

United States Senate

WASHINGTON, DC 20510

May 15, 2014

The Honorable Arne Duncan
Secretary of Education
U.S. Department of Education
c/o Ashley Higgins
1990 K Street, NW Room 8031
Washington, DC 20006-8502

Re: Docket ID ED-2014-OPE-0039

Dear Secretary Duncan:

We applaud your continued leadership in protecting students, including veterans, service members and their families, from predatory career education programs and we appreciate the Department of Education's ongoing efforts to enforce the statutory requirement that all career education programs which receive federal funding "prepare students for gainful employment." However, we urge you to issue a stronger regulation than has recently been proposed. It is critically important that the Department of Education safeguard students and taxpayers from those career education programs that leave students saddled with exorbitant debt and poor job prospects.

One of the important functions of this "gainful employment" rule will be to address alarming trends in for-profit higher education. As the Senate HELP Committee's two-year investigation on for profit colleges showed, taxpayers have invested billions of dollars a year – over \$32 billion in 2010 alone – in companies that operate for-profit colleges. Yet, more than half of the students who enrolled in those colleges in 2008-9 left within a median of 4 months and did so without a degree or diploma. In addition, for-profit institutions also have the highest average three-year cohort default rates at nearly 22 percent. The vast majority of their students – whether they get a degree or not - leave with loan debt that may follow them throughout their lives, often creating a financial burden that is extremely difficult to escape.

As you move forward with finalizing the rule, the following key principle should guide the way: students should not pay the price for programs that fail to deliver. Accordingly, we urge you to strengthen this critical rule in several important ways.

First, a strong and fair gainful employment rule must hold career education programs accountable when a large proportion of their students find themselves unable to repay their student debt. To do so, the rule must not only measure default rates, which the Senate HELP Committee's investigation documented are easily subject to manipulation, but also properly assess student outcomes through the use of a repayment rate measure. Whether students can

actually pay down their loans after leaving is a more accurate way to determine the economic value of a career program.

In addition to measuring outcomes, several steps should be taken to better protect borrowers from poorly performing programs. Specifically, there should be enrollment caps imposed on all unsuccessful programs to protect students until the programs markedly improve. Giving these programs the ability to increase their enrollment would allow even more students to be harmed. Students should also receive borrower relief if they attended a failing career education program. As a measure of both fairness and accountability, any loans students received to attend such programs should be assumed by the institution.

As a separate matter, it is also important that the final rule does not unfairly punish low-cost programs that pose little risk to students. In programs where a majority of graduates do not borrow federal loans there should be an exception from the rule. Simply put, programs that neither profit at the expense of their students, nor leave them with enormous debt they cannot repay are not the problem. Any appeals process only adds more regulatory burden for programs that wish to deliver a low-cost alternative for students.

For several years, the for-profit industry has sought to significantly weaken this rule. It is past time for this common-sense measure to be finalized immediately in a way that keeps the best interests of students in mind. Students should graduate with more opportunity – not a mountain of debt and inadequate career preparation.

We strongly support your efforts to establish a stronger gainful employment regulation and we look forward to seeing these changes reflected in the final version.

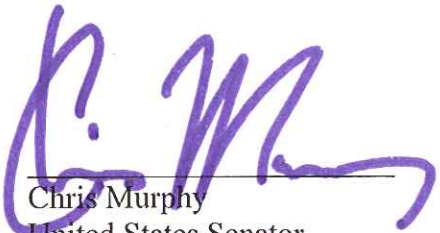


Tom Harkin
United States Senator

Sincerely,



Richard J. Durbin
United States Senator




Chris Murphy
United States Senator



Brian Schatz
United States Senator


Elizabeth Warren
United States Senator


Tom Carper
United States Senator