

**BEFORE THE
FEDERAL TRADE COMMISSION
Washington, DC 20580**

In the Matter of)
)
Army.com “Partner Schools”)
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_____)

**Complaint, Request for Investigation, Injunction, and Other Relief Submitted by
Veterans Education Success**

Pursuant to the Commission’s Rules, 16 C.F.R. § 2.2, Veterans Education Success respectfully requests that the Commission institute an investigation of schools that may have purchased leads from deceptive lead generators¹ in violation of Section 5(a) of the Federal Trade Commission Act (FTC Act), 15 U.S.C. § 45(a), and the Federal Trade Commission’s Telemarketing Sales Rule, as amended, 16 C.F.R. Part 310.

The deceptive practices at issue are those of:

Advanced Technology Institute	Carrington College	National American University
All-State Career School	Concorde Career College	Post University
American Career College	DeVry University	Rasmussen College
American Sentinel University	ECPI University	Salem University
Ameritech College	First Institute	San Joaquin Valley College
Ashford University	Fortis College	St. Louis College of Health Careers
Berkeley College	Full Sail University	Strayer University
Blue Cliff College	Grand Canyon University ²	University of Phoenix

¹ “Lead generators” is a technical term referring to companies that gather and sell prospective students’ personal information as “leads” to colleges.

² Grand Canyon University was a for-profit college until 2018, when it converted to non-profit with the approval of the IRS and its accreditor, the Higher Learning Commission. This move has been widely criticized because the school is still owned by a for-profit entity, Grand Canyon Education, Inc. Grand Canyon’s non-profit arm sends 60% of fees and tuition to its for-profit owner. In November 2019, the Department of Education informed Grand Canyon University that it will be treated as a for-profit college for the purposes of Title IV funding and regulatory oversight. Additionally, the Department of Education stated that Grand Canyon University could not advertise itself as a non-profit institution because doing so would be confusing to students. Josh Moody, *For-Profit University Giant Goes Nonprofit Amid Questions And Concerns*, FORBES (Jul. 17, 2018), <https://www.forbes.com/sites/joshmoody/2018/07/17/for-profit-giant-goes-nonprofit-amid-questions-and-concerns/#1e387e115bbe>; Hallie Busta, *Ed Dept outlines decision to keep Grand Canyon U for-profit*, EDUCATIONDIVE (Nov. 13, 2019), <https://www.educationdive.com/news/grand-canyon-pushes-back-in-response-to-ed-depts-review-letter/567203/>. In short, the Education Department has deemed Grand Canyon a for-profit college despite Grand Canyon’s attempt to re-label itself as nonprofit. (This is an increasingly common tactic of for-profit colleges to avoid the negative public perception caused by negative press and law enforcement crackdowns. See generally, The Century Foundation, “Covert For-Profit: How College Owners Escape Oversight through a Regulatory Blind Spot” (2015), available at <https://tcf.org/content/report/covert-for-profit/>.) We request the

Branford Hall Career Institute
Capella University

Grantham University
Harris School of Business

Walden University

These colleges were listed as “Partner Schools” on the website Army.com, which masqueraded as an official military page, and possibly purchased leads deceptively obtained by it.

I. Complaining Party: Veterans Education Success

Veterans Education Success, located at 1250 H St NW, Suite 700, Washington, DC 20005, email Help@VetsEdSuccess, and phone number (202) 838-5050, is a non-profit organization that works to advance higher education success for all military-affiliated students and provides free counseling and legal assistance to students using their GI Bill and military benefits.

II. Deceptive Lead Generators

a. The Commission’s actions against Sunkey Publishing, Inc., Sun Key Publishing LLC, and Fanmail.com LLC

On September 6, 2018, the Commission took legal action against the publishers of several fraudulent military websites, including Army.com, Air-Force.com, ArmyEnlist.com, NavyEnlist.com, AirForceEnlist.com, MarinesEnlist.com, NationalGuardEnlist.com,

Commission follow the Education Department in not treating Grand Canyon as nonprofit, especially in light of the Commission’s power and precedent to pierce the veil of non-profit colleges that are “mere shells without substance.... using the guise of the nonprofit corporation to further [private] finance and comfort.” *In re Ohio Christian College*, 80 F.T.C. 815, 1972 FTC LEXIS 223, *67 (F.T.C. July 29, 1970) (holding that “piercing the non-profit corporate veil and recognizing the [school] for what it [was]—a device by which individuals for private gain, seek to deceive the public—does no violence”). Similarly, in *FTC v. AmeriDebt, Inc.*, 343 F. Supp. 2d 451 (D. Md. 2004), a federal district court rejected a non-profit organization’s argument that the Commission lacked jurisdiction over the organization due to its non-profit status. Instead, the court recognized the Commission’s authority over the non-profit because it acted in concert, in profit-making activities, with a for-profit company. *Id.* As recently as 2017, the Commission Chairperson, in affirming the Commission’s commitment to an international privacy framework, wrote a foreign government that the Commission’s jurisdiction extended to “sham charities or other non-profits that in actuality operate for profit” and to “non-profit organizations that operate for the profit of their for-profit members, including by providing substantial economic benefits to those members.” Finally, the Supreme Court has recognized the Commission’s ability to assert jurisdiction over a nonprofit entity. In *Cal. Dental Ass’n v. FTC*, 526 U.S. 756 (1999), the Court upheld the Commission’s authority over a nonprofit organization because the FTC Act expressly grants the Commission jurisdiction over an entity that carries on business for the profit of its members. *Id.* at 766. There, the Court noted that “[n]onprofit entities organized on behalf of for-profit members have the same capacity and derivatively, at least, the same incentives as for-profit organizations to engage in unfair methods of competition or unfair and deceptive acts under the Federal Trade Commission Act.” *Id.* at 768. See generally, Veterans Education Success, “Piercing the Veil of Covert For-Profit Colleges” (June 2018), available at <https://vetsedsuccess.org/piercing-the-veil-of-covert-for-profit-colleges/>.

