



# VETERANS EDUCATION SUCCESS

*Student Borrowers of Color  
Response to Senators Doug Jones, Elizabeth Warren, Kamala Harris & Catherine Cortez Masto  
February 15, 2019*

Thank you for the opportunity to share our thoughts on the needs of student borrowers of color as you undertake Higher Education Act reauthorization. Veterans Education Success represents veterans, servicemembers, military families, and survivors.

According to the Defense Department, more than 30% of the Armed Forces (including officers) identify as people of color (not including Latino or Hispanic).<sup>1</sup> In addition, 15.5% identify as Latino or Hispanic, including 16.5% of self-identified whites.<sup>2</sup> The non-officer (enlisted) ranks are more heavily non-white.

Therefore, equity concerns in higher education are closely correlated with the needs of veterans.

Higher education is critical to civilian workforce success, yet fewer than 19% of active duty enlisted (non-officer) ranks have any kind of higher education.<sup>3</sup>

The key problem is that some colleges leave students worse off than they found them. These subpar colleges tend to prey on students of color and veterans, saddling them with debt for a worthless degree, or no degree at all. According to the latest US Education Department data, 20% of veterans had left their postsecondary education without a degree three years after starting, and were more likely to have been a member of a racial or ethnic minority, first in their family to go to college, lack a traditional high-school diploma, be disabled, be single or married with dependents, and/or work full-time.<sup>4</sup>

For-profit colleges are of particular concern to students of color and veterans. Federal data shows that for-profit colleges leave student veterans with a 20% higher average cumulative student loan debt.<sup>5</sup>

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<sup>1</sup> US Department of Defense, “2017 Demographics Profile of the Military Community” (2017), *available at* <http://download.militaryonesource.mil/12038/MOS/Reports/2017-demographics-report.pdf>

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Veterans Education Success, “Post-Secondary Non-Completion Among Veterans: Contributing Factors and Implications” (2018), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5bfd81c1cd8366780d4c1a6c/1543340482077/Final+NCLC+paper+v.+2.0+%283%29.pdf>

<sup>5</sup> Veterans Education Success, Issue Brief #8: “Veteran Student Loan Debt 7 Years After Implementation of the Post-9/11 GI Bill” (Jan. 2019), *available at*

Why do for-profit colleges target veterans? Because of the 90/10 loophole, which enables for-profit colleges to count GI Bill to offset the cap on federal funds the schools otherwise face. As Holly Petraeus, former head of service member affairs at the US Consumer Financial Protection Bureau, [wrote](#) in the *New York Times*:

*“This gives for-profit colleges an incentive to see service members as nothing more than dollar signs in uniform, and to use aggressive marketing to draw them in.”*

How do for-profit colleges recruit students of color and veterans? With aggressive and deceptive marketing and recruiting, as has been well-documented by state and federal law enforcement actions. As the Attorneys General of Arkansas, Connecticut, Illinois, Iowa, Kentucky, Maine, Maryland, Mississippi, Missouri, Nevada, New Mexico, Oregon, Pennsylvania and Tennessee [wrote](#) the US Senate in 2014:

*“State Attorneys General across the country hear complaints from students who have attended for-profit schools. The students are drowning in debt because they have huge student loan liabilities and no job to show for those huge debts.... Consumers complain to us that some of the programs of study at for-profit colleges do not have qualified instructors and necessary equipment for their courses of study. They complain that employers refuse to hire graduates from the schools because the employers have learned from past experience that the graduates simply are not well-trained or well-prepared.”*

Accordingly, we urge the Committee to embrace key student protections and minimum quality standards for higher education, to ensure they are properly serving students of color, including veterans, and not wasting taxpayer funds.

### **Close the 90/10 Loophole and Strengthen the Market Viability Test**

The Higher Education Act’s 90/10 rule is a market viability test designed to protect taxpayer funds from being used to prop up an otherwise failing school. It stipulates that a for-profit education business may derive no more than 90% of its revenues from federal student aid.

GI Bill and Defense Department tuition funds were overlooked by Congress when the 90/10 statute was written, because there was no war or robust GI Bill at the time and “for-profits hadn’t yet moved into the military market, so the legislation’s sponsors weren’t focused” on it, [according](#) to Committee staff who drafted the law. “Counting Defense Department funding for servicemen’s education as part of the money that’s supposed to come out of consumers’ pockets violates the purpose of the original legislation.”

