

Secretary DeVos's Abandonment of For-Profit College Oversight

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Before

U.S. House of Representatives Committee on Oversight and Reform
Subcommittee on Economic and Consumer Policy

May 22, 2019

Chairman Krishnamoorthi, Ranking Member Cloud, and members of the committee:

I am encouraged that this Committee, other House committees, and members of the Senate are asking serious questions about the Trump administration's policies on and oversight of for-profit higher education. There is much that the Congress -- and the public -- needs to know if we are to protect students and taxpayers. Thank you for the opportunity to appear today.¹

I hope every member of Congress agrees with these three principles:

First, government should be vigilant against waste, fraud, and abuse with taxpayer dollars.

Second, if government commits taxpayer dollars, there should be real performance standards, to make sure we get what we pay for.

¹ My work on for-profit college issues is funded entirely by non-profit foundations and non-profit organizations concerned with the quality and affordability of higher education.

My background: David Halperin engages in public advocacy work on a wide range of issues, including higher education and climate change. He also advises organizations on strategy, policy, communications, and legal matters, and he is of counsel to Public.Resource.org. Halperin was previously: founding director of Campus Progress and senior vice president at the Center for American Progress; founding executive director of the American Constitution Society; White House speechwriter and special assistant for national security affairs to President Clinton; co-founder of the Internet company Progressive/RealNetworks; and counsel to the Senate Intelligence Committee. He writes at Republic Report, and his articles also have appeared in the New York Times, Washington Post, The Nation, Politico, Slate, Foreign Policy, and other outlets. Halperin serves on the board of directors of Public Citizen. He graduated from Yale College and Yale Law School.

Third, government investment should not make the intended beneficiaries worse off than when they started.

The federal investment in student grants and loans, as applied to the for-profit college industry, has flunked all three tests for decades.

Worse, the Trump administration and Secretary of Education Betsy DeVos have moved us away from solving this problem, even as the industry continues to receive some 20 billion a year in taxpayer dollars.

There are good programs, and great teachers and students, in for-profit higher education. But many companies have engaged in deceptive, coercive, and abusive practices.

Abuses by for-profit colleges

In the absence of strong accountability measures, demand from for-profit college owners for quick profits has led to relentless pressure to sign up as many students as possible, regardless of whether the program would help them.² To charge astronomical tuition, often ten times the price of community college, sometimes effectively twice as much as Harvard or Stanford³, yet spend far too little on teachers and instruction.⁴ To give false information to students -- about accreditation, selectivity, job placement, and starting salaries, and to give false information to state regulators, accreditors, and the U.S. Department of Education.⁵ To use bait and switch

² <http://www.motherjones.com/politics/2014/09/for-profit-university-subprime-student-poor-minority/>

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<https://www.republicreport.org/wp-content/uploads/2016/01/D-Halperin-Stealing-Americas-Future-ebook.pdf>

⁴ https://www.help.senate.gov/imo/media/for_profit_report/Contents.pdf

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<https://www.ed.gov/news/press-releases/department-education-and-attorney-general-kamala-harris-announce-findings-investigation-wyotech-and-everest-programs> ;

<https://www.ed.gov/news/press-releases/us-department-education-heightens-oversight-corinthian-colleges> ;

lead generation tactics⁶ and high pressure sales pitches.⁷ To fake students' high school diplomas⁸ and financial aid status.⁹

The Department of Education's failure to establish strong rules has meant a race to the bottom: the more colleges abuse students, the more money they make.

The predatory behavior has been documented by the Senate HELP committee¹⁰ and many other investigations.¹¹

In my role as an advocate for students, I have spoken with hundreds of students, staff, faculty, and executives, who have described broad patterns of abuses at for-profit colleges. I have documented on my blog *Republic Report*¹² and in two e-books¹³ how predatory college practices have ruined the lives of countless students, and how money from the for-profit college industry -- most of it provided by taxpayers -- has severely corrupted the policy process.

