



The Honorable Richard Roth
Senate Business, Professions, and Economic
Development Committee
State Capitol, Room 2053
Sacramento, CA 95814

The Honorable Connie Leyva
Senate Education Committee
State Capitol, Room 2083
Sacramento, CA 95814

The Honorable Evan Low
Assembly Business and Professions Committee
Legislative Office Building, Room 379
Sacramento, California 95814

The Honorable Jose Medina
Assembly Higher Education Committee
Legislative Office Building, Room 173
Sacramento, California 95814

March 9, 2021

RE: Bureau for Private Postsecondary Education Sunset Review Hearing

Dear Chairs Roth, Leyva, Low, and Medina:

We represent a group of student, veteran, consumer, civil rights, and higher education advocates focused on ensuring that higher education students in California are protected from predatory schools and have access to high quality education that does not leave them with unmanageable debt. Thank you for the opportunity to offer comments relating to the sunset review of the Bureau of Private Postsecondary Education (Bureau) and the California Private Postsecondary Act of 2009.

The Risk to Students is Great in the Wake of COVID-19

The COVID-19 pandemic has had a devastating impact worldwide, and California’s labor market is faring worse than the nation’s.¹ In April 2020, California lost a record 2.3 million jobs and its unemployment rate reached 15.5 percent, higher than at any time during the “Great Recession” of 2007 - 2010.² After limited improvements, the unemployment rate is again climbing, as the state has become a

¹ Margot Roosevelt (Jan. 22, 2021). “A ‘Full Reverse’: California Joblessness Spiked in December, Thawing Recovery. The Los Angeles Times. Available at: <https://www.latimes.com/business/story/2021-01-22/california-unemployment-spiked-december-covid-surged>.

² Emily Zentner and Chris Nichols (May 22, 2020). “‘Like Nothing Before Seen’: California Lost Record 2.3 Million Jobs in April as Unemployment Rates Spiked to 15.5%.” CapRadio. Available at: <https://www.capradio.org/articles/2020/05/22/california-lost-record-23-million-jobs-in-april-as-unemployment-rate-spiked-to-155-percent-eclipsing-great-recession->

virus hot spot.³ The economic crisis triggered by the pandemic also arrived on the heels of a long period of deregulation of for-profit schools at the federal level.⁴

In the past, the overlap of an economic recession and a loose postsecondary education regulatory environment has led to significant increases in enrollment at for-profit colleges, as the schools target the unemployed with aggressive recruiting efforts. There are few regulatory guardrails in place to protect students from abuse.⁵ From 2007-2010 undergraduate enrollment at for-profit colleges skyrocketed, growing by as much as 19 percent a year in California and 22 percent a year nationally.⁶ Low-income and unemployed individuals were aggressively targeted for recruitment when the job market dried up, and predatory for-profit colleges portrayed themselves as an attractive option to many students. But the promises were often too good to be true. The Obama Administration clamped down on predatory practices by instilling commonsense regulations, and state attorneys general – and then-California Attorney General Kamala Harris and current Attorney General Xavier Becerra – worked to curb school abuses, but not before hundreds of thousands of students were harmed.

Unfortunately, recent enrollment trends are following the same problematic patterns; in the last year there have been significant decreases in enrollment at community colleges and other public and nonprofit universities, but growth at for-profit colleges.⁷ The economic crisis has put the Trump Administration's rollback or weakening of federal rules on accreditation, gainful employment, borrower defense, and state authorization in sharper focus, providing much reason for concern.⁸ Although the Biden Administration is likely to course-correct in some of these areas, that will take time, and the actions of the Trump Administration make clear that the state cannot rely on federal regulations alone to protect students.

Students at for-profit universities are less likely to graduate and more likely to have significant debt and default on their loans, compared to their traditional 4-year-degree counterparts.⁹ The most vulnerable

levels/#:~:text=During%20the%20Great%20Recession%20from,the%20California%20Employment%20Development%20Department.

