

**Comment of the Center for Responsible Lending  
on Proposed 940 CMR 31.00 (For-profit and Occupational Schools)  
to the Office of the Attorney General of Massachusetts  
January 10, 2014<sup>1</sup>**

The Center for Responsible Lending (CRL) thanks the Attorney General for the opportunity to present our views on for-profit colleges and occupational schools, and the harmful student loan debt they create. CRL is a nonprofit, nonpartisan research and policy organization dedicated to protecting family wealth by working to eliminate abusive financial practices and promoting responsible lending. CRL is an affiliate of Self-Help, one of the nation's largest nonprofit community development financial institutions. Self-Help has provided \$6 billion in financing to 70,000 homebuyers, small businesses and nonprofits and serves more than 80,000 mostly low income families through 30 retail credit union branches.

**I. The Proposed Regulations Would Protect Students from Toxic Student Loan Debt**

The proposed regulations would be an important step in protecting Massachusetts students from bad debt generated by deceptive for-profit colleges and occupational schools. Student loans can be an appropriate and responsible way to pay for higher education. However, much evidence indicates that for-profit colleges as a sector are a source of harmful student loan debt. For example, for-profit colleges account for a disproportionate share of student loan defaults: although they enroll only 13% of students, they account for 46% of federal student loan defaults.<sup>2</sup> This debt may be a net economic burden to students, rather than serving as leverage to help them improve their income and employment prospects.

Similar to predatory mortgage lending before the crash, market and regulatory conditions have facilitated consumer protection abuses by for-profit colleges. First, current state and federal

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<sup>2</sup> "The Center for College Access and Success, *New Data Confirm Troubling Student Loan Default Problems* (Sept. 30, 2013) [http://www.ticas.org/files/pub/CDR\\_2013\\_NR.pdf](http://www.ticas.org/files/pub/CDR_2013_NR.pdf), (citing U.S. Department of Education Data).

regulations are not strong enough to protect students. The regulations have not yet evolved to address the changing market and practices in higher education. Second, for-profit colleges sell an expensive, financed “product” to consumers and arrange for financing by a third party. The school thus has very little risk, paired with a very strong incentive to make sales. And third, credit for the purchase, in the form of federal student loans, is easily available to most students. This triad – weak regulation; sellers marketing an expensive, financed product at little risk to themselves; and easy credit – have created the setting for consumer protection violations to flourish. Numerous investigations have documented the resultant deception and abuse.<sup>3</sup>

Better regulation is crucial because students bear a large risk in the transaction with for-profit colleges. Students from for-profit colleges tend to default at higher rates and graduate with higher debt levels.<sup>4</sup> Student loan debt is not dischargeable in bankruptcy. It may be collected out of wages and social security to the grave, with no statute of limitations on collecting federal loans. Damaged credit after default could hinder borrowers' ability to get a mortgage, a car loan, rent an apartment, or find a job. In stark contrast, the schools and executives themselves bear little risk: they can collect student loan dollars as revenue; get relief for their own debts through bankruptcy; and evade civil liability through arbitration agreements.

The Attorney General's proposed regulations squarely address the worst practices afoot in the sector. The regulations correctly focus on the misrepresentations used to lure students into taking out student loans, such as false or exaggerated salary and job placement statistics, as well as on the high-pressure tactics used to enroll them.

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<sup>3</sup> See, e.g., Staff of S. Comm. On Health, Education, Labor and Pensions, *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success* (Jul. 30, 2012), available at <http://www.harkin.senate.gov/help/forprofitcolleges.cfm>; U.S. Gov't Accountability Office, GAO-10-948T, *Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices* (Aug. 4, 2010), available at <http://www.gao.gov/products/GAO-10-948T>.

<sup>4</sup> See, e.g., Sandy Baum and Patricia Steele, CollegeBoard Advocacy & Policy Center, *Who Borrows Most? Bachelor's Degree Recipients with High Levels of Student Debt* (2010) <http://advocacy.collegeboard.org/sites/default/files/Trends-Who-Borrows-Most-Brief.pdf> (finding that a large proportion of for-profit college bachelor degree recipients have higher than average debt levels).

## II. Recommendations to Strengthen the Proposed Regulations

The proposed regulations address the key types of unfair and deceptive practices seen in for-profit colleges today. However, the regulations should be clarified and strengthened as detailed below.

