

STATEMENT FOR THE RECORD

LEGISLATIVE HEARING ON
REAUTHORIZING THE HIGHER EDUCATION ACT:
STRENGTHENING ACCOUNTABILITY TO PROTECT STUDENTS AND TAXPAYERS
BEFORE THE
U.S. SENATE COMMITTEE FOR
HEALTH, EDUCATION,
LABOR AND PENSIONS
APRIL 9, 2019

Chairman Alexander, Ranking Member Murray, and Members of the Committee:

As the two leading organizations supporting the military and veteran student community, Student Veterans of America and Veterans Education Success appreciate the opportunity to provide comment on Strengthening Accountability in Higher Education to Better Serve Students and Taxpayers.

Students put their trust in the U.S. Department of Education's (ED) stamp of approval on an institution of higher learning to mean the education they will receive is high-quality. For military-connected students, the risks are heightened since both the Department of Defense (DoD) and Department of Veterans Affairs (VA) rely on ED's gatekeeping to ensure quality in higher education programs.

Those who have served their country have earned the ability to pursue higher education credentials, knowing they can trust the federal government's stamp of approval that a program is worth their hard-earned benefits. Additionally, the American taxpayer deserves a strong return on investment for their tax dollars. This is why strong accountability and quality metrics for how that money is being spent is of utmost importance.

Innovation in higher education is important and necessary, but it must be done while still ensuring quality. To this end, we strongly encourage action on the following measures:

1. College Transparency Act - Understanding the progress, successes, and hindrances facing all types of students is essential, and access to comprehensive and digestible data is the first step. We strongly support the bipartisan College Transparency Act introduced by Senators Hatch, Warren, Cassidy, and Whitehouse. We also call for more transparency at the Education Department in its enforcement actions.

2 - Close the 90/10 Loophole – With the recent closures of colleges such as ITT Tech, Corinthian, Virginia College, and Brightwood College and thousands of military-connected students impacted, it is imperative Congress preserve the market viability test in 90/10. A market viability test protects taxpayers from artificially propping up a failing college of such low quality that no employer or private-paying student is willing to pay for it. Closing the loophole to include all federal funds would honor the congressional intent of the law requiring a minimum of 10% of funding should come from private dollars versus a government source.

Congress must remove the target sign from the backs of veterans and servicemembers. Closing the loophole creates parity for military-connected students using their education benefits with those students using Title IV funds. It is inconsistent to protect some federal funds from low performing schools and not

others. With the number of predatory institutions that have shut their doors in recent years, it is critical to close this loophole. Not doing so is a failure on the federal government to ensure an adequate return on investment for both the taxpayer and the student. Additionally, it dishonors the thousands of veterans defrauded by bad actor schools, who had their GI Bill essentially stolen from them under misrepresentation.

While some may argue that closing the loophole would limit access for underserved student populations, low-quality schools systematically discriminate against students, explicitly seeking students of minority groups, veterans, and single-parents to exploit their desires for an education. To allow predatory and low-quality schools to use a service members' or veterans' hard-earned education benefits to prop a failing organization is a waste of tax payer dollars, which is made abundantly clear by the thousands of student veterans left in the wake of notable closures in recent years.

3. Preserve Borrower Defense to Repayment – Too many veterans have been targets of consumer fraud by bad actor colleges. Bipartisan law enforcement cases have made clear there is significant evidence of fraud against students. For example, attorneys general representing 48 states and the District of Columbia banded together just recently to recoup \$500 million for students who were defrauded by Career Education Corporation, the owner of a handful of schools. Congress should ensure defrauded students are not left to flounder on their own and should not require each student to prove his own case of fraud when significant law enforcement evidence exists. Congress also should require the typical civil proceeding evidentiary standard of preponderance of the evidence and should not force students to prove a college's intent, as that is an absurd burden on students.

