



December 12, 2017

Rep. Virginia Foxx
Chairwoman
U.S. House Committee on Education and the Workforce
2176 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Foxx,

The Center for Responsible Lending¹ (CRL) writes to voice our strong opposition to H.R. 4508, "Promoting Real Opportunity, Success, and Prosperity through Education Reform (PROSPER) Act." We urge you not to use reauthorization of the Higher Education Act to take steps that would widen persistent and concerning racial and socio-economic wealth gaps in our society. Further, the Act makes it easier than ever for predatory institutions and businesses to prey on consumers and wreak havoc on our economy.

Prosperity and economic security are laudable and elusive goals for many Americans, and we believe the Higher Education Act should play a key role in increasing affordability and access to quality educational programs for all, especially low-income students and students of color. Unfortunately, the PROSPER Act does nothing to make this goal more attainable for those who have been systematically and deliberately excluded from the American dream. Rather than attempt to remedy this reality, this Committee has chosen to extend more prosperity to those who least need it: for-profit colleges that prey on the vulnerable and wealthy individuals who have always had access to higher education.

While our concerns with this bill are numerous, a full and complete analysis of these issues given the length and scope of the proposed legislation was not possible prior to the Committee's consideration of the bill. Because of this, we will only address those provisions that common sense, recent research, and history have already shown us will only damage our nation's prized higher education system.

¹ The Center for Responsible Lending is a non-profit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices, including student loan debt incurred as a result of fraudulent representations by higher learning institutions. CRL's views on student lending are informed by its affiliation with Self-Help, one of the nation's largest nonprofit community development financial institutions. Self-Help has provided \$6 billion in financing to 70,000 homebuyers, small businesses and nonprofits and serves more than 80,000 mostly low-income families through 30 retail credit union branches in North Carolina, California, and Chicago.

302 West Main Street
Durham, NC 27701

Tel: 919.313.8500
Fax: 919.313.8595

910 17th Street NW, Suite 500
Washington, DC 20006-2610

Tel: 202.349.1850
Fax: 202.289.9009

1970 Broadway, Suite 350
Oakland, CA 94612

Tel: 510.379.5500
Fax: 510.893.9300



The PROSPER Act makes college more unaffordable than ever for low-income students.

Federal student aid programs should increase access to education for low-income students, but this proposal does the opposite, reducing the status quo of available aid. The PROSPER Act eliminates Supplemental Educational Opportunity Grants and federal subsidized loans and fails to increase the annual Pell Grant award save for a small bonus for students who take a 15 credit course load. Each of these programs were designed to provide low-income students with aid to supplement their educational expenses without taking out additional unduly burdensome debt. The maximum Pell award remains at less than \$6,000 per calendar year, including no inflation adjustment mechanism, despite the fact that the average cost of tuition for even state residents at a public college is close to \$10,000 per year. The decision to eliminate these provisions and programs and the failure to increase Pell awards to reflect the current cost of college is tantamount to a tacit decision to further limit higher education access to those who can afford to pay it on their own or who can afford to take out massive amounts of tax-payer funded debt.

The PROSPER Act steers low-income students toward work and career training programs.

While we agree that traditional college is not the right path for everyone, every student should have the ability to make the decision about the pursuit of higher education without undue worry about how they will pay for it and how they will build a life afterwards while repaying their student debt. The PROSPER Act allocates substantial resources to short-term programs and career training programs while simultaneously decreasing grant funding for low-income students and allocations for traditional institutions such as Minority-Serving Institutions that serve substantial numbers of low-income students. This creates the very real presumption that low-income students should seek out these career programs as the most affordable and readily available option to them.

While outcomes for students who attend vocational programs are initially better than college graduates, this benefit is short lived. Over time, workers who graduated from college earn more and have lower unemployment rates than workers who attended vocational school who often struggle to adapt to changing labor market demands as they age.² For these reasons, each student should have the ability to make an informed choice about which educational options are right for them. An informed choice is a choice that is not limited by a funding system that rewards them for choosing a short-term program without long-term benefits and penalizes them for choosing a longer program that will lead to better opportunities.

² Eric Hanushek et al., *General Education, Vocational Education, and Labor-Market Outcomes over the Lifecycle*, 52 THE JOURNAL OF HUMAN RESOURCES 48–87 (2017), http://hanushek.stanford.edu/sites/default/files/publications/Hanushek%2BSchwerdt%2BWoessmann%2BZhang%202017%20JHR%2052%281%29_0.pdf (last visited Dec 11, 2017).