Many for-profit schools manipulate this loophole to count GI Bill and Defense Department funds as private revenue, thereby receiving 100% of their revenues from federal education aid and zero that choose their programs with their own personal funds. Two dozen state Attorney Generals [wrote](#) to Congress criticizing this accounting gimmick as violating the intent of the law.

Many failing for-profit colleges are being artificially propped up by federal taxpayer funds, as they are unable to attract employer-sponsored students or other private students. The most recent for-profit chain to fail, Education Corporation of America was the [7<sup>th</sup> highest recipient](#) of Post-9/11 GI Bill from FY 2009 through FY 2017 and closed despite being propped up by almost \$400 million in federal taxpayer funds in the year before it shuttered.<sup>6</sup> Prior to its closure, ECA showed [six signs of instability](#), including dismal student outcomes; improperly accredited degree programs that did not leave graduates eligible for a job; inability to find a respected accreditor; robust student complaints; and heightened cash monitoring for administrative capacity concerns.<sup>7</sup>

Similarly, prior to their collapse, both [ITT Tech](#) and [Corinthian](#) were heavily reliant on GI Bill funds and showed significant signs of financial instability and unsustainable business models, including their inability to attract students without using consumer fraud to lure them in.<sup>8</sup>

Education Department data for the FY 2013-14 school year [showed](#) that hundreds of for-profit schools are almost entirely dependent on federal revenue and, if the 90/10 loophole were closed, these schools would thus fail the law's market viability test.<sup>9</sup> Moreover, for-profit colleges' dependence on the Post-9/11 GI Bill and DOD Tuition Assistance increased by almost 60%. In effect, for-profit schools replaced declining Title IV revenue with more federal revenue from VA and DOD educational benefits.

There is widespread support among veterans and military service organizations for Congress to:

- Preserve the market viability test in 90/10 to ensure failing colleges are not artificially propped up by taxpayers, and return it to its original 85/15 ratio.
- Close the loophole to stop incentivizing schools to target veterans and servicemembers.
- Prevent schools from evading compliance by manipulating their 90/10 data through OPEID manipulation and other means.<sup>10</sup>

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<sup>6</sup> Veterans Education Success Issue Brief #7, "Could Education Corporation of America's Sudden Closure Have Been Avoided?" (Dec. 2018), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5c17fc43c2241b89460a1977/1545075779356/Issue+Brief+on+ECA.FINAL.pdf>

<sup>7</sup> *Id.*

<sup>8</sup> Veterans Education Success, "The ITT Collapse: Lessons Learned and Dealing with Future Challenges" (Oct. 2016), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/58b8648ee58c624c6814bd1c/1488479376601/ITT+White+Paper.FINAL.pdf>; Veterans Education Success, "The Corinthian Sale: Lessons Learned & Dealing With Future Challenges" (Feb. 2015), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/57ed24439de4bb2283f78f39/1475159108440/Final+Corinthian+White+Paper.pdf>.

<sup>9</sup> Veterans Education Success, "Research Report: Department of Education Data Shows Increased Targeting of Veterans and Servicemembers, Highlighting Urgency of Closing 90/10 Loophole" (November 2017), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5a043bdfc83025336298845f/1510226911840/VES+90%3A10+Report+-+FINAL.pdf>.

<sup>10</sup> Details on the problem of manipulation of 90/10 data is available in the US Senate Committee on Health, Education, Labor & Pensions Report, "For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success," (July 30, 2012) *available at* [http://www.help.senate.gov/imo/media/for\\_profit\\_report/Contents.pdf](http://www.help.senate.gov/imo/media/for_profit_report/Contents.pdf).

### **Help Defrauded Students: Preserve and Codify Borrower Defense**

Thousands of veterans have complained to the Department of Veterans Affairs that they have been deceived and defrauded by schools that want their GI Bill money. The fraud is real. A [summary](#) of federal and state law enforcement actions against predatory colleges is stunning in its breadth.<sup>11</sup> 99% of fraud claims at the Education Department were filed by students at for-profit colleges.<sup>12</sup> Many of them are veterans and servicemembers. A sampling of their complaints is [here](#).<sup>13</sup>

That is why 34 of the nation's largest veterans and military service organizations, as well as [The American Legion](#) have spoken out in favor of Gainful Employment. (See fact sheet on [The Borrower Defense Rule and Its Importance to Veterans](#).<sup>14</sup>)

Congress should:

- Protect borrower defense to repayment for deceived students and require the typical civil proceeding evidentiary standard of preponderance of the evidence.
- For schools about which the federal government has law enforcement evidence of fraud, the Education Department must not put the burden on students to prove fraud.
- Codify the financial responsibility and disclosure requirements of the Education Department's 2016 borrower defense rule to protect students and taxpayers.

