ENSURING EDUCATIONAL INTEGRITY

10 STEPS TO IMPROVE STATE OVERSIGHT OF FOR-PROFIT SCHOOLS

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ABOUT THE AUTHOR

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The findings and conclusions presented in this report are those of the author alone.

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Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

ENSURING EDUCATIONAL INTEGRITY

10 STEPS TO IMPROVE STATE OVERSIGHT OF FOR-PROFIT SCHOOLS

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EXECUTIVE SUMMARY

The need for strong state oversight of the for-profit higher education sector has never been greater. Increasing numbers of state and federal investigations have revealed the widespread use of deceptive and illegal practices throughout the sector, including by large accredited schools owned by Wall Street investors. After being subjected to these deceptive practices, hundreds of thousands of students enrolled in inferior educational programs and ended up with nothing but debt. Despite this mounting evidence, few states have strengthened their oversight of the for-profit school industry since the publication of National Consumer Law Center's 2011 report, *State Inaction: Gaps in State Oversight of For-Profit Education*.

Although the federal government's continued efforts to enact minimum gainful employment standards are an important development, these standards will not be sufficient to prevent the abuses of the for-profit school industry. The state oversight role is critically important to ensuring that all students who invest in and work hard at a postsecondary education will end up with the skills and knowledge they need to improve their lives and the futures of their families. When the federal government recently enacted state authorization regulations, it recognized this critical state role and reemphasized that states are primarily responsible for school oversight and student protection.

Lax state oversight must end. This report describes ten key recommendations that states may use to develop stronger for-profit school oversight laws and agencies. If implemented, these changes will go a long way towards preventing abuses and making the for-profit higher education more accountable to states, students, and taxpayers.

Key Recommendations

1. Eliminate reliance on accreditation as a substitute for oversight and require all accredited and unaccredited schools to comply with minimum standards and consumer protections.

As of July 2013, at least 33 states applied lenient standards or granted some type of exemption or automatic approval to accredited for-profit schools. Yet, because accredited schools are the only schools eligible for federal financial aid, it is these schools' deceptive practices that tend to cause the greatest financial harm to the largest number of students. States should therefore subject all unaccredited *and* accredited schools, including schools that are nationally or regionally accredited, to rigorous minimum standards and consumer protection requirements.

2. Increase oversight of schools exclusively offering online/distance education programs.

Although distance education is now the fastest growing segment of higher education, few states have broadened their laws to cover out-of-state schools that exclusively offer distance education. This has left growing numbers of students vulnerable to fraud,

as many of the largest for-profit distance education schools are owned by the same companies that have been the subject of multiple law enforcement investigations. States should protect students by expanding oversight laws to include for-profit schools that exclusively offer online programs. In addition, before signing onto multi-state reciprocity agreements, states should demand that those agreements, at a minimum, allow states to apply their own consumer protections to distance education schools.

3. *Establish and enforce meaningful minimum performance standards as requirements for state approval.*

The ability of a school to produce good results is a clear indication that it is not likely to be engaging in deceptive practices. To protect students from low-quality and deceptive for-profit schools, states should require schools to maintain minimum completion and job placement rates as a condition of state approval. To prevent schools from manipulating and inflating these rates, which has been a common practice, state law should clearly define these rates and mandate that the oversight agency implement a program for auditing them.

4. *Focus increased supervisory and enforcement resources on for-profit schools at risk of deceiving students.*

Many state oversight agencies lack sufficient funding to regulate for-profit schools effectively. Although increasing agency funds is one solution, agencies should also focus their limited resources on for-profit schools that are most likely to harm students. State law should require oversight agencies to develop specific criteria and procedures for identifying and investigating schools that may be engaging in systemic legal violations. The report includes a summary of specific criteria agencies could use to identify problem schools (see page 66).

5. *Require a fair and thorough process for investigating and resolving student complaints.*

Students who are harmed by for-profit schools have few ways to seek relief. As a result, schools rarely face consequences for illegal practices. It is therefore critical that state law require the oversight agency to accept, investigate and resolve student complaints. The report provides a list of key components for a fair and thorough state complaint procedure (see page 67). To ensure it has sufficient investigative resources, state law should also require the agency to expend at least 60% of its budget on investigation and enforcement.

6. *Establish an independent oversight board to increase public accountability.*

States without an independent oversight board should consider establishing one to increase public accountability, and therefore the effectiveness, of the state agency responsible for regulating for-profit schools. Because a public board is in a position to constantly pressure an agency's staff to perform its statutory obligations, the creation of a board may lead to a more effective oversight agency as long as it is not dominated by institutional (school) representatives.

7. Prohibit domination of the oversight board by the for-profit school industry.

State boards dominated by educational institutions can seriously undermine the work of oversight agencies. States should therefore eliminate laws that require or allow the for-profit school industry or educational institutions to comprise the majority of oversight boards. State laws should also require a fair mix of school, employer, student, consumer advocate, public, and law enforcement representatives on oversight boards and prohibit licensed institutions from comprising a majority, including when vacancies exist.

8. Assign responsibility for all for-profit school oversight to one agency with expertise in consumer protection and for-profit business regulation.

The combination of postsecondary education with a profit-seeking enterprise creates a unique oversight challenge. Not only must the regulatory agency have the expertise necessary to evaluate higher education institutions, it must also have the specialized expertise necessary to handle investigations of for-profit businesses and enforce consumer protections. Furthermore, only one agency should oversee all for-profit schools. Spreading oversight among different agencies weakens the state's ability to protect students. States should therefore vest all for-profit school oversight in a single agency with expertise in investigative procedures and consumer protection, as well as higher education.

9. Provide a clear mandate that the state agency's primary duty is consumer protection.

State law must provide a clear mandate that the only or primary purpose of the oversight statute and agency is ensuring educational quality and consumer protection. Conflicting purposes or the failure to state any purpose can cause confusion among staff about an agency's mission, provide the industry with an inappropriate level of influence over the agency, and cause the agency to neglect its consumer protection and oversight role.

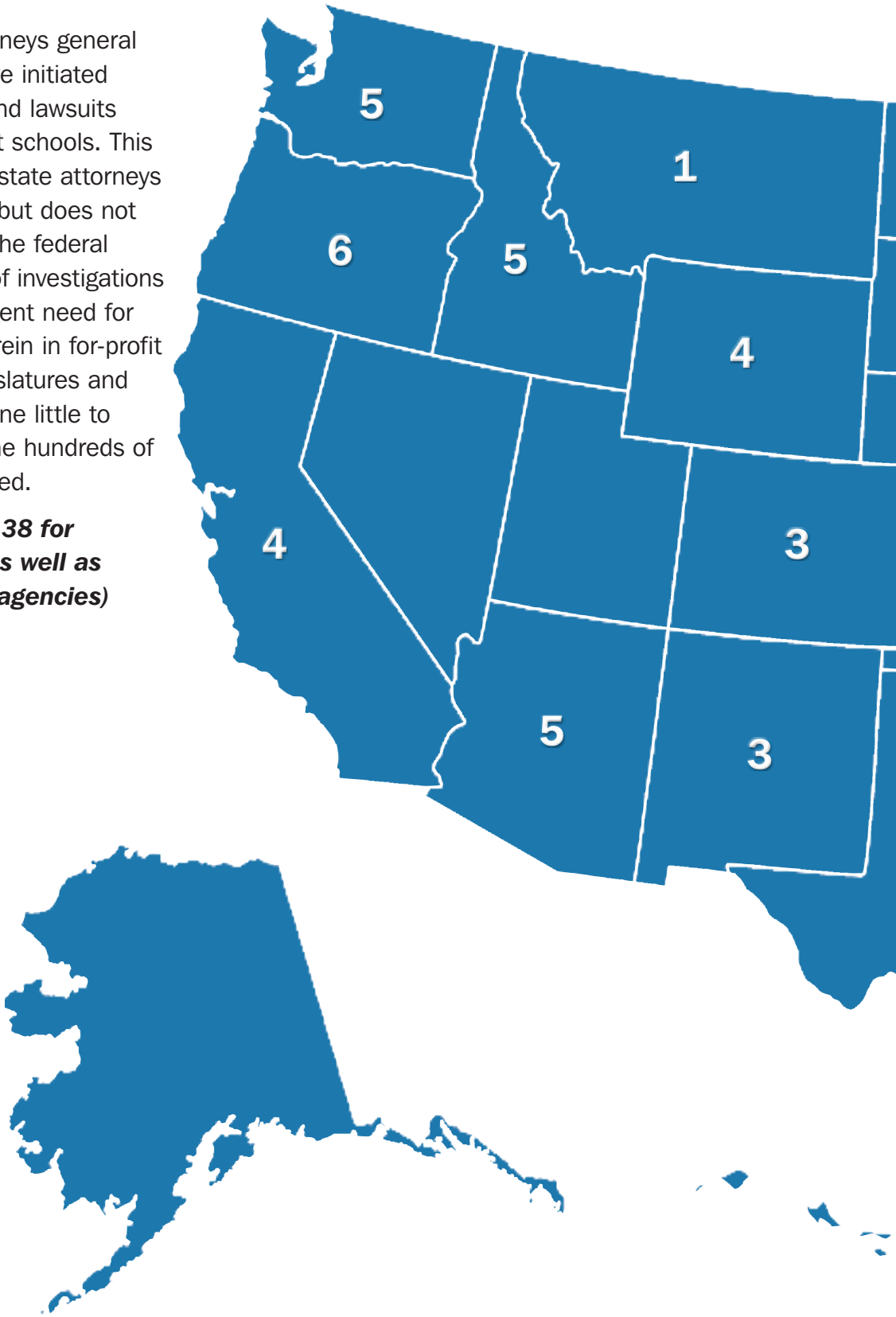
10. Eliminate sunset provisions in for-profit school oversight statutes.

Sunset provisions, which provide for the automatic termination of a statute and oversight agency on a set date unless extended by the state legislature, should be eliminated from for-profit school oversight statutes. They can cause great harm if an agency is terminated. They also give the for-profit industry an opportunity to either water down standards or prevent the extension of a state law and agency. Rather than provide for the automatic termination of an oversight statute, state law should provide for periodic legislative reviews. Legislatures should affirmatively decide that an agency is unnecessary before that agency and its authorizing statute are terminated.

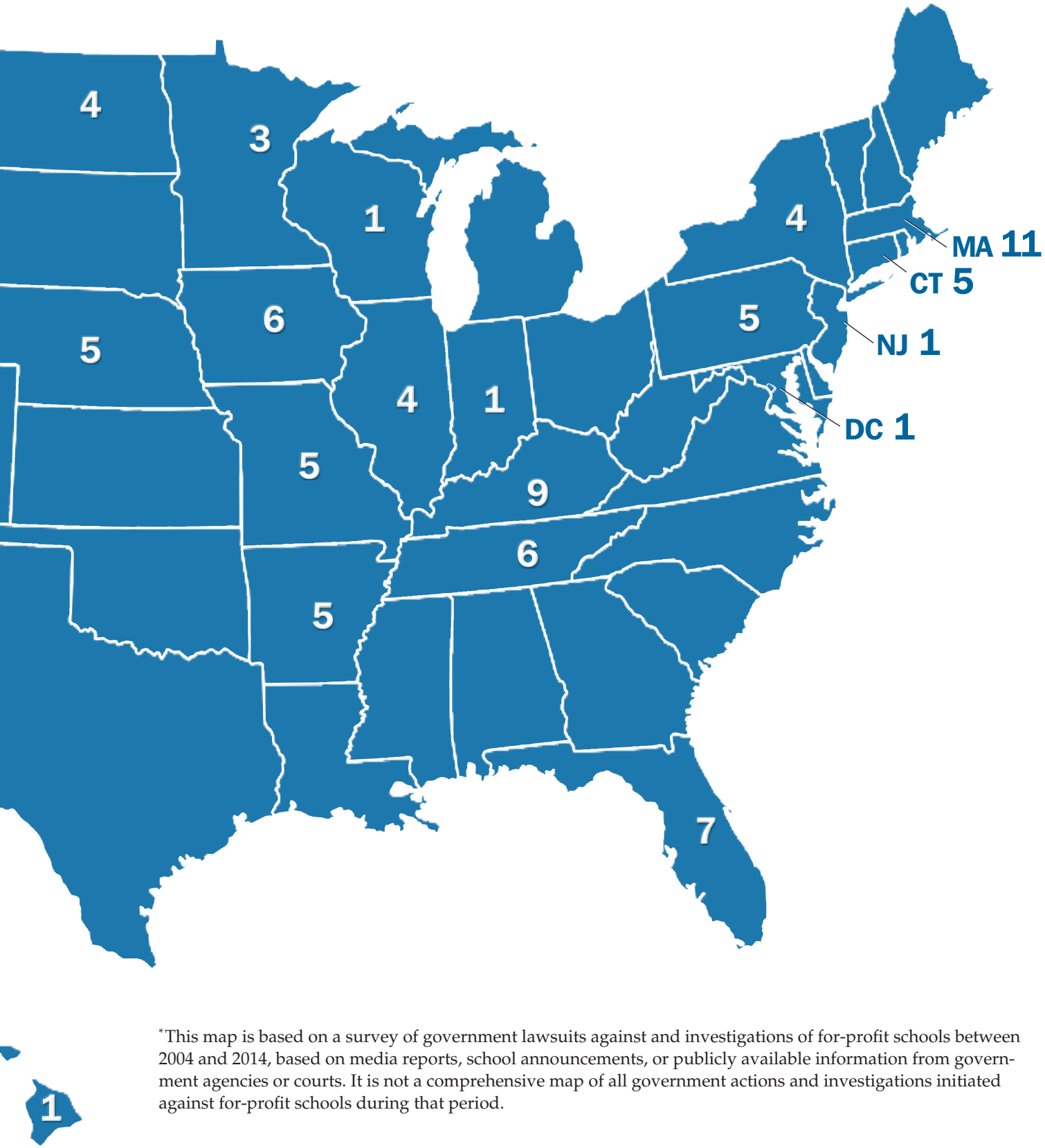
STATE ATTORNEY GENERAL INVESTIGATIONS AND LAWSUITS

Since 2004, 27 state attorneys general and 5 federal agencies have initiated multiple investigations of and lawsuits against accredited for-profit schools. This map shows the number of state attorneys general actions per state,* but does not include information about the federal actions. The high number of investigations and lawsuits shows the urgent need for aggressive state action to rein in for-profit school fraud. Yet state legislatures and oversight agencies have done little to prevent abuses and help the hundreds of thousands of citizens harmed.

(See Appendix A on page 38 for specifics on each state as well as actions taken by federal agencies)



AGAINST FOR-PROFIT SCHOOLS (2004 – MAY 2014)



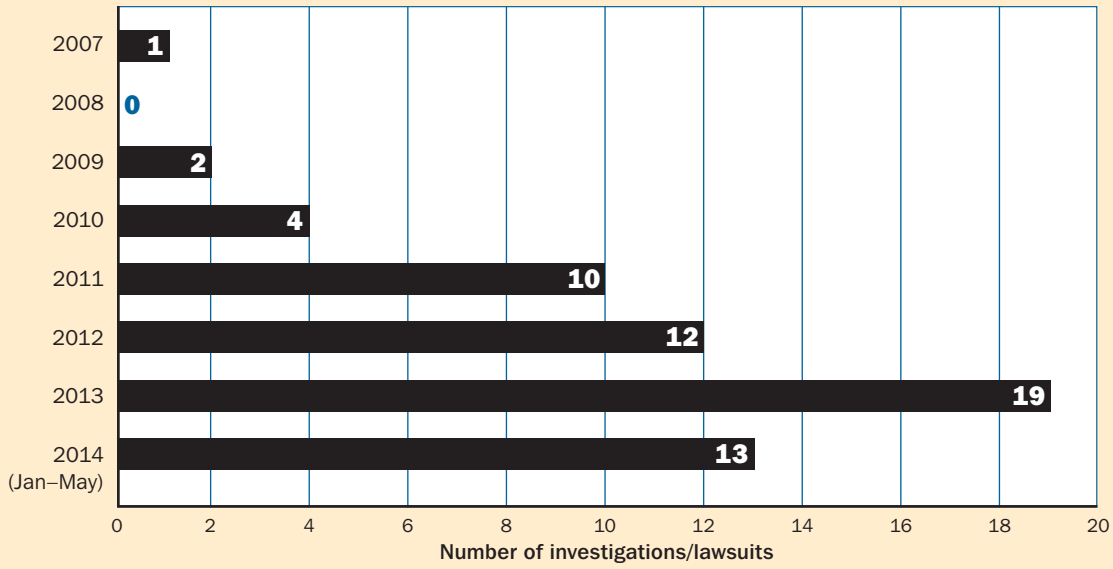
*This map is based on a survey of government lawsuits against and investigations of for-profit schools between 2004 and 2014, based on media reports, school announcements, or publicly available information from government agencies or courts. It is not a comprehensive map of all government actions and investigations initiated against for-profit schools during that period.

INTRODUCTION

The proliferation of recent law enforcement actions demonstrates that many for-profit schools target low-income students with deceptive high-pressure sales techniques. Despite this evidence, state governments continue to neglect their duty to protect students. Since the National Consumer Law Center (NCLC) published its *State Inaction: Gaps in State Oversight of For-Profit Higher Education* report in 2011,[1] most states have failed to strengthen their oversight laws to crack down on illegal conduct in the for-profit industry.

Recent investigations by state and federal authorities have exposed numerous for-profit school abuses, many tied to the rapid increase of student borrowing, the aggressive push for growth, and the proliferation of large Wall Street-backed public companies. In July 2012, the U.S. Senate Committee on Health, Education, Labor, and Pensions (Senate HELP Committee) issued a report that highlighted widespread problems throughout the for-profit higher education sector.[2] Among other findings, the Committee focused on the huge investment of taxpayer dollars in the industry, predatory recruiting, low completion rates, billions of dollars diverted to marketing and executive salaries, and gaming of the regulatory system to maximize profits. State and federal law enforcement actions have also highlighted the industry's common use of high pressure recruiting methods that involve inflated job placement rates and misrepresentations about graduate wages, the transferability of credits, and the employability of graduates in occupations that require licensure.

A Gathering Storm: The Growing Numbers of Government Lawsuits and Investigations Involving For-Profit Schools



Sources: See Appendix A

Protecting consumers from these practices requires more aggressive action by states. The stakes are high. Schools that get away with fraud and deception damage the long-term economic stability of student loan borrowers and their families. Borrowers seeking to better their lives are left with nothing but worthless credentials and mountains of debt. Those who default face a lifetime of ruined credit and the constant threat of wage garnishment, tax refund seizures, and Social Security offsets. In addition, student loan defaults damage credit ratings and impact the ability of borrowers to rent or buy homes, purchase cars, obtain affordable credit, and find employment. Ultimately, by failing large numbers of low-income students, the substandard educations and deceptive practices of for-profit schools are a drag on the larger economy.

The mounting evidence of continued abuses in the for-profit education sector demonstrates the urgent need for stronger state oversight of for-profit schools of *all* kinds: degree and non-degree granting, accredited and unaccredited, brick-and-mortar and online, and small schools and large national chains. This report focuses on how states can do a better job of reining in these abuses and protecting students. It is meant to assist state lawmakers, state agency staff, and student and borrower advocates in their efforts to enact laws and regulations that will increase the effectiveness of the state agencies charged with oversight of the for-profit school industry.

