

2018

## Predatory Student Lending: The Disparate Impact on Minorities' Higher Education Plans

Brei'a Womack

Follow this and additional works at: <https://lawcommons.luc.edu/pilr>



Part of the [Civil Rights and Discrimination Commons](#), [Criminal Procedure Commons](#), [Environmental Law Commons](#), and the [Human Rights Law Commons](#)

---

### Recommended Citation

Brei'a Womack, *Predatory Student Lending: The Disparate Impact on Minorities' Higher Education Plans*, 24 Pub. Interest L. Rptr. 43 (2018).

Available at: <https://lawcommons.luc.edu/pilr/vol24/iss1/6>

This Article is brought to you for free and open access by LAW eCommons. It has been accepted for inclusion in Public Interest Law Reporter by an authorized editor of LAW eCommons. For more information, please contact [law-library@luc.edu](mailto:law-library@luc.edu).

## Predatory Student Lending: The Disparate Impact on Minorities' Higher Education Plans

Brei'a Womack

For many decades, for-profit colleges have been making billions of dollars by targeting vulnerable minorities with misleading promises of low-cost tuition, and persuasively asserting that students would get jobs post-graduation.<sup>1</sup> Much of the American public does not understand the difference between for-profit, public, and private non-profit institutions of higher learning.<sup>2</sup> All three are concerned with generating revenue, but only the for-profit model exists primarily to enrich its owners.<sup>3</sup> Many for-profit institutions are publicly traded, nationally franchised corporations legally beholden to maximize profits for their shareholders.<sup>4</sup> The problem with for-profit colleges compared to public or private non-profit institutions is that for-profit shareholders put their economic interest before maximizing education for their students.<sup>5</sup> For-profit institutions, such as vocational programs, have been offered since the beginning of the 1990s, but the growing phenomenon surged when President George W. Bush's administration weakened government oversight of for-profit schools and expanded their access to federal financial aid, which made the for-profit business more appealing to Wall Street investors.<sup>6</sup>

### BACKGROUND INFORMATION: FOR-PROFIT RECRUITERS TARGETING SCHEME

The history of government deregulation of for-profit schools has fueled the surge of such institutions, who have covertly widened the minority wealth gap by promoting false promises of success.<sup>7</sup> For-profit schools, for decades, have been intentionally targeting first-generation African-American and Latino stu-

---

<sup>1</sup> Daniel Golden, *For-Profit Colleges: Targeting People Who Can't Pay*, NPR (May 12, 2011), <https://www.npr.org/2011/05/12/136238528/for-profit-colleges-targeting-people-who-cant-pay>.

<sup>2</sup> Astra Taylor and Hanna Appel, *Subprime Students: How For-Profit Universities Make a Killing By Exploiting College Dreams*, MOTHER JONES (Sep. 23, 2014), <https://www.motherjones.com/politics/2014/09/for-profit-university-subprime-student-poor-minority/>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Taylor and Appel, *supra* note 2.

dents.<sup>8</sup> Aside from targeting communities of color, many for-profit schools are aggressively targeting active-duty military members, whose tuition is paid by the Defense Department, and war veterans, whose tuition is paid by the Servicemen Readjustment Act (GI Bill).<sup>9</sup> In general, for-profit schools target any first-generation college student who is eligible to receive federal funding.<sup>10</sup>

Targeting minority students has been a scheme utilized by for-profit schools to lure first-generation students into believing that they can achieve the American Dream.<sup>11</sup> Many Americans have been told that attending college is the only way to climb up the middle-class ladder, escape poverty, and live a semi-affluent life.<sup>12</sup> Because of the false promises of post-graduation opportunities, for-profit colleges have covertly widened the wealth gap for many first-generation minority students.<sup>13</sup> Recruiters have created intersections of class, race, gender, inequality, and insecurity to reel students into an endless hole of unwavering possibilities.<sup>14</sup> In an interview with Tammy Harris, a former student at Marinello School of Beauty, she stated, “the beauty college abruptly shut down and did not help me find any post-graduation jobs.”<sup>15</sup> Ms. Harris also said, “this experience was supposed to change my life, but it has left me with an insurmountable amount of debt and no employment opportunities.”<sup>16</sup> Ms. Harris, just like other vulnerable minority students, is a first-generation African-American female student.<sup>17</sup>

Statistics show that African-American and Latino students make up less than one-third of all college students, but represent half of all of those attending for-profit institutions.<sup>18</sup> These statistics may imply that minorities have an opportunity to pursue higher education and close the disparate wealth gap that has been perpetuated through many entities, but less than one in five students who enroll in a for-profit school will ever graduate.<sup>19</sup> Additionally, studies

---

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> Interview with Tammy Harris, Former Student at Marinello School of Beauty (Sep. 30, 2018).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *For-Profit Colleges and Racial Justice: Perpetuating Racial Inequality Under the Guise of Higher Education*, THE PROJECT ON PREDATORY STUDENT LENDING, <https://predatorystudentlending.org/predatory-industry/racial-justice/>.

