AFR Americans for Financial Reform

August 1, 2016

The Honorable John B. King Jr.
Secretary of Education
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

Re: Student Assistance General Provisions: Federal Perkins Loan Program, Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, and Teacher Education Assistance for College and Higher Education Grant Program (Docket ID ED-2015-OPE-0103)

Dear Secretary King:

Americans for Financial Reform ("AFR") appreciates this opportunity to comment on the above-mentioned proposed rule (the "Proposed Rule") by the Department of Education (the "Department"). AFR is a coalition of more than 200 national, state, and local groups who have come together to advocate for reform of the financial industry. Members of AFR include consumer, civil rights, investor, retiree, community, labor, faith based, and business groups.[1]

I. Introduction

As a coalition formed in the wake of the subprime mortgage crisis to lay the foundation for a strong, stable, and ethical financial system, AFR is highly attuned to the similarities between the subprime crisis and the recent crises in the for-profit education sector. In both cases, bad actors specifically targeted vulnerable populations – veterans,[2] minorities,[3] and low-income people.[4] Both used high-pressure sales tactics to push borrowers into high-interest loans with deceptive terms. And both have armies of lobbyists to seek favorable regulatory treatment,[5] and receive extensive taxpayer support in a variety of ways.[6] But the abuses by for-profit schools is even more

[1] A complete list of Americans for Financial Reform's coalition members is available at http://ourfinancialsecurity.org/about/our-coalition/.
[2] Jacob Davidson, *How For-Profit Colleges Target Military Veterans (and Your Tax Dollars)*, TIME, http://time.com/money/3573216/veterans-college-for-profit/.
[3] Kai Wright, *Young, black and buried in debt: How for-profit colleges prey on African-American ambition*, SALON (June 9, 2013), http://www.salon.com/2013/06/09/young_black_and_buried_in_debt_how_for_profit_colleges_prey_on_african_american_ambition/.
[4] John Hechinger, *For-Profit Colleges Fail Poor Students, Report Says*, BLOOMBERG (Nov. 23, 2010), http://www.bloomberg.com/news/articles/2010-11-23/for-profit-colleges-fail-to-help-poor-minorities-education-trust-says.
[5] David Halperin, *The Perfect Lobby: How One Industry Captured Washington, DC*, THE NATION (Apr. 3, 2014), http://www.thenation.com/article/179161/perfect-lobby-how-one-industry-captured-washington-dc.
[6] Chris Kirkham, *Corinthian, Department of Education reach deal; campuses to be sold*, LA TIMES (June 23, 2014), http://www.latimes.com/business/la-fi-corinthian-deal-20140623-story.html.

extreme in the sense that they are entirely dependent on government funding for their very existence.

For-profit colleges also exploited the economic devastation that followed the bursting of the housing bubble – where, according to Pew, Black wealth fell by more than half, and Latino wealth fell by 66 percent[7] – to increase enrollment from the ranks of the newly unemployed. In internal documents obtained by the Department of Justice, Corinthian described its target demographic as people who were "isolated" and "stuck."[8] This targeting worked: the biggest increase in enrollment in for-profit schools came in the immediate wake of the crisis, from 2008-2009, when many Americans were feeling stuck. And many of these same communities targeted in the subprime crisis were targeted once again by for-profit schools. Between 2004 and 2010, Black enrollment in four-year for-profit schools jumped 264 percent (contrasted with just a 24 percent growth in black student enrollment in four-year public colleges during the same time period).[9] But as the Department knows, in too many cases, these institutions provided terrible outcomes for their students. The National Bureau of Economic Research found that on average, those who pursue Associate's and Bachelor's degrees at for-profit schools make *less money* after they attend than they did before.[10]

With this Proposed Rule, the Department has a real opportunity to write a different ending to this crisis, and to ensure that borrowers targeted by unscrupulous and illegal practices by their schools have the chance to be made whole, and move on with their lives. Borrowers who attended schools like Corinthian stare down serious consequences every day, from the burden of the debt itself, to ruined credit that interferes with their ability to own or rent a home, to ongoing unemployment or underemployment, to being hounded by debt collectors to repay loans foisted on them by schools who broke the law. To take just one example, there are borrowers like Pamela Hunt, one of members of the Debt Collective who met with Under Secretary Ted Mitchell in 2015.[11] When her landlord walked away from her home – which was equipped with a ramp for her wheelchair-bound son – Hunt could not get a mortgage due to the high level of Corinthian debt she holds.[12] She was evicted, and she and her family were homeless for many weeks, a displacement that could have been avoided had her borrower defense application been approved sooner. Her example is just one of hundreds of thousands of borrowers who live daily with the negative consequences of debts owed to institutions that never should have received Title IV funding in the first place.