³ Los Angeles Times Staff (Nov. 17, 2020). "Tracking How the Coronavirus Crushed California's Workforce." The Los Angeles Times. Available at: <https://www.latimes.com/projects/california-coronavirus-cases-tracking-outbreak/unemployment/>.

⁴ David Whitman (June 7, 2018). "The GOP Reversal on For-Profit Colleges in the George W. Bush Era." The Century Foundation. Available at: <https://tcf.org/content/report/gop-reversal-profit-colleges-george-w-bush-era/>.

⁵ Stef W. Knight (Sep. 15, 2018). "How the Great Recession Fueled For-Profit Colleges." Axios. Available at: <https://www.axios.com/great-recession-for-profit-college-education-debt-d6d33ec8-b4ac-47ae-aeeb-c5e39a3a9447.html>.

⁶ The Institute for College Access & Success. College Insight, <http://college-insight.org>. Student debt and undergraduate financial aid data are licensed from Peterson's Undergraduate Financial Aid and Undergraduate Databases, © 2019 Peterson's LLC, all rights reserved. All data may be reproduced, with attribution, subject to restrictions under this Creative Commons license: <https://creativecommons.org/licenses/by-nc-nd/3.0/>.

⁷ Todd Sedmak (Oct. 15, 2020). "Fall 2020 Undergraduate Enrollment Down 4% Compared to Same Time Last Year." National Student Clearinghouse. Available at: <https://www.studentclearinghouse.org/blog/fall-2020-undergraduate-enrollment-down-4-compared-to-same-time-last-year/>.

⁸ Andrew Kriehbaum (June 12, 2019). "Rewriting the Rule Book for College Accreditors." Inside Higher Ed. Available at: <https://www.insidehighered.com/news/2019/06/12/trump-administration-issues-proposal-loosen-standards-college-accreditors>. Paul Fain (Nov. 1, 2019). "New Rules on Accreditation and State Authorization." Inside Higher Ed. Available at: <https://www.insidehighered.com/news/2019/11/01/education-department-issues-new-regulations-accreditation-and-state-authorization>.

⁹ The Leadership Conference Education Fund (Oct. 2019). "Gainful Employment: A Civil Rights Perspective." Available at: <https://tacc.org/sites/default/files/documents/2019-11/gainful-employment-brief.pdf>. Jordan Matsudaira and Lesley Turner (Nov. 2020). Towards a Framework for Federal Financial Assistance Programs in

students - including veterans, foster youth, students of color, and single mothers - are often targeted by predatory programs, bear a disproportionate risk, and suffer the consequences.¹⁰ Predatory colleges have historically preyed on the poorest students, and for-profit programs disproportionately serve low-income individuals.¹¹ California has experience with the fallout of predatory institutions, with the closure of Corinthian Colleges a vivid example of what happens when there is insufficient oversight and regulation of the industry.¹²

The Role of the Bureau for Private Postsecondary Education in COVID-19 Response

The Bureau serves an essential function for the state of California, tasked with serving as the first line of defense for students who enroll in private postsecondary programs, and the primary state-level regulator of for-profit schools in California. The Bureau was supposed to undergo a Sunset Review in 2020, but that process was postponed due to the limitations and challenges presented by the pandemic. While we understand that time, capacity, and funding are all in critically short supply, it is essential not only that the Bureau be reauthorized this year, but that the reauthorization be responsive to the COVID-19 recession and its fallout. We strongly urge you to prioritize oversight of for-profit institutions as the state's response and recovery policies are decided.

