PROTECT STUDENTS & TAXPAYERS

April 10, 2025

Dear Member of Congress,

As organizations working on behalf of students, borrowers, consumers, veterans, faculty and staff, civil rights advocates, and researchers concerned for communities buried in debt because of predatory, misleading, and deceptive practices by high-cost, low-quality programs, we write to share our coalition's higher education priorities. We urge you to support policies that protect students and taxpayers who invest in federal financial aid programs, and to oppose efforts to undermine critical protections, which are threatened by ongoing actions by the administration and legislative proposals.

Our priorities are intended to have bipartisan support, as they are aimed at ensuring students and borrowers can have confidence in the quality of the postsecondary programs they pursue, and taxpayers can have confidence their investment in financial aid programs won't be lost to waste, fraud, and abuse by bad actors. We are deeply concerned about the prospect of weakened oversight from a diminished Department of Education, which makes legislative action to strengthen these protections through statute all the more urgent and necessary. Our coalition's priorities include:

- Gainful Employment: Fully implement the 2023 Gainful Employment and Financial Value Transparency Rule that saves billions of dollars, and oppose efforts to rescind the rule;
- Borrower Defense to Repayment: Ensure that student borrowers who are being, or have been, misled and deceived by their schools have an effective path to loan forgiveness;
- Student Veterans: Protect student veterans by maintaining the current requirements that at least 10 percent of revenues at for-profit colleges come from sources outside the federal government, and work to ensure student veterans are eligible to have GI Bill benefits restored in cases of predatory conduct;
- Student Recruitment Incentive Compensation Ban: Protect against agreements that allow commission and other payments to third parties based on student enrollment, and ensure that enrollment and financial aid communications by third parties do not include misrepresentations or other predatory practices.

The federal government plays a critical role in putting higher education within reach for millions of Americans by providing grants and loans to help finance their education. Unfortunately, some colleges engage in predatory practices that can mislead or defraud students, wasting taxpayer dollars that back financial aid programs; they consistently leave students with low-value or worthless degrees and debts borrowers cannot afford to repay. Data clearly demonstrates that a disproportionate number of these institutions are privately owned and operated on a for-profit basis.[1]

Predatory colleges disproportionately harm veterans, low-income students, and students of color. Frequently, students leave these schools with high debt but no degree or certification. The for-profit college sector accounts for 13 percent of annual aid volume but represents nearly three times (38 percent) that share of the Office of Federal Student Aid's identified complaints, and "[b]orrowers who attended for-profit schools disproportionately submit complaints about their schools, relative to the share of Title IV aid funds disbursed for attendance at those schools."[2] Prior to the pandemic, students at for-profit colleges defaulted almost *four times* more often than students who attended public community colleges.[3]

When predatory schools close, they often do so suddenly, leaving thousands of students locked out and with uncertain futures – even as owners extract a final draw of cash. Researchers have found that, "students who experienced a closure were 71.3 [percent] less likely to be enrolled after one month and 63.3 [percent] less likely to be enrolled after four months than students who did not experience a closure." Further, students who experience a college closure are only half as likely to complete a degree than students who do not experience a college closure.[4]

Meanwhile, predatory colleges exacerbate racial inequity by disproportionately enrolling students of color. Years of data show how predatory for-profit institutions use deceptive marketing to recruit and enroll students with high concentrations of students of color. This reverse redlining exacerbates economic exploitation in these communities.[5] Data show that "students at for-profit colleges are much less likely to graduate than students at public and private non-profit schools. For example, the graduation rate for Black students who seek Bachelor's degrees at for-profit colleges is less than two-thirds of the graduation rate of Black students at public or private non-profit institutions."[6]

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[1] U.S. Department of Education, Fact Sheet: Department of Education Announces Release of New Program-Level Gainful Employment Earnings Data, https://bit.ly/3sqwgyH.

[2] Office of Federal Student Aid. (2023). FY2022 Annual Report. U.S. Department of Education, https://studentaid.gov/sites/default/files/fy2022-fsa-annual-report.pdf, p. 144.

[3] J.S. Clayton, "The Looming Student Debt Crisis is Worse Than We Thought," The Brookings Institution, January 11, 2018, https://brook.gs/2XHRoSQ.

[4] R. Burns, et al. (2023). *A Dream Derailed? Investigating the Causal Effects of College Closure on Student Outcomes*. State Higher Education Executive Officers. https://sheeo.org/wp-content/uploads/2023/04/SHEEO_CollegeClosures_Report2.pdf.

[5] Student Borrower Protection Center. (2021). *Mapping Exploitation: Examining For-Profit Colleges as Financial Predators in Communities of Color*. https://protectborrowers.org/wp-content/uploads/2021/07/SBPC-Mapping-Exploitation-Report.pdf.

