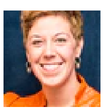
THIRD WAY

MEMO *Published May 13, 2020 · 18 minute read*

Protecting Students & Taxpayers in the Federal Higher Ed Response to COVID-19



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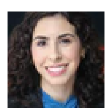

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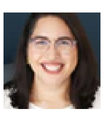

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As in nearly every other sector of our economy and corner of American life, the coronavirus is wreaking havoc on our nation's higher education system. The pandemic has shut down the campuses of colleges across the country—forcing millions of students into virtual classrooms and creating serious financial distress for thousands of institutions. There is no doubt Congress must act to stabilize this industry so that students can continue to access a robust postsecondary education system in the coming school year—as well as the decades that follow. This is especially crucial as the country faces the prospect of an economic recession, and the possibility that millions of American workers could head back to school in the face of and the possibility that millions of American workers could head back to school in the face of job scarcities. Congress has already provided some relief to the higher education sector by allocating $14.25 billion in federal aid to support postsecondary education (half of which must go directly to students as emergency grants), along with another $3 billion in education block grants to state governors to use for the hardest-hit education programs in their states, as well as stopping required payments and interest accrual for six months for nearly all federal student loan borrowers as part of the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act). [1]

We know this first injection of capital is not going to be enough to make institutions whole and hold students harmless as they deal with the fallout of this crisis. But as the federal government looks to offer additional support, we must ensure that none of the actions policymakers take unintentionally harm students or funnel taxpayer money to predatory actors and institutions that are more likely to leave their students worse off than when they started. We've also already seen calls from the industry to relax key regulations and guardrails designed to protect students from unnecessary risk and hold institutions accountable for meeting basic financial and value benchmarks. [2] But we must not undercut consumer protections in the name of efficiency. Now more than ever, students and taxpayers need assurances that federally funded institutions of higher education will provide a return on their investment and not leave them in a lurch.

This memo outlines six ways in which policymakers should uphold minimum standards of oversight in higher education during the recovery process.

1. DO Require Institutions to Demonstrate They are Financially Sound.

One of the existing metrics we do have in place to protect students from sudden college closures are financial responsibility composite scores. In practice, these scores are designed to show which institutions are financially responsible enough to participate in Title IV financial aid programs, and ultimately, to signal their overall financial health. The law surrounding financial responsibility composite scores currently requires institutions to submit audited financial statements to the Department of Education (Department) each year, which the Department then calculates as a numeric score on a scale from -1.0 to 3.0 and posts publicly on its website. [3] In order to be considered "financially responsible," institutions must have a score equal to or greater than 1.5. Schools with a score below this number can still participate in financial aid programs but are subject to additional cash monitoring on an annual basis and required to post a letter of credit to indicate their near-term fiscal viability.

There is no doubt that college budgets will be hit hard by state responses to the pandemic, forcing many colleges to drastically cut costs, with some even permanently closing at the end of this semester. [4] It's possible that these trends will continue for some time if the economy does not recover quickly, making the financial health of institutions a critical metric to assess, so that students and the public understand which colleges may be teetering on the edge of financial collapse. However, some institutions feel that in light of the current situation, the Department should waive these scores altogether, claiming that these measures would ultimately harm students rather than protect them during this crisis. [5] The National Association of Independent Colleges and Universities (NAICU), among others, justifies this position by arguing that these scores are not an accurate representation of colleges' current circumstances and don't do a good enough job to predict college closures because the formula is out of date and based on accounting practices no longer used by institutions. [6]

Although it surely isn't perfect, simply abandoning our existing financial responsibility scoring system now would be a big mistake. In the decade following the Great Recession, we saw a surge in school closures, with many cash-strapped schools closing without warning and leaving their students with debts and nowhere to finish their educational program. [7] At minimum, we must maintain the early warning signals that financial responsibility scores can provide, including requiring schools to demonstrate that they have sufficient liquidity to operate through the end of the next academic year before enrolling additional Title IV students. But we also have the opportunity to strengthen this warning system. Ariel Sokol and Yan Cao of The Century Foundation have proposed five additions to the financial responsibility score that the Department could use to more effectively monitor institutions' financial health under the current circumstances and as a model to permanently enhance the way we collect financial viability data even after this crisis ends. These include using independent financial experts for review and assigning ratings based on each school's risk profile, creating rules that require increased collateral from schools at risk of closing, making financial ratings public and easy for students and employees to access, requiring a minimum level of cash and liquid assets, and prioritizing taxpayers' claim on an institution's assets if it closes. [8] Now more than ever, it is crucial that we protect students from sudden closures and the havoc they could wreak both educationally and financially.

