

**JOTF\_Chris\_FAV\_SB446**

Uploaded by: DEWS, CHRISTOPHER

Position: FAV



*Advocating better skills, jobs, and incomes*

**TESTIMONY IN SUPPORT OF SENATE BILL 446:**

**Institutions of Postsecondary Education – Disorderly School Closures**

TO: Hon. Paul Pinsky, Chair, and Members of the Senate Education, Health, & Environmental Affairs Committee

FROM: Christopher Dews, Policy Advocate

DATE: February 12th, 2020

The Job Opportunities Task Force (JOTF) is an independent, nonprofit organization that develops and advocates for policies and programs to increase the skills, job opportunities, and incomes of low-wage workers and job seekers in Maryland. JOTF specifically supports this legislation as a means to reduce untoward debts upon vulnerable populations for an educational institution's malpractice.

We are writing today in support of bill SB 446 which will define what an orderly school closure is; prohibit a closing school from not properly notifying students of its closure and failing to obtain transfer agreements; prevent an institution from collecting on student debt, and holds executive officers personally liable for disorderly closures.

In the past five years, 17 Maryland for-profit campus locations have closed impacting 6,872 students. When a school closes, students should not be left scrambling trying to figure out how they will complete their degrees, obtain their transcripts, or burdened with paying a debt to an institution that is no longer operational.

Although Maryland cannot prohibit schools from abruptly closing, it can create incentives for schools to close in a way that is less harmful to students and is not an abrupt closure. Clear guidelines for how schools conduct closures are needed to protect students and ensure that schools cannot close in a disorderly way.

We hope you take this opportunity to protect all Maryland students from experiencing an abrupt school closure. We urge you to move favorably on SB 446.

# **TUSGA\_FAV\_SB446**

Uploaded by: Diaz, Jordy

Position: FAV



**Testimony to the Senate Education, Health, & Environmental Affairs Committee  
SB 446 : Institutions of Postsecondary Education – Disorderly School Closures  
Position: Favorable**

February 12, 2020

The Honorable Paul Pinsky, Chair  
Senate Education, Health, & Environmental Affairs Committee  
2 West, Miller Senate Office Building  
Annapolis, MD 21401

Chair Pinsky and Members of the Committee:

My name is Carlos Rivera and I attend Towson University. I am currently a senior studying Criminal Justice and have attended Towson since August. I want to thank Senators Pinsky, Elfreth, Ellis, Kagan, Lam, Sydnor, Washington, and Young for introducing this bill.

I am writing today in support of bill SB 446 which will define what an orderly school closure is; prohibit a closing school from not properly notifying students of its closure and failing to obtain transfer agreements; prevent an institution from collecting on student debt; and holds executive officers personally liable for disorderly closures.

This issue is important to me because it has affected my life in a very negative way. Before I came to Towson I was a junior at Southern Vermont College. I played for the universities soccer team in the fall and played for the volleyball team in the spring. Even though it was a small school of 400 students I still made a lot of friends. In the middle of my junior spring semester the university president announced that the school was closing due to funding. They told us this way after application deadlines were due for all the Universities that I applied for. Luckily I spoke to admissions at Towson and they gave me an exemption and I got accepted. I lost my friends from SVC, I couldn't continue to play college soccer because Towson University does not have a team, and I lost my scholarship that paid for my tuition. Now I have had to take loans to cover the cost of attending Towson and have worked hard to adjust to moving to an entirely new campus right before I am supposed to graduate.

In the past five years, 17 Maryland for-profit campus locations have closed impacting 6,872 students. When a school closes, students should not be left scrambling trying to figure out how they will complete their degrees, obtain their transcripts, or burdened with paying a debt to an institution that is no longer operational.

Although Maryland cannot prohibit schools from abruptly closing, it can create incentives for schools to close in a way that is less harmful to students and is not an abrupt closure. Clear guidelines for how schools conduct



closures are needed to protect students and ensure that schools cannot close in a disorderly way.

I hope you take this opportunity to protect all Maryland students from experiencing an abrupt school closure. I pray that Maryland students do not go through the same thing I had to go through. I urge you to move favorably on SB 446.

Best,

Carlos Rivera  
Towson University Student

**CAP\_FAV\_SB446**

Uploaded by: Flores, Antoinette

Position: FAV



The Honorable Paul Pinsky, Chair  
Senate Education, Health, and Environmental Affairs Committee  
Maryland General Assembly – Senate  
Legislative Services Building  
90 State Circle  
Annapolis, MD 221401

Re: Disorderly School Closures Legislation, SB0446 [Favorable]

February 12, 2020

Dear Committee Members,

Thank you for the opportunity to provide testimony in strong support of Senate Bill 0446 addressing disorderly school closures among institutions of postsecondary education. This testimony is submitted on behalf of the postsecondary education policy team at the Center for American Progress, a nonpartisan think tank committed to improving the lives of all Americans. The changes in the proposed legislation would help ensure that students in the state of Maryland have access to a high-quality education safe from the devastating harm of school closures that has impacted students in your state and across the country.

Over the last five years, according to federal data, half a million students have been impacted by college closures.<sup>1</sup> Students impacted by disorderly closures are particularly vulnerable. Nearly 70 percent of undergraduates impacted by college closures are federal Pell grant recipients. The Pell grant is the largest source of grant funding that helps low-income students pay for college, and the primary means of expanding college access and opportunity. Approximately 57 percent of students hit by college closures are students of color. The overwhelming majority occur at for-profit colleges.<sup>2</sup> Precipitous closures undermine the goals of access and opportunity and leave the most vulnerable students potentially worse off with credits that won't transfer and burdensome debt.

The impact on students can be devastating. Students faced with precipitous closure are left with uncertain financial futures, often after spending large sums of money, using up their financial aid, taking on debt, and spending time they cannot recoup. They must navigate a complex process to get their loans discharged or tuition and fees refunded. They may have to sort out credit transfer options in time for the start of the next academic term at another school or may be forced to put their education on hold. By contrast, an

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<sup>1</sup> <https://www.chronicle.com/interactives/20190404-ForProfit>

<sup>2</sup> Ibid.

orderly closure gives students weeks or months to sort out their options and means that the college stops recruiting and enrolling new students, so no student finds the doors shuttered just days after they enroll.<sup>3</sup>

Fortunately, there are steps that states like Maryland can take to safeguard students and the legislation under consideration today would help protect both students and taxpayers in a number of ways.