### **Protect Students and Taxpayers from Subpar Colleges that Waste Federal Funds: Codify and Protect the Gainful Employment Rule**

Holding career training programs accountable if they consistently produce graduates unable to earn incomes that permit them to pay off their loans will help prevent the waste of taxpayer resources and ensure students are adequately prepared for their chosen careers.

That is why 34 of the nation's largest veterans and military service organizations, as well as [The American Legion](#) have spoken out in favor of Gainful Employment. (See fact sheet on [The Gainful Employment Rule and Its Importance to Veterans](#).<sup>15</sup>)

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<sup>11</sup> Veterans Education Success, "Law Enforcement Actions Against Predatory Colleges" (Jan. 2019), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5c5f5823a4222fa3c7d4c20d/1549752355856/Law+Enforcement+Actions+Ag+Predatory+Colleges.Jan2018.pdf>

<sup>12</sup> The Century Foundation, "College Complaints Unmasked: 99 Percent of Student Fraud Claims Concern For-Profit Colleges" (Nov. 2017), *available at* <https://tcf.org/content/report/college-complaints-unmasked/>

<sup>13</sup> Veterans Education Success, "Veterans with Pending Borrower Defense Applications at the US Department of Education" (Summer 2017), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5a0ca871c83025fe16e2670a/1510778994233/Borrower+Defense+Vets+Applications+Pending.pdf>

<sup>14</sup> The Borrower Defense Rule and Its Importance to Veterans (Dec. 2017), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5a2b013371c10bf98842e295/1512767796755/Borrower+Defense+Rule+%26+Veterans+-+FINAL.pdf>

<sup>15</sup> The Gainful Employment Rule and Its Importance to Veterans (Dec. 2017), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5a2d608371c10b8afec0d9d5/1512923267789/Gainful+Employment+Fact+Sheet+FINAL.pdf>

## **Stop College Recruiters from Lying to Students: Strengthen the Ban on Incentive Compensation**

Recruiters should not be compensated based on the number of students they recruit as such a system *incentivizes recruiters to deceive students*. Although the ban currently stops incentive pay, it does not address the concerns we hear from current college recruiter whistleblowers that their schools circumvent the incentive compensation ban by imposing quotas on recruiters, with negative penalties, rather than the “carrot” of incentive pay.

(See fact sheet: [The Incentive Compensation Ban and Its Importance to Veterans](#).<sup>16</sup>)

### **Strengthen Gatekeeping**

We agree with Senator Alexander when, as Secretary of Education, he raised concern about “access to an institution that produces mostly dropouts, not graduates, or produces graduates that are not employable in the fields for which they have been trained.”<sup>17</sup>

Students of color who have been defrauded by a college are often frustrated to learn that the federal government knew that the college they attended had poor outcomes and was engaging in illegal activity. They often ask: Why did the federal government put its stamp of approval on a college with terrible outcomes and law enforcement concerns?

The Education Department gatekeeping is failing America’s students. Too many subpar colleges are leaving students worse off than if the students had never gone to college.

- If a college program is known to consistently leave its students worse off than it found them, with high debt but earning less than a high school graduate, why does the federal government continue to waste federal funds and students’ lives there?
- If a college is sued by the U.S. Justice Department for defrauding the Education Department and stealing Title IV funds, why does that college continue to enjoy unfettered access to Title IV, GI Bill, and DoD education funds and students?
- If a college is sued by state Attorneys General for illegally deceptive recruiting and other consumer fraud of students, such as lying to students about accreditation or graduates’ eligibility to work in licensed occupations, why does the Education Department continue an unabated flow of taxpayer funds to the school?