The agency's enacting statute encapsulates the need to prioritize student and consumer needs: "...Protection of the public shall be the bureau's highest priority."¹³ In the most recent Sunset Review Report, the Bureau and the Department of Consumer Affairs (DCA) identified several outstanding policy issues that have previously prevented them from fulfilling their charge to protect the public and made recommendations for improvements.¹⁴ We concur that giving the Bureau more authority – appropriately paired with sufficient capacity – would make the Bureau more effective and better able to achieve the

Postsecondary Education." The Brookings Institute. Available at: <https://brook.gs/2XjmRe1>. Anthony Carnevale, Ban Cheah, Martin Van Der Werf, and Artem Gulish (2020). "Buyer Beware: First-Year Earnings and Debt for 37,000 College Majors at 4,400 Institutions." Georgetown University Center on Education and the Workforce. Available at: <https://cew.georgetown.edu/cew-reports/collegemajorroi/>.

¹⁰ Jasper Craven (Apr. 22, 2020). "Scammed Out of Their GI Bill Money, Army Veterans Are Standing Up Against Predatory Colleges." Arnold Ventures. Available at: <https://www.arnoldventures.org/stories/veterans-finding-a-new-battle-to-fight/>. Annie Waldman (Mar. 18, 2016). "How a For-Profit College Targeted the Homeless and Kids With Low Self-Esteem." ProPublica. Available at: <https://www.propublica.org/article/how-a-for-profit-college-targeted-homeless-and-kids-with-low-self-esteem>. Genevieve Bonadies, Joshua Rovenger, Eileen Connor, Brenda Shum and Toby Merrill (July 30, 2018). "For-Profit Schools' Predatory Practices and Students of Color: A Mission to Enroll Rather than Educate." Harvard Law Review Blog. Available at: <https://blog.harvardlawreview.org/for-profit-schools-predatory-practices-and-students-of-color-a-mission-to-enroll-rather-than-educate/>. The Leadership Conference Education Fund (Oct. 2019). "Gainful Employment: A Civil Rights Perspective." Available at: <https://tacc.org/sites/default/files/documents/2019-11/gainful-employment-brief.pdf>. The Campaign for College Opportunity (Feb. 2021). "The State of Higher Education for Black Californians." Available at: <https://collegecampaign.org/wp-content/uploads/2020/01/SHE-Black-Californians-2021-FINAL.pdf>. Christina Cauterucci (Sept. 22, 2017). "More Single Mothers Are Going to College Than Ever. But Very Few Will Graduate." Slate. Available at: <https://slate.com/human-interest/2017/09/for-profit-schools-and-low-graduation-rates-plague-a-rising-population-of-single-student-mothers.html>.

¹¹ Michael Freidrich (Aug. 20, 2020). "'Misery Factories': At For-Profit Colleges, a Web of Predatory Behavior." Arnold Ventures. Available at: <https://www.arnoldventures.org/stories/misery-factories-at-for-profit-colleges-a-web-of-predatory-behavior/>.

¹² Office of the California Attorney General (Oct. 24, 2018). "Information for Former Corinthian Colleges Students." Available at: <https://www.oag.ca.gov/corinthian>.

¹³ California Education Code § 94875.

¹⁴ Bureau for Private Postsecondary Education (2019). *Sunset Review Report*. Available at: https://www.bppe.ca.gov/forms_pubs/sunset_2019.pdf.

goals the state has set for the agency. Below, we discuss several of the Bureau’s recommendations which we believe to be high priorities, along with others of our own.

Bureau Recommendations

I. Enable the Bureau to Prevent Harm to Students Proactively

California law currently requires the Bureau to demonstrate that a student has already been harmed as the result of a school’s misconduct before it can place the school on probation or suspend or revoke the school’s license. However, as the Bureau identified in the Sunset Review Report, this “harm requirement” has forced the Bureau to be reactive, rather than proactive, and prevents the Bureau from taking action until students can show that they have already suffered harm, which for many students is far too late and which, from a regulatory perspective, fails to minimize or eliminate future harm. Additionally, this limitation is out of step with other DCA agencies, such as the Bureau of Security and Investigative Services¹⁵ and Bureau of Household Goods and Services,¹⁶ which are empowered to suspend or revoke certain licenses based on a finding that the licensee has engaged in one or more prohibited activities, including violation of governing laws.¹⁷

We agree with the Bureau’s recommendation to amend the “harm requirement” in Education Code § 94937, because requiring harm to occur before taking action to halt misconduct is counter to the Bureau’s paramount duty to protect students and the public. We urge that this change be made immediately to better protect students in the wake of COVID-19. At a time when enrollment is likely to increase, and when new abusive practices may newly emerge, it is especially important that the Bureau has the authority to swiftly act in the best interests of students.