An Unregulated For-Profit School Industry Reinforces Economic and Racial Inequality

A disproportionate number of for-profit school students are low-income students and students of color. For-profit schools also target veterans, working parents, first generation students, and non-English speaking students. These students are more likely than their public or private nonprofit school counterparts to drop out, incur enormous student debt, and default on this debt. By failing to properly regulate for-profit schools, states are failing these students and helping to create a higher education system that reinforces economic inequality.

How For-Profit Schools Are Failing Their Students

FOUR-YEAR COLLEGES	GRADUATION PERCENTAGE WITHIN 6 YEARS	PERCENT OF GRADUATES WITH STUDENT LOANS	AVERAGE STUDENT LOAN DEBT AT GRADUATION	DEFAULT RATE WITHIN FIRST 3 YEARS OF REPAYMENT
For-profit	32%	88%	$39,950	22.8%
Public	57%	66%	$25,550	13.0%
Private	66%	75%	$32,300	8.2%

Sources: U.S. Dept. of Educ., Nat'l Center for Education Statistics, "The Condition of Education 2014," NCES 2014-083 (May 2014); The Institute for College Access & Success, "Quick Facts About Student Debt" (Mar. 2014); and U.S. Dept. of Educ., "National Default Rate Briefings for FY 2011 2-Year Rates and FY 2010 3-Year Rates" (Sept. 30, 2013).

Many low-income for-profit school students have shared their stories with NCLC's Student Loan Borrower Assistance Project. The following description is typical of those we hear from students:

> *"Before I started my education, I was told by the recruiters that all their students found jobs after graduation. They said that they have job placement program that will help you find jobs. . . . [T]he [for-profit school] did not help me find a job like they said. They send out weekly emails with job offers but the jobs are not even in our fields. . . . For the past 3 years, I've been trying to find a job in my field but I have no luck."*
>
> — *K.T., California*

K.T. attended a nationally accredited for-profit school owned by a large publicly traded company. He now owes $59,000 in federal and private student loans.

In the 2011–2012 school year, 28% of African Americans and 15% of Latinos attending four-year institutions enrolled in a for-profit school, compared to 10% of whites.[3] The two top producers of bachelor's degrees for African American graduates in 2011 were for-profit schools: the University of Phoenix (UOP) and Ashford University (offering online programs). Similarly, UOP Online was the second top producer of bachelor's degrees for Latino graduates in 2011–12. Although the UOP Online was the top producer of bachelor's degrees for white graduates, it accounted for only 2% of total white graduates, while the percentages for African Americans (6.4% from UOP and Ashford combined) and Latinos (2.5% from UOP Online) were higher.[4] Because for-profit colleges tend to be more expensive than other schools, African-American and Latino students who attend them become more indebted than their peers at other schools and typically take on more debt than their white counterparts.

How For-Profit Schools Are Failing African American and Latino Students

(4-year Colleges, 2011–2012 School Year)

	SHARE OF EACH GROUP'S TOTAL FOR-PROFIT COLLEGE ENROLLMENT	SHARE OF EACH GROUP TAKING OUT STUDENT LOANS AT FOR-PROFIT SCHOOLS
African American	28%	78%
Latino	15%	79%
White	10%	73%

Top Producers of Bachelor's Degrees and Percentage of Degrees per Race

(2011-2012 School Year)

	#1	#2
African American	University of Phoenix (4%)	Ashford University (2.4%)
Latino	Florida International University (4%)	Univ. of Phoenix Online (2.5%)
White	Univ. of Phoenix Online (2%)	Ohio State University (1%)

Sources: Calculations by NCLC using data from Dept. of Educ., Integrated Post-secondary Education Data System (IPEDS), 12-month enrollment, unduplicated head count, 2011–2012 school year, and number of students receiving bachelor's degrees by race/ethnicity, 2011–12 school year; data from Dept. of Educ., 2011–2012 National Postsecondary Student Aid Study, all federal and non-federal loans excluding Parent PLUS loans; and data from Dept. of Educ., Nat'l Center for Educ. Statistics, Digest of Education Statistics: Advance Release of Selected 2013 Digest Tables, Table 322.20.

Stronger minimum standards and tougher regulation of the for-profit school sector are necessary to protect the poorest Americans who seek college credentials. Some for-profit schools, however, claim that strong oversight penalizes them for providing minority and low-income students with access to educational opportunities. They essentially claim the high default and low-graduation rates result from the demographics of the populations they serve, not from their failure to provide quality educations.

Strong state oversight will not penalize for-profit schools that enroll students of color and low-income students through fair and honest business practices. Instead, we recommend that agencies focus their investigative resources on schools that make false promises and provide inferior educations. The minority and low-income students who attend for-profit schools deserve access to quality educations that provide a real opportunity to succeed. They deserve state oversight agencies that will investigate their complaints and, when violations are discovered, order the school to provide relief and take other appropriate action.

For-profit schools also claim they are no different from private nonprofit schools and should therefore be subject to the same standards. For-profit and nonprofit schools, however, have different legal obligations that lead to different motives and behaviors. Nonprofit schools are charitable organizations that have an obligation to achieve a philanthropic educational mission. They are barred from distributing excess revenues to the individuals who are in control of the school and are required to reinvest excess revenues back into the nonprofit business. For-profit schools, on the other hand, are not so constrained. They have a legal obligation to maximize and distribute profits and owe their highest fiduciary to owners and shareholders.[5] To keep stock prices high and satisfy shareholders, publicly traded companies must demonstrate constant growth in profits.

Between 2000 and 2009, undergraduate enrollment at 4-year degree-granting for-profit schools increased by 470%, while enrollments increased by only 19% at private nonprofit schools and 30% at public schools.

For-profit schools' unique conflict between distributing profits and educating students is demonstrated by the rapid growth of the for-profit education sector during the 2000s. Between 2000 and 2009, undergraduate enrollment at 4-year degree-granting for-profit schools increased by 470%, while enrollments increased by only 19% at private nonprofit schools and 30% at public schools.[6] Enrollments at all for-profit schools increased from 766,000 in 2001 to 2.4 million in 2011.[7] This rapid increase was due, in large part, to the availability of federal financial aid and increasing market domination by regionally and nationally accredited chains, many with stock shares traded on Wall Street. By 2009, at least 76% of the students enrolled in for-profit schools were attending schools that were either publicly traded or owned by private equity firms.[8]

The conflict between serving investors versus serving students is also demonstrated by for-profit education companies' excessive marketing expenditures. The 30 companies investigated by the Senate HELP Committee spent a combined total of 42.1% of all revenue on marketing and profit (22.7% on marketing, advertising, recruiting, and

The 30 for-profit education companies investigated by the Senate HELP Committee spent an average of only $2,050 per student on instruction in 2009, compared to $7,239 at degree-granting public schools and $15,321 at degree-granting nonprofit schools.

admissions staffing; 19.4% on pre-tax profit), while they spent only 17.2% on instruction.[9] The companies spent an average of only $2,050 per student on instruction in 2009, compared to $7,239 at degree-granting public schools and $15,321 at degree-granting nonprofit schools.[10] As just one individual example, Apollo Group, Inc., the owner of University of Phoenix (UOP), spent $2,225 per student on marketing, but only $892 per student on instruction.[11] In December 2012 UOP was spending as much as $380,000 per day on Internet advertising.[12]

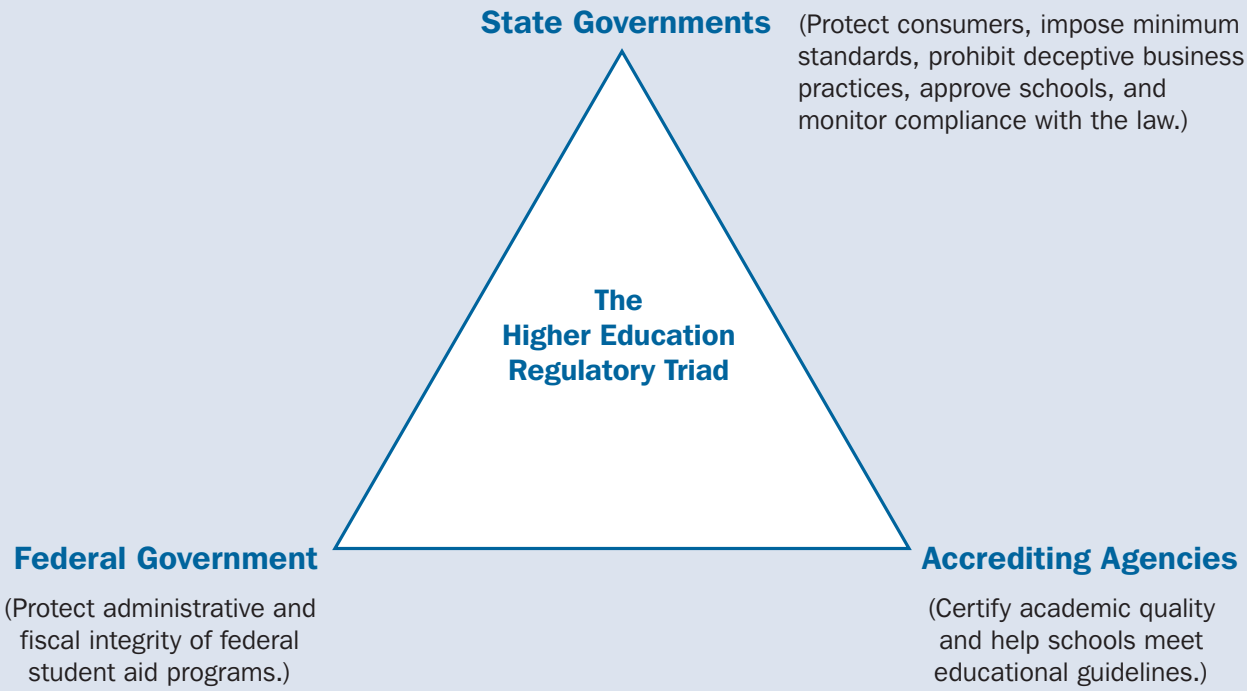
For-profits schools' fiduciary duty to maximize profit and demonstrate consistent growth can cause them to focus on pursuing federal financial aid dollars through increased enrollments rather than on delivering high quality educational programs. Unfortunately, as demonstrated by the proliferation of recent law enforcement actions, this focus on generating ever-growing revenues leads too many schools to engage in deceptive high pressure sales techniques while neglecting their educational mission. Strong state oversight is necessary to counter-balance the incentives created by the legal duty to generate and distribute profits to owners—a duty that does not exist in either the public or private nonprofit education sectors.

States' Neglect of Their Primary Responsibility for School Oversight and Consumer Protection

Title IV of the Higher Education Act (HEA) provides for the regulation of postsecondary institutions through three different entities – the federal government, accrediting agencies, and states.[13] The HEA envisions complementary purposes for each member of this "triad." While the U.S. Department of Education is responsible for "protecting the administrative and fiscal integrity of the federal student aid programs," accrediting agencies are responsible for assuring academic quality.[14] Primary responsibility for approving and overseeing schools and protecting students from abusive for-profit school practices is left to the states.

The HEA does not include any minimum requirements for state consumer protection oversight. Instead, it simply provides that to be eligible for Title IV funding, an institution must be "legally authorized" by the state to provide a program of postsecondary education.[15] Due in part to this lack of specificity, many states have come to view consumer protection as a federal and/or accrediting agency responsibility. As a result, as described in our 2011 *State Inaction* report, many states have abdicated their consumer protection role with respect to for-profit schools.[16]

In 2011, due to concerns about some states' decisions to defer oversight to accrediting agencies, the Department enacted new "state authorization" regulations to ensure that states exercise some level of oversight.[17] In doing so, the U.S. Department of Education reaffirmed that states are "key participants" of the regulatory triad, stating "the States



Source: Rebecca Skinner, *Institutional Eligibility in Title IV Student Aid Programs Under the Higher Education Act: Background and Reauthorization Issues,* Congressional Research Service Report RL33909 (Mar. 9, 2007)

should retain the primary role and responsibility for student consumer protection against fraudulent and abusive practices by some postsecondary institutions."[18]

There is a reason that both Congress and the U.S. Department of Education have explicitly left the student protection role to the states: Neither accreditors nor the federal government are equipped to ensure consumer protection. Accreditation is a voluntary peer-review process that focuses on helping colleges improve when they fail to meet agency guidelines, not on enforcing false advertising and consumer protection laws.[19] The only "enforcement" tool available to an accreditor is de-accreditation, which accreditors rarely use. The federal government focuses on safeguarding taxpayer dollars and administering federal financial aid programs, not on protecting students.

There is a reason that both Congress and the U.S. Department of Education have explicitly left the student protection role to the states: Neither accreditors nor the federal government are equipped to ensure consumer protection.

State governments, on the other hand, are in the best position to monitor the everyday practices of for-profit schools and take action when those schools are harming students. States have the broadest legal authority to do so, are more accountable to the public, and are in closer proximity to the schools. While

some states do a better job of regulating for-profit schools than others, *all* state agencies and oversight laws need improvement. It is only through strong state action that for-profit schools will be held accountable for the deceptive practices that are rampant within the industry.

Powerful For-Profit School Lobby Has Successfully Weakened State Laws and Oversight Agencies

Since NCLC issued the *State Inaction* report in 2011, most state governments have failed to strengthen state for-profit school oversight. This is shocking, given the growing number of government investigations and lawsuits. Why are states unable or reluctant to act?

There may be a number of reasons. But the power of the wealthy for-profit school lobby is certainly one of the factors. The for-profit school industry has spent millions of dollars to fund lobbyist and campaign contributions.[20]

For-profit schools have convinced many state governments to weaken state oversight in a number of ways, including by:

- allowing schools to dominate governing boards and commissions;
- investing oversight in agencies that lack sufficient expertise in regulating for-profit businesses and evaluating higher education institutions;
- enacting sunset provisions providing for the automatic termination of oversight statutes and agencies;
- exempting accredited schools or granting them approval based only on their accreditation;
- exempting schools which exclusively offer online education;
- failing to target stringent standards and sufficient resources towards for-profit schools;
- preventing the collection of adequate fees to fund agency oversight;
- removing well-defined minimum performance standards for continued licensure; and
- preventing agencies from actively investigating student complaints, taking action against schools that violate state law, and providing relief to harmed students.

It is past time for states to reverse this trend and strengthen for-profit school oversight. This report gives ten key recommendations that advocates, lawmakers, and agency staff may use to develop more effective for-profit school oversight agencies, laws, and regulations.

RECOMMENDATIONS

The following ten recommendations can help states to develop stronger for-profit school oversight laws and agencies. If implemented, these changes will deter abuses and make for-profit higher education more accountable to states, students, and taxpayers.

1. *Eliminate Reliance on Accreditation as a Substitute for Oversight and Require All Accredited and Unaccredited Schools to Comply With Minimum Standards and Consumer Protections*

Because accredited schools are the only schools eligible for federal financial aid, it is these schools' deceptive practices that tend to cause the greatest financial harm to the most students. The majority of recent government actions and investigations concerning deceptive for-profit school practices have focused on accredited schools (see Appendix A). For these reasons, states should not limit their oversight to unaccredited for-profit schools. They should subject *all* accredited and unaccredited schools to rigorous oversight and consumer protection requirements, such as refund, cancellation, and student recovery fund provisions.

There are generally two types of institutional accreditation. Historically, regional agencies accredited degree-granting, nonprofit higher education institutions that were mainly academically oriented. They only accredited schools within their geographic regions. National accreditation, in contrast, was not based on geography. National agencies primarily accredited non-degree granting for-profit schools that offered vocational, career, or technical programs.

According to our review of state laws, as of July 2013 at least 33 states applied lenient standards or granted some type of exemption or automatic approval to accredited for-profit schools.[21] Of these, many treat schools accredited by one of the six regional accrediting agencies with greater leniency than unaccredited or nationally accredited schools. In California, for example, the current law exempts all regionally accredited institutions from oversight and most consumer protections.[22] The law further provides for the approval of schools by means of national accreditation, although nationally accredited schools are subject to all minimum standards and consumer protections.[23] Only unaccredited schools are subject to full oversight in California.

State agencies should subject *all* for-profit schools, including both accredited and unaccredited schools, to oversight and strong consumer protection requirements.

States exempt regionally accredited schools based on mistaken assumptions, including that: (1) regional accreditors have rigorous standards and processes; and (2) regionally accredited degree-granting schools are less likely to engage in fraud. Historically the latter may have been true when the for-profit school industry was concentrated in nationally accredited non-degree vocational programs. However, times have changed. Now, for-profit schools are some of the largest regionally accredited degree-granting institutions in the country.[24]

Accredited For-Profit School Leaves Student Worse Off

S. I. from Louisiana attended a regionally accredited for-profit school owned by a large publicly traded company.

"I have been a pharmacy technician for over 20 years. At age 35, I [enrolled in a for-profit school] . . . hoping to earn a better job and a better income. . . . I graduated . . . in April 2010, with a bachelor of business administration degree. . . . Unfortunately, earning my degree has sent my life in a downhill spiral. I have been unable to find employment with my business degree. . . . In addition, I have only been able to find temporary and part time work as a pharmacy technician [and] I have to commute nearly 200 miles for this current job. I can not find work where I live.

[The for-profit school] simply taught text book material. They did not teach the hands on skills needed to find employment, such as MS Excel and analyzing business data. [The school] does not provide assistance with internships [or] job place[ment]. When I notified [my campus] that I was unable to find employement with my . . . degree they did not return my phone calls.

[M]y student loan debt has left a tremendous bruise on my personal life. [My boyfriend] has given me shelter through [my] unemployment and he is the only reason I am not homeless at this point. I . . . spend $400 to $600 monthly [on] my 200 mile commute to my present employer. . . . Sometimes, I try to save money on lodging . . . by sleeping in my car. The loan payment on [the private loan my boyfriend] co-signed . . . is $200 monthly. . . . After these expenses, I have little money for food clothes and medical expenses. If my wages are garnished I will not have money to commute to work. I obviously made a grave mistake going to college and trusting my future with our nation's higher educational system."

Furthermore, accreditation does not provide any guaranty that for-profit schools will refrain from misleading students. As detailed in the 2012 report of the Senate Health, Education, Labor, and Pensions Committee, a number of characteristics incline both regional and national accrediting agencies towards leniency with their member schools.[25] Both are financially dependent on the schools they accredit. Both types of accrediting agencies use a peer review process in which the very people who review schools and decide whether to grant or deny accreditation are elected by and come from other institutions accredited by the same agency. Rather than policing schools' compliance with laws regarding false advertising, recruiting practices, and minimum standards, both types of accrediting agencies focus on helping colleges improve when they fail to meet agency benchmarks. After reviewing the track record of a number of national and regional accrediting agencies, the 2012 Senate HELP Committee report concluded that accrediting agencies' structures and processes expose them to manipulation by institutions that are "more concerned with their bottom line than academic quality and improvement."[26]

Some states are reevaluating their laissez-faire policies due to new state authorization requirements enacted by the U.S. Department of Education in 2011.[27] These regulations explicitly provide that accredited for-profit schools are *not* eligible for Title IV financial aid if they are "exempt from the State's approval or licensure requirements based on accreditation."[28] A school is eligible only if (1) the authorizing state has a process to review and act on complaints about the school; and (2) the school is "approved or licensed by the State to offer programs beyond secondary education."[29] Although the U.S. Department of Education has provided little guidance

on what level of review a state must perform before approving a school, it expects the state "to take an active role in approving an institution and monitoring complaints . . . and responding appropriately."[30]

Despite the Department of Education's intent to require more active state oversight, there is a danger that states will continue to subject accredited for-profit schools to lower standards, fewer or no consumer protections, and little or no review. For example, the California Legislative Analyst's Office recently issued a report recommending that the legislature (1) exempt regionally accredited schools from education program reviews and general operation reviews; and (2) exempt nationally accredited schools from the "education-review components" of the California agency's on-site inspections.[31]

Every single school listed in Appendix A's chart of 61 government investigations and lawsuits is either regionally or nationally accredited. The majority of the alleged abuses in each case occurred while these schools were accredited. Accrediting agencies are clearly not capable of protecting students from abusive marketing and other business practices. State agencies should subject *all* for-profit schools, including both accredited and unaccredited schools, to oversight and strong consumer protection requirements.

