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February 17, 2025

The Honorable Craig Trainor
Acting Assistant Secretary for Civil Rights
U.S. Department of Education
400 Maryland Avenue, SW
Washington D.C., 20202

Dear Acting Assistant Secretary Trainor,

On behalf of the Hispanic Association of Colleges and Universities (HACU) and the more than 600 Hispanic-Serving Institutions (HSIs) it represents across our nation, I write in response to the United States Department of Education's "Dear Colleague" letter of February 14, 2025.

The letter states: "Discrimination on the basis of race, color, or national origin is illegal and morally reprehensible."¹

HSIs are authorized and funded under the Higher Education Act of 1965, as amended. They educate and train primarily low-income, first-generation, and underserved students. These institutions serve over 5.3 million students from diverse backgrounds, including 67% of the more than 4 million Hispanic college students, whose profiles have one or more of three indicators of severe need. HSIs comply fully with Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the 14th Amendment of the United States Constitution. Therefore, the Dear Colleague letter does not apply to HSIs and we urge you to rescind it with due expediency.

The funding directed toward HSIs is a powerful investment in strengthening the core aspects of campus life—technology, labs, faculty development, student support, community outreach, and more. This important support is aimed not only at improving institutional capacity, but also to transform the educational experience for *all* students, creating a richer and more dynamic environment for learning. Every student, regardless of race, color, or national origin, stands to benefit from these enhancements. The programs supported by HSI funding offer invaluable resources that elevate the academic journey, ensuring that all students have the tools, opportunities, and support they need to succeed and reach their full potential both in college and beyond.

HSIs include community colleges, public universities, as well as private colleges and universities committed to uplifting historically underserved communities. For instance, in February 2020, a group of social scientists from Harvard, Berkeley, and Brown universities published "Income Segregation and Intergenerational Mobility Across Colleges in the United States." This seminal study offers a rigorous examination of how a college education can transform the lives of freshman students from the lowest socioeconomic quintile, specifically by tracking the proportion who, upon graduation, ascend to the top 20% of their peer cohort in terms of earnings. Remarkably, seven of the top 10 institutions with the highest mobility ratings were Hispanic-Serving Institutions, with the top spot held by an HSI. The evidence is clear and powerful: HSIs play a pivotal role in driving socioeconomic mobility and creating real opportunities for underserved students.

In 2022, the Center on Education and the Workforce at Georgetown University released "Colleges Where Low-Income Students Get the Highest ROI." The document analyzes the return on investment (ROI) for low-income students across diverse types of colleges and universities, highlighting factors that influence their educational and economic outcomes and ranking them accordingly. The ROI calculation

¹ Dear Colleague letter of February 14, 2025, from Acting Assistant Secretary Trainor.

The Honorable Craig Trainor

February 17, 2025

Page 2

considers the earnings of a person who attended a particular college after subtracting the person's costs to attend that college. Nine of the top 10 public institutions on ROI across the U.S. were HSIs.

The Dear Colleague letter reflects an ideological perspective with problematic overtones. It also shows federal overreach into the academic and extracurricular autonomy of independent institutions and the states in which they operate. The Tenth Amendment of the U.S. Constitution invokes that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."² Education is not a federal jurisdiction under the U.S. Constitution but a state right.

The State of Texas, for example, enacted legislation to prohibit diversity, equity, and inclusion (DEI) at public colleges and universities. However, Texas Education Code 51.3525 includes the following text under Section (c):

(c) Nothing in this section may be construed to limit or prohibit an institution of higher education or an employee of an institution of higher education from, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, submitting to the grantor or accrediting agency a statement that:

(1) highlights the institution's work in supporting:

(A) first-generation college students;

(B) low-income students; or

(C) underserved student populations; or

(2) certifies compliance with state and federal antidiscrimination laws.

Other states have followed Texas' lead in anti-DEI efforts, which supports student low-income, first-generation, and underserved populations as appropriate indicators of need for admissions and programs.

The Dear Colleague letter's guidance seems to unconstitutionally encroach on states' rights to regulate higher education institutions and education in general. The states' preeminence over federal oversight is also reflected by the federal government's smaller contributions of less than 9% of the cost of postsecondary education and just over 13% of the PK-12 education expenditures nationally.

The HSIs enabling legislation was enacted in 1992, with the first modest appropriation granted in FY 1995. Significant strides have been made since then to abate poverty, under education, and neglect of historically underserved populations through the innovative and impactful work of these inclusive institutions that excel in serving students, without regard to their race, color, or national origin.

I would be pleased to meet with you and the incoming U.S. Secretary of Education to discuss this further. Please contact me at antonio.flores@hacu.net or (210) 576-3214 to schedule a meeting at your earliest convenience.

Sincerely,

A handwritten signature in blue ink that reads "Antonio R. Flores". The signature is fluid and cursive, with a large initial "A" and "F".

Antonio R. Flores
President and CEO

Cc: HACU Governing Board

² https://constitution.congress.gov/browse/essay/amdt10-4-3/ALDE_00013628/