

August 22, 2024

Secretary Miguel Cardona, Undersecretary James Kvaal, and Assistant Secretary Nasser Paydar
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC, 20202

RE: Federal TRIO Program Eligibility, Docket ID: ED-2024-OPE-0050

Dear Secretary Cardona, Under Secretary Kvaal, and Assistant Secretary Paydar,

EdTrust commends your efforts to remove unnecessary participant eligibility restrictions in federal TRIO programs, and we are supportive of the draft rule. To that end, we are supportive of, and have cosigned, the comment submitted to the U.S. Department of Education (“the Department”) from UnidosUS that “strongly support[s] the Department’s proposed rule, which would ensure TRIO providers can serve all students.” However, we urge you to take this opportunity to be more fully inclusive.

As outlined below, we recommend a small technical clarification to the proposed rule to ensure more fully inclusive access to Educational Opportunity Centers (EOC), whose grantees typically serve adults 19 years and older, i.e., individuals who typically are not “enrolled in or seek to enroll in a high school in the United States, territories, or Freely Associated States.” Limiting EOC eligibility to current or future high school students leaves out many adults seeking to upskill themselves, who could benefit from EOC services and who could contribute to federal and state goals for increasing postsecondary attainment. We suggest using the words, “have enrolled ...,” instead of “are enrolled ...” throughout the rule — as the Department did in the Executive Summary and Background parts of the proposed rule — which would include potential EOC participants who currently attend and who previously attended high school in the U.S., territories, or Freely Associated States.

Additionally, we recommend that the Department review federal law, and if possible, remove the prohibition on direct cash stipends in the Upward Bound program for students who are not currently eligible for Upward Bound but would become eligible after the implementation of this rule. The prohibition of direct cash stipends for these students will prevent these students from reaping the full benefits of the Upward Bound program, place a burden on program administrators to track differences in eligibility among students within the program, and create privacy concerns for students as they disclose their legal status to determine eligibility for the stipend. Maintaining the prohibition on stipends will undermine the efficiency of expanding Upward Bound to all students. If it is not possible to remove the prohibition, we encourage the



Department to provide guidance on securing non-federal sources of funding to supply all Upward Bound participants with a direct cash stipend.

We are also supportive of, and have cosigned, the comment submitted to the Department from the National Immigration Law Center (NILC), the Presidents' Alliance on Higher Education and Immigration, and others, arguing for removing participant eligibility barriers in *all* federal TRIO programs, not only the "pre-postsecondary" programs included in the Department's proposal. In expanding eligibility for the two postsecondary TRIO programs, McNair Scholars and Student Support Services, we urge the Department to place no prohibition on direct cash stipends for the newly eligible students for the reasons mentioned above regarding the Upward Bound program.

We offer here two options for how to also remove unnecessary eligibility exclusions for McNair Scholars and Student Support Services: deleting all references to citizenship and nationality in TRIO eligibility regulations or using the same "... have enrolled" language recommended for EOC.

As the letter from NILC, et al. states, "Each year, nearly 100,000 undocumented students graduate from U.S. high schools." Removing or revising rules that exclude these students from McNair Scholars and Student Support Services would support the Department's stated goal to "assist students on their path to and attainment of postsecondary education."

Option A: Remove all regulatory language referring to citizenship, nationality, etc.

As the [letter](#) from nonfederal negotiators who participated in this rulemaking, Magin Misael Sanchez and Jessica Morales, make clear:

There is no statutory restriction that requires TRIO providers to offer services only to students who are citizens; the Higher Education Act makes no mention of such a prohibition for TRIO. However, the Department's current regulations for TRIO are misaligned with the statute and include a longstanding but non-statutorily supported restriction that students served by TRIO be a citizen or national of the U.S., a permanent resident of the U.S., a permanent resident of Guam, the Northern Mariana Islands, or Palau, or a resident of the Freely Associated States.

The most efficient approach would be for the Department to strike the unnecessarily limiting language about citizenship and nationality from all TRIO program regulations instead of adding exceptions to the unnecessary citizenship/nationality rule. This is the approach we prefer.

Option B: If not Option A, then revise regulatory language to remove unnecessary restrictions for EOC, SSS, and McNair.



| Program | ED's proposal | EdTrust revision | EdTrust notes |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Educational Opportunity Centers (EOC) | Add paragraph including as eligible "...individuals who are enrolled in or seek to enroll in a high school in the United States, territories, or Freely Associated States." | Add paragraph including as eligible "...individuals who have enrolled in or seek to enroll in a high school in the United States, territories, or Freely Associated States." | Using "have" instead of "are" includes potential EOC participants <i>who currently attend and who previously attended high school</i> in the U.S., territories, or Freely Associated States.* |
| Student Support Services (SSS) and McNair Scholars | No change in citizenship/nationality requirement | Delete citizenship/nationality requirement altogether OR use the same "...have enrolled in a high school..." language that EdTrust recommends for EOC | Eliminating participant eligibility restrictions in these college-based programs would more fully align with ED's goal to "assist students on their path to and attainment of postsecondary education." |

*The Department's notice in the Federal Register uses both "have enrolled" and "are enrolled" in different parts of the notice. The Executive Summary and Background sections use "have enrolled." See below for an excerpt from the Executive Summary. We urge the Department to use "have enrolled" in all relevant parts of the rule, unless the Department decides to remove references to nationality and citizenship status altogether, per Option A above, which is our preference.

*The proposed changes to TRIO would expand student eligibility and provide greater access to postsecondary education for disadvantaged students under three programs that offer student services in a pre-postsecondary education setting—the Talent Search program, the Educational Opportunity Centers program, and the Upward Bound program by expanding participant eligibility to include all students who **have enrolled in** or who seek to enroll in a high school in the United States, territories, or Freely Associated States. ([Program Integrity and Institutional Quality: Distance Education, Return of Title IV, HEA Funds, and Federal TRIO Programs](#); Part II Executive Summary; emphasis added)*

Thank you for your commitment to opening the door wider to education beyond high school for so many more students by strengthening this rule. Please reach out to Reid Setzer (rsetzer@edtrust.org), Phil Martin (pmartin@edtrust.org), or Sayda Martinez-Alvarado (smartinezalvarado@edtrust.org) with any additional questions.



Best,

EdTrust