1. Establishes incentives to avoid precipitous closure

The legislation takes several steps to incentivize orderly closure including establishing personal liability for executives and forgiving debt that executives can currently collect on after they've left students and taxpayers on the hook.

Precipitous closures have two things in common: They involve schools that were at one point private, for-profit colleges, and the executives running the schools have paid no price for suddenly deserting students. In fact, these closures often come after institutions, and the people that own and run them, have profited from millions of dollars—in some cases, billions of dollars—in federal financial aid and state aid. Corinthian Colleges received about \$1.4 billion in federal aid annually in its final years of operation, while the ECA took in a quarter-billion dollars in the 2017-18 school year alone.<sup>4</sup> Even the much smaller Vatterott received nearly \$59 million last year alone, according to U.S. Department of Education data.<sup>5</sup> Kevin Mondany, the former head of ITT Technical Institute, made as much as \$3 million per year, as did Jack Massimino at Corinthian.<sup>6</sup>

Holding college executives financially liable is a necessary first step toward addressing the incentives that lead to disorderly closure and one that CAP has called for.<sup>7</sup> It would encourage caution in daily operations and more methodological efforts at closure. Currently, the safest, most lucrative course of action for schools is to grow big fast; doing

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<sup>3</sup> <https://www.americanprogress.org/issues/education-postsecondary/news/2019/03/19/467366/college-executives-need-pay-schools-close-abruptly/>

<sup>4</sup> [https://www.washingtonpost.com/local/education/corinthian-colleges-details-plan-to-sell-85-campuses-close-12-others/2014/07/07/46504eb2-0609-11e4-8a6a-19355c7e870a\\_story.html?utm\\_term=.413495a85be3](https://www.washingtonpost.com/local/education/corinthian-colleges-details-plan-to-sell-85-campuses-close-12-others/2014/07/07/46504eb2-0609-11e4-8a6a-19355c7e870a_story.html?utm_term=.413495a85be3);  
<https://www.warren.senate.gov/imo/media/doc/Letter%20to%20ACICS.pdf>

<sup>5</sup> <https://studentaid.ed.gov/sa/about/data-center/student/title-iv>;

<sup>6</sup> <https://www.indystar.com/story/money/2018/07/09/top-itt-executives-kevin-modany-daniel-fitzpatrick-settle-sec-charges/769582002/>;  
[https://www.help.senate.gov/imo/media/for\\_profit\\_report/PartII/Corinthian.pdf](https://www.help.senate.gov/imo/media/for_profit_report/PartII/Corinthian.pdf)

<sup>7</sup> <https://www.americanprogress.org/issues/education-postsecondary/news/2019/03/19/467366/college-executives-need-pay-schools-close-abruptly/>

so generates profit and helps fuel further expansion with minimal risk. Even if things go south, the leadership can shut down the school and make off with any gains. If financial consequences for such behavior were put in place for leaders, they would be less willing to keep recruiting and enrolling new students when the school is no longer financially viable. Ideally, they would take steps to avoid reaching that point in the first place. Other incentives that would prevent executives from recouping on debt after closure would also help disincentivize disorderly closure.

2. Establishes teach out agreements so that students have the opportunity to transfer their credits and continue their education

The legislation establishes requirements that schools engaged in an orderly closure secure formal teach-out agreements so that students have the opportunity to continue their programs at another institution and their credits do not go to waste. This requirement is necessary.

Current federal requirements rely on accrediting agencies to establish teach-out plans when a school is at risk of closure and leave it up to the discretion of the accreditor whether to require teach-out agreements.<sup>8</sup> Teach-out plans are inadequate and meaningless to students because they only contain a list of schools a student could transfer to in the event of a school closure but no guarantees. In contrast, teach-out agreements are a formal agreement which resembles a contract between two or more institutions. Agreements provide students certain guarantees that for example, their credits will transfer, they will not be charged additional excessive fees, and the transfer institution is within a reasonable distance. However, because securing agreements is not a requirement under federal rules, accreditors rarely require one or only after it is too late.<sup>9</sup> As a result, students often have to navigate complex decisions about where to transfer, how many of their credits will count, how much more money they'd have to pay and whether they can afford it, and many will not transfer at all.

3. Establishes standards for teach-out agreements so that students have high-quality options and are not harmed twice

The legislation establishes quality safeguards for teach-out agreements so that students have high quality options and are not harmed twice by transferring to an institution that is itself facing trouble, financial or otherwise. Because teach-out agreements rarely happen, disorderly closures result in a feeding frenzy where institutions eager to add enrollment target students left in the closing school's wake. These options can be risky and actions

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<sup>8</sup> <https://www.regulations.gov/document?D=ED-2018-OPE-0027-26560>

<sup>9</sup> <https://www.regulations.gov/document?D=ED-2018-OPE-0076-0834>

can be predatory. Take for example, the recent closure of schools owned by Education Corporation of America (ECA). When the schools closed students had nowhere to turn other than ECA itself which within days began listing unvetted transfer options on its website.<sup>10</sup> Many of the institutions listed and the guarantees offered should raise red flags. At the top of ECA's list is the New England Business College, the only remaining campus of ECA that remains open. Many of the other options are online for-profit colleges, some of which themselves are on heightened cash monitoring for financial issues with Department of Education, and many of which offer students attractive discounts on tuition especially for ECA students. For example, Ultimate Medical Academy promises students can enroll and complete their studies at **no cost**. Or MyComputerCareer, offering a special enrollment grant available up to \$7,308 for ECA students. The details and fine print of these promises and the potential tradeoffs are uncertain. When teach-out agreements do occur, the terms and guarantees vary considerably by accrediting agency.<sup>11</sup>

The legislation would establish requirements for eligible transfer institutions that exempts schools that are not in good standing with their accreditor, have default rates higher than the closing institution, that are not under financial aid restrictions by the U.S. Department of Education, and that has not entered into a settlement agreement related to a consumer protection law within the previous 5 years. These requirements help prevent troubled institutions from taking advantage of school closures at students' expense and helps guarantee that students do not go from one risky institution to another.

