



December 12, 2017

The Honorable Virginia Foxx
Chairwoman
Education & Workforce Committee
2262 Rayburn House Office Building
Washington, DC 20515

The Honorable Bobby Scott
Ranking Member
Education & Workforce Committee
1201 Longworth House Office Building
Washington, DC 20515

Re: PROSPER Act (H.R. 4508)

Dear Chairwoman Foxx & Ranking Member Scott:

On behalf of the National Association of Councils on Developmental Disabilities (NACDD), I am writing to express strong concerns about the Promoting Real Opportunity, Success, and Prosperity Act (PROSPER Act) which reauthorizes the Higher Education and Opportunity Act (HEOA). NACDD advocates for greater inclusion and access for students with disabilities in higher education, including career and technical programs, and believes all students deserve equal access to higher education free from discrimination. Unfortunately, the PROSPER Act fails to meet the need of students with disabilities because it reduces access to higher education for students with disabilities and other underserved student and eliminates several programs that are critical to the success of students with disabilities and the educators who instruct them in K-12 and postsecondary programs.

NACDD is a nonprofit, nonpartisan organization that serves as the national voice of the 56 state and territorial Councils on Developmental Disabilities (DD Councils). Because the DD Councils are federally funded, governor appointed entities with memberships that are at least 60% persons with developmental disabilities and immediate family members, our DD Councils are in a unique position to provide critical feedback concerning access to higher education for students with disabilities.¹

People with intellectual and developmental disabilities want to attend college and need a way to do so. Yet students with intellectual and developmental disabilities lack access to higher education despite their desire to attend college with their non-disabled peers.² The lack of access to higher education has a profound effect on employment and economic self-sufficiency. According to the National Center for Education Statistics, lower levels of educational attainment were associated with lower employment percentages for persons with disabilities in 2015. Among 25- to 64-year-olds with disabilities, employment percentages for

¹ See Developmental Disabilities Assistance and Bill of Rights Act of 2000. Pub. L. 106-402. 114 Stat. 1677. 30 October 2000. Congress.gov. Web 30 October 2017.

² See Glatter, Hayley. "The Path to Higher Education With an Intellectual Disability." The Atlantic. May 1, 2017. Available at <https://www.theatlantic.com/education/archive/2017/05/the-path-to-higher-education-with-an-intellectual-disability/524748/>

those who had not completed high school (15 percent) or had completed only high school (22 percent) were lower than for those who had completed some college (31 percent), an associate's degree (35 percent), or a bachelor's or higher degree (45 percent).³

NACDD joins with the many education and civil rights groups who have expressed concern about the PROSPER Act because it greatly reduces access to higher education for students with disabilities and other underserved students. The bill makes higher education significantly less affordable for low-income students with disabilities by eliminating repayment and loan forgiveness options that low-income students with disabilities have under current law. It requires lower-income students to pay the interest on their loans while they are in school; eliminates loan forgiveness for borrowers who work in low-wage public service careers; and, provides low-income and distressed borrowers a new, less supportive income-based repayment plan. Additionally, the legislation eliminates the loan forgiveness for teachers, many of whom use this provision teach in low income and high poverty schools where large populations of students with disabilities are educated.

The Amendment in the Nature of a Substitute (ANS) contains an unacceptable safe harbor provision that may circumvent Americans with Disabilities Act (ADA) and Rehabilitation Act. Although the bill takes a step forward in establishing an independent commission to develop voluntary guidelines for accessible postsecondary electronic instructional materials and related technologies, it does so by effectively substituting the commission's judgment for the Department of Justice about what constitutes ADA compliance, which may prevent the Department from enforcing the ADA when it would otherwise deem necessary. The safe harbor also provides legal protection to an institution that merely requires the use of accessible instructional material but does not enforce the policies.

NACDD is very concerned that the PROSPER Act eliminates several programs that are critical to overcoming obstacles faced by students with disabilities including:

- The PROSPER Act eliminates grant programs that support faculty who work with students with disabilities and provide accessible materials in college. This will make it more difficult for students with disabilities to secure technology and accessible materials in postsecondary education. Furthermore, it will leave college faculty with fewer resources and less training to support and instruct students with disabilities.
- The PROSPER Act includes a Pell Grant provision that may present additional barriers and diminish eligibility for students with disabilities in need of financial aid. Students with disabilities in higher education may use accommodations that provide greater flexibility with their schedules and course loads to allow them to meet their academic goals. They should not be denied financial aid based on this. Students with disabilities must be eligible for the same types of financial aid, such as Pell Grants, as all other students. Federal law should ensure that students with disabilities are accommodated if they cannot meet requirements due to their disability.

³ National Center for Education Statistics. "Disability Rates and Employment Status by Educational Attainment." Available at: https://nces.ed.gov/programs/coe/indicator_tad.asp

Furthermore, the bill targets for elimination programs that support the educators who instruct students with disabilities in K-12 and postsecondary programs.

- The PROSPER Act eliminates programs that support teachers. The PROSPER Act removes all of Title II from HEOA, which included grants that improve teacher quality and incentivize teachers to serve in high-need areas like special education. In addition, it eliminates the TEACH grants, which provide financial assistance to individuals who choose to pursue careers in public service, including educators and other school professionals. Eliminating these programs will only exacerbate the special education teacher shortage crisis that 98% of school districts are already facing⁴ and limit the services and supports available to students with disabilities.

