

Negotiated Rulemaking 2021
Public Hearing Statements and Testimony
of
Veterans of the Armed Forces

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Nicole Wilson

Testimony

U.S. Education Department

June 2021

Good morning. My name is Nicole Wilson and I'm from Akron, Ohio. I have served off and on from 2002 through 2020, serving on active duty in the Navy, in the Navy reserves, and in the Ohio Army National Guard. I have wanted to be a nurse for 12 years to help families not go through what I did during the time before my mother passed away, and I have been going to school to try to achieve this dream for 11 years. Unfortunately, two terrible experiences with for-profit colleges have delayed my dream, drained my GI Bill benefits, and left me with massive student loan debt.

I first attended Brown Mackie College to earn my LPN. Brown Mackie promised a quick and flexible program, but in reality, their program offered no flexibility for working adults. My graduation date was delayed because I had to retake courses after missing just one day of class. In addition, I was told on my first campus visit that the GI Bill would cover all expenses, but after I had enrolled, the financial aid office informed me that the first advisor was incorrect, and I would need to take out loans to cover my balance. When I had finished at Brown Mackie, the nursing board informed me that I would likely need to take additional remedial courses before I could take the NCLEX because Brown Mackie had not adequately prepared me for the exam. Most of the students in my graduating class could not pass the exam, and few are working in the field, despite Brown Mackie's promises of 95% placement in the field of study.

After my experience at Brown Mackie, I decided to pursue my RN. Many schools had long wait lists for their programs, so I ended up attending Bryant & Stratton College. Bryant & Stratton promised that students could become a nurse in two years, that the school had no wait list, and that schedules were flexible for working students. In reality, the school had no flexibility, the programs took longer than two years, and the quality of the program was extremely poor. We had to participate in clinicals that were two hours away from the school because no local hospitals believed that Bryant & Stratton students were adequately instructed. The best instructors at Bryant & Stratton left to teach elsewhere because they were being asked to teach classes for which they were not qualified. Like at Brown Mackie, few students from my class are working in the field despite promises of job placement and career help.

In addition, my credits earned at both schools have turned out to be useless. Bryant & Stratton would not accept any of my credits from Brown Mackie, and I had to retake courses I had already taken and for which I had already paid. After my poor experience with Bryant & Stratton, I attended Lakeland Community College, which accepted only one class from Bryant & Stratton and none from Brown Mackie. Lakeland told me that Bryant & Stratton courses did not meet the standards of the nursing board.

Like many other students, I have wasted my time, my own money, and government benefits attending schools that provided a poor education and made many false promises. I appreciate your time in listening to my story, and I ask that you scrutinize the practices of for-profit colleges and implement policies to protect students. Thank you.

Patricia Chang
Testimony
U.S. Education Department
June 2021

My name is Patricia Chang and I'm from Coconut Creek, Florida. As a proud veteran of the U.S. Navy, I earned my GI Bill for my service. I used my GI Bill benefits when I returned from deployment in Kuwait for a bachelor's degree in Computer Information Systems and a Master's degree in Project Management from DeVry University, and its graduate sister school, Keller Graduate School of Management. However, \$80,000 in student loan debt later, I realized I'd been taken for a ride by this for-profit university which provided me with two worthless degrees and a poor education that has not yielded the gainful employment their recruiters promised.

Without a regular paycheck, I was forced to default on my loans, which at \$1,200 a month were already double my rent. I had to take on three to four jobs at a time just to make ends meet and found them through my own efforts and network. DeVry's so-called "career services" never lifted a finger to help me, despite my outreach. And, it is worth noting that it was only in the face of legal issues that DeVry suddenly began to offer these career services, which takes the form of career fairs where the jobs on display are mediocre at best, insulting at worst.

Truth is, I could have gotten where I am at now, which again, isn't tremendously far, without the degree from DeVry. In fact, I probably could've gone farther with the right kind of school. I had to know someone who knew someone, and I learned more on my own, attending free courses provided by established schools, and through the fortitude I gained during my military service. I started from the bottom, worked hard and pushed my time and energy into a career. Unfortunately, all of this took a great toll on my personal life as I put this arduous journey of trying to establish a career and finding a way to cover my loan payments. All of this took a lot of time away from that.

The only saving grace I had was actually (and sadly) the Covid pandemic when the government put student loan payments on hold and I could breathe. I mean, they're still there, but at least I was not accruing massive amounts of interest in the meantime. But, the thought of buying my own house, getting married, having kids? Well, that's not happening any time soon because I want to ensure I am 100% stable, with as little debt as possible. And, it's all due to the poor decision of going to a for-profit school which has left me in so much debt in the first place.

Low-quality, for-profit schools like DeVry are heavily dependent on taxpayer funding and they target veterans for their GI Bills. Through embellished recruiting tactics and false promises, these schools have robbed many of us of our hard-earned GI Bill benefits, leaving us with worthless degrees, crushing loan debt and zero job prospects upon graduation (if we manage to graduate at all).

As the first person in my family to attend college, I didn't understand the enrollment process and I believe DeVry willingly took advantage of that. It's cold comfort that I wasn't alone. Many defrauded students -- too many of them veterans -- were awarded damages in a nationwide settlement. All told, I received only a few hundred dollars, which doesn't go very far when you are \$80,000 in debt. I will survive this, but it's clear that I'm on my own.

The fact that these for-profits have taken millions of taxpayer dollars, including veterans benefits, They should be held accountable. I hope the Education Department will hold them to account and strictly regulate them to protect students like myself from lies, fraud, and predatory recruiting tactics.

Thank you.

JARROD THOMA
Testimony
U.S Education Department
June 2021

Good morning, my name is Jarrod Thoma, I am a Veteran of the U.S. Army, from Colorado Springs, Colorado. Thank you for the opportunity to offer my testimony today. I am here to tell you why, from my own experience, the United States government needs to regulate bad schools who take federal taxpayer dollars like the GI Bill.

I earned my education through years of service and sacrifice during my enlistment. After my discharge from the Army, I was eager to pursue my lifelong passion for electronics by earning a degree in engineering. With that in mind, I decided to enroll in DeVry University. After enrollment at DeVry, it didn't take long for me to realize that this for-profit college was failing to deliver on many of the promises recruiters had made to me. In particular, after transferring from one DeVry campus to another, it became clear to me that the school was implementing cost saving measures that negatively impacted the quality of education being delivered. I saw that the quality of course materials and equipment used for instruction were subpar and not as advertised, and that standards varied from branch to branch. When I realized the dramatic reduction in quality, I alerted my professors, and then school staff members.

Although DeVry was more than happy to cash in all of my GI Bill benefits, my complaints about the quality of materials and instructions fell on deaf ears. When I tried to transfer, I was told by both a public university and a community college that they would accept only my general education credits – even though DeVry had stated that their credits would transfer. As I was starting to accumulate debt, including \$52,000 in additional student loans, I made the decision to complete my engineering degree at DeVry. However, upon entering the job market, I quickly found that a degree from a for-profit college was not worth the paper it was printed on and it actually hurt my job prospects. Through hard work, and a little luck, I was finally able to secure an engineering position after two and a half years.

Given these challenges, along with the many other hurdles that veterans already face, I cannot stress enough the need for regulatory protections for not just military-connected students, but all students from predatory practices by these terrible education corporations posing as colleges and universities. Not long after I graduated from DeVry with what turned out to be a worthless degree and subpar training, other bad schools went bankrupt and left other students and veterans in even worse spots. Education companies like ITT Technical Institute and Corinthian were run into the ground, despite having taken millions of taxpayer dollars, which shows the need for regulations to protect students like myself from lies, fraud, and predatory recruiting and marketing tactics. While my loans have been placed in forbearance, they still have become a financial burden. This is not the position I envisioned for myself or my family after serving this country and sacrificing to earn my benefits. If you want to support the men and women in uniform, I ask that you take a hard look at schools like DeVry that take taxpayer money, including veterans benefits, but don't deliver the quality education that is promised.

Thank you for your time.

Chris Wolfla
Testimony
U.S. Education Department
June 2021

Good morning/afternoon. My name is Chris Wolfla and I'm from North Vernon, Indiana. I spent six years in the Navy as a medic and completed two combat tours with the 1st Marine Division. I received a medical discharge after being injured in 2012. While I was recovering from spinal surgery, I decided to put my hard-earned GI Bill to work and get a college education. I chose to pursue a degree in Information Technology and after my surgery, online classes worked best. I chose ITT Technical Institute. I chose wrong. Thank you for the opportunity to testify today. Because even though ITT has been shut down, other for-profit schools like it need to be better regulated or denied taxpayer funds, including veterans' benefits.

I did finish school but because of issues with ITT, I still don't have my degree. I ended up completing my courses at Bellevue University, one of the few schools that actually accepts credit transfers from ITT. But Bellevue couldn't give me my degree because ITT refused to release my transcripts to them. I still haven't received a reason why. Further, ITT soaked up all of my GI Bill money and then took out student loans for me without my knowledge. I remain in \$23,000 in debt with no degree to show for it.

