



# 2025 Veterans Higher Education Policy Priorities

119TH CONGRESS  
TRUMP-MCMAHON DEPARTMENT OF EDUCATION  
TRUMP-COLLINS DEPARTMENT OF VETERANS AFFAIRS

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## Mission Statement

Veterans' and military members' earned education benefits are an important resource to help those who serve attain their educational and career goals and a valuable tool to help the military to recruit and retain qualified leaders. Regulation governing the use of education benefits vacillated dramatically over the past decade. The Biden-Harris administration initiated numerous rule changes, questionable in their necessity and motivation, that restrict how servicemembers can use their benefits, threaten competition, strangle innovation, and limit military and veteran student choice.

**This briefing paper provides a summary of recommended actions Education Secretary-nominee Linda McMahon, Veterans Affairs Secretary-nominee Doug Collins, and the 119th Congress should take as soon as the two Secretaries are confirmed to correct this federal overreach and create long-term regulatory certainty.** *NDC urges Congress to confirm Ms. McMahon and Mr. Collins immediately, so they can begin leading the important work that needs to be done at their respective agencies.*

## Abolish Regulations that Inhibit Higher Education Choice

Veterans and military members (collectively, "Veterans") should be free to contract and use their earned education benefits as they see fit, no different than how they can spend their military pay. Yet, the Department of Education (ED) and the Department of Veterans Affairs (VA) imposed selective regulations that effectively preclude Veterans from using their education benefits at career colleges and many online programs, even though these education paths are often a better option for nontraditional students.

- **Rescind the 90/10 Rule:**

ED's 90/10 Rule—which applies exclusively to career colleges—requires that at least 10% of a school's revenue be derived from non-Title IV student aid. The rule treats military earned education benefits as federal aid when instead it should be considered like any other financial resource a Veteran may have.

- If a military retiree uses some of their retirement pay to fund their (or their dependents') education, that's not counted against the school's 90/10 balance, even though that is federally funded resource. So why would earned educational benefits be counted as a federal source when the use of that benefit is decided by the Veteran themselves?
- By this unreasonable logic, if the Veteran decides not to use their education benefits but still attend a school subject to the 90/10 Rule, the Department of Education would nevertheless count the veteran's unused benefits against that school's balance in some perverse form of imputed tuition payments.
- Further, many higher education programs are designed to meet the unique educational requirements, and leverage the distinctive education and skills experience, of Veterans. Therefore, these schools naturally attract above-average Veteran student populations. The 90/10 Rule penalizes schools for trying to provide such specialized assistance, which the Departments of Labor, Defense, and Veterans Affairs have consistently failed to provide through the Transition Assistance Program, and which Congress attempted to replicate through the Veteran Employment Through Technology Education Courses (VET TEC) program. Regardless, such veteran specific programs still account against a school's 90/10 balance, which capriciously discourages education programs from admitting Veteran students in the first place. The rule incentivizes Veteran students to forgo their earned education benefits and instead take out more debt to attend the same program, if their earned education benefits are not accepted by a school.

- In light of the *Loper Bright v. Raimondo* decision, which set aside the historical judicial deference to Executive Branch interpretation of Congressional intent provided in the *Chevron Deference* decision, Congress should look to directly legislate further limitations on ED's and VA's ability to promulgate something like the 90/10 Rule as an unjust expansion of their powers. The National Defense Committee will seek opportunities itself to bring suit against the ED to find this Rule as an unconstitutional usurpation of regulatory power without legislative authorization.

- **Rescind the Gainful Employment Rule:**

- Like the 90/10 Rule, the Gainful Employment Rule (GE) applies only to career colleges and suffers from almost all of the same erroneous legislative interpretations as the 90/10 Rule. It should similarly be legislatively proscribed by Congress and the Courts. Using a flawed and misleading algorithm, GE requires schools to prove that graduates earn more than their peers with only a high school diploma, ignoring the education benefits they may earn over the four years of a typical bachelor's program, even without earning the degree, which would still likely increase their post-education earning potential. If the rule is so necessary, it should be applied uniformly to all colleges and universities. About 40% of programs at private schools and 30% of those at public schools would fail the same standard, according to a 2020 analysis. But it is not necessary, and therefore the Trump-Vance ED should immediately rescind the existing Rule, and Congress should legislatively proscribe ED from reimposing this regulation. The National Defense Committee will seek opportunities to exercise the legal and civil rights of Veterans it supports through judicial action, and calls on other military and veteran advocacy and service organizations to join it in these judicial pursuits.

