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THE CENTURY FOUNDATION

March 15, 2016

Sent via electronic mail

Awet Kidane
Director
California Department of Consumer Affairs
1625 North Market Blvd., Suite N 112
Sacramento, CA 95834

RE: Innovative Subject Matters Task Force Report

Director Kidane:

Thank you for agreeing to receive our input regarding the Innovative Subject Matters Task Force Report. As you know, we are concerned that the draft recommendations of the Task Force are not comprehensive because the Task Force lacks the student, consumer, employer, and higher education expert voices critical to making sound policy recommendations. As advocates for low-income students in California, we believe these high technology institutions are too new and untested to justify rushing to create exemptions or to expedite approval procedures on their behalf. We urge the Department of Consumer Affairs (DCA) and the Bureau for Private Postsecondary Education (Bureau) to proceed with caution, as student livelihoods are at stake.

Below please find our concerns with the Task Force Report recommendations and our feedback on the process and operations of the Task Force itself. With this letter, our aim is to provide some of perspectives the Report is currently lacking. ***Thus, we request that the Bureau include this letter as an attachment to the Task Force Report, and that it be included with the Report on the Bureau's website as well as anywhere else the Report is published.***

I. Responses to Task Force Report Recommendations

The Task Force was created by SB 1247, and tasked with the duty of "review[ing] standards for educational and training programs specializing in innovative subject matters and instructing students in high-demand technology fields." Education Code § 94880.1 states that the Task Force may be comprised of "postsecondary education experts, owners of institutions, consumer advocates focused on education, high technology employers, students of short-term focused high technology training programs, and providers of high technology training." However, the composition of the Task Force consists primarily of industry representatives and employees of institutions. Of the five members of the Task Force, two are employed by high technology coding schools, two are members of the Advisory Committee,[1] and one – who is currently employed as an Accreditation Consultant – is described as a "Postsecondary Education Expert."

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[1] One of these members is also employed by a for-profit institution currently being sued by multiple governmental agencies including the Securities and Exchange Commission, the Consumer Protection Financial Bureau, and 14 state attorneys general for making false and misleading statements intended to defraud potential students. *See* United States Securities and Exchange Commission v. ITT Educational Services, Inc., 2014, available at

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Therefore, we ask that the Task Force Report include a disclaimer in the introduction specifically stating that 4 of the 5 members of the Task Force are employed by for-profit postsecondary institutions, and that there were no high technology students, employers, or consumer advocates included in the Task Force membership.

The Task Force Report contains eight recommendations for the state legislature, however it contains no information about the potential dangers programs of this nature may present to students, such as high interest private loans, lack of support from inexperienced faculty and staff, mischaracterization of the programs, inability to meet employer expectations, and lack of reliable data to support schools' claims of success.[2] Further, it makes no mention of the new issues which are likely to emerge with the U.S. Department of Education beginning to provide Federal Aid for these programs,[3] or the predatory programs which have historically taken advantage of the availability of public funds to prey on vulnerable populations such as students of color and veterans.[4] We therefore recommend that the Report be amended to include this information, and that students are provided with appropriate warnings about these risks prior to enrollment.

The Task Force Report perpetuates the myth that everyone trained in the computer programing field will get a well-paying job. However, California has a long history of bad computer training programs. In the 1980s, a computer training school known as National Technical Institute contributed to an explosion of student loan defaults and the eventual collapse of one of the student loan guaranty agencies.[5] The State Attorney General at the time found that the school "misled its students and provided poor education..., falsely claimed that graduates would qualify for entry level computer jobs, that student loans would not have to be repaid until graduates obtained jobs, and that the dropout rate was far lower than the actual dropout rate of 91%."[6] It was as a result of this fallout that California gained the shameful reputation for being the diploma-mill capital of the world.

