

United States Senate

WASHINGTON, DC 20510

July 23, 2020

The Honorable Mitch McConnell
Senate Majority Leader
Room S-230, U.S. Capitol
Washington, DC 20510

The Honorable Charles E. Schumer
Senate Minority Leader
Room S-221, U.S. Capitol
Washington, DC 20510

The Honorable Richard Shelby
Chairman
Senate Appropriations Committee
Room S-128, U.S. Capitol
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member
Senate Appropriations Committee
Room S-128, U.S. Capitol
Washington, DC 20510

The Honorable Lamar Alexander
Chairman
Senate Committee on Health, Education,
Labor, and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

The Honorable Patty Murray
Ranking Member
Senate Committee on Health, Education,
Labor, and Pensions
428 Senate Dirksen Office Building
Washington, DC 20510

Dear Leader McConnell, Leader Schumer, Chairman Shelby, Ranking Member Leahy, Chairman Alexander, and Ranking Member Murray:

As you prepare additional legislation to alleviate the health and economic impact of the coronavirus pandemic (COVID-19), we respectfully reiterate our request that you exclude for-profit colleges from any additional emergency funding intended for institutions of higher education. Further, in the event that students who attend for-profit colleges are eligible for higher education emergency student aid in the next package, we urge you to include strong accountability policies to support students and protect taxpayers, including policies to prohibit for-profit colleges from using funding for any purposes beyond emergency financial support to their students.

It is clear that the global public health emergency and economic crisis caused by COVID-19 continues to jeopardize the health, learning, and livelihoods of millions of students and threatens the financial stability of public and private, nonprofit colleges and universities across the country, creating historic challenges for college leaders, faculty, and staff. We are grateful that, on a bipartisan basis, Congress established the Higher Education Emergency Relief Fund in the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* (P.L. 116-136) to aid students and to help colleges and universities address the initial costs of this crisis. We urge you to provide additional funding to support students and stabilize public and private, nonprofit colleges and universities in future recovery packages.

In April, we urged you to exclude for-profit colleges from any additional emergency funding intended for institutions of higher education,¹ and we continue to believe that it is critical that future packages explicitly direct additional emergency funding for institutions of higher education to public and nonprofit institutions. We remain concerned that for-profit colleges received over \$1.1 billion under the *CARES Act* because according to recent reports, many for-profit colleges have used the pandemic and the resulting historic levels of unemployment as an opportunity to make money, using marketing and recruitment to boost online enrollment.²

The purpose of emergency higher education relief is to directly assist students and to help institutions of higher education cope with additional costs due to COVID-19. For-profit colleges have a reduced need for these resources due to their recent enrollment patterns and because many operated largely online before the pandemic, so they do not have additional costs associated with changes to the delivery of instruction from in-person to distance learning. Moreover, these for-profit companies are still free to seek emergency aid available to other businesses made available in the *CARES Act* and administered by the Department of Treasury, the Federal Reserve System, and the Small Business Administration.

For all of these reasons, we again urge you to exclude for-profit colleges from any additional emergency funding intended for institutions of higher education. However, if students who attend for-profit colleges are eligible for higher education emergency relief funding in the next relief package, we strongly urge you to prohibit taxpayer dollars from being used to increase profits to for-profit college executives and investors. Specifically, we request that the following accountability policies to support students and protect taxpayers be included:

1. **Require for-profit colleges that receive higher education emergency relief funding to spend one hundred percent of the funding on emergency financial aid to students.** Such funding should come with a prohibition on for-profit colleges raising tuition or cost of attendance for at least one year to prevent them from padding their bottom lines with this emergency aid money intended to help students.
2. **Consider any funds made available to for-profit colleges under any COVID-19 emergency relief legislation as federal revenues for the purpose of enforcing compliance with the 90/10 rule.** In addition, require the Department of Education (ED) to publish in its annual 90/10 report to Congress the amount of funding made available under the Higher Education Emergency Relief Fund and any future COVID-19 related aid to each for-profit college.

