



State of California
Office of the Attorney General

ROB BONTA
ATTORNEY GENERAL

October 14, 2025

Submitted via Federal eRulemaking Portal

The Honorable Linda McMahon, Secretary of Education
Dr. Matthew Soldner, Acting Director of the Institute of Education Sciences
Institute of Education Sciences
U.S. Department of Education
400 Maryland Ave. SW, LBJ, Room 5C133
Washington, DC 20202-1200

RE: Comments on Integrated Postsecondary Education Data System (IPEDS) 2024–25
Through 2026–27 Information Collection Request (ICR),
Docket No. ED-2025-SCC-0382, OMB Control No. 1850-0582

Dear Secretary McMahon and Dr. Soldner:

We, the Attorneys General of California, Colorado, Connecticut, Delaware, the District of Columbia, Hawai‘i, Illinois, Maine, Maryland, Massachusetts, Nevada, New Jersey, New Mexico, New York, Oregon, Vermont, Washington, and Wisconsin (States) write today to oppose the addition of the “Admissions and Consumer Transparency Supplement” (ACTS) survey component to the 2024–25 through 2026–27 IPEDS.¹ The ACTS survey component would require institutions of higher education (IHEs) to submit, for the first time, data linking students’ race and sex to admissions, financial aid, and academic markers such as test scores, grades, and graduation rates.² The National Center for Education Statistics (NCES) is requesting this data for the 2025–26 academic year and the previous five years in order to “track racial changes in admissions practices” since the Supreme Court ruling in *Students for Fair Admissions v. President and Fellows of Harvard College*, 600 U.S. 181 (2023) (*SFFA*) and “enable [ED] to better enforce [sic] Title VI.”³

The States oppose the addition of the ACTS survey component for three reasons. First, the ACTS survey component is not justified by the Supreme Court’s decision in *SFFA*. The

¹ See Agency Information Collection Activities; Comment Request; Integrated Postsecondary Education Data System 2024–25 Through 2026–27 (IPEDS ICR), 90 Fed. Reg. 39,384 (Aug. 15, 2025).

² See IPEDS ICR, 90 Fed. Reg. at 39385.

³ *Id.*

proposed data collection suffers from flaws that prevent it from assisting in addressing purported racial discrimination in postsecondary admissions or in ensuring compliance with Title VI. Instead, the proposed revision appears designed to substantiate the flawed assumption that “four-year institutions who utilize selective college admissions have an elevated risk of noncompliance with the civil rights laws.”⁴ It thus has the potential to be misused to improperly target disfavored IHEs. Second, the ICR creates an unreasonable burden on IHEs. This burden is particularly heavy given the volume of data requested, the lack of clarity as to how data is to be provided, the abbreviated timeline for compliance, and the requirement to submit data for the past five years. Third, the proposed data collection will likely not result in high quality data because of the rushed process to create the survey component, unclear parameters for data to be submitted, and the extraordinary level of disaggregation. This proposed disaggregation also presents serious student privacy concerns. These serious data integrity and security flaws contravene the stated mission of NCES “to collect and analyze education information and statistics in a manner that meets the highest methodological standards.”⁵

For all these reasons, the States encourage NCES to withdraw the proposal and not to expand it to open-enrollment institutions such as community colleges.⁶

I. The proposed data collection is not justified by *Students for Fair Admissions* and will not achieve its stated goals.

The ICR asserts that the addition of the ACTS survey component is justified due to the Supreme Court’s ruling in *Students for Fair Admissions v. Presidents and Fellows of Harvard College*, 600 U.S. 181 (2023) (*SFFA*), coupled with a vague and unsupported concern that diversity, equity, and inclusion initiatives have “been used as a pretext to advance overt and insidious racial discrimination.”⁷ The ICR states that the proposed information collection will “help to expose unlawful practices” and aid in enforcing Title VI.⁸ But the proposed collection will achieve neither of these goals.

