

# HOW MEDIATION BETWEEN SCHOOLS AND STUDENTS WILL HELP STUDENTS COMBAT STUDENT DEBT

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## I. INTRODUCTION

Student debt has changed the American way of life and the dreams of many people of all ages. “For the 44 million who bet on themselves, borrowed money to study, and currently owe on those loans, their decisions and ambitions are shaped by the burden of early debt.”<sup>1</sup> The daydreams of owning a house with a white picket fence, or even a house in general, and saving for retirement are quickly fading as people are not able to save money to provide for families.<sup>2</sup> “Men and women laboring under student debt ‘are postponing marriage, childbearing and home purchases.’”<sup>3</sup> Student debt is “evidently limiting the percentage of young people who start a business or try to do something entrepreneurial.”<sup>4</sup> The problem and impact of student debt is catastrophic and does not seem to be going away any time soon. Although “[h]igher education is supposed to be the great equalizer, the one-way ticket to the security and prosperity of the middle class,”<sup>5</sup> this is very far from the truth. These individuals often find themselves with less security

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<sup>1</sup> Ephrat Livni, *\$1.5 Trillion of Student Loan Debt Has Transformed the American Dream*, QUARTZ (Aug. 24, 2018), <https://qz.com/1367412/1-5-trillion-of-us-student-loan-debt-has-transformed-the-american-dream>.

<sup>2</sup> Kelley Holland, *The High Economic and Social Costs of Student Loan Debt*, CNBC (June 15, 2015, 10:39 AM), <https://www.cnbc.com/2015/06/15/the-high-economic-and-social-costs-of-student-loan-debt.html>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Claire Tran, *The Neighborhoods Buried In Student Debt*, CITYLAB (Oct. 19, 2018), <https://www.citylab.com/equity/2018/10/neighborhoods-buried-student-debt/573187>.

and prosperity and actually farther from where they started.<sup>6</sup> “Ten years after the 2008 financial crisis, there are headlines of record low unemployment and a booming economy. Yet one area has only worsened over the decade and threatens that recovery: student debt.”<sup>7</sup> There has not been an efficient way to combat the problem that plagues these millions of borrowers.

The amount of debt and the number of borrowers rise every year and there is no end in sight.<sup>8</sup> In 2015, there was more than \$1.2 trillion in student loan debt spread out among 40 million borrowers.<sup>9</sup> In May 2018, it was reported that, “Americans owe over \$1.48 trillion in student loan debt, spread out among 44 million borrowers.”<sup>10</sup> This epidemic needs to be controlled, but there is no sure way to combat this ever increasing problem.

People continue to default on their loans, which puts them further behind the goals they once set for themselves. A default on a loan is when “a person has not made a payment towards their education debt in roughly a year, triggering it being sent to a third-party collection agency.”<sup>11</sup> “More than 1 million student loan borrowers each year go into default.”<sup>12</sup> A study in 2017 reported that in the last quarter of that year, there were close to 23,000 borrowers that defaulted on their loans for a second time, and in the same quarter of 2017, more than 226,000 borrowers defaulted for the first time on their loans.<sup>13</sup> It is projected that among students who took out loans in 2004, almost 40% of them will default on paying it back by 2024.<sup>14</sup> “The country’s outstanding student loan balance

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<sup>6</sup> *Id.*

<sup>7</sup> Annie Nova, *Despite the Economic Recovery Student Debtors’ ‘Monster in the Closet’ Has Only Worsened*, CNBC (Sept. 22, 2018, 9:00 AM), <https://www.cnbc.com/2018/09/21/the-student-loan-bubble.html> [hereinafter Nova, *Despite Economic Recovery*].

<sup>8</sup> *Id.*

<sup>9</sup> Holland, *supra* note 2.

<sup>10</sup> Student Loan Hero, *A Look at the Shocking Student Loan Debt Statistics for 2018*, (May 1, 2018), <https://studentloanhero.com/student-loan-debt-statistics>.

<sup>11</sup> Annie Nova, *More Than 1 Million People Default on Their Student Loans Each Year*, CNBC (Aug. 13, 2018, 1:51 PM), <https://www.cnbc.com/2018/08/13/twenty-two-percent-of-student-loan-borrowers-fall-into-default.html> [hereinafter Nova, *More Than 1 Million People Default*].

<sup>12</sup> *Id.*

<sup>13</sup> Betsy Mayotte, *Understand the Consequences of Student Loan Debt*, U.S. NEWS (Mar. 4, 2015, 10:00 AM), <https://www.usnews.com/education/blogs/student-loan-ranger/2015/03/04/understand-the-consequences-of-student-loan-default>; Betsy Mayotte, *When Getting Your Loans Out of Default Is A Bad Idea*, U.S. NEWS (Aug. 9, 2017), <https://www.usnews.com/education/blogs/student-loan-ranger/articles/2017-08-09/when-getting-your-loans-out-of-default-is-a-bad-idea>.

<sup>14</sup> Robert Gebelhoff, *Projections for Student Loan Defaults are Terrifying. It’s Time to Act*, WASH. POST (Jan. 22, 2018, 4:12 PM), <https://www.washingtonpost.com/blogs/post-partisan/wp/>

is projected to swell to \$2 trillion by 2022, and experts say a large portion of it is unlikely to ever be repaid; nearly a quarter of student loan borrowers are currently in a state of delinquency or default.”<sup>15</sup> People are constantly allocating percentages of each paycheck to help pay off their own student loan debt and try to avoid default.<sup>16</sup> “Americans pay an average of 6 percent of each paycheck towards student loans, but in large cities that tend to have more young and low-income borrowers, like New York City or Washington, D.C., the debt burden can surpass 10 percent.”<sup>17</sup> Defaulting on a loan will lower a person’s credit score by nearly “60 points, to an average of 550, which is considered very poor” and force a person to pay close to double per month on student debt than he would on groceries.<sup>18</sup> Borrowers should not face decisions of paying off part of their student debt or supplying food for their families. “During the second quarter of 2018, more than 10 percent of student loans were at least 90 days past due. That was down slightly from a couple of years ago, but higher than the peak for mortgage delinquencies during the last crisis.”<sup>19</sup> Although there has been a recent drop in defaults from a couple of years ago the number of defaulting borrowers continues to increase.<sup>20</sup> “To make matters worse, defaulting on your education debt also increases the balance, which is likely due to collection fees and the accumulation of interest. After default, the Urban Institute found, a student loan borrower will see [one’s] balance balloon by around 10 percent.”<sup>21</sup> If in default, the federal government—with notice—will seize your tax refund without any type of court order or action.<sup>22</sup> Additionally, the federal government can collect the debt by taking a percentage of your spouse’s tax return if filed jointly, through your Social Security and through wage garnishment.<sup>23</sup> The

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2018/01/22/projections-for-student-loan-defaults-are-terrifying-its-time-to-act/?noredirect=on&utm\_term=.818d4fa4b7e7.

<sup>15</sup> Nova, *Despite Economic Recovery*, *supra* note 7.

<sup>16</sup> Tran, *supra* note 5.

<sup>17</sup> *Id.*

<sup>18</sup> Nova, *More Than 1 Million People Default*, *supra* note 11; Tran, *supra* note 5.

<sup>19</sup> Matt Phillips & Karl Russell, *The Next Financial Calamity Is Coming. Here’s What to Watch*, N.Y. TIMES (Sept. 12, 2018), <https://www.nytimes.com/interactive/2018/09/12/business/the-next-recession-financial-crisis.html>.

<sup>20</sup> *Id.*

<sup>21</sup> Nova, *More Than 1 Million People Default*, *supra* note 11.