I ended up going to trade school and am currently an electrician, but I was unemployed for a long time and had trouble staying above water with the interest payments they require on the loans that I didn't authorize. I don't know how they get away with it. Honestly, these people should be in jail.

I was made aware, after the fact, that there were numerous lawsuits pending against ITT for fraud in Indiana and other states. The school was finally forced to shut down in 2016. Honestly, these people should be in jail. I filed a Borrower Defense claim on my \$23,000 shortly thereafter but I'm still waiting on a resolution from the Education Department. I don't know what to do or where I can get help.

Unfortunately, my story is all too common. These schools target and exploit military veterans for their GI Bill benefits, deliver a subpar education, then leave us with worthless degrees or no degree at all. It's their business model. I proudly served my country and earned my GI Bill and this is how I ended up. If you want to support the troops, please scrutinize these schools and defund them when they do us wrong.

Thank you for your time.

Antonio Luna
Testimony
U.S. Education Department
June 2021

Good morning/afternoon. My name is Antonio Luna and I'm from Phoenix, Arizona. After completing my active duty in the Marine Corps in 2014, I enrolled in DeVry University to pursue a degree in Computer Information Systems with a concentration in Web Game Development. I graduated in February 2018 but still haven't found a job in my chosen field. That's just one of the reasons why I'm testifying today.

I was persuaded to enroll in DeVry when I attended my military base's mandatory transition into civilian life classes. The school's representatives told me a degree from DeVry would guarantee a job in my field within six months and that I'd be earning a salary over \$60,000 -- much higher than a bachelor's degree from other colleges or universities could yield. They bragged about how they take care of veterans and how my GI Bill would pretty much take care of all costs. They said their hands-on career advisors and their connections would help me guide me to the perfect career. Why wouldn't I enroll? This all sounded great. Unfortunately none of it was true.

There were in fact, plenty of out-of-pocket expenses, including all of my books. Also some of my required classes weren't covered, which led to DeVry issuing me an ultimatum: Pay for the classes or you don't get that course that semester. So much for the GI Bill covering every cost. Worse, the quality of the education was so substandard that I pretty much had to teach myself. Even so, I was determined to finish and I did.

I worked with DeVry's career advisors for two years, but they weren't helpful at all. To this day, I still don't have a job in my chosen field. I applied to many computer related fields only to be met with rejections and ghosting from potential employers. I felt lost, depressed, and hopeless that I couldn't find a job with my degree. I worked a couple months as a Pizza Cook and then close to two years as an Warehouse Associate.

I've had the privilege of working as a Voter Registration Project Specialist for Maricopa County for a year now. If it wasn't for this job I don't know what I would have done.

I'd really like to go back to school at a community college for something STEM-related, something I can actually use. However, since my degree is not transferable, I'd have to start all over again as a freshman. And since my GI Bill is now gone, I'd have to pay my own way, which I can't afford right now.

Even though DeVry has been hit with lawsuits for their deceptive recruiting practices, I've been told I have no recourse. The VA told me they can't do anything to reinstate my GI Bill because I got a degree. A meaningless degree. I even spoke to the Dean at DeVry but he couldn't help me. Nobody is helping. Nobody is taking it seriously.

I know my story isn't unique, which, as a former Marine, infuriates me. I hope you will scrutinize for-profit schools like DeVry going forward and not let them get away with defrauding veterans or any other students.

Thank you for your time.

**Tasha Berkhalter
Testimony
U.S. Education Department
June 2021**

My name is Tasha Berkhalter and I am an Army veteran from Lima, Ohio. I would like to tell you a bit of my story. After serving in the Army for more than 5 years, I was Honorably Discharged for medical reasons. I wanted to find a path in life to make things better for myself and my family. My goal was to pursue a career in the FBI as a Criminal Behavioral Analysts and Forensics. I went to ITT Tech from 2006-2010 earning a Bachelor's Degree of Science. At the time, ITT Tech seemed like a good option. It was advertised that they had a "high tech" criminal justice program and admissions staff told me that the GI Bill would cover my full tuition. I was told that they assist in job placement after graduation and I would have a job in my field in no time.

The first red flag I encountered was when I tried transferring to a different school my sophomore year. I was told not only that my credits would not transfer and the books we were using were outdated, but that I would have to start completely over. After being frustrated and speaking to my chair, I relied yet again on the promises ITT Tech made to me and I decided to stay and finish my degree. Unfortunately my trust put me back in a position to continually be lied to. ITT Tech wasn't "high tech," at all, yet I still had to foot the bill for a low quality education. The GI Bill did not cover my tuition and I had to take out additional federal and personal student loans to pay for my schooling.

As I stand here today, I currently owe about \$100,000 in student loans. \$100,000 in student loans for a degree that employers don't take seriously. Whenever I told employers at job interviews I went to ITT Tech, I was shown the door. And I wasn't the only one. I graduated with about 50 students. Of that 50, I know of only two that have been able to find jobs in their fields, and those jobs don't even require degrees. Being married with four children has been a challenge because it's hard to provide a comfortable life for them and keep a stable home with consistency because I cannot find a job in my field. I used my whole GI Bill, yet they still made me take out additional

loans, and I still have no real degree. No GI Bill to go back to school and an extreme amount of debt. I have dealt with stress, anxiety and depression over this whole ordeal for years. It's been a strain on my marriage, my children and our livelihood. Sometimes, I don't feel capable of being a good mother or wife because of these issues that were caused by the deceitful promises from this school.

I didn't just miss my one shot to use my GI Bill, I'm overwhelmed by my student loan debt. I've lost homes, cars, moved from state to state, had to live with my parents and inlaws, I've lost time and sometimes, I feel, my sanity. Student veterans should not be left to pay for schools that are misleading and deceiving them. I hope the Education Department will take my story and countless others. These schools should be heavily regulated and not receive any federal funding, especially GI Bills, when they mislead, deceptively recruit and then leave veterans with worthless degrees, or no degrees at all.

Thank you very much for your time.

**Jay Hernandez
Testimony
U.S. Education Department
June 2021**

My name is Jay Hernandez, and I am a Marine veteran from Oregon City, Oregon. I became a U.S Marine because I wanted more out of my life. I was born into poverty and into a disability stricken family: my father was illiterate, my mother, legally blind. I loved my parents, of course, but growing up I really had no one to guide or mentor me through my education. I had no clue how to apply to college, and knew it wasn't an option for me anyway. What I did know was that I would have to work harder than most to carve out a fruitful life for myself. Enlisting in the military was a great first step. My second step, not so much.

One year before I left the service, the for-profit University of Phoenix began contacting me nonstop, trying to convince me to enroll. They called day in and day out, declaring themselves a "military-friendly" school that catered to veterans. During that time, I didn't really think about going to college. I was learning so much from the service and I had real-world skills. My transition into civilian life, though, brought waves of uncertainty. I was making a decent wage in construction, but found hard labor to be difficult and painful because of a service-related injury. I quickly realized this would not be a sustainable career path, so I decided to use my GI Bill to pursue a college degree.

Recalling University of Phoenix's endless recruiting efforts, and since they were the only school familiar to me, I enrolled in their online Bachelor of Science in Business with General Management Certificate. Soon, however, I learned the hard way that Phoenix's "hard sell" was just that: a sales pitch, a transaction that had nothing to do with accommodating student veterans and everything to do with getting their hands on our GI Bill benefits. With this insight I decided to change course and soon realized just how badly I had been deceived. I registered at Clackamas Community College in Oregon City only to be told my 20 credits from Phoenix were not accredited and would not

transfer there or anywhere else. I wasted over a quarter of my GI Bill at Phoenix for absolutely nothing.

Predatory for-profit institutions like University of Phoenix have scammed countless veterans like me since the GI Bill was passed in 2008. They aggressively recruit veterans, only to leave them with depleted benefits, sky-high loan debt and no accredited degree to show for it. I hope the Education Department will take my story into consideration and make sure these for-profits don't receive any federal funding when they deceive veterans. Taxpayers also deserve to know that GI Bill benefits will only go to institutions that bolster our success. And, grateful citizens deserve to know that our veterans are using their taxpayerfunded, one-time "thank you" GI Bill benefits at high quality, life-improving institutions, just as we all intend; just as they richly deserve.

I appreciate the opportunity to share my story with you. Thank you.

William Buchanan
Testimony
U.S. Department of Education
June 2021

Good afternoon, I am Dr. William Buchanan (Ph.D.), a service-connected disabled Veteran and first-generation college graduate. I am here today to discuss the total and permanent disability discharge process with you. For those who aren't aware, the process of obtaining a disability rating from the US Department of Veterans Affairs can be a long and arduous process. I was discharged in June of 2009 and am still working through appeals related to the most disabling condition I have.

