

DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION
90/10 PUBLIC HEARING
SESSION 1, DAY 2, MORNING
October 27, 2021

On the 27th day of October, 2021, the following meeting was held virtually, from 10:00 a.m. to 12:00 p.m.

P R O C E E D I N G S

MR. MARTIN: Good morning. Thank you for your attendance at our virtual public hearing today. My name is Greg Martin. I'm the director of the policy development group in the Office of Postsecondary Education. I'm pleased to welcome you to today's public hearing. This is one of two public hearings that we are convening this week. The first occurred yesterday. Our purpose is to gather input regarding regulations on the 90/10 provisions that were amended by the American Rescue Plan Act of 2021 in Section 2013, modification of revenue requirements for proprietary institutions of higher education. I am joined today on camera by Steve Finley from the Office of General Counsel. Also joining us today will be Clare McCann from the Office of the Undersecretary. With the respect to logistics for today's hearing, I will call your name to present when it is time for you to speak. We ask speakers to limit their remarks to three minutes. If you get near the end of your time, I will ask you to wrap up and ask that you do so within 15 seconds. If you exceed your time you may be muted. Speakers have the option to turn on their cameras presenting but that is not required. We do ask speakers to turn off the sound for the main meeting site to avoid any interference. We hope that you can be in an area free from background noise while presenting as much as possible. Perhaps most importantly, we asked that speakers remain on mute before

being called and leave the Microsoft Teams meeting after speaking to join or rejoin the public Microsoft Teams meeting. If you are a speaker and did not mute yourself when not presenting or speak when it is not your turn, we will administratively mute you from the Microsoft Teams meeting and may remove you from the speaker line. Remember, you can always join the Microsoft Live Live Team meeting as an attendee where you can listen to the hearing. When you're called to speak, please provide your name and your affiliation. This hearing is being transcribed and the transcription will be posted to our website in the next few weeks. The Department will also provide a recording of the hearings with audio and video. This is a public hearing and it is possible that a member of the public may record your remarks and post edited clips of them before or after the Department posts the full unedited hearing. Closed captioning is available in real time during the hearing. Live captions in a meeting go to real live captions in a meeting, go to your meeting controls and select more options, then turn on live captions. If you're submitting written comments, we encourage you to do so through the regulations.gov website. You may submit comments through postal mail, commercial delivery, or hand delivery but please do not submit your comment more than once. If you wish to hand deliver comments please email Vanessa Gomez at Vanessa.Gomez@ed.Gov. She will coordinate with the front

desk in the lobby at the Department of Education's Building at 400 Maryland Avenue, Southwest Washington DC so that you may leave your comments there. We will not accept comments by fax. In addition, please indicate the docket ID which is ED-2021-OPE-0077-1311 at the top of your comments. We will also use that number to quickly access the place to submit your comments using the regulations.gov website. I would like to offer one final reminder that today's opportunity for public comment is limited to the topic of 90/10. If a speaker's remarks do not appear related to 90/10, I will remind the speaker to redirect their remarks to to the topic at hand, and we do reserve the right to mute individuals who continue but are not addressing the the the topic of 90/10. I will call names but please restate your name and indicate the organi- organization that you represent. So with that, let's move to our first speaker for today, who is Daniel Elkins. Mr. Elkins, are you available? Okay, Mr. Elkins. Okay, I'm going to go to the next speaker and we'll move back to Mr. Elkins. Our next speaker is Hugo Lentze. Mr. Lentze.

MR. LENTZE: Good morning. So, Hugo Lentze, I work for the Travis Manion Foundation. So good morning, and thank you for the chance to be here today. As I said, my name is Hugo Lentze, and I have the honor of serving as the chief strategic partnerships officer at the Travis Manion Foundation. For those who may not be as

familiar with our work we strive to unite and strengthen communities by training, developing and highlighting the role models, veterans and families of the fallen within those communities. Inspired by and dedicated to Marine Corps First Lieutenant Travis Manion, who made the ultimate sacrifice for the safety of his military patrol in Iraq's Al Anbar province in 2007. Due to his actions that day, all members of his patrol survived. Today we carry on his legacy of selfless service and leadership and that of all of those who have served or continue to serve our nation. Over the years this nation has viewed servicemembers and veterans in many ways. We are fortunate to have reached a point where they are respected and valued members of our society. When it comes to the closing the closing of the 90/10 loophole we request for this Department to honor the service and sacrifices of veterans by keeping the law strong. It took many organizations, a bipartisan Congress and nearly a decade of advocacy to finally close this loophole. Last week our team hosted General Joe Dunford, the recent Chairman of the Joint Chiefs of Staff, he had some instructive advice for those who served in Afghanistan. And after the pullout from Kabul. He posed the question so many veterans have been asking, was my service worth it? And he set up his standard to judge that question. Did you serve your best and keep your honor clean? If yes, then you did your part to keep America safe. To all of us veterans, General Dunford's

statement is not mere lofty words. As a retired Blackhawk pilot, I can tell you from my own time in the Army, veterans are some of the best Americans you will ever come across. They raised their hand when their country called. It is up to us to keep faith with those remarkable men and women who did their part. Veterans deserve the best education they can get from their hard earned GI Bill dollars. As a country, we should accept nothing less. If a school doesn't garner even 1 out of 10 students willing to pay out of pocket, schools need to know veterans aren't a lifeline to inflate their programs. Closing this loophole has been a long time in the making and we ask that you remember the last words that Travis said before he went overseas, an ethos that he lived his life by: If not me, then who? Will this Department live up to that high standard that he set for us all? I hope so. We are grateful for the opportunity to speak here today. Thank you.

MR. MARTIN: Thank you, Mr. Lentze. Our next commenter is Jill Desjean. Ms. Desjean? Ms. Desjean, you appear to be on mute.

