

## **Q&A on the For-Profit College “90-10 Rule”**

February 22, 2012

### **What is the 90-10 Rule?**

It is a federal law barring for-profit colleges from receiving more than 90% of their revenues from Department of Education federal student aid. It is modeled on the Department of Veterans Affairs’ long-standing 85-15 Rule, which prohibits more than 85% of a program’s students from receiving VA funding.

### **Why is it needed?**

It prevents for-profit colleges from being funded solely by federal taxpayers. If a college offers a quality education at a competitive price, someone other than the federal government will be willing to pay for it. Some employers, scholarship providers, or students should be willing to pay to attend the school. *If no one else is willing to pay for it, taxpayers should not be either, so that the federal government is not propping up low-quality schools.*

### **Why does it need to be strengthened?**

Since it was first enacted with strong bipartisan support in 1992, Congress has watered down the 85-15 Rule championed by Senator Sam Nunn to make it today’s weak 90-10 Rule. And through an illogical loophole, some federal student aid is counted as private dollars. Specifically, GI Bill funds and Department of Defense Tuition Assistance are counted as private dollars on the 10% side. This has put a dollar sign on the backs of veterans, service members and their families and led unscrupulous for-profit colleges to [aggressively and deceptively](#) recruit veterans, service members and their families to enroll in high-priced, low-quality programs.<sup>1</sup>

Bills have been introduced in the [Senate](#) and [House](#) that would close the loophole that allows schools to count GI Bill funds and Department of Defense Tuition Assistance as private rather than federal dollars. One [bill](#) would also reinstate the stronger 85-15 ratio.

### **How will strengthening the 90-10 Rule affect veterans and service members?**

It will take the dollar sign off the backs of veterans, service members and their families. Schools will no longer have an incentive to recruit them more aggressively than any other potential students. It will have no impact on any student’s eligibility for federal grants, loans or tax credits. Nor will it affect how anyone applies for aid or fills out the FAFSA (Free Application for Federal Student Aid).

### **How will strengthening the rule affect for-profit colleges, trade schools, and online schools?**

Most for-profit colleges have no problem meeting the 90-10 Rule and will not be affected. For-profit colleges get an average of 71% of their revenues from Title IV student aid from the U.S. Education Department.<sup>2</sup> The for-profit college industry’s own trade organization recently

remarked that “Most [for-profit colleges] receive far less than 90 percent of their revenue from Title IV sources and are not in danger of exceeding the statutory limit. In fact, two-thirds are at 79 percent or lower.”<sup>3</sup> Only schools relying almost solely on taxpayer funding will have to improve their quality and/or affordability to attract students or employers willing to pay for their programs.

### **Will strengthening the 90-10 Rule affect a student’s college options?**

It will improve them by increasing market competition and accountability. No college eligible for federal student aid, GI Bill benefits or DoD Tuition Assistance will be funded solely by taxpayers. Someone other than the federal government will have to be willing to pay for its programs. This will happen only if the school is offering a quality education worth paying for.

### **Does the 90-10 Rule force colleges to increase tuition and fees?**

No. The Government Accountability Office found *no relationship* between a school’s price and a high 90/10 ratio. The GAO reports that “School officials and auditors told us that schools with low tuition rates tend to have more trouble complying with the 90/10 rule...However, we did not find any relationship between a school’s tuition rate and its likelihood of having a very high 90/10 rate.”<sup>4</sup>

### **What happens to a school’s students if the school exceeds the threshold?**

Most for-profit colleges have no trouble complying with the 90-10 Rule. Those approaching the threshold can take steps to avoid exceeding it. If a school were to violate the rule and lose its eligibility for federal funds, it would be required to provide its students with options to continue their unfinished studies at another school.

### **How does the 90-10 Rule interact with the Gainful Employment rules?**

They are very different. The 90-10 Rule ensures that no school is entirely funded by federal taxpayers. The gainful employment rules provide consumers with information about career education programs at public, non-profit and for-profit colleges, and measure whether these programs are routinely leaving students with insurmountable debts they cannot repay.

