

Stenographic Transcript
Before the

COMMITTEE ON
ARMED SERVICES

UNITED STATES SENATE

DEPARTMENT OF DEFENSE ACTIONS CONCERNING
VOLUNTARY EDUCATION PROGRAMS

Tuesday, November 29, 2016

Washington, D.C.

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U.S. Senate

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Committee on Armed Services

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10 The committee met, pursuant to notice, at 9:33 a.m. in
11 Room SD-G50, Dirksen Senate Office Building, Hon. John
12 McCain, chairman of the committee, presiding.

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Committee Members Present: Senators McCain

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[presiding], Wicker, Ayotte, Fischer, Cotton, Rounds, Ernst,

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Tillis, Sullivan, Cruz, Reed, Nelson, McCaskill, Manchin,

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Shaheen, Gillibrand, Blumenthal, Donnelly, Hirono, Kaine,

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King, and Heinrich.

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1 OPENING STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR
2 FROM ARIZONA

3 Chairman McCain: Good morning. Committee meets this
4 morning to review the Department of Defense decision last
5 year to put the University of Phoenix on probation, pending
6 possible termination, with respect to its participation in
7 its Voluntary Education Tuition Assistance Program, a
8 program to allow Active Duty or members of the military to
9 receive a quality education.

10 I welcome our witnesses and appreciate their appearance
11 before the committee: an old friend, Peter Levine, who is
12 Acting Under Secretary of Defense for Personnel and
13 Readiness; Stephanie Barna, Acting Principal Deputy Under
14 Secretary of Defense for Personnel and Readiness; and Dawn
15 Bilodeau, Chief of Voluntary Education for the Department of
16 Defense.

17 This hearing is about the how the Department of
18 Defense, consistent with the Obama administration's
19 ideological hostility to for-profit universities, under
20 pressure from at least one Member of Congress, and having
21 performed very little due diligence of its own, placed on
22 probation a reputable and fully accredited for-profit
23 university that provides valuable educational programs to
24 thousands of military service members. This probation
25 decision, which constitutes nothing short of a gross abuse

1 of power, resulted from a process that was fundamentally
2 unfair and not supported by sufficient evidence. Indeed, the
3 alleged violations that led to the probation decision were
4 based on shifting guidance as well as reasons not
5 substantially different than alleged violations by 15 other
6 universities.

7 While the probation decision was ultimately reversed,
8 it was not before significant damage had already been done.
9 The decision immediately impeded the University's ability to
10 provide educational programs to the military community for
11 the duration of the program. Countless veterans and Active
12 Duty service members were prevented from enrolling in
13 University of Phoenix courses. Not surprisingly, this also
14 did significant harm to the University's reputation and
15 financial position.

16 In 2009, before the administration's regulatory assault
17 on the for-profit sector, the company's stock reportedly
18 traded at \$86.54 per share. Due to this targeted attack and
19 prior to the release of the Reveal News hit piece, it was
20 traded at around \$16 per share, and reached a low of around
21 \$6 a share shortly after DOD's unfair probation decision.
22 Had this probation decision not been overturned, thanks to
23 the intervention of the Chairman of the Health, Education,
24 Labor, and Pensions Committee, the Veterans Affairs
25 Committee, and the Permanent Subcommittee on Investigations,

1 among others, the University would have been driven into
2 financial ruin. Terminating the University's participation
3 in the Tuition Assistance Program, as I believe the DOD had
4 intended all along, would have left over 9,000 service
5 members attending it without a school to complete their
6 education, effectively extinguishing the time and effort
7 they had already invested in pursuit of a degree. It would
8 also have resulted in decisions by the Department of
9 Veterans Affairs to prohibit the University from
10 participating in the post-9/11 GI Bill and the Department of
11 Education regarding Title 4 funding. And that would have
12 most certainly devastated the University, just as the
13 administration did with ITT Tech, in forcing it to close, or
14 as it did with DeVry, forcing it to sell off its campuses.

15 The purpose of this hearing, in short, is
16 accountability, how such a misguided decision was made, the
17 nontransparent and flawed ways in which it was made, and why
18 it was made, and who was responsible. In this way, today's
19 hearing is bigger than this one case, because if the
20 University of Phoenix could be singled out in this flawed
21 and suspect way, that suggests a deeper failing at the
22 Department of Defense that requires the continued oversight
23 of this committee.

24 For the background of my colleagues, this committee
25 learned, after the fact, of the Department's October 7th,

1 2015, decision to place the University of Phoenix on
2 probation. The stated reason for the decision was
3 unauthorized base access and the improper use of, quote,
4 "Challenge Coins." Shortly thereafter, I and other
5 committee chairmen with jurisdictional interest in this case
6 requested additional information on the decision,
7 specifically the role played by the Department of
8 Education's interagency task force that had been established
9 to enforce the President's executive order on for-profit
10 universities. What ensued was a meeting with these Senators
11 and attended by representatives of some eight Federal
12 agencies, including the Department of Defense, the Consumer
13 Financial Protection Bureau, the Federal Trade Commission,
14 the Securities and Exchange Commission, SEC, literally
15 dozens of executive branch personnel. Rather than providing
16 responses to our concerns, this meeting raised additional
17 troubling questions about the administration's hostility
18 toward for-profit education, including the Department of
19 Defense -- at the Department of Defense.

20 For purposes of today's hearing, the relevant sequence
21 of events begins on June 30th, 2015, when the Center for
22 Investigative Reporting, a publication, published a report
23 in Reveal News entitled, quote, "The University of Phoenix
24 Sidesteps Obama Order on Recruiting Veterans." Dawn
25 Bilodeau, the DOD's Chief of Voluntary Education, who

1 recommended the probation decision and drafted and signed
2 the probation letter against the University, participated in
3 that article, acknowledging that the Department was, quote,
4 "cracking down on questionable recruiting practices among
5 for-profits." That same day, the Ranking Member of the
6 Defense Appropriation Subcommittee, Senator Durbin, wrote
7 Secretary of Defense Ashton Carter and urged the DOD, among
8 other actions, to suspend the University from the DOD's
9 voluntary education programs, to investigate and prosecute
10 the University for its use of "Challenge Coins," and to bar
11 it from any further access to military bases. It appears
12 that this letter was enough to propel the DOD into action,
13 for, just 2 weeks later, Ms. Bilodeau reached out to
14 military bases regarding the alleged access violations,
15 stating that, quote, "Congress has urged DOD to investigate
16 the allegations cited in the Reveal article."

17 On July 15th, 2015, in a letter from then-Acting Under
18 Secretary of Defense for Personnel and Readiness Brad Carson
19 to Ranking Member Durbin, Mr. Carson, quote, "confirmed that
20 DOD was completing a full review of University of Phoenix's
21 tuition assistance participation." This confirmation would
22 serve as the basis for an increasingly hostile attack by
23 Senator Durbin and others against the University.

24 On October 22nd, 2015, I sent a letter to Secretary
25 Carter, raising concerns about the decision to place the

1 University of Phoenix on probation. This decision appeared
2 to rely on questionable and overly technical interpretations
3 of the Memorandum of Understanding that governed the
4 interaction of for-profit schools with the Department of
5 Defense. It failed to acknowledge the corrective actions
6 that the University had immediately taken, and it was based
7 in part on allegations made by a news article and other
8 agencies that had been neither initiated nor confirmed by
9 the DOD.

10 Following additional correspondence and several
11 meetings with committee staff, the Department removed the
12 University of Phoenix from probation in January 2016. I
13 repeat. They removed the University of Phoenix from
14 probation in January 2016. By then, however, major damage
15 had already been done to the University and its mission.
16 For this reason, I directed staff to investigate, among
17 other things, the facts and circumstances that led to the
18 Department of Defense's decision to put the University of
19 Phoenix on probation, the rules, processes, and procedures
20 in place at the DOD that govern its administration of the
21 Tuition Assistance Program, and the interagency enforcement
22 actions against for-profit educational institutions. The
23 facts that have emerged suggest that the reasons that the
24 DOD provided in support of its decision are demonstrably
25 specious. Let us review some of these key facts in greater

1 detail.

2 First, in its October 2015 probation letter, the
3 Department of Defense cited the allegations in the Reveal
4 News article as a basis for apparent violations of the
5 Memorandum of Understanding, specifically the University's
6 alleged failure to obtain approval for base access from DOD
7 educational advisors. This was wrong. The fact is, the
8 University acted in good faith regarding base access by
9 obtaining approval from base commanders prior to taking any
10 action. The Department of Defense's concerns about base
11 access appear to reflect overly technical violations of the
12 MOU that should not have warranted adverse action.

13 It's also a fact that, throughout the relevant period,
14 there was considerable confusion among the military services
15 and participating educational institutions about the
16 requirements of the MOU on base access. This arose from a
17 lack of a process at DOD to implement base access compliance
18 rules by the services, themselves. In each instant of a
19 perceived base access violation, the Department of Defense
20 ultimately found that the base, itself, failed to comply
21 with the MOU. So, again, in this broader context of
22 confusion, singling out the University of Phoenix was
23 unfair. And, while subsequent actions by the DOD to clarify
24 proper compliance with the MOU may have been helpful to
25 other universities, it did nothing for the University of

1 Phoenix, which was already paying the price for actions that
2 preceded this additional guidance, and was being held to a
3 standard that was shifting.

4 Second, in its letter explaining its decision to place
5 the University of Phoenix on probation, the DOD cites,
6 quote, "transgression of Defense Department policies
7 regarding use of its official seals and other trademark
8 insignia relative to Challenge Coins." This, too, was an
9 error. In that very same letter and in subsequent
10 interviews with staff, Ms. Bilodeau stipulated that the
11 University had already responded to these infractions with
12 appropriate corrective action by the time the letter was
13 sent, and that they were no longer a concern of the
14 Department. Moreover, 15 other universities -- nine public,
15 five private, and one for-profit -- were found to have
16 violated the policies regarding the unauthorized use of
17 Challenge Coins, but they were never placed on probation.

18 Third, the Department cited civil investigative demands
19 for documents by the Federal Trade Commission and the
20 California State Attorney General as reason for its
21 probation decision on the University of Phoenix. This was
22 completely erroneous. A mere request for documents is hardly
23 evidence of misconduct. In fact, the fact -- indeed, the
24 fact is, the DOD never undertook its own independent review
25 of the allegations raised by the FTC or California Attorney

1 General investigations. Rather, it merely reviewed their
2 document requests and accepted that they were sufficiently
3 related to the University of Phoenix case to be cited as a
4 basis for the probation decision. As of today, neither of
5 these investigations have found any wrongdoing by the
6 University.