AirGuardEnlist.com, and CoastGuardEnlist.com,³ following alerts by Veterans Education Success and others about these and other fraudulent military recruiting websites.⁴ The Commission found that Sunkey Publishing, Inc., Sun Key Publishing LLC, and Fanmail.com LLC operated a series of websites that were disguised as official recruiting channels for the United States Armed Forces since at least 2010:⁵

“The SunKey and Fanmail Defendants [targeted] potential military recruits and [induced] them to submit their information by disguising their websites and advertisements as official recruiting channels and representing that the information [would] be used solely for [official military] recruiting purposes.”⁶

Instead of serving as channels for military enlistment, Sunkey and Fanmail actually sold patriotic Americans’ personal information as marketing leads to post-secondary schools, primarily for-profit colleges, making millions of dollars.⁷ Sunkey operated ArmyEnlist.com, NavyEnlist.com, MarinesEnlist.com, CoastGuardEnlist.com, NationalGuardEnlist.com, AirForceEnlist.com, and ArmyReserves.com,⁸ while Fanmail operated Army.com and Air-Force.com, among other websites.⁹

Because the US Armed Forces are all-volunteer, with no current conscription, and the US Army has recently struggled to meet recruitment goals,¹⁰ these websites interfered with the military’s genuine recruitment and denied potential enlistees the opportunity to proudly serve their nation. Indeed, the Commission found that Army.com specifically told military recruits that the US Army did not need volunteers: “Please be aware that our military is currently downsizing. Army.com wants you to know that there are more ways for you to serve your country than just military service. If you had a college education you could contribute through engineering, science, law, health care, and more.”¹¹ Given that the US Army is currently facing a critical shortage of volunteers,¹² the websites’ actions damaged military readiness and national security.

The September 2018 settlement agreement with the Commission required Sunkey and Fanmail to shut down the websites, relinquish the domain names, and stop any deceptive practices.

³ *U.S. v. Sunkey Publishing, et. al*, Complaint, September 6, 2018, 6-7, available at https://www.ftc.gov/system/files/documents/cases/sunkey_filed_complaint.pdf.

⁴ See, e.g., Veterans Education Success, “Understanding Misleading Websites and ‘Lead Generators’” (2016), available at <https://vetsedsuccess.org/misleading-websites-lead-generators-case-study-victory-media-military-friendly-schools/>

⁵ *Supra* note 3.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 8.

⁹ *Id.* at 26.

¹⁰ Russel Read, *Why the US military is on the brink of a recruitment crisis*, ABC 7 WJLA (Feb. 16, 2018), <https://wjla.com/news/nation-world/why-the-us-military-is-on-the-brink-of-a-recruitment-crisis>.

¹¹ *Supra* note 3 at 29.

¹² *Supra* note 10.

Along with 27 other veterans and military organizations, Veterans Education Success requested that the Commission release the names of the schools that participated in this fraudulent scheme by partnering with these sites and paying for the “leads.”¹³ The Commission denied a FOIA request asking for the school names to be released, stating “the disclosure of that material could reasonably be expected to interfere with the conduct of the Commission’s law enforcement activities.”¹⁴

Through independent website historical research, Veterans Education Success discovered that at least one of the websites, Army.com, listed on its website “Partner Schools,” which are included at the beginning of this petition.¹⁵ Most of Army.com’s listed “Partner Schools” were for-profit colleges.

b. The Commission’s actions against the owners of Army.com

Army.com was a website that Fanmail presented as a resource for people interested in joining the U.S. Army. While it did not claim to be an official website of the Army, the website’s design resembled that of the official army.mil website.¹⁶ For example, Army.com’s logo was clearly based off the Army’s official logo.¹⁷ Considering the website’s domain name, its design, and military-oriented content, it would have been easy for an unsuspecting visitor to assume that Army.com was an official U.S. Army website.

In 2018, the Commission took legal action against the operator of Army.com, Fanmail.¹⁸ The Commission’s complaint alleged that Army.com promised to use the information consumers submitted to the site for military recruitment only and not to share it with anyone else.¹⁹ However, the Commission charged that the defendant, Fanmail, sold the information as marketing leads to post-secondary schools for \$15 to \$40 per lead.²⁰ As a result of the Commission’s lawsuit, the operators of Army.com agreed to settle the Commission’s charges that they targeted people seeking to join the Armed Forces and misled them by falsely claiming to be affiliated with the military, with the purpose of generating sales leads for post-secondary schools.²¹ The settlement terms required the operators of Army.com to relinquish the website to

¹³ See November 19, 2018, Letter from Veterans Education Success and 27 veterans and military service organizations to the Commission, available at <https://vetsedsuccess.org/what-we-do/policy-advocacy-whatwe-do/policy-issues/school-accountability-student-protections-letters/28-veterans-and-military-leaders-ask-usfederal-trade-commission-to-release-the-names-of-the-schools-that-participated-in-fake-military-recruitingwebsites/>.

¹⁴ Letter from Dione J. Stearns, Assistant General Counsel, US Federal Trade Commission to James Haynes, Legal Advisor, Veterans Education Success (Apr. 5, 2019) (on file with recipient).

¹⁵ The “Wayback Machine” was used to access this information, available at <https://archive.org/web/>.

¹⁶ A small font disclaimer was included at the bottom of Army.com, stating, “[t]his web site is provided by FanMail.com, L.L.C. and is not affiliated, owned, or managed by the United States Coast Guard, the United States Army or the military and/or government of any country,” available at <https://web.archive.org/web/20150315012525/http://army.com/school/list>.

¹⁷ See Appendix.

¹⁸ *Supra* note 3.

¹⁹ *Id.* at 6-7.

²⁰ *Id.*

²¹ US Federal Trade Commission, “FTC Takes Action Against Operators of Copycat Military Websites” (Sept. 6, 2018), available at <https://www.ftc.gov/news-events/press-releases/2018/09/ftc-takes-action-against-operators-copycat-military-websites>.

the Commission, to cease misrepresenting a military affiliation, to disclose that their sites are not official recruiting websites of the U.S. military, to solicit consumers' acknowledgement of that fact, and to obtain permission to disclose consumer information collected in connection for lead generator purposes.²² In addition, the owners of Army.com were required to notify the companies (i.e., the colleges and their corporate owners) that purchased the consumer data (student "leads") about the Commission's allegations and instruct the companies to stop using the information.²³

As mentioned previously, Army.com listed "Partner Schools" on its website, which were almost exclusively for-profit colleges.²⁴ Using the Wayback Machine, we ascertained that, for example, on March 15, 2015, Army.com's website was configured such that a visitor who hovered over a tab labeled "Help With College" would receive a drop-down menu with "Partner Schools" listed at the bottom.²⁵ Clicking on "Partner Schools" opened a page that listed 60 schools, including those listed above.²⁶ Screenshots of the images are attached hereto in the Appendix. Many have since closed or were purchased by other Army.com "Partner Schools." The Commission found that visitors to the website were "provided the false impression that the military endorsed those schools."²⁷

c. The Commission's actions against Career Education Corporation

In August 2019, the Commission filed a complaint against Career Education Corporation ("CEC") and its subsidiaries, including American InterContinental University, Inc., AIU Online, Inc., Marlin Acquisition Corp., Colorado Tech., Inc., and Colorado Technical University, Inc., for violating Section 5(a) of the FTC Act and the Telemarketing Sales Rule by using illegal and deceptive lead generators to "lure consumers to their post-secondary and vocational schools."²⁸ CEC used the services of 70 different lead generators, including the Sunkey entities and Fanmail, which operated Army.com.²⁹

