

# What States Can Do to Protect Students from Predatory For-Profit Colleges

A 2020 TOOLKIT FOR STATE POLICY MAKERS



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## About Veterans Education Success

Veterans Education Success works on a bipartisan basis to advance higher education success for veterans, service members, and military families, and to protect the integrity and promise of the GI Bill and other federal education programs.

# Seven State Policy Ideas

State policy leaders have an opportunity to take leadership in protecting students—and especially student veterans—from being targeted by predatory colleges. Given failings by the federal government to police for-profit colleges and to ensure basic rights for students to attend college without being defrauded, it now falls to the states to step in and do this necessary work of regulation and protection. This report presents seven policies that states can implement to ensure their students are not defrauded. In addition to state legislation, we have identified non-legislative solutions for a number of the problems plaguing the for-profit college sector.

The ideas in this report build on our 2017 toolkit.<sup>1</sup> If you have questions or would like assistance with regard to any of these proposals, contact [statetoolkit@tcf.org](mailto:statetoolkit@tcf.org) or [help@vetsedsuccess.org](mailto:help@vetsedsuccess.org).

## Why Focus on For-Profit Colleges?

For-profit colleges and career training institutes—often national chains owned by private corporations—have a long history of waste, fraud, and abuse.<sup>2</sup> Federal and state law enforcement across the country have carefully documented deceptive recruiting and false promises, and have sued these colleges and multi-campus corporations for defrauding students. In the largest settlement to date, state attorneys general representing forty-eight states plus the District of Columbia—representing, therefore, nearly the entire nation—banded together to sue the Career Education Corporation, recouping nearly \$500 million for students in the summer of 2019, while federal law enforcement recouped \$200 million from the University of Phoenix just a few months later.<sup>3</sup>

Although for-profit colleges enroll only about 8 percent of all post-secondary students (over two million students nationwide),<sup>4</sup> these companies soak up a disproportionately high percent of federal funds—including 12 percent of all federal student aid<sup>5</sup> from the U.S. Department of Education (ED), nearly one-third of GI Bill funds,<sup>6</sup> and nearly 40 percent of military student aid.<sup>7</sup> When compared to enrollment at public and nonprofit colleges, people who identify as women, people who identify as Black or Hispanic, and people who are over 25 years of age are all overrepresented at for-profit colleges.<sup>8</sup> Single mothers, who are more likely to live below the poverty line, are also overrepresented in the sector.<sup>9</sup> And around one-third of military veterans enroll at for-profit colleges.<sup>10</sup>

Too often, these students report that they enrolled based on big promises that turned out to be false. Dishonest college salespeople lie to students about the true tuition, about whether their credits will transfer to the nearby public university, about whether they'll have real professors and a quality education, about their job prospects and likely salaries, and about their eligibility for specific jobs—such as whether their degree qualifies them to apply for a license to work as a psychologist, nurse, lawyer, medical expert, electrician, massage therapist, and more. Worse, many veterans—who, through their service and sacrifice, earned scholarships for college—discover their college signed them up for student loans without their permission or knowledge, often because the school was hiding how high the tuition really was.

Law enforcement—both federal and state—have increasingly caught these college chains in such lies and sued them.<sup>11</sup> Many college chains have been raided by officials and shut down for fraud, including ITT Technical Institutes, Corinthian Colleges, and FastTrain.<sup>12</sup> But, by and large, under the current regulatory regime, by the time law enforcement steps in, it's too late: thousands of

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This report can be found online at: <https://tcf.org/content/report/states-can-protect-students-predatory-profit-colleges/>

students have already been defrauded and fleeced. Only through stronger oversight and accountability can these abuses be prevented and students be protected.

It is no mystery why these problems emerge at for-profit schools and not at other types of colleges. Public colleges are under constant supervision by public officials, and nonprofit colleges are overseen by boards required to reinvest all revenue into the educational mission rather than taking the money for themselves. In contrast, for-profit college chains operate under none of those mandates, and are driven instead by Wall Street norms that favor shareholders even if it means that students suffer.

Regulatory guardrails are needed in the higher education market. And state policymakers have an unprecedented opportunity in the face of federal failings to make a world of difference for their states' students.

Below we provide background on seven different approaches that states can take to protect students from predatory behavior by schools enrolling their residents. The policies aim to do the following:

- + Heed the early warning signs at troubled or failing schools.
- + Stop the fraud against veterans by closing the 90–10 loophole.
- + Assure that funds are spent on education, not marketing.
- + Prevent dishonest claims that schools are “nonprofit.”
- + Protect the student’s right to complain.
- + Ensure oversight of the online college market.
- + Provide consumers with better data about schools.

## 1. Protect Taxpayers and Students by Heeding Early Warning Signs at Troubled and Failing Schools

### THE PROBLEM

Too many students’ and too many taxpayers’ dollars have been wasted by fraudulent and failed schools and college chains. But each instance of a prominent school closure or law enforcement crackdown was presaged by clear indicators, which we refer to as early warning signs, that enrollment in these schools posed a risk to both students and taxpayers.

States are not alone in the work of identifying early warning signs. Several oversight partners—accreditors, the U.S. Department of Education, other federal agencies, other state regulators, and federal and state law enforcement entities—also oversee degree- and non-degree-granting institutions. Each of these organizations can be the source of valuable information on the risks posed by troubled or failing schools. In some instances, the warning signs are flashing red lights emanating from multiple oversight partners that a college is in trouble and at risk of defrauding students or closing, including the following:

- + Accreditors’ placing schools on “show cause” orders or probation.
- + Federal and state law enforcement investigations and actions against a school.
- + Federal government action against the school, including, among others, when the Education Department requires that the school submit letters of credit; a probationary measure triggered by the department placing an institution on heightened cash monitoring (HCM); or increases in the amount of letters of credit which the school must submit.

