



HIGHER EDUCATION RECOMMENDATIONS FOR THE FIRST 100 DAYS IN OFFICE

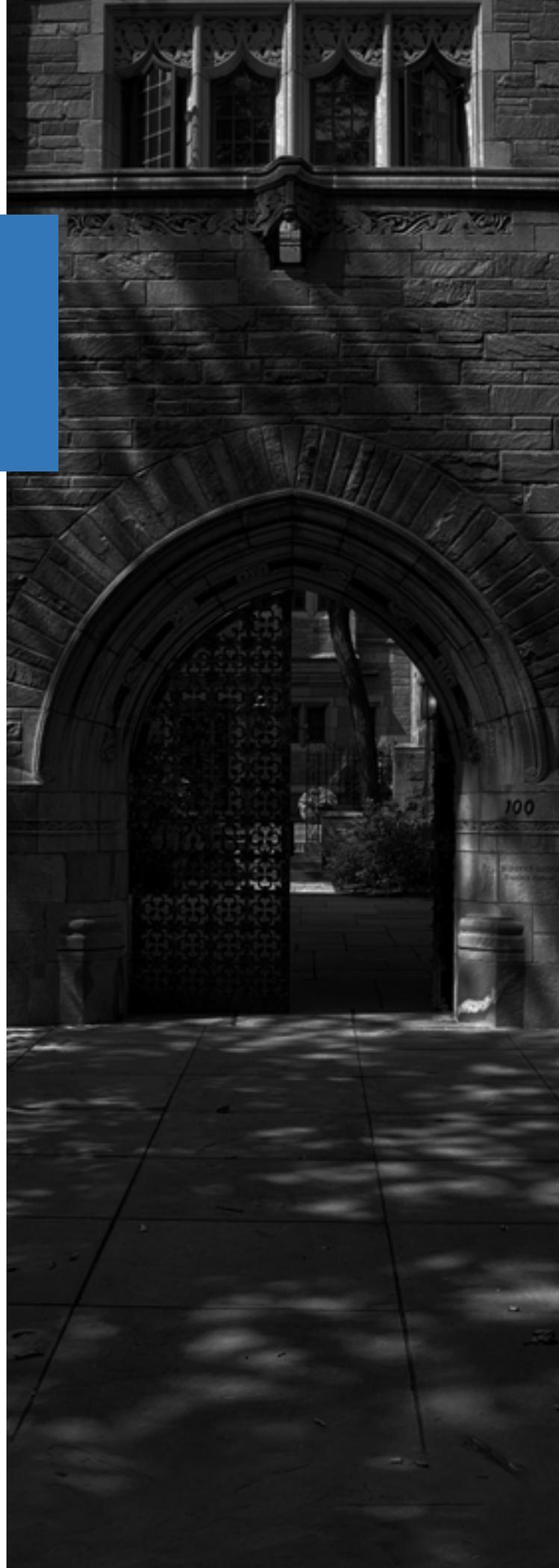
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EXECUTIVE SUMMARY

The Biden-Harris administration will enter office with an unprecedented and unique array of challenges to ensuring equity, fairness, and excellence in our education system. Some of these challenges are not new. Decades-old policies of inequity and systemic racism continue to limit opportunities for students from low-income families, students of color, and others from historically disadvantaged groups. What's more, the COVID-19 crisis has exacerbated these troubling and chronic impediments to student success not just in education policy and practice, but more broadly with regard to the dire economic and resource straits in which millions of families find themselves across the United States.

We urge the President- and Vice President-elect to advance education policies that aspire to the historic role the federal government has played in narrowing opportunity gaps and channeling resources to the students and schools most in need of them, toward the goal of ensuring that a high-quality education is a universal right for all, regardless of race, family income, zip code, disability, or country of origin. Increased resources for education are desperately needed, but not enough. Innovation, accountability, and other reform policies are needed to achieve optimal results. We believe that, in addition to President-elect Biden's commitment to unprecedented levels of funding, transformative change will require innovative and bold policies directed at improving outcomes for our nation's historically underserved students.

This paper contains equity-driven Higher Education recommendations for the Biden-Harris administration to consider as part of their first 100-days plan to improve educational opportunity and success nationwide.

RECOMMENDATIONS OVERVIEW

STUDENT LOAN RELIEF

- Reinststate and expand the COVID-19 pause on all federal student loan payments, interest accumulation, and debt collection.
- Cancel all federal student loan debt for borrowers deemed totally and permanently disabled by the Social Security Administration and those who have been exploited by fraudulently misleading institutions of higher education.
- Cancel tuition and fee federal student loan debt for all other borrowers with incomes up to the Biden-Harris free college proposal family income limit for future students (i.e. \$125,000 per year)—done automatically and with no application using IRS tax data.
- Propose a reconciliation of higher education pre-college, in-college, and post-college subsidy design and delivery that increases benefits, including federal student loan debt cancelation, for those in low and hard-pressed middle-income households.

IMPLEMENT FREE COLLEGE & DOUBLE PELL GRANTS

- Develop a free-college legislative package that covers the total cost of attendance at two- & four-year colleges and supports college completion through a system of direct aid to participating colleges, partnering school districts, and community-based organizations.
- Pursue, *without need for further Congressional action*, use of existing statutory authority to implement the Biden tuition free-college proposal for all relevant families at public two- and four-year colleges as well as non-profit, private minority serving institutions.

FOSTER DUAL ENROLLMENT

- Incorporate the “Fast Track To and Through College Act” into the first full Biden-Harris budget proposal.
- Allow *through Executive Action alone* dual enrollment high-school students to access Pell Grant aid and issue related guidance to high schools and institutions of higher education.

ENSURE A MEANINGFUL COMMITMENT TO ACCESS, DIVERSITY, AND CIVIC ENGAGEMENT

- Direct the U.S. Department of Justice to issue a notice of non-prosecution of federal antitrust law for cases of college collaboration around a specific set of activities (e.g., ending legacy preference, ending binding early

decision, increased use of need-based financial aid) to increase enrollment of working-class, low-income, and historically underrepresented racial minority students.

- Re-examine and revise the public charity tax status definition for institutions of higher education to ensure they evidence a meaningful commitment to fair and full access.
- Include the Coons-Rosen ASPIRE Act in the first Biden-Harris budget, among other financial incentives for colleges to enroll working-class and low-income students.
- Embrace what we call “The McConnell Principle” to provide endowment tax relief to high access colleges.
- Require states, as well as colleges and universities, that accept federal aid to establish access, completion, and economic success goals for students overall as well as disaggregated major racial and socioeconomic subgroups of students.
- Confer priority bonus points in federal grant competitions to colleges and universities based on their evidence of a *meaningful* commitment to diversity and socioeconomic mobility as reflected in access and completion metrics.
- Hold accountable states and colleges that persistently fail to evidence a meaningful commitment to diversity. Embrace a set of escalating consequences ranging from heightened targeting of federal aid and increased use of need-based aid to conditioned institution leadership change.
- Set a new precedent that Cabinet-level and senior White House officials, including the President and Vice President will tie major appearances, such as commencement addresses, to institutional evidence of a meaningful commitment to diversity and socioeconomic mobility as reflected in access and completion metrics.
- Increase the set-aside of Federal Work Study funds for community service and clarify that they may be used for voter registration, non-partisan voter engagement, and voter participation activities. When we all vote, we all win.

