

Congress of the United States
Washington, DC 20515

May 22, 2014

The Honorable Harold Rogers
Chairman
Committee on Appropriations
H-307, The Capitol
Washington, D.C. 20515

The Honorable Nita Lowey
Ranking Member
Committee on Appropriations
1016 Longworth House Office Building
Washington, D.C. 20515

The Honorable Jack Kingston
Chairman
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
2358 – B Rayburn House Office Building
Washington, D.C. 20515

The Honorable Rosa DeLauro
Ranking Member
Subcommittee on Labor, Health and Human
Services, Education, and Related Agencies
1016 Longworth House Office Building
Washington, D.C. 20515

Dear Chairmen Rogers and Kingston and Ranking Members Lowey and DeLauro:

As you develop the fiscal year 2015 *Labor, Health and Human Services, and Education Appropriations Act*, we urge you to include in the base bill a bipartisan provision that prohibits the Department of Education from promulgating the final gainful employment regulation.

The troublesome regulation currently under development by the department predominantly targets the proprietary sector of higher education, although many of America's community colleges are also negatively affected. Because the final regulation defining "gainful employment" will be published this year and is likely go into effect by next July, it is imperative Congress take action to block this rule as soon as possible.

The gainful employment regulation includes several provisions we fear will increase costs and federal overreach in the higher education system, reduce data transparency, and limit postsecondary options for low-income students.

First, the gainful employment regulation will levy new federal burdens on institutions by requiring schools to meet two overly-complicated metrics in order to be eligible for Title IV federal student aid programs: a debt- to-earnings measure and a programmatic student loan cohort default rate. The metrics impose redundant reporting requirements on institutions, creating additional compliance burdens and paperwork hours that could lead to higher costs.

Second, the added reporting requirements could lead to reduced transparency and new confusion for prospective students. Postsecondary institutions are already required to report key data, including graduation rates, costs, and outcomes, through the College Navigator website and the College Scorecard. However, under the gainful employment regulation, schools will report

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similar data points measuring different cohorts of students, leading to inconsistent data that could make it harder for students to clearly understand their education options.

Finally, the gainful employment regulation will severely limit some students' ability to use federal student aid at the college of their choice, a distinguishing tenet of the American higher education system. Institutions affected by this regulation predominately serve lower-income students from nontraditional backgrounds, many of whom need more flexible course schedules in order to balance work, family, and school. The gainful employment regulation could force some of the most flexible and innovative programs to close, reducing education choice and opportunity for students.

Previous iterations of the gainful employment regulation have been firmly rejected by both Republicans and Democrats in Congress, the higher education community, and the federal court system. In both the 112th and 113th Congresses, members launched a bipartisan effort to prohibit the Department of Education from implementing the gainful employment regulation. Additionally, in 2012 the U.S. District Court for the District of Columbia struck down a majority of the regulation, citing its "arbitrary and capricious" nature.

Given these significant concerns and the widespread opposition to the regulation, we strongly urge you to include a provision to block the publication of the gainful employment regulation in the base bill for the fiscal year 2015 *Labor, Health and Human Services, and Education Appropriations Act*.

We appreciate your hard work to increase student access to higher education and look forward to working with you to stop the harmful gainful employment regulation. If you have any questions, feel free to contact Brian Melnyk with Chairman John Kline at brian.melnyk@mail.house.gov or 202-225-6558, or Lale Mamaux with Rep. Alcee Hastings at lale.mamaux@mail.house.gov or 202-225-1313.

Sincerely,



JOHN KLINE
Chairman
Committee on Education and the Workforce



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Member of Congress

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The Honorable Nita Lowey
The Honorable Jack Kingston
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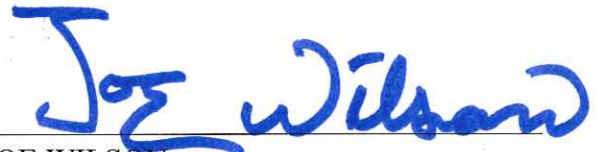
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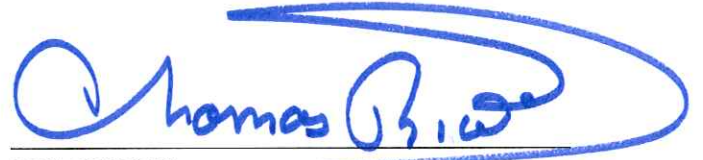
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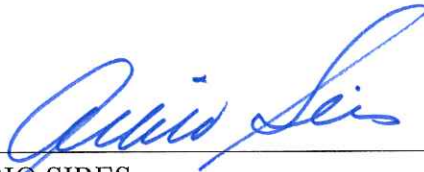
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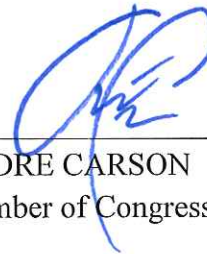
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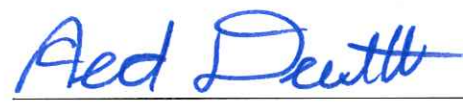
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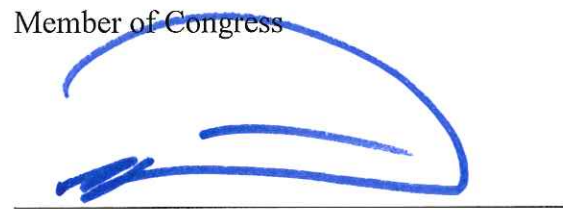
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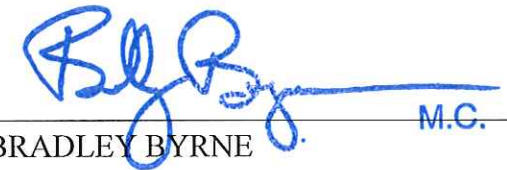

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cc: The Honorable John Boehner, Speaker, U.S. House of Representatives
The Honorable Eric Cantor, Majority Leader, U.S. House of Representatives
The Honorable Nancy Pelosi, Minority Leader, U.S. House of Representatives