

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN ASSOCIATION OF NURSE
PRACTITIONERS, *et al.*,

Plaintiffs,

v.

LINDA MCMAHON, *et al.*,

Defendants.

Case No. 1:26-cv-01780

Consolidated with
Case No. 1:26-cv-01941

**PLAINTIFFS' MEMORANDUM IN SUPPORT OF
THEIR MOTION FOR SUMMARY JUDGMENT**

TABLE OF CONTENTS

Table of Contents	i
Table of Authorities	iii
Introduction.....	1
Background.....	3
I. Congress sets new loan limits in the One Big Beautiful Bill Act.....	3
A. The Department of Education’s Direct Loan Program	3
B. Procedural Requirements Applicable to the Direct Loan Program	3
C. The One Big Beautiful Bill Act	4
D. The Statutory Definition of “Professional Degree”	5
II. The Department of Education promulgates a Rule defining “professional degree” contrary to the statutory definition.....	6
A. The Proposed Rule.....	6
B. The Final Rule.....	7
III. Plaintiffs brought this lawsuit to require the Department to adhere to the statutory definition of “professional degree.”	10
IV. The Court stayed the Department’s definition of “professional degree.”	11
V. The Department issued an Administrative Designations Electronic Announcement that continues to misapply the statutory definition of “professional degree.”	12
VI. The Rule and Administrative Designations EA are inflicting severe harm on professional students, the schools that prepare them for the workforce, and the communities they serve.....	14
Legal Standard	15
Argument	15
I. Plaintiffs have standing	15
A. Plaintiffs establish associational standing.....	16
B. Plaintiffs establish organizational standing.	19

II.	The Rule’s definition of “professional degree” is contrary to law.	21
III.	The Department’s refusal to recognize the relevant degrees as “professional degrees” is contrary to law.....	23
IV.	The Rule and Administrative Designation EA are arbitrary and capricious.	26
A.	The Rule’s definition of “professional degree” is arbitrary and capricious....	26
B.	The Rule’s exclusion of the relevant degrees is arbitrary and capricious.....	28
C.	The Rule is arbitrary and capricious for additional reasons.	32
D.	The Administrative Designations EA is arbitrary and capricious.	33
V.	The Rule and the Administrative Designations EA are also unlawful because neither complies with the master calendar provision of the Higher Education Act. ..	35
VI.	The Court should require the Department to faithfully apply the statutory definition of “professional degree.”	38
A.	The Court should vacate the Rule’s definition of professional degree and the Administrative Designations EA.	38
B.	The Court should enter a permanent injunction.....	40
C.	The Court should issue a declaratory judgment.....	44
Conclusion		45

TABLE OF AUTHORITIES

Cases

<i>Am. Anti-Vivisection Soc’y v. USDA</i> , 946 F.3d 615 (D.C. Cir. 2020).....	16
<i>Anatol Zukerman and Charles Krause Reporting, LLC v. USPS</i> , 64 F.4th 1354 (D.C. Cir. 2023).....	45
<i>Bauer v. DeVos</i> , 325 F. Supp. 3d 74 (D.D.C. 2018).....	35
<i>Bonnette v. D.C. Ct. of Appeals</i> , 796 F. Supp. 2d 164 (D.D.C. 2011).....	16
<i>Career Coll. Ass’n v. Riley</i> , 74 F.3d 1265 (D.C. Cir. 1996).....	37
<i>City & Cnty. of San Francisco v. USCIS</i> , 408 F. Supp. 3d 1057 (N.D. Cal. 2019).....	18
<i>City & Cnty. of San Francisco v. USCIS</i> , 981 F.3d 742 (9th Cir. 2020)	18
<i>Council for Urological Ints. v. Burwell</i> , 790 F.3d 212 (D.C. Cir. 2015).....	37
<i>Ctr. for Taxpayer Rts. v. IRS</i> , --- F.4th ---, 2026 WL 2635380 (D.C. Cir. Sept. 8, 2026).....	20
<i>Diamond Alt. Energy, LLC v. EPA</i> , 606 U.S. 100 (2025).....	18, 19
<i>Doc Soc’y v. Rubio</i> , 141 F.4th 1273 (D.C. Cir. 2025).....	16
<i>eBay Inc. v. MerExchange, L.L.C.</i> , 547 U.S. 388 (2006).....	41
<i>Enbridge Energy, LP v. Nessel</i> , 146 S. Ct. 1074 (2026).....	37
<i>Encino Motorcars, LLC v. Navarro</i> , 579 U.S. 211 (2016).....	34
<i>Fair Hous. Council of San Fernando Valley v. Roommate.com, LLC</i> , 666 F.3d 1216 (9th Cir. 2012)	19

<i>Friends of Animals v. Ross</i> , 396 F. Supp. 3d 1 (D.D.C. 2019)	15
<i>Havens Realty Corp. v. Coleman</i> , 455 U.S. 363 (1982)	15
<i>Hunt v. Wash. St. Apple Advert. Comm’n</i> , 432 U.S. 333 (1977)	15, 16
<i>Interstate Nat. Gas Ass’n of Am. v. Pipeline & Hazardous Materials Safety Admin.</i> , 114 F.4th 744 (D.C. Cir. 2024)	39
<i>J.E.M. Ag Supply, Inc. v. Pioneer Hi-Bred Int’l, Inc.</i> , 534 U.S. 124 (2001)	36
<i>Jacksonville Port Auth. v. Adams</i> , 556 F.2d 52 (D.C. Cir. 1977)	43
<i>La. Pub. Serv. Comm’n v. FCC</i> , 476 U.S. 355 (1986)	22
<i>League of Women Voters of U.S. v. Newby</i> , 838 F.3d 1 (D.C. Cir. 2016)	42
<i>Loper Bright Enters. v. Raimondo</i> , 603 U.S. 369 (2024)	15, 21, 40
<i>Monsanto Co. v. Geertson Seed Farms</i> , 561 U.S. 139 (2010)	40
<i>Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.</i> , 463 U.S. 29 (1983)	15, 27, 28, 34
<i>N. Mariana Islands v. United States</i> , 686 F. Supp. 2d 7 (D.D.C. 2009)	43
<i>N.Y. Republican State Comm. v. SEC</i> , 927 F.3d 499 (D.C. Cir. 2019)	36
<i>Nat’l Ass’n of Home Builders v. Defs. of Wildlife</i> , 551 U.S. 644 (2007)	36
<i>Nat’l Mining Ass’n v. U.S. Army Corps of Eng’rs</i> , 145 F.3d 1399 (D.C. Cir. 1998)	39
<i>Nken v. Holder</i> , 556 U.S. 418 (2009)	43

<i>Pub. Emps. for Env't Resp. v. Zeldin</i> , 174 F.4th 183 (D.C. Cir. 2026).....	16
<i>R.I.L-R v. Johnson</i> , 80 F. Supp. 3d 164 (D.D.C. 2015).....	43
<i>Sorenson Commc'ns Inc. v. FCC</i> , 755 F.3d 702 (D.C. Cir. 2014).....	34
<i>Sw. Airlines Co. v. Saxon</i> , 596 U.S. 450 (2022).....	38
<i>United States v. Brockamp</i> , 519 U.S. 347 (1997).....	37
<i>Vertex Pharms. Inc. v. HHS</i> , 774 F. Supp. 3d 211 (D.D.C. 2025).....	37

Statutes

5 U.S.C. § 553.....	37
5 U.S.C. § 703.....	44
5 U.S.C. § 705.....	11, 21
5 U.S.C. § 706.....	15, 21, 23, 38
20 U.S.C. § 1087e(a).....	4, 5, 6, 21
20 U.S.C. § 1089.....	4, 9, 35-38, 40
20 U.S.C. § 1098a(b)	4, 37, 38
20 U.S.C. § 7801(47)	10
One Big Beautiful Bill Act, Pub. L. No. 119-21, § 81001, 139 Stat. 72 (2025).....	4
Pub. L. No. 103-208, § 2(h)(7), 107 Stat. 2457 (1993)	37

Regulations

34 C.F.R. § 668.2	<i>passim</i>
64 Fed. Reg. 58284, 58285 (Oct. 28, 1999).....	37
91 Fed. Reg. 23768 (May 1, 2026)	<i>passim</i>

State Regulations

22 Tex. Admin. Code § 215.7(d)(2) 24

244 Mass. Code Regs. 6.04(2)(b)(1), (4)(b) 24

Ill. Admin. Code tit. 68, § 1300.340(g)(3)..... 24

49 Pa. Code § 21.71 24

Ohio Admin. Code § 4723-5-10(A)(1)(d)–(e) (2025) 24

Other Authorities

H.R. Rep. No. 102-447 (1992).....35

INTRODUCTION

The federal student loan program plays an essential role in enabling students to obtain the education necessary to enter professions essential to society. America’s future nurses, public health experts, therapists, educators, and countless others have, for decades, been able to enter these essential fields with the support of public loans. When Congress enacted new student loan limits in July of 2025, it preserved greater access to financing for students pursuing professional degrees, allowing them to take out annual loans of up to \$50,000, with a \$200,000 aggregate limit, compared to the \$20,500 annual and \$100,000 aggregate caps for graduate students. The distinction between “graduate” and “professional” degrees is thus of critical importance to students planning their careers, many of whom will face substantial barriers to financing their education if they are subject to the lower caps.

Congress specified which students qualify for those higher limits by incorporating a longstanding regulatory definition of “professional degree,” fixed as of July 4, 2025, which identifies three criteria and an expressly nonexclusive list of examples. The Department of Education nevertheless unlawfully substituted its own, narrower definition, adding substantive requirements Congress did not adopt and excluding degrees that satisfy the statutory test. The Rule imposes additional requirements for professional degree status on top of the statutory definition. These new requirements have no basis in the statutory language. Nor can they be justified by reference to the definition’s illustrative examples, several of which do not themselves satisfy the Department’s added requirements.

After this Court preliminarily stayed the Department’s rule, concluding that Plaintiffs are likely to succeed in establishing these additional restrictions are contrary to law, the Department issued a new Electronic Announcement that continued to unlawfully exclude degrees that meet the statutory definition, including the nursing Ph.D., public health, and marriage and family therapy

degrees. The Department offered no explanation or reasoning applying the statutory test to those excluded programs, and as a result, students pursuing qualifying professional degrees remain subject to loan limits that are lower than the limits Congress provided.

The Administrative Procedure Act (APA) and the Higher Education Act (HEA) do not permit Defendants' actions. Both the Rule and the EA are contrary to Congress's clear definition of "professional degree." In addition, both challenged actions roundly fail the APA's requirement of reasoned decision-making. The Department applied criteria inconsistently, failed to adequately explain its reasoning, failed to consider important parts of the problem, and failed to meaningfully engage with significant comments. Independently, the Department impermissibly issued both the Rule and the EA after the HEA's mandatory deadline for regulatory changes taking effect during the current award year.