- + A state regulator action regarding a school's licensure.
- + A Securities and Exchange Commission (SEC) action against the school.
- + Other federal agencies' implementing sanctions on the school.
- + Student complaints against the school that are filed with federal and state government.<sup>13</sup>

If early warning signs are missed and a for-profit college does close, students often find out by showing up for classes only to find the building locked. Large school chains that have shut down without advance warning to students in recent years include The Art Institute, ITT Technical Institute, Corinthian Colleges, and Argosy University;<sup>14</sup> and in most of these cases, students were left in the lurch, having paid for or taken out loans to pay for something they only partially received and left to figure out if transfer options even exist. When Argosy University closed its doors, students were left in financial ruin—including many veterans—while the company made sure to spend its last available dollars on corporate and executive bailouts.<sup>15</sup>

In contrast to for-profit college chains, public or nonprofit closures are usually more orderly. Frequently, the decision to close is made in a deliberate manner that begins well in advance. The process takes into account everyone potentially affected, alternatives to closure, and alternatives for students in the event that a closure is necessary. Moreover, the process and decision-making is usually transparent, taking place in public forums, because these schools are governed by publicly accountable boards. In these cases, students know well in advance of an impending closure and are given time to make the next best move, and the school itself stops enrolling new students. In contrast, for-profit closures often take students by surprise, even though owners and investors cash out before locking the doors.<sup>16</sup>

States can take a two-pronged approach to protect students from troubled and failing schools: 1) states can use their authority to react to the early warning signs of closure, and 2) states can require schools to close in an orderly fashion, should closure be unavoidable.

## WHAT STATES CAN DO

States can use their authority to act on the early warning signs of trouble at a college in multiple ways, including the following:

- + Strengthen oversight by state postsecondary regulatory agencies to ensure that financially unstable, low-quality schools are monitored. Those agencies should closely monitor the early warning signs listed above, and, based on their findings, rescind approval of schools to operate in their state, or restrict access to state-funded student aid programs in states where such programs exist.<sup>17</sup>
- + Direct state approving agencies (SAAs), the state actors that contract with the Department of Veteran Affairs (VA) to oversee colleges for GI Bill and other veterans' benefits, to monitor for the early warning signs listed, and supply SAAs with guidance on how to undertake risk-based reviews of schools.
- + Install processes that require state licensing agencies and SAAs to alert each other of schools that they should review when one of the agencies becomes aware of early warning signs.
- + Authorize state regulatory agencies to (1) require schools to submit data on licensing passage rates, graduation rates, and student loan cohort default rates; (2) require schools to provide copies of accreditation reports and other regulatory actions; and (3) audit a sample of a school's job placement rates.

States can protect students from abrupt closures by requiring schools to close in ways that minimize harm for everyone involved. At a minimum, the following should be guaranteed:

- + Students should be given notice before new semesters or terms begin.
- + Students should be given suitable transfer options.
- + Students should have free and easy access to academic transcripts.
- + Students should not be required to pay back any money owed directly to a school that suddenly closes.
- + Students should be refunded money paid to a school that abruptly closes.

A new law in Maryland provides a useful model.<sup>18</sup> Named the Institutions of Postsecondary Education—Disorderly School Closures Act, it would protect students in the event of future catastrophic closures like those experienced by Corinthian College and ITT Tech students. Close to 3,000 Maryland students were affected by these two schools' closures alone, and low-income and veteran students were disproportionately affected. The new Maryland law will intervene in future closures by canceling debts owed by students, refunding tuition paid, ensuring that students have transfer options and access to their academic records, and holding school owners responsible for what happens in the event their school goes out of business. The Maryland law applies to all colleges in the state, because abrupt closures, though rare, can also happen in the nonprofit and public sectors.<sup>19</sup>

## 2. Stop the Fraud against Veterans

### THE PROBLEM

Veterans, servicemembers, and their family members are aggressively targeted by deceptive and fraudulent for-profit college salespeople because of their lucrative GI Bill and military benefits.<sup>20</sup> States can ensure that failing, fraudulent schools are not propped up by GI Bill dollars. Due to a loophole in federal law, for-profit college chains are inadvertently incentivized to aggressively target veterans for enrollment. Specifically, the federal Higher Education Act's 90–10 rule stipulates that a for-profit education business must secure at least 10 percent of its revenues from sources other than federal student aid. The goal is to ensure federal funds are not used to prop up otherwise failing for-profit companies that are unable to attract private-paying students. As the U.S. Supreme Court explained when it upheld the rule's precursor, it is “a device intended by Congress to allow the free market mechanism to operate and weed out those institutions [which] could survive only by the heavy influx of Federal payments...” and “a way of protecting [students] by allowing the free market mechanism to operate.”<sup>21</sup>

But there's a loophole. When the law was written, congressional authors overlooked the GI Bill as a form of federal student aid. Holly Petraeus, former head of Servicemember Affairs at the U.S. Consumer Financial Protection Bureau, explained,

*Therein lies a problem. For every service member or veteran (or spouse or child, in the case of the post-9/11 G.I. Bill) enrolled at a for-profit college and paying with military education funds, that college can enroll nine others who are using nothing but Title IV money. This gives for-profit colleges an incentive to see service members as nothing more than dollar signs in uniform, and to use aggressive marketing to draw them in.<sup>22</sup>*

The end result is that veterans and servicemembers are subject to aggressive and deceptive recruiting—in short, lies—to get them to enroll, and, simultaneously, for-profit schools are able to bypass the federal market viability regulation intended in the 90–10 rule. Veterans and servicemembers report they are contacted over and over dozens of times a week by predatory college salesmen who overpromise and under-deliver.