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[7] Rakesh Kochhar, Richard Fry and Paul Taylor, *Wealth Gaps Rise to Record Highs Between Whites, Blacks, Hispanics*, PEW RESEARCH CENTER (July 26, 2011), http://www.pewsocialtrends.org/2011/07/26/wealth-gaps-rise-to-record-highs-between-whites-blacks-hispanics/

[8] *Attorney General Kamala D. Harris Files Suit in Alleged For-Profit College Predatory Scheme*, STATE OF CALIFORNIA DEPARTMENT OF JUSTICE, OFFICE OF THE ATTORNEY GENERAL (Oct. 10, 2013), https://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-files-suit-alleged-profit-college-predatory.

[9] Julianne Hing, *Are For-Profit Colleges the Answer for Black Students?*, COLORLINES (Sept. 10, 2016), http://www.colorlines.com/articles/are-profit-colleges-answer-black-students.

[10] Stephanie Riegg Cellini and Nicholas Turner, *Gainfully Employed? Assessing the Employment and Earnings of For-Profit College Students Using Administrative Data*, NBER WORKING PAPER NO. W22287 (May 2016), http://ssrn.com/abstract=2786445.

[11] *Corinthian Strike Team Demands Debt Cancellation in Washington DC, The Debt Collective* (Apr. 1, 2015), http://blog.debtcollective.org/corinthian-100-demanding-debt-cancellation-in-washington-dc/.

[12] David Halperin, *Students Testify: For-Profit Colleges Stole Our Futures*, REPUBLIC REPORT (Feb. 18, 2016), http://www.republicreport.org/2016/students-testify-for-profit-colleges-stole-our-futures/.

Consumer advocates, State attorneys general, and lawmakers alike have, since 2014, not only called on the Department to provide automatic, group relief to the former Corinthian students harmed by its illegal acts, but also urged the Department to develop a fair and efficient group process for discharging debt moving forward.[13] We appreciate the Department's stated goal in the Proposed Rule to "protect student loan borrowers from misleading, deceitful, and predatory practices" and to provide "consistent, clear, fair, and transparent processes" for students seeking debt relief. We believe that many of the processes outlined in the Proposed Rule provide an opportunity to meet these goals. In particular, we are pleased to see the Department propose a process for group-based, automatic discharges; the automatic granting of closed school discharges in certain instances; language to end the use of mandatory, pre-dispute arbitration agreements at schools that receive Federal financial aid funding; and warnings to students when loan repayment rates at for-profit institutions are less than or equal to zero. However, we believe that there are several changes that need to be made to the final rule in order to realize this potential.

II. The Department should not repeal current rights by eliminating the ability to pursue relief based on State law claims

The Proposed Rule creates a new, Federal standard for borrower defenses submitted for loans disbursed after July 1, 2017.[14] In the negotiated rulemaking, consumer, student, legal aid and veterans' advocates alike all urged the Department to ensure that any new Federal standard represent a floor, not a ceiling, for pursuing borrower defenses. We are disappointed that the Proposed Rule did not take these concerns into account, and instead eliminates borrower defenses currently available under State law.

