Congress of the United States
Washington, DC 20510

July 27, 2017

The Honorable Betsy DeVos
Secretary of Education
U.S. Department of Education
400 Maryland Ave. S.W.
Washington, D.C. 20202

Dear Secretary DeVos:

We are writing in strong opposition to the U.S. Department of Education's ("Department") recent decision to delay critical disclosures to prospective students in career education and training programs. The disclosure requirements of the gainful employment rule are fundamental to protecting students and families before they end up with extensive debt they cannot repay. The rule is also designed to prevent students from ending up with unusable credits or worthless credentials like those who were left in the lurch by the collapse of Corinthian Colleges, Inc. and ITT Educational Services, Inc. Instead of acting to protect students, the Department has chosen to hide behind the weak excuse that for-profit colleges are suing to stop this rule—and keep their profits flowing—to delay and undermine essential protections for students and taxpayers and dismantle regulations issued under the previous Administration.[1] Once again, we fear that the interests of for-profit colleges are being put ahead of students, parents, and what is best for our country and economy.

The gainful employment disclosure provisions that have now received two extensions require career training programs to distribute basic consumer information to prospective students, including the percentage of students who are able to complete on time as well as the typical levels of student loan debt, earnings, and job placement rates among program graduates. This data must be included in promotional and marketing materials and must be proactively provided to students before they enroll or make a financial commitment. The intent of the gainful employment disclosure requirements is to arm students with basic program information to help them make informed decisions about where to enroll and to help them find the right path to an excellent education and a good job that best meets their needs. Unfortunately, the market for higher education and training programs is notoriously opaque and filled with confusing options that vary widely in their return on investment for the students that enroll in them and the taxpayers that subsidize them.

For example, there are programs where **only 1 percent of students complete their studies on time.** Even for the paltry few who do graduate in one such program, a meager annual income of less than $20,000 can in no way support the repayment of $10,000 in loans.[2] Students around the

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[1] U.S. Department of Education. Announcement of applicable dates; request for comments. 82 FR 30975.
[2] Senate HELP Committee analysis of 2015 Gainful Employment Debt-to-Earnings Rate Data. U.S. Department of Education, Office of Federal Student Aid. Accessed July 10, 2017. https://studentaid.ed.gov/sa/about/data-center/school/ge

before making any type of financial commitment—and the mere presence of data buried on a website does not achieve the intended goals of the rule. In fact, a recent three-year study of Virginia high schools by the Urban Institute concluded that "simply publishing and marketing earnings data on a website is unlikely to change the behavior of prospective college students."[3] This data must be provided to students proactively and in the context of their college search process.

The gainful employment disclosure requirements went through an extensive negotiated rulemaking and comment process, which concluded that the disclosures contained vitally important information for students to have in their hands before they sign on the dotted line to take out loans or use up their limited student aid. That process, moreover, generated a set of regulations that have been upheld *four separate times* by federal courts. The Department's assertion that the gainful employment regulations "have been repeatedly challenged…and overturned by the courts" is simply incorrect.

If the Department wishes to alter current gainful employment regulations, it is free to do so through a new negotiated rulemaking process – even though we oppose any action that would revise the regulation in ways that harm students and taxpayers. Further, the Department cannot unilaterally delay enforcement of selected provisions of gainful employment, including 34 CFR 668.412 (d) and (e). The Higher Education Act and the Administrative Procedures Act prohibit the Department from altering the requirements of this regulation except through a new negotiated rulemaking and in cases where it is in "good cause" that such a rulemaking session would be "impracticable, unnecessary, or contrary to the public interest." This action to delay gainful employment disclosures fails to meet that basic test.

The Department must implement and enforce current regulations while a new rulemaking process takes place. In the interest of fostering choice and transparency for hard-working students trying to climb the ladder of opportunity and join the middle class, we ask you to reverse course and allow the gainful employment disclosure rules to go into effect immediately.

Sincerely,

PATTY MURRAY
United States Senator

ROSA L. DELAURO
Member of Congress

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[3] Blagg, K. Chingos, M., et. al. "Rethinking Consumer Information in Higher Education." Urban Institute. July 11, 2017. http://www.urban.org/research/publication/rethinking-consumer-information-higher-education

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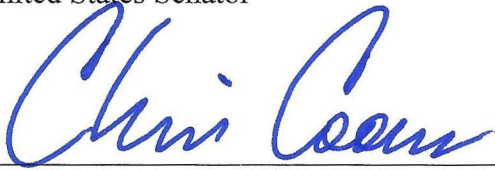United States Senator

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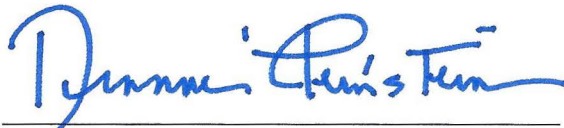
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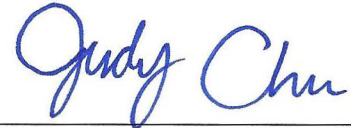United States Senator

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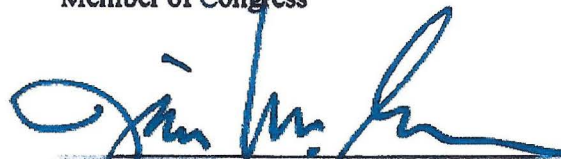Member of Congress

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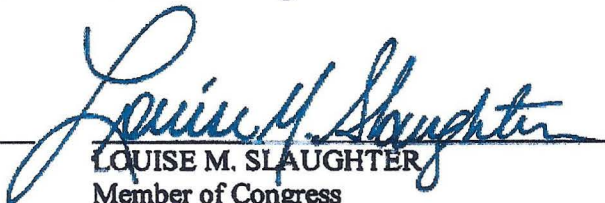Member of Congress

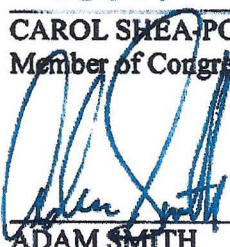JAN SCHAKOWSKY
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CC: The Honorable Kathleen Tighe, Inspector General