2. *Increase Oversight of Schools Exclusively Offering Online/Distance Education Programs*

Distance education is now the fastest growing segment of higher education.[32] While the growth of distance education is inevitable and appropriate in many circumstances,

Largest Online Colleges Involved in Government Investigations
(2004–2014)

NATIONWIDE RANK BY HEADCOUNT	SCHOOL AND OWNER	ONLINE STUDENT HEADCOUNT (2012–2013 SCHOOL YEAR)	NUMBER OF LAWSUITS AND INVESTIGATIONS
1.	University of Phoenix Online, Apollo Group, Inc.	270,000	6
3.	Ashford University, Bridgepoint Education, Inc.	89,000	4
5.	Kaplan University, Kaplan Inc.	48,000	3
11.	DeVry University, DeVry, Inc.	34,000	3
13.	Corinthian Colleges, Inc.	30,000	12
14.	Education Management Corp.	30,000	6
16.	Colorado Technical University Online, Career Educ. Corp.	20,000	5

Source: "Top 20 Online Colleges and Universities by Headcount," www.eduventures.com (Jan. 16, 2013); see Appendix A for information about government investigations and lawsuits.

Lack of State Oversight of Online and Distance Education Programs Leaves Borrowers to Fend for Themselves

In 2010, S.B. had been unemployed for more than six years. A single mother of four living in California, she was attracted to an advertisement about a business associate degree program. The program was offered online by a for-profit school headquartered in Virginia. S.B. called the school and signed an enrollment agreement several days later. After enrolling, S.B. discovered that her home Internet connection did not work well enough for participation in the online program. She informed the college by phone and in writing of her decision to cancel her enrollment agreement. She had never attended a single class or even logged onto the school's website.

In mid–2014, S.B. received a call from a lawyer. The lawyer told S.B. that if she didn't agree to start making monthly payments, her wages would be garnished. S.B. was surprised and discovered that, although she had not been served with any complaint, a default judgment of $3,000 had been entered against her. The plaintiff was a debt buyer that claimed it bought and was enforcing a debt S.B. owed to the college.

Because it has no physical presence in California, the college is exempt from oversight by the Bureau for Private Postsecondary Education. It is also not required to comply with California's 7-day cancellation law, which allows students to cancel within 7 days and receive a 100% refund. In addition, because the college is an accredited school that has existed in Virginia for over 10 years under the same ownership, it is exempt from oversight by the State Council of Higher Education for Virginia. With no oversight agency to which she may address a complaint, S.B. has sought the assistance of a legal aid attorney.

distance education students are equally deserving of state protection from deceptive for-profit school practices. Allowing the for-profit distance education sector to remain unregulated will leave students extremely vulnerable to low quality online programs and fraud. Now that a significant number of students are enrolling in online education programs offered by for-profit education companies, states should expand oversight to include for-profit schools that exclusively offer online programs.

There is no reason to believe that for-profit distance education schools are less likely to engage in the types of deceptive practices used by for-profit brick-and-mortar schools. A majority of distance education schools are owned and operated by the same for-profit school companies that are the subject of multiple law enforcement investigations. The 2012 Senate HELP Committee investigation detailed misleading practices at schools owned by all of these corporations. In addition, both Bridgepoint Education, Inc. and Career Education Corp. have recently entered multi-million dollar settlements with state attorneys general based on allegations that they engaged in unfair and deceptive practices with respect to their online programs (see Appendix A).

Most states have not kept up with the distance education trend. Based on our review of state physical presence requirements, as of July 2013 only nine states regulated degree-granting and non-degree granting for-profit schools that offer distance education but have no in-state physical presence.[33] Twelve other states regulated a subset of schools that offer distance education but have no physical presence.[34] In the days when online programs were non-existent or rare, it was reasonable for states to conclude that distance education oversight was unnecessary. But times have changed.

This lack of state oversight is now leaving large numbers of students more vulnerable to fraud with few remedies. In states where distance education is unregulated, an oversight agency is unlikely to investigate complaints from its own citizens about an out-of-state online school, while an agency in the state of the online school's physical headquarters is unlikely to investigate out-of-state complaints. These students, if harmed, are also likely to be ineligible for reimbursement from state tuition recovery or bond funds from either state (see sidebar on page 18).

The U.S. Department of Education has recognized the risk that the lack of state oversight poses to the federal financial aid program. It is currently considering regulations that would require schools solely offering distance education programs to obtain some type of authorization from each state where the programs are offered.[35] Both states and schools are concerned about the increased compliance burden that such regulations could bring. To reduce this potential burden, the National Council for State Authorization Reciprocity Agreements (NC-SARA) and four higher education regional compacts have drafted cooperative agreements for the purposes of distance education oversight and approval, applicable to accredited degree-granting schools.[36] NC-SARA is a private consortium of state regulators, state higher education executive officers, accreditors, school leaders, and regional higher education compacts. It is a "nationwide coordinating entity" that "assure[s] that the four regional compacts establish uniform standards and procedures" for the reciprocity agreements. [37]

Distance education is now the fastest growing segment of higher education. A majority of distance education schools are owned and operated by the same for-profit school companies that are the subject of multiple law enforcement investigations.

The four State Authorization Reciprocity Agreements (the SARAs) essentially provide that if the state oversight agency where the school is physically headquartered (the "home state") approves a school, then the states where the school offers distance education programs (the "distant states") may adopt the home state's approval as long as the school lacks an in-state physical presence.

As currently drafted, the SARAs largely ignore consumer protection issues and focus instead on easing the "costs and inefficiencies faced by [schools] that must comply with multiple state laws . . . ."[38] Chief among the SARAs' deficiencies is the requirement that distant states waive their consumer protections and minimum standards specifically applicable to for-profit schools.[39] A school offering distance education programs need only comply with the SARAs' minimal standards and disclosure requirements. Although a home state may apply stricter consumer protections to schools that are physically present within its borders, it is unclear whether those consumer protections are exported to cover students in distant states. Even if they are, for-profit schools could avoid strict consumer protections by moving their legal domicile to a state with the most lenient consumer protection and oversight laws. Such forum shopping is not a distant possibility. Recently, a for-profit school obtained approval to operate under South Dakota's lenient oversight laws after Virginia had revoked its approval to operate.[40] Although an

extensive analysis is beyond the scope of this report, a summary of the primary deficiencies of the SARAs is provided in Appendix B.

The SARAs' lack of meaningful standards and consumer protections is not surprising, given that the model language was drafted by a consortium that did not include student, consumer advocate, or state attorney general representation.[41] The serious problems with the SARAs have largely gone unnoticed by state legislatures. As of May 2014, 17 states had passed laws permitting their oversight agencies to enter reciprocity agreements.[42] Six others are currently considering legislation.[43] Five states may not need legislation to join SARA.[44] A total of seven states have already joined SARA.[45] Yet, the SARAs' unbalanced and dangerous provisions are not set in stone. Member states and those that are considering participation could demand that the SARAs be revised in a number of ways to address consumer and state interests. Recommended revisions are summarized in Appendix B.

States should protect the increasing numbers of students enrolling in distance education programs offered by for-profit schools. They should expand oversight to include for-profit schools that exclusively offer online programs. Reciprocity agreements may be useful to states and could enhance oversight, but only if they include strong consumer protections and the opportunity for robust state oversight. To the extent states want to participate in the SARA system, they should enter into reciprocity agreements only if the SARAs are revised to provide state agencies with sufficient authority to protect their citizens.

3. Establish and Enforce Meaningful Minimum Performance Standards as Requirements for State Approval

For-profit schools often inflate completion and job placement rates while misrepresenting the salaries graduates can expect to earn. These deceptive practices are among the most abusive and harmful to students because they go to the heart of students' hopes and dreams, and leave students mired in debt. A primary way that states can protect students from low-quality and deceptive for-profit schools is to require that the schools maintain minimum completion and job placement rates as a condition of state approval to operate.

A primary way that states can protect students from low-quality and deceptive for-profit schools is to require that the schools maintain minimum completion and job placement rates as a condition of state authorization.

Students who enroll in for-profit schools typically do so for only one reason—to obtain higher-paying employment to improve their lives and the lives of their families. Indeed, for-profit schools that participate in federal student aid programs are required by law to provide an eligible program of training to prepare students for gainful employment.[46] For this reason, the for-profit education sector aggressively markets its schools as gateways to employment (see Appendix C). According to the recent complaint filed by the California Attorney General against Corinthian Colleges, Inc., for example, Corinthian's "marketing studies show that student '[e]nrollment largely hinges on selling affordability & [job] placement.' . . . 'Our students come to us primarily to gain skills and find a position that will help them to launch a successful career.'"[47]

7 Years and Counting: Still Searching for Fulltime Job

A.M. from Minnesota attended a regionally accredited for-profit school owned by a publicly traded company. She owes $125,000 in federal and private student loans.

"[My for-profit school] stated a . . . 98% job placement rate . . . In the past 7 years (since graduating) the most I have made at any job was $14/hour (and this was an accounting job, my major was photography). Now I have 4 part time jobs, only one is photography related. . . . I have become hopeless that my loans will ever be at a monthly payment that I can make and still pay for food, gas, and rent. . . . I wish i could tell all of the high school students of the US to research and be careful to check and double check what banks and schools promise, they don't care about you or your well being, they are only in it for themselves and their company."

Despite the need for minimum placement and completion rate standards, there are no nationwide standards in most circumstances. The U.S. Department of Education has recently proposed gainful employment standards, but these new proposed standards do not include minimum placement rates or completion rates. The proposed standards instead focus on program cohort default rates and graduate debt-to-earnings rates. The Department of Education proposes only to require schools that offer career education programs, including all for-profit schools, to disclose completion rates as well as placement rates to the extent a state or accreditor requires the schools to calculate them.[48]

The Department of Education requires minimum placement and completion rates only for a subset of programs with 300 to 600 clock hours of instruction during a minimum of 10 weeks. To be eligible for Direct Loans, those programs must have a completion rate of at least 70% and a job placement rate of at least 70%.[49] A few states have also set minimum performance measures. Tennessee, for example, has a minimum placement rate of 67% and a minimum completion rate of 75%.[50] In 2013, the Wisconsin Education Approval Board considered adopting a minimum placement rate of 60% and a minimum completion and transfer-out rate of 60% based on its statutory authority to enact minimum standards. The Board, however, suspended the committee which was charged with considering these minimum rates. According to media reports, this decision was based in part on pressure from the for-profit school industry.[51]

For minimum completion and placement rates to be effective, state statutes must specifically define (1) which graduates may be counted as completers and (2) what employment may be counted as a placement. The less specific the definitions, the easier it is for schools to manipulate them to their advantage. For example, in a complaint against Corinthian Colleges, Inc., the California Attorney General alleged that two Everest College campuses (owned by Corinthian) placed numerous graduates with temporary agencies (some for only two days of employment), specifically to count them as placements.[52] The Attorney General of Massachusetts made similar allegations in a recent lawsuit against Corinthian, quoting one former employee as stating, "Corinthian's policy is that a student is

In her recent lawsuit against Corinthian Colleges, the Attorney General of Massachusetts quotes one former employee as stating, "Corinthian's policy is that a student is considered 'placed' once that student has been employed for at least one day."

Broken Promises, Broken Dreams

M.K. from Illinois went to a nationally accredited for-profit school owned by a large publicly traded company. She owes $122,000 in private and federal student loans.

"[My for-profit school] promised that after graduation they would help us find a job. I did not complete a 4 year degree to work in the mall and make minimum wage! I am a single mom, make a below tha[n] average living and am struggling each & everyday to make each payment. Since when is it a life long punishment to get an education? Where is the relief . . . ?? The type of job I went to school for has additional requirements that were not provided by my school. . . . They promised the world when enrolling, and in the end every promise was broken."

considered 'placed' once that student has been employed for at least one day."[53] These are just two of many law enforcement actions involving similar allegations (see Appendix A).

For the purpose of calculating job placement rates, except for the programs mentioned previously with 300 to 600 clock hours of instruction for at least 10 weeks, there is no standardized national definition of what employment may be considered a job placement. The U.S. Department of Education has not adopted a standard definition and is unlikely to do so anytime soon: it has left this task to the states and/or accrediting agencies. National accrediting agencies each have their own vague definitions while regional accrediting agencies have no definition because they do not require schools to measure job placement rates.

For the purpose of calculating completion rates, the definition proposed by the U.S. Department of Education for the gainful employment disclosures has a number of flaws that states may improve. As one example, there are four separate completion rates that must be disclosed.[54] Two of the rates are based on full-time students who complete within 100% and 150% of the length of time to completion. The two remaining rates are based on part-time students who complete within 200% and 300% of time to completion. Not only are these rates confusing, but they only include students who receive Title IV financial aid. This will leave out veterans who use only G.I. Bill funds and students who pay their tuition with private loans, institutional loans, state grants or loans, or other funds. The potential result? Misleading and inaccurate completion rates. In addition, minimum completion rates should be based on one measure using the length of time in which students expect to complete. In most cases this will be the amount of time the school represents is necessary for completion. A list of the key components any job placement and completion definition must include is provided in Appendix D.

Precise definitions, however, will not prevent schools from manipulating placement and completion rates. The vast majority of recent law enforcement investigations and actions have included allegations that for-profit schools inflated one or both. Because these rates are self-reported, they must be continuously monitored and audited by oversight agencies to ensure their accuracy.[55] Agencies could randomly audit schools' completion and placement rates or they could target their audits towards schools that pose the most risk to students. They could identify schools most likely to inflate rates by targeting schools with program placement or completion rates higher than the industry average

or by auditing schools with rates above a specific threshold, for example schools with a placement rate of 80% or higher. In addition, schools should be required to maintain substantiating records for at least 5 years, if not longer.

The ability of an institution to produce good results is a clear indication that it is less likely to engage in deceptive practices. It also predicts whether students will receive a valuable education and employment or end up with debt they cannot afford to repay. States should require for-profit schools to maintain minimum completion and job placement rates as a condition of state approval. For such minimum rates to be effective, they must be supplemented by a statutory requirement that oversight agencies audit these rates randomly or by targeting schools with characteristics that indicate they may be inflating their placement or completion rates.

4. *Focus Increased Supervisory and Enforcement Resources on For-Profit Schools at Risk of Deceiving Students*

Many state oversight agencies lack sufficient funding to regulate for-profit schools effectively. Although the most obvious solution is to increase agency funding through increased school fees, this may not be possible in many states. To perform oversight effectively with limited resources, agencies should focus on those schools that are most likely to harm students: for-profit schools.

An enormous amount of evidence demonstrates that the for-profit education sector is the only higher education sector that has a long history of engaging in widespread consumer fraud, a practice which continues to this day (see Appendix A and the 2012 Senate HELP Committee report). Multiple government reports, investigations and lawsuits document for-profit schools' troubling history, beginning with a scathing 1992 report from the Senate Permanent Subcommittee on Investigations finding widespread fraud throughout the for-profit school sector.[56] States ignore this evidence at the peril of the most vulnerable of their citizens: the low-income and minority people who comprise most of the for-profit school student population. Because of its fiduciary duty to generate and distribute profits to investors or owners, the for-profit education sector poses the greatest risk to both students and taxpayers. It is this sector that is most likely to engage in fraudulent and deceptive practices.

Disillusioned and Losing Ground

A.M. from Arizona attended a nationally accredited for-profit school owned by a large publicly traded company. She owes over $100,000 in federal and private student loans.

"I graduated from culinary school . . . I was told chefs make GREAT money, just sign on the line. After several low paying jobs, I found myself pregnant, unemployed, and out of forbearance options. . . . Today, I take care of my two kids, by myself, and am having 25% of my income from my full time employer garnished. I was under the impression that I would be a 'Chef' when I graduated and I would be making good money . . . no one told me it would be YEARS before I made a living wage."

Because of its fiduciary duty to generate and distribute profits to investors or owners, the for-profit education sector poses the greatest risk to both students and taxpayers.

States should therefore target oversight toward for-profit schools, including more stringent standards, review requirements, and consumer protections. Some states have already taken this step.[57] State agencies should also have some procedure for identifying for-profit schools that may be engaging in systemic legal violations. Agencies could use criteria to identify schools that may pose a significant risk to students and target their resources towards monitoring and investigating these schools.

For key criteria an agency should consider, see Appendix E. When a school meets one or more of the criteria, the agency could take a number of actions, including conducting an audit of its placement or completion rates or conducting a more thorough school review, including unannounced site visits or unscheduled program reviews. With shrinking state budgets, it is crucial that states focus their limited resources on for-profit schools, as these are the schools most likely to engage in deceptive and illegal practices.

5. *Require a Fair and Thorough Process for Investigating and Resolving Student Complaints*

Students who are harmed by for-profit schools have limited ways to seek relief. As a result, schools rarely face consequences for illegal practices. Although some state attorneys general have been increasingly active, their ability to address for-profit school abuses is limited; investigations of and actions against for-profit schools are time and resource intensive. Therefore, it is critical that state oversight agencies develop responsive and robust complaint investigation and resolution processes. The state agencies are in the best position to investigate individual complaints, obtain relief for students when a school violates the law, and take appropriate action when a sufficient number of complaints indicate a school is engaging in widespread violations.

No Job but On the Hook for $43,000

G.S. from Iowa attended a nationally accredited school owned by private investors. She owes over $43,000.

"I went to [a for-profit school] to learn how to be a Medical Assistant. . . . After I graduated, the school didn't help me find a job . . . I work for two temp services with limited hours. I have a lot of trouble keeping up with all of the bills. I recently caught up my heating bill. . . . I think that the degree was worthless and didn't help me at all. "

Students harmed by for-profit schools have few options for relief. Attorneys are often unwilling to take their cases due to the widespread use of restrictive arbitration provisions and the lack of private causes of action in oversight statutes.[58] In addition, neither accrediting agencies nor the U.S. Department of Education have responsive or accessible student complaint procedures. Although the federal regulations require that accrediting agencies review student complaints,[59] accrediting agencies rarely initiate adverse actions against for-profit

schools or require them to provide student relief based on complaints. For example, one regional accrediting agency informs complainants: "Remember that the Commission cannot assist you in . . . arranging for a refund of tuition, . . . seeking reinstatement to an academic program, etc."[60] And the U.S. Department of Education does not offer any complaint form or dedicated website that will accept student complaints. Although students may file complaints with the Department's Office of the Inspector General, it does not have any obligation to investigate student complaints nor does it have authority to resolve them.