2. DO Maintain the Protection of the 90/10 Rule.

Intense financial pressure on US families from the COVID-19 recession will likely lead to an uptick in eligibility for Pell Grants and other need-based federal financial aid, as it has in past recessions. Between 2006-07 and 2010-11, the Great Recession saw the number of students receiving a Pell Grant increase by a whopping 80% and the size of the average grant rise by 43%.[9] But the availability of new and additional funding can create alarming incentives for predatory schools, as we've seen play out dramatically in past scandals involving for-profit colleges' aggressive recruitment of student veterans in order to use their military education benefits to skirt sanctions from the 90/10 rule.

To comply with the rule, for-profit colleges can't take in more than 90% of their revenue from Title IV federal student aid programs like Pell Grants. At least 10% must come from non-Department of Education sources, but a loophole in the law means that other federal funding, including tuition assistance for veterans from the GI Bill and Department of Defense, counts toward the 10% side of the ratio. Since new Pell Grant and loan dollars from students impacted by the COVID-19 recession will go toward for-profit colleges' 90% cap, these schools will face increased pressure to find other sources of revenue to hit their 10% minimum—making military-connected students and their education benefits an attractive recruiting pool. This creates a dangerous incentive mirroring the conditions of the mid-late 2000s, when the for-profit sector expanded rapidly, taking in the lion's share of military and veterans' benefits while leaving over half of students who enrolled at the height of the Great Recession in 2008-09 without a degree or credential two years later.[10] Today, we're already seeing a dramatic upswing in advertising and marketing efforts by for-profit colleges—including some of the most prominent online players hoping to score big from the increased interest in distance education sparked by COVID-19.[11]

In such an uncertain environment for student recruiting and enrollment, keeping the 90/10 rule intact is essential to providing some level of consumer protection for students and taxpayers, and especially for military-connected students. Moreover, since Title IV sanctions do not take effect until a school has failed to meet the 90/10 requirement for two consecutive years, no school is risking losing eligibility based on temporary actions they may need to take in response to the immediate COVID-19 crisis. To the contrary, simply maintaining the 90/10 rule is the bare minimum of what we should be doing to protect students. Closing the 90/10 loophole by mandating that revenue from *all* federal sources—not just the Department of Education—counts toward the 90% side of the funding ratio is long overdue and would eliminate the strongest incentive predatory actors have to prey on military-connected students in a moment of heightened risk for repeating past abuses.

3. DO Provide Consumers Data on Their Likely Return on Investment.

Metrics like completion rates and accurate enrollment numbers will be more critical than ever to understanding the full impact of the crisis and ensuring stimulus funding is allocated to the students and institutions who need it the most. But as institutions manage the day-to-day operations of keeping their schools up and running, there have been questions concerning what data they have the capacity to report, what metrics we really need to know, and what reporting requirements can be delayed or waived in the immediate aftermath of the crisis. It's possible that having students away from campus will make data collection more challenging for institutions. And while responding to the crisis does require institutions to spend time and resources monitoring the situation on the ground, $14.25 billion and counting in stimulus funds plus another $30 billion in Pell Grants, and $15 billion in GI funds are on the line—making it more important than ever for institutions to maintain full transparency around whether they are using these funds appropriately.

At minimum, the federal government should maintain existing data reporting requirements. But Congress could to make the reporting process less burdensome for institutions and create a more accurate snapshot of institutional outcomes by using this opportunity to pass the widely bipartisan and popular *College Transparency Act* (CTA), legislation that would create a student level data network to increase transparency and provide a clearer picture of how institutions are serving students during this period of crisis and beyond. [12] Specifically, passing the CTA would allow consumers and policymakers to disaggregate data by key student subgroups, allow higher education data to more easily link to other federal data sources, add additional metrics like information on students taking online classes, and make that data public and easily accessible. [13] Passing the CTA would also give students and taxpayers the clearest idea of where federal stimulus dollars are going and if the institutions receiving those dollars are serving their students well—and importantly, it would allow Congress to target stimulus money to students with the greatest need and protect students from colleges that are predatory or on the brink of collapse. [14]

