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# TRANSITION BRIEFING & RECOMMENDATIONS

**Recommendations to Promote Racial and Economic Justice in Postsecondary Education**

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## Introduction

The COVID-19 pandemic and the economic recession have disrupted the health and economic wellbeing of postsecondary students, families, and the nation's colleges and universities. A college degree can lead to good jobs with benefits—now and during the economic recovery—for students with low incomes, particularly students of color, opportunity youth, immigrants, first-generation college students, parenting students, adult learners, and individuals impacted by the criminal legal system.

Since 2017, the Trump Administration has encouraged racially motivated violence, adopted harmful administrative actions, and thwarted efforts to foster racial equity and inclusion on college campuses. Its strong opposition to issues such as affirmative action, civil rights laws, protections for Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS) recipients, and institutional efforts to address systemic racism on college campuses have been deeply troubling. Along with providing much-needed relief to college students and institutions, the Biden-Harris Administration must reverse these harmful actions and urge higher education systems to promote anti-racist policies that increase [social and economic mobility](#)<sup>1</sup> for historically underrepresented students in postsecondary education.

## A Future Economic Recovery Package Must Support Students with Low Incomes and Institutions

The outbreak and spread of COVID-19 has thrown higher education into disarray. Students are facing one of the worst recessions and job markets in a lifetime—and they are doing so while continuing their education either remotely or in person, both of which carry risks and heighten inequities. Most college students were also barred from receiving the \$1,200 COVID stimulus check if they were still listed as tax dependents. The CARES Act funding was insufficient; it did not provide adequate resources to community colleges, and it implemented regulations barring undocumented students from receiving any emergency financial aid.

Today, institutions of higher education, especially those that offer paths of upward mobility for students with low incomes and students of color, are losing revenue and facing steep budget crises. The new Administration must urge Congress to provide robust and [targeted investments](#)<sup>2</sup> through the Education Stabilization Fund [for colleges and universities](#)<sup>3</sup> and students. The Higher Education Emergency Relief Fund (HEERF) should disproportionately invest in community colleges, historically Black colleges and universities (HBCUs) and minority-serving institutions (MSIs). To make college more affordable for students with low incomes, policymakers must extend emergency aid to all students, regardless of immigration status; strengthen the purchasing power of the maximum federal Pell Grant; and fully restore Pell eligibility to incarcerated students.

## White House Executive /Administrative Actions in First 100 Days

**Elevate the Importance of Community Colleges, HBCUs and MSIs.** Dr. Jill Biden has been a long-time advocate for community colleges. She should elevate their importance as well as the critical role of HBCUs and MSIs in higher education and in local communities. Once she's First Lady, she should work with the Secretary of Education to lead national conversations on how to strengthen the capacity of under-resourced institutions and support student success. Dr. Biden should also work with the Secretary of Education to use the bully pulpit to spotlight and encourage the following practices at these institutions and in higher education:

- innovative college promise programs;
- Guided Pathways and Accelerated Study in Associate Programs;
- culturally responsive counseling, advising, and mental health services;
- equity audits at the institutional level; and
- initiatives that foster civic engagement and support paid work-based learning opportunities to help reduce poverty, advance racial justice, and address the most pressing issues of our time.

**Hold Listening Sessions and Convenings.** The White House should hold listening sessions across the country to engage colleges and universities in dialogues about how to promote racial and economic justice on college campuses and the crucial role they can play in the economic recovery.

**Hold Convenings at the White House.** The White House should organize convenings focused on dismantling systemic racism in higher education. These convenings should address topics that inform HEA reauthorization and include:

- promoting [federal-state partnerships on debt-free college](#)<sup>4</sup> for today's students;
- strengthening federal Pell Grants to support students impacted by the criminal legal system and undocumented students;
- scaling up comprehensive student success models;
- connecting students to public benefits;
- supporting parenting students with innovative practices;
- fostering racially just and inclusive campus climates;
- promoting affirmative action in admissions and hiring; and
- ensuring accountability for for-profit colleges.

### **Demonstration Projects.**

- **Incentivize State Audits to Dismantle Systemic Racism in Higher Education Systems.** Reprogram departmental funds and support a pilot program for states to conduct [equity audits](#)<sup>5</sup> and develop a plan to dismantle systemic racism and promote anti-racist policies in postsecondary education.
- **Increase Access to Educational Technology for Youth and Adults Impacted by the Criminal Legal System.**
  - **Research Study.** The ED and DOJ should begin by researching best practices for making greater investments in the technology needed to provide quality, state-of-the-art education for all students who are incarcerated. This includes access to basic digital infrastructure like the internet and databases; room-based, video-conferencing

technology; and supplemental classroom learning technology. Without these now-basic tools, people of color and socio-economically disadvantaged populations are left unprepared to function and find and secure job opportunities upon release.

