

July 08, 2020

Gaby Watts  
U.S. Department of Education  
400 Maryland Ave. SW, Room 258-02  
Washington, DC 20202

(Comments submitted electronically via [www.regulations.gov](http://www.regulations.gov) )

RE: Docket ID ED–2020–OPE–0078

Dear Ms. Watts:

These comments are in response to the June 17, 2020, Federal Register notice (docket number ED–2020–OPE–0078) inviting public input regarding the Interim Final Rule issued by the U.S. Department of Education on student eligibility for Higher Education Emergency Relief Fund (HEERF) Emergency Grants. It is vital that the Department of Education does not deny students this much needed emergency aid relief; without this funding, the education plans of millions of students may be placed in jeopardy.

We submit these comments on behalf of The Institute for College Access & Success (TICAS), a trusted source of research, design, and advocacy for student centered public policies that promote affordability, accountability and equity in higher education. For more than 15 years, TICAS has conducted research and advocacy on behalf of low-income students and students of color nationally and in California.

For reasons detailed below, we urge the Department to reverse course, rescind the interim final rule, and immediately allow all vulnerable students to access the crucial emergency relief that Congress intended them to receive. The Department can and should allow colleges to extend these resources to students who need them most, rather than excluding millions of students through arbitrary eligibility restrictions or paperwork requirements.

The COVID-19 pandemic has underscored longstanding inequities in student wealth and financial security in higher education. As the pandemic led to sudden campus closures across the country, undergraduates scrambled to find new living situations, navigate a sudden shift to remote learning, and face unforeseen economic challenges such as lost childcare, healthcare, and earnings. The move to online learning also highlighted how many students across the country do not have the adequate access to reliable technology, including both equipment and internet access.<sup>1</sup> In response to these new challenges, colleges began to explore how to meet the clear and urgent needs of their students without knowing if the federal government would provide funds to alleviate these costs.

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<sup>1</sup> Clark, Ashley. "Survey Reveals Higher Ed Students Have Inequitable Access to Reliable Broadband." Medium, Higher Learning Advocates, 1 June 2020, [medium.com/higher-learning-advocates/survey-reveals-higher-ed-students-have-inequitable-access-to-reliable-broadband-ab3cc152d663](https://medium.com/higher-learning-advocates/survey-reveals-higher-ed-students-have-inequitable-access-to-reliable-broadband-ab3cc152d663).

Congress deserves credit for quickly enacting the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, on March 27, 2020. The law allocated \$14 billion towards higher education and required that at least half of those funds go directly to students as emergency relief. However, the Department did not publish an interim final regulation until June 17.<sup>2</sup>

The interim final regulation limits CARES Act emergency scholarships to “those individuals eligible for Title IV assistance” under the Higher Education Act, such as Pell Grants and federal student loans. However, nothing in the statute directs the Department to exclude other students. The Department concedes that “Congress did not previously choose to provide emergency financial aid grants through the HEA, and thus these grants, by definition, do not constitute federal financial student aid under the HEA.” Instead, “the CARES Act does not define the term ‘student,’” making the term “at a minimum, ambiguous” and “requiring the Department to exercise its narrow interpretative authority.”<sup>3</sup>

### **The Interim Final Regulation Excludes Millions of Students**

As the Department states on its web site, “the CARES Act Higher Education Emergency Relief Fund-IHE/Student Aid provides funding to institutions to provide emergency financial aid grants to students whose lives have been disrupted, many of whom are facing financial challenges and struggling to make ends meet.”<sup>4</sup> In fact, however, millions of these students are excluded by a cruel, confusing, and counterproductive policy decision. The Department’s decision to limit emergency funds to students who are eligible for Title IV aid excludes large numbers of low-income students, Black students, Latino students, veterans, and students without citizenship.

