



March 30, 2023

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Re: Docket ID ED-2022-OPE-0103

Dear Secretary Cardona:

I write as president of the American Association of Community Colleges (AACC) on behalf of the nation's 1,038 community colleges and their students. AACC is pleased to have the opportunity to submit comments to the Department of Education (ED) on the February 15 Dear Colleague Letter (DCL), "Requirements and Responsibilities for Third-Party Servicers (TPS) and Institutions."

AACC strongly endorses the comments being submitted today by the American Council on Education (ACE) on the revised guidelines. As the ACE communication states, we are asking the Department to withdraw the guidelines and then work with stakeholders to address legitimate concerns about the federal oversight of online program managers (OPMs) in higher education. AACC also supports the Higher Education Act's (HEA) statutory ban on incentive compensation, along with its effective enforcement.

AACC is sending this brief communication to underscore the importance of ED fully appreciating the impact that the guidelines will have on community colleges if the DCL is not fundamentally altered. We would like to highlight the sheer number of contracts that would fall under the DCL's definition of TPS as outlined in the guidance, with all its attendant requirements and costs. This current information comes directly from our member institutions. All are medium-sized colleges.

A northeast institution with strong workforce and transfer programs and serving approximately 7,000 students has identified 582 covered contracts, and this is a conservative accounting. This includes internship sites across all disciplines, career services, job shadowing, and mentorship program sites, employers participating in Learn and Earn programs, credit/training partnerships for companies, ECE placements, middle school/high school/charter school partnerships, school districts, municipalities, transfer institutions/four-year partners, non-profit partners, civic engagement sites, etc.

A college in the Midwest with approximately 5,000 credit students conservatively estimates that it would have at least 200 arrangements that would fall under the new guidelines.

Another college in the Northeast with approximately 4,000 credit students estimates the number of such connections at about 350 in any given year, noting that such relationships are not necessarily for a full year; they may be different in fall, spring, and summer. That includes internship sites, early childhood placements, clinical sites (many of which are small organizations), fieldwork sites, civic engagement activities, high school partnerships, partnerships with other higher education institutions, relationships with employers, municipalities, school districts, volunteer work sites, non-profits, and co-ops with automobile service centers. (The latter alone accounts for about 60.)

A community college in the West with approximately 4,000 credit students has identified at least 418 contracts that would fall under the TPS guidelines. This includes services to deaf students, career coaching, multilingual services, student data management, student tracking, curriculum condensing services, exam delivery, educational “badges,” dental hygiene programs, adult education provider arrangements, and scores more.

Even if the expanded TPS definition were consistent with the HEA and implementing regulations—which it clearly is not—as the ACE comments state, it is hard to imagine that the Department has the staff capability to credibly monitor so many contracts, most of which would have no clear relation to the Title IV programs. This result would be an enormous and entirely unproductive expenditure of time and money for colleges and the government. Other major educational disruptions, as outlined in the ACE letter, would also occur.

Our colleges are deeply invested in working with ED to focus on urgent matters, including FAFSA simplification, Pell for Prison Education, and new repayment policies. These all stand to greatly benefit our students. We respectfully suggest that ED focus on these and other more pressing priorities, rather than a heavily bureaucratic undertaking that will have deleterious impact on community colleges’ finances and educational delivery. We urge ED to rethink this policy.

Thank you for your consideration of this letter and please let me know if I can be of any service to you.

Sincerely,

A handwritten signature in black ink, reading "Walter G. Bumphus". The signature is written in a cursive style with a large initial "W".

Walter G. Bumphus, Ph.D.
President and CEO