The new Administration must provide prison education programs with access to digital technology and the 21st century tools that will allow students to use their time while incarcerated to prepare for job opportunities upon release. The lack of access to technology severely hampers the learning experiences and outcomes of youth and adults who have been impacted by the criminal legal system.

- **Provide Leadership and Pilot Educational Technology Solutions.** The new Administration must provide leadership to increase access to educational technology in U.S. prisons and jails by piloting and evaluating technology solutions in the Bureau of Prisons (BOP) and by supporting efforts in other correctional systems through grant funding and technical assistance. ED and the Department of Justice (DOJ) must ensure that youth and adults who have been impacted by the criminal legal system have access to the same opportunities and resources as their non-incarcerated peers.

## Federal Regulations and Departmental Guidance

**On Day One, Rescind Final Interim Rule: Student Eligibility for CARES Act Emergency Aid.** ED needs to rescind the [final interim rule](#)<sup>6</sup> regarding student eligibility for CARES Act Emergency Aid. This rule, which made recipients of DACA and TPS and undocumented students ineligible for emergency aid, needs to be changed to ensure DACA recipients and undocumented students can access emergency aid in any future COVID-19 relief packages.

**Issue an EO to Immediately Rebuild the Office of Civil Rights (OCR) at ED.** The Trump Administration has weakened civil rights protections for students of color, women, and LGBTQ students. The Biden-Harris Administration will need to rebuild OCR to ensure that ED and institutions are complying with civil rights laws. It can begin by:

- **On Day One, Rescind the EO on Combatting Race and Sex Stereotyping:** This harmful order calls on the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) to identify trainings that may violate the executive order, including trainings in the Department of Education. The EO serves no purpose other than to create fear among federal employees and agencies and to undermine diversity in the workplace.
- **On Day One, Rescind Letter<sup>7</sup> to Princeton University and Other Colleges Regarding Title VI of the Civil Rights Act of 1964 and Encourage Equity Audits.** The Trump Administration has used these types of letters to discourage college and universities from doing more to address systemic racism on their campuses. ED should rescind these inflammatory letters and encourage institutions to conduct internal reviews and gather data on their efforts to address affirmative action, racial justice, and equity on college campuses. ED should issue a new letter to institutions that would act as guidance to institutions and further explain the intention and application of Title VI under a new Administration. ED should work with institutions to advance civil rights protections for students and expand opportunity to historically underrepresented students, faculty, and staff by encouraging institutions to conduct equity audits of their policies and practices.

- **In the First Month, Issue Guidance on High-quality Standards for Online Education:** Ensure that all students, especially students of color, students with low incomes, immigrant students, adult learners, and students with disabilities can easily access a high-quality online education. This includes critical supports such as a computer, broadband, financial aid counseling, course materials, intensive tutoring, office hours, counseling and advising, mental health services, robust career services, and connections to public benefits and community resources.

**EO: Expand Second Chance Pell Experimental Sites:** If access to federal Pell Grants is not restored to incarcerated students through a COVID-19 package, expand the Second Chance Pell experimental sites under an existing executive order. This would allow youth and adults who are incarcerated to enroll in postsecondary programs. Exclude for-profit colleges from participation in experimental sites and ensure that incarcerated students are receiving a high-quality education. Piloted in 2016, the program started with 63 schools participating in the experiment under the Obama Administration. In April 2020, that number was increased to 130 schools under the Trump Administration, showing key bipartisan support. The program is making strides in both the re-entry prospects and personal growth of students. The RAND Corporation found that individuals who participate in correctional education programs are 43 percent less likely to return to prison than those who do not. Additionally, students who participate in postsecondary education while incarcerated can build the knowledge and skills that prepare them for the workforce.

**Restore the Obama Administration’s Borrower Defense Rule.** The new Administration must strengthen protections for student loan borrowers and restore the Obama Administration’s 2016 Borrower Defense (BD) Rule. In 2019, Trump’s ED gutted the BD rule, slashing student borrower safeguards and, instead, offering protections to predatory for-profit institutions.<sup>8</sup> Restoring the 2016 BD rule would protect students, hold institutions accountable, and allow students to access a high-quality education.

