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11 (Additional Counsel Listed on Signature Page)

12  
 13 IN THE UNITED STATES DISTRICT COURT  
 14 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 15 OAKLAND DIVISION

17 **ELOY ORTIZ OAKLEY, in his official  
 capacity as Chancellor of California  
 18 Community Colleges, et al.,**

19 Plaintiffs,

20 v.

21  
 22 **MIGUEL CARDONA, in his official  
 capacity as the United States Secretary of  
 23 Education; U.S. DEPARTMENT OF  
 EDUCATION,**

24 Defendants.

Case No. 20-cv-03215-YGR

**STIPULATED DISMISSAL WITHOUT  
 PREJUDICE OF FIRST AMENDED  
 COMPLAINT**

Courtroom: 1  
 Judge: Hon. Yvonne Gonzalez Rogers  
 Trial Date: None Set  
 Action Filed: May 11, 2020

1 IT IS HEREBY STIPULATED, by and between the parties that the above-captioned  
2 action is dismissed without prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).  
3 The reasons for this Stipulation are as follows:

4 1. Plaintiffs Eloy Ortiz Oakley, the Board of Governors of the California Community  
5 Colleges, Foothill-De Anza Community College District, Los Angeles Community College  
6 District, Los Rios Community College District, State Center Community College District, and  
7 San Diego Community College District (Plaintiffs) filed a complaint in this action on May 11,  
8 2020 (ECF No. 1);

9 2. Plaintiffs' complaint challenged Defendants' imposition of eligibility restrictions  
10 on COVID-19 emergency assistance grants for students under the Higher Education Emergency  
11 Relief Program (HEERF) enacted under the Coronavirus Aid, Relief and Economic Security  
12 (CARES) Act of March 27, 2020;

13 3. Defendants' eligibility restrictions prohibited institutions of higher education from  
14 disbursing HEERF grants to students unless such students were eligible for federal financial aid  
15 under title IV of the Higher Education Act of 1965 (Title IV);

16 4. On May 13, 2020, Plaintiffs filed a motion for a preliminary injunction (ECF No.  
17 16), seeking relief from Defendants' Title IV restrictions;

18 5. On June 17, 2020, Defendants published an Interim Final Rule (IFR) that  
19 incorporated Defendants' Title IV restrictions on student eligibility for HEERF grants and stated  
20 that restrictions on the disbursement of "federal financial aid" to certain noncitizens under  
21 8 U.S.C. § 1611 (Section 1611) applied to HEERF grants;

22 6. On June 17, 2020, this Court issued a preliminary injunction (ECF No. 44)  
23 prohibiting Defendants from: (1) imposing or enforcing Title IV and Section 1611 restrictions on  
24 disbursement of HEERF grants by California community colleges; (2) requiring that any  
25 California community college accept those eligibility restrictions in order to access HEERF  
26 funds; and (3) penalizing any California community college, including by withholding,  
27 terminating, or taking any action to recover HEERF funds or any other federal funds, for failing  
28 to comply with the eligibility restrictions;

1           7.       On August 13, 2020, Defendants filed a Notice of Appeal from the preliminary  
2 injunction order (ECF No. 50);

3           8.       On November 6, 2020, Plaintiffs filed a First Amended Complaint (ECF No. 55),  
4 challenging Defendants' IFR as *ultra vires* and as violating separation of powers' principles, the  
5 Spending Clause, and the Administrative Procedure Act;

6           9.       On May 14, 2021, Defendants published in the Federal Register a Final Rule, 86  
7 Fed. Reg. 26608, in which they rescinded the IFR's Title IV and Section 1611 eligibility  
8 restrictions on HEERF grants to students and amended applicable regulations to provide that  
9 eligible institutions of higher learning could disburse HEERF grants to any enrolled student;

10          10.       On May 20, 2021, Defendants moved to dismiss their appeal in the U.S. Court of  
11 Appeals for the Ninth Circuit and that court dismissed the appeal.

12           THEREFORE, the PARTIES, through their undersigned attorneys, HEREBY  
13 STIPULATE AND AGREE that:

- 14           i.       The above-captioned action is dismissed without prejudice pursuant to Federal  
15                Rule of Civil Procedure 41(a)(1)(A)(ii); and  
16           ii.       All parties will bear their own fees and costs.

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1 Dated: June 10, 2021

Respectfully submitted,

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**ATTESTATION OF SIGNATURES**

I, Jasleen K. Singh, hereby attest, pursuant to Local Civil Rule 5-1(i)(3) of the Northern District of California, that concurrence in the filing of this document has been obtained from each signatory hereto.

*/s/ Jasleen K. Singh*  
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