



State of California
Office of the Attorney General

ROB BONTA

ATTORNEY GENERAL

December 15, 2025

Submitted via Federal eRulemaking Portal

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

RE: Comments on Integrated Postsecondary Education Data System (IPEDS) 2025–26 Through 2026–27 Information Collection Request Submission to Office of Management and Budget for Review and Approval, Docket No. ED-2025-SCC-0382, OMB Control No. 1850-0582 (November 13 Comment Request)

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, New Jersey, New Mexico, New York, Nevada, Oregon, Vermont, Washington, and Wisconsin (States) write in response to the November 13 Comment Request to reiterate our opposition to the addition of the “Admissions and Consumer Transparency Supplement” (ACTS) survey component to the 2025–26 through 2026–27 IPEDS.¹ As the National Center for Education Statistics (NCES) has

¹ See Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Integrated Postsecondary Education Data System (IPEDS) 2025–26 Through 2026–27, 90 Fed. Reg. 50,940 (November 13, 2025) (November 13 Comment Request); Attorneys General of California, et al., Comment Letter 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 (October 14, 2025) (October 14 Attorneys General Comment), <https://www.regulations.gov/comment/ED-2025-SCC-0382-3125>.

released more information about the proposed ACTS component,² it has become even more clear that the proposed data collection is an unnecessary, burdensome data-fishing expedition that is unlikely to result in useful data, poses risks to student privacy, and appears designed to discourage Institutions of Higher Education (IHEs) from pursuing lawful efforts to educate all students. These problems persist in part because NCES has failed to adequately respond to the many substantive concerns submitted by commenters in response to the August 15 Comment Request, and entirely ignored the concerns raised by the undersigned states and numerous others that the proposed data collection will be misused to target universities that lawfully engage in diversity, equity, and inclusion initiatives, serve diverse student populations, or have ideological differences with the current administration.³

The proposed data collection is not necessary to the proper functions of the U.S. Department of Education (the Department) because it will not assist in addressing purported racial discrimination or ensure compliance with Title VI of the Civil Rights Act of 1964. Further, the data likely will not be processed or used in a timely manner because the collection requests data that may not be available to IHEs, the timeline proposed for the collection is unrealistic, the submission procedure is new and untested, and because IPEDS staffing has been reduced. If NCES does not withdraw the proposal, as the States continue to urge, the States request that NCES modify and/or delay the rollout of the ACTS survey component to provide more opportunities for stakeholder input and refinement of the procedure and data requested. Finally, NCES's response to the prior round of comment, together with the failure to significantly amend the proposed collection in response to concerns, is inadequate.

I. The proposed data collection is not necessary to the proper functions of the Department.

The proposed data collection is not necessary to the proper functions of the Department because it will not aid in the stated goal of “indicat[ing] whether institutions of higher education are using race-based preferencing in their admissions processes.”⁴ As discussed in the October 14, 2025 comment by the Attorneys General of California, et al., the proposed data collection is premised on two central flawed assumptions: first, that the Constitution—as interpreted in *Students for Fair Admissions*—prohibits IHEs from supporting a diverse student body; and second, that data on an unprecedented range of post-admissions factors can effectively identify

² See *Integrated Postsecondary Education Data System (IPEDS) 2024-25 through 2026-27: Docket Documents*, Department of Education, <https://www.regulations.gov/docket/ED-2025-SCC-0382/document> (last visited December 4, 2025).

³ See Agency Information Collection Activities; Comment Request; Integrated Postsecondary Education Data System (IPEDS) 2024–25 Through 2026–27, 90 Fed. Reg. 39,384 (August 15, 2025) (August 15 Comment Request); NCES, *Appendix E: Comments from the 60-day comment period regarding the addition of the Admissions and Consumer Transparency Supplement*, at 6-7 (revised October 2025), <https://www.regulations.gov/document/ED-2025-SCC-0382-3466>.

