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Colleges Scramble to Avoid Violating Federal-Aid Limit

For-profits' tactics to comply with 90/10 rule raise questions

By Goldie Blumenstyk

Corinthian Colleges Inc.'s decision this winter to raise tuition at dozens of its Everest, Heald, and WyoTech campuses by an average of 12 percent, knowing that most of its students would have to go even further into debt, had nothing to do with rising costs or any improvements it was making in the curricula.

With many of its students already receiving the maximum in federal grants and loans, the company said it was raising its prices to create a financial gap that students would have to cover with private loans or other funds besides those from the federal student-aid programs.

Corinthian's move is just one of the latest—and some say one of the most cynical—strategies that some for-profit colleges are using to avoid violating the so-called 90/10 rule, so they can remain eligible for the billions of dollars in federal student aid that have fueled their growth. The rule requires them to receive at least 10 percent of their revenue from other sources.

"They are making loans, just like the subprime lenders did, that they know their students will not be able to repay," said Pauline Abernathy, vice president of the Institute for College Access & Success.

Corinthian's decision to comply with the 90/10 rule in this manner, said Ms. Abernathy, even as it acknowledges that the company-sponsored loan program most of its students will use has a default rate of more than 50 percent, is "the height of cynicism."

The 90/10 rule is also driving activities at other college companies. In recent months, Education Management Corporation, parent company of the Art Institutes, South University, and Brown Mackie College, announced it would increase its recruiting of foreign students. Kaplan University and the University of Phoenix created new colleges of "professional studies" so they could count more of their nontraditional-educational revenues as part of the 10-percent side of the calculation, and Career Education Corporation has beefed up marketing for a chain of restaurants called Technique, tied to its Cordon Bleu culinary schools, all in the service of bolstering non-Title IV revenues (so named for the section of the law that authorized them).

Overshadowed in recent months by the legal and political disputes over proposed regulations on how recruiters are paid and the costs of programs and student debt, the longstanding 90/10 rule could soon reclaim the spotlight, bringing new attention to a law that many for-profit colleges consider an ill-conceived and inappropriate measure of quality, and some student advocates call a consumer safeguard in need of toughening.

The 90/10 rule was enacted decades ago to ensure that institutions were not relying solely on federal student aid, but also generating revenues from other sources, such as employer-sponsored tuition plans. If the colleges exceed the 90-percent level for two consecutive years, they lose access to federal student aid.

Creators of the law saw it as a way to show outside validation for a college's offerings. But with the rising availability of federal student aid—and colleges' increasing creativity in exploiting the many exemptions now found in the law—some of its supporters, as well as its critics, are now questioning whether 90/10 serves the purpose for which it was intended.

'Counterproductive' Strategy

Revenues that flow from other federal programs, like the GI Bill and tuition assistance for active-duty members of the military, don't count toward the 90 percent. Even so, several of Corinthian's Everest campuses and hundreds of other for-profit colleges, including Kaplan, Phoenix, and Bridgepoint Education's Ashford University, have been moving closer to that limit, according to Education Department data released in February (*The Chronicle,* February 15).

In addition to the 260-plus institutions above or close to the limit, many more have remained below the 90-percent mark thanks only to a temporary provision enacted by Congress in 2008. When federal loan limits were increased by $2,000 in 2008, Congress agreed to temporarily allow colleges to count that additional amount of Title IV as part of the 10 percent rather than the 90. That measure will expire at the end of June.

Along with Corinthian, many other for-profit colleges are lobbying furiously to get the temporary measure extended (along with another provision, which authorizes favorable treatment for college-issued loans and will expire in June 2012), or to get the 90/10 law gutted altogether. Corinthian's tuition hikes are an explicit part of that lobbying fight. The company said it would reverse the increase if Congress changes the law. It maintains, as its CEO, Jack D. Massimino, recently told investors, that the price increase was "not something we want to do, it's something we have to do." He said that's because so many of Corinthian's students are financially needy and qualify for the maximum in federal student aid.

The gambit has drawn attention and criticism, not only from the consumer-advocacy sector but also from at least one Wall Street analyst, Ariel Sokol of UBS, who in a message to investors called it "perhaps the most counterproductive public negotiating tactic that we've ever witnessed."

