CENTER FOR PUBLIC INTEREST LAW
CHILDREN'S ADVOCACY INSTITUTE
VETERANS LEGAL CLINIC
University of San Diego School of Law

February 28, 2016

Sent via electronic mail

Kent Gray
Legislative/Regulatory Analyst
P.O. Box 980818
West Sacramento, CA
95798-0818

Re: Proposed Modifications of the Regulations for Disclosures to Prospective Students; Institution Performance Fact Sheets; and Annual Reports to the Bureau by Approved Institutions (AB 2296)

Dear Mr. Gray:

The undersigned organizations represent students at for-profit educational institutions as legal services providers and civil rights advocacy organizations. We write to strongly urge the Bureau to fulfill its primary duty to protect students and not the financial interests of deeply troubled for-profit education businesses. We are deeply disturbed to see that the latest modifications to the regulations for disclosures to prospective students were heavily influenced by a for-profit education institution under investigation by the Federal Trade Commission (FTC) and the California Attorney General and recently barred by the Defense Department from participating in its tuition assistance program for active-duty troops or from recruiting on military bases.[1] Specifically, we agree with the recommendations presented in the Legal Aid Foundation of Los Angeles's letter, attached.

We reiterate LAFLA's recommendations, below:

A. **Proposed Section 74112(d)(3)(B)(ii)**

1. <u>Revise 21-Day to 90-Day Minimum Employment Period:</u> *There is no public policy justification for such a short time period, it strikes us that the only possible*

[1] Patricia Cohen, "For-Profit Colleges Accused of Fraud Still Receive U.S. Funds," The New York Times (Oct. 13, 2015) (available at http://mobile.nytimes.com/2015/10/13/business/for-profit-colleges-accused-of-fraud-still-receive-us-funds.html?referer&_r=0).

justification is the ease and marketing interests of for-profit institutions. Just last month the FTC announced that it was filing charges against a large for-profit college for "alleging they misled consumers about students' job and earnings prospects."[2] The Bureau should instead prioritize the interests of students and ensure that institutions claiming to prepare students to be "immediately job ready,"[3] should be able to substantiate their claims with periods of employment that are indicative of a new career. At the very least, the Bureau should heed the recommendation of its own Advisory Committee, which voted for a 45-day minimum employment period.[4]

2. Remove "Concurrent Aggregated Positions" from Gainful Employment Definition: *We wholeheartedly concur with LAFLA's recommendations and reasoning.*

3. Retain Provision Prohibiting Schools from Counting Graduates They Hire as Gainfully Employed: *The Bureau does not explain its deletion of this prohibition, leaving the public to assume it did so because a for-profit education business requested the change. Instead of catering to the hardships presented by for-profits, however, the Bureau should prioritize the students hoping to improve their lives with careers at wholly independent entities.*

B. Proposed Section 74112(d)(3)(B)(iii): Retain Provisions Regarding Expectations of Continued Employment if 21-Day Minimum Employment Period is Retained: *Continued employment is the precise expectation of any graduate in their first weeks on the job. Instead of adopting the unsubstantiated recommendations of an education business—which undoubtedly has the ability to track the job status of its graduates—it should stand in the steps of and protect the interests of California's most vulnerable students, who are unable to make informed decisions without robust disclosure data.*

C. Proposed Section 74112(d)(3)(C): Revise Proposal to Require More Reliable Forms of Self-Employment Evidence and an Attestation Signed and Dated by the Graduate

D. Proposed Sections 74112(f)(1), (f)(2), (h), (i)(4), (i)(5), (j), (k), and (n)

1. Delete Proposed Language Under Students' Initials on Each Disclosure
2. Retain Proposed Subsection (n) and Amend it to Provide for 24-Hour Cooling Off Period: *Again, for-profit education businesses are notorious for deceptive enrollment practices, which too often include high-pressure marketing tactics.[5] As recently as November, a nationwide for-profit institution settled with the Department of Justice after allegedly "compensating employees based on how many students they enrolled,*

