

March 22, 2017

Dear Members of Congress:

As organizations working on behalf of students, consumers, veterans, servicemembers, faculty and staff, civil rights, and college access, we write to convey our strong support for the continued implementation and enforcement of important Education Department accountability provisions designed to protect students and taxpayers from unmanageable student debt and waste, fraud and abuse in higher education. In particular, we oppose all actions to delay, weaken, or repeal the gainful employment, incentive compensation, or recent “borrower defense to repayment” and college accountability regulations. Each of these accountability measures is essential to protecting students and taxpayers from sudden school closures and other misconduct by unscrupulous colleges, and to maintaining the integrity of our federal aid program.

We believe protections for students and taxpayers should be *strengthened*, not scaled back. Veterans, low-income students and students of color have been disproportionately harmed by predatory colleges. Last month, [16 organizations](#) representing millions of military servicemembers, veterans, survivors, and military families voiced their strong support for these protections and urged Congress to fully uphold them. In addition, [20 state attorneys general](#) recently wrote Congress expressing concern that rollbacks of recent protections “would again signal ‘open season’ on students for the worst actors among for-profit postsecondary schools.” That is because multiple investigations have revealed that federal taxpayers are subsidizing schools and programs that consistently leave students and veterans with loans they cannot repay and credentials they cannot use. Some schools have gone so far as to recruit people who are homeless, enroll students without their consent, and use tactics that invoke “pain” and “fear” to pressure students into enrolling.

Gainful Employment

The gainful employment regulation finalized in 2014 enforces the Higher Education Act’s requirement that all career education programs receiving federal student aid “prepare students for gainful employment in a recognized occupation.” This rule requires all career education programs receiving federal funding at public, non-profit and for-profit colleges to provide basic program information to help students decide where to enroll, such as what share of students graduate on time, what share get jobs in the field, and how much graduates typically earn and how much debt they have. It requires the worst-performing career training programs —those consistently leaving their graduates with more debt than they can repay—to improve or lose eligibility for federal funding. The 2014 rule has been reviewed and upheld in its entirety by [two different](#) federal courts and [affirmed](#) by the U.S. Court of Appeals for the D.C. Circuit.

The regulation has already had a significant positive impact. The mere threat of sanctions under this rule prompted many colleges to eliminate their worst performing programs, to freeze tuition and implement other reforms to improve outcomes for their graduates. In part due to these reforms, nine in ten colleges with rated gainful employment programs have no failing programs, and even among for-profit colleges eight in ten have no failing programs, including American Public University, Capella University, Concorde Career College, ECPI University, Empire Beauty School, Grand Canyon University, and Strayer University. At the same time, the gainful employment rule has uncovered scores of failing programs that taxpayers are subsidizing—like the Medical Assisting associate’s degree program at McCann School of Business and Technology in Hazelton, PA, which is still actively recruiting new students and charging \$31,000 despite [abysmal outcomes](#), including a 7% on-time completion rate, a 46% job placement rate, and median graduate earnings of only \$20,000. The typical graduate of this program at all McCann School locations in 2014-15 had over \$26,000 in student loan debt.

Delaying, weakening, or repealing the gainful employment rule would lead to a new race to the bottom as unscrupulous schools compete to enroll as many students as possible without regard to the quality of the training, the student’s preparation, or the job prospects. Investment analysts have [reiterated this concern](#), saying a reversal on gainful employment “definitely would be something to worry about.” A repeal would be costly as well, to the tune of \$1.3 billion over 10 years according to a July 2016 Congressional Budget Office analysis.

Compensating Victims, Preventing Future Harm

Too many students have been defrauded and deceived by predatory schools, such as Corinthian Colleges that inflated its job placement rates and made false employment promises, ITT Technical Institutes that falsely claimed its credits would transfer to other schools, and American Career Institute that inflated job placement rates and falsified student signatures and enrollment records. It is crucial that neither defrauded students nor taxpayers be left on the hook for wrongdoing by schools. The “borrower defense” rule finalized in October 2016 codifies a process for providing student loan relief to defrauded borrowers. The regulation also ensures that students at schools that close suddenly know their options and that their loans are automatically discharged if they do not continue their studies within three years of the school’s closure.