<sup>19</sup> *Id.*

show that students who do in fact graduate from for-profit schools do worse than those with a high school education.<sup>20</sup> For-profit institutions are not only manipulating success-seeking minority students, but they, in conjunction with the Department of Education, are perpetuating the systemic education gap that has been ongoing for many years and will continue to create disadvantages for minority students.<sup>21</sup>

For-profit schools and the Department of Education have also made it harder for students to repay their education debt because debt repayment regulations, enacted by the government, tend to work in favor of corrupt corporations, like for-profit colleges, rather than students.<sup>22</sup> The method of hiking tuition prices at for-profit schools is the initial form of corruption that makes it difficult for first-generation-students to receive an affordable education.<sup>23</sup> For-profit colleges have similar tuition prices as Ivy League schools, and sometimes can be twice as expensive.<sup>24</sup> Ironically, students who pursue technical degrees at for-profit colleges could be getting the same education at community colleges for a cheaper and more affordable price, but the lack of information first-generation minority students receive make them the perfect target for for-profit institution recruiters.<sup>25</sup> As a result of recruiters successfully enrolling vulnerable minorities into a debt-sucking hole, many students are unable to repay their loans.<sup>26</sup> The Department of Education has made it even harder for students to receive loan forgiveness.<sup>27</sup>

Students who decide to enroll in for-profit colleges, who are more likely to come from poor backgrounds, have to borrow money from the government and private sources.<sup>28</sup> While this may seem normal as many students attending non-profit public and private institutions borrow money to fund their education, ninety-six percent of students who graduate from for-profit schools typically owe twice the debt of students attending non-profit public and private

---

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> THE PROJECT ON PREDATORY STUDENT LENDING, *supra* note 18.

<sup>24</sup> Toby Merrill et al., *For-Profit School's Predatory Practices and Students of Color: A mission to Enroll Rather than Educate*, HARVARD LAW REVIEW BLOG (July 30, 2018), <https://blog.harvardlawreview.org/for-profit-schools-predatory-practices-and-students-of-color-a-mission-to-enroll-rather-than-educate/>.

<sup>25</sup> Taylor and Appel, *supra* note 2.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

institutions.<sup>29</sup> “In essence, the for-profit college industry has seized on its high rates of minority enrollment in much the same way as the subprime mortgage industry pointed to growth minority home ownership during the real estate boom, asserting that too many regulations would leave African-American and Hispanic students lacking in educational options.”<sup>30</sup> This deceptive tactic used by for-profit schools and for-profit institution lobbyists only perpetuates the educational and economic disparities in minority communities.<sup>31</sup> While recruiters for for-profit schools are the second line of defense, a significant portion of taxpayer-sourced proceeds are spent on Washington D.C. lobbyists to keep regulations weak and federal money circulating into these schools.<sup>32</sup> Furthermore, since for-profit schools tend to target poor minority groups, the students who actually enroll will not be able to pay off their debt because of the high cost and low job opportunity.<sup>33</sup>

Minority students enroll in for-profit institutions to secure a promising future; however, they are often left without a degree and a substantial amount of debt.<sup>34</sup> Statistics show that seventy percent of African-American students who borrow money to attend a for-profit college default on their loans within ten years.<sup>35</sup> Many of these students have been subjected to unsavory practices, including high-interest lending, illegal fees, and failures to credit payments made.<sup>36</sup> Some lenders have also neglected to direct students to less expensive repayment options when they face trouble in repaying their loans.<sup>37</sup> This ongoing phenomenon will continue to create disparate educational gaps for decades to come, not only for African-American students, but also for other communities of color.<sup>38</sup>

Under President George W. Bush’s administration, for-profit schools were able to continue targeting minority students.<sup>39</sup> President Barack Obama’s ad-

---

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Merrill et al., *supra* note 24.

<sup>32</sup> Taylor and Appel, *supra* note 2.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> Merrill et al., *supra* note 24.

