

October 8, 2008

Wendy Macias
U.S. Department of Education
1990 K Street, N.W., Room 8017
Washington, DC 20006

RE: Negotiated rulemaking process for Title IV of the Higher Education Act.

Dear Ms. Macias:

Thank you for this opportunity to provide comments into the negotiated rulemaking process for Title IV of the Higher Education Act as it concerns access to financial aid for students with intellectual disabilities. The undersigned disability and education organizations submit the following comments.

The Higher Education Opportunity Act allows students with intellectual disabilities accepted for enrollment, or enrolled in, comprehensive transition and postsecondary education programs for students with intellectual disabilities to be eligible for work-study jobs and certain financial aid, including Pell grants and Supplemental Educational Opportunity Grants. The HEOA requires the Secretary to promulgate regulations allowing eligibility for students in these programs and the Secretary is authorized to waive any statutory provisions applicable to the student financial assistance programs.

We strongly recommend that the HEOA negotiated rulemaking team include individuals with expertise in higher education programs for students with intellectual disabilities – including family members and persons with intellectual disabilities who have experience with such programs, or organizations that represent them.

In developing these regulations, it will be necessary for the regulations to waive a number of requirements, including, but not limited to the following:

- Certain requirements related to student eligibility
- Accreditation standards for the programs
- State licensing of such programs (in states that license individual postsecondary programs)
- Requirements that gainful employment lead to a specific recognized occupation listed in a US Department of Labor publication

The HEOA also authorizes new model demonstration programs and a coordinating center. One of the responsibilities of the coordinating center is to organize a stake-holder advisory group that develops model accreditation standards. The coordinating center could provide valuable insight into a number of issues as we move forward.

We also recommend that the following principles be utilized and suggestions incorporated in the regulations:

- The process for application for financial aid should be as similar as possible to that used by students not enrolled in, or accepted for enrollment in, comprehensive transition and

postsecondary education programs for students with intellectual disabilities, and as streamlined as possible.

- The process for identifying whether an individual meets the definition of a “student with an intellectual disability” should be determined by the admitting institution of higher education (IHE) and should be minimally burdensome for students, families and the IHE. Whenever possible, existing documentation should be utilized from school records or sources such as previous evaluations conducted for public agencies to determine eligibility for disability benefits.
- Furthermore, according to Congressional intent as highlighted in the conference report, “some students with disabilities who are eligible for a free and appropriate public education may not enroll in public schools, nor choose to receive special education services under the Individuals with Disabilities Education Act. The Conferees intend to include such students in the definition of students with intellectual disabilities under this Act, if such students can otherwise meet the eligibility criteria.” The regulations should specifically state that such students, including students who are, or were, home-schooled or in private schools, are included in this definition.
- The definition in the statute also states that the student “is currently, or was formerly, eligible for a free appropriate public education (FAPE) under the Individuals with Disabilities Education Act.” The regulations should use the statutory word “eligible” for FAPE instead of “receiving” FAPE to include students who may be eligible but chose not to receive special education services under IDEA and were educated in settings such as home school or private school. The regulations should also reflect the Congressional intent that the student is either currently eligible for FAPE, or was formerly eligible for FAPE but is no longer eligible due to completing school or “aging out” of services.
- Rather than a complex application process, IHEs should provide “assurances” that they offer a program that meets the criteria of a “comprehensive transition and postsecondary program for students with intellectual disabilities” and this process should be as streamlined as possible. According to *The Guide to Federal Student Aid*, a resource published by the US Department of Education, IHEs are responsible for determining that a program is eligible.
- As a point of clarification, if an IHE desired to design a “program” around a single student with an intellectual disability, this should be allowable as long as the program meets the criteria of a “comprehensive transition and postsecondary program for students with intellectual disabilities.”
- With respect to the definition of a “comprehensive transition and postsecondary program for students with intellectual disabilities”, language from the statute should be used, with further clarification that the “advising and curriculum structure” may be the same advising and curriculum (or program of studies) structure used by students not enrolled in the program.
- The IHE should determine if the students maintain satisfactory progress based on standards the IHE sets.
- Also, the Secretary should further clarify that “participating on not less than a half-time basis, as determined by the institution...” means that the amount of time the student participates (that represents at least half-time) should be similar to the clock hours and credit hours for

matriculating students enrolled in typical courses at the IHE. However, the participation of the students with intellectual disabilities focuses on academic components occurring through the activities outlined in the statute, with the intent (noted in the conference report) that Congress encourages such programs “to integrate students with intellectual disabilities into inclusive activities, coursework and campus settings with nondisabled postsecondary students”....

- Finally, dual or concurrent enrollment, or financial support from other agencies, should not preclude any student from having access to eligible financial aid they would otherwise be qualified to receive.

Thank you again for the opportunity to provide comments into regulations concerning access to financial aid for students with intellectual disabilities within Title IV of the Higher Education Act. We look forward to working with you as regulations are promulgated.

Sincerely,

American Association on Intellectual and Developmental Disabilities

Association of University Centers on Disabilities

Autism Society of America

Council of Parent Attorneys and Advocates, Inc.

Easter Seals

Higher Education Consortium for Special Education

National Association of State Directors of Developmental Disabilities Services

National Down Syndrome Congress

National Down Syndrome Society

National Fragile X Foundation

Teacher Education Division of the Council for Exceptional Children

The Arc of the United States

United Cerebral Palsy