



**NATIONAL  
DEFENSE  
COMMITTEE**

# **Condescending Paternalism 2.0: How the Department of Education and Congress Are Collaborating to Restore Veterans' EARNED Education Benefits**

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## Executive Summary

**In 2023, the National Defense Committee published its flagship report, *Condescending Paternalism: The Department of Education's Unwarranted Limits on Veterans' EARNED Education Benefits*. The report identified how, under previous administrations and with support of likeminded lawmakers, the U.S. Department of Education sought to protect conventional private, public, and state-run colleges and universities by erecting regulatory hurdles exclusively against career colleges.**

The Department's Gainful Employment Rule and 90/10 Rule—both of which were applied only to proprietary institutions—prevented military members and veterans from freely using their earned education benefits.

Veterans are not dumb. They chose, and continue to choose, career colleges because they offer flexible schedules, career-applicable instruction, and competitive tuition, which are often top considerations for military, veteran, and other non-traditional students. Despite the scales being tipped against these schools, they produce comparable completion rates to public and private universities, proving themselves a “good deal,” despite past officials' attempts to portray them differently.

Since returning to office, President Trump and his administration have begun re-leveling the regulatory framework, restoring parity and accountability to the higher education system. During the first two years of the President's second term, the Department of Education, under the leadership of Education Secretary Linda McMahon, has achieved many of the recommendations put forward in the *Condescending Paternalism* report, including:

- Proposed repeal of the Gainful Employment Rule and would replace it with a uniform “earnings premium” test that applies to all types of colleges and universities, not only a select few.
- Revised the Department's interpretation of the 90/10 Rule's preamble, allowing institutions to consider funding from programs offered through distance education or at unapproved locations as non-federal student aid, thus providing military members and veterans greater autonomy to pick programs that align with their lives and learning and career goals.
- Ended the previous administration's mass student loan cancellation program and began moving approximately 1.8 million borrowers into repayment plans, restoring accountability to the federal student aid system.
- Initiated a negotiated rulemaking (ongoing at the time of this paper's publication) to ensure the college accreditation system does not contribute to credential inflation, rising costs, and programmatic underperformance.
- Launched a real-time fraud detection platform to accompany the Free Application for Federal Student Aid (FAFSA) application, which will help to prevent abuse of the federal aid program.

## Codify Regulatory Fairness into Law

**These accomplishments mark a fundamental shift in higher education policy.** The National Defense Committee commends Secretary McMahon and the entire Trump administration for initiating these commonsense reforms, which help reestablish military members' and veterans' access to post-secondary education that meets their unique needs.

It is now incumbent on Congress to codify these changes into law. The National Defense Committee encourages lawmakers to:

- Close the door to future administrations reinstating the Gainful Employment Rule, or similar restrictions, by passing legislation to prevent politicization of the federal rulebook.
- Pass the *Promoting Access and Revenue Integrity Through Institutional Transparency (PARITY) Act* introduced by U.S. Senator Jim Banks (R-IN), which would permanently repeal the 90/10 Rule.

This paper—a follow-up to the original *Condescending Paternalism* report—analyzes the impacts the Trump administration's actions will have on military and veteran students and what steps remain to enshrine these reforms long term to provide regulatory certainty and restore value and dignity to veterans' earned education benefits.

## Students Continue to Choose Alternative Paths to Post-Secondary Degrees

Career colleges' popularity began to accelerate at the turn of the century. The proliferation of internet connectivity made online learning more accessible to more people, opening the door to higher education for individuals who often otherwise were restrained by geography and other barriers. The Great Recession further augmented adoption, as many displaced workers gravitated to the convenience of distance learning programs.

Between 2000 and 2010, enrollment at proprietary institutions increased more than three-fold, from 403,000 to 1.7 million students.<sup>1</sup> By comparison, during the same period, enrollment at public colleges and universities increased by approximately 30 percent (from 10.5 million to 13.7 million students) and by 20 percent at private nonprofit schools (from 2.2 million to 2.7 million students).

