

United States Senate

WASHINGTON, DC 20510

May 15, 2017

The Honorable Betsy DeVos
Secretary
United States Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-8510

Dear Secretary DeVos:

As a follow up to our previous letter regarding applications for the fiscal year (FY) 2017 Upward Bound Program competition that were recently rejected due to formatting concerns, we are writing to bring to your personal attention language included in the Explanatory Statement on H.R. 244, the 2017 Consolidated Appropriations Act, that addresses this issue. Specifically, the Explanatory Statement expresses “concern that the Department has rejected and made ineligible for review several fiscal year 2017 grant applications based on minor formatting issues.” Furthermore, it “strongly encourage[s] the Department to provide flexibility to such applications by permitting submission of a corrected application.” H.R. 244 was signed into law by the President on May 5, 2017.

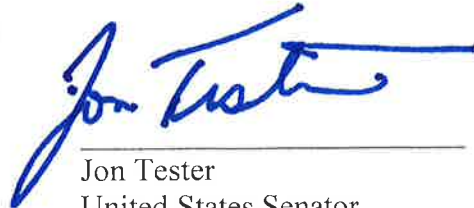
As we noted before, the Notice Inviting Applications for the FY 2017 Upward Bound Program competition included arbitrary formatting criteria not mandated by Congress. The Explanatory Statement accompanying the FY 2017 Consolidated Appropriations Act is a clear, strong statement from Congress that the Department of Education should provide recourse for this year’s applicants to correct minor, unintentional deviations from the arbitrary formatting criteria. We strongly encourage you to heed this explicit direction from Congress.

While we appreciate your decision to issue a new Department-wide policy that prevents program offices from rejecting future grant applications based on simple formatting issues, that does not solve the current problem. You are right to observe that needless red tape should not interfere with helping students. That very red tape currently threatens the futures of thousands of low-income high school students, many of whom would be the first in their families to attend college. We urge you to use all of the discretion at your disposal to reverse expeditiously the decision to reject applications for the FY 2017 Upward Bound competition based on minor formatting issues and to provide flexibility to applicants. If this decision is not reversed, the Department risks, over the next five years, denying thousands of disadvantaged high school students the promise of a higher education.

Sincerely,



Susan M. Collins
United States Senator



Jon Tester
United States Senator

Thad Cochran

Thad Cochran
United States Senator

Patrick Leahy

Patrick Leahy
United States Senator

Shelley Moore Capito

Shelley Moore Capito
United States Senator

Patty Murray

Patty Murray
United States Senator

John Boozman

John Boozman
United States Senator

Kirsten Gillibrand

Kirsten Gillibrand
United States Senator

Steve Daines

Steve Daines
United States Senator

Angus King

Angus S. King, Jr.
United States Senator

Thom Tillis

Thom Tillis
United States Senator

Dianne Feinstein

Dianne Feinstein
United States Senator

Rob Portman

Rob Portman
United States Senator

Tom Carper

Tom Carper
United States Senator

Luther Strange

Luther Strange
United States Senator

Sherrod Brown

Sherrod Brown
United States Senator

Tammy Baldwin

Tammy Baldwin
United States Senator

Edward J. Markey

Edward J. Markey
United States Senator

Maria Cantwell

Maria Cantwell
United States Senator

Enclosure:

Congressional Record, Explanatory Statement to H.R. 244, the 2017 Consolidated
Appropriations Act

activities during such extension of their award.

SPECIAL EDUCATION

Within Technical Assistance and Dissemination, the agreement includes \$12,583,000 for education activities authorized under P.L. 108-406, as amended.

Education Technology, Media, and Materials Program.—Progress has been made with tools and services provided under the Education Technology, Media and Materials program that have allowed more than 380,000 students free access to more than 325,000 books in multiple digitally accessible formats. The agreement directs the Department to include not less than the fiscal year 2016 level of funding to expand this program’s reach to K-12 students in underserved areas.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

American Printing House for the Blind.—The agreement continues to recognize the significant progress being made through the Resources with Enhanced Accessibility for Learning (REAL) Plan toward developing new technologies to translate educational materials for delivery to students who are blind and visually impaired. These technological advances will provide educational materials to students more quickly than ever before, enhancing opportunities for academic achievement. The agreement continues to support implementation of the REAL plan, and includes not less than \$475,000 for such activities, the same as the fiscal year 2016 level.

National Technical Institute for the Deaf (NTID).—The agreement includes \$2,000,000 in continued funding to support NTID’s operational costs and to continue support for at least one regional partnership via a sub-contract with an external organization consistent with its mission and strategic plan. These partnerships enable NTID to expand the geographic reach of services and activities supported by the college for individuals who are deaf and hard of hearing. The partnership activities include a focus on: promoting training and postsecondary participation in Science, Technology, Engineering, and Math fields; working with NTID faculty to develop postsecondary preparation for students; providing professional development for teachers and developing partnerships with business and industry to promote employment opportunities for individuals who are deaf and hard of hearing.

STUDENT FINANCIAL ASSISTANCE

Pell Grants.—The agreement includes a provision as included in the Senate bill regarding year-round Pell grants. The Department should implement this provision to maximize flexibility for institutions of higher education and avoid unnecessary administrative burdens while ensuring the best interests of students. The Department is directed to issue guidance on this expanded eligibility and flexibility in the Pell grant program not later than July 1, 2017. The Department is also directed to provide reliable data on the implementation of this provision.