The preamble explains that the Department made this decision due to "difficulties in application and interpretation of the current State law standard,"[15] and because "an approach based on State

[13] E.g: Letter from 13 Senators Urging Department Of Education To Discharge Loans For Students At Colleges That Break The Law, U.S. SENATOR ELIZABETH WARREN (Dec. 9, 2014), http://www.warren.senate.gov/files/documents/2014%2012%209%20Corinthian%20Letter.pdf; Representative Maxine Waters, *What the Department of Education can learn from the foreclosure crisis*, The Hill (May 18, 2015), http://thehill.com/opinion/op-ed/242238-what-the-department-of-education-can-learn-from-the-foreclosure-crisis; Letter from 35 Senators to the White House, calling for Automatic Relief To Groups Of Students Who Have Been Victims Of Predatory Practices, US SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR & PENSIONS (Mar. 9, 2016), http://www.help.senate.gov/ranking/newsroom/press/senate-dems-students-deserve-immediate-debt-relief-after-attending-schools-engaged-in-deceptive-and-predatory-practices; Letter from 43 lawmakers in the House and Senate urged Secretary of Education Dr. John King to create strong protections and a streamlined path to debt relief for student loan borrowers in the Department's forthcoming "borrower defense" rule, U.S. SENATOR JEFF MERKLEY (Apr. 29, 2016), https://www.merkley.senate.gov/news/press-releases/wyden-merkley-urge-education-secretary-to-provide-full-debt-relief-to-defrauded-student-borrowers; Letter from 19 State Attorneys General asking for a group process for discharging debt for defrauded students, THE COMMONWEALTH OF MASSACHUSETTS, OFFICE OF THE ATTORNEY GENERAL (Mar. 18, 2016), http://www.ncdoj.gov/getdoc/35445542-e651-4c03-a44c-e0b1c687bcd0/DoE-Letter_2016_03_18.aspx; and Letter from 34 Consumer and Civil rights orgs asking the Department to provide automatic discharges when there is sufficient evidence of wrongdoing, AMERICANS FOR FINANCIAL REFORM (Mar. 11, 2016), http://ourfinancialsecurity.org/wp-content/uploads/2016/03/CoalitionLetterOnBorrowerDefense_March11_2016.pdf.

[14] 81 FR 39417.

[15] 81 FR 39336.

law would present a significant burden for borrowers and Department officials to determine the applicability and interpretation of States' laws"[16] However, as the Department acknowledged in the Proposed Rule, thousands of students have already applied for a defense to repayment using the current State law standard.[17] Thousands of these applications were generated by a web application built by volunteers from the group the Debt Collective, which counts among its members many borrowers who are former students of for-profit colleges.[18] Further, the Department itself is already going to have to determine the applicability of State laws as it reviews the 26,603 applications submitted to date under the current standard.[19]

The Proposed Rule's approach *reduces* the rights of borrowers in States with strong consumer protection laws that protect consumers from unfair, deceptive, or abusive conduct, despite requests by non-Federal negotiators to include these as an additional basis for a borrower defense.[20] The Department should be working to *expand* the rights of borrowers, not limiting their rights to pursue relief. As California Attorney General Kamala Harris noted earlier this year, "Fair and effective defense-to-repayment procedures [m]ust look to State law as a basis to assert a defense."[21] Another letter sent in response to the Proposed Rule, led by Attorney General Harris and co-signed by 16 other states and the District of Columbia also notes that the proposal is "an unwelcome retreat from the Department's 1995 regulations, which recognize violations of state law as a basis for defense to repayment."[22] We urge the Department to ensure that the new Federal standard is a floor, not a ceiling, and to retain the right to file borrower defenses based on State claims.

III. The Department should presume full relief

We are disappointed that the Department does not presume that defrauded students will receive full relief. Students harmed by misrepresentations or by deceptive and illegal practices by their schools can never get back the time they invested, or the wages they may have lost due to hours spent in school. Further, the illegal conduct schools face through enforcement actions may be only a subset of the fraudulent and deceptive acts that occurred.[23] In addition, as attorneys general from

