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9 *for California Community Colleges*

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**

13 ELOY ORTIZ OAKLEY, in his official capacity as
14 Chancellor of California Community Colleges;
15 BOARD OF GOVERNORS OF THE
16 CALIFORNIA COMMUNITY COLLEGES;
17 FOOTHILL DE ANZA COMMUNITY COLLEGE
18 DISTRICT; LOS RIOS COMMUNITY COLLEGE
19 DISTRICT; LOS ANGELES COMMUNITY
20 COLLEGE DISTRICT; STATE CENTER
21 COMMUNITY COLLEGE DISTRICT; SAN
22 DIEGO COMMUNITY COLLEGE DISTRICT

23 Plaintiffs,

24 v.

25 BETSY DEVOS, in her official capacity as the
26 United States Secretary of Education; U.S.
27 DEPARTMENT OF EDUCATION,

28 Defendants.

Civil Case No.: 20-cv-03215-YGR

**PROPOSED BRIEF OF AMICUS CURIAE
THE STUDENT SENATE FOR
CALIFORNIA COMMUNITY COLLEGES
IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

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INTEREST OF AMICUS CURIAE

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2 The Student Senate for California Community Colleges (the “Student Senate” or “SSCCC”) is
3 “the representative of community college-associated student organizations” before the California
4 Community Colleges Board of Governors and the Chancellor’s Office. 5 C.C.R. § 50002. Established by
5 associated student bodies on each of the California community colleges, the Student Senate (a 501(c)(3)
6 non-profit organization) is tasked with giving California community college students “a formal and
7 effective means for participating in the formation of state policies that have or may have a significant
8 impact on students.” *Id.* The Student Senate’s Board of Directors is comprised of representatives from
9 each one of 10 regions covering a total of 114 community colleges across the state. As an organization
10 with connections to the student populations at all of California’s community colleges, the Student Senate
11 is particularly well-positioned to understand the challenges and needs of students. Accordingly, the
12 California legislature, the Governor of California, and the Chancellor’s Office recognize the Student
13 Senate as the official voice of community college students in California.

14 Unfortunately, the position that the Department of Education is taking in this matter is likely to
15 prioritize four-year higher education institutions and their students who already receive federal financial
16 aid over California community college students who are as a whole more vulnerable to the
17 unprecedented devastation caused by the COVID-19 pandemic *and* do not receive federal financial aid
18 because they fail to satisfy the rigid eligibility requirements of Title IV. These students include younger
19 and older students who do not (often because they cannot) pursue a traditional academic degree, take
20 sufficient number of units, get sufficient grades, possess a high school diploma, a social security
21 number, or a clean background check. For these students—whose continued enrollment and meaningful
22 participation is essential to the mission of California community colleges and vital to California’s
23 economy—help cannot arrive a moment too soon. Given the importance of the issues presented to this
24 Court to California community college students, the Board of Directors of the Student Senate has
25 unanimously authorized the Student Senate to participate as amicus curiae in this litigation.

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INTRODUCTION

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2 For many of the most vulnerable California community college students—who are hit hard by
3 the COVID-19 pandemic—help cannot arrive soon enough. The pandemic has pushed over the brink
4 thousands of students who were already suffering before this crisis upended their lives. Congress
5 appreciated this threat when it allocated aid for community college students, aid that would provide a
6 lifeline to students in a truly desperate situation. According to the Department of Education’s (“DoE”)
7 April 21 interpretation, however, over half of all students in California community colleges do not
8 qualify for Higher Education Emergency Relief Fund (“HEERF”) aid, which in the DoE’s view should
9 be reserved for those who already receive federal financial aid. It is hard to imagine that Congress
10 intended such incongruous result.

