



**NATIONAL
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Condescending Paternalism: The Department of Education's Unwarranted Limits on Veterans' EARNED Education Benefits

*By CAPT Bob Carey, U.S. Navy (Retired), National Defense Committee
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Executive Summary

The 13 Year Attack on Veterans' Earned Education Benefits

In 2010, the media clutched its collective pearls in shocked agitation over what they deemed the excessive pay of executives of private proprietary universities, or career colleges. At the time, a critical review of career colleges had started under the then Chair of the Senate Health, Education, Labor, and Pensions Committee, Senator Tom Harkin of Iowa. As the media landscape launched its attack on these for-profit institutions, they ignored the truly excessive pay of executives at Traditional Higher Ed universities.¹ The prevailing theme put forth to the American public from the Department of Education, former Senator Tom Harkin, and some “veteran advocacy” groups was of avaricious career colleges overcharging naïve and somehow illiterate military veterans with worthless educational programs used to feather their own pockets at the expense of the U.S. government and veteran students. In reality, many veterans either decide not to go, or cannot gain admission to, Traditional Higher Ed schools. As is the case at many “elite” schools, they are not welcome. Veterans often gravitate to proprietary schools for their open and inviting doors—these academic institutions usually offer alternative and flexible educational settings which work with military and veterans’ busy personal and professional lives. Further, they don’t hide behind a veneer of exclusivity to keep veteran students at arm’s length.

Over the past decade, four facts emerge, facts which were just as evident in 2010, but continue today, and which will be exacerbated by the Department of Education’s most recent “gainful employment” proposal in its years of unrelenting attack on veterans’ education options:

#1. Traditional Higher Ed is in Decline.

Traditional Higher Ed universities look a lot like profitable businesses in their own right. Today, these academic institutions resemble corporations which generate their own form of profits, whether or not they are taxed: They hire scores of employees—many of whom earn millions of dollars per year. Their highly profitable sports programs are so comprehensive and well-funded that in most other nations they would be considered professional leagues; these traditional public and private nonprofit colleges and universities fight tooth and nail to protect their entitled position, engaging heavily in partisan political campaigns (especially in support of sympathetic Democratic members of Congress). As such, they aggressively lobby those same members of Congress to protect their unique tax-exempt status, and to guard their uniquely exclusive and huge endowment incomes.

Despite these market advantages, Traditional Higher Ed institutions are failing. Matriculation is dropping at precipitous rates, yet these schools continue to place blame on some so-called “scandalous advantage” career colleges enjoy—even though those schools only represents a fraction of the total national higher education enrollment. Despite their own massive advantages, Traditional Higher Ed universities continue to seek to disadvantage career colleges and universities in a vain attempt to protect their anachronistic and failing educational models.

¹ Shelly K. Schwartz, 2010, “Pay for CEOs of For-Profit Colleges Top of The Class,” *CNBC News* (December 21). <https://www.cnbc.com/2010/12/21/pay-for-ceos-of-forprofit-colleges-top-of-the-class.html>.

#2. Military and Veteran Students Choose Innovative Career Colleges Over Traditional Universities. Veterans are Not Fooled; They are Not Dumb.

Military and veteran students pick career colleges because these schools accommodate their hectic and unpredictable schedules, because there is a more welcoming and accepting student body, and because career colleges' educational programs focus on career-applicable skills (which ironically, makes them more likely to provide positive "gainful employment" returns on investment for these students).

#3. Politicians Protect Traditional Higher Ed's Advantages, Through Biased Regulations on Career Colleges.

Liberal advocates and elected officials can see the statistical decline of traditional colleges and universities as well as anyone, and therefore have every incentive to work to safeguard Traditional Higher Ed universities' government-mandated advantage by applying restrictive limitations on career colleges only. The "Gainful Employment" (GE) Rule is the most recent example of the federal government tipping the scales in favor of Traditional Higher Ed. In applying a flawed and misleading algorithm to career colleges only, the government fails to hold Traditional Higher Ed to the same standard. In fact, many of these institutions would fail if subjected to the same regulatory red-tape. In addition, the 90/10 Rule, designed on dubious policy grounds, is only applied to career colleges to defend and reinforce the advantageous position of Traditional Higher Ed.

#4. "Regulatory Activism" Exposed by One Veterans Advocacy Group's Unethical Campaign at the Veterans Administration

While some advocacy groups argue they are there to "protect" these apparently ignorant and naïve military and veteran students from so-called deceptive career colleges, their alliance with biased bureaucrats and liberal organizations perpetuates an attitude of condescending paternalism towards these students. Their "mission," mostly backed by one wealthy funder, perpetuates a false narrative that these students are somehow incompetent to make their own choices and need to be protected from their own bad decisions. Such advocacy goes so far as to engage in corrupt and unethical practices to defend the uniquely advantageous position traditional colleges and universities enjoy from government intervention.

A Note About Nomenclature

For purposes of brevity throughout this paper:

"Traditional Higher Ed" refers to public and private nonprofit colleges and universities that have generally dominated higher education in the United States for the past 300-plus years. They do not pay federal taxes.

"Career colleges," also known as proprietary universities, refers to institutions that are frequently organized in the tax code as for-profit companies. They pay taxes like other businesses and may provide a financial return for their investors.

#1. Traditional Higher Ed is in Decline

Traditional Universities Look a Lot Like Profitable Businesses

Traditional universities are effectively profit-driven institutions

Despite their bandying about the imprimatur of being public or private “nonprofit” schools, these colleges and universities are effectively for-profit institutions. These behemoth entities generate huge excess revenues, pay their executives far better than almost any comparable business or even career college, and divert the tuition of their students to questionable administrative and non-educational expenses. Take, for example, the Ivy League. Adam Andrzejewski and Thomas Smith of the organization Open the Books conducted an extensive analysis of the Ivy League’s financial support and found such preferential payments and entitlements cost the United States more than \$40 billion between fiscal years 2010 and 2015, or the “equivalent to \$120,000 in government monies, subsidies, & special tax treatment per undergraduate student, or \$6.93 billion per year”.² When the authors factored in the \$119 billion endowments of these supposedly private “nonprofit” schools, exempt from federal taxation to the tune of \$9.6 billion per year, they found it to be the equivalent of more than \$2 million per Ivy League student, or enough to cover the entire tuition of their entire student body...for the rest of eternity.³

George Leef of the James G. Martin Center for Academic Renewal expanded such analysis to a broader cross-section of nonprofit and state-run public colleges and universities, finding that while these schools may not show “profits” on their financial reports, they take the equivalent of profits through “featherbedding” expenses through such rubrics as excessive and questionable spending on supporting low-demand educational majors, reducing faculty teaching loads below historical averages, and jacking up university executive salaries, just like the above example at Ivy League institutions.⁴ In fact, Leef finds, “the average private undergraduate school makes about \$5,500 per student. When donations and endowment income are added, profits jump to \$12,800 per student” --twice the profit margin reported by the allegedly evil career college University of Phoenix during the same period.⁵

A long list of traditional university employees paid \$1+ million

At these ostensibly nonprofit educational institutions, 84 Ivy League employees were paid \$1 million per year or more, with the University of Pennsylvania – this author’s alma mater – leading the League with 23 employees making over a million dollars.⁶ Richard C. Levin, President of Yale University was paid almost \$15 million over that five-year period, and Amy Gutman, President of University of Pennsylvania, was paid \$13.1 million. One professor of dermatology at Columbia, David N. Silvers, was paid \$25 million over five years, while public investigations highlighted his, “lavish, million-dollar Tribeca apartment, his Park Avenue home

² Adam Andrzejewski and Thomas W. Smith, 2017, *Ivy League, Inc.: U.S. Taxpayer Subsidies, Tax-Breaks and Federal Payments into Ivy League Colleges, Fiscal Years 2010-2015* (Burr Ridge, IL: Open the Books, 2017), 3, www.openthebooks.com/assets/1/6/Oversight_IvyLeagueInc_FINAL.pdf.