These unlawful actions have concrete consequences. Students face preclusive financing gaps that threaten their ability to pursue their chosen professions. Schools face declining enrollment and tuition revenue, threatening their ability to hire faculty and sustain basic student programs and services. Plaintiff professional associations themselves face losses that impair their ability to operate in support of their members. And communities already facing shortages of essential professionals stand to lose the skilled graduates on whom they depend. The Plaintiffs in the lead case ("*AANP* Plaintiffs") now seek final relief securing access to federal loans that Congress provided. This Court should grant summary judgment, vacate the challenged actions, and enter declaratory and injunctive relief ensuring that the Department treats the relevant degrees as "professional," in accord with the statutory definition and Congress's intent.

BACKGROUND

I. Congress sets new loan limits in the One Big Beautiful Bill Act

A. The Department of Education's Direct Loan Program

The Department of Education's Direct Loan program is the single largest source of federal financial assistance for postsecondary education. *See generally* Ex. A, Alexandra Hegji, Cong. Rsch. Serv., R45931, Federal Student Loans Made Through the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers (2024), <https://perma.cc/6AWB-GB8Z>; 20 U.S.C. ch. 28, subch. IV, pt. D. Federal Direct Loans have many advantages over private loans, including lower rates, more flexible repayment options, loan forgiveness programs, and more. *E.g.*, Ex. B, Fed. Student Aid, Federal Versus Private Loans, <https://perma.cc/7QNC-98FJ>.¹ The Department implements the Direct Loan program under authority accorded to it under the Higher Education Act. 20 U.S.C. § 1087a. For many years, the distinction between students pursuing post-baccalaureate graduate and professional degrees was of no consequence for student loan limits: both could borrow up to the cost of attendance for their programs through a combination of Direct Unsubsidized Loans and Federal Direct Graduate Plus (Grad PLUS) loans. *See* Reimagining and Improving Student Education, 91 Fed. Reg. 4254, 4268 (Jan. 30, 2026).

B. Procedural Requirements Applicable to the Direct Loan Program

Under the Higher Education Act, unless an exception applies, the Department is required to follow a process of negotiated rulemaking, under which it first selects a committee of individuals with expertise or experience in the relevant subjects of negotiation and arrives at a tentative approach after consultations with that committee, then publishes a proposed rule reflecting those consultations, and then issues a final rule after providing notice to the public and an opportunity

¹ All exhibit citations are to exhibits attached to the Declaration of Lynn Eisenberg.

for comment. 20 U.S.C. § 1098a(b). Congress has also enacted a “master calendar” provision that imposes strict deadlines for the Department of Education to complete its rulemakings, and that specifies the legal effect of the Department’s late-issued rules. “To assure adequate notification and timely delivery of student aid funds under this subchapter,” *id.* § 1089(a), the statute imposes mandatory deadlines for the distribution of forms, the allocation of funds, and, as relevant here, the publication of regulations:

Except as provided in paragraph (2), any regulatory changes initiated by the Secretary affecting the programs under this subchapter that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.

Id. § 1089(c)(1). Regulations published after this cutoff date may be applied in the next school year only with respect to those institutions that choose to adopt the rule, and only if the Department publishes a notice that the institutions have that option. *Id.* § 1089(c)(2). The Department may waive the negotiated rulemaking provisions of the Higher Education Act upon showing good cause to do so, but there is no similar provision permitting the Department to waive the master calendar provision. *Compare id.* § 1098a(b), *with id.* § 1089(c).

C. The One Big Beautiful Bill Act

In July 2025, Congress enacted a budget reconciliation statute that addressed, among many other things, the Direct Loan program. *See One Big Beautiful Bill Act*, Pub. L. No. 119-21, § 81001, 139 Stat. 72, 335 (2025) (“the Act”). Title VIII of the Act eliminated one type of Direct Loan, known as a Grad PLUS loan, and imposed new borrowing limits on other Direct Loans. *See generally* Ex. C, Alexandra Hegji, Cong. Rsch. Serv., IN12585, Student Loan Types and Limits in the FY2025 Budget Reconciliation Act (2025), <https://perma.cc/5NSE-DFPR>.

In section 81001 of the Act, Congress amended the Higher Education Act by adding a new subsection (a)(4) to 20 U.S.C. § 1087e. Pub. L. No. 119-21, § 81001. The new section 1087e(a)(4),

which took effect on July 1, 2026, imposes, for the first time, separate student loan caps for “graduate” students and “professional” students. The new annual limit for Federal Direct Unsubsidized Stafford loans is \$50,000 for professional students, as compared to \$20,500 for graduate students. 20 U.S.C. § 1087e(a)(4)(A). The new aggregate limit beyond the amount borrowed for undergraduate education is also higher for professional students than it is for graduate students. *Id.* § 1087e(a)(4)(B). The aggregate limit for a professional student is \$200,000; meanwhile, the aggregate limit for a graduate student is \$100,000. *Id.* The distinction between graduate and professional students thus has a significant bearing on a student’s access to federal student loans.²

D. The Statutory Definition of “Professional Degree”

Notably, Congress did not leave the newly significant distinction between “graduate” and “professional” programs to the Department’s discretion. To the contrary, Congress enacted specific, new statutory definitions for the terms “graduate student” and “professional student” through incorporation of a preexisting regulatory definition, frozen in time. Under the statute, a professional student is defined as “a student enrolled in a program of study that awards a professional degree, as defined under section 668.2 of title 34, Code of Federal Regulations (as in effect on July 4, 2025), upon completion of the program.” *Id.* § 1087e(a)(4)(C)(ii). A graduate student is one who is awarded a graduate credential other than a professional degree. *Id.* § 1087e(a)(4)(C)(i).

As of July 2025, 34 C.F.R. § 668.2 read (and still reads) as follows:

Professional degree: A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional

² The Act excludes from the new loan limits students who had received a federal loan and were “enrolled in a program of study at an institution of higher education” as of June 30, 2026. 20 U.S.C. § 1087e(a)(8)(A)(i). The exclusion applies for the duration of their “expected time to credential,” up to a maximum of three years. *Id.* § 1087e(a)(B).

skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a professional degree include but are not limited to Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), and Theology (M.Div., or M.H.L.).

34 C.F.R. § 668.2(b) (2025).

Promulgated in 2007, this regulatory definition of “professional degree” remained unchanged until Congress incorporated it by reference into the Act. 20 U.S.C. § 1087e(a)(4)(C)(ii); 34 C.F.R. § 668.2(b) (2025). The 2007 regulatory definition, adopted by Congress, is hereinafter referred to as the “statutory definition.”

II. The Department of Education promulgates a Rule defining “professional degree” contrary to the statutory definition

Notwithstanding Congress's decision to codify the 2007 regulatory definition of “professional degree,” the Department proposed and then adopted a rule that deviates from the statutory definition in important and ultimately harmful ways.

A. The Proposed Rule

In January 2026, the Department published a Notice of Proposed Rulemaking (NPRM) that proposed a new definition of a “professional degree” for purposes of the recently enacted student loan caps. 91 Fed. Reg. at 4332. The Department's new four-prong definition of “professional degree,” read as follows:

(1) A professional degree is a degree that:

- (i) Signifies both completion of the academic requirements for beginning practice in a given profession, and a level of professional skill beyond that normally required for a bachelor's degree;
- (ii) Is generally at the doctoral level, and that requires at least six academic years of postsecondary education coursework for completion, including at least two years of post-baccalaureate level coursework;
- (iii) Generally requires professional licensure to begin practice; and

(iv) Includes a four-digit program CIP code, as assigned by the institution or determined by the Secretary, in the same intermediate group as the fields listed in paragraph (2)(i) of this definition.

Id. (to be codified at 34 C.F.R. § 685.102(b)). While similar in some ways to the statutory definition, the NPRM’s definition of “professional degree” imposed new requirements absent from the definition adopted by Congress. The NPRM’s new definition added requirements that a “professional degree” is “generally at the doctoral level,” “requires at least six academic years of postsecondary education coursework for completion,” and must have a certain “four-digit program CIP” code. *Id.* The NPRM also proposed a new requirement that a professional degree could not be one that leads to employment where the employee is supervised by another professional. *Id.* at 4265. None of these requirements is part of the statutory definition. *See* 34 C.F.R. § 668.2(b) (2025).

Further, the NPRM’s proposed definition of “professional degree” included a list of qualifying degree programs that purportedly satisfy the proposed definition. Under the proposed definition, a professional degree includes degrees in only the following eleven fields: “Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), Theology (M.Div., or M.H.L.), and Clinical Psychology (Psy.D. or Ph.D.).” 91 Fed. Reg. at 4261 (codified at 34 C.F.R. § 685.102(b)). The NPRM’s list of qualifying degrees was nearly identical to the illustrative list of professional degrees in the statutory definition, except the NPRM’s definition added a Doctorate in Clinical Psychology as an additional qualifying degree. 91 Fed. Reg. at 4262–64.

B. The Final Rule

The Department issued the Final Rule on May 1, 2026, with an effective date of July 1, 2026. Reimagining and Improving Student Education—Federal Student Loan Program Final

Regulations, 91 Fed. Reg. 23768 (May 1, 2026). The Final Rule wholly adopts the NPRM’s proposed definition of “professional student,” including its narrow construction of what constitutes a “professional degree.” *Id.* at 23882 (codified at 34 C.F.R. § 685.102(b)). Thus, under the Final Rule, a “professional degree” must meet the four criteria spelled out in the NPRM, including the new criteria not found in the statutory definition. And under the Final Rule, only eleven degree programs qualify as “professional degrees”—the ten degree programs included in the statutory definition’s illustrative list plus doctoral degrees in clinical psychology—and are therefore eligible for the higher loan caps. *Id.*

The final rule’s definition of “professional degree” excludes many degree programs that prepare students for a specific profession, and that qualify as a professional degree under the statutory definition, including degrees in nursing, public health, and marriage and family therapy. *Id.* In enacting the Final Rule, the Department acknowledged that Congress required it to use a specific definition of professional degree. *Id.* at 23783 (“Congress defined professional student . . . by cross referencing the Department’s current definition of professional degree in 34 CFR 668.2 (effectively codifying that regulatory definition).”). Despite this acknowledgment, the Department departed from Congress’s mandated definition in several ways to create a finite list of eleven qualifying degree programs. *Id.* at 23791–809.

In essence, the Department began with the statutory definition’s three-pronged test—which was accompanied in the statute by an expressly non-exhaustive, illustrative list of professional degrees—added requirements found nowhere in the text, and converted the illustrative list into an exhaustive list of qualifying degree programs. In doing so, the Final Rule categorically excludes various degree programs that would qualify as “professional degrees” under the statutory definition. Indeed, the Final Rule acknowledges that it is possible for a degree program “to satisfy

the three parts of the operative test” from the statutory definition, but to still not be treated as a “professional degree” under the Final Rule’s new definition. *Id.* at 23795. That is because the Final Rule lays new requirements on top of the statutory definition. Under the Final Rule, not only must a degree program satisfy the operative test that Congress adopted, but it must also “satisfy [] contextual requirements” that are never stated in the statutory definition. *Id.*; *see also id.* at 23787.