302 West Main Street
Durham, NC 27701

Tel: 919.313.8500
Fax: 919.313.8595

910 17th Street NW, Suite 500
Washington, DC 20006-2610

Tel: 202.349.1850
Fax: 202.289.9009

1970 Broadway, Suite 350
Oakland, CA 94612

Tel: 510.379.5500
Fax: 510.893.9300



The PROSPER Act makes it harder for borrowers to pay back their federal loans and increases the likelihood that borrowers will default on their loans.

While scaling back grant programs that directly affect the decisions and options available to potential students at the outset of the college application process, the PROSPER Act also subjects borrowers to a lifetime of debt. By eliminating all loan forgiveness programs, disallowing \$0 payments for those with the lowest incomes and increasing the monthly payment amount as a function of discretionary income for the single proposed income-based repayment plan, this Act ensures that students will not only take out more debt to pay for their education but that they will be responsible for that debt for the rest of their lives. This is even true for students that diligently pay back their loans for 20 or 25 years. This proposal is problematic for many reasons. First, the higher payment amounts necessarily imply that more borrowers will default on their loans. Under current income-based plans, which cap payments at 10% of income, we have already seen an incredible rate of default.

Defaulting on taxpayer-backed student loans is troubling for the individual and for our economy. Defaulting on an education loan has numerous adverse consequences, including wage garnishment and lower credit scores. Beyond the risk of more defaults, as borrowers are forced to continue to pay off loans beyond the 20 and 25-year mark, they will forego other wealth-building opportunities and economic contributions as a portion of their income continues to be devoted to student loan repayment. As wages remain stagnant, the pay-off date for these loans will get further and further away. This strategy does not represent a return on investment that taxpayers can afford. Even under current Income Based Repayment (IBR) plans, analyses show that some borrowers on these plans will pay back loans and interest in excess of the payments of borrowers on the standard plan, and no actual forgiveness will occur.³

While CRL would support a single IBR plan if properly structured, there is no need to change the minimum payments or to deny forgiveness when the government will already be paid back with interest and borrowers will also have the ability to pursue other economic goals once forgiveness has been achieved. This rationale also extends to Public Service Loan Forgiveness, which is a crucial and vital method of ensuring that we have quality teachers, police officers, religious workers and other government and non-profit employees. Eliminating this program will make it harder for borrowers to justify taking low-paying jobs in the public sector without the prospect of relief in 10 years.

³ Betsy Mayotte, INCOME-DRIVEN STUDENT LOAN REPAYMENT PLANS CAN COST MORE U.S. NEWS & WORLD REPORT (2015), <https://www.usnews.com/education/blogs/student-loan-ranger/2015/07/15/income-driven-student-loan-repayment-plans-can-cost-more> (last visited Dec 11, 2017).

302 West Main Street
Durham, NC 27701

Tel: 919.313.8500
Fax: 919.313.8595

910 17th Street NW, Suite 500
Washington, DC 20006-2610

Tel: 202.349.1850
Fax: 202.289.9009

1970 Broadway, Suite 350
Oakland, CA 94612

Tel: 510.379.5500
Fax: 510.893.9300



A change to Public Service Loan Forgiveness would hit women and middle-class workers particularly hard. Labor Force Statistics from the [Current Population Survey \(2016\)](#) show that although women compose 46.8% of the overall workforce, they represent 73.1% of Education, Training and Library Occupations and 81.5% of Social Worker occupations. These occupations are largely nonprofit and/or government related, require higher education and in some cases graduate degrees, and have relatively low pay compared to the student debt load of many within their ranks. Blacks and Hispanics would also be disproportionately affected by the elimination of the Public Service Loan Forgiveness Program. These groups constitute 28.6% of the overall workforce, but 36.5% of the Social Worker occupations. Thus the elimination of forgiveness programs represents an additional avenue closure for those students who most need as many routes as possible to higher education.

The PROSPER Act limits institutional accountability and ensures predatory for-profit colleges will have access to more federal funds than ever.

While investing more resources in short-term and other career training programs, the PROSPER Act simultaneously prevents these programs from being adequately regulated. Many of these programs that will now have access to funds under Title IV and Title II are programs that would have been subject to the recently delayed Gainful Employment Rule. Though the Department of Education is currently re-negotiating this rule, the PROSPER Act would repeal the current rule and remove the Secretary of Education's authority to promulgate and enforce any new regulations in this area. The PROSPER Act includes a similar provision on the Borrower Defense to Repayment rule. While the Act goes on to codify parts of the final rule from 2016, the provisions are inadequate in several ways, including with respect to the amount of relief provided and the institutional accountability they will afford.

The Gainful Employment and Borrower Defense to Repayment rules were the direct result of the rise of the for-profit college industry, which has been marked by more debt and poor student outcomes compared to nonprofit and public schools, coupled with the abrupt collapses of several large chains of such institutions. These failures have left taxpayers to foot the bill for the federal loans extended to students at these failing schools.