POSTSECONDARY EDUCATION & TRAINING

STUDENT LOAN RELIEF

→ **On Day One**, the Biden-Harris administration can and should through administrative action extend the COVID-19 pause on required federal student loan payments, interest accumulation, and debt collection for at least nine months so the administration has sufficient time to develop a coherent, comprehensive set of student loan relief policies for current and future borrowers. Beyond that date, nine months from inauguration, the pause in federal student loan payments should continue to the extent our pandemic-driven economic crisis continues. To determine if the economic crisis is continuing, objective indicators, such as but not limited to the national unemployment rate for those with less than a college degree, should be used. The CARES Act provided a pause of payment and collection of most federal student loans through Sept. 30, 2020.¹ President Trump used administrative authority to extend that pause through Jan. 31, 2021.² The same authority should be used again to provide similar immediate relief for all federal student loan borrowers struggling during our global pandemic and economic crisis as they await for Congress to act on Phase IV COVID-19 relief legislation that as of this writing is months overdue, as well as any further comprehensive relief to be offered by the new administration.

→ **On Day One**, the Biden-Harris administration also can and should immediately suspend and begin a process to end permanently all federal student loan debt collections for borrowers identified as either: (i) totally and permanently disabled by the Social Security Administration (SSA), or (ii) exploited by fraudulently misleading institutions of higher education be they for-profit, non-profit, or public in nature.³ The U.S. Department of Education long has been authorized to vitiate student loan payments of those identified as “unable to engage in any substantial gainful activity” due to a physical or mental impairment that can be expected to last for a continuous period of at least sixty months and result in death.⁴ But the application process is highly

¹ See P.L.116-136, The Coronavirus Aid, Relief, and Economic Security Act (CARES), Sec. 3513: “Temporary Relief For Federal Student Loan Borrowers.”

² See Memorandum on Continued Student Loan Payment Relief During the COVID-19 Pandemic (August 8, 2020), available at: <https://www.whitehouse.gov/presidential-actions/memorandum-continued-student-loan-payment-relief-covid-19-pandemic/>; see also U.S. Const. Art. IV, Sec 3 (describing authority to “dispose” of federal property), 20 U.S.C. § 1082(a)(6) (authorizing settlement and compromise of student loan debt); cf. *Department of Transportation v. Association of American Railroads* (2014) (upholding Congressional delegation to Amtrak and the Federal Railroad Administration to issue “metrics and standards” for rail service)

³ The Secretary of Education has the authority to regulate Title IV matters without going through negotiated rulemaking where it is “impractical, unnecessary, or contrary to the public interest.” See 20 U.S.C. § 1098a(b)(2)

⁴ See HEA § 437(a)(1); 20 U.S.C. § 1087(a)

cumbersome for those SSA already has identified as permanently disabled.⁵ Some 350,000 SSA identified disabled borrowers continue to be billed for federal student loans that they cannot reasonably be expected to repay.⁶ It is neither compassionate nor just.

Further, as has been reported widely, all too many student loan borrowers have been defrauded by institutions of higher education like Corinthian Colleges and ITT Tech that misrepresented their education programs and then abruptly closed with students still enrolled and no viable, “teach out” alternative option available.⁷ For borrowers in this circumstance, HEA already provides that federal student loan debt can be discharged.⁸ In 2013, the U.S. Department of Education clarified that discharge can extend to cases where the relevant institution loses accreditation, discontinues the majority of its academic programs, has its state license revoked or receives a “finding by a State or Federal government agency that the school violated State or Federal law.”⁹

Immediately upon taking office, the Biden-Harris administration should direct U.S. Department of Education staff to review any institution of higher education where evidence exists that it may have engaged in misrepresentation, lost accreditation, or closed some or all of its programs, to identify cases where across-the-board discharge can be conferred, and immediately discharge claims on a class-wide basis of recent students as well as those stretching further back in time who were also misled. In prioritizing reviews, particular attention should be paid to institutions in the for-profit (i.e. proprietary) sector given their relative cost and poor record. Families that have been preyed upon by shoddy institutions of higher education disproportionately are low-income and racial minorities. Rather than pursue case-by-case claims, the federal student loan debts of relevant borrowers should be vitiated as soon as possible with minimal further consumer burden. To prevent recurrence of this type of behavior by schools like Corinthian Colleges and others, we recommend the Biden-Harris administration propose HEA be amended to hold accrediting agencies liable for future discharges, among other changes including codification of the Obama-Biden administration’s gainful employment standard.

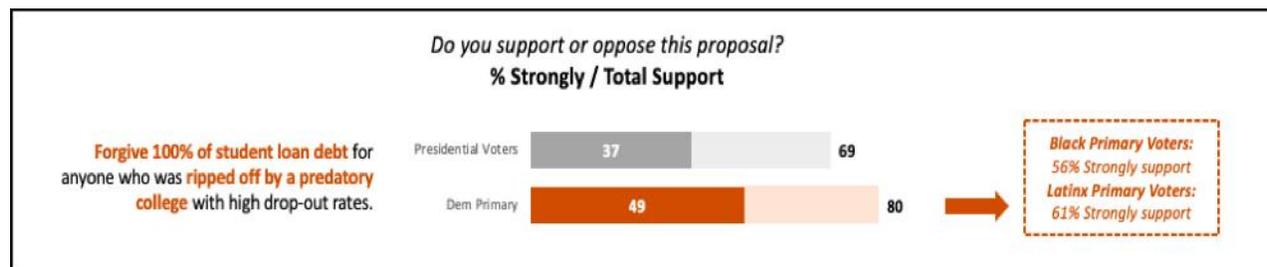
⁵ Letter to Secretary DeVos, et. al., from Sen. Chris Coons (D-DE), et. al. (October 9, 2019), *available at*: <https://www.coons.senate.gov/imo/media/doc/%5bUntitled%5d1.pdf>

⁶ See U.S. Department of Education, Final Response to FOIA Request No. 20-00411-F (Jan. 29, 2020), *available at*: <https://www.defendstudents.org/foia/disability#matchingagreements>

⁷ See Douglas-Gabriel, “Former executives of defunct for-profit college firm ITT settle fraud charges with SEC,” *The Washington Post*, July 9, 2018 *available at*: <https://www.washingtonpost.com/news/grade-point/wp/2018/07/09/itts-top-executives-settle-fraud-charges-with-sec/>

⁸ See 20 U.S.C. § 1087(c)(1); see also 34 C.F.R. §§ 682.402(d)(1)(i), 685.214(a)(1)

⁹ See 78 Fed. Reg. 65768, 65771 (Nov. 1, 2013) *available at*: <http://www.federalregister.gov/documents/2016/11/01/2016-25448/student-assistance-general-provisions-federal-perkins-loan-program-federal-family-education-loan>



Source: Benenson Study Group Poll, 2019

→ **On Day One**, the administration has statutory authority to go further and cancel outright broadly federal student loan debt for current borrowers in and borrowers out of school.¹⁰ As to the debate of whether the new administration should cancel federal student loan debt for all borrowers vs. a limited set, or in total vs. limited to a specific dollar amount, we believe the answer has been foreshadowed in the Biden-Harris campaign “free college” proposal.¹¹ That proposal guarantees a tuition and fee-free postsecondary education for all attending two-year community colleges and those from families earning less than \$125,000 per year attending public four-year colleges and minority serving institutions.¹² We believe that in this context, the interests of equity counsel are a match in benefits for former and current students with those contemplated for future students. To be clear though, we think the equity question in federal financial aid stretches beyond debt cancelation for former students as compared to future students.