The shift away from the traditional higher education model did not sit well with Department of Education officials. Public, private, and state-run schools spent (and still spend) lavishly to ingratiate themselves with policymakers,<sup>2</sup> and because most colleges and universities are liberally inclined, the Obama administration had an interest in maintaining enrollment at these schools.

The Department of Education and aligned leaders in Congress put forth a narrative that career colleges were predatory institutions that overcharged naïve and somehow illiterate military and veteran students with worthless education programs used to feather their own pockets at the expense of the federal student aid system.

As the *Condescending Paternalism* report explains, this theme was disingenuous. In reality, many veterans either decide not to attend, or cannot gain admission to, many “elite” schools, and they are often not welcome when they do. One of the appeals of proprietary schools is that these institutions generally offer flexible settings that work with veterans’ personal and professional lives. Further, they do not keep military and veteran students at bay, as many public and private schools do, either implicitly or explicitly.

Obama administration officials developed and implemented a regulatory scaffolding that was ostensibly intended to protect students from being duped by expensive programs that provided no better career prospects. In truth, however, these rules were designed to corner students into conventional campuses and prop up the higher education status quo—even though, as the *Harvard Business Review* acknowledged, this “archaic system simply no longer works in our modern world” and “must be reevaluated to better prepare students with employable skills.”<sup>3</sup>

## The Most Discriminatory Rules: Gainful Employment and 90/10

### *Gainful Employment Rule*

The Gainful Employment and 90/10 rules were created to put proprietary institutions at a disadvantage to conventional colleges and universities. Both regulations were applied only to career colleges, even though they enroll fewer than ten percent of U.S. students. If these protections were necessary to protect students, why not require all types of colleges and universities to comply with them?

A 2025 survey found just one third of Americans believe a four-year degree is worth the cost, down from 53 percent in 2013.<sup>4</sup> Another study found that one in five recent graduates felt their degree did not improve their career outlook, and one in four regretted their decision to attend college.<sup>5</sup> These findings suggest that there are plenty of public- and private-school graduates who would say that they were misled by their program.

Both Gainful Employment and 90/10 were developed on dubious policy grounds. Moreover, while they purport to ensure programs are worthwhile, they are made up of uninformed and inaccurate performance metrics.

Gainful Employment requires schools to demonstrate that graduates will earn more than peers with no degree (or a lesser degree for master’s and doctorate programs). But the rule compares recent graduates with a cohort of workers who may have been in their careers for a decade or more. It’s reasonable to assume that an individual who has been in their career for years is likely to earn more than a recent graduate first entering the workforce, even though the latter may likely have higher long-term earnings potential.

The rule’s selective application further indicates it is intended to discourage students from enrolling in proprietary institutions, rather than root out bad actors. A 2020 analysis found that only 60 percent of programs at private non-profit schools and 70 percent at public colleges would pass the Obama-era Gainful Employment Rule.<sup>6</sup> If it were applied uniformly, and because the Biden administration “revitalized and strengthened”<sup>7</sup> the rule, even more would likely flunk.

It's hard to believe that majors in any number of progressive programs offered at so-called elite universities—like Feminist, Gender, and Sexuality Studies or LGBTQ+ Studies—better prepare students for the workforce than programs that teach career-applicable skills, like Advanced Manufacturing, Diesel Mechanics, or Plumbing. But only schools that offer the latter were required to prove their graduates could expect to earn more than counterparts without a degree.

### ***90/10 Rule***

Likewise, the 90/10 Rule is a flawed indicator of programmatic performance. The regulation requires that schools derive at least ten percent of their revenue from non-federal student aid, which, according to federal bureaucrats, should indicate a program delivers a higher value to students.

In reality, the rule punishes schools that serve low-income families and students who require a greater portion of federal aid. Evidence shows that African American, Hispanic, and female students are more likely to depend on federal student aid than other more affluent peers, meaning the rule dissuades these groups from attending the schools of their choice.

90/10 was applied only to proprietary schools, even though contemporary research showed that 80 percent of public two-year colleges and 40 percent of public four-year colleges would fail to meet the standard, were it applied uniformly to all types of colleges and universities.

The 90/10 Rule explicitly disadvantages military and veteran students, restricting how and where they can use their earned education benefits.