Given the inadequacy of the complaint processes offered by accreditors and the U.S. Department of Education, the Department has determined that a state process to review and act on complaints is critical to the state's oversight role. The Department views state authorization as a "substantive requirement where the State is expected to take an active role in . . . monitoring complaints from the public . . . and responding appropriately."[61] Therefore, the Department's regulations provide that an institution is "legally authorized" by a state only if the state "has a process to review and appropriately act on complaints concerning the institution. . . ."[62]

It is critical that state oversight agencies develop responsive and robust complaint investigation and resolution processes.

State complaint procedures that *obligate* oversight agencies to review every student complaint and provide for their thorough investigation and resolution are in the best interest of oversight agencies and schools. They allow agencies to discover and take action against those schools that are unfairly competing through illegal activities, promote the credibility of legitimate schools, and help agencies to ensure that schools are meeting minimum statutory standards. In addition, thorough investigation and complaint processes help agencies to target their limited resources towards monitoring and auditing the schools that pose the most risk to students.

Unfortunately, many state agency complaint procedures are deficient. The California Bureau for Private Postsecondary Education is one example. The State Auditor recently issued a report finding that the Bureau for Private Postsecondary Education "consistently failed to meet its responsibility to protect the public's interests," based in part on the Bureau's failure to appropriately respond to student complaints. The State Auditor found that the California Bureau for Private Postsecondary Education:

1. had almost 780 complaints outstanding as of October 2013, and that 546 of these had been outstanding for more than 180 days;
2. failed to prioritize complaints based on their severity so as to ensure that institutions quickly resolved the most serious violations;
3. took an average of 254 days to close complaints; and
4. had closed complaints prematurely, without receiving confirmation that the institutions had resolved the problems in question.

The Auditor had several recommendations, including that "the bureau should work with [the California Department of] Consumer Affairs to establish an investigative training program [in order] t]o ensure that it identifies and obtains sufficient evidence before closing complaints."[63] Many other state agencies have received similar criticisms.[64]

A state statute should require an agency to accept, investigate, and resolve student complaints regarding schools, their employees, and independent recruiters. To ensure an agency has sufficient investigative resources, the statute should also require the agency to expend at least 60% of its budget on investigation and law enforcement. At a minimum, the complaint process should include each of the points described in Appendix F.

The agency should also be required to submit annual reports to its board and the legislature regarding numbers and types of complaints received, average time to resolution, investigative tools used (for example, how many unannounced visits, witness interviews, etc. were conducted in investigations), how the complaints were resolved, and the number and qualifications of investigative personnel compared to the total number of students enrolled in regulated institutions.

6. Establish an Independent Oversight Board to Increase Public Accountability

States without an oversight board should consider establishing one to increase public accountability, and therefore the effectiveness, of the state agency responsible for regulating for-profit schools. Many states have created a board or commission that works with and advises the oversight agency. These boards are typically responsible for deciding whether to approve a school for licensure or take action against a school that has engaged in illegal conduct. They are also charged with promulgating minimum standards and consumer protection regulations.[65] In addition to these statutory functions, a board can continuously pressure an oversight agency to meet its statutory responsibilities. It can also serve as a voice for the agency when it needs additional resources from the state government.

A number of states, however, have not established a board or commission to work with the state agency and make regulatory decisions.[66] Outside of occasional legislative reviews, these agencies have no continuing accountability to any independent public entity. This lack of constant accountability can lead to the neglect of oversight and consumer protection responsibilities. California's for-profit school oversight history demonstrates this problem (see box on next page).

The Need for an Independent Oversight Board: Lessons from California

California's initial law for oversight of for-profit schools provided for an independent board called the Council for Private Postsecondary and Vocational Education.[67] The Council was established in 1990 to protect students from financial aid abuse and dishonest recruitment practices in the for-profit school sector. In a 1995 review, the California Postsecondary Education Commission (CPEC) found that the Council had enforced consumer protection provisions and that complaints against schools had decreased because of the Council's ability "to respond rapidly to the first complaint about an institution and conduct an investigation before repeated or similar complaints occur."[68] While CPEC did specify a number of ways that the Council could improve, it concluded that the Council was one of the most "rigorous regulatory agencies in the nation" and had "made significant headway in the past four years in fulfilling the mission of the" statute.[69]

The Council, however, was abolished in 1997 after the governor vetoed legislation that would have continued its existence.[70] The legislature replaced the independent Council with an agency within the state's Department of Consumer Affairs. Since that time, the legislature has only reviewed the oversight agency once every five years. The entities or individuals who have conducted reviews at the legislature's request have consistently concluded that the California agency has done a poor job of meeting its statutory consumer protection mandate.[71] If the Council had not been abolished in 1997, California might have maintained rigorous and effective oversight of the for-profit school industry.

7. Prohibit Domination of the Oversight Board by the For-Profit School Industry

State boards dominated by educational institutions can seriously undermine the work of oversight agencies. States should not require or allow the for-profit school industry or educational institutions to comprise the majority of oversight boards. States should instead require a fair mix of school, employer, student, consumer advocate, public, and law enforcement representatives on oversight boards. States should prohibit licensed institutions from comprising a majority, including when vacancies exist.

As discussed in Recommendation No. 6, oversight boards are often responsible for deciding whether to approve or take action against schools as well as enacting regulations and standards. Domination of a board by industry can therefore seriously undermine a state agency's ability to regulate for-profit schools and protect consumers. When a majority of

Board Domination by Industry: Wisconsin's Inability to Enact Minimum Performance Standards

In 2012, Wisconsin's Educational Approval Board appointed an advisory committee to study whether it should impose minimum performance standards at the recommendation of the Board's staff.[72] The standards would have required schools to maintain a 60 percent combined graduation and transfer rate as well as a 60 percent graduate job placement rate. In March 2013, however, the Board decided to suspend the committee after it had met only one time. According to media reports and the meeting minutes, this decision was based on the request of an advisory committee member who cited "concerns expressed by a number of schools and other stakeholders" and asked the Board "to work in a more cooperative atmosphere" with for-profit schools.[73] At the time, one of the Board seats was vacant and three members had just been appointed by the governor. Three members were affiliated with for-profit schools, two were affiliated with public institutions, and one member was a business consultant.[74] Lacking any consumer, student, or law enforcement representation, it is not surprising that the Board did not have the stomach to enact standards that might have put some for-profit schools out of business.

a board's members represent the interests of educational institutions, it is unlikely to take any adverse action against a school or enact stringent standards or regulations. A recent decision of the Wisconsin Education Approval Board illustrates this point (see sidebar).

As highlighted in NCLC's 2011 *State Inaction* report, Wisconsin is not alone. Many other state oversight boards are also dominated by for-profit school industry representatives. **Some states even require that a majority of the members of a regulatory board come from the industry.**[75] Other states allow the governor and/or the legislature to appoint members without any statutory limits to the number of industry representatives that may be appointed.[76] Even when those limits exist, industry may still dominate when board openings are left vacant.

To create an effective oversight agency, states should not require or allow educational institutions to dominate oversight boards. They must also ensure that licensed institutions do not comprise a majority, even when vacancies exist.[77] When boards do not include a fair mix of all stakeholders—with school, employer, student, consumer advocate, public and law enforcement representatives—the oversight agencies will likely be crippled by the interests of the for-profit school industry.

8. Assign Responsibility for all For-Profit School Oversight to One Agency with Expertise in Consumer Protection and For-Profit Business Regulation

The combination of postsecondary education with a profit-seeking enterprise creates a unique oversight challenge. Not only must the regulatory agency have the expertise necessary to evaluate higher education institutions, it must also have the specialized expertise necessary to handle investigations of for-profit businesses and enforce consumer protections. Furthermore, only one agency should oversee all for-profit schools. Spreading oversight among different agencies, none of which has all the components of the necessary expertise, weakens the state's ability to protect students from schools that provide inferior educations and engage in deceptive practices.

Too many state agencies charged with oversight of for-profit schools have no experience conducting investigations of for-profit businesses and enforcing consumer protections. In some states, the agencies charged with oversight are also charged with setting priorities for the entire state higher education system.[78] In other states, the oversight agency is also charged with serving as a financial aid resource for students,[79] overseeing both elementary and secondary education,[80] or developing a skilled workforce and administering federal workforce development funds.[81] In one state, the Secretary of State is charged with oversight.[82]

Agencies that do not combine expertise of higher education *and* for-profit business oversight are typically ill-equipped to investigate and take action against unscrupulous for-profit schools. Such agencies often lack staff with expertise and training in:

1. false advertising and unfair and deceptive practices laws applicable to for-profit businesses,
2. law enforcement and investigation methods, and
3. due process and administrative law requirements applicable to proceedings against regulated businesses.

To more effectively protect students from low-quality and deceptive for-profit schools, states should vest all for-profit school oversight in one state agency. This agency should have expertise in higher education, investigative procedures, and consumer protection.

In addition, some states split oversight of for-profit degree-granting and non-degree granting schools between two different state agencies.[83] States often base this decision on the mistaken rationale that regionally accredited for-profit schools that grant degrees need less oversight. Because both types of schools warrant the same level of oversight and both agencies should have the same type of expertise, splitting oversight is inefficient and often leads to weaker oversight of degree-granting schools.

To effectively prevent the operation of low-quality and deceptive for-profit schools, states should vest all for-profit school oversight in one state agency with expertise in investigative procedures and consumer protection, as well as higher education.

9. Provide a Clear Mandate that the State Agency's Primary Duty is Consumer Protection

State law must provide a clear mandate that the only or primary purpose of the oversight statute and agency is ensuring educational quality and consumer protection. Conflicting purposes or the lack of any stated purposes can cause confusion among staff about an agency's mission. It can also provide the industry with an inappropriate level of influence over the agency and cause the agency to neglect its consumer protection and oversight role.

Some statutes, for example, provide that the oversight agency has an equal purpose of protecting or encouraging for-profit schools. For example, the **Florida** statute contains conflicting legislative intentions for the Commission for Independent Education, including to aid in both: (1) "protecting independent postsecondary educational institutions"

and (2) "protecting the health, education, and welfare of persons who receive educational services from independent postsecondary educational institutions."[84]

The **Utah** Postsecondary Proprietary School Act states that it is the "policy of the state" to: (1) "encourage private postsecondary education;" (2) "avoid unnecessary interference by the division with internal academic policies and management practices of" institutions; and (3) "protect students and potential students from deceptively promoted, inadequately staffed, and unqualified proprietary institutions and programs."[85] Other statutes are silent on the purposes of the statute or the agency.[86]

And, although the **Texas** Workforce Commission (the TWC) is charged with oversight of private postsecondary schools, this is not its primary mission. It is also responsible for administering unemployment benefits, overseeing community colleges, addressing employment-related civil rights claims, and working with the for-profit industry to develop a skilled workforce.[87] Given this long list of disparate responsibilities, it is not surprising that in 2011 the TWC was caught unprepared when a local news outlet revealed that schools owned by ATI Enterprises, Inc. lied about job placement rates.[88] Only after receiving harsh public criticism did the TWC take action against ATI.

Unlike these states, other state statutes provide a clear consumer protection mandate. The **California** statute, for example, provides that "the protection of the public shall be the [Bureau for Private Postsecondary Education's] highest priority. If protection of the public is inconsistent with other interests to be promoted, the protection of the public shall be paramount."[89]

10. Eliminate Sunset Provisions In For-Profit School Oversight Statutes

State legislatures occasionally insert sunset provisions in statutes. A sunset provision automatically repeals the statute on a set date unless the legislature takes action to extend it. In a few states, sunset provisions provide for the automatic termination of the for-profit school oversight statute and agency on a set date unless extended by the state legislature. Sunset provisions regarding oversight of for-profit schools are unnecessary and can cause great harm to students. [90]

There are a number of reasons sunset provisions are unnecessary and counterproductive. In most circumstances, a legislature may review an agency and repeal legislation at any time, whether or not a sunset provision exists. If a legislature would like to ensure a periodic review, it can do so without providing for the automatic termination of a statute.

It is the automatic termination provision that puts pressure on an agency to keep the for-profit school industry happy. Because the industry lobby has enormous influence with state legislators, agencies that actively investigate and take action against schools are at risk of disappearing every time the sunset date approaches. For this reason, the industry views sunset provisions as opportunities to push for the revocation of strong consumer protections and standards.

In addition, when a statute sunsets, students are left unprotected. If a new law is eventually enacted, a subsequent agency must hire and train staff, draft regulations, and start operations from scratch – a process that can take years and leave students unprotected for even longer periods of time. California's statute, for example, expires every five years unless the legislature decides to extend the sunset date.[91] In 2007, the for-profit school industry mounted a successful assault on what was once the toughest for-profit school oversight statute in the country.[92] The statute expired, the agency was terminated, and a new law did not go into effect until January 1, 2010.[93] For over two years, California for-profit school students were left without consumer protections, without an oversight agency to investigate complaints, and without access to a student tuition recovery fund in the event of school closure, among other things. According to a recent audit, the new California agency has been slow to enact regulations, has taken a year or longer to process complaints, and has failed to prioritize complaints regarding practices that put students at risk.[94]

Sunset provisions regarding oversight of for-profit schools are unnecessary and can cause great harm to students.

For these reasons, sunset provisions should be eliminated from for-profit school oversight statutes. They serve little purpose other than providing the for-profit industry with an opportunity to either water down standards or prevent the extension of an agency's existence. Rather than provide for the automatic termination of an oversight statute, legislatures should provide for periodic reviews and affirmatively decide that an agency is unnecessary before that agency and its authorizing statute are terminated.

CONCLUSION—WHAT'S NEXT?

The need for aggressive state action and strong oversight of for-profit schools is urgent. States' laissez-faire attitude to for-profit school oversight must end. It is time for states to face the facts, both for the sake of protecting students and taxpayers and for the sake of creating a healthy economy. Strong state laws and active oversight agencies are needed to counterbalance the for-profit industry's fiduciary duty to produce and distribute profits to investors. Without strong laws and agencies, students and their families will continue to suffer the long-term economic consequences of deceptive recruitment techniques and inferior educations.

Change is possible, but it will not come without the coordinated efforts of local stakeholders: the for-profit school students and graduates themselves; student and consumer advocates; nonprofit organizations that provide services to the non-traditional students who typically attend for-profit schools; and state attorneys general. If state lawmakers and agency staff are to take on the powerful for-profit school lobby, they need the backing of a coalition of advocates who are knowledgeable about these complex issues and committed to a long-term strategy for change.

This report and its detailed recommendations are intended to help local advocates who seek change. We also hope that it will spur states and oversight agencies to recommit themselves to protecting their citizens from being preyed upon by unscrupulous for-profit schools.

ENDNOTES

1. National Consumer Law Center, *State Inaction: Gaps in State Oversight of For-Profit Education* (Dec. 2011), available at: http://www.nclc.org/special-projects/state-inaction-gaps-higher-education.html.
2. U.S. Senate, Health, Educ., Labor and Pensions Comm., *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, S. Rpt. 112-37 (July 30, 2012) available at: http://www.help.senate.gov/imo/media/for_profit_report/PartI.pdf.
3. Calculations by NCLC using data from Dept. of Educ., Integrated Post-secondary Education Data System (IPEDS), 12-month enrollment, unduplicated head count, 2011–2012 school year.
4. Calculations by NCLC using data from Dept. of Educ., Integrated Post-secondary Education Data System (IPEDS), number of students receiving bachelor's degrees by race/ethnicity, 2011–2012 school year; and data from Dept. of Educ., Nat'l Center for Educ. Statistics, Digest of Education Statistics: Advance Release of Selected 2013 Digest Tables, Table 322.20.
5. *See* Robert Shireman, *Perils in the Provision of Trust Goods: Consumer Protection and the Public Interest in Higher Education* (May 2014).
6. Nat'l Center for Educ. Statistics, U.S. Dept. of Educ., "The Condition of Education 2013," NCES 2013-037 at 62 (May 2013).
7. U.S. Senate, Health, Educ., Labor and Pensions Comm., *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, S. Rpt. 112-37 at 31 (July 30, 2012).
8. *Id*. at p. 1.
9. *Id*. at p. 5.
10. *Id*. at p. 87; Nat'l Center for Educ. Statistics, U.S. Dept. of Educ., "The Condition of Education 2012," NCES 2012-045 at 105 (May 2012).
11. U.S. Senate, Health, Education, Labor and Pensions Comm., *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, S. Rpt. 112-37 at 87 (July 30, 2012).
12. Kevin Chen, "How For-Profit Colleges Ace Marketing and Flunk Education," *The Motley Fool* (Dec. 4, 2012).
13. 20 U.S.C. § 1001(a).
14. Rebecca Skinner, *Institutional Eligibility in Title IV Student Aid Programs Under the Higher Education Act: Background and Reauthorization Issues*, Congressional Research Service Report RL33909 at CRS-11 (Mar. 9, 2007).
15. 20 U.S.C. § 1001(a)(2).
16. National Consumer Law Center, *State Inaction: Gaps in State Oversight of For-Profit Education* (Dec. 2011).
17. 75 Fed. Reg. 34806-02, 34813 (June 18, 2010) ("we are concerned that some States are deferring all, or nearly all, of their oversight responsibilities to accrediting agencies. . . . [W]e are concerned that the checks and balances provided by the separate processes of accreditation and State legal authorization are being compromised.").
18. 75 Fed. Reg. 66832-01, 66858 (Oct. 29, 2010).
19. U.S. Senate Comm. on Health, Educ., Labor & Pensions, *For-Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success* at 122, 125, 126 (July 30, 2012).
20. *See, e.g.*, Chris Kirkham, "Auction 2012: For-Profit Colleges Win When Lobbying Blitz Weakens Regs," *Huffington Post*, www.huffingtonpost.com (Feb. 3, 2012).
21. These states are Alabama, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Kansas, Louisiana, Mississippi, Missouri, Montana,

Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Ohio, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin. See National Consumer Law Center, *Student Loan Law,* Appx. M (Supp. 2013).

