

**MAXINE WATERS**

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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0535**

PLEASE REPLY TO:

**WASHINGTON, DC OFFICE**

2344 RAYBURN HOUSE OFFICE BUILDING  
 WASHINGTON, DC 20515-0535  
PHONE: (202) 225-2201  
FAX: (202) 225-7854

DISTRICT OFFICES:

**LOS ANGELES OFFICE**  
10124 SOUTH BROADWAY  
SUITE 1

LOS ANGELES, CA 90003  
PHONE: (323) 757-8900  
FAX: (323) 757-9506

**WESTCHESTER OFFICE**

6033 WEST CENTURY BOULEVARD  
SUITE 807

LOS ANGELES, CA 90045  
PHONE: (310) 642-4610  
FAX: (310) 642-9160

August 25, 2009

Honorable Darrell Steinberg  
President pro Tempore of the Senate  
State Capital  
Sacramento, Ca 95814

By FAX: (916) 323-2263

RE: AB 48

Dear Senator Steinberg,

I am sending you this entreaty regarding AB 48. The bill is currently being held in suspense in the Senate Appropriations Committee. I understand a decision will be made very soon regarding the fate of this bill. I have been involved with trade school regulation and legislation since I was in the Assembly and was the author of the Maxine Waters School Reform and Student Protection Act of 1989 which was Article 7 of the Postsecondary Act that expired on June 30, 2007. Unfortunately, there has been no enforcement of the provisions of the Act since the oversight function was transferred to the Department of Consumer Affairs in 1998. So students attending proprietary schools have been subject to the predatory practices of many of these schools since that time without any intervention or protection from the Bureau in the Department of Consumer Affairs.

I have a never ending stream of proprietary school victims coming to my local office seeking redress. Many do not speak English but the protections for these students contained in prior law were not included in the current legislation. As you are well aware, there has been no state regulatory law in effect for the past two years. The schools got an opinion letter from the Department of Education which permitted the schools to continue to get Title IV monies despite the fact there was no state approval agency as required by federal law. As a consequence, the Governor, at the schools' urging, vetoed AB 2810 and SB 823 because they contained some basic student protections and disclosures. The schools were fine with no regulation or oversight as long as they could continue to get Title IV funds despite federal law to the contrary.

## CONSEQUENCES OF A CHANGE OF ADMINISTRATION

There has been a regime change in Washington. The schools do not have former employees and lobbyists in the Department of Education who would be inclined to exempt them from the requirements of federal law. I do not claim to have any inside information on this issue but it is common knowledge that the proprietary school chains and their investors are very upset about the appointment of Bob Shireman, as Undersecretary of Postsecondary Education, in the Department of Education and the more recent appointment of Jane Oates, as Assistant Secretary of Labor for Workforce Training. A couple of months after Mr. Shireman's appointment, he gave the proprietary schools cause for worry. He had published in the federal register a list of possible subjects for negotiated rulemaking. All the issues raised in the notice would negatively impact the for profit schools such as the prohibition against incentive compensation for school recruiters and the situation presented by California where there is no "approval" agency as required by federal law.

I think it is instructive that the meeting regarding these possible regulatory topics published May 25, 2009 was tentatively proposed for September and now likely to be set in October 2009. Such sessions have traditionally been scheduled to begin in February as was the case for the regulation topics published the end of June 2009. So it is obvious that business is not proceeding as usual regarding the proprietary school issues because of the expedited scheduling of the meetings regarding negotiated rulemaking.

## COMPLETION/PLACEMENT/EXAM PASSAGE RATE, ETC DISCLOSURES

I do not doubt your good faith effort with respect to this bill. What may look like a good bill to one, not immersed in proprietary school issues, may actually sanction unfair practices and contain illusory protections. That is the case with this bill. I am not optimistic that any student protections would actually be enforced as long as the oversight remains with a Bureau in the DCA. **But there must at least be some uniform indicators like completion, placement, license exam passage rates and starting salaries which will allow the students to compare one school against another with respect to a particular course of instruction and would provide the basis of redress in court if the figures are falsely reported which is often the case.** But the current bill does not allow for any meaningful comparison. The definitions of employment, completion, and placement were clear in the old Act and there is no reason these definitions should not continue as the schools know the rules and presumably have been abiding by them when the law was in effect and subsequently if they signed an agreement to continue to obey the law after it expired.

I realize this is late in the game but we all are fighting battles on many fronts including health care and budget cuts. I asked Elena Ackel of Legal Aid Foundation of Los Angeles to draft good completion/placement, etc. disclosure provisions for this bill. She protested it would be so much work and nobody cares to look at it but I asked her to do it anyway. I talked to her today and she said she has done it.

## STUDENT TUITION RECOVERY FUND PROVISIONS

Another source of my dismay regarding this bill was the absence of any Student Tuition Recovery Fund provisions. I was told that in discussions with the schools there was no

opposition to the STRF provisions because it is the student's money. Rather the Department of Consumer Affairs did not want to be bothered with processing the claims. I think it is wrong to collect money under the guise of protecting students and then writing the regulations so narrowly that few will be able to recover tuition costs. We cannot count on the Department of Consumer Affairs to do right by the students when they have never championed their interests in the past and have failed them at every turn. The old STRF provisions evolved over time and they should be carried over to AB 48. It is the DCA's intention to only allow recovery in very limited circumstances which are already covered by the federal closed school discharge rules. I also asked Ms. Ackel to write up these provisions in legislative counsel form and she says she has done it.

I would prefer that this bill, AB 48 be held in suspense permanently and see what the Department of Education will do as a result of negotiated rulemaking in October 2009. The lack of oversight is a problem of the schools' own making and engineering. There are few benefits for the students in this bill and most of them are illusory. **But if this bill is to get out of the appropriations committee the following issues must be addressed:** 1) there must be disclosures that provide clear, comparable and verifiable indicators of school performance and put the students on notice of other important factors ( these amendments have been drafted); 2) the Student Tuition Recovery Fund must be enacted which allows for recovery under the same provisions as existed in prior law( this also has been drafted); 3) there must be some meaningful state review before schools are approved and re-approved to operate; 4) there must be provisions holding the Bureau accountable and enforcement provisions need to be strengthen; and finally, 5)the fees collected from the schools must be sufficient to allow for meaningful enforcement.

You should not fear including student protects into this bill because of the threat of a veto. The schools will be urging the governor to sign the bill despite what new consumer protections are added at this stage of the process. The schools will not risk the receipt of Title IV, stimulus (ARRA) money or workforce training funds (WIA) for the sake of a few consumer protections. The large proprietary chains receive two thirds to almost 90% of their total tuition revenue from federal financial aid.

I know you want to do the right thing and the students attending these schools deserve your consideration. There is no harm in adding student protections to a bill that is already heavily weighted towards the proprietary schools' interest to the detriment of the students and the taxpayers.

Sincerely,



Maxine Waters  
Member of Congress

cc: members of the Senate Appropriations Committee