**On Day One, Revamp Public Service Loan Forgiveness (PSLF) Relief for Student Borrowers.** The new Administration must [revamp](#)<sup>9</sup> the PSLF program. It must immediately streamline the PSLF application process by providing clear information, guidance, and a process for effectively communicating with borrowers who have been denied relief under the Trump Administration. ED must make it easier for borrowers to certify their past employment in public service positions and allow borrowers who have been denied relief an opportunity to reapply and recertify. In addition, the Biden-Harris Administration must signal to Congress that it intends to allow student borrowers to receive partial debt relief after five years of employment in public service jobs and include all repayment plans.

Created in 2007, the PSLF program is one of the most crucial borrower protection programs, offering loan forgiveness to borrowers who have worked in public service jobs for ten years while repaying loans. While successful in theory, the program has been mired by mismanagement and negligence. In 2018, only 96 of the 28,000 borrowers who applied had their loans forgiven, which is not even 1 percent.<sup>10</sup> Part of the problem lies with loan servicers, many of whom failed to inform their borrowers of the correct payment plan to qualify for PSLF. ED has also mismanaged the program, leading to a nearly 99 percent denial rate through confusing and misleading guidelines about employer eligibility. Many borrowers whose employment was certified as PSLF-eligible were later rejected.<sup>11</sup> Reforming and revitalizing the program will provide much-needed relief to borrowers who have worked in public service.

Congressional language requires ED to create a “simple method” for application, which the Department has not done. ED should comply with the GAO’s [recommendations](#)<sup>12</sup> for program administration. Secondly, the Consumer Financial Protection Board (CFPB) must conduct stronger [oversight](#)<sup>13</sup> of student loan servicers that have misled millions of students on their PSLF eligibility.

**On Day One, Cancel up to \$50,000 in Federal Student Loan Debt.** The Secretary of Education has broad administrative authority granted by Congress to [cancel federal student loan debt](#)<sup>14</sup> under section 432(a) of the Higher Education Act of 1965 (20 U.S.C. 1082(a)), which allows the Secretary to modify, “...compromise, waive, or release any right, title, claim, lien or demand, however acquired, including any equity or any right of redemption.” This authority has already been used by the ED to implement the temporary pause in student loan payments during COVID-19. The incoming Administration should cancel up to \$50,000 per person in student loan debt to reduce the burden on student loan borrowers, including distressed borrowers who were already struggling to cover basic needs during COVID-19. [Cancelling student debt](#)<sup>15</sup> is a racial justice issue and would help close the intergenerational racial wealth gap by providing millions of Black, Latinx, first-generation, and other students of color more affordable pathways to a postsecondary education. Due to systemic barriers and discrimination, the burden of student debt falls disproportionately on Black and Latinx communities.

**Establish an Inter-Agency Task Force on Public Benefits Access.** The White House and the Secretary of Education must demonstrate bold leadership in expanding student access to public benefit programs and facilitate states in doing the same. It can do so by creating an inter-agency task force to bolster cross-agency efforts in this area, raising the visibility and acceptance of this work. COVID-19 has heightened our country’s economic disparities, and those losing ground fastest are adults who have not yet completed high school. First-generation and students of color (as well as other students) are also struggling with issues like food and housing insecurity.

The Administration should direct the U.S. Department of Agriculture’s Food and Nutrition Services (FNS) to use its authority under the Families First Coronavirus Relief Act to grant waivers of the student restrictions under the Supplemental Nutrition Assistance Program (SNAP), as more than 30 states have requested. The Administration should also promote the cross-agency guidance released in November 2016 and convene an interagency workgroup to identify and share additional opportunities to support students with basic needs and to connect them to public benefit programs. ED should collaborate with other federal agencies to lift up effective state models and educate the education community on how basic needs programs can work better for students.

While some states and colleges have developed creative initiatives to connect students to federal programs that support these basic needs, some have not made as much progress. This is, in part, because state education agencies don’t yet see themselves as a facilitator for the public benefit programs or don’t think it is the right role for their agency to play. However, state higher education agencies embracing that role are making the most progress. To help bring along the remaining states, ED should share these practices. ED should also integrate a discussion of public benefit programs into more of its work. In serving adult education students specifically, state education agencies can increase adult engagement by promoting the Ability to Benefit provision of HEA and more seamless career pathway models that connect adult education to postsecondary education and workforce development (including in prisons). These agencies are required to provide supportive services like

connecting students to public benefit programs.