In January of 2021, the VA determined my level of combined disability to be 100%. This only happened this quickly because I had sufficient awareness and understanding of the disability system to file supplemental claims related to additional disabling conditions that are the direct result of narcolepsy and the medication I must take daily -- just to do something that nearly everyone takes for granted -- staying awake. Not every case is like mine, but the number of appeals that the VA, the Court of Appeals for Veterans Claims, the Federal Circuit Court of Appeals, and even the U.S. Supreme Court have before them is consistently growing. This will only get worse as more OIF/OEF service members navigate through the disability compensation system at the VA.

Along the way, disabled veterans face the additional burden of the FSA's determination of what constitutes "disposable" income for the purpose of any of the income driven repayment programs. For example, when my wife lost her job and thus reduced our household income, my monthly student loan payments increased from approximately \$700 to roughly \$950 each month; for clarification, only I have any student loans. It didn't matter that I had private student loans that I was also obligated to pay or that there are other expenses of living that make the FSA's determination of disposable income absurd, to say the least.

When the VA finally granted the rating that they should have granted in 2009, I then experienced how the FSA fails to follow the rules that it writes for the total and permanent disability discharge program. Within a few days of receiving my award letter from the VA, I created a Nelnet account and submitted a copy of the award letter along with the application. I would call in periodically to ask about the status of my request and would be told it was in the process. After 125 days, I was told that Nelnet was directed to halt the processing of requests submitted by Veterans directly by FSA. I requested a written copy of this directive or at least where I could locate the appropriate statutory or regulatory reference so I could read them for myself -- and none was provided. I emailed the IG/Ombudsman at FSA to request the same after a call to FSA also failed to surface any information.

I am aware of the Executive Order that established the mandate for the computer matching agreement between the VA and the Education Department. However, nothing about that

Executive Order prohibits the FSA from following their regulatory obligations to process the requests when the required information is provided by the Veteran.

Disabled Veterans have already had to deal with more than enough in their lives. We shouldn't have to deal with additional bureaucratic processes that blatantly violate your own rules and I hope that the rule making will resolve this to ensure requests from Veterans are not treated systematically differently from all other disability discharge requests.

Thank you for your time.



William Hubbard, Veterans Education Success
Testimony
U.S. Education Department
June 2021

Good morning, my name is Will Hubbard, and on behalf of Veterans Education Success—a non-profit focused on serving veterans seeking the transformative power of higher education—I am here to highlight real examples of why these issues matter. I am a proud Marine Corps Veteran, and today I have the privilege of elevating the voices of my sisters and brothers in arms, and their families.

First, on “borrower defense,” we’ve helped countless veterans who were lied to about every aspect of the school, including accreditation, tuition, and job prospects. One veteran, Chris Wolfa, shared, “These schools target and exploit military veterans for their GI Bill benefits, deliver a subpar education, then leave us with worthless degrees or no degree at all. It’s their business model.”

He continues, “I proudly served my country and earned my GI Bill, and this is how I ended up. I remain \$23,000 in debt with no degree to show for it. If you want to support the troops, please scrutinize these schools and defund them when they do us wrong.”

Second, “gainful employment”; the big question we must ask of higher education is, “what is the point?” For many veterans and their families—the vast majority of whom are first-generation students—the point is mobility and improving their circumstances in life. But higher education fails many veterans.

As Juan Harris from Fresno, Texas shares, “I went to University of Phoenix to get a better job and can’t even get a promotion at my current job. I have a degree and an MBA from this school. I applied for over 200 jobs, and no one would hire me. Got only one interview. I actually received more job offers when I removed University of Phoenix from my resume,” he said. At Veterans Education Success, we wonder, “Why does the Department continue to put its stamp of approval on schools with little to no return on investment?”

Third, looking at “false certification,” there are numerous examples of schools signing up veterans for loans, despite them explicitly stating, “I do not want any loans. I have my GI Bill.” One veteran, Travis Craig, shared, “The admissions process was very rushed. We signed everything on electrical notepads, so us, as students, we didn’t actually know what we were signing for. The Admissions person would be seeing the screen and we would just be signing our name on the notepad,” he said.¹

¹ Veterans Education Success. Student Success Story Featuring Travis Craig (U.S. Army), (2019). <https://youtu.be/2tMxkPxmtBw> (last visited June 21, 2021).

Worse yet, some for-profit schools electronically sign for loans and create an email account in the veteran's name; when FSA sends confirmations about the loan, the school officer receives the email and the veteran has no idea. One whistleblower told us, "Well, we think of it as just an electronic signature, not really forgery."

Another whistleblower explained that students were often pulled out of class to take on extra loans. He had one student veteran who had all costs covered with VA education benefits, but, each semester, was still pulled out during exams and forced to take out an extra \$6,000+. The whistleblower wonders where all that money went--because it must've doubled the actual tuition--and the student didn't see a dime.

Fourth, moving on to "ability to benefit," as a long-time recruiter for an entirely online college told us, he was required to enroll a homeless veteran with no access to a computer or smartphone. This individual had no ability to benefit from the online education, yet the college still got his Title IV funds.

Fifth, "public service loan forgiveness." Nearly 200,000 active duty service members hold close to \$3 billion in federal student loan debt, and less than 0.06% have received the forgiveness they are entitled to.^{2,3} This must be looked at.

Sixth, with two decades of our nation being at war, the volume of veterans with "total and permanent disabilities" is a harsh reality we face. We are grateful to the Department for collaborating with VA to automate relief for disabled veterans. But the process needs attention, and non-veterans still lack any kind of automated relief.⁴

And finally, I met with one veteran this past week, whose school closed suddenly in 2019. He thought he was doing the right thing by enrolling in Argosy University after serving four years in the Army. What he didn't know is Argosy would close months before he could complete his degree.

While he'll never get the time he invested in his program back, the least we can expect is for the financial damage he has suffered to be mitigated, with his loans discharged, and his GI Bill restored. As you listen to the personal experiences of these veterans, we ask you to consider the burdens they face.

We thank the dedicated staff and officials of the Department for your efforts on behalf of all students and look forward to working with you to protect and advance service members, veterans, and their families in higher education.

² Seth Frotman, Prepared Remarks of Seth Frotman, Assistant Director and Student Loan Ombudsman, Consumer Financial Protection Bureau, to the Judge Advocate General's Legal Center and School (2017), https://files.consumerfinance.gov/f/documents/201710_cfpb_Frotman-Remarks-JAG-School.pdf.

³ U.S. Government Accountability Office, GAO-21-65, Public Service Loan Forgiveness: DoD and Its Personnel Could Benefit from Additional Program Information (Apr 22, 2021), available at: <https://www.gao.gov/products/gao-21-65> (last visited April 27, 2021).

⁴ Veterans Education Success. Letter to the Education Department regarding disabled Americans' student loan relief, (2020), <https://vetsedsuccess.org/letter-to-the-education-department-regarding-disabled-americans-student-loan-relief/>

July 1, 2021

Docket ID: ED-2021-OPE-0077

Vanessa Gomez
U.S. Department of Education
400 Maryland Ave., SW
Room 2C179
Washington, DC 20202

Dear Ms. Gomez,

On behalf of Veterans Education Success, I write to submit comments on the May 26, 2021, *Federal Register* notice of the Department's intent to establish negotiated rulemaking committees. In that notice, the Department indicates that it plans to develop proposed regulations for programs authorized under Title IV of the Higher Education Act of 1965, as amended. The notice additionally solicits comments from organizations that represent groups whose interests are significantly affected by the subject matter of any proposed regulations.

Veterans Education Success is a nonprofit research, policy, and student veteran advocacy organization that works on a bipartisan basis to advance higher education success for veterans, service members, and military families, and to protect the integrity and promise of the GI Bill® and other federal postsecondary education programs. Veterans Education Success is committed to the educational advancement of America's veterans, service members, and their families. In addition to our policy expertise on Title IV, the GI Bill®, and the Department of Defense Tuition Assistance program, we provide consumer advocacy services to individual veterans and military-connected students by assisting them in navigating serious problems with the federal student aid system that all too often point to gaps and shortcomings in Title IV regulations.

The constituency we represent is significantly affected by the proposed regulations that the Department intends to publish. Affordability, quality, and accountability are critical features of the higher education sector for all students, but they affect America's student veterans and military-connected students in unique ways. The availability of non-Title IV funding for these students, for example, has created distinctive and at times problematic institutional incentives for their recruitment by providers. We have helped thousands of veterans who were directly hurt by inadequate accountability measures and gatekeeping for participation in federal educational assistance programs. In addition, our constituents frequently face financial and administrative challenges due to lack of proper coordination

between the terms and conditions of the GI Bill® and DoD educational programs with the regulations governing federal student aid. It is also important to note that despite their access to VA and DoD funding, many veterans and military-connected students still rely on federal student aid, including student loan programs, and the veterans and military students we serve have unique needs in the administration of those programs. In view of their service to the nation, their numbers, and their unique needs, we believe that it is essential that every negotiating committee convened by the Department include legitimate and qualified representatives of our community.