#### 4. Creates a process for securing accurate student records

Finally, the legislation creates a process for securing accurate student records, a critical role for states in the event of precipitous closures. Students facing sudden closure often have difficulty gaining access to records such as credits or degrees earned and financial aid paid.<sup>12</sup> These problems can prevent a student from being able to transfer or verify their degree for a job.

The legislation would ensure that student records are handled by the state, that they are accurate, and that students can correct and update inaccurate records, avoiding additional harm.

We commend the efforts of sponsors of this legislation to prevent the devastating impacts of precipitous closures that have harmed tens of thousands of students across the country

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<sup>10</sup> <http://www.ecacolleges.com/transfers/>

<sup>11</sup> <https://www.regulations.gov/document?D=ED-2018-OPE-0027-26560>

<sup>12</sup> [https://www.richmond.com/news/virginia/virginia-education-officials-denied-access-to-itt-technical-institute-records/article\\_3197c5d2-eb52-5555-8349-0cffdabb5cfc.html](https://www.richmond.com/news/virginia/virginia-education-officials-denied-access-to-itt-technical-institute-records/article_3197c5d2-eb52-5555-8349-0cffdabb5cfc.html)

in recent years. This legislation is critical, and we urge Maryland legislators to report the bill favorable, adopt this language, and lead the charge for states in addressing school closures.

Sincerely,

Antoinette Flores  
Director, Postsecondary Education  
Center for American Progress  
[aflores@americanprogress.org](mailto:aflores@americanprogress.org)

**Hall\_FAV\_SB446**

Uploaded by: Hall, Stephanie

Position: FAV

**Testimony Concerning Senate Bill 446: Institutions of Postsecondary Education – Disorderly School Closures****Submitted to the Senate Education, Health, & Environmental Affairs Committee****February 12, 2020****Position: Support**

The Honorable Paul Pinsky, Chair  
Senate Education, Health, & Environmental Affairs Committee  
2 West, Miller Senate Office Building  
Annapolis, MD 21401  
cc: Members, Education, Health, & Environmental Affairs Committee

Chair Pinsky and Members of the Committee:

I write today to show support for Senate Bill 446 which will reduce the harm that students experience in the event that their college or university closes.

The Century Foundation is a progressive, nonpartisan think tank and one of the oldest public policy research institutes in the country. As a fellow at The Century Foundation, I research and write on the for-profit college industry and advocate for regulations that will bring the sector's colleges up to par with public and nonprofit colleges in terms of quality and value offered to students.

Between 2015 and 2018, over 3,700 Maryland students were affected by the catastrophic closures of the Everest Institute, Brightwood College, and ITT Technical Institute.<sup>1</sup> Students enrolled in these schools faced sudden loss of educational opportunity and employment prospects, as well as loss of housing and financial security. School closures affect student well-being for many months and years after the fact, as former students struggle to access their academic records and to find ways to complete their credentials or degrees--much less pay for them.<sup>2</sup> SB 446 will take steps to protect students from these situations in the future.

SB 446 defines a disorderly closure as one that does not offer students an adequate and equally affordable credit-transfer option and leaves students unable to complete their course of study. In these cases, the bill protects students from unpaid debts owed to the school, refunds tuition paid, and holds school owners liable. Importantly, the bill ensures that students have access to their academic records in the event of a closure.

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<sup>1</sup>Dan Bauman & Brian O'Leary, "College Closures, 2014-2018," The Chronicle of Higher Education, April 4, 2019. [https://www.chronicle.com/interactives/college-closures#id=MD\\_all\\_all](https://www.chronicle.com/interactives/college-closures#id=MD_all_all)

<sup>2</sup> Yan Cao, "Reducing the Harm from Sudden College Closures," The Century Foundation, January 27, 2020. <https://tcf.org/content/commentary/reducing-harm-from-sudden-college-closures/>

My colleagues and I recommend improved monitoring of schools' financial stability and for policies that incentivize orderly closures should closure be necessary at all.<sup>3</sup> Maryland has an important opportunity to protect students from sudden and disorderly closures, and SB 446 takes an essential first step in doing so. I urge the committee to move favorably on the bill.

Sincerely,

Stephanie Hall

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<sup>3</sup> Ariel Sokol & Yan Cao, "How to Stop Sudden College Closures," The Century Foundation, October 10, 2019. <https://tcf.org/content/report/how-to-stop-sudden-college-closures/>

# **NewAmerica\_FAV\_SB446**

Uploaded by: Laitinen, Amy

Position: FAV



February 6, 2020

The Honorable Paul Pinsky, Chair  
Senate Education, Health, and Environmental Affairs Committee  
Maryland General Assembly -- Senate  
Legislative Services Building  
90 State Circle  
Annapolis, MD 221401

**RE: Disorderly School Closures Legislation, SB0446 [FAVORABLE]**

Dear Committee Members:

Thank you for the opportunity to provide testimony in strong support of your bill addressing disorderly school closures by institutions of postsecondary education. As higher education researchers for New America, a nonpartisan think tank in which we work to strengthen and improve the educational system so that all students have equitable access to high-quality learning, we have seen the impact that these kinds of closures have had on students in Maryland and across the country.

Over the last decade, hundreds<sup>1</sup> of degree-granting institutions of higher education or entire campuses covering a region--on average, 20 each month--have shuttered their doors, **displacing around half a million students in just the past five years**. Disproportionately, those students are low-income students, students of color, and/or working adults.<sup>2</sup> Too often, the closures have come suddenly, with little warning for students and at significant costs to taxpayers; and too often, those closures result in few or no consequences for the school officials who allowed it to happen with virtually no contingency planning in place.

