NEW YORK STATE SENATE COMMITTEE ON HIGHER EDUCATION

Exploring Ways to Review Oversight Over For-Profit Schools in New York to Better Inform Students, Parents, and Consumers About For-Profit Education Schools

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Testimony of Marc Jerome

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Senator Stavisky and members of the higher education committee, thank you for inviting me to share my perspective today. My name is Marc Jerome, and I am the President of Monroe College in the Bronx and a member of the Association of Proprietary Colleges.

Before I begin, I would like to thank Senator Stavisky and members of the committee for your leadership and support of Monroe College throughout the budget process. The Governor's budget proposal would have resulted in my college closing.

I am so proud of the impact that Monroe College and other nationally recognized for-profit colleges, such as the School of Visual Arts and LIM College have on students, our community and New York State.

These past few months have been incredibly challenging because for the first-time, the divisiveness that we witness nationally has come to New York and has resulted in proposed legislation that is uninformed, irrational, and most importantly, would harm students. Critics of New York's for-profit sector are so philosophically opposed to for-profit education of any type that they prioritize demonizing the sector even if it means harming students and ethical, high quality institutions like mine. They also demonstrate a lack of understanding of the regulatory structure in New York and have failed to seek any input from the relevant stakeholders—whether it be the Regents, New York State Education Department or the institutions they wish to regulate.

I welcome the opportunity to have open dialogue and discuss the real issues facing higher education in New York and across the country.

I fully agree that the issues of student debt, graduation rates, and institutional spending priorities – whether they be for advertising or administrative salaries – are important topics. However, we should not be discussing these issues for only one sector of higher education. New York has four sectors: CUNY, SUNY, Independent and Proprietary colleges. There is incredible diversity within each of these sectors, making it inappropriate to try to paint any one sector with a single brush.

As one of the only people in the country who has served as a federal negotiator twice on the issue of higher education accountability, and has extensively studied outcomes for low-income students, I have come to three firm conclusions:

- ***If you take one thing away from my comments today it is this: higher education in New York is failing too many low-income students. Whether we look at graduation rates or loan default, shockingly weak outcomes for low-income and minority students demand accountability across all sectors.***
- ***Students comparing institutions to attend must have access to comparable information about similar programs and be informed about weak outcomes wherever they may occur.***
- ***Any regulation should be constructive rather than punitive and incentivize institutions to implement policies that improve outcomes and help students.***

About Monroe College

In 1933, my grandfather and great aunt founded Monroe College. I am the third generation of my family to lead the institution and I am passionate about what we do. **We employee 1100 faculty and staff, the vast majority of whom are from the Bronx and local vicinity. We pay $1.8 million in real estate taxes.** As you will read below, we are a major source of social and economic mobility for residents of the Bronx, whether they be our staff, faculty or students.

Significantly, our Bronx Campus is located in the poorest congressional district in the country, but has some of the best outcomes for low-income and first-generation students of any institution across all sectors. Monroe consistently ranks among the top institutions in New York State for graduating Black and Latino students.

- Monroe is ranked among the top 50 colleges in the country, in all sectors, for improving students' economic mobility.
- Monroe has implemented an innovative program enabling close to 1000 high school students to earn a degree debt free and the first cohort graduated at a 70% rate.
- The College also has a **Dreamer's Initiative**, which provides full scholarships for approximately 80 undocumented students.
- Our on-time two-year graduation rates are consistently more than ten times higher than those of our local public two-year colleges.
- The prestigious think tank, Third Way, recently noted that Monroe College has one of the highest baccalaureate graduation rates in the country for low-income students.[1]

Locally, you cannot walk into any major employer or government agency in the Bronx without meeting a Monroe graduate or someone who knows a Monroe graduate. We house 1100 students in dormitories, educate close to 1000 student-athletes, and attract nearly 1000 international students. As a result, Monroe College contributes millions of dollars to our community in real estate taxes and we are a major pipeline of qualified employees for New York's essential industries.