MS. DESJEAN: Good morning, and thank you for this opportunity to comment. I'm Jill Desjean, representing the National Association of Student Financial Aid Administrators. We acknowledge that the 90/10 rule change in the American Rescue Plan aims to address concerns that proprietary schools are financially incentivized to

enroll veterans and their dependents, which may lead to aggressive and sometimes deceptive marketing tactics. We think it's worth noting, however, the unintended consequences of this change that ED has the opportunity to address proactively through Negotiated Rulemaking. The inclusion of veterans' educational benefits in the 90% revenue calculation beginning in 2023, will likely cause a significant number of institutions to become out of compliance. A 2019 Brookings Institution paper estimated that the impact of adding veterans educational benefits to the 90% revenue calculation would cause for profit institutions serving nearly a quarter of all students enrolled in that sector to fail that metric. A 2021 veterans Education Project paper estimated that 87 institutions would fail the 90/10 rule if military benefits were added to the 90% revenue calculation. Those institutions enrolled roughly 127,000 students, that level of potential student displacement should be alarming. Setting aside whether these changes should have been implemented, the most practical question becomes, how can the Department proactively prepare for the potential impacts to students who are currently enrolled or who will enroll in these institutions? First, the Department should consider examining the regulations on teach out plans to ensure that institutions at risk of closure due to the new 90/10 rule have an alternative for their students to continue their education with minimal

disruption. It may be too late to require a teach out plan only once these institutions are placed on provisional approval status. Second, the Department should reconsider whether it provides adequate disclosures to students about the potential impacts of 90/10 changes on their schools. Currently, when an institution fails the 90% federal revenue thresholds for one year, institutions must disclose the failure to students as well as whether they've been required to develop a teach out plan. The Department also publishes 90/10 Rule failures on the college navigator website. These disclosures should be reexamined to ensure that students aren't left in the dark. Third, separate from regulations and negotiated rulemaking, we ask the Department to be proactive in anticipating potential closures as a result of the 90/10 rule changes, especially with respect to offering automatic close school loan discharges. As noted in the ongoing affordability and student loans regulate negotiations, many students are unaware that the option for a closed school discharge even exists. Granting those discharges automatically, using data the Department already holds helps the greatest number of students and removes burden from them at a time when they may already be under considerable stress. Thank you again and have a great day.

MR. MARTIN: Thank you, Ms. Desjean.

We're now going to go back and pick up Daniel Elkins. Mr. Elkins.

MR. ELKINS: Hello, thank you. Sorry for the technical difficulty earlier. Can everyone hear me?

MR. MARTIN: We can hear you just fine Daniel.

MR. ELKINS: Excellent, thank you. Over the past decade, policymakers and advocates have helped hold colleges accountable for how their students fare in the job market. And in some regards, the reformers have been wildly successful. There's now more information available about student outcomes at colleges and universities than ever before, and much of it is collected and published by the federal government through the College Scorecard. Despite this wealth of new data on student outcomes, some advocates and lawmakers still want to measure college quality based on obscure counting rules, considering the ongoing efforts to expand the so-called 90/10 rule that applies to for-profit colleges. Some 30 years ago before data on student outcomes was widely available, lawmakers developed this rule to cut off federal grants and loans to any for-profit colleges that earn more than 90% of its revenue from such programs. The assumption was that these were low quality institutions, one would think the 90/10 rule has been rendered unnecessary now that policy makers can access student outcomes directly through the new data systems like College Scorecard, but surprisingly, that's not the case. An analysis published earlier this year, the Veterans Education Project offers

evidence that suggests this reasoning is ill-informed at best and counterproductive at worst. We also find that up to one in five for-profit institutions, regardless of the quality of their student outcomes could suddenly fail the 90/10 rule if proposed changes are adopted. These modifications of the 90/10 rule would radically alter the educational choices of over a 100,000 military students who enroll at these institutions. Specifically, we find that recent inclusion of military benefits in the 90/10 rule could cause 87 for-profit institutions that currently pass the rule to fall out of compliance. And if the restriction was limited further from 90 to 85%, we estimate that 333 institutions currently in compliance could violate the rule. Prospectively, that represents 5 and 20% of all for profit institutions that participate in the Student Aid Program operated by the Department of Education. We find that there are hundreds of public institutions that produce student outcomes in line with those for-profit colleges failing a 90/10 rule that includes GI Bill and Department of Defense benefits. And such evidence undermines the argument the 90/10 rule is necessary to root out the lowest quality for-profit institutions. Policymakers should not settle for an outdated policy that will produce such severe and unintended consequences. They can identify institutions directly, public, for-profit, and nonprofit alike that aren't serving students well by using the data that is currently available,

and we suggest that be the case. Thank you.

MR. MARTIN: Thank you, Mr. Elkins. We will now move on to our next speaker, who is Mike Wherry. Mr. Wherry?

MR. WHERRY: Hey, good morning. Can you hear me, Greg?

MR. MARTIN: I can, yes.

MR. WHERRY: I'd like to thank the US Department of Education for this opportunity to speak today. My name is Mike Wherry, and I'm a CPA at McClintock and Associates. We specialize in serving postsecondary institutions, mainly proprietary institutions since the 1970s. Our firm has audited hundreds, if not over 1,000 90/10 calculations development, a deep understanding of the nuances of the calculation, and I've been asked to present at numerous conferences on this topic. As a CPA focused on financial reporting and regulatory compliance, we have struggled to understand the relationship between educational quality and an institution's 90/10 rate. The 90/10 calculation is a math equation with three main variables; student financial need, available outside funding, and institutional costs normally in the form of tuition and fees. We have seen no proof that a high 90/10 rate results in a poor education and a low 90/10 rate results in a high quality education. Our experience indicates three common factors for institutions with highest with the highest 90/10

rates. They're educating students with the most financial need, they do not have access to outside funding, and they are focused on providing education at a reasonable cost. This is exactly what institutions should be doing, especially in light of the student debt crisis, which has been so publicized. The most significant driver to the 90/10 rate is whether the institutions students are eligible for outside resources for which the institution has limited control over. The 90/10 calculation penalizes the institution for having tuition and fee lower than the maximum eligible Title IV aid. This is a poor outcome for any federal regulation. Two identical institutions with the same student base operating in different states could have significantly varying 90/10 rates. To my point, this has no bearing on the quality of the education or job placement outcomes received by the student. We should be focused on outcome measures and not input measures. Previously, the gainful employment metric was designed to lower the amount of student debt. Therefore the 90/10 calculation and the GE metric will work in opposite directions. How is an institution supposed to comply with both regulations? This was illogical. As CPAs, our firm understands the role we play in the regulatory process and the importance of accountability metrics. However, these metrics should have a correlation to the to the desired outcomes. Peter Drucker famously said, "What gets measured gets managed." Is the

