THE CENTURY FOUNDATION

Testimony of Yan Cao, The Century Foundation, to the U.S. House of Representatives, Education & Labor Committee

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Full Committee Hearing: For-Profit College Conversions: Examining Ways to Improve Accountability and Prevent Fraud

Thank you for the opportunity to testify today. I am an attorney and Fellow at The Century Foundation, a progressive nonpartisan think tank that seeks to foster opportunity, reduce inequality, and promote security at home and abroad. Our education program addresses issues of school diversity, college affordability, consumer protection, and accountability.

Over the past six years, The Century Foundation has published numerous reports highlighting the risks associated with dubious for-profit college conversions[1]—risks that have now been meticulously researched and documented by the Government Accountability Office (GAO) in its January 2021 report: "*Higher Education: IRS and Education Could Better Address Risks Associated with Some For-Profit College Conversions*."[2]

When examining these conversions it is easy to get lost in the details of the complex corporate shell games predatory colleges play when they want to avoid standards and accountability. But make no mistake, these conversions, at their core, are about whether the most vulnerable students—low-income, minority, and first-generation students who have borne the brunt of educational underinvestment their entire lives—will have a genuine shot at a high-quality education, or whether sophisticated and well-lawyered corporations will be allowed to pull the wool over students' eyes, rip them off while posing as nonprofits, and divert students' precious tuition dollars for private enrichment. If unchecked, false for-profit conversions will result in fewer Title IV resources reaching the students who need them the most and more students who are harmed by predatory schools posing as charitable actors.

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[1] Examples of The Century Foundation publications on for-profit conversions, also described as "Covert For-Profits," include: *The Covert For-Profit (2015); Was Wright Wrong? Early Warnings of Covert For-Profit Colleges (2017); Purdue University Global Is a For-Profit College Masquerading as a Public University (2018); These Colleges Say They're Nonprofit—But Are They? (2018, updated 2020); How For-Profits Masquerade as Nonprofit Colleges (2020); Dubious Conversions of For-Profit Colleges: Decoding the GAO Report (2021).*

[2] *Available at* https://www.gao.gov/products/gao-21-89.

How do you close the equity gap, expand opportunity, and lift students out of poverty? Ask any high school principal and she'll tell you: invest resources in students.

With Title IV of the Higher Education Act (HEA), Congress has made an enduring investment of resources to support students in higher education. But, unfortunately, not all of those resources reach the students who need them the most: In one sector of higher education, taxpayer dollars earmarked for higher education can be extracted and diverted for the personal enrichment of owners. This feature is the hallmark of the for-profit sector and, increasingly, of for-profit colleges that use complex conversions, corporate shells, and regulatory arbitrage to blur the lines between for-profit and tax-exempt nonprofit status.

As a formal matter, the HEA recognizes three arbiters of nonprofit status. First, institutions call themselves non profit if they register that way with a state. Second, state-recognized nonprofits typically seek tax-exempt status from the IRS. Third, IRS-approved tax-exempt entities may apply to the Department of Education to be recognized as nonprofits under the Higher Education Act. Each of these gatekeepers is reflected in one prong of HEA's three-part for nonprofit status: one prong looks to the states, a second looks to IRS, a third and final prong is reserved for the Department of Education's independent assessment of whether an institution diverts Title IV resources for "the benefit of any private shareholder or individual."[3]

In the context of higher education, for-profit status is not just an obscure tax designation. Rather, it is a choice made by owners that preserves their power to take resources from a college's coffers—from revenues that come in as students' tuition dollars, federal loans, and GI Bill benefits—and divert those resources for individual enrichment rather than educational investments.

I. The Power to Extract Resource Defines For-Profit Status

The defining difference between the schools ED regulates as for-profit and the schools ED regulates as nonprofit lies in the gap between the tuition dollars that come in and the resources that are invested in students' educations.

- At for-profit schools, the gap between tuition and educational spending can be used to enrich owners.
- At traditional nonprofit schools, 100% must be reinvested in the schools' educational mission.

[3] *See* 34 CFR § 600.2(1)(i)-(iii) (defining "nonprofit institution"); *see also* 20 U.S.C. § 1003(13) (defining "nonprofit" in part as an institution "no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.").

This distinction has produced huge differences in the incentives, behaviors and student outcomes of *revenue-extracting schools* (which include for-profit schools and some conversions) versus *revenue-reinvesting schools* (which include traditional nonprofit and public schools).