Congress should:

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<sup>16</sup> The Incentive Compensation Ban and Its Importance to Veterans (Jan. 2018), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5a5135b48165f5deaa57a0c1/1515271604306/Incentive+Compensation+Ban+Fact+Sheet.Jan2018.pdf>

<sup>17</sup> Reauthorization of the Higher Education Act of 1965, Part 1, Senate Subcommittee on Education, Arts, and Humanities, Senate Labor and Human Resources Committee, 102nd Cong., 1st Sess., S. Hrg. 102-221, Part 1, April 11, 1991, 674, 678, *available at* <https://drive.google.com/file/d/0B7aqIo3eYEUteGh1N3ZGcXpVNUU/view?usp=sharing>

- Implement **minimum quality standards** for receipt of Title IV funding, with an emphasis on outcome metrics, including:
  - **Return on Investment (ROI):** A college fails taxpayers and students if it consistently produces students who earn less than high school graduates. Taxpayer funds should not be wasted.
  - **Loan repayment standards:** A college fails taxpayers and students if most of its students cannot pay at least \$1 of their debt within some years of leaving the school.
  - For career education programs, require a **Return On Investment or evidence-based “pay for performance,”** by adopting the quality control measures used in Section 115 of the 2017 [“Forever GI Bill” Harry W. Colmery Veterans Educational Assistance Act](#) (which holds back half of tuition until the apprenticeship or career program successfully places the student in a job in the field of study).
  - **Satisfaction:** We recommend requiring at least a 50% student satisfaction rating measured by a third party verified survey.
- **Risk Sharing:** Colleges should be held accountable for some portion of their students’ loan default if they consistently produce defaults. Colleges should also own some of their students’ loan debt if their graduates consistently earn less than high school graduates.
- Ensure **front-end gatekeeping**, including forbidding Title IV approval if a program fails to meet minimum requirements for graduates to be eligible for jobs in the field of study (as already required at the Defense Department, *see* 10 USC 2006a).
- **Ensure that education funds are spent on education:** Taxpayers and students expect that federal student aid will be spent on education. Bad actor colleges spend very little taxpayer “student aid” on students, instead diverting up to one-third of federal student aid to profit set-asides, and up to an additional one-third on marketing and recruiting (in a business model explicitly called “churn” because they seek to churn through students, enrolling them and letting them drop out).<sup>18</sup> Congress should require at least half of federal student funds be spent on instruction, academic support, and student services (not including marketing and recruiting), and forbid the use of taxpayer funds for advertising, marketing, and recruiting expenses. In the health insurance industry, insurance companies are obligated under federal law to spend at least 80% of the money they take in from premiums on health care costs and quality improvement activities.<sup>19</sup>
- **Separate out money spent on recruiting and marketing from the IPEDS category of “Student Services” when colleges and universities are reporting spending of Title IV funds.** Currently, schools can include recruiting and marketing under the IPEDS category of “Student Services.” For many students viewing such a category, the term “Student Services” implies support services that help students complete college. Therefore, a high

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<sup>18</sup> US Senate Committee on Health, Education, Labor & Pensions Report, “For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success,” (July 30, 2012) *available at* [http://www.help.senate.gov/imo/media/for\\_profit\\_report/Contents.pdf](http://www.help.senate.gov/imo/media/for_profit_report/Contents.pdf).

<sup>19</sup> US Department of Health and Human Services, Rate Review, *available at* <https://www.healthcare.gov/health-care-law-protections/rate-review/>

spending on “Student Services” could lead students to believe it is a quality school. Unfortunately, proprietary schools include in this spending category their very ugly recruiting efforts, including massive call centers that cold-call the military and students of color, making false statements about the college. According to the US Education Department’s National Center for Education Statistics:

*Instruction, including faculty salaries and benefits, was the largest single expense category at public and private nonprofit postsecondary institutions in 2015–16, accounting for 30 percent of total expenses at public institutions and 32 percent of total expenses at private nonprofit institutions. At private for-profit institutions, the largest single expense category was the combined category of student services, academic support, and institutional support, which includes expenses associated with noninstructional activities, such as admissions, student activities, libraries, and administrative and executive activities. At private for-profit institutions, these expenses accounted for 63 percent of total spending. By comparison, student services, academic support, and institutional support made up 24 percent of total expenses at public institutions and 30 percent of total expenses at private nonprofit institutions.<sup>20</sup>*