The Commission's complaint states that the lead generation websites used by CEC "have induced consumers to submit their contact and other personal information under the guise of providing consumers with completely unrelated services such as military recruitment, assistance with job searches and applications and government benefits" and that they "have not sought consent for CEC or its lead generators to call consumers, nor disclosed that the purpose of any call would be to market post-secondary or vocational education."³⁰ The complaint also noted that "CEC received, and had the power to review, the marketing materials that its lead generators

²² *Id.*

²³ *Id.*

²⁴ See Appendix.

²⁵ <https://web.archive.org/web/20150315011437/http://army.com/school/intro>.

²⁶ <https://web.archive.org/web/20150315012525/http://army.com/school/list>;
<https://web.archive.org/web/20160505175706/http://army.com/school/list>.

²⁷ *Supra* note 3 at 7.

²⁸ *U.S. v. Career Education Corporation, et. al*, Complaint, August 27, 2019, 5, available at https://www.ftc.gov/system/files/documents/cases/career_education_corporation_complaint_8-27-19.pdf.

²⁹ *Id.* at 9.

³⁰ *Id.* at 8.

used to lure consumers into providing personal information” but “CEC did not require changes to misleading military related imagery and content on those same websites.”³¹ Further, the Commission alleged, CEC’s standard lead purchase agreement required lead generators to “submit all materials that they use to generate leads to CEC, such as websites and advertisements, and allow CEC to edit, revise, reject, or opt out of the use of those materials” and prohibited “use of any telephone scripts without CEC’s prior written approval.”³²

According to the Commission’s complaint, the lead generators’ deception continued during telemarketing calls, and Sunkey and Fanmail “initiated hundreds of thousands of calls to numbers on the National Do Not Call Registry” without obtaining written consent from consumers and without having a pre-existing business relationship with them.³³ The complaint also states that “[Sunkey and Fanmail] shared consumer information with CEC and other postsecondary schools.”³⁴ CEC and its subsidiaries were ordered to pay \$30 million to the Commission.³⁵

III. The Army.com partner schools’ deceptive conduct

Like the CEC colleges, Army.com’s “Partner Schools” listed above are likely to have had a financial relationship with the Sunkey and Fanmail websites. Because these websites falsely told consumers they were affiliated with the U.S. military, schools that had a financial relationship with the websites – especially those which bought leads from these sites – would, like CEC, run afoul of Section 5(a) of the FTC Act. A number of CEC colleges were also listed as Army.com “Partner Schools,” including American InterContinental University, Colorado Technical University, and Le Cordon Bleu.³⁶ Considering that both American InterContinental University and Colorado Technical University were defendants in the Commission’s August 2019 complaint against CEC, and that their relationship with Army.com was cited as evidence of misconduct in the complaint, the other Army.com “Partner Schools” should also be investigated, as they likely had a financial relationship with Sunkey and Fanmail, and may have purchased leads illegally obtained by Sunkey and Fanmail. This is also supported by the fact that the

³¹ *Id.* at 14.

³² *Id.* at 18.

³³ *Id.* at 15-18. According to the Commission’s settlement, during phone calls, telemarketers continued to misrepresent that the websites were affiliated with the military, and students were “advised that the military supports earning a degree while serving in the military,” then given information about “military friendly colleges.” Telemarketers then recommended colleges that paid for education marketing leads.

³⁴ *Id.* at 10.

³⁵ *U.S. v. Career Education Corporation, et. al*, Stipulated Order, August 27, 2019, available at https://www.ftc.gov/system/files/documents/cases/career_education_corporation_proposed_stipulated_order_for_permanent_injunction_8-27-19.pdf.

³⁶ CEC had a licensing agreement with Le Cordon Bleu International to use the Le Cordon Bleu brand while operating for-profit culinary schools in the United States. CEC’s Le Cordon Bleu culinary schools have since closed. [https://web.archive.org/web/20150122193441/https://www.careered.com/press-room/press-releases/culinary/cec-announces-purchase-of-lcb-brand](https://web.archive.org/web/20150122193441/https://www.careered.com/press-room/press-releases/culinary/cec-announces-purchase-of-lcb-brand;);

Ashley Smith, *Career Ed Closing Down Le Cordon Bleu Operations*, INSIDE HIGHER ED (Dec. 17, 2015), <https://www.insidehighered.com/quicktakes/2015/12/17/career-ed-closing-down-le-cordon-bleu-operations>.

Commission’s complaint mentions that Sunkey and Fanmail shared consumer information with “other postsecondary schools.”³⁷

These Army.com “Partner Schools” might also have purchased leads from other deceptive websites beyond those owned by Sunkey and Fanmail. For example, Ashford University, Post University, Full Sail University, American InterContinental University, ECPI University, Capella University, Strayer University, and Grand Canyon University all appeared on the website *getinfo.computertrainingschools.com*, which is operated by QuinStreet.³⁸ QuinStreet is another lead generator hired by CEC and other schools that “entered into an assurance of voluntary compliance in 2012 with 30 state attorneys general stemming from its use of deceptive military-themed websites.”³⁹ At issue in 2012 was a website, GIBill.com, which appeared to visitors to be the official U.S. Department of Veterans Affairs’ gateway to using the GI Bill, but was, in actuality, a lead generator for for-profit colleges. Despite the 2012 settlement, QuinStreet continues to target veterans on behalf of low-quality colleges known for aggressive and deceptive recruiting of veterans, such as Ashford University, Colorado Technical University, Kaplan College, and several other low-value, high-cost schools - as outlined and documented in the Appendix. A great deal of this targeting takes place through education related websites such as *schools.com* and *getinfo.computertrainingschools.com*.⁴⁰ Considering that many Army.com “Partner Schools” appeared on websites operated by Sunkey, Fanmail, and QuinStreet lead generators, which were also used by CEC, it is likely that they used other deceptive lead generators. This further justifies investigation of the Army.com “Partner Schools.”