22. Cal. Educ. Code §§ 94874(i) (exemption WASC-accredited schools) and 94874.1 (exempting all non-WASC regionally accredited schools from the statute, except for the student tuition recovery fund provisions). *See also*, N.M. Stat. Ann. §§ 21-23-4, 21-23-6.
23. Cal. Educ. Code § 94890.
24. *See* Nat'l Center for Educ. Statistics, U.S. Dept. of Educ., "Digest of Education Statistics 2012," NCES 2014-015, Table 276 at p. 283 (Dec. 2013) (Univ. of Phoenix, Online Campus and Ashford University the largest degree-granting institutions in the country).
25. U.S. Senate, Health, Education, Labor & Pensions Comm., *For-Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, S. Rpt. 112-37 at 122-129 (July 30, 2012).
26. *Id*. at p. 123.
27. Institutions must comply with the new state authorization requirements by July 1, 2014. U.S. Dept. of Educ., State Authorization Regulations Effective Date Extension–Final Year, Dear Colleague Letter GEN-13-04 (Jan. 23, 2013).
28. 34 C.F.R. § 600.9(a)(1)(ii)(B).
29. 34 C.F.R. §§ 600.9(a)(1), (a)(1)(ii)(A).
30. 75 Fed. Reg. 34806-01, 34813 (June 18, 2010).
31. Mac Taylor, Legislative Analyst's Office, *Oversight of Private Colleges in California* at 17 (Dec. 2013).
32. Office of the Inspector General, Dept. of Educ., *Title IV of the Higher Education Act Programs: Additional Safeguards are Needed to Help Mitigate the Risks That are Unique to the Distance Education Environment*, ED-OIG/A07L0001 at 4, 6 (Feb. 2014).
33. These states are Alabama, Georgia, Indiana, Kansas, Montana, South Dakota, Utah, Wisconsin, and Wyoming. *See* National Consumer Law Center, *Student Loan Law*, Appx. M (Supp. 2013).
34. These states are Arkansas, Delaware, Iowa, Kentucky, Minnesota, Nebraska, New Jersey, Oklahoma, Rhode Island, Texas, Virginia, Washington. *See id*.
35. 78 Fed. Reg. 69612 (Nov. 20, 2013).
36. National Council for State Authorization Reciprocity Agreements, "State Authorization Reciprocity Agreements: Policies and Standards" at 1 (Feb. 10, 2014).
37. National Council for State Authorization Reciprocity Agreements, "The Evolution of SARA," available at http://nc-sara.org/about/evolution-sara (last accessed on June 7, 2014).
38. Commission on Regulation of Postsecondary Distance Education, "Draft Findings, Principles, and Recommendations" at 1 (Dec. 6, 2012).
39. National Council for State Authorization Reciprocity Agreements, "State Authorization Reciprocity Agreements: Policies and Standards" (Feb. 10, 2014). All four regional SARAs include these provisions, unless otherwise noted, and are available at each of the following websites: www.wiche.edu, www.mhec.org, www.nebhe.org, www.sreb.org.
40. Dirk Lammers, "Troubled Virginia University's Website Removes References to South Dakota Campus," *The Republic* (Mar. 6, 2014).
41. Commission on the Regulation of Postsecondary Distance Education, "Advancing Access through Regulatory Reform: Findings, Principles, and Recommendations for the State Authorization Reciprocity Agreement" at 32–33 (April 2013). For the members of each of the regional compacts, see www.wiche.edu, www.mhec.org, www.nebhe.org, www.sreb.org.

42. *See* National Council for State Reciprocity Agreements, State Actions Regarding SARA (as of May 22, 2014) (Alaska, Arizona, Colorado, Hawaii, Indiana, Iowa, Kansas, Minnesota, Nebraska, Nevada, New Hampshire, North Dakota, Oregon, South Dakota, Utah, Virginia and Washington have passed legislation), available at http://nc-sara.org/content/sara-state-status.
43. *Id*. (Connecticut, Illinois, Louisiana, Missouri, Ohio, and Vermont).
44. *Id*. (Arkansas, Idaho, Montana, North Carolina, and Oklahoma).
45. *Id*. (Alaska, Colorado, Idaho, Indiana, Nevada, North Dakota, and Washington).
46. 20 U.S.C. § 1002(b).
47. Complaint for Civil Penalties, Permanent Injunction, and Other Equitable Relief, The People of the State of California v. Corinthian Colleges, Inc., et al., Superior Court for the State of California, County of San Francisco, Case No. CGC-13-534793 (Oct. 10, 2013).
48. 79 Fed. Reg. 16426, 16512 (Mar. 25, 2014) (proposed 34 C.F.R. § 668.412(a)(8)).
49. 34 C.F.R. § 668.8(d)(3) (applicable only to propriety institutions or postsecondary vocational institutions).
50. Division of Postsecondary School Authorization, Tennessee Higher Educ. Commission, "Initial Authorization Training" (Apr. 2014).
51. Paul Fain, "Aftermath of for-profit fight in Wisconsin," www.insiderhighered.com (July 3, 2013).
52. Complaint for Civil Penalties, Permanent Injunction, and Other Equitable Relief, The People of the State of California v. Corinthian Colleges, Inc., et al., Superior Court for the State of California, County of San Francisco, Case No. CGC-13-534793 (Oct. 10, 2013).
53. Complaint, Commonwealth of Mass. v. Corinthian Colleges, Inc., et al., Trial Court of Mass., Superior Court Department, Suffolk County, Docket No. 14-1039L (Apr. 4, 2014).
54. 79 Fed. Reg. 16426, 16513-14 (proposed 34 C.F.R. § 668.413(b).)
55. *See* National Consumer Law Center, *Making the Numbers Count: Why Proprietary School Performance Data Doesn't Add Up and What Can Be Done About It* (June 2005).
56. U.S. Senate, Health, Educ., Labor and Pensions Comm., *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, S. Rpt. 112-37 at 13 (July 30, 2012). For other information about past abuses, see National Consumer Law Center, *Student Loan Law* chs.1, 12 (4th Ed. and Supp.) (last visited June 7, 2014); available at: http://shop.consumerlaw.org/studentloanlaw.aspx.
57. *See, e.g.*, Md. Code Ann., Educ. §§ 11-202.1, 11-204; Mass. Regs. Code tit. 610, §§ 2.05, 2.07(4); N.Y. Educ. Law § 5001(4)(f) and N.Y. Comp. Codes R. & Regs., tit. 8, § 3.58.
58. *See* Stephen Burd, "Signing Away Rights," www.insidehighered.com (Dec. 17, 2013).
59. 32 C.F.R. § 602.23.
60. *See* Higher Learning Commission of the North Central Association of Colleges and Schools, "Complaints Against an Affiliated Institution: Instructions for Filing a Complaint with the Commission," www.ncahlc.org/Information-for-the-Public/complaints.html (last visited Feb. 22, 2014).
61. 75 Fed. Reg. 34806-01, 34813 (June 18, 2010).
62. 34 C.F.R. § 600.9(a)(1).
63. California State Auditor Report 2013-045 at 3, 4, 31 (Mar. 18, 2014).
64. *See, e.g.*, Steve York, "Audit finds problem with agency overseeing 'for-profit' schools," www.wave3.com (Apr. 20, 2011) (Kentucky State Board for Proprietary Education); Scott Travis, "Audit: Florida board lax in overseeing for-profit colleges," *Florida Sun Sentinel* (May 1, 2011) (audit of the Florida Commission for Independent Education).

65. *See, e.g.*, Ariz. Rev. Stat. Ann. §§ 32-3003, 32-3021, 32-3051 to 32-3057; Ky. Rev. Stat. Ann. §§ 165A.340, 165A.360, 164A.390, 165A.400; Neb. Rev. Stat. §§ 85-2404 to 2406, 2412 to 2421; Nev. Rev. Stat. §§ 394.411 to 394.421, 394.460, 394.490 to 394.530; N.D. Cent. Code Ann. § 15-20.4-03; 24 Pa. Cons. Stat. Ann. §§ 6504, 6513; Wis. Stat. § 38.50.
66. *See, e.g.*, Ala. Code § 16–46–5; Cal. Educ. Code § 94875.
67. *See* California Postsecondary Education Commission, "The Effectiveness of California's Oversight of Private Postsecondary and Vocational Education," Commission Report 95-13 at 1 (Oct. 1995).
68. *Id*. at p. 10.
69. *Id*. at pp. 6, 9, 10.
70. California Postsecondary Education Commission, "Proposed Changes in State Oversight of Private Postsecondary and Vocational Education," Working Paper WP/05-05 at 2 (Dec. 2005).
71. *See, e.g.*, California State Auditor Report 2013-045 at 1 (Mar. 18, 2014); Benjamin Frank, "Initial Report of the Operations and Administrative Monitor, Bureau for Private Postsecondary and Vocational Education" at ES-8 to ES-10 (Sept. 26, 2005).
72. Minutes, Educational Approval Board Meeting (March 19, 2013); Paul Fain, "Aftermath of For-Profit Fight in Wisconsin," www.insidehighered.com (July 3, 2013).
73. Paul Fain, "Aftermath of For-Profit Fight in Wisconsin," www.insidehighered.com (July 3, 2013); Minutes, Educational Approval Board Meeting (March 19, 2013).
74. Don Madelung is the President of the Madison Media Institutes (2013–2014 Madison Media Institute Catalog); Katie Thiry is a professor at the Forbes School of Business of Ashford University (www.ashford.edu); William Roden is a faculty member of California Southern Law School (www.calsouthern.edu); Monica Williams was a specialist affiliated with Fox Valley Technical College (EAB Press Release, "Governor Appoints Monica Williams to the EAB" (Feb. 5, 2004)); Jo Oyama-Miller is a business consultant married to a state legislator (EAB Press Release, "Governor Appoints Jo Oyama-Miller to the EAB" (Sept. 9, 2005)); and Robert Hein is a math professor at the University of Wisconsin (rock.uwc.edu).
75. *See, e.g.*, Ariz. Rev. Stat. Ann. § 32-3002(A) (5 of 7 Board of Private Postsecondary Education members must hold managerial or executive positions at licensee institutions); Fla. Stat. § 1005.21(2) (4 of 7 Commission for Independent Education members must represent licensee institutions); 24 Pa. Cons. Stat. § 6503(a) (9 of 15 Board of Private Licensed Schools members must represent licensee institutions).
76. *See, e.g.*, Ark. Code Ann. § 6-51-605 (governor to appoint 4 persons from the general public to seven member Board of Private Career Education); Ky. Rev. Stat. Ann. § 165A.340(1) (4 of 11 Commission on Proprietary Education members must represent licensee institutions; 4 from the "public at large" must have a "background in education, business or industry"); Wis. Stat. § 15.945 (7 members of Educational Approval Board appointed by governor need only have "demonstrated interest in education programs").
77. *See, e.g.*, Alaska Stat. 14.42.015(b) (prohibits appointment of "governing body member, trustee, official, or employee" of postsecondary institution as any of the four public members of the Commission on Postsecondary Education).
78. *See, e.g.*, Kan. Stat. Ann. §§ 74-3201a to 74-3202d, 74-32,163 to 74-32,184 (Kansas Board of Regents); La. Rev. Stat. Ann. §§ 17:3121 to 17:3127; 17:3141.2 to 17:3141.19 (Louisiana Board of Regents); and Md. Code Ann., Educ. §§ 11-105, 11-201 to 11-208 (Maryland Higher Education Commission).
79. *See, e.g.*, Iowa Code §§ 261.1, 261B.2–261B.12, 714.18 (Iowa Student Aid Commission).

80. *See, e.g.,* N.Y. Educ. Law §§ 101, 5001 to 5010 (New York State Education Department); Pa. Cons. Stat. Ann. § 6501 to 6509 (Pennsylvania Department of Education); Vt. Stat. Ann. tit. 16, §§ 164, 175 to 177 (Vermont Board of Education).
81. *See, e.g.,* Ind. Code §§ 22-4-18.1-3, 22-4.1-21-9 (Indiana Workforce Innovation Council); Wash. Rev. Code §§ 28C.10.010 to 28C.10.902 (Washington Work Force Training and Education Coordinating Board).
82. S.D. Codified Laws §§ 13-48-34 to 13-48-41.
83. *See, e.g.,* Ark. Code Ann. §§ 6-51-601 to 6-51-623, 6-61-201 to 6-61-305; Colo. Rev. Stat. §§ 12-59-101 to 12-59-128, 23-2-101 to 23-2-105; 105 Ill. Comp. Stat. 426/1 to 426/999, 110 Ill. Comp. Stat. 1005/1 to 1005/15.
84. Fla. Stat. § 1005.01.
85. Utah Code Ann. § 13-34-102.
86. *See, e.g.*, Ariz. Rev. Stat. Ann. §§ 32-3001 to 32-3077; Conn. Gen. Stat. §§ 10a-22a to 10a-22y; N.Y. Educ. Law §§ 5001 to 5010.
87. Tex. Educ. Code Ann. §§ 132.001 to 132.306; Tex. Labor Code Ann. §§ 301.001, 301.152.
88. Kelly Field, "Career Colleges Are Accused of Job-Placement Fraud," *The Chron. of Higher Educ.* (Nov. 13, 2011)
89. Cal. Educ. Code § 94875.
90. *See, e.g.*, Colo. Rev. Stat. §§ 24-34-104, 24-59-128 (providing for sunset review of many state agencies, including the Private Occupational School Board); Texas Sunset Advisory Commission, "Sunset in Texas" (2013-15) (explaining required sunset review of 130 state agencies, including the Texas Workforce Commission, every 12 years); Cal. Educ. Code § 94950 (California Private Postsecondary Education Act of 2009, repealed as of Jan. 1, 2015).
91. Mac Tyler, California Legislative Analysts Office, *Oversight of Private Colleges in California* at 10 (Dec. 2013).
92. Betsy Imholz, "Guest Post: California Dreamin' Becoming Proprietary Students' Nightmare," New America Higher Ed Watch Blog (Aug. 13, 2009).
93. *Id.*; 2009 Cal. Legis. Serv. Ch. 310 (A.B. 48) (West).
94. California State Auditor Report 2013-045 at 31 (Mar. 2014) (also detailing the long periods of time required for the new Bureau for Private Postsecondary Education to hire staff and how this impacted the agency's effectiveness).

APPENDIX A

GOVERNMENT INVESTIGATIONS AND LAWSUITS INVOLVING FOR-PROFIT SCHOOLS[1] (2004 – MAY 2014)

Note: Chart is organized alphabetically by government agency.

SCHOOLS/ OWNERS	GOVERNMENT AGENCY	INVESTIGATION OR LAWSUIT?	DATE	ALLEGATIONS OR ISSUES
Corinthian Colleges, Inc.[2]	AGs from AR, AZ, CO, CT, HI, ID, IA, KY, MO, NC, NE, NM, OR, PA, TN, WA	Multi-state Investigation	1/2014	Organizational information; tuition, loan and scholarship information; lead generation activities; enrollment qualifications for students; complaints; accreditation; completion and placement statistics; graduate certification and licensing results; student lending activities.
ITT Educational Services, Inc.[4]	AGS from AR, AZ, CT, ID, IA, KY, MO, NE, NC, OR, PA, TN and WA	Multi-state Investigation	1/2014	Marketing and advertising, recruitment, financial aid, academic advising, career services, admissions, licensure exam pass rates, accreditation, student retention, graduation rates and job placement rates.
Career Education Corp.[6]	AGs from AR, AZ, CT, ID, IA, KY, MO, NE, NC, OR, PA,TN, WA	Multi-state Investigation	1/2014	Student-recruitment practices, graduate employment statistics, graduate employment certification and licensing results, and student lending activities.
Education Management Corporation[8]	AGs from AZ, AR, CT, ID, IA, KY, MO, NE, NC, OR, PA, TN, WA[9]	Multi-state Investigation	1/2014	Practices relating to recruitment, graduate placement statistics, graduate certification and licensing results, and student lending activities.
Ashford University; Bridgepoint Education, Inc.[11]	CA AG	Investigation	1/2013	False advertising; false or misleading statements during telemarketing calls.
Heald College; Everest Colleges; Everest Univ. Online; Everest College Phoenix, Inc.; Wyotech; Corinthian Colleges, Inc.[13]	CA AG	Lawsuit	10/2013	Inflated and misrepresented job placement rates to students and investors, advertised programs that it does not offer and disciplined call center employees when they tried to tell prospective students the truth; unlawfully used military seals in advertising; and inserted unlawful clauses into enrollment agreements.

OUTCOME OR PENDING (AS OF JUNE 1, 2014)	ACCREDITOR (IF ANY)	SCHOOLS OFFER ONLINE/ DISTANCE PROGRAMS?	CREDENTIALS OFFERED
Pending	*National*— Everest Colleges (ACCSC); Everest Univ. Online (ACICS); Wyotech (ACCSC); *Regional*— Everest College Phoenix (HLC); Heald (WASC Senior College and University Commission)[3]	Everest Univ. Online; Everest College Phoenix	Certificates, Associate, Bachelor's and Master's Degrees
Pending	*National* (ACICS)[5]	Yes	Associate, Bachelor's and Master's Degrees
Pending	*National*— Sanford-Brown. (ACICS); *Regional*— American InterContinental Univ. (HLC); Briarcliffe College (MSACS); Colorado Technical Univ. (HLC)[7]	Yes	Certificate, Associate, Bachelor's, Master's and Doctoral Degrees
Pending	National and regional accreditation at different institutions[10]	Yes	Certificates, Associate, Bachelor's, Master's and Doctoral Degrees
Pending	*Regional* (WASC Senior College and University Commission)[12]	Yes	Associate, Bachelor's and Master's Degrees
Pending	*National*— Everest Colleges (ACCSC); Everest Univ. Online (ACICS); Wyotech (ACCSC); *Regional*— Everest College Phoenix (HLC); Heald (WASC Senior College and University Commission)[14]	Everest Univ. Online; Everest College Phoenix	Certificates, Associate, Bachelor's, and Master's Degrees

SCHOOLS/ OWNERS	GOVERNMENT AGENCY	INVESTIGATION OR LAWSUIT?	DATE	ALLEGATIONS OR ISSUES
Bryman College, Everest Colleges, Nat'l Inst. of Technology; Corinthian Colleges, Inc.[15]	CA AG	Lawsuit	7/2007	Inflation of placement rates; failure to disclose completion rates; overstating starting salaries of graduates; failure to meet minimum performance standards.
Corinthian Colleges, Inc.[18]	CFPB	Civil Investigative Demand	4/2012 (CID); 12/2013 (NORA letter)	Unlawful acts or practices relating to advertising, marketing or origination of private student loans. NORA letter states that CFPB may seek injunctive and monetary relief.
ITT Educational Services, Inc.[20]	CFPB	Lawsuit	2/2014	Misleading representations about accreditation and transferability of credits; aggressive tactics to recruit students and convince them to take out student loans; and coercing students to take out private student loans.
Westwood College (Colorado); Alta Colleges Inc.[22]	CO AG	Lawsuit	3/2012	Misrepresented and inflated job placement rates and graduate employment salaries; misled students about costs of attendance, the terms of institutional financing, and the quality of academic programs; failure to dislcose that credits were not transferable; misrepresentations regarding teh costs covered by military benefits.
Argosy University; Education Management Corporation[25]	CO AG	Lawsuit	12/2013	Misrepresented accreditation status of two psychology doctoral programs and that program would lead to licensure.
Apollo Group, Inc.[28]	Dept. of Education, Office of Inspector General	Investigation	4/2014	Marketing, recruitment, enrollment, financial aid, fraud prevention, student retention and other issues.

