



TESTIMONY FOR A HEARING ON:

Oversight: Examining the Value of For-Profit Colleges

PRESENTED BEFORE:

New York City Council Committee on Higher Education

SUBMITTED BY:

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February 15, 2013

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MFY Legal Services, Inc. (MFY) submits this testimony to New York City Council Committee on Higher Education to address some of the problems poor New Yorkers face with for-profit colleges in New York City.

MFY envisions a society in which no one is denied justice because he or she cannot afford an attorney. To make this vision a reality, for 50 years MFY has provided free legal assistance to residents of New York City on a wide range of civil legal issues, prioritizing services to vulnerable and under-served populations, while simultaneously working to end the root causes of inequities through impact litigation, law reform and policy advocacy. We provide advice and representation to more than 8,000 New Yorkers each year. Specifically, MFY's Consumer Rights Project provides advice, counsel, and representation to low-income New Yorkers on a range of consumer problems.

MFY commends the Committee on Higher Education for holding this hearing to address an important issue that affects a number of our clients. Clients often come to us because they are having difficulty repaying student loans incurred while attending for-profit proprietary and trade schools. In speaking with these clients about their experiences attending these schools and then looking for work afterwards, we have noticed certain patterns in their stories. Most of these patterns correspond with what researchers have reported about this industry.

First, students who attend for-profit schools tend to default on their student loans more frequently than their counterparts at non-profit schools, public or private.¹ This is in part due to the fact they borrow more, both in terms of amount and frequency, than students at non-profit schools.² Unfortunately, for many for-profit schools, gaining access to federal and state grants and loans is the school's primary mission, rather than educating its students. Another reason for the high default rate is that they are more likely to take out private loans than those who attended public or private, non-profit schools.³ This is important because borrowers of private student loans have many fewer options when repaying their loans than do borrowers of federal student loans. For example, they generally do not have hardship or in-school deferments available to them, nor are they permitted to make income-based payments on their loans.

¹ U.S. DEPARTMENT OF EDUCATION, FIRST OFFICIAL THREE-YEAR STUDENT LOAN DEFAULT RATES PUBLISHED (September 28, 2012), *available at* <http://www.ed.gov/news/press-releases/first-official-three-year-student-loan-default-rates-published>.

² According to a study by The Project on Student Debt, in 2008, 96% of graduates from a private for-profit school graduated with debt, and the average debt load was \$33,050. DEANNE LOONIN, FOR-PROFIT HIGHER EDUCATION BY THE NUMBERS, 4, (National Consumer Law Center 2010), *available at* <http://www.studentloanborrowerassistance.org/blogs/wp-content/www.studentloanborrowerassistance.org/uploads/2007/03/BytheNumbersJan2010.pdf>.

³ According to a recent study by the Consumer Financial Protection Bureau (CFPB), in 2008, 42% of undergraduates at for-profit colleges took out a private student loan, while only 14% of all undergraduates at non-profit institutions used a private student loan. CONSUMER FINANCIAL PROTECTION BUREAU, PRIVATE STUDENT LOANS: REPORT TO THE SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, THE SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS, THE HOUSE OF REPRESENTATIVES COMMITTEE ON FINANCIAL SERVICES, AND THE HOUSE OF REPRESENTATIVES COMMITTEE ON EDUCATION AND THE WORKFORCE, 4, (August 29, 2012), *available at* http://files.consumerfinance.gov/f/201207_cfpb_Reports_Private-Student-Loans.pdf. In addition, the CFPB found that many private student loan borrowers did not exhaust their federal Stafford Loan limits before turning to the private loan product. *Id.*

Second, for-profit schools often lure prospective students with the prospect of high-paying jobs in a particular field of work which do not materialize. However, students ultimately are unable to procure these jobs because the education and experiences provided by the school are insufficient to adequately qualify the students for such jobs. For example, we have one client who attended a one-year electrical technician program, about which he learned through a recruiter at the local public assistance office. He chose the program specifically because it advertised hands-on experience. The student received limited hands-on work, which ceased after a few months. As a result, he withdrew this past June. When he asked the school for a complaint form, it refused to give him one. When he asked to speak to the head of administration, he was told to return the next day, at which point the person in charge refused to speak with him. Shortly thereafter, the school sent a letter to his case manager at the public assistance office, stating that he had missed more than three days of class – which was not true. As a result, his benefits were cut off, requiring him to present his attendance records to public assistance.