When insiders can extract the difference between high tuition rates and low investments in students' education, they tend to inflate tuition and depress educational investment.[4] By contrast, when the decision-makers know that any difference between tuition charges and educational investments must be reinvested for educational purposes, tuition stays lower and educational investment is much higher. On average, for every dollar of debt that a student takes on, nonprofit institutions invest $0.84 in that student's instruction while for-profit institutions invest only $0.29 per tuition dollar in student instruction.[5]

II. Resource-Extracting Institutions Create Risks for Students

By every measure, *revenue-extracting institutions are worse for students* compared to revenue-reinvesting institutions.

Revenue-extracting schools employ two strategies to maximize the funds available for extraction: raise tuition to capture more revenue-per-student and use aggressive recruitment to enroll more students. In addition to maximizing revenue, revenue-extracting schools preserve profits for insiders by minimizing investment in students. These tactics are well documented among for-profit schools[6] and, despite their charitable claims, many for-profit conversions behave in much the same way.

- Higher prices means deeper debt for students at revenue-extracting institutions. Less than five percent of public college programs leave bachelors students with $30,000 of debt or more, but two-thirds of for-profit colleges programs generate debt at that level.[7] Worse, over 80 percent of programs at revenue-extracting nonprofits leave students with over $30,000 in debt. At for-profit conversion Keiser University, every last program leaves students with a median debt level over $30,000.

- Volume-driven enrollment means predatory recruitment at revenue-extracting institutions. Several conversions—such as the conversion of for-profit Education Management Corporation (EDMC) schools, including the **Art Institutes, Argosy**

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[4] The Century Foundation's publications on instructional spending rates include: How Far Does Your Tuition Dollar Go? (2019); TCF Estimates 'Bang for Tuition Buck' at More than 5,000 Colleges Nationwide (2019).
[5] Id.
[6] See The Century Foundation series, "THE CYCLE OF SCANDAL AT FOR-PROFIT COLLEGES" (2017-18).
[7] College Scorecard data on the median student loan debt of graduates from bachelor's programs.

University, and South University, to Dream Center Holdings[8]; for-profit Kaplan University's conversion to **Purdue University Global**[9]; and for-profit **Ashford University**'s proposed conversion to University of Arizona Global Campus[10]—involve for-profit schools that were investigated for operating high-pressure sales centers. In each of these instances, the conversion rewarded past predatory recruitment practices, retained aggressives sales managers, and incentivized further predatory tactics through revenue-share agreements and incentive-based payments.[11] While predatory recruitment is lucrative for revenue-extracting schools, it is disastrous for students and taxpayers. As of December 2020, the Department of Education had identified 268 institutions with 100 or more borrower defense claims: 263 of these were for-profit schools or conversions.[12]

- Preserving profits means low educational investment at revenue-extracting institutions. On average, for every dollar of debt that a student takes on, nonprofits spend $0.84 on instruction while for-profits spend $0.29.[13] Educational investment at covert for-profits reflect the priorities of revenue-extracting institutions: for example **Purdue University Global**, a for-profit conversion that formerly operated as Kaplan University, spends just $0.13 on instruction for every tuition dollar it receives. Another for-profit conversion, **Grand Canyon University**, spends $0.18 on instruction for each student tuition dollar For-profit **Ashford University** spends only $0.19 on instruction for each tuition dollar, and, as part of its currently-pending conversion contract with the University of Arizona, Ashford's parent company, Zovio, has effectively placed a two percent cap on instructional increases for the next fifteen years.[14] Notably, the contract did not cap

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[8] U.S. Department of Justice, Press Release: For-Profit College Company to Pay $95.5 Million to Settle Claims of Illegal Recruiting, Consumer Fraud and Other Violations (November 16, 2015).

[9] Separate law enforcement actions against Kaplan Higher Education and parent, Graham Holdings, have been initiated by numerous agencies, including: U.S. Department of Justice - Pennsylvania (2008), Attor9ey General - Delaware (2011), Office of the Attorney General - Florida (2010), Attorney General - Illinois (2011), Attorney General - Massachusetts (2011), Attorney General - North Carolina (2012), U.S. Department of Justice - Texas (2015). See generally, David Halperin, Republic Report, "Law Enforcement Invetigations and Actions Regarding For-Profit Colleges" (updated March 17, 2021).

