



## VETERANS EDUCATION SUCCESS

TO: Senator Pinsky and Senator Ellis  
FROM: Veterans Education Success  
SUBJECT: Support – Veterans Education Protection Act – SB294  
DATE: January 30, 2020

We at Veterans Education Success are writing in support of Senate Bill 294, the Veterans Education Protection Act. This bill will protect veterans and servicemembers from fraud and abuse by predatory colleges that target them with aggressive and deceptive recruiting just to get their GI Bill.

Veterans Education Success was founded in 2013– in collaboration with the nation’s major veterans’ leaders, to advance higher education success for veterans, service members, and military families, and to protect the integrity and promise of the GI Bill and other federal education programs.

Due to a loophole in federal law known as the 90/10 loophole, for-profit college chains are inadvertently incentivized to aggressively target veterans for enrollment. Originally designed as a market-viability test, the federal Higher Education Act’s 90/10 rule stipulates that a for-profit education business must secure at least 10% of its revenues from sources other than federal student aid. The goal is to ensure federal funds are not used to prop up otherwise failing for-profit companies that are unable to attract private-paying students. As the U.S. Supreme Court explained in [upholding](#) the rule’s precursor, it is “a device intended by Congress to allow the free market mechanism to operate and weed out those institutions [which] could survive only by the heavy influx of Federal payments...” and “a way of protecting [students] by allowing the free market mechanism to operate.” We commend the Maryland Senate Education, Health, & Environmental Affairs Committee for recognizing the need for increased accountability in an industry that continues to receive taxpayer funded student aid, while failing to provide a quality education to students.

We are grateful that Maryland is focused on protecting students from predatory for-profit schools because we know how critical postsecondary education attainment is to economic success. We fully support SB 294 and look forward to seeing it pass into law.

Sincerely,

Ramond Curtis

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**SB 294 - Higher Education - Annual Revenues of For-Profit Institutions - Limitation on Enrollment  
(Veterans' Education Protection Act)**

**February 4th, 2020**

**SUPPORT**

Chairmen Pinsky, Vice-Chair and members of the committee, thank you for the opportunity to provide testimony in support of Senate Bill 294. This bill addresses a loop-hole that for-profit and private career schools exploit and target veterans.

The CASH Campaign of Maryland promotes economic advancement for low-to-moderate income individuals and families in Baltimore and across Maryland. CASH accomplishes its mission through operating a portfolio of direct service programs, building organizational and field capacity, and leading policy and advocacy initiatives to strengthen family economic stability. CASH and its partners across the state achieve this by providing free tax preparation services through the IRS program 'VITA', offering free financial education and coaching, and engaging in policy research and advocacy.

SB 294 addresses the loop-hole left in the Higher Education of 1965. There is a section in this act that protects taxpayers from the burden of supporting failing private institutions. This is the 90/10 Rule. This rule requires that institutions receive no more than 90% of their revenue from federal financial aid and have at least 10% of revenue comes from private funds.<sup>1</sup> There is an exception for funds from the United States Department of Veterans Affairs and the United States Department of Defense. These two departments are dedicated to help veterans re-enter into civilian life by providing support for higher education.

The purpose of the 90/10 Rule is to ensure that institutions are not solely funded by taxpayer dollars. However, the United States Department of Veterans Affairs and the United States Department of Defense higher education program is funded through taxpayer dollars. For-profit and private career institutions can recruit veterans to their programs, and the money that is given to the institution through the Post 9/11 G.I. Bill and Department of Defense's Tuition Assistance Program counts towards the 10% private funds instead of 90% federal funds.

This loop-hole allows for private education institutions to target veterans in predatory ways. Consequently, more veterans are being exposed to more institutions that do not have widely respected credentials or institutions that close more frequently.<sup>2</sup> This will expose veterans to greater financial instability, because education and financial stability are positively correlated.