<sup>36</sup> The Times Editorial Board, *Betsy DeVos sides with predatory for-profit colleges over America’s students*, LOS ANGELES TIMES (Aug. 31, 2018), <http://www.latimes.com/opinion/editorials/la-ed-devos-student-loans-20180831-story.html>.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> David Whitman, *The GOP Reversal on For-Profit Colleges in the George W. Bush Era*, THE CENTURY FOUNDATION (June 7, 2018), <https://tcf.org/content/report/gop-reversal-profit-colleges-george-w-bush-era/?session=1&session=1>.

ministration imposed pro-student regulations and held for-profit colleges accountable for their corrupt recruitment.<sup>40</sup> Under President Donald Trump's administration, however, the Secretary of Education, Betsy DeVos, has enacted regulations in favor of for-profits institutions, which has created a litigious environment and intruded on individuals' civil rights.<sup>41</sup>

#### PRESIDENT GEORGE W. BUSH'S LENIENT REGULATIONS ON FOR-PROFIT INSTITUTIONS

During the surge of for-profit schools, Rod Paige, President Bush's Secretary of Education, adopted regulations, which allowed for-profit schools to compensate salespersons and admissions based on their success in securing enrollments or financial aid, so long as they were not solely compensated on that basis alone.<sup>42</sup> As changes began to be implemented in 2002, Secretary Paige noted that it was impossible for for-profit schools to violate the incentive ban; however, the Department of Education discovered that most for-profit schools had in fact violated the incentive ban to increase the amount of revenue for their schools.<sup>43</sup> Rather than making for-profit schools return the money that they had acquired from each improperly recruited student and Title IV funds from the government, the Department of Education merely fined schools who had violated the incentive ban.<sup>44</sup> Ironically, for-profit institutions greatly rely on federal funds, as they provide roughly eighty-six percent of their revenues.<sup>45</sup> For-profit schools enroll approximately ten percent of America's college students, but take in more than a quarter of all federal financial aid, as much as \$33 billion in a single year.<sup>46</sup> These statistics may insinuate that few people are getting quality education from for-profit schools, but this is in fact the opposite of what occurred.<sup>47</sup> Because the deregulation of for-profit school, President

<sup>40</sup> Allie Grasgreen, *Obama Pushes for-profit college to the brink*, POLITICO (Aug. 1, 2015), <https://www.politico.com/story/2015/07/barack-obama-pushes-for-profit-colleges-to-the-brink-119613>.

<sup>41</sup> Monique Judge, *Betsy DeVos Doesn't Give a Damn About Students, Education or the Cost Thereof*, THE ROOT (Aug. 30, 2018), <https://www.theroot.com/betsy-devos-doesnt-give-a-damn-about-students-educatio-1827986786>.

<sup>42</sup> Whitman, *supra* note 39.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Taylor and Appel, *supra* note 2.

<sup>46</sup> THE PROJECT ON PREDATORY STUDENT LENDING, *supra* note 18.

<sup>47</sup> *Id.*

Obama's Secretary of Education enacted pro-student regulations which made it easier for students to repay their school debts.<sup>48</sup>

#### PRESIDENT BARACK OBAMA'S TOUGH REGULATIONS ON FOR-PROFIT INSTITUTIONS

The Obama administration noticed that the misleading promises of employment post-graduation and rising financial debt were going to create a disparity gap, so it investigated and sanctioned schools accused of fraud, made it easier for students to seek debt relief, and threatened to withhold funding from for-profit schools whose graduates consistently failed to find jobs in their fields.<sup>49</sup> The Obama administration also repealed the loopholes that the Bush administration made for for-profit institutions.<sup>50</sup> The Obama administration enacted the "gainful employment" rule, which required colleges to track their graduates' performance in the workforce and eventually cut off funding for career training programs that fell short.<sup>51</sup> The result of these regulations forced many for-profit colleges, like Corinthian College, University of Phoenix, Kaplan, Everest College, and ITT Technical Institute, to restructure their programs or close campuses.<sup>52</sup> The reign of these sensible regulations implemented by the Obama administration did not last long, however, as the current Secretary of Education, Betsy DeVos, proposed new regulations that would make it harder for students who have been defrauded by for-profit schools to get relief from their student loan debt.<sup>53</sup>

#### FOR-PROFIT COLLEGES UNDER PRESIDENT DONALD TRUMP: SECRETARY OF EDUCATION BETSY DEVOS'S FOR-PROFIT INSTITUTIONS REGULATIONS

Under Secretary DeVos' proposal, student borrowers would be responsible for proving that a for-profit institution either knowingly misled them or acted with "reckless disregard for the truth."<sup>54</sup> It would also be mandatory for students to find another school to accept their existing credits if their college or

<sup>48</sup> Grasgreen, *supra* note 40.

<sup>49</sup> Edwin Rios, *Betsy DeVos Is Making Life Harder for Students Screwed Over by Predatory For-Profit Schools*, MOTHER JONES (Aug. 6 2018), <https://www.motherjones.com/politics/2018/08/betsy-devos-education-department-for-profit-colleges-debt/>.

<sup>50</sup> Grasgreen, *supra* note 40.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> Judge, *supra* note 41.