[10] California Dep't of Justice: "Attorney General Xavier Becerra Sues For-Profit Ashford University For Defrauding and Deceiving Students" (Nov. 29, 2017).

[11] As a general matter, HEA prohibits incentive-based payments to "any persons or entities engaged in any student recruiting or admission activities" 20 USC § 1094(a)(20). For nonprofits, uncapped revenue-share agreements can suggest an improper private benefit even outside of the recruiting, admissions, and financial aid functions.

[12] Department of Education data on file with the author and obtained by Yahoo! Finance through public records requests.

[13] Unless otherwise noted, instructional expenditures referenced in this paragraph are calculated from institution-reported instructional expenses and net tuition and fee revenue on the 2017 Integrated Postsecondary Education Data System Finance Survey.

[14] Specifically, Ashford's conversion to University of Arizona Global Campus includes a contract clause allotting a 2% maximum annual increase in the instructional portion of the school's operating expenses. Educational investments above that amount must come from the portion of the school's revenues that are left after Zovio has extracted a sizable fee, which could eliminate for over 70 percent of the school's tuition revenue. *See generally* https://tcf.org/content/report/how-for-profits-masquerade-as-nonprofit-colleges/.

increases to Zovio's recruitment expenses or revenue share fee. Last summer, Zovio hired an additional 200 sales agents[15]; meanwhile, accreditors expressed concern over Ashford's low number and compensation of full-time instructors.[16]

The same high-price, low-cost formula that spells profit for owners leads to dropouts, loan defaults, and worthless degrees for students.

- Default Rates - For profit colleges enroll 8 percent of students, but account for 25 percent of student loan defaults.[17] While the 13 percent default rate of the for-profit sector is already too high, in many cases, for-profit conversions produce student loan defaults at even higher rates. For example, **Bryant & Stratton College**, which is currently pursuing a for-profit conversion, has a 20 percent student default rate. Both **The Art Institute of Atlanta** and the **Art Institute of Houston**—two of the schools involved in the Dream Center conversions—had default rates over 20 percent.

- Debt-to-Income Ratios (Gainful Employment) - For-profit colleges represent 66 percent of the programs tested against the debt-to-earnings ratio in the 2014 Gainful Employment rule. However, for-profit programs disproportionately produced bad results, and accounted for 98 percent of programs that failed the gainful employment standard. Some predatory for-profit schools sought conversions as a way to avoid scrutiny for their failing programs; for example, when for-profit EDMC sought to convert **Argosy**, **Art Institute** and **South University** schools to nonprofit status, those chains included 137 programs that failed the gainful employment standards.[18]

- Repayment rates - Many student loan borrowers take years before they can begin paying down the principal of their student loans. After five years of repayment, on average, the majority of borrowers at public institutions (52%) and nearly two-thirds of borrowers at nonprofit institutions (64%) have reduced their original student loan principal by at least $1.[19] But, unfortunately, only 39 percent of borrowers who attended for-profit institutions are able to reduce their debt after five years of repayment; instead most students are either deeper in debt or in default. Repayment rates at for-profit conversions are even

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[15] Sarah Butrymowicz and Meredith Kolodner, "*For-Profit Colleges, Long Troubled, See Surge Amid Pandemic*," New York Times, June 17, 2020.

[16] WASC Senior College and University Commission, *Commission Action Letter, Accreditation Visit, June 2019 action*; *Commission action letter, Initial Accreditation Visit, June 2012 action*.

[17] Department of Education Cohort Default Rate data and Integrated Postsecondary Education Data System data.

[18] EDMC's failing programs include 13 at Argosy University, 15 at South University, and 109 at Art Institutes. https://www.ed.gov/news/press-releases/education-department-releases-final-debt-earnings-rates-gainful-employment-programs

[19] Department of Education, College Scorecard: Repayment Rate data (2011-12 repayment cohort measured in 2016-17).

worse: only 23 percent of borrowers at **Bryant & Stratton College** and 16 percent of borrowers at **CollegeAmerica** are able to reduce their debt after five years of repayment.

Finally, when compared to genuine nonprofits, revenue-extracting schools are far more likely to precipitously close, leaving students educationally displaced. In 2019, The Chronicle of Education reported that for-profit schools are responsible for 85 percent of students harmed by campus closures.[20] Add in closures at revenue-extracting institutions like Alterius (the post-conversion form of Corinthian Colleges) and Dream Center (the post-conversion owner of Argosy, Art Institutes, and South University) and the body count is higher still.

