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With Lobbying Blitz, For-Profit Colleges Diluted New Rules

By ERIC LICHTBLAU

WASHINGTON — Last year, the Obama administration vowed to stop for-profit colleges from luring students with false promises. In an opening volley that shook the $30 billion industry, officials proposed new restrictions to cut off the huge flow of federal aid to unfit programs.

But after a ferocious response that administration officials called one of the most intense they had seen, the Education Department produced a much-weakened final plan that almost certainly will have far less impact as it goes into effect next year.

The story of how the for-profit colleges survived the threat of a major federal crackdown offers a case study in Washington power brokering. Rattled by the administration's tough talk, the colleges spent more than $16 million on an all-star list of prominent figures, particularly Democrats with close ties to the White House, to plot strategy, mend their battered image and plead their case.

Anita Dunn, a close friend of President Obama and his former White House communications director, worked with Kaplan University, one of the embattled school networks. Jamie Rubin, a major fund-raising bundler for the president's re-election campaign, met with administration officials about ATI, a college network based in Dallas, in which Mr. Rubin's private-equity firm has a stake.

A who's who of Democratic lobbyists — including Richard A. Gephardt, the former House majority leader; John Breaux, the former Louisiana senator; and Tony Podesta, whose brother, John, ran Mr. Obama's transition team — were hired to buttonhole officials.

And politically well-connected investors, including Donald E. Graham, chief executive of the Washington Post Company, which owns Kaplan, and John Sperling, founder of the University of Phoenix and a longtime friend of the House minority leader, Nancy Pelosi, made impassioned appeals.

In all, industry advocates met more than two dozen times with White House and Education Department officials, including senior officials like Education Secretary Arne Duncan, records show, even as Mr. Obama has vowed to reduce the "outsize" influence of lobbyists and special interests in Washington.

The result was a plan, completed in June, that imposes new regulations on for-profit schools to ensure they adequately train their students for work, but does so on a much less ambitious scale than the administration first intended, relaxing the initial standards for determining which schools would be stripped of federal financing.

"The haranguing had zero effect," said Cass R. Sunstein, the White House official who oversees rule making. Rather, he and other administration officials said they listened to what they viewed as reasonable arguments and decided to narrow the scope of the original plan.

But Robert Shireman, a former Education Department official who helped shape that original plan, said the intense politics surrounding the issue played a part in "watering down" the final result.

"From early on, the industry was going to friends inside and out of the administration and saying, 'They're out to get us,' and creating the impression that these regulations were unfair or irrational," said Mr. Shireman, who left the department before the plan was finished.

"They decided to raise holy hell," he said in an interview.

Many colleges saw the federal government's attacks as "Armageddon for the industry," said Avy Stein, a partner at a private equity fund that owns a network of schools called Education Corporation of America.

The industry was on the defensive after a series of federal investigations portrayed it as rife with abuse. They found that recruiters would lure students — often members of minorities, veterans, the homeless and low-income people — with promises of quick degrees and post-graduation jobs but often leave them poorly prepared and burdened with staggering federal loans.

In response to the rising concerns, 18 months ago the Obama administration proposed its tough restrictions linking tens of billions of dollars in federal student aid to formulas measuring students' debt levels and income after graduation. Colleges whose students were not earning enough money to start paying back their loans would be in danger of losing federal aid altogether.

The proposal was aimed at ensuring that the for-profit schools were providing "gainful employment" in a wide range of vocational fields they taught, like medical testing, massage therapy, business management and cosmetology. The joke in Washington, however, was that the industry effort to defeat the plan mainly ensured "gainful employment" for the capital's Democratic lobbyists and political consultants.

In a coordinated approach that also included Capitol Hill protests, petition drives, newspaper ads and more, industry advocates stressed that jobs that would be lost if the institutions were put out of business. They questioned why nonprofit schools were untouched. And they accused the administration of highlighting some abuses to stigmatize an industry that educates second-chance students shunned by traditional academia.

"It was a demonization of our sector," said Penny Lee, who leads an industry coalition and has extensive ties to Democratic politics as a former senior aide to Senator Harry Reid of Nevada.

The industry's mobilization helped produce a record 90,000 public comments to the Education Department — overwhelmingly negative — on the proposed changes.

The battle got so testy that Senator Tom Harkin, the Iowa Democrat who has led Congressional hearings into the colleges, got into a heated exchange with

Mr. Stein, the Education Corporation investor.

The senator said that during a hallway conversation after lunch in the Senate dining room, Mr. Stein promised to "make life rough for me" if Mr. Harkin kept up his attacks.

"I took it as a threat — it was one of the most blatant comments ever made to me in my years in the Senate," Mr. Harkin said.

Mr. Stein, a frequent Democratic donor who had bought the lunch with the senator at a charity auction, would not discuss the details of the conversation. But he said Mr. Harkin's account was "totally incorrect," adding: "Under no circumstances would I would ever threaten a U.S. senator."

Officials at the White House and the Education Department described the industry's aggressive efforts as unusual even by Washington standards. Mr. Sunstein, the White House official, characterized the intensity as "extreme."

That response reflected the enormous financial stakes for an industry that has become big business in the last decade, with online schools and traditional campuses offering degrees to about three million students. Schools receive as much as 90 percent of their revenues from federal aid.

Once small, local operations, many of the colleges are now multistate networks owned by Wall Street firms looking for big profits. Consumer groups sought tougher restrictions, but found themselves outmatched. Pauline Abernathy, vice president with the nonprofit Institute for College Access and Success and an industry critic, said: "We always knew that we couldn't compete with the colleges in terms of money or lobbyists, but we thought we had the facts on our side."

The colleges pushed back at critics, finding errors, for instance, in conclusions from a Government Accountability Office investigation last year, forcing the office to revise some of its statements about industry practices.

Schools also questioned the motives of a key witness at Mr. Harkin's hearings, the noted hedge-fund trader Steve Eisman, who blasted the colleges' sky-high profit margins and likened them to subprime mortgage lenders. After Mr. Eisman acknowledged he held financial positions in the industry, the colleges charged that he stood to make millions by battering their reputations and short-selling their stocks.

Ms. Dunn, the former White House aide hired by Kaplan, played a key role in helping shape the colleges' message.

In an interview, she said she worked to refute media reports casting the abuse problems as industrywide and to show they were limited to "a few bad actors."

While some people in the industry pushed to see the regulations killed altogether, she said that most executives realized that there were going to be regulations they had to live with" and aimed to blunt the impact. While Ms. Dunn visited the White House about 80 times since leaving the administration, she said she was careful to avoid talking to former colleagues about the issue because she is not a lobbyist and such contact would violate the ethics policies put in place by Mr. Obama regarding lobbying by former advisers.

Tony Podesta, who met last May with White House officials and sent lobbyists at his firm to other meetings, faced no such restrictions. "The administration realized they had overdone it," he said, "and, wisely in my view, they took a second look."

In the end, Mr. Duncan and his department, after working for months with White House budget, economic and domestic policy officials, decided that the initial criteria for determining how effectively schools prepared students for jobs simply went too far.

The original framework "would have unnecessarily eliminated many, many good schools along with the bad," said Justin Hamilton, an Education Department spokesman.

The final standards leave a maximum of 5 percent of schools facing financial sanctions at the start; the original plan would have meant penalties against an estimated 16 percent.

The rules also pushed back the penalties to 2015 from 2012, while requiring schools to disclose more data about loans, defaults and job placement.

Donald Heller, a Penn State education professor who studied the plan, said the industry did largely what it set out to do.

"This was the beachhead the colleges were going to defend, and they were somewhat successful in that they got the regulations weakened," he said. "The Department of Education really bent to the lobbying push."

Barclay Walsh contributed research for this article.