³ Ibid.

⁴ George Leef, “Non-profit Colleges Can Be Very Profitable,” *The James G. Martin Center for Academic Renewal Website*, August 17, 2011, <https://www.jamesgmartin.center/2011/08/non-profit-colleges-can-be-very-profitable/>.

⁵ Ibid.

⁶ Andrzejewski and Smith, *Ivy League, Inc.*, 30.

and his million-dollar Southampton pad.” Dr. Silver’s compensation would pay the entire tuition for 380 Columbia students, while the compensation for two other Columbia employees, Messrs. Holland and Narvekar, would cover the tuition for 380 more Columbia students.⁷

It is not just the Traditional Higher Ed institutions themselves, but the “trade associations” and advocacy organizations that swim in institutional profits. The *Washington Post* admitted “[i]t’s easy to mistake big non-profits such as these as for-profit companies, because they operate in similar fashion. They pay their top people a lot of money, charge fees for their services, make investments, market, and lobby legislators.”⁸ Despite this, these institutions do not have to operate under the same transparency regulations of the Securities and Exchange Commission that career colleges must.

The fact is these educational nonprofit associations – the same ones that vigorously defend the preferential position under which Traditional Higher Ed operates –are categorized as “charitable” organizations under the Internal Revenue Code’s 501(c)(3) classification. As such, they are not subject to the same transparency requirements as career colleges and their associations. For example, Kurt Landgraf, the President and CEO of Educational Testing Services which administers the SAT tests for college applications, was paid almost \$1.4 million in 2013. John Whitmore, CEO of the ACT testing service organization, earned over \$910,000. David Coleman, of the College Board, earned more than \$730,000. These executives earned behemoth salaries, despite even *The Washington Post* reporting “the operations of these non-profits are similar to taxable corporations,” and other education nonprofit associations, such as FairTest, calling for the tax-exempt status of these entities to be reevaluated by the Internal Revenue Service. *The Washington Post* goes on to show how the Boards of Directors of these nonprofit associations, which set the salaries for these executives, were themselves paid more than \$1,000 per hour of work—exceeding more than \$100,000 per year for two hours of work per week.⁹

This analysis does not even touch on the huge paychecks given to public and private nonprofit schools’ athletic coaches. The question becomes, why do schools of higher education have their athletic departments pay massive salaries effectively to prepare alleged student-athletes for professional athletic careers in the National Football League, the National Basketball Association, or other intentional teams, but not to excel at their academics? Former Duke Basketball coach Mike Krzyzewski, while arguably the best college basketball coach of all time, was paid \$7.2 million per year. Texas A&M football coach Jimbo Fisher was given the largest contract in school history at \$7.5 million per year—not to mention sweeteners like a \$1 million bonus for winning the national championship and \$100,000 for being named “coach of the year.” The rivalry between Clemson University’s and University of Alabama’s football teams, two public universities, even extends far beyond the gridiron, with the teams’ coaches coming in annually at \$9.3 million for Dabo Swinney of Clemson, and \$9.1 million for Nick Saban of Alabama.¹⁰

⁷ Ibid., 31f.

⁸ Valerie Strauss, “How Much Do Big Education Nonprofits Pay Their Bosses? Quite a Bit, It Turns Out,” *The Washington Post*, September 30, 2015, <https://www.washingtonpost.com/news/answer-sheet/wp/2015/09/30/how-much-do-big-education-nonprofits-pay-their-bosses-quite-a-bit-it-turns-out/>.

⁹ Ibid.

¹⁰ Aria Modirmassihai, “Who Is The Highest-Paid Coach College Sports?,” Gametime (GMTM), 2023, <https://gmtm.com/articles/the-highest-paid-college-sports-coaches>.

Traditional Higher Ed Spares No Expense to Protect Their Cushy Advantages

Public and private nonprofit universities engage in significant partisan political activity – especially for supportive Democratic Members of Congress

Such high rates of compensation for these traditional higher ed executives coupled with the defense of their reputation for being beyond reproach does not come cheap. In fact, it requires extensive political contributions and lobbying expenses. These nonprofit institutions maintain a forceful presence in Washington, DC – regularly lobbying Congress, the Department of Education, and the Department of Veterans Affairs. Shelling out big checks for Members of Congress’ political fundraisers, the political and lobbying activities of Traditional Higher Ed dwarf those of career colleges.

David Martin conducted a detailed analysis of such political donations in 2020, and found, “the non-profit, state-supported sector...gave over \$64.5 million dollars to Democratic candidates versus \$7.8 million to Republican candidates” in 2018. The top three recipients of nonprofit-educational sector political donations were Senators Bernie Sanders and Elizabeth Warren, as well as then presidential candidate and South Bend Mayor Pete Buttigieg. These were also, “the loudest champions of free college education and student debt relief.”¹¹

A detailed analysis of current political donations by the various educational institutions is markedly skewed towards Traditional Higher Ed. For example, during the 2020 presidential election cycle, Traditional Higher Ed schools and their employees contributed almost \$340 million to federal candidates (making that sector the 6th biggest political contributor in the United States). 90% of donations were contributed to Democratic candidates, and 10% were contributed to Republican candidates.¹² Some of the top contributing schools included:

- The University of California system at more than \$25 million,
- Columbia University contributing more than \$4.5 million,
- University of Texas at \$4.4 million,
- University of Michigan at almost \$3.9 million,
- Stanford University with more than \$8.4 million in political contributions,
- Harvard University with \$6.5 million,
- Yale University with more than \$2.7 million in political contributions, and
- The State University of New York with more than \$2.6 million in political donations¹³

¹¹ Martin, David, “The Bias Against For-Profit Education,” *Medium.com* Website, February 10, 2020, <https://medium.com/age-of-awareness/the-bias-against-for-profit-education-b4e476070ad6>.

¹² Open Secrets, “Education: Long-Term Contribution Trends,” Washington, DC: Open Secrets, n.d., <https://www.opensecrets.org/industries/indus.php?ind=W04&cycle=2020>.

