

August 23, 2024

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

**RE: Docket ID ED–2024–OPE–0050**

Thank you for the opportunity to comment on the U.S. Department of Education’s proposed regulations regarding distance education, return of Title IV Higher Education Act (HEA) Funds, and Federal TRIO Programs.

The California Community Colleges is the largest system of higher education in the country, with 116 colleges across 73 districts serving over 2 million students in California. Seventy percent of our students are students of color, 65% come from low-income backgrounds, 40% are first-generation college students, and 12.5% are English language learners, veterans, and foster youth. Sixty-five percent of our students attend college part-time, while working and providing for their families.

We write to share with you the impact of the change in regulations on the 113 credit colleges within our system. Three of our colleges offer only noncredit programs and therefore are not impacted by the proposed regulatory changes.

**Access to TRIO (Talent Search, Educational Opportunity Centers, Upward Bound) Programs**  
Regarding the proposed regulations on student eligibility for TRIO Programs

We are in strong support of the department’s proposed regulations to expand eligibility for the federal high school TRIO programs to undocumented students who are enrolled in or seeking to enroll in a U.S high school, or a high school in the U.S. territories, or Freely Associated States. We commend the Department’s efforts to support equitable access to college for undocumented students; however, we must not stop there. To ensure all undocumented students have access to TRIO programs, we encourage the department to allow undocumented individuals who have *graduated* from a U.S. high school, or a high school in the U.S. territories,

or Freely Associated States, or *enrolled in* postsecondary education to be eligible for TRIO programs. Omitting the adult population from TRIO eligibility excludes a large contingency of the community college population. There are approximately [408,000](#)<sup>1</sup> undocumented students enrolled in U.S. higher education institutions, and California is home to 20 percent of the country's undocumented student population. We recommend the department to expand eligibility for the federal college TRIO programs to undocumented students enrolled in postsecondary education.

### **Changes to Distance Education**

We anticipate our colleges having to develop the infrastructure to adhere to the new regulatory changes proposed to Distance Education which means incurring new costs. We therefore make note of fiscal implications in the relevant sections and hope that the department as it negotiates these rules, it will include a request for appropriations to support colleges as they adapt to the new regulations.

#### *Regarding the proposed regulation that would remove asynchronous learning options under the definition of clock in § 600.2 for distance education courses*

This proposed regulation removes Title IV eligibility for asynchronous courses whose programs are offered in clock hours. We anticipate colleges reviewing their clock hour programs to determine which of those would need to be converted from clock hour to credit hour; which means they will need to update course assignments, classroom lectures, and learning materials. We estimate that costs related to this proposed regulation would equal \$1.5 million to \$2.4 million for the 113 credit bearing colleges in our system (a cost of \$12,500 to \$20,500 per community college). Additionally, we request that the department consider an implementation date no earlier than 2027. Curriculum changes require local faculty review and input, regional input from local employers (especially for programs that lead to a certificate), and finally, statewide approval from the California Community Colleges Chancellor's Office. This process can take about 18 months. Extension of the deadline to implement will ensure successful implementation of the new regulations.

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<sup>1</sup> <https://www.presidentsalliance.org/undocumented-students-in-us-higher-education/>

Regarding the proposed regulation that would add the term “distance education course” to § 600.2

As the department notes, many institutions created innovative approaches to distance education in the wake of the pandemic. California community colleges are no exception. Under state law, the California Community Colleges Board of Governors has the power to enact statewide policies through Title 5 of the California Code of Regulations. Currently, the [definition of distance education courses in our Title 5 regulations](#)<sup>2</sup>, which may include some in-person components, excludes correspondence courses. California Code of Regulations, tit. 5t, § 55200 states:

*(a) “Distance education” means education that uses one or more of the technologies listed below to deliver instruction to students who are separated from the instructor(s) and to support regular and substantive interaction between the students and instructor(s) either synchronously or asynchronously. Technologies that may be used to offer distance education include:*

- (1) The internet;*
- (2) One-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;*
- (3) Audio conference; or*
- (4) Other media used in a course in conjunction with any of the technologies listed in paragraphs (1) through (3) of this subdivision.*

As you can see, our definition of distance education is inclusive of virtual modalities but does not exclusively call out virtual *locations*. Many institutions offer courses in mixed modalities, including synchronous online, partially online (hybrid), asynchronous online, and Hyflex where the student exercises choice of education modality. If the department’s proposed regulation is enacted, we will need to reconcile the definition of distance education courses.

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[https://govt.westlaw.com/calregs/Document/IE381D74056B511ED9336FE00FB183132?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Document/IE381D74056B511ED9336FE00FB183132?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

*Regarding the proposed regulation adding a new requirement to § 668.41, requiring higher education institutions to report student enrollment in distance education or correspondence courses*

To accomplish the goals of the proposed regulations, we need resources to update our data collection procedures. We estimate that costs related to this proposed regulation would be in the low thousands of dollars per college one-time, which would amount to approximately \$2 to \$2.5 million across our credit colleges. Further, we understand that the department wishes to implement these changes by July 1, 2026, in light of the Free Application for Federal Student Aid (FAFSA). We request that the department consider an implementation date no earlier than 2027, which would give our office the time it requires to update its data collection system.

**Return of Title IV Funds**

*Regarding the proposed regulation requiring that higher education institutions take attendance for each course offered entirely through “distance education”*

The proposed regulation for the addition of a new regulation § 668.22(b)(3)(ii) would require institutions who do not currently take student attendance in distance education to begin doing so. While intended to produce greater transparency and data quality, our technology infrastructure is not currently set up to accomplish the proposed regulations.

The California community colleges would need to restructure Canvas, the online learning management system which is free-of-charge to all of our colleges. While this system provides us tools to engage with students and ensures equitable and inclusive course access, it currently only provides student login data. The platform does not automatically track active participation by students in distance education courses (as defined in 34 CFR 600.2) and does not monitor student engagement in academically related activities that would align with the proposed regulations. As such, we would need to work with the vendor to make a significant change to our Canvas platform to track student attendance.

We recognize that the proposed regulations are intended to support student success. If these regulations, as currently written, are enacted, we request sufficient time and resources to be successful with managing the change process. We estimate that the cost related to the technology upgrade would be a minimum of \$400,000 one-time. Without these technology investments, faculty would need to manually track and monitor all student attendance at the level of academic engagement activities. Finally, we request that the department consider an implementation date no earlier than 2027.

### Other proposed regulations

To accomplish the three proposed changes noted below, the California Community Colleges would need to update financial aid handbooks, student orientations, financial aid letters, college websites, and student portals developed by our colleges on these topics.

1. The new section in § 668.22(f)(1)(ii)(A),
2. The proposed revisions in § 668.22(l)(9), and
3. The proposed revisions to § 668.3(b)(2)(ii)(A) and (B)

We estimate that costs related to these three proposed regulations combined would result in a cost of \$12,500 to \$20,500 per community college, which is approximately \$1.5 million to \$2.4 million for all credit bearing colleges within the California Community Colleges.

Thank you for your work to improve outcomes in higher education for all students, and particularly for students from underserved backgrounds. We appreciate your consideration of our comments.

Please contact Dr. Linda Vazquez, Assistant Vice Chancellor of State and Federal Relations at [lvazquez@cccco.edu](mailto:lvazquez@cccco.edu), with any further questions.

Sincerely,

A handwritten signature in blue ink that reads "Sonya Christian". The signature is written in a cursive, flowing style.

Sonya Christian  
Chancellor, California Community Colleges