Unfortunately, too often states have also been caught off guard by the closures. As the American higher education system has become more national, with colleges offering programs across state boundaries, state oversight of, and planning for, those institutions and their closures has not always kept up. Officials in the Illinois Board of Higher Education (IBHE), for instance, recently published a paper on how college closures affected their state, and identified some of the key problems. They wrote:

*In September 2016, as a result of the precipitous national collapse of ITT Technical Institute, Illinois was one of many states in the nation faced with educationally-displaced students who, among the serious challenges, did not have*

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<sup>1</sup> [https://nces.ed.gov/programs/digest/d17/tables/dt17\\_317.50.asp](https://nces.ed.gov/programs/digest/d17/tables/dt17_317.50.asp)

<sup>2</sup> <https://www.chronicle.com/interactives/20190404-ForProfit>

*access to their transcripts in order to document their academic work and take next steps to transfer or seek employment. IBHE staff realized that existing administrative rules at the time provided insufficient authority for the agency to address several consumer protection issues in cases of institutional closure.*<sup>3</sup>

Similarly, the association of State Higher Education Executive Officers (SHEEO) has noted the growing need for state involvement in closure matters, writing in a recent report that *“a renewed level of interest in and scrutiny of public accountability of higher education has recently been fueled by a wave of institutional closures.... While much of the attention has focused on the role of accreditors and the federal government, the central actors in the higher education public accountability space are the states.”*<sup>4</sup> The report recommends many of the same state policies included in the Maryland disorderly school closures bill now before you, including establishing arrangements for teach-outs in the event of a college closure, allowing students to recover their tuition paid if the school closes, and ensuring plans are in place to provide students with their records after a closure.<sup>5</sup>

This legislation takes major steps to protect both students and taxpayers. First and foremost, it **ensures incentives are in place for institutions to avoid a precipitous closure** that leaves students stranded and taxpayers holding the bag.

Too often today, the incentive is for institutions to exhaust every last option and wring every last cent out of students before closing -- many times, without any of the planning for closure that could ensure the closure does the least amount of damage to students. In one recent case, for instance, a nationally operating for-profit college (enrolling nearly 10,000 students at the time of closure in Art Institute and Argosy University campuses, despite facing enrollment declines in recent years, as well as numerous lawsuits and settlements with state and federal law enforcement agencies) dragged out its eventual collapse by selling to a nonprofit organization called Dream Center Education Holdings without any experience operating colleges; closing certain campuses to keep others afloat; failing to notify students when some of the school’s campuses lost full accreditation status; obtaining special treatment from a U.S. Department of Education official through the revocation of past guidance to accrediting agencies; filing for federal receivership; selling off some campuses to another entity; and persuading the Education Department to return some of the taxpayer protection it held from the school.<sup>6</sup> When the school shut its doors, it had completed relatively little of the planning that would have provided students an opportunity to continue their educations easily.

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<sup>3</sup> <https://www.ibhe.org/Thought-Paper-Institutional-Closure.html>

<sup>4</sup> [https://sheeo.org/wp-content/uploads/2019/07/SHEEO\\_StateAuth.pdf](https://sheeo.org/wp-content/uploads/2019/07/SHEEO_StateAuth.pdf)

<sup>5</sup> Ibid

<sup>6</sup>

<https://www.educationdive.com/news/timeline-how-dream-centers-higher-ed-bid-went-off-the-rails/550339/>; <https://www.nytimes.com/2019/07/23/us/politics/dream-center.html>; <https://www.insidehighered.com/news/2019/04/03/another-profit-giant-collapses-critics-dream-center-deal-wonder-why-feds-didnt-seek>

The Maryland legislation lays out a framework for ensuring institutional leaders take personal responsibility for carefully and appropriately planning for the possibility of a closure, and for carrying out those plans responsibly and in the interests of their students. It also provides for the cancellation of institutional loan debt in the event a college closes without students being able to complete their programs -- making students whole for the financial and reputational harm done to them by the college, and recognizing such practices as unacceptable violations of state consumer protection laws.

Second, this bill **provides for teach-out agreements to give students the opportunity to continue their programs** at another institution.

When a college closes before its students can complete their programs, the students have the option of receiving a full loan discharge from the Education Department or of transferring their credits to another institution. But in many closures, only the vague outlines of a plan exists to help students transition to another school.

Students suffer when colleges fail to establish a real arrangement with another institution prior to closure. For instance, when the Education Corporation of America (ECA) abruptly closed its doors in December 2018, it enrolled more than 20,000 students, including around 1,700 Maryland students in Brightwood College campuses.<sup>7</sup> At the time of its closure, the school had established no serious teach-out partners,<sup>8</sup> though it did list several other for-profit colleges on its website at which students might be able to enroll, albeit likely without transferring all of the credits they had earned.<sup>9</sup> By the next semester, when the Education Department reported data to Congress, fewer than 1,200--only about 6 percent of students affected at the time of closure--had transferred to another college.<sup>10</sup>

This legislation gives colleges the impetus to establish teach-out arrangements before it's too late -- something many colleges have argued strenuously against, claiming it would be premature. Past experience, though, shows that the current system's overabundance of caution has had devastating consequences for students. Importantly, the bill also lays out certain requirements for the schools that can accept these particularly vulnerable students at high risk of dropping out: requiring that they be in good standing with an accrediting agency, carries a lower risk of borrowers defaulting on their federal student loans than the

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<https://www.educationdive.com/news/how-state-agencies-prepared-for-the-chaos-of-ecas-abrupt-closure/546538/>

8

<https://www.insidehighered.com/news/2018/12/06/closure-education-corporation-america-raises-questions-about-oversight-and-support>

9

<https://www.educationdive.com/news/how-state-agencies-prepared-for-the-chaos-of-ecas-abrupt-closure/546538/>

<sup>10</sup> <https://www.help.senate.gov/imo/media/doc/SenMurrayQFRresponses32819LHHShearing.pdf>

institution at which the student originally enrolled, and has not been found to have consumer protection violations in recent years.

Finally, this bill **creates a process for handling student records quickly, accurately, and responsibly**, one of the most significant roles states have, but also one they have not always been able to play in precipitous closures over the past decade.