In an interview, Mr. Sokol was even more scornful. Corinthian officials announced the tuition increase "as if they are somehow the victims," he said. But the company knowingly pursued this kind of a growth strategy. The levels of student aid have risen, he noted, but the 90/10 rule has been around for many years. "It's not as if it happened by surprise," and now, "students are being burdened with debt they can't repay," he said. For the company, "that's not a viable long-term strategy."

The cause championed by Corinthian and others faces an uncertain political fate. The for-profit college industry maintains strong support in the Republican-controlled U.S. House of Representatives as well as among some Democrats, like Rep. Robert E. Andrews of New Jersey, who has been working with the Association of Private Sector Colleges and Universities, the industry trade group, on an alternative to the 90/10 rule. Some Senate Democrats, along with student advocates, meanwhile, want to strengthen 90/10.

Senators Thomas R. Carper of Delaware, Richard Durbin of Illinois, and Tom Harkin of Iowa have all recently said they might push to count revenues from the GI Bill and military-assistance programs as part of the 90 percent. Military recruiting has been a growing focus for many of the colleges. Twenty for-profit companies received a combined $521.1-million in veterans and U.S. Defense Department benefits in 2010, according to a report by the Senate education committee. The for-profit sector as a whole has received more than a third of the benefits paid out under the new GI Bill, even though it enrolls only about 10 percent of all students.

The National Consumer Law Center, which has been critical of the ways colleges have "gamed" 90/10, is pushing for other changes. It wants Congress to toughen rules for treatment of revenues generated through loans like Corinthian's, which it said colleges were using as "loss leaders that keep the federal dollars flowing." Colleges "make unaffordable loans as a way of filling up the 10-percent category with vapor revenues derived from loans that will never be repaid," the center's Deanne Loonin, a staff attorney, wrote in a report in January. Under the temporary provision, only a portion of the revenues generated via the college-sponsored loans can count in the 10 percent. Still, the center said that rather than extend that measure beyond 2012, Congress should end it now.

Gaming 90/10

The coming political debate could also bring attention to the many other tactics colleges have begun to employ to satisfy the 90/10 rule. In addition to its push for more military and international students, for example, Education Management has also just reported in financial documents that it would undertake some "internal restructuring" to deal with the issue, which could mean moving some academic programs where federal student aid is close to the 90 percent mark over to institutions where the rates are lower. The company said it would not comment beyond what it had reported.

Phoenix and many other colleges have also been revving up their lobbying in California's and other state legislatures, to help preserve the availability of state grants for students who attend for-profit colleges. Student aid that states provide also counts in the 10. Thirty-one states provide such aid, according to the most recent data, but, as in California, some programs are under fire because of tight budgets, lawmakers' concerns over the colleges' quality, or both.

In some instances, the colleges are taking advantage of looser provisions of the law that they successfully lobbied for in 2008. Kaplan, for example, created its new professional college by merging its Kaplan Professional division, which provides courses for people studying for real estate, accounting, and financial-planning exams, into Kaplan University. The move allows Kaplan University to treat revenues from about 125,000 students who annually enroll in those professional courses as part of Kaplan University's 10 percent. Kaplan would not provide financial details about how the merger affects its 90/10 ratio. It was among those that pushed for the change in the law in 2008 that allowed such professional courses, which run from a few days to a year in length, to be counted in the 10 percent. Previously, only revenues from programs that qualified as Title IV-eligible would have counted in the 10.

Income that colleges generate from education-related activities, like salons staffed by cosmetology and massage-therapy students, can also count toward the non-Title IV side of the equation. "We know some schools that have opened nursery-school programs" in conjunction with their early-childhood-education programs and now offer English as a Second Language courses, said Stephen B. Freidheim, a Dallas-based consultant who advises colleges on how to satisfy the law and other matters.

Mr. Freidheim said colleges resort to these tactics because complying with the law has become harder, thanks to the increases in Pell Grants and the availability of larger federal student loans over the past four years.

One owner of several small colleges in Louisiana said the massage-therapy fees he receives do help with 90/10. But the owner, Billy L. Clark, said that's only part of his solution. He also offers students at his Delta colleges an alternative to the federal student loans, at an attractive rate: zero-interest loans while the students are in school and 3 percent after they leave.