Following passage of the American Rescue Act (ARP) Plan, Congress and, subsequently, the Biden administration amended the rule to require institutions to treat servicemembers' and veterans' earned education benefits as federal student aid, which is a fundamental misunderstanding of military benefits.

Education benefits are not government handouts; they are earned through service to our country. Where or how veterans choose to use these benefits should not be subject to regulatory limitations—just as the government would not dictate how military members and veterans use their military pay, disability compensation, or retirement packages.

## **Leveling the Playing Field: Trump 2.0 Is Dismantling the Discriminatory Rulebook**

**President Trump, Secretary McMahan, and Under Secretary Nicholas Kent understand the demands of today's economy and have made student choice and competition a keystone of the administration's education policy.**

“My Administration is dedicated to giving our students and workers the tools they need to succeed in a time where emerging technologies are advancing at an unprecedented pace,” the White House said in a statement last year. “[We] will invest in the next generation and expand access to high-quality career and technical education... and provide students and workers with the necessary skills training to ensure that our Nation dominates the 21<sup>st</sup> century.”<sup>8</sup>

“My vision is aligned with the President’s,” Secretary McMahon wrote in her “Final Mission” memo last year. President Trump is “focused on eliminating waste, red tape, and harmful programs in the federal government. The Department of Education’s role in this new era of accountability is to restore the rightful role of state oversight in education and to end the overreach from Washington.”<sup>9</sup>

“The federal government should be less focused on making legacy institutions ‘too big to fail’ and making students skilled enough to succeed,” Under Secretary Nicholas Kent wrote after being confirmed by Congress. “The ‘higher education industrial complex’ must be shaken up by competition, accountability, and a future-focused mindset.”<sup>10</sup>

The White House has repeatedly emphasized the importance of preparing young people to meet the growing demand for skilled labor. “Apprenticeships, electricians, plumbers—we need more of those in our country,” the President’s Press Secretary said last year.<sup>11</sup>

Under Secretary McMahon’s leadership, the Department of Education has begun to undo the regulatory double standards that limited school choice and stifled competition.

### ***OBBBA: Uniform Accountability Standards for All Colleges & Universities***

Last year, Congress passed the *One Big Beautiful Bill Act*, which the President signed into law in July 2025. Among the provisions in the package, the law required the Department of Education to develop and implement new accountability standards, including an “earnings premium” metric.

This earnings-premium standard—a “do no harm” test—requires that graduates’ median income four years after completion exceed reasonable thresholds, thereby indicating that programs do not leave students worse off than when they enrolled. Programs that fail to meet the threshold in two out of three consecutive years would lose eligibility for federal student aid.

Unlike Gainful Employment, the earnings premium metric is applied to all post-secondary institutions—not just proprietary schools.

With a new, consistent and meaningful performance measure in place across all types of colleges and universities, the Gainful Employment Rule was rendered moot. The rule was always discriminatory; now it is also irrelevant.

### ***Gainful Employment Repeal***

In December 2025 and January of this year, the Department of Education convened the Accountability in Higher Education and Access through Demand-driven Workforce Pell (AHEAD) negotiated rulemaking, which was tasked with developing the new accountability metric established by the *One Big Beautiful Bill*.

The committee reached consensus on the new earnings premium test, noted above, and wisely agreed to permanently repeal the Gainful Employment Rule.

“The new accountability standard replaces overlapping sets of rules that varied by credential and sector, simplifying compliance for schools and ensuring that all students are protected from low earning programs,” the Education Department said in a statement following the AHEAD committee’s work.<sup>12</sup>

“The Trump Administration’s proposed accountability framework is grounded in common sense,” said Under Secretary Nicholas Kent. “This consensus-backed framework will drive meaningful change in postsecondary education, ending years of regulatory whiplash and addressing student debt that has left too many students worse off.”

The repeal marks a major step towards regulatory fairness, replacing a regulation designed to punish proprietary schools while ignoring many of the worst offenders, with an impartial standard that measures program performance and holds institutions accountable for preparing students for post-graduation success.

### ***90/10 Revision and Potential Repeal***

Last summer the Department of Education revised its interpretation of the 90/10 Rule’s preamble, which had previously been misconstrued to prohibit schools from counting online program revenue as non-federal student aid.