¹³ Open Secrets, “Education: Long-Term Contribution Trends.” Washington, DC: Open Secrets, Table “Top Contributors, 2019-2020,” n.d., <https://www.opensecrets.org/industries/indus.php?ind=W04&cycle=2020>, accessed 15 May 2023.

Those contributions are markedly skewed to Democratic and liberal candidates (as Open Secrets classifies them). Of the University of California’s \$25.1 million in political contributions, only \$585,000, or 2.3%, was contributed to Republican or conservative candidates. The University of Texas comes in as the most balanced political contributor with \$484,000 of its \$4.43 million in political contributions (or 10.9%) going to Republican and conservative candidates. State-run schools are even less balanced, such as the State University of New York contributing \$182,000 of its \$2.68 million in political contributions, or 6.8%, to Republican candidates. The University of Michigan donated \$197,000 of \$3.86 million to Republicans—less than 7% of its total. These stark contrasts occur even though 11 of New York’s 28 members of Congress (39%) and six of Michigan’s 15 members of Congress are Republican.¹⁴

In comparison, the political contributions from employees of career colleges pale when compared to those of Traditional Higher Ed schools. Proprietary schools contribute less than one percent the amount that Traditional Higher Ed donated: \$2.9 million, in total, from career colleges compared to \$340 million in political contributions Traditional Higher Ed. Furthermore, proprietary schools’ contributions are much more balanced, with 56% of contributions going towards Democratic candidates, and 44% towards Republicans.¹⁵

Public and private nonprofit universities pair their partisan political activity with intense lobbying programs to protect their unique (and questionable) tax-exempt status and huge tax-exempt endowment income

Traditional Higher Ed’s lobbying dwarfs that of career colleges. Referring back to the Ivy League analysis by the Open the Books organization from above, between 2010 and 2014 the Ivy League spent \$17.8 million on lobbying the federal government, in part to protect the tax-free status of their endowment income, and to maintain federal contracts for their respective institutions.¹⁶ Similarly, private, non-profit education associations spent large sums on lobbying, with the College Board spending \$1,768,295 and ACT \$674,485.¹⁷ Overall, state-run and private non-profit schools spent over \$92 million on federal lobbying in 2022 alone, employing 1,113 lobbyists.¹⁸

In comparison, the entire career college community spent just under \$5.5 million on lobbying (6% of the total of Traditional Higher Ed schools’ lobbying expenditures), and employed only 88 lobbyists (again, only 8% of what the Traditional Higher Ed schools employ.)¹⁹ Returning to the unique example of the Ivy League, those eight schools alone spent more than three times as

¹⁴ Ballotpedia, “United States Congressional Delegations from Michigan.” n.d., https://ballotpedia.org/United_States_congressional_delegations_from_Michigan, accessed May 1, 2023, and “United States Congressional Delegations from New York.” Middleton, WI: Ballotpedia, n.d., https://ballotpedia.org/United_States_congressional_delegations_from_New_York, accessed May 1, 2023.

¹⁵ Open Secrets, “For-Profit Education: Long-Term Contribution Trends” Washington, DC: Open Secrets, n.d., <https://www.opensecrets.org/industries/totals.php?cycle=2020&ind=H5300>, accessed May 3, 2023.

¹⁶ Andrzejewski and Smith, *Ivy League, Inc.*, 3.

¹⁷ Strauss, “How Much.”

¹⁸ Open Secrets, “Annual Lobbying on Education,” Washington, DC: Open Secrets, n.d., <https://www.opensecrets.org/industries/lobbying.php?cycle=2022&ind=W04>, accessed May 3, 2023.

¹⁹ Open Secrets, “For-Profit Education: Lobbying, 2022,” Washington, DC: Open Secrets, n.d., <https://www.opensecrets.org/industries/lobbying.php?cycle=2022&ind=H5300>, accessed May 3, 2023.

much on lobbying as the entire proprietary school industry. The lead lobbying propriety schools include University of Phoenix' parent corporations, Apollo Management Group and Apollo Education Group, spending about \$1.5 million. The highest annual lobbying expenditures by the entire career college education sector, \$11.6 million in 2011, was still only 12.6% of that spent by Traditional Higher Ed 11 years later, in 2022.²⁰

Despite All of their Advantages, Traditional Universities are Still Failing

The Department of Education is unable to accurately predict the success or failure of any university or educational program – but chooses to apply its punitive rules only to career colleges

The bankruptcies of the Traditional Higher Ed institutions Cazenovia College of New York and Finlandia College in the Upper Peninsula of Michigan²¹ are not unique. The combination of tumbling enrollment, poor budgeting choices, and skyrocketing tuitions are forcing students to question the value of a traditional four-year education, and for the Trustees of these schools to question the value of keeping the school open. In fact, Ernst & Young consultancy produces its “Institutional Value Metric” to study, “market demand, student outcomes and financial position to help institutional leaders get a dynamic view of their institutional health in time to take strategic and operational action”.²² Ernst & Young’s analysis showed the inadequacy of the Department of Education’s “at-risk” analysis and declarations: using the Department of Education’s own Integrated Postsecondary Education Data System (IPEDS) data, Ernst & Young found, “20% of the four-year educational institutions were “At Risk” in both 2019 and 2020, and another 20% was flagged as “Monitor””.²³ Ernst & Young pointed out that while 16 of the 26 four-year institutions that closed in 2020 and 2021 were flagged as at risk by Ernst & Young’s IVM analysis, only three were flagged as such by the Department of Education.²⁴

²⁰ Ibid.

²¹ David Jesse, “The College That Mortgaged Everything: Loans Were a Lifeline for Finlandia University. Until They Weren’t,” *The Chronicle of Higher Education* 69, Iss. 20 (June 2, 2023).
<https://www.chronicle.com/article/the-college-that-mortgaged-everything>.

²² Kasia Lundy and Miriam El-Baz, “Six Key Financial and Operational Metrics Pinpoint Higher Ed Risk,” *EY Parthenon*, August 17, 2022, https://www.ey.com/en_us/education/strategy-consulting/six-key-financial-and-operational-metrics-pinpoint-higher-ed-risk.

²³ Lundy and El-Baz, “Six Key Financial and Operational Metrics.”

²⁴ Ibid.

