

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 Opportunity Act (HEOA) as it concerns access to financial aid for students with intellectual disabilities. The Association of University Centers on Disabilities (AUCD), located in Silver Spring, MD, promotes and supports a national network of interdisciplinary centers on developmental and other disabilities. The members of AUCD represent every U.S. state and territory and include 67 University Centers for Excellence in Developmental Disabilities (UCEDDs), 38 Interdisciplinary Leadership Education in Neurodevelopmental and Related Disabilities (LEND) Programs and 21 Intellectual Developmental Disabilities Research Centers (IDDRC). Together, these organizations advance policy and practice through research, education, leadership, and services for and with individuals with developmental and other disabilities, their families, and communities, in support of independence, productivity, and satisfying quality of life.

Students with disabilities face multiple attitudinal, environmental, financial, and support barriers in accessing postsecondary education. Students with disabilities are less likely to participate in postsecondary education and when they do retention rates are low due many factors, including lack of supports and accommodations. The national gap in employment rates between individuals with and without disabilities is a staggering 37% and research supports that postsecondary education is a pathway to greater employment opportunities. Across our network, many of our University Centers for Excellence in Developmental Disabilities (UCEDDs) have embarked on what we feel is a new frontier in creating postsecondary opportunities for individuals with intellectual disabilities. As parents and transitioning students become more aware of these options, demand increases.

AUCD strongly supports the provisions within the HEOA that will expand opportunities for students with intellectual disabilities and improve the quality of postsecondary education. Specifically, the HEOA allows students with intellectual disabilities accepted for enrollment, or currently enrolled, in a comprehensive transition and postsecondary education programs to be eligible for work-study jobs and certain financial aid, including Pell grants and Supplemental Educational Opportunity Grants.

AUCD strongly recommends the following:

- 1. The HEOA negotiated rule-making team should include individuals with expertise in higher education programs for students with intellectual disabilities, including families and students with intellectual disabilities.***

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2. In developing these regulations, it will be necessary for the Secretary to waive a number of student financial aid requirements to ensure that IHEs enrolling students with intellectual disabilities may receive such assistance. These 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. Some of these issues include accreditation standards for new model demonstration programs; as well as best practices that provide a focus on academic enrichment, socialization, independent living skills, and integrated work experiences.

3. AUCD recommends that the following principles be utilized and suggestions incorporated in the regulations:

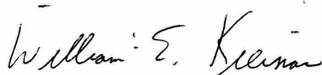
- The process for application for financial aid should be as similar as possible to that used by students not enrolled in, or accepted for enrollment in, a comprehensive transition and postsecondary education programs for students with intellectual disabilities, and as streamlined as possible.
- The 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.

As we move forward in this process, please feel free to contact AUCD and our national network of 126 university centers that have already begun to develop model postsecondary programs for students with intellectual disabilities. We would be delighted to provide insight and recommendations to Title IV of the HEOA as it relates to accessing financial aid for students with intellectual disabilities. Additionally, there are a number of individuals within our network with expertise in higher education programs for students with intellectual disabilities that would be a valuable member of the negotiated rule-making team. Please contact George Jesien at gjesien@aucd.org or 301-588-8252.

Sincerely,



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