To be clear, much of the fraud is illegal, as documented by federal and state law enforcement.<sup>23</sup> State and federal prosecutors have caught for-profit schools telling veterans that the school recruiters are “Pentagon Advisors” and that the school is “Pentagon-approved.”<sup>24</sup> Whistleblowers at for-profit colleges have said the explicit mandate is to “do anything and say anything”<sup>25</sup> to get “veteran asses in classes” to access “the military gravy train.”<sup>26</sup> Internal corporate documents show for-profit college executives directing subordinates to target veterans specifically to skirt the 90–10 loophole.<sup>27</sup> As documented in a 2012 U.S. Senate committee report and a 2014 Senate committee follow-up report on the GI Bill, the loophole has helped spur the creation of massive call centers targeting veterans, in which college chain salesmen face incredible pressure to get veterans to hand over their hard-earned GI Bill dollars.<sup>28</sup> The U.S. Department of Education has also documented that many for-profit education companies skirt the 90–10 rule by loading up on GI Bill and Pentagon student aid.<sup>29</sup> States should not leave it to law enforcement to punish schools—after the fact—for fraud that has harmed tens of thousands of their state’s residents. By the time law enforcement brings a school to court, the harm has already been done to students and the taxpayers who finance their GI Bill.

Taxpayers are hurt too. The U.S. Department of Veterans Affairs inspector general estimated that \$2.3 billion will be wasted over the next five years in GI Bill payments to colleges that should never have been approved, especially colleges using deceptive recruiting to convince veterans to enroll.<sup>30</sup>

## WHAT STATES CAN DO

States have an important opportunity to stand up for veterans and stop the fraud by forcing for-profit colleges to close the 90–10 loophole through their authority to regulate the licensure of private schools—a measure which Oregon is considering and Maryland recently enacted.<sup>31</sup> By requiring for-profit colleges to show they receive no more than 90 percent of their tuition revenue from all sources of federal funds, including the GI Bill and Pentagon student aid, states can protect veterans and taxpayers and ensure the free market acts to weed out subpar institutions. Closing the loophole is not onerous or insurmountable. For example, for-profit DeVry University voluntarily announced it would protect veterans by closing the loophole in its own business practices.<sup>32</sup>

Another pathway to closing the 90–10 loophole is by better leveraging the oversight powers of state approving agencies. Each SAA is tasked with vetting schools in the state before they can receive GI Bill funds. Although the Department of Veteran Affairs (VA) might object, states could condition the approval of accredited for-profit colleges for the GI Bill on those colleges’ following the 90–10 rule with the loophole closed. The authority to implement such a compulsion is entirely within the purview of the SAAs: specifically, 38 USC 3672(a), which governs approval of courses for the GI Bill, provides the following: “Approval of courses by State approving agencies shall be in accordance with the provisions of this chapter and chapters 34 and 35 of this title *and such other regulations and policies as the State approving agency may adopt*” (emphasis added). This provides a window for SAAs to adopt regulations and policies over all schools that seek GI Bill funds, at least for accredited courses (as SAA governance over nonaccredited courses is more restricted).

### 3. Stop Schools from Siphoning GI Bill Funds and Student Aid Away from Students

#### THE PROBLEM

Students, including veterans (who earn the GI Bill support they receive the hard way), and the taxpayers who fund the program would be horrified to know that fraudulent college chains soak up nearly one-third of GI Bill funds and nearly 13 percent of federal student aid—while passing virtually none of that money’s benefits on to the veterans and students through whom they acquired the funds.<sup>33</sup> Indeed, some for-profit colleges that are the largest recipients of GI Bill funds spend less than 10 percent of tuition on instruction, instead siphoning larger portions of their revenues to marketing and recruiting, including massive call centers and deceptive TV ads.<sup>34</sup> To compare, public colleges and nonprofit colleges usually spend more than half of tuition on instruction—and many of them spend even more on education than they charge in tuition.<sup>35</sup> States have an opportunity to require colleges to spend student aid on students and spend GI Bill funds on veterans.

The good news is that it’s incredibly easy to track and stop colleges from siphoning hard-earned GI Bill funds and student aid away from students. Each college reports every year to the U.S. Department of Education exactly what percent of revenue the college is spending on instruction versus other costs. Collected via an annual survey, this information includes total figures on tuition and fee revenue as well as on spending in various categories, including instruction. This means that without creating an additional reporting burden on schools, states have the opportunity to assure students that their school is worth their time and money.

But this information remains largely hidden from public sight. If prospective students were equipped with information about how much of their tuition goes towards things like instruction,<sup>36</sup> rather than on the college’s

advertising and recruiter call centers, they would be in a better position to make an informed decision. How a school spends its tuition dollars speaks to its intentions and priorities. Studies by The Century Foundation and Veterans Education Success reveal that of the schools that spend the least on instruction, the majority of them are for-profit colleges.<sup>37</sup> But it doesn’t have to be this way.

#### WHAT STATES CAN DO

States can ensure that schools are responsibly using their tuition revenue by requiring schools to spend a minimum percent of tuition on instruction.

For example, lawmakers in Maine enacted a law that requires the state higher education regulator to take school priorities into account.<sup>38</sup> College spending on instruction, along with the graduation rates and student loan and employment statuses of graduates, will be used to inform students and to aid state regulators in determining whether schools are meeting educational standards. While other rules are to be determined by the state’s higher education commission, the law stipulates that 50 percent of a school’s total spending must be on instruction.

In addition to passing a state law requiring schools to spend at least a portion of tuition on instruction if the school wants to remain eligible to operate in the state, another option is to focus on veterans and use state regulatory authority to act. Specifically, SAAs could deny state approval for GI Bill funds to any college that seeks to charge VA (and the veteran) tuition that is more than, for example, three times what the college spends on the veteran’s instruction. This would force schools to spend at least one-third of tuition on the veteran, thereby protecting the veteran as well as VA and the taxpayers who are footing the bill. To do so, states would rely on 38 USC 3672(a), which provides: “Approval of courses by State approving agencies shall be in accordance with the provisions of this chapter and chapters 34 and 35 of this title and *such other regulations and policies as the State approving agency may adopt*” (emphasis added). SAAs can use this authority to adopt



regulations and policies over all schools that seek GI Bill funds, at least for accredited courses (as SAA governance over nonaccredited courses is more restricted).

