

**Congress of the United States**  
**Washington, DC 20515**

May 8, 2017

The Honorable Betsy DeVos  
Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-3100

Dear Secretary DeVos:

As Members of the Illinois Congressional delegation, we are deeply troubled that the Department's rigid policy regarding minor application errors appears to have disproportionately harmed institutions from Illinois in the recent Upward Bound competition (*Federal Register*, 81 FR 71492). We strongly urge you to exercise your statutory authority as Secretary and the Congressional direction included in the FY2017 Appropriations Act (P.L. 115-30) to allow institutions excluded for non-substantive errors to compete based on the merit of their applications with the second slate of appealing applicants, which would help limit the disproportionate harm to the state of Illinois.

We understand that the Department denied 77 Upward Bound Grant applications due to minor formatting concerns - such as spacing, font, and format of the file uploaded - that have no material effect on the substance of the 65-page applications. Of these 77 institutions, documents provided by the Department reveal that 12 Illinois institutions were excluded due to formatting, representing an alarming 16% of applicants rejected for formatting alone. Many of these institutions have demonstrated histories of excellence with Upward Bound, helping tens of thousands of students with SAT/ACT preparation, college applications, securing financial aid for college, tutoring, and more. Given that many of these institutions currently operate Upward Bound grants, the Department's rigid policies will cost Illinois millions of dollars, deny thousands of low-income and first-generation students critical preparation for higher education, and weaken dozens of institutions and communities. In addition to causing substantial immediate harm, the Department's policy further inflicts profound, long-term damage on Illinois institutions and communities given that re-applicants lose substantial prior experience points in future competitions.

Given that the Department intends to release the initial Upward Bound slate any day, we require your immediate help to stop the harm inflicted on our state, students, and communities by these policies. Importantly, Congress strongly encouraged you to take corrective action by including the following language in the P.L. 115-30 continuing FY17 funding:

*HIGHER EDUCATION TRIO. – ...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.*

As Secretary, you have the authority to allow affected applicants to compete in the second slate of appellant institutions. Further, 34 C.F.R. Sec. 645.35(c)(1) requires the Secretary to limit the funds awarded in this


The Honorable Betsy DeVos  
May 8, 2017  
Page 2

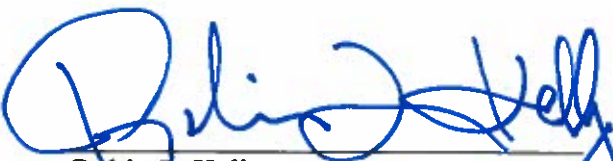
in the aforementioned regulation. Therefore, in addition to the funds normally held back, we urge you to use your authority as Secretary to hold back an additional \$20,000,000 of the existing Upward Bound competition funds to cover a larger appellant slate including applications initially-rejected for minor errors as well as appellants. This approach would allow excluded applicants to compete based on the merit of their applications and would not require new funds nor a delay in the first slate. Past Secretaries have exercised similar discretion when problems with grant competitions arose, including with the 2012 Upward Bound competition.

We understand that you share our concern, as evidenced by your rescinding the Department's focus on mandatory formatting requirements for future competitions via a memorandum dated April 27, 2017. We are pleased with your efforts, and we ask to work with you to expand the flexibility to address the similar rigidity for minor, non-formatting errors. For example, two of our institutions included budget tables with inconsistent numbers. Another institution was 50 minutes late due to computer problems on campus. Although the stakeholders tried to reach Department officials to alert them of the technical problems, no one was available to offer guidance. In the past, some institutions have missed the deadline by minutes or had other non-substantive errors that may not fall under the category of formatting. Given the considerable impact that federal grants have on communities, we strongly believe that these institutions also deserve flexibility, such as an opportunity to correct minor errors or subtracting a small number of points. Further, we ask your leadership to review each of the last TRIO grant competitions and reinstate the experience points in future grant competitions to re-applicants excluded from consideration due to minor application errors. Finally, we ask your help understanding the extent of the harm experienced by Illinois due to the Department's refusal to consider applications for non-substantive reasons over the last decade. Members of our delegation have raised concerns with the Department since 2005, even requesting a study by the Government Accountability Office (GAO) given frustrations with the rigid response to non-substantive errors. The GAO study revealed that agencies differ in their flexibility, with many other agencies exercising greater flexibility than the Department of Education. Although the Department made a few improvements following the GAO study, the exclusion due to non-substantive reasons increased over time, with more than 5 percent of the recent Upward Bound applicants excluded.

Given the extremely short timeline for corrective action and the tremendous negative impact on the state of Illinois and other affected communities, we strongly urge you to exercise your statutory authority this week to allow affected institutions to compete on the merit of their applications in the second slate of the Upward Bound competition. We look forward to working with you to further improve the fairness of future TRIO competitions and to address the past harm caused by the Department's rigid focus on the minutia of the application process. We appreciate your consideration of our requests and respectfully ask for a response prior to the Department's release of the first slate of awards.

Sincerely,

  
\_\_\_\_\_  
Danny K. Davis  
Member of Congress

  
\_\_\_\_\_  
Robin L. Kelly  
Member of Congress



Richard J. Durbin  
United States Senator



Tammy Duckworth  
United States Senator



Bobby L. Rush  
Member of Congress



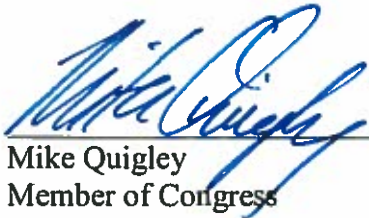
Raja Krishnamoorthi  
Member of Congress



Rodney Davis  
Member of Congress



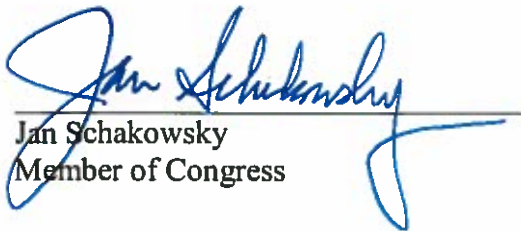
Bill Foster  
Member of Congress



Mike Quigley  
Member of Congress



Mike Bost  
Member of Congress



Jan Schakowsky  
Member of Congress



Cheri Bustos  
Member of Congress



Bradley S. Schneider  
Member of Congress