II. Require Schools to Obtain Surety Bonds of Sufficient Value to Cover Costs in the Event of a Closure

For-profit school closures have a direct impact on the Bureau’s capacity and costs. When a school closes the Bureau must send personnel to the location to triage students’ needs at a minimum. School closures can also require unexpected statewide travel and lodging expenses, potential additional staffing needs, and that the Bureau assume responsibility for tens of thousands of student records with little or no notice and no increased funds to do so.¹⁸ The Bureau currently has no access to emergency funding to cover these costs, and generally has to find ways to address student needs despite lack of funding.

Many other states have addressed this need by requiring private postsecondary schools to post a surety bond to cover the costs incurred by the state when schools fail and close.¹⁹ However, most of these states

¹⁵ California Business and Professions Code § 7591.

¹⁶ California Business and Professions Code § 9810.

¹⁷ California Business and Professions Code § 7599.61(b) (regarding alarm company licenses); id. § 9855.7(c) (regarding service contractor licenses).

¹⁸ Bureau for Private Postsecondary Education (2019). *Sunset Review Report*, at 71. Available at: https://www.bppe.ca.gov/forms_pubs/sunset_2019.pdf.

¹⁹ *E.g.*, Arkansas (Ark. Code Ann. § 6-51-620 (6) (2019)); Colorado (Colo. Rev. Stat. § 23-64-114 (2019)); Delaware (Del. Code Ann. Tit. 14, § 8505(a)(2) (2019)); Georgia (Ga. Code Ann. § 20-3-250.10); Hawaii (Haw. Rev. Stat. § 305J-15(b)(2019)); Indiana (Ind. Code Ann. § 22-4.1-21-15(2020)); Iowa (Iowa Code § 714.18 (2019)); Kentucky (Ky. Rev. Stat. Ann. §165A.360(2)(2019)); Louisiana (La. Rev. Stat. Ann. § 17:3141.5(D)(1)(a)); Maine (Me. Rev. Stat. tit. 20, § 9502(1)); Maryland (COMAR 13B.02.02.07); Michigan (Mich. Comp. Laws Serv. § 395.102b(2020)), Ohio (Ohio Rev. Code Ann. § 3332.08); Tennessee (Tenn. Code Ann. § 49-7- 2013).

base the surety amounts on gross tuition or number of students, which often result in bond amounts insufficient to cover the many and varied costs that arise when a school closes.²⁰ The Bureau has had to respond to several school closures in the last several years, and the Legislature should gather information from the Bureau relating to the cost of responding to those closures in order to determine the appropriate scale for California's surety bond requirement.

We agree with the recommendation that California should create a bond requirement with minimum amounts that would adequately fund the Bureau's costs in triaging school closures, including the retention of documents that are essential for students who seek relief through closed school discharges, STRF applications, and borrower defense claims. The requirement should clarify that any amounts recovered from a closed school's surety bond should be applied to the Bureau's response to aid students impacted by the closure or who need student records to be able to demonstrate eligibility for debt relief.

III. Authorize the Bureau to Create Stronger Minimum Operating Standards

Over the past several years, the Trump Administration systematically dismantled protections against predatory and low-quality colleges and universities, and repealed the Gainful Employment rule that required career education programs to ensure that most of its graduates' debts were reasonable relative to their likely earnings.²¹ It also replaced the Borrower Defense rule that is intended to provide debt relief to student borrowers harmed by institutions' illegal and deceptive practices;²² the new rules deny relief to harmed students on nearly 97 percent of their debts.²³ The Trump Administration also eliminated the enforcement unit within the Department of Education that was intended to detect and prevent wrongdoing.²⁴ Although we expect the Biden Administration to revisit some of these issues, it is clear that California cannot rely on federal regulation alone to protect the state's students.

