

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 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)