7 So, if the facts undercut the Department's own case
8 against the University of Phoenix, why did this happen? It
9 was certainly true that the Department lacked uniform
10 guidance to govern its own interaction with for-profit
11 universities and alleged violations of the Tuition
12 Assistance Program. The Department also lacked clear lines
13 of authority, supervision, and accountability, as well as
14 sufficient processes to review allegations of violations of
15 the MOU. These circumstances created an opportunity for an
16 abuse of discretion, led to the inconsistent and unfair
17 enforcement of the DOD's policies on institutions of higher
18 education, and allowed for a single Member of Congress to
19 improperly influence adverse action against a reputable
20 institution of higher education.

21 The facts of this case also raise troubling questions
22 about the abuse of executive orders to enact an ideological
23 agenda, the role of the Department of Education's
24 unaccountable interagency task force in carrying out that
25 agenda, and to what extent actions such as these usurp the

1 legitimate role of the Congress. None of this should have
2 ever been allowed to happen.

3 The purpose of this hearing is to ensure that a similar
4 abuse of authority never happens again or there is little
5 reason to believe that the circumstances and events that led
6 to the mistreatment of this one university could not be
7 present or could not manifest themselves elsewhere in the
8 Department of Defense.

9 Finally, to our witnesses, I want to be clear. I do
10 not take lightly requiring Civil Service employees who are
11 not confirmed by this body to testify before this committee.
12 This is necessary, however, because of the extraordinary
13 circumstances of this particular case, but also what it
14 represents more broadly: a gross abuse of power through a
15 flawed and arbitrary process with insufficient
16 accountability. Indeed, the Department came perilously close
17 to extinguishing one of its own valuable partners in
18 voluntary education programs and the higher education option
19 chosen by thousands of nontraditional students, especially
20 Active Duty service members. I shudder to think how a
21 similar lack of transparency and accountability could
22 manifest itself in other vital DOD missions. I truly hope
23 we will never see anything like this again at the Department
24 of Defense. But, if we do, for as long as I am Chairman of
25 this committee, there will be accountability.

1 I look forward to hearing from the witnesses. And I
2 thank them for their service to our Nation.

3 Before I turn to the Ranking Member, Senator Reed, the
4 committee has received statements from Senator Durbin and
5 from Mr. Timothy B. Slottow, president of the University of
6 Phoenix. Without objection, these statements will be made
7 part of the record.

8 The committee has received a letter from Mr. Walter
9 Ochenko, policy director of Veterans Education Success.
10 Without objection, this letter and all other letters
11 received on this matter through December 8th will be made
12 part of the record.

13 [The information referred to follows:]

14 [COMMITTEE INSERT]

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1 Chairman McCain: Senator Reed.
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1 STATEMENT OF HON. JACK REED, U.S. SENATOR FROM RHODE
2 ISLAND

3 Senator Reed: Well, thank you very much, Mr. Chairman.

4 And let me join you in thanking the witnesses for
5 joining us today to provide testimony on the operation of
6 voluntary education programs within the Department of
7 Defense and the Department's efforts to protect service
8 members, veterans, and their families.

9 I realize the Chairman's focus is on the University of
10 Phoenix and the compliance issue that they have faced over
11 the past 2 years, but I believe this hearing is especially
12 important to highlight the Department's efforts across the
13 board to ensure consistent and equitably applied standards
14 are in place to protect service members, veterans, and their
15 families from abusive and deceptive marketing practices by
16 any school, regardless of whether they are for-profit,
17 private, not-for-profit, or public institutions. The
18 University of Phoenix example is but one instance where the
19 Department has acted to ensure educational institutions live
20 up to the standards they agreed to in order to participate
21 in the Tuition Assistance Program. Indeed, as the
22 Department's response to Senator McCain's questions
23 concerning the University of Phoenix has shown, these rules
24 apply to all schools and are being enforced against all
25 schools.

1 The administration's goals in this area are worthy and
2 should continue even as a new administration takes office.
3 By Executive Order 13607, promulgated 2012, the
4 administration seeks to ensure that Federal military and
5 veterans educational benefits programs are providing service
6 members, veterans, spouses, and other family members with
7 the information, support, and protections they deserve. The
8 program does this by requiring participating schools to make
9 a wider array of information available to prospective
10 students by refraining from abusive and deceptive recruiting
11 practices and providing highest-level academic programs and
12 students or systems. And I think we can all agree that
13 these are worthy goals.

14 Underlying these issues is something else that I've
15 pointed to repeatedly, and that's the so-called 90/10 rule.
16 And this rule state that, for for-profit schools, they must
17 derive at least 10 percent of their revenue from non-Federal
18 student-aid sources. Paradoxically, DOD tuition assistance
19 in VA GI Bill programs count as non-Federal student-aid
20 sources. And that means, for every dollar of TA or GI Bill
21 funding for a for-profit school, they can acquire \$90 -- \$9
22 more in Federal student loans. And as Holly Petraeus has
23 testified, that leaves a bulls eye too often on the backs of
24 service members, veterans, and their families, which
25 explains why some for-profit educational institutions are

1 desperate to enroll service members, and also why the
2 Department of Defense has to be on its guard.

3 This 90/10 loophole provides a powerful incentive to
4 recruit service members and veterans, even to the exclusion
5 of effective student support programs. As Ms. Petraeus
6 testified in 2013, a school -- and I will emphasize, not the
7 University of Phoenix -- was guilty of signing up service
8 members with brain injuries to educational programs that
9 they did not need and without their full understanding,
10 employed 1,700 recruiters -- the school did -- and only one
11 full-time employee dedicated to helping students gain
12 employment after completing their studies. This illustrates
13 the perverse incentives the system has created and also,
14 once again, the need for someone to be watching out for
15 these veterans, their families, and their spouses.

16 And I agree with Holly Petraeus, who has advocated that
17 we should change this statutory loophole and support
18 legislation to ensure that these DOD funds and VA funds are
19 counted as Federal resources, not as private resources.

20 But, we concede, in the collapse of Corinthian College
21 and ITT, the need for stricter standards and greater
22 transparency. Tens of thousands of students, including
23 service members and veterans, have been left in the lurch
24 because of the failure of these schools. They've taken out
25 loans or used their GI Bill benefits with little of anything

1 to show for it. The administration's effort under the
2 executive order are critical to preventing these problems
3 and ensuring that military and veteran students can be
4 confident that all institutions participating in DOD, TA,
5 and VA education benefit programs adhere to reasonable
6 quality standards and fair practices.

7 I look forward to hearing from our witnesses about
8 these programs, how we can strengthen these protections and
9 ensure that we protect the men and women who have protected
10 us.

11 Thank you, Mr. Chairman.

12 Chairman McCain: Thank you.

13 We'll begin with you, Mr. Levine. Welcome back.

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1 STATEMENT OF HON. PETER K. LEVINE, ACTING UNDER
2 SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS;
3 ACCOMPANIED BY STEPHANIE BARNA, PERFORMING THE DUTIES OF
4 PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE FOR PERSONNEL
5 AND READINESS, AND DAWN BILODEAU, CHIEF, VOLUNTARY EDUCATION
6 PROGRAMS, DEPARTMENT OF DEFENSE

7 Mr. Levine: Thank you, Mr. Chairman, Senator Reed,
8 members of the committee. It is a pleasure and an honor to
9 appear before this committee.

10 You have my written statement, so I'm not going to read
11 from it, but there are a few points that I think would be
12 helpful for me to make up front about the program and about
13 the issues that we're -- that we've been trying to deal
14 with, the process we've been trying to deal with.

15 As you know, I was not in P&R at the time of the events
16 that you're talking about with the University of Phoenix,
17 with this program. The two Voluntary Education and Tuition
18 Assistance Programs fall under P&R responsibility, and so
19 those are now my programs. And Ms. Barna and Ms. Bilodeau
20 work for me.

21 The Voluntary Education and Tuition Assistance Programs
22 are both incredibly valuable programs to the Department and,
23 to my lights at least, incredibly vulnerable programs to
24 abuse. I want to put that in perspective. These programs
25 provide continuing education for 286,000 service members.

1 That makes those servicemembers better soldiers, airmen --
2 sailors, airmen, and marines, and it helps them also to
3 prepare for life after service. It is a particularly
4 valuable program, because it's broadly open to Active Duty
5 members, which means that, unlike some -- many of our other
6 continuing education programs and advanced education
7 programs, this is available to enlisted members -- broadly
8 available to enlisted members so that, throughout the ranks
9 of the service, many members can benefit from this, as
10 opposed to some of our other programs, which tend mostly to
11 benefit officers.

12 At the same time, as valuable as this program is, we
13 view this as a program that's potentially vulnerable to
14 abuse. The reason, to my lights -- there are several
15 reasons for that. One is that this is a program that
16 involves what I would call distributed decision making. We
17 pay the bills, but service members make the decisions. So,
18 we don't have any central place, like with contracting,
19 where we're monitoring what the decision is, making the
20 decision, making the decision on a rational basis. We have
21 286,000 service members who are in the program, plus others
22 who may be considering it, each of whom is making a decision
23 for him- or herself.

24 As we look at that, we see -- and you see this in our
25 prepared testimony -- only 53,000 of the 286,000 service

1 members who are participating in the program -- we have
2 286,000 members participating, only 53,000 receive
3 certificates or degrees. So, that means that close to 80
4 percent of the participants in the program will not
5 ultimately receive certificates or degrees from the program.
6 Now, there are lots of reasons for that. That doesn't mean
7 that that's abusive, per se, but it means that they're --
8 because it takes -- it's a hard thing to do -- you've got a
9 full-time job, you're on Active Duty; the Active Duty comes
10 first. It can take many years to get a degree. But, it
11 means that we have to be sensitive to the value proposition
12 for our service members. What are they getting out of this?

13 At the end of the day, we -- we also have a problem, as
14 Senator Reed mentioned, with student loans. We have concern
15 that, even though tuition is paid by DOD, we have some
16 participants participating in education institutions that
17 may be pressuring students to take loans, even where they
18 don't need loans, because their tuition is being paid. We
19 have some cases of bad debts and debt problems.

20 But, the real vulnerability of the program, to me, is
21 that it's outside of our wheelhouse as the Department of
22 Defense. We're not an education -- we're not experts in
23 education, so we want to protect our service members, but
24 we're not the people who can figure out the value
25 proposition. We have roughly 2700 educational institutions

1 participating in the program. That includes very good
2 educational institutions. They all have to be accredited,
3 but we can't tell which ones are good and which ones are
4 bad. We can't tell -- and when we hear concerns about the
5 value proposition, we're not well-positioned, because of our
6 expertise, which is in defense not in education, to rank
7 institutions and to provide our service members with
8 accurate and helpful information.

9 The one interagency meeting that I participated in on
10 this subject since I've been in P&R, I raised two issues.
11 One was that we need to treat for-profits and nonprofits
12 alike, that we can't distinguish and discriminate against
13 anybody because they're for-profit; and the other is that we
14 need help, and we need help in understanding which -- how to
15 rate and rank institutions, and to determine which ones are
16 providing us good product and which ones aren't.

