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April 20, 2023

Ms. Ashley Clark
U.S. Department of Education
400 Maryland Ave. SW
Room 2C-185
Washington, DC 20202

RE: Negotiated Rulemaking Committee; Public Hearings,
Docket ID: ED-2023-OPE-00039

Dear Ms. Clark,

Thank you for the opportunity to respond to the March 24, 2023, notice to establish negotiated rulemaking committees as referenced in Docket ID: ED-2023-OPE-0003. The University of California (UC) appreciates the U.S. Department of Education's efforts to solicit comments on a variety of issues. Outlined in our letter is a general overview of UC's concerns and some examples of impact that we have identified. UC urges the department to undertake a negotiated rulemaking process to solicit the input of a diversity of stakeholders with expertise and knowledge on the issues commented on in this letter.

Return to Title IV

UC is a ten-campus system that serves nearly 300,000 students. One of UC's core principles is providing an affordable and accessible high-quality education. During the most recent academic year, 75,000 of our undergraduate students – about 33 percent – are federal Pell Grant recipients and another 4,000 are low-income undocumented students. It is also worth noting that nearly as many of our graduate students were Pell Grant recipients when they were undergraduates.

UC is committed to supporting our low-income students through graduation. The Return to Title IV (R2T4) is one of a multitude of federal aid policies intended to impose a level of responsibility for taxpayer investment by billing aid to students who withdraw or cease enrollment during an academic term.

However, R2T4 is a broken accountability measure; it reduces the benefits of financial aid programs for those at risk of not completing their degree. It is administratively burdensome, complicated and confusing to students, and has an insignificant share of returns based on total aid administered for large public institutions such as UC. It is one of a collection of other measures that regulate the amount of aid that students access, and one that disproportionately penalizes low-income students and those most at risk of not completing their degree.

R2T4 has been listed in the department's top ten audit findings nationally for over a decade. It alone encompassed over a quarter of the 1,000-page 2021 Federal Student Aid Handbook. Understanding the R2T4 worksheet process is complex, so much so that it took up an entire chapter in the handbook.

Further, the regulation is inefficient, laborious and time consuming. It burdens campus financial aid offices with understanding how the calculation is affected by disbursed aid versus aid that could have been disbursed; varying requirements by individual type of aid and attendance taking; and variations for schools that have modules; as well as other complicating factors.

The financial impact of withdrawing is typically not known by a student until after they discontinue enrollment. Those students who do inquire before withdrawing are provided with general information from financial aid and academic advisors who must walk a tenuous line between supporting students and maintaining the integrity of a federal policy that may impact the student's ability to return. A financial aid bill from their campus financial aid office as result of R2T4 is a significant barrier, particularly for low-income students, as they have limited resources with which to pay these debts, affecting their ability to return, continue, and complete their education. Billing low-income students is made even more problematic when those bills are tied to return of loan funds, which a student would be responsible to repay regardless.

State Authorization

UC recommends that the department consider revising its role in overseeing State Authorization Reciprocity Agreements (SARA) so that California can join. Currently, California is the only state not in SARA. There are a few pathways to allow California to be a part of SARA: revise SARA so that it includes sufficient student/consumer protections or revise the federal definition of "state authorization reciprocity agreement" so that reciprocity cannot prohibit any member state from enforcing laws that address consumer protection issues and perhaps target the predatory institutions.

Federal TRIO Programs

UC recommends that the department consider removing the citizenship requirement from TRIO regulations, to allow TRIO services for all participants who meet the law's eligibility criteria. The limitation of the 1986 Reauthorization of the Higher Education Act (HEA) that excludes undocumented students from federal grants, loans or work assistance [20 U.S.C. §1091(a)(5)], makes it impossible for Dreamers and other non-citizens who have been educated in the United States to receive TRIO information, counseling, mentoring and academic support (34 CFR §643.3(a)(1); §644.3(a)(1); §645.3(a); §646.3(a); and §647.3(a)).

In California, where the populations of school-age Dreamers and other non-citizens are high, this citizenship requirement limits the ability of TRIO programs to serve students who have the potential to achieve their academic and professional goals. The citizenship requirement also puts California TRIO educators/program administrators in a difficult position particularly with TRIO outreach programs (Educational Opportunity Centers, Talent Search and Upward Bound) because these programs tend to recruit students through large group presentations in the community.

Additionally, UC recommends that the department remove regulations that disadvantage certain categories of students and institutions in the application process for TRIO grants. For institutions where almost all those enrolled meet TRIO's low-income and first-generation criteria, regulatory criteria such

as that posed in 34 CFR §646.21(a)(3) – which asks grant applicants to differentiate between the needs of potential TRIO Student Support Services participants and an appropriate comparison group on campus – often result in the loss of points and the inability for the institution to successfully compete for TRIO Student Support Services funding. This disadvantage affects all institutions with high percentages of low-income and first-generation students.

Third-party Servicers

UC filed a robust comment letter in which the University's concerns are outlined in detail and where the University recommends that the department develop regulations via a negotiated rulemaking panel. You can access and revisit UC's comment letter [here](#).

The University of California appreciates the opportunity to comment on the Department of Education's plan to address these various issues via negotiated rulemaking. If you have any questions regarding these comments, please contact Associate Vice President Chris Harrington at Chris.Harrington@ucdc.edu or 202-997-3150.

Sincerely,



Yvette Gullatt
Vice President for Graduate and Undergraduate Affairs and
Vice Provost for Equity, Diversity and Inclusion

cc: Provost and Executive Vice President Katherine S. Newman, Academic Affairs
Senior Vice President Brent Colburn, External Relations and Communications
Associate Vice President Chris Harrington, Federal Governmental Relations