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New York State Legislature 2022 Joint Budget Hearing

Higher Education

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Introduction

Thank you for the opportunity to submit testimony for the Legislative Joint Budget Hearing on Higher Education, held Monday, February 7, 2022. Empire Justice Center is a statewide legal services organization with offices in Albany, Rochester, Westchester, Yonkers and Central Islip on Long Island. Empire Justice provides support and training to legal services and other community-based organizations, undertakes policy research and analysis, and engages in legislative and administrative advocacy. We also represent low-income individuals, as well as classes of New Yorkers, in a wide range of poverty law areas including consumer law and mortgage foreclosure defense.

Empire Justice works on a range of consumer law issues. We started working on higher education and student lending issues in 2015 when the for-profit Everest Institute Rochester closed its doors in 2015 after its parent company, Corinthian Colleges, Inc. filed for bankruptcy following a series of allegations and legal charges of deceptive practices and underperformance. Empire Justice assisted many students enroll in new colleges, obtain refunds and have student loan debts forgiven. Since then, Empire Justice has engaged in policy and legislative advocacy including participating as part of the United State Department of Justice's 2018 negotiated rule-making process regarding the gainful employment standard for for-profit higher education institutions, and advocating for greater accountability of higher education institutions in New York State. We are also a member of New Yorkers for Responsible Lending's Student Loan workgroup and actively work on a number of issues impacting student loan borrowers.

This testimony will focus on two items included in Governor Kathy Hochul's budget that we urge the New York State Legislature to adopt: (1) funding for Community Service Society's Education Debt Consumer Assistance Program (EDCAP) and (2) banning the practice of withholding transcripts in higher education.

1. Student Loan Borrower Assistance is Needed Throughout New York State

Empire Justice supports Governor Kathy Hochul's inclusion in the Executive Budget of \$3 million in funding for the Education Debt Consumer Assistance Program (EDCAP) run by the Community Services Society (CSS), and we support CSS's ask for an additional \$500,000 in the final budget for a total allocation of \$3.5 million for EDCAP. The total amount of \$3.5 million would allow EDCAP to make this critically needed assistance available throughout New York State.

According to CSS, there are 2.8 million student loan borrowers in New York State, with a cumulative debt of approximately \$99.8 billion. New York's average student loan debt is \$41,429, and 279,433 borrowers are in delinquency. Women, first-generation college students, low-income borrowers, seniors, and communities of color are particularly hard hit by the student loan crisis in New York State. Without the availability of other services, student loan borrowers rely on a federal loan servicer industry or a growing body of student loan scammers, that disseminates incomplete and sometimes erroneous information, resulting in missed opportunities for reducing or eliminating debt. New York State must ensure that every borrower has access to the basic information and reputable resources they need to address their student loan debt.

EDCAP is a unique and wonderful program designed to provide student loan borrowers with comprehensive and impartial information and guidance so that student loan borrowers can make informed decisions that are best for them. EDCAP focuses on being a "one-stop shop" for all higher education debt issues. EDCAP provides a toll-free helpline, workshops, and free one-on-one counseling

to guide student loan borrowers through the complex student loan repayment system. Since its inception in 2019, EDCAP has helped hundreds of borrowers, saved consumers more than \$2 million and managed over \$38 million in student loan debt.

EDCAP is the only resource of this kind in New York State. Only a few legal services organizations in New York State have the resources to dedicate a unit to serving student loan borrowers, and only one that we are aware of outside of New York City. Housing counseling agencies provide general budget counseling and may provide basic student loan counseling but they do not have the resources to go deep into these issues with consumers. EDCAP has been very generous to take referrals from folks outside of New York City who reach out to our office but they have not had adequate resources to promote and provide robust consumer assistance statewide. Their ability to expand what they are already doing primarily in New York City would be incredibly beneficial. Student loan borrowers in every county of New York State should have the same access to basic, honest information from trained professionals who have the student's best interest in mind, that that of a corporation.

Without impartial services delivered by non-profit organizations or a state agency, consumers are left with getting their information either from their student loan servicers who have been found to provide too often incomplete or misinformation. The other source of information as noted above, is for student loan borrowers to succumb to the solicitations increasingly coming from for-profit student loan scammers. We saw during the growth of the foreclosure crisis in New York State, the growing industry of loan modification and foreclosure rescue scams. Entities like these charge high sums to provide biased advice and services that benefit themselves above all, and very often provide little or no benefit to the consumer. Many times, these schemes put the consumer in a far worse situation. Many folks reading this testimony likely have received phishing emails from student loan companies, as they have become pervasive.

It is for these reasons that Empire Justice strongly supports the inclusion of \$3.5 million in funding in this year's state budget for CSS's EDCAP. This funding will enable EDCAP to expand its reach into areas where Empire Justice serves consumers, throughout Long Island and across Upstate New York. CSS has a strong track record of partnering with community-based organizations and is well situated to lead a statewide network to ensure New Yorkers who are struggling with student loan debt have access to direct consumer assistance.

2. New York State Must Ban Withholding of Transcripts for Debt

Second, Empire Justice Center urges the Legislature to include legislation in the final budget prohibiting all institutions of higher education from withholding transcripts because debt is owed to the school. Governor Hochul included a provision in Part I of the Education, Labor and Family Assistance Article VII Legislation (at 61) which would prohibit any institution of higher education, including colleges, universities, and organizations offering career education, as defined in current law, from withhold a student's transcript for failure to pay past or presently due tuition, condition receipt of a transcript on payment of a debt, or charge a higher fee for obtaining a transcript if a debt is owed to the institution. The Article VII provision grants the New York State Department of Financial Services authority to bring an action and seek penalty of \$500 per violation to be paid to New York State. The proposal provides a private right of action for students harmed by violations of the provision and allows the New York State Higher Education Services Corporation (HESC) to suspend, limit or terminate an institution's participation in state financial aid programs if a school violates the provision.

Banning the practice of transcript withholding for debt owed to schools has been a policy priority of Empire Justice Center's consumer finance and housing practice group, as well as for New Yorkers for Responsible Lending's student loan workgroup. This practice obviously prejudices low-

income students who do not have the ability to pay these debts, and the practice disproportionately impacts students of color. Withholding transcripts is counter-intuitive to the end goal of schools to be repaid; if a person cannot get access to their transcript, they may not be able to claim their degree which may be needed for advanced employment, or they are prevented from continuing their education which would ultimately put them in a better position to repay their debt.

Banning the practice of withholding a transcript does not in any way eliminate the debt and does not prevent an institution from pursuing collection of the debt through all lawful means currently provided under New York State.

We applaud Governor Hochul's announcement following the release of her Executive Budget that the State University of New York (SUNY) will voluntarily stop the practice of withholding transcripts. We were further heartened to see the same announcement by the City University of New York (CUNY) the week thereafter. It is very important for this prohibition to be set in law, and for the ban to be extended to all institutions of higher education including private non-profit and for-profit institutions. For these reasons, we urge the Legislature to include the Governor's proposal in the final budget.

Conclusion

Thank you again for the opportunity to submit written testimony. If you have questions or seek additional information please contact Kirsten E. Keefe, kkeefe@empirejustice.org, 518-429-0837.