<sup>22</sup> Betsy Mayotte, *Understand the Consequences of Student Loan Debt*, U.S. NEWS (Mar. 4, 2015), <https://www.usnews.com/education/blogs/student-loan-ranger/2015/03/04/understand-the-consequences-of-student-loan-default>.

<sup>23</sup> *Id.*

government can also sue one who has defaulted on their loan payments, which will only add fees and place the borrower's assets at risk of being seized by the government.<sup>24</sup>

A loan servicer will set up a payment plan in which one will begin to make nine "voluntary on-time, reasonable and affordable monthly payments."<sup>25</sup> Although this seems to be a simple payment plan, borrowers who have defaulted once are likely to default again because they have different priorities, like providing for their family, than those of the loan agencies.<sup>26</sup> "Rehabilitation can add a significant amount of money to your balance, the drawbacks can outweigh the benefits and even put borrowers at risk of defaulting again."<sup>27</sup> Nevertheless, some people believe the advantages outweigh the negatives because after rehabilitation the mark of one's defaulted loan is erased from the borrower's credit report.<sup>28</sup> Many people only view the positive that can result from a situation, such as having a clean credit report, and do not think about the negative: what happens if one defaults again.<sup>29</sup> People are only offered loan rehabilitation once and "more than 40 percent of borrowers who go through rehabilitation will fall back into default within three years."<sup>30</sup> A report in 2017 claimed that "borrowers who were not enrolled in an income-driven repayment plan—which sets monthly student loan payments at an amount intended to be affordable—were five times more likely to default a second time."<sup>31</sup> There are alternatives to rehabilitation such as paying the loan in full, but that can be subject to higher interest rate and fees which can total close to 25 percent.<sup>32</sup> Another alternative is to consolidate the loan, which forces the borrower to repay the loan faster and with lower fees.<sup>33</sup> One would think schools would want to help their alumni avoid default because schools risk losing their

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<sup>24</sup> *Id.*

<sup>25</sup> Nova, *More Than 1 Million People Default*, *supra* note 11.

<sup>26</sup> Carmen Reinicke, *A Teacher Defaulted on \$55,000 in Student Debt—Loan Rehabilitation Offered Hope, but Now He Owes \$130,000*, CNBC (Nov. 8, 2018, 9:00 AM), <https://www.cnbc.com/2018/11/07/rehabilitation-gives-student-loan-borrowers-a-second-chance-at-a-cost.html>.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Annie Nova, *For Some Students, What They Borrow Can End up Being a Fraction of What They Wind up Owning*, CNBC (June 7, 2018, 1:29 PM), <https://www.cnbc.com/2018/06/07/peoples-student-loan-balances-are-spiraling-out-of-control.html> [hereinafter Nova, *For Some Students*].

<sup>31</sup> Reinicke, *supra* note 26.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

financial aid programs if too many graduates from their university or institution default on their debt in the first three years of their repayment.<sup>34</sup> “In 2016, 10 schools were subject to the Education Department’s sanctions.”<sup>35</sup> The school sanctions have continued to climb year after year.<sup>36</sup>

Big banks on Wall Street and President Trump are bragging about how the economy is improving, but all that success has not increased wages for graduates that are paying more and more for undergraduate and graduate degrees.<sup>37</sup> “Borrowing is unlikely to slow any time soon, as the cost of an education in this country is only rising. State funding for public colleges fell by \$9 billion between 2008 and 2017, and schools have filled the gap with tuition hikes.”<sup>38</sup> This drop-in funding forces students to bear the majority of the cost. “Federal student loans are the only consumer debt segment with continuous cumulative growth since the Great Recession.”<sup>39</sup> 2017 was the first time that “half of all states relied more heavily on tuition than on government appropriations to fund higher public education.”<sup>40</sup> Americans are spending twice as much as the average developed country on each student per year.<sup>41</sup> “Student loans have seen almost 157 percent in cumulative growth over the last 11 years. By comparison, auto debt has grown 52 percent while mortgage and credit-card debt actually fell by about 1 percent.”<sup>42</sup>

“By failing to deliver on their promises, colleges are causing a widespread debt crisis in this country and creating long-term financial challenges for their students. If no action is taken, this crisis will only continue to grow worse every year.”<sup>43</sup> With the continuation of escalating student debt, now is the perfect time to have the

<sup>34</sup> Nova, *For Some Students*, *supra* note 30.

<sup>35</sup> *Id.*

<sup>36</sup> United State Government Accountability Office, *Federal Student Loans Action Needed to Improve Oversight of Schools’ Default Rates*, (Apr. 2018), <https://www.gao.gov/assets/700/691520.pdf>.

<sup>37</sup> Riley Griffin, *The Student Loan Debt Crisis Is About to Get Worse*, BLOOMBERG (Oct. 17, 2018), <https://www.bloomberg.com/news/articles/2018-10-17/the-student-loan-debt-crisis-is-about-to-get-worse>.

<sup>38</sup> Nova, *Despite Economic Recovery*, *supra* note 7.

<sup>39</sup> Griffin, *supra* note 37.

<sup>40</sup> Nova, *Despite Economic Recovery*, *supra* note 7.

<sup>41</sup> *Id.*

<sup>42</sup> Griffin, *supra* note 37.

<sup>43</sup> Brendan Pringle, *Student Debt Crisis is Worse Than You Think*, WASH. EXAM’R (Sept. 5, 2018), <https://www.washingtonexaminer.com/red-alert-politics/student-debt-crisis-is-worse-than-you-think>.

Universities tackle the problem head on and help their students. “Experts and analysts worry that the next generation of graduates could default on their loans at even higher rates than in the immediate wake of the financial crisis.”<sup>44</sup> People believe that because educational institutions are continuously fundraising, it should be their number one priority to hand out as many scholarships as possible.<sup>45</sup> “Colleges are raking in billions of dollars in financial aid, while students are being saddled with an unbearable amount of debt.”<sup>46</sup> Colleges are the ones who could better bear the financial burden. “Under federal law, colleges participating in the student loan program can’t let their share of borrowers who default be above 30 percent for three consecutive years or 40 percent in any single year.”<sup>47</sup> By using mediation, schools can help students to no longer be crippled by their debt and instead reinvest in themselves and their future. Section II will supply a background of our country’s education system, financial options for education and show how we reached this point in our student debt crisis. Section III will discuss whether colleges and educational institutions will become obsolete, whether there are sufficient programs to possibly make college tuition free, and explore whether other universities and schools will follow in some institutions footsteps and try to make their programs tuition free. Section IV will propose using mediation to create incentives for both students and schools to provide the most efficient way to combat the student debt crisis. Section V will conclude this Note.

## II. BACKGROUND

Student debt is more than merely economic and financial in nature since it is also governed by Americans’ belief in the value of college and graduate education.<sup>48</sup> When American colleges and higher education first started in the 19th century, many colleges were tuition free.<sup>49</sup> These schools trained students for public needs

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<sup>44</sup> Griffin, *supra* note 37.

<sup>45</sup> Pringle, *supra* note 43.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> Thomas Adam, *From Public Good to Personal Pursuit: Historical Roots Of The Student Debt Crisis*, CONVERSATION (June 29, 2017, 9:04 PM), <http://theconversation.com/from-public-good-to-personal-pursuit-historical-roots-of-the-student-debt-crisis-79475>.