⁴ August 15 Comment Request, 90 Fed. Reg. at 39,385.

impermissible race discrimination in admissions.⁵ Notably, the Department failed to address, in its responses to comments, the points made by the undersigned explaining how the proposed data collection will not—and cannot—demonstrate racial discrimination in admissions or scholarship decisions because of the many considerations that inform these decisions that IPEDS cannot record.⁶ Similarly, complex factors influence student performance and graduation rates.⁷ Because variations in student achievement across groups do not indicate that an IHE has impermissibly discriminated in admissions or financial aid decisions, the ACTS survey component will not actually assist in ensuring compliance with Title VI. Furthermore, the data quality problems that will ensue from the rushed rollout of the ACTS component (discussed further in Section II below) are likely to result in inaccurate data or data that is not comparable across institutions or even across academic years within institutions, reducing the utility of the data for proper research or enforcement purposes. The data collection is therefore not necessary or indeed beneficial to the proper functions of the Department.⁸

II. The information likely will not be processed or used in a timely manner.

The requested data likely will not be processed or used in a timely or reliable manner because many IHEs simply will not be able to perform the work required, and NCES will likewise face significant obstacles in processing it. Considerable operational, data quality, and privacy barriers underscore why the adoption of the proposed ACTS survey component is premature and inadvisable.

According to the IPEDS website, NCES plans to make the ACTS component available for submission early in the Winter 2025-26 collection period, with a closing date of March 18, 2026.⁹ Many IHEs will struggle to produce accurate data on this timeline, for several reasons. First, as NCES itself has acknowledged in its own estimated time burden, the effort that will be involved in responding to the new ACTS survey component far dwarfs the burden of the rest of the IPEDS survey combined.¹⁰ Yet despite this unprecedented expansion, NCES has

⁵ See *Students for Fair Admissions v. President and Fellows of Harvard College*, 600 U.S. 181 (2023); August 15 Comment Request, 90 Fed. Reg. at 39,385; October 14 Attorneys General Comment at 2-3.

⁶ See October 14 Attorneys General Comment at 2-3.

⁷ *Id.*

⁸ Because the proposed data collection will not aid in identifying discrimination, States remain concerned that it may instead be used to improperly target IHEs or pressure them to abandon their commitment to educating all students. *Id.* at 3-4. 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. 42 U.S.C. § 2000d.

⁹ *This Week In IPEDS (TWII)*, NCES (November 17, 2025), <https://nces.ed.gov/ipeds/this-week-in-ipeds/328>.

¹⁰ See IPEDS 2025-26 through 2026-27 Supporting Statement Part A, at 30 (revised October 2025) (Supporting Statement A) (estimating the time burden of the ACTS component for 2025-26 at 200 hours for all keyholders and 40 hours for 2026-27 at 40 hours for experienced keyholders).

conducted a much more rushed process to define data variables and submission procedures than is its typical procedure.¹¹ Skipping a necessary iterative process in consultation with respondents and other stakeholders will guarantee that IPEDS is more burdensome, less clear, and ultimately less useful to NCES and other stakeholders. Based on IPEDS email communications with IHEs, NCES intends to open this survey component in mid-December. Not only does that give IHEs little time to understand this new process or raise concerns, but it also provides obviously insufficient time for the Department to review and address comments (which are due December 15) prior to opening the survey component.

The ACTS component requires never-before-collected data that IHEs may not track or maintain in an accessible format. For example, an IHE that does not already collect unweighted high school GPAs would face an onerous challenge in determining this data years later. Other data that IHEs may not have easily available include noncredit course enrollment data, Pell grant eligibility at the point of matriculation, date of degree conferral (rather than semester/term of conferral), financial aid awards (versus disbursements, as these may differ), and past-year data. At many institutions, the required data will be located across different offices, such as the financial aid office, the admissions office, and the main student records office, and sometimes across different campuses and schools, requiring new systems for data collection and verification. The burden in producing this data and ensuring its accuracy on a short timeline will be very significant for IHEs of every size.

Just as concerning, NCES is introducing a new and untested procedure and interface for receiving data from respondents. For the first time, respondents will submit de-identified student-level data, using Microsoft Excel sheets that are then aggregated using a new ACTS Aggregator Tool.¹² This procedure appears to require multiple stages of validation, which may require review or discussion with IPEDS staff or contractors for IHEs to complete.¹³ All of these steps are new and may involve time-consuming delays or errors, particularly if IHEs cannot provide the required data or provide it in the form expected. These factors will likely increase the time burden on IHEs even beyond the significant burden estimated by NCES.

The new process for providing student-level data through the IPEDS system also raises significant privacy concerns.¹⁴ NCES inadequately attempts to address these concerns by offering, in Supporting Statement A, an alternative to uploading sensitive student-level data.