11 Left unchecked, the DoE’s April 21 interpretation will likely inflict serious harm on California
12 community colleges and their most vulnerable students and disserve public interest. First, if the DoE’s
13 interpretation applies, large swaths of students will be left without access to funds Congress intended to
14 “provide emergency assistance and health care response for individuals, families, and businesses
15 affected by the 2020 coronavirus pandemic.”¹ That is because over half of the students of California
16 community colleges do not qualify for financial aid under Title IV. These include students who do not
17 (or cannot) enroll in a recognized academic program, carry enough units, maintain required grades, or
18 produce a high school diploma, requisite immigration documents, or a clean background check. Second,
19 the exclusion of these students would put them at great risk of harm the HEERF aid was designed to
20 alleviate. By forcing their campuses to close and their education to become solely remote and digital, the
21 COVID-19 pandemic has deprived students of the essential services that their colleges provide. These
22 services are not solely pedagogical; many of the state’s most vulnerable students rely on campuses for
23 food, shelter, and access to mental and physical medical care. Third, the resulting harm to students
24 would seriously threaten to impede the mission of California community colleges as “the primary
25 system for delivering career technical education and workforce training to Californians, preparing

26
27 ¹ Senate Bill 3548, as passed.

1 individuals for skilled jobs in an ever-changing labor market.”² Imposing Title IV eligibility
 2 requirements would effectively deny thousands of students the opportunity to continue their education—
 3 and the resulting loss will fall upon not only the students but California community colleges and the
 4 community at large.

5 ARGUMENT

6 **I. Title IV Eligibility Requirements Exclude a Significant Portion of California Community** 7 **College Students Who Are Among the Most Vulnerable of the State’s Student Population.**

8 Imposing Title IV eligibility requirements would disqualify over half of California community
 9 college students from emergency aid.³ The Higher Education Act (“HEA”) has historically and over
 10 time tended to exclude the low-income and non-traditional students that make up the majority of the
 11 California community college student population. As originally enacted, the HEA did not contemplate
 12 aid for community college students at all; grants through the HEA were rather reserved for students
 13 who, “for lack of such a grant, would be unable to attain the benefits of a post-secondary education” at a
 14 traditional four-year college or university. *See* 20 U.S.C. § 1070(a); *Hayes v. Human Res. Admin. of City*
 15 *of New York*, 648 F.2d 110, 111–12 (2d Cir. 1981).⁴ And although the HEA was amended in 1972 to
 16 cover students enrolled in community colleges, in effect it still favors students of four-year programs.⁵

17 The disparity in aid between community colleges and four-year universities is caused in large
 18 part by Title IV’s rigid eligibility requirements. These requirements would exclude over 800,000

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 20 ² *Workforce & Economic Development*, California Community Colleges, <https://www.cccco.edu/About-Us/Chancellors-Office/Divisions/Workforce-and-Economic-Development>.

21 ³ Many non U.S. citizens would also be excluded and similarly harmed if, as the DoE contends, 8 U.S.C.
 22 § 1611 limited access to HEERF.

23 ⁴ *See also* Gladieux, Lawrence, *Federal Student Aid Policy: A History and an Assessment* (1995)
 24 (describing how the HEA was amended in 1972 to substitute “post-secondary education” for “higher
 25 education” in the law to extend federal support to “career and vocational education, community colleges,
 26 and trade schools as well as to students in part-time programs.”).

25 ⁵ *See* Jodi L. Edelson, *Higher Education to Higher Default: A Re-Examination of the Guaranteed*
 26 *Student Loan Program*, 11 Ann. Rev. Banking L. 475, 479–80 (1992) (describing how the reforms in the
 27 1980s created programs, such as the Stafford Loan Program, specifically aimed at making aid available
 28 to middle-class families).

1 California community college students—over half of the 1.5 million students enrolled in this Spring’s
2 semester.⁶ For example, the Title IV eligibility requirements exclude the following:

3 **160,000 students⁷ without a recognized degree program.** Over 30% of students were enrolled in
4 less than six units in Fall 2019, and almost half were enrolled in less than nine.⁸ Fewer than 40% earn a
5 certificate or degree within six years of enrollment.⁹ To be eligible under Title IV, however, students
6 must be enrolled in a program “leading to a recognized educational credential,” 20 U.S.C. § 1091(a)(1),
7 and, for most programs, they must be at least a half-time student. 34 C.F.R. § 668.32(a). These
8 requirements may exclude many students for whom community college serves as a transitional resource,
9 enabling them to take credits they need to apply for a recognized program. Many of these students are in
10 a nontraditional track as they balance family and work demands. Others may be taking vocational
11 courses to increase employment opportunities or earning potential.