New York's Current Higher Education Regulatory Framework is the Most Effective in the Nation

Led by the New York State Board of Regents and the Department of Education, New York has created the most unique, progressive and effective higher education accountability framework in the nation. At the core is the simple notion that any degree-granting institution in New York – from any sector – must meet the rigorous requirements promulgated by the Chancellor and the Regents and implemented and enforced by the Commissioner and State Education Department. The decision by the State Education Department almost 50 years ago to require for-profit colleges to operate as academic institutions – and not businesses – was fortuitous.

1 https://www.thirdway.org/report/the-pell-divide-how-four-year-institutions-are-failing-to-graduate-low-and-moderate-income-students. "Monroe College, a for-profit institution in New York, also bucks the trend, with 73% of its Pell Grant recipients graduating last year."

New York's for-profit sector does not resemble the other states that regulate for-profit colleges as businesses. In most of those states, the sector is dominated by large, multi-state chains and publicly traded institutions, which can be found operating low-budget "campuses" in small rented commercial spaces in strip malls. They often are permitted to grow unchecked and open multiple campuses. None of this occurs under New York's framework.

New York's framework, by contrast, has produced for-profit institutions such as Monroe College, School of Visual Arts and LIM College – examples of national excellence who contribute significantly to our local economies and employers.

This is no accident. This is a direct result of the current framework treating for-profit colleges exactly the same as the colleges in the three other sectors.

The Current Climate Around Higher Education Debate has Become Too Political

For the past 50 years, the four sectors have worked together constructively to best serve New York's students. For the first time in those 50 years, there is a divisiveness being imported into New York from the national scene. This divisiveness is unpleasant, and is harming students and the collegial environment that has served New York for so long. It is hard to imagine, but this philosophical opposition to any for-profit education has led to the following:

- High school counselors refusing to issue high school transcripts for students who want to attend a for-profit college.
- Shockingly, a year ago, the New York Public Library, whose mission states in part "to advance knowledge by providing free and open access to materials and information…" removed two Monroe College admissions advisors from their college fair and banned them from providing relevant information about our scholarship and Dreamers program. The Library only relented after we contacted the Chancellor's Office, SED, and two elected officials – Senator Gustavo Rivera and Congressman Espaillat.
- The NYC Department of Consumer Affairs this month proposed requiring all for-profit colleges to call our admissions advisors "salespeople" or be found to have committed a "deceptive trade practice."

Consistent Consumer Information

Students condsidering a program at any college deserve accurate, easy to understand, and consistent information. Yet, the proposal from the NYC Department of Consumer Affairs would require only for-profit institutions to provide information and warnings, including an irrational graduation rate metric which does not resemble any acceptable graduation rate metric and will result in the disclosure of misleading and contradictory information.

All students should be able to compare information about similar programs and be warned if outcomes are weak.

Graduation Rates Are Too Low

Students should have a reasonable expectation that they will graduate from the college they want to attend. Colleges should be held accountable if too few students graduate. But in too many schools across all sectors, this is not happening. Here are the data from the *New York State Education Department's ORIS website.*

- Thirty colleges in New York State have on-time graduation rates less than 10%, only one of which is for-profit and it has closed. These low rates include only full-time students and exclude part-time students.
- The on-time graduation rate statewide for all two-year institutions is 12.5%. The on-time graduation rate for Monroe College's Bronx campus is 50.1%.
- In New York City, the on-time graduation rate for public two-year institutions is 5.5%. It improves to 17.5% for the three-year rate.
- The on-time graduation rate for two-year students at for-profit colleges in New York State is 23.7%. It improves to 30.3% for the three-year rate.

On-time graduation rates should be a priority for New York State, especially for two-year programs. Governor Cuomo's Excelsior program recognizes this with its 15-credit per semester requirement. Students who are pursuing an associate degree and spend three or four years earning it exhaust their grant aid and are forced to borrow for the bachelor degree.

There should be more accountability for these low graduation rates.

