

# United States Senate

October 20, 2021

The Honorable Miguel Cardona  
Secretary  
U.S. Department of Education  
400 Maryland Avenue SW  
Washington, D.C. 20202

Dear Secretary Cardona,

We write to you today to request your help resolving an issue that could prevent our state from serving 9,000 West Virginia students through the GEAR UP program. While we are appreciative that the West Virginia Higher Education Policy Commission (WVHEPC) was selected for another round of GEAR UP funding totaling over \$24 million over the next 7 years, we remain concerned over the Department of Education's refusal to grant the WVHEPC the same scholarship waiver that they have been granted for the prior two grant cycles. We urge you to promptly reconsider and approve their request.

WVHEPC was clear in their application on how the funding would be spent with the waiver and how three successful statewide scholarship programs benefit GEAR UP participants. As was outlined in the WVHEPC's waiver request, the Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) scholarship, West Virginia Higher Education Grant Program (HEGP), and the WV Invests Grant provide more than sufficient opportunity for GEAR UP students to access non-federal scholarships. For example, if the state had set aside nearly half of their annual award of \$3.5 million, it would only offer these students access to about \$1.75 million in grants, whereas for 2019-2020 alone, the West Virginia State Legislature funded all three programs listed above at a total of \$95.1 million. They WVHEPC also outlined that annually, \$2.3 million worth of these state scholarships went directly to West Virginia GEAR UP Students, well over the minimum required amount.

Unfortunately, this is not the first time states have encountered this issue with the U.S. Department of Education. In 2019, the Department went through a similar process that took six months to resolve. It delayed program implementation and limited some state's ability to meet the needs of their students, only for the department to realize that those waivers should have been approved from the start. Because of this experience and similar frustrations in other states, we were proud to help lead the effort to include the below clarifying language in the explanatory statement accompanying the Consolidated Appropriations Act of 2021(P.L. 116-68):

*"The Secretary is further directed to ensure that no request from a State Grant applicant to receive an exception to the GEAR UP scholarship (as described in section 404E(b)(2) of the HEA) shall be denied on the basis of 34 CFR 694.14(c)(3)."*

As you know, 34 CFR 694.14(c)(3) refers to eligibility standards, grant minimums and other GEAR UP scholarship requirements. The above language clearly states that no scholarship

waiver request shall be denied on these grounds. So even if the Department of Education decides that \$95 million is insufficient to meet their requirements for non-federal scholarship opportunities, the Congressional intent is clear – this shall not be the basis for a denial.

If West Virginia does not receive this waiver, half of the 18,000 students expected to be served this round will not be served, half the teachers receiving professional development through GEAR UP will not be reached, and the state will have to significantly reduce the number of tutors they contract to assist these GEAR UP students.

We urge you to intervene in this matter immediately and approve the scholarship waiver for WVHEPC so they can continue to assist West Virginia students. WVHEPC has proudly served 28,287 students through the GEAR UP program, helping them prepare for success in post-secondary education and gain access to critical services. We look forward to working with you to help WVHEPC continue to provide these essential services.

Thank you for taking the time to look into this important matter. If you need any additional information or if our offices may be of any additional assistance, please contact Emma Bryan at [Emma\\_Bryan@manchin.senate.gov](mailto:Emma_Bryan@manchin.senate.gov) or Dana Richter at [Dana\\_Richter@capito.senate.gov](mailto:Dana_Richter@capito.senate.gov).

Warmest Regards,



Joe Manchin III  
United States Senator



Shelley Moore Capito  
United States Senator