## 4. Protect the Integrity of Nonprofit Institutions

### THE PROBLEM

As federal and state law enforcement have cracked down on fraud by for-profit college chains, and media and advocacy coverage of the issue has expanded, the public has grown more aware of the risks of for-profit colleges, and their enrollment has declined.<sup>39</sup> This has led a number of for-profit college chains to seek to convert to nonprofit status, but in name only.<sup>40</sup> In the aftermath of massive downsizing at the Internal Revenue Service (IRS), there is almost nonexistent federal oversight of such conversions from for-profit to nonprofit status.<sup>41</sup> The result is that college chains can now tell students and the public they have become nonprofit even though they remain structured in a way that sends most of the chain's revenue directly to former owners, oftentimes via contracts or real estate deals. These arrangements run contrary to the prohibition on private inurement that is critical to the integrity of the nonprofit sector.<sup>42</sup>

### WHAT STATES CAN DO

While the much-diminished IRS lacks the capacity to check for-profit-to-nonprofit conversions, states can step up to make sure the college chains operating in their states follow basic laws about investing in students. Under federal law, nonprofit organizations must file what is known as a 990 with the Internal Revenue Service every year. In theory, the 990 is meant to provide the public with information about tax-exempt charitable organizations and to ensure such organizations are not abusing their tax-exempt status. However, the public cannot depend on the diminished IRS to review 990s for the time being, so states can and should step in to ensure schools are acting with integrity when it comes to their residents' tuition dollars.<sup>43</sup>

For example, to fill the gap in nonprofit oversight, Maryland enacted a first-of-its-kind law requiring the state's higher education commission to create a process for schools to report information they collect for their 990s, allowing the commission to make annual determinations to ensure that nonprofits are not generating income for private individuals.<sup>44</sup> Because nonprofit schools already complete these forms annually, states can take advantage of an oversight opportunity that presents no additional burden on colleges and universities. Similarly, California lawmakers are considering an approach that would require a review of colleges that convert from nonprofit to for-profit, a measure that other states should consider as well.<sup>45</sup>

## 5. Protect Students From the Fine Print

### THE PROBLEM

Many for-profit colleges require students to sign what are known as enrollment contracts.<sup>46</sup> These binding agreements are usually presented to the student along with other paperwork during the enrollment and financial aid process. Enrollment contracts are designed to protect the financial interests of the school and contain fine print that severely limits students' rights to take action should they have complaints. In particular, so-called forced arbitration clauses prevent students from going to court to resolve complaints they may have. Students are forced to take complaints to an arbitrator in a private and binding process that disfavors individual consumers, and appeals of any decision after the fact are nearly impossible. The Obama administration implemented a regulation to end this practice and allow students their day in court, but the Trump administration reversed that rule.<sup>47</sup> Schools can start including these restrictions in contracts again on July 1, 2020.

### WHAT STATES CAN DO

While federal law generally restricts states from laws that disfavor arbitration, states that fund for-profit colleges through public grant funds (see appendix) can exclude

schools that mandate arbitration in enrollment clauses from participating in their funding programs.<sup>48</sup> In this case, the state is acting as a market participant and has an interest in ensuring its funds are spent in “accordance with the purposes for which they are appropriated” when procuring services.<sup>49</sup> State grant aid is available to institutions because the state and the institution have entered into a contract, also known as a participation agreement. As a party in these agreements, states have the power to stipulate that institutions they contract with must exclude forced arbitration clauses from any binding agreement presented to students.

## 6. Protect Distance Education Students through Stronger Reciprocity Agreements

### THE PROBLEM

The number of online degree programs and the number of students studying online continues to rise annually.<sup>50</sup> Often, online students (also known as “distance education” students) are studying across state lines—living in one state, while enrolling in and taking classes offered by a school headquartered elsewhere. Of the two million undergraduates studying exclusively online, more than 700,000 are enrolled across state lines.<sup>51</sup> Distance education options are crucial for students with limited geographic access or other constraints to traditional attendance. Unfortunately, under the status quo, these 700,000 students have little recourse if they run into a problem with their out-of-state college.

Technically, all colleges and universities must be authorized to operate in each state where they enroll students. To facilitate meeting this requirement, states can form reciprocity agreements. Under the sole reciprocity agreement currently available—the National Council for State Authorization Reciprocity Agreements (NC-SARA)<sup>52</sup>—and the most recent federal rule, it is unclear whether states can enforce their own higher education laws to protect students enrolled in programs across

state lines. This situation gives colleges a pass to operate without regard to states’ laws, a concern that has been expressed by advocates since the inception of the NC-SARA.<sup>53</sup>

### WHAT STATES CAN DO

States should ensure that their participation in interstate reciprocity agreements does not damage their own citizens. They should critically evaluate participation in reciprocity agreements that limit their ability to enforce their own laws, and demand better terms of such agreements. Regardless of membership in a reciprocity agreement, states should utilize existing consumer protections to protect students from harm.

For example, Massachusetts’s entry into NC-SARA was deliberately slow, as the attorney general scrutinized the question of whether the state would be able to enforce its own consumer protection laws should it join. The process resulted in a memorandum of understanding between the attorney general and the state’s department of higher education that reiterates the ability of the state to enforce its consumer protection laws with regard to in- and out-of-state for-profit schools.<sup>54</sup>

Forty-nine states (all but California) have joined NC-SARA, and all forty-nine should press for changes to the agreement to ensure they maintain power to protect their citizens, whether by pursuing memoranda of understanding like Massachusetts’s, or through legislative and regulatory processes. At a minimum, improved agreements should do the following:

- + Require clear complaint procedures and refund policies.
- + Bar institutions from enrolling students in instances where graduates would not be qualified for location-specific licensure(s).
- + Make it clear that the state has the authority to enforce all consumer protections.

