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TO: The Honorable Maggie McIntosh, Chair
Appropriations Committee

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

RE: House Bill 469 – Institutions of Postsecondary Education - Disorderly School Closures –
FAVORABLE

The Consumer Protection Division of the Office of the Attorney General supports House Bill 469, sponsored by Delegates Hettleman, Acevero, Bridges, Crosby, Forbes, J. Lewis, Lopez, McIntosh, Metzgar, Solomon, Valentino-Smith, Wells, and P. 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 is an immediate and abrupt closure of the entire school (or a campus or program of study offered by the school) and is defined in the bill as a closure 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. Good actors who need to close should and can do so in a responsible way that gives current students enough notice to either finish the program or transfer to a quality 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),¹ ITT Technical Institute (two Maryland campuses),² 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.³

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

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

³ 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.



their schools, which are in addition to their federal student loans.⁴ However, the Division has found that the bankruptcy trustee or federal receiver tasked with dealing with the closed school's creditors often views 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.⁵
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. This is necessary to ensure that owners and executives have "skin in the game" and are incentivized to stop disorderly closures instead of allowing it to happen.
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 HB 469 a favorable report.

cc: Members, Appropriations Committee

⁴ 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.

⁵ 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.