[2] The Associated Press, "Devry University Accused of Misleading Students," The New York Times (Jan. 28, 2016) (available at http://www.nytimes.com/2016/01/28/us/devry-university-accused-of-misleading-students.html?ref=topics).
[3] Video: "Explore Career Options in Security Management," (available at http://www.phoenix.edu/colleges_divisions/criminal-justice.html).
[4] Advisory Committee Meeting Minutes, February 18, 2015 (available at http://bppe.ca.gov/about_us/meetings/minutes_20150218.pdf).
[5] Maura Dundon, "Students or Consumers? For-Profit Colleges and the Practical and Theoretical Role of Consumer Protection" Harvard Law & Policy Review, Vol. 9 at 377 (Jul. 2015).

encouraging hyperagressive boiler room tactics to increase revenue."[6] *Unless the Bureau creates a clear cooling-off period, the "reasonable amount of time" will be defined by the institution's marketing department.*

We are deeply concerned about the influence that the country's largest for-profit education business has over its own regulation in California, particularly when this company has been under investigation, sued, and sanctioned by multiple governmental entities and accreditors over the past seven years.[7] These institutions, generously financed with taxpayer dollars, can surely figure out how to substantiate the claims they make to California students seeking to better their lives through education. We urge the Bureau to fulfill its statutory and ethical obligation by exercising its regulatory and enforcement power to inform and protect California students, not these education businesses.

Please see attached Public Records Act Request and thank you for the opportunity to comment.

Sincerely,

Sharon Djemal
Director, Consumer Justice Clinic
East Bay Community Law Center

Leigh Ferrin
Lead Attorney
Public Law Center

Ed Howard
Senior Counsel
University of San Diego Center for Public Interest Law
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University of San Diego Veterans Legal Clinic

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[6] Stephanie Saul, "For-Profit College System Expected to Pay Millions," The New York Times (Nov. 16, 2015) (available at http://www.nytimes.com/2015/11/16/us/for-profit-college-system-expected-to-pay-millions.html?ref=topics).
[7] College Affordability Guide, "Online Colleges Sanctioned by Government Organizations," (see University of Phoenix) (accessed Feb. 28, 2016) (available at http://www.collegeaffordabilityguide.org/choosing-a-program/online-colleges-sanctioned-by-government-organizations/.)

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Comments of Robyn C. Smith, Senior Attorney,
Legal Aid Foundation of Los Angeles

To the Bureau for Private Postsecondary Education,
California Department of Consumer Affairs

Regarding the Modified Proposed Regulations for Disclosures to Prospective Students; School Performance Fact Sheets; and Annual Reports to the Bureau by Approved Institutions (AB 2296)

February 25, 2016

The following comments are submitted on behalf of the Legal Aid Foundation of Los Angeles (LAFLA). LAFLA seeks to achieve equal justice for low-income people through direct representation, systemic change and community education. LAFLA is a public interest leader on student loan work in California, having developed student loan and for-profit school expertise over the last 25 years. We provide outreach and education, self-help clinics, and direct legal assistance to financially distressed student loan borrowers. We also serve as a resource for other organizations carrying out this work in California.

Our policy and advocacy efforts are grounded in our direct legal assistance work with low-income clients in Los Angeles. We have seen a continuous stream of clients who have been harmed by deceptive for-profit schools. These students enroll in for-profit schools for only one reason – to obtain higher-paying employment to improve their lives and the lives of their families.

The Importance of the Bureau's Consumer Protection Powers

Under the federal financial aid regulatory scheme, state oversight agencies are primarily responsible for protecting students from abusive and deceptive practices.[1] The Bureau for Private Postsecondary Education's oversight role is critically important to ensuring that all Californians 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.

