, the Department projected that 6.6 percent of professional theology programs, representing 25.6 percent of enrollment in such programs, would fail one or both of the financial value metrics under the FVT/GE rule. *See* 88 Fed. Reg. 32419. These projections ignore the incalculable life-long personal, communal, and spiritual benefits of serving in a faith-based organization and disincentivizes institutions from offering this vital programming.

We wholeheartedly agree that finances are an important part of education, both for the student and family carefully considering their finances to attend college, as well as ensuring

the student can pay back the loans in a way that does not create an unreasonable burden for the student or for taxpayers. The Department has a strong desire to ensure students attend programs that will provide the best value to the student. The CCCU shares that desire. However, the Department's ability to determine value for every student and to do so fairly, accurately, and timely is impossible. The previous Department's approach promoted a view of education that limits the value of education to simply financial, which is incomplete at best. We are hopeful that this Department will reject that fundamentally flawed approach.

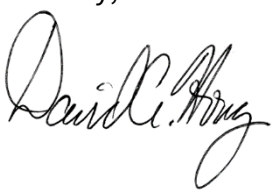
Given these concerns, the FVT/GE regulations should be rescinded to reduce administrative burdens and ensure that federal oversight recognizes the comprehensive value that colleges and universities provide to students and society.

For more details on the financial value and gainful employment regulations and the financial responsibility and administrative capability regulations, please see the CCCU comment letter submitted in response to the notice of proposed rulemaking here.

Conclusion

We appreciate OMB's commitment to engaging stakeholders to determine the unnecessary and problematic regulations to rescind or modify. Reducing unnecessary administrative burdens will allow institutions of higher education to more effectively fulfill their fundamental mission of educating and empowering students. The CCCU looks forward to continued collaboration with the OMB and various agencies, especially the Department of Education, to ensure that every student has the freedom to choose an institution that aligns with their values, nurtures their faith, and equips them to flourish both personally and professionally.

Sincerely,



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