OUTCOME OR PENDING (AS OF JUNE 1, 2014)	ACCREDITOR (IF ANY)	SCHOOLS OFFER ONLINE/ DISTANCE PROGRAMS?	CREDENTIALS OFFERED
Judgment providing for: (1) $4.3 in restitution; (2) $1.5 in private loan credits; (3) $700,00 for costs, fees, and Unfair Competiion Fund; and (4) injunctive relief.[16]	*National*— Everest Colleges and Bryman Colleges (now all Everest Colleges) (ACCSC); Nat'l Inst. of Technology (now Wyotech) (ACCSC)[17]	No	Certificates, Associate, and Bachelor's Degrees
Pending	*National*— Everest Colleges (ACCSC); Everest Univ. Online (ACICS); Wyotech (ACCSC); *Regional*— Everest College Phoenix (HLC); Heald (WASC Senior College and University Commission)[19]	Everest Univ. Online; Everest College Phoenix	Certificates, Associate, Bachelor's and Master's Degrees
Pending	*National*— ITT Tech (ACICS); *Regional*—Daniel Webster College (NEASC)[21]	Yes	Associate, Bachelor's and Master's Degrees
Consent Judgment providing for: (1) $2.5 million in credits for outstanding APEX accounts; (2) refunds of finance charges for some APEX accounts; (3) $2 million for penalties, restitution, costs and fees; and (4) injunctive relief.[23]	*National* (ACICS or ACCSC)[24]	Yes	Diplomas, Associate and Bachelor's Degrees
Consent Judgment providing for: (1) injunctive relief; (2) payment of $3.3 million ($2.870 million in restitution; $500,000 for restitution, attorney fees and costs, consumer education and/or future enforcement at state's discretion; and $1 million in civil penalties).[26]	*Regional* (WASC, Senior College and University Commission)[27]	No	Associate, Bachelor's, Master's, and Doctoral Degrees
Pending	*Regional* (HLC)[29]	Yes	Certificates, Associate, Bachelor's, Master's and Doctoral Degrees

SCHOOLS/ OWNERS	GOVERNMENT AGENCY	INVESTIGATION OR LAWSUIT?	DATE	ALLEGATIONS OR ISSUES
Corinthian Colleges, Inc.[30]	Dept. of Education	Review	2/2014	Dept. of Education sought extensive documentation on job placement rates and other academic data.
DeVry University; DeVry, Inc.[32]	Federal Trade Commission	Investigation	1/2014	Investigation as to whether entity is violating section 5 of FTC Act. Seeking documents related to advertising, marketing or sale of secondary or postsecondary educational products or services or educational accreditation products.
University of Phoenix; Apollo Group, Inc. [34]	FL AG	Investigation	4/2013	Misrepresentations regarding financial aid and unfair and deceptive practices regarding recruitment, enrollment, placement.
Sanford-Brown Institute; Career Education Corp.[36]	FL AG	Investigation	11/2010	Possible unfair and deceptive trade practices and misrepresentations regarding business practices.
Concorde Career Institute; Concorde Career Colleges, Inc.[38]	FL AG	Investigation	11/2010	Misrepresentations regarding financial aid and unfair/deceptive acts re recruitment, enrollment and placement.
Argosy University; Education Management Corporation[40]	FL AG	Investigation	10/2010	Potential misrepresentations in recruitment, financial aid and other areas.
Keiser University, Everglades University, Keiser Career College; Everglades College, Inc.; Bar Education, Inc.[42]	FL AG	Investigation	10/2012	Misleading or inaccurate information in areas such as costs, accreditation, transferability of credits and federal student loan terms.
Kaplan University; Kaplan, Inc. (a subsidiary of Graham Holdings Co.)[44]	FL AG	Investigation	10/2012	Misrepresentations regarding financial aid; unfair/deceptive practices re recruitment, enrollment, placement and graduation rates.
MedVance Institute (now Fortis College or Fortis Institute); KIMC Investments, Inc. (now owned by Educational Affiliates, Inc.)[46]	FL AG	Investigation	6/2012	Misrepresentations regarding financial aid, high pressure sales techniques, and unfair practices in recruiting, enrollment, accreditation, job placement and graduation rates.[47]

OUTCOME OR PENDING (AS OF JUNE 1, 2014)	ACCREDITOR (IF ANY)	SCHOOLS OFFER ONLINE/ DISTANCE PROGRAMS?	CREDENTIALS OFFERED
Pending	*National*— Everest Colleges (ACCSC); Everest Univ. Online (ACICS); Wyotech (ACCSC); *Regional*— Everest College Phoenix (HLC); Heald (WASC Senior College and University Commission)[31]	Yes	Certificates, Associate, Bachelor's and Master's Degrees
Pending	*Regional* (HLC)[33]	Yes	Associate, Bachelor's and Master's Degrees
Pending	*Regional* (HLC)[35]	Yes	Certificates, Associate, Bachelor's, Master's and Doctoral Degrees
Pending	*National* (ACICS)[37]	No	Certificates, Associate and Bachelor's Degrees
Pending	*National* (ACCSC)[39]	Yes	Certificates and Associate Degrees
Pending	*Regional* (WASC Senior College and University Commission)[41]	No	Associate, Bachelor's, Master's and Doctoral Degrees
Assurance of Voluntary Compliance providing for: (1) injunctive relief; (2) retraining of eligible students; (3) $375,000 to scholarship fund; (4) $175,000 in attorneys' fees to AG	*Regional* (SACSCOC)[43]	Yes	Associate, Bachelor's, Master's and Doctoral Degrees
Pending	*Regional* (HLC and NCACS)[45]	Yes	Certificates, Associate, Bachelor's and Master's Degrees
Assurance of Voluntary Compliance providing for: (1) free retraining for eligible students; (2) $600,000 in scholarship donations; and (3) voluntary injunctive relief.[48]	*National* (ABHES and COE)[49]	Currently, yes; at time of AVC, no.	Diplomas and Associate's Degrees

SCHOOLS/ OWNERS	GOVERNMENT AGENCY	INVESTIGATION OR LAWSUIT?	DATE	ALLEGATIONS OR ISSUES
Ashford University; Bridgepoint Education, Inc.[50]	IA AG	Investigation	5/2014	Telemarketers made misleading statements and used high pressure sales tactics and emotionally charged appeals to pressure prospective students to enroll in on-line programs; misrepresented that education degree would allow graduates to become classroom teachers when many graduates would have to meet additional requirements on a state-by-state basis; unfairly imposed a "technology services fee" on all students after 6 weeks of enrollment and retained fee regardless of how long student remained enrolled; and as a result many students did not complete programs.
Westwood College (Illinois); Alta Colleges Inc.[52]	IL AG	Lawsuit	1/2012	Misrepresented (1) its criminal justice degree program would qualify students for law enforcement jobs, when in fact it qualify few graduates for such jobs becasue it lacked regional accreditation; (2) that credits from the same program were transferable; (3) that institution had or would obtain regional accreditation; (4) financial aid, including about private student loan financing program.
Corinthian Colleges, Inc.[54]	IL AG	Investigation	12/2011[55]	Misleading enrollees about post-graduation career prospects.
DeVry University; DeVry, Inc.[57]	IL AG	Investigation	4/2013	Payment of incentive compensation to recruiters.
Daymar College; Daymar Learning, Inc.[59]	KY AG	Lawsuit	7/2011	Deceiving and misleading students about textbooks and financial aid, engaging in unlawful restraint on trade, providing false and misleading information to students about transferability of credits. Complaint also alleges that some programs do not meet accreditation standards and that school enrolled students who do not meet admissions criteria.

OUTCOME OR PENDING (AS OF JUNE 1, 2014)	ACCREDITOR (IF ANY)	SCHOOLS OFFER ONLINE/ DISTANCE PROGRAMS?	CREDENTIALS OFFERED
Assurance of Voluntary Compliance provides for: (1) $7.25 million in consumer restitution, fees and costs; and (2) compliance measures.	*Regional* (WASC Senior College and University Commission)[51]	Yes	Associate, Bachelor's and Master's Degrees
Pending	*National* (ACICS or ACCSC)[53]	Yes	Diplomas, Associate and Bachelor's Degrees
Pending	*National*— Everest Colleges (ACCSC); Everest Univ. Online (ACICS); Wyotech (ACCSC); *Regional*— Everest College Phoenix (HLC); Heald (WASC Senior College and University Commission)[56]	Yes	Certificates, Associate, Bachelor's and Master's Degrees
Pending	*Regional* (HLC)[58]	Yes	Associate, Bachelor's and Master's Degrees
Pending	*National* (ACICS)[60]	Yes	Diplomas, Associate and Bachelor's Degrees

SCHOOLS/ OWNERS	GOVERNMENT AGENCY	INVESTIGATION OR LAWSUIT?	DATE	ALLEGATIONS OR ISSUES
National College; National College of Kentucky, Inc.[61]	KY AG	Investigation	12/2010	Misleading marketing practices.
National College; National College of Kentucky, Inc.[63]	KY AG	Lawsuit	9/2011	Providing false, misleading and deceptive information by inflating job placement rates.
Spencerian College; The Sullivan University, Inc.[65]	KY AG	Lawsuit	1/2013	Providing false, misleading and deceptive information about graduation success rates and by inflating job placement rates.
University of Phoenix; Apollo Group, Inc.[67]	MA AG	Investigation	4/2013	Deceptive practices concerning recruitment and financial aid.
Career Education Corp.[69]	MA AG	Investigation	9/2012	Violation of consumer protection laws with respect to marketing and advertising, job placement and student outcomes, recruitment, and financing of education.
Everest Institute (Massachusetts campuses); Corinthian Colleges, Inc.[71]	MA AG	Lawsuit	4/2014	Allegations of deceptive marketing, high pressure enrollment tactics and misrepresentations regarding employment opportunities, graduate earnings, transferability of credits, availability of externships, nature and availability of financial aid, nature and quality of programs, and steering students into subprime loan program.
DeVry University; DeVry, Inc.[73]	MA AG	Investigation	4/2013	False statements relating to state student loans, guarantees, and grants.
New England Institute of Art; Education Management Corporation[75]	MA AG	Investigation	1/2013	Marketing, recruiting, and financing practices.
ITT Educational Services, Inc.[77]	MA AG	Investigation	10/2012	Requested documents related to financial aid, recruitment, career services, marketing and advertising, retention and graduation rates.

OUTCOME OR PENDING (AS OF JUNE 1, 2014)	ACCREDITOR (IF ANY)	SCHOOLS OFFER ONLINE/ DISTANCE PROGRAMS?	CREDENTIALS OFFERED
Pending. In December 2013, court ordered $1,000/day civil penalty against school retroactive to July 31, 2013. In addition, court ordered school's lawyers to pay $10,000 to KY AG. Court said school repeatedly abused legal system to obstruct a valid investigation.	*National* (ACICS)[62]	Yes	Diplomas, Associate, Bachelor's and Master's Degrees
Pending	*National* (ACICS)[64]	Yes	Diplomas, Associate, Bachelor's and Master's Degrees
Pending	*National* (ACICS)[66]	No	Diplomas/Certificates and Associate Degrees
Pending	*Regional* (HLC)[68]	Yes	Certificates, Associate, Bachelor's, Master's and Doctoral Degrees
Pending	*National*— Sanford-Brown. (ACICS); *Regional*— AIU (HLC); Briarcliffe College (MSACS); CTU (HLC)[70]	Yes	Certificates, Associate, Bachelor's, Master's and Doctoral Degrees
Pending	*National* (ACCSC)[72]	Yes	Associate, Bachelor's and Master's Degrees
Pending	*Regional* (HLC)[74]	Yes	Associate, Bachelor's and Master's Degrees
Pending	*Regional* (NEASC)[76]	No	Certificates, Associate and Bachelor's Degrees
Pending	*National* (ACICS)[78]	Yes	Associate, Bachelor's and MBA Degrees

SCHOOLS/ OWNERS	GOVERNMENT AGENCY	INVESTIGATION OR LAWSUIT?	DATE	ALLEGATIONS OR ISSUES
Kaplan Career Institute; Kaplan, Inc. (a subsidiary of Graham Holdings Co.)[79]	MA AG	Investigation	5/2011	Recruitment of students and financing of education.
Sullivan & Cogliano Training Centers; Sullivan & Cogliano Training Centers, Inc.[81]	MA AG	Lawsuit	10/2013	Deceived and misled the public and prospective students: Misrepresented: • the scope, nature, character, and length of its programs; • the success of its students in obtaining jobs in the students' field of study; • the employment opportunities available in students' field of study; • the assistance school provided in obtaining employment in students' field of study' • the availability of internships, together with the training provided by and employment opportunities accompanying internships; and • the cost of certification tests taken by students. Also, misrepresentations to accreditor and to state oversight agency.
American Career Institute (ACI); The Career Institute, LLC[83]	MA AG	Lawsuit	11/2013	Falsified documents (enrollment records, attendance records, and student grades) and forged student signatures to maintain accreditation; enrolled students who did not meet minimum qualifications (students who did not have a high school degree or GED; students who had a criminal record that would prevent them from obtaining employment in the fields being studied); misrepresented graduate job placement rates; and failed to provide students the education for which they incurred significant debts (failed to provide course materials students paid for; not providing skills training necessary for externships/employment); failed to provide refunds upon school closure.
Universal Technical Institute; Universal Technical Institute, Inc.[84]	MA AG	Investigation	12/2012	False claims submitted to the state for student loans, guarantees.
Corinthian Colleges, Inc.[86]	MN AG	Investigation	7/2013	Potential issues related to financial aid, admissions, students, and other areas.

OUTCOME OR PENDING (AS OF JUNE 1, 2014)	ACCREDITOR (IF ANY)	SCHOOLS OFFER ONLINE/ DISTANCE PROGRAMS?	CREDENTIALS OFFERED
Pending	Each Kaplan Career Institute is nationally accredited by ACCSC, ACICS or COE[80]	Yes	Diplomas and Associate Degrees
Final Judgment by Consent which provided for: 1) Injunctive relief (including shut down of 2 programs); and 2) Payment of $425,000.[82]	*National* (COE)	No	Certificates
Pending	*National* (ACCET)	No	Certificates
Pending	*National* (ACCSC)[85]	No	Certificates
Pending	*National*— Everest Colleges (ACCSC); Everest Univ. Online (ACICS); Wyotech (ACCSC); *Regional*— Everest College Phoenix (HLC); Heald (WASC Senior College and University Commission)[87]	Yes	Certificates, Associate, Bachelor's and Master's Degrees

SCHOOLS/ OWNERS	GOVERNMENT AGENCY	INVESTIGATION OR LAWSUIT?	DATE	ALLEGATIONS OR ISSUES
Herzing University; Herzing, Inc.[88]	MN AG	Investigation	11/2013	Misrepresentations regarding programmatic accreditation of Associate in Applied Science in Clinical Medical Assisting Program; misrepresentation that same program would qualify graduates to take private certification exam required for employment.
Ashford University; Bridgepoint Education, Inc.[90]	NC AG	Investigation	10/2011	Whether business practices complied with consumer protection laws.
Kaplan College (Charlotte, NC campus); Kaplan, Inc. (a subsidiary of Graham Holdings Co.)[92]	NC AG and NC Community College System	Investigation	1/2012	Allegations that students were misled about whether Dental Assistant Program was accredited.
Breckenridge School of Nursing and Health Sciences (Albuquerque); ITT Educational Services, Inc.[94]	NM AG	Lawsuit	2/2014	Lack of accreditation for nursing program. Misleading students regarding transferability of credits.
Ashford University; Bridgepoint Education, Inc.[96]	NY AG	Investigation	5/2011	Misrepresentations as to ability to find jobs for students, the quality of instruction, the cost of attending, and accreditation, among other things.
Sanford-Brown Institute; American InterContinental Univ. (AIU); Briarcliffe College; Colorado Technical Univ. (CTU); Career Education Corp.[98]	NY AG	Lawsuit	8/2013	Inflated placement rates; mischaracterized employment as "in field" or "related field" placement; counted first day verification of employment as placement (even for single-day health fairs); failure to disclose lack of programmatic accreditation required to meet certification or licensure requirement for employment; and failure to disclose non-transferability of credits.
Art Institute of New York (Education Management's only school located in New York); Education Management Corporation[100]	NY AG	Investigation	8/2011	Subpoena related to compensation of admissions representatives and recruiting activities.

OUTCOME OR PENDING (AS OF JUNE 1, 2014)	ACCREDITOR (IF ANY)	SCHOOLS OFFER ONLINE/ DISTANCE PROGRAMS?	CREDENTIALS OFFERED
Assurance of Discontinuance providing for: (1) Injunctive relief; and (2) option to obtain full refund for eligible students.	*Regional* Accreditation (HLC)[89]	Yes	Certificates, Associate and Bachelor's Degrees
Pending	*Regional* (WASC Senior College and University Commission)[91]	Yes	Associate, Bachelor's and Master's Degrees
Withdrawal of license for Charlotte, NC Dental Assistant Program	*National* (ACICS)[93]	No	Certificates and Associate's Degrees
Pending	*National* (ACICS)[95]	Yes	Associate Degrees
Pending	*Regional* (WASC Senior College and University Commission)[97]	Yes	Associate, Bachelor's and Master's Degrees
Assurance of Discontinuance providing for: (1) injunctive relief; $9.25 million restitution; $1 million civil penalty	*National*— Sanford-Brown. (ACICS); *Regional*— AIU (HLC); Briarcliffe College (MSACS); CTU (HLC)[99]	Briarcliffe College; AIU; CTU	Certificate, Associate and Bachelor's Degrees—Sanford-Brown Inst.; Briarcliffe College; Associate's, Bachelor's and Master's Degrees—AIU; Associate, Bachelor's, Master's and Doctoral Degrees—CTU
Pending	*National* (ACICS)[101]	No	Associate Degrees

SCHOOLS/ OWNERS	GOVERNMENT AGENCY	INVESTIGATION OR LAWSUIT?	DATE	ALLEGATIONS OR ISSUES
Corinthian Colleges, Inc.[102]	OR AG	Investigation	8/2011	Requested information and documents regarding advertising, compensation, training and evaluations of admissions personnel, job opportunities and placement of graduates, students complaints, and other matters.
Apollo Group, Inc.[104]	SEC	Enforcement Inquiry	4/2012	Requested documents and information relating to certain stock sales by company insiders.
Corinthian Colleges, Inc.[106]	SEC	Investigation	6/2013	Subpoena sought information relating to student information in the areas of recruitment, attendance, completion, placement, defaults on federal loans, as well as compliance with the U.S. Dept. of Educ.'s rules.
ITT Educational Services, Inc.[109]	SEC	Investigation	2/2013	Subpoena requested documents and communications relating to agreements entered into, in 2009 and 2010, with unaffiliated third parties to help students pay for cost of education through private student loan programs.
University of Phoenix; Apollo Group, Inc.[111]	U.S. Dept. of Ed	Gov Review	9/2004	Paying incentive compensation to recruiters.
Westwood College; Alta Colleges Inc.[113]	U.S. Dept. of Justice	Lawsuit	4/2009	Alleged violations of Consumer Fraud and Business Practices Act. Misleading prospective students that its criminal justice degree program qualifies them for law enforcement jobs.
American Commercial College; American Commercial Colleges Inc.[115]	U.S. Dept. of Justice	Lawsuit	5/2013	Made short-term private student loans that ACC repaid with federal Title IV funds to artificially inflate the amount of private funding counted for purposes of the 90/10 Rule. The short-term loans at issue were not sought or obtained by students on their own; rather, school orchestrated the loans for the sole purpose of manipulating its 90/10 Rule calculations.
University of Phoenix; Apollo Group, Inc.[117]	U.S. Dept. of Justice	Lawsuit	12/2009	Paying incentive compensation to recruiters.