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[16] 81 FR 39339.
[17] 81 FR 39335.
[18] Karissa Mckelvey, *Volunteer Coders Force The Dept Of Education To Actually Help Debtors*, CIVICIST (July 6, 2015), http://civichall.org/civicist/what-the-dept-of-education-should-have-done-years-ago/.
[19] *Fourth Report of the Special Master for Borrower Defense to the Under Secretary*, UNITED STATES DEPARTMENT OF EDUCATION (June 29, 2016), http://www2.ed.gov/documents/press-releases/report-special-master-borrower-defense-4.pdf.
[20] 81 FR 39339.
[21] *Attorney General Kamala D. Harris Calls on the Department of Education to Revise Regulations to Protect Students Defrauded by Corinthian Colleges*, STATE OF CALIFORNIA DEPARTMENT OF JUSTICE, OFFICE OF THE ATTORNEY GENERAL (Feb. 25, 2016), https://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-calls-department-education-revise-regulations.
[22] *Attorney General Kamala D. Harris, 16 states, and the District of Columbia, Call for More Student Loan Debt Relief for Students Harmed by Predatory For-Profit Colleges*, STATE OF CALIFORNIA DEPARTMENT OF JUSTICE, OFFICE OF THE ATTORNEY GENERAL (Aug. 1, 2016), http://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-16-states-and-district-columbia-call-more.
[23] The Department of Education and the California Attorney General pursued two joint enforcement actions against Heald, and Everest and Wyotech, respectively. These two enforcement actions have served as the basis for the former Corinthian students who have obtained relief to date. However, the Consumer Financial Protection Bureau also received a default judgement in their lawsuit against Corinthian for predatory lending, and Corinthian also faced

17 States and the District of Columbia noted in their letter on the Proposed Rule, "Appendix A erroneously affords a culpable school—already proven by the borrower to have egregiously violated the law—the presumption that its education had at least some value to the borrower."[24] The Department should ensure that wronged borrowers are entitled to a full discharge of their debt.

Insisting that there be a mechanism to provide only partial relief in the Proposed Rule creates the potential to squeeze wronged borrowers once more, especially given the profits the Department of Education makes off the student loan program,[25] and the concerns outlined in the Proposed Rule about taking "fiscal impact" into consideration when deciding on group claims.[26]
Further, the Proposed Rule's Appendix A allows the Department official or hearing official to determine the amount of relief a borrower obtains. Leaving the amount of relief up to these officials means that there will not be consistent standards applied, and that borrowers may be subject to different treatment depending on which official evaluates their application.

In addition, if the Department allows itself to only provide partial relief, it will reduce the incentive the Borrower Defense rule provides to the Department itself, to ensure that they are monitoring schools appropriately on the front end, and preventing scams from happening in the first place.

IV. Borrower Defense relief must include updates to consumer reporting agencies to remove adverse credit reports

§ 685.222(i) of the Proposed Rule describes the relief obtained if a borrower defense is approved, and seems to create ambiguity as to whether or not the Department will direct credit rating agencies to remove adverse credit lines related to the discharged debts. § 685.222(i)(4) states that the Secretary or the hearing official may, "as applicable," afford additional relief to borrowers with approved which:

> includes, but is not limited to, one or both of the following: (i) Determining that the borrower is not in default on the loan and is eligible to receive assistance under title IV of

charges of securities fraud from the Securities and Exchange Commission. E.g.: *CFPB Wins Default Judgment Against Corinthian Colleges for Engaging in a Predatory Lending Scheme*, Consumer Financial Protection Bureau (Oct. 28, 2015), http://www.consumerfinance.gov/about-us/newsroom/cfpb-wins-default-judgment-against-corinthian-colleges-for-engaging-in-a-predatory-lending-scheme/; and Matt Reynolds, *Corinthian Colleges Deal Sends Appeal Packing*, COURTHOUSE NEWS SERVICE (Oct. 14, 2016), http://www.courthousenews.com/2014/10/14/72410.htm.

[24] *supra* note 22 at 5.

[25] E.g. *Merkley Statement on Student Loans Deal*, U.S. SENATOR JEFF MERKLEY (July 24, 2013), http://www.merkley.senate.gov/news/press-releases/merkley-statement-on-student-loans-deal; and *Letter from 6 Senators to the Department of Education: Stop Profiting Off Student Loans and Fulfill Congressional Directives to Help Struggling Borrowers*, U.S. SENATOR ELIZABETH WARREN (Feb. 25, 2015), http://www.warren.senate.gov/files/documents/2015_25_02_Letter_to_Secretary_Duncan_re_Student_Loan_Profits.pdf.