***For these reasons, we encourage you to return a favorable report for SB 294.***

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<sup>1</sup> [https://www2.ed.gov/offices/OSFAP/training/fundamentals/common/files/1011FSAHbkVol2Master\\_60-62.pdf](https://www2.ed.gov/offices/OSFAP/training/fundamentals/common/files/1011FSAHbkVol2Master_60-62.pdf)

<sup>2</sup> <https://www.chronicle.com/interactives/20190404-ForProfit>



## MARYLAND MILITARY COALITION

### SENATE BILL 294 – SUPPORT

**Senate Bill 294 – Veterans Education Protection Act**  
**Senate Education, Health, and Environmental Affairs Committee**  
**February 4, 2020**

The Maryland Military Coalition is a **nonprofit, all volunteer, Veterans advocacy group** representing the interests of Maryland Veterans, Service members, and their Families. Our alliance consists of sixteen organizations, listed on the following page, with over 100,000 members. We represent about one-fourth of Maryland's Veterans, Service members, and their Families.

The Maryland Military Coalition **strongly supports Senate Bill 294.**

The Higher Education Act's (HEA) 90/10 rule stipulates that a for-profit education business may derive no more than ninety percent of its revenues from the Title IV federal student aid. Due to loopholes in federal law, businesses in the for-profit education sector have a financial incentive to aggressively target veterans for enrollment. By enrolling veterans, these businesses can bypass this federal market viability regulation.

**The breadth of scandals plaguing the for-profit educational business sector is hard to overstate. It is, simply, one of the most troubled sectors in our nation's history.** As reported in *The New York Times*, "On Dec. 10, for example, the Federal Trade Commission reached a \$191 million settlement with the for-profit University of Phoenix to resolve charges that the school falsely promoted its educational benefits and used deceptive marketing materials that "targeted active-duty service members, veterans and military spouses."

And a year ago, Career Education Corporation, another for-profit college operator, agreed to forgo more than half a billion dollars in debt owed by former students to settle charges in 48 states and Washington, D.C., that it had preyed upon students with deceptive practices."

**Maryland has the opportunity to lead the nation** by standing up for both Veterans and Service members, as well as taxpayers simply by requiring for-profit education businesses to abide by the original intention of the 90/10 rule – by proving themselves viable in the private market.

More specifically, you can pass the Veterans Education Protection Act amending state code governing career colleges to deny license to enroll in the state of Maryland if the school is more than 90% reliant on taxpayer funds. Maryland need not await federal government actions to do right by its Veterans, Service members, and their Families.

Please see our attached information sheet and frequently asked questions sheet for more information.

The Maryland Military Coalition believes we must honor the countless sacrifices of our Veterans and Service members by ensuring that their educational benefits, earned over the past two decades of combat deployments, actually affords the quality education they so deservedly merit.

**We respectfully request a favorable report for Senate Bill 294.**

For questions or additional information, please feel free to contact me at  
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**Member Organizations, Maryland Military Coalition**

*James P. Monahan*  
Air Force Sergeants Association

*Stacy P. May*  
American Military Society

*Lynn A. Nash*  
Commissioned Officers Association of the  
US Public Health Service