Department of Education's intention for institutions to manage the 90/10 rate or to focus on quality education, placement outcomes, debt levels, and licensure pass rates when applicable? In conclusion, I pose this question to Department of Education officials and the broader community. If an institution has a 90/10 rate of 100%, maintains low tuition which reduces student loans, graduate students and places them in jobs that enable them to pay off their student loan debt, should this institution lose access to Title IV funding? I encourage Department of Ed. officials and the broader community to keep these points in mind as changes are proposed. Thank you for your time.

MR. MARTIN: Thank you, Mr. Wherry. Our next commenter will be Ashlynn Haycock. Ms. Haycock.

MS. HAYCOCK: Good morning. My name is Ashlynn Haycock and I serve as the Deputy Director of Policy at the Tragedy Assistance Program for Survivors. I come to you today to stand up for the over 100,000 families of fallen heroes that TAPS represents, many of who have or will use education benefits from the Department of Veterans Affairs. We stand here today to call on the Department of Education to ensure strong implementation of the new law to close the 90/10 loophole. As you know, the 90/10 loophole resulted in targeting of our community by aggressive and deceptive marketing. Countless veterans, families, caregivers, and survivors were seen as nothing more than a

dollar sign in uniform, and have had their lives financially ruined because of this loophole. We thank bipartisan members of Congress for listening to us and finally closing the 90/10 loophole. At TAPS, we are especially concerned with the discussion that funds paid directly to the student will not be included in the final calculation of 90/10. While most people generally just think of the BAH portion of the post 9/11 GI Bill when discussing it, they forget that chapter 35 benefits are paid the same way. This proposal would take the target off the back of veterans and place it on a much more vulnerable, vulnerable population, that is caregivers and survivors. Between the significantly lower payment rate of chapter 35 benefits and the responsibilities a veteran caregiver has, they generally have significantly less options when it comes to institutions of higher learning than most, as most choose an online program with flexibility around the needs of their family. The same goes for surviving spouses who tend to also choose online programs with flexibility, as many of them are single parents and online programs tend to be a better fit with limited childcare needs. This makes some prime targets for predatory for-profit programs that market on flexibility. Closing the loophole was supposed to help protect them, not including funds paid directly to students will instead put an even bigger target on their backs. We strongly encourage the Department of Education to include

both the chapter 35 and Montgomery GI Bill benefits paid directly to the students in the final calculations for 90/10. At TAPS, we have not come to these positions lightly and we stand unwavering in our commitment as it has a significant impact on those we serve. Thank you for the time to present our views. And please let us know in the future if you have any clarifying questions. Thank you.

MR. MARTIN: Thank you, Ms. Haycock. Our next speaker will be Cory Titus. Mr. Titus.

MR. TITUS: Good morning, to everyone on the call. Thank you for the opportunity to comment. My name is Cory Titus, and I'm the Military Officer Association of America's Director of Veterans Benefits. I'm speaking on behalf of our 350,000 members to urge your department to strongly implement the new laws passed to Congress to close the 90/10 loophole. Education and the opportunity to better one's life have been a cornerstone of services since the GI Bill was first implemented during World War II. While this benefit has changed the lives of millions of servicemembers and veterans, myself included, it has also made our community the target of deceptive schools seeking profits first and foremost. Our service members, veterans, families and survivors using the GI Bill deserve better. Congress certainly understood this when it closed the 90/10 loophole on a bipartisan basis. The legislative delay in implementation allows schools more than enough time to

account for the upcoming changes, and it would be a disservice to the intent of the law and our GI Bill students if the Department of Education were to weaken Congress's intent with the final rules. GI Bill students deserve a quality education and a choice of schools, not a focused effort by the institution to pocket their education benefits. It is perfectly reasonable to expect a college to receive 10% of its funding from nongovernment sources. MOAA has worked hard on this issue for years and supports the closure of the 90/10 loophole after seeing the harm it has done by schools to target our community. Thank you for the opportunity to contact and please, to comment and please contact us if you have any questions.

MR. MARTIN: Thank you, Mr. Titus. Our next speaker will be Kaitlyne Hetrick, Ms. Hetrick.

MS. HETRICK: Good morning. On behalf of Iraq and Afghanistan Veterans of America's more than 425,000 members, I thank you for giving me the opportunity to share our thoughts on today's topic, the 90/10 loophole. 2008 was a landmark year for Post-9/11 for the Post-9/11 generation. After years of tireless advocacy by IAVA and others, the Post-9/11 GI Bill was passed into law. With it, millions of veterans and their dependents had the doors to higher education open for them. After deploying for years to Iraq and Afghanistan and other conflict areas, Congress and the American people agreed that these warriors had earned the

right to a degree. This benefit has been enormously transformational is one and is one of the most popular veteran benefits available. The Post-9/11 GI Bill has now sent more than 1 million veterans and dependents to school and remains one of the military's best retention and recruiting tools. In IAVA's 2020 member survey, 93% of our members reported having used or they were currently planning to transfer their Post-9/11 GI Bill benefit, 79% agree that the Post-9/11 GI Bill is essential to military recruitment, and 87% believe that it is extremely or very important to transition to civilian life. However, the GI Bill continues to be exploited by underperforming actors who take advantage of veterans' benefits and often leave veterans stuck with unnecessary debt and a subpar education. IAVA and many veteran advocates celebrated in March 2021, as the COVID-19 response legislation, the American Rescue Plan, was signed into law. This emergency package included a provision that would establish accountability for predatory schools that profit off of Post-9/11 GI Bill beneficiaries by finally closing the 90/10 loophole. IAVA and our VSO allies have fought tirelessly to close this loophole in law for many years after the enactment of the new education benefit attracted unscrupulous actors who had designs on military connected students' funding. And while we can call this provision a win, there's still a war to be won when it comes to predatory institutions. IAVA believes that veterans