17 In the absence of that kind of good information, we
18 have chosen to rely on what I call surrogate measures or
19 prophylactic measures to try to protect our service members.
20 And one of the key members that -- one of the key measures
21 that we use in that regard is the issue of marketing and
22 base access. I would say, if I could -- if I can give
23 service members really good information about who is
24 providing a good product and who isn't providing good
25 product -- who isn't providing good product -- I'd be a lot

1 less concerned about base access and marketing. But, when I
2 don't know, and I can't judge who's providing good product
3 and who isn't, this is something that I fall back on and
4 rely on, because, when I've got allegations out there about
5 misrepresentation and deceptive actions and multiple
6 unsolicited phone calls or emails or high-pressure
7 recruitment tactics, false representation about degree
8 programs, I want to hit -- I want to try to nip that in the
9 bud and hit it at the front end, rather than waiting until
10 after there's an allegation and I go through some lengthy
11 proof, if I can control it.

12 So, this is something that took place before I was
13 there, but we came up with an MOU which says, basically, "If
14 you want to have access to a base for marketing purposes,
15 you have to come through your educational advisor on the
16 base." And the educational advisor on the base is supposed
17 to allow you to market only in controlled circumstances,
18 like sanctioned education fairs. So, we have viewed direct
19 marketing to our students as a negative. Now, we could take
20 that as the right rule or the wrong rule, but it's --
21 there's no question in my mind that is the rule, that we
22 have told all the education institutions who are
23 participating in this program, "You have to sign an MOU if
24 you're going to participate, and your MOU will provide that
25 you're going to go through the education advisor for any

1 access to the base." And we've told our education advisors,
2 "Don't approve access for the purpose of unlimited
3 marketing. Marketing has to be in controlled circumstances,
4 because we don't -- we're not trusting of the kind of
5 marketing that takes place in these programs."

6 So, that could be a bad rule, or it could be a good
7 rule, but that is the rule. I can see, from an education
8 institution's point of view, that you could look at that,
9 and you've -- say, "Well, I'm providing a good product. I'm
10 helping service members. I'm putting them at in a better
11 position to succeed, and I'm not telling them anything
12 that's not true. And so, you telling me I had to go through
13 an education advisor is a ticky-tack violation, it shouldn't
14 count." That's great, and I understand and --

15 Chairman McCain: No.

16 Mr. Levine: -- respect that.

17 Chairman McCain: No, that's not the point. The point
18 is, if the commanding officer who has responsibility for
19 everything that happens on that base gives a permission that
20 clearly is the responsibility of the commanding officer.
21 That's the way the system works, Mr. Levine.

22 Mr. Levine: I understand that, Mr. Chairman. But, the
23 education institution signs an MOU saying that it will go
24 through the education advisor, and that's the education --

25 Chairman McCain: No matter what it says --

1 Mr. Levine: -- institution's obligation to do that.

2 Chairman McCain: -- we give the commanding officer the
3 responsibility for what happens under his or her command.
4 And that's the way the system works. And you should know
5 that by now.

6 Mr. Levine: I do know that. And I also know that,
7 when we have a government wide rule of some kind, or a DOD-
8 wide rule, whether it's contracting or something else, if I
9 have a rule --

10 Chairman McCain: I don't care what the DOD --

11 Mr. Levine: Yeah.

12 Chairman McCain: -- rule is, Mr. Levine. It's
13 whether-- the responsibility and authority rests with the
14 commanding officer of an installation unless it is
15 overridden by someone superior. The education officer is
16 not superior.

17 Please proceed, and wrap it up.

18 Mr. Levine: So, from DOD's point of view, we don't
19 know whether the institution is providing a good product or
20 not, and we don't know whether --

21 Chairman McCain: So, we placed them on probation
22 without knowing it.

23 Mr. Levine: We don't know whether they're providing
24 good product or not, and we don't know whether they are
25 accurate in their representations. We have chosen -- but,

1 what we do know is, if the institution isn't complying by
2 its MOU, which provides, "You will go to the education
3 advisor," then the one thing that we do know, that they're
4 being noncompliant, so we have reason to be concerned about
5 whether they're being helpful in other areas.

6 Let me turn to the process, because I'd like to talk to
7 the process briefly, as well.

8 I've looked at this since I came in. As I said, I
9 wasn't a part of this. I think that I would say DOD
10 complied with its own processes in how it went through this.
11 There is no place where I can see where we violated law or
12 regulation. Having said that, I think the process was
13 crappy, Mr. Chairman. I don't think that we should have a
14 process which doesn't provide advance notice to an
15 institution before it's placed on probation. I think that
16 that's a significant decision, which has a major impact on
17 the private institution. And, as the Department of Defense,
18 we should be more responsible than that, and we should have
19 a process which provides advance notice and opportunity to
20 respond. We didn't do that in that case. Our process
21 didn't provide for it. But, it should have. And that was a
22 bad process. And we have taken steps to fix that. We have
23 to go through -- before it's formal, we have to go through
24 Notice in Public's Comment, but I've told my people that
25 we're going to provide notice and an opportunity to respond

1 in the future before we put anybody on probation.

2 So, in terms of your concerns about the process, I
3 share your concerns. I think there are things that we can
4 improve. There are other places in our -- in my statement
5 where I've talked about things that we can and should
6 improve in this regard.

7 Let me just conclude quickly by saying a couple of
8 words about the two witnesses to my left and to my right.
9 As you've noted, Mr. Chairman, Dawn Bilodeau is a GS-15. We
10 don't normally have GS-15s testify at hearings. We have
11 complied with your request in this case. She's agreed to
12 appear. The reason we don't like to have GS-15s appear is
13 because GS-15s don't set policy for the Department. When
14 GS-15s act, they act pursuant to delegated authority from
15 senior officials, and we remain responsible and accountable
16 for their actions. Even if we didn't know about them, we
17 would be responsible and accountable for those actions.

18 In this case, Ms. Barna has testified -- has informed
19 you and will testify today, she did know and she did approve
20 of Ms. Bilodeau's actions, and she accepts responsibility
21 and accountability for what was done in this case.

22 So, let me just conclude by saying a couple of words
23 about Ms. Barna, who has been my Principal Deputy since I
24 joined P&R, about 8 months ago. During that time, I have
25 consistently relied on Ms. Barna. She -- her hard work,

1 knowledge, judgment, and integrity are unparalleled, in my
2 view. From the time that she joined the Department of
3 Defense as a JAG in 1989, I think that everybody has -- who
4 has worked with her understands that she has made the
5 Department a better place. That includes staff of this
6 committee. It includes me before I took this position. I
7 cannot tell you how much I rely on Stephanie, and how much I
8 trust her integrity and her work ethic to do the right
9 thing. So, if she tells the committee why she took an
10 action, I think you should take that to the bank. That's
11 why she took the action, and not for any other reason.

12 With that, I conclude my testimony, and we're -- we'd
13 be happy to answer any of your questions.

14 Thank you, Mr. Chairman.

15 [The prepared statement of Mr. Levine follows:]

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1 Chairman McCain: Thank you.

2 Does Ms. Barna or Ms. Bilodeau have any opening
3 statements they would like to make?

4 Ms. Barna: I do not, sir.

5 Ms. Bilodeau: No, sir.

6 Chairman McCain: Thank you.

7 Ms. Bilodeau and Ms. Barna, the reason why we have you
8 here is because you made decisions. You made decisions that
9 directly affected this entire situation for which we're
10 having this hearing. And I agree with Mr. Levine that we
11 don't usually do that, but we don't usually have people at a
12 GS-15 level making decisions that have the profound effect
13 that they did.

14 Ms. Bilodeau, isn't it true that you participate in the
15 nonpublic interagency task force targeting for-profit
16 educational institutions, the aim of which is to, quote,
17 "coordinate their activities against for-profits"? Is that
18 true?

19 Ms. Bilodeau: Yes, sir.

20 Chairman McCain: So, we have a nonpublic interagency
21 task force that targets for-profit educational institutions,
22 the aim of which is to coordinate their activities against
23 for-profits. Nobody else, but against for-profits. And,
24 through this task force, you share information and assist
25 one another in the enforcement of Federal laws. Is that

1 correct? Ms. Bilodeau?

2 Ms. Barna: Well, sir, as Ms. Bilodeau's supervisor,
3 would you mind if I interjected?

4 Chairman McCain: Please go ahead.

5 Ms. Barna: The Department does participate in the task
6 force to which you've referenced. The Department has
7 consistently raised within the members of the task force our
8 objection to the name. The purpose of the task force is not
9 to focus only on for-profit institutions, but rather on all
10 institutions. And we've --

11 Chairman McCain: Tell the --

12 Ms. Barna: -- made plain --

13 Chairman McCain: Tell me --

14 Ms. Barna: -- our concern.

15 Chairman McCain: Tell me another institution you have
16 focused your attention on and placed on probation.

17 Ms. Barna: I would have to ask Ms. Bilodeau for the
18 other institutions. We have a number of them that we have
19 placed on probation.

20 Chairman McCain: Tell me one.

21 Ms. Bilodeau: Globe University, Minnesota Business
22 School, Heald College.

23 Chairman McCain: In fact, you -- Ms. Bilodeau, you
24 emailed your interagency partners to notify them of the
25 probation decision so these agencies could coordinate

1 enforcement actions against the University.

2 Ms. Bilodeau, you drafted the letter that informed the
3 University that it was on, quote, "probationary status."

4 And, Ms. Barna, you approved that letter. Is that correct?

5 Ms. Barna: I did, sir.

6 Chairman McCain: But, first Ms. Bilodeau and then Ms.
7 Barna, who at that time made the decision to place the
8 University on probationary status?

9 Ms. Barna: Sir, I made that decision.

10 Chairman McCain: And who did you consult?

11 Ms. Barna: I consulted with my team, not at the time
12 the decision was made, but in advance, as we were inquiring
13 into the various allegations that had been brought forth
14 about the University of Phoenix.

15 Chairman McCain: And what information was that?

16 Ms. Barna: We had received a complaint initiated when
17 Ms. Bilodeau interviewed with what we thought was the PBS
18 News Hour. At that time, she was talking about the
19 Department's efforts to implement the Principles of
20 Excellence and to better govern our voluntary education
21 programs. The interviewer brought forth a University of
22 Phoenix Challenge Coin that also bore the departmental seals
23 and asked Ms. Bilodeau whether or not she was aware of base
24 access violations. Based upon that, we initiated an
25 inquiry, as we always do. And Ms. Bilodeau began looking to

1 the various services for information.

2 Our ability to focus that inquiry was certainly
3 forwarded by the Reveal News article on the 30th of June
4 that we believe to have been authored by the very same
5 person who interviewed Dawn for the PBS News Hour.

6 Chairman McCain: So, there was a newsstory and a
7 article, and you then acted to place the University of
8 Phoenix on probation.

9 Ms. Barna: I did act, sir, after 4 months of inquiry
10 between the publication of the June 30th Reveal News article
11 and the issuance of the letter of probation.