The areas in which the Bureau is currently authorized to adopt minimum operating standards are largely focused on recordkeeping and technical aspects of a school's operations.²⁵ This limits the Bureau's ability to fulfill its mission of protecting students and consumers through effective oversight of schools. The Sunset Review Report concludes that adoption of additional minimum standards that address educational quality, the cost of school, student outcomes, and institutional improvements would allow the Bureau to

²⁰ Housing & Economic Rights Advocates (July 2020). "The Case for Reauthorization: Empowering the Bureau for Private Postsecondary Education to Protect California's Students." Available at: [http://www.heraca.org/documents/working%20papers/The Case for Reauthorization \(Housing Economic Advocates\).pdf](http://www.heraca.org/documents/working%20papers/The%20Case%20for%20Reauthorization%20(Housing%20Economic%20Advocates).pdf).

²¹ U.S. Department of Education (July 1, 2019). "Program Integrity: Gainful Employment." Federal Register. Available at: <https://www.federalregister.gov/documents/2019/07/01/2019-13703/program-integrity-gainful-employment>.

²² U.S. Department of Education (Sept. 23, 2019). "Student Assistance General Provisions, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program." Federal Register. Available at: <https://www.federalregister.gov/documents/2019/09/23/2019-19309/student-assistance-general-provisions-federal-family-education-loan-program-and-william-d-ford>.

²³ The Institute for College Access and Success (Sept. 3, 2019). "Defrauded Students Left Holding the Bag Under Final 'Borrower Defense' Rule." Available at: <https://ticas.org/accountability/defrauded-students-left-holding-the-bag-under-final-borrower-defense-rule/>.

²⁴ Danielle Ivory, Erica L. Green and Steve Eder (May 13, 2018). "Education Department Unwinds Unit Investigating Fraud at For-Profits." The New York Times. Available at: <https://www.nytimes.com/2018/05/13/business/education-department-for-profit-colleges.html>.

²⁵ California Education Code § 94885.

better fulfill its mission.²⁶ The Legislature encountered a similar policy question several years ago when considering AB 2099 (2014), and ultimately delegated authority to the California State Approving Agency for Veterans Education (CSAAVE) to create minimum standards for institutions to be eligible to enroll students in California.²⁷

Similarly, expanding the Bureau's authority to adopt additional minimum operating standards to address educational quality and cost will allow the Bureau to better protect students from predatory schools. Minimum operating standards are essential to empower the Bureau to take appropriate action against schools that provide substandard education and engage in misconduct to keep up student enrollment numbers, including by shutting them down before the harm widely impacts students and taxpayers. In addition, the Bureau's disciplinary action findings in these expanded areas may be helpful for students harmed by predatory schools before the Bureau has sufficient information to act, providing evidence that will support their applications for relief from the Student Tuition Recovery Fund (STRF) and for discharge of federal student loans. We agree with the recommendation to authorize the Bureau to create appropriate minimum operating standards, and believe it is essential that the Bureau be empowered to proactively take action if they determine a school is in violation of those standards or are otherwise putting students at risk.

IV. Give the Bureau More Discretion Regarding Approval by Accreditation

California law currently grants automatic approval to accredited institutions in California without requiring them to undergo the review and approval process required for other institutions that operate in California,²⁸ including out-of-state institutions offering online education to California students.²⁹ Accreditation has long been considered a marker of institutional quality, but with federal accreditation rules and standards substantially weakened³⁰ this method of approval is now tantamount to a significant loophole. For accredited schools, the Bureau must grant approval, relying solely on the institution's accreditation as assurance that the school has the capacity to satisfy California's minimum operating standards and offers quality educational programs.³¹ This serves neither students nor the state of California well, and requires the state to give up critical review functions for student and consumer protection.