While ED's work may focus on student success, the Administration should use this, and other existing cross-agency collaborations, to raise its own awareness of the sweeping reforms needed to strengthen the social safety net. Our nation's safety net is not designed as help-first, but rather emphasizes keeping struggling people off of public benefit programs. Those who can access programs receive too few resources to adequately meet their needs. A re-envisioning of public benefit programs is overdue.

**Create an Office to Support Students Impacted by the Justice System.** The unique standing of incarcerated students—under the direct or indirect purview of both the Department of Justice and ED—necessitates intentional inter-agency collaboration to facilitate positive educational outcomes. A new Administration can start with having ED develop a dedicated initiative focused on incarcerated students and all students who have been impacted by the criminal legal system. This unit's purview would include addressing the distinct needs these students face; providing guidance and best practices to correctional settings, educators, and local and regional intermediaries on engaging this population; and prioritizing both recidivism and credential completion and connections to quality career pathways as a goal. This effort must also engage students who have returned to their communities or have a record that precludes them from accessing quality educational opportunities. This work can be coupled with the logistics, institutional knowledge, and expertise within DOJ and expand upon the existing work in ED's Office of Career, Technical and Adult Education (OCTAE).

This initiative would become all-the-more salient with a reversal of the Pell Grant ban. Nationwide, policymakers have maintained a systemic pattern in education that leaves schools serving students of color frequently underfunded and saturated with low-quality teaching. These educational settings may very well lead this population to prison in the first place. The evaluation of the Second Chance Pell experimental sites revealed myriad challenges would-be incarcerated students faced in determining their Pell Grant eligibility, such as not having registered for the Selective Service or having an existing federal student loan in default status. Educators trying to facilitate potential students' applications found it difficult and time consuming to address these discrepancies, which were exacerbated by the students' incarceration. An inter-agency collaboration addressing these and other dynamics could better serve the needs of incarcerated and justice-impacted students and help them reach positive outcomes.

Such a collaboration could more broadly address not only prison programs focused on postsecondary or reentry, but also the full spectrum of educational opportunities of those impacted by the criminal legal system. Its purview can also incorporate adult education programs and address the unique needs of students impacted by the criminal legal system in non-carceral secondary and postsecondary settings. The collaboration can also incorporate guardrails to ensure that these students receive a high-quality education, particularly as we work to reinstate Pell Grants to incarcerated individuals.

## The President's First Budget

**Make Bold Investments to Support Students of Color and Immigrants.** The President's first budget should make new bold investments in federal student aid, federal-state partnerships, and under-resourced institutions. This includes doubling the maximum federal Pell Grant to cover the cost of basic living expenses and expanding it to DACA and TPS recipients and undocumented students.

Targeting investments to community colleges, HBCUs, and MSIs will strengthen the capacity of these institutions to help students of color, students with low incomes, and immigrants access and complete college.

## Congressional Actions

- **Reauthorize the Higher Education Act.** A new Administration must signal to Congress that long-term investments in federal student aid, federal-state partnerships, and under-resourced institutions are necessary to ensure that all students can afford the full cost of a postsecondary education.
- **Pass the American Dream and Promise Act in First 100 Days.** The President must work with Congress to create a pathway to citizenship for DACA, TPS, and Deferred Enforcement Departure (DED) recipients, along with undocumented students. This includes the undocumented parents of over 500,000 U.S. citizen children and the one million undocumented students in the K-12 public education system. This is a critical step toward ensuring that all students can access a postsecondary education.
- **Pass the REAL Act.** The new Administration could immediately signal to Congress its desire to fully reverse the ban on Pell Grants for people who are incarcerated.
- **Financial Aid Fairness for Students Act (H.R. 4584):** This bill would repeal the Aid Elimination Penalty and remove the drug conviction question from the FAFSA.

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<sup>1</sup> Anthony P. Carnevale, Jeff Strohl, Artem Gulish, et al., *The Unequal Race for Good Jobs: How Whites Made Outsized Gains in Education and Good Jobs Compared to Blacks and Latinos*, The Georgetown University Center on Education and the Workforce, 2019, [https://1gyhoq479ufd3yna29x7ubjnwengine.netdna-ssl.com/wp-content/uploads/Full\\_Report-The\\_Unequal\\_Race\\_for\\_Good\\_Jobs.pdf](https://1gyhoq479ufd3yna29x7ubjnwengine.netdna-ssl.com/wp-content/uploads/Full_Report-The_Unequal_Race_for_Good_Jobs.pdf).