The online program revenue exclusion was an error to begin with, representing egregious overreach by the Department of Education. Online revenue was not discussed in the context of the 90/10 Rule during negotiated rulemaking, but it was incorporated out of context and without consensus in the Final Rule, exceeding the Department’s statutory authority.

Secretary McMahon’s revised interpretation offered a long overdue correction to apply the regulation as written, not as bureaucrats wished, aligning the regulation with case law that federal agencies “cannot use preambles to add substantive duties that the regulations themselves do not contain.”<sup>13</sup>

In a letter to the Department of Education, the National Defense Committee encouraged Secretary McMahon to “build on the momentum” and “rescind the 90/10 Rule once and for all.”<sup>14</sup>

### ***Legislative Fix***

In April, Senator Jim Banks (R-IN) introduced the Promoting Access and Revenue Integrity Through Institutional Transparency (PARITY) Act, which would repeal the 90/10 Rule.

“Right now, the rules single out vocational and career schools while letting other colleges play by a different set of standards,” Senator Banks said in a statement announcing the bill. “That’s not fair when these programs are helping meet critical workforce needs and keeping our economy moving.”<sup>15</sup>

The National Defense Committee agrees and supports Senator Banks’ legislative solution. As the Senator notes, with the *One Big Beautiful Bill*, Congress moved to implement a universal performance metric that directly measures student outcomes across all types of colleges and universities. Under this new accountability framework, the 90/10 Rule is, as Senator Banks explains, a “solution in search of a problem—it’s duplicative and out of step with where policy now sits.”

The National Defense Committee led a coalition of military and veterans organizations to endorse the *PARITY Act*.

“The 90/10 Rule was built on such specious policy foundations and, notably, applied only to proprietary institutions to leverage these federal educational dollars because the government had no other way to control military and veteran students’ use of their earned educational benefits,” our organization noted.<sup>16</sup>

“Even if one believed in its original purported aim, it has largely been rendered meaningless by the new educational benefits reform passed into law in the 2025 One Big Beautiful Bill Act, and replaced by a new system of outcomes-based accountability tools, not makeshift revenue accounting.”

## Why It Matters: Preparing Students to Lead in Tomorrow’s Economy

In today’s rapidly evolving economy, students, especially Gen Zers, who have been called the “Toolbelt”<sup>17</sup> and “Micro-credential”<sup>18</sup> generation—are eschewing conventional public and private universities in favor of career-education programs. Despite the regulatory deck being stacked against them, undergraduate enrollment at career colleges still increased more than 20 percent between 2019 and 2024, making it the fastest growing sector of higher education.<sup>19</sup>

As CNBC recently reported, modern students “are putting more emphasis on career training and post-college employment,” with enrollment in undergraduate certificate and associate degree programs growing twice as fast as bachelor’s degree programs last fall.<sup>20</sup> A majority of college students now take at least one course online, and more than a quarter complete coursework exclusively online—a rate that is even higher (38 percent) among graduate program students.<sup>21</sup>

Even the *New York Times* acknowledges that most modern college students “are well removed from academia’s corridors of wealth and power” and instead “many live close to home, often juggling work or taking care of children with their course load.”<sup>22</sup>

Access to a full range of post-secondary degree paths is imperative to ensure students—especially military, veteran, and other non-traditional students, who attend career colleges at greater rates than their non-military peers—are able to pick schools that best meet their learning and career goals.

As the National Defense Committee’s *Condescending Paternalism* report first articulated, career colleges are often a good fit for the unique circumstances of veterans and many other non-traditional students. Service members and veterans should have the autonomy to use their earned benefits at the programs they choose, just as any student should be able to choose the program that best meets their needs. Federal bureaucrats should not pick for them via regulatory diktat.

The Trump Administration has made significant strides to expand student choice and foster competition in higher education—from launching the Workforce Pell Grant program, which provides Pell Grants for short-term, career-intensive programs, to correcting the regulatory overreach of past administrations.

It is vital that policymakers continue to build on these successes.