OUTCOME OR PENDING (AS OF JUNE 1, 2014)	ACCREDITOR (IF ANY)	SCHOOLS OFFER ONLINE/ DISTANCE PROGRAMS?	CREDENTIALS OFFERED
Pending	*National*— Everest Colleges (ACCSC); Everest Univ. Online (ACICS); Wyotech (ACCSC); *Regional*— Everest College Phoenix (HLC); Heald (WASC Senior College and University Commission)[103]	Yes	Certificates, Associate, Bachelor's and Master's Degrees
Pending	*Regional* (HLC)[105]	Yes	Certificates, Associate, Bachelor's, Master's and Doctoral Degrees
Pending	*National*— Everest Colleges (ACCSC); Everest Univ. Online (ACICS); Wyotech (ACCSC); *Regional*— Everest College Phoenix (HLC); Heald (WASC Senior College and University Commission)[107]	Yes	Associate, Bachelor's and Master's Degrees[108]
Pending	*National* (ACICS)[110]	Yes	Associate, Bachelor's and MBA Degrees
$9.8 million settlement.	*Regional* (HLC)[112]	Yes	Certificates, Associate, Bachelor's, Master's and Doctoral Degrees
Settlement provided for payment of $7 million to U.S.	*National* (ACICS or ACCSC)[114]	Yes	Diplomas, Associate and Bachelor's Degrees
Settlement providing for (1) payment of $1 million to U.S.; (2) possible payment of additionall $1.5 million under contingency clause in settlement.	*National* (ACICS)[116]	No	Certificates
Settlement of $67.5 million.	*Regional* (HLC)[118]	Yes	Certificates, Associate, Bachelor's, Master's and Doctoral Degrees

SCHOOLS/ OWNERS	GOVERNMENT AGENCY	INVESTIGATION OR LAWSUIT?	DATE	ALLEGATIONS OR ISSUES
ATI Career Training Center; ATI Enterprises Inc.[119]	U.S. Dept. of Justice	Lawsuit	8/2013	Misrepresentation of job placement rates; false certification of program and student eligibility for Dept. of Ed. financial aid; employees engaged in fraudulent practices to induce students to enroll and maintain their enrollment in school.
National College; National College of Kentucky, Inc.[121]	U.S. Dept. of Justice	Lawsuit	5/2012	False Claims Act case. Knowingly violated accreditor's requirement to provide adequate consultation between team members and faculty by requiring faculty to sign Confidentiality and Non-Disparagement Agreement. Intimidated faculty to prevent dissemination of truthful information in order to maintain accreditation and receive federal funds. Presented false record or statement to federal government to get false or fraudulent claim paid.
Stevens-Henager College; Starting in 1/2013, for-profit schools owned by Center for Excellence in Higher Education (nonprofit org)[123]	U.S. Dept. of Justice	Lawsuit	4/2014	Paying illegal compensation to recruiters for student enrollments.[124]
Everest Institute (Jonesboro, GA); Corinthian Colleges, Inc.[126]	U.S. Dept. of Justice and Dept. of Education	Investigation	4/2011	Employment and placement rates; attendance procedures.
Education Management Corporation[128]	US Govt. & AGs from CA,DC, FL, IL, IN, MA, MN, MT, NJ, NY, NM, TN	Lawsuit	4/2011	Incentive compensation paid to recruiters based upon student enrollment numbers.
Corinthian Colleges, Inc.[130]	WI AG	Investigation	1/2013	Investigation of recruitment practices and student borrowing.

OUTCOME OR PENDING (AS OF JUNE 1, 2014)	ACCREDITOR (IF ANY)	SCHOOLS OFFER ONLINE/ DISTANCE PROGRAMS?	CREDENTIALS OFFERED
Settlement provided for following payments from letters of credit: (1) $3.7 million dollars to U.S. government; and (2) $2 million in student loan refunds.	*National* (ACCSC)	No	Certificates and Associate Degrees[120]
Pending	*National* (ACICS)[122]	Yes	Diplomas, Associate, Bachelor's and Master's Degrees
Pending	*National* (ACCSC)[125]	Yes	Associate, Bachelor's and Master's Degrees
Pending	*National* (ACCSC)[127]	No	Certificates
Claims based on compensation plan as written dismissed; claims based on compensation plan as implemented pending.	National and regional accreditation at different institutions[129]	Yes	Certificates, Associate, Bachelor's, Master's, and Doctoral Degrees
Pending	*National*— Everest Colleges (ACCSC); Everest Univ. Online (ACICS); Wyotech (ACCSC); *Regional*— Everest College Phoenix (HLC); Heald (WASC Senior College and University Commission)[131]	Yes	Certificates, Associate, Bachelor's and Master's Degrees

Appendix A Notes

[1] This chart is a survey of government actions against and investigations of for-profit schools based on media reports, school announcements, or publicly available information from government agencies or courts. It is not a complete list of all government actions or investigations initiated between 2004 and 2014.

[2] Corinthian Colleges, Inc., SEC Form 8-K (Jan. 27, 2014); Corinthian Colleges, Inc., "Corinthian Colleges Reports FY 2014 Third Quarter Results" (May 6,2014). All footnotes apply to the information in the row following the first footnote, up until the next footnote.

[3] www.everest.edu; www.everestonline.edu; www.wyotech.edu; www.everestcollegephoenix.edu; www.heald.edu.

[4] John Lauerman, "For-Profit Colleges Face New Wave of State Investigations," www.bloomberg.com (Jan. 29, 2014).

[5] www.itt-tech.edu.

[6] Oliver Staley, "Career Education Under Inquiry From 12 Attorneys General," www.businessweek.com (Jan. 27, 2014).

[7] www.sanfordbrown.edu; www.aiuniv.edu; www.briarcliffe.edu; coloradotech.edu.

[8] Education Management Corporation, SEC Form 8-K (Jan. 24, 2014).

[9] Eric Kelderman, "State Attorneys General Open New Investigation Into For-Profit Colleges," www.chronicle.com (Jan. 28, 2014).

[10] www.edmc.edu.

[11] Nick DeSantis, "Calif. Attorney General Investigates Bridgepoint Education Inc.," www.chronicle.com (Jan. 14, 2013).

[12] www.ashford.edu.

[13] Complaint for Civil Penalties, Permanent Injunction, and Other Equitable Relief, People of the State of California v. Corinthian Colleges, Inc., et al.; California Superior Court, San Francisco County, Case No. CGC-13-534793 (Oct. 10, 2013).

[14] www.everest.edu; www.everestonline.edu; www.wyotech.edu; www.everestcollegephoenix.edu; www.heald.edu.

[15] Complaint, People of the State of California v. Corinthian Colleges, Inc., et al., Superior Court for the State of California, Los Angeles County, No. BC 374999 (July 31, 2007).

[16] Final Judgment, People of the State of California v. Corinthian Colleges, Inc., et al., Superior Court for the State of California, Los Angeles County, No. BC 374999 (July 31, 2007).

[17] www.everest.edu; www.everestonline.edu; www.wyotech.edu; www.everestcollegephoenix.edu; www.heald.edu.

[18] Corinthian Colleges, SEC Form 8-K (Jan. 27, 2014).

[19] www.everest.edu; www.everestonline.edu; www.wyotech.edu; www.everestcollegephoenix.edu; www.heald.edu.

[20] Complaint, Consumer Financial Protection Bureau vs. ITT Educational Services, Inc., U.S.D.C., Southern District of Indiana, Case No. 1:14-cv-292 (Feb. 26, 2014).

[21] www.itt-tech.edu/programs; www.dwc.edu.

[22] Complaint, State of Colorado, ex. rel. John W. Suthers, Attorney General v. Alta Colleges, Inc., et al., District Court, Denver City and County (Mar. 14, 2012).

[23] Final Consent Judgment, State of Colorado, ex. rel. John W. Suthers, Attorney General v. Alta Colleges, Inc., et al., District Court, Denver City and County (Mar. 14, 2012).

[24] www.westwood.edu.

[25] Press Release, Colorado Dep't of Law, "Attorney General Suthers Announces Consumer Protection Settlement with Argosy University" (Dec. 5, 2013).

[26] Final Consent Judgment, State of Colo. v. Educ. Management Corp., Argosy Educ. Group, Inc. (Dec. 2013)

[27] www.argosy.edu.

[28] John Lauerman, "Apollo Falls as Education Department Demands Records," www.bloomberg.com (Apr. 1, 2014).

[29] www.apollo.edu.

[30] Chris Kirkham, "Feds Probe For-Profit College Accused of Creating Fake Jobs," www.huffingtonpost.com (Feb. 5, 2014).

[31] www.everest.edu; www.everestonline.edu; www.wyotech.edu; www.everestcollegephoenix.edu; www.heald.edu.

[32] Nick DeSantis, "DeVry Faces Inquiry From Federal Trade Commission," www.chronicle.com (Feb. 5 2014).

[33] www.devry.edu.

[34] David Halperin, "Suze Orman Teaching Personal Finance Class—At the University of Phoenix," www.huffingtonpost.com (Apr. 18, 2013).

[35] www.phoenix.edu.

[36] Andrew Mytelka, "Florida Attorney General Adds 3 For-Profit Schools to Investigation," www.chronicle.com (Nov. 3, 2010).

[37] www.sanfordbrown.edu.

[38] Richard Danielson, "Florida Attorney General's Office Now Investigating Eight For-Profit Colleges," www.tampabay.com (Nov. 27, 2010).

[39] www.concorde.edu.

[40] Scott Travis, "Florida attorney general investigating 5 for-profit universities," www.sun-sentinel.com (Oct. 21, 2010)

[41] www.argosy.edu.

[42] Assurance of Voiuntary Compliance, State of Florida, Office of the Attorney General, Department of Legal Affairs, In the Investigation of: Keiser University, et al., Respondents, Case No. L10-3-1201 (Oct. 2012)

[43] www.keiseruniversity.edu.

[44] Daniel Luzer, "Florida Attorney General Targets For-Profit Colleges," www.washingtonmonthly.com (Oct. 21, 2010); www.kaplanuniversity.edu/about/about-kaplan-university.aspx.

[45] www.kaplanuniversity.com.

[46] Assurance of Voluntary Compliance, State of Florida, Office of the Attorney General, Department of Legal Affairs, In the Investiigation Of: KIMC Investments, Inc., d/b/a MedVance Inst., et al., Case No. L10-3-1194 (June 2012), myfloridalegal.com/webfiles.nsf/WF/JMEE-8V8QLJ/$file/MedVance.pdf; www.edaff.com.

[47] Scott Travis, "Florida attorney general investigating 5 for-profits probe," www.sun-sentinel.com (Oct. 10, 2010).

[48] Assurance of Voluntary Compliance, State of Florida Office of the Attorney General, Department of Legal Affairs, In the Investiigation Of: KIMC Investments, Inc., d/b/a MedVance Inst., et al., Case No. L10-3-1194 (June 2012), myfloridalegal.com/webfiles.nsf/WF/JMEE-8V8QLJ/$file/MedVance.pdf.

[49] www.fortis.edu.

[50] Assurance of Voluntary Compliance, In the Matter of Bridgepoint Educ., Inc. and Ashford Univ., L.L.C. (May 15, 2014), www.state.ia.us/government/ag/latest_news/releases/may_2014/Ashford_AVC.pdf.

[51] www.ashford.edu.

[52] Complaint, People of the State of Illinois v. Alta Colleges Inc., et al., Circuit Court of Cook County, Illinois, County Dept., Chancery Div., No. 12CH01587 (Jan. 18, 2012).

[53] www.westwood.edu.

[54] Andrew Harris, "Corinthian Colleges Sues State Over Data Sought in Probe," www.businessweek.com (June 29, 2012).

[55] Corinthian Colleges, Inc., SEC Form 10-Q (Dec. 31, 2011).

[56] www.everest.edu; www.everestonline.edu; www.wyotech.edu; www.everestcollegephoenix.edu; www.heald.edu.

[57] "Illinois, Massachusetts issue subpoena to DeVry," *Chicago Tribune* (Apr. 16, 2013).

[58] www.devry.edu

[59] Complaint, Commonwealth of Kentucky, ex rel. Jack Conway v. Daymar Learning, Inc., Commonwealth of Kentucky, Daviess Circuit Court, Case No. 11-CI-01016 (July 27, 2011).

[60] www.daymarcollege.edu.

[61] Chris Morran, "Court Orders For-Profit College to Pay $1,000/Day For Sidestepping Subpoena," www.consumerist.com (Dec. 4, 2013).

[62] www.national-college.edu.

[63] Complaint, Commonwealth of Kentucky, ex rel. Jack Conway v. National College of Kentucky, Inc., Commonwealth of Kentucky, Fayette Circuit Court, 22nd Judicial District, No.11-C1-4922 (Sept. 27, 2011).

[64] www.national-college.edu.

[65] Complaint, Commonwealth of Kentucky, ex rel. Jack Conway v. The Sullivan University System, Inc. d/b/a/ Spencerian College, Commonwealth of Kentucky, Jefferson Circuit Court, No. I3CI00220 (Jan. 15, 2013).

[66] www.spencerian.edu.

[67] David Halperin, "Suze Orman Teaching Personal Finance Class - At the University of Phoenix," www.huffingtonpost.com (Apr. 18, 2013).

[68] www.phoenix.edu.

[69] Career Education Corp., SEC Form 10-K (for fiscal year ended Dec. 31, 2012).

[70] www.sanfordbrown.edu; www.aiuniv.edu; www.briarcliffe.edu; coloradotech.edu.

[71] Complaint, Commonwealth of Massachusetts v. Corinthian Colleges, Inc.; Corinthian Schools, Inc., Court of Mass., Superior Court Department, Suffolk County, Civil Action No. 14-1093 (Apr. 3, 2014), available at www.mass.gov.

[72] www.everest.edu.

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APPENDIX B

PROBLEMS WITH STATE AUTHORIZATION RECIPROCITY AGREEMENTS AND HOW TO FIX THEM

Unfair Reciprocity Agreements: Protecting Fraudulent On-Line Schools from State Oversight

As currently drafted, the four regional state authorization reciprocity agreements (collectively referred to as SARA), contain the following anti-consumer, anti-state oversight provisions:[1]

- **Accreditation in Lieu of State Standards:** The home state must accept institutional accreditation as sufficient initial evidence of academic quality for approving schools' participation in SARA. Distant states may not apply more stringent minimal standards to SARA schools.
- **Treatment of Public, Private Non-Profit and Private For-Profit Schools as If They are the Same:** SARA does not allow a state to sign onto SARA for some types of schools while opting out for those schools it decides pose a higher risk to its citizens.
- **Waiver of State Consumer Protection Laws:** A distant state must waive its oversight laws with respect to covered schools. The state only retains the ability to use general criminal or consumer protection laws against them, such as Unfair and Deceptive Acts and Practices (UDAP) statutes.
- **Lack of Consumer Protections:** SARA only requires that schools provide accurate information to students regarding a number of areas, including refund policies and accreditation. Distant states may not apply more stringent consumer protection provisions to SARA schools:
  - *Student Recovery Funds/Bond Provisions*: It is up to the home state to provide for teach-outs or for "reasonable financial compensation" for the education not received when a school closes. This means that distant state students are only entitled to payment from tuition recovery funds or bonds as provided by the home state, if anything.
  - *Refunds and Cancellation Provisions*: Distant states may not enact refund or cancellation provisions applicable to SARA schools. It is unclear whether a home state's refund and cancellation rights would be exported to cover distant state students.

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- *Private Cause of Action*: SARA does not provide for any private cause of action for harmed students, and would wipe out any such cause of action in existing distant state law.

- **Enrollment Agreements, Disclosures, Language Provisions, Private Rights of Action, Prohibitions Against Deceptive Practices:** These and many other typical consumer provisions in state oversight schemes are not included in SARA.
- **Programs that Lead to Licensure:** SARA allows covered schools to offer programs that lead to a licensed profession in distant states even when the programs do not qualify students for licensure in that state. SARA only requires that schools disclose that the program does not meet state licensure requirements.
- **Inadequate Student Complaint Procedures:** SARA requires students to first try to resolve a complaint with the school through its internal grievance procedure. Only after going through this procedure may a student then submit a complaint to the home state. Although the distant state may work to resolve the complaint, only the home state may make the final decision.

Balanced Reciprocity Agreements: Revisions for Fairness to States and Students

To more equitably address consumer, state, and school interests, SARA could be revised to provide that the distant state will retain the following rights:

- the authority to apply stricter consumer protections to distance education programs, including prohibitions targeted to unfair and deceptive business practices, disclosure requirements, student cancellation and refund rights, student tuition recovery fund provisions, private causes of action, and requirements for enrollment agreements and other important documents.
- the authority to sign onto SARA for some types of schools, but to opt out for types of schools that pose a higher risk to its citizens.
- the jurisdiction to limit or deny approval, or take any other appropriate action, in the event it determines that the school has failed to meet the minimum SARA standards, its own minimum standards, or violated any state law or regulation.
- the responsibility for accepting, investigating and acting on complaints from distant state students (up to and including revoking a school's state authorization), and the school should be required to cooperate with any investigation.
- the right to impose its own record retention requirements, require the school to provide annual data regarding distant state students, and to inspect documents, conduct announced or unannounced site visits, speak with students and employees, and require the school to comply with any other informational requests or audits.
- the right to require that the school notify it in whatever circumstances it deems necessary, for example if ownership or control changes, an accrediting agency proposes to take an adverse action, a law enforcement agency starts an investigation or files an action, etc.

- the authority to charge the school adequate fees to fully fund its investigative oversight.
- the authority to review the school for compliance with any stricter state standards and/or use its more active processes to ensure that a school meets SARA or its standards. For example, if the home state simply accepts accreditation as sufficient for approval and the distant state requires a more in-depth review to ensure that the school satisfies the standards, such as through document review or site visits, the distant state should be able to visit the physical location of the campus, request that the school submit information, and take other actions it deems necessary to grant approval through SARA.

APPENDIX C

SAMPLE FOR-PROFIT SCHOOL ADVERTISEMENTS

University of Phoenix

- "An education that helps prepare you with the skills and knowledge you'll need for professional life after the military."[1]
- "Imagine if everything you did led to the career you wanted. Dare to dream. Put your passion into education. Strive for excellence."[2]

DeVry University

- "90% of DeVry University grads actively seeking employment had careers in their fields within six months."[3]

Ashford University

- "When you pursue a higher education, you are setting out to create a new future for yourself. It is through your investment in knowledge that you will find the profits of life. You can pursue a promotion at work or a new career. You can inspire loved ones to follow in your footsteps. You can awaken a desire to never stop learning. And you can feel fulfilled in your great achievement."[4]

Daymar College

- "If you're ready to take the next step toward a successful future, Daymar College can help you get there! At Daymar, We Change Lives . . . One Person At A Time.® Our career-specific education programs can prepare you for an exciting new career that can help you build a better life for you and your family. If you've always dreamed of a better future and the security that comes with an education you can always fall back on, enroll at Daymar College now."[5]

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APPENDIX D

KEY COMPONENTS FOR CLEAR JOB PLACEMENT AND COMPLETION RATE DEFINITIONS

Job Placement:

- **What types of jobs may be counted as placements?** The job title should match that provided on the certificate or degree or the work routine should predominantly require the use of core skills and knowledge expected to have been taught in the program. This would help prevent schools from manipulating placement rates by counting jobs that are not related or only tangentially related to the occupations trained for. In instances where the completers are continuing in prior employment, the prior position must be reasonably related to the program training and the completer must attest in his/her own handwriting at the time of enrolling and after completion that the training led to maintaining or advancing in his or her position.
- **How soon after graduation must a student obtain employment?** Within six months, since that is the point at which most students must start making their federal student loan payments. This should be adjusted for occupations which require licensure or private certification, with the six-month period starting on the date when the results of the first licensure or certification examination is reasonably available to students after they graduate.
- **How long must employment last in a single job?** Minimum of 13 weeks continuous employment in a single job. Otherwise, schools may count temporary jobs of short duration or accumulate time periods for different jobs that a graduate is not able to keep because he lacks the necessary skills.
- **Are part-time or full-time jobs counted?** Full-time employment should be defined as a minimum number of work hours per week, for example 32. Part-time should only be counted if the student, in his own handwriting, states that he only intends on finding part-time employment upon graduation. Most students enroll in order to obtain full-time employment and will therefore consider the placement rates to accurately reflect students who have obtained full-time employment.
- **Which students are eligible to be counted?** Only those students who complete their programs. Students who have not completed their programs should not be included in this calculation.