When ITT Tech closed suddenly, with around 40,000 students across 130 campuses nationwide, students' records became an immediate problem. With no plan in place, states were sent scrambling to construct a process. The Illinois Board of Higher Education noted that, at the time, it lacked authority to seize the records that sat in ITT offices, and students were left waiting as bankruptcy proceedings moved through the courts.<sup>11</sup> Research by the National Student Legal Defense Network found that students in school closures have experienced *"extreme delays in transcripts processing, failure to transfer records to a new custodian, transcripts distributed with minor or significant errors, or, in some cases, the destruction of irreplaceable records."*<sup>12</sup> In the aftermath of an already-devastating sudden interruption to studies, these problems with student records make it nearly impossible for students to get their academic futures back on track.

The Maryland legislation, though, would ensure that all necessary student records--academic, financial aid, and account information--are turned over to the state, that they are accurate at the time of closure, and that a process exists for correcting or updating transcripts when needed. This policy will avoid the double harm done to tens of thousands of students affected by college closures in recent years.

We sincerely appreciate the efforts of the sponsors of this legislation to counteract the problematic and harmful precipitous college closures that have occurred in recent years. With a particularly at-risk population typically affected by these closures--and at a time of significant fluctuation in the higher education system writ large--your legislation is especially welcome. We urge all Maryland legislators to report the bill favorably, adopt this language and serve as a model for states across the nation.

Sincerely,

Amy Laitinen  
 Director  
 Higher Education Program  
 New America

Clare McCann  
 Deputy Director for Federal Policy  
 Higher Education Program  
 New America

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<sup>11</sup> [https://www.ibhe.org/assets/files/IBHE\\_Thought\\_Paper\\_Closure.pdf](https://www.ibhe.org/assets/files/IBHE_Thought_Paper_Closure.pdf)

<sup>12</sup> <https://www.defendstudents.org/news/body/quality-assurance/Student-Defense-Transcripts-Paper.pdf>

**OAG\_FAV\_SB0446**

Uploaded by: Madaio, Chris

Position: FAV

BRIAN E. FROSH  
Attorney General

ELIZABETH F. HARRIS  
Chief Deputy Attorney General

CAROLYN QUATTROCKI  
Deputy Attorney General



WILLIAM D. GRUHN  
Chief  
Consumer Protection Division

STATE OF MARYLAND  
OFFICE OF THE ATTORNEY GENERAL  
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.  
(410) 576-6585

February 12, 2020

TO: The Honorable Paul Pinsky, Chair  
Education, Health, and Environmental Affairs Committee

FROM: Christopher J. Madaio, Assistant Attorney General - Consumer Protection Division

RE: Senate Bill 446 – Institutions of Postsecondary Education - Disorderly School Closures –  
FAVORABLE

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The Consumer Protection Division of the Office of the Attorney General supports Senate Bill 446, sponsored by Senators Pinsky, Elfreth, Ellis, Kagan, Lam, Sydnor, Washington and Young, because it protects Maryland students at institutions of postsecondary education by putting structures in place to prevent students from being harmed by disorderly school closures.

A disorderly closure of a school is an immediate and abrupt closure of the entire school (or a campus or program of study offered by the school) where: (a) students are not given enough time to finish the program; and, (b) the school fails to arrange any agreements with other schools that agree to accept the credits students earned, which would allow the students to finish on their expected graduation date. It is the worst way that a school can close and primarily happens at for-profit institutions where the owners or shareholders attempt to extract as much capital as possible when closure is unavoidable. A school that needs to close should do so in a responsible way that gives current students enough notice to either finish the program or transfer to a school that is ready and willing to help them.

Some examples of large schools that abruptly closed in recent years are Brightwood College (three Maryland campuses),<sup>1</sup> ITT Technical Institute (two Maryland campuses),<sup>2</sup> Art Institute (online Maryland students), and Argosy University (online Maryland students). In just those four schools, approximately 2,000 Marylanders had their studies interrupted and had to search for a transfer option without any assistance from their school.<sup>3</sup>

The Consumer Protection Division has expended significant resources to help students affected by these closures by, among other things, trying to get debt relief for students that owe an institutional debt to their schools, which are in addition to their federal student loans.<sup>4</sup> However, the Division has found that the

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<sup>1</sup> <https://www.wbalTV.com/article/brightwood-college-suddenly-closes-leaving-students-frustrated/25425539>

<sup>2</sup> <https://www.baltimoresun.com/education/bs-md-itt-tech-shutdown-20160906-story.html>

<sup>3</sup> The Maryland Higher Education Commission has, for some of the larger disorderly closures, arranged agreements allowing students to transfer to an institution that will accept some of the credits that they earned, but it cannot help every student affected by every disorderly closure.

<sup>4</sup> Students attending a school when it closes are eligible for a discharge of their federal student loans, but they are not permitted to transfer their credits and graduate at another school if they discharge the loan. No such discharge option is available for loans that are owed to the school that closed.



these institutional loans as an asset and seeks to sell the loans to debt buyers who will, in turn, spend years collecting on these debts that are owed to the school that did not stay open long enough to provide the education that it promised to students. For example, the receiver in charge of Brightwood College sold \$2.5 million worth of institutional debts owed by Marylanders to a debt buyer, over the objection of the Consumer Protection Division, for approximately 5 cents on the dollar so it could distribute that money to large creditors.