Third, many for-profit schools are fraudulent and unscrupulous, and many close without notice to the students.⁴ Over the years, MFY has worked with a number of students who have been defrauded by for-profit schools, often through misrepresentations about scholarships and other forms of financial aid. In addition, many of our clients attended for-profit schools that closed while the students were still attending. Although these students should be entitled to school closure discharges under the Higher Education Act, most students are never made aware of this fact and unknowingly continue to make payments. Others, who are in default, have their tax refunds intercepted or their Social Security payments garnished. For example, one of our clients attended American Business Institute for six months in 1986 before it closed. Although she had originally borrowed \$2,000 to attend this school, the balance on this loan ballooned to \$6,000, despite the fact that she made several payments, and her tax refunds were intercepted for three years.

MFY Legal Services, Inc. offers the following suggestions to help the Committee on Higher Education address some of the issues raised above:

- **Prohibit HRA from referring students to for-profit schools with histories of abuse or fraud.** HRA maintains a master list of training and educational programs that are approved to count towards HRA’s mandatory work requirements for families that receive Temporary Assistance to Needy Families (TANF), Safety Net Cash Assistance (SNCA), and Safety Net Non-Cash (SNNC). Before funneling students into these programs, the City should investigate whether the New York City Department of Consumer Affairs, New York State Attorney General’s Office, and New York Bureau of Proprietary School Supervision have received any complaints about the schools, and remove from the master list any schools with complaints. In addition, the City should make sure that these schools are in compliance with all U.S. Department of Education regulations pertaining to program integrity (34 CFR § 600, et. seq.).⁵

⁴ The Department of Education Inspector General testified in 2005 that “while fraud and abuse occur at non-profit and public sector institutions, historically, fraud and abuse predominantly involves proprietary schools.” LOONIN, *supra* note 2, at 3.

⁵ The Department of Education has certain criteria that schools must satisfy if they want to continue to receive Title IV funds (i.e., federal student aid). For example, a school loses eligibility to receive Title IV funds if, for three consecutive years, more than 25 percent of its students default on certain federal student loans within two years of

- **Support expanding Department of Consumer Affairs’ “Know Before You Enroll” ad campaign** so that these advertisements are as prevalent as advertisements for for-profit schools and include educational advertisements about the potential dangers of attending for-profit schools. These ads would be particularly useful at places that are frequented by populations that for-profit schools target for recruitment, including GED testing centers and HRA offices.
- **Pass an ordinance similar to one proposed by the City of Milwaukee,⁶ which cuts financial assistance to for-profit institutions of higher education that are not in compliance with the U.S. Department of Education regulations pertaining to program integrity.** The ordinance also bans any financial assistance to any developers that will sell or lease real estate to for-profit institutions of higher education that are not in compliance with the program integrity regulations.
- **Increase funding and support for community colleges in the city.** As the volume of federally guaranteed student loans to proprietary schools continues to grow, state and local governments are slashing spending on public higher education, and community colleges are suffering some of the largest reductions. As one chief executive noted, this means “the competitive landscape” is getting much better for proprietary schools.⁷ Since community colleges are the schools most likely to offer alternatives to the much more expensive proprietary schools, it is essential that we enable them to compete for students by providing the best possible teachers and resources.

Thank you for holding this important hearing. Please feel free to contact Evan Denerstein or Ariana Lindermayer in MFY’s Consumer Rights Project should you have any follow-up questions.

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the time when the students began repayment, or if during any single year more than 40 percent of a student cohort defaults. 34 C.F.R. §§668.183, 668.187 (2012). The 90/10 rule is another major regulatory condition the proprietary schools must adhere to. The 90/10 rule requires that a for-profit institution receive more than 10 percent of its revenue from sources other than Title IV student aid.

⁶ MILWAUKEE, WIS., FILE NO. 120737, VERSION 2 (1/25/2013), *available at* <http://milwaukee.legistar.com/LegislationDetail.aspx?ID=1203176&GUID=0443B3EE-88FE-4B16-8567-5D557A07243B>.

⁷ Floyd Norris, *Colleges for Profit are Growing with Federal Help*, N.Y. TIMES, May 24, 2012, *available at* <http://www.nytimes.com/2012/05/25/business/us-subsidies-to-for-profit-colleges-keep-growing.html?smid=pl-share>.