

February 4, 2014

The Honorable Barack Obama
President of the United States
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

Our organizations—which work on behalf of students and college access, veterans, consumers, and civil rights—were heartened by your remarks last August when you so effectively summed up the problems in the for-profit college industry:

[T]here have been some schools that are notorious for getting students in, getting a bunch of grant money, having those students take out a lot of loans, making big profits, but having really low graduation rates. Students aren't getting what they need to be prepared for a particular field. They get out of these for-profit schools loaded down with enormous debt. They can't find a job. They default. The taxpayer ends up holding the bag. Their credit is ruined, and the for-profit institution is making out like a bandit. That's a problem.

Your administration now has an opportunity to better protect taxpayers and students, including our nation's veterans, service members and their families, from predatory career education programs. The Education Department is developing draft regulations to enforce the statutory requirement that all career education programs that receive federal funding, whether at for-profit, public or nonprofit colleges, "prepare students for gainful employment in a recognized occupation." The negotiated rulemaking panel convened last year by the Department to develop the draft regulations was unable to reach consensus. Even after the Department made multiple changes requested by the for-profit college industry representatives that dramatically weakened the draft regulation, the for-profit college industry representatives objected to it. The changes would have made the regulation so weak on predatory colleges and so hard on low-cost, high-performing colleges that not a single negotiator voiced support for the Department's last proposal.

We urge the Administration to issue promptly a stronger, more effective proposed regulation so that the urgently needed rules can be finalized by November 1, 2014, and go into effect by July 1, 2015. At a minimum, we believe the regulation should include the following five elements:

1. **A repayment rate or another metric to effectively prevent programs with high borrowing and high dropout rates from receiving federal funding.** A low completion rate is one of the ways that programs can fail to prepare students for gainful employment, particularly when they leave school with substantial debt. But programs where 99% of the students drop out with heavy debt that they are unable to pay down could still pass the Department's most recent proposal. A program-level cohort default rate (pCDR) was the only metric in that proposal to assess the outcomes of students who do not complete a program. However, a pCDR alone is not sufficient for at least two reasons. First, the well-documented manipulation of cohort default rates by some for-profit college corporations undermines their meaning. Second, default is an extreme situation, measuring whether

borrowers have failed to make any required payments in at least 270 days and does not measure whether students are able to pay down their loans. To be clear, we believe that a strong repayment rate or other metric addressing programs with high borrowing and high dropout rates should be a separate requirement that gainful employment programs must pass, in addition to the other tests, in order to retain eligibility.

2. **A meaningful approval process to weed out programs that will not prepare students for gainful employment in the specified occupations *before they harm students*.** Programs that lack the programmatic accreditation or other attributes needed for graduates to be hired in the field should not be eligible to receive taxpayer funds, yet the Department's most recent proposal would allow funding to continue to flow to these programs. For example, federal funding should not be available for dental assisting and other medical programs whose graduates are ineligible for the licensing exam required to work in that field. Subsidizing such programs misleads students, who trust the federal government to fund only worthwhile programs and is clearly inconsistent with the statutory requirement that all career education programs receiving federal funding "prepare students for gainful employment in a recognized occupation."
3. **Borrower relief that is fair and provides a greater incentive to improve weak programs.** The Department proposed *partial* relief—at no cost to taxpayers—for *some* students who enroll in programs that the Department ultimately determines systematically and consistently fail to prepare students for gainful employment in the specified occupations. We believe students should not be responsible for *any* loans they received to attend such programs. Providing full relief to all such students is not only fair, it also provides a more effective incentive for schools to improve their programs so they never have to provide such relief.
4. **Meaningful debt-to-earnings standards.** The debt-to-earnings standards in the Department's last proposal were so weak that literally thousands of programs with median and mean debt levels that exceed their graduates' *entire* discretionary incomes would not fail the standards. This is clearly too low a standard. Students and taxpayers deserve better.
5. **Protection for schools offering low-cost programs in which most students do not borrow.** The final 2011 gainful employment regulation automatically passed all low-cost programs where the majority of graduates do not borrow. The federal district court reviewing the regulations upheld this provision, which recognized that such programs do not consistently leave students with unaffordable debts. The new draft regulation should also. In contrast, the Department's last proposal would unintentionally jeopardize funding for many of these low-cost programs because the metrics would consider only students receiving Title IV funding, which in many cases are a small, unrepresentative share of the program's students. These proposals would incentivize more schools to leave the Federal student loan program, lead to the voluntary or involuntary closure of effective, low-cost programs, and is at odds with related statutory precedent which acknowledges the importance of the share of students borrowing in applying default rate sanctions.

We believe these five elements are essential, but there are other areas in which thoughtful proposals were submitted by negotiators that merit further consideration. Several of the negotiated rulemaking panel working groups and individual negotiators developed detailed proposals to strengthen the regulation in important ways while reducing its burden on high-performing, low-cost colleges. For

example, the Department's proposals do nothing to increase the accuracy or comparability of the job placement rates that schools advertise to students. As the commissioner of the National Center for Education Statistics told the negotiated rulemaking panel in September, the exclusion of deceased students is just about the only thing that the many current definitions of job placement have in common. In light of this lack of comparability and the increasing evidence of widespread manipulation and inflation of job placement rates in the for-profit college industry, the proposals by the working group on job placement are timely, thoughtful, and practical.

We applaud the Members of Congress who recently sent a letter to Secretary Duncan urging the Administration to move decisively towards issuing a final regulation. We thank you for your leadership in seeking to improve higher education and career opportunities for all Americans. We and our members and supporters stand with you and look forward to the prompt issuance a strengthened gainful employment rule and other urgently needed steps to enforce current laws to better protect students, taxpayers, and our nation's economy.

Sincerely,

AFL-CIO
The American Association of State Colleges
and Universities (AASCU)
American Association of University Professors
(AAUP)
American Association of University Women
(AAUW)
American Federation of Teachers (AFT)
Americans for Financial Reform
Association of the United States Navy (AUSN)
Center for Law and Social Policy
Center for Public Interest Law
Center for Responsible Lending
Children's Advocacy Institute
Consumer Action
Consumers Union
Consumer Federation of California
Council for Opportunity in Education
Crittenton Women's Union
East Bay Community Law Center
Generation Progress
Initiative to Protect Student Veterans
The Education Trust
The Institute for College Access & Success
Institute for Higher Education Policy (IHEP)
Iraq and Afghanistan Veterans of America
(IAVA)
The Leadership Conference on Civil and
Human Rights

Mississippi Center for Justice
National Association for Black Veterans, Inc.
(NABVETS)
National Association for College Admission
Counseling
National Consumer Law Center (on behalf
of its low-income clients)
National Consumers League
National Education Association
The National Guard Association of the
United States (NGAUS)
National Women Veterans Association of America
New Economy Project (formerly NEDAP)
NYPIRG
Paralyzed Veterans of America
Public Advocates Inc.
Public Higher Education Network of Massachusetts
(PHENOM)
Public Citizen
Rebuild the Dream
Service Employees International Union
Student Veterans of America
United States Student Association
U.S. PIRG
Veteran Student Loan Relief Fund
Veterans Education Success
Veterans for Common Sense
VetJobs
VetsFirst, a program of United Spinal Association

League of United Latin American Citizens
MALDEF

Vietnam Veterans of America
Young Invincibles

cc: Hon. Arne Duncan, Secretary of Education
Hon. Cecilia Muñoz, Director, White House Domestic Policy Council
Hon. Gene Sperling, Director, White House National Economic Council
Hon. Sylvia Mathews Burwell, Director, Office of Management and Budget