<sup>49</sup> *Id.*

jobs, such as teachers, ministers, and community leaders.<sup>50</sup> The education was considered a public good as these students were trained to engage in jobs that help better society. Because of this benefit, “society was willing to pay for it—either by offering college education free of charge or by providing tuition scholarships to individual students.”<sup>51</sup> Stanford University, the College of William and Mary, and Harvard University each offered programs that fully or partially alleviated tuition costs for students throughout the late 1800s and early 1900s.<sup>52</sup> In 1904, Harvard University President Charles W. Eliot stated, “I wanted to have the College open equally to men with much money, little money, or no money, provided they all have brains.”<sup>53</sup> However, in 1927, John D. Rockefeller campaigned for private institutions and students to bear the cost of tuition.<sup>54</sup> This was the start of student loans.<sup>55</sup>

There are four main types of financial aid for undergraduate students: scholarships, grants, work-study, and loans.<sup>56</sup> Scholarships, grants, and work-study programs do not require the student to pay back the money assisting the student in the payment of their tuition and costs. In contrast, students must pay back loans taken from the federal government and paying off these loans can take decades.<sup>57</sup> Although the standard repayment plan for federal student loans is less than 10 years, it can take twice as long, if not longer, for the loans to actually be satisfied and have a zero sum.<sup>58</sup> Thousands of people have their student debt follow them well into their adult lives, and for some, the government is taking portions of their social security payments to help repay the loans incurred decades before.<sup>59</sup> Many of the older Americans, who are living

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<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> Adam, *supra* note 48.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> CollegeQuest, *What are the Different Types of Financial Aid for College Students?*, COLLEGEQUEST.COM, <http://www.collegequest.com/different-types-of-financial-aid-for-college.aspx>.

<sup>57</sup> Allie Bidwell, *Student Loan Expectations: Myth vs. Reality*, U.S. NEWS (Oct. 7, 2014), <https://www.usnews.com/news/blogs/data-mine/2014/10/07/student-loan-expectations-myth-vs-reality>.

<sup>58</sup> Abigail Hess, *This is the age most Americans pay off their student loans*, CNBC (July 3, 2017), <https://www.cnn.com/2017/07/03/this-is-the-age-most-americans-pay-off-their-student-loans.html> (“For federal student loans, the standard repayment plan expects borrowers to pay off their debt in less than 10 years. For many, however, it can take twice as long.”).

<sup>59</sup> As the New York Times’ Editorial Board explains:

Americans age 60 and older are the fastest-growing age group of student loan debtors. Older debtors, many of whom live hand-to-mouth on fixed incomes, are more

“hand-to-mouth” are more likely to default on their repayments of the loans.<sup>60</sup> When the default occurs, the government garnishes part of their social security payment, leading some Americans to fall below the poverty line.<sup>61</sup> Roughly “20,000 Americans over the age of 50 in 2015 had their Social Security checks cut below the poverty line because of student loans, with poverty-level benefits falling even further for 50,000 others.”<sup>62</sup> A 2017 study by the Federal Reserve found that “greater student loan debt causes people to delay decisions about marriage and children” because the borrowers do not want to burden others with their financial situation.<sup>63</sup> Additionally, student loan debt has lowered “the probability of enrollment in a graduate or professional degree program and reduces borrowers’ willingness to work in low-paid public interest jobs.”<sup>64</sup>

Rising student debt not only impacts individuals suffering due to loan payments, but also has a trickle-down effect to the national economy. Undertaking large loans for school ultimately effects how people choose to spend their money and every decision they make regarding personal finances well into adulthood. By being in significant debt, one’s credit ratings are considerably affected and they become even less attractive to banks and lenders due to their prior financial obligations.<sup>65</sup> The Federal Reserve Bank of New York published a study in 2017 that “examined the link between rising tuition, swelling education debt, and diminished homeownership among millennials.”<sup>66</sup> The Federal Reserve Bank of New York attributed the rise in tuition and greater debt taken on by

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likely to default. . . . About 20,000 Americans over the age of 50 in 2015 had their Social Security checks cut below the poverty line because of student loans, with poverty-level benefits falling even further for 50,000 others, according to a recent report by the Government Accountability Office.

Editorial Board, *Haunted by Student Debt Past Age 50*, N.Y. TIMES (Feb. 13, 2017), <https://www.nytimes.com/2017/02/13/opinion/haunted-by-student-debt-past-age-50.html?login=smartlock&auth=login-smartlock>.

<sup>60</sup> *Id.*

<sup>61</sup> “When that occurs with federal loans, as happens with nearly 40 percent of such borrowers who are 65 and over, the government can seize a portion of their Social Security payments—even if it pushes them over into poverty.” *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> Livni, *supra* note 1.

<sup>64</sup> *Id.*

<sup>65</sup> “Borrowing a lot of money for school influences almost every major decision people make in adulthood—in part because the debt impacts credit ratings and makes young borrowers unattractive to lenders, and in part because borrowers are worried about, or at least mindful of, their financial obligations.” *Id.*

<sup>66</sup> *Id.*

these millennials, as one of the main impacts on the United States economy. Additionally, the Federal Reserve Bank of New York has found “as much as 35% of the decline in home ownership of people in their late 20s can be attributed to student loans.”<sup>67</sup> The housing market has been obstructed due to stagnant wages and increasing debt.<sup>68</sup> Some type of restructuring must address the issue of student loans and debt.<sup>69</sup> “Institutions of higher learning in this country must take some of the responsibility for the current state of affairs in the nation’s most populous demographic group.”<sup>70</sup>

Some state policymakers are creating programs to help alleviate student debt. “Thirteen states and Washington, D.C., have passed proposals for some form of Borrower’s Bill of Rights, to ensure consumer protections by establishing a student loan ombudsman, collecting data on complaints, and developing loan education courses.”<sup>71</sup> In 2017, New York State Governor Andrew Cuomo established the Excelsior Scholarship program to provide free tuition to many low- and middle-income families throughout the state.<sup>72</sup> “Cuomo’s \$163 million plan, which was announced last month and requires approval by the state legislature, would provide free tuition to residents whose families earn less than \$125,000 per year to any of New York’s state universities (“SUNY”), city colleges (“CUNY”) or community colleges.”<sup>73</sup> The program is called the Excelsior Scholarship, a phrase borrowed from the New York State seal, to show that the education program is moving higher and upward and is of superior quality.<sup>74</sup> “The scholarship was included in the state budget to complement the Excelsior Scholarship, which starting in fall 2017 began providing tuition dollars for full-time, middle-class students attending the state’s two-

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<sup>67</sup> Matthew Michaels, *More People Than Ever are Defaulting on Student Loans—and it Could Put the US Economy at Risk*, BUSINESS INSIDER (Dec. 14, 2017, 3:39 PM), <https://www.businessinsider.com/student-loan-default-puts-economy-at-risk-2017-12>.

<sup>68</sup> Danielle DiMartino Booth, *Student Loans Are Starting to Bite the Economy*, BLOOMBERG (Aug. 20, 2018), <https://www.bloomberg.com/opinion/articles/2018-08-20/student-loans-are-starting-to-bite-the-economy>.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> Tran, *supra* note 5.

<sup>72</sup> Zack Friedman, *Why New York’s ‘Tuition-Free’ College Is Not Exactly Free*, FORBES (Feb. 6, 2017), <https://www.forbes.com/sites/zackfriedman/2017/02/06/college-free-no-student-loan/#6b83ce5960b9>.

