

Congress of the United States
Washington, DC 20515

April 3, 2020

The Honorable Steve Mnuchin
Office of the Secretary
U.S. Department of Treasury
1500 Pennsylvania Avenue NW
Washington D.C. 20220

The Honorable Jovita Carranza
Office of the Administrator
Small Business Administration
409 3rd Street SW
Washington D.C. 20416

Dear Secretary Mnuchin and Administrator Carranza,

As you work on guidance regarding the newly created loan programs that have eligibility requirements based upon employee count, including the Paycheck Protection Program (PPP), COVID-19 Economic Injury Disaster Loans (EIDL) and the Mid-Size Business Loan Program, we write to ask you not to include students in the employee count as it applies to institutions of higher education. With the PPP beginning today for employers with 500 or fewer employees, we are hearing that many small colleges may be excluded from consideration because students are being included in the headcount for loan eligibility.

Higher education is among the hardest hit sectors of the economy and is facing unprecedented challenges as a result of the COVID-19 pandemic. They were one of the industries Congress most had in mind in crafting the recently passed “Coronavirus Aid, Relief, and Economic Security (CARES) Act.” Colleges are grappling with closed campuses, wholesale shifts in how they teach, and the unanticipated expenses that arise from serving their students safely during a pandemic.

Including students in either the eligibility count or the rehire count undermines the very purpose of these loans. Many institutions of higher education employ students to provide them with work and learning experiences while keeping them close to campus for the purposes of their education. This generosity is first and foremost about education and financial aid. Also, including students in the rehire count is not practical since all or most of these student employees have left campuses and are not available for rehire as a majority of small, private institutions have closed campuses for the remainder of the academic year.

There are federal precedents for not including student workers in employee counting throughout federal agencies including: the IRS generally exempts student workers from being defined as employees under IRS regulations implementing the Student FICA and the Federal Unemployment tax exceptions; the Department of Labor’s Wage and Hour Division creates special exceptions for students under the Fair Labor Standards Act, and the Department of Education’s Integrated Postsecondary Education Data System (IPEDS) does not include student employees in an institution’s employee count.

We thank you very much for the work you are doing to get relief quickly in the hands of American workers and employers. As one of our nation’s largest and most important employers, we hope you will consider the special purpose student workers play in the higher education landscape and reward, not penalize, institutions for creating these unique educational opportunities for students.

Sincerely,


JIM BANKS
Member of Congress

The following Members of Congress have cosigned this letter:

John Moolenaar (MI-04)	French Hill (AR-02)
Tim Walberg (MI-07)	James Comer (KY-01)
David B. McKinley P.E. (WV-01)	Ben Cline (VA-06)
Phil Roe, M.D. (TN-01)	John Katko (NY-24)
Gregory F. Murphy, M.D. (NC-03)	Robert J. Wittman (VA-01)
Sanford D. Bishop, Jr. (GA-02)	Jeff Duncan (SC-03)
Tom McClintock (CA-04)	James R. Baird (IN-04)
Susan W. Brooks (IN-05)	Doug Collins (GA-09)
David N. Cicilline (RI-01)	Cheri Bustos (IL-17)
Mike Gallagher (WI-08)	Jackie Walorski (IN-02)
Earl L. "Buddy" Carter (GA-01)	Louie Gohmert (TX-01)
Vicente Gonzalez (TX-15)	Susan Wild (PA-07)
Roger Marshall, M.D. (KS-01)	Carol Miller (WV-03)
Fred Upton (MI-06)	Ted Budd (NC-13)
David Scott (GA-13)	Ann McLane Kuster (NH-02)
Alex X. Mooney (WV-02)	H. Morgan Griffith (VA-09)
Tom Graves (GA-14)	Rodney Davis (IL-13)
Brett Guthrie (KY-02)	David Rouzer (NC-7)
Jim Langevin (RI-02)	Jim Costa (CA-16)
Bill Johnson (OH-06)	Hal Rogers (KY-05)
Tim Burchett (TN-02)	