



September 17, 2025

**VIA EMAIL**

The Honorable Linda McMahon  
Secretary  
U. S. Department of Education  
Office of Federal TRIO Programs  
400 Maryland Avenue, S.W.  
Washington, DC 20202  
[OPE\\_TRIO@ed.gov](mailto:OPE_TRIO@ed.gov)

Dear Secretary McMahon:

As President of the Council for Opportunity in Education (“COE”), the national membership organization that represents the interests of the Federal TRIO Programs (“TRIO”), I write to express deep concerns over the Department’s administration of TRIO.

In mid-March, Congress passed and the President signed H.R. 1968, the Full-Year Continuing Appropriations and Extensions Act, which provided \$1.19 billion in fiscal year 2025 funds to the Department to carry out all of the Federal TRIO Programs. During hearings before Appropriations Committees in the House and Senate this summer, you stated that all TRIO monies would be dispersed for the 2025-2026 program year. However, as of this writing, the Department has not yet obligated and expended these funds for Veterans Upward Bound, Talent Search, Educational Opportunity Centers, the Student Support Services second funding slate, and most Upward Bound projects, even though their new grant terms began on September 1, 2025. Additionally, over 200 institutions are still awaiting their non-competing continuation awards for the Ronald E. McNair Postbaccalaureate Achievement program; they are slated to start their new grant term on October 1, 2025. Instead, what we have witnessed is the sudden, unceremonious cancellation of millions of dollars in TRIO grant funding.

With the end of the fiscal year just 13 calendar days away, COE, its member institutions, and our bipartisan coalition of supporters at-large cannot help but worry that the Department is purposefully delaying action in an effort to avoid spending congressionally-appropriated funds. Additionally, with the aforementioned grant cancellations, COE and the broader TRIO community are equally concerned that the Department will not honor its obligation and commitment to spend the full \$1.19 billion in fiscal year 2025 funds that Congress appropriated to the Department to carry out all TRIO programs.

Continued delay of the delivery of TRIO grant funds will inflict extraordinary and irreparable harm on thousands of low-income, first-generation students. Despite the Administration’s assertion that institutions should use their own resources to engage, recruit, and ensure that low-income, first-generation students gain access to and graduate from college, very few institutions have the infrastructure and capital readily available to take on the work of TRIO. Due to the Department’s failure to deliver their funding for the 2025-2026 program year on time, many, many institutions have been forced to severely curtail TRIO services or, in some cases, temporarily halt them altogether. As the early fall represents the most critical time of the academic year for most students – and particularly for the first-generation, low-income students served by TRIO – every day of delay causes more harm. These delays further undermine TRIO’s efficacy as the insurance policy for the Pell Grant. The Department’s own data demonstrates that TRIO students have higher persistence and graduation rates than non-TRIO students with similar backgrounds

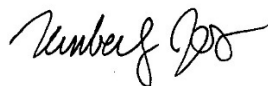
and high school achievements, including GPA and standardized test scores.<sup>i</sup> Given all of this, we urge the Department to dispatch these congressionally-approved funds immediately.

In addition to the concerns noted above, I write with particular urgency with respect to the Ronald E. McNair Postbaccalaureate Achievement program. The program was so named at the behest of Republican Senator Strom Thurmond of South Carolina to serve as a memorial to the legacy of NASA astronaut Ronald E. McNair, a low-income, first-generation South Carolinian who perished with six other patriots in the Space Shuttle *Challenger* in 1986. COE is well aware that the Department is a defendant in pending litigation challenging the constitutionality of the eligibility criteria in the McNair statute and the Department's regulations.<sup>ii</sup> The federal district court dismissed the lawsuit on procedural grounds. Plaintiffs have since appealed to the U.S. Court of Appeals for the Eighth Circuit. We understand from recent court filings that the Department is actively negotiating a settlement with the plaintiffs.

The fact that the litigation remains pending, however, does not excuse the Department from timely obligating and expending fiscal year 2025 funds. Likewise, the Department may not, vis-à-vis a settlement agreement, purport to eliminate its statutory mandate to carry out the McNair program. When the Executive Branch “fail[s] to defend the constitutionality of an Act of Congress based on a constitutional theory not yet established in judicial decisions,” it “create[s] a procedural dilemma.” *U.S. v. Windsor*, 133 S.Ct. 2675, 2688 (2013). As the Supreme Court observed in *Windsor*, that dilemma is one to be resolved by the courts—not by the Department unilaterally with private plaintiffs. Indeed, “when Congress has passed a statute and a President has signed it, it poses grave challenges to the separation of powers for the Executive at a particular moment to be able to nullify Congress’ enactment solely on its own initiative and without any determination from the Court.” *Id.*

For all these reasons, COE strongly urges the Department to issue grant award notifications and to expend fiscal year 2025 funds appropriated by Congress for McNair and all other TRIO programs immediately to prevent further harm and future dispute.

Sincerely,



Kimberly Jones  
President

cc: Nicholas Kent, Under Secretary, U.S. Department of Education  
Candice Jackson, Acting General Counsel, U.S. Department of Education  
Murray Bessette, Principal Deputy Assistant Secretary & Acting Assistant Secretary for Planning, Evaluation, and Policy, U.S. Department of Education  
Chris McCaghren, Acting Assistant Secretary for Postsecondary Education, U.S. Department of Education  
Susan Collins (R-ME), Chair, Senate Appropriations Committee  
Patty Murray (D-WA), Vice Chair, Senate Appropriations Committee  
Shelley Moore Capito (R-WV), Chair, Senate Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies  
Tammy Baldwin (D-WI), Ranking Member, Senate Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies  
Tom Cole, Chair, House Appropriations Committee  
Rosa DeLauro, Ranking Member, House Appropriations Committee and Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies  
Robert Aderholt, Chair, House Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies

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<sup>i</sup> Zeiser, K.L., Heuer, R., & Cominole, R. (2019). *Comparing Student Outcomes Between Student Support Services Participants and Nonparticipants in the 2004/09 Beginning Postsecondary Students Longitudinal Study*. Student Service, Office of Postsecondary Education, U.S. Department of Education.

<sup>ii</sup> *Young Americans for Freedom, et al. v. U.S. Dep't of Educ., et al.*, No. 3-24-cv-163 (D.N.D.), *on appeal*, No. 25-2307 (8th Cir.).