[26] 81 FR 39418.

> the Act. (ii) Updating reports to consumer reporting agencies to which the Secretary previously made adverse credit reports with regard to the borrower's Direct Loan;[27]

This language is a departure from the language in the Direct Loan regulations for false certification discharges, which states that "The Secretary reports the discharge under this section to all consumer reporting agencies to which the Secretary previously reported the status of the loan, so as to delete all adverse credit history assigned to the loan."[28] Negative credit reports affect a borrowers' ability to own or rent a home, access credit, government benefits, and services, and in some States, can even affect their ability to find employment.[29] We urge the Department to adopt language that clarifies that any loan discharged through a borrower defense will have any adverse credit history that exists deleted.

V. Group Process for Borrower Defense

a. Fiscal Impact should not be a factor in a group process for borrower defense

During the negotiated rulemaking sessions, the Department noted that it had concerns about the impact of the borrower defense rule on the "federal fisc."[30] In addition, the Proposed Rule discusses taking "fiscal impact" into consideration when deciding on group claims.[31] Current borrower defense law entitles students to relief regardless of the fiscal impact. It is imperative that there is no consideration of fiscal impact when it comes to provided harmed borrowers with the relief they are entitled to. Taxpayers must be protected through the preventative medicine of holding schools accountable up front, not by imposing even further penalties onto defrauded borrowers seeking relief.

b. Create a formalized process for attorneys general and nonprofits to petition for group relief, for both state and Federal claims

In the Proposed Rule, the Department acknowledges that at the negotiated rulemaking, non-Federal negotiators requested that state attorneys general and legal aid groups could request that the Secretary initiate a group process, and that the Secretary be required to issue written responses to those requests.[32] In fact, such language was present in one of the negotiated rulemaking proposals from Session 3, which read:

> A state attorney general, state or Federal enforcement agency, or a nonprofit organization that provides legal representation may submit a written request identifying a group of borrowers for the Secretary to initiate the process described in either paragraphs (g) or (h)

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[27] 81 FR 39420.
[28] 34 CFR 685.215(b)(5).
29 *Credit Reports & Credit Scores*, NEW ECONOMY PROJECT, http://www.neweconomynyc.org/credit-reports-credit-scores/.
[30] David Halperin, *Dept. of Education Takes on the University of Nowheresville*, HUFFINGTON POST (Feb. 17, 2016), http://www.huffingtonpost.com/davidhalperin/dept-of-education-takes-o_b_9254172.html.
[31] 81 FR 39418.
[32] 81 FR 39348.

> of this section. The Secretary will issue a written determination, within a reasonable period of time, whether such a process, as appropriate, will be initiated.[33]

The reason the Department gives in the preamble for abandoning this formalized process is that cooperation among the Department and outside entities is "more effective when it is conducted through informal communication and contact."[34] We strongly disagree. There is nothing informal about the debt incurred by students wronged by misrepresentations and other illegal practices. In addition, there is a very formalized way that interest still accrues on the debts of the 19,398 former Corinthian students (and the 3,418 non-Corinthian students) who have already submitted defense to repayment applications, but which the Department has not made a decision on.[35] There is no reason to insist that law enforcement and legal aid groups use informal channels to petition for consideration of group discharges, especially when the consequences for wronged borrowers are so formal and so comprehensive. The Department must allow for formal, public input by the public into the determination of group discharges, and the Department's responses to those requests must be transparent. It does not suit the public interest to route requests for group relief through informal, opaque communications inaccessible by the general public. In addition, the Department should accept written requests for group discharges based on both Federal claims *and* State law violations.

VI. No Statute of Limitations on unpaid *or* paid debts

We thank the Department for their recognition in the Proposed Rule that there should be no statute of limitations on unpaid debts.[36] This will ensure that any student harmed by misrepresentations or breaches of contract at their school will have the ability to pursue the Federal student loan discharges they are rightly owed. As was discussed extensively in the negotiated rulemaking, and cited by the Department in the proposal, there is no limitation on "the Department's ability to collect on a Direct Loan until it is paid in full or discharged,"[37] so if there is no statute of limitation on the ability to collect on a Direct Loan, there shouldn't be one on borrower defenses. In addition, imposing a statute of limitations on repaid amounts creates a perverse outcome where those who default on their loans are eligible for full relief, but those who've managed to make payments on their loans may not be eligible for that same full relief.