4. DON'T Let Taxpayer Dollars Flow to Predatory Actors or Schools that Will Make Students Worse Off.

If past is prologue, a looming economic recession and an influx of new money into the higher education system is a recipe for bad actors to take advantage of vulnerable students looking to upskill and the billions of taxpayer dollars currently being doled out to institutions. One area ripe for nefarious behavior is the for-profit sector. Following the Great Recession, enrollments spiked at for-profit institutions and training programs—in large part because massive state disinvestment in higher education combined with sophisticated marketing and recruitment tactics created a perfect storm for predatory schools to lure away the growing number of students seeking new credentials and degrees. [15] According to a large study conducted by GAO in 2010 and a report released in 2012 by the Senate Committee on Health, Education, Labor and Pensions (HELP), these "sophisticated tactics" were in fact predatory in nature—with for-profit colleges in particular manipulating the pain points of vulnerable populations by aggressively recruiting them through fraudulent financial aid forms and marketing materials that made false claims about the tuition and fees students would ultimately pay and the post-enrollment outcomes they could expect. [16] And as we have seen over the past decade, millions of students who attended these predatory institutions in the wake of the Great Recession were harmed in the process: data show that students who attended for-profit colleges took on larger amounts of debt and were more likely to default than their peers who attended public and private nonprofit institutions. [17]

But we know that predatory behavior and low quality is not just a for-profit problem. Even before COVID-19, data reveal middling outcomes across all sectors of higher education, including poor graduation rates, low earnings, and abysmal repayment rates at public, private, non-profit, and for-profit schools. [18] And when looking carefully at the stimulus dollars that have already been allocated to institutions through the CARES Act, we see that more than $490 million is going directly to institutions that graduate *fewer than 25%* of their students—including 127 public, 49 private, non-profit, and 17 for-profit institutions. [19] Even more disturbingly, $251 million is going to the 23 public, 34 private non-profit, and 130 for-profit institutions who leave fewer than 25% of their students able to start paying down $1 of their principal within 5 years of leaving school. That's a huge influx of taxpayer dollars into schools that leave most of their students unable to pay back the loans they've had to incur to attend.

That's why Congress must put in place proper oversight and funding mechanisms to ensure that student and taxpayer dollars do not flow to predatory institutions or those that leave students worse off than if they hadn't attended college at all. One way to monitor the behavior of institutions seeking new federal financial aid dollars closely is to apply language from the House of Representatives' *College Affordability Act* to create a secret shopper program that will "encourage the ethical treatment of students and prospective students and detect fraud and abuse in the Federal student aid programs" to any future legislation, or have the Department of Education regularly plant its own undercover applicants following the release of any new or existing pots of money directed towards institutions themselves. [20] Doing so will not only create a strong deterrent to keep institutions from violating existing federal regulations, but will also serve as an early warning system to stop predatory behavior in its tracks before it's too late. It is also imperative that Congress and the Department define clear guardrails to prevent large sums of federal dollars from flowing to any institution that makes its students worse off than if they hadn't attended in the first place. This could be accomplished with a sector-neutral, outcomes-based process that targets or limits funding in part based on the outcomes a school typically delivers for its students, like completion rates, the percentage of students earning above a high school graduate after enrollment, and the ability of students to repay their loans.

5. DON'T Create Incentives for Unchecked Growth in Enrollment.

Periods of economic downturn often lead to a spike in enrollment in postsecondary education and training programs, as workers go back to school to build new skills and a weaker job market leads more high school graduates to enter college instead of going directly into the workforce. At the start of the Great Recession, the number of incoming college students in 2008 rose by 12 percent over the previous year, and the percent of those students who were 21 or older increased by 20 percent. [21] The threats posed by COVID-19 have forced many colleges to rapidly transition to online instruction—and while this shift has been essential to the industry's emergency response to the crisis, it also introduces the dangerous potential for massive enrollment growth that takes a toll on educational quality. As schools scale up the infrastructure needed to deliver courses at a distance, they also increase their capacity to reach, recruit, and enroll a much larger population of students, from a broader geographic area and wider range of age groups. It's easy to see how high growth could be appealing at a moment like this: for institutions trying to survive in an environment of increased fiscal pressure, with likely dips in state funding on the horizon, bringing in more students and their tuition dollars could be a critical goalpost. [22] But it's also easy to see that if such growth happens too quickly—and especially if it happens in online programs where there's already lax quality control and consistent evidence of inequitable student outcomes—instruction and value could suffer greatly. [23]

