

June 1, 2020

Senator Mitch McConnell
Majority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

Senator Chuck Schumer
Minority Leader
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

Re: Unemployment Insurance Relief for Colleges and Universities

Dear Leader McConnell and Minority Leader Schumer:

On behalf of the American Council on Education and the undersigned higher education associations, I am writing today seeking relief from Department of Labor (DOL) guidance implementing Section 2103 of the CARES Act, which provides emergency unemployment relief to governmental entities and nonprofits. Unfortunately, the DOL guidance¹ undermines the provision's intent to provide relief to employers facing difficult financial situations and may cause further harm to self-insured public and private nonprofit colleges and universities. We respectfully request that the Senate address this issue in the next major COVID-19 legislation.

The CARES Act provided states with emergency unemployment funding intended to reduce the financial liability of self-insured nonprofit, government, and tribal employers for their COVID-19 unemployment insurance (UI) claims as way to help these employers manage the financial challenges brought on by the pandemic. Self-insured employers are required to reimburse their state unemployment insurance trust funds for the full amount of benefits their terminated or laid off employees claim. Under the CARES Act, the federal government will pay 50 percent of the reimbursable unemployment benefits from March 13, 2020, through December 31, 2020, for self-insured employers. The CARES Act also allows states flexibility in collecting the remaining 50 percent from these employers. Many public and private nonprofit colleges and universities are self-insured and will benefit from these provisions.

Section 2103 of the CARES Act also authorizes DOL to issue guidance that would "provide maximum flexibility to reimbursing employers" regarding timely payments and assessment of penalties and interest pursuant to state unemployment laws. The DOL guidance issued on April 27, 2020, however, requires states to bill self-insured nonprofits, including such colleges and universities, for the full amount of their COVID-19 related UI claims and then request reimbursement from their state UI trust funds for 50 percent of the amount paid. In addition, the DOL guidance has introduced unnecessary confusion, with some states interpreting the language as creating a penalty if they forgive any amount of the funds owed, or if they do not proceed with collections.²

¹ https://wdr.doleta.gov/directives/attach/UIPL/UIPL_18-20.pdf.

² See part 4(a) of the DOL guidance.

Many public and private nonprofit colleges and universities self-insure their unemployment coverage, and the reimbursement model created through the DOL guidance will result in states imposing an additional financial burden on public and nonprofit colleges and universities already struggling to deal with significant liquidity challenges brought on by the COVID-19 pandemic.

Given the congressional intent to provide the “maximum flexibility” for reimbursing employers, states should be able to use the federal funds to reduce the amount that is owed. The House-passed HEROES Act includes a provision that would do just that, amending the CARES Act to read that the federal funds “shall be used exclusively to reduce the amounts required to be paid in lieu of contributions into the State unemployment fund.” This straightforward fix would free up these funds to help employers better respond to the myriad other issues related to the COVID-19 response.

There is also significant bipartisan interest in the Senate in addressing this issue. Senators Lankford and King recently sent a bipartisan letter to leadership with 28 Senate colleagues urging that self-insured nonprofits be treated fairly in the fourth-phase relief proposal for the coronavirus pandemic.³

We urge the Senate to address this problem in the next major COVID-19 relief legislation.

Thank you for your attention to this issue.

Sincerely,



Ted Mitchell
President

On behalf of:

Achieving the Dream
ACPA-College Student Educators International
Alabama Association of Independent Colleges and Universities
American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of State Colleges and Universities
American Association of University Professors
American College Health Association

³<https://www.lankford.senate.gov/imo/media/doc/Nonprofit%20Support%20Letter%20to%20Leadership.pdf>.

American Council on Education
APPA, "Leadership in Educational Facilities"
Association for Biblical Higher Education
Association of American Universities
Association of Catholic Colleges and Universities
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of Independent California Colleges and Universities
Association of Independent Colleges and Universities of Ohio
Association of Independent Colleges and Universities of Pennsylvania
Association of Independent Colleges and Universities of Rhode Island
Association of Independent Colleges of Art & Design
Association of Jesuit Colleges and Universities
Association of Public and Land-grant Universities
College and University Professional Association for Human Resources
Connecticut Conference of Independent Colleges
Council for Advancement and Support of Education
Council for Christian Colleges & Universities
Council for Higher Education Accreditation
Council of Independent Colleges
Council of Independent Colleges in Virginia
EDUCAUSE
ETS
Georgia Independent College Association
Great Lakes Colleges Association
Hispanic Association of Colleges and Universities
Independent Colleges of Indiana
Kansas Independent College Association
Louisiana Association of Independent Colleges and Universities
Maryland Independent College and University Association
Minnesota Private College Council
NASPA - Student Affairs Administrators in Higher Education
National Association for College Admission Counseling
National Association for Equal Opportunity in Higher Education
National Association of College and University Business Officers
National Association of Colleges and Employers
National Association of Independent Colleges and Universities
Network of Colleges and Universities, Evangelical Lutheran Church in America
Oregon Alliance of Independent Colleges & Universities
State Higher Education Executive Officers Association
Transnational Association of Christian Colleges and Schools
Yes We Must Coalition