

United States Senate
WASHINGTON, DC 20510

May 21, 2021

The Honorable Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Dear Secretary Cardona:

We write to ask for updates on how the Department of Education (ED or “the Department”) plans to improve its oversight of for-profit colleges and institutions of higher education that pose risks to students during the recovery from the COVID-19 pandemic.

For far too long, for-profit institutions were allowed to take advantage of students with relative impunity while collecting a steady flow of taxpayer-funded federal aid. Students at for-profit colleges are much less likely to graduate than students at public and private non-profit schools, yet they incur significantly higher student loan debt and default on their loans at higher rates.¹ A report from the Leadership Conference Education Fund found that “those who graduate from a for-profit college do worse in the labor market than they otherwise would with only a high school education, even though the credentials they offer tend to be 30 to 40 percent more expensive than the same credentials from a public institution.”² Black and Latino students are over-represented at these institutions, which contributes to the racial disparities in student loan debt.³

There is every reason to believe that the COVID-19 pandemic will worsen this situation. While enrollment at public institutions dropped during fall 2020, with community colleges seeing a 9% decline, undergraduate enrollment at for-profit colleges increased 3%.⁴ During the Great Recession, for-profit colleges saw their enrollment surge, growing 76% between 2006 and 2010.⁵ Because many of these institutions offered primarily online instruction even before the pandemic, they are well positioned to take advantage of social distancing requirements and students’ need for flexible schedules. In the last year, institutions that were predominantly online before the pandemic saw their adult student enrollment increase by 5.5%, after declining 6.3% in

¹ The Leadership Conference Education Fund, “Gainful Employment: A Civil Rights Perspective,” October 17, 2019, <http://civilrightsdocs.info/pdf/education/Gainful-Employment-Brief-Final.pdf>.

² *Id.*

³ *Id.*

⁴ Brookings, “The alarming rise in for-profit college enrollment,” Stephanie Riegg Cellini, November 2, 2020, <https://www.brookings.edu/blog/brown-center-chalkboard/2020/11/02/the-alarming-rise-in-for-profit-college-enrollment/>.

⁵ *Id.*

the year before the pandemic.⁶ There is already evidence that for-profit institutions are ramping up advertising, including with pandemic-themed messages,⁷ and hiring additional recruiters to take advantage of the moment.⁸

The Obama administration put many guardrails in place to rein in predatory schools, including restrictions on aggressive marketing, the Gainful Employment rule, informational tools for students and their families, and the Borrower Defense process for students who were defrauded by their colleges.⁹ However, these tools were weakened or rescinded under Secretary DeVos.¹⁰ While some of these changes may take months or years to rebuild, there are also actions you can take immediately to protect students. With the COVID-19 pandemic leaving students vulnerable to aggressive marketing pitches that may leave them mired in debt with a useless degree, there is no time to waste in stepping up oversight.

In order to understand how the Department is addressing these pressing concerns, I request answers to the following questions by June 4, 2021:

1. College accrediting agencies are a key partner in establishing institutional quality, yet they have historically not provided an effective check on under-performing for-profit institutions.
 - a. Please provide any updates on ED's plans for holding accreditors accountable since you took office.
 - b. What steps does ED plan to take to hold college accrediting agencies accountable for enforcing the standards set forth in the Higher Education Act and to make accreditation more focused on student outcomes?
 - c. Will you follow the recommendation of ED's career staff to end the federal recognition of the Accrediting Council for Independent Colleges and Schools (ACICS), due to its long history of failure to meet federal standards?
 - d. Will you follow the National Advisory Committee on Institutional Quality and Integrity's (NACIQI) request to reinstate the accreditor dashboards so that NACIQI and the public can track student outcomes by accreditor?¹¹

⁶ National Student Clearinghouse, “Fall 2020 Undergraduate Enrollment Down 4% Compared to Same Time Last Year,” Todd Sedmak, October 15, 2020, <https://www.studentclearinghouse.org/blog/fall-2020-undergraduate-enrollment-down-4-compared-to-same-time-last-year/>.