should have the choice of which educational institution they would like to attend. But we also know that due to this loophole, these predatory schools know exactly how to market their programs to the military community and make it seem like they have an exceptional program, only to close and leave veterans with nothing to show for for their hours, days and even years that they spent on these programs. It is simple. The 90/10 rule was put into place to prevent schools from being able to take advantage of taxpayer dollars and students. It only seems logical that the GI Bill funds be allocated within that rule. We cannot allow another institution to make false promises only to fail those that they would sacrifice that would sacrifice everything for this country. IAVA calls on the Department of Education to ensure a clean and full closure of the 90/10 loophole and to see that it is implemented effectively and efficiently. It is unacceptable that servicemembers and veterans are targeted specifically for a benefit that they selflessly earned. The military community should be afforded the same protections as those in the civilian world, and allowing these predatory institutions to continue their practices is inexcusable. On behalf of IAVA, I thank you for your time.

MR. MARTIN: Thank you, Ms. Hetrick. Our next commenter will be Stephanie Hall. Ms. Hall.

MS. HALL: Good morning. My name is Stephanie Hall and I'm a senior fellow at the Century

Foundation. For-profit colleges have governed are governed differently from their public and nonprofit peers. And as such, they have different incentives. And because education is an intangible product, sector-specific guardrails are essential for leveling the playing field and for protecting students. Closing the HEA's 90/10 loophole will transform it into the market test it was intended to be. To the extent that a regulation can be future proofed the 90/10 rule should be written to capture the sometimes expanding sources of federal funds directed at students and schools. I also urge the Department to develop limitations on what can be included in the 10% side of schools revenue ratios in a way that keeps with the actual intention of the 90/10's rule, the 90/10 rule's check on market value. According to a 2019 Century Foundation analysis, at least 30 states send a substantial amount of public funds to proprietary institutions. The Department should consider a mechanism by which students in those states do not become undue targets of schools, looking to remain compliant while delivering a product that has no value. Likewise, improving the 90/10 guardrail is just one important piece of the student protection puzzle, as other metrics around inputs and outcomes are equally essential to ensure colleges do not engage in predatory pricing to become compliant with the 90/10 rule. I would like to echo concerns shared by the Children's Advocacy Institute yesterday. Youth with

experience in the foster care system are a group that, like veterans, receive voucher-like funds for postsecondary education, and if they're not considered in this process, the target will move from the backs of veterans to former foster children. Therefore, the Department should regulate with the most vulnerable in mind. The for-profit college industry pushes the message that it is innovative, and it will indeed innovate to find other targets once veterans can no longer help them fill the 20, the 10% side of the revenue ratio. A closed 90/10 loophole is not meant to drive proprietary schools out of business, but it is meant to adjust incentives to get them closer to those already baked into public and nonprofit organizational structures. School owners, executives and shareholders that want to continue providing an educational product must provide programs of value. To do so, some may have to adjust their priorities when it comes to expenditures and operations, and that's exactly the point. Thank you for providing me time to make a comment today.

MR. MARTIN: Thank you Ms. Hall. Our next speaker will be Philip Johndrow. Mr. Johndrow.

MR. JOHNDROW: Good morning. My name is Command Sergeant Major Philip Johndrow. I am a retired Command Sergeant Major, who served in the United States Army for over 33 years as a squadron, brigade, and division and corps level Commands Sgt. Major. Thank you for the

opportunity to testify today in support of protecting our veterans' ability to choose their education programs, as these institutions provide a great value of service to men and women who serve. While serving, I pursued my education through online courses at Trident University. It was one of the best decisions that I ever made because it helped my growth and strengthen my abilities as a leader responsible for others. I initially made a decision to take classes while deployed when a colleague made the suggestion. I saw it as a way to help me meet some therapeutic needs and to help ensure my life was moving forward and not stagnant while on tour as I consider myself individual transition to civilian life. Throughout my deployments, all three of my commanders were supportive and agreed the online courses would help clear my mind and make me better on the job. I initially enrolled in one course because I thought it would be too hard to focus on while in the middle of hard fighting during the Iraqi surge. My experience to my surprise was just the opposite. The opportunity to focus on my coursework for a window each night was a welcomed distraction to the challenges surrounding the 110,000 soldiers we were leading. My mind felt clearer. It kept me grounded, and I was developing useful and critical thinking skills. Whether education is a welcomed distraction as it was for me or to help others pursue their interests, online programs work for nontraditional learners. The flexibility and tailored needs

motivated me to complete not only my bachelor's degree, but two years later to complete my master's degree. I could not have done this without an online program. The school came with me no matter where I was. That flexibility helped me both as a soldier and in my transition back to civilian life. The coursework was challenging and demanded that I look deep within myself to develop the critical writing and thinking skills that are practical and essential in today's world. I implore you to make sure that the veterans' ability to choose their programs are protected. Online programs help nontraditional students like myself. Most importantly, they work for all of us as civilians who are looking for enrichment and require the flexibility to fit into. Please don't let the 90/10 rule interfere with their benefits. We cannot limit education choices to a group that desperately needs it. Thank you and have a great day.

MR. MARTIN: Thank you Mr. Johndrow. And our next speaker is Lanette Johndrow. Ms. Johndrow. Ms. Johndrow? Okay, I'm going to move on to the next speaker then and we'll come back and pick up Ms. Johndrow if she's available later on. Our next speaker is Nick Wood, Nick Wooldrid, Nick Wooldridge. Mr. Wooldridge.