<sup>73</sup> *Id.*

<sup>74</sup> Press Release, *Governor Cuomo Announces Excelsior Scholarship Application Open for New Applicants for 2018-19 Academic Year*, N.Y. GOV’R (Sept. 10, 2019, 9:30 AM) <https://www.governor.ny.gov/news/governor-cuomo-announces-excelsior-scholarship-application-open-new-applicants-2018-19-academic>.

and four-year colleges.”<sup>75</sup> The program and Governor Cuomo, received a great deal of criticism as people were upset that Governor Cuomo and New York State rushed to implement the Excelsior Scholarship Program; which does not eliminate the full cost of college.<sup>76</sup> Tuition would be the only cost paid by the Excelsior Scholarship program, and students participating in the scholarship program will still have to pay for room, board, and other fees that come along with attending college.<sup>77</sup> The average cost of fees at a State University of New York (“SUNY”) school is \$15,520 per year, at a City University of New York (“CUNY”) school is \$12,390, and at a community college totals \$12,300.<sup>78</sup> Governor Cuomo projected that 200,000 students would be benefiting from the program in three years, but SUNY Chancellor Nancy Zimpher testified at the budget hearing that only 80,000 students would be eligible for the program.<sup>79</sup> Additionally, this offer of free tuition did not prevent students from taking loans altogether as they are now just taking smaller loans, but many are not finishing their studies at the various colleges and universities.<sup>80</sup> Thus, while this was a good first attempt by a government program to combat student debt, it still leaves students with some significant debt when they graduate.<sup>81</sup>

Despite hearing all the horror stories, some students still want to bear the risk and stress of taking on student loans. Students apply for financial aid by filling out a Free Application for Federal Student Aid (“FAFSA”) form, that requires a form of personal identification, as well as personal and familial economic information.<sup>82</sup> “Colleges are in charge of confirming that the information on the FAFSA is accurate, and each college is allowed to set up its

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<sup>75</sup> Keshia Clukey, *Students Leave More Than Half of \$3.1M in Scholarship Money on Table*, NEWSDAY (Nov. 4, 2018), <https://www.newsday.com/long-island/education/scholarships-community-college-1.22790216>.

<sup>76</sup> *Id.*

<sup>77</sup> Friedman, *supra* note 72.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> Ellie Bruecker, *New York Excelsior Scholarship Poor Model for Free College Movement*, BADGER HERALD (Apr. 18, 2017), <https://badgerherald.com/opinion/2017/04/18/new-york-excelsior-scholarship-poor-model-for-free-college-movement/>.

<sup>81</sup> Anna Gronewold, *Report: Heavy credit requirements hinder Excelsior scholarship program*, POLITICO (Aug. 10, 2018), <https://www.politico.com/states/new-york/albany/story/2018/08/10/report-heavy-credit-requirements-hinder-excelsior-scholarship-acceptance-554818>.

<sup>82</sup> Kaitlin Mulhere, *20 Million Students Apply for Financial Aid Every Year. Here's Why Some of the Neediest Lose Out*, TIME (Nov. 29, 2017), <http://time.com/money/5040663/financial-aid-fafsa-verification-poor-students/>.

own process.”<sup>83</sup> It can take months for each school to run background checks and compare different financial aid packages to one another before offering the package to an incoming or current student.<sup>84</sup> “The federal government doesn’t release much information about what specifically triggers a verification flag, and there’s also little national data on the outcomes of the process—neither how long it takes to resolve nor how many people end up giving up on the process altogether.”<sup>85</sup>

Universities generally award merit-based scholarships centered on three categories: grade point average, standardized test scores, and strength of curriculum.<sup>86</sup> Some schools have created an incentive program, of which many students are unaware. This program is based on the transcript of the incoming student and the grades they received.<sup>87</sup> Could an incentive program evaluated throughout college with regards to grades received be better? How would students respond if they receive A’s in their classes and are awarded an additional scholarship rather than being lumped into one group of need or being required to maintain a certain GPA throughout college to retain their scholarship?

### III. DISCUSSION

#### A. *Will a College Education Become Obsolete?*

The focus of colleges and universities should be to prepare students for the “real-world.”<sup>88</sup> However, this does not always occur. “Many students find themselves swimming in debt, clinging to useless degrees, without recourse against the college that set them up for real-world failure.”<sup>89</sup> With companies such as Google, Apple, IBM, Bank of America, and others, no longer requiring college degrees of their applicants, a college education may become obso-

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<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> Lynn O’Shaughnessy, *How College Determine Merit Scholarships*, U.S. NEWS (Aug. 23, 2011), <https://www.usnews.com/education/blogs/the-college-solution/2011/08/23/how-colleges-determine-merit-scholarships>.

<sup>87</sup> *Id.*

<sup>88</sup> “While college administrations might beg to differ, the primary purpose of a college education should be to prepare students for the workforce.” Pringle, *supra* note 43.

<sup>89</sup> *Id.*

lete.<sup>90</sup> Historically, no matter the field, a college education has been a qualifier for higher earning jobs. Maggie Stilwell, Ernst and Young's ("EY") managing partner for talent, stated "[a]cademic qualifications will still be taken into account and indeed remain an important consideration when assessing candidates as a whole, but will no longer act as a barrier to getting a foot in the door."<sup>91</sup> In 2017, a Harvard Business School study found that college graduates fill up positions that do not require such a level of education.<sup>92</sup> Additionally, the study found the workers in these positions are less engaged and productive than workers they hire who only possess a high school degree and who most of the time are never given a chance for the position.<sup>93</sup>

"In 2017, IBM's vice president of talent Joanna Daley told CNBC Make It that about 15 percent of her company's U.S. hires don't have a four-year degree." Ms. Daley went on to explain that "instead of looking exclusively at candidates who went to college, IBM now looks at candidates who have hands-on experience via a coding boot camp or an industry-related vocational class."<sup>94</sup> These boot camps and industry-related vocational classes are a tenth the price of a four-year private college degree and produce graduates who are more likely to be employed than peers with various education backgrounds and credentials.<sup>95</sup> Companies, such as IBM,

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<sup>90</sup> Courtney Connley, *Google, Apple and 12 Other Companies that No Longer Require Employees to Have a College Degree*, CNBC (Oct. 8, 2018, 12:51 PM), <https://www.cnbc.com/2018/08/16/15-companies-that-no-longer-require-employees-to-have-a-college-degree.html>.

<sup>91</sup> Glassdoor Team, *15 More Companies That No Longer Require a Degree – Apply Now*, GLASSDOOR (Aug. 14, 2018), <https://www.glassdoor.com/blog/no-degree-required/>.

<sup>92</sup> Joseph Fuller, *Why Employers Must Stop Requiring College Degree For Middle – Skill Jobs*, FORBES (Dec. 29, 2017), <https://www.forbes.com/sites/hbsworkingknowledge/2017/12/20/why-employers-must-stop-requiring-college-degrees-for-middle-skill-jobs/#7c6a1b994950>.

At the same time, college graduates filling these middle-skills positions (those that require more than a high school diploma but less than a college degree) such as supervisors, support specialists, technicians, sales representatives, data analysts, and production managers are costing companies more money to employ, tend to be less engaged in their jobs, have a higher turnover rate, and reach productivity levels only on par with high school graduates doing the same job.

<sup>93</sup> *Id.*

<sup>94</sup> Ruth Umoh, *Why IBM Wants to Hire Employees Who Don't Have a 4-year College Degree*, CNBC (Nov. 7, 2017, 10:16 AM), <https://www.cnbc.com/2017/11/07/why-ibm-wants-to-hire-employees-who-dont-have-a-4-year-college-degree.html>.