¹¹ In addition to requiring a vast amount of new data on a truncated timeline, the ACTS component also duplicates existing IPEDS student data collection in ways that will require institutions to support the same information in two different formats. For example, IPEDS already tracks disaggregated data on applications, enrollments, financial aid, and completions under an entirely different process and guidance in its existing student data collections; the burden of producing the same information in two different ways is also unreasonable.

¹² See IPEDS 2025-26 through 2026-27 Admissions and Consumer Transparency Supplement (ACTS) Package, at 6, 20 (October 2025), <https://www.regulations.gov/document/ED-2025-SCC-0382-3466> (ACTS Package).

¹³ See *id.* at 6-12.

¹⁴ See *infra* Part IV discussing privacy concerns.

NCES states that respondents will have the option of using Python programming scripts locally to produce their own aggregate file from their prepared student-level file.¹⁵ The resulting aggregate data file would then be uploaded to the IPEDS Data Collection System. However, the instructions for this method are not included with the ACTS package,¹⁶ raising concerns as to the burden and feasibility of this method of data submission.

Given these hurdles and the failure to engage with stakeholders to identify and address concerns with the process and data requested, it is highly unlikely that the ACTS survey component will be processed or used in a timely manner. This is particularly concerning given recent reports that IPEDS staffing has been reduced.¹⁷ Without sufficient staff to support respondents and to manage the large volume of data solicited, the burden on IHEs is even less justified.

III. NCES should enhance the quality, utility, and clarity of the information collected and minimize the burden on respondents by providing additional opportunities for feedback from respondents to shape the data collection plan.

Because of the many problems discussed here and by other commenters, the States urge NCES to withdraw the ACTS survey component for the IPEDS ICR. However, if NCES does not do so, the States urge NCES to work collaboratively with IHEs to develop a more workable and clearly defined collection plan that genuinely serves its needs. This will require revising the current proposal to allow meaningful time for stakeholder input and refinement of both the procedure and the data requested. Steps to enable such an iterative, collaborative process might include delaying the ACTS component, making it voluntary for the first year, limiting the initial rollout to a pilot group or subset of respondents, dropping the requirement to submit five years of past data in the first year, and convening the IPEDS Technical Review Panel to advise on the effective implementation of the new survey component.

In its response to public comments calling for steps to mitigate its rushed and unclear proposal, NCES states that “[n]either the President’s memorandum nor the Secretary’s directive make provisions for pilot or optional-year data collections or their equivalents.”¹⁸ However, neither do these documents prohibit such steps.¹⁹ Nor do they require NCES to mandate that data

¹⁵ Supporting Statement A at 10.

¹⁶ See ACTS Package at 65 (“However, if there is need to discuss alternative means of submitting the ACTS data, please contact the IPEDS Help Desk.”)

¹⁷ Sarah Mervosh, *Trump Wants Admissions Data on Grades and Race, But Who Will Collect it?*, N.Y. Times (August 9, 2025), <https://www.nytimes.com/2025/08/09/us/trump-admissions-data-grades-race-education-department-layoffs.html>; see also 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>.

¹⁸ Appendix E at 17.

¹⁹ The Presidential Memorandum only directs the Secretary to “expand the scope of required reporting” within 120 days and does not specify the requirements in any further detail. President Donald

from the previous five years be included in the current-year IPEDS. This requirement should be dropped for IHEs that do not maintain this data,²⁰ and for those that have maintained the required data, NCES should either drop the requirement or, at a minimum, give them more time to complete the survey component to reduce the burden on IHEs and ensure collected data are accurate. Furthermore, the Secretary's directive seeks "to ensure the information collected by the Department is accurate and reliable," a goal that can only be achieved by a more considered process.²¹

More importantly, NCES has a statutory mandate to reduce the burden on respondents by the very kinds of measures sought here. Agencies are directed to reduce the burden of information collection by means such as "establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond."²² If NCES will not withdraw the ACTS survey component as States continue to urge, then to fulfil its mandate, NCES must revise these new IPEDS information collection procedures in a manner that permits respondents to comply without unreasonable burden and will result in usable, accurate data.²³

IV. NCES's response to the prior round of comment, together with the failure to significantly amend the proposed collection in response to concerns, is inadequate and incompatible with the Paperwork Reduction Act.