The need for strong state oversight of the for-profit higher education sector has never been greater. For-profit education companies are one of the most troubled business sectors in the nation. Increasing numbers of state and federal investigations and school closures have revealed

[1] See Nat'l Consumer Law Center, Ensuring Educational Integrity: 10 Steps to Improve State Oversight of For-Profit Schools (June 2014).

the widespread use of deceptive and illegal practices throughout the sector.[2] As stated recently in The New York Times, "in recent years, more than two dozen companies that run for-profit colleges have been investigated or sued by state prosecutors. To handle the load, 37 state attorneys general have teamed up to form a working group. Together, the 152 schools under investigation received about $8.1 billion in federal student loan and grant payments last fiscal year."[3]

Californians have been disproportionately harmed by for-profit institutions that fail to deliver on their promises to students. Here is a short list of recent government actions and investigations that have impacted massive numbers of California students:

- Corinthian Colleges: Findings that Corinthian inflated job placement rates disclosed to students throughout California by the U.S. Department of Education and the California Attorney General.[4] The California Attorney General alleged multiple other illegal practices in its ongoing lawsuit.[5]

  The vast majority of students affected by these findings and the closure of Corinthian Colleges last April were enrolled in Corinthian-owned campuses of Heald College, Everest College, or Wyotech. Only a small share of them have received federal[6] or state financial relief.[7]

- Westwood College: The majority of students enrolled at Westwood College – a troubled for-profit college chain that recently stopped enrolling new students[8] – are enrolled in California campuses.

- Marinello Schools of Beauty: The Department of Education terminated financial aid funding based on Marinello's inflation of job placement rates and use of fake high school diplomas to qualify its students for federal financial aid.[9] Of the 56 Marinello campuses which closed their doors unannounced earlier this month, 39 are located in California.[10]

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[2] *See id*., at pp. 38-55 (summary of government actions and investigations as of June 2014). *See also* David Halperin, Law Enforcement Investigations and Actions Regarding For-Profit Schools, www.republicreport.com (last accessed on Feb. 25, 2016) (up-to-date list of government actions and investigations regarding for-profit schools).
[3] Patricia Cohen, For Profit Colleges Accused of Fraud Still Receive U.S. Funds, The New York Times (Oct. 12, 2015).
[4] Press Release, U.S. Dep't of Educ., Department of Education and Attorney General Kamala Harris Announce Findings from Investigation of Wyotech and Everest Programs (Nov. 17, 2015); Press Release, U.S. Dep't of Educ., U.S. Department of Education Fines Corinthian Colleges $30 million for Misrepresentation (Apr. 15, 2015).
[5] Press Release, Office of the Cal. Atty. General, Attorney General Kamala D. Harris Files Suit in Alleged For-Profit College Predatory Scheme (Oct. 10, 2013).
[6] U.S. Dep't of Educ., Second Report of the Special Master for Borrower Defense to the Under Secretary at 2 (Dec. 3, 2015).
[7] Bureau for Private Postsecondary Educ., Background Information and Overview of the Current Regulatory Program at 43 (Dec. 1, 2015).
[8] Ashley A. Smith, Fall of a For-Profit, Insider Higher Ed (Dec. 8, 2015).
[9] Press Release, U.S. Dep't of Educ., U.S. Department of Education Takes Enforcement Action Against Two School Ownership Groups (Feb. 1, 2016).
[10] Samantha Masunaga and Chris Kirkham, Marinello Schools of Beauty abruptly shuts down after federal allegations, Los Angeles Times (Feb. 5, 2016).

- Education Management Corp.: Historic $99.5 million settlement obtained by the Department of Education and California Attorney General for, among other things, illegally inflating job placement rates.[11] EDMC operates 13 campuses in California.[12]

- DeVry University: Recent Federal Trade Commission law enforcement action alleging that DeVry inflated placement rates and graduate incomes, among other deceptive practices.[13]

After being subjected to deceptive practices covered by all of the above actions and findings, thousands of California students enrolled in inferior educational programs and ended up with nothing but debt.

The legislature has mandated that the Bureau make the protection of the public its "highest priority":

> In exercising its powers, and performing its duties, the protection of the public shall be the bureau's highest priority. If protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.[14]

Thus, the Bureau's number one objective in enacting the proposed regulations should be to protect students.

