

April 14, 2015

Sent via facsimile

The Honorable Carol Liu
Chair Senate Education Committee
State Capitol, Room 2083
Sacramento, CA 95814

RE: Senate Bill 634 (Block): Postsecondary Education: Interstate Reciprocity Agreements – OPPOSED UNLESS AMENDED

Dear Chairperson Liu:

The undersigned consumer, student, veteran, civil rights, and child advocacy groups respectfully urge you to vote no on SB 634 (Block). Unintentionally, and as explained below, this bill would dramatically undermine, if not entirely undo, recent and hard-won reforms addressing abuses and regulatory gaps in the oversight of the deeply and widely troubled for-profit education sector. California students attending for-profit institutions located outside California are in desperate need of regulatory protections, but SB 634 – as currently written – is not the answer.

In recent years, California has been improving its student protections and strengthening standards for for-profit institutions located within its borders, and these protections and standards must be extended to all California students, including those attending for-profit distance learning programs. SB 634, however, would allow the Department of Consumer Affairs to enter into a State Authorization Reciprocity Agreement whereby an institution approved to operate in any state would be approved to operate in California. In so doing, this bill would strip California of its authority to regulate this important sector, and would threaten the recent wins for students and consumers, increasing students' vulnerability to low quality online programs and fraud. Because distance education students are equally deserving of state protection from deceptive for-profit school practices, *California must retain its right to oversee for-profit schools that exclusively offer online programs.*

Fortunately for Californians, the California legislature has recognized the need for more robust state oversight of for-profits and passed legislation in 2012 (AB 2296 (Block)) and 2014 (AB 1247 (Lieu)) to improve protections for California's for-profit students.

Specifically, AB 2296 (Block) strengthened disclosure rules by:

- Requiring schools to disclose the salaries of their actual graduates, instead of general salaries in the field.
- Clarifying that job placement rates must include only graduates employed "in the field" in which they studied
- Directing the Bureau of Private Postsecondary Education (the Bureau) to define through regulation accurate and appropriate job placement disclosure standards to replace the currently misleading one, based on a timeline set for such regulations that was requested by the Bureau's leadership.

- Requiring schools to disclose the rate at which their borrowers default on their loans, an indication of whether the borrowers' investment in a school will be worthwhile, along with information about the schools' accreditation and limits thereof.

SB 1247 (Lieu) further strengthened student protections by:

- Prioritizing Bureau oversight to focus monitoring and enforcement activities on those schools and complaints that appear to pose the highest risk to students.
- Increasing student access to the Student Tuition Recovery Fund (STRF).
- Enhancing accountability for the Department of Consumer Affairs (DCA).

However, SB 634 could potentially undo all of the work put into these protections as they apply to distance education students, and California would potentially forfeit the right to regulate these online for-profit programs.

Across the nation, distance education enrollment has been growing so quickly that state regulators have had difficulty keeping up. The U.S. Department of Education has recognized the risk that the lack of state oversight poses to the federal financial aid program, and is developing regulations that would require schools solely offering distance education programs to obtain some type of authorization from each state where the programs are offered.¹ The National Council for State Authorization Reciprocity Agreements (NC-SARA) and four higher education regional compacts have drafted cooperative agreements for the purposes of distance education oversight and approval, applicable to accredited degree-granting schools.² The four State Authorization Reciprocity Agreements (the SARAs), developed without input from students or consumers, essentially provide that if the state oversight agency where the school is physically headquartered (the "home state") approves a school, then the states where the school offers distance education programs (the "distant states") may adopt the home state's approval as long as the school lacks an in-state physical presence.

However, as currently drafted, the SARAs are severely unbalanced. They largely ignore consumer protection issues, in favor of reducing regulation.³ Chief among the SARAs' deficiencies is the requirement that distant states waive their consumer protections and minimum standards specifically applicable to for-profit schools.⁴ A school offering distance education programs need only comply with the SARAs' minimal standards and disclosure requirements. Although a home state may apply stricter consumer protections to schools that are physically present within its borders, it is unclear whether those consumer protections are exported to cover students in distant states.