## 7. Give Students the Information They Need to Choose the Right College

### THE PROBLEM

When a student decides to go to college, the prestige or reputation of an institution can be an important factor for them to weigh. However, if the student is planning on pursuing a particular academic major or career path, detailed information about programs within each institution they are considering, information which does not always adequately inform a school's overall reputation, could be more important. Students deciding between programs at similar institutions may consider cost, course requirements, time commitment, convenience, and what to expect in terms of job and pay prospects upon completion. Even so, when presented with comprehensive information, for a variety of reasons, students may still select the most expensive or lowest-ranked program.<sup>55</sup> Overpriced and under-performing programs need to be weeded from the marketplace of postsecondary programs, but, in most states, there is a lack of data available to consumers to help them identify such programs. State policymakers can play an important role in identifying high-priced and low-return programs and in helping students make an informed choice among colleges and programs.

### WHAT STATES CAN DO

States hoping to more effectively inform their consumers should consider establishing standards and minimum expectations for how student debt compares to graduate earnings. These figures would let students know how much they can expect a program to cost as well as how much they can expect to earn with the credential or degree.

States should first ensure that the right data are being collected and matched. At a minimum, states should collect and match information on college program enrollment, cumulative student debt and repayment, employer characteristics, and employment wage amounts.

A model exists in California, where lawmakers passed a law in 2019 requiring institutions to collect enrollment and student loan information on graduates to match with wage data from the state's employment data system.<sup>56</sup> As a necessary first step, the initiative will enable the state to provide information to prospective students about program value and efficacy in preparing students for the job market.

Separately, and less consequentially, SAAs approving schools for GI Bill funds may also require data about student outcomes under the GI Bill statute. Specifically, 38 USC 3675 ("approval of accredited courses") (b)(2) allows SAAs to require enhanced record-keeping:

*As a condition of approval under this section, the State approving agency, or the Secretary when acting in the role of the State approving agency, must find the following: (1) The educational institution keeps adequate records, as prescribed by the State approving agency, or the Secretary when acting in the role of a State approving agency, to show the progress and grades of the eligible person or veteran and to show that satisfactory standards relating to progress and conduct are enforced.*

Finally, states could launch a consumer education campaign to help students avoid the pitfalls of predatory college recruiting and abuses by for-profit colleges. For example, the USAA Educational Foundation created this unbranded video, available for use by any government agency, to help veterans avoid deceptive websites: <https://vimeo.com/370920512>. In addition, the U.S. Department of Veterans Affairs and Veterans Education Success collaborated on a video, "Know Before You Go," that features veterans who were scammed giving advice to other veterans on how to avoid being scammed.<sup>57</sup> Other excellent materials are already available, including the U.S. Federal Trade Commission's "Choosing a College: Questions to Ask" and Veterans Education Success's "Top 10 Tips on Choosing a School."<sup>58</sup>

Similarly, New York City posted ads at public transit subway and bus stations to help low-income students avoid being scammed by for-profit colleges. This public awareness campaign, “Know Before You Go,” includes testimonial advertisements featuring New Yorkers who were cheated by a for-profit college, tips to help students protect their money, online facts and information, complaints intake through the city’s 311 phone number, free review of enrollment contracts and loan applications by volunteer financial aid experts, and free financial counseling.<sup>59</sup>

## Strengthening the State’s Role in Protecting Students

States should see their role in protecting students as urgent and long-term, if not permanent. For-profit college students experience the highest rates of abuse and the lowest outcomes, and states have many options for taking on the role of college oversight to reverse these trends.

If you have questions or would like assistance with regard to any of these ideas, contact: [statetoolkit@tcf.org](mailto:statetoolkit@tcf.org) or [help@vetsedsuccess.org](mailto:help@vetsedsuccess.org).

## Notes

- 1 Robert Shireman & Debbie Cochrane, “Encouraging Innovation and Preventing Abuse in For-Profit Higher Education: A 2018 Toolkit for State Policy Makers,” The Century Foundation, December 13, 2017, <https://tcf.org/content/report/encouraging-innovation-preventing-abuses/>
- 2 See The Century Foundation, “The Cycle of Scandal at For-Profit Colleges,” available at <https://tcf.org/topics/education/the-cycle-of-scandal-at-for-profit-colleges/>.
- 3 Colleen Tressler, “FTC Settlement Against University of Phoenix,” Federal Trade Commission Consumer Information, December 10, 2019, <https://www.consumer.ftc.gov/blog/2019/12/ftc-settlement-against-university-phoenix>
- 4 Calculated using the National Center for Education Statistics Trend Generator based on 2017–2018 enrollment: <https://nces.ed.gov/ipeds/TrendGenerator/app/build-table/2/2?cid=4>
- 5 Calculated using Federal Student Aid Data Center, 2017–2018 Loan and Grant Volume by School Type: <https://studentaid.gov/data-center/student/title-iv>
- 6 GI Bill Comparison Tool: <https://www.va.gov/gi-bill-comparison-tool/>
- 7 Department of Defense TA Decide, FY 2018: <https://www.dodmou.com/TADECIDE>
- 8 National Center for Education Statistics, “The Condition of Education: Characteristics of Postsecondary Students,” May 2019, [https://nces.ed.gov/programs/coe/indicator\\_csb.asp](https://nces.ed.gov/programs/coe/indicator_csb.asp)
- 9 “Quick Figures: Single Mothers Overrepresented at For-Profit Colleges,” The Institute For Women’s Policy Research, September 2017, [https://iwpr.org/wp-content/uploads/2017/09/Q063\\_9.7.17\\_Single-Mothers-are-Overrepresented-in-For-Profit-Colleges.pdf](https://iwpr.org/wp-content/uploads/2017/09/Q063_9.7.17_Single-Mothers-are-Overrepresented-in-For-Profit-Colleges.pdf)
- 10 Catharine Bond Hill, Martin Kurzweil, Elizabeth D. Pisacreta, and Emily Schwartz,