Traditional Higher Ed universities are hemorrhaging students

Present day students are bailing on Traditional Higher Ed because it just doesn't make economic sense. Recently, *The Chronicle of Higher Education* found total undergraduate enrollment is still 1.2 million below that of the spring of 2022. The report found the decline was sharpest among students seeking bachelor's degrees, falling more than associate degree programs. On the other hand, enrollment in certificate programs, in which career colleges specialize and concentrate, saw growth.²⁵

This is supported by the National Student Clearinghouse's annual enrollment estimates, which in the spring of 2023 found total higher education enrollment dropped 1.3 million between spring 2019 and spring 2023 (7.1% fall), public four year enrollment dropped 187,000 (-2.6%), private four year enrollment dropped 122,000 (-2.6%) and private baccalaureate conferring schools which primarily confer associates degrees (PABs by the Clearinghouse's classification) dropped 158,00 (a staggering 15.1%), while public 2-year schools dropped just under one million students, or -19.7%. Meanwhile, four-year career colleges saw a 46,000 increase in enrollment over that period, representing a 5.9% increase.²⁶

Career colleges are gaining students, but still represent only a small fraction of total enrollment

Yet it is the career college sector of higher education – the lone sector with increasing enrollment when all other sectors are suffering a stark decline – that the Department of Education has decided to focus its punitive and vitriolic regulatory aim. The fact is, overall proprietary school enrollment (approximately 780,000 students) is less than the *decline* in overall Traditional Higher Ed enrollment (1.3 million, per above) and only represents 4.8% of total student enrollment in Spring 2023. Further, the 46,000-student enrollment increase at proprietary schools only represents about 25% of the total decline in public 4-year enrollment, and is less than 30% of the decline in Traditional Higher Ed enrollment,²⁷ and can hardly be seen as some mass migration of traditional students to career colleges that the Department of Education and some advocate organizations Success claim is happening because of some illusory cabal of deceptive practices by these schools.

²⁵ Audrey Williams June, "Undergraduate Enrollment Stayed Steady This Spring. It's Still 1 Million Students Below Pre-Pandemic Levels," *The Chronicle of Higher Education* 69, Iss. 19 (May 24, 2023) <https://www.chronicle.com/article/undergraduate-enrollment-stayed-steady-this-spring-its-still-1-million-students-below-pre-pandemic-levels>.

²⁶ National Student Clearinghouse Research Center, "Overview: Spring 2023 Enrollment Estimates," *Team Enrollment Estimates* (Spring 2023): 4, Table 1, https://nscresearchcenter.org/wp-content/uploads/CTEE_Report_Spring_2023.pdf.

²⁷ National Student Clearinghouse Research Center.

Veterans Choose Upstart, Innovative Career Colleges – They Are Not Fooled, They Are Not Dumb

The type of colleges veterans choose (nonprofit vs. for-profit) has no impact on their performance

While the Department of Education will wrap itself up in argumentative contortions to prove, at any cost, proprietary education is a bad deal, the data still shows it is a good deal. That's why students, especially veteran students, continue to enroll. One researcher found that even though "transitioning to college life is a great challenge for veterans",²⁸ veteran graduation rates and grade point averages were still commensurate with those of non-veteran students who did not have those same challenges.²⁹ In looking at the meta-analysis of academic studies to date, data analysis found a positive relationship between the use of VA educational funding programs and veteran graduation rates and GPAs, regardless of the type of institution.³⁰ But that academic's own statistical analysis of veteran academic success found "no statistically significant relationship between VA benefit funding and veteran student ...graduation rates", and "no statistically significant relationship between school funding for veteran student program funding and...GPA".³¹

Instead, researchers note it was factors other than the source of education funding or the type of educational institution attended by a veteran that most influenced academic success. Military mobilization and deployments for veteran students still in the Reserves or Guard, medical or psychiatric issues, not feeling part of the campus environment, attitudes about non-veteran peers and faculty, and the conflicts older students face in managing multiple roles and responsibilities had a drastic impact on academic success. Yet, even with all these additional challenges, studies found the veteran graduation rate of about 50% is "comparable to the national average and above that for nonveterans at the same university".³²

²⁸ Jonathan Paul Lopez, "Evaluating the Efficacy of Programs for Veteran Students" (PhD diss., University of Arkansas – Fayetteville, 2019): 21, <https://scholarworks.uark.edu/etd/3132>.

²⁹ Ibid., 52.

³⁰ Ibid., 56.

³¹ Ibid., 59f and 60f.

³² Mari Alschuler and Jessica Yarab, "Preventing Student Veteran Attrition: What More Can We Do?," *Journal of College Student Retention: Research, Theory & Practice* 20, iss. 1 (April 29, 2016): 47, <https://doi.org/10.1177/1521025116646382>.

Veterans pick career colleges because of online education expertise, a diverse student body, and relative value

As CNBC news pointed out, many reports are showing, “[c]ollege is becoming a path for only those with the means to pay for it,” and “the majority of applicants hail from the wealthiest zip codes” in large part because students are shunning the expense of Traditional Higher Ed schools, or looking to “alternatives to a four-year degree altogether”.³³ In that light, veterans are seeking career college education because “[f]or-profit colleges were among the leaders in online learning” and because of, “the steep increase in the percentage of students in the for-profit sector pursuing their bachelor’s degrees exclusively through distance education in the last decade... [where] 55% of students were attending completely online, compared to just 18% and 6% in the nonprofit and public [education] sectors, respectively.”³⁴

It is not just that career colleges provide the educational environment older students like or that veterans want and need, but that they cater to students that find themselves more disaffected and excluded from Traditional Higher Ed schools. Deming and Goldin find, “that relative to community colleges and other public nonprofit institutions, for-profits educate a larger fraction of minority, disadvantaged and older students, and they have greater success at retaining students in their first year and getting them to complete shorter degree and nondegree and nondegree programs at the certificate and AA levels”.³⁵ Further, studies show “For-profit colleges offer flexible schedules, career applicable skills, and guidance with federal financial aid. All these attributes are attractive to veterans, particularly those who have been out of the civilian labor market for an extended period of time”.³⁶

Finally, career colleges are a good value for veterans. A recent statistical analysis of veteran education benefits and tuition rates for career colleges in the *Journal of Policy Analysis and Management* found that when the Department of Veterans Affairs significantly changed the maximum tuition payment under the Post-9/11 GI Bill to a single national maximum instead of the variable state-by-state maximums provided prior to that regulatory change, the tuition at career colleges only increased by one percent of permissible tuition charges. Authors found this surprising, as they believed the tuition increase should have been “considerably higher for schools with a higher veteran population,³⁷ and that the increase in tuition (the “pass through

³³ Jessica Dickler, “More Colleges Set to Close Even as Top Schools Experience Application Boom,” *CNBC News*, February 22, 2023, <https://www.cnbc.com/2023/02/22/more-colleges-to-close-even-as-top-schools-experience-application-boom.html>.

³⁴ Stephanie Riegg Cellini, “For-Profit Colleges in the United States: Insights from Two Decades of Research,” In *The Routledge Handbook of the Economics of Education*, ed. Brian P. McCall, London: Routledge, December 30, 2021): 515, <https://doi.org/10.4324/9780429202520>.

³⁵ David J. Deming, Claudia Goldin, and Lawrence F. Katz, “The For-Profit Postsecondary School Sector: Nimble Critters or Agile Predators?,” *The Journal of Economic Perspectives* 26, no. 1 (Winter 2012): 143, <https://go.openathens.net/redirector/liberty.edu?url=https://www.proquest.com/scholarly-journals/profit-postsecondary-school-sector-nimble/docview/921643295/se-2>.