MR. WOOLDRIDGE: Good morning officials and staff of the Department of Education. My name is Nick Wooldridge, and I'm the Policy and Outreach Fellow at Blue Star Families. I'm speaking on behalf of the families of our

all-volunteer force from Blue Star Families seeks to strengthen as they serve by creating vibrant networks of support across the country. We call on the Department of Education to ensure strong implementation of the new law to close the 90/10 loophole and believe the Department should not allow the weakening of these provisions during the rulemaking process. The 90/10 loophole has resulted in the aggressive targeting of military and veteran communities and must be reformed. Student loan debt can be a massive burden for many military families. Blue Star Families research has revealed the effect that this debt has had on members and dependents of our armed forces. When the financial stability of their family is in question, service members cannot focus on the mission, impacting not only their family's lives, but the readiness of our military. In our 2020 military family lifestyle survey, student loans were the second greatest contributor to active duty family respondents' financial stress, just behind unemployment or underemployment. Over a quarter of active duty family respondents reported being financially stressed, selected student loans as a contributor to their family's current financial stress. This ranked higher than excessive credit card debt, out of pocket relocation costs, out of pocket housing costs, and out of pocket childcare costs. The MSO and VSO community have been tireless advocates for the closure of the 90/10 loophole because as VSF's research and countless other studies have

shown, student loan debt and the targeting of the military community has had a significant impact on their quality of life and financial readiness. Members of Congress acted in a bipartisan way to close this loophole. After years of advocacy and debate, it is incumbent upon the department to see this final workthrough. Thank you for the opportunity today to present Blue Star Families' views. Please reach out to us with any clarifying questions you might have. Thank you.

MR. MARTIN: Thank you, Mr. Wooldridge. We are now going to go back to Lanette Johndrow. Ms. Johndrow.

MS. JOHNDROW: I apologize for that earlier. Thank you for giving me the opportunity to testify today. My name is Lanette Johndrow, and I speak before you as a working mother, a grandmother and a military spouse with a marine son who is currently deployed. I'm a proud Trident University graduate with a bachelor's, a master's, and working on my doctorate degree. Having the ability and the motivation to complete these programs opened up the opportunity for a whole new phase in life for me that I would not have had with a traditional schooling. I first earned my bachelors of science with a concentration in contract management to support my career as a contract manager. As a working mother and a sole breadwinner at the time, the ability to pursue my degree in the evenings and

online while working and earning a paycheck to support my family was a pivotal point in my life. It gave me the freedom to pursue both objectives simultaneously, while continuing to support my family. With my degree, I was able to take advantage of a new career opportunity, handling government contracts for the State. Having different learning options available with the flexibility to tailor it to my needs allowed me to continue my education and further my career. After I finished my bachelor's degree, I got married. And then a couple years after that my son deployed again, and my daughter went off to college. So my husband encouraged me to pursue my master's degree, and I got that in leadership. Armed with my leadership degree, I was afforded the opportunity to develop a team from scratch and lead a strategic initiative department within the State. From there I moved up to more executive positions within the State on a broader contract strategies, developing organizational goals, and then completing my doctorate degree. The pursuit of knowledge extends outside the physical confines of a traditional institution. My online coursework is a credit to that value. It helped me with my ability to move forward to greater heights, opportunities I never could have imagined I would acquire as a single mother. I work not I would not have had these opportunities in my second phase of my life and the fulfilling, rewarding career that I have now if I was confined with traditional

education. Online programs work. I am just one of many stories like this, and they do make a difference. Thank you for your time today. I appreciate it.

MR. MARTIN: Thank you, Ms. Johndrow. Our next speaker is Darrin Bovia. Mr. Bovia.

MR. BOVIA: Thank you for the opportunity to speak this morning and thank you all for your public service. The work you do is very important. I'm Darrin Bovia, as you noted, I'm the son of a Veteran. I'm a Veteran. I'm the father of veterans and my youngest son will enlist in the US Navy this Friday, so service to our country has been part of my family makeup and will continue to be will continue to be so, moving forward. I myself have 33 years in public service in the active Army, Army Reserve, National Guard, as a federal civil servant, and as a local government employee. I used my GI Bill funds to earn a degree at the University of Phoenix. I started early on when I was younger with two years at a traditional institution, but life interfered and thankfully, I was able to find a flexible option later at Phoenix to finish my bachelor's degree. I feel obligated to share my story and speak a warning. This so-called 90/10 rule should not be used to measure educational quality. I do not like how some people twist this policy argument into ways that speak down on what I accomplished. We veterans know how to choose a school based on what we need. We worked hard to finish our

coursework and earn our degrees and the quality was obvious. The university was accredited. Accredited schools should be held to the same rules. If it's a standard for one school, it should be the same standard for every school. If the government recognizes one accrediting body, the rules should apply to schools with the same accreditation. I'm aware that I am a nontraditional student. That's what the system views me as, that's how you see me. But know this, I put in the work to complete my degree. I was in Hawaii completing my coursework between 2014 and 2016. At the time I was doing learning team assignments and coursework, I managed the intelligence analysis enterprise for US Army Pacific. My days were long and demanding having to watch things like North Korean missile launches, and Chinese adventurism in the South China Sea. Through it all, the support I received at University of Phoenix made it possible for me to graduate. Please engage more students with their stories like mine. There are many of us. We need consistency in the rules so that we can all advance in our careers. Thank you very much for allowing me to speak today.

MR. MARTIN: Thank you, Mr. Bovia. Our next speaker is Carlette Satterwhite. Ms. Satterwhite. Ms. Satterwhite, you are on mute.

DR. SATTERWHITE: Can you hear me now?

MR. MARTIN: I can. You may begin.

