

Incentive Compensation Ban & Its Importance to Veterans

What is the incentive compensation ban?

- The incentive compensation ban is a provision of Title IV of the Higher Education Act. It prohibits schools from using incentive compensation to pay employees working in recruitment and financial aid. Schools, in other words, cannot pay employees based on how many students are recruited or receive federal student aid because this could lead employees to be less than honest, in order to increase their pay.¹
- The Higher Education Act, including the incentive compensation ban, were signed into law by George H.W. Bush in 1992, as a result of national attention to fraudulent behaviors by trade schools.²
- The Act was supported by Republican Education Secretary Lamar Alexander and President Bush, but was a truly bipartisan effort — so much so, that President Bush strayed from his planned remarks to praise the bipartisanship that resulted in the Act when he signed it into law.³

Why is it important to students?

- The rule applies to all schools receiving Title IV funds to help prevent deceptive and aggressive advertising and recruiting tactics.⁴ Without the incentive compensation ban, students would be open to abuse by unscrupulous recruiters whose salary would hinge on how many students they could recruit.
- Of the trade school industry, Senator Nunn, chairman of the Permanent Subcommittee on Investigations at the time, said in 1990, “I used to buy the rhetoric that there were just a few bad apples, but then I discovered there were orchards of apples.”⁵
- Before the ban was passed, schools employed especially deceptive recruitment tactics.
 - For example, the Elkins Institute in Texas recruited and bussed in 145 homeless people from Dallas, San Antonio, and New Orleans, with the school promising to provide them money for food until they received their federal loans.⁶
- In the 1990 Senate Committee Hearings regarding the Higher Education Act, several examples of these abuses were given by people in the industry, as well as students who had been impacted:
 - A student who had enrolled in a travel agent training program was promised free travel to beautiful locations for “familiarization trips” and high rates of

¹ <https://www2.ed.gov/policy/highered/reg/hearulemaking/2009/compensation.html>

² <https://tcf.org/content/report/president-george-h-w-bush-cracked-abuses-profit-colleges/>

³ <https://tcf.org/content/report/president-george-h-w-bush-cracked-abuses-profit-colleges/> ; <https://www.c-span.org/video/?27351-1/higher-education-act-signing-ceremony>

⁴ <https://www.highereducationlegalinsights.com/2015/07/u-s-department-of-education-will-aggressively-enforce-incentive-compensation-ban/>

⁵ <https://drive.google.com/file/d/0B7aql03eYEUtQzRuX0JCQ3BIT3c/view>

⁶ <https://drive.google.com/file/d/0B7adHdBE6w3mWUZ3bkRUbVAycEE/view>

employment after graduation. In fact, those trips were not free and the program had a job placement rate of only 10-20 percent.⁷

- A former recruiter for a proprietary school described recruitment for those types of schools as “[selling] ‘dreams’, and so ninety-nine percent of the sales were made in poor, black areas, at welfare offices and unemployment lines, and in housing projects. My approach was that ‘if a prospect could breathe, scribble his name, had a driver’s license, and was over 18 years of age’ he was qualified for [the school.]” He added that his “tactics which were approved, and even encouraged, by the school’s owners included making the down payment for the prospect and going so far as to accompany the prospect to a pawn shop in order for him to obtain enough money.”⁸
- Schools would also make loan refunds to students either excessively late, or not at all.⁹
- Today, in practice, the incentive compensation ban penalizes schools that engage in illegal recruiting practices by paying their recruiters per each student recruited.
 - For example, in 2015, the U.S. Department of Justice fined Education Management Corporation, the second largest for-profit education company in the country, \$95.5 million for violating the incentive compensation ban.¹⁰ The company was “running a high pressure boiler room where admissions personnel were paid based purely on the number of students they enrolled.”¹¹ The Justice Department described the recruiting tactics as “exactly the problems that Congress sought to curtail when it enacted the [ban]: the enrollment of students in programs for which they lacked the necessary skills and qualifications, unsustainable student debt and default rates and schools’ pursuit of profits ahead of a legitimate educational mission.”¹²
 - Brian Klein, a former EDMC admissions officer, described the recruitment tactics: “You’d probe to find a weakness. You basically take all that failure and those bad decisions, and you spin it around and put it right back in their face as guilt, to go to this sh— university and run up all of this debt.”¹³

Why is it important to veterans, specifically?

- It is well-documented that veterans and their families are targeted by aggressive and deceptive recruiting,¹⁴ motivated by a loophole in the “90/10 rule,” through which for-

⁷ <https://drive.google.com/file/d/0B7aqlo3eYEUtQzRuX0JCQ3BIT3c/view>

⁸ Id.

⁹ Id.

¹⁰ <https://www.justice.gov/opa/pr/profit-college-company-pay-955-million-settle-claims-illegal-recruiting-consumer-fraud-and>

¹¹ Id.

¹² Id.

¹³ https://www.huffingtonpost.com/2011/10/14/goldman-sachs-for-profit-college_n_997409.html

¹⁴ <http://time.com/money/collection-post/3573216/veterans-college-for-profit/>

profit schools count veterans' GI Bill dollars as private sector revenue on the 10 percent side of the equation that is supposed to be a test of market viability.¹⁵

- Student veterans get only one shot at using their GI Bill benefits. When a subpar program deceives a veteran into enrolling at their institution, the veteran permanently loses the benefit they use to attend.

Why is it important to taxpayers?

- The Federal student aid program provides students with over \$120 billion each year in loans, grants, and work study,¹⁶ and the Department of Veteran Affairs provided \$12 billion in education benefits to 1 million beneficiaries in FY 2015.¹⁷
- Taxpayers have a vested interest in ensuring their dollars are flowing to schools that provide valuable degrees that do not need to be advertised fraudulently or deceptively.
- Taxpayers are also left to cover student loan defaults, which are more likely when students are tricked into attending failing and subpar schools, leaving them unable to find decent jobs to pay back their loans. According to the National Center for Education Statistics, 52 percent of students who attended a for-profit college defaulted on their federal loans within 12 years.¹⁸ And 12 years after starting school, students still owed 78 percent of their total principal balance.¹⁹
- About 43 million Americans carry student loan debt.²⁰ The American public has an interest in knowing that those tens of millions of people incurred their debt attending worthwhile institutions.

¹⁵<https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/57ed2866f5e23125aa07a0b2/1475160167821/VES-Policy-Backgrounder.pdf>

¹⁶ <https://studentaid.ed.gov/sa/types>

¹⁷ <https://benefits.va.gov/REPORTS/abr/ABR-Education-FY15-02032016.pdf>

¹⁸ <https://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2018410>

¹⁹ Id.

²⁰ Id.