³⁶ Matthew Baird, et. al., “Veteran Educators or For-Profiters? Tuition Responses to Changes in the Post-9/11 GI Bill,” *Journal of Policy Analysis and Management* 41 iss. 4 (Autumn 2022): 1035f, <https://doi.org/10.1002/pam.224081035f>.

³⁷ Matthew Baird, et. al., “Veteran Educators or For-Profiters? Tuition Responses to Changes in the Post-9/11 GI Bill,” *Journal of Policy Analysis and Management* 41 iss. 4 (Autumn 2022): 1014, <https://doi.org/10.1002/pam.22408>.

rate”) should have been approximately 15 percent.³⁸ In other words, even when presented with the clear opportunity to legally increase tuition to match maximum GI Bill tuition reimbursement rates, these supposedly avaricious for-profit proprietary schools passed-up that opportunity and kept tuition essentially unchanged.

Veteran students find themselves unwelcome at some public and private nonprofit schools

The compliant members of Congress and government officials, upon whom Traditional Higher Ed institutions bestow their millions in political campaign contributions and lobbying support, seem only too willing to perpetuate a false narrative against career colleges in a last-gasp offensive to save the preferential status provided to traditional universities. The problem is this traditional liberal arts approach does not work for many students, especially military and veterans. Even the VA itself highlights many veterans “face challenges in higher education not seen by other students.” To begin with, many of these veteran students are in their mid-20s, some with a spouse and children, and all with the unique experience of managing the rigors of military life. As such, they may not find the Traditional Higher Ed experience relevant to their post-military lives.³⁹ In addition, many of these veteran students face “intrusive or unpleasant interactions with their non-Veteran peers, who may ask whether the veteran killed someone while deployed,”⁴⁰ or that, “veterans often report difficulty connecting socially with traditional students, who are less likely to have firmly established vocational, social, and family roles...Beyond the perception that traditional students are just 'kids,' the military has been a way of life for [these veterans], and the less-structured role as a student may not be as familiar.”⁴¹

³⁸ Ibid., 1036.

³⁹ Mike Richman, “Navigating the College Experience: Veterans Face Challenges in Higher Education Not Seen by Other Students,” *VA Research Currents*, October 26, 2017, <https://www.research.va.gov/currents/1017-Veterans-face-challenges-in-higher-education.cfm> - :~:text=Researchers have found higher rates.life and interacting with students.

⁴⁰ Ibid., and Brian Borsari, et. al., “Student Service Members/Veterans on Campus: Challenges for Reintegration. American.” *Journal of Orthopsychiatry* 87, no.2 (January 2017), <https://www.doi.org/10.1037/ort0000199>.

⁴¹ Ibid.

Politicians Protect Traditional Universities by Demanding Different Rules for Career Colleges

Rather than encouraging private, state-run, and community colleges to innovate, some Members of Congress and federal agencies simply defend those failing educational models and instead attack career colleges by creating new regulatory hurdles – such as the Gainful Employment Rule and the 90/10 Rule – which most traditional higher ed colleges could never pass if subjected to the same standards.

The “Gainful Employment” Regulation is Biased and Irresponsible

The original GE rule was built on flawed and misleading calculations

When the Obama Administration’s Department of Education initiated its crusade against career colleges via the “gainful employment regulation” in the early 2010s, its claims were repudiated by *The Washington Post’s* “Two Pinocchios” Fact Checker evaluation, indicating “significant omissions and/or exaggerations... creating a false, misleading impression.”

At the time, *The Post* exposed Secretary of Education Arne Duncan’s assertion that 72 percent of career colleges “produce graduates who on average earned less than high school dropouts” was “fairly bogus” and “too fishy.” *The Post* explained “this was not a one-off comment by Secretary Duncan. It is highlighted in department material as one of its key talking points and has been repeated by the news media.”

Instead, *The Post’s* own analysis revealed the USDOE relied on inaccurate Bureau of Labor Statistics hourly wage data. The Department cherry-picked the most argumentatively advantageous, but inapplicable, high school statistics to use as evidence against career colleges--all while ignoring when the same data indicated many traditional universities – like Harvard’s Dental School – failed the same test.⁴²

The 2023 Gainful Employment rule is even worse than the original

Now, with the Biden Administration set to further what the Obama Administration started, House Education Committee Chairwoman Virginia Foxx said: “I welcome accountability and transparency in postsecondary education. It is desperately needed. But this regulatory package is simply the same witch hunt we’ve seen the Biden administration carry out over the last two years to undercut an entire sector of institutions that serves the needs of veterans, minorities, and other disadvantaged students that Democrats claim they care about.”⁴³

⁴² Glenn Kessler, “Do 72 Percent of For-Profit Programs Have Graduates Making Less Than High School Dropouts?” *The Washington Post*, April 11, 2014. <https://www.washingtonpost.com/news/fact-checker/wp/2014/04/11/the-obama-administrations-claim-that-72-percent-of-for-profits-programs-have-graduates-making-less-than-high-school-dropouts/>

⁴³ House Education Chairwoman Virginia Foxx, press release, May 17, 2023. <https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=409178>.

Chairwoman Foxx is right. Even more onerous than the Obama-era regulation, the 1,000+ page 2023 Biden GE rule adds scores of new regulations, required services, and discretionary financial requirements--all of which ultimately increase costs for students.

Many private and state colleges would fail the GE rule

One element unchanged between 2010 and 2023 is the Gainful Employment rule demonstrates how the Department of Education exclusively targets career colleges with stipulations and tests traditional schools could not pass.

As the Centurion Military Alliance recently wrote, “non-traditional schools and career colleges are sought-after options for veterans who need flexibility. The 2023 Biden Gainful Employment rule creates unfair regulatory burdens for these schools, treating them differently than private and community colleges. This unfair treatment doesn’t make sense when studies by the Texas Public Policy Foundation... found that there are unfortunate failing programs in all sectors of higher education when subjected to Gainful Employment Equivalent tests.”⁴⁴

⁴⁴ USDOE Comments by Dr. Chaunte Hall, CEO/Co-Founder of Centurion Military Alliance, June 20, 2023
<https://www.regulations.gov/comment/ED-2023-OPE-0089-3200>

This rings true in many other analyses. A 2023 analysis on the return on educational investment run by Payscale found that of 1,520 schools' 20-year net return on investment, the 10 worst were all Traditional Higher Ed schools. One such public institution was Mississippi Valley State University, which rendered a 20-year net return on investment of -\$193,000 on a total four-year cost of \$82,600. At dead last was Lindsey Wilson College in Kentucky, with a 20-year net return on investment of -\$210,300 on a four-year cost of \$164,000.⁴⁵