12 Chairman McCain: And by the time you issued the letter
13 of probation, they had discontinued the Challenge Coin and
14 had, on numerous occasions, sought to consult with you,
15 which was not agreed to by you.

16 Ms. Barna: I'm sorry, could you please repeat that --

17 Chairman McCain: It's a matter of --

18 Ms. Barna: -- last question?

19 Chairman McCain: -- record. It's a matter of record
20 that the University of Phoenix made several efforts -- and I
21 have the communications -- to consult with you about these
22 allegations, and you refused to consult with them. In fact,
23 quote, "not at this time," I believe was your exact
24 response.

25 Ms. Barna: Sir, I can't speak for others, certainly,

1 but I had no personal contact with the University of Phoenix
2 or any of their agents, and have not had contact with them
3 to this day.

4 Chairman McCain: This -- here's the letter, right
5 here, July 28, 2015, "Dear Assistant Secretary Williams, As
6 the president of the University, we write to respectfully
7 request a meeting with you and your team to share and
8 demonstrate what we have learned," et cetera.

9 Ms. Barna: Oh. Yes, sir. Rosemary Williams was one
10 of our Deputy Assistant Secretaries of Defense.

11 Chairman McCain: So, you were unaware of this request
12 to meet?

13 Ms. Barna: Yes, sir, I was not aware of that request
14 until I was informed of it in the University of Phoenix's 22
15 October response to the letter of probation.

16 Chairman McCain: Aha. So, there's no communication
17 between you and Deputy Assistant Secretary Williams.

18 Ms. Barna: In fact, there is extensive communication.

19 Chairman McCain: Well, then why weren't you aware of
20 this letter and other attempts to outreach by the University
21 of Phoenix?

22 Ms. Barna: I can't --

23 Chairman McCain: In other words --

24 Ms. Barna: -- explain that, Senator.

25 Chairman McCain: -- Ms. Barna, anybody who's going to

1 take action such as you decided to take -- and I don't
2 believe, frankly, that it was you alone, but I can't prove
3 it -- at least you contact the people that you are placing
4 on probation on the basis of a PBS News Hour and a article
5 in a newspaper.

6 Ms. Bilodeau and Ms. Barna, I understand there is no
7 document, none, that reflects that approval for the decision
8 was ever sought or granted. Is that correct?

9 Ms. Barna: Sir, when the letter of probation that Ms.
10 Bilodeau proposed to sign was sent to me, I reviewed it, I
11 consulted with --

12 Chairman McCain: Who sent it to you?

13 Ms. Barna: It came to me from Mr. Ed Pratt, who was
14 the Chief of Staff of the Office of the Deputy Assistant
15 Secretary of Defense for Military and Community Family
16 Policy.

17 Chairman McCain: For -- again, Ms. Bilodeau and Ms.
18 Barna, who, at that time, made the decision to place the
19 University on, quote, "probationary status"? Who approved
20 the letter?

21 Ms. Barna: I did, sir.

22 Chairman McCain: And that is your responsibility, and
23 yours alone, to place a university on probationary status on
24 the basis of the PBS television and a article in the -- in
25 some periodical, when the University of Phoenix had already

1 taken action to correct it?

2 Ms. Barna: Sir, it was my responsibility. Under the
3 terms of the DODI, which I agree with Mr. Levine is
4 unartfully drafted, the person acting as the --

5 Chairman McCain: Was what, again? Inart- --

6 Ms. Barna: The DODI is unartfully drafted. And that
7 is the --

8 Chairman McCain: An unartfully drafted periodical
9 puts-- literally puts a -- an institution out of business.
10 An in artfully drafted --

11 Mr. Levine: The --

12 Chairman McCain: I mean, it's incredible.

13 Mr. Levine: Mr. Chairman, the DODI she's referring to
14 is not the article. It's our Department of Defense
15 Instruction. DODI is a -- is an acronym there.

16 Chairman McCain: Well, my time is long overdue, and
17 I'll go -- and I will ask the indulgence of my colleagues,
18 but, on the Challenge Coins, they had corrected it before
19 you had acted, and there was numerous attempts, including
20 this one, to try to resolve these issues. And, by the way,
21 the letter in response was from Rosemary Williams, the
22 Deputy Assistant Secretary of Defense, Military Community
23 and Family Policy, a fairly responsible individual. "Dear
24 Ms. Slottow" -- those are the people from the University of
25 Phoenix that wrote -- "Thank you for your thoughtful letter.

1 My sincere apologies for not responding in a more timely
2 fashion. While I appreciate your desire to meet, I believe
3 it is a bit premature at this time." They refused to meet
4 with them.

5 Mr. Levine: What time was that, Mr. Chairman?

6 Chairman McCain: That was in August 2015.

7 Ms. Barna: Mr. Chairman, I believe that would have
8 been the time that our inquiry was ongoing.

9 Chairman McCain: Well, with an ongoing inquiry, you
10 ought to be able to talk to the people that are being
11 inquired about. Here's one on October 30th, 2015. Yeah.
12 And so, on October 30th, you made the decision, even though
13 you had -- your people or your superior had refused to meet
14 with the University of Phoenix.

15 Senator Reed.

16 Senator Reed: Well, thank you very much, Mr. Chairman.

17 Mr. Levine what form does this agreement take between
18 the Phoenix University or any eligible institution and the
19 Department of Defense? Is it a contract? Is it an
20 agreement? Is it --

21 Mr. Levine: It's a memorandum of understanding signed
22 by the -- both parties.

23 Senator Reed: And -- both parties -- and within the
24 memorandum of understanding, is it clear that those
25 situations which triggered this notification to University

1 of Phoenix would be inappropriate?

2 Mr. Levine: The memorandum of understandings provides
3 that educational students -- educational institutions
4 seeking access to a DOD installation, quote, "will provide
5 their request to the responsible education advisor, who will
6 review and analyze those requests on behalf of the
7 installation commander."

8 Senator Reed: So, in a case of access to installation,
9 that was the -- the memorandum clearly stated that they had
10 to go through the education advisor.

11 Mr. Levine: It did.

12 Senator Reed: With the use of Challenge Coins, they
13 were specifically prohibited from using these types of
14 devices --

15 Mr. Levine: Mr. Chairman, it's my understanding that
16 was not in the MOU. It's --

17 Senator Reed: Chairman -- I'm the Ranking Member.

18 Mr. Levine: I apologize.

19 Senator Reed: Go ahead.

20 Mr. Levine: Senator Reed.

21 Senator Reed: Yeah.

22 Mr. Levine: I apologize. It's my understanding that
23 that was not in the MOU. It's a separate DOD policy that
24 precludes the use of the DOD seal because of the risks that
25 it will create the appearance of official sanction.

1 Senator Reed: Now, since the -- this situation
2 developed, you have developed procedures in which someone
3 who's being considered for probation is notified? Is that
4 clear?

5 Mr. Levine: The procedures that we have -- that are
6 outlined in my testimony, as I say, that we will -- we are
7 now using for anybody who comes before us but are not yet
8 official, because we have to go through Notice of Public
9 Comment -- those procedures call for a notice the party, an
10 opportunity to respond, and the decision to be made at the
11 Assistant Secretary level so that we'll be clear there is
12 not a GS-15 and it's -- the person who signs the letter will
13 be the person who's responsible and accountable.

14 Senator Reed: How many schools have been placed on
15 probation in similar circumstances, going back --

16 Mr. Levine: So, there are two different categories of
17 probation. And this -- there are apparently -- and I can
18 turn to Ms. Barna or Ms. Bilodeau, but, as I understand it,
19 there are a number of institutions that have been placed on
20 probation when they have lost -- they've lost their
21 standing. They are no longer accredited or they're no
22 longer qualified for the program. There are other
23 institutions that are placed on probation in the nature of
24 this, where we've identified problems that are correctable.
25 And it's my understanding that there are four institutions

1 that have been placed on probation in those circumstances.

2 Senator Reed: Ultimately, the University of Phoenix
3 was removed from the probation. And what caused that
4 removal?

5 Mr. Levine: What Ms. Barna tells me is that, after the
6 communication difficulties that they were having with the
7 University of Phoenix, she appointed an SES to be the --
8 essentially, the full-time liaison to the University of
9 Phoenix. And once that -- this was about a month after the
10 probation -- once that person was appointed, the
11 communications improved, and they were able to work through
12 the problems and reach agreement as to how they were going
13 to address them, going forward.

14 Senator Reed: There seems to be, you know, an issue
15 with respect to communications and discussions back and
16 forth. The Chairman has suggested the letters -- he has
17 copies of letters that were sent to somebody in DOD. But,
18 you're implying that there was not a direct line of
19 communication between Ms. Barna and Phoenix to resolve these
20 problems until months after the problems were discovered and
21 the probation --

22 Mr. Levine: Right.

23 Senator Reed: -- was imposed?

24 Mr. Levine: It appears to me that there were
25 significant communication problems here. I -- and so,

1 that's why I asked the Chairman when the letter was he was
2 referring to. I have heard my staff talk about feeling that
3 there were communication problems on the other side, where
4 we would apparently send the University of Phoenix a notice
5 of a complaint and ask for their response, and not get a
6 response that we felt was responsive.

7 I can't tell you the University of Phoenix was wrong in
8 that case or that we were right. I can just tell you that
9 it appears to me that there were significant communication
10 problems here.

11 Senator Reed: At the heart of all of this is the
12 executive order and the implementation policies. I note
13 that the statement of the president of the University of
14 Phoenix, in his words, "Both Executive Order 13607 and a new
15 postsecondary compliant system are integral parts of the
16 Department of Defense Memorandum of Understanding outlining
17 requirements related to participation in the voluntary
18 education programs. The University of Phoenix supports each
19 of these initiatives and taking -- directs us to advocate
20 for enhancements, improvements that help students." So,
21 apparently the University does support at least the
22 overarching approach here. And I assume you're in
23 communication with them to get their advice about how better
24 to implement it. Is that fair?

25 Ms. Barna: Sir, yes, our communications have improved

1 dramatically. In fact, they go -- they're doing very well
2 in both directions. First, in the last several months
3 particularly, Phoenix has really come back into the ranks,
4 has called us to consult when there are questions, has
5 appointed a new director of their military services
6 department, and, in fact, called us to consult with that
7 military director so that we could better inform him about
8 the needs of the Department and our requirements under the
9 MOU.

10 So, we believe that the situation has actually had a
11 very positive effect on the relationship between the
12 Department of Defense and the University of Phoenix.

13 Senator Reed: Thank you.

14 Thank you, Mr. Chairman.

15 Chairman McCain: Well, just to clear things up, you
16 keep talking about communication difficulties. For the
17 record, on July 28, the letter came from the University of
18 Phoenix president asking -- received notification of
19 potential noncompliance. He asked for a meeting. The
20 answer was -- which was not provided initially to this
21 committee, quote, "I appreciate" -- from -- and, by the way,
22 a copy of it to what is -- was sent to Ms. Bilodeau --
23 quote, "While I appreciate your desire to meet, I believe it
24 is a bit premature at this time. I do not want to close
25 this communication without acknowledging your collective

1 extensive service to our country through academic public
2 service in uniform." The question is, is why the committee
3 didn't receive this email in response to its request for
4 documents.

