



SUMMARY

Due to loopholes in federal law, businesses in the for-profit education sector are encouraged to aggressively target veterans for enrollment. The Higher Education Act's (HEA) 90/10 rule stipulates that a for-profit education business may derive no more than ninety percent of its revenues from the Title IV federal student aid. By enrolling veterans, these businesses can bypass this federal market viability regulation. The 90/10 rule requires private for-profit schools to demonstrate market viability, as well as price accuracy, by attracting at least 10% of their tuition revenue from a non-government (private) source. For-profit colleges and career schools know they can attract the private tuition dollars necessary to increase their access to federal student aid funds, thereby increasing overall revenue, by targeting veterans. The incentive to do so is glaring; it is more cost efficient to invest in aggressive marketing campaigns aimed at veterans, than it is to invest in additional educational resources. GI Bill educational benefits, even though they are government funds, are counted as private dollars. For each GI Bill recipient enrolled, a for-profit college can enroll nine additional students who only receive Title IV money. State legislators can close this loophole for its own students, and in doing so, simultaneously protect veterans and taxpayers by invoking decisions made by private market actors a required benchmark for business-performance.

BACKGROUND

The federal Higher Education Act 90/10 rule stipulates that a for-profit education business may derive no more than ninety percent of its revenues from the Title IV federal student aid programs.¹ The purpose of this revenue cap is to force schools to prove market viability, ensuring that federal student aid isn't used to prop up low quality schools that are unable to attract at least 10% of their revenue from private sources, including employers, scholarship providers, and families. However, the GI Bill and Defense Department tuition assistance are not listed in the statute as sources of federal student aid. Through an accounting gimmick, for-profit colleges can count the G.I. Bill and Defense Department tuition assistance as private revenue, thereby creating the opportunity to receive up to 100% of their revenues from federal funds and zero demonstration of market viability through those who choose their offerings with private funds.

VETERANS AS TARGETS

Worse, because of this loophole, for-profit colleges are incentivized to aggressively target veterans for enrollment in order to drastically increase the legal amount of Title IV funds they are allowed to receive. Many rely on extremely aggressive and deceptive recruiting methods in order to maximize veteran enrollment

The breadth of scandals plaguing the for-profit business sector is hard to overstate. It is, simply, one of the most troubled sectors in our nation's history. As reported in *The New York Times*, "On Dec. 10, for example, the Federal Trade

¹ Title IV of the Higher Education Act of 1965 [20 USC 1094(a)(24)]: section 487(a)

Commission reached a \$191 million settlement with the for-profit University of Phoenix to resolve charges that the school falsely promoted its educational benefits and used deceptive marketing materials that “targeted active-duty service members, veterans and military spouses.” And a year ago, Career Education Corporation, another for-profit college operator, agreed to forgo more than half a billion dollars in debt owed by former students to settle charges in 48 states and Washington, D.C., that it had preyed upon students with deceptive practices.”²

The extreme levels of deception by for-profit colleges extends to every aspect of the college, from tuition and the number of credits needed to graduate, to the programs even offered at the school, to the accreditation and transferability of credits to other colleges, to the quality of education to job prospects for graduates. Some for-profit colleges even sign students up for high-interest private loans without disclosing the true terms of the loans, and in some cases without the student’s knowledge.³

STATES CAN CLOSE THE 90/10 LOOPHOLE

Oregon has the opportunity to lead the nation by standing up for veterans, taxpayers, and economically disadvantaged children simply by requiring for-profit education businesses to abide by the original intention of the 90/10 rule – that they prove themselves viable in the private market. More specifically, legislators can pass the SB 1544 amending state code governing proprietary schools in higher education to deny license to enroll in the state of Oregon if the school is more than 90% reliant on taxpayer funds.

² NYT Editorial Board, “Protect Veterans From Fraud,” *New York Times* (Dec. 31, 2019).

³ U.S. Senate, HEALTH, EDUCATION, LABOR AND PENSIONS COMMITTEE, Report: “*For-Profit Higher*

Education: The Failure to Safeguard the Federal Investment and Ensure Student Success” (pp. 70-71) [S. Rept. from 112th Cong., 2nd sess.]