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March 11, 2021

TO: The Honorable Maggie McIntosh, Chair
Appropriations Committee

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

RE: House Bill 1130 – Higher Education - For-Profit Institutions – Standards for Operation
– UNFAVORABLE

The Consumer Protection Division of the Office of the Attorney General opposes House Bill 1130, because it removes the protections for veterans enrolling in post-secondary education that the General Assembly created last session by passing SB 294 (Chapter 546), the Veterans Education Protection Act. That law, passed last year on a unanimous vote and now codified in section 11-210 of the Education Article, prevents for-profit institutions of higher education and for-profit private career schools from enrolling new Maryland students if the school, after repeated failures, cannot prove that it has sufficient academic quality to obtain 10% of its revenue from sources other than the federal government. This law closed a loophole in the federal “90-10” requirement in the Higher Education Act that allowed for-profit schools to count GI Bill benefits and some other types of federal money as non-federal revenue, thereby perversely incentivizing schools to target predatory recruitment efforts at veterans.

Examples of unfair and deceptive recruitment and admissions practices targeting military members and veterans include the operator of a lead generation website used by for-profit schools that falsely gave the appearance of an official website for the Department of Veterans Affairs,¹ the Department of Defense temporarily banning the University of Phoenix from recruiting on military bases in 2015,² Ashford University,³ Kaplan University, and schools operated by Education Management Corporation.⁴

¹ <https://www.insidehighered.com/news/2012/06/28/attorneys-general-announce-settlement-profit-college-marketer>

² <https://www.consumeraffairs.com/news/feds-probe-university-of-phoenix-dod-bars-it-from-recruiting-on-military-bases-101015.html>. Veterans groups thanked the Secretary of Defense for taking action to “protect service members from deceptive recruiting, including surreptitious recruiting on military installations.” Letter from Air Force Sergeants Association et al. to Hon. Ashton Carter, Former Sec’y of Def. (Oct. 27, 2015), [https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5744bf65f699bb5072d21559/1464123237247/Letter+to+DoD+on+MOU+enforcement.final+\(1\).pdf](https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5744bf65f699bb5072d21559/1464123237247/Letter+to+DoD+on+MOU+enforcement.final+(1).pdf)

³ <https://www.bloomberg.com/news/articles/2009-12-30/for-profit-colleges-target-the-military>

⁴ <https://www.help.senate.gov/ranking/newsroom/press/harkin-reveals-deceptive-marketing-employed-by-for-profit-colleges-to-profit-off-veterans-and-servicemembers>

HB1130 should be given an unfavorable report because it unnecessarily exempts any school from compliance with the student protections included in last year's Veterans Education Protection Act if the school meets benchmarks that are unrelated to stopping veterans from being targeted by unfair and deceptive recruitment and admissions practices. There is no need to include any exemptions for the law passed last year. Schools that offer quality programs at a fair price will be able to recruit students of all backgrounds and be able to obtain revenue from a variety of sources, including employers who will pay for their employees to obtain training, scholarship programs, and students who are able to pay some of their tuition from savings. Like the Maryland law, the federal 90-10 requirement does not include any exemptions because they would be unnecessary and counterproductive to the purpose of the revenue requirement.

Also, the metrics in this bill providing the exemption for the Veterans Education Protection Act are far too low to protect students. The default rate threshold allows a school to have as many as 25% of its graduates in such financial distress that they are defaulting on their student loans, which is far higher than should be acceptable to exempt a school from reasonable student protections and far higher than the national average of 9.7%. In addition, the graduation rate, retention rate, and placement rate requirement of 70% is the bare minimum that is required by most accrediting agencies. Giving schools an exemption to the Veterans Education Protection Act because they meet the minimum standards already required of them does not protect students. The proposed standards also do not include one of the most important signs of a quality education from a for-profit school that is federally required to have its programs lead to gainful employment: the earnings of graduates and the median debt incurred by graduates. Many programs offered by for-profit institutions bury their graduates in significant debt and do not result in the same earnings as graduates from similar programs at our community colleges.⁵

Lastly, the bill is premature because the Maryland Higher Education Commission has not published regulations that are needed to establish a reporting process for for-profit institutions' revenue. To date, no school has been required to take any steps to calculate or report data to MHEC. Also, the Veterans Education Protection Act included language that gave schools until 2023 before the potential sanction related to noncompliance with the requirements of the bill would apply. The arguments from proponents of HB1130 were raised by schools last year and were rejected by this Committee and the Senate Education, Health, and Environmental Affairs Committee, and nothing has changed since that time. It is unnecessary and harmful to veterans to amend this law before the reporting and compliance structures have even been implemented.

The bipartisan Veterans Education Protection Act enhances consumer protection laws by closing a loophole that encourages for-profit colleges to exploit veterans for their GI Bill benefits, resulting in unfair, deceptive, and abusive recruitment tactics. There is no need to roll back those protections by adding an exemption with low criteria, especially before MHEC has even begun the process of implementation the law.

The Consumer Protection Division urges the Appropriations Committee to give HB 1130 an unfavorable report.

cc: Members, Appropriations Committee
The Honorable Darryl Barnes

⁵ This data is publicly available on the U.S. Department of Education's College Scorecard website: <https://collegescorecard.ed.gov/>.