Strong regulations regarding graduate job placement disclosures can prevent many of the abuses highlighted in all of the above actions. We therefore appreciate that the Bureau has accepted and included many of our proposals from our comments of July 20, 2015, which support this objective. **As detailed below, however, the current proposals fall far short of the Bureau's consumer protection mandate and, in some cases, may allow schools to continue to use common deceptive practices to harm students.** We ask that, to the extent the Bureau rejects any of our comments in enacting the final regulations, it explain why it has done so in light of the facts we present below.

Comments

Proposed Section 74112(d)(3)(B)(ii)

Proposed section 74112(d)(3)(B)(ii) sets a number of requirements for graduates who may be considered as gainfully employed. This section suggests revisions for a number of these requirements. **Overall, contrary to its consumer protection mandate, the Bureau's**

[11] Press Release, U.S. Dep't of Justice, For-Profit College Company to Pay $95.5 Million to Settle Claims of Illegal Recruiting, Consumer Fraud and Other Violations (Nov. 16, 2015); U.S. v. Educ. Management Corp., 871 F.Supp. 2d 433 (W.D. Pa. 2012).
[12] *See* www.edmc.edu/Locations/.
[13] Press Release, Fed. Trade Comm'n, FTC Brings Enforcement Action Against DeVry University (Jan. 27, 2016).
[14] Cal. Ed. Code § 94875.

gainful employment proposals actively permit schools to provide misleading job placement disclosures.

In order to ensure that job placement rates accurately represent the number of graduates who are able to obtain and remain in steady, long-term employment with one employer, proposal should be revised as follows:

> 74112(b)(3)(B)(ii): The ~~on-time~~ graduate is employed in a single position ~~or concurrent aggregated single position~~, *by an employer other than the institution or an employer owned by the institution, or an employer who shares ownership with the institution,* totaling at least 30 hours per week for ~~21~~ *90* calendar days ~~with the expectation of the employer for continued employment~~, or totaling at least 20 hours per week for ~~21~~*90* calendar days with a statement signed by the graduate *in the graduate's own handwriting* ~~prior to enrollment~~ stating that he or she chose ~~only intends on seeking~~ to seek part-time employment rather than full-time employment after graduation;

1. Revise 21-Day to 90-Day Minimum Employment Period

The proposed regulation sets a minimum gainful employment time period as 21 days. **This 21-day period of employment is too short to prevent deception and instead allows schools to make misleading job placement rate disclosures**. It does not reflect prospective students' expectations and, as a result, is likely to lead to misleading placement rates. When students enroll in a career training program and make a significant financial investment to do so, they expect to obtain long-term permanent employment. They are likely to take job placement rate disclosures at face value, assuming that they are based on graduates who obtain long-term employment. In other words, no person seeking regular employment, for example as a medical assistant, dental assistant, computer programmer, teacher, or most other careers, would consider a job that lasted a mere 21 days as a successful job placement after spending thousands, if not tens of thousands, of dollars to pay for an education represented to lead to a career.

There is no basis in fact for choosing this shorter period. Allowing the use of such a short period of time for gainful employment calculations will allow schools to include temporary employment as well as graduates who are able to maintain a job for three weeks but who lose the job due to the lack of necessary skills. Corinthian, for example, reportedly paid employers to temporarily employ students for a month, so it could count them as placements.[15] This is an example of the way that a shorter period can lead to misleading placement rates.

Indeed, the Bureau's Advisory Council specifically recommended that the Bureau revise the proposed regulations to require a 45-day minimum employment period. The Bureau has provided no reasoned explanation for rejecting this recommendation, nor has it

[15] Chris Kirkham, How a For-Profit College Created Fake Jobs to Get Taxpayer Money, HuffingtonPost.com (Dec. 16, 2013).

provided any reason for rejecting the recommendations of multiple student advocates, including LAFLA, of longer time periods ranging from 90 to 120 days.

This provision should be deleted and the 21-day period replaced with a longer period of employment that is more likely to indicate that a graduate has obtained permanent employment. This time period should be a minimum of 90 days. This time period is less likely to be temporary and more likely demonstrates that a graduate has the skills necessary to maintain the type of long-term job he/she trained for.