- “Enrolling More Veterans at High-Graduation-Rate Colleges and Universities,” Ithaca S+R, January 10, 2019, <https://doi.org/10.18665/sr.310816>
- 11 “Law Enforcement Actions Against Predatory Colleges,” Veterans Education Success, December 2019, <https://vetsedsuccess.org/law-enforcement-actions-against-predatory-colleges/>
  - 12 Patricia Cohen, “Downfall of ITT Technical Institute Was a Long Time in the Making,” New York Times, September 7, 2016, <https://www.nytimes.com/2016/09/08/business/downfall-of-itt-technical-institutes-was-a-long-time-in-the-making.html>; Brian Haas, “Another Career College Raided,” South Florida Sun-Sentinel, October 18, 2007, <https://www.sun-sentinel.com/news/fl-xpm-2007-10-18-0710170481-story.html>; Brian Bandell, “FBI Raids FastTrain College Office,” South Florida Business Journal, May 16, 2012, <https://www.bizjournals.com/southflorida/news/2012/05/16/fbi-raids-fasttrain-college-offices.html>.
  - 13 For more information about the policies in this section, see Walter Ochinko, “VA and States Should Act on Early Warning Signs When Risks to GI Bill Beneficiaries and Taxpayers emerge at Participating Schools,” Veterans Education Success, October 2019, <https://vetsedsuccess.org/va-and-saas-should-act-on-early-warning-signs-when-risks-to-gi-bill-beneficiaries-and-taxpayers-emerge-at-participating-schools/>
  - 14 Anya Kamenetz, “The Collapse of Corinthian Colleges,” NPR Ed, July 8, 2014, <https://www.npr.org/sections/ed/2014/07/08/329550897/the-collapse-of-corinthian-colleges>; Danielle Douglas-Gabriel, “Argosy University Closes its Doors; Students Scramble to Transfer,” Washington Post, March 10, 2019, <https://www.washingtonpost.com/education/2019/03/09/argosy-university-closes-its-doors-students-scramble-transfer/>.
  - 15 Michael Vasquez & Dan Bauman, “How America’s College-Closure Crisis Leaves Families Devastated: When Colleges Shut Down, People Get Hurt,” The Chronicle of Higher Education, April 4, 2019, <https://www.chronicle.com/interactives/20190404-ForProfit>.
  - 16 For a regularly updated list of closures across all sectors, see “A Look at Trends in College and University Consolidation Since 2016,” Education Dive, November 1, 2019, <https://www.educationdive.com/news/how-many-colleges-and-universities-have-closed-since-2016/539379/>
  - 17 For example, the State of Washington restricted for-profit Ashford University from recruiting Washington students when it learned of the California attorney general’s law enforcement crackdown on recruiting fraud by Ashford, which included an Ashford internal audit documenting rampant deception by Ashford recruiters and no steps in place to curtail such deceptions. See “State Denies Ashford University’s Application to Recruit, Advertise in Washington,” Washington Student Achievement Council Media Release, May 9, 2019, <https://wsac.wa.gov/media-2019-05-09-Ashford>
  - 18 MD orderly school closure law: SB 446 (enacted May 7, 2020). <http://mgaleg.maryland.gov/mgawebsite/Legislation/Details/sb0446?ys=2020RS>
  - 19 Hallie Busta, “Federal judge dismisses students’ lawsuit against Mount Ida College,” Education Dive, May 29, 2019, <https://www.educationdive.com/news/students-sue-shuttered-mt-ida-college-for-not-disclosing-financial-trouble/543081/>
  - 20 “Why For-Profit Schools are Targeting Veterans Education Benefits,” Veterans Education Success,” 2014, [https://vetsedsuccess.org/why-for-profit-institutions-are-targeting-veterans-education-benefits/#\\_edn19](https://vetsedsuccess.org/why-for-profit-institutions-are-targeting-veterans-education-benefits/#_edn19)
  - 21 Cleland v. National College of Business, 1978, <https://caselaw.findlaw.com/us-supreme-court/435/213.html>
  - 22 Hollister K. Patraeus, “For-Profit Colleges, Vulnerable G.I.’s,” New York Times, September 21, 2011, <https://www.nytimes.com/2011/09/22/opinion/for-profit-colleges-vulnerable-gis.html>.
  - 23 “Law Enforcement Actions Against Predatory Colleges,” Veterans Education Success, December 2019, <https://vetsedsuccess.org/law-enforcement-actions-against-predatory-colleges/>
  - 24 See “Attorney General Kamala D. Harris Files Suit in Alleged For-Profit College Predatory Scheme,” California Attorney General Press Release, October 10, 2013, <https://oag.ca.gov/news/press-releases/attorney-general-kamala-d-harris-files-suit-alleged-profit-college-predator>
  - 25 Thomas Corbett, “Opening a Dangerous Floodgate: A Former For-Profit College Executive, Speaks Out Against Plans by the U.S. Department of Education to Weaken Requirements for Oversight of College Quality” Inside Higher Ed, February 12, 2019, <https://www.insidehighered.com/views/2019/02/12/former-profit-college-executive-says-education-department-shouldnt-weaken>
  - 26 “Hearing on Voluntary Military Education Programs,” Testimony of Former DeVry Military Recruiter Christopher Neiweem, U.S. Senate Committee on Appropriations, June 12, 2013, <https://www.appropriations.senate.gov/imo/media/doc/hearings/Neiweem%20Testimony.pdf>

