

June 7, 2018

Dear Members of Congress:

As 86 organizations working on behalf of students, consumers, veterans, servicemembers, faculty and staff, civil rights, and college access, we write to convey our strong opposition to provisions that roll back or eliminate existing guardrails relating to program integrity and consumer protections in higher education in the PROSPER Act (H.R.4508). The PROSPER Act would undo decades of work to protect students from costly, low-quality programs and high-pressure and deceptive sales tactics and risking returning to the days that hundreds of thousands of students were left with debts they could not afford to repay.

Over the [past 30 years](#), rising numbers of unaffordable and defaulted student loans have twice led policymakers to raise standards for colleges and universities. In the early 1990s, when 22 percent of students were defaulting on their loans, Congress passed a package of reforms that drove down defaults. Another surge of abuses led to additional reforms in 2008 and 2009. These reforms have already begun to work.

The PROSPER Act would ignore the lessons of the past decades by rolling back the most important safeguards enacted over the years and risk saddling students and taxpayers with another round of unaffordable loans with little to nothing to show for it and inadequate recourse. We urge Congress to better protect students and taxpayers from paying for subpar programs by rejecting these provisions and upholding key protections to ensure that student and taxpayer investments are well spent.

The Gainful Employment Rule

The gainful employment rule is designed to ensure that career education programs in all sectors of higher education are not leaving students with unaffordable debts relative to their post-program earnings after they graduate. In addition to protecting students from burdensome debts, the Congressional Budget Office estimates that, if implemented, the gainful employment rule would

save \$1.3 billion over 10 years because taxpayers' resources aren't being spent on poorly performing programs. A group of [Brookings Institution economists](#) have also concluded that the rules "are necessary to help reduce the costs of student loans to taxpayers and to protect students from economic harm." As [20 state attorneys general](#) warned the Department and Congress, rollbacks of the gainful employment and borrower defense rules will "signal 'open season' on students for the worst actors among for-profit postsecondary schools." Veterans and service member organizations have been [particularly supportive](#) of the rule because they, along with students of color and low-income students, have been disproportionately harmed by predatory career education programs.

The PROSPER Act both eliminates the gainful employment rule and prohibits the Department of Education from writing or enforcing any future regulation with respect to the definition or application of the term "gainful employment" for any purpose under the Higher Education Act. Eliminating the rule removes incentives for colleges to offer quality programs at reasonable costs, leaving students more likely to leave college with debts they cannot repay.

The 90-10 Rule

The 90-10 rule bars for-profit colleges from receiving more than 90 percent of their revenues from the federal government. The rule was enacted with strong bipartisan support in 1992 and was modeled on the Department of Veterans Affairs' longstanding 85-15 rule. The rule subjects colleges to a market test: if a college offers a quality education at a competitive price, someone other than the federal government, such as employers, scholarship providers, or students, will be willing to pay for attendance at the school. In this way, the rule encourages these schools to compete in the marketplace. Several national organizations representing our nation's military servicemembers, veterans, survivors, and military families [wrote to Congress](#) in support of the 90-10 rule because their constituencies "are too often singled out and targeted with the most deceptive, fraudulent college recruiting," and thus, they oppose any efforts to weaken or eliminate the rule.

The PROSPER Act would eliminate the 90-10 rule, allowing for-profit schools to become funded solely by federal programs and eliminate this market-based quality assurance mechanism.

The Ban on Incentive Compensation (Commissioned Sales)

The Higher Education Act's ban on incentive compensation was enacted in 1992 with strong bipartisan support to reduce high-pressure, deceptive sales tactics. Colleges should not reward individuals or third parties, through compensation or other means because it puts the financial interests of college employees and their associates before the needs of students. To protect students and taxpayers, in 2015 the Education Department's Inspector General [called for](#) even greater oversight and enforcement of the ban on incentive compensation.

The PROSPER Act would weaken the ban on incentive compensation (commissioned sales) by codifying two loopholes that exist in regulation and guidance into law, allowing colleges to pay commissions to third party entities and for completion. This would open the door to widespread use of unsound methods to aggressively and deceptively recruit students. We strongly oppose the creation of any loopholes in the ban on incentive compensation and we urge Congress to reject them.

The Borrower Defense Rule

On the books since 1994, the borrower defense rule provides recourse for students who are left with debt while their college engaged in fraud, deception, broken contracts, or another act or omission arising under state law.