Before addressing the substance of the topics listed and offering additional issues for the Department to consider, we would like to address the process itself. We urge the Department to ensure that every negotiating committee it convenes includes at least as many representatives of public interest, consumer, and student groups as representatives of institutions. Ever since it was mandated for all Title IV rulemaking in the 1992 Amendments, negotiated rulemaking has granted a disproportionate voice to institutional interests by seating multiple negotiators representing various providers and vendor subgroups while offering only a handful of seats to groups representing the intended beneficiaries of federal student aid programs. Indeed, we are disappointed that many of the veterans we work with who requested an opportunity to address these hearings were turned down. Students and consumers are no more of a monolith than institutional interests, and the diversity of distinct student populations deserves at least as much representation as that afforded to institutional interests in all future negotiations. Furthermore, public interest groups and organizations representing student and consumer groups bring enormous expertise and detailed knowledge of prevailing industry practices that would assist the Department as it confronts the understandable demands of institutional representatives for lax and convenient regulations.

Also, while the Department pursues policy changes that can be dealt with only through rulemaking, we urge you to simultaneously consider strengthening compliance with current law through administrative action or by subregulatory guidance. Better enforcement of current regulations on topics ranging from accreditation to misrepresentation can provide stronger protections for students and taxpayers.

We realize that, regardless of what may be possible to accomplish outside the regulatory process, the task ahead will be arduous. Just two of the topics listed among the 14 items in the notice--gainful employment and borrower defense--were each the sole subject of multiple previous negotiations. Two other topics--standards of administrative capability and financial responsibility--are critical linchpins for program participation and both are woefully outdated and demonstrably inadequate to their respective tasks. The Department, facing a similarly ambitious challenge in the last round of negotiated rulemaking in 2019,

opted to address subcategories of related policy issues through the *a priori* formation of subcommittees in violation of negotiated rulemaking protocols, which empower the committee, once seated, to create subcommittees. We would strongly object to a repeat of that flawed process as it deprived consumer and public interest groups from the opportunity for meaningful participation.

With regard to the selection of topics, we commend the Department for identifying important regulatory topics related to accountability. Proper regulation of issues 1, 2, 3, 11, 12, and 13 (change in ownership and control; certification procedures for participation in Title IV; standards of administrative capability; mandatory arbitration clauses; financial responsibility; and gainful employment) would have remedial and salutary consequences for documented gaps in institutional accountability under current law. Too many veterans have come to us describing significant harm from predatory practices that the current regulatory structure fails to prevent. In addition, issues 4, 5, and 8 (ability to benefit; borrower defense; and false certification), while primarily addressing terms of alternative access and relief for defrauded students, would certainly provide secondary accountability benefits under well-configured regulations. The veterans we serve describe unique and important frauds that the current regulatory structure has failed to address, including predatory schools that sign veterans up for loans against the veterans' repeated and clear requests for no loans in light of their generous GI Bill, and homeless veterans who are signed up for online classes even though they lack access to the internet or even a mobile phone. One veteran, Travis Craig, explained:

“The admissions process was very rushed. We signed everything on electrical notepads, so us, as students, we didn't actually know what we were signing for. The Admissions person would be seeing the screen and we would just be signing our name on the notepad.”¹

Worse yet, some for-profit schools electronically sign for loans and create an email account in the veteran's name; when FSA sends confirmations about the loan, the school officer receives the email and the veteran has no idea. One whistleblower told us, “Well, we think of it as just an electronic signature, not really forgery.” Another whistleblower explained that students were often pulled out of class to take on extra loans. He had one student veteran who had all costs covered with VA education benefits, but, each semester, was *still* pulled out during exams and forced to take out an extra \$6,000+. The whistleblower wonders where all that money went--because it must have been double the actual tuition--and the student didn't see a dime. We believe the Department should, through regulations,

¹ Veterans Education Success. Student Success Story Featuring Travis Craig (U.S. Army), (2019). <https://youtu.be/2tMxkPxmtBw> (last visited June 21, 2021).

add specific protections against unauthorized borrowing for veterans and military-connected students.

We strongly urge the Department to add accreditation and state authorization to the list of items to be reviewed and re-regulated, as these are two of the three legs of the triad that governs institutional accountability. Particularly in light of new developments that range from acquisition of participating for-profit institutions by non-profits, outsourcing of critical institutional services to ineligible third-parties, and conversions that enable creditors to effectively control institutions while shielded from the reach of the Department's regulations, accreditation and state authorization represent important tools if deployed correctly. Furthermore, accreditation provides the only regulatory instrument for accomplishing the Department's stated goal of addressing race, ethnicity, and gender disparities in postsecondary outcomes such as retention, completion, loan repayment, and default.

We are pleased to see the inclusion of 34 CFR subpart L (financial responsibility) on the proposed agenda. Precipitous closures of multiple for-profit schools over the past few years, most notably the collapse of Corinthian Colleges and ITT Tech have made it abundantly clear that the current financial responsibility framework for private institutions, particularly the for-profits, is inadequate to the task of protecting students and taxpayers. These regulations allow grossly undercapitalized providers to put enormous sums of federal aid and students' tuition payments at risk, with no recourse or path to recovery when they go out of business and leave thousands of veterans and military students in the lurch. We urge the Department to revisit its entire regulatory approach to financial responsibility in order to require adequate capitalization for providers, establish capitalization ratios below which it would prevent stock buybacks and the payment of bonuses and dividends by for-profit corporations, and prevent financially unsustainable providers from leveraging massive amounts of federal aid even as they face inevitable collapse and bankruptcy. We would also propose that 34 CFR 668.15 (factors of financial responsibility) be added to the list of items for review, primarily to more clearly define public institutions and address the emergence of new business arrangements where for-profit providers are disguised as extensions of public institutions.

We are likewise pleased to see the standards of administrative capability on the list of topics for this rulemaking. Several important improvements to these standards can significantly reduce waste, fraud, and abuse in Title IV. Just as current regulations separate financial functions to ensure that authorization and disbursement of payments are not placed in one office, they should be amended to better separate curricular and academic functions from business operations of institutions. In addition, front-line counselors and recruiters, on whose representations students and families rely in their decisions about

enrollment, should be required to act as fiduciaries with a duty of care and loyalty to prospective students. This would end the familiar pattern of gross misrepresentation and high-pressure sales by recruiters and significantly reduce predatory sales tactics and mass victimization of students, including many veterans. Sadly, VES has firsthand experience with too many cases of institutional misconduct and abusive practices, through the eyes of the veterans and military-connected students we have helped.

As previously mentioned, veterans and military-connected students do rely on the student loan programs, and are significantly affected by every feature of the loan system. Improving the various repayment options including the Public Service Loan Forgiveness (PSLF) program, better servicing, and more equitable discharge policies, particularly for borrowers with disabilities and for victims of unscrupulous providers, are important priorities for us. We commend the Department's most recent actions on borrower defense and disability discharge claims and urge the Department's attention to the unconscionable delay in providing relief to all qualified borrowers, which is ample proof that the statutory discharge provisions are not working as intended. For example, the PSLF program, which is very important to both veterans and servicemembers (since military service is the quintessential public service), has granted only a handful of write-offs in the 4 years when the first cohort of participants became eligible for its benefits -- as we have written in several letters to the Department. Similarly, the proper functioning of the Department's Total and Permanent Disability Discharge program is of high importance to the disabled veterans we serve, and we have led multiple letters from veterans and military organizations to the Department regarding this program. Also important to veterans is the closed school discharge program, and we have helped many veterans apply for the discharge and can be helpful to the Department as it seeks to ensure smooth operation of this program. We work with veterans facing all of the various shortcomings of the current repayment and discharge systems and can be helpful to the Department as it seeks to improve regulations governing these important topics.

We are also pleased to see the inclusion of borrower defense and gainful employment on the agenda. These are both important statutory provisions that work in tandem with each other and should be re-regulated in a manner that simplifies and strengthens them in comparison to their previous iterations. If carefully coordinated with each other, the gainful employment regulation--of a statutory criterion for eligibility of certain programs--would prevent the participation of subpar programs in Title IV, while the borrower defense rule would provide relief to students and recourse for the taxpayers should a subpar program get through the gatekeeping safeguards despite the Department's best efforts. We hope that the Department will deploy these two important tools to weed out subpar programs and provide relief to their victims, especially the brave men and women who

served their country in uniform and whose lives have been ruined by predatory education companies. Illustrating the importance of these programs, veteran Juan Harris, explained:

“I went to University of Phoenix to get a better job and can't even get a promotion at my current job. I have a degree and an MBA from this school. I applied for over 200 jobs, and no one would hire me. Got only one interview. I actually received more job offers when I removed University of Phoenix from my resume.”

Finally, while acknowledging the statutory prohibition on the start of the 90/10 regulatory process, we urge the Department to move expeditiously after October 1 to convene a negotiating committee and develop proposed regulations as quickly as possible. This item is of utmost importance to veterans and military-connected students and, given the self-executing nature of the rule, is sufficiently straightforward to be quickly resolvable. As veteran Chris Wolfa states:

“These schools target and exploit military veterans for their GI Bill benefits, deliver a subpar education, then leave us with worthless degrees or no degree at all. It's their business model. I proudly served my country and earned my GI Bill, and this is how I ended up. I remain \$23,000 in debt with no degree to show for it. If you want to support the troops, please scrutinize these schools and defund them when they do us wrong.”

