



The Education Trust

Closing the gaps in opportunity and achievement, pre-K through college

July 17, 2020

Gaby Watts
U.S. Department of Education
400 Maryland Avenue SW, Room 258-02
Washington, D.C. 20202-2241

RE: Comments on Eligibility of Students at Institutions of Higher Education for Funds Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act; Docket ID: ED-2020-OPE-0078

Dear Ms. Watts,

As students and families across the nation continue to face unprecedented crises of public health, economic instability, and systemic racism — when the only solutions seem to come through social uprising — the U.S. Department of Education (ED) has blocked support from going to the students who need it the most. While much of the country is discussing how best to dismantle racism and social inequity by investing in opportunities for people of color, ED has issued a rule that takes resources from student groups that are disproportionately comprised of people of color.¹ We strongly oppose ED's recent rule, which would deny the over 450,000 undocumented college students, including Deferred Action for Childhood Arrival (DACA) recipients who live and work lawfully in the United States, access to the \$6.3 billion in emergency aid funds allocated in response to the COVID-19 pandemic under the Coronavirus Aid, Relief, and Economic Security (CARES) Act.² By issuing an interim final rule stating that only students who qualify for Title IV federal financial aid, as defined in the Higher Education Act (HEA), are eligible to receive emergency aid, ED barred undocumented students from receiving this aid. This move also effectively barred many other types of students: including students who have defaulted on federal student loans, students with drug convictions that occurred while receiving federal financial aid, international students, students who are not registered for the selective service, and students who do not meet Satisfactory Academic Progress (SAP).

The decision to exclude undocumented students was contrary to the intent of the bipartisan CARES Act. There is no language in the CARES Act prohibiting certain types of students from receiving this aid. The intention of lawmakers was to ensure that all students who needed help could access aid. Yet while undocumented students were blocked by ED from receiving aid, they were included in the formula used

¹ Kery Murakami, "DeVos Rule Formally Limits Emergency Student Aid Grants," *Inside Higher Ed*, June 12, 2020, <https://www.insidehighered.com/news/2020/06/12/devos-rule-formally-limits-emergency-student-aid-grants>.

² Presidents Alliance on Higher Education and Immigration and New American Economy, "Undocumented Students in Higher Education How Many Students Are in U.S. Colleges and Universities, and Who Are They?," April 2020, <https://www.presidentsimmigrationalliance.org/wp-content/uploads/2020/04/2020-04-16-NAE-PA-Report-Undocumented-Students-in-Higher-Education.pdf>.



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to determine how much stimulus aid a college was eligible to receive. An analysis by the Center for American Progress estimates that undocumented students may have helped colleges collectively receive as much as \$132.6 million in additional funds from the stimulus bill.³ In the Los Angeles Community College District alone, [approximately 16,000 students](#) were excluded from receiving aid because of the decision made by ED. Undocumented students are worthy of emergency aid and often face greater financial barriers than their non-undocumented peers. Discriminating against undocumented students not only undermines the goals of the CARES Act, but undercuts the mission of colleges to educate and empower people in communities across the United States.

Importance of Emergency Aid for Undocumented Students

As a result of the COVID-19 pandemic, colleges and universities were forced to curtail on-campus activity and move to an online format to protect students and staff. While necessary to protect the health and safety of campus communities and the country, these sudden closures caused great upheaval and financial stress for students, especially for those — e.g., students from low-income backgrounds, students of color, and undocumented students — who were already struggling to afford college. Congress approved the CARES Act, which aimed to provide emergency aid to help all students pay for basic living expenses like food, housing, health care, technology and child care — which are all critical to the academic success of students — and a lifeline to keep them enrolled and on track toward their degree in the midst of the pandemic.

Unfortunately, the economic crisis brought on by the pandemic is dramatically affecting students. The U.S. Labor Department reported that unemployment insurance claims reached 40.8 million in May 2020.⁴ But many students aren't eligible for unemployment insurance. Meanwhile, according to a recent survey of 1,500 students at Arizona State University, 40% said they had lost a job, internship, or a job offer.⁵ Personal job loss or job loss of a family member can lead to basic needs insecurity. And when students face food and/or housing insecurity, they may result in students struggling academically and

³ Viviann Anguiano, "Undocumented Students Generated Up to \$132 Million in Relief to Colleges—But They Won't Receive a Dime From the Stimulus," (The Center for American Progress, May 5, 2020), <https://www.americanprogress.org/issues/education-postsecondary/news/2020/05/05/484505/undocumented-students-generated-132-million-relief-colleges-wont-receive-dime-stimulus/>.

⁴ Avie Schneider, "40.8 Million Out Of Work In The Past 10 Weeks — 26% Of Labor Force," NPR.org, May 28, 2020, <https://www.npr.org/sections/coronavirus-live-updates/2020/05/28/863120102/40-8-million-out-of-work-in-the-past-10-weeks>.

⁵ Esteban M Aucejo et al., "The Impact of COVID-19 on Student Experiences and Expectations: Evidence from a Survey," Working Paper, Working Paper Series (National Bureau of Economic Research, June 2020), <https://doi.org/10.3386/w27392>.