12 **125,000 students¹⁰ without a high school diploma.** A significant number of California
13 community college students do not have a high school diploma. For many, personal circumstances may
14 have prevented them from completing high school, or they may have completed high school but failed to
15 meet one or more graduation requirements.¹¹ These students are able to turn to California community
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18 ⁶ Decl. of John J. Hetts ISO Pls.’ Mot. for Prelim. Inj., at ¶ 19, ECF No. 16-3.

19 ⁷ *Id.*

20 ⁸ See California Community Colleges Chancellor’s Office Management Information Systems Data Mart,
21 https://datamart.cccco.edu/Students/Unit_Load_Status.aspx (the Chancellor’s Office data generator on
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23 ⁹ Elizabeth Mann Levesque, *Improving community college completion rates by addressing structural
24 and motivational barriers*, Brookings Institute (Oct. 8, 2018),
25 [https://www.brookings.edu/research/community-college-completion-rates-structural-and-motivational-
26 barriers/](https://www.brookings.edu/research/community-college-completion-rates-structural-and-motivational-barriers/).

27 ¹⁰ Hetts Decl., at ¶ 19.

28 ¹¹ See Susan Frey, *No High School Diploma? You’ve Got Options*, EdSource (May 2017),
<https://edsources.org/2017/no-high-school-diploma-youve-got-options/582040> (discussing community
college as an options for students who did not obtain a high school diploma and mentioning the reasons
students may not have obtained one).

1 colleges for an opportunity to jumpstart their education or learn skills to qualify for better jobs.¹² Yet,
2 under Title IV, they are not eligible for federal financial aid. 20 U.S.C. § 1091(e)(1).

3 **40,000 students¹³ without the required grades.** Title IV requires students to maintain satisfactory
4 academic progress (a cumulative C average or grades commensurate with graduation requirements in a
5 recognized program). 20 U.S.C. § 1091(a)(2); (c)(1)(B). This requirement excludes swaths of students
6 who cannot (or do not plan to) study toward a degree and rather seek vocational training.¹⁴ Others in this
7 category take remedial instruction, English as a second language, or adult instruction, the provision of
8 which is an important function of California community colleges. Cal. Educ. Code § 66010.4(a)(2)(A).

9 **140,000 students¹⁵ without required immigration status.** Five percent of California community
10 college students are not U.S. citizens,¹⁶ and 70,000 community college students in California are
11 protected by the Deferred Action for Childhood Arrivals program.¹⁷ Only a small segment of non-citizen
12 students can qualify for federal financial aid (for example, permanent residents and those whose asylum
13 application has already been granted). 34 C.F.R. § 668.33(a)-(b). That leaves out, for example, those
14 with a pending asylum application (which often remains pending for years¹⁸), those issued Temporary
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16 ¹² See College Admission Requirements - CalEdFacts,
17 <https://www.cde.ca.gov/ci/gs/ps/cefcollgeregreqs.asp#:~:text=California%20community%20colleges%20a>
18 [re%20required,board%2C%20is%20capable%20of%20profiting](https://www.cde.ca.gov/ci/gs/ps/cefcollgeregreqs.asp#:~:text=California%20community%20colleges%20a) (explaining that community colleges
may admit students without a high school certificate or diploma who are “capable of profiting from the
instruction offered”).

19 ¹³ Hetts Decl., at ¶ 19.

20 ¹⁴ California Community Colleges, *Career Education*, <https://careered.cccco.edu/about-us/>.

21 ¹⁵ Hetts Decl., at ¶ 19.

22 ¹⁶ *California Community Colleges #RealCollege Survey Appendices*, The Hope Center (2019),
23 <https://hope4college.com/wp-content/uploads/2019/03/RealCollege-CCCO-Report.pdf>.