→ **By Day 100**, given the pending reauthorization of HEA and need to incorporate changes in a budget proposal, we recommend the Biden-Harris administration develop a legislative proposal to harmonize postsecondary education financial assistance across the time spectrum in which families pay for higher education. Frankly, the vast majority of families do not and cannot afford to pay for their children’s higher education expenses out of current income which is assumed and at the heart of federal financial aid need analysis methodology. The federal government recognizes this by providing subsidies to those saving for college (e.g. paying before they enroll through tax-preferred 529 plans), those paying for college while enrolled (e.g. through Pell Grants and the American Opportunity Tax Credit), and those paying for college after they have graduated or otherwise exited higher education (e.g. through income-driven repayment and student loan interest tax

¹⁰ Letter to Sen. Elizabeth Warren (D-MA) from Connor et al. (Legal Services Center of Harvard Law School, Sept. 14, 2020) available at:

<https://www.warren.senate.gov/imo/media/doc/Ltr%20to%20Warren%20re%20admin%20debt%20cancellation.pdf>

¹¹ See Gongloff, “Canceling Student Debt May Not Be a Slam-Dunk for Biden,” Bloomberg News, Nov. 18, 2020 available at: <https://www.bloomberg.com/opinion/articles/2020-11-18/canceling-student-debt-may-not-be-a-slam-dunk-for-biden>

¹² See The Biden Plan for Education Beyond High School available at: <https://joebiden.com/beyondhs/#>

deductibility). For these programs, eligibility standards, higher education costs to families covered, progressive principles at work, and connections to academic and training program completion vary and lack a coherent, cross-cutting rationale.

There are certain national priorities, such as recruitment and support of high-quality teachers in needy schools, where a varied approach in federal support is reasonable. But as a default to advance equity and increase effectiveness and efficiency in terms of certificate and degree completion, recommended is that the Biden-Harris administration propose a reconciliation, if not consolidation, of higher education subsidy design and delivery that increases benefits, including outstanding federal student loan debt cancelation, for those in low and hard-pressed middle-income households potentially even reaching beyond the Biden-Harris campaign proposed \$125,000 in family income cap.¹³

FREE COLLEGE & DOUBLING PELL GRANT AID

We believe there are at least two paths the Biden-Harris administration can pursue to advance its vision of free college that combines a guarantee of tuition and fee-free education with a doubling of Pell Grant aid: legislative and executive. For both, however, we recommend ancillary policies to better ensure that a free college initiative reaches optimal effectiveness in terms of supporting college access, affordability, and critically certificate and degree completion.

Legislative Action

→ **By Day 100**, we recommend the Biden-Harris administration present a legislative package in its first full budget that couples a free college plan with state, institution, and student responsibility elements that collectively support degree attainment.¹⁴ Specifically, we suggest the full plan:

¹³ See Obama White House Archives, “A Simpler, Fairer Tax Code that Responsibly Invests in Middle Class Families” (January 17, 2015) available at: <https://obamawhitehouse.archives.gov/the-press-office/2015/01/17/fact-sheet-simpler-fairer-tax-code-responsibly-invests-middle-class-fami>

¹⁴ See Michael Dannenberg, *A Strategy to Ensure College Affordability for Low and Middle Income Families* (Education Reform Now, Jan. 3, 2015) (proposing a cap on student loan debt coupled with state, institution, and student responsibility) available at: https://edreformnow.org/wp-content/uploads/2014/01/College-Affordability-Strategy_1-5-15.pdf; see also Dannenberg & Voight, *Doing Away with Debt* (Education Trust, Feb. 14, 2013) (proposing debt-free college financed through a redesign of federal student aid programs); Michael Dannenberg, *The Truth About Tuition*, *The American Prospect* (Aug. 13, 2009) (proposing free community college); Michael Dannenberg, *A College Access Contract in Ten Big Ideas for a New America* (New America Foundation, Feb. 2, 2007)

1. *Cover Total Cost of Attendance at Two- & Four-Year Colleges*

A free college plan that does not account for sufficient family or grant aid resources to cover the full cost of attendance needs of students will lead to part-time enrollment, excessive out-of-school work hours, and supplemental student loan debt. The former two undermine completion, and the latter belies the promise of a free college education.¹⁵

Accordingly, we recommend that a free college legislative package cover, either by an immediate doubling of the Pell Grant or other grant approaches, the full cost of attendance for eligible students to enroll in a two- or four-year public college or non-profit private minority serving institution of their choice, without favor among the relevant sectors. While a design that rests on the premise of two- to four-year college transfer pathways may work for some and carries intuitive appeal from a cost-efficiency perspective, the research suggests beginning at a two-year college with the intention of completing a four-year degree decreases the likelihood a student ultimately will earn a bachelor's degree by approximately 30 percentage points.¹⁶ Peer effects, inadequate on and off campus support services, and administrative barriers combine to undermine degree completion.

2. *Incentivize State Higher Education Finance Adequacy & Equity*

For years and with impunity states have shifted the cost of higher education to families and the federal government despite the positive externalities the higher education sector delivers.¹⁷ Worse, states have done so in an inequitable manner.¹⁸ While total state funding for higher education had been increasing prior to the COVID-19 crisis, state per student funding has declined forcing families to pay more for college and the federal government to increase assistance.¹⁹ In cases where targeted state student aid has been provided, it increasingly has shifted from being based on family economic need to non-need based factors.²⁰ States fund four-year public colleges with more than twice as much in per student financial support as two-year community colleges that disproportionately

¹⁵ See Dannenberg & Mugglestone, *The Promise of Free College*, Democracy Journal, Nov. 14, 2017

¹⁶ See Reynolds, "Where to Attend? Estimating the Effects of Beginning College at a Two-Year Institution," (Aug. 2012) *Economics of Education Review*. 31(4). 345-362.

¹⁷ See Mitchell, Leachman, and Saenz, *State Higher Education Funding Cuts Have Pushed Costs to Students*,

Worsened Inequality Center on Budget and Policy Priorities (October 24, 2019) available at:

<https://www.cbpp.org/research/state-budget-and-tax/state-higher-education-funding-cuts-have-pushed-costs-to-students>

¹⁸ See Mitchell, Leachman, and Saenz at note 17

¹⁹ See Mitchell, Leachman, and Saenz at note 17

²⁰ See Mitchell, Leachman, and Saenz at note 17

enroll students from racial minority and low-income backgrounds.²¹ The result is an increase in student debt, strain on the federal aid programs, and an unconscionably separate and unequal public higher education system.