As an initial matter, *SFFA* does not prohibit schools from pursuing diversity by lawful means. Nothing in the Supreme Court’s decision restricts IHEs from embracing diversity as an objective; indeed, the Court held that “[u]niversities may define their missions as they see fit.”⁹ Diversity is not a symptom of discrimination; data showing that campuses maintained diverse student populations after *SFFA* does not indicate a likelihood of unlawful admissions practices.

Moreover, the requested data linking a student’s race with their admissions test scores or high school GPA cannot show whether IHEs have unlawfully engaged in racial discrimination.

⁴ *Id.*

⁵ 20 U.S.C. § 9541(b)(1).

⁶ See IPEDS ICR, 90 Fed. Reg. at 39,386 (seeking comment on whether open-enrollment institutions should be required to complete the ACTS component).

⁷ IPEDS ICR, 90 Fed. Reg. at 39,385.

⁸ *Id.*

⁹ *SFFA*, 600 U.S. at 217.

Admissions and financial aid decisions involve many factors beyond those that can be measured in IPEDS, particularly at selective institutions. For example, many IHEs consider markers of student achievement in and outside the classroom, such as artistic portfolios, entrepreneurship, leadership roles, or volunteer and internship activities, in admissions decisions. These accomplishments can point to a student's likelihood of success in higher education, and each IHE may take a variety of strengths into account when building a campus community to achieve its distinct mission.¹⁰ These factors and others, such as relevant research experience or recommendations from undergraduate faculty, are perhaps even more critical to the graduate admissions process. A review of test scores and GPA alone is insufficient to understand IHEs admissions decisions or processes either standing alone, or when IHEs with very different admissions processes are compared with each other.

Likewise, many complex factors influence student persistence and performance in higher education. Graduation rates can be influenced by factors such as financial stability, social support, family characteristics, and responsibilities outside of school.¹¹ Data that reflects variations in student achievement across groups thus cannot show that an IHE impermissibly discriminated in admissions or financial aid decisions.

Because the ACTS survey component will not actually aid in the stated goal of “indicat[ing] whether institutions of higher education are using race-based preferencing in their admissions processes,” the States are concerned that the proposed data collection will instead be used to improperly target certain IHEs or pressure IHEs to abandon their commitment to educating all students. This concern is underscored by the ICR itself, which states that “continued widespread emphasis on ‘diversity, equity, and inclusion’ (DEI) in higher education causes concerns that unlawful practices may persist because DEI has been used as a pretext to advance overt and insidious racial discrimination.”¹² However, there is no evidence presented that campus DEI initiatives have in fact been used as a pretext for racial discrimination. In our States, these initiatives are aimed at ensuring all students can succeed.¹³ As the current

¹⁰ For example, an IHE might determine that “a student whose heritage or culture motivated him or her to assume a leadership role or attain a particular goal . . . [has a] unique ability to contribute to the university,” as long as that student is considered as an individual rather than a representative of their race. *SFFA*, 600 U.S. at 231. The Supreme Court explained that “nothing in [*SFFA*] should be construed as prohibiting universities from considering an applicant’s discussion of how race affected his or her life, be it through discrimination, inspiration, or otherwise.” *Id.* at 230.

¹¹ See, e.g., Linda M. Creighton, *Factors Affecting the Graduation Rates of University Students from Underrepresented Populations*, Int’l Elec. J. for Leadership in Learning (2007), <https://journals.library.ualberta.ca/iejll/index.php/iejll/article/view/663>; Ashley Mowreader, *Stress, Cost of Higher Ed Remain Greatest Threats to Student Persistence*, Inside Higher Ed (April 29, 2024), <https://www.insidehighered.com/news/student-success/academic-life/2024/04/29/college-students-say-personal-reasons-cause-them-stop>.

¹² IPEDS ICR, 90 Fed. Reg. at 39,385.