2. Remove "Concurrent Aggregated Positions" from Gainful Employment Definition

The proposal provides that a graduate may be employed in "concurrent aggregated single positions totaling at least 30 hours per week . . . ." **This provision also permits schools to provide misleading job placement rates**. Most students do not expect or want to work multiple jobs. They are expecting long-term employment in one job and are likely to assume that the disclosures are based upon graduates who obtain one job for a minimum of 30 hours per week. No person goes to school in order to obtain multiple concurrent jobs so that they can make enough income to provide a living to themselves and their families and pay off their debts. This is not gainful employment.

For this reason, "concurrent aggregated single positions" should be deleted from the regulations. There is no rational basis to include this provision.

3. Retain Provision Prohibiting Schools from Counting Graduates They Hire as Gainfully Employed

In our comments of July 2015, we suggested that the Bureau add a provision preventing schools from hiring graduates in order to inflate their job placement rates. The Bureau accepted this suggestion and added the language that it now proposes removing. It is unclear why the Bureau has reversed its position, as it provides no facts or rationale to explain how student protection interests are served by removing this language.

The regulation should be revised to prevent this type of placement rate manipulation. In the past, schools have employed recent graduates in order to deceptively inflate their graduate job placement rates. Students do not enroll in schools in order to get jobs there. Instead, they expect that they will obtain a long-term job with an outside employer in an occupation trained for. There is no reason to remove this provision.

Proposed Section 74112(d)(3)(B)(iii): Retain Provisions Regarding Expectations of Continued Employment if 21-Day Minimum Employment Period is Retained

If the Bureau changes the 21-day minimum employment period to the 90-day period we recommend, then proposed section 74112(d)(3)(B)(iii) is not necessary and may be removed. However, if the Bureau retains the short 21-day minimum employment period, it must retain this requirement. For such a short time period to count as gainful employment, there must be a reasonable expectation that employment will continue indefinitely. Schools could obtain

from students or employers a statement that the employment is not temporary or limited by any time period.

The proposal should be retained and amended as follows:

Section 74112(d)(3)(B)(iii): The employment can be reasonably expected to continue, which may be shown by *a signed and dated statement from the employer or the student that the employment is not temporary or scheduled to end on a known date* ~~circumstances of that employment, which may include the expectation of the employer; or~~

Proposed Section 74112(d)(3)(C): Revise Proposal to Require More Reliable Forms of Self-Employment Evidence and an Attestation Signed and Dated by the Graduate

This section defines when self-employed or freelance graduates may be considered to be gainfully employed. This provision, however, is wholly inadequate to demonstrate whether a purportedly self-employed graduate is employed at all, much less to a degree that represents gainful employment. The proposed requirements would show nothing more than a graduate's intent to be self-employed, but no evidence that the graduate was actually able to obtain life-sustaining work as a self-employed person.

This represents a giant loophole. As an example, an unscrupulous school could easily help students obtain a business license while they are in school, then use that license to claim the graduate is self-employed even if the graduate never obtained any work at all. During its 2007 investigation of Corinthian, the California Attorney General uncovered evidence that Corinthian counted massage therapy graduates as self-employed based on fictitious business cards they had created in their classes.[16] A school could do the same with fictitious business name statements, advertising, and websites.

To address this problem, the regulation should be revised to require copies of business receipts, tax records, advertising published after the graduation date, or a website. The school should also obtain, *in addition* to one of the prior forms of evidence, an attestation of self-employment signed and dated by the graduate.

The proposed regulation should be revised as follows:

74112(b)(3)(B)(ii): The graduate is self-employed or working freelance as ~~reasonably~~ evidenced by, but not limited to, *business receipts, tax records,* ~~a business license, fictitious business name statement,~~ or advertising *published in a media source after the graduation date* (other than business cards), *or active* website, ~~or~~ *along with* an attestation signed *and dated* by the graduate of self-employment or freelance work*;*

[16] Testimony of Margaret Reiter before the U.S. Senate Comm. on Health, Educ., Labor, & Pensions, 111th Cong., Senate Hearing 111-1000, Emerging Risk? An Overview of the Federal Investment in For-Profit Education, starting at p. 58 (July 24, 2010).

