



# Student Veterans and Deceptive Schools

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## **Student Veterans and Deceptive Schools**

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## **List of Acronyms**

VA	Department of Veterans Affairs
DoD	Department of Defense
IHL	Institution of Higher Learning
HEA	Higher Education Act of 1965
GAO	Government Accountability Office
CBO	Congressional Budget Office
SAA	State Approving Agency
NASAA	National Association of State Approving Agencies
ED	Department of Education
CFPB	Consumer Finance Production Bureau
NCES	National Center for Education Statistics
EO	Executive Order

## Executive Summary

The aggressive targeting of student veterans and their invaluable education resources by deceptive schools has a clear negative impact on their educational outcomes, financial stability, and quality of life. While some public and nonprofit schools participate in deceptive practices, the majority are for-profit institutions which account for 98% of student fraud complaints (Cao & Habash, 2018). In this memo, we recommend several policy solutions to combat aggressive and deceptive recruiting practices targeting veterans.

Aggressive recruiting, deceptive practices, and misrepresentation are used to increase student veteran enrollments at for-profit schools. On average, student veterans experience lower graduation rates than their civilian peers as a result of disproportionately higher enrollments at for-profit schools. The national average graduation rate for all degree-granting schools is 63% as of 2020. In comparison, for-profit schools have an average graduation rate of 26% (National Center for Education Statistics, 2021).

Student veterans experience large amounts of debt and struggle financially as a result of exploitation by deceptive schools. While 20% of the students in higher education were enrolled in for-profit schools in 2017, they made up 30% of those that defaulted on student loans (National Center for Education Statistics, 2022). Schools that provide low-quality education rarely lead to gainful employment as advertised, which hurts students' lifetime earnings.

### *Why do deceptive schools target student veterans?*

The majority of deceptive institutions are for-profit institutions, which must abide by the 90/10 rule. This rule calls for at least 10% of tuition and fees paid to for-profit schools from students must be privately sourced funds. This rule incentivized deceptive schools to target veterans for their VA education benefits while avoiding regulatory checks instituted by the Higher Education Act of 1965 via the Post-9/11 GI Bill putting fees and tuitions paid by veterans to schools in private funds. The loophole was statutorily closed through a bipartisan compromise that resulted from nearly a decade of pressure from organizations representing veterans and their families.

### *How do deceptive schools target student veterans?*

Institutions that target student veterans use specific practices in order to target these students. Deceptive practices can include withholding critical information from prospective students, including accreditation status of programs, post-program employment rates, and full tuition costs (Veteran Education Success, 2021).

Institutions also have recruitment practices that target emotional points of veterans in order to convince them to enroll. Recruiters are often incentivized to use said manipulative and aggressive practices since some institutions reward bonuses based on the number of students they have enrolled (Veterans Education Success, 2021).

### *Current Laws and Regulations*

While there are some existing inconsistencies in the regulatory and statutory language related to deceptive practices between the Departments of Defense (DoD), Veterans Affairs (VA), and Education (ED), and the Consumer Financial Protection Bureau (CFPB), these gaps do not fully explain why institutions continue using these practices. Every bad practice identified in the problem analysis is addressed in at least one Federal agency's laws and regulations, with the

most egregious gaps being closed with the enactment of the Isakson-Roe Act. If these bad practices are already illegal, then why do they still occur?

Bad recruiting tactics occur in part because of gaps in enforcement of the existing laws and regulations and weak consequences for institutions that violate those laws. The Federal agencies involved have different administrative capacities to monitor and enforce institutions. With limited coordination between Federal agencies, this patchwork of enforcement fails to catch when many institutions violate the law and fails to meaningfully punish those institutions when they are caught. Therefore, proposed solutions will look past this issue of gaps within laws and regulations and instead target other policies, oversight, and enforcement.

## **Recommended Solutions**

### *Increasing Oversight*

- Would account for a wide range of metrics such as student complaints, financial stability, graduation rates, college persistence, academic rigor, certification, and student loan practices
- Proactively anticipates possible issues by measuring schools' risk of deception and misrepresentation

### *Increasing Enforcement*

- Establish an intra-agency task force between ED and VA to provide VA with the authority to punish schools that do not comply with VA requirements

### *Closing the 90/10 Loophole*

- ED strictly interprets legislative intent in the American Rescue Plan Act of 2021 so that the regulations are clear and not open to interpretation by deceptive schools

### *Improving the Complaint System*

- ED can improve on its current complaint system
- Will provide a response mechanism if an institution receives a certain number of complaints

## **I. Introduction**

Since the signing of the Servicemen's Readjustment Act in 1944, veterans have received education benefits for honorable military service. The Post-9/11 GI Bill was enacted in 2009 and affords eligible veterans 36 months of education benefits, which provide a monthly stipend and cover full tuition costs at approved in-state public institutions and up to \$26,042.81 annually at private and for-profit institutions (VA, 2022). The Post-9/11 GI Bill has provided billions of dollars to service members, veterans, and their families to further their education. As of 2016, more than \$65 billion has been expended to benefit 1.6 million military-connected individuals (Congressional Budget Office, 2019).

The number of student veterans that used educational benefits in 2017 was estimated to be in excess of 700,000 and is expected to increase over the next decade (Government Accountability Office, 2019; Holian et al., 2020). Generous benefits coupled with regulatory loopholes created an opportunity for for-profit schools to aggressively recruit student veterans. On average, student veterans using VA education benefits are more likely than their civilian counterparts to enroll in for-profit schools. It is estimated that one-third of student veterans were enrolled at a for-profit school in 2017 (Hill et al., 2019).

To delve deeper into this issue of student veterans enrolling in for-profit and often deceptive institutions, this memo will lay out the scope of the problem, current practices that are impacting student veterans, and contributing factors. Next, this memo will review the policy background, including laws and regulations that have allowed deceptive institutions to target and manipulate student veterans.

Next, this memo will focus on actual regulatory language in the Departments of Defense (DoD), Veterans Affairs (VA), and Education (ED), identifying where there are and are not gaps allowing bad practices to continue. Finally, this memo will outline numerous comprehensive solutions that mitigate harm done to student veterans by deceptive institutions in many different vehicles before ultimately making recommendations on how to proceed.

### *Methodology*

For the purpose of this memo, we are focused on federal laws and regulations surrounding deceptive practices of institutions on the federal level. With an understanding that there are existing regulations at the state level that are indeed impactful, focusing on the federal level allows us to look more closely at federal agencies and previously enacted federal law that are consistently harming student veterans as they attempt to continue their education.

Any and all proposed solutions against the lack of protections for student veterans will 1) consider current laws and regulations surrounding this issue: 2) prioritize students veterans' needs: 3) put on emphasis on accurate and accessible information and 4) utilize comprehensive solution matrixes to assess the foreseeable likelihood of success a given solution may provide.

## **II. Policy Problem**

### *Scope and Impacts*

The aggressive targeting and exploitation of student veterans and their valuable education resources by deceptive schools negatively affect their educational outcomes, financial stability, and quality of life. While some public and nonprofit schools participate in deceptive practices,

the majority are for-profit institutions which account for 98% of student fraud complaints (Cao & Habash, 2018).

