



The Honorable Jose Medina
 Assembly Higher Education Committee
 1020 N Street, Room 173
 Sacramento, California 95814

January 7, 2020

RE: AB 70 (Berman) – SUPPORT AS AMENDED 1/6/2020

Dear Chair Medina:

We represent a group of student, veteran, civil rights, and higher education advocates, seeking to protect students from predatory higher education programs. We write to you to offer support for Assembly Bill 70, which would prevent institutions of higher education from evading state oversight by misrepresenting themselves to students and taxpayers.

Leaders of nonprofit institutions are required to devote schools' revenues to its educational purpose, and they are prohibited from taking a profit. Rampant deceptive or unfair treatment of students has been rare at legitimate nonprofit and public colleges because the financial restrictions placed on nonprofits are designed to make it difficult for school leaders to profit from bad behavior. As a result, state and federal laws frequently limit funding to be available only to nonprofit and public institutions and apply stricter guidelines to for-profit institutions seeking access to taxpayer funds.

However, as enforcement of nonprofit status has declined at the federal Internal Revenue Service, some for-profit institutions have started to use an illegitimate "nonprofit" or "public" label to attract students who are suspicious of for-profit colleges, and to escape regulatory oversight. This emerging problem is already affecting California students:

Grand Canyon University. The CEO of Grand Canyon Education, Inc., a for-profit company traded on NASDAQ, also serves as the President of an affiliated nonprofit, Grand Canyon University, which allows the for-profit company to extract most of the nonprofit's income. According to Georgetown Law Professor Brian Galle, an expert in nonprofit law, the nonprofit is

essentially “a trustworthy looking wrapper around a for-profit business.”¹ Grand Canyon University reported more than 7,000 California enrollments in 2016-17.

Ashford University. Owned by Bridgepoint Education, Inc., and based in San Diego, Ashford University is currently the subject of a lawsuit by the California Attorney General for misleading prospective students,² and has been called a “poster child for the ills of the for-profit college sector.”³ Meanwhile, the company announced in March 2018 that it would follow the Grand Canyon University approach to claiming nonprofit status, under which Ashford University would pay Bridgepoint 60 to 65 percent of tuition revenue.⁴ Ashford University enrolled more than 4,000 Californians in 2016-17.

Purdue University Global. While claiming to be a “public” college because of its affiliation with Indiana’s public Purdue University, Purdue University Global (PUG) is actually a limited liability corporation for which the state refuses any financial responsibility, and which is exempt from state public records laws; exempt from state audit requirements; and exempt from state open meeting laws.⁵ The institution is jointly operated by Purdue and PUG, which was formerly owned by Kaplan Higher Education. Kaplan Higher Education, which is traded on the New York Stock Exchange, has formal roles in governing PUG and gets a share of profits. The school reported more than 2,000 California enrollments in 2016-17.

Insufficient oversight at the federal level has made state action essential.

AB 70 would prevent these institutions from misleading students and taxpayers by defining what constitutes a “nonprofit corporation” and “public institution of higher education” in California, an essential step in developing a standard for what a college must demonstrate in order to claim to be a nonprofit or public institution. Further, the bill would provide the public with notice of the application or request for approval, exemption, or complaint handling of an institution not previously approved to operate by the Bureau for Private Postsecondary Education or verified by the Attorney General as a nonprofit or public institution. Additionally, the bill would require the Attorney General to determine whether an institution seeking to convert to nonprofit status meets the definition of a nonprofit corporation or public institution of higher education and clarify the criteria the AG should use in making that determination.

¹ Brian Galle. (April 3, 2018). Conversions of For-Profit to Nonprofit Colleges Deserve Regulators’ Scrutiny. Medium. Available at: <https://medium.com/whatever-source-derived/conversions-of-for-profit-to-nonprofit-colleges-deserve-regulators-scrutiny-1b9174cf534d>.

² Office of the Attorney General of California. (November 29, 2017). Attorney General Xavier Becerra Sues For-Profit Ashford University For Defrauding and Deceiving Students. Available at: <https://oag.ca.gov/news/press-releases/attorney-general-xavier-becerra-sues-profit-ashford-university-defrauding-and>

³ Michael Vasquez. (November 10, 2017). Inside the Scramble to Save Ashford U. The Chronicle of Higher Education. Available at: <https://www.chronicle.com/article/Inside-the-Scramble-to-Save/241747>.

⁴ Bridgepoint Education. (July 25, 2018). Q2 2018 Results - Earnings Call Transcript. Available at: <https://seekingalpha.com/article/4190222-bridgepoint-educations-bpi-ceo-andrew-clark-q2-2018-results-earnings-call-transcript?part=single>.

⁵ Robert Shireman and Yan Cao. (August 28, 2018). Purdue University Global Is a For-Profit College Masquerading as a Public University. The Century Foundation. Available at: <https://tcf.org/content/commentary/purdue-university-global-profit-college-masquerading-public-university/>

The federal government's failure to recognize that investor control of colleges requires greater oversight and scrutiny puts Californians at risk. AB 70 would prevent these covert for-profit institutions from evading state oversight and deceiving students. For these reasons we support AB 70 and urge you to support the bill when it comes before the committee.

Sincerely,



Aaron Ament
President
Student Defense



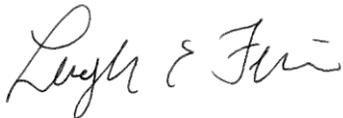
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CC: Members of the Asm. Higher Education
Asm. Marc Berman