

**Remarks from David Proferes**  
**Policy Coordinator, Veterans Employment & Education Division**  
**The American Legion**  
**Before the Public Hearing**  
**“Negotiated Rulemaking for Higher Education 2021-22”**  
**October 26<sup>th</sup>, 2021**

On behalf of National Commander Paul Dillard and the nearly two million members of The American Legion, we thank The Department of Education for inviting us to speak on the 90/10 rule at this public hearing today.

We have worked tirelessly for years to highlight the targeting of servicemembers, veterans, and their families by exploitative institutions for their earned educational benefits. We had hoped Congress would act and were rewarded when the 90/10 loophole was closed earlier this year by the signing of the American Rescue Plan Act of 2021. However, the fight for student veterans is not over. The law must be implemented such that veterans and their families are safeguarded.

The American Legion urges the Department of Education to ensure the law (PL 117-2), which closed the 90/10 loophole, is translated accurately and explicitly into subsequent rules and regulations using both clear and strong language.

According to the old interpretation of the 90-10 rule, Title IV federal student aid programs counted as taxpayer dollars on the “90-side” of the 90/10 calculation. Department of Defense (DoD) educational benefits such as Tuition Assistance and Department of Veterans’ Affairs (VA) G.I. Bill educational benefits counted as private dollars on the “10-side” of the 90/10 calculation. This has been defined as the “90/10 Loophole”, allowing schools to collect federal funds classified as private revenue.

Schools that are allowed to operate on budgets funded entirely by taxpayers are incentivized to target student veterans for their benefits and often do so using deceptive practices. As private sector revenue is regarded as an important benchmark for institutional quality and health, we find these practices concerning.

We encourage The Department of Education to ensure servicemembers, veterans, and their families can enjoy high-quality educations and positive student outcomes. We thank the Department of Education for their diligence in this matter.