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are less likely to complete their degree.⁶ Emergency aid grants are, therefore, an important financial and academic support for students and a vital piece of many colleges' student retention plans.

Undocumented Students Are Especially Harmed by the Pandemic

The challenges of paying for college and basic living expenses have been compounded for undocumented students by the COVID-19 pandemic and the ensuing economic crisis. What's more, undocumented immigrants have been, and continue to be, impacted by the COVID-19 pandemic more than others.⁷ They are also overrepresented in essential, low-wage occupations that are likely to be hardest hit by the pandemic: e.g., farm work, meat processing, food service, hospitality, and retail.⁸ Undocumented students and their families have been navigating the pandemic without support from unemployment insurance, other safety net programs, or CARES Act stimulus funds, despite paying billions of dollars in state and federal taxes every year.⁹ Under the CARES Act, eligible individual taxpayers with incomes of less than \$75,000 a year got a \$1,200 one-time stimulus check; married couples filing jointly received up to \$2,400.¹⁰ Individual taxpayers with children also qualified for \$500 per child under 17.¹¹ Undocumented immigrants and people with undocumented immigrants in their household were denied this aid.

All this puts undocumented immigrants *and* undocumented students — 46% of whom are Latinx and 15% of whom are Black¹² — at higher risk of contracting the coronavirus and dying from it. So does their race and ethnicity. Data from the Centers for Disease Control and Prevention shows that Black and

⁶ Sara Goldrick-Rab et al., "Still Hungry and Homeless in College" (Wisconsin Hope Lab, April 2018), <https://hope4college.com/wp-content/uploads/2018/09/Wisconsin-HOPE-Lab-Still-Hungry-and-Homeless.pdf>.

⁷ Oxfam, "Supporting Undocumented Communities amid the COVID-19 Pandemic," May 21, 2020, <https://www.oxfamamerica.org/explore/stories/supporting-undocumented-communities-amid-covid-19-pandemic/>.

⁸ *Ibid.*

⁹ "Take a Look: How Immigrants Drive the Economy in United States of America," New American Economy, accessed July 14, 2020, <https://www.newamericaneconomy.org/locations/national/>.

¹⁰ Vanessa Romo, "Show Me The Relief Money – No Promises On When Coronavirus Checks Are Coming," NPR.org, March 26, 2020, <https://www.npr.org/2020/03/26/822224393/show-me-the-relief-money-no-promises-on-when-coronavirus-checks-are-coming>.

¹¹ Marisa Penalzoa, "Lawsuit Alleges CARES Act Excludes U.S. Citizen Children Of Undocumented Immigrants," NPR.org, May 5, 2020, <https://www.npr.org/2020/05/05/850770390/lawsuit-alleges-cares-act-excludes-u-s-citizen-children-of-undocumented-immigran>.

¹² Presidents Alliance on Higher Education and Immigration and New American Economy, "Undocumented Students in Higher Education How Many Students Are in U.S. Colleges and Universities, and Who Are They?," April 2020, <https://www.presidentsimmigrationalliance.org/wp-content/uploads/2020/04/2020-04-16-NAE-PA-Report-Undocumented-Students-in-Higher-Education.pdf>



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Latinx people are three times more likely to contract coronavirus and twice as likely to die from COVID-19 than white people.¹³

College Is More Expensive for Undocumented Students

Over 80% of undocumented students enrolled in colleges and universities came to the United States as children or adolescents. These students attended elementary, middle, and high schools in communities across America.¹⁴ Their families lived, worked, and contributed socially, culturally, and economically to this country. Students who came here as adults have contributed in the same ways. Despite their deep ties and contributions, many federal and state higher education policies actively harm undocumented students or place nearly insurmountable financial barriers in their way.

Additionally, college is too expensive for the vast majority of Americans. Over the past several decades, the college costs have soared. In 1980, the full cost of college, including tuition, fees, and room and board, was \$9,803; in 2016-17, it was \$26,593.¹⁵ Meanwhile, discriminatory federal immigration policy and short-sighted higher education policy leave many undocumented students locked out of a critical tool for paying for college: federal and state financial aid.

Undocumented students, including DACA students, are barred from receiving federal financial aid, including grants, loans, and work study.¹⁶ As noted above, a majority of undocumented students are Latinx or Black. An analysis by the Center on Budget and Policy Priorities found that the average net price for a public four-year university comprised 23% of the national median household income in 2017, but took up 40% or more of the median household income for Latino and Black families in seven and 17

¹³ Richard A. Oppel Jr. et al., "The Fullest Look Yet at the Racial Inequity of Coronavirus," *The New York Times*, July 5, 2020, <https://www.nytimes.com/interactive/2020/07/05/us/coronavirus-latinos-african-americans-cdc-data.html>.

¹⁴ Presidents Alliance on Higher Education and Immigration and New American Economy, "Undocumented Students in Higher Education How Many Students Are in U.S. Colleges and Universities, and Who Are They?," April 2020, <https://www.presidentsimmigrationalliance.org/wp-content/uploads/2020/04/2020-04-16-NAE-PA-Report-Undocumented-Students-in-Higher-Education.pdf>.