## Disrupting the Status Quo

For years, the regulatory edifice has served to protect the status quo in higher education, often at the expense of military and veteran students. As the *Condescending Paternalism* report identified, public and private schools expend significant resources to protect their darling status with policymakers, often resembling for-profit corporations. Education policy should not be for sale, and regulators owe it to students and their families to course correct.

### 1. Veterans Are Not Dumb; They Choose Programs that Are Right for Them

The rules governing higher education have long assumed that students—especially military and veteran students—are too inept to make prudent decisions for themselves. Regulators have sought to assume these decisions for them. They entrust men and women in uniform to make life and death decisions on the battlefield, but not to pick a degree program. In the same way, they suppose that everyday students—presumably high school graduates or higher—do not have the capacity to weigh the costs and benefits of a program or read the fine print.

This pattern of infantilizing students and their families has reduced school choice, cutting off options that may better meet individuals' learning needs and frequently cornering them into programs that saddle them with significant student debt. Bureaucrats in Washington should not presume to know better than students and their families.

### 2. Competition Begets Better Outcomes

Competition is a great driver of better products and services in any industry, and the same holds true in higher education. A light-touch regulatory framework in the early 2000s helped to accelerate the proliferation of distance learning and programming designed to prepare young people for in-demand careers.

By micro-managing schools—which is a veneer for picking winners and losers—regulators risk stifling continued innovation. Examples of past administrations' efforts to regulate online program managers,<sup>23</sup> restrict online program revenue, and impose targeted regulations like the Gainful Employment Rule are designed to fence students into on-campus experiences at name-brand schools, rather than serve student interests.

### 3. Regulators Should Create a Level Playing Field

After years of patchwork regulation that favored conventional colleges and universities, the *One Big Beautiful Bill* marked a concerted effort to establish meaningful performance measures that are consistent across all types of programs. Lawmakers should cement these gains by putting up legislative guardrails that will prevent future administrations, both Democrat and Republican, from politicizing the federal rulebook and giving a leg-up to any type of post-secondary school.

#### 4. Regulators Should Weed Out Special Interests

Special interest groups masquerading as non-partisan student advocates have wielded significant influence over education policy. The National Defense Committee led coalition efforts to stop the revolving door of repeated appointments to negotiated rulemakings and dismantle the echo chamber of likeminded “experts.”<sup>24</sup>

Our organization supports action, either by legislation or executive order, that would create a firewall between federal agencies that oversee education and military and veteran issues and special interest groups, and that requires rigorous disclosure requirements to ensure greater transparency. We applaud the Trump Administration for expanding representation on negotiated rulemakings and vetting participants, particularly those representing military and veteran students, to ensure a diversity of views and opinions.

## Recommendations: Permanently De-Weaponize Education Policy

**Under past administrations higher education regulation was coopted to advance political ideologies, rather than serve student interests. The result was a double-standard regulatory framework that selectively targeted proprietary institutions, while disregarding many of the worst performing programs.**

The Trump administration has begun a recalibration that seeks to treat all post-secondary institutions equally and impartially, restoring value to veterans' earned education benefits and allowing schools to compete and innovate. Congress and policymakers should codify these changes into law, to prevent higher education policy from being weaponized against students and institutions and to provide regulatory certainty.

#### 1. Repeal the 90/10 Rule

The *PARITY Act* introduced by Senator Jim Banks would permanently repeal the 90/10 Rule, helping to restore military members' and veterans' ability to freely use their earned benefits at schools of their choosing.

The *One Big Beautiful Bill Act* requires the Department of Education to develop and implement new accountability measures, which provide guardrails that better measure programmatic performance and that applies to all types of colleges and universities. As Senator Banks noted, with those guardrails in place, “the 90/10 rule is not just unfair, it is redundant.”<sup>25</sup>

The National Defense Committee encourages the U.S. Senate Health, Education, Labor and Pensions (HELP) Committee to move quickly to consider and advance the *PARITY Act* and calls on all members of Congress to support the legislation.

#### 2. Prohibit Additional Earnings Tests

In January of this year the AHEAD negotiated rulemaking committee approved an earnings premium metric, which applies to all post-secondary institutions. The committee wisely repealed the Gainful Employment Rule, which, like the 90/10 Rule, was discriminatory and is now also irrelevant.

