



COUNCIL FOR ADVANCEMENT
AND SUPPORT OF EDUCATION

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OFFICE OF THE PRESIDENT

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Vice President-Elect
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RE: CASE Priorities for the Biden-Harris Administration

Dear President-Elect Biden and Vice President-Elect Harris:

Congratulations on your election. On behalf of the Council for Advancement and Support of Education (CASE), I'm writing to share our perspective on important legislative and regulatory issues impacting U.S. schools, colleges, and universities.

CASE is the global association for professionals in advancement – alumni relations, communications, fundraising, marketing, and advancement services – who share the goal of championing education to transform lives and society. Advancement professionals are critical to securing philanthropic support to solve institutional challenges and help colleges, universities, and independent schools achieve their teaching, research, and public service missions.

Today, CASE's membership includes approximately 3,400 colleges and universities, primary and secondary independent and international schools, and nonprofit organizations in 82 countries around the world, with 2,910 of our member institutions located in the United States. CASE helps its members build stronger relationships with their alumni and donors; raise funds for campus projects, supporting students and life-transforming research; market their institutions to prospective students, and foster public support of education. CASE has long been committed to growing the diversity of the advancement profession and helping colleges, universities, and independent schools strengthen relationships with an increasingly diverse alumni population. Furthermore, for CASE and the field of advancement to fully live out its mission of leveraging education and lifelong learning to transform lives and society, we are committed to working to ensure that the paths to educational institutions are accessible to all.

In addition, CASE is strongly committed to reframing the narrative around higher education and expertise which has unfortunately been called into question. We know that educational institutions provide valuable service to their communities and have a positive impact on personal, economic, social, cultural, and scientific progress.

Legislative Priorities

We urge your administration to work with Congress on legislation that will help educational institutions achieve their vital missions. CASE strongly supports your plans to quickly propose and pursue additional COVID relief legislation to help all Americans and educational institutions manage the challenges of the pandemic. We also want to highlight the following key CASE legislative priorities.

Charitable Giving

Charitable donations help colleges, universities, and independent schools achieve their teaching, research, and public service missions. As state governments continue to cut funding for education, raising private support from individuals is even more crucial for educational institutions. U.S. tax policy should encourage all Americans, regardless of income, to make charitable gifts.

CASE is a strong supporter of providing a charitable giving incentive to all Americans. The charitable deduction is unique in that it encourages individuals to give away a portion of their income for the public good. Prior to enactment of the Tax Cuts and Jobs Act (TCJA) in 2017, roughly 30 percent of Americans, as itemizing taxpayers, were able to deduct their charitable gifts to educational institutions. After passage of TCJA, only 11 percent of Americans itemized their tax returns, leaving nearly 90 percent of taxpayers without an incentive to give more to educational institutions and other charitable organizations.

We were pleased that Congress included a modest temporary \$300 universal charitable deduction as part of the CARES Act. This provision, which allows non-itemizing taxpayers to deduct charitable gifts and has contributed to increased charitable giving during the pandemic, was recently expanded to \$600 for joint filers and extended through Dec. 31, 2021 as part of the year-end COVID-relief bill. While these were good first steps, we encourage your administration to work with Congress to support permanently extending and expanding the universal charitable deduction so that all American taxpayers, regardless of income, are incentivized to give more to schools, colleges, universities, and other charitable organizations. There is strong bipartisan support for expanding and extending the universal charitable deduction on Capitol Hill.

Additionally, we urge you to avoid placing any additional limitations on the charitable deduction. The tax code already includes adjusted gross income limitations for gifts to charity. Further limitations, such as capping the value of the charitable deduction at 28 percent for high-income donors, would discourage donors from making larger gifts to institutions. The beneficiaries of these vital gifts – students, researchers, and others served by colleges and universities – would bear the brunt of such a limit or cap on giving.

In addition, CASE urges your administration to support the bipartisan Legacy IRA Act, legislation that would expand the current IRA charitable rollover by allowing individuals age 65 or over to direct up to \$400,000 annually from their individual retirement accounts to colleges and universities through split-interest entities.

Expanding and extending these important charitable giving incentives will empower our member institutions to better achieve their goals, support their students, and create new knowledge that transforms lives and society, which provides impact far beyond the institution itself.

Net Investment Income Excise Tax on Private Colleges and Universities

Enacted as part of the Tax Cuts and Jobs Act of 2017, the net investment income excise tax (also known as the “endowment tax”) requires private colleges and universities with more than 500 tuition-paying students and endowment assets of at least \$500,000 per student to pay a 1.4 percent tax on their net investment income. College and university endowments are collections of hundreds or thousands of charitable funds managed and invested to serve current and future needs. Endowments are not savings accounts or rainy-day funds. Endowments provide a steady and reliable long-term funding source in support of students, teaching, research, and other programs that would otherwise not exist, or have to be paid for by tuition or other funding sources.