Proposed Sections 74112(f)(1), (f)(2), (h), (i)(4), (i)(5), (j), (k), and (n)

Disclosure laws are never enough to prevent abuses often engaged in by the for-profit school industry, but combined with other consumer protection laws disclosures can help prevent unfair and deceptive practices. We therefore support the regulations to the extent that they require the calculation and disclosure of accurate educational costs, completion rates, job placement rates, and license examination passage rates, and graduate salaries and wages. For these disclosures to be effective, however, prospective students must be given sufficient time to read, consider, and discuss them with their families before they make a significant investment in a higher education.

The Bureau proposes to amend subsections (f)(1), (f)(2), (h), (i)(4), (i)(5), (j), and (k) to include the following language under a student's initials and date and on each disclosure: "Initial only after you have had sufficient time to read and understand the information." It appears that these proposals are aimed at a common hard-sell practice that many for-profit schools use to enroll students while preventing them from taking time to review the disclosures and other important documents. At the same time, the Bureau proposes to delete subsection (n), which would require the schools to allow a "reasonable amount of time for the student to read the [disclosures] prior to obtaining the student's initials." For the following reasons, we oppose both of these proposals.

1. **Delete Proposed Language Under Students' Initials on Each Disclosure**

Typically, from the minute a student first walks into a for-profit school, he/she faces intense pressure to sign an enrollment agreement and take out student loans. Many of our clients describe being pressured to sign a tall stack of documents, as directed by a recruiter, without sufficient time to review any of the documents, including disclosures. For example, we have Spanish-speaking clients who attended a school that did exactly this. As a result, none of them realized that the school had falsely stated, on documents they signed, that they had earned high school diplomas when in fact they did not.

This is not an isolated example. In practically every case we take involving a for-profit school, students tell us that they did not have time to review the disclosures or any of the documents they signed because the recruiter rushed them through initialing and signing everything. In the last two week, many of the Marinello students we assisted reported that the school engaged in these practices.

Simply adding the proposed language under the students' initials on each disclosure will not prevent schools from continuing to engage in this practice. Schools can easily continue to tell students where to sign and students will follow those directions. In addition, schools will be able to easily cover up this warning by layering the disclosure documents and/or rushing the student through initialing them.

The Bureau's proposals to amend the disclosures provide a veneer of consumer protection, while allowing schools to continue to engage the practice the regulation is aimed

to prevent. For these reasons, we oppose adding the language under students' initials as proposed in subsections (f)(1), (f)(2), (h), (i)(4), (i)(5), (j), and (k).

2. <u>Retain Proposed Subsection (n) and Amend it to Provide for 24-Hour Cooling Off Period</u>

The only way to combat this type of fraud is to require the school to provide the student sufficient time to read and consider the disclosures. Subsection (n) was aimed at ensuring that the student had a "reasonable amount of time" to do so. Schools, however, could easily game this requirement by interpreting the undefined reasonable amount of time as they see fit.

Students should be able to take home the disclosures, as well as any proposed enrollment agreements or financial commitments, to carefully review and *compare* them to the disclosures and agreements from other schools. While one purpose of the disclosures is to provide important information about the program cost and the performance of a school's graduates, it is also to provide sufficient information so that a student can shop and compare his/her options. It is difficult for a student to do this while he/she is at an institution and faced with pressure to sign an enrollment agreement. Even if he/she is given time to review the disclosures at the school, the prospective student may not have access to information from other schools, nor can he/she consult with family.

We therefore propose that the Bureau retain subsection (n) and amend it to provide a 24-hour cooling off period. During this period, the school should be prohibited from requiring or accepting a signed enrollment agreement or any other legal or financial commitment. A 24-hour waiting period will allow students to make decisions away from high-pressure sales tactics, consult with family members and others who might be able to help them make decisions, and compare the disclosures, enrollment agreements, and loan agreements from the various schools he/she is considering.

