August 26, 2022

Mr. Aaron Washington
U.S. Department of Education
400 Maryland Ave., SW
Washington, DC 20202

Docket No. ED-2022-OPE-0062

Dear Mr. Washington:

On behalf of the Association of Jesuit Colleges and Universities (AJCU) and the Office of Justice and Ecology (OJE) of the Jesuit Conference of Canada and the United States, we submit the following comments on the proposed rule related to Prison Education Programs. AJCU is aligned with the higher education community in their comments on the other provisions included in this proposed rule.

AJCU is a national organization that represents Jesuit higher education; provides a forum for the exchange of information and experiences in Jesuit higher education; and encourages and facilitates collaborative initiatives among its member institutions. The 28 Jesuit colleges and universities that comprise AJCU are located in 17 states, the District of Columbia and Belize. The institutions range from major research universities to comprehensive universities; from smaller colleges and universities that combine liberal arts and professional studies to one strictly liberal arts college.

The Jesuit Conference’s Office of Justice and Ecology “brings the voice of Jesuit leadership to governments, international bodies, non-governmental organizations, and corporations, advocating in solidarity with marginalized communities. The office puts compassion into action through policy analysis grounded in the Catholic social tradition, working to build and engage our regional, national, and global networks.”

AJCU and OJE applaud the work of the negotiated rulemaking team in reaching consensus on the Prison Education Program provisions. The negotiated rulemaking team made a good faith effort to serve the needs of incarcerated students and enable institutions to develop and expand programs while protecting incarcerated students from exploitation. However, practitioners may require a period of discernment to determine the best implementation methods to accomplish the goals of these provisions. Higher education programs for prisons are not monolithic and some may experience a variety of challenges in implementation. For example, programs that serve students with life sentences will not be able to measure their impact in post-release outcomes. To provide support across various program types, one option would be to make some of the best interest determination metrics optional rather than all mandatory.

As the regulations are implemented, we urge the Department to reconsider designating the correctional agencies as the sole oversight entity. While the oversight entity is required to solicit input from relevant stakeholders, the use of the advisory committee is optional and their recommendations are non-binding, leaving the “Federal Bureau of Prisons or the appropriate State department of corrections or other entity that is responsible for overseeing correctional facilities” as the ultimate decider regarding the best interest determination. While we understand there is statutory language that guides this
provision, we are concerned that this model may fall short in considering educational quality and opportunity. Hence, we urge the Department to enhance this function by using the advice and counsel of the higher education community to determine if changes need to be made to give relevant stakeholders more standing in the approval process.

Education opens doors to opportunity, knowledge, dignity, and equality - benefiting individuals and the broader community. Several Jesuit colleges and universities participated in the Department’s Second Chance Pell program and others have supported different models of Prison Education Programs. Our engagement comes from a deep commitment to social justice and the common good. Extending Pell grants to incarcerated individuals is an investment in the common good, which we define as “the sum total of social conditions which allow people, either as groups or individuals, to reach their fulfillment more fully and more easily.” Individuals participating in Prison Education Programs realize such benefits as improved self-worth and development, as well as strong preparation for life and employment post-incarceration. Positive societal impacts include greater racial equity through access to education; intergenerational gains; increases in public safety; decreases in recidivism and repeat crime; improved/safer environments in prison; and economic safety resulting from reduced incarceration costs [Vera Institute of Justice].

We hope that our institutions might be considered as a resource, as well as a partner to the Department, as we share the goal of providing the best educational opportunities possible to this community of individuals. Thank you for your consideration.

Sincerely,

Rev. Michael J. Garanzini, S.J. 
President 
Association of Jesuit Colleges and Universities

Rev. Ted Penton, S.J. 
Secretary, Office of Justice and Ecology 
Jesuit Conference of Canada and the United States