While the Department’s guidance did not explicitly state that a Free Application for Federal Student Aid (FAFSA) application was required, having one on file is the most practical way to determine if a student is eligible to receive Title IV aid and therefore CARES Act emergency scholarships. Each year millions of students do not file the FAFSA for a variety of reasons; many such students are economically vulnerable and in need and deserving of expeditious aid. Among the students who did not fill out the FAFSA in 2015-16 are:<sup>5</sup>

- At least 2,937,000 (27.4%) low-income undergraduates (those with family incomes below \$60,000);
- At least 198,000 (31.4%) low-income veteran undergraduates;
- 503,000 (53.8%) low-income students without citizenship;<sup>6</sup>
- 557,000 (16.5%) low-income Black students; and

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<sup>2</sup> U.S. Department of Education, “Secretary DeVos Rapidly Delivers More Than \$6 Billion in Emergency Cash Grants for College Students Impacted by Coronavirus Outbreak.” Secretary 9 Apr. 2020, [www.ed.gov/news/press-releases/secretary-devos-rapidly-delivers-more-6-billion-emergency-cash-grants-college-students-impacted-coronavirus-outbreak](http://www.ed.gov/news/press-releases/secretary-devos-rapidly-delivers-more-6-billion-emergency-cash-grants-college-students-impacted-coronavirus-outbreak).

<sup>3</sup> U.S. Department of Education, “Eligibility of Students at Institutions of Higher Education for Funds under the Coronavirus Aid, Relief, and Economic Security Act,” June 17, 2020, <https://www.regulations.gov/document?D=ED-2020-OPE-0078-0001>

<sup>4</sup> US Department of Education. “CARES Act: Higher Education Emergency Relief Fund.” Home, 25 June 2020, [www2.ed.gov/about/offices/list/ope/caresact.html#:~:text=The%20CARES%20Act%20Higher%20Education%20Emergency%20Relief%20Fund%20IHE%2FStudent,struggling%20to%20make%20ends%20meet](http://www2.ed.gov/about/offices/list/ope/caresact.html#:~:text=The%20CARES%20Act%20Higher%20Education%20Emergency%20Relief%20Fund%20IHE%2FStudent,struggling%20to%20make%20ends%20meet).

<sup>5</sup> Figures based on TICAS analysis of data from the U.S. Department of Education, National Center for Education Statistics, 2015-16 National Postsecondary Student Aid Study (NPSAS:16). Low-income undergraduates are students with adjusted gross income (AGI) less than or equal to \$60,000 in 2014. AGI includes parental income for dependent students. Variables used are FEDAPP, CAGI, VETERAN, IMMIGRA, RABBLACK, and HISPANIC. Number of students based on integrated Postsecondary Education Data System (IPEDS), 2015 Fall Enrollment survey component.

<sup>6</sup> Includes both resident aliens or eligible non-citizens and foreign students (but not undocumented students).

- 902,000 (26.0%) low-income Latino students.<sup>7</sup>

Although federal data on FASFA completion for undocumented students is unavailable, researchers estimate that there are now more than 450,000 undocumented undergraduates, approximately 2 percent of all students in higher education in the U.S. There are about 216,000 students among undocumented students who are approved for Deferred Action for Childhood Arrivals (DACA) or who are eligible for DACA, making up 1 percent of all students in higher education.<sup>8</sup>

The main reason low-income students do not fill out the FASFA is that they feel they are ineligible for federal financial aid. According to a nationally representative sample of undergraduates for 2015-16, low-income students reported the following reasons for not applying for financial aid:<sup>9</sup>

- 48.2 percent thought they were ineligible.
- 42.3 percent said they had no need for aid.
- 31.4 percent did not want to take on debt.
- 14.3 percent did not have enough information about how to apply.
- 9.6 percent said application forms were too much work.

While renewal requests for federal student aid have declined since last year, the pace of decline was accelerated after the start of COVID-19. Renewals were off by 4.7 percent through mid-April, with a sharp drop from students with family incomes of \$50,000 or less. These figures imply that more than 362,000 students will not renew their FAFSA applications for the next academic year.<sup>10</sup> Any of these students who enroll in college next year will not only miss out on potentially thousands of dollars of Title IV aid but, as a result of the Department's policy decision, CARES Act emergency financial aid grants as well.

### **Emergency Needs Are Widespread**

For federal emergency aid to meet the immediate economic needs of students, especially low-income students, the Department must not exclude the students known to have the most financial need. Even before the challenges of the coronavirus, low-income students faced barriers that made it difficult for them to earn a degree.

To gain a glimpse of how students were being affected by the pandemic, the HOPE Center conducted a widespread electronic survey focusing on the pandemic's impact on students' basic needs, including employment, academic engagement, and food/housing security. The survey results indicated some crucial findings:

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<sup>7</sup> Latino students are those with Hispanic or Latino origin.