¹³ For example, California public colleges are committed to offering campus DEI programs and centers that are open to all students. They offer tailored support for a wide range of student populations with unique needs, including veterans, students with disabilities, and students from minority backgrounds.

administration has engaged in a pattern of using its investigative and funding resources to pressure IHEs to adopt its ideological agenda,¹⁴ the States are concerned that the data collected pursuant to this ICR will be misused to target universities that lawfully engage in DEI initiatives, serve diverse student populations, or have ideological differences with the current administration.¹⁵ The States are committed to the principle, embodied in Title VI, that students of every “race, color, and national origin” should have access to higher education without being “subjected to discrimination,” and oppose any use of this data that would undermine that principle.¹⁶

II. The proposed data collection would place an unreasonable burden on IHEs.

The proposed data collection would place an unreasonable burden on IHEs, which already devote considerable resources responding to IPEDS each year. By adding hundreds of new survey responses representing a laundry list of categories never previously collected by IPEDS, the ACTS survey component would significantly increase the overall burden of participating in IPEDS.¹⁷ At many IHEs, much of the newly required data is not centrally collected in one office; data may be housed in different departments (and in some cases, different campuses) across the institution. Compounding the burden, the ICR contemplates that in the 2025-26 survey, IHEs would be required to provide the newly required data not just for the 2025-26 academic year, but also for the five previous academic years. IHEs have not been collecting such data for this purpose and may not have it readily available for past years in the form requested.¹⁸ As a result, with little advance notice, IHEs will be required to expend

See, e.g., California State University (CSU), Veterans Success Centers, <https://www.calstate.edu/attend/student-services/troops-to-college/pages/veteran-success-centers.aspx> (last visited Oct. 10, 2025); CSU, Services to Students with Disabilities, <https://www.calstate.edu/attend/student-services/Pages/service-for-students-with-disabilities.aspx> (last visited Oct. 10, 2025).

¹⁴ *See, e.g.,* Collin Binkley and Aamer Madhani, *Trump Asks 9 Colleges to Commit to His Political Agenda and Get Favorable Access to Federal Money*, MSN.com (Oct. 2, 2025), <https://www.msn.com/en-us/news/us/trump-asks-9-colleges-to-commit-to-his-political-agenda-and-get-favorable-access-to-federal-money/ar-AA1NK0DZ>.

¹⁵ In this respect, the proposed data collection is also contrary to NCES’s statutory mission “to collect, analyze, and report education information and statistics in a manner that [] is objective, secular, neutral, and nonideological and is free of partisan political influence and racial, cultural, gender, or regional bias.” 20 U.S.C. § 9541(b)(3).

¹⁶ 42 U.S.C. § 2000d.

¹⁷ One higher education policy expert estimated that the ACTS component will require IHEs to complete over 11,000 new data fields each year. *See* James S. Murphy, *The Significant Technical Problems with the Trump Administration’s New Admissions Survey Component* (Aug. 19, 2025), <https://jamesmurphy.com/2025/08/19/the-significant-technical-problems-with-the-trump-administrations-new-admissions-survey-component/>.

¹⁸ The Office of Management and Budget (OMB) will not approve a collection of information that requires respondents to retain records for more than three years absent a showing of substantial need. 5 C.F.R. § 1320.5(d)(2)(iv). Although the ICR does not prospectively require respondents to retain

significant additional staff time—for some institutions, hundreds of additional staff hours—beyond the substantial resources already devoted to IPEDS.¹⁹