DR. SATTERWHITE: Thank you. Good

morning. My name is Dr. Carlette Satterwhite, and I am a veteran from Austin, Texas. I am here today to share my issues with the University of Phoenix with the hope that no other student veteran will go through what I did. My first complaint with the school was that they actually came on to the military installation, and lied to me and my fellow vets. They promoted their program and told us upon completion, they will place us in well-paying jobs. That didn't happen. My second complaint with with Phoenix was that they were more interested in what military benefits apply to me than anything else. They constantly kept tabs on them. They will call my military caseworker and ask for extensions to complete a program that I thought was already fully funded, but then would set up strategic leave of absences for me so that they could squeeze out the maximum amount of my benefits for me. I didn't know this was going on until much later. The third complaint is my doctorate program. They kept adding courses that wasn't pertaining to my degree plan. They changed my program twice without my knowledge. I literally took the same final class from my doctorate at least 10 times from 2016 to 2019, just so they could continue to collect my benefits. I am thankful that Congress has closed the 90/10 loophole that allows schools like Phoenix to target veterans for our benefits for years. I hope by sharing my story you will consider making sure these schools are regulated and monitored to keep targets

off vets going forward. I would like to thank you for your time.

MR. MARTIN: Thank you, Dr. Satterwhite. Our next our next commenter is and I will apologize in advance if I do not pronounce the name correctly. Chaunte' Hall. So, if you're ready.

DR. HALL: Yes, I am. Thank you very much. It is Chaunte'.

MR. MARTIN: I'm very sorry, I will do it. I'll do better at the end of that when you finish. Thank you very much.

DR. HALL: No worries, no worries. Good morning and thank you so much for having me. I am Dr. Chaunte' Hall. I am an Air Force veteran. I am also CEO of a nonprofit Centurion Military Alliance, where we aim to train, prepare and educate our transitioning service members, veterans, spouses, caregivers. Now today, as an advocate for all education, I am a nontraditional learner. And I do believe in the freedom of choice, as we have the freedom as Air Force veterans, as veterans as those in the military community that have raised their right hand to serve, defend and protect. I absolutely believe that all education is important, is impactful, is empowering, and it is up to the individual on how we choose to use our benefits. Now, the unintended consequences and the detriment to the 90/10 is that 1000s of service members can be

impacted with their choice of their education institution. Again, all education matters. And as a nontraditional learner from an Air Force veteran of multiple deployments, as a single mother, had I had not been afforded the opportunity to choose my educational pathway, I wouldn't be standing before you today with a doctorate and multiple certifications and continuing to advocate on behalf of our military service members. And so today, I would challenge there are two key takeaways that are supported by the Congressional Research Summary Report dated 26 April 2021. The application of faulty logic is applied in the 90/10 rule to reduce fraud, waste, and abuse of proprietary educational institutions only, as if nonprofit institutions are immune to such failings. It is arbitrary and inequitable, and that it targets proprietary institutions knowing fully well, that given that a fair portion of nonprofit institutions have similar outcomes in terms of whether its rate of pursuit, or persistence, as well as graduation rates. I would argue to look at graduation rates, I would argue to look at the level of gainful employment at the aftermath, again, as all education matters, and given the preponderance of evidence, which suggests that a considerable amount of bias against proprietary-

MR. MARTIN: Dr. Hall, you appear to be on mute.

DR. HALL: Excuse me?

MR. MARTIN: I can hear you now. We couldn't hear you for a while. You might want to repeat your last sentence please.

DR. HALL: Given the preponderance of evidence which suggests a considerable bias against the proprietary institutions, the only logical conclusion would be to apply the ruling, the 90/10, to all postsecondary institutions or remove it entirely. Again, we raised our right hand to serve, defend and protect and I believe that we should be afforded the opportunity to choose or else we need to go to all military recruiters and let them know that as we choose and decide to join our military, that we also will have all of these rules and regulations over which school we are allowed to use our earned benefit. Again, I'm a nontraditional student. I thank you for your time, and I hope to see some change in the future.

MR. MARTIN: Thank you Dr. Hall. Our next commenter will be Nathalia Rodrigues. Ms. Rodrigues. Ms. Rodriguez, are you ready? I'm told I skipped somebody, that is my fault. And I will go back and I'll pick up Mr. Rodrigues later because I appear to have skipped Mr. Freehan, so hold on just one- Okay, thank you. Our next presenter is not on my list, but I see he's he's on the screen. So, Matthew Freehan. So, I'm sorry, Mr. Freehan, please go ahead.

MR. FREEHAN: No, sorries at all, not

needed. Good morning, honorable members of this committee. My name is Matthew Freehan, and it's my distinct honor to testify today and the recent changes to the 90/10 rule and its implementation. I'm a disabled student veteran, a graduate of Western New England University School of Law and a current communications graduate student at the University of Rio Grande University of Texas Rio Grande Valley. I'm happily married. I am a father of four and reside in the great state of Texas. Partisan lobbying organizations in DC have recently lauded the successful closing of the 90/10 rule. For years, many experts in this area have targeted the for-profit sector with aggressive biased research that paints a grim picture of massive for-profit institutions gobbling up student veterans for their valuable federal benefits. While some of the negative attention for the for-profit education is received, it is certainly more than justified. It has all but completely shrouded the aggressive recruiting practices of educational institutions not for profit. Further, the closing on the 90/10 rule loophole will do nothing to remove the metaphorical target sign on my fellow brothers and sisters' uniform who are eligible for these enticing federal benefits. To pretend that the nonprofit and public educational sectors are not negatively affected by a national drop in postsecondary educational enrollment and are incentivized to recruit student veterans is not only patently inaccurate, it is reckless. If you look

at any nonprofit educational institution in the United States, you will see a military and student veterans page and it will be found under its admissions tab. Becker College, for example, located in Worcester, Massachusetts, recently closed this year. It's listed as a nonprofit organization by the Internal Revenue Service. At the time of its closing, Becker College received \$421,282 in GI Bill benefits, and \$61,000 roughly in Yellow Ribbon benefits from the Department of Veterans Affairs in fiscal year 2020, from 23 veterans and 13 veterans respectively. At the time of Becker College's closing, a total of 43 GI Bill students had been enrolled according to the GI Bill Comparison Tool. Even today, this as of this morning, I checked, you can access the GI Bill Comparison Tool and look at Becker College, and it will say it's still open, there's nothing in there about it being closed. So with that, I'll switch to just an informal conversation about choice. Choice is important. We choose to have our coffee in the morning, we choose which where we want to go to get our coffee in the morning, I'll add to the previous speaker, Dr. Hall, who mentioned the need to possibly add an asterisk to the recruiting slogans at local recruiting centers. You can join the military, you can use your benefits, but we're going to tell you where you can go to school and where you can't go to school, and that I can't live with. Thank you very much for your time today. I really appreciate having the opportunity to testify today.

