



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

June 24, 2021

RE: SUPPORT for SB 802 as Amended 5/5/2021

Dear Chair 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 SB 802 and the reauthorization of the Bureau of Private Postsecondary Education (Bureau) and the California Private Postsecondary Act of 2009.

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

The COVID-19 pandemic has had a devastating impact worldwide, and California’s labor market has been significantly impacted.¹ As of May 2021, California had 1.5 million fewer jobs than in February of 2020, a greater job loss than the “Great Recession.”² And the impact of the pandemic was extremely inequitable; despite signs of economic recovery, Black and Latinx Californians are considerably more likely to be out of work one year after the recession began.³ And unfortunately for California’s students, 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 predatory programs target the unemployed with aggressive recruiting efforts. 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.⁵ Low-income and

¹ Jonathan Lansne (April 16, 2021). “California’s Pandemic Pain: 9th-Slowest Jobs Recovery in U.S.” East Bay Times. Available at: <https://www.eastbaytimes.com/2021/04/16/californias-pandemic-pain-9th-slowest-jobs-recovery-in-u-s/>.

² Alissa Anderson (May 2021). “Recent Job Gains Are Promising, Massive Shortfall Remains.” California Budget & Policy Center. Available at: <https://calbudgetcenter.org/resources/californias-recent-job-gains-are-promising-but-policy-choices-now-will-determine-if-an-equitable-economy-is-ahead/>.

³ Id.

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 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/>.

unemployed individuals were aggressively recruited 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.

Unfortunately, recent enrollment trends in California are following similar problematic patterns; there have been significant decreases in enrollment at community colleges and other public and nonprofit universities, and more students are enrolling in for-profit institutions.⁶ The most vulnerable 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.⁷ And unfortunately, students at for-profit institutions 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.⁸

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 agency's enacting statute encapsulates the need to prioritize student and consumer needs: "...Protection of the public shall be the bureau's highest priority."⁹ It is therefore essential not only that the Bureau be reauthorized this year, but – given the profound shift that has taken place in the last two years – that the reauthorization also be responsive to the COVID-19 recession and its fallout.

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.¹⁰ We concur that giving the Bureau more authority – appropriately paired with sufficient capacity – would make the Bureau more effective and better able to achieve

⁶ Thomas Peele (June 15, 2021). "California Community Colleges Lose Students to More Expensive For-Profit Colleges." EdSource. Available at: <https://edsources.org/2021/california-community-colleges-must-address-why-students-are-opting-for-more-expensive-for-profit-schools/656436>.

⁷ 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>.

⁸ 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 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/>.

⁹ California Education Code § 94875.

¹⁰ Bureau for Private Postsecondary Education (2019). *Sunset Review Report*. Available at: https://www.bppe.ca.gov/forms_pubs/sunset_2019.pdf.

the goals the state has set for the agency, and are pleased to see that some of those recommendations have been incorporated into the bill.

For example, we appreciate that SB 802 contains language to address the harm requirement. 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. Identified as a necessary policy change by the Bureau in the Sunset Review Report, the proposed amendments to the "harm requirement" will allow the Bureau to be proactive, rather than reactive, and will empower the Bureau to take action to prevent student harm. We recommend that additional amendments be included to create consistency throughout the statute, particularly in Sections 94933 and 94936(b)(3).

However, 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 and capacity necessary to carry out its responsibility to protect students. Although we strongly support the reauthorization of the Bureau, we do believe that additional amendments are necessary to further strengthen the bill.

Additional recommendations for SB 802:

I. Authorize the Bureau to Create Stronger Minimum Operating Standards

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, but the Bureau's ability to adopt standards is currently limited.¹¹ We recommend that SB 802 be amended to expand the Bureau's authority to adopt additional minimum operating standards to address educational quality and cost, allowing the Bureau to better protect students from predatory schools. Further, 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.

II. Give the Bureau More Discretion Regarding Approval by Accreditation

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.¹² Many of the major school closures in recent years have been at institutions that were accredited until the day they closed their doors; in fact, of the last five major school closures in California, four of the schools had been approved by means of accreditation.¹³ 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. We recommend that SB 802 be amended to provide the Bureau with more discretion regarding approval by accreditation and empower the Bureau to take on a more proactive role in protecting students as consumers.

¹¹ California Education Code § 94885.

¹² 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>.

¹³ See Bureau for Private Postsecondary Education (2019). Sunset Review Report, at 70. Available at https://www.bppe.ca.gov/forms_pubs/sunset_2019.pdf.

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

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. We recommend that SB 802 be amended to require the Bureau to assess their technological needs in order to collect the data needed for the data system, and to create standards to ensure students receive a quality, affordable education.

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

We recommend that SB 802 also be amended to require schools to obtain surety bonds of sufficient value to cover the Bureau's costs in the event of a closure. School closures have a direct impact on Bureau capacity and costs. It can require that the Bureau assume responsibility for tens of thousands of student records with little or no notice, along with additional staffing needs and unexpected statewide travel and lodging expenses, with no available funds to do so. 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. We recommend that California follow the example set by many other states and create a bond requirement in SB 802 that would 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.

Conclusion

For the reasons stated above we support SB 802 and urge you to support the bill when it comes before the committee. Thank you again for the opportunity to provide comments, and please feel free to contact Angela Perry at (510) 318-7902 or APerry@TICAS.org with any questions.

Sincerely,



Maeve Elise Brown
Executive Director and Founder
Housing and Economic Rights Advocates



Elizabeth Gonzalez
Directing Attorney, Consumer Law Unit
Public Law Center



Stephanie Carroll
Directing Attorney, Consumer Rights & Economic Justice
Public Counsel



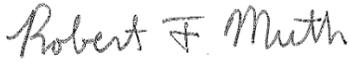
Bridget Gramme
Administrative Director
Center for Public Interest Law



Ed Howard
Senior Counsel
Children's Advocacy Institute



Robert Herrell
Executive Director
Consumer Federation of California



Robert Muth
Managing Attorney
Veterans Legal Clinic



Arnold Sowell Jr.
Executive Director
NextGen California



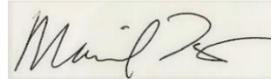
Angela Perry
Associate Director of Policy & Advocacy
The Institute for College Access and Success



Robyn Smith
Senior Attorney
Legal Aid Foundation of Los Angeles



Brian Rivas
Senior Director of Policy and Government Relations
The Education Trust - West



Marisabel Torres
Steering Committee
Californians for Economic Justice



Bob Shireman
Senior Fellow
The Century Foundation



Carrie Wofford
President
Veterans Education Success

CC: Members of the Assembly Higher Education Committee
Members of the Assembly Business and Professions Committee
Members of the Senate Business, Professions, and Economic Development Committee
Members of the Senate Education Committee
Honorable Senator Richard Roth