



NATIONAL DEFENSE COMMITTEE

July 30, 2025

The Honorable Linda McMahon
Secretary of Education
400 Maryland Avenue, SW
Washington, DC 20202

Subject: Correction to 90/10 Rule and its Full Repeal

Dear Secretary McMahon,

Thank you for your [decision](#) to revise the Department of Education's previous egregious interpretation of the 90/10 Rule, especially the clear setting aside of "legal interpretation articulated in the preamble to a final rule", and the citation of considerable case law that clearly states, the preamble to a final rule is interpretive not legislative, rule, and as such federal agencies "[cannot use preambles to add substantive duties that the regulations themselves do not contain.](#)"

The Department's amendment offers a long overdue correction to a stipulation adopted outside the proper rulemaking process, which put nontraditional colleges (favored my military and veteran students who are, themselves, nontraditional students) at an arbitrarily uncompetitive marked disadvantage to conventional public and private nonprofit schools.

The online program revenue exclusion was an error to begin with—an issue the National Defense Committee has [written about](#) extensively before, and calling out how you, correctly in our opinion, could correct these "contorted regulatory gymnastics the previous administration manipulated when they "amended" the preamble of the previously finalized and published regulation." specifically we noted the preamble language was not discussed in the context of the 90/10 Rule during negotiated rulemaking [hearings](#), but instead simply arose as a discussion point that mentioned the preamble, and was thereafter adopted out of context and without consensus into the Final Rule, and egregiously exceeded the Department's statutory authority.

We thank you for recognizing that regulatory overreach and for correcting such bureaucratic deception to extend the reach of the unelected and unappointed "Administrative State" this Administration has so forcefully fought against.

The previous administration conveniently disregarded this regulatory overreach. It was focused on driving career colleges, which the Biden team apparently disdained, out of business—despite their [growing popularity](#), especially among military and veteran students. Prohibiting distance education revenue from their 90/10 balance was simply one more way to put these institutions at a disadvantage, and to protect the ivied walls of traditional academic ivory towers from getting their lunches eaten by the schools students, especially military and veteran students, prefer.

National Defense Committee has [long advocated](#) for the full and permanent repeal of the 90/10 Rule, which discriminatorily targets proprietary schools and prevents military servicemembers

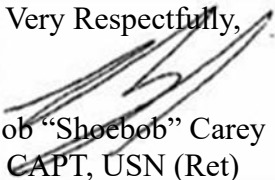
and veterans from freely using their earned education benefits. **Now is the time for the Department to retire the egregious 90/10 Rule further and retire the 90/10 rule for good.**

As I testified before a Department of Education negotiated rulemaking hearing (I also served as a negotiator on the Department's most recent Negotiated Rulemaking committee on Public Service Loan Forgiveness), America entrusts our military leaders with the lives of its sons and daughters during service. But once that military leader leaves active duty and becomes a veteran, they somehow dramatically become and imbecile, incapable of being trusted to choose a college or program that best meets their learning needs. That is fundamentally unfair.

National Defense Committee applauds the Department for its decisive action to correct the prior regulatory overreach. We support your vision to create a "level playing field with limitless opportunity," which will foster innovation, competition and most importantly, individual student liberty, choice, and personal responsibility. **We encourage you, Madam Secretary, to codify that promise and build on this momentum by directing the recently announced RISE and AHEAD Negotiated Rulemaking Committees to rescind the 90/10 Rule once and for all.**

Thank you for your time and consideration. We stand ready to discuss this issue with you further, and we can be reached at Director@NationalDefenseCommittee.com or 202-779-1598.

Very Respectfully,



Bob "Shoebob" Carey
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Executive Director