Although there is not a realistic way to prohibit disorderly closures (because enforcement against a closed business is unlikely to be effective), the State can create incentives for schools to close in an orderly way that does not harm students who had no idea their school was going to close when they enrolled and can put other protections in place to help students who experience a disorderly closure. This bill does this in four ways:

1. It requires all schools that operate in the State and the large online schools that enroll Maryland students to provide to the Higher Education Commission a close-out plan, which briefly spells out what steps the school would take to avoid a disorderly closure.<sup>5</sup>
2. It prohibits a school that closes in a disorderly manner from collecting on any loans that students owe directly to the school. This law has no effect on federal loans or loans issued by banks or other third parties; it only ensures that students are not forced to pay back an institutional debt when the school did not keep its promises to students. Also, the chief executive and owners of for-profit schools (where disorderly closures happen the most often) would face personal liability of \$1,000 for every Maryland student enrolled at the time of the closure, to be paid into the Education Trust Fund.
3. It improves the current law that requires all for-profit schools to have bonds in place that students can access if the schools close by requiring MHEC to immediately refund all of the non-federal loan money that students enrolled at the time of the closure paid to the school. Students who want to transfer and finish their education cannot qualify for any reimbursement from the bond, even if they incur extra expenses at the new school, above what they would have otherwise incurred. The bond should help all students who were at a school during a disorderly closure, not just ones that do not transfer.
4. It enhances MHEC's ability to obtain student transcripts from closed schools.

This law will help consumers by providing disincentives for disorderly closures at institutions of postsecondary education and, if a disorderly closure happens, the bill will add protections so that students are less financially harmed by the closure. The Consumer Protection Division urges the Committee to give SB 446 a favorable report.

cc: Members, EHEA Committee

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<sup>5</sup> The term "disorderly closure" is defined as the closure of a program in which any Marylander is unable to complete the program and in which the institution did not enter into an agreement with a qualified school to allow students to transfer and finish the program.

# **CASH\_FAV\_SB446**

Uploaded by: Muckle, Lonia

Position: FAV



**SB 446 -Institutions of Postsecondary Education – Disorderly School Closures**  
**Senate Education, Health, and Environmental Affairs Committee**  
**February 12th, 2020**  
**SUPPORT**

Chairman Pinsky, Vice-Chair and members of the committee, thank you for the opportunity to support senate bill 446. This bill protects students from the harm of postsecondary school closing.

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy.

When institutions of higher education close, it has many adverse effects on the students attending those schools. Racial minorities and low income students take the hardest hit<sup>1</sup> when their schools close. This means that racial minorities and low income students are left without an education, in debt, and scrambling to figure out future career goals. This leaves them in a situation that makes it difficult for them to achieve financial stability.

Postsecondary education is an essential part of economic mobility. Closing a school disrupts a person's progress, and it can significantly extend the amount of time and money it takes to finish. This will expose a person to food insecurity, homelessness, and overall financial hardship.

SB 446 protects students by requiring institutions to perform certain tasks to reduce harm on the student population as much as possible. These task include:

- Having close-out plans and teach-out agreements
- Schools and school leadership must meet specified financial and record transferring obligations

The close out plans and teach out agreements guarantees that students can finish their education or is in a better position to finish. This is crucial for students who are nearing the completion of their program. Meeting the financial and record transferring obligations, will preserve the students record for later use. This will ensure that students are not left without any support after the school closing.

SB 446 will also protect students who attend a program, school,or institution that closes for the following: tuition and fee reimbursement, student debt collection, transcripts, close-out plans, and teach-out agreements. This bill also defines a disorderly closing. This means that institutions have to set in place at least one teach out agreement. All of these protections are necessary to shield students from the fallout of postsecondary institutions closing.

***Due to this, we urge you to return a favorable report for SB 446.***

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<sup>1</sup> <https://www.chronicle.com/interactives/20190404-ForProfit>

**PAPSA\_Shenck\_FAV\_SB446**

Uploaded by: shenck, Aaron

Position: FAV



Maryland General Assembly Members:

Thank you for the opportunity to allow PAPSAs's Maryland Chapter to comment on [Senate Bill 446](#). PAPSAs ([www.papsa.org](http://www.papsa.org)) represents over 100 technical colleges and career schools in several states and we advocate for quality career and technical education. Although originated in Pennsylvania, we are currently working with several Maryland-based institutions of higher education and are in the process of establishing a Maryland Chapter of the association. It is also relevant to state for the purposes of the legislation being considered today that our member schools include both "for-profit" and "non-profit" career and technical institutions.

[Senate Bill 446](#) would help provide the state with additional powers and enforcement mechanisms to curtail disorderly school closures. This is a very important topic and we support this legislation.

Closures of schools happen occasionally for various reasons. Most schools close the proper way, which includes taking steps like providing significant notice to students and other stakeholders, full notice and transparency with federal and state regulators and accreditors, properly teaching-out programs for every student, providing transfer options to students, providing full account and security of student records, and other actions to make sure the school is closed the right way.

However, sometimes a school unfortunately does not take these necessary measures. These situations – when they occur – are very problematic for students, employees, communities, and they hurt the positive reputation of other high-quality institutions in the sector. The Maryland Higher Education Commission (MHEC) and other state entities need stronger tools to help prevent disorderly closures from occurring.

Thank you for your consideration of these comments and our support of the legislation.

Aaron Shenck  
PAPSAs, Executive Director  
[aaron@papsa.org](mailto:aaron@papsa.org)  
717-599-8098

**MICUA\_Jennifer Frank\_FWA\_SB0446**

Uploaded by: frank, jennifer

Position: FWA

**Support with Amendments****Senate Education, Health, and Environmental Affairs Committee*****Senate Bill 446: Institutions of Postsecondary Education – Disorderly School Closures*****Jennifer V. Frank, Ph.D., Vice President**[jfrank@micua.org](mailto:jfrank@micua.org)**February 12, 2020**

On behalf of Maryland's independent colleges and universities and the 65,600 students we serve, thank you for the opportunity to submit written testimony for ***Senate Bill 446: Institutions of Postsecondary Education – Disorderly School Closures***. This bill requires postsecondary institutions and private career schools to meet certain requirements regarding school and program closures, including close-out plans, teach-out agreements, and the transfer of financial and academic records. The bill establishes additional protections and remedies for students who are affected by the disorderly closure of an institution or program.

MICUA appreciates the General Assembly's past and current efforts to protect students who are pursuing postsecondary education in Maryland. We certainly understand the concerns with disorderly closures and the devastating impact they have on the financial and educational aspirations of students. Unfortunately, disorderly school closures seem to have become more common in recent years, leaving students saddled with debt and limited options.