Aggressive recruiting, deceptive practices, and misrepresentation are used to increase student veteran enrollments at for-profit schools. On average, student veterans experience lower graduation rates as a result of disproportionately higher enrollments at for-profit schools. The national average graduation rate for all degree-granting schools is 63% as of 2020. In comparison, for-profit schools have an average graduation rate of 26% (National Center for Education Statistics, 2021).

Rising enrollments in for-profit schools may also be correlated with decreased graduation rates for student veterans. Whereas over 20% of non-veteran students enroll at schools with graduation rates greater than 70%, the number of student veterans is halved at 10% (Hill et al., 2019). Furthermore, fifty percent of traditional peers attend schools with low graduation rates compared to 65% for student veterans. Student veterans seeking to enroll in other schools may encounter issues transferring credits.

Public and nonprofit schools seldom recognize the degrees and credits earned at certain institutions (Government Accountability Office, 2019). GAO found that nearly 95% of credits gained at for-profit schools do not transfer or are not recognized by 4-year public schools (Emrey-Arras, 2019). The negative impact is exacerbated when schools suddenly close abruptly or collapse, leaving student veterans with no degree or transferable credits (Quintana & Zhang, 2021). Student veterans expend valuable education benefits that often cannot be recouped or the recoupment process may take years.

Student veterans incur large amounts of debt and struggle financially as a result of exploitation by deceptive schools. While 20% of the students in higher education were enrolled in for-profit schools in 2017, they made up 30% of those that defaulted on student loans (National Center for Education Statistics, 2022). Schools that provide low-quality education rarely lead to gainful employment as advertised, which hurts students' lifetime earnings.

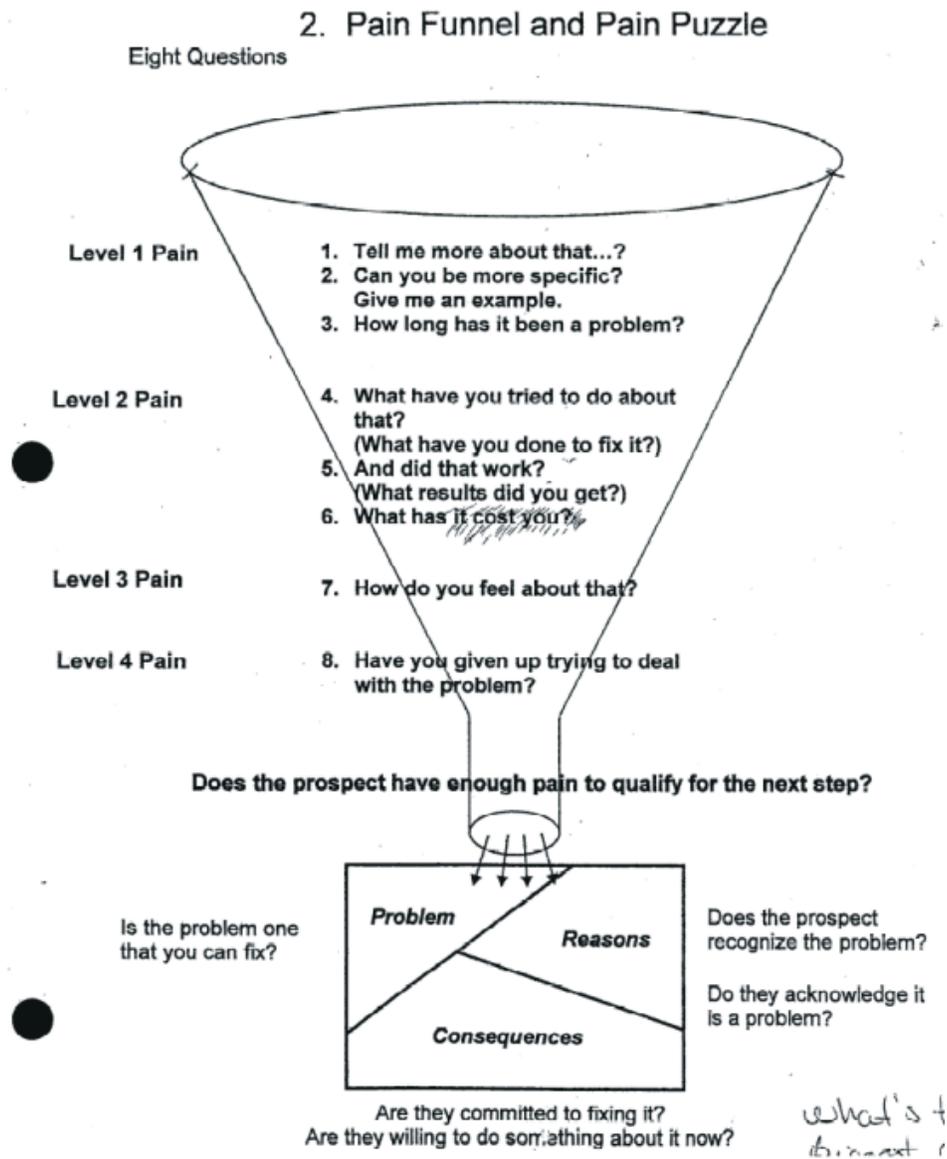
### *Current Practices*

Exploitative institutions frequently use deceptive and manipulative recruiting practices to target veterans. Deceptive practices can include withholding critical information from prospective students, including accreditation status of programs, post-program employment rates, and full tuition costs. In some cases, institutions will provide false information to students. For example, students have accused Perdoceo Corporation of falsely telling students their military school credits will transfer to their institution (Veterans Education Success, 2021).

For-profit institutions also use manipulative and aggressive tactics. Recruiters call students multiple times a day and at all hours of the night. Recruiters also use emotionally charged language that exploits veterans' insecurities in order to manipulate prospective students to enroll.

According to an ITT Technical Institute training manual, recruiters were instructed to identify a potential recruit's motivation, find their pain points, "poke the pain," and "remind them what things will be like if they don't continue forward and earn their degrees." Recruiters were instructed to ask increasingly hurtful questions, as depicted in the "Pain Funnel" (Fig A) to elicit stronger emotional responses which the recruiter could use to convince prospective students that enrolling is the only way to avoid that pain (United States Senate Health, Education, Labor and Pensions Committee, 2012).

**Figure 1: ITT Technical Institute “Pain Funnel”**



*Note: Figure was taken from a 2-year oversight investigation report initiated by the United States Senate Health, Education, Labor and Pensions Committee in 2010.*

Recruiters are often incentivized to use these manipulative practices since some institutions reward bonuses based on the number of students they have enrolled. In other cases, recruitment managers instruct recruiters to use these aggressive tactics, sometimes in violation of their own written policies, in order to increase veteran enrollment (Veterans Education Success, 2021).

**Contributing Factors**

The primary causes of exploitation are twofold: student veterans are particularly vulnerable to exploitation, and deceptive schools are incentivized by regulatory loopholes and requirements to target veterans.

Student veterans are vulnerable to exploitative institutions of higher learning because of psychological barriers and information asymmetry. Student veterans face many psychological barriers to pursuing higher education. On average, student veterans are more likely to be first-generation college students who might be unfamiliar with the higher education system and processes (U.S. VA, 2020; RTI International, 2019).