*Wilbert B. Forbes*  
Disabled American Veterans

*Sheldon Goldberg*  
Distinguished Flying Cross Association

*Pleasala J. Collins*  
Fleet Reserve Association

*Evan A. Buttrick*  
Jewish War Veterans of the USA

*Steve L. Bloodgood*  
Maryland Air National Guard Retirees'  
Association

*Harvey Kaplan*  
Military Officers Association of America

*Charles Egbert*  
Military Order of the Purple Heart

*Mervyn Rice*  
National Association for Black Veterans

*Michael P. Hays*  
Naval Enlisted Reserve Association

*Christian Andreasen*  
NOAA Association of Commissioned Officers

*Catherine L. McGraw*  
Society of Military Widows

*Arthur L. Cooper*  
The Retired Enlisted Association

*Thomas C. Williams*  
Veterans of Foreign Wars



## Maryland Military Coalition Veterans Education Protection Act Info Sheet

### SUMMARY

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Due to loopholes in federal law, businesses in the for-profit education sector are encouraged to aggressively target veterans for enrollment. The Higher Education Act's (HEA) 90/10 rule stipulates that a for-profit education business may derive no more than ninety percent of its revenues from the Title IV federal student aid. By enrolling veterans, these businesses can bypass this federal market viability regulation. The 90/19 rule requires private for-profit schools to demonstrate market viability, as well as price accuracy, by attracting at least 10% of their tuition revenue from a non-government (private) source. For-profit colleges and career schools know they can attract the private tuition dollars necessary to increase their access to federal student aid funds, thereby increasing overall revenue, by targeting veterans. The incentive to do so is glaring; it is more cost efficient to invest in aggressive marketing campaigns aimed at veterans, than it is to invest in additional educational resources. GI Bill educational benefits, even though they are government funds, are counted as private dollars. For each GI Bill recipient enrolled, a for-profit college can enroll nine additional students who only receive Title IV money. State legislators can close this loophole for its own students, and in doing so, simultaneously protect veterans and taxpayers by invoking decisions made by private market actors a required benchmark for business-performance.

### BACKGROUND

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The federal Higher Education Act 90/10 rule stipulates that a for-profit education business may derive no more than ninety percent of its revenues from the Title IV federal student aid programs.<sup>1</sup> The purpose of this revenue cap is to force schools to prove market viability, ensuring that federal student aid isn't used to prop up low quality schools that are unable to attract at least 10% of their revenue from private sources, including employers, scholarship providers, and families. However, the GI Bill and Defense Department tuition assistance are not listed in the statute as sources of federal student aid. Through an accounting gimmick, for-profit colleges can count the G.I. Bill and Defense Department tuition assistance as private revenue, thereby creating the opportunity to receive up to 100% of their revenues from federal funds and zero demonstration of market viability through those who choose their offerings with private funds.

### VETERANS AS TARGETS

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Worse, because of this loophole, for-profit colleges are incentivized to aggressively target veterans for enrollment in order to drastically increase the legal amount of Title IV funds they are allowed to receive. Many rely on extremely aggressive and deceptive recruiting methods in order to maximize veteran enrollment

The breadth of scandals plaguing the for-profit business sector is hard to overstate. It is, simply, one of the most troubled sectors in our nation's history. As reported in *The New York Times*, "On Dec. 10, for example, the Federal Trade

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<sup>1</sup> Title IV of the Higher Education Act of 1965 [20 USC 1094(a)(24)]: section 487(a)

Commission reached a \$191 million settlement with the for-profit University of Phoenix to resolve charges that the school falsely promoted its educational benefits and used deceptive marketing materials that “targeted active-duty service members, veterans and military spouses.” And a year ago, Career Education Corporation, another for-profit college operator, agreed to forgo more than half a billion dollars in debt owed by former students to settle charges in 48 states and Washington, D.C., that it had preyed upon students with deceptive practices.”<sup>2</sup>

The extreme levels of deception by for-profit colleges extends to every aspect of the college, from tuition and the number of credits needed to graduate, to the programs even offered at the school, to the accreditation and transferability of credits to other colleges, to the quality of education to job prospects for graduates. Some for-profit colleges even sign students up for high-interest private loans without disclosing the true terms of the loans, and in some cases without the student’s knowledge.<sup>3</sup>

## STATES CAN CLOSE THE 90/10 LOOPHOLE

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Maryland has the opportunity to lead the nation by standing up for veterans and taxpayers, simply by requiring for-profit education businesses to abide by the original intention of the 90/10 rule – that they prove themselves viable in the private market. More specifically, legislators can pass the Veterans Education Protection Act (SB 296/HB 593) amending state code governing career colleges to deny license to enroll in the state of Maryland if the school is more than 90% reliant on taxpayer funds.

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<sup>2</sup> NYT Editorial Board, “Protect Veterans From Fraud,” *New York Times* (Dec. 31, 2019).

