

Written Testimony of Pamela Lanich Western New York Law Center

Joint Legislative Public Hearing on 2018-2019 Executive Budget Proposal: Topic Higher Education

My name is Pamela Lanich and I am an attorney with the Western New York Law Center in Buffalo, NY. Though I am presenting this testimony on behalf of the Western New York Law Center, I am also the co-chair of the Student Loans Working Group for New Yorkers for Responsible lending, a coalition of 170 groups statewide. I would like to thank the Committee Chairs and members of these Committees for this opportunity to present testimony on higher education in New York State.

Our office staffs consumer law clinics, using the Civil Legal Advice and Resource Office model or CLARO, in four Western New York Counties, where we advise and represent consumers who have a variety of problems. Attorneys from our office also help staff the Erie County Supreme Court Help Desk, where people come in for *pro se* assistance with legal problems.

In both our CLARO consumer clinics and at the help desk, we see many clients who have problems with student debt and for-profit colleges, and we want to emphasize today the importance of student protections when discussing higher education.

Many of the clients we see in our clinics take out student loans and attend for-profit colleges with the expectation of employment. Their expectations are formed by promises made to them in advertising brochures and then in person when they speak to admissions personnel at the colleges that are trying to enroll them. Unfortunately, employment often does not result from the degrees people get. We recently litigated a case for a student who attended a for-profit college and obtained a pilot's license. After our client completed flight school, he was unable to obtain employment as a pilot, and after several years of unemployment was making about \$7,000 a year as a school bus driver. The National Collegiate Student Loan Trust sued our client for over \$125,000. Fortunately, by aggressively asserting standing and limitations defenses and noticing the deposition of the securitization trust plaintiffs, we obtained discontinuances in the two cases against our client. Successes like this however are not always possible, and defense of litigation like this should not be

necessary. We believe that one of the reasons the plaintiffs in that case did not respond to discovery was that the employment rate for people attending that flight school was nearly non-existent. We believe very few if any of the graduates of that school ever obtained employment. The advertisements and representations of employment should never have been made to our client. If our client had received accurate information about employment prospects after graduation, we are certain that he would never have taken out the student loans that resulted in a lawsuit against him.

We represented another of our clients who had four cases filed against him by National Collegiate Student Loan Trust. He also graduated from a private college and because he could not find a job was living with his father. His father was making payments on his son's loans until suffering an injury at work. When the father could no longer make payments, the loan fell into default. Again, the Plaintiff in the lawsuits did not respond to discovery requests and the cases were dismissed. Again, we believe that the plaintiff did not respond to our discovery requests because the employment figures for graduates were dismal.

These cases are just two examples of the many cases we have seen in our clinics. In many of the cases, we see the borrowers try to work out payment agreements when they fall behind in their payments but the loan servicers are not accommodating. We see many people who are not aware they could apply for income based repayment plans. Income based repayment plans and disability discharges are not available for private loans, but even in loans where they are available, student loan servicers do not reach out to students let them know it is an option. Many students do not learn that it is an option until talking to us after their loans were already defaulted or they were struggling to pay the standard repayment. We see many low-income clients who would qualify for low or zero payments under an income based plan. We have also seen people who have their loans deferred or in a forbearance, because that's what the loan servicers told them to do even though an income based plan would have been better for them and would have counted toward qualifying payments for loan forgiveness.

Our experiences with clients in our clinics are not surprising given the widespread problems with repayment of student loan debt. In a NY Times opinion piece on August 25, 2018, Ben Miller, the senior director for postsecondary education at the Center for American Progress, noted that 30% of all student loan borrowers faced repayment problems. Students enrolled at for-profit colleges have a particularly hard time. Five years into repayment, 44 percent of borrowers at these schools faced some type of loan distress, including 25 percent who defaulted. Most students who defaulted between three and five years in repayment attended a for-profit college.

A 2018 article in the Rochester *Democrat and Chronical* reported that the Center for an Urban Future in New York City used analyzed several data sets concerning the financial outcomes of the 41,000 or so students enrolled at for-profit schools across New York. Among the findings:

- In 73 percent of for-profit programs, graduates earn less than \$25,000.
- In 38 percent of programs, graduates pay more than 8 percent of their annual earnings toward student debt, more than 9 times the rate at public

occupational programs.

- At Bryant and Stratton College, a dominant for-profit provider in the Rochester area, and a college that also has a campus in Buffalo, 79 percent of graduates fail to pay off any of the capital of their student loans within three years of graduation.
- New York spent \$37 million in tuition assistance funding at for-profit schools with at least one program that failed to meet the federal debt-to-earnings threshold standard.

We support the Governor's proposal requiring companies servicing student loans held by New Yorkers to obtain a state license and meet standards consistent with the laws and regulations governing other significant lending products. New York State needs to ensure that no student loan servicers can mislead a borrower or engage in any predatory act or practice, misapply payments, provide credit-reporting agencies with inaccurate information, or engage in any other practices that may harm the borrower.

The current Federal administration is expected to eliminate regulations designed to ensure that minimum performance standards are met by for-profit colleges. New York State needs to fill the gap created by the absence of Federal regulations by holding for-profit schools accountable and protecting the 33,000 students attending degree-granting for-profit schools and the 180,000 students in non-degree granting proprietary schools in New York.

We also support the proposals in the Executive Budget to require for-profit schools to report their funding sources and demonstrate that they are not receiving more than 80 percent of their revenue from taxpayers, including Federal grants, loans and TAP, and the requirement that for profit schools spend at least 50 percent of their revenues on instruction and learning as opposed to recruiting, marketing, and advertising. This will ensure that these institutions are putting the interests of their students first.

These proposals would go far toward correcting many of the problems we see in our clinics. In addition to addressing the problems that our clients have with loan servicers, we believe that that the proposals in the Executive budget would benefits our clients by introducing more transparency in reporting employment prospects so that students at least know what their employment chances realistically are when they take out student loans and choose to attend these schools.

Thank you for the time and attention you are giving to this important topic.