The bill also squanders an opportunity to improve access to higher education for students with disabilities by failing to include NACDD endorsed improvements including:

- The PROSPER Act does not include the RISE Act. The PROSPER Act fails to include an essential component of the RISE Act that would require colleges and universities to accept a student's individualized education plan (IEP) or 504 plan as evidence of their disability. The RISE Act is a bi-partisan proposal that seeks to help more students with disabilities get in the door of their college's Disability Service Office and seek the accommodations they need to succeed.
- The PROSPER Act does not meaningfully include universal design for learning (UDL) in any provisions that address post-secondary instruction or accessibility for students with disabilities. UDL is critical to ensuring that students with disabilities are provided an equal opportunity to participate in higher education. Any reauthorization of HEA should include opportunities for IHEs to develop campus-wide UDL strategies and for faculty to incorporate UDL as a strategy to improve instruction for students with disabilities.

However, I am grateful to the committee members for their work in finding bipartisan agreement on four important disability related provisions that should be maintained in the final bill:

- (1) The bill includes new, improved data collection on students with disabilities and their postsecondary completion rates that will be publicly shared on the federal College Dashboard;
- (2) The bill includes new IMPACT grants to improve post-secondary access and completion for disadvantaged groups, including students with disabilities;
- (3) The bill maintains the National Technical Assistance Center that provides information to students and families on post-secondary options and supports college faculty in serving students with disabilities;
- (4) The bill maintains the Transition and Postsecondary Programs for Students with Intellectual Disabilities (TPSID) program which provides grants for individual supports and services for the academic and social inclusion of students with intellectual

⁴ Higher Education Consortium for Special Education. "Shortage of Special Education Expertise Among Teachers and Higher Education Faculty." Available at: <https://specialedshortages.org/wp-content/uploads/2014/03/HECSE-Shortage-Special-Education-Expertise-Among-Teachers-Faculty.pdf>

disabilities in academic courses, extracurricular activities, and other aspects of the institution of higher education's regular postsecondary program.

Although these provisions of the PROSPER Act add some promising new programs and data collection specific to persons with disabilities, these improvements alone do not overcome the overwhelming deficiency of the bill caused by its reduction of access to higher education for persons with disabilities and other underserved groups. The drastic reduction in financial assistance to students with disabilities and elimination of programs which provide access to higher education for students with disabilities shows that members of Congress are out of touch with home-state priorities and moving in the wrong direction.

The DD Councils have long worked with state lawmakers who have identified higher education for students with disabilities as a gateway to increased community integration and economic self-reliance for persons with disabilities. For example, the Maryland Developmental Disabilities Council worked with coalition groups to educate the state legislature on why new investments in inclusive higher education for students with disabilities is necessary now more than ever.

Earlier this year, the Maryland DD Council provided technical assistance to lawmakers who in turn passed the "James W. Hubbard Inclusive Higher Education Grant Program" which will increase access and opportunity to higher education people with intellectual and developmental disabilities. These grants will be used to support programs to develop and implement inclusive higher education programs for people with intellectual and developmental disabilities, proven to significantly increase rates of employment and ensure students with intellectual and developmental disabilities are fully included in academics and campus life.

Students with disabilities and parents are urging more access to higher education. Testifying in favor of the new Maryland law, Florence August, the mother of a 19 year old with Down Syndrome stated:

"Our community group of more than 180 families who have a child or sibling who has Down syndrome seeks to support our high school graduates to reach for the opportunities that are given typical teenagers in pursuing a college education. This experience will not only help with employment after college, but more importantly to help them experience the true lessons at college in living with a roommate, playing on intermural sports teams and the thrill of spectating and cheering on the varsity school teams, caring for their peers, dining, joining clubs and interest groups and negotiating the trials that college presents. These are all experiences to which they can contribute in support of their typical peers. Inclusion in college is the future [and] this young generation is undaunted and quite comfortable with peers of all abilities because of all the accomplishments we have achieved with in our schools. It is time to support our students who wish to continue their higher education. It is time that higher education is enhanced by our students joining them."⁵

Because the PROSPER Act does little to help students with developmental disabilities overcome multiple attitudinal, environmental, financial and other barriers in accessing

⁵ Maryland House of Delegates Committee on Ways and Means. "Testimony of Florence August in Support of James W. Hubbard Inclusive Higher Education Grant Program, House Bill 971." March 7, 2017.

postsecondary education, and indeed eliminates programs important to success for students with disabilities, we urge the committee to make improvements to the bill during the committee mark-up which address the concerns listed above.

Higher education increases opportunities for students with disabilities to attain meaningful pathways to economic stability which benefits us all. NACDD and the DD Councils are ready to work with the committee as you continue your critical work to fulfill your role in ensuring access, equity and opportunity for all students including students with disabilities in higher education. Please feel free to contact me if you have any questions at (202)506-5813 or erprangle@nacdd.org.

Sincerely,

A handwritten signature in black ink that reads "Erin Prangle". The signature is written in a cursive, flowing style.

Erin Prangle
Director, Public Policy
National Association of Councils on Developmental Disabilities
Please feel free to contact me with any questions or concerns.