

May 2, 2019

The Honorable Lamar Alexander
Chairman
Senate Committee on Health, Education,
Labor & Pensions
U.S. Senate

The Honorable Patty Murray
Ranking Member
Senate Committee on Health, Education,
Labor & Pensions
U.S. Senate

The Honorable Bobby Scott
Chairman
House Committee on Education & the
Workforce
U.S. House of Representatives

The Honorable Virginia Foxx
Ranking Member
House Committee on Education & the
Workforce
U.S. House of Representatives

Dear Chairmen Alexander and Scott, and Ranking Members Murray and Foxx,

On behalf of the 37 undersigned organizations representing the interests of more than 2 million military-connected current students in higher education, we write to ensure that reauthorization of the Higher Education Act (HEA) increases college access and improves college completion for our nation's service members, veterans, and their family members.

Those who have served their country have earned the ability to pursue higher education credentials, with the reasonable expectation that they can trust the U.S. Department of Education's (ED) stamp of approval that a program is worth their hard-earned benefits. For military-connected students, the need to trust ED's approval is 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.

Thousands of military-connected students have been significantly impacted with the recent closures of institutions such as ITT Tech, Corinthian, Virginia College, Art Institutes and Argosy Universities. In the last year alone, 1,230 college campuses have closed. Impacted military-affiliated students have turned to military and veteran service organizations to help them move forward. We have worked to help them find housing after having been evicted from their homes and offered financial aid to pay for bills or buy groceries when their monthly housing allowance is unexpectedly ended when these institutions close. We have helped them apply for borrower's defense, closed school discharge, and for reinstatement of their GI Bill benefits. No student deserves to be put in this situation. That is why we are imploring Congress to strengthen and enhance quality and accountability in the reauthorization of the HEA.

A top priority for military and veteran service organizations is for Congress to finally close the unintended 90/10 loophole. 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 (Title IV) from low performing schools and not others (VA and DoD).

Closing the loophole will also protect taxpayer funds. Congress designed the 90/10 rule to be a market viability test to protect 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. As the Supreme Court explained about the rule's precursor, it is "a device intended by Congress to allow the free market mechanism to operate and weed out those institutions [which] could survive only by the heavy influx of Federal payments."¹ Closing the loophole to include all federal funds would honor the congressional intent of the law requiring a minimum of 10 percent of funding coming from private dollars versus a government source.

¹ See *Cleland v. Nat'l College of Business*, 435 US 213 (1978).

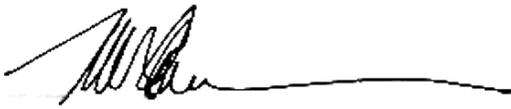
The Higher Education Act reauthorization also provides Congress the opportunity to maintain minimum student protections like Borrower Defense for veterans and other students who have been defrauded by a college, and for which ample bipartisan law enforcement evidence exists.²

It's also an opportunity for bipartisan leaders in Congress to agree on minimum quality from colleges, including bipartisan requirements such as reducing opportunities for fraud, leaving students better off for having attended college instead of worse off, and ensuring the majority of federal student aid is spent educating students.

We look forward to working with Congress on a bipartisan comprehensive reauthorization of the HEA that ensures better gatekeeping, quality, and student protections.

Attached please find details on these recommendations.

Sincerely,



AMSUS, Society of Federal Health Professionals



Armed Forces Retirees Association



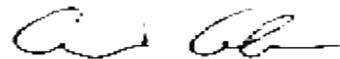
Air Force Sergeants Association



Association of the United States Army



Army Aviation Association of America



Association of the United States Navy



The American Legion



Blue Star Families

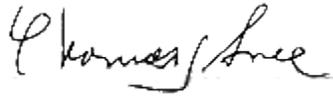


AMVETS

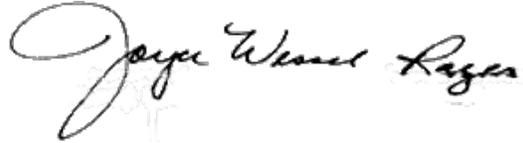


Chief Warrant Officers Association

² See Law Enforcement Actions Against Predatory Colleges (Jan 2019), available at <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5c5f5823a4222fa3c7d4c20d/1549752355856/Law+Enforcement+Actions+Ag+Predatory+Colleges.Jan2018.pdf>