For the past several years, CRL has conducted research on college affordability and the higher education landscape, with a particular focus on North Carolina. While the issue of unscrupulous institutions affects all students whose detrimental reliance on information presented by these schools prompts them to take out student loans, we note that these problems are particularly severe for students at for-profit colleges. Furthermore, students of color are disproportionately affected. In CRL's research on North Carolina student outcomes, we found that low-income students (as measured by the number of Pell Grantees) make up a far larger percentage of students at for-profit

302 West Main Street
Durham, NC 27701

Tel: 919.313.8500
Fax: 919.313.8595

910 17th Street NW, Suite 500
Washington, DC 20006-2610

Tel: 202.349.1850
Fax: 202.289.9009

1970 Broadway, Suite 350
Oakland, CA 94612

Tel: 510.379.5500
Fax: 510.893.9300



Center for Responsible Lending

schools than their public and private school counterparts, as do African-American students.⁴ Additionally, these for-profit, post-secondary institutions are more expensive than other schools and borrowers are less likely to be able to repay their loans when they leave. Unfortunately, this means that an inordinate number of low-income students and students of color are left with large loans that they cannot repay. By contrast, borrowers who attend public and private colleges have a smaller debt load and can afford to repay their loans when they leave school.⁵

These outcomes cannot be attributed to the demographics of these students. Historically black colleges and universities (HBCUs) in the state also have large low-income and student of color populations, but lower financial costs and significantly better outcomes. While CRL's research focused on approximately 467,000 students (with 22,000 at for-profit institutions), the implications of the research are widely applicable. In 2012, over 1.5 million borrowers originated federal and private student loans at for-profit institutions.⁶

While the for-profit college industry has alleged that the “gainful employment” rule would disproportionately impact the educational access and attainment of students of color, the data shows that all students at these institutions (1) pay more in tuition, (2) have more debt, (3) are less likely to graduate, and (4) are more likely to default.⁷ Such outcomes, in other contexts, would meet the legal definition of “reverse redlining.”⁸ “Reverse redlining” is the practice of extending inferior products on unfair terms or at higher costs to people of color.⁹ The for-profit industry's mere provision of

⁴ Whitney Barkley & Robin Howarth, NC STUDENT LOAN CALCULUS: WHAT NORTH CAROLINA CAN DO TO ENSURE ALL OF ITS STUDENTS RECEIVE AN AFFORDABLE, QUALITY COLLEGE EDUCATION (2016), http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_nc_student_loan_calculus_may2016.pdf (last visited Dec 11, 2017).

⁵ *Id.*

⁶ Analysis of data from the office of Federal Student Aid (<https://studentaid.ed.gov/sa/about/data-center/student/portfolio>) compared with borrower statistics from the U.S. Senate Committee on Health, Education, Labor, and Pension, 112th US Cong., *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*, (2012) (http://www.help.senate.gov/imo/media/for_profit_report/Contents.pdf).

⁷ See Center for Responsible Lending, et.al, *Gainful Employment: A Civil Rights Perspective* (Oct. 2014), <http://responsiblelending.org/sites/default/files/nodes/files/research-publication/2014-Gainful-Employment-A-Civil-Rights-Perspective-Oct.pdf>.

⁸ See, e.g., Second Amended Complaint, *Morgan v. Richmond School of Health and Technology*, No. 11-1066 (E.D. Va. filed Dec. 7 2011) (class action against for-profit college asserting Equal Credit Opportunity Act discrimination claim), available at <http://www.relmanlaw.com/docs/RSHTsecondAmendedComplaint.pdf>

⁹ *Hargraves v. Capital City Mortg. Corp.*, 140 F. Supp. 2d 7, 20 (D.D.C. 2000) (citing *United Lending Cos Corp. v. Sargeant*, 20 F.Supp.2d 192, 203 n.5 (D.Mass. 1998)). See also Benjamin Howell, A Parallel Evolution: The Reverse Redlining Theory, 94 Cal. L. Rev. 101, 142 (2006); National Consumer Law Center, *Why Responsible Mortgage Lending is a Fair Housing Issue*, available at https://www.nclc.org/images/pdf/credit_discrimination/fair-housing-brief.pdf. The City of Los Angeles recently sued Bank of America, Wells Fargo, and Citibank for damages to the city under a reverse redlining theory of mortgage discrimination. See Matt Reynolds, *Banks' Reverse Redlining Cost It \$1 Billion*, Los Angeles Claims, Courthouse News Service, available at <http://www.courthousenews.com/2013/12/09/63550.htm>. As cited in comments on the draft gainful employment regulation submitted by the Center for Responsible Lending, May 27, 2014, available at <http://www.protectstudentsandtaxpayers.org/wp-content/uploads/2014/05/Center-for-Responsible-LendingComments-on-Proposed-Gainful-Employment-Rule.pdf>.