Unsurprisingly, “[m]any commenters opposed the Department’s approach to defining professional student, as they believed it to be too narrow,” “argued that the Department was adding limitations not found in the statutory or regulatory text,” and “urged the department to treat the enumerated examples as illustrative rather than bounded.” *Id.* at 23783. Many commenters explained that various degrees not covered by the Final Rule nonetheless “satisfy the ‘three-part test’ in 34 C.F.R. 668.2” and “that in excluding these programs, the Department is improperly narrowing Congress’s adopted language.” *Id.* While the Final Rule acknowledges some of these comments, it rejects them based on little more than the conclusory statement that “[t]he Department does not believe that our approach to defining professional student is too narrow nor do we believe it should be expanded to include more degree programs.” *Id.*

Finally, in the preamble to the Final Rule, the Department recognized that the Higher Education Act’s master calendar requirement provides that regulatory changes affecting student financial assistance must be finalized by November 1 to go into effect by July 1 of the following year. *Id.* at 23770 (citing 20 U.S.C. § 1089(c)(1)). Although the Department waited until May 1, 2026, to publish the Final Rule, it nonetheless made the Rule effective July 1, 2026, by invoking what it characterized as an “implicit[]” waiver of the statutory requirement. *Id.*

III. Plaintiffs brought this lawsuit to require the Department to adhere to the statutory definition of “professional degree”

Plaintiffs are organizations that represent students and schools affected by the Rule. Plaintiff the American Association of Nurse Practitioners (AANP) represents nurse practitioners (NPs), a subset of advanced practice registered nurses (APRNs) who are educated and clinically prepared at the master’s or doctoral level, as well as nursing students, nursing schools and hospitals and clinics that employ nurses. Second Declaration of Jon Fanning ¶¶ 3, 5–6. The National Association of Pediatric Nurse Practitioners (NAPNAP) represents pediatric and family nurse practitioners as well as nursing students. Declaration of Linda Young ¶¶ 1, 5. Plaintiff the American Association of Colleges of Nursing (AACN) represents colleges and universities that offer degrees to become APRNs. Second Declaration of Deborah Trautman ¶ 7. Plaintiff the American Association for Marriage and Family Therapy (AAMFT) represents professionals practicing as marriage and family therapists (MFTs) and students aspiring to be MFTs. Second Declaration of Christine Michaels ¶¶ 2, 4. Plaintiff the Association of Schools and Programs of Public Health (ASPPH) represents public health schools offering Master of Public Health (MPH), Doctor of Public Health (DrPH), and equivalent degrees. Second Declaration of Laura Magaña ¶ 7. Plaintiff the National Education Association (NEA) represents educators, including those aspiring to be “specialized instructional support personnel” (SISPs), a category that includes school counselors, speech language pathologists, and school psychologists, among others. *See* ECF No. 4-4, Declaration of Ronny Lau ¶ 3; *see* 20 U.S.C. § 7801(47).

Plaintiffs brought suit to challenge the Rule under the Administrative Procedure Act (APA). ECF 1. Plaintiffs’ Original Complaint alleged that the Rule is contrary to law because it does not comport with the definition of “professional degree” adopted by Congress, *id.* ¶¶ 60–64 (Count I), is contrary to law because it does not comply with the master calendar provision of the

Higher Education Act, *id.* ¶¶ 65–71 (Count II), and is arbitrary and capricious because, among other reasons, the Department failed to adequately explain its reasoning, failed to consider important parts of the problem, and failed to meaningfully engage with significant comments, *id.* ¶¶ 72–77 (Count III).

IV. The Court stayed the Department’s definition of “professional degree”

On the same day Plaintiffs filed suit, they also moved for a stay of the Rule’s definition of “professional degree” under Section 705 of the APA and for a preliminary injunction. ECF 4. This Court granted Plaintiffs’ motion in part. ECF 45, 46. After concluding that Plaintiffs had Article III standing, the Court applied the familiar four-part test governing the issuance of preliminary relief. The Court concluded that Plaintiffs are likely to succeed on the merits of their claim that the Rule’s definition of “professional degree” is contrary to law, *id.* at 29–39, that they would suffer irreparable harm absent preliminary relief, *id.* at 39–41, and that the balance of equities and the public interest favor relief, *id.* at 42–43.

At the heart of the Court’s merits analysis was the conclusion that “Congress could not have been clearer as to the meaning of ‘professional degree.’” *Id.* at 35. The Court held that “Congress explicitly directed the Department to apply the preexisting regulatory definition set forth in 34 C.F.R. § 668.2 as the relevant test, and the Department has no power to revise the definition Congress codified or to add additional substantive criteria.” *Id.* at 33. The Court explained that “Congress did not direct the Department to develop a ‘contextual’ set of factors to add to the three-part test” set forth in the statutory definition. *Id.* at 34.

Consistent with that holding, the Court stayed part (i) of the Rule’s definition, together with the additional free-from-supervision requirement announced in the Rule’s preamble. *Id.* at 44, 46. The Court did not, however, stay part (ii) of the Rule, the enumerated list of qualifying

degrees, on the understanding that the list would not be treated as exclusive. *Id.* at 46. The Court declined Plaintiffs’ request for broader injunctive relief. *Id.* at 46–47.

V. The Department issued an Administrative Designations Electronic Announcement that continues to misapply the statutory definition of “professional degree”

With the Rule’s definition stayed, the statutory definition of “professional degree” was restored. However, rather than apply the statutory definition faithfully, the Department issued a list of programs designated as professional degree programs and—without offering any explanation or reasoning—continues to preclude many professional students from accessing the full amount of student loans that Congress intended to make available to them.

On June 29, 2026, the Department published an Electronic Announcement titled “Update to List of Professional Degree Programs Due to Court Order.” ECF 47-1. On July 10, the Department updated the announcement. ECF 50-1 (the “Guidance” or “Administrative Designations EA”). The Administrative Designations EA includes twenty-nine programs that “will be treated as awarding professional degrees for the duration of the Court’s stay” and provides the six-digit CIP code for each program. *Id.* at 2. The list includes certain new programs that were not treated as professional degrees under the Rule’s definition, including, as relevant to Plaintiffs, Registered Nursing/Registered Nurse (MSN) (CIP Code: 51.3801), Nurse Anesthetist (DNAP) (51.3804) and Nursing Practice (DNP) (51.3818). *Id.* at 3. However, the Administrative Designations EA continues to exclude numerous programs that affect Plaintiffs including nursing PhD programs and degree programs in public health and marriage and family therapy (specifically, the MPH, DrPH, and MFT degrees, and the Nursing Ph.D.). The EA does not provide any explanation of how it applied the three-part definition of “professional degree” or any explanation of why certain programs are included and others are not.

Like the Rule before it, the Administrative Designations EA specifies a closed list of degree programs that qualify as “professional degrees,” and does so without ever applying the test Congress adopted. As a result, the EA continues to exclude degree programs that qualify as professional degrees under the statutory definition, including doctoral nursing programs, public health degrees, and marriage and family therapy degrees. These degree programs are not considered professional degrees under the EA and are therefore subject to the lower student loan caps.

Rather than explain the failure to include these degrees, the Department used the Court’s stay as an occasion to narrow professional-degree eligibility for other programs. The EA lists twenty-five degrees in theology, psychology, and pharmacology that had qualified under the Rule because they shared a four-digit CIP code with one of the enumerated qualifying degrees, concluding without elaboration that they are now “not considered programs that award professional degrees for the duration of the stay.” ECF 50-1 at 3–4. In other words, the Department treated the Court’s stay order as an opportunity to revoke professional-degree status for a variety of degrees that even the Department had recognized met the statutory test for professional degree status, without offering any reasoning or explanation.

After the Department issued the EA, Plaintiffs filed an Amended and Supplemental Complaint adding three new claims challenging the EA under the APA. ECF No. 53. The Amended and Supplemental Complaint alleges that the EA, like the Rule itself, is contrary to law because it deviates from the statutory definition of “professional degree,” *id.* ¶¶ 90–93 (Count IV), is contrary to law because it was issued without complying with the master calendar provision of the Higher Education Act, *id.* ¶¶ 94–96 (Count V), and is arbitrary and capricious because, among other reasons, the Department failed to adequately explain its reasoning, failed to consider important

parts of the problem, and failed to meaningfully engage with significant comments, *id.* at ¶¶ 97–99 (Count VI).

VI. The Rule and Administrative Designations EA are inflicting severe harm on professional students, the schools that prepare them for the workforce, and the communities they serve

The Department’s decision to subject many professional degree programs to the lower loan caps intended for graduate degree programs has staggering consequences. While this Court’s stay order resulted in temporary relief for some professional students in certain fields, professional students in other fields are still unable to access the financing Congress provided them. For these students, the cost of their education now exceeds the federal loans available to them. *E.g.*, Declaration of Jennifer Panzo ¶ 27; Declaration of Rebecca Greenawalt ¶ 9; Declaration of John Doe ¶ 28; Michaels Decl. ¶ 16; Declaration of Rebecca Amador ¶ 8; Declaration of Clarissa L. Eadon ¶ 8; Declaration of Jacob Carroll ¶ 13. Students with funding gaps now face the choice between abandoning their plans to pursue their chosen professions or relying on private loans with unfavorable terms to finance their degrees. *E.g.*, Panzo Decl. ¶ 29; Greenawalt Decl. ¶ 15; Amador Decl. ¶ 15; Eadon Decl. ¶ 13. The net result is that aspiring professionals in a wide array of fields—including nursing, public health, and marriage and family therapy—will be, at best, saddled with new financial burdens at the beginning of their careers and, at worst, potentially forced to abandon professional dreams that are no longer financially feasible.

Professional students are not alone in feeling the consequences of the Department’s actions. Professional schools are now seeing fewer students enroll and a consequent loss in tuition revenue. *E.g.*, Doe Decl. ¶ 29; Magaña Decl. ¶¶ 17, 18; Trautman Decl. ¶¶ 21; Fanning Decl. ¶¶ 39. Those losses force schools to cut course offerings, delay faculty hiring, and limit clinical placements, shrinking the pipeline of trained professionals at the very moment it is most needed. *E.g.*, Doe Decl. ¶ 30; Magaña Decl. ¶¶ 21–22; Declaration of Thomas A. LaVeist ¶¶ 41–44; Trautman Decl.

¶¶ 23–25; Fanning Decl. ¶¶ 26; Young Decl. ¶¶ 14–15. The ultimate cost falls on the public: communities—particularly rural and underserved communities already facing shortages—will have fewer nurse practitioners, marriage and family therapists, public health professionals, and school-based specialists to serve them. *E.g.*, Doe Decl. ¶ 32; Magaña Decl. ¶ 24; Trautman Decl. ¶ 25; Fanning Decl. ¶ 40; Young Decl. ¶¶ 14, 15. The Department acknowledged all of these harms but dismissed them as “not relevant” for the purposes of its rulemaking. 91 Fed. Reg. at 23795; *see also id.* at 23811.