⁷ The Century Foundation, “College Marketing in the COVID-19 Economy,” Taela Dudley, August 18, 2020, <https://tcf.org/content/report/college-marketing-covid-19-economy/?agreed=1#easy-footnote-bottom-10>.

⁸ Associated Press, “While other colleges struggle, for-profits hope for revival,” Collin Binkley, April 19, 2020, <https://apnews.com/article/ef35d2a42e611b6a379927628d214071>.

⁹ Brookings, “The alarming rise in for-profit college enrollment,” Stephanie Riegg Cellini, November 2, 2020, <https://www.brookings.edu/blog/brown-center-chalkboard/2020/11/02/the-alarming-rise-in-for-profit-college-enrollment/>.

¹⁰ See, for example, Insider Higher Ed, “DeVos Issues Final Repeal of Gainful Employment,” Andrew Kreighbaum, July 2, 2019, <https://www.insidehighered.com/quicktakes/2019/07/02/devos-issues-final-repeal-gainful-employment>.

¹¹ National Advisory Committee on Institutional Quality and Integrity (NACIQI), Meeting on March 21st 2021, p. 261-262, <https://sites.ed.gov/naciqi/files/2021/03/NACIQI-Meeting-March-3-5-2021-Day-3-Friday-March-5.pdf>.

2. In previous situations where for-profit colleges collapsed, many students were unaware of key warning signs, such as major lawsuits alleging fraud or heightened oversight by federal or state governments or accreditors.¹² You previously told Congress that you would work with Department staff to “identify any ways to improve notifications” to students of these significant events.¹³ Has the Department identified needed improvements or policy changes to inform students about these significant events, and if so, what is the timeline for their implementation?
3. One tool the Department can use to improve transparency is to expand the information available to students, families, and policy makers on the College Scorecard consumer tool, such as veterans' graduation rate, Pell Grant recipients' graduation rate, average earnings (including earnings compared to a high school graduate), and more accurate college transfer rates. You previously stated that you had “not yet had the ability to consult with Department of Education staff to understand the full suite of information already published, what additional existing data could be published, and what categories of information would require additional data collection,” but promised to “take a closer look.”¹⁴ What additional information does the Department plan to publish to expand information available to students? What categories of information require additional data collection? Please describe the timeline for collecting additional data and implementing access to additional information.
4. For years, many for-profit colleges have taken advantage of low-income students and students of color by using high-pressure sales tactics and commissioned boiler-room style sales for recruitment—often breaking the law.¹⁵ This problem may become even more severe during the economic downturn caused by the COVID-19 pandemic.¹⁶ You previously stated that you had “not been able to consult with Department of Education staff to fully understand how the agency monitors postsecondary recruitment activities, nor how effective the existing regulations are at addressing this practice,” and promised to “take a close look.”¹⁷
 - a. Has the Department reviewed the process for monitoring recruitment activities and identified needed changes, and if so, what is the timeline for implementation?

¹² NBC News, “School Daze: Students at Troubled Corinthian Colleges Say They’re in the Dark,” August 28, 2014, <https://www.nbcnews.com/news/education/school-daze-students-troubled-corinthian-colleges-say-theyre-dark-n190456>.

¹³ Response to Senator Warren’s Questions for the Record, February 2021.

¹⁴ Response to Senator Warren’s Questions for the Record, February 2021.

¹⁵ Inside Higher Ed, “The Recession and For-Profit College Recruiting,” Kery Murakami, April 17, 2020, <https://www.insidehighered.com/news/2020/04/17/new-recession-sets-stage-abuses-profits-critics-fear>.

¹⁶ *Id.*

¹⁷ Response to Senator Warren’s Questions for the Record, February 2021.

- b. Has the Department opened any investigations or taken any enforcement actions against institutions that may have violated existing recruitment rules since January 2021?
- c. What specific steps will the Department be taking to address abusive postsecondary recruitment activities?

Thank you for your attention to this important matter. We look forward to continuing to work with you to address these critical issues.

Sincerely,

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Elizabeth Warren
United States Senator

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Tina Smith
United States Senator

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Chris Van Hollen
United States Senator

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Richard Blumenthal
United States Senator