Many student veterans are also nontraditional students and may feel uncertain about their academic preparedness (Hill et al., 2019). Deceptive schools take advantage of student veterans' unfamiliarity with higher education and financial student aid to enroll them in courses and coerce them to take out student loans. Contrary to for-profit schools, student veterans lack perfect information about higher education, creating an information asymmetry between the two parties.

Weak regulatory protections, inefficient oversight measures, and a lack of regulatory enforcement have incentivized deceptive schools to exploit student veterans for benefits. The 90/10 loophole, which was amended but not enacted in 2021, incentivized deceptive schools to target veterans for their VA education benefits while avoiding regulatory checks instituted by the Higher Education Act of 1965.

Another example of weak oversight is VA's compliance survey. In addition to ED's (ED) certification for Title IV funds, schools that accept veteran benefits must be certified by VA and complete compliance surveys through State Approving Agencies (SAA) (Government Accountability Office, 2018).

State Approving Agencies administer compliance surveys as an oversight measure, but the scope is limited to investigating financial stability and basic program information (Congressional Research Service, 2016; Smith, 2019). Despite the certification process and other increased oversight measures, exploitative organizations continue to target student veterans for their publicly-funded benefits.

### **III. Policy Background**

The Post 9/11 Bill greatly expanded educational benefits for veterans in an unprecedented manner that attracted the attention of deceptive schools. Prior to the signing of the landmark legislation, student veterans used the Montgomery GI Bill, which paid tuition and fees directly to students rather than to schools. While deceptive schools targeted veterans during this time, there were fewer incentives. The Post-9/11 GI Bill changed a critical element in how education subsidies are identified. Under the Post-9/11 GI Bill, tuition and fees are paid to the schools in the form of "private" funds, which helped schools avoid violating the 90/10 rule.

#### *Profiteering*

In the early 2000s, for-profit schools advocated tirelessly for Congress and federal agencies to rescind or weaken provisions of the 90/10 rule. According to the 90/10 rule, at least ten percent of tuition and fees paid to for-profit schools from students must be privately sourced funds. The legislative intent behind the ten percent requirement was to prevent for-profit schools from profiting solely off Title IV funds, thereby, allowing market forces to ensure for-profit schools provide an education that students would willingly pay for with private funds.

In 2006, executives of for-profit institutions testified before Congress that the 90/10 rule was outdated and unnecessary. Several high-ranking representatives agreed and even introduced a bill to rescind the rule and other protections (Are Students at Proprietary Institutions Treated

Equitably Under Current Law?, 2004). While the bill failed, it showed the latent legislative intent among policy actors to reduce protective measures.

### *Reaction*

The signing of the Post-9/11 GI Bill was welcomed by not only student veterans but also for-profit schools who marketed themselves as viable paths to academic attainment and gainful employment. The number of for-profit schools surged and the market share of student veterans likewise increased. By 2010-11, the media and important government officials scrutinized for-profit schools for aggressively recruiting veterans and using deceptive practices. President Obama recognized the need for additional protection and oversight. During a trip to Fort Stewart military base in Texas, he declared, “They are trying to swindle and hoodwink you.

Today, here at Fort Stewart, we're putting an end to it” (PBS, 2015). Shortly after the interview, President Obama signed Executive Order “Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members” (The White House, 2012). The EO directed federal agencies such as VA, DoD, ED, and the Consumer Financial Protection Bureau (CFPB) to increase oversight and reduce the deceptive practices of deceptive schools. Despite this strong measure, VA failed to anticipate large school closures in the following years that financially and academically crippled many student veterans.

### *School Precipitous Closures*

Large for-profit college closures highlighted the danger and potential negative impact of deceptive schools on students. In 2014, Corinthian College, one of the largest for-profit schools in the country at the time, notified the U.S. Securities and Exchange Commission that the institution was financially insolvent and would immediately begin restructuring and closing down schools (The Virginia Department of Veterans Services State Approving Agency, 2014).

Veteran service organizations alerted the public to the danger imposed by those schools on enrolled students (Westervelt, 2014). Following the notification, State Approving Agencies (SAAs) and VA withdrew eligibility for VA funds from Corinthian Colleges to mitigate the negative impact of school closures by preventing future student veterans from enrolling.

In 2015, Corinthian Colleges officially announced it would close all 28 satellite campuses that continued to operate after its initial string of campus closures (Hefling, 2015). ITT Technical Institute (ITT Tech), another large for-profit school, followed suit in 2016, resulting in over one-hundred campuses closing their doors to students (Federal Student Aid, n.d.-a). According to a report from GAO, the closure of ITT Tech and Corinthian Colleges affected more than 7,000 student veterans who were enrolled at those schools (Emrey-Arras, 2019).

These institutions collapsed quickly and did not go through planned and structured closures. GAO found that school closures negatively impacted student veterans, resulting in loss of benefits, financial hardship, and the inability to transfer to other schools. Nearly 95% of credits gained at for-profit schools do not transfer or are not recognized by public schools (Emrey-Arras, 2019).

In response, eight State Attorney Generals, organized by then California State Attorney General Kamala Harris, wrote an open letter to VA Secretary McDonald urging him to restore the benefits of students affected by school closures, improve oversight of the for-profit sector, and provide more information to student veterans so they can make more informed decisions about their educations (Harris, Kamala, 2016). In 2017, Congress passed the Harry W. Colmery

Veterans Educational Assistance Act of 2017 also known as the “Forever GI Bill.” The Forever GI Bill made a number of changes to veterans’ education benefits including the restoration of benefits to students affected by school closures (Harry W. Colmery Veterans Educational Assistance Act of 2017, 2017).

### *Gainful Employment*

In 2014, ED under the Obama Administration reinstated the gainful employment rule to ensure schools are providing quality education that leads to gainful employment after graduation. The term “gainful employment” originated in the Higher Education Act of 1965 [P.L. 89-239]. Under the definition of “Institutions of Higher Learning,” for-profit schools are categorized as schools that “...prepare students for gainful employment in a recognized occupation...” (The Higher Education Act, 1965, p. 1251). However, ED did not publish official regulations outlining how the gainful employment rule would be implemented until 2014 after numerous years of rule-making (U.S. ED, 2018).

Based on the gainful employment rule, students who graduated from for-profit schools must earn enough income to offset debt incurred by tuition and fees (Federal Student Aid, n.d.-b). Essentially, graduates should be earning more money than they would have if they had foregone higher education. In response to the new rules, many protested that the new rules unfairly discriminated against educational programs that served underserved communities (Bidwell, 2014).

Others welcomed the new rules as a way to quell the increasing number of students defaulting on their student loans (Matsudaira et al., 2017). One study showed that when underperforming for-profit schools are sanctioned, the majority of underserved students enroll at public schools and accrue less debt (Cellini et al., 2020). In 2020, ED, under the Trump Administration, rescinded the gainful employment rule (U.S. ED, 2019).

In 2021, The Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, also known as “Isakson-Roe,” was signed into law. The historic bill has a number of provisions that significantly improved veterans’ education. Congress mandated that VA implement a more comprehensive and robust risk-based survey model in 2022 to replace the compliance survey, which had so far proved ineffective in preventing schools from exploiting student veterans.