MICUA member institutions are required to follow teach-out plans and closure processes as established and required by our regional accreditor, the Middle States Commission on Higher Education. We have met with the bill sponsor to share our current processes and to discuss concerns related to program-level discontinuations and the transfer of student records in the specific case of institutional mergers. We will be suggesting amendments that address these issues. Again, we appreciate the intent of Senate Bill 446 and the protections it affords to Maryland students.

**MACC\_BernardSadusky\_FWA\_SB0446.pdf**

Uploaded by: Sadusky, Dr. Bernard

Position: FWA



## Senate Education, Health, and Environmental Affairs Committee

### TESTIMONY

Submitted by  
Dr. Bernie Sadusky, Executive Director of the Maryland Association of  
Community Colleges

February 12, 2020

**BILL: SB 446 – Institutions of Postsecondary – Disorderly School  
Closures**

**POSITION: Favorable with Amendments**

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The Maryland Association of Community Colleges ("MACC"), representing all of Maryland's 16 community colleges, supports (with amendments) SB 446, which will require all postsecondary institutions in Maryland to have a process for shutting down an institution or closing an academic program so as to prevent a disorderly school and/or program closure.

Currently, Maryland's community colleges already have a process in place for both orderly school closure and for closing one or more academic programs as it is required by our regional accreditor, the Middle States Commission on Higher Education (Middle States). While MACC believes the best solution would be to require all Maryland postsecondary institutions to be regionally accredited by Middle States, we understand the need for all institutions to at a minimum be required to follow an orderly school closure process.

However, for closing an academic program, Maryland's community colleges believe that we are already meeting the intent of this bill and will provide the sponsor amendments that mirror our current process. The concern is that there is no timeframe established in the legislation and that a student who has not been enrolled for several years may decide to return to finish his degree, only to discover the program has been phased out.

Thank you for your consideration of this bill and our amendments and thank you for all your support and efforts to improve Maryland's community colleges for the benefit of the students we serve.

**Walden\_Joe\_G\_UNF-Sb446**

Uploaded by: Gutberlet, Joe

Position: UNF

# WALDEN UNIVERSITY

## Testimony of Walden University on SB 446 – Institutions of Postsecondary Education – Disorderly School Closures Position: Oppose

Walden University welcomes the opportunity to submit these written comments to raise concerns regarding SB 446. While we appreciate that the legislation includes all types of institutions of postsecondary education operating in the state—and fully support efforts to ensure financial stability safeguarding against precipitous closure—any legislation should aim to provide effective protections for students and align Maryland with existing federal measures that ensure institutional stability.

### Issues of Concern with the Legislation

#### **Ensuring Terminology Accurately Reflects Student Experience**

While the legislation refers to the terms “disorderly closure” and “close-out plan,” institutional accrediting bodies the U.S. Department of Education, and other state statutes and regulations already recognize the terms “precipitous school closure” and “teach-out plan.”

- Since many of the affected schools enroll students from many, if not all, other states, it’s important that the terminology align with the recognized standards.
- ‘Precipitous closure’ both accurately reflects the acute problem that this legislation seeks to address, namely that *sudden* school closure can shortchange students and taxpayers alike.
- Likewise, ‘precipitous closure’ as recognized under federal law, carries existing requirements and responsibilities, including submission of a letter of credit to the U.S. Department of Education.

At the same time, the term “teach-out”—rather than “close-out,” as used in the legislation—more accurately reflects the process that students *should* experience upon the closing of a postsecondary institution.

- Such closing institutions quite literally *teach out* their students—or arrange articulation agreements with other schools, allowing students to transfer their credits without penalty.
- Use of the term “close-out plan” implies that an institution is actually closing, much as consumers might fairly infer upon seeing the terms ‘close’ or ‘closing’ on a storefront.
- Requiring a “close-out” agreement not only sends a confusing message to students and others, but it risks damaging the reputation of Maryland institutions—counterproductive to legislative intent.

#### **Federal Rules to Require Institutions in Danger of Closing Submit Teach-out Plans to Accreditors**

As important context, Maryland should note that federal negotiators concluded a consensus rulemaking last spring on teach-out plans and agreements, related to school closures.

- That rulemaking included the State Higher Education Executive Officers Association (SHEEO), the national organization comprised of all state higher education agencies (*e.g.*, the Maryland Higher Education Commission, or MHEC).
- In addition to SHEEO representation, that rulemaking panel included two- and four-year public, nonprofit, and for-profit institutions of higher education, accrediting agencies, students, consumer advocacy organizations, legal assistance organizations that represent students, as well as financial aid, business, and admissions officers at postsecondary institutions.

In fact, federal negotiated rulemaking panels seldom reach consensus at the end of the process. It is, therefore, noteworthy that these new federal rules that take effect July 1, 2020, represent a comprehensive framework adopted in full collaboration among state higher education agencies, accreditors, students, and all categories of postsecondary institutions. Significantly, these rules now *require* teach-out plans after certain triggering events, including circumstances in which:

# WALDEN UNIVERSITY

- the U.S. Department of Education places a school on the reimbursement payment method, or the heightened cash monitoring payment method that requires the U.S. Department of Education to review the institution's supporting documentation
- the U.S. Department of Education initiates an emergency action against an institution
- an accreditor withdraws, terminates, or suspends the accreditation of an institution

**Accordingly, we urge the Committee to *instead* consider requiring any postsecondary institution whose accreditor requires the institution to submit a teach-out plan to *also* submit that plan to the Commission (MHEC) within ten (10) days of submission to the institution's accreditor.**

- As described above, the higher education community achieved broad consensus for a framework that enables Maryland and other states to benefit from the critical role of accrediting agencies in their quality assurance capacity.
- The carefully considered criteria outlined in the new federal rules provide clear and relevant *triggers* that demonstrate a need for schools to submit a teach-out plan.

Finally, the legislation requires "close-out plans" to include personal liability for the institution's Chief Executive Officer and members of the governing body.