<sup>95</sup> Thomas Adam, *From Public Good to Personal Pursuit: Historical Roots Of The Student Debt Crisis*, THECONVERSATION.COM (June 29, 2017), <http://theconversation.com/from-public-good-to-personal-pursuit-historical-roots-of-the-student-debt-crisis-79475>; Ashley Gross & Jon Marcus, *High-Paying Trade Jobs Sit Empty, While High School Grads Line Up For University*, NPR (Apr. 25, 2018), <https://www.npr.org/sections/ed/2018/04/25/605092520/high-paying-trade-jobs-sit-empty-while-high-school-grads-line-up-for-university>.

Google, Apple, and EY rely upon skill based hiring instead of credential based hiring.<sup>96</sup> These companies, specifically IBM, are looking for the relevant skillset obtained from vocational training, similar to how people were hired in the late 1800s and early 1900s, instead of a four-year degree.<sup>97</sup>

“In fact, more than 55 percent of students choose to go to a four-year university ‘to pursue a particular career.’ If the college is not delivering on this objective, it is acting fiscally irresponsible with taxpayer funds and ultimately threatening the livelihoods of its students.”<sup>98</sup> Attending a four-year college at a private university in America can cost a student upwards of a quarter of a million dollars.<sup>99</sup> Students need to determine if the return on their investment in college will be worth it and must realize that it is not the same return as someone who graduated in the 1980s, 1990s or even the 2000s.<sup>100</sup> Additionally, the cost of college has risen almost eight times faster than the wages of graduates and there is less movement in the workforce so people are stuck in the same salary with mounting debt.<sup>101</sup> “The reality of cost burdens must be weighed against the quality of life millions have forsaken thanks to the ease with which they’ve been able to finance the higher education that have rendered their lives to lower rungs.”<sup>102</sup>

Not only will a shift in the style and advertising of the recruiting of jobs shift the market, but also the constant development and growth of new technology and artificial intelligence will too.<sup>103</sup> A student’s ability to take classes online, instead of attending a four-year college, has already proven to be an efficient means of training new hires and workers of companies.<sup>104</sup> These courses and online institutions will soon become an even larger challenge than

<sup>96</sup> Umoh, *supra* note 94; Connley, *supra* note 90.

<sup>97</sup> “At a number of IBM’s locations . . . as many as one-third of employees don’t have a four-year degree,” Rometty writes in her column. “What matters most is that these employees . . . have relevant skills, often obtained through vocational training.” Umoh, *supra* note 94.

<sup>98</sup> Pringle, *supra* note 43.

<sup>99</sup> “A four-year stint at a private American university today—for example Harvard, Stanford, or Yale—costs more than a quarter million dollars, including tuition, lodging and books.” Livni, *supra* note 1.

<sup>100</sup> Booth, *supra* note 68.

<sup>101</sup> Tran, *supra* note 5.

<sup>102</sup> Booth, *supra* note 68.

<sup>103</sup> Subhash Kak, *Will Traditional Colleges and Universities Become Obsolete?*, SMITHSONIAN.COM (Jan. 10, 2018), <https://www.smithsonianmag.com/innovation/will-traditional-colleges-universities-become-obsolete-180967788>.

<sup>104</sup> *Id.*

they already are for private institutions.<sup>105</sup> “For more than a decade, private companies, nonprofits and universities alike have been experimenting with online courses, often offered for free or a low cost to large numbers of students around the world.”<sup>106</sup> Students from some of the “renowned” online institutions are able to receive transcripts listing their courses and grades obtained through participation in the online class.<sup>107</sup> It is tough to tell these transcripts apart from in-person college and institutions and an employer may not know the person studied online.<sup>108</sup> Another benefit that students receive, who decide to study at online institutions, such as edX or University of Phoenix, is that the “only need to pay if they are happy with their grades, and if they want official college credit.”<sup>109</sup> That is a drastically different method than traditional four-year programs use in terms of credit load and payment methods.

Another reason some may decide to forego a traditional four-year college education is due to ever increasing automated jobs and the shrinking pool of routine skilled jobs.<sup>110</sup> “Artificial intelligence technologies like machine learning and computer vision are permanently eliminating high-skill jobs in offices.”<sup>111</sup> Learning how to repair and replace parts or functions for the manufacturing and high-skill jobs no longer requires advanced education.<sup>112</sup> Although jobs may still require a degree higher than a high school diploma, they will not require a four-year degree pursued while one lives on a physical university campus. Furthermore, Colleges that rank outside those of “top-tier of quality and name recognition” will likely suffer the most while the demand for their services lessens.<sup>113</sup>

It remains to be seen whether or not the future generation will still undertake exorbitant amounts of debt to attend traditional four-year colleges as the world of job recruiting changes. As technology continues to advance and play an important role in job effi-

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*; edX, *Global Freshman Academy Start Earning College Credit*, EDX.COM, [https://www.edx.org/gfa?xid=ps\\_smithsonian](https://www.edx.org/gfa?xid=ps_smithsonian).

<sup>110</sup> Kak, *supra* note 103.

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

ciency and salary standards, how fast one can fully pay back loans from acquiring a traditional education become more uncertain.

B. *Is Making all Colleges and Higher Education Learning Tuition-Free the Answer?*

Making all colleges and higher education tuition-free is not a novel idea and has been around since before the Constitution was ratified.<sup>114</sup> In 1785, John Adams wrote, “the whole people must take upon themselves the education of the whole people and must be willing to bear the expense of it.”<sup>115</sup> Eighty years later, the Morrill Act of 1862 established land-grant colleges to be created that allowed Americans of every social class to attend college tuition free.<sup>116</sup> And eighty years after the Morrill Act, on June 22, 1944, President Franklin D. Roosevelt signed the G.I. Bill into law, which allowed over two million veterans to receive free college education.<sup>117</sup> Many nations offer college free of tuition and view it as an investment in the future of the country, but that is not the view of the United States.<sup>118</sup> Recently, in the United States, some politicians have made strong proposals for tuition free programs for their state citizens or country wide programs.

Much to the dissatisfaction of the politicians, many of these proposals were faced with immediate criticism. As mentioned before, New York State Governor Andrew Cuomo proposed on January 3, 2018 that New York residents making less than \$125,000 qualify for free tuition at public colleges under his proposed Excelsior Scholarship, which was met with quick and harsh backlash.<sup>119</sup> To satisfy the requirements for Governor Cuomo’s Excelsior Scholarship, a student must be a resident of New York State, attend a SUNY or CUNY two or four-year degree program, take 30 credits per calendar year and plan to live and work in New York following graduation for the length of time they participate in the

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<sup>114</sup> Deborah Kurfiss, *Should College Be Free?*, STUDENT DEBT RELIEF, (Sept. 4, 2018), <https://www.studentdebtrelief.us/news/should-college-be-free>.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*; *G.I. Bill*, HISTORY (Aug. 21, 2018), [https://www.history.com/topics/world-war-ii/gi-bill#section\\_2](https://www.history.com/topics/world-war-ii/gi-bill#section_2).

<sup>118</sup> Kurfiss, *supra* note 114.

<sup>119</sup> Carl Campanile, *Cuomo Wants to Let Dreamers Go to College for Free*, N.Y. POST (Jan. 24, 2018), <https://nypost.com/2018/01/24/cuomo-wants-to-let-dreamers-go-to-college-for-free/>.

scholarship program.<sup>120</sup> One major flaw of Governor Cuomo and New York State's scholarship program is that this does not prevent or aid against students taking loans to pay for costs of attendance.<sup>121</sup> This may leave a student who already qualified for the Excelsior Scholarship to attend college in a similar position as someone who is at a private institution; burdened with student loans. Many students who apply and use the Excelsior Scholarships are students who are not completing their full study. These students oftentimes still need daily jobs or work to pay for the loans which they requested for their day-to-day life.<sup>122</sup> The Excelsior Scholarship program has the same flaws as the proposal that President Obama made during his time in office.