<https://www.ed.gov/news/press-releases/us-department-education-takes-enforcement-against-two-school-ownership-groups> ;

<https://www.ftc.gov/news-events/press-releases/2016/12/devry-university-agrees-100-million-settlement-ftc>

⁶ http://www.huffingtonpost.com/davidhalperin/military-branded-websites_b_9131742.html ;

http://www.huffingtonpost.com/davidhalperin/ftc-takes-action-against_b_9805832.html;

http://www.huffingtonpost.com/davidhalperin/for-profit-college-market_b_6213896.html;

<https://www.republicreport.org/2018/scam-websites-tried-to-trick-military-recruits-into-entering-for-profit-colleges/>

⁷ http://www.huffingtonpost.com/2011/02/08/for-profit-college-recruiters-documents_n_820337.html

⁸ <http://www.miamiherald.com/news/local/education/article27256573.html> ;

<https://www.ed.gov/news/press-releases/us-department-education-takes-enforcement-against-two-school-ownership-groups>

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<http://genprogress.org/about/press/2011/02/17/19004/testimony-of-rashidah-smallwood-former-forprofit-financial-aid-admini/>

¹⁰ https://www.help.senate.gov/imo/media/for_profit_report/Contents.pdf

¹¹ E.g., <http://pubsys.miamiherald.com/static/media/projects/2015/higher-ed-hustle/>

¹² <https://www.republicreport.org/>

¹³ <https://www.amazon.com/Stealing-Americas-Future-Profit-Taxpayers-ebook/dp/B00JAJGIIK> ;

<https://www.republicreport.org/wp-content/uploads/2016/01/D-Halperin-Stealing-Americas-Future-ebook.pdf>;

<https://www.amazon.com/Friends-High-Places-Endorses-Profit-ebook/dp/B01HYNJCFE>;

<https://www.republicreport.org/2016/friends-in-high-places-who-endorses-americas-troubled-for-profit-colleges/>

My work on the for-profit college industry has been made possible by courageous insiders who came forward.

In 2011, I met Rashidah Smallwood, a religious woman who was fired as a financial aid administrator at ITT Tech in Texas after she refused to cooperate in what she considered systematic fraud.¹⁴ (That year, I brought Ms. Smallwood to Capitol Hill and tried to find a member of Congress to meet with her. None were available. Meanwhile, expensive lobbyists for the for-profit college industry, many of them former Members, have flooded Capitol Hill, and the industry has consistently provided campaign contributions.¹⁵)

In 2014, I received a call from Laurie McConnell, a librarian at Everest College, part of Corinthian Colleges, in California. She was heartbroken, trying to tutor a student who was intellectually disabled. Corinthian had enrolled him in a criminal justice program, because he wanted to be a police officer. That wasn't going to happen, but Corinthian took his money.¹⁶ The company was getting \$1.4 billion a year from taxpayers.

Mike DiGiacomo, an army veteran who wanted to design video games, was misled by not one, but two big chains, EDMC and Career Education Corp., and left with worthless credits and \$90,000 of debt.¹⁷

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<http://genprogress.org/about/press/2011/02/17/19004/testimony-of-rashidah-smallwood-former-forprofit-financial-aid-admini/>

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<https://www.republicreport.org/2016/friends-in-high-places-who-endorses-americas-troubled-for-profit-colleges/>; <https://www.opensecrets.org/industries/indus.php?ind=H5300> ; <https://www.insidehighered.com/news/2016/10/28/profits-favor-republicans-campaign-money-donations-a-re-down>

¹⁶ http://www.huffingtonpost.com/davidhalperin/for-profit-college-enroll_b_5433550.html

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<https://www.republicreport.org/wp-content/uploads/2016/01/D-Halperin-Stealing-Americas-Future-ebook.pdf>

Journalist Michael Vasquez wrote about a Florida mom, Sara Pierce, who was misled by a Kaplan recruiter into signing up for an online Nutrition Science program that, she learned way too late, lacked the accreditation to get her the job she sought.¹⁸ Tiffany Nesbitt and other dental assistant students at a Kaplan school in Charlotte had the same complaint, leading to an attorney general probe and shutdown of the program.¹⁹

The University of Phoenix reported a four percent graduation rate in its online division. It engaged in serious abuses recruiting American troops on U.S. military bases.²⁰ The company at one point was getting as much as \$2 billion a year from taxpayers.