LEGAL STANDARD

In an action under the APA, summary judgment “serves as the mechanism for deciding, as a matter of law, whether the agency action is supported by the administrative record and otherwise consistent with the APA standard of review.” *Friends of Animals v. Ross*, 396 F. Supp. 3d 1, 7 (D.D.C. 2019) (quoting *Sierra Club v. Mainella*, 459 F. Supp. 2d 76, 90 (D.D.C. 2006)). The APA directs the Court to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” or “in excess of statutory jurisdiction, authority, or limitations.” 5 U.S.C. § 706(2)(A), (C). Agency action is arbitrary and capricious if the agency “entirely failed to consider an important aspect of the problem” or “offered an explanation for its decision that runs counter to the evidence before the agency.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

ARGUMENT

I. Plaintiffs have standing

An organization may establish “associational standing” to sue on behalf of its members for injuries its members have sustained. *Hunt v. Wash. St. Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977). An organization may also sue on its own behalf for its own injuries. *Havens Realty Corp.*

v. Coleman, 455 U.S. 363, 379 n.19 (1982). Here, Plaintiffs have established both forms of standing.³

A. Plaintiffs establish associational standing

“To establish associational standing, an organization must show ‘(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.’” *Pub. Emps. for Env’t Resp. v. Zeldin*, 174 F.4th 183, 187 (D.C. Cir. 2026) (quoting *Hunt*, 432 U.S. at 343). For an organization to make a showing that they have “established standing to sue in their own right,” ECF No. 46 at 15, an organization must establish the same three elements as individuals. *See Am. Anti-Vivisection Soc’y v. USDA*, 946 F.3d 615, 618 (D.C. Cir. 2020). The organization must establish that it has suffered a “concrete and demonstrable injury to the organization’s activities,” *Doc Soc’y v. Rubio*, 141 F.4th 1273, 1276 (D.C. Cir. 2025) (citation omitted), and that the injury “is fairly traceable to the defendant’s allegedly unlawful conduct and likely to be redressed by a favorable court decision,” *Am. Anti-Vivisection Soc’y*, 946 F.3d at 618.

First, Plaintiffs establish associational standing because the Final Rule threatens to prevent their individual student members from pursuing their chosen professions. *See Bonnette v. D.C. Ct. of Appeals*, 796 F. Supp. 2d 164, 186–87 (D.D.C. 2011) (identifying “[t]he lost opportunity to engage in one’s preferred occupation” as going “beyond monetary deprivation” and sufficiently concrete and imminent to establish irreparable harm). For instance, AANP member Rebecca

³ AANP, NAPNAP, AAMFT, and AACN allege both organizational harm and associational harm; Plaintiff ASPPH alleges associational harm only. Plaintiff NEA continues to join the other plaintiffs in their request that the Rule’s unlawful definition be vacated, *see infra* at Section VI.A, but withdraws any request for relief specific to education degrees. Accordingly, because other plaintiffs have standing to seek that same relief, this Court need not decide NEA’s standing to establish jurisdiction. *See Mendoza v. Perez*, 754 F.3d 1002, 1010 (D.C. Cir. 2014).

Greenawalt enrolled in an MSN program at a university with an MSN-to-DNP pathway with the expectation that she could finance the \$45,380 yearly cost of her subsequent DNP with federal loans. Greenawalt Decl. ¶ 8. If the Rule’s exclusion of DNP degrees is permitted to take effect, Greenawalt will be subject to the lower caps and unable to finance her DNP degree, causing her substantial uncertainty regarding her educational future and changing her employment decisions. *Id.* ¶¶ 19, 20. Similarly, if the Final Rule is permitted to take effect, NAPNAP and AANP member Jennifer Panzo’s MSN degree program will be subject to the lower caps, causing her serious financial harm and impeding her from financing her second year in the program. Panzo Decl. ¶ 29.

AAMFT members are currently experiencing concrete harms from the Department’s exclusion of MFT degrees in the EA and would similarly experience concrete harms from the Department’s exclusion of those degrees if the Rule were permitted to take effect. Because of the Department’s exclusion of MFT degrees from the professional degree definition, one AAMFT member took out approximately \$36,000 in private loans this fall to cover costs she would have otherwise financed with federal student loans. Amador Decl. ¶ 14. Those loans have higher interest rates, no federal income-driven repayment or federal loan forgiveness options, and so the Rule and EA expose this member to substantial financial risks she would not have otherwise needed to assume. *Id.* ¶ 15. Likewise, two other AAMFT members pursuing MFT degrees have also lost the ability to use federal loans to finance the full cost of their degrees and as a result may be required to deplete their savings, Carroll Decl. ¶ 14, or even disenroll and give up on a therapy career altogether, Eadon Decl. ¶ 15.

Plaintiffs’ organizational members also face “concrete and demonstrable injury” to their activities traceable to the Rule and Administrative Designation EA. *See Doc Soc’y*, 141 F.4th at 1276 (citation omitted). An organization can demonstrate injury in fact by showing that a

defendant’s actions will impede their ability to obtain funding as “[m]onetary costs are of course an injury” for standing purposes. *Diamond Alt. Energy, LLC v. EPA*, 606 U.S. 100, 111 (2025) (citation omitted); *City & Cnty. of San Francisco v. USCIS*, 408 F. Supp. 3d 1057, 1120 (N.D. Cal. 2019), *aff’d*, 981 F.3d 742 (9th Cir. 2020) (“For standing purposes, a loss of even a small amount of money is ordinarily an injury.” (internal quotation marks omitted)).

Here, the Rule and EA reduce students’ access to federal loans, depressing enrollment and depriving institutions of tuition revenue needed to sustain their educational programs. ASPPH public health school members attest that a substantial percentage of their students rely on federal loans to finance their degree programs, which bear tuition and costs exceeding the lower loan caps assigned to “graduate degrees.” Enrollment has already begun to decrease as a result of the Rule’s exclusion of public health degrees. Doe Decl. ¶ 30; LaVeist Decl. ¶ 37. Without relief, ASPPH members expect to continue experiencing compounding harms from decreased enrollment, with diminished operational budgets requiring them to limit course offerings and rendering them unable to hire teaching faculty and technical staff positions. Doe Decl. ¶ 30. ASPPH members further expect that continued underfunding will impair faculty recruitment and retention, limit investments in curricula and workforce training programs, reduce support for students’ experiential learning, and more. *Id.*

Similarly, AACN member schools anticipate harms from the Rule. If advanced nursing degrees are subject to the lower loan limits, AACN’s members attest that they are likely to see a decline in enrollment and resultant tuition losses. Declaration of Eileen Fry-Bowers ¶¶ 16–20; Declaration of Charleen McNeill ¶¶ 18–20; Declaration of Julie Kruse ¶¶ 11–12. In fact, one AACN member school attests that it has already seen a 15% decline in applications and a 7.2% decline in enrollment as a result of newfound uncertainty as to whether its students will have access

to student loans to finance the full cost of an advanced nursing degree. Fry-Bowers Decl. ¶ 19. The same school has seen a precipitous decline in tuition from its costliest doctoral degree programs, including, for example, a 40% loss in revenue from its psychiatric nurse practitioner program. *Id.* ¶ 20. If the Rule is allowed to go into effect, these revenue losses will worsen and require AACN's members to curtail faculty hiring, curricular offerings, and student programming. *Id.* ¶ 21; McNeill Decl. ¶ 20; Kruse Decl. ¶ 12.

Plaintiffs also satisfy the germaneness and member-participation requirements for associational standing. Access to federal loans for advanced professional study bears directly on each organization's work to advance its profession and support its members. Michaels Decl. ¶ 2; Young Decl. ¶¶ 2-4; Trautman Decl. ¶ 2; Fanning Decl. ¶ 2; Magaña Decl. ¶ 2. Plaintiffs' individual members need not participate because the Court can resolve the legality of the Final Rule and the Administrative Designation EA on the administrative record and grant the requested relief without individualized adjudication.

B. Plaintiffs establish organizational standing

Plaintiffs also establish concrete injury to their own organizations. "Monetary costs are of course an injury," *Diamond Alt. Energy*, 606 U.S. at 111 (citation omitted), and an organization can demonstrate injury in fact when a defendant's actions "invade [its] interest in recruiting members," which "hinders that organization's ability to function," or when a defendant's actions impede their activities in "obtaining funding, or collecting dues." *Fair Hous. Council of San Fernando Valley v. Roommate.com, LLC*, 666 F.3d 1216, 1225 (9th Cir. 2012) (Ikuta, J., concurring in part), *overruled by Arizona All. for Retired Americans v. Mayes*, 186 F.4th 622, 633 (9th Cir. 2026) (overruling the majority's standing analysis and quoting and adopting J. Ikuta's standing analysis). In addition, where a government action directly affects and interferes with an organization's core business activities, and the organization diverts its resources to continue

pursuing those activities, such concrete harm to the organization's activities supports standing to sue. *Ctr. for Taxpayer Rts. v. IRS*, --- F.4th ---, 2026 WL 2635380, at *5 (D.C. Cir. Sept. 8, 2026). If the Rule were to take effect, AANP expects direct financial harm from the Rule from reduced participation in its membership, educational programming, conferences, continuing education initiatives, and more. Fanning Decl. ¶ 23. AANP also expects that it will need to divert limited resources from core member education programs—including educational programs that NP students rely on for licensure—to respond to member concerns about the Rule, educate prospective and current NP students regarding the Rule's impact, and attempt to mitigate anticipated workforce shortages. *Id.* ¶ 23. Likewise, as a result of its member schools' diminished tuition revenue and operational budgets, AACN itself anticipates organizational injuries including a perceptible impairment of its work ensuring the existence of a well-trained, well-educated nursing workforce sufficient to meet demand for nursing services and to provide patients high-quality care. Trautman Decl. ¶ 20. Similarly, NAPNAP expects that it will experience a loss of current and prospective members and related membership revenue, which accounts for approximately 25% of its annual revenue, as well as a loss of income from fewer participants in continuing education programs, and fears that it may need to terminate staff due to decreased operating revenue. Young Decl. ¶ 13. And AAMFT has already experienced a measurable drop-off in student enrollment and revenue from students in the first two months that the Rule has been in effect. Michaels Decl. ¶ 20. Moreover, AAMFT expects that as more potential MFT students are subject to the lower loan limits, even fewer will enroll in MFT programs and ultimately become dues paying members of the organization. *Id.*

These injuries are fairly traceable to the challenged exclusions and would be redressed by the requested relief. Setting aside the Rule's and Administrative Designation EA's unlawful

exclusions and requiring the Department to apply the statutory “professional degree” definition would enable Plaintiffs’ individual members to access the higher federal loan limits available for professional degree programs, alleviating the financing shortfalls that threaten individual members’ continued education, avoiding the resulting enrollment and tuition-revenue losses suffered by institutional members, and averting the anticipated financial shortfalls to Plaintiffs themselves from reduced membership or membership participation.