IV. If the Army.com partner schools purchased leads, then they violated Section 5(a) of the FTC Act and the Telemarketing Sales Rule

If the Army.com “Partner Schools” purchased leads from Sunkey and Fanmail, then they, like the CEC-owned colleges, violated Section 5(a) of the FTC Act and the Telemarketing Sales Rule because Sunkey and Fanmail were deceiving consumers into believing they were the U.S. Army.

³⁷ *Supra* note 28 at 10.

³⁸ *See* Appendix.

³⁹ *Supra* note 28 at 20.

⁴⁰ QuinStreet operated websites, such as *schools.com* and *getinfo.computertrainingschools.com*, inquire about military affiliation when generating a list of schools for website users. The 90/10 rule gives for-profit colleges a perverse incentive to target veterans. Under the 90/10 rule, for-profit colleges are prohibited from receiving more than 90 percent of their revenue from Title IV funding. Military benefits do not fall under Title IV and instead are deemed “other funds” that make up non-federal student aid. Therefore, the more revenue that a for-profit college can receive from military benefits, the closer that school comes to being in compliance with the 90/10 rule. Hence, asking about military affiliation is not an innocent inquiry. *Schools.com* features for-profit colleges almost exclusively. *90/10 Rule*, FINAID, <http://www.finaid.org/loans/90-10-rule.phtml> (last visited Sep. 24, 2019); Michael Stratford, *New Fodder for 90/10 Debate*, INSIDE HIGHER ED (Oct. 13, 2014), <https://www.insidehighered.com/news/2014/10/13/more-profit-colleges-would-fail-9010-rule-if-veterans-benefits-are-included-analysis>; *see also*, Michael Durkheimer, *The Loophole That Helps Schools but Hurts Veterans and Taxpayers*, FORBES (Nov. 29, 2017), <https://www.forbes.com/sites/michaeldurkheimer/2017/11/29/the-loophole-that-helps-schools-but-hurts-veterans-and-taxpayers/#7abb876f5c6a>.

a. Section 5(a) of the FTC Act

As set forth in the Commission’s August 2019 complaint against CEC, “Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits ‘unfair or deceptive acts or practices in or affecting commerce.’ Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.”⁴¹

Count I in the Commission’s August 2019 complaint against CEC states:

“In numerous instances, in connection with advertising, marketing, promotion, offering for sale, or sale of post-secondary education programs, Defendants through lead generators acting on their behalf and for their benefit, have represented, expressly or by implication, that:

- a. the lead generators are, represent, or are affiliated with the United States Military;
- b. the United States Military recommends or endorses their postsecondary schools;
- c. the information the lead generators have collected from consumers will be provided to the United States Military for recruitment purposes and will not be shared with anyone else;
- d. by submitting information, or by participating in a purported interview, consumers have applied or are applying for an open job position;
- e. representatives are acting on behalf of prospective employers hiring for open job positions; and
- f. independent education advisors recommend or endorse their postsecondary schools.

The representations set forth in Paragraph 63 are false and misleading. Therefore, Defendants’ representations as set forth in Paragraph 63 of this Complaint constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).”⁴²

As mentioned previously, the colleges listed as Army.com “Partner Schools” likely had a financial relationship with the deceptive Sunkey and Fanmail lead generators. If the Army.com “Partner Schools” purchased leads from Army.com, then they also violated Section 5(a) of the FTC Act for the reasons outlined in Count I of the Commission’s complaint against CEC.

b. The Telemarketing Sales Rule

The Telemarketing Sales Rule (“TSR”) “prohibits sellers and telemarketers from initiating an outbound telephone call to numbers on the National Do Not Call Registry unless the

⁴¹ *Supra* note 28 at 22.

⁴² *Id.* at 22-23.

seller (1) has obtained the consumer's express agreement, in writing, to place such calls, or (2) has an established business relationship with that consumer, and the consumer has not stated that he or she does not wish to receive such calls.”⁴³ Additionally, “[t]he TSR prohibits sellers and telemarketers from repeatedly or continuously calling a number with the intent to annoy, harass, or abuse any person at the called number.”⁴⁴ “[A] violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).”⁴⁵

Count II of the CEC complaint states that “[i]n numerous instances, in connection with telemarketing, Defendants directly or through their lead generators, have initiated or caused others to initiate an outbound telephone call to a person's telephone number on the National Do Not Call Registry in violation of the TSR. 16 C.F.R. § 310.4(b)(1)(iii)(B).”⁴⁶

Count III of the CEC complaint states:

“In numerous instances, in connection with telemarketing, Defendants directly or through their lead generators, have misrepresented, expressly or by implication, that:

- a. the lead generators are, represent, or are affiliated with the United States Military;
- b. the United States Military recommends or endorses their postsecondary schools;
- c. the information the lead generators have collected from consumers will be provided to the United States Military for recruitment purposes and will not be shared with anyone else;
- d. by submitting information, or by participating in a purported interview, consumers have applied or are applying for an open job position;
- e. representatives are acting on behalf of prospective employers hiring for open job positions; and
- f. independent education advisors recommend or endorse their postsecondary schools.

Defendants' practice as alleged in Paragraph 84 of this Complaint is a deceptive telemarketing practice that violates the TSR, 16 C.F.R. §§ 310.3(a)(2)(vii) & (a)(4).”⁴⁷

Count IV of the CEC complaint states:

⁴³ *Id.* at 24-25.

⁴⁴ *Id.* at 25.

⁴⁵ *Id.*

⁴⁶ *Id.* at 27.

⁴⁷ *Id.* at 27-28.

“In numerous instances in connection with telemarketing, Defendants have provided substantial assistance or support to one or more lead generators even though Defendants knew or consciously avoided knowing that one or more such lead generators were engaged in violations of § 310.4 of the TSR. Defendants, therefore, have violated 16 C.F.R. § 310.3(b).”⁴⁸

Count V of the CEC complaint states:

“In numerous instances in connection with telemarketing, Defendants have provided substantial assistance or support to one or more lead generators even though Defendants knew or consciously avoided knowing that one or more such lead generators were engaged in violations of § 310.4 of the TSR. Defendants, therefore, have violated 16 C.F.R. § 310.3(b).”⁴⁹

Given the similarity in their business practices, it is extremely likely that the Army.com “Partner Schools” used the same deceptive telemarketing services that CEC did to recruit prospective servicemembers.⁵⁰ If the Army.com “Partner Schools” purchased leads from Army.com and used the services of Sunkey and Fanmail telemarketers, then they also violated the Telemarketing Sales Rule for the reasons outlined in Counts II-V of the Commission’s complaint against CEC.