Brainsharper conducted a similar analysis and found disturbing results for Traditional Higher Ed. Wilson College in Chambersburg, Pennsylvania, with a four year cost of \$156,000, had a 20-year average return on investment of \$86,700, but only a 39% graduation rate. At the 193-year-old public Cazenovia College in New York, the 20-year return on investment was -\$98,600, despite the school lauding itself as being, "named one of "America's Best Colleges" by *U.S. News* for nineteen consecutive years.⁴⁶ Cazenovia was also recognized by *Money* and *Washington Monthly* as a "best value institution",⁴⁷ despite it missing a \$25 million bond payment in September 2022, leading to its December 2022 decision to close down, all of which is conveniently left off its website.⁴⁸

The Veterans Education Project argues for applying the GE regulation equally, without bias against career colleges. In close, the group explains, "We must protect our Veterans, as they have projected us. All institutions must be held to the same high standards of care and support for Student Veterans. The use of Gainful Employment measurements across all types of institutions will promote ethical practices and protect Student Veterans against predatory recruitment tactics."⁴⁹

The 90/10 Rule Fails to Respect Veterans' Earned Benefits

Freedom to Contract

The National Defense Committee strongly believes in defending veterans' freedom to contract and to use their earned educational benefits as they see best, just as they should be able to use their military pay, veterans' disability compensation, VA home loans, or military retirement pension. Not many would argue the federal government should prescribe the specific grocery stores at which military and veterans can buy their food or prescribe the neighborhoods in which they can use their VA home loans. So why, then, does the Department of Education, the Department of Veterans Affairs, and the advocates for limiting veterans' educational choices believe it is logical and reasonable to limit where veterans spend their earned educational benefits? The propensity to protect the traditional educational models of public and private nonprofit educational institutions is the most likely culprit.

⁴⁵ Payscale, "Best Value Colleges" Seattle: Payscale (2023, 139f. <https://www.payscale.com/college-roi>.

⁴⁶ Oliver Hamilton, "30 Colleges That Aren't Worth the Tuition They Demand," *BrainSharper* (April 6, 2020). <https://www.brain-sharper.com/social/college-tuition-fb>.

⁴⁷ Cazenovia College, "About Caz," New York: Cazenovia College (2023). <https://www.cazenovia.edu/about>.

⁴⁸ Josh Moody, "A Harbinger for 2023? Presentation College to Close," *Inside Higher Ed* (January 2023). <https://www.insidehighered.com/news/2023/01/19/more-colleges-will-likely-face-closure-2023-experts-say>.

⁴⁹ "Student Veterans Deserve for All Higher Ed Institutions to be Held to the Same High Standard (June 23,2023). <https://veteranseducationproject.org/2023/06/23/gainful-employment-standards-higher-education/>.

Throughout the regulatory process, both in the generic and in the veteran space, the Department of Education (USDOE) employs a condescending paternalism towards veterans-students. The USDOE believes veterans – who were trusted to make life or death decisions on the battlefield in defense of the United States – are unable to figure out for themselves what is the best way to educate themselves and to use their educational benefits to do so.

The educational benefits service members and veterans earn through their service should not be altered, nor the decisions by those individuals as to how they want to use those earned benefits be questioned, by the government. The Department of Education has no right to intervene as it sees fit, overriding the will of the individual who earned those benefits. These are earned benefits are not means-based. They have been earned through service in the military, just like a veteran's retirement or a veteran's paycheck. Therefore, such earned educational benefits revenue should not be accounted for against a school's 90/10 balance.

Regulatory Activism and Overreach

The Department of Education's final 90/10 rule exceeded statutory authority. For example, the Final Rule's preambulatory reference to exclude all revenue from distance education programs 90/10 calculations, as well as revenue from Income-Sharing Agreements (ISAs), is an unjust action by the Department extending their powers far beyond what Congress intended. Furthermore, the Department's decision to delay publication of the Final Rule jeopardized the very educational programs upon which service members and veterans are planning to use their earned benefits, but which will now need to be hastily revised by the educational institutions to comply with the Department of Education's arbitrary and capricious expansion of its regulatory regime, far beyond that directed by Congress' recent legislative directives.

The VAOIG and Senator Grassley Detail How One Veterans Education Advocacy Group – Backed by One Massive Funder – Unethically Bypasses the Standard Regulatory Process

How “Regulatory Activism” Circumvents Normal Government Processes

“Regulatory Activism” is when the government enacts regulations while ignoring regular legal bureaucratic analysis and open public engagement – frequently to arrive at a pre-determined outcome. Many ascribe this to a broad and general growth of the federal Executive Branch’s regulatory power because employees at regulatory agencies are attracted to the work because they are already “missionaries” or “advocates” for that Agency’s specific regulatory cause.⁵⁰ Because of that, “Government bureaucracies are consumed with the notion that they exist to protect American consumers from themselves. This is what drives bureaucratic decision-making and leads to regulatory activism.”⁵¹

Dr. Robert Topel, the Isidore Brown and Gladys J. Brown Distinguished Service Professor of Economics Emeritus at University of Chicago explores this concept in greater detail, constructing an economic model which demonstrates because a government “agency’s evaluation of the problem is subject to both measurement error and bureaucratic bias”⁵² those agency bureaucrats will overregulate, perpetuate bias, and protect their regulatory authority from oversight.⁵³

Regulatory Activism in Higher Education

Phil Hill, a longtime public commenter on higher education through his blogs OnEdTech and OnEdTech+ expands upon Dr. Topel’s philosophical and academic theories for regulatory activism and applies them to the real-life examples he sees with the federal government’s inequitable regulation of the higher education market, especially with restrictions on the use of veterans’ educational benefits. Specifically, Mr. Hill points out the inherent inequities of regulatory activism by those with disproportionate access to the levers of government power. Mr. Hill and others describe this phenomenon as a cabal of special interests and activist government bureaucrats who collaborate to leverage the regulatory processes available “to enable predefined end goals, usually around reining in for-profit entities.” They achieve this through limited public debate, an informal and opaque intergovernmental process which multiplies the effectiveness of

⁵⁰ Robert Topel, “Agency, Activism, and the Expansion of the Regulatory State” *Research in Labor Economics* 50 (2023): 255, <https://doi.org/10.1108/S0147-912120230000050009>.

⁵¹ Brian Wise, “Consumers Need Bipartisan Action to Counter Regulatory Activism,” *The Hill* (April 16, 2015). <https://thehill.com/blogs/congress-blog/economy-budget/239005-consumers-need-bipartisan-action-to-counter-regulatory/>.

⁵² Topol, “Agency, Activism,” 265.

⁵³ *Ibid.*, 267f.

achieving those pre-determined end-states, and little worry of any unintended consequences-- because the activism goals justify the messy and mirky means used to achieve them.⁵⁴

In a series of detailed blog posts throughout 2022 and 2023, Mr. Hill lays out his argument that the U.S. Department of Education, U.S. Department of Veterans Affairs, and certain non-governmental activist organizations, backed by large “donor” companies used all the tools available across multiple federal agencies both within the government and throughout the public at large to achieve pre-determined goals. These priorities “seem to have a common “protect students from the bad actors” theme, usually based on the involvement of for-profit companies – and not just in the for-profit sector.”⁵⁵ Indeed, throughout this series, Mr. Hill points out details how the “informal” interagency coordination process works, whereby every aspect of the for-profit education community is simultaneously attacked. This offensive is part of a broader coordinated coalition operating under a very specific consumer protection philosophy that essentially views veteran students as incompetent rubes repeatedly preyed upon by avaricious companies.