- 27** “For-Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success,” United States Senate, July 30, 2012, at 148. [https://www.help.senate.gov/imo/media/for\\_profit\\_report/PartI.pdf](https://www.help.senate.gov/imo/media/for_profit_report/PartI.pdf);
- 28** *Id.*; “Is the New GI Bill Working? For-Profit Colleges Increasing Veteran Enrollment and Federal Funds,” United States Senate, July 30, 2014, <https://vetsedsuccess.org/wp-content/uploads/2018/09/harkin-senate-help-report-is-new-gi-bill-working-for-profit-colleges-increasing-veteran-enrollment-federal-funds-july-2014.pdf>.
- 29** “New Analysis Finds Many For-Profit Colleges Skirt Federal Funding Limits,” U.S. Department of Education, December, 2016, <https://www.ed.gov/news/press-releases/new-analysis-finds-many-profits-skirt-federal-funding-limits>
- 30** “VA’s Oversight of State Approving Agency Program Monitoring for Post-9/11 GI Bill Students,” U.S. Department of Veterans Affairs Office of Inspector General, Report #16-00862-179, December 3, 2018, <https://www.va.gov/oig/pubs/VAOIG-16-00862-179.pdf>.
- 31** SB 1544 (introduced Feb. 3, 2020). <https://olis.leg.state.or.us/liz/2020R1/Measures/Overview/SB1544>; Veterans Education Protection Act (enacted May 7, 2020). <http://mgaleg.maryland.gov/mgaweb/Legislation/Details/sb0294?ys=2020RS>
- 32** Danielle Douglas-Gabriel, “DeVry Voluntarily Dials Back Revenue from Federal Student Aid,” Washington Post, September 20, 2016, <https://www.washingtonpost.com/news/grade-point/wp/2016/09/20/devry-voluntarily-dials-back-revenue-from-federal-student-aid/>
- 33** “Should Colleges Spend the GI Bill on Veterans’ Education or Late Night TV Ads? And Which Colleges Offer the Best Instructional Bang for the GI Bill Buck?” Veterans Education Success, 2019, <https://vetsedsuccess.org/should-colleges-spend-the-gi-bill-on-veterans-education-or-late-night-tv-ads-and-which-colleges-offer-the-best-instructional-bang-for-the-gi-bill-buck/>
- 34** *Ibid.* According to their 2019 10K filed with the US Securities and Exchange Commission, Colorado Technical University and American Intercontinental University allocated nearly 23 percent of revenue to marketing and over 14 percent to recruiting while spending less than 10 percent of tuition revenue on instruction.
- 35** John J. Cheslock, “Examining Instructional Spending for Accountability and Consumer Information Purposes,” The Century Foundation, February 28, 2019, <https://tcf.org/content/report/examining-instructional-spending-accountability-consumer-information-purposes/>
- 36** Stephanie Hall, “How Far Does Your Tuition Dollar Go?” The Century Foundation, April 18, 2019, <https://tcf.org/content/commentary/how-far-does-your-tuition-dollar-go/>
- 37** John J. Cheslock, “Examining Instructional Spending for Accountability and Consumer Information Purposes,” The Century Foundation, February 28, 2019, <https://tcf.org/content/report/examining-instructional-spending-accountability-consumer-information-purposes/>; “Should Colleges Spend the GI Bill on Veterans’ Education or Late Night TV Ads? And Which Colleges Offer the Best Instructional Bang for the GI Bill Buck?” Veterans Education Success, 2019, <https://vetsedsuccess.org/should-colleges-spend-the-gi-bill-on-veterans-education-or-late-night-tv-ads-and-which-colleges-offer-the-best-instructional-bang-for-the-gi-bill-buck/>
- 38** An Act to Ensure the Integrity of For-Profit Colleges and Universities (enacted May 28, 2019). [https://legislature.maine.gov/legis/bills/display\\_ps.asp?paper=SP0030&PID=undefined&snum=129&sec0](https://legislature.maine.gov/legis/bills/display_ps.asp?paper=SP0030&PID=undefined&snum=129&sec0)
- 39** Enrollment in degree-granting for-profit colleges has declined from 2,022,785 in 2010 to 1,098,966 in 2017. See: Digest of Education Statistics, Table 303.10, “Total Fall Enrollment in Degree-Granting Postsecondary Institutions, 1947-2028,” National Center for Education Statistics, 2018, [https://nces.ed.gov/programs/digest/d18/tables/dt18\\_303.10.asp](https://nces.ed.gov/programs/digest/d18/tables/dt18_303.10.asp)
- 40** See: Robert Shireman, “The Covert For-Profit,” The Century Foundation, September 22, 2015, <https://tcf.org/content/report/covert-for-profit/>.
- 41** See: Brian Galle, “Conversions of For-Profit to Nonprofit Colleges Deserve Regulators’ Scrutiny,” Medium, April 3, 2018, <https://medium.com/whatever-source-derived/conversions-of-for-profit-to-nonprofit-colleges-deserve-regulators-scrutiny-1b9174cf534d>
- 42** See: “Inurement/Private Benefit – Charitable Organizations,” The Internal Revenue Service, <https://www.irs.gov/charities-non-profits/charitable-organizations/inurement-private-benefit-charitable-organizations>.
- 43** See: Eric Fullilove and Ruth McCambridge, “IRS as Nonprofit Oversight? Without a Lot More Help, Don’t Expect Much,” Nonprofit Quarterly, May 22, 2019, <https://nonprofitquarterly.org/irs-as-nonprofit-oversight-without-a-lot-more-help-dont-expect-much/>
- 44** SB 400 (introduced Jan. 31, 2019). <http://mgaleg.maryland.gov/mgaweb/Legislation/details/hb0461?ys=2019rs>
- 45** AB 1341 (introduced Feb. 2, 2019). [https://leginfo.ca.gov/faces/billHistoryClient.xhtml?bill\\_id=201920200AB1341](https://leginfo.ca.gov/faces/billHistoryClient.xhtml?bill_id=201920200AB1341)
- 46** Tariq Habash & Robert Shireman, “How College Enrollment Contracts Limit Students’ Rights,” The Century Foundation, April 28, 2016, <https://tcf.org/content/report/how-college-enrollment-contracts-limit-students-rights/>
- 47** “Ten Ways Betsy DeVos’s Borrower Defense Rule is Worse for Borrowers,” The Century Foundation, September 23, 2019, <https://tcf.org/content/commentary/10-ways-betsy-devoss-borrower-defense-rule-worse-borrowers/>.
- 48** For an example of model legislation, see: David Seligman, “The Model State Consumer & Employee Justice Enforcement Act,” National Consumer Law Center, November 2015, <https://www.nclc.org/images/pdf/arbitration/model-state-act-2015.pdf>; See Appendix for a list of thirty states that allow a substantial amount of state grant aid to be used at for-profit colleges.
- 49** A series of Supreme Court cases outline that when a state is acting as a market participant for procuring services, the state has an interest in knowing the extent to which the services are likely to meet the State’s needs. Mandated arbitration masks information that is critical for an informed market participant to act upon. See: Chamber of Commerce v. Brown, Building & Construction Trades Council v. Associated Builders, American Trucking v. Los Angeles; Anthony Walsh, “States Should Act to Prohibit Mandatory Arbitration in College Enrollment Contracts,” The Century Foundation, May 2020.
- 50** Digest of Education Statistics, Table 311.22, “Number and Percentage of Undergraduate Students Enrolled in Distance Education or Online Classes and Degree Programs 2003-04 Through 2015-16,” National Center for Education Statistics, 2018, [https://nces.ed.gov/programs/digest/d18/tables/dt18\\_311.22.asp](https://nces.ed.gov/programs/digest/d18/tables/dt18_311.22.asp)
- 51** “The Condition of Education: Undergraduate Enrollment,” National Center for Education Statistics, May 2019, [https://nces.ed.gov/programs/coe/indicator\\_cha.asp#f3](https://nces.ed.gov/programs/coe/indicator_cha.asp#f3).
- 52** See: National Council of State Authorization of Reciprocity Agreements, <https://nc-sara.org/about-nc-sara>.
- 53** See: Angela Perry and Debbie Cochrane, “Going the Distance: Consumer Protection for Students Who Attend College Online,” The Institute for College Access and Success, 2018, [https://ticas.org/wp-content/uploads/legacy-files/pub\\_files/going\\_the\\_distance.pdf](https://ticas.org/wp-content/uploads/legacy-files/pub_files/going_the_distance.pdf).
- 54** Memorandum of Understanding Between the Office of the Attorney General and the Department of Higher Education, [https://www.mass.edu/bhe/lib/documents/AAC/AAC18-10b\\_Attachment%20B%20AGO%20DHE%20MOU.pdf](https://www.mass.edu/bhe/lib/documents/AAC/AAC18-10b_Attachment%20B%20AGO%20DHE%20MOU.pdf)
- 55** For more on the college choice process see, for example: Constance Iloh and William G. Tierney, “Understanding For-Profit College and Community College Choice through Rational Choice,” Teachers College Record, Volume 116, Number 8, Pages 1-34, 2014; Tressie McMillan Cottom, Lower Ed: The Troubling Rise of For-Profit Colleges in the New Economy (New York: The New Press, 2017); Sarah Ovink, Demetra Kalogrides, Megan Nanney, and Patrick Delaney, “College Match and Undermatch: Assessing Student Preferences, College Proximity, and Inequality in Post-College Outcomes,” Research in Higher Education, Volume 50, 2018; Alberto F. Cabrera & Steven M. La Nasa, “Understanding the College-Choice Process,” New Directions for Institutional Research, Volume 107, 2000; Dan Hossler and Karen S. Gallagher “Studying Student College Choice: A Three-Phase Model and the Implications for Policymakers,” College and University, Volume 62, Number 3, 1987.
- 56** AB 1340 (enacted Oct. 4, 2019). [https://leginfo.ca.gov/faces/billHistoryClient.xhtml?bill\\_id=201920200AB1340](https://leginfo.ca.gov/faces/billHistoryClient.xhtml?bill_id=201920200AB1340)
- 57** VA Know Before You Go video: <https://www.youtube.com/watch?v=Z1ttkv9oRl4>
- 58** FTC Choosing a College guide: <https://www.consumer.ftc.gov/articles/0395-choosing-college-questions-ask>; Veterans Education Success Top 10 Tips: <https://vetsedsuccess.org/help-for-students/find-a-school/>
- 59** NYC Know Before You Enroll: [https://www1.nyc.gov/html/ohcd/html/policy/know\\_before\\_you\\_enroll.shtml](https://www1.nyc.gov/html/ohcd/html/policy/know_before_you_enroll.shtml)