<sup>8</sup> <https://www.presidentsimmigrationalliance.org/wp-content/uploads/2020/04/2020-04-16-NAE-PA-Report-Undocumented-Students-in-Higher-Education.pdf>

<sup>9</sup> Figures based on TICAS analysis of data from the U.S. Department of Education, National Center for Education Statistics, 2015-16 National Postsecondary Student Aid Study (NPSAS:16). Low-income undergraduates are students with adjusted gross income (AGI) less than or equal to \$60,000 in 2014. AGI includes parental income for dependent students. Used variables FEDAPP, CAGI, REANOAPE, REANOAPD, REANOAPF, REANOAPC, and REANOAPB. Note figures add up to more than 100 percent because respondents we allowed to select multiple reasons.

<sup>10</sup> Korn, Melissa. "Fewer Students Apply for College Financial Aid, a Sign Coronavirus May Disrupt Enrollment." *The Wall Street Journal*, Dow Jones & Company, 12 May 2020, <https://www.wsj.com/articles/fewer-students-apply-for-college-financial-aid-a-sign-coronavirus-may-disrupt-enrollment-11589284806>

- Two in three students who were employed before the pandemic experienced job insecurity, with one-third losing a job due to the pandemic. Basic needs insecurity was higher among students who experienced job loss and/or cuts to pay or hours.
- Half of respondents at two-year institutions and 63 percent of respondents at four-year institutions said that they could not concentrate on schooling during the pandemic.
- Six percent of respondents reported they did not feel safe where they were living.
- Fifteen percent at four-year institutions and 11 percent at two-year institutions were experiencing homelessness due to the pandemic.
- Black students were 19 percentage points more likely than White students to report basic needs insecurity.
- Twenty-one percent of respondents dealing with basic needs insecurity applied for unemployment insurance, 15 percent applied for SNAP, and 15 percent applied for emergency aid. But many students did not apply for these resources, many because they did not know they were eligible to do so.<sup>11</sup>

A similar study conducted at Arizona State University analyzed the effects of the COVID-19 outbreak and the disproportionate impacts on low-income students. Results showed similar negative effects across different aspects for students in higher education. Findings included:

- COVID-19 nearly doubled the gap between higher- and lower-income students' expected GPAs.
- Lower-income students are 55 percent more likely to delay graduation due to COVID-19 and are 41 percent more likely to report that COVID-19 impacted their major choice. Disparate economic and health impacts of COVID-19 account for 40 percent of the delayed graduation gap (as well as a substantial portion of the gap for other outcomes) between lower- and higher-income students.
- Lower-income students faced larger health and economic shocks as compared to their more affluent peers.
- Lower-income students rate their health as worse than higher-income students and perceive a higher probability of being hospitalized if they catch the virus.
- Lower-income students are almost 10 percentage points more likely to default on their debt payments than their higher-income counterparts.
- Lower-income students are 16 percentage points more likely to have had a close family member experience an income reduction due to COVID-19.<sup>12</sup>

Unfortunately, data from both surveys makes it clear that COVID-19 has had a disproportionately negative impact on the academic performance, economic well-being, and overall health of lower-income students.

The Department's proposal to exclude millions of students frustrates the goal of this legislation in meeting the emergency needs of college students. We strongly recommend that the Department reverse course and allow colleges to extend these resources to students who need them most, without arbitrary eligibility restrictions or paperwork requirements.

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<sup>11</sup> "#RealCollege During the Pandemic." *The Hope Center*, 26 June 2020, <https://hope4college.com/realcollege-during-the-pandemic/>.

<sup>12</sup> Aucejo, Esteban M, et al. "The Impact of COVID-19 on Student Experiences and Expectations: Evidence from a Survey." *NBER*, 18 June 2020, [www.nber.org/papers/w27392](http://www.nber.org/papers/w27392).

Thank you for allowing us the opportunity to provide input regarding the future direction of the HEERF regulations through these comments. Please feel free to contact Angelica Gutierrez at [agutierrez@ticas.org](mailto:agutierrez@ticas.org) or (202) 223-6060 at any time with further questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "James Kvaal".

James Kvaal  
President

A handwritten signature in blue ink, appearing to read "Angelica Gutierrez".

Angélica Gutiérrez  
Policy Associate