<sup>3</sup> U.S. Senate, HEALTH, EDUCATION, LABOR AND PENSIONS COMMITTEE, Report: “*For-Profit Higher*

*Education: The Failure to Safeguard the Federal Investment and Ensure Student Success*” (pp. 70-71) [S. Rept. from 112th Cong., 2nd sess.]



## **Maryland Military Coalition**

### **Veterans Education Protection Act**

**SB 294 | HB 593**

### **Frequently Asked Questions**

#### **Will this impact an institution's ability to enroll veterans?**

No, this legislation has no effect on a school's authorization to enroll veterans or their ability to receive GI Bill benefits through the U.S. Department of Veteran Affairs. Our bill only ensures parity in how veteran benefits are counted against enrollment versus non-veterans, to ensure veterans are not singled out for deceptive and aggressive recruitment. For every GI Bill student a for-profit school enrolls, they can enroll nine non-veterans who receive more money in federal financial aid. This loophole creates an incentive that puts a recruiting target on the back of every veteran while our bill seeks to close it.

#### **Haven't all the "bad actors" like ITT Tech and Corinthian closed?**

Our legislative intent is to end unfair and fraudulent practices by bad actors that continue today. Schools like Brightwood College, and their subsequent closing, are preventable. Sadly, there are still institutions exploiting the 90-10 loophole in for-profit higher education. In just the last few years, nearly every state has investigated and sued for-profit colleges for abusing students, especially veterans. A loophole in federal regulation currently provides a legal path to increased profits and incentivizes for-profit organizations to prey on veterans and their federal benefits. This same path leads to established schools that create unsustainable models around recruiting veterans and exploiting the 90/10 loophole, rather than creating sustainable models around educational delivery. This type of business model inevitably leads to poor outcomes. This legislation prevents further closures by incentivizing good practices that lead to longevity, financial solvency for shareholders, and positive student outcomes.

#### **Will this have an unintended negative consequence on schools that aren't exploiting the 90/10 loophole?**

No, this legislation only affects schools that are exploiting the 90/10 loophole. It only impacts schools that are more than 90% reliant on federal funds to operate and fail to offer enough quality to attract employer support or private paying students. If a school has a low percent of Title IV revenue from the Education Department, then it isn't at risk at all, versus those that do circumvent the Education Department's 90% cap.

### **Why doesn't this apply to ALL schools?**

For-profit higher education institutions are unique in that their administration and board have a fiduciary duty to increase profits and lack many of the oversight protections built into public and nonprofit colleges. For example, a public school cannot set their own budget. The profit motive at for-profit schools and the pressure from shareholders to increase enrollment each quarter has led to unscrupulous and intentionally misleading recruiting tactics and advertising.

In January of 2019, 48 states plus the District of Columbia sued Career Education Corporation and won a \$500 million settlement. The claim was that CEC used "emotionally charged language emphasizing the pain in prospective students' lives to pressure them into enrolling," misrepresented how school credits could be transferred to other schools and told admissions counselors to withhold important information about tuition costs. Just this past December the University of Phoenix agreed to pay a record \$191 million to settle a complaint filed by the Federal Trade Commission accusing the for-profit university of using deceptive ads.

With this legislation, **Maryland is leading the national effort** to protect taxpayers and ensure that private for-profit colleges and career schools are not prioritizing profits over their quality of education by exploiting the 90/10 loophole.

### **Are we allowed to tell a school how much federal funds it can take?**

States have the authority to regulate the licensure of private schools, and the responsibility to define those regulations as they see fit. A 90% threshold on tuition revenue derived from a taxpayer funded source is more than reasonable, and well within the right of the state to regulate.

### **Have any other states done this and what has been the result?**

**Maryland will be among the first states to pass 90-10 loophole closure legislation.** Oregon is the only other state that has introduced a bill to close the 90-10 loophole. The bill has bipartisan support and is expected to pass this year.