## **Rescind Program Participation Agreement Changes:**

Colleges and universities are required to complete and maintain a program participation agreement (PPA) with ED to receive federal student aid. In 2022 ED amended its criteria, giving the department greater authority to place schools on "provisional" status, a "power" the ED assumed for itself without legislative authorization and with little explanation as to why this was necessary. Currently, more than 5,000 programs at nearly 700 schools are under provisional program participation agreements (PPAs). The majority are proprietary schools. This regulatory purgatory creates uncertainty for students and institutions, since there is no clarity whether a school's good standing will be reinstated. Congress should ask ED to clear the PPPA backlog and implement objective criteria to identify schools that violate their PPAs and the necessary actions for reinstatement.

## **Pass the Ensuring Distance Education Act:**

Distance learning is a popular path to a post-secondary degree, especially for veteran students (including the Executive Director of National Defense Committee), who are generally older, have families, and are transitioning into civilian life. These programs provide flexible schedules, teach career-applicable skills, and frequently keep tuition low. Distance learning also enhances student retention rates from 25% to 60% and reduces study time by 40% to 60%.

Rep. Burgess Owens (R-UT), a member of the House Education & Workforce Committee and Chair of the House Higher Education & Workforce Development Subcommittee, introduced the Ensuring Distance Education Act in 2024.

The bill would prevent federal bureaucrats from picking winners and losers and instead let colleges and universities innovate, expand learning options, and enhance access to a quality education. The 119th Congress should take the 118th Congress' legislative language (if not reintroduced soon by Rep. Owens) and pass it for the President's signature as soon as possible.

Veteran students—not bureaucrats in Washington—are best equipped to make decisions that are right for them, especially when it comes to their education. That's why it is critical that Congress pass, and the president sign, the Ensuring Distance Education Act.

## **Provide Stability for Online Collegiate Coursework Partnerships:**

Many top national universities, alongside small rural colleges, rely on online program managers (OPMs) for advice, technical support, and marketing of their web-based classes, which are widely popular with Veteran students. This is why NDC joined other veteran service organizations to [ask the Biden Administration to rescind](#) its 2023 initiative to increase unnecessary regulations on third parties that provide bundled services.

While the Biden-Harris Administration temporarily dropped the idea last year, NDC recommends that ED Secretary-nominee McMahon protect these OPM-college partnerships by codifying the bundled services exemption and that Congress legislatively proscribe such codifications. As with the 90/10 Rule and the Gainful Employment Rule, the National Defense Committee will seek opportunities to exercise the legal and civil rights of Veterans through judicial action to prohibit such regulatory actions and calls on other military and veteran service organizations to join it in these judicial pursuits.

## **Require Equitable Veteran Representation in Negotiated Rulemaking:**

ED's negotiated rulemaking has become an opaque process for bureaucratic regulators to subversively impose its own desired rules outside Congress' oversight by either cloaking it in the imprimatur of the negotiated rulemaking process, or by allowing a negotiated rulemaking process to fail so ED can impose rules while claiming it "tried" the negotiated rulemaking process. NDC's flagship report, "[Condescending Paternalism](#)," identifies numerous examples of special interest groups, supported by secretive donors and organizations masquerading as impartial student advocates, wielding disproportionate control over ED's negotiated rulemaking. The result is a lack of diverse, experienced Veterans representation and rulemaking that does take into consideration their unique circumstances.

Congress should exercise its oversight responsibilities to demand ED disclose its negotiated rulemaking committee selection criteria, and thereafter implement legislative proscriptions for ED's selection process to prevent this bureaucratic process from being abused and to ensure a deep bench of negotiators who are qualified to properly represent Veteran students.

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## **About the National Defense Committee**

Founded in 2003, National Defense Committee was established to advocate for fundamental reforms during the post-9/11 ramp up of Reserve utilization. Today, National Defense Committee is a veteran-serving advocacy organization focused on legislative, regulatory, and public policy reforms in higher education, health care, military voting rights, the Second Amendment, and other select issues.

## References and Resources

- *“Condescending Paternalism: The Department of Education’s Unwarranted Limits on Veterans’ Earned Education Benefits,”* National Defense Committee, August 2023
- *“Military & Veterans Coalition Joins Call for Diverse Representation on Dept. of Ed Neg-Reg Committees,”* National Defense Committee, April 2024
- *“Department of Education’s Selective Regulation Hurts Our Military,”* Washington Times by Bob Carey, National Defense Committee Executive Director, and U.S. Congressman Burgess Owens, September 2024
- *“You Can Die for Your Country, but You Can’t Go to a Career College,”* RealClear Education by Bob Carey, National Defense Committee, November 2023
- *“Regulators’ Disdain for Alternative Higher Ed Options Hurts Veterans,”* Daily Herald by Bob Carey, National Defense Committee, September 2024