For these reasons, if the Army.com “Partner Schools” purchased leads from deceptive lead generators just as the CEC schools did, then the Army.com “Partner Schools” violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and if the Army.com “Partner Schools” used telemarketing services that violated the Do Not Call Registry, then the Army.com “Partner Schools” violated the Commission’s Telemarketing Sales Rule.

V. Conclusion

Given the similar business practices of these college companies, and the high likelihood that these companies violated the FTC Act and the Commission’s Telemarketing Sales Rule, Veterans Education Success respectfully requests that the Commission initiate an investigation of these colleges.

⁴⁸ *Id.* at 28.

⁴⁹ *Id.*

⁵⁰ See generally U.S. Senate Committee on Health, Education, Labor & Pensions, “For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success” (2012) available at https://www.help.senate.gov/imo/media/for_profit_report/Contents.pdf.

Respectfully Submitted,
VETERANS EDUCATION SUCCESS

A handwritten signature in black ink, appearing to read "C. Wofford".

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Senior Director for Legal Affairs and Military Policy

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Alexander Kish, Esq.
Attorney

June 18, 2020

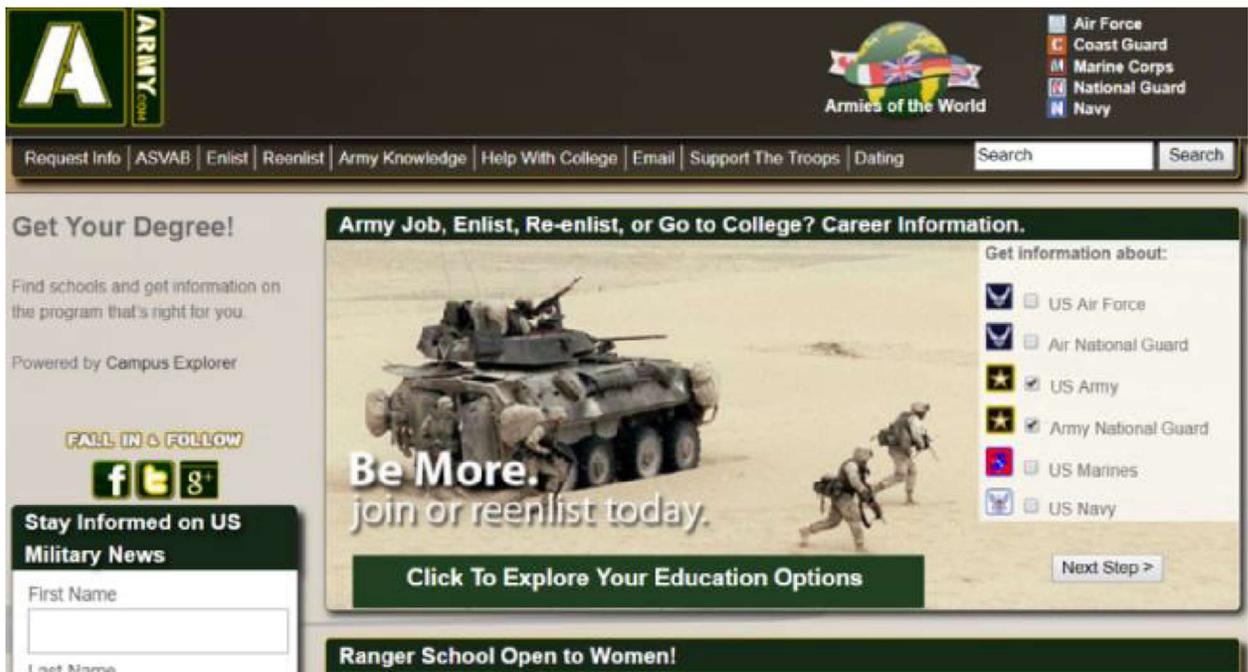
Appendix

Army.com

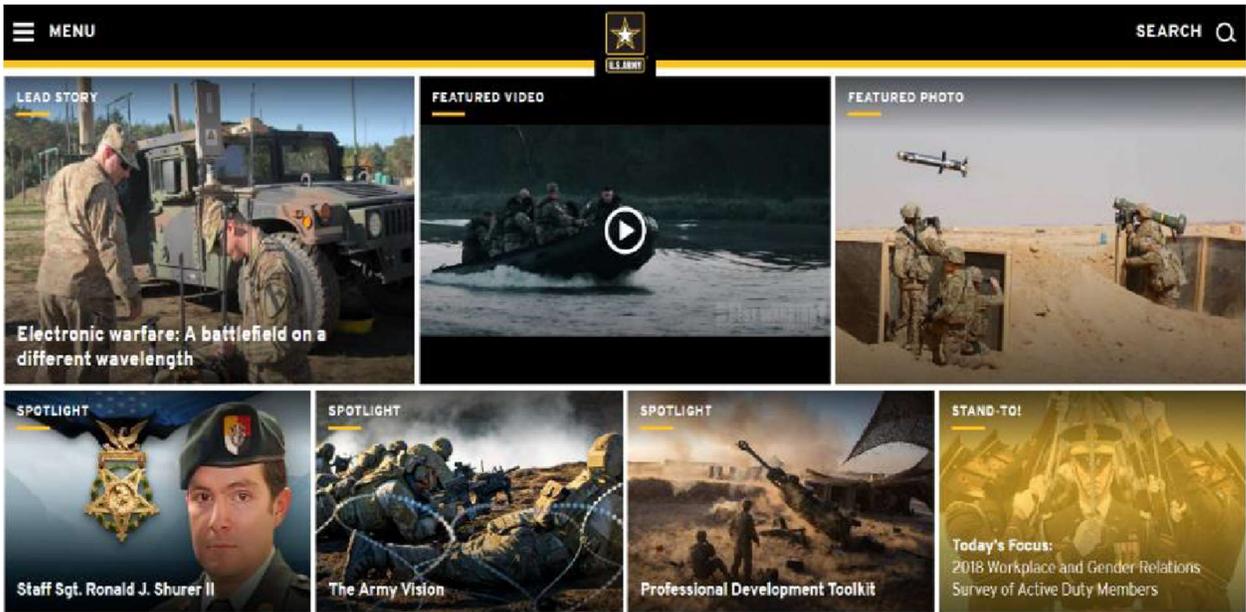
Army.com was a website that Fanmail presented as a resource for people interested in joining the U.S. Army. While it did not claim to be an official website of the Army, the website's design resembled that of the official army.mil website. For example, Army.com's logo was clearly based off the Army's official logo. Considering the website's domain name, its design, and its military-oriented content, it would have been easy for an unsuspecting visitor to assume that Army.com was an official U.S. Army website.