# Appendix:

## What States Can Do to Protect Students from Predatory For-Profit Colleges

On the left side of the chart below is a list of states that allow a substantial amount of state grant aid to be used at for-profit colleges. The right side of the chart shows states that do not allow for-profit colleges to receive state grant aid. This list reflects a reconciliation of two datasets with different reporting, and excludes states with only small grant programs that may be used at for-profit colleges.<sup>1</sup>

**FIGURE 1**

For Profit Colleges Eligible	For Profit Colleges Ineligible
Alaska	Alabama
Arizona	Arkansas
California	Delaware
Colorado	Hawaii
Connecticut	Idaho
Florida	Kansas
Georgia	Michigan
Illinois	Mississippi
Indiana	Missouri
Iowa	Montana
Kentucky	Nevada
Louisiana	New Hampshire
Maine	New Mexico
Maryland	North Carolina
Massachusetts	Oregon
Minnesota	Rhode Island
Nebraska	South Dakota
New Jersey	Texas
New York	Utah

North Dakota	Washington, D.C.
Ohio	Wisconsin
Oklahoma	Wyoming
Pennsylvania	
Puerto Rico	
South Carolina	
Tennessee	
Vermont	

## Notes

<sup>1</sup> National Association of State Student Grant and Aid Programs and Integrated Postsecondary Education Data System data.