### A. Eligibility to participate in the occupation immediately upon graduation

The proposed regulations should expand and clarify section 31.04(7), Misleading Statements Regarding Employment Opportunities, to better address misrepresentations about graduates' eligibility to work in a specific occupation *immediately* upon graduation.<sup>5</sup> Programs should not be marketed as preparing students for a specific occupation, if the student must take significant additional steps to enter that occupation after completion, or if the program does not legally qualify the student for the occupation. Conversely, students should not be led to believe that a for-profit college program is a prerequisite to becoming licensed in a profession if it is not.

Many for-profit college graduates complain that they are not qualified for employment in the area of their studies upon graduation, despite the fact that the program had been marketed as preparing them for that occupation. Students may find that their investment has been worthless – not due to any subjective characteristics of their own resume or the school's reputation; but because the program cannot meet the objective criteria required by third parties to work in the occupation. For example, the program may lack the necessary accreditation that would allow them to sit for a licensing exam legally required to work in the occupation.<sup>6</sup> Graduates may be required to have internships, externships, clinical work experience, or further education not provided by the program, before they can legally qualify to participate in the occupation. Certain

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<sup>5</sup> Our concern here is about *objective* eligibility for the specific occupation, such as ability to take a legally required licensing exam that in part depends on the accreditation of the degree. Employers' *subjective* valuation of the degree or particular student is a separate matter, addressed by the regulations on job placement and salary.

<sup>6</sup> See Steve Burd, *New Senate Bill Seeks to Crack Down on One of For-profit Colleges' Worst Abuses*, New America Foundation - Higher Ed Watch, Aug. 7, 2012, [http://higheredwatch.newamerica.net/blogposts/2012/new\\_senate\\_bill\\_seeks\\_to\\_crack\\_down\\_on\\_one\\_of\\_for\\_profit\\_colleges\\_worst\\_abuses-70262](http://higheredwatch.newamerica.net/blogposts/2012/new_senate_bill_seeks_to_crack_down_on_one_of_for_profit_colleges_worst_abuses-70262).

employers, such as police departments, may as a matter of general industry standard require different accreditation than the for-profit college possesses.<sup>7</sup>

The proposed sections 31.04(7)(c) and (d) include provisions regarding post-graduation qualification for employment, but they do not focus clearly enough on the eligibility of the student immediately upon graduation. We recommend adopting the provisions below used by the Federal Trade Commission in its Vocational Schools Guides, with our further modifications in brackets:

(b) It is deceptive for [a school] to misrepresent, directly or indirectly, expressly or by implication, that a school or program of instruction has been [a]pproved by a particular industry, or that successful completion of a course or program of instruction [without further education, study, externship, or clinical experience] qualifies the student for admission to a labor union or similar organization or for receiving a State or Federal license to perform certain functions or fulfills a requirement that must be completed prior to taking a licensing examination.

...

(d) It is deceptive for [a school] to misrepresent, directly or indirectly, expressly or by implication, that its courses or programs of instruction fulfill a requirement that must be completed prior to taking a licensing examination.

16 C.F.R. § 254.3(b) and (d).

## **B. Strong enforcement and complaint system**

Regulations are only as strong as the enforcement mechanisms behind them. We urge the Attorney General to ensure that the regulations are followed up with strong monitoring and

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<sup>7</sup> Former ITT student Bryan Babcock testified at the January 7, 2014, hearing in Boston on the proposed regulations that he was unable to find a police department that would accept his ITT degree as a properly accredited degree required for employment as a police officer. He incurred \$50,000 in student loans. Similarly, the Attorney General of Illinois last year sued Westwood, a for-profit college run by Alta Colleges, Inc., for misrepresenting that students would be eligible to be hired as police officers, despite the fact that the degree lacked acceptable accreditation for police departments. *See Illinois v. Alta Colleges, Inc.*, No. 12CH01587 (Cook Co. Ill. Cir. Ct. Jan. 18, 2012), available at [http://illinoisattorneygeneral.gov/pressroom/2012\\_01/WESTWOOD\\_Complaint\\_11812.pdf](http://illinoisattorneygeneral.gov/pressroom/2012_01/WESTWOOD_Complaint_11812.pdf).

enforcement. A well-organized, centralized complaint system is an essential component to effective enforcement.

### **III. Conclusion**

The proposed regulations are an important step in protecting Massachusetts students from deception in higher education financing. If properly monitored and enforced, the regulations could protect students from incurring harmful student loan debt for programs that do not commensurately increase their employment and earning potential.