We appreciate the difficulty and the enormity of the task facing the Department as it seeks to improve outcomes for students and taxpayers. The topics identified by the Department in its notice, along with the few additions proposed here, would make a great start on re-orienting Title IV regulations toward better outcomes for students and taxpayers. We stand ready to assist the Department in this effort and believe we can provide the Department with important and unique information about the experiences of veterans and military-connected students.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Wofford', is positioned above the typed name.

Carrie Wofford
President



Good afternoon,

My name is Justin Hauschild, and I am the Legal Fellow with Student Veterans of America.

On behalf of roughly one thousand five hundred chapters in all 50 states, Student Veterans of America thanks the Department for the opportunity to provide comment on the topics for negotiated rulemaking.

The mission of Student Veterans of America is to act as a catalyst for student veteran success by providing resources, network support, and advocacy throughout their higher education journey.

Research shows student veterans are incredibly successful in higher education but, like all students, they need a fair shot to succeed. We hope this serves as a guiding principle for the Department throughout the upcoming process.

SVA supports the ambitious set of topics proposed by the Department for rulemaking. I will comment briefly on four topics we believe are particularly important for student veterans: Borrower Defense, Gainful Employment, Public Service Loan Forgiveness, and Change in Institution Ownership and Control.

I will begin by addressing Borrower Defense to Repayment.

More than 200,000 service members hold upwards of \$2.9 billion in collective student debt.

The Borrower Defense rule provides critical financial relief to students by cancelling loan debt if they are defrauded by their schools. The need for the rule became evident several years ago after a series of high-profile proprietary school closures. These schools were mired in allegations of fraud, and after they closed, many students, including thousands of student veterans and service members, were left with massive loan debt, credits that did not transfer, and worthless degrees if they had graduated. Veterans at these schools often took out federal student loans in addition to depleting their valuable earned education benefits through the Department of Veterans Affairs.

These abuses no doubt illustrate the need for borrower defense, but while promising in principle, the rule has recently undergone significant changes that impact its overall utility. The Department must update the rule to ensure it adequately serves defrauded borrowers.

Next, I will turn to Gainful Employment, a critical safety measure to ensure value in career education programs across the higher education spectrum.

Thousands of student veterans and service members have been enticed into enrolling in career education programs with poor outcomes. The prior Gainful Employment rule was designed to root out these bad programs and make sure students had the information they needed to decide what career education programs were worth their time and money.



While not perfect, the Gainful Employment rule was effective, with the Department's own data showing it forced institutions to either fix low-quality programs or shutter them. The rule was also expected to save billions in taxpayer dollars. Despite early indications of success, the rule was rescinded in 2019.

We encourage the Department to revisit Gainful Employment to better protect students against low-quality career education programs.

Next, I will turn to Public Service Loan Forgiveness.

Student veterans have a demonstrated propensity for service, and many seek to translate this into civilian public service roles. In theory, PSLF should help these students afford the educations they need to achieve their public service aspirations. Unfortunately, that has not been the case.

Despite the seemingly straightforward goal of forgiving federal student loans for borrowers who spend a decade in public service, the program has failed to meet expectations. This is due, in large part, to mismanagement by the federal government. Lack of clear guidance for student borrowers, a cumbersome application process, and large processing backlogs are all problems that have plagued the program.

Despite reforms, new data from the Department show problems persist, with many borrowers continuing to be denied forgiveness based on loan consolidation technicalities and a current backlog of more than 145,000 applications.

A recent report from Government Accountability Office suggests there are also serious barriers to the program for service members specifically, finding the Department has denied more than 94 percent of applications from Department of Defense personnel.

The Department must address PSLF to remedy systemic issues and the resulting unfairness to borrowers that currently permeates the program.

Lastly, I will address the topic of change in institutional ownership and control as related to conversions.

Bad-actor proprietary schools in higher education are under increasing scrutiny. As these schools face growing attention from legislators, regulators, and law enforcement, there has been a corresponding increase in the number of schools converting to non-profit status and being acquired by or rebranding under the umbrella of public institutions.

The overarching concern is that a converting proprietary school may not sufficiently untangle itself from its former profit-driven model. This means students, including veterans, who enroll at these institutions at disproportionate rates, run the risk of assuming these converted schools are dedicated to a public or non-profit mission when, in reality, the schools may still prioritize profits over student outcomes.

Improper conversions pose a substantial risk to students, including veterans and service members, which should be addressed in this rulemaking.



Finally, as a procedural matter, SVA asks that the Department ensure student and consumer rights organizations are afforded adequate representation throughout this rulemaking. Like many others, the student veteran voice deserves special consideration in the upcoming negotiations, and SVA looks forward to working with the Department to ensure that it is heard.

We encourage the Department to review our written comment for additional details on the topics I have covered here today.

Thank you for your time and for your devotion to veterans in higher education.



June 28, 2021

Vanessa Gomez
U.S. Department of Education
400 Maryland Ave. SW
Room 2C179,
Washington, DC 20202

Submitted electronically via: <http://regulations.gov>

Re: Docket ID ED-2021-OPE-0077 Negotiated Rulemaking Committee; Public Hearings – Intent to Establish Negotiated Rulemaking Committees

Dear Ms. Gomez,

Student Veterans of America (SVA) submits this comment in response to the Department of Education's (hereinafter "the Department") announcement of intent to convene negotiated rulemaking. SVA offers its support for the Department proceeding with rulemaking on several topics. We do not, however, provide specific recommendations for how the Department should address each of these issues. Such input, in SVA's view, is more properly reserved for the negotiation phase.

Established in 2008, SVA is a national nonprofit founded to empower student veterans as they transition to civilian life by providing them with the resources, network support, and advocacy needed to succeed in higher education and beyond. With more than 1,500 campus chapters in all 50 states and three countries overseas, SVA establishes a lifelong commitment to each student's success, from campus life to employment, through local leadership workshops, national conferences, and top-tier employer relations. As the largest chapter-based student organization in America, we are a force and voice for the interests of veterans in higher education, and SVA places the student veteran at the top of our organizational pyramid.

INTRODUCTION

Research shows veterans excel in higher education and that this leads to continued success in the workforce.¹ Unfortunately, some student veterans have also fallen victim to low-quality programs and fraud in higher education. To protect student veterans and ensure their academic and financial success, it is imperative that the Department harness this rulemaking process to create a fair playing field for all students in higher education. SVA asks the Department to adopt this as a guiding principle as it moves forward with Negotiated Rulemaking on the topics addressed below.

¹ INSTITUTE FOR VETERANS AND MILITARY FAMILIES AND STUDENT VETERANS OF AMERICA, I AM A POST-9/11 STUDENT VETERAN 3, 6 (June 2017), available at <https://studentveterans.org/wp-content/uploads/2020/08/I-AM-A-POST-911-Student-Veteran-REPORT.pdf>



TOPICS FOR NEGOTIATED RULEMAKING

SVA supports the ambitious rulemaking agenda proposed by the Department. Below, we provide comment on four topics that we believe are particularly important for student veterans: Borrower Defense, Gainful Employment, Public Service Loan Forgiveness, and Change in Institution Ownership and Control.

Borrower Defense to Repayment

SVA requests the Department proceed with rulemaking on Borrower Defense.

It is a common misconception that student veterans and service members do not have federal student loan debt because they have access to generous education benefits like the Post-9/11 GI Bill. Government data show more than 200,000 service members hold greater than \$2.9 billion in collective student debt.² Veterans and servicemembers borrow federal student loans for various reasons. Some may not qualify for service-related education benefits based on the nature of their service. For others, the cost of attendance, including the many costs beyond tuition unique to post-traditional students,³ simply outstrips their total benefits. In the worst-case scenarios, veterans borrow student loans after being duped by bad-actor schools.

Borrower Defense to Repayment provides critical financial relief to students who have been defrauded by their institutions. The rule was introduced in 2016 following the closure of several large proprietary schools that were mired in allegations of fraud. These closures ultimately left thousands of students, including veterans, with massive student loan debt, credits they could not transfer, and worthless degrees if they graduated.⁴ In response, the Department of Education implemented the Borrower Defense rule to cancel federal student loan debt for defrauded borrowers.⁵

The fraud perpetrated against student veterans and service members has been particularly egregious. This is largely because these students are the lynchpin in a scheme by bad-actor schools to exploit a loophole for

² OFFICE OF SERVICEMEMBERS AFFAIRS, CONSUMER FINANCIAL PROTECTION BUREAU, 2020 OSA ANN. REP. 26-27 (May 2021), https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2020.pdf (citing “[e]stimates...based on the Bureau’s analysis of data provided in GOV’T ACCOUNTABILITY OFFICE, STUDENT LOANS: OVERSIGHT OF SERVICEMEMBERS’ INTEREST RATE CAP COULD BE STRENGTHENED, GAO-17-4 (Nov. 15, 2016), <https://www.gao.gov/products/GAO-17-4>”).