[Image above: Comparison of Army.com logo and official U.S. Army logo, downloaded October 17, 2018]



[Image above: a screenshot taken of Army.com on September 4, 2015, downloaded October 19, 2018]



[Image above: official Army.mil website (compare with Army.com), downloaded October 19, 2018]

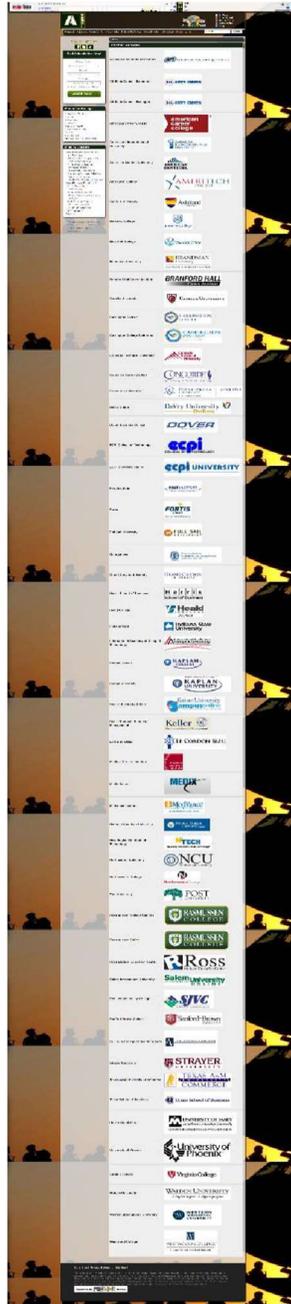
The Commission's August 2019 complaint against CEC provides the following image of Army.com as an example of Sunkey and Fanmail's use of deceptive military themed webpages.⁵¹



[Image above: Army.com screenshot from the FTC's August 2019 CEC complaint, downloaded September 24, 2019]

⁵¹ *Supra* note 28 at 10.

Army.com listed “Partner Schools,” which were almost exclusively for-profit colleges. Using the Wayback Machine, we ascertained that, for example, on March 15, 2015, Army.com’s website was configured such that a visitor who hovered over a tab labeled “Help With College” would receive a drop-down menu with “Partner Schools” listed at the bottom. Clicking on “Partner Schools” opened a page that listed 60 schools, including Ashford University, Purdue University Global, and the University of Phoenix.⁵²



⁵² <https://web.archive.org/web/20140209022939/http://army.com/school/list>

[Image above: [Army.com](#) “Partner Schools” page from May 5, 2016, downloaded September 10, 2018]

QuinStreet

QuinStreet is a publicly traded marketing firm⁵³ that uses advertising strategies to promote clients over the internet. QuinStreet operates multiple websites including [schools.com](#), [getinfo.computertrainingschools.com](#), and [onlineschools.com](#).



[Image above: [Schools.com](#) homepage, downloaded September 24, 2019]



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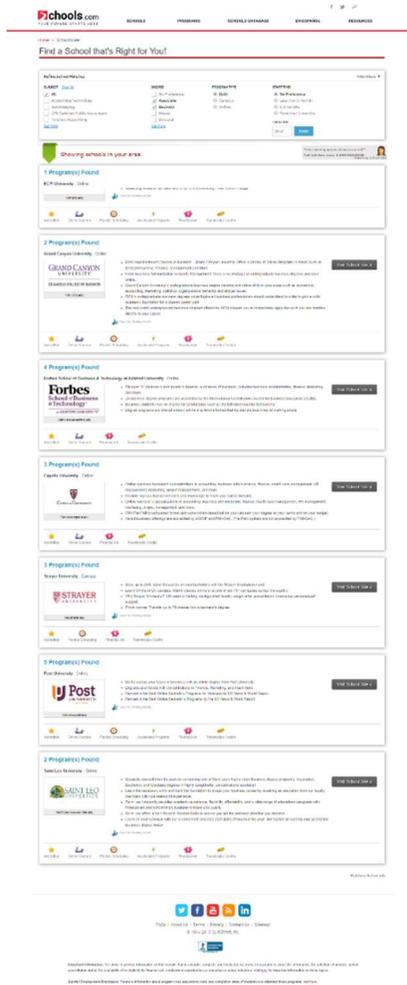
© 1994-2019 QuinStreet, Inc.



[Image above: QuinStreet copyright information at the bottom of [Schools.com](#) homepage, downloaded September 23, 2019]

⁵³ QuinStreet, Inc. Common Stock (QNST) Quote & Summary Data, NASDAQ, <https://www.nasdaq.com/symbol/qnst> (last visited April 17, 2020).

Clicking on an icon labeled “undergraduate,” selecting “business” from a drop down menu, selecting “accounting” from another dropdown menu, then entering the zip code 20147 (Ashburn, VA), produced a list of the following schools: ECPI University, Grand Canyon University, Forbes School of Business & Technology at Ashford University, Capella University, Strayer University, Post University, and Saint Leo University. ECPI University, Grand Canyon University, Ashford University, Capella University, and Post University were all listed as Army.com “Partner Schools.” With the exception of Strayer University and ECPI University, which have multiple campuses throughout the United States, none of these schools have campuses that are close to the zip code entered, and the list excludes non-profit schools like George Mason University, Northern Virginia Community College, and George Washington University, which are much closer. The colleges listed are almost exclusively for-profit.



[Image above: List of schools generated by Schools.com, downloaded September 23, 2019]

Changing the zip code to 28547 (Onslow County, NC) produced a list of the following schools: ECPI University, Grand Canyon University, Forbes School of Business & Technology