In his 2015 State of the Union address, President Obama started by telling America he was sending Congress a new plan to reduce the cost of community college to zero.<sup>123</sup> President Obama believed the requirements in his plan, which are similar to New York State's Excelsior Scholarship, were the proper measures to make community colleges tuition-free.<sup>124</sup> The Excelsior Scholarship, although theoretically sound in proposing to make community college tuition-free for two years, it did not consider the additional expenses a student endures while attending college, or that students will still be securing loans.<sup>125</sup> "Economists have made a convincing argument that not only are there some people who can, and should, pay their own way, but the costs associated with going to college . . . would still overwhelm lots of low-income folks,

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<sup>120</sup> Friedman, *supra* note 72; Jillian Berman, *Here's What It Would Take to Make College Tuition-free*, MARKETWATCH (Nov. 19, 2018), <https://www.marketwatch.com/story/heres-what-it-would-take-to-make-college-tuition-free-2018-10-05>.

<sup>121</sup> Vince Norton, *Why Free College is a Bad Idea*, NORTON NORRIS (Mar. 16, 2018), <https://nortonnorris.com/free-college-bad-idea/>.

<sup>122</sup> *Id.*; Jillian Berman, *Here's what it would take to make college tuition-free*, MARKETWATCH (Nov. 19, 2018), <https://www.marketwatch.com/story/heres-what-it-would-take-to-make-college-tuition-free-2018-10-05>.

<sup>123</sup> Barack Obama, *Remarks by the President in State of the Union Address — January 20, 2015*, THE WHITE HOUSE (Jan. 20, 2015), <https://obamawhitehouse.archives.gov/the-press-office/2015/01/20/remarks-president-state-union-address-january-20-2015>.

By the end of this decade, two in three job openings will require some higher education — two in three. And yet, we still live in a country where too many bright, striving Americans are priced out of the education they need. It's not fair to them, and it's sure not smart for our future. That's why I'm sending this Congress a bold new plan to lower the cost of community college — to zero.

*Id.*

<sup>124</sup> *Id.*

<sup>125</sup> Claire Zillman, *The Case for Obama's State of the Union Free College Proposal, in 6 Charts*, FORTUNE (Jan. 21, 2015), <http://fortune.com/2015/01/20/the-case-for-obamas-state-of-the-union-free-college-proposal-in-6-charts/>.

and therefore, handing them a blank check would be irresponsible.”<sup>126</sup> The Obama administration, for almost both of the president’s terms in office, urged low-income students and students of color to attend college as they were focusing on various ways to make it more affordable and make it easier for those students to attain a higher education.<sup>127</sup>

Interestingly, many people feel the ones who benefit from the education should be the bearers of the cost.<sup>128</sup> Americans are always dismayed with regard to raising their taxes, even if it means providing students a free education. Even though an educated population is important for democratic governance, since education “exposes people to ideas and people of different backgrounds that are beyond their [own],” individuals will always disagree about paying for something from which they cannot see a direct benefit.<sup>129</sup> Furthermore, if college tuition is provided for free, people are worried that the programs will be taken for granted and students will use it as a place to do the bare minimum of work, or students will find ways to help delay and prolong entering the workforce.<sup>130</sup> The blowback of the New York State program has also led to a mistrust of and setback in the movements of tuition-free education.<sup>131</sup> “By promising students and families one thing and not delivering, too-lofty programs can recreate some of the mistrust already apparent in the financial-aid system.”<sup>132</sup> Even advocates for the program have criticized it for the limited number of universities a student can attend and for the requirement which keeps the student working and living in New York State post-graduation for the same amount of years they are using the program.<sup>133</sup>

Various programs have been developed and implemented and each program will continue to receive both praise and criticism until a program is developed to truly produce tuition-free college.<sup>134</sup> Especially with tuition costs continuing to rise and wages continuing to be stagnant or grow at a miniscule rate, there is no true solu-

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<sup>126</sup> Lauren Camera, *Should Free College Give Rich Kids a Free Ride?*, U.S. NEWS (Feb. 13, 2018), <https://www.usnews.com/news/education-news/articles/2018-02-13/should-free-college-give-rich-kids-a-free-ride>.

<sup>127</sup> Lauren Camera, *Free Tuition Isn’t the Answer*, U.S. NEWS (Aug. 11, 2016), <https://www.usnews.com/news/articles/2016-08-11/free-tuition-isnt-the-answer>.

<sup>128</sup> Kurfiss, *supra* note 114.

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> Berman, *supra* note 120.

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

tion to help make higher education tuition-free.<sup>135</sup> Schools continue to compete over who has the better plan of making their education tuition-free in the fight to increase their resources and affordability for their students.<sup>136</sup> “Neither of two recent proposals for reform would sufficiently target the students most affected by rising college costs and debt burdens.”<sup>137</sup> Although the thought of free tuition is noble, if the revenue income is not replaced within the universities, the resources for the faculty and students will deteriorate or not keep pace with the industry standards which could, again, leave a university student at a disadvantage compared to vocational school training in many job markets. The idea of a lottery to help generate revenue has been discussed, but that would rely on the states creating and maintaining sufficient income from the lottery to be able to fund all of the schools without limiting the underlying student base of which institutions seek to benefit versus those which are not allowed to receive any of the funds.<sup>138</sup>

Throughout the race for the 2016 presidency, Democratic candidates Hillary Clinton and Bernie Sanders focused their platforms for higher education on tuition-free college.<sup>139</sup> Clinton and Sanders, promoted the programs suggested before them and even few after, failed to address the underlying problems with making colleges tuition-free.<sup>140</sup> There is “no relationship” between the ability of people graduating from college and universities when compared to the cost that one pays for a degree from a higher education institution.<sup>141</sup> Moreover, Third Way ran a report that analyzed Department of Education data, finding that students who attend a four-year public college have less than a fifty percent chance of graduating in the first six years.<sup>142</sup> Tamara Hiler, an education policy advisor at Third Way said, “while addressing the rising cost of college is a worthwhile discussion, students deserve a better guarantee that if they enroll in college they will get a return on their investment of both time and money.” Furthermore, providing free tuition to

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<sup>135</sup> *Id.*

<sup>136</sup> Berman, *supra* note 120.

<sup>137</sup> Catharine Hill, *Free Tuition Is Not the Answer*, N.Y. TIMES (Nov. 20, 2015), <https://www.nytimes.com/2015/11/30/opinion/free-tuition-is-not-the-answer.html>.

<sup>138</sup> Berman, *supra* note 120.

<sup>139</sup> Camera, *supra* note 127.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> *Id.*

these students does not guarantee that they graduate, as more than half of college students fail and drop out of school.<sup>143</sup>

Thus, a better way is needed to combat the problem of student debt without just handing students an education and making the tuition completely free.

