



November 18, 2020

Joe Biden
President-Elect
United States of America
1401 Constitution Avenue, NW
Washington, D.C. 20230

Kamala Harris
Vice President-Elect
United States of America
1401 Constitution Avenue, NW
Washington, D.C. 20230

Dear President-Elect Biden and Vice President-Elect Harris,

We write on behalf of the undersigned higher education associations to offer our thoughts on steps that could, and should, be undertaken quickly by your administration. The Biden team has already indicated publicly that you will move quickly to modify some of the executive branch actions taken by the Trump administration, and we wish to highlight the ones of particular concern to students, educators, and institutions.

First and foremost, we welcome and applaud the announcement that the Biden administration will move quickly to reinstate the Deferred Action for Childhood Arrivals (DACA) protections that the Trump administration repealed. We hope that your administration will take steps to make the DACA protections permanent and will work with you to support whatever measures are necessary to accomplish this worthy goal.

In addition to DACA, we believe that the Biden administration should take immediate action in a number of areas to terminate, revise, or replace a number of decisions that the Trump administration has put in place regarding higher education.

In particular, we believe the Biden administration should:

- 1) Work with all stakeholders to address aspects of the Title IX regulations that are deeply problematic and that micromanage campus processes in an inflexible manner and undermine college and university efforts to effectively, fairly and compassionately address the problem of campus sexual assault. In particular, the administration should eliminate the mandate for a live hearing with cross examination, which could have a chilling effect on the willingness of survivors to come forward and raises serious concerns about re-traumatization.

- 2) Halt the expanded reporting requirements, including the new [Information Collection Request \(ICR\)](#) and Notice of Interpretation (NOI) on Section 117 imposed by the Department of Education (ED) in its effort to expand those reporting requirements beyond what is included in the current statute. The Higher Education Act prescribes the information that schools are required to disclose, and, in the absence of a regulation, ED has no authority to impose new requirements beyond those in statute.

3) Review and, when appropriate, terminate a number of investigations initiated and being conducted by political appointees in ED that are broadly understood to be politically motivated. Examples include the investigations launched by the Department's Office of the General Counsel (OGC) of "racism at Princeton" and "academic freedom at UCLA." Also deserving of immediate attention and reconsideration are the protracted investigations by the OGC of several institutions' compliance with the disclosure requirements of Section 117. The Department's response to instances of insufficient institutional reporting should have focused on reporting remediation to enhance the intended transparency rather than launching investigations that forced institutions to invest scarce resources in responding to burdensome document requests that sought information beyond the statutory authority.

4) Withdraw the June 2020 interim final rule regarding the Eligibility of Students at Institutions of Higher Education for Funds Under the CARES Act. This rule contradicts congressional intent as to which students should be eligible for the Higher Education Emergency Relief Fund and limits the effectiveness of such aid.

5) In order to enhance integrity in the student aid programs, the Biden administration should pursue new negotiated rulemaking processes on Borrower Defenses to Repayment and Gainful Employment. The resulting regulations should target programs of greatest risk to students and taxpayers, ensuring that student financial aid eligibility is limited to quality programs. The regulations should also ensure that administrative burdens are minimized wherever possible and that there is a fair process for institutions.

6) Reinstate the Obama-era guidance on the use of race in admissions. Immediately terminate the Department of Justice's unprecedented demand that Yale University cease any consideration of race in its admissions practices. There is no evidence that Yale is in violation of Supreme Court decisions that bear on this issue. Similarly, we call on the Department of Justice to withdraw its support for the plaintiffs in *Students for Fair Admissions v. Harvard*. The trial and appellate court decisions, both of which found for Harvard, have established a clear and compelling record that Harvard is in no way violating the law.

7) Repeal the Executive Order on Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities and the portion of regulations related to that order included in ED's September 23, 2020 final rule, "Direct Grant Programs, State-Administered Formula Grant Programs" Colleges and universities are committed to free inquiry and academic freedom. It is improper for federal officials, including those at ED, to insert their own political judgments about what speech should or should not be permitted on campus. In fact, federal law specifically prohibits ED from interfering in academic matters.

8) Repeal the president's Executive Order on Race and Sex Stereotyping. Needless to say, colleges and universities are totally opposed to race and sex stereotyping, but the EO is sweepingly overbroad and has chilled the implementation of critical diversity training programs that ensure more respectful and productive work and learning environments.

9) The Biden administration should move to ensure that American colleges and universities are, once again, the destination of choice for the world's best international students and scholars. Several actions are necessary to accomplish this:

- a) Withdraw the proposed regulations that would limit an international student's "duration of status" and create a fixed duration of admission. There is no evidence to suggest that such a restriction is required or that the issues raised cannot be addressed through the existing Student and Exchange Visitor Program (SEVP). The amount of time the Trump administration proposes to give students is less than the average amount of time it takes an international student to complete his or her education. Such a policy is not fair to international students or institutions.
- b) Withdraw the interim final rules and the proposed rule that make it harder and more expensive for individuals to receive H-1B visas. These new requirements imposed by both the Department of Labor and the Department of Homeland Security were finalized without allowing for public comment. The business and higher education communities vigorously oppose the proposed rules, and two lawsuits have already been filed to block them. In addition, the proposed rule regarding subject caps will make it difficult for recent international students graduating from U.S. institutions to participate in the H-1B program.
- c) Make clear that the Optional Practical Training (OPT) program remains in place as it was at the end of the Obama administration. The Trump administration's constant signaling that it *might* change OPT created a serious disincentive for students to enroll in postsecondary education in the United States.

We appreciate the task before you and your team and are grateful for your attention to this letter. We stand ready to work with the transition team and your administration to ensure that federal policy works to benefit the millions of students, faculty, and staff in our nation's colleges and universities.

Sincerely,



Ted Mitchell
President

On behalf of:

ACPA-College Student Educators International
American Association of Colleges of Nursing
American Association of Collegiate Registrars and Admissions Officers

American Association of Community Colleges
American Association of State Colleges and Universities
American Council on Education
American Dental Education Association
American Indian Higher Education Consortium
APPA, "Leadership in Educational Facilities"
Association of Governing Boards of Universities and Colleges
Association of American Colleges and Universities
Association of American Universities
Association of Catholic Colleges and Universities
Association of Community College Trustees
Association of Independent California Colleges and Universities
Association of Independent Colleges and Universities in Massachusetts
Association of Independent Colleges and Universities of Pennsylvania
Association of Independent Colleges and Universities of Rhode Island
Association of Jesuit Colleges and Universities
Association of Public and Land-grant Universities
Association of Research Libraries
Association of Vermont Independent Colleges
Coalition of Urban and Metropolitan 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 for Opportunity in Education
Council of Graduate Schools
Council on Governmental Relations
Council on Social Work Education
EDUCAUSE
ETS
Higher Education Consultants Association
Hispanic Association of Colleges and Universities
NAFSA: Association of International Educators
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
National Association of Student Financial Aid Administrators
National Collegiate Athletic Association
Phi Beta Kappa Society