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For-profit colleges fight negative federal report

Coalition sues Education Department over claims industry uses deceptive practices

By Becky Yerak, Tribune reporter

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A for-profit college coalition co-chaired by a Chicago private-equity executive is suing the U.S. Department of Education over an August report that accused the fast-growing industry of deception and questionable marketing practices.

The Dec. 9 lawsuit stems from the coalition's failed efforts to gain access to documents, notes and videotapes the U.S. Government Accountability Office referred to in concluding all 15 for-profit colleges visited by undercover student applicants engaged in deceptive practices, including encouraging applicants to falsify their financial aid forms to qualify for federal aid.

On Nov. 30, the GAO reissued its 27-page report "to clarify and add more precise wording." The revisions generally made the colleges look better. But the GAO said it stands by its findings. The Department of Education declined to comment about the suit.

The Coalition for Educational Success, whose members include career colleges, maintains in its suit that the report is being used by critics of career colleges to tarnish the reputation of all for-profit schools and to advance the Obama administration's effort to push what are called "gainful employment" rules. The rules essentially tie for-profit schools' access to federal student aid to their graduates' ability to repay their student debt.

Sen. Tom Harkin, D-Iowa, a critic of for-profit colleges, said at a Senate education committee hearing that federal financial aid to students at for-profit colleges has ballooned to more than \$23 billion a year from \$4.6 billion a decade ago.

The GAO contends that students who attend for-profit colleges are more likely to default on federal student loans than students from other colleges. Over the past decade, for-profit college enrollment has risen to more than 2 million students from 600,000, Harkin said.

But for-profit college advocates say default rates are mostly related to students' socioeconomic status, not the type of school. Colleges that serve more minority students have lower loan repayment rates, one study found.

advertisement

The advertisement features a woman on the right side, looking thoughtfully upwards with her hand to her chin. To her left, several thought bubbles contain logos for various web hosting services: iPage, HostPapa, bluehost, just host com, and FatCow. Below the thought bubbles is a dark blue banner with the text "We compare them all so you don't have to." At the bottom left is the "HOSTING REVIEW" logo with the website address www.hostingreview.com. At the bottom right is an orange button with the text "Read Our Reviews".

The average loan repayment rate is 30 percent at colleges with more than two-thirds minority enrollment, compared with 62 percent at colleges where less than a tenth of students are minorities, according to a September report by FinAid.org, an online resource about student financial aid.

Avy Stein, managing partner of Chicago-based private-equity firm Willis Stein & Partners — whose holdings include Birmingham, Ala.-based Education Corp. of America, which operates Virginia College — told the Tribune that the government's actions against for-profit schools will cost jobs and eliminate options for minority students. Stein is co-chairman of the Coalition for Educational Success.

On Nov. 29, Stein and other coalition members met with four education department officials in Washington, about the gainful employment issue, according to the DOE. The following day the GAO reissued its report.

Suspecting that errors and biases still permeate the revised report, the coalition sued the DOE in U.S. District Court in Washington, accusing the department of "wrongfully withholding records by failing to respond to a Freedom of Information Act request." The original FOIA request, filed Oct. 15, sought documents, including tapes, videos and notes related to the GAO report, according to the lawsuit.

On Oct. 27 the DOE acknowledged the request, and under federal law has 20 working days to respond, the lawsuit contends. The coalition said its request is being stonewalled.

In its Dec. 9 suit, the coalition said it also requested documents related to communications between DOE and investors who may have "shorted" stocks of for-profit colleges. Short-sellers bet against stocks.

Since the beginning of 2010, an index of 13 for-profit colleges is down 24.3 percent on an otherwise up year for the broader market. Hoffman Estates-based Career Education Corp. and Downers Grove-based DeVry Inc. are down 9.7 percent and 14.8 percent, respectively, in that time.

In August, the GAO said all 15 for-profit colleges, including two in Illinois, made questionable statements to undercover applicants.

The GAO report didn't mention the schools by name, but their identities were divulged in Aug. 4 Senate testimony by the report's author. They included the College of Office Technology in Chicago and Chicago's Argosy University, which is owned by publicly traded Education Management Corp., whose stock is down 23 percent since the beginning of 2010.

Gregory Kutz, GAO managing director, testified that all 15 provided "deceptive and questionable information," but he said that three sprinkled "good practices" into meetings with undercover students. Two of the three, he said, were Argosy and the College of Office Technology.

Pedro Galva, president of the College of Office Technology, said last week he was dissatisfied that his business' recruitment practices have come under GAO criticism. "We shouldn't have been painted with the same brush," he said.

In the only example given in the GAO report about questionable behavior at his school, an admissions worker was asked by the undercover applicant about transferring credits. Initially, the admissions worker told the applicant that the credits would transfer but "later, she correctly told the applicant that it depends on the college

and what classes have been taken," the report said.

Galva said his worker might have misspoken initially, but "in the same conversation she realized that there is no such thing as universal transferability of credits, not even from Harvard," Galva told the Tribune. He said that, on other questions posed by the undercover applicant, his school came out "squeaky clean." The write-up on his school wasn't among those amended.

An Argosy spokeswoman points out that one of the examples of its alleged conduct was dropped from the revised report, and that remaining allegations, even after the revisions, "are incorrect and misleading and should have been deleted as well."

A bipartisan group, including Rep. Daniel Lipinski, an Illinois Democrat, and members of the Congressional Black Caucus, has expressed concerns about the gainful employment rules. After receiving more than 90,000 comments on the DOE's gainful employment proposals dealing with a program's eligibility to receive federal student aid, the DOE announced plans in September to change the publication date of these final regulations from November to early 2011. They're expected to go into effect on or around July 1, 2012.

A Dec. 21 letter to the GAO from six members of Congress, including Rep. Darrell Issa, a Republican and head of the oversight and government reform committee, and Reps. Alcee Hastings and Carolyn McCarthy, both Democrats, notes that the revised GAO report changed language in 16 of 28 scenarios. They're asking the GAO to look into, among other things, the facts surrounding the report's revision, and why the GAO's Web site didn't announce that the report had been revised.

The GAO has "reached out to set up a meeting," GAO spokesman Chuck Young said. "We plan to provide the members with the information they're seeking."

The coalition also questions why only for-profit colleges were studied, or how those 15 were picked.

byerak@tribune.com

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