³ See generally VINCENT PALACIOS, CASEY GOLDBALE, CHRIS GEARY, & LAURA TATUM, CENTER ON POVERTY AND INEQUALITY, GEORGETOWN LAW ECONOMIC SECURITY AND OPPORTUNITY INITIATIVE, OBSTACLES TO OPPORTUNITY INCREASING COLLEGE SUCCESS BY UNDERSTANDING AND ADDRESSING OLDER STUDENTS’ COSTS BEYOND TUITION (April 2021), available at <https://www.georgetownpoverty.org/wp-content/uploads/2021/05/CBT-Obstacles-to-Opportunity-Report-May2021.pdf>.

⁴ See generally Karina Hernandez, *Why these veterans regret their for-profit college degrees – and debt*, THE HECHINGER REPORT, PBS.ORG (Oct. 23, 2018, 2:22 PM), <https://www.pbs.org/newshour/education/why-these-veterans-regret-their-for-profit-college-degrees-and-debt>; James Briggs, *Veterans have the most to lose if ITT Tech Closes*, MILITARYTIMES REBOOTCAMP (Sept. 6, 2016), <https://rebootcamp.militarytimes.com/2016/09/06/veterans-have-the-most-to-lose-if-itt-tech-closes/>; THE INSTITUTE FOR COLLEGE ACCESS & SUCCESS, NO MORE CORINTHIANS: WHY STUDENTS NEED A STRONG BORROWER DEFENSE RULE (2021), available at <https://ticas.org/wp-content/uploads/2021/02/Why-Students-Need-a-Strong-Borrower-Defense-Rule.pdf>.

⁵ See generally 2016 Borrower Defense Rule, 81 Fed. Reg. 75926, available at <https://www.federalregister.gov/d/2016-25448/p-8>.



evading the 90-10 rule.⁶ As a result, thousands of veterans and service members have fallen prey to sophisticated, high-pressure, and deceitful recruitment campaigns.⁷ In many cases, veterans not only expend their valuable Department of Veterans' Affairs (VA) benefits attending these schools, but they also take out additional federal student loans to finance remaining costs.⁸ Student veterans often borrow these loans while under direct pressure from school employees who have made allegedly fraudulent misrepresentations.⁹

Congress recently closed the loophole, but the new version of the 90-10 rule is still subject to a separate rulemaking process.¹⁰ In the interim, schools may continue to evade the rule through the tactics detailed above, and in doing so subject veterans, service members, and other students to the negative financial and academic consequences. Accordingly, the 90-10 loophole, its ongoing impacts, and the past fraud it catalyzed are still valid considerations for the Department as it determines whether to address Borrower Defense in this rulemaking.

The Borrower Defense rule is promising in principle, but recent changes limit its utility for defrauded borrowers. We thank the Department for announcing it will forgive roughly 18,000 new Borrower Defense claims for students defrauded by ITT Technical Institute and for rescinding the partial relief methodology.¹¹ These actions signal a welcome, renewed commitment to borrowers. Nevertheless, many recent changes to the rule remain in effect and must be addressed through rulemaking.

SVA encourages the Department to proceed with negotiated rulemaking on Borrower Defense. In doing so, we ask that the Department be mindful of how student veterans, service members, and their families are uniquely impacted by fraudulent practices in higher education.

Gainful Employment

SVA requests the Department address Gainful Employment to guard student veterans against low-quality career education programs.

The *Servicemen's Readjustment Act of 1944*, better known as the original GI Bill, offered millions of returning service members unprecedented opportunity to pursue education and, in turn, helped power the nation's post-

⁶ Tanya Ang and Lauren Augustine, *The '90-10 rule' in higher education is a target on veterans' backs*, THE HILL (June 24, 2019, 7:00 AM), <https://thehill.com/opinion/education/449445-the-90-10-rule-in-higher-education-is-a-target-on-veterans-backs>.

⁷ See generally WALTER OCHINKO, VETERANS EDUCATION SUCCESS, DEPARTMENT OF EDUCATION DATA SHOWS INCREASED TARGETING OF VETERANS AND SERVICEMEMBERS, HIGHLIGHTING URGENCY OF CLOSING 90/10 LOOPHOLE (Nov. 2017), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5a043bdfc83025336298845f/1510226911840/VES+90%3A10+Report+-+FINAL.pdf>.

⁸ *Id.* at 13.

⁹ *Id.*

¹⁰ Pub. L. 117-2, § 2013.

¹¹ *Department of Education Announces Approval of New Categories of Borrower Defense Claims Totaling \$500 Million in Loan Relief to 18,000 Borrowers*, U.S. DEPARTMENT OF EDUCATION (June 16, 2021), <https://www.ed.gov/news/press-releases/department-education-announces-approval-new-categories-borrower-defense-claims-totaling-500-million-loan-relief-18000-borrowers>; *Department of Education Announces Action to Streamline Borrower Defense Relief Process*, U.S. DEPARTMENT OF EDUCATION (March 18, 2021), <https://www.ed.gov/news/press-releases/department-education-announces-action-streamline-borrower-defense-relief-process>.



World War II economy. While the original GI Bill was largely successful, the massive influx of taxpayer dollars into education had unintended consequences.¹² Some of the earliest, widespread abuses against student veterans were perpetrated by fly-by-night vocational schools seeking quick and easy profits off the new GI Bill benefits.¹³ These problems were exposed in a 1950 report from the VA that President Truman addressed in a Special Message to Congress.¹⁴

[E]ach time a course of trade and vocational training does not contribute in a substantial way to the occupational readjustment of a veteran, it constitutes a failure... Such failure is costly to the veteran, to his family, and to the Nation... I feel that steps can and should be taken to give greater assurance that every trade and vocational course... will provide good quality training and will in each instance help a veteran to... find satisfactory employment.¹⁵

Congress eventually cracked down on these bad-actor programs, but the abuses foreshadowed a concerning, recurring trend of low-quality vocational programs taking advantage of veterans for their earned education benefits.

While many of today's career education programs provide quality education and training for their students, numerous others do not.¹⁶ Scores of veterans and other students have been enticed into enrolling in programs that promised good paying jobs, only to find their degrees and credentials virtually worthless.¹⁷ The harm to student veterans and service members has been so severe that it led more than 30 of the nation's leading veteran and military-serving organizations to declare their support for regulation of low-quality career education programs.¹⁸

The Department issued the Gainful Employment rule in 2014 to protect students from ineffective vocational programs.¹⁹ The goal of the rule was simple: ensure career education programs prepare students for jobs where they earn enough to pay back their student debt. The rule required programs to comply with debt-to-income ratios and included important transparency requirements that allowed students to see whether programs were worth

¹² See David Whitman, *Truman, Eisenhower, and the First GI Bill Scandal*, THE CENTURY FOUNDATION (Jan. 24, 2017), <https://tcf.org/content/report/truman-eisenhower-first-gi-bill-scandal/>.

¹³ See *id.*

¹⁴ See *id.* (referencing the Gray Report prepared by VA administrator Carl Gray at the request of the Chairman of the Senate Committee on Labor and Public Welfare) (citation omitted).

¹⁵ President Harry S. Truman, Special Message to the Congress Transmitting Report on the Training of Veterans Under the Servicemen's Readjustment Act (Feb. 13, 1950), available at <https://www.trumanlibrary.gov/library/public-papers/36/special-message-congress-transmitting-report-training-veterans-under>.

¹⁶ See generally THE INSTITUTE FOR COLLEGE ACCESS & SUCCESS, WHY STUDENTS NEED A STRONG GAINFUL EMPLOYMENT RULE 3 (2021), available at <https://ticas.org/wp-content/uploads/2021/02/Why-Students-Need-a-Strong-Gainful-Employment-Rule.pdf>.

¹⁷ See generally VETERANS EDUCATION SUCCESS, COMMENT ON PROGRAM INTEGRITY: GAINFUL EMPLOYMENT 7-10 (2014), available at <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5744c4fa37013b2736268d6f/1464124666881/VES+Gainful+Employment+Submission.pdf>.

¹⁸ See *Public Comment From Veterans Service Organizations and Military Service Organizations 5* (2017), available at https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/59c2edaae3df28c1f3fe3374/1505947050782/Public+Comment+-+Dept+of+Ed+-+MSO+VSO+Letter_Signatures+9.20.2017.pdf (opposing the Department's revision of the 2014 Gainful Employment Rule).

¹⁹ 79 Fed. Reg. 64889 (2014), available at <https://www.federalregister.gov/d/2014-25594/p-2>.



their time and money.²⁰

While not perfect, the prior Gainful Employment rule was effective. It successfully rooted out low quality programs by forcing institutions to fix them or shutter them.²¹ The rule was also expected to save taxpayers roughly \$4.2 billion over 10 years by ensuring federal financial aid flowed only to quality career education programs.²² Despite its promise, the rule was rescinded in 2019.