Case-in-Point: The VA Inspector General’s Report on VES and the Bogues

This regulatory activism is seen in full force throughout the Department of Education’s and Department of Veterans Affairs’ thirteen-year crusade against career colleges, all based upon the unsubstantiated philosophy that higher education is best when run by the State or as “non-profit” institutions. The regulatory protagonists are a small set of nongovernmental activists fighting to both protect Traditional Higher Eds’ historically advantaged position and censure career colleges, which have grown largely through the support of veterans and other working older students, who show their preference with their feet and wallets.

Unsurprisingly, this small set of educational advocacy groups exercises disproportionate influence on veterans’ benefits’ policymaking without adequately representing a holistic military veteran viewpoint. One of the most active, founded by the former staffer for the then chair of the Senate Health, Education, Labor, and Pension Committee, Senator Tom Harkin – who first initiated this campaign against career colleges -- is Veterans for Education Success (VES). Founded and still run by that former staffer to Senator Harkin, Carrie Wofford, VES describes its mission as “working on a bipartisan basis to advance higher education success for veterans, service members, and military families, and to protect the integrity and promise of the GI Bill and other federal postsecondary education programs”.⁵⁶

The experience of the veterans’ education community with VES shows something far less bipartisan. Just last year, the VA’s Office of Inspector General raised serious ethical concerns on the part of VES in its advocacy for these punitive regulations which protected the market position of Traditional Higher Ed, by retaining the spouse (Barrett Bogue) of the then Director of

⁵⁴ Phil Hill, “Additional Clarity into Regulatory Activism in Education,” *OnEdTech Blog* (April 6, 2022). <https://philhillaa.com/onedtech/additional-clarity-into-regulatory-activism-in-education/>.

⁵⁵ Phil Hill, “Recent Clarity into Regulatory Activism In Education.” *OnEdTech Blog* (March 31, 2022). <https://philhillaa.com/onedtech/recent-clarity-into-regulatory-activism-in-education/>.

⁵⁶ Veterans Education Success, “Our Mission,” Organizational website, n.d., <https://vetsedsuccess.org/>, accessed August 13, 2023.

the VA's Education Service (Charmain Bogue) as a consultant, where Mr. Bogue then lobbied his spouse on the very regulatory issues over which she had bureaucratic control. The VA's Inspector General determined Ms. Bogue violated the VA's, "apparent conflict rule because she did not evaluate whether her impartiality could reasonably be questioned in this instance" in answering her spouse's questions on behalf of VES.⁵⁷

Indeed, the VA's Office of Inspector General (VA OIG) reports their investigation into this conflict of interest "was hampered by a lack of cooperation from VES and Ms. Bogue's spouse [who was contracted to represent VES]. While VES and Mr. Bogue's consulting firm produced documents in response to a VA OIG subpoena, the VES president and Mr. Bogue declined the OIG's requests for interviews."⁵⁸ Lacking testimonial subpoena authority, the VA Inspector General could not require testimony by VES, Barrett Bogue, or Charmain Bogue because while she left federal service after the Inspector General started this investigation, she departed before the VA OIG could complete its interviews, and therefore the Inspector General "could not compel cooperation".⁵⁹

Why Whistleblowers and Senator Grassley Initiated the VES/Bogues Investigation – And How VA Leadership Has Dodged Their Questions

As the VA OIG report indicates, Senator Charles Grassley first raised the concerns⁶⁰ regarding possibly inappropriate interactions between VES, the VA's Office of Education Services, and Mr. and Ms. Bogue. After a year of insufficient answers from the VA, Senator Grassley took to the Senate floor on July 12, 2022 to detail not only the whistleblower complaints against Director Bogue and VES, but also that lack of response over the previous year by the VA to his Congressional oversight queries, and the apparent political intervention by the White House to prevent the Department from responding to the Senator's questions. For example, in Senator Grassley's floor statement, he states that while "...career public servants at the VA prepared a response to my letter over a year ago...when it came time for [VA] Secretary McDonough to send that letter to my office, senior Biden political officials blocked it...[and] have issued an order not to respond to my requests".⁶¹

⁵⁷ U.S. Department of Veterans Affairs, *Veterans Benefits Administration, Education Service: Former Education Service Executive Violated Ethics Rules and Her Duty to Cooperate Fully with the OIG*, Office of Inspector General, Office of Special Reviews, Administrative Investigation Report #21-02076-119 (Washington, DC: Department of Veterans Affairs, March 24, 2022): i, <https://www.oversight.gov/sites/default/files/oig-reports/VA/VAOIG-21-02076-119.pdf>.

⁵⁸ Ibid.

⁵⁹ Ibid., footnote 2.

⁶⁰ Charles E. Grassley, "Letter to Denis McDonough, Secretary, U.S. Department of Veterans Affairs," Washington, DC: U.S. Senate Committee on the Judiciary (April 11, 2021), https://www.grassley.senate.gov/imo/media/doc/grassley_to_dept.ofveteransaffairsvbaethicsmarketinfoleaks.pdf.

⁶¹ Charles E. Grassley, "Grassley: The VA Needs to Provide Answers," *Prepared Floor Remarks by U.S. Senator Chuck Grassley of Iowa: The VA Needs to Provide Answers* (Washington, DC: U.S. Senate, July 12, 2022), <https://www.grassley.senate.gov/news/remarks/grassley-the-va-needs-to-provide-answers>.

In his floor statement Senator Grassley stretches his analysis back to 2017, expanding upon the VA OIG report that VA employees, “sought guidance from VA lawyers on whether Mrs. Bogue should recuse herself on a procurement-related matter... [where t]he lawyers affirmed that Mrs. Bogue should recuse herself, and the employee copied Mrs. Bogue on this guidance.” Senator Grassley then proceeds to detail how Director Bogue never did recuse herself and that the whistle-blowing VA employee was removed from federal service.⁶² Senator Grassley also included in his floor speech a new letter to Secretary McDonough that he sent the day, in which details that Barrett Bogue, Director Bogue’s husband, was paid \$5,000 per month by VES for two years, and then given a \$35,000 termination payment. Senator Grassley also reminds Secretary McDonough in that July 11, 2022 letter of the results of the VA OIG report, including that Director Bogue exchanged numerous emails over the prior four years with VES regarding a Memorandum of Understanding which would give VES a unique educational data exchange contract with the VA, and because Mr. Bogue, “was trading on his access to Mrs. Bogue...”⁶³

Phil Hill Persuasively Exposes Arnold Venture as the Central Organization Behind this Coordinated Effort

Returning to Phil Hill and his analysis of the broad regulatory activism campaign targeting proprietary and career schools exclusively, Mr. Hill shows the widespread campaign against career colleges is orchestrated by a single entity: Arnold Ventures. Established by Laura and John Arnold in 2010, Arnold Ventures houses a team of more than 100 subject-matter experts to “tackle the most pressing problems in America.”