[6] Leadership Conference Education Fund. (2024). *Gainful Employment: A Civil Rights Perspective*. Leadership Conference on Civil and Human Rights. https://civilrights.org/wp-content/uploads/2024/08/GainfulEmploymentPolicyBrief-1.pdf.

The gainful employment rule should provide a baseline protection against high-cost, low-quality programs. Under the Higher Education Act, for career education programs to be eligible to receive students' federal financial aid, institutions must "prepare students for gainful employment in a recognized occupation." This requirement applies to all public and private non-profit college programs of less than two years and nearly all for-profit college programs.[7] When then-Secretary DeVos rescinded a previous gainful employment rule in 2019, a regulatory impact analysis estimated the cost to taxpayers at more than $6 billion over ten years–funds that would continue going to low-quality programs that did not set their graduates up for career success.[8]

Along with a new financial value transparency framework intended to provide useful information about the expected return on investment of all postsecondary programs, the 2023 gainful employment rule should protect students from enrolling in low-quality programs and taxpayers from financing them. Congress should protect the framework and the rule, including by putting them into statute.

As a reflection of the prevalence of institutions that have defrauded their students over the last decade, in recent years the Education Department cancelled debt for more than 1.7 million student borrowers under existing authorities. Still, GAO analysts last year found more than 400,000 claims eligible for relief remained outstanding.[9] And, the Department missed several deadlines in the *Sweet v. McMahon* (formerly *Sweet v. Cardona*) settlement and is on track now only because of repeated enforcement efforts by the Project on Predatory Student Lending (PPSL). According to PPSL, of the top 20 zip codes with the most borrowers from the *Sweet v. McMahon* class and post-class members (all of whom are borrower defense applicants) and the most borrowers who attended ITT Technical Institute, fifteen are 50 percent or more Black, and four are 80 percent or more Black.

In 2021, Congress approved a bipartisan measure to close the 90/10 loophole that led to deceptive and aggressive recruiting of student veterans, and the Education Department recently clarified that third parties must not engage in predatory misrepresentations.[10] Yet safeguards protecting the taxpayer investment in higher education and student consumers from predatory practices are at risk in litigation, executive actions, and pending legislative proposals.

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[7] Ibid.

[8] See, "...the total estimated net budget impact from the final regulations is $6.2 billion cost in increased transfers from the Federal government to Pell Grant recipients and student loan borrowers and subsequently to institutions, primarily from the elimination of the ineligibility provision of the GE regulation" at https://www.federalregister.gov/documents/2019/07/01/2019-13703/program-integrity-gainful-employment.

[9] U.S. Government Accountability Office. (2024). *Student Loan Relief in Cases of College Misconduct*. https://www.gao.gov/assets/gao-24-106530.pdf.

[10] U.S. Department of Education. (January 16, 2025). (GEN-25-01) Notice of interpretation regarding misrepresentations by third-party service providers engaged by an institution of higher education. Federal Student Aid. https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2025-01-16/notice-interpretation-regarding-misrepresentations-third-party-service-providers-engaged-institution-higher-education.

In its 1992 reauthorization of the Higher Education Act, Congress prohibited "any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid. Yet guidance from the Department of Education in 2011 opened an exception to this ban on incentive-based compensation for third-party companies providing "bundles services" associated with enrollment to institutions. As a House Appropriations Committee report during the 117th Congress noted, this loophole enables online program management companies to craft "agreements between universities and for-profit OPM companies [that] can create perverse incentives that drive up costs, waste taxpayer dollars, and rip off students."[11] During the 119th Congress, Members should urge the Department to rescind the 2011 guidance and fully enforce the longstanding ban on incentive-based compensation.

Thank you for your service in this Congress, as well as for your support of strong higher education policies that minimize waste, fraud, and abuse in higher education. We are all available to serve as resources, and we look forward to working together with this Congress to make certain that commonsense laws and regulations are protected and enforced, and to ensure the efficient use of taxpayer dollars by colleges nationwide.

Sincerely,

AFT, AFL-CIO
American Association of University Women (AAUW)
American Federation of State, County and Municipal Employees (AFSCME)
Americans for Financial Reform
Center for American Progress
Center for Responsible Lending
Children's Advocacy Institute
Consumer Action
EdTrust
Hildreth Institute
Housing and Economic Rights Advocates
National Association for College Admission Counseling
National Consumer Law Center (on behalf of its low-income clients)
National Education Association
New America Higher Education Program
Project on Predatory Student Lending
Student Borrower Protection Center
Student Defense
The Century Foundation Higher Education Policy Team
The Institute for College Access & Success
UnidosUS

[11] https://docs.house.gov/meetings/AP/AP00/20220630/114968/HMKP-117-AP00-20220630-SD003.PDF, p. 276.

Veterans for Common Sense
Young Invincibles
David Halperin, Attorney