5 Senator Rounds.

6 Senator Rounds: Thank you, Mr. Chairman.

7 Ms. Bilodeau, I understand why Active Duty service
8 members view for-profit colleges as a convenient and
9 accessible way to earn their degree while they're serving
10 full-time. I also understand that there is an argument that
11 some for-profit colleges prey on our service members and
12 offer education and degrees of questionable value. In your
13 opinion as the chief of DOD's Voluntary Education Program,
14 what role do you see for-profit colleges playing in DOD's
15 strategic goals to educate our service members?

16 Mr. Levine: Senator, could I respond to that?

17 Senator Rounds: You may.

18 Mr. Levine: I would say that we are concerned, not
19 about for- -- some for-profit colleges that may have
20 improper conduct, but some educational institutions, whether
21 they're for-profit or not-for-profit. I don't want to rule
22 out the case of potential abuse for not-for-profits. We see
23 both for-profits and not-for-profits as providing a valuable
24 role here, and we want to -- and we want them to comply with
25 our policy. Obviously, we want them to provide quality

1 products, but we don't believe that there's any inherent
2 reason to believe that a nonprofit is providing a better
3 product than a for-profit. We want a quality product.

4 Senator Rounds: As a follow up, then -- and I would
5 direct it, then, to you, Mr. Secretary -- and that is, Do
6 you differentiate between services provided by a for-profit
7 versus those provided by a not-for-profit?

8 Mr. Levine: I do not, Senator. And the one -- as I
9 indicated earlier, in the one interagency meeting that I
10 attended on this issue, that was the -- that was one of the
11 two major points I made, was that we don't, in the
12 Department of Defense, want to distinguish between for-
13 profits, not-for-profits. We want to distinguish between a
14 good product and a bad product.

15 Senator Rounds: Of the number of institutions that
16 have been providing services -- and I know that there's over
17 2700 -- you've indicated that there are four that have been
18 placed on probation. How many of those are for-profit, and
19 how many of them are not-for-profit?

20 Ms. Bilodeau: I would have to check the status, the
21 for-profit status. Phoenix is a for-profit. Heald College
22 is a for-profit. I'm just not sure if Globe University,
23 Minnesota Business School are nonprofit or for-profit, sir.

24 Senator Rounds: In your review of their activities, do
25 you differentiate? Are you aware of whether or not they're

1 a for-profit or a not-for-profit when you review them?

2 Ms. Bilodeau: When we pull their file, we do see that.
3 However, the MOU is -- does not -- doesn't consider that.
4 Everyone signs the same agreement. And so, the rules apply
5 consistently, regardless of sector.

6 Senator Rounds: It seems as though there -- there most
7 certainly seems to be a crossover between you're -- in your
8 position, serving in both the interagency task force on
9 these for-profit operations versus your position here within
10 DOD in reviewing and looking at the services being provided.
11 Did -- were the two connected? And I'm asking, Does it come
12 with the job, or was it specifically requested? Was one
13 before the other?

14 Mr. Levine: Senator, it comes with the job. It's part
15 of all of our jobs in the Department of Defense that, when
16 we're called upon to -- the Department of Defense is called
17 upon to participate in an interagency task force, we look
18 for people who serve in the line jobs that work on that. We
19 don't have somebody -- we can't afford to have somebody
20 who's staffed just to working on an interagency task force
21 of that kind.

22 Senator Rounds: And so, the individual who was
23 responsible for the voluntary educational programs in the
24 Department of Defense is also the individual identified as
25 being responsible on a task force specifically to

1 investigate the for-profit organizations?

2 Mr. Levine: So, the way -- and I -- maybe Ms. Barna
3 could elaborate on this, but the way that it would typically
4 work is that I, if I were the Under Secretary at the time,
5 would be called upon to designate somebody who is expert in
6 that area who could participate in an interagency task
7 force. And I would have to look to where the expertise is
8 in my organization.

9 Senator Rounds: So, most certainly, then, there is a
10 differentiation between the profits and the not-for-profits
11 if you are also on a task force which is targeting the for-
12 profit organizations. Most certainly there is a difference,
13 and you identify and you separate them out.

14 Mr. Levine: Well, as Ms. Barna indicated, we don't
15 agree with the idea that this task force should be targeting
16 for-profits. We believe that -- and, as I indicated, when I
17 participate in interagency meetings, my point has been --

18 Senator Rounds: I -- Mr. Secretary, I --

19 Mr. Levine: -- we don't want to differentiate.

20 Senator Rounds: -- I understand it. And I think what
21 we're getting at is, is that, whether or not we agree with
22 it, we're talking about, de factor, what has been occurring,
23 and it seems to me that that is the basis for it. The
24 Chairman's expressed concern, and seems to me that your
25 suggestion that you believe that there are things that could

1 be changed -- and I hope you have the resources and the ears
2 available to make those recommendations, but mostly
3 certainly there seems to have been a connection between DOD
4 and the interest in an interagency task force targeting for-
5 profit institutions.

6 Mr. Levine: So, Senator, I appreciate that, and what I
7 would say is, I can't speak for what other agencies do.
8 Within the Department of Defense, we work very hard to make
9 sure that we do not distinguish on that basis and we don't
10 target on that basis. I can't tell you what other agencies
11 do.

12 Chairman McCain: But --

13 Senator Rounds: Thank you, Mr. Chairman.

14 Chairman McCain: But we can know that, Senator, that
15 there is a task force that is designed and in operation,
16 without any authorization from Congress, that is targeting
17 for-profit institutions. Facts are stubborn things.

18 Before I turn to Senator Manchin, I'd like to welcome
19 back to the committee the Senator from Virginia, and
20 congratulate him on waging an honorable campaign of which he
21 can be very proud.

22 Senator Manchin: Hear, hear.

23 Chairman McCain: And I'm probably the only person here
24 who can relate.

25 [Laughter.]

1 Chairman McCain: I thank you, Senator Kaine, and
2 welcome you back.

3 Senator Manchin.

4 Senator Manchin: Following up on what the Chairman
5 just said, it's an executive order. If this executive order
6 is rescinded, what does it do to y'all's operation? Because
7 you're operating under an executive order, correct?

8 Mr. Levine: We have a Department of Defense
9 Instruction which establishes our policy. And we would have
10 to look at the way that Department of Defense Instruction is
11 drafted. And I don't know to what extent it incorporates by
12 reference things that are in this executive order or whether
13 it has its own independent standard that may be consistent
14 with the executive order separately established. So --

15 Senator Manchin: That would depend on whether --

16 Mr. Levine: Yeah.

17 Senator Manchin: -- you would continue what you're
18 doing --

19 Mr. Levine: Sure.

20 Senator Manchin: -- or if you do it differently, or if
21 you just abandon it.

22 Mr. Levine: Sure. But, a new administration obviously
23 would have the authority not only to reconsider the
24 executive order, but also to reconsider the Department of
25 Defense Instruction.

1 Senator Manchin: Sure.

2 Followup on that. You know, this has been going on for
3 some time, and I have -- I have one large institution in my
4 State also, and we're watching everything very carefully.
5 They believe they've been targeted also. Anybody in the
6 private arena believes they've been targeted. But, when I
7 see -- you've -- you all have hit some pretty lofty groups,
8 here. Florida State University, Georgetown, University of
9 Maryland, University of Miami, Xavier, Rutgers are in
10 violation. These are all for-profits. Why -- these are
11 not-for-profits.

12 Mr. Levine: Nonprofit.

13 Senator Manchin: I'm sorry. And your for-profits, you
14 had the two right now that you have under concern there
15 that-- I'm having a hard time understanding, unless you all
16 are looking at, basically, a for-profit, have basically
17 targeted the military and basically built their business
18 model around the military and the money that comes from the
19 GI Bill and different assistance that we give. Is that what
20 targets that -- is that what flags it for you all?

21 Mr. Levine: So, Senator, I would say a nonprofit could
22 do the same thing. You could have a nonprofit education
23 institution that --

24 Senator Manchin: But, all these are in violations --

25 Mr. Levine: Sure.

1 Senator Manchin: -- Mr. Levine. I know that. They're
2 all in -- so, they've done something wrong.

3 Mr. Levine: Right.

4 Senator Manchin: But, basically, they have a wide
5 scope of educating a lot of different people --

6 Mr. Levine: Sure.

7 Senator Manchin: -- in different arenas. It seems
8 like, for the for-profits, that basically that you all have
9 homed in on are the ones are the ones that strictly have
10 built their business around military. Is that correct?
11 Would that be a fair evaluation?

12 Ms. Barna?

13 Ms. Barna: Sir, I believe it's probably just a matter
14 of the overlapping of the facts. Those who do an extensive
15 business with Federal education funding, either through the
16 GI Bill run by the VA or through our Tuition Assistance
17 Program, are likely to deal with a number of military. And
18 so, I think it's just a matter of the fact that we're
19 dealing with providing educational funds and opportunities
20 to our service members, and that is the population that,
21 because they are nontraditional students, have found an
22 educational home at places like AMU or the University of
23 Phoenix.

24 Senator Manchin: When you have them in violation of
25 MOU, not-for-profit and for-profit, did they get the same

1 type of punishment, if you will? Is it the same type of
2 punishment adhered both to non- and -- for-profit and
3 nonprofit?

4 Ms. Barna: Sir, in my view, I would not distinguish
5 between the two in determining an appropriate action on
6 allegations of infractions.

7 Senator Manchin: So, the -- some of the more
8 prestigious -- let's say Georgetown University -- you're
9 preventing them to have access to bases?

10 Ms. Barna: I do not know if Georgetown has sought
11 direct access to bases. I do not know whether we have
12 received a complaint about Georgetown not complying with
13 those criteria.

14 Mr. Levine: But, when we --

15 Senator Manchin: Where --

16 Mr. Levine: -- when we get a complaint, we would refer
17 it to -- we would refer it for the same kind of review. We
18 would refer it back to the institution ---

19 Senator Manchin: And they were in violation, correct?

20 Mr. Levine: -- whatever the institution was, and tell
21 them that they're in violation --

22 Senator Manchin: Yeah.

23 Mr. Levine: -- ask for their response, look into it in
24 the same way.

25 Senator Manchin: And I think what we're all concerned

1 about is that, basically -- did the nonprofits get put on
2 violation -- were they notified?

3 Ms. Barna: Yes, sir.

4 Senator Manchin: So, they were notified, but the
5 nonprofits -- I mean, the for-profits were not notified.

6 Mr. Levine: So --

7 Ms. Barna: No. All were notified, sir.

8 Mr. Levine: Senator Manchin, if I could, I would
9 distinguish between the individual allegations, which for-
10 profits and nonprofits are notified of and given an
11 opportunity to respond to, which is where I think we're a
12 little bit better, and then the probation decision, which
13 the non- -- which, in this case, University of Phoenix was
14 not given advance notification of. So, I guess the theory
15 in the Department at the time was, "Well, you've been
16 notified of each of these violations, and we don't like your
17 responses, therefore we're going to put you on probation."
18 As I've indicated, I don't think that's an adequate process.