Running and managing the loan program cuts into his profits, he said. And it carries financial risks for his colleges. (Consumer advocates say such loans might also be less advantageous for students than federal student loans, depending on terms.) But in not trying to satisfy 90/10 by pricing his tuition above the Title IV maximum, Mr. Clark said he can offer his courses less expensively than many of his competitors.

"It would be nice to pocket another $6,000 a student per year, but the student has to pay that debt back," said Mr. Clark. With this approach, he said, "I can sleep at night."

Still, he contends that he and most everyone else would be better off without the law: "The 90/10 rule has created untold numbers of millionaires and billionaires on the backs of those who can least afford it."

Diversifying Revenue

Not all for-profit colleges oppose 90/10.

Strayer University, for one, said it had no concerns about the rule and wasn't lobbying to change it or extend the exemption. In 2009 federal student aid accounted for 78 percent of its revenues (the 90/10 ratio for 2010 hasn't been calculated yet), and even if the exemption for the $2,000 is eliminated in July, Strayer does not expect problems complying, said Sonya G. Udler, a spokeswoman for its parent company.

Strayer has long relied on its corporate-alliance programs, which include relationships with companies like Verizon, Lowe's, General Dynamics, and Bank of America, to generate non-Title IV income. About 2 percent of Strayer's revenue comes from active-duty members of the military. Although several higher-education companies say their efforts to land corporate alliances have been hurt by the recession, Ms. Udler said Strayer hadn't found that to be a problem.

Consumer advocates say that the Strayer case, along with the experience of the thousand-plus colleges that remain safely in compliance, shows that the law can work. Ms. Abernathy noted, for example, that the University of Phoenix has recently reported that with a new focus on loan counseling, fewer of its students are now taking out the maximum levels of student loans.

Corinthian's Mr. Massimino said the demographics of its student body make that a less feasible strategy for his company.

Yet critics say companies like Corinthian have brought their 90/10 problems on themselves by using the availability of federal loans as a recruiting tool to attract students.

"Their programs are designed to soak up as much federal aid as possible," and the 90/10 rule is one of the few brakes on that practice, said Rich Williams, a higher-education advocate at the U.S. Public Interest Research Group.

He doesn't buy the arguments of Corinthian and others that demographics are at the root of the problem. Many community-college students "are just as eligible" as most for-profit-college students to borrow the maximum in loans, he noted. And while it's true that their tuition costs less, he said, they don't borrow nearly as much.

How the 90/10 Rule Plays Out

The rule requires for-profit colleges to receive at least 10 percent of their revenue from sources other than federal student-aid programs to be eligible for such aid.

What counts:

- Pell Grants
- Federal student loans

What can count:

- Cash payments by students
- GI Bill benefits
- Federal tuition assistance for active-duty military
- Department of Labor Workforce Investment Act tuition vouchers
- Tuition reimbursements from employers

- Income from culinary-school restaurants, education-school childcare programs, and other services related to students' education
- Fees for real-estate courses, continuing teacher education, and other training that leads to licensure or industry-recognized certificate
- Proceeds from private loans made from third-party lenders
- Up to $2,000 in federal student loans issued from July 2008 through June 2011
- The value of proceeds from college-provided private loans issued since July 2008, excluding the amount they expect will never be repaid (expires July 1, 2012)

lafi2050 21 hours ago

The article misses a key issue—institutions MUST offer a student all the federal aid they are entitled to based upon their need, which is calculated by the DOE, not the schools. Poorer students qualify for more aid. If the government is truly interested in solving the problem, as opposed to vilifying schools that serve a poorer student body, they'd have to give schools the right to limit aid offered to students. Until then, attacking schools based upon something beyond their control seems political in nature rather than productive.

8 people liked this. Like Reply

turd6233 16 hours ago

This article and this issue best exemplifies the rampant cynicism among critics of private sector schools. To compare Strayer's situation with Corinthian's and imply that one is somehow respecting 90/10 while the other is gaming 90/10 is dishonest and cynical. Corinthian has a 90/10 issue because its tuition is low. Strayer has no 90/10 issue because its tuition is high. It's that simple. The 90/10 crisis has been precipitated by the increase in Stafford loan limits and Pell grants. The school is prevented from requiring students to pay cash (this was one of the violations cited by the GAO in its now infamous marketing report.) To suggest that Corinthian ought to have solved for this issue without explaining exactly how they were to accomplish this is also dishonest.