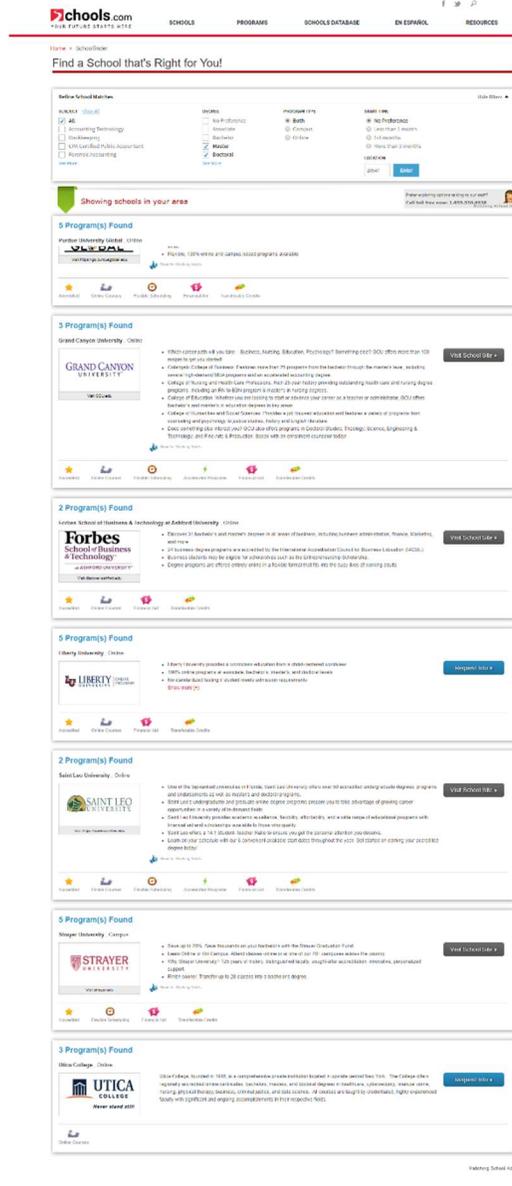
at Ashford University, Capella University, Post University, Independence University, and Saint Leo University. Note that many of the schools recommended for this North Carolina zip code were also recommended for Ashburn, VA.

The screenshot shows the Schools.com website interface. At the top, there's a navigation bar with 'SCHOOLS', 'PROGRAMS', 'SCHOOLS DATABASE', 'EN ESPAÑOL', and 'RESOURCES'. Below this is a search bar and a 'Find a School that's Right for You!' section. The main content area displays a list of search results for graduate business programs. Each result includes the school name, a brief description of its programs, and a 'Visit School Site' button. The schools listed are PCF University, Grand Canyon University, Forbes School of Business & Technology, Capella University, Post University, Independence University, and Saint Leo University. The page also features social media icons and a footer with contact information and a disclaimer.

[Image above: List of schools generated by Schools.com, downloaded September 23, 2019]

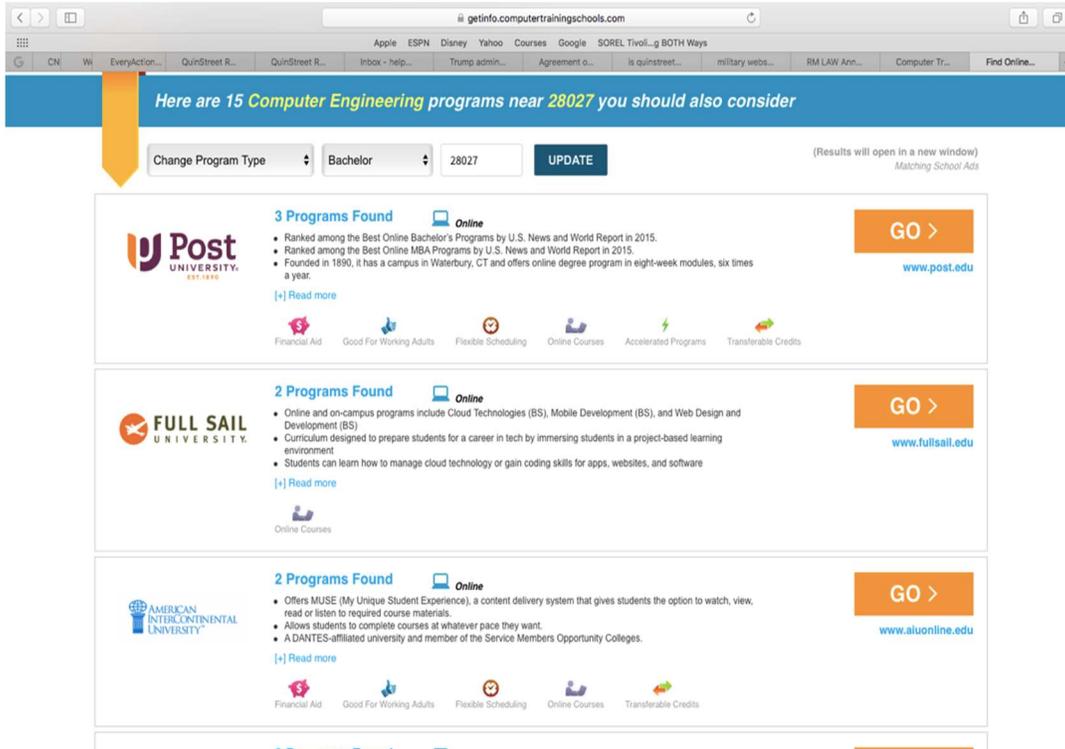
Selecting graduate business programs produced a list of the following schools: Purdue University Global, Grand Canyon University, Forbes School of Business and Technology at

Ashford University, Liberty University, Saint Leo University, Strayer University, and Utica College. Purdue University Global (a relatively recent entity operated by the for-profit Kaplan, Inc., under a contract with Purdue University) was also listed as an Army.com “Partner School.”

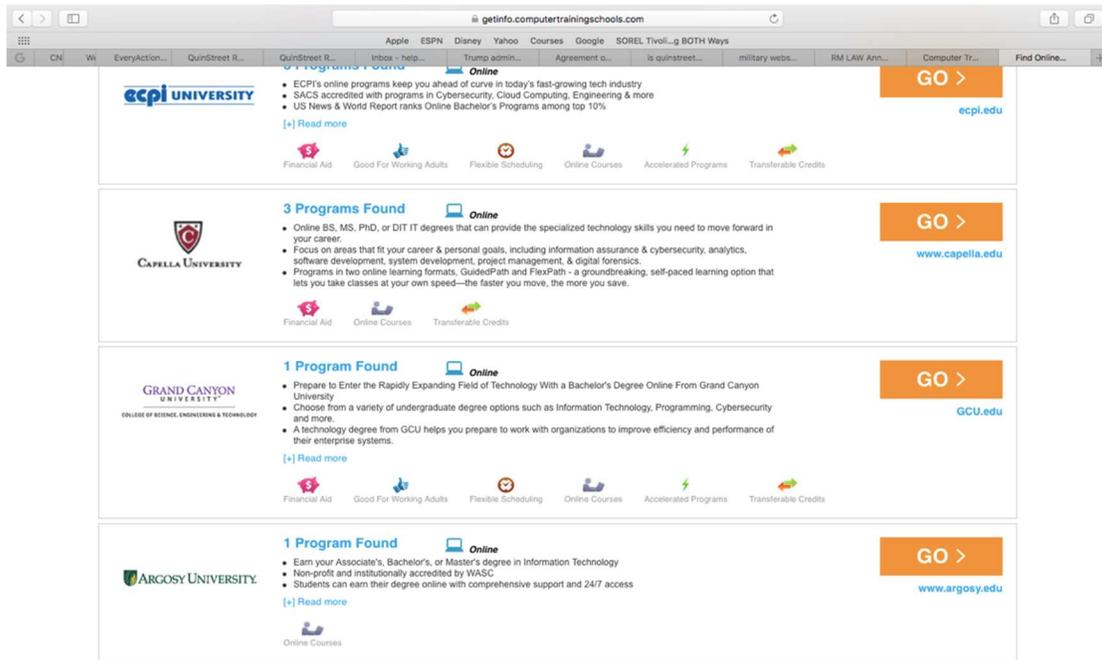


[Image above: List of schools generated by Schools.com, downloaded September 23, 2019]