¹⁵ U.S. Department of Education, National Center for Education Statistics, Projections of Education Statistics to 1986-87; Higher Education General Information Survey (HEGIS), "Institutional Characteristics of Colleges and Universities" surveys, 1969-70 through 1985-86; "Fall Enrollment in Institutions of Higher Education" surveys, 1963 through 1985; Integrated Postsecondary Education Data System (IPEDS), "Fall Enrollment Survey" (IPEDS-EF:86-99) and "Institutional Characteristics Survey" (IPEDS-IC:86-99); IPEDS Spring 2001 through Spring 2017, Fall Enrollment component; and IPEDS Fall 2000 through Fall 2016, Institutional Characteristics component. (This table was prepared November 2017.)

¹⁶ "Advising Undocumented Students – Explaining Financial Aid | Education Professionals – The College Board," Education Professionals, September 7, 2007, <https://professionals.collegeboard.org/guidance/financial-aid/undocumented-students>.



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states, respectively.¹⁷ This analysis assumes that a student has access to in-state tuition, which many undocumented students do not. Not having access to federal financial aid means they are missing out on the largest source of funding for college.

Many states bar undocumented students from accessing in-state tuition at public colleges and universities, even though they are residents. In-state tuition is much lower than out-of-state tuition. According to the College Board, the average in-state tuition and fees at public four-year institution for the 2019-20 academic year was \$10,440 compared to \$26,820 for out-of-state tuition and fees.¹⁸ Tuition and fees are just one of many college costs. Students must also pay for books, living expenses, food, transportation, and other expenses. Only 22 states and the District of Columbia allow undocumented students to pay in-state tuition: California, Colorado, Connecticut, Florida, Hawaii, Illinois, Kansas, Kentucky, Maryland, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, Oklahoma, Oregon, Texas, Rhode Island, Utah, Virginia¹⁹, and Washington.²⁰ Arizona requires undocumented students to pay 150% of the state's in-state tuition rate. Students with DACA are permitted to pay in-state tuition in Massachusetts and Ohio.²¹ The remaining states require undocumented students to pay out-of-state tuition.

And while 49 states²² offer financial aid, only a limited number let undocumented students access it. Undocumented students can receive state financial aid in California, Colorado, District of Columbia,

¹⁷ Michael Mitchell, Michael Leachman, and Matt Saenz, "State Higher Education Funding Cuts Have Pushed Costs to Students, Worsened Inequality" (Center on Budget and Policy Priorities, October 21, 2019), <https://www.cbpp.org/research/state-budget-and-tax/state-higher-education-funding-cuts-have-pushed-costs-to-students>.

¹⁸ "Trends in College Pricing 2019 – Research – College Board," Research, June 7, 2019, <https://research.collegeboard.org/trends/college-pricing>.

¹⁹ WHSV newsroom ; Capital News Service, "Northam Signs Bills to Expand In-State Tuition Regardless of Citizenship Status," <https://www.whsv.com>, accessed July 15, 2020, <https://www.whsv.com/content/news/With-Northams-signature-Virginia-becomes-1st-southern-state-allowing-undocumented-students-to-pay-in-state-tuition-569640931.html>.

²⁰ Erica Williams, Eric Figueroa, and Wesley Tharpe, "Inclusive Approach to Immigrants Who Are Undocumented Can Help Families and States Prosper" (The Center on Budget and Policy Priorities, August 14, 2019), <https://www.cbpp.org/research/state-budget-and-tax/inclusive-approach-to-immigrants-who-are-undocumented-can-help>.

²¹ Roberto G. Gonzales et al., "The Long-Term Impact of DACA: Forging Futures Despite DACA's Uncertainty" (Immigration Initiative at Harvard, 2019), https://immigrationinitiative.harvard.edu/files/hii/files/final_daca_report.pdf.

²² "Trends in Student Aid 2019" (College Board), accessed July 15, 2020, <https://research.collegeboard.org/trends/student-aid>.



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Hawaii, Illinois, Maryland, Minnesota, New Jersey, New Mexico, New York, Oklahoma, Oregon, Texas, and Washington.²³

ED's decision to block access to emergency grants for students who are not eligible for federal financial aid harms undocumented students and undermines the goals of getting essential aid during a pandemic to those students who need it. **We urge ED to rescind this rule in its entirety and extend emergency student aid to all students, consistent with the intent of Congress and the plain language of the CARES Act.**

Thank you for the opportunity to comment on this important topic.

Sincerely,

Wil Del Pilar
Vice President of Higher Education Policy and Practice
The Education Trust

²³ Erica Williams, Eric Figueroa, and Wesley Tharpe, "Inclusive Approach to Immigrants Who Are Undocumented Can Help Families and States Prosper" (The Center on Budget and Policy Priorities, August 14, 2019), <https://www.cbpp.org/research/state-budget-and-tax/inclusive-approach-to-immigrants-who-are-undocumented-can-help>.