19 Senator Manchin: Right.

20 Mr. Levine: I think if we don't like your responses --

21 Senator Manchin: Were the non-for-profits -- were they
22 handled the same way? Were they put on probation?

23 Mr. Levine: As Ms. Bilodeau indicated, there are a
24 couple of institutions that have been put on probation,
25 where she doesn't know whether they're for-profit or not-

1 for-profit, out of the four, so that there are two for-
2 profits that have been put on probation and two where she
3 doesn't know. So, we'd have to check and see whether those
4 are for-profits or non-for-profits. We just don't know at
5 this point.

6 Chairman McCain: Senator Tillis.

7 Senator Tillis: Thank you, Mr. Chair.

8 Thank you all for being here.

9 I -- Ms. Barna, I was just curious in -- how long have
10 you been in your current position?

11 Ms. Barna: Well, sir, I have moved the -- around the
12 Department of Defense quite a bit. I've been with the
13 Office of Personnel and Readiness since April of 2014. And
14 it was in that position that I made the decision in October
15 of 2015 regarding the University of Phoenix.

16 Senator Tillis: And to me -- I tend to share the
17 sentiment of the Chair and my colleague Senator Rounds that
18 there is a general sense that there's a targeting. The
19 Interagency Task Force is one example of that. I'm not
20 going to get into a debate with you all over whether or not
21 your Department's targeted. But, do you know of any other
22 example for a not-for-profit that has been put on probation
23 before given notice ahead of time?

24 Ms. Barna: Sir, again, I think it would be important,
25 as Mr. Levine has done, to distinguish between notices of

1 individual infractions.

2 Senator Tillis: Yeah.

3 Ms. Barna: When we receive information --

4 Senator Tillis: Yeah.

5 Ms. Barna: -- one of the first --

6 Senator Tillis: Yeah, I get that.

7 Ms. Barna: -- entities that we contact --

8 Senator Tillis: I'm talking about -- well, let me put
9 it a different way. Can you think of any specific
10 circumstance where a not-for-profit has been dealt with the
11 way that University of Phoenix was when they ultimately
12 received probation, the nature of the communications?

13 Mr. Levine: So, Senator, as Ms. Bilodeau has
14 indicated, there are -- we believe there are four
15 institutions that we've placed on probation in this type of
16 circumstance. My presumption is that none of them received
17 advance notice. My view is, they all should have received--

18 Senator Tillis: Yeah.

19 Mr. Levine: -- advance notice.

20 Senator Tillis: And, Mr. Levine, I think you referred
21 to the process as "crappy." And I think Ms. Barna may have
22 said it was inartfully worded. What's changed since you've
23 come in? I think you've said 8 months. What has changed to
24 make it less likely that something like happened to
25 University of Phoenix would occur again?

1 Ms. Barna: Sir, as Mr. Levine indicated, any sort of
2 formal procedures that we put out must go through the
3 Federal Register's Notice and Comment. So, we are crafting
4 revisions to procedures. But, in the meantime, we are going
5 to employ those procedures, because we believe they give
6 greater due process to the affected educational --

7 Senator Tillis: Thank you.

8 Ms. Barna, you mentioned that -- I think, that the
9 relationship with University of Phoenix has improved. And
10 you mentioned, I believe, that they have hired someone
11 who's-- would you go back and repeat what steps they've
12 taken that you think have improved the relationship with the
13 Department?

14 Ms. Barna: First, they have been much more open with
15 us about coming forward when they have questions about the
16 MOU and what they should do. And they do that in advance.
17 And so, we have a very good two-way --

18 Senator Tillis: Did you mention that they've hired
19 somebody or put somebody in a position also? Was it you
20 that mentioned that in your testimony?

21 Ms. Barna: Yes, sir, I did. They've hired a Director
22 of Military Services, particularly to address the growing
23 population of military students. And they reached out to us
24 and asked that we consult with that Director of Military
25 Services to ensure that we set up good lines of

1 communication there --

2 Senator Tillis: Okay, thank you.

3 Ms. Barna: -- and that --

4 Senator Tillis: Secretary Levine, you mentioned 200-
5 and -- was it 260-some-thousand people participating in the
6 program?

7 Mr. Levine: Yes, sir.

8 Senator Tillis: And you said 80 percent of them go
9 through programs, do not receive a certificate or a degree.
10 Is there a split -- are you referring to the for-profit,
11 not-for-profit, or both?

12 Mr. Levine: Both.

13 Senator Tillis: Okay. Do you have any data that
14 suggests that one is more successful with getting someone a
15 degree or a certificate than the other?

16 Mr. Levine: I do not.

17 Senator Tillis: I think that would be very helpful in
18 this discussion. I'd be interested in getting that from the
19 Department, if we can, or if you could point us in the right
20 direction.

21 [The information referred to follows:]

22 [COMMITTEE INSERT]

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1 Senator Tillis: But, let me get back to a basic -- the
2 reason I asked the question of Ms. Barna about hiring
3 another employee -- I'm from North Carolina. I would argue
4 we've got one of the best university systems in the country.
5 That university system has 17 institutions. It spends over
6 \$1 billion a year in regulatory compliance. And my guess
7 is, some amount of that money is going to make sure that
8 they don't get put on probation. When you add to that other
9 institutions, like Duke, a good B-plan school down in North
10 Carolina if you can't get into Chapel Hill --

11 [Laughter.]

12 Senator Tillis: -- or Wake Forest, the regulatory
13 burdens that are placed on these institutions as a result of
14 the way that they're dealt with, the way that University of
15 Phoenix was dealt with, increases cost and prevents us from
16 putting more money into actually educating these folks at
17 the -- so that we can make sure we don't get placed on
18 probation or we don't get deprived -- or denied some sort of
19 funding that we received in the past. The -- this is just
20 one symptom of a problem in the Federal agencies that relate
21 to educations or institutions of higher learning that we've
22 got to look at and regulate. We've got to get to a point to
23 where we know that -- whether it's for-profit or nonprofit,
24 they're producing a good product and good outcomes. That
25 should be done across the board, without regard to nonprofit

1 or for-profit status. But, this heavy handed sort of
2 interaction with these universities, as the University of
3 Phoenix is just one example, is actually taking us further
4 away from providing more resources for students to get those
5 certificates and to get those diplomas. And I, for one,
6 think that we should look at this process, a number of other
7 ones across various Federal agencies, and ask whether or not
8 they should exist in their current form, or at all.

9 Thank you.

10 Mr. Levine: Senator, if I could -- Mr. Chairman, could
11 I briefly respond to that?

12 Chairman McCain: Yeah.

13 Mr. Levine: I agree with you that we should be looking
14 at regulatory burdens we impose across the board. The
15 countervailing fact that we have here is, we're spending
16 600-- 500-600 million dollars a year, we have 250,000
17 service members who are relying on this product, and we need
18 to try to come up with some way of ensuring that they're
19 getting their value out of it. I'm not going to tell you
20 we've answered it in the best possible way, but we are, in
21 good faith, trying to do that. And the rules that we
22 impose-- we're not trying to impose rules that are arbitrary
23 or crazy or to make it -- make your life miserable. We're
24 trying to figure out a way that we can get to a solution
25 where we can give our service members assurance that they're

1 getting their money's worth out of their products -- or
2 we're getting our money's worth out of the product.

3 Chairman McCain: Senator Blumenthal.

4 Senator Blumenthal: Thanks, Mr. Chairman. And I want
5 to thank you, Mr. Chairman, for having this hearing, which
6 gives us the opportunity to address a broader point that I
7 think has been mentioned.

8 The Ranking Member, Senator Reed, alluded to it in his
9 remarks, namely that the 90/10 rule and the loophole that
10 enables for-profit institutions to count VA and DOD
11 educational benefits as non-Federal money, in effect, makes
12 servicemen and -women, and potentially veterans, more
13 vulnerable. They are, as the Ranking Member said, in
14 effect, people with targets on their back.

15 Would you agree with that?

16 Mr. Levine: Senator, we agree that -- we share the
17 concern -- and it's not limited to for-profits, I'll be
18 clear again -- but, we share the concern that, given the way
19 this program operates, there are some actors out there who
20 may perceive our members as being dollar signs --

21 Senator Blumenthal: Well, the --

22 Mr. Levine: -- rather than people.

23 Senator Blumenthal: -- the loophole applies to for-
24 profit colleges, correct?

25 Mr. Levine: You're the expert, not me. I'll take your

1 word for it. I would not say that the question of
2 financially benefiting from our Tuition Assistance Program
3 and from the Student Loan Program is limited to for-profit
4 institutions.

5 Senator Blumenthal: And, in your judgment, are the
6 recruitment abuses still ongoing?

7 Mr. Levine: We don't have -- we are doing what we can
8 to control it. We don't have -- we can't say that we've
9 eliminated student -- recruitment abuses, no.

10 Senator Blumenthal: So, this is still a problem. And
11 we need to grapple with this problem, because there are
12 literally hundreds of millions of dollars in taxpayer money
13 at stake, correct?

14 Mr. Levine: Yes, sir.

15 Senator Blumenthal: And, by the way, I know there's
16 been a lot of criticism of the action with respect to the --
17 to Phoenix, but, at the time, that action was commended by a
18 group of veteran service organizations, was it not?

19 Mr. Levine: Yes, sir.

20 Senator Blumenthal: And, in fact, with the Chairman's
21 permission, I'd like the October 27th letter entered into
22 the record, Mr. Chairman, written by a number of the VSOs at
23 that time.

24 Chairman McCain: By who?

25 Mr. Levine: Veterans service organization.

1 Chairman McCain: Without objection.

2 Senator Blumenthal: Thank you.

3 [The information referred to follows:]

4 [COMMITTEE INSERT]

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1 Senator Blumenthal: The solution to a lot of this
2 problem, then, would be closing that loophole, correct?

3 Mr. Levine: Senator, that's not within the ambit of
4 the Department of Defense. It's not our program. So, I
5 listen to you and Senator Reed with sympathy, but it's not
6 a-- it's not an issue on which the Department of Defense
7 currently has a position.

8 Senator Blumenthal: Why not?

9 Mr. Levine: Because it's the Department of Education
10 that -- and it's those departments that run that policy.
11 So--

12 Senator Blumenthal: But, American servicemen and --
13 women are the ones who are walking around with targets on
14 their back. And I don't mean that literally. I realize
15 that hyperbole sometimes can get us in trouble, but they
16 are, financially, targets.

17 Mr. Levine: I understand what you're saying, and all I
18 can tell you is, I'm not aware that Department of Defense
19 has taken a position on that issue.