There has been bad behavior also at ITT, DeVry, Globe, Vatterott, Bridgepoint/Ashford, ATI, FastTrain, Marinello, Westwood, CollegeAmerica, and many others.²¹

Last year, conscientious employees at Dream Center Education Holdings, which had acquired the EDMC schools -- the Art Institutes, Argosy University, and South University -- called me to say the company was lying to students about the lost accreditation of some campuses and improperly mixing their newly non-profit schools with for-profit companies owned by Dream Center executives.²²

¹⁸ <http://media.miamiherald.com/static/media/projects/2015/higher-ed-hustle/watchdog.html>

¹⁹ <http://www.wsocv.com/news/whistleblower-9-students-say-they-were-misled-by-1/222907166>

²⁰ <https://www.revealnews.org/article/university-of-phoenix-sidesteps-obama-order-on-recruiting-veterans/>

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<https://www.republicreport.org/2016/friends-in-high-places-who-endorses-americas-troubled-for-profit-colleges/>;

<https://www.ed.gov/news/press-releases/globe-university-minnesota-school-business-denied-access-federal-student-aid-dollars> ; <https://www.republicreport.org/2014/law-enforcement-for-profit-colleges/>

²²

<https://www.republicreport.org/2018/inside-a-for-profit-college-conversion-lucrative-ties-troubling-actions/>;
<https://www.republicreport.org/2018/devos-dystopia-more-art-institutes-and-woz-u-staff-speak/>

The impact on students

With all the abuses, outcomes have been abysmal for many students -- veterans, service members, single parents, people of color, immigrants, older working Americans, low and middle income -- people who just wanted a chance to improve their lives.²³ Many are the first in their family to go to college, and some are swiftly manipulated and deceived by the hard-core boiler room operations of predatory schools.

The Department of Education reported in 2014 that 72 percent of the for-profit college programs it analyzed produced graduates who, on average, earned less than did high school dropouts.²⁴

A 2016 study found that for-profit college students earned less after leaving school than they did before they enrolled.²⁵ And many face crushing student debt.

Today, nine percent of all college students attend for-profit colleges, on campuses and online -- but these institutions account for 34 percent of student loan defaults. For-profit schools are driving a national student debt crisis that has reached \$1.5 trillion in borrowing. They absorb some 17 percent of all federal student aid, diverting sums from better, more affordable programs at nonprofit and public colleges.

Obama-era reforms

The Obama administration finally acted. It issued the gainful employment and borrower defense rules to curb predatory practices. The gainful employment rule ends federal funding of for-profit and career college

²³ See <https://failstatemovie.com/>
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<https://www.ed.gov/news/press-releases/obama-administration-takes-action-protect-americans-predatory-poor-performing-ca>

²⁵ <https://www.nber.org/papers/w22287>

programs that year after year leave students with debt they cannot afford to repay. The borrower defense rule creates standards and a process for students ripped off by their colleges to have their federal loan debt cancelled, and prevents colleges from using mandatory arbitration clauses to bar students from suing them. The Obama administration also started granting debt relief to defrauded students.

Under Obama, the Department of Education created an enforcement unit to crack down on predatory abusers, and it built cooperation on for-profit college issues with the CFPB, VA, DoD, FTC, Justice Department, and other agencies. It ended recognition of ACICS, accreditor of many of the worst schools.²⁶ It refused to recognize the predatory Center for Excellence in Higher Education chains of schools as non-profit, after concluding the conversion benefited only the former for-profit owner, Carl Barney.²⁷

The Obama-era rules are not as strong as they should be to address serious wrongdoing and performance weaknesses in the career education sector.²⁸ However, the reforms would make a big difference: They would save taxpayers billions and help students by alerting the public to, and eventually weeding out, poorly-performing programs.²⁹ The reforms also would help honest, effective schools by channeling federal aid toward programs that are actually helping people train for careers.³⁰ The issuance of the gainful employment rule already has had a strong, positive effect by

²⁶ <https://www.ed.gov/acics>

²⁷

<https://www.ed.gov/news/press-releases/education-department-denies-request-chain-profit-colleges-convert-non-profit-status>

²⁸

http://www.huffingtonpost.com/davidhalperin/new-gainful-employment-rule_b_6072470.html ;
http://www.protectstudentsandtaxpayers.org/wp-content/uploads/2016/08/BD-NPRM-Coalition-Comment_FINAL_August1_2016.pdf