24 ¹⁷ *Strengthening Institutional Practices to Support Undocumented Student Success*, California
25 Community Colleges Dreamers Project (2018), [https://immigrantsrising.org/wp-](https://immigrantsrising.org/wp-content/uploads/Immigrants-Rising_CCC-Dreamers-Project_Full-Report.pdf)
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26 ¹⁸ Michelle Hackman, *U.S. Immigration Courts’ Backlog Exceeds One Million Cases*, Wall Street
27 Journal (Sept. 18, 2019), [https://www.wsj.com/articles/u-s-immigration-courts-backlog-exceeds-one-](https://www.wsj.com/articles/u-s-immigration-courts-backlog-exceeds-one-million-cases-11568845885)
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1 Protected Status (which grants legal residence to non-citizens impacted by disaster), and students
2 protected by the Deferred Action for Childhood Arrivals program.¹⁹

3 **Up to 84,000 students²⁰ without a clean record.** Four percent of California community college
4 students report having one or more criminal convictions.²¹ And over 4,500 incarcerated Californians are
5 preparing for their release by enrolling in community college courses offered through face-to-face
6 instruction.²² These students rely on California community colleges as a means to rehabilitate their
7 resume, find a job, and reenter the community.²³ Yet a single drug possession conviction renders a
8 student ineligible for one year after conviction; two convictions results in two years of ineligibility, and
9 a student with three convictions is indefinitely ineligible. 34 C.F.R. § 668.40(b)(1).

10 **275,000 students²⁴ without a FAFSA.** Students apply for Title IV financial aid by completing
11 the Free Application for Federal Student Aid (“FAFSA”). For many, however, the application process is
12 a major barrier to receiving federal financial aid. According to a study by the National Center for
13 Education Statistics, 23% of students did not have enough information or support to complete the
14 FAFSA, 15% did not know they could complete a FAFSA, and 32% did not sufficiently understand the
15 requirements.²⁵ For the entering class of 2020, only 52% have completed the FAFSA as of May 1, 2020,
16 a 2% overall drop in filings, and a more than 4% drop in filings by students of high-poverty schools.²⁶

17 * * *

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19 ¹⁹ See *Background and Eligibility*, California Dream Act FAQ’s For Students and Parents,
20 https://www.csac.ca.gov/sites/main/files/file-attachments/california_dream_act_faq.pdf?1570034690.

21 ²⁰ *California #RealCollege Survey*, at 31.

22 ²¹ *Id.*

23 ²² *Don’t Stop Now*, Corrections to College California, at 7 (March 2018),
24 https://correctionstocollegeca.org/assets/general/dont-stop-now-report_v2.pdf.

25 ²³ See *id.* at 5.

26 ²⁴ Hetts Decl., at ¶ 20.

27 ²⁵ National Center for Education Statistics, *Why Didn’t Students Complete a Free Application for*
28 *Federal Student Aid (FAFSA)?* (Feb. 2018), <https://nces.ed.gov/pubs2018/2018061.pdf>

²⁶ Sarah Sparks, *A New Worry from the COVID-19 Crisis: Paying for College*,
<https://www.edweek.org/ew/articles/2020/05/05/a-new-worry-from-the-covid-19-crisis.html>.

1 These exclusions will disparately affect some of the most vulnerable students in the State, for
 2 two reasons. First, community college students—who are disproportionately excluded by the eligibility
 3 requirements—are as a whole an under-privileged population. Even before the pandemic, seven in ten
 4 California community college students across the State struggled to pay for food or housing within the
 5 prior 30 days.²⁷ One fifth were unemployed and looking for work.²⁸ Nearly one in five students
 6 experienced homelessness during the prior year.²⁹ Nearly 30% have a preexisting psychological disorder
 7 like depression or anxiety, and 12% have a chronic illness like asthma, diabetes, or an autoimmune
 8 disorder—the types of underlying conditions that make a person more vulnerable to COVID-19.³⁰

9 These issues are typically more common in community colleges compared to four-year
 10 institutions³¹—who will receive a much larger share of HEERF if Title IV eligibility requirements
 11 applied. Community college students are far more likely to be low income than four-year university
 12 students.³² Yet, on average, community college students receive less Title IV financial aid than
 13 traditional four-year university students.³³ Indeed, factoring in financial aid, community college has a
 14

15 ²⁷ *California #RealCollege Survey*, at 39.

16 ²⁸ *Id.* at 30.

17 ²⁹ Sara Goldrick-Rab & Debbie Cochrane, *Addressing the Basic Needs of California Community College*
 18 *Students*, The Hope Center, The Institute of College Access & Success (March 2019),
https://ticas.org/files/pub_files/hope-ticas-ccco-brief.pdf.