This administrative burden on IHEs is particularly high because of the rushed release of the ACTS component. The ICR was issued on August 15, 2025, and NCES seeks to require IHEs to complete the ACTS survey component for the 2025-26 school year, a much more rapid turnaround than is typical for major changes to IPEDS. In the past, NCES has consulted with IHEs and other stakeholders over months or even years in the development of complex new survey components.²⁰ This close coordination between IPEDS and IHEs ensures that the requirements are clear, that IHEs understand how to correctly implement new survey components, and that the ambiguities and complications that inevitably accompany a data collection of this size are addressed. Despite the expansive scope and technical difficulty of the proposed new data collection, these critical initial stakeholder conversations have not occurred. As a result, the ICR does not provide sufficient information for IHEs to fully understand the data that is expected to be collected, assess the resources that will need to be devoted to this new survey component, or be assured that technical issues will be adequately resolved.²¹ Recent reductions in IPEDS staffing further raise concerns that IHEs will be left without the consultation and support they ordinarily would rely on to troubleshoot the process of responding to a new, complicated survey component.²²

III. The proposed data collection lacks data quality, integrity, and security safeguards.

The heavy administrative burden on IHEs is also unjustified because the proposed data collection will not result in useful, high-quality data.²³ First, much of the data requested will be inconsistently available across institutions, student populations, and academic years, making it

records for five years, IHEs should not be penalized for any newly requested prior year data that is not available.

¹⁹ NCES estimates that the ACTS component will add 740,511 hours of additional work across the higher education sector. *See* IPEDS ICR, 90 Fed. Reg. at 39,385. The basis for this estimate is not clear, nor is the average time burden expected per IHE; depending on the final timeline and scope for the information collection, it may underestimate the burden on IHEs.

²⁰ *See, e.g., Reports and Suggestions from Past IPEDS Technical Review Panels*, RTI Int'l, <https://ipedstrp.rti.org/> (last visited Oct. 8, 2025).

²¹ The ICR does not include a copy of the proposed information collection and related instructions. Nor does it either provide more than sixty days to permit interested members of the public to receive those materials or explain how the public can access the documents electronically. *See* 5 C.F.R. § 13208.8(d)(2).

²² Sarah Mervosh, *Trump Wants Admissions Data on Grades and Race, But Who Will Collect it?* N.Y. Times (Aug. 9, 2025), <https://www.nytimes.com/2025/08/09/us/trump-admissions-data-grades-race-education-department-layoffs.html>; Jessica Blake, *Trump Ends Vital Higher Ed Data System Training*, Inside Higher Ed (June 9, 2025), <https://www.insidehighered.com/news/government/politics-elections/2025/06/09/departments-education-discontinues-ipeds-training>.

²³ OMB will not approve a collection of information “that is not designed to produce valid and reliable results that can be generalized to the universe of study.” 5 C.F.R. § 1320.5(d)(2)(v).

difficult to make meaningful comparisons. For example, some institutions do not require test scores for all programs, and some do not collect certain information for transfer students, such as high school GPAs or test scores. Graduate departments vary considerably in their admissions requirements and may not collect the required information on high school GPAs or test scores. And many colleges and graduate schools have ceased asking applicants to identify their race and ethnicity following the *SFFA* decision. Even where IHEs do ask, many students at both the graduate and undergraduate levels opt not to respond to questions on race, making it difficult to draw conclusions related to race, especially between IHEs with different response rates. FAFSA data may also not be available for all groups of students, and most IHEs will have much less information about applicants who have not been admitted or enrolled.

This data quality concern is compounded by the extraordinary level of disaggregation proposed in the ICR. For example, in one item, the ICR proposes to collect data by race-sex pair on grade point average (GPA), cost of attendance (disaggregated by four additional factors – admissions test score quintiles, ranges of high school GPA, ranges of family income, and enrollment via early action, early decision or regular admission), graduation rates (disaggregated by test score quintiles and GPA ranges) and graduates' final cumulative GPA.²⁴ For graduate students, this data will be further disaggregated by fields of study. This level of disaggregation will necessarily splinter the data into very small reporting cells that make it less likely that statistically significant conclusions can be drawn. Even at the largest institutions, the number of students in some cells will be so small that comparisons will be meaningless.