It also updated VA definition of “misrepresentation” to better align with ED’s definition, effectively reducing the ambiguity surrounding what actions constitute misrepresentation (The Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, 2021).

### *The 90/10 Rule*

Following the Isakson-Roe Act, Congress passed the American Rescue Plan Act of 2021 which closed the 90/10 loophole that allowed for-profit schools to classify VA education benefits as private funds (American Rescue Plan Act of 2021, 2021). The rulemaking process to establish the relevant rules and regulations is ongoing and the resulting regulations will not go into effect until 2023.

#### **IV. Review of Current Laws and Regulations**

In this section we review the existing laws and regulations related to misrepresentation and deceptive practices to identify if there are gaps that allow these bad practices to occur. Higher education recruiting is regulated by an inconsistent patchwork of laws and regulations across VA, DoD, ED, and CFPB. After reviewing these we conclude that the gaps and inconsistencies in the laws and regulations fail to fully account for why institutions continue using these bad practices.

##### *Deceptive Practices*

A principal way that institutions target and manipulate student veterans is through deceptive practices. Deceptive practices include activities prior to enrollment disclosures, aggressive recruiting, and job placement disclosures for veterans.

One tactic that institutions use under deceptive practices is prior to enrolling disclosures. In broad terms, this is purposefully withholding specific information from a student veteran before they have begun attending an institution. VA, DoD, and ED all possess comprehensive regulatory language for the following prior to enrolling disclosures: 1) academic, financial, and disability counseling: 2) financial aid and loans: 3) Add/Drop, withdrawal, and readmission policies: 4) transfer credit policies and articulation agreements: 5) programs and costs.

There are however notable gaps in regulatory language in other prior to enrollment disclosures. Within CFPB tools, the Department of Defense states that “Before enrolling a Service member, provide each prospective military student with specific information to locate, explain, and properly use the following ED and CFPB tools: 1) The College Scorecard... 2) The College Navigator... 3) The Financial Aid Shopping Sheet... 4) The “Paying for College” webpage...” (DoD Voluntary Education Partnership MOU, n.d.).

Categorical language within the other two departments does not exist. Additionally, there is a gap in regulations in terms of residency requirements. The language within the Department of Defense outlines this says institutions must “Disclose to Service members any academic residency requirements pertaining to the student's program of study, including total and any final year or final semester residency requirement at or before the time the student enrolls in the program.” There is no relative existing language in either VA or ED.

A second tactic that deceptive institutions may utilize under deceptive practices is aggressive recruiting. VA, DoD, and ED all possess regulatory language that prohibits the usage of commission in terms of recruitment practices. However, the agencies do differ in their concise outline of aggressive recruitment. VA describes aggressive recruiting when an institution has “deceptive or persistent recruiting techniques, including on military installations...or payment of incentive compensation” and “during any 1-month period making three or more unsolicited contacts to a covered individual, including contacts by phone, email, or in-person, or engaging in same-day recruitment and registration” (Disapproval of courses, 2020).

DoD describes aggressive recruiting as “tactics such as making multiple unsolicited contacts (3 or more), including contacts by phone, email, or in-person, and engaging in same-day recruitment and registration for the purpose of securing Service member enrollments” (DoD Voluntary Education Partnership MOU, n.d.).

Next, an important aspect of deceptive practices is other disclosures that institutions may provide surrounding employment placement. ED has strict regulatory language for institutions

that advertises job placement rates. This includes “most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements” ED also states that relevant State licensing requirements of the State in which such institution is in for any job for that a given course of instruction is designed to prepare such prospective students (Program participation agreement, 2021).

ED also outlines specific data that institutions must report based off of their given accrediting agency in terms of employment rates of students. VA has limited language surrounding employment rates for institutions only stating that institutions must provide job-placement rates for graduates of a specific course if they are available from the institution (Disapproval of courses, 2020). DoD has no regulatory language concerning this matter.

Finally, it is important to note other mandatory disclosures that exist within ED, but not VA or DoD. ED holds much more thorough language for aspects of the institutions such as refund policies, return of title IV grants or loan assistance, study abroad programs, copyright infringement policies, diversity statistics, fire safety reports, retention rates, vaccination policies, teach-out plans and enforcement actions.

### *Misrepresentation*

One of the ways deceptive institutions exploit student veterans is through misrepresentation. Cornell Law defines misrepresentation as “...a false or misleading statement or a material omission which renders other statements misleading, with intent to deceive” (Legal Information Institute, 2022). VA, DoD, ED, and FTC define misrepresentation using different language but retain a common theme, which is using false statements to convince students that certain outcomes or conditions are true when they are not true.

According to ED, misrepresentation is “Any false, erroneous or misleading statement an eligible institution, one of its representatives, or any ineligible institution, organization, or person with whom the eligible institution has an agreement to provide educational programs, or to provide marketing, advertising, recruiting or admissions services makes directly or indirectly to a student, prospective student or any member of the public, or to an accrediting agency, to a State agency, or to the Secretary.

A misleading statement includes any statement that has the likelihood or tendency to mislead under the circumstances. A statement is any communication made in writing, visually, orally, or through other means. Misrepresentation includes any statement that omits information in such a way as to make the statement false, erroneous, or misleading. Misrepresentation includes the dissemination of a student endorsement or testimonial that a student gives either under duress or because the institution required the student to make such an endorsement or testimonial to participate in a program” (Scope and special definitions, 2021).

Misrepresentation, though unethical, is not illegal according to ED unless it reaches the threshold of “substantial misrepresentation.” ED defines substantial misrepresentation as, “Any misrepresentation on which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person’s detriment” (Scope and special definitions, 2021).

VA adopted a similar definition with the enactment of the Isakson-Roe Act in 2021. According to VA, misrepresentation is, “means any false, erroneous, or misleading statement, action, omission, or intimation made directly or indirectly to a student, a prospective student, the public, an accrediting agency, a State agency, or to the Secretary by an eligible institution, one of its

representatives, or any person with whom the institution has an agreement to provide educational programs, marketing, advertising, recruiting or admissions services.”

It further defines substantial misrepresentation as, “misrepresentation in which the person to whom it was made could reasonably be expected to rely, or has reasonably relied, to that person’s detriment.” (Prohibition on certain advertising, sales, and enrollment practices, 2020).

Finally, DoD requires any participating institution to sign a memorandum of understanding that states institutions of higher learning are bound by the policy requirements and definitions established by ED, which includes its definition for misrepresentation.

CFPB has no specific definition for misrepresentation related to institutions of higher learning but does specify that it can take action against entities that, “materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or takes unreasonable advantage of a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.”

While the language differs from other federal agencies, it is appropriate for CFPB’s mission and encompasses its role in investigating deceptive schools. In conclusion, with the exception of the Consumer Finance Bureau, the only regulatory gap in misrepresentation was effectively closed by the passing of the Isakson-Roe Act in 2021.

### *Enforcement Gaps*

While we have identified inconsistencies between the laws and regulations across the Federal agencies reviewed, these inconsistencies alone do not explain why deceptive and manipulative recruiting practices occur. Every bad practice identified in the problem analysis is addressed in at least one Federal agency’s laws and regulations, with the most egregious gaps being closed with the enactment of the Isakson-Roe Act. If these bad practices are already illegal, then why do they still occur?