II. The Rule’s definition of “professional degree” is contrary to law

The Department’s new definition of “professional degree” is contrary to law for the reasons the Court has already explained. In staying the definition under Section 705 of the APA, the Court observed that “Congress explicitly directed the Department to apply the preexisting regulatory definition set forth in 34 C.F.R. § 668.2 as the relevant test, and the Department has no power to revise the definition Congress codified or to add additional substantive criteria.” ECF 46 at 33. That holding rested on the statutory text, and it resolved a pure question of statutory interpretation. Nothing about the governing law has changed. Accordingly, the same reasoning that showed that Plaintiffs were likely to succeed on the merits when seeking a stay now entitles them to judgment as a matter of law. 5 U.S.C. § 706(2).

Under the APA, a reviewing court must set aside agency action that is “not in accordance with law” or “in excess of statutory jurisdiction, authority, or limitations.” 5 U.S.C. § 706(2)(A), (C). Because the APA charges courts, not agencies, with deciding “all relevant questions of law,” *id.* § 706, courts “must exercise their independent judgment in deciding whether an agency has acted within its statutory authority.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024). Agency action that departs from the “single, best meaning” of the statute cannot stand. *Id.* at 400.

Here, Congress supplied the relevant definition of “professional degree.” By defining a “professional student” as one enrolled in a program that awards a “professional degree, as defined

under section 668.2 of title 34, Code of Federal Regulations (as in effect on July 4, 2025),” 20 U.S.C. § 1087e(a)(4)(C)(ii), Congress “codified the preexisting regulatory definition at the time of enactment.” ECF 46 at 31. That definition supplies “three, and only three, criteria for a program to qualify as a professional degree,” together with an illustrative list of examples that was expressly “not limited to” those enumerated. *Id.* Congress “did not add any new criteria to this longstanding regulatory definition or otherwise edit the definition in any way.” *Id.*

Having codified the definition as it stood on a fixed date, Congress left the Department no room to alter it. As the Court explained, “[b]y adopting the preexisting definition as it was in effect on a specific date, Congress removed any discretionary authority the Department may have had to narrow the definition.” ECF 46 at 33. And “an agency literally has no power to act ... unless and until Congress confers power upon it.” *Id.* (quoting *La. Pub. Serv. Comm’n v. FCC*, 476 U.S. 355, 374 (1986)). The Department therefore “ha[d] no power to revise the definition Congress codified or to add additional substantive criteria.” *Id.* at 33.

Despite this restriction, the Rule grafts onto Congress’s three-part test additional requirements found nowhere in the statutory definition: that a professional degree be “generally at the doctoral level”; that it “require[] at least six academic years of postsecondary education coursework for completion, including at least two years of post-baccalaureate level coursework”; and that it carry a four-digit program CIP code “in the same intermediate group” as the enumerated fields. 91 Fed. Reg. at 23882 (codified at 34 C.F.R. § 685.102(b)). The preamble adds yet another requirement absent from the statute: that the degree not lead to employment in which its holder is supervised by another professional. *Id.* As the Court recognized, “[n]one of these ‘contextual’ requirements ... is included in the text of the 2007 regulatory definition.” ECF 46 at 32. Indeed, the Department conceded that a program could “satisfy the operative definition’s three-part test”

yet still be denied professional-degree status for failing the Rule’s added requirements. *Id.* at 33. Layering new substantive criteria onto a definition Congress fixed by statute is paradigmatic of agency action contrary to law.

The Department’s sole textual defense—that it derived the new requirements from the illustrative list by applying two canons of construction, *noscitur a sociis* and *ejusdem generis*, ECF 46 at 34—fails, as the Court has already explained. Those canons serve only to resolve ambiguity, and “Congress could not have been clearer as to the meaning of ‘professional degree.’” *Id.* at 35. There is no ambiguous term to construe and no residual catchall to cabin; “the list of ‘examples’ is just that: simple examples.” *Id.* at 37. In any event, the Department’s own use of the canons was incoherent. It “cherry-pick[ed] from the list those parts with shared attributes and simply disregard[ed] ... those parts without those attributes”—imposing, for example, a doctoral-level requirement that Congress’s own enumerated examples, including the non-doctoral theology and LL.B. degrees, do not satisfy. *Id.* at 38-39. A reading that excludes several of the very degrees Congress named as professional cannot be the construction Congress intended.

Because part (i) of the Rule’s definition and the preamble’s free-from-supervision requirement add substantive prongs absent from the definition Congress codified, they are contrary to law and must be set aside. 5 U.S.C. § 706(2)(A), (C). The Court reached that conclusion in staying the Rule and it should now enter judgment for Plaintiffs on the same question of law.⁴

III. The Department’s refusal to recognize the relevant degrees as “professional degrees” is contrary to law

Each of the degrees at issue constitutes a professional degree under Congress’s mandated definition. Defendants themselves agree with respect to MSN, DNP, and DNAP degrees. *See* 91

⁴ Consistent with the Court’s stay ruling, Plaintiffs do not challenge part (ii) of the Rule’s definition—the illustrative list of enumerated degrees—which is lawful so long as it is read, as the Court held and the parties agree, to be non-exhaustive. ECF 46 at 46.

Fed. Reg. at 23795, 23797–98 (finding that the MSN, DNP, and DNAP each signify completion of academic requirements for beginning practice, require a level of professional skill beyond that required for a bachelor’s degree, and that the professions they enter generally require professional licensure). Each signifies “completion of the academic requirements for beginning practice” as an APRN, including core courses in advanced physiology, health assessment, and pharmacology. Trautman Decl. ¶ 19. All APRN professions require a degree of skill beyond that required of a bachelor’s degree, and APRNs must meet licensure requirements in all states. *Id.* As the Department acknowledged, these degrees “satisfy the operative definition’s three-part test.” 91 Fed. Reg. at 23789.

Additionally, although the Department failed to discuss them in the Final Rule, *see infra*, nursing Ph.D. degrees also qualify as professional under the statutory definition. First, they signify completion of the academic preparation necessary to begin professional work as independent nurse scientists and in doctoral nursing faculty positions, roles that develop the scientific foundation for nursing practice and educate the nurses who will deliver that care. Trautman Decl. ¶¶ 19–20; Fanning Decl. ¶¶ 17–20; Young Decl. ¶ 11. Second, nursing Ph.D. programs require professional skills substantially beyond the baccalaureate level, including advanced research design, statistical analysis, generation of original nursing knowledge, and translation of findings into improvements in practice. Trautman Decl. ¶ 19. And finally, nursing faculty are typically required to have and maintain active nursing licenses. Fanning Decl. ¶ 33; *see, e.g.*, Ohio Admin. Code § 4723-5-10(A)(1)(d)–(e) (2025); 22 Tex. Admin. Code § 215.7(d)(2); 49 Pa. Code § 21.71; Ill. Admin. Code tit. 68, § 1300.340(g)(3); 244 Mass. Code Regs. 6.04(2)(b)(1), (4)(b). Nursing Ph.Ds. thus satisfy each prong of the statutory definition and failure to treat them as “professional degrees” is contrary to law.

The Department's failure to include public health degrees as professional is also contrary to law. MPH and DrPH degrees prepare graduates for immediate professional practice and require specialized skills beyond those ordinarily obtained through a bachelor's degree. Magaña Decl. ¶¶ 14-15. The MPH is the foundational degree for entry into public health practice, and the DrPH signifies completion of academic requirements for graduates for leadership, management, and applied-policy roles. *Id.* ¶ 15.

The Department concluded that MPH degrees do not satisfy the three-part test because, in its view, an MPH degree does not itself lead to licensure and is not required for entry into a specific profession. 91 Fed. Reg. at 23800. Neither reason justifies exclusion. First, the statutorily-required test itself does not require that a degree program lead directly to licensure. Indeed, the statutory definition includes multiple degrees that do not require licensure at all. *See* 34 C.F.R. § 668.2 (2025) (including M.Div. and M.H.L. degrees). Moreover, although public health practitioners are not licensed, public health practice is associated with accreditation, credentialing (such as the Certified in Public Health credential), and positions that require or strongly prefer accredited graduate-level training. Magaña Decl. ¶ 15. And in excluding the MPH because it "is not required for entrance into a specific profession," the Department unlawfully transformed a statutory requirement about "beginning practice in a given profession" into a demand that the degrees correspond to one narrowly defined job title, a limitation found nowhere in Section 668.2's requirements. The Department accordingly acted contrary to the statute in the Final Rule applying extrastatutory limitations to exclude Public Health Degrees.

The Department's failure to include MFT degrees (M.A., M.S., Ph.D. or D.M.F.T.) as professional is also contrary to law. MFT degrees meet the statutory definition: First, they signify completion of the academic requirements, including specialized coursework and supervised

clinical training, necessary for graduates to begin counseling clients under supervision. Michaels Decl. ¶ 14. Second, MFT practice requires professional skill well beyond that attainable through a bachelor's degree, including graduate training in diagnosis, treatment, ethics, and clinical practice. *Id.* Finally, marriage and family therapy is a licensed profession; all practicing MFTs must pass a licensing examination. *Id.*; see 91 Fed. Reg. at 23804.

The Department's exclusion of MFT degrees is contrary to law. Despite acknowledging that most States require an MFT from an accredited institution prior to licensure, the Department excluded MFT degrees on the basis that "some States allow degrees in related counseling fields" for licensure. 91 Fed. Reg. at 23804. This replaces the statutory definition, which asks only whether the degree "signifies [] completion of the academic requirements for beginning practice in a given profession" with a much stricter test, asking whether a degree is the *only* possible path to a profession. Compare 34 C.F.R. § 668.2 (2025) with 91 Fed. Reg. at 23804 (excluding "degree programs that are not *specifically* required to enter a field") (emphasis added). And it misconstrues the licensure prong, which does not require that every jurisdiction designate one unique degree as the exclusive route to professional licensure. An MFT degree obviously signifies the completion of academic requirements for beginning practice as a marriage and family therapist, and MFT degrees meet the requirements for licensure in that profession in all 50 states and the District of Columbia. Michaels Decl. ¶ 13. The Department's exclusion of them from its definition of professional degree is therefore contrary to the Reconciliation Act.

IV. The Rule and Administrative Designation EA are arbitrary and capricious

A. The Rule's definition of "professional degree" is arbitrary and capricious

The Final Rule's definition of "professional degree" is arbitrary and capricious in violation of the APA. An agency's decision may not rely on factors that Congress did not intend it to consider, fail to consider important aspects of the problem, or rely on an explanation that runs

counter to the evidence before it. *State Farm*, 463 U.S. at 43. The Final Rule’s definition of professional degree improperly excludes several relevant degree programs by “rel[ying] on factors which Congress has not intended it to consider,” *id.*, including doctoral status, course length, CIP code, and supervision requirements, none of which are found anywhere in the statutory text, *see supra*.