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http://www.sec.gov/litigation/complaints/2015/comp-pr2015-86.pdf; Consumer Financial Protection Bureau v. ITT Educational Services, Inc., 2015, available at http://files.consumerfinance.gov/f/201402_cfpb_complaint_ITT.pdf; State of New Mexico v. ITT Educational Services, 2014, available at https://www.insidehighered.com/sites/default/server_files/files/New%20Mexico%20ITT%20complaint.pdf. *See also* David Halperin, *Law Enforcement Investigations and Actions Regarding For-Profit Colleges*, Public Report April 9, 2014, available at http://republicreport.wpengine.com/2014/law-enforcement-for-profit-colleges/

[2] *See* R. A. Schuetz, *Coding Bootcamps Seen as a Way into the Techie Class*, The Potrero View, Aug. 2015, available at http://www.potreroview.net/coding-bootcamps-seen-as-a-way-into-the-techie-class; *see also* Sarah Grant, *Are You Wasting Your Money at Coding Boot Camp?* Bloomberg Business, Nov. 10, 2015, available at http://www.bloomberg.com/news/articles/2015-11-10/are-you-wasting-your-money-at-coding-boot-camp-.

[3] Patricia Cohen, *New Federal Program Offers Students Aid for Nontraditional Education*. The New York Times, Oct. 14, 2015, available at http://www.nytimes.com/2015/10/14/business/program-offers-new-federal-aid-to-students.html?_r=0.

[4] *See* Salvador Rodriguez, *Coding Boot Camps Go After Veterans to Take Silicon Valley's Vacant Tech Jobs*, International Business Times, Nov. 8, 2015, available at http://www.ibtimes.com/coding-boot-camps-go-after-veterans-take-silicon-valleys-vacant-tech-jobs-2174421.

[5] *See* Senate Committee on Governmental Affairs, *Abuses in Federal Student Aid Programs*, 1991, available at http://files.eric.ed.gov/fulltext/ED332631.pdf

[6] Patrice Apodaca, *Trade School Stops Accepting New Students*, Nov. 21, 1989, available at, http://articles.latimes.com/1989-11-21/business/fi-249_1_national-technical-schools

The recommendations that are included in the Report are largely focused on ways to streamline the application and approval process for schools to operate, which makes sense given the membership of the Task Force and the perspectives they represent. Below please find our suggested amendments to the recommendations, which we believe to be necessary to better serve the needs of students:

Task Force Recommendation 1: *"Include in the course catalog a detailed section that addresses the rigor involved with the program."*

> **Advocate Response:** <u>Create a mandatory refund period for high technology students.</u>

Students should absolutely understand the financial and other expectations of any educational program. Simply including a statement that the program is rigorous, however, will not provide a effective safeguard for students. No disclosure in a catalog is capable of giving students a realistic sense of the rigor of a coding boot camp, nor what will be expected of them. Therefore, we instead suggest that programs be required to allow for a mandatory refund period following enrollment, enabling students to experience the rigor of program first-hand, and to make an informed decision as to whether they can really commit that much time and effort. Given the expedited schedule of a 10 or 12 week program, the refund period could be very short – as little as a week – but that would be sufficient time for students to truly assess whether a boot camp style program is appropriate for them without risking the investment of tens of thousands of dollars.

Task Force Recommendation 4: *"Conduct a pilot program that aggregates and reports salary/wage information by institution from High Technology Program graduates."*

> **Advocate Response:** <u>Remove misleading data from Task Force Report.</u>

While we strongly support this recommendation and urge the Bureau to investigate using a similar system to track wage data for all students at for-profit institutions statewide, Recommendation 4 provides data reports that are unverified and biased and should be removed. In the supporting documentation provided in Appendix B, the Report provides data reports from two schools – Dev Bootcamp and General Assembly. These reports were both provided by self-interested members of the Task Force, and use self-reported data that cannot be verified. They provide misleading and unverifiable data, which do not provide any information on the industry as a whole, and therefore should be deleted from the Task Force Report.

Task Force Recommendation 5: *"Modify the SPFS to create a unique disclosure that is a better fit to the characteristics of High Technology Programs."*

> **Advocate Response:** <u>High technology programs should continue to use the same SPFS as other for-profit institutions.</u>

It is equally effective for programs to simply mark those areas of the factsheet as "not applicable," rather than creating a separate factsheet specific to these programs. It is possible, even probable given the current political climate, that these schools will be eligible for federal funding in the future, and removing those metrics from the SPFS would be premature at this time. Further, if a separate form is developed, it should be designed to serve <u>any</u> program that is not eligible for federal aid, not just computer programming courses.

Task Force Recommendation 6: *"Modify the approval to operate application process to create an expedited process for a school wishing to offer a High Technology Program in order to decrease application turn times, and bring prospective employer validation to each program."*

> **Advocate Response:** Do not expedite approval procedures for untested programs.

