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October 15, 2024

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

Dear Secretary Cardona:

The proposed revisions to the Department of Education's (Department) State Plan Guide and Consolidated Annual Report for the *Carl D. Perkins Career and Technical Education Act of 2006* (Perkins V) are problematic and we write to express our significant concerns with the Department's action.¹ These proposed revisions make substantive policy changes that exceed the Department's authority under the law and will pose a significant and unjustified burden on state career and technical education (CTE) agencies, institutions of higher education, school districts, and CTE programs. Employers across the country are facing a shortage of skilled workers and now more than ever need robust CTE programs to prepare students for successful careers.

In the 2018 bipartisan reauthorization of the *Carl D. Perkins Career and Technical Education Act of 2006*, Congress included multiple reforms intended to enhance state and local control over CTE programs and limit the role of the federal government. Section 218 of Perkins V explicitly limits the authority of the Secretary to issuing regulations only to "the extent necessary to administer and ensure compliance with the specific requirements of this Act."² Additionally, section 8(f) of Perkins V requires the Secretary to provide Congress with a separate notice and comment period of 15 days prior to issuing a notice of proposed rulemaking (NPRM) in the Federal Register.³ Though the Department has a Perkins V NPRM on the regulatory agenda, it is our understanding that the proposed revisions to the State Plan Guide and Consolidated Annual

¹ <https://www.federalregister.gov/documents/2024/09/11/2024-20611/agency-information-collection-activities-comment-request-carl-d-perkins-career-and-technical>; <https://www.federalregister.gov/documents/2024/09/11/2024-20614/agency-information-collection-activities-comment-request-consolidated-annual-report-car-for-the-carl>

² 20 U.S.C. § 2398

³ 20 U.S.C. § 2306a(f)

Report are in lieu of the NPRM that was expected this fall.⁴ Given the policy implications of the proposed revisions to the information collection requests, it appears the Department is circumventing the law.

Many of the proposed changes to the information collection requests blatantly exceed what is required of states under Perkins V and will insert the Department in activities and decisions that Congress deliberately left to the states. For example, none of the new descriptions the Department is proposing to require in state plans have any basis in section 122(d) of the law, which lists the required components of a state plan that Congress carefully negotiated and agreed upon in Perkins V.⁵ Instead, the Department's statutory justification for each of the proposed additions is a tenuous citation to other aspects of Perkins V or, in some cases, nonexistent. Additionally, some of the new descriptions will effectively require states to develop policies not expressly required under the law in order to comply with the proposed revisions to the State Plan Guide.

Congress made several significant and intentional changes to the performance accountability system with the passage of Perkins V. Under the guise of clarifying the numerators and denominators for the indicators of performance, the Department is rewriting the non-traditional program concentration indicator in a manner that directly conflicts with the intent of Congress and a plain reading of the statute, while making it the only indicator for which an individual student can be counted for multiple years of his or her secondary education.⁶ And while Perkins V deliberately removed the Department from the setting of performance levels and placed this responsibility solely in the purview of the States, the proposed revisions to the State Plan Guide are a blatant attempt to re-insert the Department in the process by requiring states to justify the performance level for each indicator to the Department. If the Department believes changes to the law are warranted to improve the administration of Perkins V, such changes should be communicated to Congress and considered during the legislative process.

The Department's unilateral decision to revise Perkins V policies six years after the law's enactment will negatively impact the implementation of Perkins V and the administration of CTE programs by imposing unanticipated and unnecessary burdens on states, institutions of higher education, school districts, and CTE programs. Most notably, the revisions to the State Plan Guide will require states to begin a new state plan submission process, including stakeholder consultation, public hearings, and a public comment period, after many states just recently completed this process for the new four-year state plans submitted in May. By requiring a new four-year state plan or amended state plan to be submitted prior to Fiscal Year 2026, the revisions to the State Plan Guide will effectively push Perkins V out of alignment with the four-year planning cycle in the *Workforce Innovation and Opportunity Act* (WIOA) and will impose new burdens for states that wish to align their CTE initiatives with the workforce development activities funded under WIOA.

We urge you to withdraw immediately the proposed revisions to the Perkins V State Plan Guide and Consolidated Annual Report. Instead, the Department should use the existing tools at its

⁴ <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202404&RIN=1830-AA33>

⁵ 20 U.S.C. § 2342(d)

⁶ 20 U.S.C. § 2323(b)(2)(A)(v)

disposal, including monitoring, providing technical assistance when requested, and collecting data through the national survey, to ensure compliance with the specific requirements of the law.

Additionally, please provide all communications, including emails, letters, or memoranda, between Department employees that discuss the Department's foregoing Perkins V policy objectives through either an NPRM or information collection request to the Committee staff (kent.talbert@mail.house.gov and marek.laco@mail.house.gov) no later than October 29, 2024.

Sincerely,

A handwritten signature in blue ink that reads "Virginia Foxx".

Virginia Foxx
Chairwoman
U.S. House Committee on
Education & the Workforce

A handwritten signature in blue ink that reads "Aaron Bean".

Aaron Bean
Chairman
Subcommittee on Early Childhood,
Elementary, and Secondary Education