Distance education for-profit schools could avoid strict consumer protections by moving their legal domicile to a state with the most lenient consumer protection and oversight laws. A for-

¹ National Consumer Law Center, Ensuring Educational Integrity: 10 steps to improve state oversight of for-profit schools. Accessed on April 8, 2015 at <http://www.nclc.org/images/pdf/pr-reports/for-profit-report.pdf>.

² Andrew Mytelka, "Florida Attorney General Adds 3 For-Profit Schools to Investigation," www.chronicle.com (Nov. 3, 2010).

³ Richard Danielson, "Florida Attorney General's Office Now Investigating Eight For-Profit Colleges," www.tampabay.com (Nov. 27, 2010).

⁴ National Consumer Law Center, Ensuring Educational Integrity: 10 steps to improve state oversight of for-profit schools. Accessed on April 8, 2015 at <http://www.nclc.org/images/pdf/pr-reports/for-profit-report.pdf>.

profit distance education business with a dismal record, unable to recruit students in California under BPPE regulation, might simply close all of its campuses in California and move across the border to Nevada. There, it could spend its resources recruiting and remotely enrolling California students, and under SB 634 it is possible these students would potentially have no protections or recourse. ***This forum shopping is already taking place.***⁵

For example, Anthem College Online, a degree-granting for-profit school headquartered and licensed in Arizona, suddenly closed in August 2014. Because this school lacked a physical presence in California, California students who were enrolled in its distance education programs do *not* qualify for the reimbursement of their private student loans from the Student Tuition Recovery Fund. They may only apply to Arizona's student protection fund. Arizona's, law, however, specifically states that non-Arizona residents enrolled in distance education programs are not eligible for payment from the Arizona.⁶ Therefore, these students will be stuck with repaying their expensive private loans even though their school closed before they were able to complete their programs.

We must address this lack of consumer protection for distance education students in California, so that Californians enrolled in distance education programs may benefit from the reasonable and hard-fought protections built into California law. California should not give up these protections before it has had the opportunity to review and decide whether the Act should be expanded to apply to these schools. ***Yet SB 634 would authorize DCA to enter into a SARA with other states on behalf of the State of California, and essentially waive these critical consumer protections without even debating whether they should apply in the first place.***

This is unacceptable, and it is especially unacceptable in light of the recently enacted, hard-won, student protecting reforms of AB 2296 and SB 1247 which should also protect distance education students. ***We would support California entering into a state reciprocity agreement that more equitably addresses consumer and state interests. To do so, at a minimum this bill should be amended so that California maintains its rights to:***

- Apply its consumer protections to schools offering distance education programs, including California's refund rights, cancellation rights, student tuition recovery fund rights, requirements for enrollment agreements and other important documents, and prohibitions against unfair or deceptive business practices;
- Apply its minimum standards, including financial responsibility and other standards, review the school for compliance with those standards;
- Sign onto SARA for some types of schools (such as public schools), but to opt out for other types of schools that pose a higher risk to its citizens;
- Limit or deny approval, or take other appropriate action, when a school has violated California law or failed to meet its minimum standards;
- Accept, fully investigate and act on California student complaints;

⁵ Dirk Lammers, "University removes South Dakota campus references," Associated Press, March 6, 2014. Accessed on April 9, 2015 at <http://www.washingtontimes.com/news/2014/mar/6/virginia-university-removes-sd-campus-references/>.

⁶ Ariz. Rev. Stat. Ann. § 32-3075(B).

- Impose its own record retention requirements, require the school to report data, and to inspect documents, conduct site visits, speak with students and employees, or require the school to comply with other informational requests or audits;
- Charge the school adequate fees to cover its expenses; and
- Require the school to notify it whenever necessary, for example if ownership or control changes, a law enforcement agency starts an investigation, etc.

For these reasons the undersigned oppose SB 634 unless it is amended as described above, and ask that you vote no unless those amendments are made.

Sincerely,

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USD Children's Advocacy Institute
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Cc: The Honorable Marty Block, Member of the California State Senate
The Honorable Members of the Senate Education Committee