NCES's responses to the prior round of comment do not adequately address the serious concerns raised. As summarized by NCES, a number of public commenters explained how the current plan for the ACTS survey component is "almost unworkable" due to the administrative burden, unclear instructions, data quality concerns, unavailable data, and truncated timeline."²⁴

J. Trump, *Presidential Memorandum, Ensuring Transparency in Higher Education Admissions*, The White House (August 7, 2025), <https://www.whitehouse.gov/presidential-actions/2025/08/ensuring-transparency-in-higher-education-admissions/>. The Secretary's directive provides more specific requirements about the data to be collected, but similarly does not bar NCES from designing an iterative schedule for introducing the new survey component. Secretary of Education Linda McMahon, Memorandum to Matthew Soldner: *Ensuring Transparency in Higher Education Admissions* (August 7, 2025), <https://www.ed.gov/media/document/secretary-directive-ensuring-transparency-higher-education-admissions-august-7-2025-110497.pdf>.

²⁰ In the ACTS Package, NCES responded to concerns regarding unavailable data by stating that "[e]ach student-level data collection file, for each cohort year, will allow respondents to indicate that the data for a particular cohort in a particular year cannot be provided. Entering this response for any section will also require an explanation for the missing data. Any such explanations will be retained and will accompany the aggregate data file when submitted to NCES." ACTS Package at 62. However, NCES should make it explicit that IHEs will not be penalized for not providing data that has not been retained or is not available.

²¹ Secretary McMahon, Memorandum to Matthew Soldner.

²² 44 U.S.C. § 3506(c)(3)(C)(i).

²³ See 5 C.F.R. § 1320.5(d)(2)(v) (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.")

²⁴ *Appendix E* at 6-7.

Yet NCES failed to meaningfully address these concerns or amend its proposed collection to make it workable. For example, the October 14, 2025 comment submitted by the Association for Institutional Research (AIR), the national IPEDS training subcontractor for over 20 years, includes survey data from over 580 institutions, and reflects issues raised by many IHEs directly in their comments to NCES.²⁵ AIR found that 83% of survey participants reported uncertainty about one or more proposed data definitions, 88% identified the five-year retrospective reporting requirement as untenable given IHE data retention practices, and 91% expressed concern about the proposed schedule and their institutional capacity.²⁶ Despite this, NCES is moving forward with a plan that the vast majority of respondents who provided substantive feedback have indicated is extremely burdensome and indeed likely not feasible.²⁷

Rather than proposing changes to mitigate these problems, NCES's responses simply reiterated that it is required to follow the timeline mandated by the Presidential Memorandum and the Secretary's Directive.²⁸ However, when collecting information, NCES is obligated to comply with the Paperwork Reduction Act (PRA); the Presidential Memorandum and the Secretary's Directive cannot supersede its statutory requirements.²⁹ Under the PRA, an agency must be able to certify that the information collection is necessary for the proper functioning of the agency, "including that the information has practical utility."³⁰ The extent of the issues raised by commenters in this record make clear that this collection has been too hastily developed to have practical utility and therefore is neither necessary nor permissible. Similarly, NCES is required to use plain, "unambiguous" terminology that is understandable to respondents, and must be "implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond."³¹ Based on

²⁵ Association for Institutional Research, Comment Letter on August 15 Comment Request, 90 Fed. Reg. 39,384 (October 14, 2025) (AIR Comment), <https://www.regulations.gov/comment/ED-2025-SCC-0382-2864>.

²⁶ *Id.* at 2-4.

²⁷ See Appendix E at 6-7. In its summary, NCES highlights 3,064 comments in support of the ACTS survey component but does not note that the vast majority of these are "form letter" comments that do not raise unique arguments or engage with the administrative burden of the ICR. *Id.* at 8.

²⁸ *Id.* at 13 ("While NCES recognizes the challenges associated with implementing a new data collection quickly—both for institutions and the IPEDS program—the timeline has been specified by the Presidential Memorandum and Secretarial Directive, and ED is acting to meet that timeline.")

²⁹ See, e.g., *PFLAG, Inc. v. Trump*, 766 F. Supp. 3d 535, 567 (D. Md. 2025) ("[W]hen the President takes measures incompatible with the expressed or implied will of Congress . . . he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter. The Court has the authority to determine whether the Executive Orders are incompatible with the will of Congress." (internal citations omitted))

³⁰ 44 U.S.C. § 3506(c)(3)(A); 5 C.F.R. § 1320.8(d)(1)(i).

