

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 guidance<sup>1</sup> 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.<sup>2</sup>

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<sup>1</sup> [https://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_18-20.pdf](https://wdr.doleta.gov/directives/attach/UIPL/UIPL_18-20.pdf).

<sup>2</sup> 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.<sup>3</sup>

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

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<sup>3</sup><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