Nonprofits close when they run out of resources to meet their educational mission. Resource-extracting institutions close when it serves their bottom line. When accreditors or regulators demand better outcomes from failing schools, owners can cut the cord and leave students stranded rather than go through the difficult and costly processes for either raising standards at the institution or securing an opportunity for students to make a smooth transition to another institution.[21]

As the GAO report noted, corrupt for-profit conversions facilitate revenue-extraction by insiders and weaken the financial viability of revenue-extracting institutions. GAO tracked 16 for-profit conversions that involved insiders; while all institutions were financially sound prior to the conversion, 15 of them failed key tests for financial soundness in the year following the conversion.[22] In addition to harming students, these sudden closures carry a high cost for taxpayers. Shortly before Dream Center collapsed, its executive, Brent Richardson sent a letter to the Department of Education estimating that the collapse "would result in nearly $1 Billion dollars in taxpayer liabilities."[23] Richardson was also an insider whose family trust extracted resources from Dream Center schools, accelerating their collapse.

Revenue-extracting institutions post enormous risks for students and taxpayers, and they do not become safer merely because the IRS has become a less reliable gatekeeper. A distracted bouncer may let an armed criminal into a club, but that does not make the criminal safe. Instead, the Department of Education must look behind the IRS designations to ensure that institutions are regulated based on the risks they pose to students.

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[20] Michael Vasquez and Dan Bauman, *"How America's College-Closure Crisis Leaves Families Devastated"* (April 4, 2019).

[21] Additional resources from The Century Foundation on precipitous college closures include: How to Stop Sudden College Closures (2019); Reducing Harm from Sudden College Closures (2020); To Monitor for Colleges That May Soon Fold, Look to Liquidity (2020).

[22] GAO: For-Profit College Conversions at 26.

[23] U.S. House of Representatives Committee on Education and Labor: "SHATTERED DREAMS: EXAMINING THE EDUCATION DEPARTMENT'S ROLE IN THE MISCONDUCT OF DREAM CENTER EDUCATION HOLDINGS," July 2020, at 1 (internal quotations omitted).

When the IRS misapplies tax-exempt status, it can go back and collect back taxes (with interest). But most students have just one shot at higher education. There are limits to the time, sacrifice, savings, student loan debt or military benefits a student can expend. If the Department of Education mischaracterizes a school, it leaves students unprotected and vulnerable to the worst abuses of for-profit schools.

Protecting Students from the Risks of Revenue-Extraction

The best way to protect students from the risks of revenue-extraction is to earmark every dollar for a specific, beneficial educational purpose. That is in effect what wealthy parents do each year when they send their children to nonprofit colleges; they protect their investment. At revenue-reinvesting nonprofits, board members owe a fiduciary duty to invest all of the institution's resources toward educational goals. But, insiders at for-profits and some putative "nonprofits" owe a fiduciary duty to shareholders, which is often misaligned with the educational needs of students. As a result, the entire patchwork system of for-profit regulation still fails to be as effective a defense as the affirmative mandate to reinvest all revenue in education.

Absent the revenue-reinvesting mandate, Congress has created a set of guardrails to temper the worst abuses of revenue-extracting schools. For-profit colleges sometimes describe sector-specific regulations as an unfair additional burden. This is disingenuous. Regulation of for-profit schools is a pale approximation of the resource reinvestment mandate that promotes student success at nonprofit institutions. To give an example, when for-profit owners have withdrawn or withheld investments to the point where a school is financially unstable, regulations require owners to report further withdrawals of capital.[24] This rule singles out for-profits for a simple reason—nonprofit owners are never permitted to withdraw capital. At false, revenue-extracting nonprofits, insiders can withdraw equity to the point of financial instability, and then they can keep going. It is no wonder that these conversions are prone to sudden closures.

The Department of Education grants private institutions two regulatory options: give up the revenue-extraction power and reinvest 100% of resources in students' education or retain the revenue-extraction power but abide by student protection guardrails. When predatory institutions want to keep their revenue-extraction power, divert resources from students' education, and evade student protection guardrails, they pursue disingenuous for-profit conversions. So far, as the GAO report has documented, many have gotten away with it.