C. *Can Undergraduate Programs Follow Graduate Education Programs and Take Combating Student Debt Into Their Own Hands?*

The first university to take a major step for decreasing their student's debt was New York University. On August 16, 2018, New York University announced that they secured \$450 million of the \$600 million that is necessary to finance a tuition-free medical college.<sup>144</sup> In their announcement, New York University informed 443 medical students that every enrolled student would no longer be required to pay the \$55,000 tuition fee that the medical school previously required, effective immediately.<sup>145</sup> However, New York University's plan still requires students to pay for room and board fees.<sup>146</sup> New York University has seen their applications rise by 47% in the first year since their big announcement.<sup>147</sup> "The idea behind the policy, according to officials at the time of the announcement, is to make medical school possible for more and different types of students who may be worried about the cost."<sup>148</sup> Traditionally medical schools cost an average of \$278,455 for private schools and \$207,866 for public schools.<sup>149</sup> Another goal of New York University's program is to "free up future doctors, who

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<sup>143</sup> *Id.*

<sup>144</sup> David W. Chen, *Surprise Gift: Free Tuition for All N.Y.U. Medical Students*, N.Y. TIMES (Aug. 16, 2018), <https://www.nytimes.com/2018/08/16/nyregion/nyu-free-tuition-medical-school.html>.

<sup>145</sup> The plan, effective immediately, covers all current and future students. Annual tuition is roughly \$55,000. There are 93 first-year students, and another 350 students who have up to three years left before obtaining their degrees. (A small group of new and current students who are enrolled in joint M.D./Ph.D. programs already have their tuitions paid for, thanks to the National Institutes of Health.)

*Id.*

<sup>146</sup> *Id.*

<sup>147</sup> Jillian Berman, *One Year After Offering Free Tuition, Applications to NYU Medical School Surge*, MARKETWATCH (Jan. 16, 2019), <https://www.marketwatch.com/story/one-year-after-offering-free-tuition-applications-to-nyu-medical-school-surge-2019-01-15>.

<sup>148</sup> *Id.*

<sup>149</sup> *Is Medical School Worth It Financially?*, BEST MEDICAL DEGREES (Feb. 8, 2019), <https://www.bestmedicaldegrees.com/is-medical-school-worth-it-financially>.

would have to worry less about the weight of their student debt, to choose less-lucrative specialties or regions in favor of helping the under-served.”<sup>150</sup> According to the Association of American Medical Colleges, approximately three-quarters of doctors graduate with debt and, although New York University recognizes that this does not alleviate all debt, it does allow their students to substantially decrease the loan they may have otherwise been required to take out in order to pay for medical school.<sup>151</sup> Critics of New York University’s decision to make school tuition-free for all medical students say that, “a more direct approach to ensuring student debt isn’t a factor in a doctor’s specialty choice. . . is to subsidize those who decide to go into primary care or to fund students who otherwise wouldn’t be able to afford medical school, instead of paying the tuition of all students.”<sup>152</sup> However, as policymakers and higher education leaders throughout the country continue to brainstorm ways as to how to increase their student base, both in number of students and with under-represented groups, they should realize that the word “free” has a powerful and clear message that can lead to increased opportunities for students from families that are struggling to afford higher education and various other educational opportunities.<sup>153</sup>

In 2016, the medical school of Columbia University received \$250 million from Dr. P. Roy and Diana Vagelos allowing the University to create a new scholarship program.<sup>154</sup> This program allowed for 20% of their students to receive grants rather than undertaking loans to pay for school.<sup>155</sup> Additionally, of the \$250 million donation, \$150 million will be solely focused on a school endowment project that will ultimately enable Columbia Univer-

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<sup>150</sup> Berman, *supra* note 147.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> “In 2016, former Merck chairman Dr. P. Roy Vagelos and his wife, Diana, gave Columbia’s medical school \$250 million toward a debt-free program. The new scholarship program will allow approximately 20% of students to receive scholarships covering their entire tuition. It also provides grants for approximately half of students body that qualify for financial aid, which means they don’t have to take out loans.” Lydia Ramsey and Charlotte Hu, *NYU’s decision to go tuition-free has other top medical schools grappling with how to attract the brightest students*, BUSINESS INSIDER (Aug. 23, 2018), <https://www.businessinsider.com/nyu-medical-school-free-tuition-reactions-by-medical-schools-2018-8>.

<sup>155</sup> *Id.*

sity to underwrite its student financial aid.<sup>156</sup> “Those students with the greatest financial need would receive full-tuition scholarships, while others would [receive] only grants, not loans, to make up their need.”<sup>157</sup> Unlike New York University’s tuition program, Columbia University’s program will take a few years to begin, but the school believes the donation along with other funding will allow the students to avoid incurring substantial debt throughout their time at Columbia.<sup>158</sup> Another difference between the two programs is that Columbia’s scholarship to its neediest students will also cover living expenses, which will alleviate their need to take out loans even after the tuition scholarship.<sup>159</sup>

Many deans from various universities and medical schools view these two donations as a step in the right direction, yet many schools remain unconvinced that they would make the same decisions and would explore other ways as to how they would spend the money.<sup>160</sup> Harvard Medical School has said that they “aim to partner with visionary philanthropists” who are capable of helping them “provide robust scholarship support to every student with financial need” and are hoping to “eliminate student debt, giving [their] graduates the flexibility to pursue the medical field of their choice.”<sup>161</sup> While Duke University School of Medicine’s Vice Dean of Education, Dr. Edward Buckley, argued “there are other ways to spend the funding from a large gift, such as cutting-edge medical technology that can be used to train students.”<sup>162</sup> While it is important to have cutting-edge medical technology, the school should also consider the burden their students are going through in medical school and post-graduation. There are roughly 20,000 medical students enrolled in colleges throughout the United States who undertake loans to support their studies and families throughout their time of study.<sup>163</sup>

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<sup>156</sup> Sharon Otterman, *With \$250 Million Gift, Columbia Medical School Looks to End Student Debt*, N.Y. TIMES (Dec. 4, 2017), <https://www.nytimes.com/2017/12/04/nyregion/columbia-medical-school-endowment-p-roy-vagelos.html>.

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> Ramsey and Hu, *supra* note 154.

<sup>161</sup> *Id.*

<sup>162</sup> “I’m not sure if you had a gift that it’s the best way to spend it going forward,’ Duke University School of Medicine vice dean for education Dr. Edward Buckley told Business Insider. His argument: There are other ways to spend the funding from a large gift, such as cutting-edge medical technology that can be used to train students.” *Id.*

<sup>163</sup> Otterman, *supra* note 156.

Medical colleges, and schools in general, need to remember that their students' cost of living and future is as important as their education. Higher education is a place to continue to nurture the next generation of adults throughout the American workforce and the schools should spend more time focusing on the affordability of their programs and their students' needs beyond technology that the university can purchase with large gifts and donations. "N.Y.U.'s initiative comes at a time when affordability has become an increasingly urgent issue in higher education, with some graduates struggling with thousands of dollars in debt."<sup>164</sup> These students are not only in debt from the loans they had to take out to pay for medical school, but also from their undergraduate education for some. It is estimated that 19.9 million students will enroll in American colleges and universities in fall 2019 and the enrolled number is expected to rise to 20.3 million by fall 2028.<sup>165</sup> 17 million of the students enrolled in 2018 are undergraduates while 3 million are enrolled in post baccalaureate programs.<sup>166</sup> While New York University and Columbia University are helping roughly 1,000 students with their student debt, there remain millions more that need assistance as well.

#### IV. PROPOSAL

##### A. *Using Third-Party Mediation to Help Resolve Student Debt*

Colleges and universities take on a large risk when accepting students, but students may be taking an even bigger one when accepting and taking out loans to pay for school. It is encouraging to see that the government admits and accepts that there is a problem in this country with regard to affordability of higher education. Professions such as doctors, lawyers, or accountants were traditionally high respected and viewed as three of the best and most coveted professions. As the price of education has increased there have been waves of students who strive for these jobs although they are aware that they may end up taking on large loans to be able to afford those degrees. It has always been expensive to attend an undergraduate program and continue one's education.