¹ Letter to Senate Leadership from U.S. Senators Durbin, Warren, and colleagues, April 21, 2020, online at: <https://www.durbin.senate.gov/newsroom/press-releases/durbin-warren-colleague-urge-senate-to-protect-covid-19-relief-funds-from-predatory-for-profit-college-industry>

² Sarah Butrymowicz and Meredith Kolodner, *New York Times*, June 17, 2020, online at: <https://www.nytimes.com/2020/06/17/business/coronavirus-for-profit-colleges.html>; Aarthi Swaminathan, *Yahoo Finance!*, April 10, 2020, online at: <https://finance.yahoo.com/news/coronavirus-stimulus-package-for-profit-colleges-152154186.html>

3. **Prohibit for-profit colleges from using any higher education emergency relief funding for any form of equity extraction through executive compensation, dividends, stock buybacks, or other removal of equity by owners or executives.** This policy would align to restrictions Congress has already enacted for other businesses that receive taxpayer emergency aid under the *CARES Act*.³ Additionally, Congress could ensure this by expanding to for-profit colleges the requirement that recipients of aid freeze executive compensation for at least one year after the receipt of funds.⁴
4. **Preserve the CARES Act provision prohibiting for-profit colleges from using emergency relief funding for “payment to contractors for the provision of pre-enrollment recruitment activities.”**⁵ This provision is critical to prevent for-profit colleges from using emergency higher education relief funds for any advertising, marketing, or recruitment purposes.
5. **Require for-profit colleges provide a detailed report of how they distribute any emergency student aid funding to their students.** Congress should also require ED to report how for-profits spent relief funds, both in the aggregate and per institution.

We are grateful that many of these policies were included in the *Coronavirus Child Care and Education Relief Act*.⁶ In addition to these policies, Congress should consider additional provisions to protect students and taxpayers in the face of COVID-19, including the *Coronavirus Emergency Borrower Defense Act*, which would provide emergency Borrower Defense loan discharges for students who have been defrauded by for-profit colleges. Congress should also require that any non-profit colleges that may be forced to close due to the current economic crisis not enter into teach-out arrangements – agreements with other institutions to ensure that their current students can complete their education program – with for-profit colleges. Finally, Congress should give the Secretary of Education the authority to require any for-profit college that violates the legislation’s restrictions and requirements to repay taxpayers for misused or misspent funds.

Recent history gives us a warning about what the result of supporting this industry with federal dollars during a crisis: the last recession, which also decimated state budgets and left millions of Americans without jobs, allowed for-profit colleges with big marketing budgets and too often deceptive advertising campaign to lure in vulnerable students—often low-income, veterans, and students of color. This led to a for-profit college boom, which included massive and unstable growth, widespread fraud, and poor outcomes for students, contributing to the historic student debt crisis we face today. For-profit colleges have a demonstrated record of

³ Sec. 4004 of H.R.748; Public Law No: 116-136

⁴ Sec. 4004 of H.R.748; Public Law No: 116-136. Sec. 4004, Limitation on certain employee compensation, requires that during the term of the loan plus one year, salaries for critical businesses are limited such no officer or employee whose total compensation exceeded \$425,000 in calendar year 2019 will receive: compensation greater than what they received calendar year 2019; or a severance package twice their 2019 pay; and no officer or employee of the eligible business whose total compensation exceeded \$3 million in calendar year 2019 may receive during any year of such period total compensation in excess of the sum of: \$3 million plus half of any total over \$3 million.

⁵ Sec. 18004(c) of H.R.748; Public Law No: 116-136

⁶ Coronavirus Child Care and Education Relief Act, available online: <https://www.help.senate.gov/imo/media/doc/ROM20678.pdf>

capitalizing on economic anxieties to turn a profit. With millions of Americans still out of work or forced to stay home as a result of COVID-19, we do not wish to see history repeat itself.

We urge you to protect students and not provide additional taxpayer money, especially without accountability to for-profit colleges —especially when the needs among public and non-profit institutions of higher education are so great. Thank you for your consideration of this matter.

Sincerely,



Margaret Wood Hassan
United States Senator

/s/ Richard Durbin

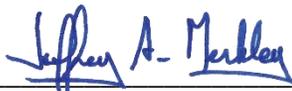
Richard Durbin
United States Senator

/s/ Chris Van Hollen

Chris Van Hollen
United States Senator

/s/ Christopher S. Murphy

Christopher S. Murphy
United States Senator



Jeffrey A. Merkley
United States Senator



Elizabeth Warren
United States Senator

/s/ Sherrod Brown

Sherrod Brown
United States Senator

/s/ Kamala D. Harris

Kamala D. Harris
United States Senator

/s/ Sheldon Whitehouse

Sheldon Whitehouse
United States Senator

/s/ Richard Blumenthal

Richard Blumenthal
United States Senator

cc: The Honorable Roy Blunt, Chairman, Senate Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies