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Memorandum in Support

The For-Profit College Accountability Act
Education, Labor and Family Assistance, Part E
(S.1506/A.2006)

The For-Profit College Accountability Act, Part E of the Education, Labor and Family Assistance budget of Governor Andrew Cuomo's Executive Budget (S.1506/S./2006) instills much needed protections for students attending for-profit and proprietary schools in New York State. The bill sets forth five critical standards for proprietary institutions that establish a base level of protections to ensure that all proprietary schools help, not hurt, New York students to achieve their best potential.

The first important standard in the bill is requiring that schools can't rely on public, taxpayer dollars – including regional, state and federal student loan, grant and scholarships programs – for more than eighty percent of their revenue. Schools have to raise revenue from other sources such as direct payments from students, alumnae donations, and other private, non-government sources. This provision raises the bar from the ninety percent requirement on the federal level, and it closes a loophole that currently allows schools to count GI Bill money used by veterans to attend for-profit schools as their ten percent "non-government source" of revenue. (This loophole has made veterans particularly attractive to for-profit schools.) This "80-20 Rule" not only protects taxpayer dollars, but it also serves as a market check on the services provided by the school – if the school is worth going to, people will pay for it, donate to it, or invest in it.

The bill also requires schools to spend not less than fifty percent of their annual expenditures on student instruction which primarily includes investments in their teaching staff and programming for student learning. Specifically prohibited from the term "student instruction" is money spent on "student recruitment, marketing, direct mailing, or expenses of non-instructional staff." According to the National Center for Academic Statistics, in 2015-16, 63 percent of for-profit institutions' expenditures went to non-instructional activities such as administrative and executive activities, admissions, libraries and student services and academic and institutional support. These expenses made up on average 30 percent of total expenses at private nonprofit schools, and 24 percent of the expenses of public institutions.[1]

Transparency is also a part of the bill, requiring institutions to submit to the New York State Education Department for publication, the school's financial statement including all revenue and all expenditures for the prior academic year. In response to reports in recent years of many proprietary school executives receiving compensation in the millions of dollars, and often more than their counterparts at top universities and colleges

[1] National Center for Education Statistics, *Fast Facts*, available at: https://nces.ed.gov/fastfacts/display.asp?id=75.

across the country,[2] the bill requires the financial statements to list the total individual compensation to their officers, directors, board members, trustees, shareholders, members, owners and senior administrators. The bill also includes a common sense provision to prevent conflicts, prohibiting senior staff and board members of a proprietary institution from serving on the board of any regional or national accrediting agency which is an accreditor of the school. Finally, the bill provides an important student consumer protection by prohibiting proprietary schools from escaping the purview of our judicial system by requiring students to sign a mandatory arbitration clause.

The devastating stories of students who attended for-profit schools that have closed and left them with devastating debt, were not provided with an adequate education to be employed in the profession they went to school for, and were left so heavily in debt that they can't even pay a penny of it down even years out of school are well documented. New York State has experienced two significant closures of these kinds of schools in recent years - Corinthian's Everest College and ITT Technical Institute. The stories of these students are heart-breaking, and life devastating. For many students, this schooling was their only chance to gain a higher education and if a school fails them, it is not just the debt they incurred that ruins them, it is the lost-opportunity.

This sector of schools targets low-income students, veterans, communities of color and often first-generation students. It is reasonable – though unfortunately incorrect - for students to believe that if they are receiving taxpayer dollars to attend a school, that there is someone watching over that school to make sure it isn't going to take advantage of them and the federal and state grants and loans.[3] Evidenced by the high number of complaints by students and graduates who have attended many of the proprietary schools, there clearly is insufficient oversight. To make matters worse, Secretary Betsy DeVos and the United States Department of Education are opening the doors even-wider to the for-profit sector by eliminating a baseline of scrutiny that existed to ensure schools provide educations for students to find gainful employment. Now, more than ever it is critical that New York State steps up to protect its current and future students from the worst abuses in the proprietary school sector and closes the door that the U.S. Department of Education has widened, on a new crop of bad schools from coming into New York State.

Empire Justice Center strongly supports this legislation and urges immediate passage of The For-Profit College Accountability Act, Part E of the Education, Labor and Family Assistance budget of Governor Andrew Cuomo's Executive Budget (S.1506/S./2006) and urges both houses of the Legislature to accept the proposal as written.

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[2] *See e.g.* Kirkham, Chris, HUFFPOST, *For-Profit College Executives Make Much More Than Their Higher Education Counterparts*, (01/30/2012 08:57 am ET **Updated** Dec 06, 2017), available at: https://www.huffingtonpost.com/2012/01/30/for-profit-college-compensation_n_1229284.html; Schwartz, Shelly K., CNBC.com, *Pay For CEOs Of For-Profit Colleges Top Of The Class,* (8:51 AM ET Tue, 21 Dec 2010), available at: https://www.cnbc.com/id/40680879.

[3] *See* U.,S. House Committee on Oversight and Reform, *Investigation of Executive Compensation at For-Profit Colleges(2011), (stating* "For-profit schools receive the majority of their funding from U.S. taxpayers in the form of student assistance, including Title IV loans and grants, Title X tuition assistance, and Veterans Education Assistance Act funds. When compared to public and nonprofit schools, for-profit companies spend a smaller percentage of their funds on student education, reserving more for marketing, advertising, recruitment, and other non-education expenses. Their student success rates are lower, and their students are more likely to default on loan payments. Studies have found that CEOs at for-profit colleges consistently make much more than their counterparts at public and nonprofit schools."), available at https://oversight.house.gov/investigations/investigation-of-ceo-pay-at-for-profit-colleges.