### **Why aren’t voluntary standards good enough to protect students and taxpayers?**

Voluntary, non-enforceable standards are no substitute for enforceable laws that hold schools accountable for taxpayer dollars and protect students, including veterans, service members and their families, from unscrupulous schools. The industry has had a voluntary code of conduct for many years and it has not prevented fraud and deception. More than 22 state attorneys general—Republican and Democrat—are jointly investigating for-profit colleges for potential fraud.<sup>5</sup>

### **Why not eliminate the 90-10 Rule and instead tie a school’s eligibility to student outcomes?**

Despite mounting evidence of widespread waste, fraud and abuse in the for-profit college industry, some have suggested repealing the 90-10 Rule. They propose that a school’s eligibility for federal funding should be tied to its graduation, job placement and student loan repayment

rates, and schools that enroll more disadvantaged students would be held to lower standards than other schools (i.e., schools enrolling more low-income students or veterans would be held to lower graduation, job placement and loan repayment rate standards).<sup>6</sup> However, the data to do this do not currently exist, and even if they did, we should not ask less of colleges receiving the most in federal aid. It is outrageous to suggest that low-income and minority students, including veterans, should expect fewer jobs, lower salaries, and higher debts.

### **We trust our military to make tough decisions on the battlefield. Shouldn't they be trusted to make education decisions on their own?**

Of course we trust our service members to make good decisions with good information. But without accurate information, they cannot make good decisions on or off the battlefield. Government and other investigations have found widespread evidence of for-profit colleges using lies, deception, misrepresentation and fraud to enroll veterans, service members and their families in low-quality schools whose credits cannot be transferred to other colleges.<sup>7</sup>

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<sup>1</sup> See documents referred to in Senator Tom Harkin's Senate floor statement on the "Targeting of Veterans and Active-Duty Members of the Military by For-Profit Colleges and Universities," May 19, 2011, available at <http://1.usa.gov/uLcl0Z>. For more information on this issue see <http://www.protectstudentsandtaxpayers.org/military-veterans-background/>.

<sup>2</sup> U.S. Department of Education, 90/10 rates for FY2009-10, audit as of June 14, 2011, available at <http://bit.ly/w23oMI>. The median percentage is 76%.

<sup>3</sup> Association of Private Sector Colleges and Universities blog, "Response to the New York Times Editorial." October 14, 2011. <http://bit.ly/t0dAvA>.

<sup>4</sup> Government Accountability Office (GAO), "For-Profit Schools: Large Schools and Schools that Specialize in Healthcare Are More Likely to Rely Heavily on Federal Student Aid," October 2010, slide 28, available at <http://1.usa.gov/suux2y>.

<sup>5</sup> Office of the Kentucky Attorney General, September 27, 2011 press release, available at <http://bit.ly/tG4Mgs>. For more information on which state attorneys general are investigating which colleges see <http://bit.ly/tnT74t>.

<sup>6</sup> Blumenstyk, Goldie and Kelly Field, "In a Fight to Preserve Their Market, For-Profit Colleges Lobby Hard Against a Proposed Rule." *The Chronicle of Higher Education*, May 19, 2010. <http://bit.ly/9ndv3y>.

<sup>7</sup> Kirkham, Chris. "At Kaplan University, 'Guerrilla Registration Leaves Students Deep in Debt.'" *The Huffington Post*. December 22, 2010. <http://huff.to/gu9vPj>. See also: PBS Frontline. "Educating Sergeant Pantzke." WGBH/Boston. June 28, 2011. <http://to.pbs.org/ruWTpk>. See also: documents referred to in Senator Tom Harkin's Senate floor statement on the "Targeting of Veterans and Active-Duty Members of the Military by For-Profit Colleges and Universities," May 19, 2011, available at <http://1.usa.gov/uLcl0Z>. See also: Golden, Dan. "Online Colleges Target Veterans." *Bloomberg Businessweek*. November 4, 2010. <http://buswk.co/aRECl>.