²⁹ <http://ticas.org/blog/same-program-different-results-why-gainful-employment-rule-needed> ;
<https://www.insidehighered.com/news/2017/07/07/delay-devos-means-relieve-poor-performing-program>

³⁰

<https://www.americanprogress.org/issues/education/reports/2017/06/08/433531/gainful-employment-reduces-governments-loan-forgiveness-costs/> ;
http://www.huffingtonpost.com/davidhalperin/obamas-last-chance-to-pro_b_11297254.html

helping convince schools to lower prices or to shut down programs that weigh down students with overwhelming debt.³¹

Trump-DeVos reversal of reforms

Secretary DeVos, guided by Acting Under Secretary Diane Auer Jones, has now cancelled all these pro-student, pro-taxpayer reforms and more.³²

As evinced by the regulatory pronouncements of her Department, and her own remarks, the Secretary seems to believe, without evidence, that the real danger is not fraud by colleges, but fraud by students.³³

The DeVos Department has eliminated protections for students and taxpayers even as state attorneys general, state oversight agencies, state legislatures, and accreditors are all moving in the direction of stronger accountability.

The DeVos Department's abandonment of oversight of the for-profit college industry has been carried out with clear disregard for the law. Courts have repeatedly declared illegal the Department's efforts to repeal Obama-era

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<https://www.nytimes.com/2017/06/30/upshot/new-evidence-shows-devos-is-discarding-college-policies-that-are-effective.html> ;

³² See

<https://www.newamerica.org/education-policy/edcentral/devos-deregulation-will-leave-college-students-lurch/>;

<https://www.americanprogress.org/issues/education-postsecondary/news/2019/01/09/464891/risks-betsy-devos-rethink-higher-education/>;

<https://www.republicreport.org/2018/betsy-devos-had-a-plan-to-prop-up-for-profit-college-cronies-its-unraveling/>

³³ The Department's July 31, 2018, Notice of Proposed Rulemaking on the borrower defense rule expressed concern that students will take unfair advantage of a strong borrower defense rule to submit "[f]alse claims" based on "unsubstantiated allegations."

<https://www.federalregister.gov/documents/2018/07/31/2018-15823/student-assistance-general-provisions-federal-perkins-loan-program-federal-family-education-loan>. In a September 2017 speech, Secretary DeVos said that under the rules adopted by the Obama administration, "all one had to do was raise his or her hands to be entitled to so-called free money."

https://www.huffpost.com/entry/devos-says-defrauded-students-are-after-free-money_b_59c9239de4b0f2df5e83b032

regulations.³⁴ In justifying the reinstatement of ACICS, Acting Under Secretary Jones cited demonstrably false information.³⁵ Deputy Secretary Mick Zais then blatantly disregarded his duties in pressuring the Department's acting inspector general, Sandra Bruce, to curb an investigation of Jones's restoration of ACICS, and then acted to replace Bruce with a Department of Education lawyer, before that firing was reversed.³⁶

School abuses persist and increase

The for-profit college industry claims there's no need for the Department to increase oversight because there are no bad schools anymore -- all that's left are honest mom and pop operations.³⁷ That's false. They claimed about the same 10 years ago.

This very hour, across our country, for-profit schools are using deceptive and coercive tactics to persuade Americans to enroll in high-priced, low-quality career education programs that will ruin their financial futures.

Some of the bad for-profit schools have shut down in recent years, but many continue with a business model focused on signing up as many students as possible, getting as many taxpayer dollars as possible, spending as little on education as possible. The money goes to lead generators, landlords, and lawyers, plus, of course, executive salaries and investors. When the operators realize have sucked all the money out, or their programs are cut off from federal aid due to violations, they shut down overnight, students are locked out, and taxpayers have to finance another bailout.