<sup>54</sup> *Id.*

university closed.<sup>55</sup> Additionally, the Department of Education asserted that “post-secondary students are adults who can be reasonably expected to make informed decisions if they have access to relevant and reliable data about program outcomes.”<sup>56</sup> The newly implemented rules and regulations, however, do not take into account the generational education disparity, which has a direct impact on first-generation African-American and Latino students who lack valuable financial guidance and which is needed to make sensible financial and educational decisions.<sup>57</sup> These vulnerable students have been told to go to college to escape poverty but have not been given the tools to be successful.<sup>58</sup> The Department of Education has covertly sided with corporations, like for-profit colleges, while they have not taken into account the amount of research and data that has provided evidence of for-profit schools practices, including targeting vulnerable minorities who are seeking the American Dream.<sup>59</sup> Because of this deregulated environment, many students and civil rights organizations have sued the Department of Education and Betsy DeVos.<sup>60</sup>

In *Bauer v. DeVos*, students, along with the California Association of Private Postsecondary School (CAPPS), sued the Department of Education for delaying the effective date of an Obama-era regulation aimed at ensuring that student loan borrowers could apply for and receive debt relief in the case of institutional misrepresentation or closure.<sup>61</sup> This was a direct response to DeVos’ announcement that she would halt the implementation of borrower defense regulations.<sup>62</sup> The Court in this case ruled that DeVos’ delay of the borrower defense regulations was arbitrary and capricious. Due to the nature of the cases against the Department of Education, final regulations will be published by November 1, 2018 and take effect on July 1, 2019.<sup>63</sup>

---

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> Grasgreen, *supra* note 40.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> THE PROJECT ON PREDATORY STUDENT LENDING, *supra* note 18.

<sup>61</sup> Joelle Fredman, *Judge Rules Against DeVos in Lawsuit Over Delayed Borrower Defense Rule*, NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATIONS (Sep. 13, 2018), [https://www.nasfaa.org/newsitem/16206/Judge\\_Rules\\_Against\\_DeVos\\_In\\_Lawsuit\\_Over\\_Delayed\\_Borrower\\_Defense\\_Rule](https://www.nasfaa.org/newsitem/16206/Judge_Rules_Against_DeVos_In_Lawsuit_Over_Delayed_Borrower_Defense_Rule).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

## CONCLUSION

While for-profit colleges have often been scrutinized for their unsavory practices, not-for-profit colleges have also used techniques to secretly attract students.<sup>64</sup> Private, non-profit colleges and universities shell out an average of \$2, 232 to attract a single student, public universities spend \$578, and community colleges spend roughly \$118.<sup>65</sup> The way these colleges have traditionally recruited students has included buying pools of names from someone else, specifically the non-profit companies that administer the SAT and ACT exams, which ask test-takers to indicate the majors and institutions they are considering.<sup>66</sup> Observers say this process makes it clear that universities and colleges may contact the students, who are inviting them to see their scores. While students may consent to releasing their information to non-profit colleges, a college that would like to show up as a top option can pay for services to produce ads on sites that a student visits, in order to attract that student.<sup>67</sup> Non-profit universities and colleges appear especially interested in using lead generator to fill money-making adult education and graduate programs.<sup>68</sup> Some non-profit, and even state institutions, are taking cues from for-profit institutions in ways that do not serve students well.<sup>69</sup>

Although federal judges have been striking down the regulations enacted by the Department of Education, the Department still attempts to reduce the amount of forgiven debt and block a new forgiveness rule that have been drawn from federal judges.<sup>70</sup> In an increasingly deregulated environment, it becomes even more imperative that the government rejects attempts by for-profit colleges to target communities of color for low-quality programs, which bring debt rather than a meaningful path towards opportunity and educational attainment.<sup>71</sup>

---

<sup>64</sup> Jon Marcus, *Strapped for students, nonprofit colleges use for-profit recruiting tactics*, PBS News Hour (Aug. 3, 2016), <https://www.pbs.org/newshour/education/strapped-students-non-profit-colleges-borrow-recruiting-tactics-profits>.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> Stacy Cowley, *A Federal Program to Forgive Student Loans debt Stalls under Betsy DeVos*, The New York Times (Nov. 11, 2018), [https://www.nytimes.com/2018/11/11/business/student-loans-betsy-devos.html?rref=collection%2Ftimestopic%2FFor-Profit%20Schools&action=click&contentCollection=timestopics&region=stream&module=stream\\_unit&version=latest&contentPlacement=1&pgtype=collection](https://www.nytimes.com/2018/11/11/business/student-loans-betsy-devos.html?rref=collection%2Ftimestopic%2FFor-Profit%20Schools&action=click&contentCollection=timestopics&region=stream&module=stream_unit&version=latest&contentPlacement=1&pgtype=collection).

<sup>71</sup> Merrill et al., *supra* note 24.