This problem has been decades in the making, but the pattern is becoming clear. Congress legislates student protections, and the most predatory revenue-extracting institutions change their tax status to dodge them:

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[24] 34 CFR 668.171(c)(1)(i)(B).

- After the Reagan administration sounded the alarm about for-profit schools where "semi-literate high school dropouts [were] lured to enroll in expensive training programs with false promises of lucrative jobs," George H. W. Bush signed into law reforms that included the precursor to the 90/10 rule that this committee recently strengthened. Just before a prior iteration of the rule took effect, the owners of **Wright Career College** sought tax-exempt status from the IRS, openly declaring its desire to evade the new rules, and stating that "several other schools" had recently pursued the same tactic.[25]

- As the Obama administration prepared to implement Gainful Employment regulations, which measured graduates' earnings against their debt levels, the **Art Institute, Argosy and South University** schools (with over 100 programs failing the gainful employment standards) sought a conversion to nonprofit status. Argosy told its accreditor that the schools would be able to operate "in a much more cost efficient manner" if they were relieved on the 90/10 rule and treated as a nonprofit for purposes of the Gainful Employment regulations.[26] Additionally, this committee identified that the schools failed to meet accreditation standards for for-profit schools, and again, rather than improving their quality, they sought an end run by proclaiming themselves nonprofits.

Congress can no longer allow its rules to be side-stepped by the institutions that pose the greatest danger to students. If its protections are to be effective, the Department of Education must look behind IRS designations of tax-exempt status and scrutinize the resource-extraction power and practices of Title IV institutions.

The Danger of Deception

For predatory institutions, retaining revenue-extraction power while evading for-profit college oversight is already a neat trick. But there is a third, added benefit that makes disingenuous conversions even more enticing to predatory schools: the ability to market themselves to students as if they were truly charitable nonprofits.

After waves of fraud, abuse, and sudden closures in the for-profit sector, students have become wary of for-profit schools. That is why schools like Grand Canyon University brag to their shareholders about the stock-boosting benefits of advertising as a nonprofit.[27] Regulators should be wary any time shareholders are promised a payday from a conversion to nonprofit status: if an institution has truly abandoned its money-making goals, why would stock prices go up?

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[25] The Century Foundation, Was Wright Wrong? Early Warnings of Covert For-Profit Colleges (2017).
[26] WASC Senior College and University Commission, Accreditation Team, Structural Change Cite Visit Report: Argosy University Change in Ownership, April 12, 2017 at 16 https://drive.google.com/file/d/0B7adHdBE6w3mLUlwOHAyTnhEcW8/view?usp=sharing.
[27] https://tcf.org/content/commentary/colleges-say-theyre-nonprofit/.

The basic formula of low tuition and high investment in educational resources serves students well. But it is not profitable. When revenue-extracting schools tout nonprofit status to potential students, they are benefitting from the trust that revenue-reinvesting institutions have built up by staying true to their educational mission. The reality is that share prices rise when shareholders know that they will continue to extract revenues, and expect that with the cloak of nonprofit status, students will be more willing to hand over tuition dollars.

Students intuitively believe that nonprofits will be safer than for-profit schools, but revenue-extracting for-profit conversions are, in fact, even more dangerous than for-profits that are subject to the appropriate regulations. For-profit conversions are not just wolves in sheeps' clothing, they are wolves that have sharpened their teeth and honed their claws while the shepherd is busy chasing off the undisguised wolves.

If for-profit conversions continue, revenue-extracting nonprofits will put pressure on legitimate nonprofits and tarnish the reputation of the whole sector. Legitimate nonprofits will have to spend more on advertising to distinguish themselves and avoid losing students to predatory imposters. This type of advertising arms race would reduce trust and draw resources away from educational goals across sectors.

At the same time, if disingenuous conversions pay off for the current vanguard of revenue-extracting institutions, more for-profit conversions will surely follow. Eventually, the only for-profit schools that remain subject to for-profit regulations would be the ones too small, too unsophisticated, or too scrupulous to lawyer up and take advantage of the loophole.