20 Senator Blumenthal: Let me ask you, before my time
21 expires -- the University of Phoenix was put on probation in
22 October 2015, correct?

23 Mr. Levine: That's correct.

24 Senator Blumenthal: And then it was removed from
25 probation on January of 2016.

1 Mr. Levine: That's my understanding, as well.

2 Senator Blumenthal: What was the reason that it was
3 removed from probation?

4 Ms. Barna: Senator, I can speak to that. After months
5 of working with the University of Phoenix, after numerous
6 productions of documents on their part to show what they
7 were actually doing with regard to their workforce,
8 disclosing their internal practices, I felt confident that
9 the University of Phoenix was both cognizant of the rules
10 and most willing to comply, going forward. In addition to
11 removing them from probation, however, I mandated that they
12 be placed on a year of enhanced monitoring. And this is to
13 ensure that our communication efforts in the year following
14 the probationary period continued to be strong and very
15 close and very collaborative.

16 Senator Blumenthal: My time is about to expire. I
17 just want to reiterate my strong feeling. I don't know how
18 many of the committee members share it. But, we are the
19 Armed Services Committee. We have a responsibility, I
20 think, to assure that servicemen and -women are not
21 targeted, are not recruited as a result of abuses and other
22 kinds of practices that exploit them. And I hope that the
23 Department of Defense will take its responsibility, perhaps,
24 seriously, as well, in this regard. I realize that
25 education is not, to quote you, "in your wheelhouse," but I

1 think the welfare of our servicemen and -women is.

2 And I want to thank Holly Petraeus for her work in this
3 area, and others who have been working in it. And I want to
4 thank you, Mr. Levine, for your very forthright testimony,
5 as well as your colleagues, today. Thank you.

6 Thanks, Mr. Chairman.

7 Mr. Levine: Thank you, Senator.

8 Chairman McCain: Senator Ayotte.

9 Senator Ayotte: Thank you, Chairman.

10 I wanted to ask a question about -- so, as I understand
11 it, a total of 16 colleges and universities actually
12 violated the use of Challenge Coins. And -- but, yet none
13 of them were put in the same status as University of
14 Phoenix: suspended. Why is that? It seems -- but, that
15 University of Phoenix was singled out for a practice that
16 many other colleges and universities were not treated the
17 same, even though they made the same types of violations.

18 Mr. Levine: Senator Ayotte, if you want more detail,
19 Ms. Barna or Ms. Bilodeau could respond, but I believe that
20 the answer is that we don't suspend or put anybody on
21 probation because of a single violation. It's accumulation
22 of a number of violations that lead to that remedy.

23 So, I don't believe University of Phoenix would have
24 been suspended for the Challenge Coins, alone.

25 Senator Ayotte: But, it certainly was cited in the

1 decision to --

2 Mr. Levine: So, yes --

3 Senator Ayotte: -- suspend it.

4 Mr. Levine: -- there were other things cited. And I'd
5 particularly point to the base access issue, which, to my
6 lights, is more serious. I understand there were also a
7 number of complaints about University of Phoenix -- 19, I
8 think, of which 6 were found to be unsubstantiated, but 13
9 were found to be substantiated, which go to broader
10 practices. So, there was a broader concern about University
11 of Phoenix, with a number of exchanges of emails and letters
12 about potential violations.

13 Senator Ayotte: But, you can understand, when you hear
14 Ms. Barna talk about having sat down with --

15 Chairman McCain: If the Senator will indulge me just
16 for a second. There was 13 complaints from an estimated
17 12,000 military students who were attending.

18 Senator Ayotte: So, 13 out of 12,000.

19 Mr. Levine: Senator, the way I view it is a -- yes,
20 it's 13 out of 12,000, but what we do with the complaint,
21 and -- what we should do with the complaint anyway -- and
22 again, I would turn to my colleagues here to talk about
23 whether we did this in this case -- but, what we should do
24 with the complaint is look at it to see whether it reveals a
25 practice. And if it reveals a practice, then it's a problem

1 even though the complaint came from one individual.

2 Senator Ayotte: But, in this case, just -- as I
3 understood the response of Ms. Barna to Senator Blumenthal
4 is that there was a discussion with University of Phoenix.
5 They produced documents. There was a back-and-forth that
6 resulted from the date of October 2015, where they, without
7 being notified, get the suspension and then, going forward
8 to January of 2016, you take them off suspension because
9 you've reviewed their practices and looked at their
10 documents and felt it was appropriate to take them off. It
11 seems like the total opposite approach toward how you would
12 treat any institution under the circumstances of the fact
13 that you would not engage in a discussion with them, that,
14 even when the University reaches out, that you wouldn't sit
15 down and have that in advance of doing something as dramatic
16 as suspending them. And also, all the servicemembers that
17 receive, obviously, education services from them, that puts
18 them in a position where they're wondering about the
19 education services that they're currently receiving, as
20 well. So, we also have to think about the impact of the
21 people that are being served, here.

22 Mr. Levine: So, Senator, two things. First of all,
23 with regard to each of those violations, with regard to each
24 of those complaints, University of Phoenix was notified of
25 it and given a -- an opportunity to respond. So, there was

1 some discussion before the probation. That's the first
2 point.

3 The second point is, I agree with you, they should have
4 been notified, they should have had an opportunity to
5 respond, there should have been discussions specifically of
6 the probation before that took place.

7 So, I don't agree that there was no discussion. There
8 was discussion. But, I still don't think our process was
9 right. I think our process should have provided for notice
10 in advance, and I've made sure that it will provide for
11 notice in advance in the future.

12 Senator Ayotte: Where --

13 Chairman McCain: Could I just interrupt again?

14 Senator Ayotte: Sure.

15 Chairman McCain: It's on the record. On July 28th,
16 the president of the University asked to discuss this issue,
17 and the response was, "While I appreciate your desire to
18 meet, I believe it is a bit premature at this time." They
19 did not honor their request to meet on the issue.

20 Mr. Levine: And, Mr. Chairman, I understand that, and
21 certainly a request to meet should have been honored. But,
22 I don't think that means there was no communication. There
23 was communication.

24 Senator Ayotte: Mr. Levine, the President's executive
25 order, where is the status of the implementation of the

1 specific tasks that are identified in the executive order?
2 And what's the status now, going forward?

3 Ms. Barna: Senator, the executive order has been
4 implemented in our Department of Defense Instruction. The
5 executive order is very aspirational. It speaks to our
6 intent to eliminate unfair, misleading, or deceptive
7 practices, to improve the requirements, to enhance the
8 requirements for base access, particularly.

9 And so, we have implemented that through the guidance
10 that we have in our Department of Defense Instruction and in
11 the Memorandum of Understanding that each educational
12 institution signs with the Department of Defense.

13 Senator Ayotte: Even though some of the MOU, for
14 example, didn't incorporate issues as specific as a Coin,
15 for example.

16 Ms. Barna: So, we view the Coin as a deceptive or
17 misleading marketing practice, in that it allows the
18 recipient of the Coin, or it fosters in them a belief --

19 Senator Ayotte: But, my only point is, that was not
20 contained specifically with the MOU, correct? It was within
21 the DODI?

22 Ms. Barna: It's -- it is not specifically in the MOU,
23 and it's also not specifically in the DODI. It was the
24 subject of numerous advisories that we put out to all
25 institutions well in advance, that said, "Look, we consider

1 the use of these Coins to be misleading and inappropriate,
2 and you must withdraw your use of them."

3 Mr. Levine: Senator, that's not just an issue that
4 comes up in the context of this program. The use of DOD
5 symbols for marketing purposes is something that we police
6 up through the Office of General Counsel in other
7 circumstances, as well.

8 Senator Ayotte: It just strikes me as that there was a
9 very lack of communication here in a way that has pretty
10 significant implications.

11 Mr. Levine: Again, I'm not going to disagree with you
12 on that, because I -- as I've said, I don't think the
13 process was as it should be.

14 Senator Ayotte: Thank you.

15 Chairman McCain: Senator King.

16 Senator King: Thank you, Mr. Chair.

17 It seems to me we -- this has been a very illuminating
18 hearing. I appreciate it. And we have established, number
19 one, a policy question, which is protecting the taxpayers
20 and the students from abuse, no matter what the institution
21 is. And let me ask a question directly.

22 Mr. Levine, to your knowledge, was there any particular
23 targeting of for-profit schools in this process?

24 Mr. Levine: Not by the Department of Defense.

25 Senator King: And so, your concern was simply the

1 students, regardless of what the institution was.

2 Mr. Levine: That's correct.

3 Senator King: The -- but, we've also identified a
4 process problem, which you have acknowledged, that there was
5 an investigation between these news reports and the
6 probation, but not specific interaction with the University
7 with regard to the likelihood of probation. Is that
8 correct?

9 Mr. Levine: That's correct.

10 Senator King: And you've acknowledged -- Ms. Barna, do
11 you acknowledge that that was a process problem?

12 Ms. Barna: I absolutely do. I agree with Mr. Levine
13 in this regard, Senator.

14 Senator King: And you talked about the conversations
15 you had with the University after the probation, and that
16 was what -- University of Phoenix -- and that was what led
17 you to take them off probation. I would assert that that --
18 those discussions should have taken place beforehand. And I
19 take it you agree with that.

20 Ms. Barna: I do, Senator.

21 Senator King: Thank you, Mr. Chairman. I have no
22 further questions.

23 Chairman McCain: Senator Sullivan.

24 Senator Sullivan: Thank you, Mr. Chair.

25 I'd like to ask the panel -- you know, the -- 13

1 complaints out of 12,000 seems -- that's a 0.1 percent
2 complaint rate -- 0.1 percent. I'd like to broaden the
3 discussion a little bit, for any and all of you. Why do you
4 think service members choose to attend universities, or
5 participate in universities like the University of Phoenix?
6 There's a lot of discussion, and I've seen it in the halls
7 of Congress, about, you know, for-profit universities. Do
8 you believe that our servicemen and -women want to attend
9 universities like this because of aggressive or predatory
10 marketing, or is it more as -- Ms. Bilodeau, you've been
11 quoted as saying "because of the convenience of its online
12 classes, which allow service members to continue their
13 studies when they're deployed or in a new location or on
14 Navy ships." What is it? Why do you think so many of our
15 servicemen and -women do this?

16 Mr. Levine: Senator, I think that servicemen and -
17 women participate in these programs because they want to
18 better themselves, they want the education they can get out
19 of them, they want to -- they want the opportunity that --
20 for advancement both within the service and once they leave
21 the service. I think that's the overwhelming reason why
22 service members participate. What we need to do, as a
23 Department, is to make sure that, when they participate,
24 they're getting a quality product, so they're getting what
25 they -- what they hope to get and what they aspire to get

1 when they enter the program.