The unprecedented degree of disaggregation proposed here also poses heightened concerns related to student privacy, particularly with regard to the student financial aid and outcomes metrics. Protecting student privacy is an important obligation whenever education data is made public, as data submitted through IPEDS is, and the States are strongly committed to ensuring the privacy of their student populations.²⁵ This obligation is particularly critical when disaggregation results in very small cells that could lead to individual student data being identified, as is likely to occur with the level of disaggregation proposed in the ICR. The ICR does not explain how the granular data collection proposed will be managed to maintain student privacy, and it is not clear that NCES has safeguards in place to manage student privacy in IPEDS data at this level of disaggregation.

²⁴ IPEDS ICR, 90 Fed. Reg. at 39,385.

²⁵ See, e.g., Cal. Educ. Code § 76243, §76241 (protecting the privacy of student records in California community colleges); Cal. Educ. Code § 99121 (protecting the privacy of student social media information in California IHEs); Cal Educ. Code §§ 49073-49079.7 (protecting the privacy of K-12 student records). See also, e.g., Haw. Rev. Stat. §§ 302A-499-500 (protecting the privacy of K-12 students' personal information online); Or. Rev. Stat. § 336.184 (Oregon Student Information Protection Act protecting K-12 student records); Or. Rev. Stat. § 350.075(5) (protecting student complaints); ORS 350.272 (protecting student social media information); Or. Rev. Stat. § 192.398 (protecting student records required by state or federal law to be exempt from disclosure); Wis. Stat. § 118.125 (protecting the confidentiality of K-12 student records).

The truncated timeline for compliance creates additional data quality concerns. Given the volume and complexity of the data requested, some IHEs may struggle to produce the required information on time. Without sufficient time to meet the new requirements, training, technical assistance, or quality control from IPEDS staff to address questions about the new requirements, it is possible that errors will be introduced in the data.

For all of the foregoing reasons, the States urge NCES to rescind the ICR and the proposed ACTS survey component and do not expand it to open-enrollment institutions.

Sincerely,

A handwritten signature in blue ink that reads "Rob Bonta".

ROB BONTA
California Attorney General

A handwritten signature in blue ink that reads "Philip J. Weiser".

PHILIP J. WEISER
Colorado Attorney General

A handwritten signature in blue ink that reads "William Tong".

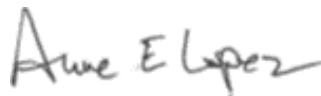
WILLIAM TONG
Connecticut Attorney General

A handwritten signature in blue ink that reads "Kathleen Jennings".

KATHLEEN JENNINGS
Delaware Attorney General

A handwritten signature in black ink that reads "Brian L. Schwalb".

BRIAN L. SCHWALB
District of Columbia Attorney General

A handwritten signature in black ink that reads "Anne E. Lopez".

ANNE E. LOPEZ
Hawai'i Attorney General

A handwritten signature in black ink that reads "Kwame Raoul".

KWAME RAOUL
Illinois Attorney General

A handwritten signature in black ink that reads "Aaron M. Frey".

AARON M. FREY
Maine Attorney General



ANTHONY G. BROWN
Maryland Attorney General



ANDREA JOY CAMPBELL
Massachusetts Attorney General



AARON D. FORD
Nevada Attorney General



MATTHEW J. PLATKIN
New Jersey Attorney General



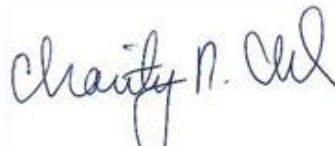
RAÚL TORREZ
New Mexico Attorney General



LETITIA JAMES
New York Attorney General



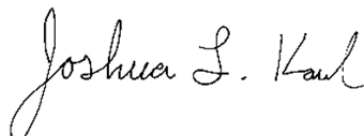
DAN RAYFIELD
Oregon Attorney General



CHARITY R. CLARK
Vermont Attorney General



NICHOLAS W. BROWN
Washington Attorney General



JOSH KAUL
Wisconsin Attorney General