SVA asks the Department to revisit Gainful Employment regulations to better protect students, including veterans and servicemembers, that enroll in career education programs.

Public Service Loan Forgiveness

SVA encourages the Department to move forward with rulemaking on Public Service Loan Forgiveness (PSLF).

PSLF was established in 2007 based on a bipartisan consensus that students should be encouraged to pursue careers in public service. Congress had a seemingly simple goal with PSLF to forgive federal student loans for borrowers who spend a decade in public service while paying back federal loans. Student veterans in particular have a demonstrated propensity for service and often seek civilian public service roles when transitioning from the military. In theory, PSLF should help these students afford the educations they need to achieve their public service aspirations. Unfortunately, that has not been the case.

The program has not lived up to its promise due, in large part, to mismanagement by the federal government. Lack of clear guidance for student borrowers, a cumbersome application and certification process, and processing backlogs are all issues that have plagued the program. Approval rates remain in the single digits despite the first cohort of borrowers becoming eligible for forgiveness nearly four years ago.²³

Reforms aside, recent data from the Department show problems persist.²⁴ Roughly half of borrowers denied forgiveness for not having enough qualifying payments were denied due to loan consolidation technicalities.²⁵ The Department itself acknowledged this issue, indicating that it “merits further consideration and potential revision as

²⁰ *Id.* at 64891.

²¹ See Tamara Hiler and Wesley Whistle, *GE By the Numbers: How Students Fared at Programs Covered Under the Gainful Employment Rule*, THIRD WAY, available at <https://www.thirdway.org/memo/ge-by-the-numbers-how-students-fared-at-programs-covered-under-the-gainful-employment-rule>.

²² 79 Fed. Reg. 65081 (2014), available at <https://www.federalregister.gov/d/2014-25594/p-2678>.

²³ See *generally* Public Service Loan Forgiveness Data, U.S. DEPARTMENT OF EDUCATION, <https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data> (last visited June 23, 2021).

²⁴ See *generally* APRIL 2021 PSLF REPORT, U.S. DEPARTMENT OF EDUCATION (2021), available at <https://studentaid.gov/data-center/student/loan-forgiveness/pslf-data>.

²⁵ *Federal Student Aid Posts Two New Quarterly Portfolio Reports to FSA Data Center and Highlights Recent Changes to Public Service Loan Forgiveness*, U.S. DEPARTMENT OF EDUCATION, OFFICE OF FEDERAL STUDENT AID, (June 14, 2021), <https://fsapartners.ed.gov/knowledge-center/library/electronic-announcements/2021-06-14/federal-student-aid-posts-two-new-quarterly-portfolio-reports-fsa-data-center-and-highlights-recent-changes-public-service-loan-forgiveness-ea-id-general-21-40>.



a matter of equity.”²⁶ Further, the Department is still working through a backlog of more than 145,000 PSLF applications.²⁷

A recent report from the Government Accountability Office (GAO) suggests there are also serious barriers to the program for service members.²⁸ The report found the Department denied 94 percent of applications from Department of Defense personnel, including service members.²⁹ The Department agreed with GAO’s recommendations to address the issues identified,³⁰ but the report is, nevertheless, further evidence of issues that continue to plague the program.

SVA requests that the Department move forward with negotiated rulemaking on PSLF. The need for regulatory improvements is more than borne out by the well-documented evidence of ongoing systemic issues and unfairness to borrowers that permeates the program.

Change of Ownership and Change in Control of Institutions of Higher Education

SVA asks that the Department proceed with rulemaking on the topic of change of ownership and change in control of institutions of higher education.

Bad-actor proprietary schools in higher education have come under increased scrutiny in recent years, due in large part, to numerous high-profile closures and repeated allegations of fraud. As these schools face growing attention from legislators, regulators, and law enforcement, there has been a corresponding trend in schools converting to non-profit status or being acquired by or rebranding under the umbrella of public institutions.

The overarching concern with conversions is that a converting proprietary school may not sufficiently untangle itself from its former profit-driven motives and structure.³¹ This means students, including veterans and service members who enroll at these institutions at disproportionate rates,³² run the risk of believing converted schools are dedicated to a public or non-profit mission when, in reality, the schools may still prioritize profits over student

²⁶ *Id.*

²⁷ *Id.*

²⁸ See generally U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-21-65, DOD AND ITS PERSONNEL COULD BENEFIT FROM ADDITIONAL PROGRAM INFORMATION (2021), available at <https://www.gao.gov/assets/gao-21-65.pdf>.

²⁹ *Id.* at 15.

³⁰ See *id.* at 30.

³¹ See generally Robert Shireman, *How For-Profits Masquerade as Non-profit Colleges*, THE CENTURY FOUNDATION (Oct. 7, 2020), <https://tcf.org/content/report/how-for-profits-masquerade-as-nonprofit-colleges/>.

³² CAREN A. ARBEIT AND LAURA HORN, U.S. DEPARTMENT OF EDUCATION, A PROFILE OF THE ENROLLMENT PATTERS AND DEMOGRAPHIC CHARACTERISTICS OF UNDERGRADUATES AT FOR-PROFIT INSTITUTIONS 16 (Feb. 2017), available at <https://nces.ed.gov/pubs2017/2017416.pdf> (explaining that “Compared with other undergraduates, larger percentages of students at for-profit institutions were military students (9 percent vs. 4 percent in public and nonprofit). Military students constituted a larger percentage of students enrolled at for-profit 4- year institutions than at any other level of for-profit institution (12 percent vs. 2–7 percent), public (3 –5 percent), or nonprofit institution (4 percent).”).



outcomes.³³

These concerns are exacerbated by the growing adoption of online content in higher education, which has been compounded itself by the forced shift to online learning during the pandemic. The growth in online programs has given rise to a concerning method of conversion where public or non-profit institutions acquire for-profit schools to manage online courses.³⁴ This is an appealing maneuver for some public and non-profit schools looking to expand online options because certain proprietary institutions have well-established, robust capacity for online program management.

A recent GAO report highlighted concerns with for-profit conversions.³⁵ While the report largely focused on the Internal Revenue Service, it also examined the Department of Education's review process. The report acknowledged the Department had improved its review process for proprietary schools trying to convert to non-profits, but also found the Department failed to "monitor newly converted colleges to assess ongoing risk of improper benefit."³⁶ The Department agreed with GAO's recommendation for addressing the issue,³⁷ but the concerns highlighted in the report, nevertheless, underscore the need for increased scrutiny of conversions.³⁸

Improper conversions pose a substantial risk to students, including veterans and service members, and they should be addressed through this rulemaking.

Additional Topics for Rulemaking

For purposes of brevity, we do not address the remainder of the currently proposed topics in detail, but SVA acknowledges the value for students in the Department proceeding with rulemaking on each of them. We also ask that the Department consider reregulating accreditation rules. Finally, SVA encourages the Department to explore how regulations may be used to improve data collected on student veterans and service members and how it can be better shared among government agencies to broadly improve programs and services for these individuals.

CONCLUSION

SVA commends the Department for proposing a meaningful set of topics for negotiated rulemaking. Our nation's student veterans, service members, and their families deserve nothing less than the ambitious agenda laid out by

³³ See generally Robert Shireman, *These Colleges Say They're Nonprofit—But Are They?*, THE CENTURY FOUNDATION (Aug. 6, 2018), <https://tcf.org/content/commentary/colleges-say-theyre-nonprofit/>; Robert Shireman and Yan Cao, *Dubious Conversions of For-Profit Colleges: Decoding the GAO Report*, THE CENTURY FOUNDATION (Jan 27, 2021), <https://tcf.org/content/commentary/dubious-conversions-profit-colleges-decoding-gao-report/>.

³⁴ See generally Lindsay McKenzie, *University of Arizona's Big Online Push*, Inside Higher Ed (Aug. 4, 2020), <https://www.insidehighered.com/news/2020/08/04/university-arizona-acquires-ashford-university>.

³⁵ See generally U.S. GOV'T ACCOUNTABILITY PROGRAM, GAO-21-89, GAO HIGHLIGHTS: HIGHER EDUCATION - IRS AND EDUCATION COULD BETTER ADDRESS RISKS ASSOCIATED WITH SOME FOR-PROFIT COLLEGE CONVERSIONS (2020).

³⁶ *Id.*

³⁷ *Id.*

³⁸ See Robert Shireman and Yan Cao, *Dubious Conversions of For-Profit Colleges: Decoding the GAO Report*, THE CENTURY FOUNDATION (Jan 27, 2021), <https://tcf.org/content/commentary/dubious-conversions-profit-colleges-decoding-gao-report/>.



the Department. While SVA is broadly supportive of the proposed topics for rulemaking, it is especially important for veterans and service members that the Department address Borrower Defense to Repayment, Gainful Employment, Public Service Loan Forgiveness, and Change of Ownership and Control of Institutions.

Finally, SVA asks that the Department ensure student and consumer rights organizations are afforded adequate representation throughout the upcoming negotiations. Recent negotiated rulemaking efforts by the Department suffered from a disturbing lack of representation for these groups. Like many others, the student veteran voice deserves special consideration throughout this process, and SVA looks forward to ensuring that it is heard.