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<sup>164</sup> Chen, *supra* note 144.

<sup>165</sup> National Center for Education Statistics, *Fast Facts*, INSTITUTE OF EDUCATION SCIENCES (2018), <https://nces.ed.gov/fastfacts/display.asp?id=372>.

<sup>166</sup> *Id.*

The Excelsior Program put in place by New York State and the plan President Obama proposed to Congress are steps in the right direction, but do not create a concrete backbone that every state or college can implement for their student's needs. However, the two programs limit qualification for such rewards that should be universal for the entire student body.

Instead of handing out free tuition to select participants that can check requirements off on a piece of paper, schools should seek to find a way to make a general program open to the entire student body who do not actively have a free tuition program. Schools accept students and provide some of their attendees with full scholarships, some with partial scholarships and some with no scholarships. The students that receive partial or no scholarships are the ones taking out and being burdened by loans.

Mediation can be used to help foster and fix the way undergraduate and graduate education is funded in the United States. By creating a system in which students can meet with counselors or government officials to increase their scholarship and decrease their need for financial aid, one can proceed to alleviate part of their student debt before even obtaining their degree. There are numerous opportunities on campus for students to work or compile research with professors' assistance. By creating incentives for these programs whereby the school may match half your pay in scholarships will allow the students to continue their studies while also providing needed help on campus.

Furthermore, President Obama and Governor Cuomo's proposals focus on students whose families are in the middle and lower classes. Both programs provide free tuition if the students meet certain requirements, but do not relieve the problem that these students are still taking out loans to subsidize their cost of living. Because most students that need financial aid come from the middle or lower class, creating a mediation program between schools and students can help the student gain confidence and ask for more scholarship money. The student can meet with a counselor and explain their financial situation. Then the mediator or counselor can meet with the school to see how they can help award more, or at least some, money to the student. The third party can either be a middleman, such as a state employee or school employee, who will be in charge of facilitating a discussion as to how best to assist the student when it comes to their finances. The students who are using the aid of the Excelsior and Obama programs are generally at a disadvantage because a scholarship is based upon grade point aver-

ages in high school and standardized test scores. Students whose families have higher incomes are able to hire tutors for their children, proceed to score better on tests and thus receive larger scholarships and attend higher ranked colleges and universities.

Mediation among school counselors and students is one proposal that may allow students from middle and lower-class families who cannot afford tutors and test-preparation to find financial freedom from student debt. This proposal will help individuals receive the education to which they aspire while not being plagued by financial aid debt for years to come post-graduation.

*B. Using Mediation to Create Incentives for Students to Increase Scholarships and Lower Reliance on Financial Aid*

In addition to the above proposal, an incentive program coupled with mediation to help raise a student's scholarship should be one method the government and educational systems utilize to provide their students with increased scholarships throughout their time in school and after graduation. Mediation between schools and students will allow the schools to take a hands-on approach and better determine the needs of individual students and how each student can succeed at their university. As mentioned above, there are many students at schools that come from middle- and low-class families who are not as prepared as students that have had tutoring for years and were awarded academic scholarships. Creating a program that includes incentives for academic achievements should provide the encouragement the students need to maintain academic standards and also reward them for their progress. The incentive program should also be added to the Excelsior Scholarship and proposals given to Congress so every student at the university that has not received a full tuition scholarship has the opportunity to obtain one.

A program that allows students to achieve different academic milestones should be in place. Rather than hand students money, they can earn it through academic success. For example, if a student receives a scholarship for half of the tuition, that student will still need to take out loans for the other half of the tuition and for cost of attendance and living. Mediation would come into play where the student meets with an independent third-party counselor to negotiate on behalf of the student different ways the student can increase their scholarship. Whether these milestones occur every

semester, report period or year, it is one way to motivate the students to perform better and study harder in the classroom. One potential incentive structure is to reward the student for each letter grade they receive. If the school has a policy that an A in a class is worth a certain amount and a B is worth a certain amount, it would provide a platform in which the student can work for a higher scholarship and allow them not to be burdened later in life by their student loans.

The positive impact of such an incentivized program is that scholarships are not paid back to schools, whereas financial aid is paid back to the lending agent over time and burdens students striving for higher education for years. The program would be in place to help aid the student and work together with the scholarship already provided. Every student has unique learning habits and by working with a counselor and using mediation, each student can have a program tailored to their needs. By tailoring each program, it will also allow some students who need more support to earn more than others but assure that milestones are attainable and paying off loans is achievable. This system may permit students to earn and strive for the potential to receive their education debt-free.

### *C. Establish a User Fee for the Ones Who Use the Program*

A flaw with both New York's Excelsior Scholarship and President Obama's scholarship program is that both rely on taxpayers to provide the support behind the programs. While the proposal above of creating a mediation-based scholarship program relies on taxpayer revenue, it does not create a blanket tax for all citizens. A new user fee type program would need to be established and supported by the individuals who use the program. The enactment of this is similar to how localities work when they charge an admission to a park or public space. Instead of taxing the broad population, where some people may never use the public space, they instead charge a fee for entry and use the money generated from the fee for upkeep and maintenance. The simplest way to create a user fee to help pay for the scholarship program would be to set a standard rate and charge the alumni of the program the same rate until a minimum cap is reached. Due to the fact that some alumni of the program would rely on it differently there would need to be a calculation for the amount that one would receive in relation to

the amount they are required to pay. This is different than receiving student loans because with student loans you receive a lump sum, are charged interest, and must pay it back as soon as you can to avoid repaying more than you originally borrowed.

If the fee created for this program was a blanket fee and all users were charged the same amount, by taking the estimates for 2018 stated above a fee of \$1000 per person for one year would help start to eliminate student debt for the country.<sup>167</sup> With 44 million borrowers, paying \$1000 each, the fee would bring in a revenue of \$44 billion. Overtime, through government and school booster support, it is not unreasonable to believe students can one day attend undergraduate and graduate programs without being burdened by financial debt for decades to come.

In fact, Purdue University announced in January 2019 that they will be implementing an income share agreement for their students, that allows them to attend Purdue University without paying tuition, but they are required to pay a percentage of their income after graduation back to the school, but only if their job pays a good salary.<sup>168</sup> This system is similar to the one proposed, but does not incentivize the student to maintain grades or work for the money being given to them. These types of programs will help foster the discussion between schools and students and no longer force students into crippling debt, instead offering them an option to pay off debt while still in school.<sup>169</sup> By combining the two programs, each side is incentivized to foster the education of the students and help alleviate their debt. The students get rewarded for their academic achievements and the schools are rewarded when they help find their students well-paying jobs and receive reimbursement.

## V. CONCLUSION

Schools should use mediation with incoming and existing students to run incentive-based scholarship programs and allow students to request less financial aid from the government. Before the

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<sup>167</sup> *A Look at the Shocking Student Loan Debt Statistics for 2018*, STUDENT LOAN HERO (May 1, 2018), <https://studentloanhero.com/student-loan-debt-statistics>.

<sup>168</sup> Andrew Ross Sorkin, *No Tuition, but You Pay a Percentage of Your Income (if You Find a Job)*, N.Y. TIMES (Jan. 8, 2019), <https://www.nytimes.com/2019/01/08/business/dealbook/education-student-loans-lambda-schools.html>.

<sup>169</sup> “It is an approach meant to treat students as investments rather than cash cows—a fundamental shift that could finally lift the crippling debt load we routinely push onto students.” *Id.*

scare of student debt forces colleges to become completely obsolete, it is important to find a solution for the generation of students that are eager to learn and continue their education with the support of the society.