And I wish you all the best in the implementation of the new rule. Thank you.

MR. MARTIN: Thank you, Mr. Freehan. And I do apologize for the for the mixup there at the beginning. Our next speaker will be Matt Daly. Mr. Daly.

MR. DALY: Hello, can you hear me?

MR. MARTIN: I can.

MR. DALY: Awesome. Well, thank you, again, for the opportunity. I just want to give you a little bit of insight into how this regulation would negatively impact our school. We run about a 500-student trade school in West Baltimore, serving predominantly male students, predominantly fully Pell eligible students, and a high percentage of veterans. And I think to echo the theme of choice, those veterans choose our programs because they are hands-on, because they are in trades that lead to jobs that they've been around, that they're familiar with, that they are interested in pursuing. So we are not and I don't know of any any good schools in Maryland and Pennsylvania that are targeting or aggressively recruiting one type of student over another. There is a disproportionate bias right now to the impact that this will have on students that are poor. And schools that are serving demographics of students that are high high Pell eligible. I don't want to be in a position to have to raise tuition so that all of our students that otherwise would get a Pell and would get

student loans. I don't want to have to treat them in a negative way to counteract the impact that this would have on our school. And as we've said several times, it does go against the diversity, the inclusion, and our school represents a population of typically underserved students, that if we start to have to treat them differently because of this change, or this regulation, I certainly don't think that that's the intent. I certainly don't think that it's fair to those students, and anything that we can do to get our voice out, have people see the school and see who we're serving, we would love the opportunity to do that. So thank you for your time. I appreciate everything and wish you all the best.

MR. MARTIN: Thank you Mr. Daly. Our next speaker will be Kevin Hollinger. Mr. Hollinger.

MR. HOLLINGER: Hello, my name is Kevin Hollinger, I'm a legislative director for the Enlisted Association of the National Guard of the United States of America or EANGUS. We are current we currently have for 40,000 members and we represent the 420,000 serving members of the National Guard and the one the over 1 million retirees and their family members. We work daily to improve, protect the benefits of the men and women serving in the National Guard and their families. When it comes to education programs, EANGUS believes that those those who wore and those who wear the uniform have the ability given

all the current information to make a sound choice with their money. We consider educational benefits earned with service to be theirs to use within the laws and policies. EANGUS believes that the educational assistance from the military should be flexible and meet the needs of the service members with their various goals. Not every GI Bill beneficiary wants or needs a four-year degree. Many have shown us that they want technical certificates, for example, often available to them from not for for-profit, proprietary schools, of which there are many fine examples. As we explore other benefits, we want to start a business or buy a buy a franchise, both of which can be in the spirit of the GI Bill's inception help them and the nation. It is now commonly recognized that the porthole to success is no longer necessary, necessarily a university admissions office door. For some colleges, universities and vocational schools, government dollars can make a huge, even even a day breaking difference for their financial varieties. There is evidence that the situation has promoted some educational institutes, both public and proprietary for non for for-profit schools to aggressively pursue students who have federal aid necessarily to protect those benefits. So far those those protections suggested seem to leave only against proprietors sector. The recommended protective fix was to add VA and DOD educational funding assistance to the 90 side of the 90/10 ratio, because they are not part of Title IV.

This means for example, a school's hurdle to achieve 10% minimum tuition revenue target would not easily be inflow or would not ease the inflow of GI Bill money into the 10% bucket. EANGUS considers this biased against one educational sector. It therefore reduces veterans' choice, a requirement assessment associated with if and how much federal funding can a school can receive should be applied to all educational institutions and link to achievement certificate standards. For example, metrics could be in place that use the performance of students equipped to succeed, i.e. graduation certificate or certain GPAs, getting decent jobs, and accountability. Simply put, if an institution can show the by objective merit or metric, applied equally to both both proprietary and conventional institutions, it can get all its funding from a federal source. What matters isn't the student putting it in putting in 10 cents to every dollar. Rather, what matters is the quality of the experience and its likelihood to succeed. If a school does not perform then maybe corrective measures are in order. Ratios or some other measurement, if some ratio is necessary, which EANGUS does not believe is it, should be applied to everyone. The military operates on standard supplied to all that. If Congress determines that the safeguard quality education for the GI Bill benefits, it must refine standards beyond those applied by state-approving agencies. Those standards should be applied to the

entire educational sector, not just the proprietary educational sector. The reason for EANGUS's position also goes into the concern that many proprietary schools offer vocational training and certificates. Because military members lead with-

MR. MARTIN: 15 seconds, Mr. Hollinger.

MR. HOLLINGER: In closing we just like to say that we do not support the 90/10 ratio and that we believe that the vocational aspect of exiting military individuals is very important. Thank you very much.

MR. MARTIN: Thank you, Mr. Hollinger. Our next speaker is Congressman Fred Keller. Congressman Keller. Okay, while we wait to hear oh, okay. Alright, we so, obviously the Congressman schedule is tight and probably he has scheduled, you know, every minute of his day is likely scheduled. So we're running a little bit ahead of schedule here. So while we wait for the Congressman, I would just remind you again, that there's still an opportunity to, to submit comments and I'm going to provide that docket number again, our ED docket number is ED-2021-OPE-0077-1311 at the top of your comments. So you can still submit comments if you wish to do so. Alright. Alright, I'm going to go back then to pick up Nicholas Kent. One second.