19 ³⁰ *California #RealCollege Survey*, at 31.

20 ³¹ See Sara Goldrick-Rab, et al., *College and University Basic Needs Insecurity: A National*
 21 *#RealCollege Survey Report*, The Hope Center, The Institute for College Access & Success (April
 22 2019), [https://alliancetoendhunger.org/wp-content/uploads/gravity_forms/13-](https://alliancetoendhunger.org/wp-content/uploads/gravity_forms/13-f8f4825afc84921bd400f00919c81a7a/2020/01/HOPE_realcollege_National_report_digital.pdf)
 23 [f8f4825afc84921bd400f00919c81a7a/2020/01/HOPE_realcollege_National_report_digital.pdf](https://alliancetoendhunger.org/wp-content/uploads/gravity_forms/13-f8f4825afc84921bd400f00919c81a7a/2020/01/HOPE_realcollege_National_report_digital.pdf) (showing
 24 mental illness prevalence among community college students); *People Who Are at Higher Risk for*
 25 *Severe Illness*, Center for Disease Control, [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html)
 26 [precautions/people-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html) (showing conditions with higher vulnerability to COVID-19).

27 ³² See *Community College Facts*, Community College Research Center, Columbia University,
 28 <https://ccrc.tc.columbia.edu/Community-College-FAQs.html>.

29 ³³ California Community Colleges Board of Governors 2019-20 Budget and Legislative Request on
 30 Financial Aid, at 8, <https://truecollegecost.com/assets/downloads/pdf/CCCCO-ppt-financial-aid.pdf>. The
 31 Board of Governors had already requested more financial aid for its students from the state legislature in
 32 its 2019–2020 budget proposal. See *id.*

1 *higher* net cost of attendance in most California regions than the nearby California State University or
2 University of California school.³⁴ Even with the maximum financial aid grant, a student would need to
3 work at least 35 hours per week at minimum wage to afford community college.³⁵ And despite
4 struggling more to meet basic food and housing needs, community college students are more likely not
5 only to be financially independent, but to have dependents of their own.³⁶

6 Second, the Title IV eligibility requirements tend to disfavor vulnerable groups. Students with
7 disabilities are more susceptible to withdrawals and academic shortcomings even in normal times.³⁷
8 Excluded non-citizens include asylum seekers and those with Temporary Protected Status who have
9 endured persecution, armed conflict, or natural disasters. Non-citizens also tend to be first-generation
10 college students, low income, or non-native English speakers—all groups with heightened barriers to
11 academic achievement, and therefore more susceptible to interruptions to their education.³⁸ Finally,
12 students with recent criminal convictions and those who are incarcerated are also highly vulnerable.
13 Sixty-four percent of students with a criminal record have experienced food insecurity, 81% have
14 experienced housing insecurity, and 40% have experienced homelessness.³⁹

19 ³⁴ *Id.* at 9.

20 ³⁵ *Id.*

21 ³⁶ Goldrick-Rab, et al., at 32.

22 ³⁷ *Students with Disabilities Face Financial Aid Barriers*, Youth Advisory Committee of the National
23 Council on Disability, (Sept. 2013), <https://ncd.gov/publications/2003/09292003-2#:~:text=Disability%20may%20prevent%20students%20from,study%20programs%20due%20to%20th>
24 e.

25 ³⁸ See Wendy Erisman & Shannon Looney, *Opening the Door to the American Dream: Increasing*
26 *Higher Education Access and Success for Immigrants*, Institute for Higher Education Policy, (Apr.
27 2007) at 18-23,
28 <http://www.ihep.com/sites/default/files/uploads/docs/pubs/factsheets/openingthedoorfactsheet.pdf>.

³⁹ Goldrick-Rab, et al., at 18.