Default Rate Accountability

Students should have a reasonable expectation that if they take a student loan they won't default. Monroe College's current three-year default rate is 3.9%. **There are 36 degree-granting institutions in New York State that have default rates above 15%** – twenty-two public, two private and twelve for-profit. *The problem of default can be found across all sectors.* All students deserve warnings. These institutions should be held accountable to improve their results.

Inaccurate data about default rates have been wielded recklessly. For example, based on a single study of five-year default rates, the Century Foundation, in its report, *Grading New York's College's*, made the claim that "for-profit colleges enroll 4% of students in New York but account for 40% of the defaults." This claim is misleading because the data used is outdated and included schools that have since closed whose default rates skewed the results.

When the closed institutions are removed from the equation, a very different picture emerges.

New York Degree-Granting Institutions with 5-Year Default Rates Above 20%

- 12 public colleges
- 9 proprietary colleges
- 1 independent college

Default data are misleading because they include multi-state for-profit colleges who report their outcomes nationally.

Many multi-state, national for profit colleges, such as Devry only publish national default data. For their New York campus' 2014 Cohort default rate data, 4216 defaulters are reported with 33,464 students in repayment. This is their national default rate for all their schools, and does not identify the number of New York students defaulting. New York State reports their enrollment at just over 1000 Full Time Equivalents. As result, the default claims made are misleading.

For-profit college default rates are similar to community college default rates.

The three-year default data reveal that for-profit colleges in New York have lower default rates (12.9%) than two-year public colleges (14.9%) in the state for the 2012 cohort.

The Higher Education Landscape Has Changed Dramatically

A strong economy keeping adults employed, the Excelsior Scholarship Program making public college free for families that make up to $125,000 and the public's general aversion to student debt, has caused the higher education landscape in New York for all private colleges to be remarkably challenging. Add into the mix, huge multi-state public and private non-profit online institutions such as Southern New Hampshire University, Arizona State University and Western Governors University, and you have a perfect storm for higher education.

The two largest college closures in New York have been two independent colleges–Dowling and the College of New Rochelle. For-profit colleges are not the largest advertisers in New York, nor are they the most aggressive recruiters. Just go to the website of the non-profit online provider "Independence University" and you can experience an aggressive non-profit website that does not permit a student to enter without inputting personal information.

- A recent article in Forbes Magazine notes that Southern New Hampshire University spends 20% of its budget on advertising (over $100,000,000) and the article notes that "margins in the online division are a fat 24%." [2]
- After more than 100 years in existence, the College of New Rochelle announced its closure.[3] The closure stemmed from financial impropriety in the administration. In addition, CNR had contracted with an outside for-profit enrollment group, paying a per-student fee for each enrollment, which is prohibited by the US DOE.
- Similarly, Syracuse University advertises on local NYC radio for its online graduate degrees. What the public may not know is that it is not Syracuse University itself advertising. Rather, it is an Online Program Manager named 2U, which is for-profit.[4]
- We also are aware of a number of non-urban residential colleges that have both open admission (or close to it) and require low-income NYC students to borrow heavily for the dorms. This combination of open admission and borrowing for dormitories results in exactly the type of problems with student debt that concern us all.

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2 https://www.forbes.com/sites/susanadams/2019/03/28/meet-the-english-professor-creating-the-billion-dollar-college-of-the-future/#6772882a426b

3 https://www.lohud.com/story/news/education/2019/03/05/college-new-rochelle-closing-mercy/3065163002/

4 https://ischoolonline.syr.edu/about/2u

- Lastly, we are aware of certain non-profit institutions who license out their names and degrees to unregistered for-profit entities in exchange for revenue.[5] With many public and non-profit institutions attempting to scale nationally and at least 525 public and non-profit schools hiring for-profit Online Program Managers, it's hard to tell what the future holds.

Consistent Accountability is Appropriate for All Higher Education Institutions

The notion that the difference in sector oversight justifies separate protections for students does not withstand scrutiny. Public boards often provide political oversight, not outcomes oversight. If the oversight was effective, there would not be so many public and non-profit institutions with such poor outcomes. High school principals would lose their jobs if their on-time graduation rate were below 10%.