QuinStreet also operated getinfo.computertrainingschools.com, another lead generator website. In 2018, getinfo.computertrainingschools.com featured the following colleges: Post University, Full Sail University, American InterContinental University, ECPI University, Capella University, Grand Canyon University, and Argosy University.⁵⁴ Full Sail University was also an Army.com partner school.

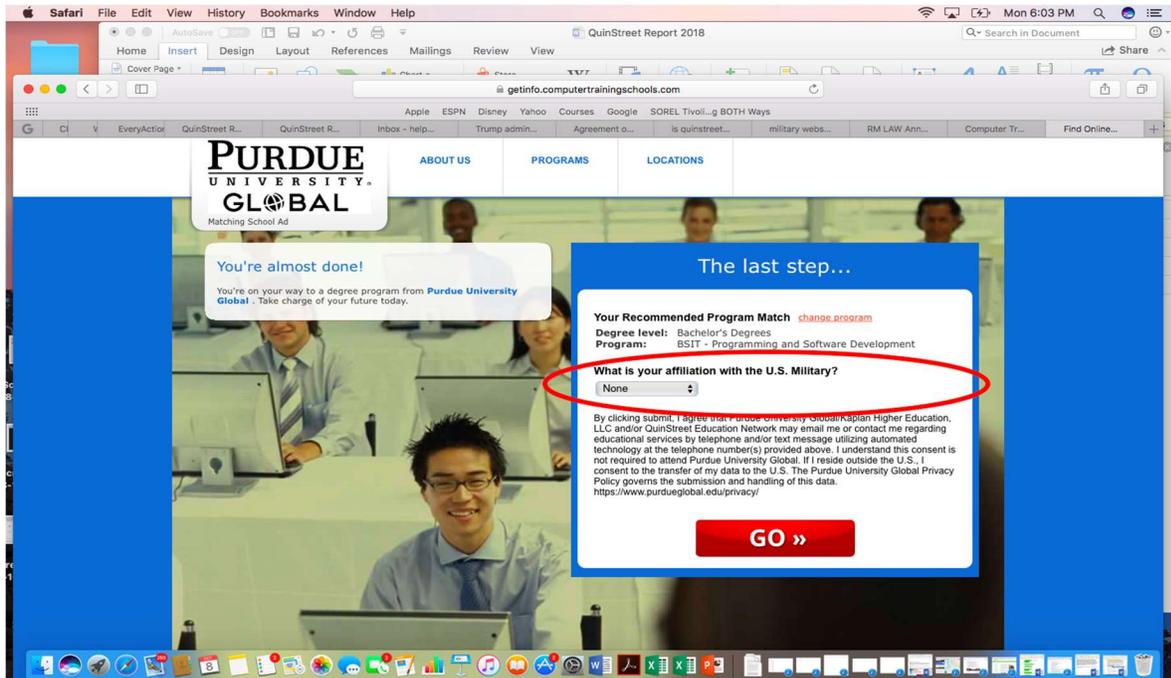


⁵⁴ These are all for-profit schools. Although Grand Canyon University attempted to convert to nonprofit status, the Education Department ruled that Grand Canyon University should continue to be treated as a for-profit for Title IV funding and regulatory oversight and that it may not present itself, to students, as a nonprofit school. The Commission should similarly treat Grand Canyon University as a for-profit school. *Supra* note 2.

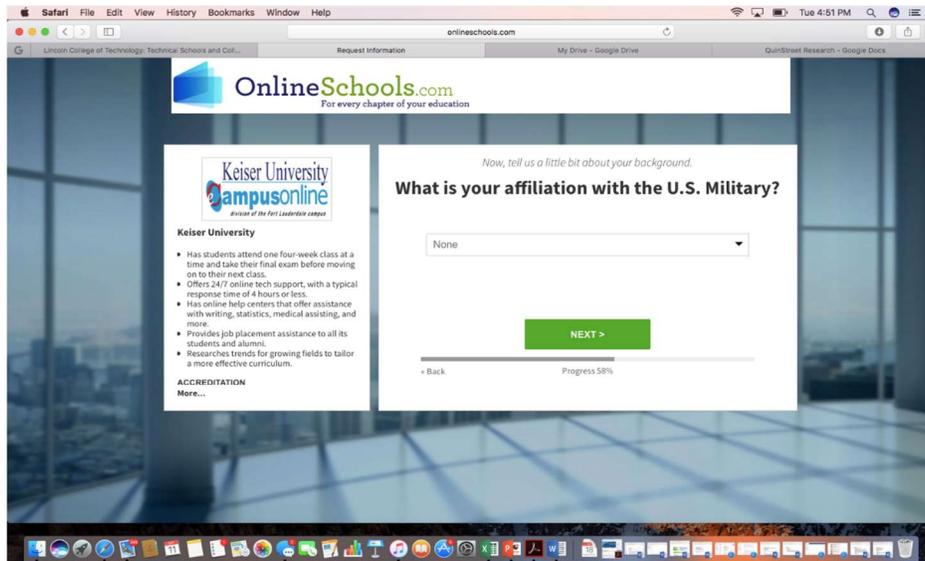


[Image above: List of Schools generated by getinfo.computertrainingschools.com downloaded October 8, 2018]

[Getinfo.computertrainingschools.com](http://getinfo.computertrainingschools.com) inquired about military affiliation.



[Image above: Dropdown menu on getinfo.computertrainingschools.com requesting information about military affiliation, downloaded October 8, 2018]



[Image above: Dropdown menu on getinfo.computertrainingschools.com requesting information about military affiliation, downloaded October 8, 2018]