



Celina Moreno, J.D.
President & CEO

Re: Eligibility of Students at Institutions of Higher Education for Funds under the Coronavirus Aid, Relief and Economic Security Act
Docket ID: ED-2020-OPE-0078

July 14, 2020

IDRA submits this comment respectfully urging the U.S. Department of Education to rescind its interim final rule, which prohibits undocumented college students from receiving federal Coronavirus Aid, Relief and Economic Security (CARES) Act relief funds, published June 17, 2020 (Federal Register No. 2020-12965).

IDRA is a national non-profit that works to ensure equitable educational opportunities for every student through strong, safe, and well-funded public schools that prepare all young people to access and succeed in college. Through actionable research and data products, training for educators, timely policy analyses, and authentic community engagement, IDRA addresses the systems, policies and practices that create barriers to educational success.

The Department's decision to exclude students from COVID-19 emergency financial aid grants based on immigration status imposes a barrier to educational success for many hard-working students who attend colleges and universities in the United States, including undocumented students who are DACA (Deferred Action for Childhood Arrivals) recipients. Higher Education Emergency Relief Fund (HEERF) resources were allocated to address the emergency needs of those students who most need financial assistance, as determined by their institution of higher education (IHE). Arbitrarily limiting those funds harms students, IHEs and states.

The Department's Rule Harms Students

The disease and economic downturn do not discriminate based on immigration status. Approximately 450,000 undocumented students are enrolled in U.S. schools,¹ and many are experiencing the same academic, social, personal and financial disruptions to their lives as their peers. HEERF funds should not be distributed based on immigration status but on the needs of students. These funds will enable students to continue to pursue their education, start their careers, and contribute to our communities and economies. With support, these students will be able use their skills and knowledge to help address the public health, economic, educational and social challenges that are being exacerbated by the pandemic and will be felt for years to come.

The Department's Rule Harms Institutions of Higher Education

The CARES Act provides that no less than 50% of HEERF funds be distributed as financial aid grants to "students for expenses related to the disruption of campus operations due to Coronavirus" including eligible expenses related to the costs of food, housing, healthcare and childcare. These funds were intended to address student needs that, under normal circumstances, would be supported by an IHE. IHEs had been making those support decisions before COVID-19, based on assessments of the financial position and requirements of their students.

¹ Presidents' Alliance for Higher Education & New American Economy. (April 2020). [Undocumented Students in Higher Education How Many Students are in U.S. Colleges and Universities, and Who Are They?](#)

Congress designed the HEERF financial aid grants to ensure IHEs could continue supporting their students' financial and academic stability during the pandemic. There is no evidence that, without this rule, IHEs will engage in rampant wasteful, fraudulent or abusive distribution procedures, as the Department alleges.² Instead, the rule strips away decision-making power from IHEs and compromises their ability to make critical judgments about budgets, resources and course offerings.

The Department's Rule Harms States

K-12 schools have the obligation to serve all students, regardless of immigration status, not only because it is the right thing to do, but also because the U.S. Supreme Court made their obligation clear in *Plyler v. Doe* (457 U.S. 202 (1982)). Many states have chosen to extend support to undocumented students beyond secondary school, making them eligible for in-state tuition rates and state financial aid. The Department's rule limits states' ability to support their students.

Additionally, the rule destabilizes already-fragile state economies that depend on the academic engagement and success of all young people, regardless of immigration status. Immigrant families contribute to their communities and to economies through their work and through taxes – the state and local tax contributions of immigrant families total more than \$11 billion per year.³ Unfortunately, these families are also more likely to lack health insurance and to have jobs that cannot be done remotely, increasing their risk of COVID-19 infection.⁴ Blocking students from emergency relief funds compromises their ability to remain in school and pursue careers that provide stability for them and their families.

The decision to include immigration status as a basis for the distribution of HEERF financial aid grants is arbitrary and capricious and inconsistent with Congress' goal of providing aid, relief and economic security to the students most impacted by the pandemic.⁵ In crafting the rule, the Department failed to consider the unprecedented context we are in – a global pandemic requires considerations of the particular needs of impacted students and communities and how unmet needs affect our collective ability to weather the pandemic. Those considerations must be guided by the principles of equity and compassion for those who are most impacted.

We respectfully urge the Department to rescind its interim final rule related to the distribution of HEERF resources and urge all IHEs to distribute this, and subsequent, critical emergency funding to the students who most need it, regardless of immigration status.

Should you have any questions or concerns, please contact me at morgan.craven@idra.org.

Sincerely,
Morgan Craven, J.D.,
National Director of Policy, Advocacy, and Community Engagement
IDRA (Intercultural Development Research Association)

The Intercultural Development Research Association is an independent, non-profit organization, led by Celina Moreno, J.D. Our mission is to achieve equal educational opportunity for every child through strong public schools that prepare all students to access and succeed in college. IDRA strengthens and transforms public education by providing dynamic training; useful research, evaluation, and frameworks for action; timely policy analyses; and innovative materials and programs.

² U.S. Department of Education. (June 17, 2020). [Eligibility of Students at Institutions of Higher Education for Funds Under the Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#), Federal Register.

³ Gee, L. C., Gardner, M., & Wiehe, M. (February 2016). [Undocumented Immigrants' State & Local Tax Contributions](#), The Institute on Taxation and Economic Policy.

⁴ New American Economy. (March 26, 2020). [Immigration and COVID-19](#) (Data Collection and Analysis); New American Economy. (April 4, 2020). [Undocumented Immigrants and the COVID-19 Crisis](#) (Data Collection and Analysis).

⁵ The CARES Act, H.R. 748—116th Congress, [The Coronavirus Aid, Relief, and Economic Security Act](#), sec. 18004(c). "Institutions of higher education shall use no less than 50% of such funds to provide emergency financial aid grants to students for expenses related to the disruption of campus operations due to coronavirus (including eligible expenses under a student's cost of attendance, such as food, housing, course materials, technology, health care, and child care)."