Bad recruiting tactics occur in part because of gaps in enforcement of the existing laws and regulations and weak consequences for institutions that violate those laws. The Federal agencies involved have different administrative capacities to monitor and enforce institutions, with the DE having the most robust enforcement. Conversely, VA has limited enforcement capacity and relies on state-level approving agencies to monitor and identify violating institutions. With limited coordination between Federal agencies, this patchwork of enforcement fails to catch when many institutions violate the law and fails to meaningfully punish those institutions when they are caught (Smith, 2019).

Aligning the VA, DoD, ED, and CFPB definitions of misrepresentation and deceptive practices would cast a wider net and increase the chances that a given Federal agency will identify bad practices. However, without expanding enforcement and monitoring practices, closing the regulatory gaps will have a limited impact on reducing bad recruiting practices. We will therefore examine a wide range of solutions that focus on identifying violating institutions, deterring bad practices, and making veterans more resilient to deceptive practices.

**Figure 2: Gap Analysis Visualization**

	VA	ED	DoD	CFPB
Deceptive Recruiting	Moderate	Moderate	Strong	Weak/Missing
Aggressive Recruiting	Strong	Strong	Strong	Weak/Missing
Mandatory Disclosures	Strong	Weak/Missing	Weak/Missing	Weak/Missing
Misrepresentation	Strong	Moderate	Strong	Strong

Key		
Strong	Moderate	Weak/Missing

*Note: Visualization is a simplified model for evaluating how well a given agency’s laws and regulations address undesirable recruiting practices.*

**V. Criteria for Evaluating Policy Solutions**

*Effectiveness*

The most important outcome of interest is reducing the number of veterans deceived or defrauded by low-quality institutions. These institutions primarily harm veterans by failing to deliver educational or career outcomes that they promise prospective students, so reducing enrollment in these institutions will benefit students by reducing the harm from these institutions.

We can indirectly measure the effectiveness of proposed solutions in reducing harm by focusing on the manipulative recruitment tactics that schools use to increase enrollment. Each policy will therefore be evaluated based on how effectively they curb relentless practices and emotionally charged language used by recruiters.

Similarly, institutions rely on an information asymmetry between recruiters and institutions to boost veteran recruitment. We can measure the efficacy of proposed solutions in reducing this asymmetry by how well they curb deceptive recruiting practices and how effectively they increase veterans’ baseline knowledge about educational opportunities.

*Cost*

Some proposed solutions may increase enforcement costs for Federal agencies. This will be measured in expected changes in government expenditures. Since the reduction in veteran enrollment to exploitative institutions will reduce the number of federal dollars going to these institutions, we will also evaluate each solution based on the Federal funds recouped from these institutions.

## *Feasibility*

Changes to laws and regulations are only effective if they can be reasonably and consistently enforced. We will therefore evaluate each proposed solution based on how effectively Federal agencies can enforce them. This is based on two factors: the specific consequences each Federal agency can subject to institutions that violate laws and regulations, and the enforcement capacity of each Federal Agency.

We will also consider the timeliness of each solution, i.e. the amount of time it takes to implement a solution, as a component of feasibility. We must also consider the political feasibility of enacting each policy solution. Solutions must be effective enough to improve veteran student outcomes but laws and regulations that overreach may be difficult to pass.

## **VI. Policy Solutions**

### *Solution 1: Close Regulatory Gaps*

As existing gaps in regulatory laws and language are discussed previously in this memo, a baseline solution for mitigating deceptive practices against student veterans in higher education is working toward closing these gaps. This solution would call for widespread collaboration from VA, ED, DoD, CFPB in order to make sure there is widespread consensus on language and practices. As previously mentioned, it is clear and evident that simply closing these gaps will not address the root of the problem that exists nor the lack of enforcement between agencies. All subsequent solutions outlined in this memo will go past simply closing regulatory gaps in order to address issues of other policies and agency enforcement.

### *Solution 2: Increasing Oversight and Enforcement*

Policy solution 2 is divided into two parts: oversight, and enforcement. Policy solution 2a would direct VA to adopt a strong risk-based survey similar to the model designed and piloted by NASAA (Arnold et al., 2022). The compliance survey currently used by SAAs is insufficient to provide adequate oversight of schools receiving VA benefits (Smith, 2019).

Under the Isakson-Roe Act, VA is required to implement a risk-based survey but has the discretion of what the final risk-based survey model looks like. A viable risk-based survey would more accurately identify deceptive schools through various metrics not limited to a school's financial state. We propose that VA's risk-based survey have the following elements:

- a. The survey should account for a wide range of metrics such as student complaints, financial stability, graduation rates, college persistence, academic rigor, certification, and student loan practices.
- b. The survey should proactively anticipate possible issues by measuring schools' risk of deception and misrepresentation.
- c. The survey should be cost-effective and easy to implement.

Policy solution 2b would establish an intra-agency task force between ED and VA that would provide VA with the authority to punish schools that do not comply with VA requirements. VA has few options to punish schools other than placing schools on probation or removing them from receiving VA funds. Even so, VA rarely executes its authority except in the most extreme cases, favoring letting schools go on and off probation perpetually.

## *Strengths*

Increasing oversight and enforcement is an effective solution. A robust Risk-Based Survey would proactively identify deceptive schools through metrics associated with risk behaviors commonly exhibited by exploitative institutions. This solution would also eliminate unneeded administrative redundancies and costs by directing further investigative actions towards schools that pose the greatest risks to student veterans. In comparison to the current compliance survey, the Risk-Based Survey would require minimal time to execute. A VA-ED taskforce would capitalize on increased oversight by giving VA the proper tools to punish schools which have thus far operated with impunity.

## *Risks*

The most salient risk to policy solution 2 is the political viability and implementation of an intra-agency taskforce and a novel approach to oversight that draws on statistical techniques. VA and ED are large bureaucratic organizations that have clearly defined roles and responsibilities. Directing both agencies to create an intra-agency suborganization and delegating previously exclusive authorities to such an organization might create unexpected issues and confusion.

## *Solution 3: Coordination Group*

Veterans Education Success can persuade the Departments of Education, Defense, and Veterans Affairs to form an interagency task force that will collect additional data on colleges and monitor how veterans' higher education benefits are used. A cross-departmental coordination group would assist in resolving complicated issues (Raab, 2012). The coordination group, comprising of representatives from the Departments of Education, Veterans Affairs, and Defense, would prevent potential education fraud by reaching out to veteran students and coordinating enforcement of existing regulations. The group will concentrate on:

- Clarifying a standard for calculating employment rates.
- Creating an online community for veterans who use their GI Bill benefits to discuss their higher education experiences (especially for those veteran students who tend to for-profit colleges).
- Assisting VA to consummate their official website (about colleges' information), including enhancing the College Scorecard, College Navigator, and adding information on for-profit college litigation cases into the GI Bill Comparison Tool.

The group's purpose, mission, and authority should be defined by establishing a charter and memorandum of understanding how to articulate the group's objective. Additionally, a quarterly (or annual) report summarizing any beneficial developments over the previous quarter or year is required for submission to those related institutions to maintain their support.