Recent news stories have highlighted that even in the high-profile case of Corinthian and after the Department of Education attempted to electronically notify certain former students of their

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[33] *Issue papers 1-3 (redlined), Materials provided by the Department to the negotiating committee at Session 3*, UNITED STATES DEPARTMENT OF EDUCATION (Mar. 18, 2016), http://www2.ed.gov/policy/highered/reg/hearulemaking/2016/bd3-682211-031816.doc.

[34] 81 FR 39348.

[35] According to the fourth and final Report of the Special Master for Borrower Defense, 23,185 former Corinthian students have applied for borrower defense to repayment, and of those, 3,787 have received borrower defense discharges. See: *Fourth Report of the Special Master for Borrower Defense to the Under Secretary*, UNITED STATES DEPARTMENT OF EDUCATION (June 29, 2016), http://www2.ed.gov/documents/press-releases/report-special-master-borrower-defense-4.pdf.

[36] 81 FR 39344.

[37] 81 FR 39345.

eligibility to pursue borrower defense discharges, many are still unaware of their rights.[38] To date, only 23,185 former students from across *all* enrollment dates have applied for relief,[39] despite a total enrollment of 224,000 students in the 2009-2010 school term alone.[40] This further underscores the point that many former students simply are not aware of their right to a borrower defense. A significant portion of those 224,000 students enrolled in 2009-2010, and many of those enrolled prior, would not be eligible for refunds of amounts paid had the proposed six-year statute of limitations been in place previously. In addition, any former Corinthian student with FFEL-only loans would in theory also have missed the proposed statute of limitations had it been in place today, given that FFEL loans all predate July 2010.

Finally, in the Proposed Rule, the Department itself proposed that closed school discharges should be automatically granted after three years – without application – so long as a borrower is eligible.[41] This proposal, which we *strongly* support, implicitly acknowledges the difficulty of notifying all borrowers of their rights, and the fact that not everyone who may want relief will know to pursue it in a timely way. This implicit admission, along with the Corinthian example, shows that a six-year statute limitation on borrower defenses as it relates to paid debts would leave out many wronged borrowers.

VII. Fix loopholes in forced arbitration prohibition

We strongly support the intent of the Department to protect students from forced arbitration clauses at schools receiving Title IV funds. As Undersecretary Mitchell said in March 2016, the Department's aim is to "ensure that no college can dodge accountability by burying 'gotchas' in fine print."[42] However, for this goal to be fully realized, there are a number of loopholes in the current rule that need to be closed.

AFR is a co-signer of a coalition letter led by Public Citizen which outlines several suggestions to that end, including: forbidding schools that seek Direct Loan funding from relying on *any* pre-dispute arbitration agreements; ensuring that the proposed amendments to § 685.300 apply to all students at a school, not just those with Direct Loans; and making the scope of claims covered by the rule as broad and clear as possible.[43] We support the recommendations made in this coalition letter, and urge the Department to adopt them.

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[38] Molly Hensley-Clancy, *Tens of Thousands Of People Can Cancel Their Student Loans, But Don't Know It*, BUZZFEED, (July 26, 2016), available at https://www.buzzfeed.com/mollyhensleyclancy/people-can-cancel-their-student-loans-but-dont-know-it.

[39] *Fourth Report of the Special Master for Borrower Defense to the Under Secretary*, *supra* note 19 at 2.

[40] Robert Shireman, Elizabeth Baylor, and Ben Miller, *Looking in All the Wrong Places: How the Monitoring of Colleges Misses What Matters Most*, CENTER FOR AMERICAN PROGRESS (Apr. 2016), https://cdn.americanprogress.org/wp-content/uploads/2016/03/31090935/OversightReportApril.pdf.

[41] 81 FR 39369.