<sup>2</sup> U.S. Senate Committee on Health, Education, Labor & Pensions website, "CCCERA Fact Sheet," June 2020, <https://www.help.senate.gov/imo/media/doc/CCCERA%20Fact%20Sheet%20062920.pdf>.

<sup>3</sup> U.S. Senate Committee on Health, Education, Labor & Pensions website

<sup>4</sup> Rosa García, *Debt-Free College: Principles for Prioritizing Low-Income Students*, Center for Law and Social Policy, 2019, <https://www.clasp.org/publications/report/brief/debt-free-college-principles-prioritizing-low-income-students>.

<sup>5</sup> Rosa García, "Equity Audits Would Strengthen Colleges and Universities," *Center for Law and Social Policy*, June 19, 2019, <https://www.clasp.org/blog/equity-audits-would-strengthen-colleges-and-universities>.

<sup>6</sup> Center for Law and Social Policy, "CLASP Public Comments Opposing Interim Final Rule on Eligibility of Higher Education Students for CARES Act Funding," July 17, 2020, <https://www.clasp.org/publications/testimony/comments/clasp-public-comments-opposing-interim-final-rule-eligibility-higher>.

<sup>7</sup> U.S. Department of Education, "Re: Princeton University's Admissions of Racism/Potential Violations of Prohibitions Against Substantial Misrepresentation Arising from Nondiscrimination and Equal Opportunity Assurances," September 16, 2020, <https://www.princeton.edu/sites/default/files/documents/2020/09/Princeton-Letter-9-16-20-Signed.pdf>.

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<sup>8</sup> Asha Banerjee, "Protecting Student Loan Borrowers and Their Families," *Center for Law and Social Policy*, March 20, 2020, <https://www.clasp.org/blog/protecting-student-loan-borrowers-and-their-families>;

<sup>9</sup> Office of U.S. Senator Elizabeth Warren website, "Warren Joins Gillibrand, Kane, Colleagues to Introduce New Legislation to Overhaul Flawed Public Service Loan Forgiveness Program," April 2019, <https://www.warren.senate.gov/newsroom/press-releases/warren-joins-gillibrand-kaine-colleagues-to-introduce-new-legislation-to-overhaul-flawed-public-service-loan-forgiveness-program>.

<sup>10</sup> Student Loan Borrower Assistance Project, "96 out of 28,000 Borrowers Approved for Public Service Loan Forgiveness... What Does This Mean for Everyone Else?," *National Consumer Law Center*, October 5, 2018, <https://www.studentloanborrowerassistance.org/96-out-of-28000-borrowers-approved-for-public-service-loan-forgiveness-what-does-this-mean-for-everyone-else/>;

<sup>11</sup> Student Borrower Protection Center, American Federation of Teachers, *Broken Promises: Employee Certification Failure*, Student Borrower Protection Center, American Federation of Teachers, 2020, <https://protectborrowers.org/wp-content/uploads/2020/08/ECF-Failures.pdf>;

<sup>12</sup> Melissa Emrey-Arras, *Public Service Loan Forgiveness: Improving the Temporary Expanded Process Could Help Reduce Borrower Confusion*, United States Government Accountability Office, 2019, <https://www.gao.gov/assets/710/701157.pdf>.

<sup>13</sup> Office of U.S. Senator Elizabeth Warren website, "Senators Warren, Brown, and Colleagues Question CFPB's Public Service Loan Forgiveness Program Oversight Failure," April 2019, <https://www.warren.senate.gov/newsroom/press-releases/senators-warren-brown-and-colleagues-question-cfpbs-public-service-loan-forgiveness-program-oversight-failure>.

<sup>14</sup> Office of U.S. Senator Elizabeth Warren website, "Schumer, Warren: The Next President Can and Should Cancel Up to \$50,000 in Student Loan Debt Immediately; Democrats Outline Plan for Immediate Action in 2021," September 2020, <https://www.warren.senate.gov/newsroom/press-releases/schumer-warren-the-next-president-can-and-should-cancel-up-to-50000-in-student-loan-debt-immediately-democrats-outline-plan-for-immediate-action-in-2021>.

<sup>15</sup> Higher Ed Not Debt, "#CancelStudentDebt State-by-State Fact Sheets," *Higher Ed Not Debt*, September 18, 2020, <https://higherednotdebt.org/blog/cancelstudentdebt-fact-sheets>.