Merely receiving accreditation should not be a sufficient criterion to merit approval to operate within California, especially in such a potentially dangerous time for students. Many of the major school closures in recent years have been at institutions that were accredited until the day they closed their doors, and yet schools that qualify for this easier approval method are approved for twice the amount of time as schools that go through the regular approval process. In fact, of the last five major school closures in

²⁶ See Bureau for Private Postsecondary Education (2019). Sunset Review Report, at 80-81. Available at: https://www.bppe.ca.gov/forms_pubs/sunset_2019.pdf.

²⁷ California Assembly Bill No. 2099 (2014). Available at: http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140AB2099.

²⁸ California Education Code § 94890.

²⁹ Assembly Bill 1344 (2019). California State Legislature. Available at: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1344.

³⁰ Paul Fain (Nov. 1, 2019). "New Rules on Accreditation and State Authorization." Inside Higher Ed. Available at: <https://www.insidehighered.com/news/2019/11/01/education-department-issues-new-regulations-accreditation-and-state-authorization>.

³¹ California Education Code § 94890.

California, four of the schools had been approved by means of accreditation.³² Further, because only accredited schools can receive federal financial aid, students attending accredited schools can be at particular risk of incurring debts they cannot repay.

Approving schools by means of accreditation puts students at risk, which is particularly heightened given recent federal actions to weaken accreditation rules.³³ We agree with the Bureau’s recommendation that all schools should be subject to the same approval process, and propose that the issue could be addressed by changing the statutory language in Section 94890(a)(1) to say “The bureau ~~shall~~ **may** grant an institution that is accredited an approval to operate by means of its accreditation” as part of any reauthorization legislation passed this year. This language change would give the Bureau more discretion to determine whether accredited institutions should be approved to operate within California, and if there should be other factors in making the determination.

Additional Recommendations

V. Improve the Student Tuition Recovery Fund

The Office for Student Assistance and Relief (OSAR) has done valuable work raising awareness of the Bureau’s presence among students and reaching out to students who have been harmed by school closure. However, despite these efforts, STRF still remains woefully underutilized. The Bureau has not published consistent data regarding the number of school closures or affected students, but even with the recent improvements the available data indicate that the number of students who receive or even apply for STRF relief in any given year represents a small percentage of the students who have been impacted by closure.³⁴

There are also several ways that the STRF program itself could be improved to better serve harmed students. These include extending STRF relief eligibility to more students harmed by misconduct and illegal acts by private postsecondary institutions, extending eligibility to parents and family members that take out loans on behalf of students or co-sign with students, simplifying and streamlining the application process, removing the statute of limitations for eligibility, and providing more assistance to students who apply.³⁵ If authorized, an independent advocate – such as an ombudsman or an inspector general – could identify these types of shortcomings and opportunities to better serve students, and advocate for the Bureau and/or Legislature to take steps to address them.

The Bureau and OSAR must provide more transparency into and improve the utilization of STRF, and the Legislature should consider how to best ensure that an official student advocate is directed to elevate issues like this and advocate for solutions that will best serve students.

³² See Bureau for Private Postsecondary Education (2019). Sunset Review Report, at 70. Available at https://www.bppe.ca.gov/forms_pubs/sunset_2019.pdf.

³³ Paul Fain (Nov. 1, 2019). “New Rules on Accreditation and State Authorization.” Inside Higher Ed. Available t: <https://www.insidehighered.com/news/2019/11/01/education-department-issues-new-regulations-accreditation-and-state-authorization>.

³⁴ Noah Zinner (2019). “Bittersweet Relief: Strengthening California’s Tuition Recovery Fund to Better Support Students.” The Institute for College Access and Success. Available at: <https://ticas.org/wp-content/uploads/2019/08/bittersweet-relief.pdf>.

