

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

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What is the 90-10 Rule?

The 90-10 Rule is a federal law barring for-profit colleges from receiving more than 90% of their revenues from Department of Education Title IV federal student aid, which includes student loans and grants. 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?

For-profit colleges should not be funded solely by federal taxpayers, and federal taxpayers should not be propping up low-quality schools. If a college offers a quality education at a competitive price, someone other than the federal government, such as employers, scholarship providers or students, will be willing to pay for attendance at the school. One publically traded for-profit recently affirmed the significance of employer investment, calling it an “indicator of our educational quality.”¹

Why does it need to be strengthened?

Since it was first enacted with strong bipartisan support in 1992 as the 85-15 Rule, Congress has watered down the rule to make it today’s weak 90-10 Rule. And through a loophole, GI Bill funds and Department of Defense (DoD) 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.²

The Administration supports both closing this loophole that allows schools to count GI Bill funds and DoD Tuition Assistance as private rather than federal dollars and restoring the 85-15 ratio. Legislation to close the loophole (S 1664, HR 3988), and to close the loophole and restore the 85-15 ratio (S 2272, HR 4101), has been introduced in the Senate and House. Both House bills have bipartisan support.

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. This is why so many veterans and military service groups and leaders support this change. It will have no impact on any student’s eligibility for federal grants, loans or tax credits.

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."³

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 70.2% of their revenues from student aid from the Education Department, down for the second year in a row.⁴ The for-profit college industry's own trade organization has stated 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."⁵ 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.

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 violates the rule and loses eligibility for federal funds, it is 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" regulation?

They are very different. The 90-10 Rule ensures that no for-profit college is entirely funded by federal taxpayers. The gainful employment regulation applies to all career education programs at public, non-profit and for-profit colleges and is intended to stop taxpayer funding for career education programs that consistently leave students with insurmountable debts and to provide consumers with information to help them select a career education program. Schools that provide a quality, affordable education should have no difficulty complying with both the 90-10 Rule and gainful employment rule.

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 from unscrupulous schools. The for-profit college industry has had a voluntary code of conduct for many years and it has not prevented fraud and deception. Thirty-seven state attorneys general—Republican and Democrat—are jointly investigating fraud and abuse in the for-profit college industry.⁶ Multiple federal agencies, including the Justice Department, Federal Trade Commission, Securities and Exchange Commission (SEC) and Consumer Financial Protection Bureau (CFPB) are investigating abuses in the industry, and the Justice Department, CFPB and SEC have filed suits against some of the biggest companies in the industry.

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 be tied to its graduation, job placement and student loan repayment rates, and schools that enroll more disadvantaged students 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).⁷ 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.

Would public and/or nonprofit schools fail the 90-10 Rule if it were applied to them?

While the data needed to calculate 90-10 rates for public or non-profit colleges are not publicly available, they would almost certainly easily pass the 90-10 Rule if it were applied to them. Two- and four-year public colleges receive the largest share of their annual revenue from state and local appropriations, and both public and non-profit colleges are much more likely than for-profit colleges to have other significant sources of funding beyond tuition, fees and student charges. Together, this greatly reduces the portion of their revenue from the Education Department and makes it very unlikely public or non-profit colleges would fail the 90-10 Rule. By contrast, for-profit colleges get between 80%-90% of their revenue from tuition and fees.⁸

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.⁹

¹ Career Education Corp's second quarter 2014 earnings call. August 7, 2014. <http://bit.ly/1zeWKBb>.

² See documents referred to in Senator Tom Harkin's Senate floor statement (<https://www.youtube.com/watch?v=XoST1n4plT0>) on the "Targeting of Veterans and Active-Duty Members of the Military by For-Profit Colleges and Universities," May 19, 2011, available at <http://bit.ly/1DAAvLK>. For more information on this issue see <http://www.protectstudentsandtaxpayers.org/military-veterans-background/>.

³ 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://www.gao.gov/assets/320/310897.pdf>.

⁴ U.S. Department of Education, 90/10 rates for Award Year 2013-14, audit as of June 8, 2015, available at <http://1.usa.gov/QUQfji>. The median 90/10 rate is 74.6%, also down for the second year in a row.

⁵ Association of Private Sector Colleges and Universities blog, "Response to the New York Times Editorial." October 14, 2011. <http://bit.ly/1xTCVAk>.

⁶ Hood, James R., "Bill Providing Stricter Oversight of For-Profit Colleges Gets Boost." *Consumer Affairs*, October 7, 2014. <http://bit.ly/1saTBRV>.

⁷ 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/9ndv3v>.

⁸ U.S. Department of Education, Revenues at Title IV Institutions for FY 2009, available at <http://1.usa.gov/1vmfdgG>.

⁹ Kirkham, Chris. "At Kaplan University, 'Guerrilla Registration Leaves Students Deep in Debt.'" *The Huffington Post*. December 22, 2010. <http://huff.to/gu9vPi>. 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. <http://bit.ly/1DAAvLK>. See also: Golden, Dan. "Online Colleges Target Veterans." *Bloomberg Businessweek*. November 4, 2010. <http://buswk.co/aREClT>.