- **Stop or Slow Taxpayer Funds to Fraud, and Add Risk-Based Program Reviews:** Institute risk-based Title IV program reviews of a college anytime there is law enforcement action against the college, and other concerning triggers (e.g., default rates, high volume of student complaints, low graduation rates, high spending on marketing, spiking enrollment, manipulation of cohort default rates or 90/10 data, accreditor probation or show cause order, state or federal government compliance actions, or legal actions against a fraudulent lead generator website the college utilizes to find potential students). Pending the review’s completion, put possibly fraudulent colleges on reimbursable status under Title IV – i.e., if the school has lost or settled a consumer fraud lawsuit for more than \$1,000, or been fined by a federal or state agency for defrauding students or the federal government.
- **Strengthen minimum quality standards for accreditors:** Americans associate accreditation with quality, but too often accreditors are putting a stamp of approval on extremely subpar colleges that utilize illegally fraudulent recruiting tactics. Accreditors must require minimum outcome measures and utilize a more robust accreditor oversight. Also forbid conflict-of-interest among accreditors and the colleges they accredit. Preserve state authorization so that colleges are licensed and overseen by each state.

### **Ensure proper oversight of proprietary colleges**

The tax difference matters: Non-profit and public colleges are legally obligated, under the tax code, to invest every dollar of revenue into their non-profit mission of education. They also are governed by independent oversight, with no risk of financial “self-dealing.” By contrast, companies running proprietary colleges are required under Securities and Exchange laws and the tax code to focus, first, on delivering financial gains to their shareholders. This has led some

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<sup>20</sup> US Department of Education, National Center for Education Statistics Fast Facts, Expenditures. Review, available at <https://nces.ed.gov/fastfacts/display.asp?id=75>

companies to focus on delivering “quarterly enrollment growth” through “pain-based” emotional manipulation and deceptive and fraudulent recruiting tactics.

### **Enact the College Transparency Act**

Understanding the progress, successes, and hindrances facing all types of students is essential, and access to comprehensive and digestible data is the first step. Coordinate data sharing among and across agencies, including the Departments of Education, Defense, Labor, and Veterans Affairs and the Internal Revenue Service (IRS). We strongly support the bipartisan College Transparency Act, introduced by Senator Cassidy.

### **Track Deceptive Lead Generators**

Lead generation companies capture potential students’ personal information and sell it to colleges. Many lead generators specifically target veterans and servicemembers and many utilize illegal consumer fraud. For example, state Attorneys General shut down the for-profit website [www.GIBill.Com](http://www.GIBill.Com) for deceiving veterans,<sup>21</sup> and the US Federal Trade Commission shut down [www.Army.Com](http://www.Army.Com), [www.NavyEnlist.Com](http://www.NavyEnlist.Com), and a half dozen other predatory websites that purported to help Americans enlist in the Armed Forces, but actually diverted their personal information to for-profit colleges.<sup>22</sup> Congress should:

- Require schools to **report to the Education Department** their use of lead generators and other contractors that prop up bad actors in the higher education sector. Language in the bill should state that schools must disclose contracts that it has with *anyone*.
- Require the Education Department to conduct a **program review**, with special focus on potential consumer fraud, or violations of the Higher Education Act, of any school that utilizes a lead generator that is penalized or shut down by federal or state law enforcement.

### **Reform and Protect Financial Aid**

- **Protect Students from Unnecessary Loans:** An alarmingly high number of students – especially veterans of color – report student loans that they never authorized. Congress should:
  - **Rename the “Master Promissory Note” to “Student Loan Contract”** and add clear warnings, such as *“Do not sign this form unless you want loans. You will be*

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<sup>21</sup> US Department of Veterans Affairs, “States’ Attorneys General Action A Victory for Veterans and the GI Bill” (June 27, 2012), available at <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=2345>.

<sup>22</sup> US Federal Trade Commission, “FTC Takes Action against the Operators of Copycat Military Websites: Defendants falsely posed as military recruiters to generate sales leads for post-secondary schools, agency alleges” (Sept. 6, 2018), available at [https://www.ftc.gov/news-events/press-releases/2018/09/ftc-takes-action-against-operators-copycat-military-websites?utm\\_source=govdelivery](https://www.ftc.gov/news-events/press-releases/2018/09/ftc-takes-action-against-operators-copycat-military-websites?utm_source=govdelivery). See also Letter from 28 Veterans and Military Service Organizations to the US Federal Trade Commission (Nov. 19, 2018), available at <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5bf409080e2e72ecbbc61edc/1542719755140/VSO+%26+MSO+letter+to+FTC.SIGNED.pdf>. See generally Veterans Education Success Research Report: “Misleading Websites and ‘Lead Generators’: A Case Study: Victory Media’s ‘Military Friendly Schools’” (Aug. 2016, updated Feb. 2017), available at <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/58bec03020099e2d8e76aaab/1488896051219/Victory+Media+Report.FINAL.2.pdf>.