## *Strengths*

Through concentrating on education fraud, the coordination group can handle pertinent cases independently rather than being swamped by a ton of other veterans' benefits issues. A coordinated effort to combat education fraud would have a significant deterrent effect on higher education fraud. Additionally, the coordination group is charged with developing a transparent assessment system for higher education institutions. The coordination group's extensive knowledge of for-profit colleges will help close the knowledge gap between veterans and sales from for-profit schools, thereby reducing the risk of educational fraud.

Previously, in 2011, ED established an interdepartmental working group to coordinate sector oversight with other related agencies (Raab, 2012). This informal group may have similar experience to contribute to the information of the new coordination group. The new group would not have to navigate the darkness of its methodology and mission during the early stages of its establishment, as new agencies with no experience would. The new coordination group could invite members of the former informal group to join the new group or frequently invite them to share successes with the new group. Our client could assist in identifying former members of the informal group and enlisting their support.

Finally, the coordination group possesses significant enforcement authority due to the Executive Order. Obama's Executive Order was signed in 2012, which established standards of excellence for educational institutions that serve military personnel, veterans, spouses, and other family members. The EO's mission is to strengthen oversight, enforcement, and accountability for educational benefit programs administered by the Departments of Veterans Affairs (VA) and Defense (DoD); and to ensure that educational institutions provide meaningful information about their financial costs and quality, as well as to prevent abusive and deceptive hiring practices (Raab, 2012).

The coordination group may establish uniform procedures for referring potential civil or criminal enforcement matters to the Department of Justice and other appropriate agencies under the Executive Order. Most importantly, the new coordination group can carry out its mission by relying on the existing Executive Order rather than a new statute that would require a lengthy legislative process to pass through Congress.

### *Risks*

By developing a charter and memorandum of understanding outlining the coordination group's objectives, the coordination group establishes its authority. However, due to the necessity of coordinating three massive departments, the group's administrative operations may be constrained (or more). Due to the group's difficulty quantifying its efforts, convincing Congress (or those three major department heads) to grant authority is difficult. In other words, until a new executive order broadens the coordination group's jurisdiction, the group will be in a difficult position under the EO in 2012, lacking both adequate funding and authority to penalize higher education institutions for fraud. As a result, the next step may be to ensure that the frontline forces of accountability in higher education have the policies and resources necessary to do their jobs.

There is not any recent activity on the 2011 informal group. Their inactivity demonstrates that comparable coordinating groupings lack long-lasting stability. Be it the informal group or the new coordination group, the objective should be to advise various federal authorities about education entities under investigation by other related agencies. However, the 2011 informal group has never disclosed information regarding investigations. This is a source of worry for members of Congress and other related agencies. The previous group did not provide any transparent and authoritative reports. Thus, the new coordination group is likely to encounter the same level of political opposition as the previous one.

Because this coordination group would be established by ED rather than through a White House or Congressional initiative, it would be difficult for it to maintain sufficient authority and funds to focus on higher education fraud on a sustained basis. Without the protection of a bill, the coordination group might simply be abandoned once ED's financing is diverted to other purposes.

Finally, under the uncertain fiscal schedule, it is hard to convince the leaders of the three departments to agree with selecting individuals from within their departments to join in the coordination group. And to determine which department staff member leads the coordination group will be a political game of interdepartmental cat and mouse.

#### *Solution 4: Postsecondary Education Counseling for Veterans*

Deceptive schools' recruitment tactics rely on prospective veterans being uninformed consumers. Requiring veteran students to undergo school counseling prior to enrolling in postsecondary institutions can increase their resilience to deceptive recruiting tactics and reduce veteran enrollment in deceptive institutions.

Veterans, who may not have attended school in years, are left on their own to navigate the complexities of applying to and selecting postsecondary education. While veterans may have access to information that could make them more informed consumers, like graduation rates, credit transfers, full tuition costs, student complaints, and post-graduation salaries, they may not understand where to find this information or how to interpret it. Moreover, some veterans may not know how best to select programs that will best align with their career and life goals.

While there are existing education counseling services, these are unequipped to deliver quality education counseling to all veterans. Nonprofits like Service-to-School (2022) and Warrior Scholar Project (2022) offer career and education counseling to veterans, these organizations are limited in size. While VA offers free Chapter 36 career and educational counseling, veterans must apply to use this service, which greatly reduces utilization (Department of Veterans' Affairs, 2022).

In contrast our solution is mandatory for all veterans pursuing secondary education which ensures high utilization. If effectively implemented, postsecondary education counseling could give veterans critical advice and the tools they need to be informed consumers, which could reduce veteran enrollment in institutions that take advantage of them.

#### *Strengths*

To be effective, postsecondary education counseling must be timely, personalized, and targeted towards increasing consumer knowledge. While making postsecondary education counseling part of all soldiers' offboarding from service would be the simplest solution, it may reduce the efficacy of counseling for servicemembers who do not immediately apply for higher education. Instead, we recommend requiring counseling as part of the process for veterans to apply for their certificate of eligibility for using their GI Bill benefits.

To use their benefits for a specific school, veterans will be required to have an in-person or phone conversation with a guidance counselor. This occurs late enough in the process that students will have a particular school to discuss with their counselor but early enough that they can withdraw enrollment from a problematic school without consequences. In addition, counselors will be available to any veteran who chooses to consult with a counselor before they apply to use their GI Bill benefits.

Counselors will focus on training veterans on how to select programs that align with their goals and produce effective outcomes. Veterans will be taught about critical metrics, including graduation rates and employment statistics. Veterans will also learn about where to find complaints for schools and what those complaints mean. If a veteran is interested in applying to specific schools, the counselor will review the critical metrics and complain records of that

school. Additionally, students will learn about deceptive recruiting tactics, including how to identify when a recruiter may be using deceptive tactics and where to find accurate information about a given institution.

### *Risks*

This policy option has several risks. Firstly, counselors may not be effective at educating veterans. This can be mitigated by creating standards for counselors and requiring counselors to be certified. We recommend conducting additional research to determine the best standards for counselors to abide by. Secondly, veterans may be reluctant to withdraw their enrollment from a deceptive school after consulting with a counselor that advises them against attending a particular school.

Even if the counselor effectively communicates the risks of attending a school, veterans may have missed enrollment windows for alternative institutions, or feel pressure from the institution they are enrolling in to stay. Thirdly, requiring counseling may create roadblocks for students enrolling in good postsecondary schools. If counselors get burdensome caseloads, particularly around enrollment deadlines, then they may not be able to see all veterans in a timely manner. Individual veterans may also find it difficult to schedule a counseling session if they work during normal business hours. These risks can be mitigated by ensuring that counselor caseloads are low and counselors are available after normal business hours.

This policy solution will incur a high cost. Tens of thousands of veterans enroll in postsecondary education every year, which will require many full-time counselors to service those veterans' needs. These counselors will need training, certification, and systems in place to ensure they are providing quality counseling. This will require both a large startup cost to implement this program as well as a large annual cost to maintain a team of effective counselors.

### *Policy Solution 5: Strengthen Gainful Employment Rule*

Reinstating a strengthened version of the gainful employment rule could drastically reduce student enrollment to the worst offending institutions. Introduced in the Obama Administration and finalized in 2014, the gainful employment rule required higher education career programs to prove graduates could find work and pay off their student loans after graduating or risk losing access to Federal financial aid, including GI benefits.

