



October 4, 2023

Beth Baum  
Office of Health Plan Standards and Compliance Assistance  
Employee Benefits Security Administration  
U.S. Department of Labor  
Room N-5653  
200 Constitution Avenue NW  
Washington, DC 20210

**RE: Comments on DOL/IRS/HHS NPRM REG–RIN 1210-AC11  
Requirements Related to the Mental Health Parity and Addiction Equity  
Act**

Dear Ms. Baum,

On behalf of the American Council on Education (ACE) and the undersigned higher education associations, I write in response to the Notice of Proposed Rulemaking (RIN 1210-AC11) in which the Department of Labor, the Internal Revenue Service (IRS) of the Department of the Treasury, and the Department of Health and Human Services (hereinafter “regulating agencies”) set out proposed amendments to regulations of the Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA)(codified at 29 U.S. Code § 1185a). See 88 Fed. Reg. 51552 (August 3, 2023).

Founded in 1918, ACE is the major coordinating body for the nation’s colleges and universities. ACE represents more than 1,600 college and university presidents and the executives at related associations. Together with the undersigned higher education associations, we represent all types of U.S. accredited, degree-granting institutions, public and private.

The mental health of college and university students continues to be an enormous challenge on campuses across the country, a problem that was only exacerbated by the COVID-19 pandemic. College students are reporting mental health challenges at a growing and alarming rate.<sup>1</sup> Nearly half of students have screened positive for depression, a significant jump from recent years and at a level that disproportionately impacts marginalized communities.<sup>234</sup> For traditional college-aged students, many arrive on campus already struggling with mental health challenges. A recent Centers for Disease Control and Prevention report found that

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<sup>1</sup> <https://www.acenet.edu/Documents/What-Works-Mental-Health.pdf>  
<sup>2</sup> [https://healthymindsnetwork.org/wp-content/uploads/2023/03/HMS\\_national\\_print-6-1.pdf](https://healthymindsnetwork.org/wp-content/uploads/2023/03/HMS_national_print-6-1.pdf)  
<sup>3</sup> [https://healthymindsnetwork.org/wp-content/uploads/2019/04/HMS\\_national.pdf](https://healthymindsnetwork.org/wp-content/uploads/2019/04/HMS_national.pdf)  
<sup>4</sup> <https://www.sciencedirect.com/science/article/abs/pii/S0165032722002774?via%3Dihub>

more than 44 percent of high school students reported that they struggle with persistent feelings of sadness or hopelessness.<sup>5</sup>

While mental health concerns are impacting communities across the country,<sup>6,7</sup> college students face a unique set of obstacles and challenges that can exacerbate their struggles. In addition to affecting their well-being, the rise in mental health issues among college students is impacting their success and completion. According to a recent national survey,<sup>8</sup> over half of current college students (55%) who have considered leaving college, often referred to as “stopping out,” cite emotional stress as the primary driver. The same report also found students of color and students seeking associate degrees are disproportionately considering stopping out. In addition, nearly three in five students report experiencing food insecurity, housing insecurity, or homelessness, and many more report difficulty meeting other basic needs like childcare and transportation.<sup>9</sup> Basic needs insecurity is associated with higher levels of anxiety, stress, and depression.<sup>10</sup> Colleges and universities are diligently responding to meet the surging demand for mental health services, but many lack the resources to sufficiently do so. Over two out of five (44%) college students are struggling with clinically significant anxiety or depression, but less than half of these students had mental health counseling and/or therapy in the past year.<sup>11</sup>

While federal investments supporting mental health needs in our nation’s K-12 schools have increased rapidly in recent years, college students have not had the same support. Students still have significant mental health needs after they leave high school and enroll in higher education. This is a very transitional period of life for most traditional college-aged students: the first time living away from their families, finding a sense of community in an overwhelming environment, and balancing a heavy workload. For nontraditional students, many balance full-time work obligations, family responsibilities with children and spouses, and are readjusting to the demanding schedule of being a college student. Graduate students also have unique needs and a distinct set of challenges that impact their mental health and well-being. Mental health is a campus-wide responsibility, so a collaborative approach to addressing organizational change is key to alleviating the barriers and systems that further exacerbate the mental health crisis, and this is especially acute for historically underrepresented students and students of color.