Accordingly, we recommend a free college package to incentivize state higher education school finance adequacy and equity with inclusion of a maintenance of effort provision and distribution of federal funds based on institution need and equity in the underlying state higher education funding distribution. Already, there is a state maintenance of effort provision that attaches to receipt of federal elementary and secondary funds.²² It has been successful in keeping state K-12 financial support relatively stable. And already the federal government distributes over \$4.2 billion a year in ESEA Title I aid on the basis of school district economic need and a measure of school finance equity.²³ Both of these policies and the underlying principles they reflect should be incorporated into a free college initiative.

3. Push Colleges to Better Support Completion

Time and again we have seen similar colleges with similar admissions standards that enroll students with similar characteristics deliver wildly different results in terms of degree completion levels and long-term economic impact.²⁴ What schools do affects student outcomes; that's true for K-12 grade schools as well as institutions of higher education.

Accordingly, we recommend that all institutions of higher education that seek to participate in a federal free college initiative be required to:

- (i) establish goals for student access and completion disaggregated by major racial and economic subgroup;

²¹ See Mitchell, Leachman, Masterson, and Waxman, "Unkept Promises: State Cuts to Higher Education Threaten Access and Equity," Center on Budget and Policy Priorities (October 4, 2018), *available at*: <https://www.cbpp.org/research/state-budget-and-tax/unkept-promises-state-cuts-to-higher-education-threaten-access-and>

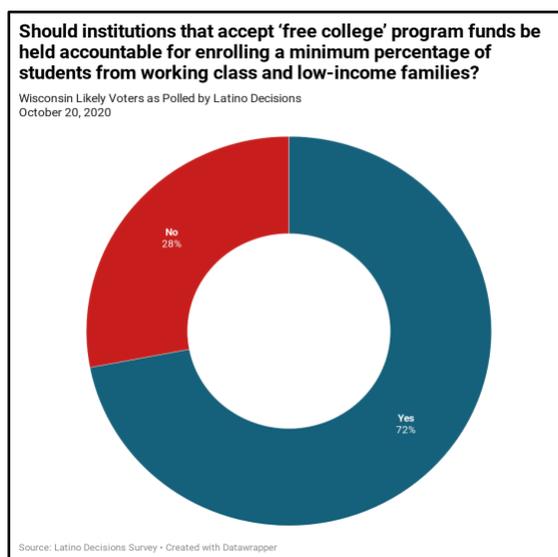
²² See 20 U.S.C. § 6321 et seq.; see also 34 CFR § 299.5

²³ See Elementary and Secondary Education Act of 1965, as amended, Title I, Part A; 20 U.S.C. 6301-6339, 6571-6578, Sec. 1125A: "Education Finance Incentive Grant Program;" see also U.S. Dept of Education Fiscal Year 2021 Budget Summary, Feb. 2020 at page 65 *available at*: <https://www2.ed.gov/about/overview/budget/budget21/summary/21summary.pdf>

²⁴ See Dannenberg, "Obama's College Plan has Potential Genius," USA Today, Sept. 19, 2013 *available at*: <https://www.usatoday.com/story/opinion/2013/09/19/obamas-college-plan-scorecard-graduation-rates-column/2839715/>

- (ii) participate in a statewide universal transfer of credit policy for introductory courses;
- (iii) commit to necessary course availability for students to complete all certificate and degree programs on-time; and
- (iv) in cases of well-funded institutions that persistently underperform in meeting student access and outcome goals, develop intervention policies (ranging from increased investment in targeted student population support and associated increased need-based institutional aid to change in institution leadership) when performance against goals is lacking.

Polling commissioned by ERN and conducted by Latino Decisions indicates 72% of voters believe institutions of higher education that receive free college program funds from the federal government should be held accountable for enrolling a minimum number of students from working class or low-income families. And by a more than 2-to-1 margin, they believe that colleges that persistently rank in the bottom 5% on working class and low-income student access should be held accountable with consequences such as those referenced above.²⁵



²⁵ See Education Reform Now Advocacy, Questions 47 and 38, Education Survey of Wisconsin Likely Voters (October 20, 2020) conducted by Latino Decisions and on file with authors.

4. Support Better Pre-College Academic Preparation

The research indicates high school academic preparation is more predictive of bachelor's degree completion than any other pre-college characteristic: it's more predictive than race, family income, or parental education. In fact, academic preparation variables like high school curricular rigor (i.e., taking a college preparatory course track), test scores, and high school GPA account for 78% of the difference between completers and non-completers. Race, family income, gender, and teen pregnancy explain only 22% of the variation.²⁶ But all too many students enter postsecondary education underprepared to take credit bearing courses. In fact, in 2011, over half a million rising college freshmen – approximately one in four students entering college the fall after high school graduation – had to enroll in remedial coursework during their first year of enrollment.²⁷ Of those students, nearly half — 45% — came from families earning more than \$48,000 in annual income. Nearly half — 43% — were enrolled in public four-year colleges. Only 57% were enrolled in public community colleges.²⁸

Accordingly, we recommend a free college federal-state partnership program include a requirement that all public secondary school students be placed on a college preparatory academic track as a default with an opt-out course of study, that states and participating school districts supply supplemental services to those academically behind, and that participating institutions of higher education supply additional academic support services to participating students before their first semester of full-time study.²⁹

We would go even further and over time phase-in a requirement that such a course of study be completed. The requirement would need to be phased-in over time because too many low-income students lack access to rigorous secondary school programs of study because the school district may feel they cannot afford to provide such programs or sufficient academic support for those behind. We are hopeful this issue will be addressed through a modified Biden-Harris Title I for (High School-) High

²⁶ See Clifford Adelman, "Answers In the Tool Box: Academic Intensity, Attendance Patterns, and Bachelor's Degree Attainment" (June 1999) Office of Educational Research and Improvement, US Department of Education, available at <https://eric.ed.gov/?id=ED431363>

²⁷ Barry & Dannenberg, *Out of Pocket: The High Cost of Inadequate High School and High School Student Achievement on College Affordability*, Education Reform Now (April 5, 2016) at <https://edreformnow.org/wp-content/uploads/2016/04/EdReformNow-O-O-P-Embargoed-Final.pdf>; see also "Guess Who's Taking Remedial Classes?" New York Times, May 10, 2016.

²⁸ *Ibid*

²⁹ We believe new Title I aid and Pell Grant funds can and should be made available for these purposes. See Section II, Subsection 3 of this memorandum.

Education initiative as that initially proposed during the presidential campaign.

Executive Action

We submit slimmed down variations of the Biden-Harris campaign's free college and double Pell Grant promises can be effectuated through creative use of the current federal student loan programs along with aggressive subsequent executive action. No matter their income, all current and future students and their families are entitled to borrow significant sums from the federal government to pay for college, and the administration is entitled to vitiate the underlying debt on an annual basis.³⁰ Both actions, if aggressively pursued, can make college tuition and fee-free for millions.