While the Trump administration ended the gainful employment rule, Education Department under the Biden administration is considering reinstating a modified version of the rule. We recommend implementing this proposed version from the ED Office of Postsecondary Education as of March 18, 2022.

The Obama era aversion to the gainful employment rule used the debt-to-earnings ratio of recent graduates to identify specific programs that are failing to gainfully employ graduates. While this was effective at identifying the most egregious offenders, this mechanism was not as effective at identifying bad programs that employed large numbers of veterans since their veteran education benefits would effectively reduce their debt, thus reducing the institutions' debt-to-earnings ratio.

### *Strengths*

EDs proposed changes will increase the Gainful Employment Rule's ability to identify bad postsecondary education programs that target veteran students. Rather than solely relying on the debt-to-earnings ratio, this version also uses the median income of high school graduates from the same area as a minimum threshold to determine gainful employment.

Adding this earnings threshold to identify whether programs are giving them better career opportunities than their peers with only high school diplomas can identify programs that are not substantially benefiting students. According to a memo issued by the Office of Postsecondary Education, 9.2% of for-profit degree issuing programs would fail the debt-to-earnings ratio whereas 12.3% would fail the earnings threshold.

The proposed version of the Gainful Employment Rule also warns prospective students who are applying to programs that are at risk of losing their eligibility for Federal financial aid. Programs are required to send prospective students a statement of their potential ineligibility. To ensure students have read this, prospective students must attest to having seen the warning through via a website maintained by ED.

### *Risks*

One risk is that this solution may inadvertently target good programs. Some careers have low entry level wages but higher wages further down the career path. Programs that cater to these career paths may fail gainful employment metrics in the first few years after graduation even though they lead to better career outcomes long term.

This proposed solution may be difficult to enact since the negotiated rulemaking session in March 2022 failed to reach consensus on the proposed changes to the Gainful Employment Rule. However, considering the potential benefits, we recommend that ED continue to push for these changes. This could increase consumer knowledge for prospective students and reduce veteran enrollment in problematic postsecondary programs.

### *Solution 6: Class Action Lawsuits*

Historically, students have taken action on unacceptable behavior by deceptive institutions in the format of class action lawsuits. One example of this is illustrated through the Project on Predatory Student Lending which calls for students (mainly those who were enrolled and somehow taken advantage of at a for-profit institution) to submit testimony (Harvard Law School, 2019). This class action project does not stand alone and instead is met with countless organized litigation against these deceptive institutions. It seems more than rational that student veterans should have complete, accessible, and accurate action to any and all information surrounding these lawsuits in order to make a more informed decision on where to continue their education.

In practice, a class action lawsuit solution would appear as a database under ED where students could locate info on current pending and past lawsuits against these deceptive institutions. Prospective students could search for this information and would have availability to specific testimony from students in order to get a more clearly depicted sense of what exactly occurs at these universities prior to enrolling.

Since there is already information surrounding class action lawsuits, this solution would create a place where all of this information is consolidated and accessible to student veterans who often have little to no background knowledge of higher education processes. It is important to note that this solution will not further any class action lawsuit nor help students who have been

wronged by these institutions retroactively, but instead will serve to help students who plan to enroll in the future.

Finally, if schools have strong opposition to these lawsuits being easily accessible, this is behavior that will not be tolerated under the Freedom of Information Act and the need for these lawsuits to be within public record.

### *Strengths*

This solution bridges a gap between lawsuits and higher education that is needed for students to make clear decisions about their future. By utilizing a database founded in transparency, access to class action lawsuits gives students will be less likely to fall victim to deceptive institutions and can troubleshoot schools that may be exploitative in nature.

### *Risks*

A clear risk of having these lawsuits available for student veterans to access is the likelihood that departments will cooperate. Since this solution would work best within ED, it is necessary to consider what may change with a new administration and subsequent cabinet head. For example, under the Trump administration, DeVos was known for ignoring large scale complaints of students who were organized under these lawsuits. The importance of transparency outranks any partisan politics; however, this is something that is a potential risk and should be considered.

### *Solution 7: A Better Student Complaints Clearinghouse*

In 2012, the GAO Board encountered difficulty accurately estimating the number of student complaints during its examination of education fraud involving veteran students. This was because there is not a centralized mechanism for analyzing student complaints (Senate, 2012). According to their study, thousands of students filed complaints, but most were directed back to the college by the student's institution or the local Business Bureau (Senate, 2012).

Although VA established a complaints portal in 2014, the system does not have a direct link to ED's official website. Thus, a professional complaint clearinghouse dedicated to resolving veteran complaints is necessary. Education fraud is a pervasive problem in higher education and is possible in almost any susceptible population. As a result, a portal for veteran grievances requires the attention of ED, not simply VA.

Our client can lobby ED to develop an online clearinghouse for student complaints (instead of VA's previous complaint portal), which would gather and forward student complaints to the relevant agency or department. The new complaint clearinghouse would be limited to complaints concerning educational institutions. It would be administered by an organization that is directly accountable for and participating in the oversight process (e.g., ED) (Raab, 2012). The complaint clearinghouse can regularly report on the number of credible complaints, the actions done on each complaint, and the number of complaints referred to law enforcement agencies.

A beneficial design for the new complaint clearinghouse is a tiered method. For instance, if ED receives more than three complaints against an educational institution within two or three months, they can request that educational institution conduct a self-review and submit a report within a specified time frame to assist with the investigation. If there are more than ten complaints in a short period of time, the departments will dispatch investigators to gather

pertinent information to confirm the complaint's truth. When a possible violation is identified, the matter is immediately forwarded to a law enforcement agency.

Finally, the formal complaint procedure must be conducted responsibly to ensure that students have exhausted all other available options before requesting Veteran Affairs assistance. As a result, a threshold requirement, such as ensuring that a student veteran filing a complaint has attempted to resolve the matter with a school official, would effectively limit the administrative costs associated with an excessive number of complaints.

### *Strengths*

A one-stop service of ED for veteran students would consolidate both information retrieval and complaint tools for higher education institutions on a single page. The enhanced procedure and real-name complaint system will encourage educational institutions to prioritize students over the business and adhere to established rules and standards.

Moreover, the complaint clearinghouse assists institutions charged with enforcement obligations by organizing pertinent information and significantly reducing the cost of investigating multiple cases as opposed to each complaint being examined separately.

Additionally, the public information regarding the complaint system will be carefully verified. Under the Freedom of Information Act, the Clearinghouse has the jurisdiction to evaluate whether complaint material is exempt from disclosure as law enforcement information. To minimize retaliation from malicious education institutions, the complaint procedure will protect the student's personally identifiable information to the maximum extent possible.

The anonymization process must be conducted under the protection of the appropriate agency for GI Bill status and enrollment status confirmation with the appropriate agency (e.g., ED or Veteran Affairs), thereby decreasing the risk of anonymous defamation of non-veteran students. Therefore, because of the real-name system, higher education institutions face fewer complaint attacks from unknown sources (such as their competitors posing as veteran students to send complaints).

