



May 9, 2018

National Advisory Committee on
Institutional Quality and Integrity (NACIQI)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Subject: Oversight of For-Profit Institutions' Conversions to Non-Profit Entities

Please accept this public comment regarding oversight of for-profit institutions' conversions to non-profit entities.

NACIQI's leadership is vital to protect taxpayers and students, including the millions of veterans who earn military education benefits through service to our country.

Veterans Education Success (VES) is a nonprofit organization dedicated to protecting and defending the integrity of the GI Bill and other federal education programs for veterans and servicemembers.

VES was founded in 2013, soon after a two-year Senate investigation uncovered rampant fraud and deception by for-profit colleges. More specifically, that investigation revealed that for-profit colleges were lying to students about virtually every aspect of their services, including the true cost of tuition, the quality of their programs, their accreditation, the ability to transfer credits to nearby public colleges, their graduation rate, their graduates' eligibility for licensing or jobs, career assistance provided, their job placement rate, and future earnings of their graduates.¹

Based on student complaints we receive, as well as law enforcement activity, VES believes the problems unearthed by the 2012 Senate investigation persist today. Enclosed is a lengthy, although not exhaustive, report that VES recently compiled of known law enforcement actions and investigations concerning for-profit schools. Although scandals and closures at Corinthian Colleges and ITT Technical Institute have been well-documented in recent years, many schools that still operate have also been subject to a variety of law enforcement action.

¹ U.S. Senate Committee on Health, Education, Labor & Pensions Report, "For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success," July 30, 2012, *available at* http://www.help.senate.gov/imo/media/for_profit_report/Contents.pdf.

Military servicemembers and veterans are particularly at risk of being targeted by for-profit schools. This is largely due to an inadvertent loophole in the “90-10 rule,” which requires those schools to obtain at least 10 percent of their revenue from non-federal funds but does not treat GI Bill benefits as federal funds for that purpose. As a result, for every veteran who uses GI Bill benefits at a for-profit college, that college can enroll another nine students who use other federal financial aid. Holly Petreaus, former Assistant Director at the Consumer Financial Protection Bureau, noted that the “90-10 rule” causes for-profit schools to see servicemembers as nothing more than dollar signs in uniform.²

As such, it is sadly not surprising that nearly 4,000 veterans and servicemembers have contacted VES about various forms of deception they have encountered at their school. Nearly all those veterans attended a for-profit school. Enclosed with this statement is a small sample of those complaints. As a whole, they allege fraud concerning nearly every aspect of services that particular colleges claim to provide.

Many of the same students who have contacted VES have applied, or are eligible to apply, to the Department of Education for discharge of their federal loans due to being defrauded by their school. A recent report found that over 98 percent of the nearly 100,000 students who have already applied for such relief attended a for-profit school.³

Fraudulent behavior by for-profit schools is nothing new. Similar patterns of behavior occurred in the 1940s, 1950s, 1970s, and 1980s.⁴ According to former Deputy Undersecretary of Education Robert Shireman, “Every decade or two since World War II, lawmakers have loosened oversight of federal aid to career colleges run by for-profit companies only to be disappointed by rampant abuses. The scandals prompt regulators to clamp down, only to later be convinced by industry executives that the schools have cleaned up their act. As a result, oversight is relaxed and the cycle starts again.”⁵

In recent years, a number of for-profit schools have sought to convert to non-profit status. Given the history of fraud at many such schools, many veteran organizations, including VES, are skeptical about whether these efforts are simply a way for companies to free themselves from the regulatory restraints on for-profit colleges while continuing to reap the financial benefits of for-profit ownership.⁶ After all, in some non-profit conversions, owners are still able to maintain

² Hollister Petreaus, “For-Profit Colleges, Vulnerable G.I.’s,” *New York Times*, September 21, 2011, available at <https://www.nytimes.com/2011/09/22/opinion/for-profit-colleges-vulnerable-gis.html>.

³ Yan Cao and Tariq Habash, “College Complaints Unmasked,” *The Century Foundation*, November 8, 2017, available at <https://tcf.org/content/report/college-complaints-unmasked/>.

⁴ See Robert Shireman, “The For-Profit College Story: Scandal, Regulate, Forget, Repeat,” *The Century Foundation*, January 24, 2017, available at <https://tcf.org/content/report/profit-college-story-scandal-regulate-forget-repeat/>.

⁵ *Id.*

⁶ See Brian Galle, “Conversions of For-Profit to Nonprofit Colleges Deserve Regulators’ Scrutiny,” *Medium*, April 3, 2018, available at <https://medium.com/whatever-source-derived/conversions-of-for-profit-to-nonprofit-colleges-deserve-regulators-scrutiny-1b9174cf534d>; Robert Shireman, “The Covert For-Profit,” *The Century Foundation*, September 22, 2015, available at <https://tcf.org/content/report/covert-for-profit>, available at <https://tcf.org/content/report/covert-for-profit>.

control and disguise profits.⁷ Additionally, the Internal Revenue Service is underfunded, politically damaged, and ill-equipped to adequately determine whether such schools are truly non-profit.⁸

Further, it is also concerning that for-profit colleges that convert to non-profit status would, in most cases, place themselves beyond the jurisdictional reach of federal consumer protection laws governed by the Federal Trade Commission, as well as the transparency requirements in federal securities law. Thus, students would be left without federal protection from deceptive marketing, and unaware of a company's history of consumer fraud.

Therefore, NACIQI's leadership is vital to ensure non-profit integrity, and protect students and taxpayers. Among other things, NACIQI should inform accreditors that, in its reviews, it will assess whether accreditors are reviewing nonprofit colleges and conversion requests to ensure that college governance is not infected by contracts, credit, or real estate transactions that undermine the integrity of financial disinterested accountability. Additionally, NACIQI should recommend to the Education Secretary that a moratorium be placed on the consideration of conversions to nonprofit status until the Education Department's procedures are updated to reflect the unreliability of IRS determinations. Also, NACIQI should require any school that converts from for-profit to non-profit to publicly disclose, for a period of 5 years after the conversion, any federal or state law enforcement activity. It should also be cautious about approving any conversion by a for-profit entity facing law enforcement investigation or action, as that may be an attempt to circumvent public scrutiny and FTC jurisdiction. Finally, NACIQI should recommend that Federal Student Aid make public all requests for pre-acquisition review and establish a process for public input.

Veterans who have sacrificed for our country and who use their hard-earned education benefits should be able to trust that their college is acting in the best interest of its students, and not simply its owners.

Thank you.



Sean Marvin
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⁷ See Robert Shireman, "The Covert For-Profit," *The Century Foundation*, September 22, 2015, available at <https://tcf.org/content/report/covert-for-profit> (describing, e.g., Remington College, which converted to non-profit in 2011 and where trustees were made up of school's landlord who sold campuses to Remington, Remington's CEO, and a principal and two employees of financial services firm that assisted with purchase of campuses).

⁸ See Brian Galle, "Conversions of For-Profit to Nonprofit Colleges Deserve Regulators' Scrutiny," *Medium*, April 3, 2018, available at <https://medium.com/whatever-source-derived/conversions-of-for-profit-to-nonprofit-colleges-deserve-regulators-scrutiny-1b9174cf534d>.