Completion:

- **Which students should be included in the completion rate calculation?** The denominator should be the total number of students who enroll within a defined one-year time period.
- **Which of these students may be counted as graduates?** The numerator should only include those who complete their programs within 100% of the original time scheduled to completion when they enrolled. Some schools misrepresent both the time to completion and, as a result, the cost of obtaining a certificate or degree. Schools should not benefit from these misrepresentations with inflated completion rates that include graduates who completed in some greater time period, such as 150% of the represented time to completion. Most students will expect that the completion rate will reflect the 100% rate.
- The numerator should also include students who are able to transfer their credits to another program.

Both Job Placement and Completion:

Exclusions: Schools should be allowed to exclude only a few categories of students—those who are unable to complete or obtain employment due to:

- death;
- disability;
- military service;
- continuing education at least half-time (for the placement rate only); or
- incarceration.

APPENDIX E

KEY CRITERIA FOR IDENTIFYING SCHOOLS THAT MAY BE ENGAGING IN SYSTEMIC FRAUD

- The nature and severity of violations alleged in student complaints, the extent of potential harm to the student (for example, failure to make required refunds, misrepresentations regarding the likelihood of employment or earning ability after graduation), and evidence of similar violations subsequent or prior to the complaint under consideration;
- Whether the school receives more than 70% of its revenues from Title IV and other federal funding sources (such as benefits for service members or veterans);
- Whether the school's 3-year cohort default rate is above 15%;
- Whether the school has placement rates, completion rates and/or licensure or certification rates that are far higher or lower than comparable programs offered by other for-profit schools;
- Whether a school spends more revenue on marketing, recruitment and advertising than on instruction;
- Whether the school has experienced a dramatic increase in enrollment, has recently expanded its programs or campuses, or has recently consolidated campuses;
- Whether the school offers degree programs to which students are admitted without having to demonstrate their aptitude on a test regularly used for admission decisions by public colleges, such as the SAT or ACT;
- Whether the school offers non-remedial program courses in English, but enrolls more than 10% of students who have limited or no English language proficiency in reading, writing, speaking or understanding;
- Whether the school enrolls more than 50% of its students in on-line programs;
- Whether there has been a recent change of ownership or control or a change in the business organization (from nonprofit to for-profit or vice versa);
- Whether the school's audited financial statements indicate there may be issues with its financial health;
- Whether the school is unable to compensate its employees;
- Whether the school has recently been the subject of a *qui tam* action or an investigation, judgment, settlement or regulatory action involving a government agency; or
- Whether an accreditor has restricted the school's institutional or programmatic accreditation, a government agency has restricted the school's approval or subjected it to an injunction, or the U.S. Department of Education has placed the school on cash-reimbursement or heightened monitoring status.

APPENDIX F

KEY CHARACTERISTICS OF AN EFFECTIVE STUDENT COMPLAINT PROCESS

The most effective complaint processes include the following characteristics.

- accessibility, with information about how to submit a complaint by phone, online, *and* by mail clearly provided on the state agency and school website, as well as in writing to all students when they enroll in a for-profit school;
- thorough investigation of all complaints when the allegations, if taken as true, would constitute a violation of the statute or regulations;
- adequate investigative resources, including a minimum number of trained investigators, for example based on the total number of students enrolled in the schools it regulates, to handle complaints in a timely manner;
- the availability and appropriate use of investigative procedures and tools, including the review of prior student complaints, witness interviews, on-site document reviews, unannounced site visits at campuses or internship sites, and audits of relevant institutional data;
- an equal and adequate opportunity for each party to present relevant oral and documentary evidence in response to the other party's evidence;
- a hearing and appeal process equally available to each party and conducted by impartial hearing officers with knowledge of the applicable statute and regulations, and an opportunity for each party to examine the other party's evidence and compel witness attendance;
- a rule that oral and written testimony will be accepted only from witnesses who have personal knowledge of the matters to which they are testifying, and that the agency will make a credibility determination when there is conflicting testimony;
- written determinations for each complaint that state reasons underlying each determination, the statutory or regulatory basis for the determination, and a description of the evidence relied upon; and
- authority to require student refunds if a preponderance of the evidence demonstrates a statutory or regulatory violation, plus penalties or other appropriate relief in the case of systemic violations.

APPENDIX G

IN THEIR OWN WORDS: STORIES/QUOTES FROM FORMER FOR-PROFIT SCHOOL STUDENTS

The following stories were submitted by for-profit school students to NCLC's Student Loan Borrower Assistance Project (www.studentloanborrowerassistance.org).

S.I., Winsboro, LA, age 43, regionally accredited national chain

"I have been a pharmacy technician for over 20 years. At age 35, I [enrolled] . . . hoping to earn a better job and a better income. My goal is a job in healthcare administration. . . . I graduated . . . in April 2010, with a bachelor of business administration degree. . . . Unfortunately, earning my degree has sent my life in a downhill spiral. I have been unable to find employment with my business degree. . . . In addition, I have only been able to find temporary and part time work as a pharmacy technician [and] I have to communte nearly 200 miles for this current job. I can not find work where I live. I have applied for many job positions—from housekeeping and cashiers to management. [H]iring managers for . . . administrative/management positions tell me I do not have enough experience. I feel my degree has hurt me more the helped me.

As well, my student loan debt has left a tremendous bruise on my personal life. [My boyfriend] has given me shelter through unemployment and he is the only reason I am not homeless at this point. I . . . spend $400 to $600 monthly [on] my 200 mile commute to my present employer. . . . Sometimes, I try to save money on lodging . . . by sleeping in my car. The loan payment on [the private loan my boyfriend] co-signed . . . is $200 monthly. . . . After these expenses, I have little money for food clothes and medical expenses.

I obviously made a grave mistake going to college and trusting my future with our nation's higher educational system.

If my wages are garnished I will not have money to commute to work. One reason I am not finding employment is due to my poor credit record due to inability to pay student loans. Hiring managers in the business administration/management field tell me I do not have enough administration/management experience. Many hiring managers simply ignore my degree. . . .

[The for-profit school] simply taught text book material. They did not teach the hands on skills needed to find employment, such as MS Excel and analyzing business data. [The school] does not provide assistance with internships [or] job place[ment]. When I notified [my campus} that I was unable to find employement with my . . . degree they did not return my phone calls."

A.M., Chaska, MN, age 27, regionally accredited national chain

Owes $125,000 in federal and private student loans

"I went [to a for-profit school]. They stated a job placement program (98% job placement rate) along with aid during the last semester and after graduation to help students find jobs. I received emails from my career advisor for about 2 months, then every email I sent her went unreturned. I left school with a $16,000 federal loan and an $88,000 private loan. I had 6 months after my graduation until I had to start repayment. In the past 7 years (since graduating) the most I have made at any job was $14/hour (and this was an accounting job, my major was photography). Now I have 4 part time jobs, only one is photography related and my loans have jumped to $17,000 for my federal and $108,000 for my private. . . . I have become hopeless that my loans will ever be at a monthly payment that I can make and still pay for food, gas, and rent. . . . I wish i could tell all of the high school students of the US to research and be careful to check and double check what banks and schools promise, they don't care about you or your well being, they are only in it for themselves and their company."

P.R., Littleton, CO, age 60, parent of student, regionally accredited national chain

Daughter owes $15,000 in private student loans

"My daughter attended . . . [a for-profit school]. The school was purchased by [a large corporation] after she had started her course work. There were obvious changes in the quality of education as soon as the sale was final: teachers were let go; video equipment needed for school projects was not available or repaired; class size increased to the point there weren't enough chairs for all students enrolled; the building was over-crowded and uncomfortable; required courses were not offered on a regular basis which extended the enrollment period and increased costs, [etc.] My daughter graduated with honors, but she was unable to find work in her field. Her former classmates have encountered the same problem, and none of these kids can pay back the huge [private] loans the college arranged with Sallie Mae. Sallie Mae (SM) made it impossible for my daughter to obtain forbearance or reduce payments during unemployment and under-employment. . . . Despite our best efforts, Sallie Mae turned the debt over to General Revenue Corp., a collection agency that SM reportedly owns. . . . The $6000 debt has now increased by $1000 for collection fees PLUS they increased the interest rate to 18.5%."

M.K., Yorkvile, IL, age 28, nationally accredited national chain

Owes $122,000 in private and federal student loans

"I have been struggling for 8 years now to pay off my student loans and I have not made a dent. Originally my interest only payment from Sallie Mae was to be just over $1200/month. . . . who can afford that?? . . . And that is interest only, it will take me a life time to pay off a loan like that. I have attempted EVERY repayment option that is available through Sallie Mae and they have denied me, with no reason given. . . . My degree has been no benefit. I blame most of this on the school. . . . They promised that after graduation they would help us find a job. I did not complete a 4 year degree to work in the mall

and make minimum wage! I am a single mom, make a below that average living and am struggling each & everyday to make each payment. Since when is it a life long punishment to get an education? Where is the relief . . . ?? The type of job I went to school for has additional requirements that were not provided by my school. I went to school in hopes of becoming a Buyer. There are additional certificates and computer training programs I need to pursue a position like this. They promised the world when enrolling, and in the end every promise was broken."

M.M., Cleveland, TN, age 41, regionally accredited national chain (online program)

Owes $68,000 in federal and private student loans

"In 2004, I was coming out of a rather long divorce. I worked in a factory, and I wanted some way of improving my life and my future, I saw an ad for a new program that [a for-profit school] was starting up and I contacted them. They told me about their 'placement programs for graduates' and made the program sound irresistable. It was something that I could do and continue to work my regular job, so I took out a loan with Sallie Mae, and got started on the classes. Maybe 9 months into the program, I started to have some reservations about it, it seemed too easy, I expressed those reservations to one of my instructors and they encouraged me to stick with it, and I finished the program in 2008 right at the time of the financial crash when no one was hiring. Luckily, I already had a job, which I still have today no thanks to any experiences or 'training' that I might've gotten from my time at [the for-profit school]. So, after graduation, I spent a couple of weeks getting phone calls from the 'placement department' basically directing me to postings on Careerbuilder.com and other job boards like that for jobs which weren't even related to the degree which I'd just completed from their organization, and NONE of those jobs paid better than the job which I already had. All of it was a waste!

Frankly, I don't think that they should offer the types of degrees in areas where there is not an established industry for graduates to be placed in. I interviewed for several positions that were related to my degree, and in ever[y] interview I found that I was having to explain what the degree was, and what the school was. I felt grossly underexperienced to enter a job in that field after graduating the program. Today, I just feel ashamed to even admit to having gone there. I couldn't even use it to advance into the marketing departments here at the company that I am presently working for after being here for five years!"

D.W., Carteret, NJ, age 56, nationally accredited school with 2 campuses

Owes $10,000

"I sign up with [a for-profit school], with promise of financial aid for the course I took, Micro Soft Office, the course is barely 6 months long, they offered [me] a student loan of $3000 . . . and I took it, after completing the course with a B average they told me that if I pass on time the course would be free. I completed the course. later I found out that nothing the school said was true with out my knowing they took out a $10,000 student loan on my behalf for a less than 6 month course, after passing the course nothing was free, as they said plus financial aid, they did not have [an] internship sit aside for me so

I did not get that. What I need to know is how can I stop this from happen to others this school is ripping people off, and the government. Can someone help me with this this is a bad experience, for anyone. Now I'm 10,000 dollars in debt.

[The for-profit school] only teaches the basics, and not how to type, if you come with no knowledge of the keyboard they do not give lesson on it. they promise to train you in (mouse) Micro Soft Office User Specialist with a certificate upon completion, but Graduation is over one to two years after completion, so what they suggest is that you go back and take another course with them in a different field, which is what students are doing, because of a promise of a check every two weeks for attending their school. They also say if you pass you wont have to pay that back, but you do."

S.S., Fremont, MI, age 37, enrolled in 2003, nationally accredited national chain (online program)

Owes $65,000 in private and federal loans

"In 2003, my USMC Reserve unit was activate for Operation Enduring Freedom. When I got back, my contract had expired and I was out of the Marines without an option to re-enlist. My job was going to be phased out so I went to a technical school in order to get a technology degree in order to save my job. Their 'job placement' programs consisted of job fairs that had entry level positions not in the IT field. The programs did not provide any opportunity for experience (like internships) and was not good enough to get positions that I was told the course would allow me to do.

Since I was in the reserves . . . I did not get any G.I. Bill benefits. When talking to the financial aid department, I was told if I completed 4 years, my student loan payments would be approximately $200 per month. The first bill I received was for over $700. I repeatedly tried to work with Sallie Mae, but every time I do, they utilize . . . collection tactics and will do nothing to work with me."

A.M., Fairfield, CT, age 31, nationally accredited national chain

Owes $80,000 in private and federal loans

"I took a private student loan to continue my education, after finishing my medical assistant program I was told by my school I was to start making $18 per hour, that never happened. I graduate in 2005 and now I am making $15 per hr. and I am working as registrar in the emergency department. Have 2 small children and unemployed husband. I defaulted my private student loan and I am desparate, I don't know how to handle the situation, I tried in the past, I called American Education Services many time to tell them my situation and ask them to please make my payments affordable but they did not want to hear it. Now I defaulted and who knows what is going to happen. I am struggling to put food on the table for my kids, it is so frustrated. I am so afraid that they will take money from my paycheck and I won't be able to feed my kids pay my rent my car insurance and all the things I need to make a living."

S.B., Akron, OH, enrolled in 2008, nationally accredited school with several campuses

"In 2008, when I was 21 years old, I heard about a 'career school' . . . that promised a job in the field I studied. At the time I thought this was a great idea. I had no job, was living on my own and since I didn't do well in High School this school seemed perfect. I visited the school and they gave me a great 'salespitch' about their shool. They promised an externship, a job, that their 'National accreditation' could be used at ANY college or University , that the loan I would receive wouldn't kick in until six months after graduation and that if I didn't have a job it wouldn't affect me. They showed me a 'document' of success stories and at the time it sounded ideal for my situation. I would be in school for 9 months and come out making 'tons' of money. Who wouldn't sign up for that?

The school, hired students to be teachers, we didn't learn anything as far as hands on medical care. New people were being enrolled every two weeks and no one knew why. I graduated with honors, had a 4.0 GPA and had to find my own interviews. The school NEVER helped me with anything, employers wouldn't even consider me when they heard I graduated from [the for-profit school]. . . . The school promised to get us an externship and never did. They promised 'job placement' and never helped us find a job. . . . We were robbed of a real education . . . It was a joke , a scam and this school should be shut down. And the students should be free from loan burdens since we didn't even get an education.

[F]ast forward to today (3/24/2013) Im married, my husband has cancer, I NEVER received a job from a school that promised me one. . . . I take care of my husband who is a disabled Veteran. . . . We live on VA assistance. Now, I'm trying to get into a University to better mine and my husbands future. . . . I find out from the University I'm trying to get into, that . . . NONE of the work and time I put into the school will be transferred over to the University. How can this be, when [the for-profit school] told me, that I can transfer my transcripts to any school I wanted since they were 'Nationally Accredited' . . . The only thing I'm trying to do is better my life, take care of my disabled husband and try to get out from underneath a loan from a school that lied to me. . . . I didn't purposely default on my loan. I was a victim to a school that did nothing but lie and ruin my life in the long run. It has literally turned into, battle after battle . All I want is a way out."

G.S., Mason City, IA, age 58, enrolled in 2007, nationally accredited national chain

Owes more than $43,000

"I went to [a for-profit school] to learn how to be a Medical Assistant. . . I had to change from the Medical Assistant to Interdisciplinary Studies, because I couldn't do the clinical. After I graduated, the school didn't help me find a job. I didn't know what type of jobs that Interdisciplinary Studies was for . . . Someone at [the school] said they were going to send me a job packet, but they never did. . . . I work for two temp services with limited hours. I have a lot of trouble keeping up with all of the bills. I recently caught up my heating bill. . . . I think that the degree was worthless and didn't help me at all. I

think the loans are pretty expensive and unaffordable. I'm looking for some kind of help to help with the massive debt the student loans created for me—which I can't afford."

A.M., Tucson, AZ, age 33, nationally accredited national chain

Owes over $100,000 in private and federal student loans

"I graduated from culinary school in 2004. I was told chefs make GREAT money, just sign on the line. After several low paying jobs, I found myself pregnant, unemployed, and out of forbearance options . . . . When I asked Sallie Mae for help . . . they told me I could consolidate my loans with a cosigner and a payment of several thousand dollars. With a newborn, I was trying to get back on my feet, and this was not an option. I was told this was my only option. Time passed, and eventually I was served with the legal documents from the law firm my loans were sold to. . . . Today, I take care of my two kids, by myself, and am having 25% of my income from my full time employer garnished. I was under the impression that I would be a 'Chef' when I graduated and I would be making good money . . . no one told me it would be YEARS before I made a living wage."

K.T. North Hills, CA, age 29, nationally accredited national chain

Owes $59,000 in federal and private student loans

"Before I started my education, I was told by the recruiters that all their students found jobs after graduation. They said that they have job placement program that will help you find jobs. They also said they have a career center that will help students as long as they want. After graduating with AS degree, they wanted me to get my Bachelor. They said it will cost me around $90k for my Bachelor. I signed up for the Bachelor Program but then I got out before school started because my previous loan was too much for me to pay. The Registrar and many representatives have asked me many times to go for my Bachelor. They said that I shouldn't worry about the loan because I will get a job after graduating. I accumulated $50k school loans. After 6 months of graduation, I was unable to find a job. I went back to a community college. Many schools did not accept my credits. However, I was told by the Register that my credits are transferable . . . [the for-profit school] did not help me find a job like they said. They send out weekly emails with job offers but the jobs are not even in related in our fields. . . . For the past 3 years, I've been trying to find a job in my field but I have no luck."

L.C., 34, Holyoke, MA, nationally accredited school with multiple campuses in three states

"My story goes as thus, I attended [a for-profit school] for medcial assisting program. Upon enrollment it was said that I would be placed in an externship for training, and that 90% of thier students get hired by the offices in which the students get placed. It was also stated that I would be able to find employment as a phlebotomist or an assistant in pharmacies. After getting ceritified and reworking my resume a few times, I was still unable to find employment. After two and a half years I gave up the persuit and settled with whatever employment I could find. Then I find out that I would have to take an entire different set of classes and trianing as well as a different exam, to be eligable for phlebotomy and a pharmassist`s tech. I was informed that students from [the for-profit school] were looked down upon. Most medical offices wanted nothing to do with thier students due to lack of experience."

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