³¹ 44 U.S.C. § 3506(c)(3)(D)-(E). NCES must also have "planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public." *Id.* § 3506(c)(3)(H). It is not clear that, given media reports of staffing reductions, NCES has allocated the resources needed for the efficient and effective management of this data.

the comments from respondents, the current requirements are neither unambiguous nor compatible with existing IHE reporting and recordkeeping practices.

NCES has also failed to meaningfully address the serious privacy concerns raised in the prior round of comment, particularly with respect to disaggregating student data into small cells.³² In its response to public comments, NCES acknowledged that “small cell sizes in IPEDS are common” and that the statutory requirements for the collection of IPEDS data do not provide privacy protections or requirements for data suppression.³³ Instead, NCES represents that it will eventually “determine the most appropriate disclosure avoidance approach for the ACTS data following its collection and implement that approach prior to any public release of data arising from it.”³⁴ This “we’ll figure it out later” approach does not permit stakeholders to address any possible pitfalls of the disclosure avoidance plan, again underscoring the risks of skipping the consultative and deliberative process on which IPEDS ordinarily relies. These privacy concerns have been heightened by NCES’s solicitation of student-level data files, which, even if not submitted with personal identifiers, are detailed enough that they could easily be linked to individual students. Given the legal and policy obligations that both IHEs and government agencies manage student data privacy with care,³⁵ stakeholders must be given the opportunity to provide feedback before NCES rushes to operationalize new tools and procedures that solicit vast quantities of individual student data.

³² See October 14 Attorneys General Comment at 6; AIR Comment at 3, 5.

³³ *Appendix E* at 19.

³⁴ *Id.*

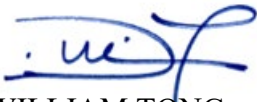
³⁵ See, e.g., 20 U.S.C. § 1232g(b) (protecting the privacy of student educational records under the Family Educational and Privacy Rights Act (FERPA)); 20 U.S.C. § 1090(a)(8) (requiring the Secretary of Education to safeguard and secure the transmission of Free Application for Federal Student Aid (FAFSA) data under the Higher Education Act (HEA)); 20 U.S.C. § 1018b(e) (requiring entities that transmit student financial aid data to safeguard its confidentiality and protect against security threats or unauthorized uses or disclosures under the HEA); 16 C.F.R. Part 314 (protecting the security of customer information, including that of student financial aid recipients, under the Gramm-Leach-Bliley Act); 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); Or. Rev. Stat. § 350.075(5) (protecting student complaints from public disclosure); Or. Rev. Stat. § 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).

For all of the foregoing reasons, the States urge NCES to rescind the proposed ACTS survey component.

Sincerely,



ROB BONTA
California Attorney General



WILLIAM TONG
Connecticut Attorney General



BRIAN L. SCHWALB
District of Columbia Attorney General



KWAME RAOUL
Illinois Attorney General



ANTHONY G. BROWN
Maryland Attorney General



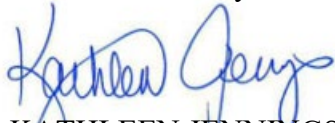
AARON D. FORD
Nevada Attorney General



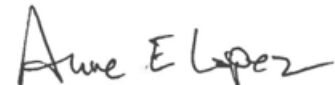
RAÚL TORREZ
New Mexico Attorney General



PHILIP J. WEISER
Colorado Attorney General



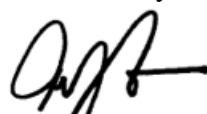
KATHLEEN JENNINGS
Delaware Attorney General



ANNE E. LOPEZ
Hawai'i Attorney General



AARON M. FREY
Maine Attorney General



ANDREA JOY CAMPBELL
Massachusetts Attorney General



MATTHEW J. PLATKIN
New Jersey Attorney General

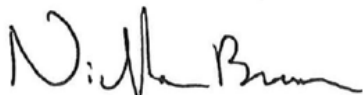


LETITIA JAMES
New York Attorney General

The Honorable Linda McMahon
The Honorable Matthew Soldner
December 15, 2025
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DAN RAYFIELD
Oregon Attorney General

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NICHOLAS W. BROWN
Washington Attorney General

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CHARITY R. CLARK
Vermont Attorney General

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JOSH KAUL
Wisconsin Attorney General