³⁵ Noah Zinner (2019). “Bittersweet Relief: Strengthening California’s Tuition Recovery Fund to Better Support Students.” The Institute for College Access and Success. Available at: <https://ticas.org/wp-content/uploads/2019/08/bittersweet-relief.pdf>.

VI. Require Programs to Prepare Californians for Licensure or Certification in Fields Where Licensure or Certification are Required

A basic precondition for career education programs in California is that they provide the knowledge and skills necessary for jobs in their fields. However, there is no requirement that approved career programs actually make their graduates eligible for licensure or certification necessary for employment.

In 2014, the federal government required – as a condition of eligibility for student financial aid – that colleges certify that their career programs satisfy state and federal accrediting and licensing requirements for the jobs for which the program purports to prepare students.³⁶ The Department of Education identified the disconnect between educational programs and professional requirements as one of its “primary concerns” among career programs. While these student protections were repealed in 2019, this remains a legitimate concern for states interested in ensuring career program quality for their residents.³⁷

These protections are especially important for students who enroll in out-of-state colleges – either online programs or local campuses of large brick-and-mortar schools – but intend to work in California. Those schools should not be able to offer programs to Californians unless graduates are eligible for licensure or certification in California when required in the professions for which they trained. California should make qualification for state licensure a requirement for career programs no matter where the school is located, and limit enrollment in all programs which do not meet state licensure requirements.

VII. Expand the Data Collected by the Bureau to Support Incorporation in the Cradle-to-Career Data System

In 2019, the Legislature passed an important effort to obtain accurate and accessible employment outcomes data for the students of for-profit institutions. AB 1340 represented the first time California would have state-verified outcomes data for students and was a significant accomplishment for the state of California in its efforts to protect students from predatory institutions. The bill also paved the way for Bureau-covered schools to be incorporated into the plans for the state’s Cradle-to-Career Data System, another crucial step for the students of private postsecondary institutions. However, because the bill was drafted prior to the data system’s planning process, it has become clear that the Bureau will need to collect additional information from institutions in order to report comparable data to that provided by the other higher education segments.

Including private postsecondary data in the Cradle-to-Career Data System is essential for the data system to serve and represent all California students and to inform policy decisions at the state level. Further, the data collected will also be useful in the creation and enforcement of any minimum operating standards, as discussed above. The Bureau must be given authority to collect the data needed for the data system, and to create standards to ensure students receive a quality, affordable education.

VIII. Remove Exemptions in Nonprofit Conversion Protections

In 2020, the Legislature passed AB 70, which created an important safeguard against institutions misleading students and the public by defining what constitutes a “nonprofit corporation” and “public

³⁶ U.S. Department of Education (Oct. 31, 2014). “Program Integrity: Gainful Employment.” Federal Register. Available at: <https://www.federalregister.gov/documents/2014/10/31/2014-25594/program-integrity-gainful-employment>.

³⁷ U.S. Department of Education (July 1, 2019). “Program Integrity: Gainful Employment.” Federal Register. Available at: <https://www.govinfo.gov/content/pkg/FR-2019-07-01/pdf/2019-13703.pdf>.

institution of higher education” in California, an essential step in developing a standard for what a college must demonstrate in order to claim to be a nonprofit or public institution.

To prevent for-profit companies from using contracts to exert excessive control or extract an excessive price from a nonprofit purchaser, the new law limits the initial duration of contracts with former owners. Unfortunately, a provision was added during the hearing on August 13, 2020 exempting a school from this provision if it is owned by or controlled by a public institution. Publicly-controlled nonprofits are no less vulnerable to the potential for inappropriate private gain by former for-profit owners. The exemption should be removed.

Conclusion

Thank you again for the opportunity to provide comments. The sunset review process provides a unique opportunity to consider how oversight of private postsecondary education might be enhanced to better position students for success, and we appreciate your consideration of these recommendations. Please feel free to contact us with any questions.

Sincerely,



Maeve Elise Brown
Executive Director and Founder
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