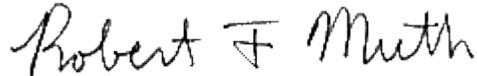
Fleet Reserve Association



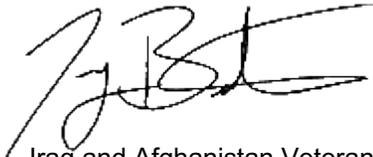
National Military Family Association



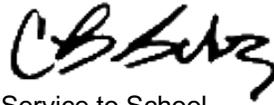
High Ground Advocacy



San Diego University Veterans Law Clinic



Iraq and Afghanistan Veterans of America



Service to School



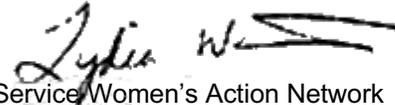
Ivy League Veterans Council



Student Veterans of America



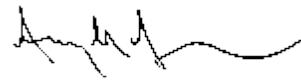
Jewish War Veterans of the USA



Service Women's Action Network



Military Child Education Coalition



Swords to Ploughshares



Military Officers Association



Tragedy Assistance Program for Survivors



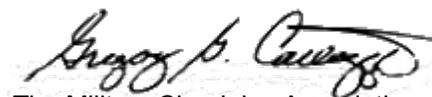
Military Order of the Purple Heart



Travis Manion Foundation



Non-Commissioned Officers Association



The Military Chaplains Association

Laura Esperance

The Mission Continues

Larry Madison

The Retired Enlisted Association

Jack A. 911

US Army Warrant Officers Association

Randy Reid

US Coast Guard Chief Petty Officers Association

Tammy Ang

Veterans Education Success

Antal Balogh

Veterans for Common Sense

Matt C. Bailey

Veterans Student Loans Relief Fund

DMJ

VetsFirst: United Spinal Association

Richard F. Weisman

Vietnam Veterans of America

Appendix I: Specific Recommendations for the Higher Education Act reauthorization

1. College Transparency Act. Understanding the progress, successes, and hindrances facing all types of students – and especially military-connected 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. 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.

3. Preserve Borrower Defense to Repayment. Too many veterans have been targets of fraud by bad actor colleges. Bipartisan law enforcement cases have made clear there is significant evidence of fraud against students. For example, bipartisan attorneys general representing 48 states and the District of Columbia banded together recently to recoup \$500 million for students who were defrauded by Career Education Corporation, the owner of several college chains. 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. Defrauded veterans deserve the loan forgiveness they are entitled to under Borrower Defense.

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.³ 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. 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.

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."*

³ 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. 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. Because the rule eliminates funding for consistently failing programs, the Congressional Budget Office estimates that repealing the rule would save \$1.3 billion over 10 years.

8. 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 any promised licensed job.⁴
- **Fraud** – Veterans express anger when they discover the federal government knew a program was under law enforcement action for defrauding students but allowed them to waste their time and GI Bill benefits enrolled in it. 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. At the same time, we understand there is discussion of eliminating safeguards in favor of a single measure of student debt repayment. We are concerned because such a single measure would not protect GI Bill students who don’t have debt.
- **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.

9. 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.⁵ “Student services” should be re-defined to exclude marketing and recruiting and taxpayer funds should be excluded from advertising and marketing.

10. Technical Fixes. In addition to enhanced accountability and quality metrics, there are a number of minor technical fixes specific to service members and veterans that we would like to see addressed in the upcoming HEA reauthorization.

- Fix the definition of “eligible military service” to match GI Bill. Current definition doesn’t make sense.
- Automate servicemembers’ rights. They need to focus on military mission, and have no time to enforce:
 - 0% interest rate for hostile fire or imminent danger.
 - Servicemembers Civil Relief Act (SCRA) protections (current practice is automated, but that’s discretionary, not codified). Also consider extending SCRA coverage to private loans and to

⁴ <https://www.law.cornell.edu/uscode/text/10/2006a>

⁵ <https://www.healthcare.gov/health-care-law-protections/rate-review/>

- loans taken out one year prior to military service (to relieve financial stress on servicemembers).
- 100% disabled veterans' right to total and permanent disability (TPD) discharge of loans. Only 1 in 5 eligible veterans is applying and half are in default.⁶ Make it "opt-out" in the few states with tax implications.
 - Notification of deferment to servicemembers at the 6-month mark, to include clarity on the options of Income Driven Repayment plans and Public Service Loan Forgiveness (which is important to recruiting and retention by the Departments of Defense and Veterans Affairs and veterans service organizations).
 - Fix "Deferral of Loan Repayment Following Active Duty" because it inadvertently leaves out active duty who went to college and returned to active duty. Currently it covers only Guard and Reserve.⁷

⁶ <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5be5ea3f2b6a28347b81011e/1541794367866/USED+FOIA+TPD+Response.pdf>

⁷ <https://www.law.cornell.edu/uscode/text/20/1098f>