Under HEA, independent undergraduate students and dependent undergraduate students of parents with poor credit are entitled to borrow up to \$57,000 in federal Stafford student loans.³¹ Undergraduate dependent students are entitled to borrow up to \$30,000 in such loans. On top of those amounts, needy students are eligible to borrow federal Perkins loans. And parents with non-poor credit records can borrow up to the student's remaining cost of attendance not covered with grant funds. Since HEA's inception, the law also has conferred to the Secretary of Education the power to "enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption."³² In fact, the Trump administration used this authority to pause federal student loan collections and waive associated interest subsequent to passage of the CARES Act up through December 31st of this year.³³

→ **On Day One**, we recommend the Biden-Harris administration commence a "negotiated rulemaking" process directed at, among other goals, establishing annual federal student loan forgiveness equal to tuition and fee

³⁰ See note 10; see also 20 U.S.C. § 1082(a)(6)

³¹ See U.S. Dept of Educ, Office of Federal Student Aid guidance, available at: <https://studentaid.gov/understand-aid/types/loans/subsidized-unsubsidized>

³² 20 U.S.C. § 1082(a)(6); see also U.S. Const. Art. IV, sec 3 (describing authority to "dispose" of federal property). *But see* *Mistretta v. U.S.* 488 U.S. 361 (1989) (upholding legislative delegation only upon a guiding, "intelligible principle")

³³ See Press Release, U.S. Dep't of Educ., Delivering on President Trump's Promise, Secretary DeVos Suspends Federal Student Loan Payments, Waives Interest During National Emergency (Mar. 20, 2020), <https://www.ed.gov/news/press-releases/delivering-president-trumps-promisesecretary-devos-suspends-federal-student-loan-payments-waives-interest-during-national-emergency> (announcing student loan interest waived prospectively and retroactively to the date of President Trump's COVID-19 emergency declaration on March 13, 2020); @mstratford, Twitter (Aug. 7, 2020, 7:17 PM), <https://twitter.com/mstratford/status/1291921349573738496> (quoting a spokesperson for the U.S. Department of Education as confirming the specific legal authority used for this executive action); see also Memorandum on Continued Student Loan Payment Relief During the COVID-19 Pandemic (August 8, 2020), available at <https://www.whitehouse.gov/presidential-actions/memorandum-continued-student-loan-payment-relief-covid-19-pandemic/>

amounts paid by prospective borrowers to attend public two and four-year colleges or non-profit private minority serving institutions that meet certain conditions (see above “free college legislative path” subsection) consistent with the goal of establishing a quality, free college program, if not a doubling of the average Pell Grant award. Prospectively announcing and then engaging in a rulemaking process to facilitate prompt, widespread loan forgiveness would permit the Biden-Harris administration to keep its free college promise, even in the absence of Congressional action. Simultaneous with the negotiated rulemaking process, Congress hopefully will pursue a more fulsome Biden-Harris legislative initiative that meets the same goals and renders moot a foreseeable court challenge by loan servicers if not others.

In fact, using the “negotiated rulemaking” regulatory process might actually reduce litigation risk associated with broad federal student loan debt cancellation. The Department of Education Organization Act of 1979 gives the Secretary of Education authority to “prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.”³⁴ HEA and the Administrative Procedures Act together establish a process for notice and comment rulemaking that includes a positive requirement for negotiations with impacted parties, including loan servicers. The result of this process is more likely to buttress legal challenges by parties impacted (i.e., arguably loan servicers) by a rule that leads to debt cancellation. While aggressive use of the Secretary’s waiver authority on this scale has not been done, the authority has been used by none other than President Trump.³⁵ Student loan debt forgiveness authority that the Trump administration used does not become impermissible or illegal simply because the Biden administration would use it on a larger scale.

→ **By Day 100**, simultaneous to the above referenced negotiated rulemaking process and to reduce litigation risk in furtherance of its tuition and fee-free college goals even more, we recommend the Biden-Harris administration make exceptionally aggressive use of the Secretary of Education’s experimental site authority. Section 487A of HEA allows the Secretary to waive almost any statutory or regulatory requirement that could improve operation of the federal student aid programs, including repayment terms.³⁶ An evaluation is required, but there is no limit on the size of any experiment. The Biden-Harris administration could — consistent with the substance

³⁴ See 20 U.S.C. § 3474

³⁵ See note 33

³⁶ See Section 487A(b)

derived from a concurrent but not predicate negotiated rulemaking process — and we submit should if Congress will not act, institute an experiment whereby all federal student loans equal in amount to average tuition and fees at public two- and four-year colleges are immediately 100% forgiven for all borrowers at community colleges and borrowers with family incomes up to \$125,000 at public four-year institutions and non-profit minority serving institutions as well. The wide scale experimental site test should occur each year on a rolling basis throughout the Biden-Harris administration thereby executing the Biden-Harris free-college campaign plan. The results of the statutorily required evaluation may well conclude that tuition-free college actually increases repayment rates of federal student loans for non-tuition and fee (e.g., room and board) expenses.

The rulemaking and experimental site processes may well push Congress to act to authorize a more targeted free college initiative lest total and complete federal student loan forgiveness for those from families at even the highest income levels go forward. In our view, that would be the optimal outcome.

DUAL ENROLLMENT

Similarly, we believe the Biden-Harris campaign's proposed expansion of dual enrollment can be pursued through both legislative and executive authority pathways. Such expansion has the potential for significant impact. A quarter of secondary school students are prepared for college level academic work *before* 12th grade begins,³⁷ and a quarter of students entering higher education in the fall immediately after high school graduation do so underprepared for credit bearing work.³⁸ Contrary to common belief, nearly a third of the former — fast track ready 12th graders — come from low-income families and 30% of those are racial minorities.³⁹ And nearly half of the latter — postsecondary remedial students — come from middle- and higher income families.⁴⁰

Legislative Action

There are two relevant pending legislative proposals to expand dual enrollment. The first, The Go to High School, Go to College Act, provides for an expansion of an existing experimental site pilot program and would authorize

³⁷ See Dannenberg and Hyslop, "Building A Fast Track To College," Education Reform Now & Alliance for Excellent Education (Feb. 2019) available at: <http://edreformnow.org/wp-content/uploads/2019/02/ERN-AEE-Fast-Track-FINAL.pdf>

³⁸ See Nguyen Barry and Dannenberg at note 27, pp 2-4

³⁹ *Ibid*

⁴⁰ *Ibid*

250 of the nation's over 6,000 institutions of higher education to accept Pell Grant funding for high school students participating in dual enrollment programs. The second pending legislative proposal, "The Fast Track To and Through College Act (Fast Track)," is both more robust and more targeted. Along with the Alliance for Excellent Education, Jobs for the Future and a number of other groups, we recommend its support.

Fast Track, introduced by Senators Hassan (D-NH) and Young (R-IN), provides Pell Grant aid to all working class and low-income eligible 12th grade dual enrollment students identified as academically ready for college level coursework. It goes further and authorizes competitive grants to states that have or will develop:

- Statewide high school graduation policies that enable students to complete their secondary school coursework prior to senior year (i.e., competency-based high school graduation);
- Statewide Advanced Placement (AP), International Baccalaureate (IB), and dual-enrollment credit recognition policies that apply at all in-state public colleges to ensure college-level course work taken in high school counts toward a college degree;
- Statewide credit transfer agreements for introductory college courses that apply at all in-state public colleges to ensure college credits follow students between institutions;
- Statewide strategies for increasing equity in access to advanced coursework in high school; and most importantly,
- A guarantee that college-ready students in all school districts have access to two "Fast Track" pathway options: either: (1) an early college "Fast Track" pathway consisting of a *full-time load of introductory college-level course work* during senior year of high school offered free of charge through AP, IB, dual-enrollment, or online programs such as edX, or (2) an early high school graduation "Fast Track" pathway where students receive an early high school graduation scholarship for use at any in-state public college when they graduate high school in three years instead of four.