Mr. Hill writes that “80% of the think tanks, foundations, and associations that publicly advocated to kill [online program management revenue sharing] and expand [third-party services prohibitions] were directly funded by Arnold Ventures.”⁶⁴ Referring back to regulatory activism, a Arnold Ventures-orchestrated campaign of “consumer protection writ large” where these issues can effectively be regulated, not through the normal regulatory process, but through an punitive, biased informal policy process “with the swipe of a digital pen.”⁶⁵

In this instance, Mr. Hill describes how the nine organizations leading this regulatory activism charge are all funded by Arnold Ventures. He suggests readers should, “put aside the merits of the policy disputes and look instead at which groups are leading this campaign that successfully got [the Department of Education] to introduce these rules... Same organizations, same common funding, same methods.”⁶⁶ Mr. Hill sees this as a crucial issue, because he shows it to be, “a multi-channel campaign being waged by the coalition, and seldom do the connections get mentioned in news stories.”⁶⁷ Mr. Hill is apologetic for his own lack of prior investigatory

⁶² Grassley, “The VA Needs to Provide Answers”

⁶³ Charles E. Grassley, “Letter to the Honorable Denis McDonough, Secretary, U.S. Department of Veterans Affairs,” Washington, D.C., U.S. Senate Committee on the Judiciary, (July 11, 2022): 2f.
[https://www.grassley.senate.gov/imo/media/doc/grassley to va - oig investigation of bogue2.pdf](https://www.grassley.senate.gov/imo/media/doc/grassley%20to%20va%20-%20oig%20investigation%20of%20bogue2.pdf).

⁶⁴ Phil Hill, ““It’s Much Broader.””

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Phil Hill, “Arnold Ventures Influence Beyond Regulation,” *OnEdTech+ Blog* (May 9, 2023),
https://philhillaa.com/onedtech/arnold-ventures-influence-beyond-regulation/?utm_source=onedtech.beehiiv.com&utm_medium=newsletter&utm_campaign=it-s-much-broader-than-lobbying-against-opms.

reporting on this issue, where he “fell into the trap of describing the individual letters and lawsuits and article but not describing the coalition.”⁶⁸ In the end, Mr. Hill believes many of these regulations are wrong-headed, overwhelmingly opposed by those commenting on the various Notices of Proposed Rulemaking, where

[t]oo many people are living in the mid-2010s world, assuming that this informal coalition is led by The Century Foundation, with Bob Shireman as the regulatory godfather inspiring others with similar points of view. Ask anyone who directly deals in these regulatory issues, however, and it becomes clear that Arnold Ventures is currently the central organization.⁶⁹

Mr. Hill goes into great depth of his analysis showing how Arnold Ventures’ contributions to this constellation of coordinated organizations makes up a substantial portion of their overall organizational revenue, with Veterans Education Success receiving \$4.143 million,⁷⁰ which represents more than half of the revenues reported by VES on their IRS filings between 2017 and 2021 (the latest filings publicly available),⁷¹ and which VES President Carrie Wofford herself credited those contributions as key to VES’ work against for-profit educational institutions.⁷² In fact, Ms. Wofford cites Arnold Ventures support in VES initiative to gain access to inside-government educational databases for interagency sharing,⁷³ apparently the same databases referenced by the VA OIG. In the end, Mr. Hill is clear that when investments from the for-profit firm Arnold Ventures becomes such a large part of the organization’s revenue, “that is not donation-based, that is for all intents and purposes a wholly-owned subsidiary.”⁷⁴

⁶⁸ Ibid.

⁶⁹ Phil Hill, “Arnold Ventures Influence on ED Policy,” *OnEdTech Blog* (May 8, 2023), https://onedtech.beehiiv.com/p/arnold-ventures-influence-ed-policy?utm_source=onedtech.beehiiv.com&utm_medium=newsletter&utm_campaign=arnold-ventures-influence-beyond-regulation.

⁷⁰ Ibid.

⁷¹ Carrie Wofford, “Return of Organization Exempt from Income Tax: Form 990, 2021,” Washington, DC: Veterans Education Success (May 13, 2022), <https://beta.candid.org/profile/9358006?keyword=veterans+education+success&action=Search>.

⁷² Diana D’Abruzzo, “Carrie Wofford, Fighting to Protect Veterans from Predatory, For-Profit Colleges.” *Arnold Ventures Higher Education Blog* (April 22, 2020), <https://www.arnoldventures.org/stories/carrie-wofford-of-veterans-education-success>.

⁷³ Ibid.

⁷⁴ Hill, “It’s Much Broader than Lobbying.”

Conclusion and Four Recommendations

The multiple issues surrounding the actions of the VA's Office of Education Services, the widespread campaign waged against career colleges by the Department of Education (even in the face of overwhelming public opposition), and the practices of VES and Arnold Ventures (both as discussed by the VA OIG and by the numerous outside observers of those actions), cast in doubt, both legally and from a policy perspective, the broad array of regulatory actions taken over the last thirteen years. Mr. Hill characterizes it as a:

transparency issue, with [the Department of Education] listening to this small group of advocacy organizations, and developing guidance that impacts nearly all institutions and most vendors, without sufficient public knowledge. Especially when some organizations in that coalition are hardly independent. Second is the groupthink issue, where any small group of likeminded people who believe they know what and who are good and bad can come to flawed conclusions by not engaging or listening to the broad community and challenging their own assumptions.

Given these continued unanswered questions regarding the efficacy and legality of the regulatory and policy processes executed by the Departments of Education and Veterans Affairs, the National Defense Committee recommends the following actions:

1. Both the Departments of Veterans Affairs and Education rescind their respective Final Rules regarding Third Party Services, Online Program Management, State Authorization Reciprocity Agreements, Gainful Employment, and the "90/10 Rule." Both agencies should republish the Proposed Rules under Negotiated Rulemaking procedures and expand the participants in those Rulemaking Committees to represent the stakeholder communities more fully.
2. The Department of Justice should initiate investigations against Mr. and Mrs. Bogue, Veterans Education Success, and Arnold Ventures to explore if and when any criminal or administrative statutes were violated in the representation of VES by Mr. Bogue before the VA and the Department of Education (including potential insider trading).
3. As a consequence of their refusal to cooperate in the OIG investigation, the Department of Veterans Affairs and the Department of Education should immediately cease any further contact with VES, Mr. and Mrs. Bogue, and their funder, Arnold Ventures.
4. Congress should place legislative prohibitions in the Labor, Health and Human Services, and Education Fiscal Year 2024 Appropriations Act, and the Military Construction and Veterans Affairs Fiscal Year 2024 Appropriations Act, against any federal funds being expended to execute any of the regulations discussed in recommendation #1 above.

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