- This is a strict liability standard with no consideration for occurrences beyond the reasonable control of an individual, known as *force majeure* in contracts law.
- Personal liability should only be ascribed to actions resulting from negligence or clear wrongdoing.
- There is already existing liability for Chief Executive Officers of postsecondary educational institutions under federal law.
  - In order to participate in Title IV programs (*i.e.*, federal financial aid funds), leaders of postsecondary institutions must sign Program Participation Agreements (PPA) binding them to liability that includes the possibility of significant fines or imprisonment.

## Background on Walden University

Walden University ("Walden") is an entirely online university, based in Minneapolis, Minnesota, serving more than 48,000 online students in the U.S., including approximately 3,100 students and 6,900 alumni in Maryland. Celebrating its 50th anniversary in 2020, Walden was founded to support working professionals in achieving their academic goals and making a greater impact in their professions and communities. With more than 85% of its students enrolled at the master's and doctoral degree levels, the university offers programs in education, counseling, management, psychology, public health, social work and human services, nursing, public administration, public policy, and technology.

The university offers more than 80 degree programs with over 350 specializations and concentrations. Walden is regionally accredited by the Higher Learning Commission ("HLC"), as well as by several specialized accrediting agencies. Walden includes four colleges of study with an emphasis on programs in nursing and health sciences, education, psychology, counseling and social work, public policy and administration, and management and technology.

Walden's student population is 49% minority and 76% female and has an average age of 40. Walden is proud to rank No. 1 for conferring graduate degrees to African American students and all minority students combined, according to *Diverse: Issues in Higher Education's* 2019 Top 100 Producers of Minority Graduate Degrees.

# WALDEN UNIVERSITY

Walden's Master of Science in Nursing (MSN) ranks No. 1 in Nursing graduates in the U.S.<sup>1</sup> Walden University is a Certified B Corporation®, which signifies that a company has met standards of social and environmental impact, accountability, and transparency assessed against the proprietary criteria established by B Lab®, an independent nonprofit organization. Walden employs 3,773 faculty and administrative staff, including over 300 in Maryland.

## Conclusion

Given the above concerns, we urge careful consideration of the terminology in this legislation and the value of building off the new federal rules for teach-out plans and agreements to ensure: (1) Maryland complements any federal statutes or regulations on precipitous closures and teach-out plans and agreements across higher education; and (2) to allow for Maryland to streamline its efforts to protect students in concert with federal law and the important work of institutional accrediting agencies as quality assurance bodies.

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<sup>1</sup> Source: National Center for Education Statistics (NCES) IPEDS database. Retrieved using the 51.38 CIP code group (Registered Nursing, Nursing Administration, Nursing Research and Clinical Nursing). Includes 2017-18 preliminary data.

**MHEC\_Emily Dow\_INFO\_SB0446**

Uploaded by: Dow, Emily

Position: INFO



**MHEC**  
Creating a state of achievement

**Larry Hogan**  
Governor

**Boyd K. Rutherford**  
Lt. Governor

**Anwer Hasan**  
Chairperson

**James D. Fielder, Jr. Ph.D.**  
Secretary

**Bill Number:** Senate Bill 446

**Position:** Letter of Information

**Title:** Institutions of Postsecondary Education – Disorderly School Closures

**Committee:** Senate Education, Health and Environmental Affairs Committee

**Hearing Date:** February 12, 2020

### **Bill Summary:**

Senate Bill 446 authorizes the Secretary of Higher Education to require certain institutions of postsecondary education to refund all tuition and fees to certain Maryland students if the institution does not file all essential records of the academic achievement of a former student with the Commission in a certain manner. It also establishes that an institution that closes programs in a manner that is a disorderly closure is in violation of the enrollment agreement or other contract with a student enrolled at the time of the closure.

### **Information:**

When a school closes in Maryland, MHEC is responsible for supporting students and providing a path forward. This legislation puts forth in statute the best practices regarding school closures and it provides enforcement mechanisms for student protections. Below are the practices that MHEC has implemented over the past several years that have demonstrated to be successful in supporting students. These practices are provided in Senate Bill 446.

### ***Disorderly Closure***

Schools – particularly private career schools – close for a variety of reasons: a lease ends or rent increases, lack of long-term sustainability, no student enrollment, bankruptcy, loss of accreditation or other non-MHEC approval (e.g., a licensing board), or other financial or operational reasons. MHEC unofficially categorizes school closures as “orderly” or “disorderly.” Orderly closures have typically meant that a school closes with no student enrollment or the school notifies MHEC in advanced, and the school is able to teach all remaining students to completion. Disorderly closures, in contrast, are often closures in which MHEC is not informed of the closure in a timely manner and students are still enrolled at time of closure. It is important to determine that nature (and, when possible, the cause) of a school closure so that MHEC can best support students.

### ***Student Records***

One of MHEC’s first priorities when a school closes is to obtain student records. These records are essential for transfer, refunds from the school or MHEC, and loan discharge requests to the US Department of Education. MHEC is the repository for student records for all closed schools and currently houses records for nearly 200 closed schools. Even after a school closure, these

records remain important to a student. On a daily basis, MHEC receives requests from students to obtain copies of their transcripts for either employment or further education.

### ***Teach-out Agreements***

If a school closes with students still enrolled, MHEC will work to identify existing programs (that are within a reasonable distance from the closed school) for which a student can complete their coursework. Over the past several years, MHEC has found teach-out agreements to be a useful tool to communicate with students regarding their options and to create transparency and equity for students impacted by a school closure who are interested in continuing their education. MHEC will enter into a teach-out agreement with institutions that have the same or similar programs. The teach-out agreement primarily outlines course-to-course transfer and cost to the student. It is important that the agreement is between an existing school and MHEC, not between the closed school and existing school; MHEC is unable to enforce the latter.

### ***Refunds***

Previous legislation has required for-profit institutions in Maryland to hold a bond or letter of credit equivalent to their non-title IV tuition liability. This bond is intended to provide non-title IV refunds to students who are enrolled at the time of closure. Since implementation, MHEC has found this mechanism useful in supporting students impacted by a school closure.

For further information contact Dr. Emily Dow, Assistant Secretary, Academic Affairs, 410-767-3041.