[42] U.S. Department of Education Takes Further Steps to Protect Students from Predatory Higher Education Institutions, (Mar. 11, 2016), http://www.ed.gov/news/press-releases/us-department-education-takes-further-steps-protect-students-predatory-higher-education-institutions.

[43] Comment letter from Public Citizen et. al., to the Honorable John B. King, Jr., Secretary of Education, on proposed amendments to 34 C.F.R. § 685.300, RIN 1840-AD19; Docket ID ED-2015-OPE-0103 (Aug. 1, 2016).

VIII. Warnings for Students

We applaud the Department's plan to require proprietary schools with poor loan repayment outcomes to warn students, and also appreciate the Department's plan to conduct consumer testing of these warnings.[44]

Former Corinthian student Jessica King, a member of the Debt Collective who graduated from Everest Newport in 2008, and who was also one of the attendees in the April 2015 meeting with the Undersecretary Ted Mitchell,[45] has repeatedly stated that had she been aware of either the investigations, poor job placement rates, or poor repayment rates at her campus, she would have never attended. In a personal correspondence, she pointed out an July 2014 *NYTimes* article noting that Everest Newport would have failed the original gainful employment standard.[46] The plain language warnings the Proposed Rule requires for schools with poor loan repayment outcomes are an important improvement over the status quo, which leaves students to find out only once it's too late that, as Jessica King found, employers would not hire graduates of her school,[47] and that her resume was better without the Everest degree on it.[48]

Warnings like those outlined in the Proposed Rule will do much to ensure that students are informed of the risks of attending schools with poor loan repayment outcomes. We also appreciate the Department clarifying that "the institution must ensure that the warning or disclosure is the only substantive content in the message unless the Secretary specifies additional, contextual language to be included in the message."[49] We urge the Department to further clarify that this message not be buried in a high volume of non-substantive content in the message delivered to the borrowers.

IX. Conclusion

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[44] 81 FR 39371.
[45] *supra* note 11.
[46] Kevin Carey, *Corinthian Colleges Is Closing. Its Students May Be Better Off as a Result*, NYTIMES (July 2, 2014), http://www.nytimes.com/2014/07/03/upshot/corinthian-colleges-is-closing-its-students-may-be-better-off-as-a-result.html. (See: "To end up in these categories, programs must have terrible results. At Corinthian-owned Everest College's Newport News, Va., campus, for example, more than 500 students completed the medical assistant certificate program during the 2007-08 and 2008-09 school years. After hitting the job market, they earned an average of $12,553 per year in 2011. Since 90 percent of full-time medical assistants are paid at least $21,080 per year, according to the Bureau of Labor Statistics, this suggests that many of these students couldn't get jobs in their field at all. The 10-month program costs 'about $20,000,' according to a telephone representative whom I spoke to this week only after an online representative refused to tell me the price, saying, 'I don't have access to that information.' It's not surprising that a third of all the program's borrowers defaulted on their loans.").
[47] Aimee Picchi, *Feeling burned, for-profit college grads want loans erased*, CBS: MONEY WATCH (Jan. 27, 2016), http://www.cbsnews.com/news/feeling-burned-for-profit-college-grads-want-loans-erased/. (See: "After graduation, she sent out 150 resumes but didn't get a bite. Finally, she asked a doctor for honest feedback and was told that the school had a negative reputation. He offered to hire her as a receptionist, but said he couldn't hire her as a medical assistant.").
[48] Casey Quinlan, *Why Graduates Of For-Profit Colleges Are Struggling To Pay Back Student Loans*, THINK PROGRESS (Sept. 14, 2015), http://thinkprogress.org/education/2015/09/14/3700687/the-recession-changed-the-face-of-student-debt-but-regulators-have-been-slow-to-react/. (Jessica King was "advised by a potential employer that she should remove Everest from her resume").
[49] 81 FR 39400.

We welcome the steps the Department has taken in this Proposed Rule and thank you for the opportunity to comment on these matters. We hope that you will seriously consider the recommendations we have set forth which will allow the Department to actualize the opportunity this Proposed Rule presents. For questions, please contact Alexis Goldstein, AFR's Senior Policy Analyst, at 202-466-1885.

Sincerely,

Americans for Financial Reform