1 **II. The Pandemic-Related Disruptions in Campus Operations Present a Grave Threat to**
 2 **California Community College Students Who Were Already Extremely Vulnerable.**

3 The COVID-19 pandemic has taken a swift and immense toll on nearly every aspect of student
 4 life, and the disruption in campus operations has made things much worse, especially for vulnerable
 5 students of California community colleges. Campuses across the State abruptly shut down in mid-
 6 March. Although certain courses are being offered online, students without a reliable internet connection
 7 or necessary equipment cannot access them. In an April 2020 survey of 1,690 students by the Student
 8 Senate, one in five reported lacking reliable internet access and/or a computer, laptop, or smartphone.⁴⁰
 9 And that is almost certainly an underestimate, as the survey was conducted online. The closing of
 10 campuses also forced many students to move out of student housing. For many, bedrooms and kitchen
 11 tables have become the new classrooms and libraries, shared with other family members (including
 12 small children) who are also forced to stay at home.⁴¹ Many are even less fortunate: almost a quarter of
 13 students surveyed by the Student Senate cannot afford housing costs as a result of the pandemic, and one
 14 percent became homeless (again, most likely an underestimate).⁴² A third of California students report
 15 having skipped a meal or eating less.⁴³ And that is made worse for a large number of students who rely
 16 on on-campus facilities to obtain low-cost food. For example, at Los Rios Community College, 1,600
 17 students used the school's food pantry each week before the pandemic hit;⁴⁴ now they must find other
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21 _____
 22 ⁴⁰ SSSCC COVID-19 Survey Report at 4, https://www.studentsenateccc.org/file_download/9d54e54c-a5e8-4297-a6c3-7c0071e28567.

23 ⁴¹ See Hartocollis, Anemona, *Scattered to the Winds, College Students Mourn Lost Semester*, The New
 24 York Times (May 27, 2020).

25 ⁴² *Id* at 4.

26 ⁴³ *Higher Ed Survey Highlights the Academic, Financial, and Emotional Toll of Coronavirus on*
 27 *Students*, Global Strategy Group (May 28, 2020), <https://s3-us-east-2.amazonaws.com/edtrustmain/wp-content/uploads/sites/3/2017/11/27120859/Higher-Ed-Nationwide-CA-Memo-F05.27.20.pdf>.

28 ⁴⁴ Decl. of Melanie Dixon ISO Pls.' Mot. for Prelim. Inj., at ¶ 14, ECF No. 16-4.

1 sources of affordable food. Healthcare is another major problem: twelve percent of students have lost
 2 healthcare or have inadequate healthcare.⁴⁵ Two thirds of students report higher levels of anxiety, stress,
 3 depression or other mental distress than usual as a result of COVID-19.⁴⁶ As one student wrote, “[m]y
 4 mental health has plummeted and I [am] hanging on to the edge with just the tips of my nails.”⁴⁷
 5 Another 10% of students have become ill or are now caring for someone who is ill.⁴⁸ That too is at least
 6 in part due to losing access to on-campus medical care, including physical and mental health clinics and
 7 professionals, social workers, and counselors.⁴⁹ Mental illnesses in particular are exacerbated by the loss
 8 of institutional support and personal interaction with peers, faculty, and staff—in other words, “[l]osing
 9 needed hours from school, the one place [I] thought could protect me,” as one student wrote.⁵⁰
 10

11 The pandemic will also have the likely effect of *increasing* the number of students who are
 12 ineligible under Title IV, which according to the DoE’s interpretation would therefore become ineligible
 13 for HEERF too. Food and housing insecurities are correlated with worse grades—including making a
 14 student three times more likely to receive a D or F.⁵¹ As students withdraw from classes or see their
 15 grades decline, they will fail to maintain enrollment in their program or satisfactory academic progress,
 16 and thus will lose their eligibility for federal financial aid. Having fallen behind in school *and* lost their
 17 access to federal grants or loans, these students are particularly in need of financial relief to get back on
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21 ⁴⁵ SSCCC Survey at 4.

22 ⁴⁶ *Id.*

23 ⁴⁷ *Id.*

24 ⁴⁸ *Id.*

25 ⁴⁹ See Greta Anderson, “Coping With a Pandemic,” Inside Higher Ed (March 31, 2020),
 26 <https://www.insidehighered.com/news/2020/03/31/mental-health-support-systems-coping-pandemic>
 (discussing how many college mental health clinics face challenges transitioning to remote service, and
 even if they are able to transition, how such remote service is an imperfect replacement).

27 ⁵⁰ *Id.* at 7.

28 ⁵¹ *California #RealCollege Survey*, at 42.