MS. MCCANN: I think we have that Congressman now.

MR. MARTIN: Oh, we do. We have
Congressman Keller. Okay. Alright, great. Alright. So let's
go with Congressman Keller. Congressman Keller, go ahead.

CONGRESSMAN KELLER: Thank you. I
appreciate the Department of Education hosting this crucial
discussion to thoroughly review proposed changes to what is
commonly known as the 90/10 formula. As you may or may not
be aware, Congress recently reached a bipartisan agreement
on an amendment to the longstanding statutory requirement
that proprietary institutions received no less than 10% of
their revenue from nonfederal sources. And myself and many
other members of Congress oppose these changes. However,
because they were recently signed into law, it is
inappropriate to make further changes to this provision
before the Department concludes its rulemaking process. The
provision in fiscal year 2022 of the appropriations bill
would also be effective upon enactment, meaning it would
apply to the current institutional fiscal year, changing the
90/10 formula so close to the enactment of the bipartisan
agreement will have perverse, secondary retroactive effects
that will punish institutions that reasonably relied upon
the current statute. This is one of many reasons the
appropriations process is not the appropriate forum for
making authorization changes to the Higher Education Act.
More importantly, the metrics is completely arbitrary, and
placed unfairly on one sector of higher education that is

flexible and capable of meeting the needs of employers and their and students. The metric has nothing to do with the quality of an institution and it simply leads to higher costs for schools that serve low income students solely because of their tax debts. If enacted, this would force institutions to turn away these students and reverse the decades of progress made in reaching populations of Americans, for whom higher education has been traditionally inaccessible, such as first generation, low income, and other disadvantaged populations. Further, this provision would be catastrophic to student veterans. The Veterans Education Project estimated that some of the proposed policy changes to 90/10 would negatively impact 333 institutions who collectively enroll 116,000 veteran and military students. An accountability system should be applied equally to all institutions and serve the best interests of students. Further, Secretary Cardona agreed with this notion when he testified before the Education and Labor Committee on June 24, 2021. And later said he later said, we really want to make sure that we keep the student at the center of the conversation and protect them wherever they go. On that we can agree. Let's put the focus squarely on the students. Any institution that provides valuable educational opportunities for students should be given tools to succeed and not burdened simply because of how they file their taxes. So when we look at that, I'm still looking forward to

the Secretary's plan on how we hold the institutions accountable across the board in that same metric. Since these testified I have, we have not gotten nothing back from the Department. I'm going to continue to work to see that plan. It's been four months. And it's time that we put a plan together that puts the students first and holds all of the institutions accountable to the same metrics. With that, I appreciate your time and yield back.

MR. MARTIN: Thank you, Congressman Keller. I think at this point, if Mr. Kent is ready, we'll go back to pick up Nicholas Kent.

MR. KENT: Yes, I'm ready.

MR. MARTIN: Okay, go ahead Mr. Kent.

MR. KENT: It's always hard to follow a member of Congress, but I'm excited to do so. Good morning. My name is Nicholas Kent, Senior Vice President of Policy and Regulatory Affairs at Career Education Colleges and Universities. CECU is the national trade association representing proprietary higher education institutions. On behalf of CECU and its members, I want to thank the Department for holding these informative public hearings. CECU supports legislation and regulations that improve student outcomes and protect taxpayers. However, the 90/10 rule does neither, as you've heard today. The 90/10 rule does not measure whether an institution retains, graduates, or places its students in jobs. Likewise, the 90/10 rule

does not consider the amount of debt a student incurs or whether their postgraduate earnings are sufficient to repay their loans. What the 90/10 rule does measure, however, is the student's ability to pay for their education and not their willingness to pay. Proponents of the 90/10 rule claim the policy is intended to ensure students find enough value in their education to pay for something out of their own pockets. The reality is, however, that many families often do not have the financial resources to contribute to their education without these federal supports. The tight 90/10 rule deters high quality institutions from enrolling low income students such as Pell Grant recipients and students of color. This frustrates public policy that is supposed to extend access to higher education to families that cannot afford this necessity. The 90/10 rule is an antiquated and poorly constructed input test that is divorced from educational quality and student outcomes. As part of the upcoming rulemaking, we urge the department to narrowly interpret section 2013 of the American Rescue Plan Act by only including federal education assistance programs on the 90 side that are consistent with congressional intent. Although CECU disagrees with this policy approach and the ARP is clear that Congress intended for GI Bill, the Bill and DOD tuition assistance funds to count on the 90 side. Any aggressive interpretation that captures funds beyond GI Bill and TA benefits would not be consistent with

congressional intent. Second, we recommend the Department convene a separate Negotiated Rulemaking committee to address the 90/10 rule. The 90/10 rule is exclusively applied to proprietary institutions and is deserving of significant attention given the grave consequences associated with filling the role. Alternatively, if the department decided not to form a separate 90/10 committee, we recommend the formation of a 90/10 subcommittee. Third, we recommend the Department appoint several negotiators from proprietary institutions to the committee, such as those who represent large and small schools, campuses located in urban and rural areas, including those near military bases, and institutions that serve a high portion of low income students. Finally, we ask the Department to publish a list of the funding streams it proposes would be included within the meaning of the phrase "federal education assistance funds" before the first rule making session so that stakeholders have adequate time to consider these proposals. We stand ready as always to provide the Department with further input and recommendations as it proceeds with this important work. Thank you.

MR. MARTIN: Thank you, Mr. Kent. And that concludes our comments for today. I want to thank everybody who participated for their poignant comments and for sticking to the topic and the timeframes. I also want to thank Mr. Finley and Ms. McClair for joining- Ms. McClair-

Ms. McCann for joining me today. And I also want to thank all the people behind the scenes that made this virtual event possible. You don't see them but without their assistance, trust me it would it would not go off smoothly at all. So again, I thank all of you for joining us and that concludes our proceedings for today.