Logically, colleges facing a steep financial cliff and uncertain residential enrollment will be looking for new ways to raise revenue and prevent budget shortfalls. Schools with existing online infrastructure and large marketing budgets may be incentivized to pursue aggressive enrollment growth to cash in on new streams of stimulus funding and a likely uptick in Pell Grant payouts over the next few years, and other colleges that have only just begun getting their feet wet in online course delivery may look at their forecasts and decide that doubling down on online growth is a promising strategy for staving off deficits. While pursuing a reasonable level of growth can be a rational response to keep some institutions afloat, we need to ensure that growth does not occur on such a scale and timeline as to prevent schools from serving students well and providing them with a high-quality education experience. Overextending instructional resources, focusing on marketing and recruiting at the expense of teaching and learning, or turning to expensive Online Program Managers (OPMs) whose fees are often passed onto students in the form of higher tuition could all damage the value of the education students receive—as well as hampering their long-term outcomes. [24]

With even more stimulus money likely to be handed down in the months ahead, incentives will grow for institutions to be thinking about how to position themselves to get a bigger slice of the pie. If new federal funding is offered to schools, it should be counterbalanced with limitations that mitigate the risk of unchecked growth by using enrollment increases as a marker to trigger Department review or institutional sanctions. This could include setting maximum thresholds for growth in enrollment over the near term for schools that receive additional funding, or by tying enrollment growth rates to quality measures like instructional spending. For example, if a college's year-over-year enrollment growth rate exceeds a certain threshold and its rate of spending on teaching and learning decreases over that time period, it could be flagged for sanctions. Since enrollment growth can only be measured after the fact, any sanctions put in place should be implemented proactively, enforced stringently, and designed to have real bite—like forfeiting eligibility to accept federal grants and loans—in order to disincentivize bad actors from the start. Schools that ask for special waivers from existing guardrails or Department requirements could also be subject to growth limitations to ensure the welfare of their current students is given top priority.

6. DON'T Give Schools a Blanket Pass on Defaults.

Students who will head back to school in the wake of this crisis will do so in order to improve their long-term employment and wage prospects, even if it requires them to take on loans in the process. In order to protect these student borrowers—along with those who are already in or through the postsecondary pipeline—Congress and the Department need to ensure that federally-funded institutions provide a decent chance at a financially secure future for those who enroll. Today, one of the only federal guardrails we have in place to test that proposition is the Cohort Default Rate (CDR), which prevents an institution from receiving federal aid dollars if too many students default on their loans within three years of leaving it. Even though the current metric is imperfect and able to be gamed—which is why fewer than 1% of institutions fail it on an annual basis—its existence provides some assurance that the federal government is holding at least the worst of the worst schools accountable for leaving huge proportions of their students in default.

That’s why despite some initial calls for blanket waivers of CDR, it is essential that we continue to keep this baseline measure in place during this crisis. [25] Historical data has shown the meaningful impact that sanctions from CDR can have on student enrollment decisions, especially for low-income students. For example, one study looking at the impact of CDR on for-profit institutions found that, “when a for-profit college was sanctioned, annual enrollment of Pell Grant recipients at that school declined precipitously—by nearly 70%.” [26] And with Pell eligibility expected to increase in the wake of an economic recession, it is more important than ever that we minimize enrollment at institutions poised to put students at risk of financial ruin. If anything, Congress should use this opportunity to update the CDR to work even better for schools, including closing the loophole that allows institutions to skirt the law by not having to count borrowers in forbearance in their CDR calculation.

Conclusion

Before this crisis began, stakeholders on both sides of the aisle were calling for action to enhance and supplement oversight in higher education and ensure that students and taxpayers alike are getting a return on their investment. But with billions of taxpayer dollars and the future well-being of students on the line, now is the time to double-down on—not weaken—transparency and consumer protections in higher ed. As Congress and the administration continue to take action to help keep the industry afloat, they should make sure that interventions are not shortsighted or creating risks of unintentional harm to students, but instead carefully designed to leave students and taxpayers better off in the long run.

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ENDNOTES

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