1 their feet. Moreover, some students may not have applied for federal financial aid at the beginning of the
 2 school year because at the time, they felt financially secure enough to afford school on their own. But as
 3 sudden and unexpected job loss has proliferated during the pandemic, many of these students' economic
 4 situations may have drastically changed. DoE's guidance would have the perverse effect of cutting off
 5 available funds to the very students whose education has been affected most by the pandemic. Perhaps
 6 most poignant is the students' own words in response to the Student Senate's survey:
 7

- 8 • "My mental health has drastically declined and I cannot attend therapy anymore because of loss
 9 of healthcare."
- 10 • "I'm worried about my GPA dropping because my depression/anxiety is getting the better of
 11 me, but I can't drop classes because of my reliance on the GI Bill for income. . . ."
- 12 • "I'm a disabled veteran and mental health issues have worsened since shelter in place order."
- 13 • "I was moved out of my living situation (dorms), all classes were switched to online, I lost my
 14 job. . . . [and] I am trying to finish my classes at the best I can with a terrible [WiFi] connection
 and unreliable computer."
- 15 • "As I am a first generation college student, I also help my parents . . . with bills. I had my hours
 16 cut to 8 hours a week, which doesn't cut any of my family's bills."
- 17 • "I've had to work as much as possible between multiple jobs due to having an unstable
 18 fluctuating income. It's harder to stay in school/be full time."
- 19 • "I really need financial help. Several people depend on me[;] this makes it hard to focus most of the
 20 time when I need . . . to study."⁵²

21 Under the April 21 Guidance, HEERF will be kept from many of these students and be reserved
 22 for those who already receive federal financial aid under Title IV.

23 **III. Application of the Title IV Eligibility Criteria Will Hinder the Mission of California 24 Community Colleges And Disserve the Public Interest.**

25 "A primary mission of the California Community Colleges is to advance California's economic
 26 growth and global competitiveness through education, training, and services that contribute to
 27 continuous work force improvement." Cal. Educ. Code § 66010.4(a)(3). These services include

28 ⁵² SSCCC Survey at 4-7.

1 academic instructions and vocational training to both younger and older students and students who
 2 return to school. *Id.* at § 66010.4(a)(1). California community colleges also provide remedial
 3 instructions, instructions in English as a second language, adult non-credit instruction, and support
 4 services that help students succeed in four-year academic institutions. *Id.* at § 66010.4(a)(2)(A).

5 The provision of these services are essential and critical to the function of the community
 6 colleges and serve the public interest. California community colleges train 80% of all firefighters, law
 7 enforcement personnel, and emergency medical technicians in the State,⁵³ all critical first responders
 8 that the State needs during the COVID-19 pandemic. For every dollar that California invests in a
 9 student's education, the State's economy sees a \$4.50 return on investment.⁵⁴ The colleges also reduce
 10 crime; for students with a criminal history, staying enrolled reduces recidivism by 43%.⁵⁵ Keeping these
 11 students on pace academically is thus essential to the well-being of the community. And of course, a
 12 community college education benefits the students themselves: a student earning a degree or certificate
 13 from a California community college will nearly double his or her earnings within three years.⁵⁶

14 Applying the Title IV eligibility criteria to HEERF would undermine these goals. Even before
 15 the pandemic, many community college students (especially veterans and students with disabilities)
 16 were likely to drop out.⁵⁷ The pandemic threatens enrollments even more. In response to the Student

18 ⁵³ *California Community Colleges Facts and Figures*, Foundation for California Community Colleges,
 19 <https://foundationccc.org/About-Us/About-the-Colleges/Facts-and-Figures>.

20 ⁵⁴ *Id.*

21 ⁵⁵ Davis, Lois M., Robert Bozick, Jennifer L. Steele, Jessica Saunders, and Jeremy N. V. Miles,
 22 *Evaluating the Effectiveness of Correctional Education: A Meta-Analysis of Programs That Provide*
 23 *Education to Incarcerated Adults*, RAND Corp. (Santa Monica, CA: 2013).

24 ⁵⁶ *California Community Colleges Facts and Figures*, Foundation for California Community Colleges,
 25 <https://foundationccc.org/About-Us/About-the-Colleges/Facts-and-Figures>.