→ **On Day One**, we recommend the Biden-Harris administration direct the Office of Management and Budget (OMB) to "score" the Hassan-Young "Fast Track To and Through College Act's" impact on the Pell Grant program at an assumed state grant appropriation level of at least \$100 million. Independently, however, given the presence of a Pell Grant surplus, we recommend the "Fast Track To and Through College Act" be incorporated into the first full Biden-Harris budget proposal.

The bipartisan Hassan-Young bill offers a cheaper, faster track to and through college for *all* talented high school students, especially the near third of whom live in low-income households. Because targeted dual enrollment students who would receive Pell Grant Aid under the legislation are academically well-prepared for college, and crucially, the bill includes a requirement for statewide credit transfer policies (at a time when the Government Accountability Office estimates over 40% of credits are lost in transfer thereby extending time to degree and consequent costs),⁴¹ we anticipate OMB would not find a more than nominal net increase in federal costs associated with extending Pell Grant aid to targeted students under the legislation. In most cases, the window of time in which relevant students access Pell Grant aid would simply be moved up (e.g. ages 17 to 21 instead of 18 to 22) rather than extended. Moreover, the proposed statewide credit transfer policy would facilitate faster time-to-degree for all, which in turn offsets an increased Pell Grant program cost.

Executive Action

If either chamber of Congress shows no inclination to act on a proposed extension of Pell Grant aid to working class and low-income students who could pursue dual enrollment / Fast Track course work but for inability to pay, the Biden-Harris administration should on its own extend Pell Grant eligibility to said students. The current phenomenon where only those students who can pay tuition and fees for dual enrollment courses and thus are the only ones effectively allowed to pursue them is inequitable and unjust.

Base federal law may prohibit students from receiving Pell Grant assistance if in addition to an institution of higher education they are enrolled in a secondary school,⁴² but again section 487A(b) of HEA includes experimental site authority that allows the Secretary of Education to waive statutory and regulatory requirements that could result in stronger academic or career outcomes for students.⁴³ Theoretically, an experimental site initiative could be created that covers every prospective dual enrollment student.

In addition, we would point out that the Biden-Harris administration can extend through sub-regulatory guidance clarification that high school students can access Pell Grant aid during the summer immediately following high school graduation but *prior to* full-time college enrollment in the fall thereafter. In 2018 Congress extended Pell Grant aid amounts for summer

⁴¹ See United States Government Accountability Office, *Students Need More Information to Help Reduce Challenges in Transferring College Credits* (August 2017) available at: <https://www.gao.gov/assets/690/686530.pdf>

⁴² See Section 484(a)(1); see also 34 CFR 668.32(b)

⁴³ See Section 487A(b)

students. Students are allowed to access up to 150% of maximum annual Pell Grant (\$6,345 + \$3,172 = \$9,517 per year) during fall, spring, and summer semesters, but proportionately few students access Pell Grant aid for the first time in the summer semester immediately after high school graduation.⁴⁴ They should know they are able and be encouraged to do so.

→ **By Day 100**, we recommend the Biden-Harris administration propose both an aggressively expanded experimental site program enabling many more dual enrollment students to access Pell Grant aid and issue guidance to high schools and institutions of higher education that students may immediately access summer Pell Grant aid prior to fall semester freshman year enrollment. If Congress acts in advance thereby obviating the former, the experimental site proposal can simply be halted. Regardless, the latter guidance should issue.

A MEANINGFUL COMMITMENT TO ACCESS, DIVERSITY, AND CIVIC ENGAGEMENT

Over a dozen education and civil rights organizations including *Education Reform Now*, *the Center for American Progress*, *National Action Network*, *National Urban League*, and *UnidosUS* have issued a call for all postsecondary institutions of higher education to evidence “a meaningful commitment” to diversity and socioeconomic mobility.⁴⁵ It is not enough for the federal government to provide increased aid to needy high school and prospective higher education students to pay for the cost of college if colleges, especially the most influential and highly successful colleges, do not admit those students in the first place or structurally discriminate such that they don’t admit their fair share. Likewise, while high levels of racial diversity in student body admission are welcome, if an individual college overwhelmingly does not generate graduates from historically underrepresented groups, its commitment to diversity cannot be said to be truly meaningful. We believe colleges and universities that receive well over \$150 billion in annual taxpayer support collectively and millions individually not only have a public responsibility to make a *meaningful* commitment to diversity and socioeconomic mobility as reflected in enrollment, completion,

⁴⁴ See Kreighbaum, “A Repudiation of the Trump Budget,” *Inside Higher Ed* (May 2, 2017) available at: <https://www.insidehighered.com/news/2017/05/02/omnibus-budget-deal-maintains-programs-hit-drastic-cuts-trump-budget>; see also Fain, “The Summer Pell Bump,” *Inside Higher Ed* (Nov. 14, 2018) available at: <https://www.insidehighered.com/news/2018/11/14/more-pell-recipients-attended-community-college-last-summer-after-return-year-round>

⁴⁵ See Alliance for Excellent Education, Center for American Progress et. al., “An Education Policy Agenda for the 117th Congress & Administration” (July 14, 2020) available at: <http://edreformnow.org/wp-content/uploads/2020/10/Education-Policy-Agenda.pdf>

and overall civic engagement, but that they should be held accountable for persistent failure to do so.

[A Meaningful Commitment to Access](#)

One of the dirty little secrets of higher education is that despite well-marketed outreach and generous financial aid programs, many extremely wealthy colleges embrace policies that undermine working class and low-income students' chances of ever being admitted, much less enrolled. The most nefarious ways elite colleges reproduce inequality is to favor big donors, known as "development admits," and children of alumni via the so-called "legacy preference." More prevalent at these same schools are binding early admissions policies that structurally disadvantage working class and low-income students who need to compare financial aid packages from competing institutions.⁴⁶ The federal government unwisely supports inequitable admissions practices — by providing tax-exempt status to colleges that discriminate against first-generation applicants (i.e. non-legacies). It should stop doing so.

Executive Action

→ **By Day 100**, the Biden-Harris administration should take executive action to aid wealthy, highly selective colleges in collaborating to boost working class, low-income student, and historically underrepresented racial minority enrollment. Recommended is an executive order to the Department of Justice to issue a notice of non-prosecution of federal antitrust law for cases of collaboration around a specific set of activities, including ending the legacy preference, donor preferences, binding early decision, and coordinating of recruitment and financial aid practices directed at the goal of increasing enrollment of working class, low-income, and historically underrepresented racial minority students.⁴⁷

→ **By Day 100**, the Biden-Harris administration similarly should direct the Department of Treasury to re-examine and revise the public charity tax status definition for institutions of higher education to ensure they evidence a meaningful commitment to fair and full access.⁴⁸ A college that makes use of the legacy preference, donor preferences, and other preferences that

⁴⁶ See Michael Dannenberg Memo to "Interested Parties: Elite College Admissions" (April 3, 2019) Education Reform Now, available at: http://edreformnow.org/wp-content/uploads/2019/04/Admissions-Background-Memo_update_4.3.19.pdf

⁴⁷ For an example of legislative language proposing an antitrust exemption aimed at increasing college access and diversity see S.1793 - College Quality, Affordability, and Diversity Improvement Act of 2003, Secs. 133. and 402M.

