

## Memorandum

**To:** U.S. Department of Education and Negotiated Rulemaking Committee  
**From:** Amanda Martinez and Ernest Ezeugo  
**Date:** March 17, 2022  
**Re:** Proposed Transcript Withholding Language

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The Department's recent *Issue Paper 6: Certification Procedures* attempts to address the burden and educational barrier transcript withholdings inflicts on primarily first-generation students and students from low-income backgrounds. We appreciate the Department of Education's tacit acknowledgement of their authority to act on this issue. That said, the current language found in § 668.14 subpart (33) limits action to a specific scenario that fails to capture the common experiences of students with a transcript hold.

It is our opinion that a ban on transcript withholding as a debt collection practice is the ideal way to correct this issue. We acknowledge, but ultimately reject, the idea that transcript withholding is a necessary debt collection tool to keep low-income students' unpaid balances from immediately being sent to collections. Pilot programs in Ohio and Maryland show that institutions are committed to addressing this problem in ways that change circumstances for low-income students.<sup>1</sup> Laws banning the practice of transcript withholding in California and Washington show that the scope of this problem is significant and deserving of meaningful action.<sup>2</sup>

As the negotiators representing students, student borrowers, and civil rights organizations, we recommend that the Department reconsider the language offered by negotiators Carolyn Fast, Jaylon Herbin, Adam Welle, Yael Shavit, and Deborah Cochrane, prior to the second session of this negotiated rulemaking. The Department's Session 4 language found in § 668.14 Program Participation Agreements would be as follows:

“(b) By entering into a program participation agreement, an institution agrees that—

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(33) It will not use transcript issuance as a tool for debt collection by, inter alia

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<sup>1</sup> See: <https://sr.ithaka.org/blog/a-sustainable-solution-to-settle-students-debt-and-release-stranded-credits/>. Also see: <https://undergraduate.umbc.edu/finishline/>

<sup>2</sup> See: California law, [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB1313](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1313). Also see: Washington law, <https://app.leg.wa.gov/rcw/default.aspx?cite=28A.195.070>.

- (i) Refusing to provide a transcript for a current or former student on the grounds that the student owes a debt to the institution or any other party;
- (ii) Conditioning the provision of a transcript on the payment of a debt to the institution or any other party, other than a fee charged to provide the transcript; or
- (iii) Charging a higher fee for obtaining a transcript, or providing less favorable treatment of a transcript request because a student owes a debt to the institution or any other party.”