The Department’s extratextual requirements are also unreasoned. The Department has failed to justify, for instance, limiting eligible degrees by CIP code—a reporting taxonomy tool developed solely for classification and reporting purposes, not to determine statutory or regulatory eligibility for federal benefits. Ex. D, Nat’l Ctr. for Educ. Stats., *Introduction to the Classification of Instructional Programs: 2020 Edition (CIP-2020)* 1–2 (2020), <https://perma.cc/ZEF4-5HQU>. The Department fails to justify the transformation of a statistical reporting tool into a regulatory gatekeeper, relying on conclusory statements about the higher education market’s complexity and unjustified assertions that the CIP code classifications avert “confusion.” 91 Fed. Reg. 23784. These statements are insufficient to explain why a degree’s placement within a particular four-digit numerical grouping should determine its eligibility for higher loan limits, regardless of whether it satisfies the statutory professional degree definition.

The Department’s added criteria are also internally inconsistent: As this Court described in rejecting the Department’s use of the *ejusdem generis* and *noscitur a sociis* canons to justify their additions, multiple new requirements added by the Rule “cannot be met” by all of the degrees on the list deemed as professional in the same regulation, ECF No. 46 at 38, including the requirement that degrees generally be at the doctoral level and meet specific course length requirements. *See* 34 C.F.R. § 668.2 (2025) (including three non-doctoral degrees: M.Div., M.H.L., and the L.L.B.); 91 Fed. Reg. at 23796 (representing only that the degrees included in the

illustrative list “*generally* require at least six academic years of postsecondary education coursework ... including at least two years of post-baccalaureate level coursework” (emphasis added)). The Department does not explain why characteristics absent from some expressly included degrees nevertheless supply a reasoned basis for excluding others. Accordingly, the Department has failed to provide a “satisfactory explanation for its action including a rational connection between the facts found and the choice made.” *See State Farm*, 463 U.S. at 43 (citation omitted).

B. The Rule’s exclusion of the relevant degrees is arbitrary and capricious

In addition, the Department’s determination that each of Plaintiffs’ degree programs is not “professional” is itself arbitrary and capricious. The Department failed to provide a reasonable explanation for excluding advanced nursing, public health, and marriage and family therapy degrees in the Final Rule, applying criteria inconsistently and failing to provide a reasoned explanation for the distinctions drawn.

As described above, the Department’s refusal to treat APRN degrees as professional relies primarily on the unreasonable and unreasonably explained conclusion that some states require APRNs to be supervised by or have a formal relationship with a doctor in order to prescribe medicine. 91 Fed. Reg. at 23795–98. First, the Department simultaneously maintained that it was not adopting a “supervision” requirement as a “freestanding [or] disqualifying criteri[on],” and disqualified APRN programs because of it. *Id.* at 23787, 23796–97. This explanation is unreasonable: the Department cannot coherently maintain that completely independent practice is not required yet exclude APRNs on that basis.

Second, the Department also failed to engage with commenters’ arguments that supervision or “scope-of-practice” restrictions on APRNs are obsolete and unnecessary barriers to practice that states have increasingly eliminated. Commenters noted that NPs have prescriptive authority in all

fifty states and the District of Columbia; that twenty-seven states, the District of Columbia, and two U.S. territories recognize full practice authority; and that federal actors have granted or supported full practice authority. *See* AANP Comment, RISE_AR_0007261, 0007263–65; ANA Comment, RISE_AR_0013621–22; AACN Comment at 7, RISE_AR_001957. Despite the number of jurisdictions that permit full practice authority, the Department concluded that the “unsettled” practice authority landscape and “lack [of] a nationwide, uniform standard for practice and prescriptive authority” precluded inclusion of APRN degrees as professional. 91 Fed. Reg. at 23796–97. But states also vary in the supervision requirements they impose on professions that are expressly included in the definition, including pharmacists and optometrists, whose procedures and prescriptive authority vary by state. *See, e.g.,* Nursing Students, *et al.*, Comment, RISE_AR_0011199 (noting that “[o]ptometrists in some states face limitations on their ability to prescribe certain medications or perform certain procedures and must collaborate with ophthalmologists for complex cases”); Ex. E, Nat’l Conf. of State Legislatures, Authority to Perform Ophthalmic Procedures (last visited Sept. 15, 2026) <https://www.ncsl.org/scope-of-practice-policy/practitioners/optometrists/authority-to-perform-ophthalmic-procedures>; Ex. F, Centers for Disease Control and Prevention, Collaborative Practice Agreements and Pharmacists’ Patient Care Services: A Resource for Pharmacists (2013) at 1, <https://perma.cc/HX3L-M4L4>. The Department’s shifting, inconsistent, and unreasonable explanations thus fail to supply a rational basis for the exclusion of APRNs from the professional degree definition.

The Department’s APRN degree-specific justifications only compound the problem. The Department fails to provide a reasonable explanation for its exclusion of the MSN merely because it is a master’s degree, when the statutory definition expressly lists three non-doctoral degrees as included. *Compare* 91 Fed. Reg. at 23796 (“the illustrative list suggests that a professional degree

must generally be at the doctoral-level”) *with* 34 C.F.R. § 668.2 (2025) (including the L.L.B., M.Div, and M.H.L. degrees as professional). The Department’s conclusion that the MSN cannot be professional because of the “amount of post-graduate training” required both ignores the statutory definition’s lack of any course length limit requirements as described above and unreasonably rests its conclusion on the fastest “conceivably possible” timeline for achieving an MSN, despite acknowledging that those programs vary substantially in length. 91 Fed. Reg. at 23796. The Department also fails to reconcile its conclusion that the DNP does not qualify because it leads to the same professions as the MSN, with the illustrative list’s inclusion of two degrees that lead to the same profession—the L.L.B. and J.D.—only one of which is at the doctorate level. 91 Fed. Reg. at 23798.

The Department’s decision to exclude public health degrees is no less arbitrary. The Department excluded MPH and DrPH degrees principally because they do not lead to a universally required individual license and, in its view, are not required for entry into a single, specifically defined profession. 91 Fed. Reg. at 23800–01. The Department’s categorical reliance on the absence of licensure—let alone universal licensure—is irrational. The incorporated definition states only that “[p]rofessional licensure is ... generally required,” across the universe of included professional degrees, not that each profession must have a licensure requirement, let alone that every graduate obtain the same individual license before entering any position within the field, as evidenced by the illustrative list’s inclusion of theology degrees, including the M.Div. and M.H.L., for which no governmental license is required. *See* 34 C.F.R. § 668.2 (2025). The Department never explained why the absence of licensure is dispositive for public health but not for expressly included degrees. Nor did it address the reality that public health authority is exercised through governmental and institutional structures that do not map neatly onto the licensing model used in

clinical fields. 91 Fed. Reg. at 23800; LaVeist Decl. ¶ 24. Additionally, the Department’s conclusion that the MPH “is not required for entrance into a specific profession” fails to engage with commenters’ arguments that MPH and DrPH degrees are standard entry credentials in the public health field, qualifying graduates to hold public health positions in numerous federal, state, and local public-health agencies, and other organizations. 91 Fed. Reg. at 23800–01; Magaña Decl. ¶ 15; *See* ASPPH Comment 1-11, RISE_AR_0011236-37. The Department did not dispute those facts—instead, it apparently required that the degrees correspond to one narrowly defined job title, a limitation found nowhere in section 668.2’s requirement that a degree signify completion of the academic requirements “for beginning practice in a given profession.” In substituting this newly invented requirement for the broader inquiry prescribed by the incorporated definition, the Department considered factors that Congress did not intend for it to consider and failed to reasonably explain its decision.

Finally, the Department’s failure to classify MFT degrees as professional is arbitrary and capricious. Commenters explained that marriage and family therapy is a regulated clinical profession for which entry requires graduate education, substantial supervised clinical training, and passage of a national competency examination, AAMFT Comment 1-7, RISE_AR_0008707-713—facts that the Department did not dispute, 91 Fed. Reg. at 23804. Those undisputed features establish that MFT degrees signify completion of academic requirements to begin practice, require professional skill beyond that ordinarily required for a bachelor’s degree, and lead to a profession generally requiring professional licensure. 34 C.F.R. § 668.2 (2025).

The Department further acted arbitrarily and capriciously in excluding MFTs because “some states allow degrees in related counseling fields” to qualify for MFT licensure. 91 Fed. Reg. at 23804. Section 668.2 asks merely whether a degree completes the academic requirements for

beginning practice and states that “licensure is generally required”—it does not require that every jurisdiction designate one particular degree as the exclusive route to the profession. Again, the L.L.B.’s inclusion in the statutory definition reflects that neither the L.L.B. nor J.D. represented an exclusive academic route to legal practice in every jurisdiction, and the theology degrees do not require governmental licensure at all. By imposing an exclusivity requirement absent from the statutory definition and failing to account for its inconsistent treatment of comparable degrees, the Department has failed to articulate a rational connection between the facts found and the choice made and it has considered factors that Congress did not intend it to consider.

C. The Rule is arbitrary and capricious for additional reasons

The Department also acted arbitrarily and capriciously by “go[ing] beyond congressional instructions to *restrict*” the professional degree definition, yet invoking congressional silence to disregard “real-world factors militating in favor of *broadening* the definition.” ECF No. 46 at 34. The Department failed to meaningfully engage with commenters who explained, for example, that excluding advanced nursing degrees, public health degrees, and MFT degrees would worsen already-devastating shortages in those professions by making it harder for students to obtain those degrees. AANP Comment 13, RISE_AR_0007269–70; AACN Comment 8, RISE_AR_0007336; ASPPH Comment 7, RISE_AR_0011242; AAMFT Comment 2, RISE_AR_0008708. Commenters explained that APRNs help to fill critical gaps in the healthcare system, particularly in rural and underserved communities that already face provider shortages and rely heavily on advanced practice nurses for access to care. *See, e.g.*, AACN Comment 8, RISE_AR_0007335. AAMFT explained that Americans already lack access to behavioral health providers nationwide, that over one-third of the entire US population lives in an area with a shortage of mental health professionals, and that restricting MFT students’ access to federal loans will exacerbate the shortage of MFTs, especially in rural communities and community health care settings. AAMFT

Comment 2,6, RISE_AR_0008708, RISE_AR_0008712. And ASPPH noted that persistent gaps also plague the public health workforce across multiple occupations and jurisdictions, which limits the country's ability to investigate diseases, detect hazards, and respond to emergencies, before and during public health crises. ASPPH Comment 2,7, RISE_AR_0011242, RISE_AR_0011244, RISE_AR_0011237. The Department waved these concerns away, asserting that Congress did not instruct it to consider workforce shortages. This conclusory rationale fails to reasonably explain why the statute would permit the Department to consider its favored added requirements, such as a specific 4-Digit CIP code, yet preclude consideration of reduced access to education and workforce shortages. 91 Fed. Reg. at 23790, 23795, 23800, 23803.

Finally, the Department failed to meaningfully respond to commenters who noted the limited evidence for a relationship between federal loan availability and the influence on tuition costs, AACN Comment 7, RISE_AR_0007335, relying in the final rule on unproven speculation that higher loan limits have led to higher tuition costs, yet admitting that any correlation between federal loan availability and tuition growth reflected in the studies they rely on “does not establish causation.” 91 Fed. Reg. at 23857–58. The Department failed to explain why the acknowledged limitations of its evidence nevertheless supported its prediction that restricting loan availability would reduce tuition costs.