³⁴ <https://www.politico.com/story/2019/03/21/devos-roll-back-obama-policies-1288782>

³⁵

<https://www.politico.com/newsletters/morning-education/2018/10/05/education-dept-overstated-endorsements-of-for-profit-college-accreditor-363214>

³⁶ <https://www.politico.com/story/2019/02/19/besty-devos-investigation-1186521>;

<https://static.politico.com/72/da/b2e125094564ac72b9b5b3096c66/acics-letter-01.03.2018.pdf>

³⁷ <https://www.republicreport.org/2019/on-for-profit-college-shutdowns-lobbyist-gunderson-has-no-shame/>

For-profit chains also are closing physical campuses and shifting their emphasis heavily to online instruction. Online programs are cheaper to run, and schools often spend far less on online instruction³⁸, but schools rarely pass the savings on to students.³⁹ And the evidence, including recent research⁴⁰ suggests that, despite the immense promise of technology for learning, online higher education often doesn't deliver for students, especially the kinds of students, inexperienced students, heavily recruited by online colleges.

Trying to escape the stigma that their bad behavior created, and the remaining regulations governing for-profit schools, some for-profits have converted to non-profit, but they retain for-profit companies that hold lucrative contracts and keep a grip on management.⁴¹ The disturbing deal between Kaplan and Purdue is one example.⁴²

With the Dream Center, the Department first approved the change of ownership, but eventually lost faith and sought new management. All of this was done behind closed doors, and was mismanaged by senior Department officials.⁴³ The Department directed the sale of many of the schools to an unknown non-profit called the Education Principle

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https://tcf.org/content/about-tcf/tcf-estimates-bang-tuition-buck-5000-colleges-nationwide/?mc_cid=bed82ca973&mc_eid=a289d0bb6e&session=1

³⁹ <https://www.huffpost.com/highline/article/capitalist-takeover-college/?guccounter=1>

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<https://www.brookings.edu/research/the-failings-of-online-for-profit-colleges-findings-from-student-borrower-focus-groups/>; <https://mason.gmu.edu/~sprotops/OnlineEd.pdf>

⁴¹ <https://www.republicreport.org/2018/betsy-devos-facilitates-profit-colleges-conversion-therapy/>

⁴² See

<https://tcf.org/content/commentary/purdue-university-global-profit-college-masquerading-public-university/>;
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<https://www.republicreport.org/2017/durbin-brown-warn-purdue-president-on-deal-with-shameful-for-profit-kaplan/>

⁴³ <https://www.republicreport.org/2019/devos-fiddles-schools-burn/>;
<https://www.republicreport.org/2018/devos-aide-tailors-decisions-to-the-predatory-colleges-who-employed-her/>;
<https://www.republicreport.org/2018/leaked-recording-dream-center-exec-blames-durbin-edmc-accreditors-but-not-devos/>

Foundation, and directed that a for-profit company called Studio be paid to provide services to the schools. No one explained to the public that a private equity firm called Colbeck was behind both the foundation and Studio; I had to find that out myself and publish it.⁴⁴ As to the schools slated to be shut down, students didn't know anything until their campuses were ready to close. With Dream Center, Studio, a court-appointed receiver, and the Department all squabbling and accusing each other, day to day decisions affecting students have somehow been left to a federal judge in Cleveland for much of this year.⁴⁵

The recent sudden shut-downs of most schools of troubled for-profits Education Corporation of America and Vatterott were also debacles, with more DeVos Department missteps, leaving students locked out in the cold, their futures in doubt, and handing taxpayers more obligations to finance bailouts.⁴⁶ Schools enrolled students until the bitter end, banking as much taxpayer cash as they could, not informing new enrollees that their school was about to close.

Schools in all three chains -- ECA, Vatterott, and DCEH -- were among the worst performers in the January 2017 test of the gainful employment rule⁴⁷, demonstrating that the regulation, which Secretary DeVos now proposes to cancel, was on its way to doing its job. The abrupt shutdowns underscored the school operators' lack of concern for students and suggested, along with their overall records of poor performance and deceptive behavior, that they should have been cut off from federal aid a long time ago.

