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Memorandum of Support

Enhanced Reporting and Publishing of Financial Statements and Statistical Reports By For-Profit Higher Education Institutions A.7769 (Epstein)/S.5799A (Thomas)

Empire Justice Center strongly supports passage of A.7769 (Epstein)/S.5799A (Thomas) which would extend reporting and publication standards of financial statements to for-profit institutions for higher education. The bill is a reasonable first step to establishing equal standards for all institutions of higher education.

For-profit higher education institutions are defined in A.7769/S.5799A to include degree-granting as well as non-degree granting post-secondary schools which operate for-profit in New York State. The bill requires these institutions to file their audited financial statements annually with the New York State Education Department (NYSED) starting in July of 2020. The financial statement may be the same that the school is required already to file with another government agency. The Commissioner of the NYS Education Department may ask for audited statistical reports from the school if they determine there is a problem with the first reporting. The bill requires the Commissioner to post the statements and reports on its website for public availability.

Non-profit private and public post-secondary schools of higher education are already required to disclose their financial statements which are made publicly available. For private non-profit post-secondary schools, federal law and regulation requires disclosure and the Office of Management and Budget's Uniform Guidance at 2 CFR 200-512 requires the Federal Audit Clearinghouse (FAC) to make the reporting of financial statements from private non-profit colleges publicly available on its website (see <https://harvester.census.gov/facdissem/UniformGuidanceAcknowledgement.aspx>). Nonprofits are also required to allow for public inspection of their IRS tax filings (see, https://www.irs.gov/publications/p557#en_US_201801_publink1000199986, stating, "The law requires many exempt organizations and private foundations to make their application forms and annual information returns available for public inspection. The law also requires the IRS to make available for public inspection, in accordance with section 6104 and the related regulations, your approved application for recognition of exemption (including any papers submitted in support of the application) and the determination letter (discussed later, under *Determination Letters*).").

Most schools disclose their financial information electronically. Websites such as Guidestar.org make the financial reports of private non-profits easily available for inspection.

The State University of New York Community Colleges are required to file the annual financial report as certified by the chief fiscal officer of the campus with the State Comptroller annually, pursuant to NYS General Municipal Law §30. Campuses are also required to file a copy of their financial statements with the independent auditor's report within one hundred and twenty (120) days after the close of the college fiscal year. The audited financial statements of all community colleges in New York State are publicly posted for review at <http://www.govwiki.info/pdfs/Community%20College%20District/?state=NY&year=>. Similarly, it is not difficult at all to find the public posting of SUNY's financial statements. SUNY posts its financial statement on its website (see <https://www.suny.edu/media/suny/content-assets/communication/publicationsreportsdata/2018-Annual-Financial-Report.pdf>). SUNY campuses make additional financial reports available on their individual websites, as well.

A.7769/S.5799A should present no additional burden or additional requirements on for-profit higher education institutions. New York State Education Law sec. 5001 already requires non-degree granting institutions of higher education to submit certified statistical reports and annual financial statements to the NYSED. (NY Ed Law sec. 5001(4)(e)(i)) (see <http://www.acces.nysed.gov/bpss/schools/submission-required-annual-financial-statements-and-statistical-reports>). NYSED and the Board of Regents (BOR) have authority to request financial statements from degree-granting institutions of higher-education (see NY Ed Law sec. 215). In addition, New York law requires the BOR to provide a report to the Governor and Legislature about financial assistance and loan programs (see NY Ed law sec. 603) which would require the collection of all higher education institutions' financial statements that receive financial aid. As noted above, the language of the bill allows institutions to file the same financial statements with the NYSED as they are currently required to file with another government agency.

Disclosure of information is a critical first step in understanding and comparing the experiences for students attending all different types of higher education institutions. It is good public policy to make these disclosures available to the public so that students have more information about the schools which they are thinking about attending, often using considerable financial assistance through federal and state loans and grants. In addition, making the financial statements more publicly available will provide greater information to policy makers and others regarding the similarities and differences in educational experiences.

For these reasons, Empire Justice strongly supports passage of A.7769/S.5799A this session.

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