Although the Bureau has struggled with a long backlog of application approvals, due to improved procedures and an increase in staffing, that backlog is now significantly diminished. The Bureau's backlog has dropped from approximately 1,100 in 2010 to only 140 as of October 2015, and processing times have been reduced several times over. Thus there no longer seems to be a need for an expedited process, especially considering the fact that the Bureau attributes nearly all delays in application approval to errors the institutions themselves make in completing the application. Issues with completing introductory application paperwork should serve as a red flag for the Bureau, as recordkeeping and processing of educational data are two of the primary duties an institution must be able to accomplish in order for their students to be successful. If a school is incapable of correctly filling out their application paperwork, it should trigger additional review by the Bureau, rather than indicating the need for an expedited process.

> **Advocate Response:** Create an expedited complaint processing system for the students of new institutions.

Far more appropriate would be to create a dedicated and expedited complaint processing program, specifically targeted to address the complaints of new and untested programs, consistent with our regulatory comments on Complaint Processing and Prioritization made in April 2015.[7] Because new programs are inherently untested, it is imperative that we closely monitor and address student complaints in order to ensure that institutions do not follow the same predatory trajectory of many other predatory for-profit programs. We therefore suggest that this recommendation be amended to instead create an expedited complaint review process for new and untested educational programs.

Task Force Recommendation 8: *"Provide a mechanism for temporary approval from the Bureau for locations in rural or underserved communities for already approved institutions to provide High Technology Programs, or for institutions to partner with, for example, the California Community Colleges or other adult training programs to provide High Technology Programs in such areas."*

> **Advocate Response:** Remove Recommendation 8 from the Task Force Report.

This recommendation appears to be incomplete. The Task Force report includes only a sentence fragment following the recommendation, which states "California Community Colleges or other adult training programs…" and nothing more. Without further information it is difficult to assess the validity and efficacy of the recommendation, however our concerns about expediting any approval process remain consistent with those stated above, and we therefore suggest that this recommendation be removed.

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[7] "Complaint Investigation and Compliance Inspection Prioritization." Letter to DCA Director. Apr. 20, 2015 (on file with the author).

Conclusion

The Task Force report creates the impression that there are abundant opportunities for Californians to improve their lives and careers by learning computer coding, and that all that is required is for the State of California to clear the way for providers to make it happen. This impression sounds too good to be true because it is. Consumers are more vulnerable in this field than in others precisely because the public widely sees the technology industry as an opportunity to earn a high salary, but there exists very little verifiable data regarding the efficacy of these high technology training programs. As a result, consumer protection efforts should be <u>elevated</u> for these students – particularly if federal aid becomes available – because of the risk inherent to that widely held perception, and the Bureau and DCA should proceed with caution when considering any changes in oversight or regulation for these programs.

II. Task Force Process Concerns

The Task Force Report was presented to the Bureau Advisory Committee on February 17, 2016. At that meeting, we were surprised to hear several inaccurate statements made regarding the depth and breadth of the Task Force's review of student complaints, as well as statements minimizing the scope of the complaints that were reviewed. Task Force members further expressed the belief that high technology students are more savvy and experienced than other for-profit students, and therefore in need of less consumer protection, in order to justify recommendations to expedite approvals and enroll students faster. These inaccuracies are dangerous, in that they reinforce the incorrect perception that high technology programs are a no-risk opportunity for students. Below are some of our concerns regarding the process by which the Task Force Report was created, including the failure to solicit student, employer, or advocate participation on the Task Force, a failure to speak with relevant government representatives and members of the public due to restrictive scheduling and lack of remote participation, and a lack of unbiased student and employer speakers for the Task Force to question.

At the February meeting, Task Force members asserted that they had considered the live testimony of several boot camp students, but failed to mention these students were handpicked by the high tech programs represented on the Task Force. On July 16, 2015, members indeed heard testimony from several former students, as well as employers in the field. The students, however, had graduated from Dev Bootcamp – the institution Task Force member John Carreon represents – and from General Assembly – the institution represented by Task Force member Liz Simon. These graduates appeared to be selected by Mr. Carreon and Ms. Simon, and unsurprisingly they testified about the benefits they received from their educational experience. Unfortunately, these students did not represent the diverse perspective necessary for the Task Force to consider. The two employers who spoke also had relationships with either Dev Bootcamp or General Assembly.