The PROSPER Act restricts eligibility for borrower defense, making it much harder for students to get crucial student loan relief.¹ It limits relief by imposing an arbitrary and unworkable

¹ The Congressional Budget Office scored the PROSPER Act's borrower defense provisions as carrying an increased federal cost, which could give the misleading impression that it expands eligibility. In fact, it evaluates the PROSPER Act in an environment under which the Department of Education illegally delayed and began rewriting the existing rules. This scoring method gives the bill's codification of aspects of the rule the appearance of expanding eligibility, when in fact it restricts students' eligibility relative to the entire 2016 regulation.

requirement that students seek relief within three years of the college's misconduct, even in cases where the student had no way of discovering the misconduct until years later. It also requires borrowers to submit individual applications in all cases, making the process unnecessarily burdensome and time-consuming for both mistreated students and the Department of Education. The time limit and requirement for individual applications will mean that a significant number of mistreated students will be on the hook for a lifetime of unaffordable debt.

Already, borrowers attending Corinthian Colleges and ITT Technical Institutes have had a hard enough time getting the relief they are entitled to under the law. Such changes would make mistreated borrowers' lives even harder and mean that only the most sophisticated borrowers are likely to get relief. Without the protections singled out for elimination or weakening in the PROSPER Act, students will face higher debt loads to attend programs that are far less likely to pay off. Congress must use the opportunity HEA reauthorization presents to strengthen protections for students and taxpayers, not gut or weaken them. **Any movement forward on a bill that does not at the very least preserve these four commonsense safeguards is a nonstarter for our constituencies and will result in real harm to students.**

Sincerely,

American Association of University Women
(AAUW)

American Federation of Teachers

Americans for Democratic Action (ADA)

Americans for Financial Reform

AMVETS

Augustus F. Hawkins Foundation

The Bell Policy Center

Blue Star Families

Center for American Progress

Center for Digital Democracy

Center for Global Policy Solutions

Center for Law and Social Policy (CLASP)

Center for Public Interest Law

Center for Responsible Lending

Children's Advocacy Institute

Clearinghouse on Women's Issues

Colorado Center on Law and Policy

Consumer Action

Consumer Federation of America

Consumer Federation of California

Consumers Union

Council for Opportunity in Education

Democrats for Education Reform

Demos

The Education Trust

East Bay Community Law Center

Economic Mobility Pathways (EMPath)

Empire Justice Center

Equal Justice Works

Generation Progress

Government Accountability Project

Hebrew Free Loan Society
High Ground Veterans Advocacy
Higher Ed, Not Debt
Housing and Economic Rights Advocates
The Institute for College Access & Success (TICAS)
Ivy League Veterans Council (ILVC)
Maryland Consumer Rights Coalition
Mentoring Veterans Towards New Professions (MVPvets)
Mississippi Center for Justice
Mobilization for Justice, Inc.
NAACP
National Alliance for Partnerships in Equity (NAPE)
National Association for College Admission Counseling
National Association of Consumer Advocates
National Association of Consumer Bankruptcy Attorneys (NACBA)
National Consumer Law Center (on behalf of its low-income clients)
National Consumers League
National Education Association (NEA)
National Military Family Association
National Urban League
National Women's Law Center
New America Higher Education Initiative
New Jersey Citizen Action
New York Legal Assistance Group
New Yorkers for Responsible Lending (NYRL)
OCA - Asian Pacific American Advocates

One Wisconsin Now
PHENOM (Public Higher Education Network of Massachusetts)
Progress Virginia
Project on Predatory Student Lending
Public Citizen
Public Counsel
Public Good Law Center
Public Law Center
The Retired Enlisted Association
Service Employees International Union (SEIU)
Skills2Compete - Colorado
Student Action
Student Debt Crisis
Student Veterans of America
Swords to Plowshares
Teach Plus
Tennessee Citizen Action
Third Way
Travis Manion Foundation
U.S. PIRG (Public Interest Research Group)
UnidosUS, formerly NCLR
United States Student Association
Veterans Education Success
Veterans for Common Sense
Vietnam Veterans of America
Western New York Law Center
Women Employed
Woodstock Institute
Young Invincibles

cc: The Honorable Betsy DeVos, Secretary of Education