4. Greater Oversight of Nonprofit Conversions. Thanks to tireless advocacy from student and consumer rights' groups, leadership in Congress, and a growing awareness by the public of predatory practices of some institutions, many of the worst providers in higher education have come under increased scrutiny in recent years. However, in response to increased awareness and scrutiny there is a possibly alarming trend of proprietary institutions converting to nonprofit status yet maintaining the same profit structures and failure to invest in student learning, which allow those institutions to fall under different regulatory oversight requirements.

This conversion process takes advantage of a regulatory weakness between the Internal Revenue Service (IRS) and ED, with IRS only tracking tax status and ED tracking regulatory requirements based on tax status without the two systems truly catching potential bad actors using this system to their advantage, and takes advantage of understaffed, lax IRS oversight.¹ During the reauthorization of HEA, Congress should enact standards of oversight preventing bad actors from becoming wolves in sheep's clothing by creating protections against a nonprofit status being used to hide fraud, waste, and abuse.

5. Preserve the Gainful Employment rule – Protect taxpayers and students by codifying and strengthening the Gainful Employment regulation to hold career training programs accountable if they consistently produce students with excessively low earnings. Congress must be willing to cut off the lowest performing colleges that consistently leave students worse off than they found them. Congress should require Return on Investment for taxpayer funds.

6. Protect Military Connected Students from Unnecessary Loans – Many GI Bill students allege loans were taken out in their names without their authorization or understanding.

- **Master Promissory Note** -- Rename the "Master Promissory Note" (MPN) to "Student Loan Agreement" so students know what they're signing. Include a clear warning: *"Do not sign unless you want loans. You must pay these loans back."*

¹ Shireman, Robert. *The Covert For-Profit: How College Owners Escape Oversight Through a Regulatory Blind Spot*. The Century Foundation. Retrieved from: <https://tcf.org/content/report/covert-for-profit/?agreed=1>.

- **Loan Counseling** -- Give GI Bill students an annual MPN process, rather than an MPN good for 10 years; active consent/original signatures for each loan; and individualized, pre-loan counseling, prior to each disbursement.
- **Aid Package** -- Prohibit schools from forcing students to sign a MPN before they are told their total aid package and available options.

7. Raise the Floor on Quality: Schools should meet minimum quality standards for receipt of Title IV:

- **Programmatic Accreditation** – Mirror DoD’s 10 USC 2006a; graduates must be eligible for licensed job.²
- **Fraud** – Law enforcement actions against a college should trigger a halt (or reimbursable status) of Title IV funds, as well as a risk-based program review.
- **Repayment Rates** – A college fails if most students cannot pay at least \$1 of their debt. Congress should enact legislation that, at the very minimum, requires schools to have higher graduation rates than student loan default rates.
- **Return on Investment/Risk Sharing** – A college fails taxpayers and students if it consistently produces students who earn less than High School graduates. Such colleges should own a portion of debt and defaults. While risk-sharing is an indicator of quality, it is a lagging indicator and should not substitute for front-end gate-keeping, such as improved quality standards. For Apprenticeships and Career programs, require “pay for performance,” as in *Forever GI Bill*, which holds back half of tuition until the student is placed in a job in the field of study.

8. Spend education funds on education – Taxpayers and students expect federal student aid to be spent on education, but some colleges receiving significant GI Bill funds spend less than 20 percent of a veteran’s tuition on his education. By analogy, in health care, at least 80 percent of patient premiums must be spent on patient care and quality improvement. At least 50 percent of federal student aid should be spent on instruction.³ “Student services” should be re-defined to exclude marketing and recruiting and taxpayer funds should be excluded from advertising and marketing.

9. Strengthen the TRIAD – Maintain State Authorization and Fix accreditation – Americans rely on accreditation to understand quality, but the accreditation system is currently lax. As a start, Congress should require accreditors to enforce minimum outcome measures.

We look forward to working with Congress on a bipartisan comprehensive reauthorization of the HEA that protects students and tax payer dollars from poor quality and predatory schools.

² <https://www.law.cornell.edu/uscode/text/10/2006a>

³ <https://www.healthcare.gov/health-care-law-protections/rate-review/>