The borrower defense rule also protects taxpayers by making it harder for schools to hide fraud and evade accountability by blocking students’ access to courts. Corinthian Colleges and ITT Technical Institutes used mandatory arbitration clauses and class action bans to force students to sign away their rights to dispute wrongdoing in court, and most for-profit colleges continue to require students to sign such agreements, allowing fraud to continue undetected for years. The rule is also aimed squarely at protecting taxpayers from abrupt school closures. As the Education Department’s Inspector General recently [concluded](#), “If the new borrower defense regulations are enforced, [the Education Department’s Office of Federal Student Aid] should receive important, timely information from publicly traded,

private for-profit, and private non-profit schools that experience triggering events or conditions,” and “make it easier for FSA to obtain financial protection...from Title IV schools that may be at increased risk of potential closure.” Had Corinthian students had access to the courts and the Department of Education obtained a letter of credit from the company, taxpayers would not now be on the hook for the more than \$550 million in federal student loan discharges for former Corinthian students.

Incentive Compensation

The Higher Education Act’s ban on incentive compensation (commissioned sales) was enacted more than 20 years ago with strong bipartisan support to reduce high-pressure, deceptive sales tactics. In 2010, the Department of Education closed regulatory loopholes that incentivized employees and contractors to say or do just about anything to get students to enroll, including resorting to unfair, deceptive, and abusive tactics. To protect students and taxpayers, in 2015 the Education Department’s Inspector General [called for](#) greater oversight and enforcement of the ban on incentive compensation. We agree on the need for increased oversight and strongly oppose the creation of any loopholes in the statutory ban on incentive compensation.

We strongly support swift implementation and enforcement of these important, common-sense regulations to ensure that students are not saddled with student debt they cannot repay, that taxpayer dollars are spent wisely, and that students receive a quality education. We need to be cutting wasteful spending, not subsidizing schools that engage in predatory behavior.

Sincerely,

Admiral Garry Hall on behalf of the Association of the United States Navy
American Federation of Labor-Congress of Industrial Organizations (AFL-CIO)
Air Force Sergeants Association
American Association of University Professors (AAUP)
American Association of University Women (AAUW)
American Federation of Teachers
Americans for Financial Reform
Center for Law and Social Policy (CLASP)
Center for Public Interest Law
Center for Responsible Lending
Children's Advocacy Institute
Consumer Action
Consumer Federation of America
Consumer Federation of California
Consumers Union, the policy and mobilization arm of Consumer Reports
Demos

East Bay Community Law Center
The Education Trust
Equal Justice Works
Faculty Forward Network
Generation Progress
Higher Ed Not Debt
Housing and Economic Rights Advocates
The Institute for College Access & Success
Institute for Higher Education Policy (IHEP)
The Leadership Conference on Civil and Human Rights
League of United Latin American Citizens
Maryland Consumer Rights Coalition
National Association for College Admission Counseling
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low-income clients)
National Consumers League
National Council of La Raza (NCLR)
National Education Association (NEA)
New Jersey Citizen Action
New York Legal Assistance Group
Project on Predatory Student Lending of the Legal Services Center of Harvard Law School
Public Citizen
Public Counsel
Public Good Law Center
Public Higher Education Network of Massachusetts (PHENOM)
Public Law Center
SEIU
Student Debt Crisis
Student Veterans of America
U.S. PIRG
United States Student Association
University of San Diego School of Law Veterans Legal Clinic
Veterans Education Success
Veterans for Common Sense
Veterans' Student Loan Relief Fund
Vietnam Veterans of America
Young Invincibles

cc: The Honorable Betsy DeVos, Secretary of Education