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<https://www.republicreport.org/2019/devos-backed-deal-would-allow-secretive-non-profit-to-enrich-related-for-profit/>

⁴⁵ <https://www.republicreport.org/2019/whos-who-in-devos-dream-center-college-collapse/> ;
<https://www.republicreport.org/2019/devos-fiddles-schools-burn/>

⁴⁶ <https://www.republicreport.org/2018/devoss-absurd-attack-on-for-profit-colleges-sudden-shutdown/>;
<https://www.republicreport.org/2018/accreditor-withdraws-approval-of-for-profit-college-tied-to-romney/>

⁴⁷ <https://www.chronicle.com/article/Here-Are-the-Programs-That/238851>

Among the big chains that remain open are the ones run by the Center for Excellence in Higher Education (CEHE) -- CollegeAmerica, Stevens-Henager, Independence University. After the Obama administration refused to recognize these schools as non-profit, CEHE sued. Last December, CEHE quietly dismissed that lawsuit, but we don't know why. Has the DeVos Department agreed to now treat the schools as non-profit? Did CEHE make any concessions? I've asked the Department repeatedly but received no answer. We do know Colorado's attorney general took CollegeAmerica to trial on fraud charges, a case still pending, as is a fraud case the Justice Department is pursuing against the schools.⁴⁸

Another big school, Grand Canyon, has, with Department approval, converted to non-profit. Earlier this year, the school's president, who is also CEO of Grand Canyon's for-profit arm, bragged to Wall Street investors that money was flowing in, because prospective students love to hear the school is non-profit.⁴⁹

Yet another chain converting to non-profit is Ashford University, which has faced multiple law enforcement investigations for deceiving students.⁵⁰ Ashford proposes, like Grand Canyon, to have a for-profit arm servicing a non-profit school. Ashford's accreditor, WASC, has put on hold the school's application for conversion to non-profit status. Ashford's sustained misconduct should disqualify it from running a non-profit institution and from receiving federal aid. But it is still getting hundreds of millions annually from taxpayers.

DeVry University agreed in 2016 to a \$100 million settlement of deceptive practices charges with the FTC. DeVry's owners announced some serious reforms to protect students. But then they, with the approval of the DeVos

⁴⁸ <https://www.republicreport.org/2019/shielded-by-devos-but-college-chain-faces-accreditor-sanctions/>

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<https://www.republicreport.org/2019/predatory-online-colleges-brag-of-big-earnings-under-booster-betsy-devos/>

⁵⁰ <https://www.republicreport.org/2019/clash-over-ashford-univ-casts-doubt-on-va-protection-of-students/>

Department, sold the 30,000-student school to California's Cogswell College, with just 600 students. The Department, and Cogswell, have never answered my questions about who owns Cogswell and whether they will keep the reforms.⁵¹

Then there's Career Education Corp., which recently boasted that 2018 was "a watershed year... with operating income the highest it has been in almost a decade."⁵² CEC's predatory practices have led to numerous law enforcement investigations, including a \$494 million settlement this year with 49 state attorneys general.

Secretary DeVos's top two higher education aides, Diane Auer Jones and Robert Eitel, both worked as senior executives at Career Education Corp. through 2015. Carlos Muniz, who was until recently the Department's general counsel, represented Career Education Corp. in the fraud case pursued by the state AGs, even after the Senate HELP committee approved his nomination.⁵³

Diane Auer Jones also was previously an expert witness hired by CollegeAmerica in its Colorado fraud case, and a consultant to the main for-profit college trade association, APSCU (now called CECU).⁵⁴ Robert Eitel previously worked at Bridgepoint Education (now called Zovio), operator of Ashford University.⁵⁵

⁵¹ <https://www.republicreport.org/2018/mysterious-deal-take-devry-university-private/>

⁵²

<https://www.republicreport.org/2019/predatory-online-colleges-brag-of-big-earnings-under-booster-betsy-d-evos/>

⁵³

<https://www.republicreport.org/2019/career-education-corp-tied-to-devos-aides-pays-millions-to-settle-state-claims-of-illegal-practices/>

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<https://www.republicreport.org/2018/devos-aide-tailors-decisions-to-the-predatory-colleges-who-employed-her/>

⁵⁵ <https://www.nytimes.com/2017/03/17/business/education-for-profit-robert-eitel.html>

Other top DeVos higher education officials also previously worked at or for poorly-performing for-profit education companies.⁵⁶

Congress should be asking whether these former for-profit college executives who are now Department of Education officials have recused themselves from matters as required by applicable law. More broadly, Congress should be asking whether these officials, along with Secretary DeVos, have been acting in the best interests of students and taxpayers in carrying out their duties. In my view, their actions have only aided predatory schools.

⁵⁶ <https://www.republicreport.org/2018/urgent-tell-devos-today-dont-abandon-ripped-off-students/>