We thank the Department for its commitment to student veterans in higher education, and we greatly appreciate its attention to this comment. If you have any questions, please feel free to contact Justin Hauschild directly by phone at 202-223-4710 or by email at justin.hauschild@studentveterans.org.

Sincerely,

Justin Hauschild
Legal Fellow
Student Veterans of America

Good Afternoon

Thank you for the opportunity to provide this public comment on potential issues for future negotiated rulemaking.

My name is Bob Muth and I am a professor of law at the University of San Diego. I am also the Managing Attorney of USD's Veterans Legal Clinic. The Veterans Legal Clinic provides pro bono legal representation for veterans, active duty servicemembers, reservists, guardsmen and their families. Since 2012, a significant percentage of our casework has been comprised of assisting veterans who were scammed out of their Post 9/11 GI Bill benefits, almost exclusively by for-profit schools. While not every for-profit school is bad, virtually all of the veterans who have sought our assistance attended for-profit schools.

Our clients are veterans who have served their country honorably and are trying to use their GI Bill benefits to assist them in making a successful transition back to civilian life. It is unconscionable that so many for-profit schools have sought to make a quick buck off the backs of these veterans at the expense of the American taxpayer. Often our clients' stories are heartbreaking – veterans struggling with service-connected disabilities trying to obtain higher education so they can find a solid career path to support their families after their service to this country, only to find out that the school they have invested their hard-earned GI Bill benefits had deceived them.

Our clients have been lied to about nearly everything a school could lie to a prospective student about. False representation with respect to accreditation status, job placement assistance, expected starting salaries, ability to transfer credits earned at the school, the quality of the school, and the total expected cost of the program to the veteran. Often, our clients have taken out student loans on top of expending all of their GI Bill funds at these schools.

I respectfully urge you to keep these student veterans in mind as you select which constituencies are represented during the negotiated rulemaking process. The focus should be on ensuring that the rules work for the intended beneficiaries -- the students, the borrowers, the student veterans rather than for-profit school representatives.

The Department has provided an excellent list of topics for regulation in the hearing notice, but I'd urge you to prioritize the following issues:

First, the borrower defense to repayment regulation is vital to protect student borrowers from having to repay crushing debt that should not have been incurred in the first place and to deter schools from engaging in fraudulent behavior in the future. The Veterans Legal Clinic has assisted numerous veterans seeking to submit a defense to repayment claim. The changes adopted by the Department in 2019 to the borrower defense rule made it nearly impossible for students to successfully have their loans discharged. Accordingly, the 2019 rule serves the interests of bad actor schools and not student borrowers and the rule should be changed. One concern that arose even under prior versions of the rule was the difficulty students had in understanding what was required of them to submit a borrower defense claim. In creating a new rule, I urge you to consider the end-user consumer and making sure that the process is accessible and easy to understand. It is critical to streamline the process as much as possible so that claims are adjudicated expeditiously and also the rule should allow for advocates to file defense claims on behalf of similarly situated borrowers.

Second, gainful employment rules are a critical tool to ensure that programs designed and marketed as career education programs actually support students find good jobs in their chosen career field and not incur massive student debt that they will lack the means to be able to repay. Student veterans are often particularly interested in career education programs and the rule should be reinstated. A strong gainful employment rules helps to ensure career education programs are held accountable and so that students are provided the skills, training and education they need to thrive in their career path while not unduly burdened by student debt.

Arbitration:

Third, the Department should reinstate the ban on pre-dispute arbitration clauses and class action waivers. Arbitration is a form of alternative dispute resolution that seeks to resolve legal disputes outside of courts. Forced arbitration stacks the deck in favor of schools that engaged in predatory behaviors. Legal clauses requiring students to arbitrate disputes, rather than to file complaints in court, are usually slipped into lengthy enrollment agreements and the students have no idea what arbitration is, what rights the arbitration process forces them to give up, or how having their case resolved via arbitration might not be in their interest. Arbitration hides the bad acts of certain schools from the regulators, prosecutors, consumer protection advocates and the media. Similarly, class action waivers included in enrollment contracts serve the interests of the worst schools and harm students. A student who has been harmed by a for-profit school, even if that harm might result in tens of thousands of dollars in damages, will find it extremely difficult to engage an attorney to handle their individual matter. Accordingly I respectfully urge you to reinstate the ban on pre-dispute arbitration clauses and class action waivers.

90/10:

Finally, Congress acted this year to close the 90/10 loophole that heavily incentivized for-profit schools to target student veterans with predatory sales tactics in order to maximize the number of non-veteran students the school can enroll. I understand the Department can not begin rulemaking on this issue until October 1, 2021, but I urge you to do so as soon as possible after that date.

Thank you once again for the opportunity to provide this public comment today and thank you to the dedicated staff at the Department for your work on these important issues facing students.

Wesley Wilson, Higher Ground Veterans Advocacy
Testimony
U.S. Education Department
June 2021

Good morning, thank you for allowing me to provide comment here today. I am Wesley Wilson, and I am a current student veteran and represent High Ground Veterans Advocacy. At 17, I joined the Army to earn educational benefits after losing my father, a Navy veteran to suicide, and my mother in a head-on collision car accident. Today, I am proudly an alumnus of two of the most prestigious universities in the country—Fordham University and the Maxwell School at Syracuse. I have successfully navigated the military-to-civilian transition, have a great job, and feel miles away from the foster care hearing I attended 11 years ago. The kindness of others, student veteran support organizations, and the GI Bill have blessed me with the opportunity to advance personally and professionally.

Unfortunately, determining the education outcomes of students like me is near impossible because existing regulations do not require institutions to comprehensively report student veteran data. Under the Higher Education Authorization Act, participating aid-eligible institutions must report a plethora of [information](#)—from employment outcomes to student loan default and graduation rates disaggregated by race, gender, and aid status.

While ED collects some student veteran data, they generally do not distinguish student veterans from traditional [students](#)¹. The VA collects and publishes some outcome data, such as retention, persistence, and graduation rates. However, data is incomplete because reporting is [optional](#). For example, the VA has veteran-specific retention and persistence rates for only 222 schools—compared to the roughly [3,400](#) schools that reported the same metric for traditional students².

¹ Based on published Integrated Post-Secondary Education Data System on March 2021.

² Based on GI Bill Comparison Tool Data as of June 19th, 2021

The lack of accurate student veteran performance data is clearly documented. In 2017, Student Veterans of America published [groundbreaking](#) research where they outlined the difficulties in “collecting analyzing and interpreting student veteran academic outcomes due to poor collection methods, narrow inclusion criteria, and errors in identifying student veterans.” In 2019, the [congressional](#) budget office published a report citing their struggles in differentiating GI Bill beneficiaries from active-duty military students. In January, [GAO](#) released a report declaring a need for more comprehensive performance data to evaluate programs designed to serve disadvantaged students—including veterans.

Student veterans continually bear the brunt of deceptive advertising and [fraud](#) from bad actor schools seeking to exploit them for their hard-earned GI Bill benefits. Regulations like the gainful [employment](#) rule helped curtail abuse by ensuring that student veterans are gainfully employed and financially able to repay their student loans after graduation. The rule required institutions to report outcome metrics such as student debt-to-income ratios and employment rates. It saved billions in taxpayer money wasted on poor-performing diploma mills producing useless degrees. Unfortunately, despite its overwhelming [support](#) by 34 of the largest veteran service organizations, the gainful employment rule was repealed in 2019.

Access to accurate student veteran performance data is the linchpin of protections like the gainful employment rule. Without it, advocates and researchers will be unable to ensure student veterans are not crippled with loan debt or identify bad actor schools; This is a crucial step because, similar to [62%](#) of student veterans, I am a first-generation college student. We do not have the privilege of calling our family for advice or help to navigate higher education because we are doing this for the first time.

Therefore, new regulations under the Higher Education Authorization act should require colleges and universities to differentiate GI Bill beneficiaries from the traditional student population in all data reporting. Should data collection overlaps exist, the Department of

Education should develop data-sharing agreements to better consolidate and publish publicly these data where researchers and advocates can access it easily.

The deliberate identification of veterans in data reporting will increase transparency in how the government spends taxpayer dollars, ensure adequate protections for student veterans, and hold accountable the organizations that receive billions every year in GI Bill funding. We can safeguard our student veterans, preserve the GI Bill's legacy, and assist more students in climbing the social ladder.

With a price tag of roughly [12 Billion](#) dollars a year, the Post 9/11 GI Bill is VA's most expensive educational program—accounting for nearly [20%](#) of all Federal Higher Education Spending. The American people deserve access to comprehensive student veteran outcome data, and the Department of Education is uniquely positioned to provide it.

Yesterday marked the 77th anniversary of the GI Bill. What role will the Department of Education play in the GI Bill's continued legacy? That choice is yours.

Thank you for allowing me to speak here today, and please let me know if I can be of service.