*required to pay these loans back.*” Changing this language would make students aware that they are signing a loan contract.

- Require schools to make the Master Promissory Note/Student Loan Contract an annual process rather than good for 10 years, at least for GI Bill students who do not need loans given the generous GI Bill.
  - Require pre-loan counseling, which should include a borrower’s estimated debt-to-income ratio at graduation, what the ratio means in terms of repayment, and the importance of on-time graduation.
  - Require schools to obtain active consent and original signatures for every loan by servicemembers and veterans.
  - Reform the financial aid award letter process so that the full cost of attendance (direct and indirect costs) are communicated and consistent and clearly defined terminology.
- **Preserve subsidized loans as an option for students:** Subsidized loans impact 6 million borrowers and their ability to successfully attain post-secondary educational goals. It is important that students continue to have access to subsidized loans.
  - **Income-Driven Repayment Plans (IDR):** Require loan servicers to make students aware of income-based repayment options, including where to find the application, where to submit the application, and the protocol for annual recertification. Also **make clear the choice between Income Driven Repayment (IDR) and Military Deferment:** Service members on deployment should have a clear choice between IDR and military deferment. Preferably, servicemembers would be encouraged to opt into IDR with an across the board minimum percentage they pay every month, for example \$10, while they are deployed. Those payments should be counted towards the 120 qualifying payments required for PSLF. Military spouses and dependents should also be protected while servicemember is deployed. According to the Pentagon:

*“Each separation of a Service member is estimated to cost the Department \$58,250, and the Department estimates that each year approximately 4,640 to 7,580 Service members are involuntarily separated where financial distress is a contributing factor.”<sup>23</sup>*

### **Technical Fixes to HEA Needed by Military-Connected Students of Color**

Students of color who served in the military would be greatly benefitted by several technical fixes, which should be bipartisan and easy to achieve:

- **Fix the definitions of “active duty”:** HEA has numerous definitions of “active duty” and they are not always in accord with the definitions used in Title 10 (Defense Department). This creates confusion and misunderstanding for service members of color as they make efforts to pay back their student loans. It also means that many protections meant for members to mitigate inherent risks associated with military service are not in place. Also ensure that 20 USC 1098f (Deferral of Loan Repayment Following Active

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<sup>23</sup> 80 FR 43559 (July 22, 2015)

Duty) includes active duty servicemembers. Currently, only reservists are protected, but this leaves out members who went to college and returned to active duty.

- **Notification of Deferment:** Active duty servicemembers have important military missions on their minds and can easily forget or lose track of their student loan obligations, especially given the military operational tempo and constant relocating. Around month 6 of a loan deferment, the lender or servicer should be required to contact the servicemember as notification or a reminder that they are in deferment.
- **Total and Permanent Disability Discharge (TPD):** Make the total and permanent disability (TPD) discharge of federal student loans automatic for eligible disabled veterans. This process is onerous and presents challenges for individuals who are completely disabled. As it stands, students of color (including veterans injured during military service) who are 100% disabled have to apply to have their loans discharged, even though the Education Department has already identified the eligible veterans through a records-match with VA. According to the Education Department's response to a FOIA request, more than 42,000 totally disabled veterans are eligible for TPD discharge, but only one-fifth have applied for the discharge, and more than half are already in default on their loans, as of April 13, 2018.<sup>24</sup> Even worse, once a veteran is in default, Treasury will withhold his monthly disability living allowance from VA. To account for the 10 states that may have a state tax implication for loan discharge, Congress could make the discharge of loans "opt-out" in those states (i.e, automatic unless the veteran chooses to opt-out), as veterans organizations requested.<sup>25</sup> Also Congress should consider a new benefit of pro-rated discharge of loans for veterans who are not 100% disabled but have at least 50% service-connected disability. The discharge should be directly correlated to the disability rating. For example, if the veteran has a disability rating of 70%, he should have 70% of his loans discharged.
- **Servicemembers Civil Relief Act (SCRA):** The SCRA provides many protections for military members entering active duty, including an interest-rate cap that is available for federal and private student loans. This should be automatic, so that the onus to check for eligibility under SCRA is on the Department of Education, not servicemembers. It also should be extended to cover private loans, and should be extended to cover servicemembers for one year following their departure from the military.
- **Public Service Loan Forgiveness (PSLF):** PSLF is a critical recruiting and retention tool for the Armed Forces, as the [Pentagon](#) and [Navy](#) made clear last year,<sup>26</sup> and similarly