Finally, administrative costs will be significantly reduced as a result of the tiered structure. This system will identify and arrange each situation that would otherwise require response and tracking. The system also assesses if investigators are assigned in proportion to the number of complaints received from various educational institutions. Labor expenses will be reduced because of this system, which will help convince Congress to support the new complaint clearinghouse.

### *Risks*

The ambiguous ownership obstructs the clearinghouse's smooth operation. Lack of management clarity and ambiguity around funds (transfer from VA to ED) leads the two departments to shift the responsibility to one another.

The complaint clearinghouse faces difficulty determining which department can handle the materials provided and which agency will take action against the higher education institution. Different departments may treat the same information (or data) differently. For example, if a student reports fraudulent marketing practices, ED may seek to revoke federal funds use authorization under Title IV, However, the Veteran Affairs Department may seek to revoke GI Bill funds (Raab, 2012).

Interdepartmental disputes may not be conducive to resolving the issue quickly. Some departments may even use the handling of these complaint incidents to expand their departmental authority rather than focusing on serving veteran students, which is in direct conflict with the complaint clearinghouse's original mission.

#### *Solution 8: Close the 90/10 Loophole*

In 2021, Congress passed the American Rescue Plan Act of 2021 which closed the 90/10 loophole that allowed for-profit schools to classify VA education benefits as private funds (American Rescue Plan Act, 2021). The law amended the Higher Education Act of 1965 to make the distinction between Title IV funds and federal funds. Previously, the HEA required for-profit schools to receive at least 10% of tuition paid from non-Title IV funds.

According to the amended law, “In the case of a proprietary institution of higher education (as defined in section 1002(b) of this title), such institution will derive not less than ten percent of such institution’s revenues from sources other than Federal funds that are dispersed or delivered to or on behalf of a student to be used to attend such institution” (The Higher Education Act, 1965). The law does not go into effect until 2023 after ED interprets Congress’s intent and publishes the final regulations.

This policy solution would have ED strictly interpret the legislative intent of the American Rescue Plan Act of 2021 so that the regulations are clear and not open to interpretation by deceptive schools. Exceptions to the 90/10 rule must be limited to prevent widespread avoidance. Waivers and probationary periods must likewise be limited in scope and exercised rarely.

#### *Strengths*

A strong interpretation of the 90/10 rule would effectively close the regulatory loophole, thereby removing the incentive for deceptive schools to target student veterans and forcing for profit schools to increase their appeal to students using private funding sources. For-Profit schools that provide quality education and skills that make them marketable would not be threatened by the enforcement of the 90/10 rule. However, deceptive schools would be naturally filtered out, lessening the targeting of student veterans.

#### *Risks*

The primary risks associated with strict enforcement is the closure of schools that educate underserved communities. Many disadvantaged populations do not have access to private wealth and cannot afford college tuition. Additionally, many prefer for-profit schools because of their flexibility, accessibility, and location. A strict interpretation of the 90/10 rule would force those institutions to close and deprive communities of valuable resources.

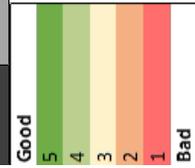
### **VI. Policy Recommendation and Conclusion**

While we recommend pursuing all policy solutions, this may not be possible given resource constraints. We have evaluated all solutions across the specified criteria to help determine which solutions we recommend prioritizing (see figure C). A priority solution is one that balances effectiveness, cost, and feasibility. After reviewing all criteria, we recommend prioritizing the following solutions:

- Increasing oversight and enforcement
- Closing the 90/10 loophole
- A better student complaints clearinghouse

**Figure 3: Gap Analysis**

Goals		Criteria	Policy Solutions								
			Status Quo	1. Close Regulatory Gap	2. Increase Oversight / Enforcement	3. Coordination Group	4. Education Counseling	5. Gainful Employment	6. Class Action Lawsuits	7. Student Complaint	8. Strict 90/10 Regulatory Language
Effectiveness	Improved Education / Career Outcome	# of veterans deceived/difrauded by low quality institutions (-)	1	2	5	2	4	4	2	4	5
	Minimize manipulative recruiting tactics	# of veterans that experience manipulative recruiting practices (-)	1	2	5	3	1	2	2	3	4
	Minimize Information Asymmetry	Gap between veterans' and recruiters' knowledge (-)	1	2	4	2	5	2	4	5	2
Costs	Implementation Cost	\$ of Government Expenditures (-)	N/A	5	2	5	1	5	4	2	5
	Federal Funds Recouped	\$ of Federal Funds no longer going to bad institutions (+)	N/A	1	5	2	4	5	3	4	5
Feasibility	Political viability	Difficulty in passing law/regulation (-)	N/A	5	3	5	2	3	3	2	3
	Timeliness	Implementation time (-)	N/A	5	1	5	1	3	1	3	4
	Robustness	Likelihood to persist (+)	N/A	4	2	4	3	2	3	4	3



*Note: The 1-5 point scale is designed to compare the relative benefits of policy solutions across a given criteria. Since these points are not weighted between criteria, they should not be summed within policy solutions to give them overall scores.*

Since increasing enforcement and oversight has a largest potential impact on reducing the number of veterans deceived or defrauded by low quality institutions, we recommend pursuing this solution. Most bad practices are already illegal, so implementing our recommendations for improving enforcement and monitoring can directly target these negative practices.

Moreover, this solution will likely require few changes to the laws and regulations, which increases its political viability. However, it may take a long time to implement this solution since changing enforcement and monitoring mechanisms is a complex process. Moreover, any changes that are not codified in law may be overturned by a new administration. Despite these drawbacks, the potential benefits are strong enough to outweigh the risks.

Advocating for a strong interpretation of the 90/10 rule is a relatively low-risk solution with high impact. Since the 90/10 loophole drives demand for student veterans, ensuring that the rulemaking process effectively closes this loophole is crucial. Since the law that closes this loophole has already been passed, this solution has fewer political risks than other solutions. Moreover, this solution has virtually no monetary costs and can go into effect relatively soon compared to other options.

While the first two recommended solutions address the problem from the statutory side, a better student complaint system reduces bad recruiting practices by reducing the information asymmetry between students and institutions. While this solution has some upfront costs, it is resilient to political changes. Moreover, the data gathered by this system can be used in conjunction with other solutions. For example, Federal agencies can use complaint data in their monitoring process to better identify when institutions use bad recruiting practices. Combined with the first two solutions, these three recommended solutions tackle the policy problem from multiple angles while balancing costs and risks.

If possible, we also recommend implementing the coordination group, closing regulatory gaps, and strengthening the Gainful Employment rule. While these additional solutions may be less effective on their own, they can potentially enhance the effectiveness of the three recommended solutions. Implementing a coordination group between Federal agencies can help them pool their monitoring and enforcement efforts to increase the likelihood that they detect and address bad recruiting practices.

Closing the regulatory gaps can also help in monitoring and enforcement since having consistent language and definitions will make it easier for Federal agencies to coordinate their efforts. Strengthening the Gainful Employment Rule, in conjunction with closing the 90/10 loophole, can reduce the number of schools that target veteran students since fewer Federal dollars will be available to institutions that engage in bad practices. While postsecondary education counseling and class action lawsuits are worth exploring, their high implementation costs and long implementation timelines make these solutions less viable.

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