

United States Senate

WASHINGTON, DC 20510

June 22, 2016

The Honorable John King
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202

Dear Secretary King:

We write today to urge you to better protect our military and veteran students and their hard-earned educational benefits by strengthening the 90/10 rule. As we saw with the collapse of Corinthian Colleges, when schools over-rely on taxpayer dollars, efforts to hold those institutions accountable can lead to bankruptcy and create chaos for thousands of students, particularly servicemembers, veterans, and their families. Specifically, we urge the U.S. Department of Education (the Department) to improve the transparency and accountability of the current 90/10 rule. As we celebrate the 72nd anniversary of the signing of the G.I. Bill this week, it is critical that we take active steps to rein in those institutions that are avoiding the intent of our federal protections for students and take away the incentive to use deceptive practices that target veterans and members of our military.

As you know, the 90/10 rule is a federal law that requires for-profit colleges to derive at least ten percent of their revenue from non-federal sources. This rule is designed to ensure that students, employers, communities, and states have sufficient confidence in the quality of education and integrity of a college or university that they are willing to invest some of their own funds in their degree or credential. However, a loophole currently allows colleges to evade the 90/10 rule by counting Department of Defense (DOD) and Department of Veterans Affairs (VA) educational benefits as private, non-federal dollars. It is well documented that some large colleges increasingly rely on enrolling servicemembers and veterans to meet their ten percent requirement for outside investment. As a result, servicemembers and veterans are frequently the targets of high pressure, and sometimes deceptive and misleading, marketing campaigns.

We were pleased that President Obama's Fiscal Year 2017 Budget proposal once again addresses these issues by calling on Congress to close the 90/10 loophole and ensure that all forms of federal educational assistance, including Post-9/11 GI Bill and Tuition Assistance benefits, are properly counted as taxpayer dollars. Furthermore, the budget proposal encourages returning to the original 85 percent cap on federal revenue to ensure an even greater level of outside investment and a better measure of quality assurance in higher education. However, we also believe that there is more the Department can do to hold colleges accountable under the current 90/10 rule.

Last April, many of us requested the Department publish the amount and percentage of funds received by institutions from each Title IV student financial assistance program and the amount of funds from VA and DOD education programs. It is now more than one year later and that data is still not readily available. Publishing this information annually and in an easily accessible manner online will move toward the President's stated policy objective and provide a more accurate picture of some colleges' reliance on federal taxpayers for their operations. Additionally, the data we have requested will help our servicemembers and veterans make better informed decisions regarding their choice of college.

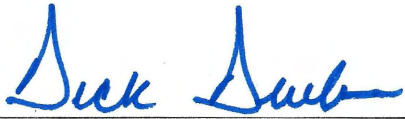
The Department also should increase efforts to ensure that schools are no longer allowed to use evasion tactics to comply with the 90/10 rule. These tactics are regularly used by companies to manipulate the 90/10 requirement and have been documented in a 2012 U.S. Senate Health, Education, Labor, and Pensions Committee staff report. For example, some schools have slowed or entirely stopped federal Title IV aid to students in order to reduce their federal ratio as the compliance deadline approaches. Other schools applied to the Department to switch the identification number assigned to certain campuses owned by the company in order to ensure that campuses with low outside investment are offset and matched with campuses that surpass the 90/10 requirements.

We believe the Department can take administrative action now to stop these practices. Both the current regulation and guidance stipulate that disbursements should be made in the best interest of the student, not the interest of the school. If the Department counts all funds actually disbursed and that could have been disbursed before the end of the fiscal year, it would prevent disbursement delays undertaken for 90/10 purposes and eliminate the incentive for a school to delay the disbursements. Additionally, the Department should eliminate the ability of colleges to manipulate their campuses by either not allowing changes in identification numbers (OPEIDs) in cases where institutional compliance is in question or, similar to what the Department already does when a proprietary institution converts to a not-for-profit institution, require continued compliance under former numbers for at least three years after a change in identification has been made.

Current regulations largely let institutions calculate their own 90/10 ratios and self-report their non-compliance, which creates inherent risk of errors and abuse. Although the ratios are audited, numerous problems have been identified with content of the current audit process. We request that the Department explore taking a more active role in the calculation or verification of an institution's 90/10 ratio. This could be done by using existing Department data, requiring institutions to report additional data, or calculating the ratio using an award year instead of the institution's fiscal year. Should the Department uncover any inconsistencies between the reported 90/10 information, financial audits, or the Department's own analysis, we request that you thoroughly investigate.

We request a response by July 15, 2016, detailing the actions you plan to take to protect our servicemembers and veterans and improve accountability and transparency through a strengthened 90/10 rule. We look forward to working with you and appreciate your prompt attention to this matter.

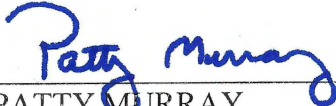
Sincerely,



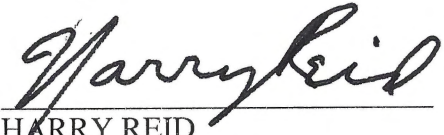
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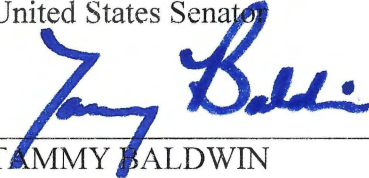
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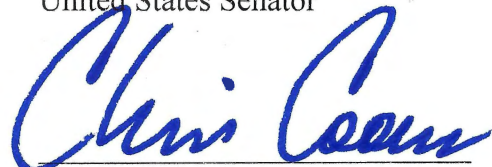
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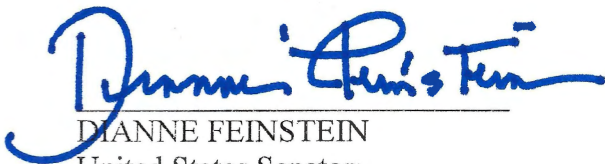
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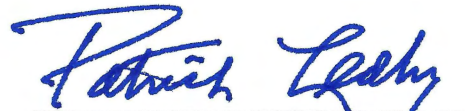


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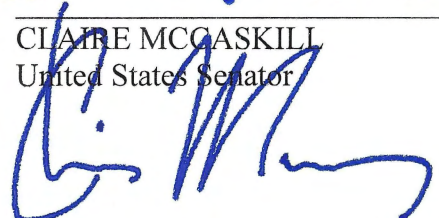

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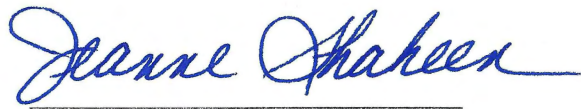

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