Congress should close the door to further arbitrary earnings tests by prohibiting any more income-based performance standards.

The newly developed earnings-premium standard was set at reasonable levels, as indicated by the consensus reached by stakeholders, and it applies to all post-secondary programs, removing any regulatory favoritism.

Additional earning requirements would invariably add unnecessary compliance costs and could be once again targeted against certain types of programs by future administrations, subjecting schools and students to regulatory whiplash. Congress can and should prevent the Department of Education from imposing additional layers of bureaucracy by writing into guidelines to preclude additional earnings-based metrics.

### **3. Build a Regulatory Framework that Fosters Competition, Innovation**

The Trump administration has shown that it values competition in higher education, which generates better products, services, and, ultimately, improved student outcomes.

The National Defense Committee commends President Trump's and Secretary McMahon's willingness to challenge the status quo. Competition drives better performance, which will be necessary to meet the demands of our country's rapidly evolving economy.

The Trump administration should continue to prioritize competition and repeal regulations that impede alternative paths to a post-secondary degree, distance learning, and student choice.

### **4. Investigate Lobbyist Activities**

As noted in the National Defense Committee's original *Condescending Paternalism* report, under previous administrations special interest groups masquerading as student advocacy organizations often drove regulatory policy. A network of likeminded personnel created an echo chamber, enabling the Department of Education to impose its policy priorities under the guise that they were widely supported, even when they were not.

The first *Condescending Paternalism* report noted Veterans' Education Success (VES), an education group that exercised disproportionate influence on veterans' education benefits policymaking and actively supported selective regulations targeted exclusively at career colleges.<sup>26</sup> After Senator Chuck Grassley (R-IA) blew the whistle on possible inappropriate interactions between VES and the Veterans' Affairs (VA) Office of Education Services, an investigation by the VA Office of the Inspector General (OIG) confirmed the then-president of VES violated conflict-of-interest rules and possibly obtained sensitive information from his spouse, who served as the executive director of the Veterans Benefits Administration's (VBA) Education Service.<sup>27</sup> The VES executive and VBA chair refused to be interviewed for the investigation, and because the OIG lacked testimonial subpoena power, it could not compel their cooperation.

Last year, more than three years after the VA OIG investigation, VES continued to engage lawmakers on veterans' education regulation. The organization urged lawmakers to remove language from the *One Big Beautiful Bill Act* that would have repealed the 90/10 Rule. The group openly acknowledged it "spent a decade" with lawmakers to "solve this problem."<sup>28</sup> The language was ultimately dropped from the final bill.

While the Trump administration has made significant headway to “drain the swamp”—including broadening stakeholder representation on negotiated rulemaking committees to better reflect veterans’ and other stakeholders’ viewpoints—there is still vast opportunity for special interests to affect regulatory policy.

The administration and lawmakers should implement firewall protections to create better transparency and accountability by establishing requirements for and limiting participation on negotiated rulemakings, requiring greater lobbying disclosures, and prohibiting groups with proven ethics violations, like VES, from lobbying federal policymakers.

## Conclusion

**After years of discriminatory regulation, which restricted military, veteran, and other non-traditional students, President Trump, Education Secretary Linda McMahon, Under Secretary Nicholas Kent, and leaders in Congress have begun to rebalance the scales. This paradigm shift promises to restore value and dignity to veterans’ earned education benefits and foster competition and innovation in higher education.**

Congress and the administration should secure this progress by codifying the changes into law and federal regulation. Secretary McMahon and lawmakers have a unique opportunity to eliminate rules that were intended to push a political agenda—not serve students—and to prevent further regulatory weaponization. It is imperative that they take it.

As our country’s workforce needs continue to change, it is imperative that higher education can continue to evolve as well. Students—particularly, military, veteran and non-traditional students—are capable of choosing programs that best meet their learning and career goals. Bureaucrats in Washington should not decide for them. Regulators should recognize that reality and stop the infantilization of higher ed policy by establishing reasonable, uniform, and fair rules and holding all schools accountable to those.

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