Accountability and Consumer Protection Should Be Extended to All Institutions and All Students

To do anything else is to abandon the close to one million New York college students who do not attend for-profit institutions. The national efforts to regulate solely the for-profit sector, such as the Gainful Employment Rule which I have been intimately involved with for many years, are so overbroad and so imprecise, that they have the exact opposite effect from what was intended. Rather than punish poorly performing programs, the rules actually close some of the best performing programs in the country while leaving the same programs at other institutions unaccountable simply because they have a different tax status. This cannot be what was intended.

New York should stay the course holding all institutions accountable and protecting students wherever they may attend.

5 https://www.yelp.com/biz/skidmore-college-computer-career-institute-white-plains

Suggestions Applicable to All Sectors That Should Adequately Address Poor Outcomes or Behavior in Any For-Profit Institution

1. **The New York Sstate Education Department should investigate institutions whose enrollment increases or decreases by a certain percent or are the subject of student complaints.**

   The New State Education Department could intensify its monitoring of enrollment trends to get ahead of problems whether they be a result of fast growth or steep decline. The College of New Rochelle's closure was preceded by steep enrollment decline. Many non-public institutions are struggling with enrollment. Any unplanned closure poses a risk to New York State. In addition, significant enrollment growth also raises issues of administrative capability and compliance with regulatory requirements. TCI College experienced such enrollment growth before its implosion.

   The State Education Department could also benefit from a clearer process for receiving and addressing student complaints. Currently, SED is understaffed and under-resourced. SED needs to have resources to appropriately monitor and investigate institutions when there is evidence that students are not being served well. We recommend that institutions under investigation be required to fund part or all of the cost of the investigation.

2. **Ban the use of arbitration agreements.**

   We are unaware of any current New York institution that requires students to agree to arbitration. However, due to the asymmetry of power and resources between the student and the institution, we believe mandatory arbitration agreements are not appropriate.

3. **Require all colleges to adopt a Code Of Conduct for admissions and financial aid staff.**

   Monroe College prides itself on the integrity of our faculty and staff. All admissions advisors are trained on and follow a Code of Conduct that requires them to "always act in the best interests of students and their families." The State could require all colleges to adopt codes of conduct.

4. **To ensure accountability of State resources and institutional effectiveness, New York State should track TAP allocations by institution divided by the number of TAP recipients who graduate.**

   With TAP expenditures approaching $1 billion for the 2017-2018 year, the State should measure what it gets in return for the spending.

   HESC currently publishes the amount of TAP each institution receives, but does not publish how well each institution performs with the public funds received. This proposal protects the State and the taxpayer. It gives students and the public relevant information to determine how an institution serves the State's most vulnerable students.

5. **Require disclosure for Institutions Using Online Program Managers (OPMs).**

   With many public and non-profit institutions attempting to scale nationally and at least 525 public and non-profit schools hiring for-profit OPMs, the State should require any institution using an OPM to disclose this fact and the percentage of revenue that is shared with the OPM.[6]

6. **Prohibit educational websites from requiring personal contact information prior to entering the site.**

   Some educational institutions make it very difficult to access information on their website without first providing personal contact information. This is not appropriate and New York could ban the practice.

7. **Put limits on marketing and advertising expenditures as a portion of budget.**

   New York could require an annual disclosure of each institution detailing the amount spent and percentage of overall revenue. Years ago, it was the publicly traded for-profit entities that spent huge sums on marketing and advertising. The world has changed. Non-profit and public institutions as well as third party Online Program Managers are now reported to be the largest spenders.

8. **Ban colleges from licensing their name and degrees.**

   As noted above, we have seen evidence of colleges licensing out their name and degree to non-accredited organizations simply to raise revenue.

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6 https://www.huffpost.com/highline/article/capitalist-takeover-college/
Kevin Carey's article details just how big Online Program Managers have become and just how much they add to the cost of an education.