The Tools of Revenue Extraction

The only constant in regulatory arbitrage is adaptation: even as GAO's report lays bare the various forms that questionable conversions have taken over recent years, predatory institutions are already innovating new arrangements for covert revenue extraction. The following examples are presented not as a comprehensive list, but to illustrate of creative variations on the revenue-extraction theme:

- Revenue extraction through rent - after these for-profit schools sought conversions to nonprofit status, **Keiser University** insiders continued to extract $14.6 million a year in rent.[28] Likewise, insiders at **Center for Excellence in Higher Education** (CEHE), who have since been found personally liable for knowingly defrauding students for Title IV funds, extracted $5 million a year for rent.[29] Owners of **Bryant & Stratton College** are

[28] Unless otherwise indicated, additional detail on revenue-extraction mechanisms can be found at https://tcf.org/content/commentary/colleges-say-theyre-nonprofit/.
[29] The Century Foundation, DeVos Must Take Action against Predatory College Chain (Oct. 2020).

currently pursuing a conversion in which insiders would own the land through Prentice Realty Inc., and extract rent from the schools, which would be operated under the Prentice Family Foundation.[30]

- Revenue extraction through inflated loans - The 2010 conversion of **Keiser University**, allowed insiders to continue extracting revenues through an inflated debt obligation. Keiser's original purchase price of $610 million included $543 million in tangibles (89%). The inflated purchase price transaction was financed by an insider loan; debt for questionable intangibles meant Keiser insiders could extract a continuous stream of revenue in the form of debt payments while offering the nonprofit nothing of real value. As revenue went out the door for debt payments, less was left for students.

  Likewise, the **Herzing University** conversion also included an inflated purchase-price loan. The conversion generated an $86 million (plus interest) debt held by insiders with intangible assets accounting for about half the value. But, just one year later, an independent evaluation placed the school's value at $42 million, suggesting that the intangible assets were fictitious. Deeper debt means more aggressive revenue extraction and also more control for former owners.

- Revenue extraction through services contracts - After the for-profit conversion of **Grand Canyon University**, insiders and shareholders at Grand Canyon Enterprises (GCE) continued to extract resources from the school through an educational services contract which granted the GCE an uncapped portion of the institution's revenues. The Department of Education rejected Grand Canyon's application for nonprofit status, citing IRS precedent disfavoring uncapped revenue-share agreements.[31] Similarly, the conversion of **Kaplan University** to Purdue University Global (PUG) allowed Kaplan's parent company, Graham Holdings Co., to extract resources through a long-term educational services contract that paid Graham Holdings a cut of any revenue it brought in through aggressive recruitment and marketing efforts that routinely tout PUG's "nonprofit" status.

  The current efforts of for-profit **Ashford University** to convert to nonprofit status as University of Arizona Global Campus involve a long-term services contract that would allow Ashford's parent company, Zovio to extract upwards of 70% of students tuition dollars[32] for services that could include a continuation of Ashford's predatory recruitment practices

[30] Emma Whitford, "Bryant & Stratton Pursues Nonprofit Conversion," Insider Higher Ed, (Dec. 4, 2020).

[31] U.S. Dep't of Ed., Letter to Grand Canyon University re: Change in Ownership and Nonprofit Status (Nov. 2019).
[32] https://tcf.org/content/report/how-for-profits-masquerade-as-nonprofit-colleges/.

The Department of Education Has the Tools To Regulate Revenue Extraction

It is a privilege and not a right for institutions to receive Title IV certification and obtain resources by placing students in debt to the federal government. When institutions can draw down federal funds on the one hand, and extract resources for insider enrichment on the other hand, there is a unique danger that very little will be left to serve the educational needs of low-income students. The students with the greatest need for educational investment will go into debt hoping to obtain that investment and leave revenue-extracting schools with little to show for it.

The Department already has the tools to protect students from the harms associated with revenue extraction: they are the guardrails and protections applied to for-profit schools. The Department does not define for-profit schools; that would create a roadmap for regulatory avoidance. Instead, any private school that fails to meet the Department's three-part test for nonprofit status—including any revenue-extracting institutions—is subject to stronger student protections.

Luckily, the Department of Education does not regulate based on tax status; rather, it uses IRS review as a shortcut to weed out some high-risk revenue-extracting schools. This worked well when for-profit colleges were smaller, more focused on education, and less invested in regulatory arbitrage. However, with predatory colleges increasingly manipulating gaps in IRS oversight, it is critical to remember that while IRS tax-exempt status is necessary, it is not sufficient to demonstrate nonprofit status for Department of Education purposes. Congress requires the Department to make its own determination as to which schools should be regulated revenue-extracting for-profits, and which should be regulated as revenue-reinvesting nonprofits.