Institutions relied on telehealth during the pandemic to continue providing needed mental health services to students who were away from campus and unable to access campus counseling services. Nearly every state instituted an emergency waiver to facilitate interstate

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<sup>5</sup> <https://www.cdc.gov/mmwr/volumes/71/su/pdfs/su7103a1-a5-H.pdf>, pp. 16, 19.

<sup>6</sup> <https://www.hhs.gov/sites/default/files/surgeon-general-social-connection-advisory.pdf>

<sup>7</sup> <https://www.hhs.gov/sites/default/files/surgeon-general-youth-mental-health-advisory.pdf>

<sup>8</sup> <https://www.gallup.com/analytics/468986/state-of-higher-education.aspx>

<sup>9</sup> <https://hope.temple.edu/sites/hope/files/media/document/HopeSurveyReport2021.pdf>

<sup>10</sup> <https://pubmed.ncbi.nlm.nih.gov/35124789/>

<sup>11</sup> [https://healthymindsnetwork.org/wp-content/uploads/2023/03/HMS\\_national\\_print-6-1.pdf](https://healthymindsnetwork.org/wp-content/uploads/2023/03/HMS_national_print-6-1.pdf)

care during the pandemic. Unfortunately, these waivers have now expired, leaving some college students without access to medically necessary behavioral health care. Telehealth access to campus mental health services remains a critical need for students seeking treatment for depression, anxiety, and other mental health conditions.

Moreover, many students continue to encounter disruption in behavioral health treatment when they leave campus during breaks, participate in remote educational programs, or have a preexisting clinical relationship with a behavioral healthcare provider due to licensing restrictions preventing clinicians from practicing across state lines. While state-by-state compacts represent a positive development, they do not answer this national need.

Permitting colleges and universities to provide interstate teletherapy will address a unique challenge faced by students experiencing a behavioral health crisis and will improve retention and graduation rates among affected students. Importantly, this flexibility will also help ensure continuity of care for students who have established therapeutic relationships with campus mental health providers or with healthcare providers in their home states during the course of their education.

For all of these reasons, we respectfully request that each of the regulating agencies find ways within their authority to support provision of behavioral health services to students enrolled in higher education institutions, including the through the use of telehealth and through your annual budget recommendations. In addition, we request that each agency recommend to Congress that it undertake efforts to address the mental health challenges of college students, including, but not limited to, the following steps: 1) enacting new funding for training, services, and research regarding student mental health at institutions of higher education sufficient to meaningfully and systematically address the scope of this crisis, and 2) authorizing the interstate provision of behavioral telehealth services for students enrolled in an institution of higher education in any U.S. jurisdiction if the healthcare provider delivering the service is licensed to practice or provide such care in any one state or territory or through an interstate licensure compact.

Thank you for the opportunity to provide comments on the proposed regulations.

Sincerely,



Ted Mitchell  
President

On behalf of:

American Association of Collegiate Registrars and Admissions Officers  
American Association of Community Colleges  
American Association of State Colleges and Universities  
American Council on Education

American Indian Higher Education Consortium  
Association for University and College Counseling Center Directors  
Association of American Medical Colleges  
Association of Catholic Colleges and Universities  
Association of Governing Boards of Universities and Colleges  
Association of Jesuit Colleges and Universities  
Association of Public and Land-grant Universities  
College and University Professional Association for Human Resources  
Council for Christian Colleges & Universities  
Council for Higher Education Accreditation  
EDUCAUSE  
Hispanic Association of Colleges and Universities  
National Association of College and University Business Officers  
National Association of Independent Colleges and Universities  
State Higher Education Executive Officers Association