

**Congress of the United States**  
**Washington, DC 20510**

December 10, 2018

The Honorable Betsy DeVos  
Secretary  
U.S. Department of Education  
400 Maryland Ave, SW  
Washington, DC 20202

Dear Secretary DeVos:

We write today to urge the Department of Education (Department) to protect military and veteran students by publishing the amount and percentage of revenue received by for-profit colleges from all federal educational programs.

As you know, the 90/10 rule is a federal law designed to ensure that for-profit colleges demonstrate their financial soundness and educational quality by attracting revenue – at least 10 percent – from sources other than federal taxpayers. However, a loophole allows all non-Title IV federal educational benefits such as Department of Defense (DOD) Tuition Assistance and Department of Veterans Affairs (VA) Post-9/11 GI Bill to be counted as private, non-federal revenue. This allows institutions to receive as much as 100 percent of their revenues from federal taxpayers – flouting the law’s intent.

The loophole creates a powerful incentive for for-profit colleges to use high-pressure and often deceptive and misleading marketing tactics to aggressively recruit service members and veterans. The uptick in aggressive marketing to service members and veterans, particularly since the establishment of the Post-9/11 GI Bill, has been well-documented in Congressional investigations and reports.<sup>1</sup> In the words of Holly Petraeus, for-profit colleges that engage in these practices see our service members and veterans as “lucrative targets” and “nothing more than dollar signs in uniform.” As a result, the institutions profit while, too often, military and veteran students end up wasting their hard-earned, finite educational benefits at schools that do not provide high-quality education and career training.

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<sup>1</sup> U.S. Senate Committee on Health, Education, Labor & Pensions. (July 30, 2014). *Two Years After Harkin Report Revealed Questionable Business Practices in For-Profit College Industry, New Analysis Shows For-Profit Colleges Are Top Recipients of Post 9/11 G.I. Bill Dollars*. [Press Release] Retrieved <https://www.help.senate.gov/ranking/newsroom/press/two-years-after-harkin-report-revealed-questionable-business-practices-in-for-profit-college-industry-new-analysis-shows-for-profit-colleges-are-top-recipients-of-post-9/11-gi-bill-dollars>

As required by 20 U.S.C. § 1094, the Department publishes an annual report that details the amount and percentage of federal and non-federal revenues received by each for-profit college. In December 2016, at the urging of Congress<sup>2</sup>, the Department calculated and published 90/10 data for the 2013-2014 academic year which included DOD and VA educational assistance funds.

The results were staggering. The data showed that without the loophole 186 institutions, including some of the largest recipients of Post-9/11 GI Bill benefits, received more than 90 percent of their revenue from federal taxpayers – amounting to \$8 billion collectively. Further, without the loophole, 566 institutions received more than 85 percent of their revenue from federal taxpayers – amounting to an astonishing \$12.6 billion. By comparison, only 14 institutions exceeded the 90 percent revenue cap in 2013-2014 when calculated using only Department of Education federal student aid dollars.<sup>3</sup>

Unfortunately, this data comes much too late for the students, including service members and veterans, whose lives were severely disrupted by the financial collapse of Corinthian Colleges and ITT Tech. For years, these institutions engaged in a variety of predatory practices and, thanks to the 90/10 loophole, were able to hide their high dependence on federal funds to sustain their operations. For example, according to the Department's estimate, ITT Tech may have received 100 percent of its revenues from taxpayers in 2013-2014. However, because of the 90/10 loophole, ITT Tech reported that it only received 82.67 percent of its revenue from taxpayers. This helped obscure ITT Tech's shaky financial condition from enforcement agencies, lawmakers, taxpayers, and students. The aftermath of these closures for both students and taxpayers clearly show the consequences of allowing for-profit institutions to evade the 90/10 rule and be too heavily subsidized by taxpayers.

We understand that closing the 90/10 loophole requires Congress to change the law. But in the meantime, we ask that the Department continue to publish 90/10 data which counts accurately as federal revenue all revenue received by for-profit colleges from federal taxpayer-funded educational assistance programs. The data is critical for taxpayers and lawmakers to better understand where federal investments in education are being spent and for military and veteran students to make better informed decisions about their educational futures.

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<sup>2</sup> Letter from Senators Durbin, Carper, Murray, Reed and 16 other Senate Democrats to Secretary of Education Arne Duncan regarding 90/10 rule. April 23, 2015 letter: <file:///C:/Users/fr43847/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/I2KHUG3G/90.10%20Data%20Request%20Letter%204.23.15.pdf>

<sup>3</sup> The Office of Senator Richard J. Durbin. (December 21, 2016). *New Analysis Finds Many For-Profits Skirt Federal Funding Limits*. [Press Release]. Retrieved <https://www.ed.gov/news/press-releases/new-analysis-finds-many-profits-skirt-federal-funding-limits>

We ask for a written response no later than January 10. Thank you for your consideration of this matter.

Sincerely,



Richard J. Durbin  
United States Senator



Mark Takano  
Member of Congress



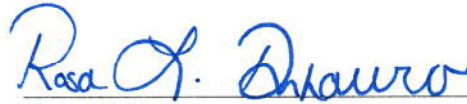
Tom Carper  
United States Senator



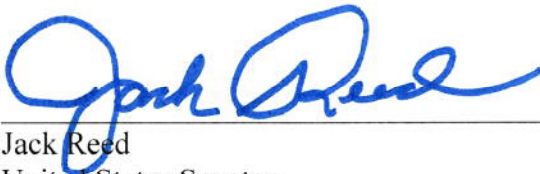
Steve Cohen  
Member of Congress



Patty Murray  
United States Senator



Rosa DeLauro  
Member of Congress



Jack Reed  
United States Senator



Adam Smith  
Member of Congress



Richard Blumenthal  
United States Senator



Susan A. Davis  
Member of Congress

cc: The Honorable James Mattis, Secretary, Department of Defense  
The Honorable Robert Wilkie, Secretary, Department of Veterans Affairs