302 West Main Street
Durham, NC 27701

910 17th Street NW, Suite 500
Washington, DC 20006-2610

1970 Broadway, Suite 350
Oakland, CA 94612

Tel: 919.313.8500
Fax: 919.313.8595

Tel: 202.349.1850
Fax: 202.289.9009

Tel: 510.379.5500
Fax: 510.893.9300

www.responsiblelending.org



services to “nontraditional” students – such as low-income students and students of color – should not be a basis to evade regulations that seek to protect the very same low-income students and students of color, whether currently enrolled or prospective and this Committee should not enable them to function unchecked by repealing already limited regulations.

Rather than seeking to ensure that there are no more Corinthians and ITT Techs, this Act would create a system where these programs can thrive, with far fewer mechanisms for accountability. The Act also repeals the “90-10” rule for for-profit institutions which prevented them from getting more than 90% of their revenue from federal funds. We would remind you that this tax-payer funded revenue is disproportionately spent on executive compensation, marketing and recruitment not instruction or educational tools and services. Moreover, even with this provision, many of these predatory institutions were already circumventing its intent by targeting our nation’s veterans and securing funding through the federally funded GI Bill benefits. Equally alarming is the PROSPER Act’s redefining of “institution of higher education” to include for-profits. The negative ramifications of this change cannot be understated as for-profits would have access to funding and programs beyond Title IV as a result.

The PROSPER Act prevents important and lawful state regulation and oversight of institutions and student loan servicers.

States are and have long-been critical in protecting consumers from predatory practices, ranging from mortgages to small dollar loans. In many instances, states are at the forefront of protecting consumers from these practices in the face of emerging abuses or in the case of inaction at the federal level, as was clearly evident during the subprime mortgage lending crisis. Likewise, state law has thus far played an important role in adjudicating the claims of students who have been exploited by their college or university and also their loan servicer.

As regulators of student loan servicers, states can prohibit misrepresentations, payment misapplications, and false credit reports. They can prevent servicers from putting borrowers in default before guiding them to income-sensitive repayment plans, thus protecting many student borrowers from default and the resulting consequences. States can also enforce their consumer protection laws and protect their residents from servicers who violate the law (and have successfully done so in several states). State and federal actors should work hand in hand to rein in abusive practices, and they have done so consistently, including the recent joint action by the CFPB and two state Attorneys General against Navient, the largest student loan servicer in the country. Good servicing policy and practice can be the determining factor in whether a borrower defaults. We are extremely alarmed by this Committee’s attempt to curtail state power and limit accountability for an industry that manages the \$1.4 trillion-dollar taxpayer investment in higher education.

302 West Main Street
Durham, NC 27701

Tel: 919.313.8500
Fax: 919.313.8595

910 17th Street NW, Suite 500
Washington, DC 20006-2610

Tel: 202.349.1850
Fax: 202.289.9009

1970 Broadway, Suite 350
Oakland, CA 94612

Tel: 510.379.5500
Fax: 510.893.9300

www.responsiblelending.org



Conclusion

In 2008, we all saw firsthand what happens when we support industry and businesses at the expense of individuals and taxpayers. The student loan debt crisis is on track to decimate our economy and our communities in much the same way the mortgage crisis did. There are a number of ways to address this looming crisis and make our higher education system more fair and equitable, including increasing our investment in college and career readiness, creating more pathways to loan forgiveness, and working to stem the exponentially rising cost of college. This Act takes our higher education system in the opposite direction, exacerbating gaps in wealth and achievement.

Despite the assertion that this Act “will transform the college marketplace by promoting innovation, access, and completion; simplifying and improving student aid; empowering students and families to make informed decisions; and ensuring strong accountability and a limited federal role,” our initial review finds that this Act fails in all of these areas. As written, this Act limits access, ensures that students and families are steered towards certain intuitions and programs, and enables bad actors to continue receiving federal dollars with little accountability. We urge this committee to discard this bill and work to create a plan that actually meets the goals of this system and fulfills the promises of higher education.

Sincerely,

The Center for Responsible Lending

302 West Main Street
Durham, NC 27701

Tel: 919.313.8500
Fax: 919.313.8595

910 17th Street NW, Suite 500
Washington, DC 20006-2610

Tel: 202.349.1850
Fax: 202.289.9009

www.responsiblelending.org

1970 Broadway, Suite 350
Oakland, CA 94612

Tel: 510.379.5500
Fax: 510.893.9300