26 ⁵⁷ See Foundation for California Community Colleges, *California Community Colleges Facts and*
 27 *Figures* (showing nearly 42% of California veterans with GI Bill benefits attend community college);
 28 Jon Marcus, *Community Colleges Rarely Graduate the Veterans They Recruit*, *The Atlantic* (Apr. 21,
 2017), <https://www.theatlantic.com/education/archive/2017/04/why-is-the-student-veteran-graduation-rate-so-low/523779/>; *Students with Disabilities Face Financial Aid Barriers*, Youth Advisory
 Committee of the National Council on Disability (Sept. 2013) (showing disabilities cause disruptions in
 course loads and academic progress).

1 Senate survey, nearly a quarter of students reported dropping one or more courses as a result of the
 2 pandemic.⁵⁸ In another survey, three quarters of California students expressed concern about being on
 3 track to graduate.⁵⁹ Several of Plaintiffs have similarly reported significant reduction in enrollments.⁶⁰

4 The resulting damage to students, community colleges, and the public interest will likely be
 5 permanent. Only 13% of students who drop out of college will eventually re-enroll.⁶¹ Those who return
 6 will have lost precious time, as “[e]very school day that passes,” “it is likely that [they] fall[] further and
 7 further behind on [their] education goals.” *Van Scoy ex rel. Van Scoy v. San Luis Coastal Unified Sch.*
 8 *Dist.*, 353 F. Supp. 2d 1083, 1087 (C.D. Cal. 2005). That in turn leads to “loss of opportunity to pursue
 9 [their] chosen profession,” which “constitutes irreparable harm,” “exacerbated by ... young age and
 10 fragile socioeconomic status.” *Arizona Dream Act Coal. v. Brewer*, 855 F.3d 957, 978 (9th Cir. 2017).

11 Defendants suggest that these harms result, if at all, from the pandemic, not an application of
 12 Title IV eligibility requirements. But emergency relief funds would certainly help, and not receiving
 13 funds by those the Court deems entitled to them is nothing short of grave injury under the circumstances.
 14 Indeed, Student Senate’s survey asked students what can be done to help them; the most common
 15 answer was financial assistance.⁶²

16 CONCLUSION

17 For the foregoing reasons, the Student Senate supports Plaintiffs’ motion for preliminary
 18 injunction.

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22 ⁵⁸ SSCCC Survey at 4.

23 ⁵⁹ *Higher Ed Survey Highlights the Academic, Financial, and Emotional Toll of Coronavirus on*
 24 *Students*, Global Strategy Group (May 28, 2020), [https://s3-us-east-2.amazonaws.com/edtrustmain/wp-](https://s3-us-east-2.amazonaws.com/edtrustmain/wp-content/uploads/sites/3/2017/11/27120859/Higher-Ed-Nationwide-CA-Memo-F05.27.20.pdf)
 25 [content/uploads/sites/3/2017/11/27120859/Higher-Ed-Nationwide-CA-Memo-F05.27.20.pdf](https://s3-us-east-2.amazonaws.com/edtrustmain/wp-content/uploads/sites/3/2017/11/27120859/Higher-Ed-Nationwide-CA-Memo-F05.27.20.pdf).

26 ⁶⁰ *See Decl. of Melanie Dixon ISO Pls.’ Mot. for Prelim. Inj.*, at ¶ 19, ECF No. 16-4; *Decl. of Carole*
 27 *Goldsmith ISO Pls.’ Mot. for Prelim. Inj.*, at ¶ 18, ECF No. 16-4.

28 ⁶¹ Preston Cooper, “How Many College Dropouts Go Back To School?” *Forbes* (Nov. 5, 2019).
[https://www.forbes.com/sites/prestoncooper2/2019/11/05/how-many-college-dropouts-go-back-to-](https://www.forbes.com/sites/prestoncooper2/2019/11/05/how-many-college-dropouts-go-back-to-school/#1c533ea02f67)
[school/#1c533ea02f67](https://www.forbes.com/sites/prestoncooper2/2019/11/05/how-many-college-dropouts-go-back-to-school/#1c533ea02f67).

⁶² SSCCC Survey at 8.

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Respectfully submitted

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