Instead of bringing down college costs, this tax does the opposite. This tax redirects charitable funds away from their intended purposes and discourages donor generosity, making it more difficult for institutions to

raise and manage endowed funds that are essential to supporting institutions as they work to offer high-quality, affordable, accessible education. We urge your administration to work with Congress to repeal this misguided tax.

Regulatory Priorities

We urge your administration to take quick action to rectify measures that adversely affect educational institutions and the students they serve, especially during this trying time.ⁱ

Foreign Gift Disclosure

Section 117 of the Higher Education Act requires U.S. colleges and universities to annually report foreign gifts and contracts with a value of \$250,000 or more. While the requirement was enacted over thirty years ago, the Department of Education (referred to as the Department) has never issued formal guidance or regulations clarifying how institutions should interpret and comply with the statute. Unfortunately, the efforts of CASE and the broader higher education community to work collaboratively on improving compliance with Section 117 have been rebuffed by the Department.ⁱⁱ

Over the past two years, the Department proposed and implemented an online portal to collect foreign gift and contract information under the auspices of the Paperwork Reduction Act.ⁱⁱⁱ While we support the goal of making it easier for institutions to report these gifts, the Department went well beyond what is required in Section 117. For example, the Department now requires institutions to provide names and addresses of donors when that information was specifically excluded from the statute. The Department also sought to require colleges and universities to provide copies of gift agreements between the institution though the statute makes no mention of such a requirement.

Additionally, the Department issued a Notice of Interpretation related to Section 117 in October 2020 where the Department claims enforcement authority beyond what is provided in statute, including the ability to revoke institutional access to Title IV funds for failure to disclose gifts.^{iv}

While CASE strongly supports disclosure and transparency around the relationships that colleges and universities have with foreign governments, individuals, and entities, it is critical that any federal reporting or other requirements do not discourage anyone who wants to make an impact from making legitimate charitable gifts to educational institutions. Unfortunately, the Department's recent actions will have a chilling effect on gifts from foreign donors to educational institutions.

We encourage your administration and the Department to withdraw the information collection request, withdraw the notice of interpretation, and begin a formal regulatory rulemaking process, with public notice and comments, to ensure clarity and compliance with Section 117 foreign gift reporting.

International Students

Education has a vital role to play in ending the political and cultural animosity that pervades our world today. As a global association committed to advancing education worldwide, CASE supports policies that allow and encourage individuals to seek life-changing educational opportunities regardless of their or their parents' country of origin. As such, CASE strongly opposes policies that would restrict the international exchange of students, including the Department of Homeland Security's recently proposed rule that would limit an international student's "duration of status" and create a fixed duration of admission.

For our member institutions that are facing teaching, learning, and operational challenges due to the COVID-19 pandemic, the effects of the proposed rule on international student enrollment at U.S. educational institutions is greatly concerning. U.S. colleges and universities are facing the reality of

increased revenue loss and deeper budget cuts, which will be exacerbated by the decline in international student enrollment resulting from the proposed rule. Similarly, U.S. independent schools of all types and sizes depend on the revenue and contributions yielded from international student enrollment to be able to support student financial aid, academic programs, and teachers and staff. The proposed rule is not only problematic for the U.S. economy and society, but it is also impractical, burdensome, and unnecessary.

CASE urges your administration to withdraw the Department of Homeland Security's proposed rule and any other measures that restrict the global movement and international exchange of students and scholars.

Deferred Action for Early Childhood Arrivals

Moreover, we strongly support your intention to reinstate the Deferred Action for Early Childhood Arrivals (DACA) program protections that were repealed by the Trump administration and urge your administration to make the DACA protections permanent. CASE strongly supports the continuation of DACA program protections that allows individuals who were brought to the United States as children to legally reside in the U.S. and to continue contributing to our society and economy by working, serving in the military, or attending college.

Racial Justice

CASE takes a firm stance on the side of supporting and advocating for racial justice, and supports policies that affirm and promote diversity, equity, inclusion, and belonging at educational institutions. Likewise, CASE strongly opposes proposals, such as the Trump administration's Executive Order on Race and Sex Stereotyping, that are hostile to combating racism and discrimination in education. We urge your administration to repeal the September 22, 2020 executive order, which would hurt efforts to build more inclusive campuses, workplaces, and communities.

Conclusion

We believe now, more than ever, education is the most effective away to advance humanity, maintain a civil society, enable the United States to return to its leadership role in the community of international scholarship and knowledge generation, and tackle myriad challenges that our world faces. I appreciate the opportunity to share our priorities with your transition team, and we look forward to working with your incoming administration on policies that will support U.S. schools, colleges, universities, and those we serve.

Thank you for your thoughtful consideration of the points made herein.

Yours sincerely,



Sue Cunningham
President & CEO

ⁱ CASE is a signatory to and strongly supports [comments](#) submitted to your transition team by the American Council on Education (ACE), November 18, 2020.

ⁱⁱ [CASE Letter to U.S. Department of Education](#), August 1, 2019.

ⁱⁱⁱ [Section 117 Information Collection Request](#), June 22, 2020.

^{iv} [Section 117 Notice of Interpretation](#), November 13, 2020.