D. The Administrative Designation EAs are arbitrary and capricious

The Department also acted arbitrarily and capriciously in issuing Guidance that continues to fail to appropriately categorize nursing PhDs, public health degrees, and marriage and family therapy degrees as “professional” under the statute. As its sole justification, once again deciding to exclude those degrees, the Department noted this Court's preliminary stay of the Department's Final Rule's professional degree definition, and stated that it made “interim administrative designations” “to facilitate implementation of the Court's order” and “based on its understanding

of the Court’s ruling” and construction of the statute, “which is different” than the Department’s construction proposed in the Final Rule. ECF No. 50-1. This is not a reasoned explanation for excluding the relevant degrees. The Court’s opinion required the Department to “apply the existing definition incorporated into the statute” to enforce the statutory loan caps—but the Department fails to state or incorporate any rationale, including any application of the statutory test to the relevant degree programs.

The Department’s failure in the Administrative Designations EA to provide any reasoning at all justifying its exclusion of the relevant degrees fails the APA’s requirement that its decision be reasonably explained. An agency must “articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.” *State Farm*, 463 U.S. at 43 (citation omitted). “[W]here the agency has failed to provide even [a] minimal level of analysis, its action is arbitrary and capricious and so cannot carry the force of law.” *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016). *See Sorenson Commc’ns Inc. v. FCC*, 755 F.3d 702, 708 (D.C. Cir. 2014) (“the wisdom of agency action is rarely so self-evident that no other explanation is required.”).

The Department may mean to argue that the Guidance relied on the explanations offered in the Final Rule. If it did, its action was arbitrary because the Rule applied an unlawful definition of “professional degree.” *See* 91 Fed. Reg. at 23783 (stating that the Department would not find that programs “should qualify because they allegedly satisfy the operative elements of the incorporated definition,” and that “[t]he Department is not interpreting the cross-referenced definition as a free-standing test”). The Department needed to start afresh to explain its application of the correct statutory definition. So to the extent the Department relies on the same reasoning underlying the Final Rule, the EA suffers from the same defects: those determinations are contrary

to law and arbitrary and capricious for the reasons explained above. And to the extent the Department relies on some other rationale, it has failed to disclose it or to provide the explanation the APA requires.

V. The Rule and the Administrative Designations EA are also unlawful because neither complies with the master calendar provision of the Higher Education Act

Finally, the Rule and EA are also unlawful because they failed to comply with the master calendar provision of the Higher Education Act. Schools must plan their academic years well in advance, and students must arrange their financial affairs—whether to enroll, borrow, or move across the country to pursue a degree—months before classes begin. Congress recognized that it would be fundamentally unfair for the Department to change the rules governing student loans on the eve of a new academic year, after schools and students have already ordered their affairs in reliance on existing law. It protected those reliance interests through the “master calendar” provision of the Higher Education Amendments of 1986, which guarantees that a regulation may take effect for a given school year only if it is published by November 1 of the preceding year. 20 U.S.C. § 1089(c)(1). That deadline governs “the effective dates of *all* regulations on Title IV.” H.R. Rep. No. 102-447, at 77 (1992) (emphasis added); *see Bauer v. DeVos*, 325 F. Supp. 3d 74, 95 (D.D.C. 2018). The statute supplies a single, narrow exception: the Department may designate a late-published rule as one that institutions may, in their discretion, choose to adopt early—and even then only where an institution accepts that invitation. 20 U.S.C. § 1089(c)(2).

The Department did not meet that deadline. The Rule carried an effective date of July 1, 2026, 91 Fed. Reg. at 23768, but to take effect then it had to be published by November 1, 2025. The Department did not publish it until May 1, 2026—missing the deadline by a full six months. As a result, institutions had no meaningful notice of how the Department intended to implement the new loan limits for the 2026 award year, and prospective students were forced to decide

whether and where to enroll without knowing the financial consequences of those decisions. *E.g.*, Panzo Decl. ¶¶ 6-11. That is precisely the harm the master calendar was enacted to prevent. Under the plain terms of § 1089(c)(1), the Rule cannot take effect until the 2027 award year.

The Department does not dispute that the Rule was late. It contends instead that Congress implicitly waived the master calendar requirement because the Act’s new loan provisions take effect July 1, 2026, are “not self-implementing,” and could not be carried out through negotiated rulemaking in the time available—rendering the master calendar, in the Department’s view, “irreconcilable” with the Act. 91 Fed. Reg. at 23770. That theory cannot bear the weight the Department places on it. “[R]epeals by implication are not favored and will not be presumed unless the intention of the legislature to repeal is clear and manifest.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 662 (2007) (alterations and citation omitted). When two statutory commands “are capable of coexistence, it is the duty of the courts, absent a clearly expressed congressional intention to the contrary, to regard each as effective.” *N.Y. Republican State Comm. v. SEC*, 927 F.3d 499, 506 (D.C. Cir. 2019) (quoting *J.E.M. Ag Supply, Inc. v. Pioneer Hi-Bred Int’l, Inc.*, 534 U.S. 124, 143–44 (2001)). The Department thus bears a “heavy burden” to overcome the “strong presumption” that Congress “will specifically address preexisting law when it wishes to suspend its normal operations in a later statute.” *Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 510 (2018) (cleaned up). It cannot carry that burden, because its obligations under the Act and the master calendar were fully reconcilable.

The Department had at least two lawful paths to implement the new loan limits on time. First, the master calendar itself prescribes what happens when the Department cannot meet the November 1 deadline: it may designate the late-published rule as one that institutions “may, in the entity’s discretion, choose to implement prior to the effective date.” 20 U.S.C. § 1089(c)(2)(A).

That mechanism would have let the Department put the new regime in place for consenting institutions while preserving an orderly transition for the rest. Second, if the Department believed a full negotiated rulemaking could not be completed in time, it could have issued an interim final rule before November 1 upon a showing of good cause. *See* 20 U.S.C. § 1098a(b)(2); 5 U.S.C. § 553(b)(3)(B); *Career Coll. Ass’n v. Riley*, 74 F.3d 1265, 1268 (D.C. Cir. 1996) (recognizing that an interim final rule may be used to meet the master calendar deadline). Because the statute expressly supplied these tools, the Department was not in the impossible situation it claims, and its obligations were fully reconcilable—leaving no basis to infer that Congress silently repealed the master calendar.

Two further features of the statute confirm this reading. First, Congress wrote one—and only one—exception into the master calendar, 20 U.S.C. § 1089(c)(2)(A), and the Department may not “read other unmentioned, open-ended, ‘equitable’ exceptions into the statute.” *Enbridge Energy, LP v. Nessel*, 146 S. Ct. 1074, 1082 (2026) (quoting *United States v. Brockamp*, 519 U.S. 347, 352 (1997)). Consistent with that limit, the Department has for decades adhered to § 1089(c) even when implementing new congressional directives. *See, e.g.*, 64 Fed. Reg. 58284, 58285 (Oct. 28, 1999). And when Congress has wanted to relax the master calendar’s deadlines to accommodate new legislation, it has said so expressly—as it did in 1993, when it authorized regulations implementing that year’s amendments to take effect if published by May 1, 1994. Pub. L. No. 103-208, § 2(h)(7), 107 Stat. 2457, 2476 (1993). Because “Congress knows how to write exceptions into” a statute when it wishes, *Vertex Pharms. Inc. v. HHS*, 774 F. Supp. 3d 211, 232–33 (D.D.C. 2025), its decision not to enact a comparable exception here must be understood as a recognition that the master calendar’s usual deadlines continue to apply. *See Council for Urological Ints. v. Burwell*, 790 F.3d 212, 221 (D.C. Cir. 2015). Second, that Congress expressly

permitted good-cause waiver of the Act’s negotiated-rulemaking requirements, 20 U.S.C. § 1098a(b)(2), while providing no waiver of the master calendar, *id.* § 1089(c), only underscores the point: the choice to make one procedure waivable but not the other must be a meaningful one. *See Sw. Airlines Co. v. Saxon*, 596 U.S. 450, 457 (2022).

The EA is unlawful for the same reason. It is a “regulatory change[] initiated by the Secretary affecting the programs under this subchapter,” 20 U.S.C. § 1089(c)(1)—it establishes binding classifications dictating which degree programs will and will not receive the higher statutory loan limits during the current award year, and thereby changes the rules governing the distribution of Title IV aid. *See* ECF 47-1; ECF 50-1. The Department issued the Administrative Designations EA on June 29, 2026, and revised it on July 10, 2026—like the Rule, long after the November 1, 2025 deadline. It therefore may not “become effective until the beginning of the second award year after such November 1 date,” 20 U.S.C. § 1089(c)(1), and cannot lawfully be applied during the 2026 award year.

Because neither the Rule nor the EA was published by November 1, 2025, and because Congress did not waive that deadline, neither may lawfully be applied during the 2026 award year. On this independent ground, the Court should hold the Rule and the EA unlawful and set them aside. 5 U.S.C. § 706(2)(A), (C).

VI. The Court should require the Department to faithfully apply the statutory definition of “professional degree”

A. The Court should vacate the Rule’s definition of professional degree and the Administrative Designations EA

Because the Department’s definition of “professional degree” is unlawful, this Court should vacate (1) part (i) of the Final Rule’s definition of “professional degree” and the additional

free-from-supervision requirement in the preamble to the Final Rule;⁵ and (2) the EA, ECF 50-1, to the extent that it excludes Plaintiffs’ degrees. The D.C. Circuit has repeatedly held that APA remedies provide for a court to vacate unlawful agency action in its entirety rather than as to particular plaintiffs. ECF 46 at 45. “[W]hen a reviewing court determines that agency regulations are unlawful, the ordinary result is that the rules are vacated—not that their application to the individual petitioners is proscribed.” *Id.* (quoting *Nat’l Mining Ass’n v. U.S. Army Corps of Eng’rs*, 145 F.3d 1399, 1409 (D.C. Cir. 1998)).

As Plaintiffs demonstrated above, the EA correctly found that certain nursing degrees are professional degrees under the statutory definition’s three-part test. Because the EA failed to correctly apply the definition to the remainder of the degrees that Plaintiffs’ members offer and pursue, the Court should vacate the EA to the extent that it fails to designate the following degree programs as professional degrees: the Nursing Ph.D., DrPH, MPH, and MFT degrees. In promulgating the Final Rule, the Department claimed that each regulatory change is “discrete” and “independent” from the other changes in the Rule. 91 Fed. Reg. at 23769. The Department stated its belief that the classification of professional degrees is severable from the rest of the Final Rule and, moreover, that “if a court disagrees with the Department’s classification of a particular degree or degrees, the Department intends for its classification of all other degrees to survive and remain in effect.” *Id.* at 23771. Therefore, the Court can vacate the EA as applied to particular degrees. *Interstate Nat. Gas Ass’n of Am. v. Pipeline & Hazardous Materials Safety Admin.*, 114 F.4th 744, 753 (D.C. Cir. 2024).

