

May 28, 2020

Representative Nancy Pelosi
Speaker of the House
United States House of Representatives
H-232, The Capitol
Washington, DC 20515

Representative Kevin McCarthy
Minority Leader
United States House of Representatives
H-204, The Capitol
Washington, DC 20515

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: COVID-19 Limited Liability Protections

Dear Speaker Pelosi, Minority Leader McCarthy, Leader McConnell, and Minority Leader Schumer:

On behalf of the American Council on Education and the undersigned higher education associations, I am writing today to urge you to quickly enact temporary and targeted liability protections related to the COVID-19 pandemic. While these crucial protections are likely necessary for many sectors of the American economy, this letter focuses on the need to safeguard higher education institutions and systems, affiliated nonprofits, and healthcare providers and facilities from excessive and speculative lawsuits arising out of the pandemic.

Encouraging, enabling, and supporting the safe reopening of college and university campuses for in-person learning is essential to educating our nation's future workforce, preserving employment for millions, and helping restart America's economy. As colleges and universities contemplate whether and how to safely reopen this fall, their overriding concern is keeping students, faculty, staff, and local communities safe. These decisions are not premised on making a trade-off between safety and the economy. Nor are institutions of higher education seeking a free pass to avoid responsibility, much less immunize themselves for their own or others' bad acts.

But as colleges and universities assess how quickly and completely campuses can resume full operations, they are facing enormous uncertainty about COVID-19-related standards of care and corresponding fears of huge transactional costs associated with defending against COVID-19 spread lawsuits, even when they have done everything within their power to keep students, employees, and visitors safe. To blunt the chilling effect this will have on otherwise reasonable decision-making leading to our nation's campuses resuming operations in a safe and sensible manner, we ask that Congress quickly enact temporary COVID-19-related liability protections for higher education institutions and systems, affiliated entities, as well as their faculty, staff and volunteers. These protections should be conditioned on following applicable public health standards, and they should preserve recourse for those harmed by truly bad actors who engage in egregious misconduct.

Colleges and universities, including their health care facilities and research enterprises, are engaged in every sector of critical infrastructure necessary to support American communities. In addition to educating and training our country's future workforce, they provide health services, cultural resources, spectator sports venues, and recreational amenities to their communities. Our medical schools, teaching hospitals, and research labs are working around the clock to find the best treatments and vaccines for COVID-19. Moreover, our higher education institutions maintain full service utilities, telecommunications, and computing networks; they provide housing and food services; and they operate transportation networks, hotels, retail shops, daycares, gyms, and museums. To support this broad array of activities, they directly employ tens of thousands of skilled workers in various trades, from electricians and linemen to plumbers and HVAC technicians; from landscapers and painters to carpenters and fabricators.

Unfortunately, all colleges and universities, two- and four-year, public and private nonprofit, are facing unprecedented challenges as a result of the COVID-19 pandemic. The impact on the operations and revenues of many institutions has been catastrophic, for some even existential, which has had a terrible ripple effect in communities large and small. The pandemic is also causing massive disruption to students and their families. Many are grappling with sudden changes to their financial circumstances.

In the wake of prior crises, Congress came together to pass timely and targeted liability protections with strong bipartisan support because lawmakers understood the acute economic threat of lawsuits at moments of maximum economic vulnerability. While Congress has acted to provide some limited COVID-related liability protections for volunteer healthcare providers and some manufacturers of PPE in the CARES Act, much more must be done. While some governors and state legislatures have enacted COVID-19 liability limitations, this is a national problem requiring a national solution.

Higher education's need for temporary and targeted liability protections and relief is clear. Now is the time for Congress to act.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Mitchell". The signature is written in a cursive, slightly slanted style.

Ted Mitchell President

On behalf of:

Achieving the Dream

American Association of Colleges of Nursing

American Association of Colleges for Teacher Education

American Association of Collegiate Registrars and Admissions Officers

American Association of Community Colleges

American Association of State Colleges and Universities

American College Health Association

American Council on Education

American Dental Education Association

American Indian Higher Education Consortium

APPA, "Leadership in Educational Facilities"

Associated Colleges of the Midwest

Association for Biblical Higher Education

Association of Advanced Rabbinical and Talmudic Schools

Association of American Colleges and Universities

Association of American Medical Colleges

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 & Universities of Rhode Island

Association of Independent Colleges and Universities in Massachusetts

Association of Independent Colleges and Universities of Ohio

Association of Independent Colleges and Universities of Pennsylvania (AICUP)

Association of Independent Colleges of Art & Design

Association of Jesuit Colleges and Universities

Association of Public and Land-grant Universities

Association of Research Libraries

Association of Vermont Independent Colleges

College and University Professional Association for Human Resource

Commission on Independent Colleges and Universities-NYS

Conference for Mercy Higher Education

Connecticut Conference of Independent Colleges

Council for Advancement and Support of Education

Council for Christian Colleges & Universities

Council of Graduate Schools

Council for Higher Education Accreditation

Council of Independent Colleges

Council of Independent Colleges in Virginia

Council of Independent Nebraska Colleges

EDUCAUSE

Great Lakes Colleges Association

Hispanic Association of Colleges and Universities
Independent Colleges and Universities of Florida
Independent Colleges and Universities of Missouri
Independent Colleges of Indiana
Independent Colleges of Washington
Kansas Independent College Association
Louisiana Association of Independent Colleges and Universities
Maryland Independent College and University Association
Midwestern Higher Education Compact
Missouri Colleges Fund, Inc.
NASPA - Student Affairs Administrators in Higher Education
National Association of College and University Business Officers
National Association of Independent Colleges and Universities
National Association of Schools and Colleges of the United Methodist Church
National Collegiate Athletic Association
Network of Colleges and Universities, Evangelical Lutheran Church in America
New England Board of Higher Education
North Carolina Independent Colleges and Universities
Northwest Commission on Colleges and Universities
Ohio Foundation of Independent Colleges
Online Learning Consortium
Oregon Community College Association
South Carolina Independent Colleges and Universities
Southern Association of Colleges and Schools Commission on Colleges
Southern Regional Education Board
State Higher Education Executive Officers Association
Tennessee Independent Colleges and Universities Assoc.
UNCF (United Negro College Fund, Inc.)
UPCEA
Virginia Foundation for Independent Colleges
West Virginia Independent Colleges & Universities
Western Interstate Commission for Higher Education
Wisconsin Association of Independent Colleges and Universities