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<sup>24</sup> Letter from US Education Department to Veterans Education Success, RE: FOIA Request No. 18-02215-F (Nov. 9, 2018), *available at*

<https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5be5ea3f2b6a28347b81011e/1541794367866/USED+FOIA+TPD+Response.pdf>

<sup>25</sup> Letter from Veterans Organizations to the US Department of Education RE: Docket ID: ED-2018-FSA-0065 (Nov. 9, 2018), *available at*

[https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5be60d9f032be4cdc2c251b6/1541803424034/VA\\_ED+Matching+Program+Public+Comment.SIGNED.pdf](https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5be60d9f032be4cdc2c251b6/1541803424034/VA_ED+Matching+Program+Public+Comment.SIGNED.pdf)

<sup>26</sup> US Defense Department position paper opposing HR4508 (PROSPER Act) (Jan. 10, 2018), *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5b16a074575d1f3054e4c54e/1528209524603/2018+DoD+Opposition+to+PROSPER+Act.pdf>; US Navy position paper on Public Service Loan Forgiveness (Nov. 14, 2017), *available at*

for the Department of Veterans Affairs. PSLF should be protected. As veterans organizations [requested](#) last year, Congress should make a technical fix to PSLF to explicitly include veterans service organizations and military service organizations that are granted non-profit status under 501(c)(19) and (23) codes rather than (c)(3).<sup>27</sup> Additionally, PSLF for active duty military should be automatic; active duty should not be required to go through the process of income verification in order to get PSLF. A recent government report [revealed](#) more than 200,000 active duty servicemembers collectively owe more than \$2.9 billion in student loans.<sup>28</sup> Military borrowers receiving lump sum student loan repayment assistance from the Department of Defense should be able to receive 12 months of prospective credit toward Public Service Loan Forgiveness for this payment. These 12 months of credit should be added to the total number of qualifying payments a borrower has made toward PSLF, regardless of how long the borrower has been in repayment.

- Create a **military spouse student loan deferment program** for spouses experiencing a permanent change of duty station (“PCS”). Information on military spouses is already available from DoD information. Therefore, the Education Department could easily automate this deferment.
- **Protect servicemembers subject to hostile fire or imminent danger:** Servicemembers who are in combat should not have to concern themselves with anything other than their mission while deployed in combat areas. They are statutorily entitled to 0% interest rate on all loans, but it is frequently violated. This process should be automated by sharing data between the Defense and Education Departments.
- Modify the limitation on **interest rate on student loans during and immediately after period of military service:** Congress should lower interest rates to student loans taken out by the member before service to 6% once they join the military to relieve servicemembers of financial stress that can cost the Pentagon through involuntary separations due to financial stress. The 6% rate should remain in place until 1 year after the servicemember’s discharge.

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<https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5b16a2b3f950b7054030bc37/1528210099259/Navy-on-PROSPER-Act.pdf>.

<sup>27</sup> Letter from veterans and military organizations to Chairman Lamar Alexander and Ranking Member Patty Murray (Nov. 27, 2017) *available at* <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5a1de12671c10b644b331b18/1511907623314/PSLF+Vets+Letter.signed.pdf>.

<sup>28</sup> Prepared Remarks of Seth Frotman, Assistant Director and Student Loan Ombudsman, US Consumer Financial Protection Bureau (Oct. 17, 2017), *available at* [https://files.consumerfinance.gov/f/documents/201710\\_cfpb\\_Frotman-Remarks-JAG-School.pdf](https://files.consumerfinance.gov/f/documents/201710_cfpb_Frotman-Remarks-JAG-School.pdf), based on the Bureau’s analysis of data provided in US Government Accountability Office, “Student Loans: Oversight of Servicemembers’ Interest Rate Cap Could Be Strengthened, GAO-17-4” (Nov. 15, 2016), *available at* <https://www.gao.gov/products/GAO-17-4>.