STUDENT AID ADMINISTRATION

Student Loan Servicing.—The agreement directs the Department to permit borrowers who are consolidating their student loans to choose from among all Federal student loan servicers when choosing a servicer for their new consolidated loans. The Department is expected to make common performance metrics available to borrowers to help guide their decision for which servicer to select. This will allow student borrowers to stay with their existing servicer if they wish to, limit unnecessary disruption for borrowers, and provide another incentive for servicers to provide high-quality service to borrowers.

The Department is directed to brief the Committees on Appropriations of the House of Representatives and the Senate and the Senate Committee on Health, Education, Labor, and Pensions and House Committee on Education and the Workforce within 30 days of enactment of this Act on how it plans to carry out this directive.

HIGHER EDUCATION

TRIO.—The agreement does not include funding for the TRIO demonstration project proposed in the budget justification.

The Department is directed to allocate fiscal year 2017 TRIO funding such that all current grantees receive an increase in their grant award. The Department is directed to avoid imposing additional requirements as a condition for grantees to receive these funds. Additionally, the Department is directed to increase the number of new grants awarded for those programs that will conduct a new competition this fiscal year.

There is concern that the Department has rejected and made ineligible for review several fiscal year 2017 grant applications based on minor formatting issues. The Department is strongly encouraged to provide flexibility to such applicants by permitting submission of a corrected application. The Department should include consistent formatting requirements across all TRIO competitions in the future.

INSTITUTE OF EDUCATION SCIENCES

The National Center for Education Statistics (NCES) shall explore ways to collect aggregate teacher-level data on student characteristics when it administers the National Teacher and Principal Survey so that in the future NCES is able to provide better data about the characteristics of students taught by teachers with different certifications.

GENERAL PROVISIONS

The agreement includes a new general provision expanding eligibility and flexibility in the Pell grant program relating to year-round Pell grants.

The agreement includes a new general provision rescinding unobligated balances available for the Pell grant program.

TITLE IV
RELATED AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Committee For Purchase From People Who Are Blind or Severely Disabled—Requested Reports.—The agreement directs the Committee For Purchase From People Who Are Blind or Severely Disabled to comply with the reporting requirements specified under this heading in House Report 114-699 to accompany H.R. 5926.

Requested Information in Fiscal Year 2018 Budget Justification.—The agreement directs the Committee For Purchase From People Who Are Blind or Severely Disabled to include in its fiscal year 2018 budget justification:

1. An organizational chart for the Virginia office,
2. A map showing the location of all Central Nonprofit Agencies, and
3. A chart or map showing the total fees charged by each Central Nonprofit Agency by State.

Western United States Field Office.—The agreement directs the Committee For Purchase From People Who Are Blind or Severely Disabled to use some of the additional funds provided over the fiscal year 2016 level to establish a field office serving the western areas of the United States. Information on the establishment of a field office shall be included in the fiscal year 2018 budget justification.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

AmeriCorps State and National Grants.—The agreement directs the Corporation for National and Community Service (CNCS) to issue clear, extensive guidance as part of their fiscal year 2018 request for proposals for AmeriCorps grants outlining specifically how grantees can demonstrate and justify the need for operating funds as part of their professional corps grant.

Training and Technical Assistance.—Under current law, CNCS has authority to set aside up to 25 percent of program funds for evaluation, training, and technical assistance. CNCS is directed to use this authority to provide not less than \$7,500,000 for training and technical assistance activities for State Commissions, to expand the capacity of current and potential AmeriCorps programs, particularly in underserved areas.

Innovation, Demonstration, and Assistance Activities.—The agreement does not include funding for the Social Innovation Fund.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

Within the total for IMLS, the bill includes funds for the following activities in the following amounts:

Budget Activity	FY 2017 Agreement
Library Services Technology Act.	
Grants to States	\$156,103,000
Native American Library Services	4,063,000
National Leadership: Libraries	13,406,000
Laura Bush 21st Century Librarian	10,000,000
Museum Services Act.	
Museums for America	21,149,000
Native American/Hawaiian Museum Services	972,000
National Leadership: Museums	8,113,000
African American History and Culture Act.	
Museum Grants for African American History & Culture	1,481,000
Research, Analysis, and Data Collection	1,713,000
Program Administration	14,000,000
TOTAL	231,000,000

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Administrative Law Judge Hiring.—The Social Security Administration’s National Hearing Centers (NHCs) provide the Social Security Administration (SSA) with invaluable flexibility and support to address the hearings backlog. Understanding the value of this flexibility and support, the agreement directs SSA to ensure that its upcoming Administrative Law Judge (ALJ) hiring allocates additional ALJs to NHCs.

Disability Case Processing System.—The agreement strongly supports the recommendation by the Office of Inspector General that SSA should periodically evaluate its path forward to ensure it is pursuing the most cost-effective alternative to achieve the goals of a modernized case-processing system for SSA and obtain the greatest value for the taxpayer. To that end, the agreement supports SSA’s decision to obtain an independent, third-party evaluation of the advantages and disadvantages of pursuing various alternatives from this point forward, including continued deployment of DCPS2, and other options. The Social Security Administration is directed to brief the Committees on Appropriations of the House of Representatives and the Senate on the results of the evaluation within 90 days of enactment of this Act.

Prioritizing Continuing Disability Reviews To Maximize Cost Savings.—A recent Government Accountability Office report (GAO-16-250) found that SSA’s Continuing Disability Review (CDR) prioritization models fail to maximize potential cost savings. Within 1 year, and every 3 years thereafter, the agreement directs SSA to review and update the models for prioritization of CDRs with the primary intent of efficiently and effectively maximizing lifetime cost savings to the government. A detailed, cost-based explanation