SUBCOMMITTEE ON LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

OVERSIGHT OF FOR-PROFIT COLLEGES: PROTECTING STUDENTS AND TAXPAYER DOLLARS FROM PREDATORY PRACTICES

TESTIMONY OF SENATOR RICHARD J. DURBIN

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Chairwoman DeLauro and Ranking Member Cole, members of the subcommittee: Thank you for allowing me to appear before you today on this very important topic for students and taxpayers.

There are two numbers that tell the story of the for-profit college industry: “9 and 34.” For-profit colleges enroll 9 percent of all postsecondary students and account for 34 percent of all federal student loan defaults. Why?

They charge too much, leave students with too much debt, and don’t deliver on their promises of employment and earnings potential. An Associate’s Degree in early childhood education at for-profit Ashford University costs $34,735. That same degree at an Illinois community college would cost a few thousand dollars.

As a result, students graduating from for-profit colleges leave with more debt on average than students from public or private non-profit schools. According to The Institute for College Access and Success, 2016 graduates of four-year for-profit colleges graduated with an average of $39,900 in student debt—41 percent more than graduates of four-year public and non-profit institutions. And students at for-profit colleges have a harder time paying off that debt because their education too often doesn’t open doors to good-paying jobs.

But, you don’t need to take my word for it. John Murphy, co-founder of the University of Phoenix—the granddaddy of all for-profit colleges—put it this way to Deseret News in 2015:

> "They are not educators and they're looking to manipulate this model to make money. There is nothing wrong with making money, but I think anyone making money in an educational activity has a higher standard of accountability."

Murphy explained that quickly after its founding, the focus of the University of Phoenix became tapping into the "open spigot" of federal student aid—what he calls "the juice" of this industry. It is one of the most heavily subsidized industries in America with many for-profit colleges receiving 80, 90, even 100 percent of their revenue directly from federal taxpayers.

As John Murphy went on to say, "Phoenix was the one that got it rolling, and then all the other for-profits followed them in." Corinthian—which collapsed in 2014, leaving 70,000 students in the lurch—is the most infamous example. For years, Corinthian inflated job placement rates and lied to students to lure them into high-cost programs that were worthless.

In the decade leading up to its collapse, Corinthian brought in more than $10 billion in federal student aid funds and its CEO, Jack Massimino, took home more than $20 million in compensation. On the other hand, nearly 40% of Corinthian Colleges' students who entered repayment on their federal student loans in 2008 had defaulted by the end of 2010.

But Corinthian and its fraud was not unique in the for-profit college industry—instead, it was the canary in the coal mine. Nearly every major for-profit college company has faced or is facing investigation or lawsuits by state or federal agencies for practices similar to Corinthian's.

In 2016, ITT Tech collapsed under similar circumstances—again leaving tens of thousands of students scrambling. In 2018, Education Corporation of America and Vatterott Colleges collapsed.

And we're currently in the midst of the collapse of another for-profit enterprise—schools owned by Dream Center Education Holdings, including Argosy University. In this case, in addition to an ongoing collapse that has left students scrambling, millions of dollars in federal student aid funds have gone missing. After federal student aid funds are disbursed to a school, the school takes out what it needs to cover a student's costs, the remaining funds are then provided to the student and are often used for living expenses. But, Dream Center failed to provide those funds to students—leaving many unable to pay their rent, buy food, or meet other financial obligations. Chairwoman DeLauro and I have called on the Department of Education Inspector General to investigate.

There were some who said that Corinthian and ITT Tech were outliers in the industry or blamed their collapses on an overzealous or politically motivated Obama Administration. But the collapses and practices of Education Corporation of America, Vatterott, and Dream Center under Secretary DeVos and the Trump Administration prove that the rot in this industry runs much deeper than Corinthian and ITT Tech. Its proves true former Department of Education Inspector General Kathleen Tighe's recent warning to Congress that for-profit colleges represent a disproportionate risk to students and taxpayers—still.

As appropriators in the House and Senate, we are responsible for ensuring that critical investments in federal student aid programs don't become "the juice" that fuels a predatory for-profit college industry. Unfortunately, many of the key protections for students and taxpayers that the Obama Administration advanced are under attack by Secretary DeVos and the former for-profit college executives that she's hired to run the Department.

In May 2018, the *New York Times* chronicled the DeVos Department's unwinding of the enforcement unit set up in the aftermath of Corinthian to investigate fraud at institutions of higher education. Secretary DeVos has also attacked and refused to enforce the Gainful Employment rule which cuts off Title IV funding for programs where graduates' ratio of student debt to earnings is too high. Secretary DeVos has taken steps to reinstate federal recognition for the Accrediting Council for Independent Colleges and Schools—which maintained its accreditation of both Corinthian and ITT Tech to the day they went bankrupt. Recently, Secretary DeVos has undertaken a sweeping new rulemaking with the potential to further weaken accreditation and create new regulatory loopholes that will allow for-profit colleges to exploit students and bilk taxpayers.

On the day that Corinthian collapsed in 2014, I said that we shouldn't leave students holding the bag for the wrongdoing of a predatory company and its executives. Tens of thousands of students had been defrauded into taking on debt that they would never be able to repay. Under the Higher Education Act, borrowers who are defrauded by their school are entitled to discharges of their federal student loans under something known as "borrower defense."

But, in the cases of bankrupt or financially-strapped schools like Corinthian, ITT Tech—and now Dream Center—the Department of Education's ability to hold schools financially liable for discharges is severely limited. It means taxpayers are, ultimately, on the hook.

Even while Secretary DeVos has failed to provide tens of thousands of eligible borrowers the relief to which they are entitled under the law, borrower defense discharges have already cost taxpayers $535 million.

In response to Corinthian and other defrauded for-profit college borrowers coming forward for relief, the Obama Administration set out to improve the process and create new protections for taxpayers. In 2016, the Obama Administration issued new borrower defense regulations that expanded the ability of the Department of Education to require surety from risky schools—to protect taxpayers against potential future discharge liability should the school close or engage in predatory practices.

The rule also bans the use of mandatory arbitration clauses and class action restrictions in enrollment contracts—hallmarks of the for-profit industry but almost never used by public and legitimate non-profit institutions. These clauses are often tucked deep in enrollment agreements that a student is required to sign in order to take classes. The clauses prevent students, both as individuals and as a class, from bringing suit in court against the school for wrongdoing. It shields schools like Corinthian and ITT Tech from liability and means that, instead of being able to sue and hold their school directly accountable for wrongdoing, students often have no other option than to seek relief from the Department of Education and taxpayers through borrower defense. Unfortunately, this common-sense protection for taxpayers is also under attack by Secretary DeVos.

I want to thank you, Chairwoman DeLauro, again, for holding this hearing. Unfortunately, in the years since the collapse of Corinthian, Congress has largely failed in its oversight responsibilities of the for-profit college industry—holding no hearings to examine that or other for-profit college collapses. But it gives me hope that in the opening months of your leadership of this subcommittee and Chairman Bobby Scott's leadership of the Education and Labor Committee, there is renewed attention to Congress' responsibility to oversee the for-profit college industry and protect students and taxpayers from the continued risks it poses.