⁴⁸ See 26 CFR § 1.501(c)(3)-1

undermine racial and economic diversity while also persistently failing to enroll a reasonable share of students from working class, low-income, and racial minority backgrounds evidences the opposite.⁴⁹ If elite, inequity calcifying institutions of higher education want to offer a charity tax deduction to donors, they should have to swear off the legacy preference and development admissions at the least — or increase enrollment of talented students from working class, low-income, and historically underrepresented racial minority families. They can be non-profit private colleges or private clubs, not both. The choice should be theirs.

Legislative Action

→ **By Day 100**, the Biden-Harris administration should prepare for inclusion in its first full budget additional direct financial incentives for colleges to enroll their fair share of students from working-class and low-income families. Recommended is inclusion of the ASPIRE Act, introduced by Senators Coons (D-DE) and Rosen (D-NV), that would charge a “public service fee” to institutions of higher education with indefensibly low Pell Grant student enrollment rates (those in the bottom 5% of all colleges nationwide and with fewer than 14.7% Pell Grant student enrolled) and redirect “public service fee” raised funds to under resourced, struggling colleges, including many HBCUs and minority serving institutions, that are enrolling more than their fair share of Pell Grant students.⁵⁰ There are approximately 100 very wealthy, inexcusably low-access colleges nationwide. The public University of Virginia (UVa), for example, has a \$10 billion endowment and 10% Pell Grant student enrollment rate, compared to the University of North Carolina at Chapel Hill, which has the same admissions standards as UVa but a 24% Pell Grant student enrollment rate.⁵¹ The UVa’s of the world can and should be pushed to do better.⁵²

⁴⁹ See Shireman and Dannenberg, “Elite Colleges or Private Clubs,” NY Daily News, Nov. 3, 2014 *available at*: <https://www.nydailynews.com/opinion/shireman-dannenberg-elite-colleges-private-clubs-article-1.1994852>

⁵⁰ See S. 2021, “The Access, Success, and Persistence in Reshaping Education (ASPIRE) Act, sponsored By Sens. Coons (D-DE) & Rosen (D-NV)” (June 13, 2019); *see also* Education Reform Now, “ASPIRE Act Summary and Q&A” (July 2020), *available at*: http://edreformnow.org/wp-content/uploads/2020/07/ASPIRE-Summary-Question-and-Answer_final.pdf

⁵¹ See College Results Online comparison, Education Trust, *available at*: http://www.collegeresults.org/search_group.aspx

⁵² There are approximately 90,000 Pell Grant recipients with SAT scores of at least 1120 (the median score for students at selective colleges) that are shut out of top-flight universities, because of reasons ranging from inadequate financial aid to admissions policies that undermine diversity like the legacy preference. See Carnevale and Van Der Werf, *The 20% Solution: Selective Colleges Can Afford to Admit More Pell Grant Recipients* (2017) Center for Education and the Workforce, *available at* <https://1gyhoq479ufd3yna29x7ubjn-wpengine.netdna-ssl.com/wp-content/uploads/The-20-Percent-Solution-web.pdf>

→ **By Day 100**, the Biden-Harris administration should go further still and include in its first full budget a reward for wealthy, high access colleges first embraced by none other than Sen. Mitch McConnell (R-KY). The 2017 Tax Cut and Jobs Act instituted a new, ostensible endowment tax on high wealth colleges and universities equal to 1.4% of net investment income irrespective of the relevant college's contribution to traditional federal higher education student access and affordability goals. Included in the 2018 Bipartisan Budget Act at the behest of Senator McConnell is a line-item exception specifically and only for Kentucky's Berea College, which serves an extraordinarily high percentage of low-income Pell Grant students at an exceptionally low net price.⁵³ Recommended for inclusion in the first Biden-Harris budget is extension of what we call "*The McConnell Principle*" — a reduction if not elimination of new higher education endowment tax liability for all high wealth colleges that evidence a meaningful commitment to diversity and socioeconomic mobility based on a set of objective, universally applied criteria.⁵⁴ If applied beyond Kentucky's Berea College, the effect would be to provide tax relief to good actor schools and encourage those that are not to improve socioeconomic mobility as soon as possible.

[A Meaningful Commitment to Diversity](#)

Unfortunately, all too many institutions of higher education that enroll large numbers of students from historically underrepresented backgrounds produce very low levels of graduates from those same backgrounds — depressed levels that cannot simply be attributed to student characteristics given that peer colleges with similar students produce significantly better results.⁵⁵ The University of Akron and Central Michigan University, for example, have identical median high school GPA and SAT scores among enrolled students, and yet, year after year Central Michigan graduates twice the percentage of students overall and more than twice the percentage of students from historically underserved racial backgrounds.⁵⁶ By contrast, some 85% of University of Akron Black males drop out, year after year after year.⁵⁷

⁵³ See P.L. 115-123, The Bipartisan Budget Act of 2018, Sec. 41109.

⁵⁴ See Dannenberg, "A College Access Wake Up Call," NY Daily News, Dec. 27, 2019 (proposing to alter the size of the GOP's new endowment tax on rich colleges that are unaffordable for or don't enroll their fair share of academically talented working-class and low-income students)

⁵⁵ See Lynch and Engle, "Big Gaps, Small Gaps: Some Colleges and Universities Do Better Than Others in Graduating African-American Students" (August 2010) Education Trust, *available at*: <https://edtrust.org/wp-content/uploads/2013/10/CRO-Brief-AfricanAmerican.pdf>

⁵⁶ See College Results Online comparisons, Education Trust, *available at*: http://www.collegeresults.org/search_group.aspx

⁵⁷ See College Results Online comparisons, Education Trust, *available at*: http://www.collegeresults.org/search_group.aspx

Legislative Action

→ **By Day 100**, we recommend the Biden-Harris administration announce that it will propose as part of a new Biden-Harris free college or a Title I for High School-Higher Education initiative that participating states will be required to establish access, completion, and economic success goals for students overall and disaggregated major racial and socioeconomic subgroups of students; that it will seek to require every college and university that accepts federal aid in any way — grant, loan, or non-profit tax status — to establish the same; and that it will move to establish an escalating set of interventions for students and consequences for states and institutions that persistently underperform in evidencing a meaningful commitment to diversity, including a heightened concentration in the distribution of federal aid, required increase in need-based state and institution financial aid vs. non-need-based aid, a required “public service fee” as well as loss of endowment tax relief in the case of wealthy institutions, and ultimately change in institution leadership – be it a college president or members of the Board of Trustees.