⁵ Plaintiffs do not seek to vacate part (ii) of the Final Rule’s definition of “professional degree” because this Court has determined, and the parties agree, that the list of degrees in (ii) is not exhaustive. ECF 46 at 32-33, 36; ECF 50-1 (listing additional programs treated as professional degrees in response to the Court’s order).

B. The Court should enter a permanent injunction

In addition to vacatur, this Court should issue an injunction that requires the Department to treat the degrees that Plaintiffs’ members offer and pursue as professional degrees. ECF 46 at 51 (“An injunctive order can require a party to refrain from doing a specific act, but it can also require a party to affirmatively perform a specific act.”). In its opinion finding that the Final Rule’s definition of “professional degree” is likely contrary to law, this Court gave the Department the opportunity to “make findings in the first instance as to which degrees satisfy the statutory definition of ‘professional degree.’” ECF 46 at 48. The resulting EA, however, is once again contrary to law and arbitrary and capricious for the reasons discussed above. Ultimately, application of the statutory three-part test to the remaining degrees is a question of law for this Court to decide by applying its “own judgment.” *Loper Bright Enters.*, 603 U.S. at 392. Injunctive relief would provide the necessary certainty to Plaintiffs and their members as to the status of their degree programs, providing “meaningful practical effect independent of [] vacatur.” *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 165 (2010).

In the alternative, if the Court denies Plaintiffs’ primary request for injunctive relief, the Court should require the Department to treat post-baccalaureate degree programs as “professional degrees,” subject to the higher limits, until the Department promulgates a new rule defining “professional degree” consistent with its statutory obligations. Vacatur would leave the new student loan caps unimplemented and the Department has taken the position that it cannot lawfully apply the caps until it performs a lawful new rulemaking.⁶ The HEA makes clear that when the Department violates its master calendar provisions, the effect cannot be to penalize institutions. *See* 20 U.S.C. § 1089(d) (“Nothing in this section shall be interpreted to penalize institutions ...

⁶ The Department has taken the position that the Act’s provisions are “not self-implementing and cannot go into effect unless the Department promulgates a final rule.” 91 Fed. Reg. at 23770.

based on the failure of the Secretary to adhere to the dates specified in this section.”). The only way to avoid penalizing educational institutions is to forestall implementation of the lower loan limits. Even if the Department could apply the existing definition incorporated into the statute in some other agency action, *see* ECF 46 at 47, the Court should enjoin the Department to apply only the higher caps until the Department takes action to implement the distinction between professional and graduate degrees that complies with the APA. Injunctive relief would provide the necessary certainty to the student loan program pending further agency action.

Plaintiffs meet the standard for a permanent injunction because (1) they will suffer an irreparable injury; (2) remedies available at law, such as monetary damages, are inadequate to compensate for these injuries; (3) a remedy in equity is warranted considering the balance of hardships; and (4) the public interest would not be disserved by a permanent injunction. *eBay Inc. v. MerExchange, L.L.C.*, 547 U.S. 388, 391 (2006).

1. Plaintiffs will suffer irreparable injuries that cannot be compensated by legal remedies

By subjecting students seeking degrees previously considered professional to the lower loan caps, the Final Rule and the EA will harm Plaintiffs and their members. First, the Final Rule and EA are harming Plaintiffs’ individual matriculating student members, who have been unable to borrow sufficient federal loans to finance their degrees. Some do not qualify for private loans and will be forced to withdraw from their programs if their degrees are not recognized as professional. Eadon Decl. ¶ 14; *see also* Greenawalt Decl. ¶¶ 18–20. As this Court has already found, “lost educational opportunities and an inability to pursue one’s chosen vocation are sufficient to establish irreparable harm.” ECF 46 at 40 (citing cases). Other student members have been forced to accept economically burdensome private loans and otherwise seen their educational and financial futures compromised. *E.g.*, Amador Decl. ¶¶ 14–15; *see also* Greenawalt Decl.

¶¶ 15–18. Needing to accept “economically burdensome private loans” is an irreparable “injur[y] that cannot be fully rectified by any final judgment.” ECF 46 at 40 (“unrecoverable economic loss” amounts to irreparable harm).

The Rule and EA also will cause significant irreparable harm by fundamentally “mak[ing] it more difficult” for Plaintiffs and their institutional members to accomplish their primary missions. *See League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 9 (D.C. Cir. 2016). With fewer students able to afford degrees, Plaintiffs and their institutional members will face reduced enrollment that will decrease tuition revenue and strain institutional budgets. Trautman Decl. ¶¶ 21–24; Michaels Decl. ¶¶ 17–22; Magaña Decl. ¶¶ 16–24; Fanning Decl. ¶¶ 26–40. This, in turn, will cause disruptions that detract from these members’ primary educational missions. Members will be required to scale back academic programming, delay or reduce faculty hiring, limit clinical placements, curtail student support services, and even reduce workforce development initiatives designed to address NP provider shortages and expand patient access to care. Trautman Decl. ¶¶ 21–24; Michaels Decl. ¶¶ 17–22; Magaña Decl. ¶¶ 16–24; Fanning Decl. ¶ 38. These harms threaten lasting disruptions to member institutions. This Court already held that these harms are irreparable and cannot be fully remedied at final judgment. ECF 46 at 41 (decreases in membership and loss in dues requiring Plaintiff associations to cut educational programming, conferences, research, student engagement initiatives, and workforce development initiatives “will make the task fundamentally more difficult for these organizations to accomplish their primary missions and cannot be fully remedied at final judgment”) (citing *Newby*, 838 F.3d at 9).

In addition to these harms to Plaintiffs and their members, the Rule will simultaneously impose substantial and immediate financial harms on students, advanced practice nurses, therapists, and public health professionals by increasing educational costs, worsening debt

burdens, and discouraging entry into critically important professions. These injuries are neither speculative nor compensable through money damages. They threaten enduring disruption to Plaintiffs’ operations, membership bases, and the professional pipelines they exist to sustain.

2. The balance of the equities and the public interest favor a permanent injunction

The balance of equities and public interest factors “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). Here, these factors weigh heavily in favor of an injunction to order the Department to treat the relevant degrees as professional degrees.

First, as described above, the Rule and the EA are contrary to law and arbitrary and capricious. “[T]here is an overriding public interest ... in the general importance of an agency’s faithful adherence to its statutory mandate.” ECF 46 at 42 (quoting *Jacksonville Port Auth. v. Adams*, 556 F.2d 52, 59 (D.C. Cir. 1977)). “For this reason, ‘[t]he public interest is served when administrative agencies [like the Department] comply with their obligations under the APA.’” *Id.* (quoting *N. Mariana Islands v. United States*, 686 F. Supp. 2d 7, 21 (D.D.C. 2009)). Defendants also “cannot suffer harm from an injunction that merely ends an unlawful practice.” *Id.* (quoting *R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 191 (D.D.C. 2015)).

Second, it is in the public interest to support the ability of professionals to obtain the education they need to provide crucial services to American communities in areas such as nursing, public health, and marriage and family therapy. Barriers that make it more difficult for these professionals to pursue their chosen degrees will exacerbate existing shortages in these areas. For example, many nursing students will have difficulty financing their advanced education under the Rule because the actual cost of advanced nursing education often greatly exceeds the borrowing limit imposed for non-professional degrees. Trautman Decl. ¶¶ 24–27. But nurses who complete advanced education help to fill critical gaps in the healthcare system, particularly in rural and

underserved communities that already face provider shortages and rely heavily on advanced practice nurses for access to care. *Id.* Likewise, millions of Americans already live in an area where there is a shortage of mental health professionals. Michaels Decl. ¶ 6. And persistent gaps also plague the public health workforces, which limits the country’s ability to respond to public health crises. Magaña Decl. ¶¶ 13, 15, 24. The Rule’s definition of “professional degree” will make it more difficult for individuals to enter these critical professions. Michaels Decl. ¶ 22; Magaña Decl. ¶ 24.

When weighed against the irreparable harm to Plaintiffs and the American public caused by the limited definition of professional student in the Final Rule, both the balance of the equities and the public interest favor issuing a permanent injunction. ECF 46 at 43 (“the loss of educational and vocational opportunities for prospective professional students is ... detrimental to the public, particularly in underserved communities that may face a shortage of healthcare and other critical professional services”).

C. The Court should issue a declaratory judgment

In addition to issuing an injunction, the Court also should issue a declaratory judgment under 5 U.S.C. § 703 stating that: (1) Part (i) of the Final Rule’s definition of “professional degree” and the additional free-from-supervision requirement in the preamble to the Final Rule are unlawful; (2) the EA, ECF 50-1 is unlawful to the extent that it excludes Plaintiffs’ degrees; and (3) the degree programs offered and pursued by Plaintiffs’ members—the Master of Science in Nursing (MSN); the Doctor of Nursing Practice (DNP); the Doctor of Nurse Anesthesia Practice (DNAP); the Nursing Ph.D.; the Doctor of Public Health (DrPH), the Master of Public Health (MPH), and the Marriage and Family Therapy (MFT) degrees (M.A., M.S., Ph.D. or D.M.F.T.)—are “professional degrees” under 34 C.F.R. § 668.2(b). Here, a declaratory judgment would provide important independent relief because it would clarify that the relevant degrees are

“professional degrees” and establish that the relevant portions of the Final Rule’s definition of “professional degree,” and the associated EA, are unlawful. This would ensure that the Department does not take future agency action that excludes the relevant degrees from the definition of “professional degree.” *Anatol Zukerman and Charles Krause Reporting, LLC v. USPS*, 64 F.4th 1354, 1366–67 (D.C. Cir. 2023) (a declaratory judgment “serves important functions” by “clarifying the legal relations” between parties, establishing that a party’s actions are unlawful, and serving “as the basis for issuance of a later injunction to give effect to the declaratory judgment”).

CONCLUSION

The Court should grant *AANP* Plaintiffs’ motion for summary judgment.

Dated: October 2, 2026

Respectfully submitted,

/s/ Joel McElvain

Joel McElvain (DC Bar No. 448431)
 Elena Goldstein (DC Bar No. 90034087)
 Tsuki Hoshijima (DC Bar No. 90043312)
 Ryan Cooper (DC Bar No. 1645301)
 Jennie L. Kneedler (DC Bar No. 500261)
 P.O. Box 34553
 Washington, DC 20043
 (202) 448-9090
 jmcelvain@democracyforward.org
 egoldstein@democracyforward.org
 thoshijima@democracyforward.org
 rcooper@democracyforward.org
 jkneedler@democracyforward.org

/s/ Lynn D. Eisenberg

Lynn D. Eisenberg (DC Bar No. 1017511)
 Daniel F. Jacobson (DC Bar No. 1016621)
 Nina C. Cahill (DC Bar No. 1735989)
 Jacobson Lawyers Group PLLC
 5100 Wisconsin Ave N.W., Suite 301

Washington, DC 20016
(301) 823-1148
lynn@jacobsonlawyersgroup.com
dan@jacobsonlawyersgroup.com
nina@jacobsonlawyersgroup.com

Counsel for AANP Plaintiffs