Other states require similar, but longer, cooling off periods. For example, the Massachusetts Attorney General recently enacted a regulation providing that it would be an unfair and deceptive practice for a school that refers to employment prospects in advertising materials to fail to disclose job placement rates to prospective students at least 72 hours prior to entering into an enrollment agreement.[17]

Subsection (n) should be retained and amended as follows:

> Section 74112(n): The institution must *provide the Performance Fact Sheet, along with the enrollment agreement and any other documents that it will require the student to sign or initial before enrolling, at least 24-hours prior to accepting or requiring a student to sign an enrollment agreement or any other legally binding document*~~allow a reasonable amount of time for the student to read the document prior to obtaining the student's initials~~.

[17] 940 Mass. Code Regs. § 31.05(b)(b)(1).

Conclusion

For the Bureau to fulfill its mandate to protect the public as its top priority, it must ensure that the Performance Fact Sheet disclosures are accurate and not misleading. It must also ensure that prospective students have sufficient time to review the disclosures, compare them to other schools' disclosures, and consult with family regarding the significant decision of whether to invest thousands of dollars in a higher education at a particular institution.

The current proposals would lead to misleading disclosures regarding job placement rates and would do nothing to ensure that students have the time they need to review the disclosures and make important decisions. We hope the Bureau will incorporate our recommendations into the final regulations, which will move it closer to implementing its consumer protection mandate.

Thank you for considering our comments.

February 28, 2016

Sent via electronic mail

Joanne Wenzel
Chief, Bureau for Private Postsecondary Education
P.O. Box 980818
West Sacramento, CA 95798-0818

Re: Public Records Act Request

Dear Ms. Wenzel:

This letter is to request access to records in the possession of the Bureau for Private Postsecondary Education for the purpose of inspection and copying pursuant to the California Public Records Act (Government Code Section 6250 et seq.) and Article I, Section 3 of the California Constitution.

Please provide a copy of the following public records relating to the Bureau's regulatory proposals related to AB 2296 (Block) and published by the Bureau on [insert dates]:

1) All communications, including but not limited to letters, comments, memoranda, emails, or other documents between the Bureau and any private postsecondary educational institution, as that term is defined at Cal. Ed. Code section 94858 (hereinafter, "institution"), including representatives of institutions or associations or organizations comprised in whole or in part of institutions or their representatives; and
2) All records of any meetings, in person, by phone, or by any other method, with the Bureau and any institution, its representative(s), or associations or organizations comprised in whole or in part of institutions or their representatives.

The California Public Records Act requires a response within ten business days. If access to the records we are requesting will take longer, please contact Rigel Massaro and Public Advocates with information about when we might expect copies or the ability to inspect the requested records.

Where documents are available in image format (e.g., PDF), please make the documents available in that format. If responsive documents are publically available on the internet, please provide the internet address (URL) rather than by making copies.

If you believe that a portion of the information we have requested is exempt from disclosure by express provisions of the law, Government Code Section 6253(a) additionally requires segregation and deletion of that material in order that the remainder of the information may be released. If you believe that the public interest in withholding the information clearly outweighs the public interest in disclosure, we request that you identify the harm of release to the public considering the important interest of transparency in government operations, particularly when public funds are involved. If

you contend that a responsive document is exempt from disclosure by reason of its status as a "draft," please so indicate, indicate whether such documents are retained in the ordinary course of business, and provide a copy of all documents referring to or constituting the applicable document retention policy.

We also ask that you exercise your discretion to waive any and all costs for complying with this request, given the critical nature of the information in these records to current public policy and decision-making regarding the state's regulation of private postsecondary education. In the event the you do not waive costs, if the cost of providing the requested copies exceeds $25.00, please notify Ms. Massaro before preparing the copies.

Thank you in advance for you prompt consideration. Please send all requested documents to Ms. Massaro, and if you have any questions or concerns, please contact Ms. Massaro at (415) 625-8461 or rmassaro@publicadvocates.org.

Sincerely,

Sharon Djemal
Director, Consumer Justice Clinic
East Bay Community Law Center

Leigh Ferrin
Lead Attorney
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