Executive Action

→ **By Day 100**, moreover, the Biden-Harris administration should announce a series of executive actions that it will take to reward and challenge colleges evidencing or failing to evidence a meaningful commitment to racial diversity. The Obama administration created the popular College Scorecard to help students choose colleges that are the best fit for them and incentivize schools with data transparency to improve. Secretary Betsy DeVos undermined the Scorecard by removing or deemphasizing loan repayment, earnings, and employment data that made known just how dangerous many for-profit colleges are from an economic standpoint. We recommend the Biden-Harris administration reverse Secretary DeVos’ changes to the College Scorecard and update it to include that data broken down by major racial subgroup and also include a new “meaningful commitment to diversity and socioeconomic mobility index” score to assist students in choosing among colleges and incentivize institution improvement. Some 86% of Americans surveyed say it is important for colleges and universities to strive for diversity on campus.⁵⁸

⁵⁸ See Carapezza, “72 Percent Of Americans Oppose Considering Race In College Admissions, But Even More Value Racial Diversity,” GBH News, Sept. 16, 2018, *available at*: <https://www.wgbh.org/news/education/2018/09/16/poll-72-percent-of-americans-oppose-considering-race-in-college-admissions-but-even-more-value-racial-diversity>

→ **By Day 100**, we recommend the Biden-Harris administration also announce that the U.S. Department of Education will confer priority bonus points in federal grant competitions to colleges and universities based on their evidence of a meaningful commitment to diversity and socioeconomic mobility. The new administration, however, also should make known that the U.S. Department of Education will prioritize for federal audit, technically known as Title IV “program review,” colleges and universities that persistently demonstrate poor results on diversity commitment measures such as enrollment, completion, and economic success of students from major racial and socioeconomic subgroups.

→ **By Day 100**, we also recommend the Biden-Harris administration make known to colleges and universities that major public appearances such as commencement addresses and signing ceremonies involving Cabinet level and senior White House officials, including the President and Vice President will be driven by institution evidence of a meaningful commitment to diversity and socioeconomic mobility. Universities typically pay hundreds of thousands of dollars for commencement speakers. Instead of President Trump delivering gratis a commencement address at Liberty University — one of the worst four-year colleges in the nation for racial minority students — President Biden and the most senior members of his administration should deliver commencement addresses at community colleges and four-year schools that have the greatest impact on social mobility like Kentucky’s Berea College. We know of no President that has ever delivered a commencement address at a community college. It is long past time.

[A Meaningful Commitment to Civic Engagement](#)

Finally, the concept of public responsibility for every institution of higher education, especially public colleges and universities, needs to reach beyond matters of access, degree attainment, and economic success of students enrolled. Ultimately postsecondary education institutions should be engaged in the fundamental work of teaching and learning, including at a very minimum that which is necessary to be an engaged thoughtful citizen. We suggest three ways in which the Biden-Harris administration can facilitate the institution of higher education’s support of civic engagement.

→ **By Day 100**, prepare for inclusion in the first Biden-Harris full budget three proposals in support of voter registration, non-partisan voter education, and voter participation: “check-the-box” auto-voter registration for all college students, an Election Day holiday from classes, and the ability to use Federal

Work Study funds to support voter participation. There are federal footprints for each.

1. “Check-the-box” College Student Voter Registration

Already Section 487 of HEA requires colleges to make a “good faith effort” in support of voter registration. We should tighten that and insist on specific activities, as well as on campus polling places. Nearly 30 years ago, Congress passed what has come to be called the Motor-Voter Law, requiring states to offer a voter registration option to citizens applying for a driver’s license and other public benefits. Unsurprisingly, registration went up.

In the same way the motor-voter law is applied, public colleges should be required to offer a “check-the-box” voter registration option for students upon accepting an offer of admission, when applying for a school ID, or upon registering for courses.⁵⁹ With web-based voter registration processes employed by Secretary of State offices, costs would be nominal. Rather than a passive message from colleges encouraging registration, which is enough to pass muster under current law, institutions of higher education that receive over \$150 billion a year in public support should be required to make the option to register to vote part of an experience in which all enrolled students participate.

2. An Election Day Holiday from Classes

Already Federal law requires that on September 17th every grade school and college in America teach about the history of the U.S. Constitution.⁶⁰ Similarly, we urge that there at least be a day — Election Day — where we require institutions of higher education to facilitate students living up to the Constitution’s principles outside the classroom. Doing so cannot be legitimately said to infringe on academic freedom. It creates freedom for students to participate in civic life.

Hundreds of colleges voluntarily have joined an *All In Campus Democracy Challenge* to increase nonpartisan student civic learning, political engagement, and voter participation.⁶¹ The NCAA gives Division I athletes

⁵⁹ Some 5 million college students, approximately 25%, are unregistered to vote. See Thomas, Gismondi, Gautam, and Brinker, *Democracy Counts 2018: Increased Student and Institutional Engagement* (2018) Institute for Democracy & Higher Education, available at <https://idhe.tufts.edu/sites/default/files/DemocracyCounts2018.pdf>

⁶⁰ See P.L. 108-447, Miscellaneous Appropriations and Offsets Act of 2005, Division J, Title I, § 111

⁶¹ See All in Campus Democracy Challenge (2020) available at: <https://www.allinchallenge.org/higher-education-presidents-commitment-to-full-student-voter-participation/>

Election Day off to vote as do scores of colleges for all students. They and the Biden administration should support an Election Day holiday for everyone. College student voter participation rates have been rising, particularly on campuses where there is an institution commitment to civics, but at a past norm of just over 50% turnout in presidential elections and 25% in midterm elections, much more needs to be done.⁶²

3. Making Work Study Funding Available for Voter Engagement

In 1992, the late Senator Harris Wofford (D-PA) proposed that 50% of all federal work study funding be set-aside for community service. Ultimately, HEA was amended to require 7% of federal work-study funds to be spent on community service work.⁶³ Out of more than \$1 billion in annual work-study funding to over 800,000 students, in excess of 100,000 currently engage in paid community service work.

The last major U.S. Department of Education report on the federal work-study program found another near-100,000 students weren't even aware they could do paid community service work. An additional near-60,000 reported they would have done paid community service if they could find an opportunity that didn't conflict with course schedules. The Biden-Harris administration should propose increasing the percentage set-aside for community service and civic engagement work to at least 15% given the Department of Education past study. We would go as high as 25%.⁶⁴

Even if the Biden-Harris administration does not choose to propose increasing the amount of federal work study funds available for community service and civic engagement, at the very least within the first 100 days in office it can and should issue *sub-regulatory guidance* to colleges and universities clarifying that voter registration, voter participation (e.g., poll working), if not non-partisan voter education activities as well, qualify as allowable community service activities for which 100% of student salaries at non-profit organizations can be covered with Federal Work Study funds. When we all vote, we all win.

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⁶² See National Study of Voting, Leaning, and Engagement Data Portal 2012-2018, Institute for Democracy & Higher Education at Tufts University, *available at*: <https://idhe.tufts.edu/nslve-data-portal>.

⁶³ See Section 443(b)(2)(A) of the Higher Education Act of 1965, as amended (HEA) and the corresponding regulations at 34 CFR 675.18(g).

⁶⁴ See Bland & Dannenberg, "Expand College Students' Role in Voting," Atlanta Journal-Constitution, Oct. 3, 2020.

CONTACT INFORMATION

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