The 90/10 rule is supposed to ensure that students have some "skin in the game." But by throwing cheap money at them the government makes raising prices the only way to stay in compliance. Would critics have rather seen them fall out of compliance and be regulated out of business? For-profit schools train roughly 80% of the medical assistants in this country.

This impossible standard ignores the reality that students that are seeking a medical assisting certificate so that they will have the necessary training to earn $14/hour assisting a registered nurse do not have ten thousand dollars saved to spend on school. There are no students seeking such a degree that have such resources. To imagine a remedy as Department of Education officials have that schools simply recruit more full-pay students is absurd and completely out of touch.

Ariel has written about the price competition that is emerging in the for-profit market and on this point he is largely correct. So then eliminate 90/10 -- allow Gainful Employment to be the determinant of quality if you must -- and let this emerging price competition do what it needs to do. You will absolutely see prices come down once they are no longer fixed by Title IV limits and everyone will benefit.

Trace A. Urdan
Signal Hill

2 people liked this. Like Reply

teng8786 14 hours ago in reply to turd6233

You said: "The 90/10 rule is supposed to ensure that students have some "skin in the game."

You're completely wrong here. 90/10 was intended to be sure proprietary colleges had some skin in the game by offering programs the American public would spend a hard earned dollar on, rather than worthless online programs that survive solely on the tit of the taxpayer.

Trace Urdan also said: "allow Gainful Employment to be the determinant of quality"

I think I am going to faint. The Gainful Employment rule would have already been published if the CCA members were not purchasing politicians (such as impeached Federal judge and now congressman Alcee Hastings), EdWorkforce hearings and budget riders.

1 person liked this. Like Reply

turd6233 9 hours ago in reply to teng8786

No. 90/10 was conceived as ensuring that students are paying something out of their own pocket as a way to ensure that their commitment to the program and the school was sincere and they were not simply using the school as a scam to pull down living expenses through the Title IV loan program.

And I don't agree with Gainful Employment in its draft form, it is far too complex, onerous, overreaching and generally ill-conceived. But given that it's coming it surely must render 90/10 obsolete. In the case of Corinthian it presumes to regulate the school out of existence as it will likely demand the school drop its prices, requiring it to place itself in violation of 90/10. 90/10 is bad policy, it ensures nothing, it means nothing.

Like Reply

kinsereaps 2 hours ago in reply to turd6233

Trace, I think you are wrong. When first enacted, 90-10 (originally 85-15) was seen as a way to ensure that there was a private market for the education provided by for-profit schools. In other words, if the education they offered had value in the marketplace, 90-10 assumed that companies would be able to generate at least of portion of their revenue from sources other than the federal government. Recall that the other major rule adopted during the same era was on student loan default rates, and the issues that were primarily being addressed by the reforms of the late 1980s and early 1990s was financial aid fraud by institutions.

Whether or not this is a current problem, and whether the 90-10 assumption still holds is a separate issue. But the rule was and is directed toward institutions, not students.

Kevin Kinser
State University of New York

Like

billylclark 15 hours ago

lafi2050 is right about Federal Student Loans being an entitlement. For the average student there is $9,500 in student loans available in just the first year of college - $10,500 the second year. And that is on top of $5,550 in Pell Grant funding for the neediest of students. When students learn how much they are entitled to receive and make no payments until 6 months after they leave school... well for some that is just too tempting. Eliminate 90/10 AND reduce the amount of Student Loan dollars available if you really want to see changes in proprietary education.

Like Reply

tgraham13 3 hours ago

"Many community-college students "are just as eligible" as most for-profit-college students to borrow the maximum in loans, he noted. And while it's true that their tuition costs less, he said, they don't borrow nearly as much."

Studies show that community colleges are actually more expensive than proprietary schools. The majority of the cost is borne by taxpayers, however, so tuition is lower. Of course students borrow less.

Also, many community colleges don't make loans available to students in the first place because they would have a default problem if they did. The Chronicle has covered this very issue in the past.

I, for one, would like to see more balanced coverage in the Chronicle. Vilifying the proprietary sector seems to have become an unhealthy obsession.

2 people liked this. Like Reply

wilcoxlibrary 1 hour ago

The money is and always will be in the secondary loan market. These loans can be packaged and sold to investors just like mortgages. Marketed, packaged, and sold; secondary loans are money in the bank with no risk of default to the issuer.

Like Reply