Also at the February meeting, several members of the Task Force asserted that the Bureau had provided some 30 pages of student complaints and testimony for the Task Force to review. This statement is patently false. The Bureau only provided the Task Force with a brief overview of student complaints, consisting of a 1-page bullet point list and a sampling of student complaints,

which was only compiled after a request from Public Advocates (attached as Appendix A).[8] This list was not included in the Report, although it can be found in the September 16 meeting materials. Public Advocates additionally requested that the Bureau assist in conducting outreach to former and current students of these high technology programs to try to provide a broader student perspective to the members of the Task Force, but that request went unanswered.[9] Instead, Public Advocates independently conducted research on complaints and concerns students of these schools had posted online, and provided these to the Bureau.[10] Those complaints were never provided to the Task Force according to our best knowledge, nor are they mentioned in the final draft of the Report.

Finally, we wish to comment about the logistics of the Task Force meetings, which were not conducive to soliciting diverse perspectives. As the Task Force addresses in its Methodologies section, due to the limited number of meetings and difficulty scheduling, many of the guest speakers the Task Force should ideally have heard from with were unable to attend the Task Force meetings. This issue was compounded by the fact that none of the meetings allowed for remote participation or utilized conference calls to enable members of the public or guest speakers to participate, limiting the opportunity to comment to those advocates who were able to travel to attend the meetings. This severely limited the scope and breadth of the comments the Task Force received, and further skewed the Report's perspective away from student interests.

Conclusion

Because the Bureau's highest priority is student protection,[11] and because DCA is charged with the duty of ensuring that protection remains the Bureau's primary focus,[12] we request that DCA include this letter as an attachment to the Task Force Report, integrate these responses, and submit more student-focused recommendations to the Advisory Committee for approval and submission to the Legislature. The Bureau's priority of protecting student and consumer interests extends to the Task Force, and we urge DCA to ensure that the Task Force Report represents these interests.

Sincerely,

Leigh Ferrin
Lead Attorney
Public Law Center

Ed Howard
Senior Counsel
USD Center for Public Interest Law
USD Children's Advocacy Institute
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[8] Task Force meeting minutes, Aug. 18, 2015, available at
http://bppe.ca.gov/about_us/meetings/minutes_20150818.pdf
[9] Email from Angela Perry to Bureau Chief Joanne Wenzel, Sept. 9, 2015. (On file with the author.)
[10] Email from Angela Perry to Bureau Research Analyst Ben Triffo, Aug. 31, 2015. (On file with the author.)
[11] Cal. Ed. Code § 94875.
[12] Cal. Ed. Code § 94876(a).

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CC: Joanne Wenzel, Bureau Chief
       Members of the Advisory Committee

Appendix A

<u>High Technology Program Student Complaint Summaries</u>

The below complaint summaries are compiled from both Bureau received complaints and those found on various reputable industry websites (coursereport.com, quora.com). Complaints that were chosen from websites were those that were not entirely negative (zero or one star reviews), but offered a balanced review of the institution. These complaints have been presented in a brief summary form (there will be no student/institution names provided) in order to ensure privacy and confidentiality. For the sake of simplicity, these summaries have been categorized by complaint topic.

Curriculum/Education:

- The school did not deliver as promised and students had to teach themselves. There was a lack of guidance and education from instructors.
- The institution's website was misleading; they advertised that no coding experience was needed, but the course work was not at an introductory level.
- Though the instructors were great coders they did not provide a quality instruction. There was a lack of support from the instruction staff.
- Some instructors were recent graduates from the institution.
- The pre-work was not adequate preparation if you had no prior experience.

Refund:

- The "money back guarantee" in the contract which was different than the advertisement on the website.
- School refused to refund a deposit to a student that never attended class.
- The institution failed to provide refunds when student withdrew or was terminated.

Non-Program Related Issues:

- Students were required to perform manual labor such as yard work, and cleaning bathrooms and carpet.
- Living conditions for students were unsanitary.

Career Assistance:

- The Outcomes and Job Assistance Staff changed multiple times, making you feel that you are on your own for your job search.
- The "Recruiter Network" that was promised did not seem to exist, had to find a job on craigslist.