2 Senator Sullivan: Well, in my experience, it's because
3 of the convenience, but also because our servicemen and -
4 women want to better themselves. I was deployed on a U.S.
5 Navy ship many years ago, and a lot of the servicemembers
6 there were taking classes from a university called the
7 Central Texas College. And they were doing it because the--
8 you can't go to class when you're on a ship somewhere in the
9 South China Sea, but you want to better themselves.

10 So, I just think that a lot of the focus has been on
11 this predatory aspect of certain -- we certainly want abuse,
12 but we also want to make sure that the servicemen and -women
13 who want to better themselves have that opportunity. It
14 seems to me that universities like the University of Phoenix
15 or others who are trying to provide that, we want to
16 encourage that.

17 Mr. Levine: Senator, we agree with you. I think that
18 more than 80 percent of the education that goes through our
19 Voluntary Education Program is online training. So, that is
20 the predominant mechanism, because obviously that's what
21 works for service members who are as mobile as they are and
22 have the demands that they do in their professional lives.

23 Senator Sullivan: So, what would happen to the 12,000
24 members who are participating in the University of Phoenix
25 programs if that program were permanently terminated? What

1 would happen to those men and women who are serving -- or
2 who are participating in that?

3 Ms. Barna: Well, sir, first, when we put the
4 University of Phoenix on probation, we did make it very
5 plain to them, one, the mere fact that the University of
6 Phoenix was on probation did not prohibit service members
7 from enrolling in Phoenix classes. It was simply that we
8 were not going to use tuition assistance to subsidize their
9 attendance. Furthermore, all students who were already
10 enrolled in Phoenix academic programs would be allowed to
11 continue to receive instruction. It was called -- what we
12 call "teaching out." And so, Phoenix would be permitted to
13 continue to teach, to continue to instruct all of the
14 students that were currently enrolled through the end of
15 their academic programs.

16 The two constraints on Phoenix during the period of
17 probation were that they could not enroll, under tuition
18 assistance, new service members; and, two, that their
19 ability to access bases was further limited, such that only
20 if they were actually coming on post to teach a class or to
21 provide counseling to a student would they be authorized to
22 access the base. Those were the two, sort of, results of
23 the probationary decision.

24 Senator Sullivan: Right. But, you didn't answer my
25 question, which was, If the -- if there was a DOD decision

1 to permanently terminate, what would happen to the students?

2 Mr. Levine: So, that's hypothetical, but I think that
3 we could have presumably provided the same kind of phaseout
4 that we've provided with the ability to teach out so that
5 you could continue to instruct current students. We have
6 had the problem -- and some of it may be on us for putting
7 people on -- for terminating people, but also because of --
8 we have had the problem of companies that have gone out of
9 business and left our students in the lurch. Some of that
10 is on them. Some of them may have -- may be on us. I can't
11 tell you for sure. But, we have had that problem. And
12 students have been left in the lurch. That's one of the
13 things that we see a need to try to protect our students
14 from, frankly.

15 Senator Sullivan: Let me just -- I just want to echo
16 the point that Senator Tillis made about over-regulation.
17 For me, I think that the executive branch has been over-
18 regulation -- over-regulating whole swaths of the U.S.
19 economy, university -- to include universities. At what
20 point -- is there a point where too -- where -- is there
21 such thing as too much regulation with regard to our
22 educational system? And have we reached that point with
23 regard to the Tuition Assistance Program? And if we
24 haven't, what is that point? And I'm asking that, again,
25 because -- you know, my initial question was about access.

1 I believe that our military members are accessing these kind
2 of programs, not because of predatory practices, but because
3 they want them, because they need them. At what point are
4 we over-regulating this program to the degree that we're
5 harming the people it's supposed to benefit?

6 Mr. Levine: So, Senator, first, I agree with you that
7 we always need to look at what we're doing, in terms of
8 regulation, and figure out if there are more streamlined and
9 less burdensome ways that we can do things. What I would
10 say, though, is that this program is different from where
11 we're regulating the private sector, as such, because this
12 is a case where we're spending the taxpayers' dollars. It's
13 our students, our dollars. So, we have a more direct
14 interest than if we're just out there regulating somebody
15 who's operating purely in the private sector. Just as when
16 we're dealing with contractors, we need to figure out
17 mechanisms that we can put in place so that we can ensure
18 the taxpayers' money is well spent, we need to do that here.
19 So, we have a little bit more of an interest than we do when
20 it's a pure regulation in the private sector. Even having
21 said that, you're right, we need to look at ourselves and
22 make sure we're not over-regulating.

23 Senator Sullivan: Thank you.

24 Thank you, Mr. Chairman.

25 Chairman McCain: Senator Heinrich.

1 Senator Heinrich: Thank you, Chairman.

2 One thing this committee ought to be able to agree on
3 today is that there have been some abusive and predatory
4 practices occurring against our men and women in the
5 military. And, frankly, one thing that has been common to
6 much of the questioning and testimony today from my
7 colleagues is that whether they are for-profit or nonprofit,
8 online or brick-and-mortar, educational institutions having
9 exploited service members is unacceptable. And we've seen
10 some instances over the last few years where we've had
11 outrageous tuition and fees for bachelor's degrees --
12 60,000, 75,000 dollars -- coupled with interest rates as
13 high as 15 percent, as with Corinthian College. And I think
14 those sorts of things ought to be just viewed as, frankly,
15 unacceptable.

16 But, I also want to go back to this issue of the 90/10
17 rule. And I have to say I'm a bit flabbergasted that DOD
18 does not have a position on whether the 90/10 loophole
19 should be closed. I understand DOD is not going to have --
20 is not going to weigh in on elementary education policy, but
21 this specific loophole directly impacts your service members
22 and their livelihoods and their futures. So, Under
23 Secretary Levine, I want to go back to this. Why on earth
24 doesn't DOD have a policy position on this?

25 Mr. Levine: Senator, what I'd say is, I'm part of an

1 administration, and we don't take positions on legislation
2 without coordinating through our legislation -- through the
3 administration. So, while what you're -- what you and
4 others have said about the 90/10 rule sounds reasonable to
5 me, I'm just not in a position to say we approve of the
6 legislation or we disapprove of legislation without going
7 through a proper process within the administration.

8 Senator Heinrich: Well, I would respectfully suggest
9 going through that process.

10 Mr. Levine: Yes, sir.

11 Senator Heinrich: Ms. Barna, one of the things that
12 Under Secretary Levine talked about was how the current
13 system is sort of -- it's driven by complaints from
14 individual service members, and that can be unwieldy. Can
15 you talk a little bit about how there is this transition in
16 place or in process moving from a service member complaint-
17 based system to a risk-based compliance model designed to go
18 into effect in 2017, and what that means, and how that might
19 better detect and prevent, ahead of time, predatory actions
20 against our service members?

21 Ms. Barna: Yes, Senator, thank you for the opportunity
22 to talk about our third-party compliance system that we will
23 be initiating in January of 2017. We will be using
24 industry-based best practices, both to routinely inspect on
25 a very transparent basis, based on very transparent

1 criteria, many of our schools. And then we will also have
2 spot-checks or risk-based assessments that will go on, in
3 addition to these more routine inspections.

4 Right now, based solely on service member complaints,
5 based on complaints that we receive through the media, from
6 others, we're able to address about 1 percent of our
7 schools. We believe that our new third-party complaint
8 compliance system will enable us to address 10 percent of
9 our schools annually, and to do so on a much more fair,
10 equitable, and in a much more transparent manner.

11 Senator Heinrich: Well, I think everyone up here looks
12 forward to seeing that, and hopefully it will meet the
13 promise that you've sort of laid out.

14 Going back to you, Under Secretary Levine, I want to
15 just touch on something you brought up briefly about for-
16 profit colleges that have gone out of businesses, and then
17 we have Active Duty members who are left in the lurch. What
18 policies does DOD have in place for members of the military
19 when for-profit institutions go bankrupt? And are there any
20 measures for recourse for those service members when,
21 halfway through a program, they -- their institution is no
22 longer in existence?

23 Mr. Levine: I'm going to defer to Ms. Barna on that.

24 Senator Heinrich: That would be fine.

25 Ms. Barna: Sir, this is where we really rely on our

1 educational counselors and educational advisors. Each
2 service member, prior to receiving tuition assistance, is
3 required to engage in some upfront planning to develop an
4 educational plan, educational goals and objectives. And
5 when we have a situation in which a school goes out of
6 business, that's when our counselors really get to work,
7 working with those individual service members, trying to
8 find them other educational options, perhaps also through
9 online schools, but that will also meet the terms of their
10 educational plan. So, these are cases in which we give our
11 service members direct and very personal assistance to try
12 to find a way to continue their education without
13 interruption.

14 Senator Heinrich: Mr. Chairman, I believe my time's
15 expired. Thank you very much.

16 Chairman McCain: Before I turn to Senator Cruz, I
17 appreciate all the comments and the corrections that need to
18 be made. This hearing is about the gross and grave
19 injustice that was committed on an educational institution,
20 that harmed the economy, their ability to teach people,
21 their ability to provide an education for veterans. And it
22 was done by a GS-15, apparently, and no one else, that have
23 done terrific and horrific and unacceptable damage. Even
24 Mr. Levine has pointed out that this was a lousy process.
25 And there were repeated attempts by this University to sit

1 down and discuss and resolve issues such -- so serious as a
2 Challenge Coin or a patriotic event. And so, I don't want
3 this committee to lose sight of what -- the reason why I
4 called this hearing is because this kind of abuse of power
5 is something that I hope, in a new administration, will be
6 totally unacceptable.

7 Senator Cruz.

8 Senator Cruz: Thank you, Mr. Chairman.

9 Good morning. Thank you, to each of the witnesses, for
10 being here this morning.

11 Voluntary education programs serve as an important role
12 in developing America's service members while in uniform,
13 and setting them up for success following a military career.
14 In my home State of Texas, thousands of soldiers and sailors
15 and airmen and marines utilize these key benefits across all
16 15 of our military installations. Those who wish to develop
17 and further develop themselves personally and professionally
18 should be afforded the opportunity to do so with the
19 education benefits that they were promised by the
20 Government. The Tuition Assistance Program is far too
21 important to lack accountability and oversight within the
22 Department of Defense. It is of utmost importance that we
23 ensure that our men and women that serve have as many higher
24 education opportunities as possible, whether they are
25 offered by for-profit institutions or private or public

1 nonprofit institutions.

2 I guess the most important question that I would ask
3 the witnesses here is a very simple one. What went wrong
4 here? What happened that led to this decision being made in
5 what appears, I think, to most, if not all, observers, in a
6 rash and ill-considered manner?

7 Mr. Levine: So, Senator, first of all, I didn't hear
8 anything in your description of the program that I disagree
9 with. I would affirm what you said about our responsibility
10 to soldiers and the utility of this program. I think it's a
11 vitally important program, and I think you described it
12 accurately.

13 In terms of what happened here, I divide it into two
14 categories, one of which I -- on one of which I agree with
15 Senator McCain and on one of which I disagree with the
16 Chairman, just to be honest about it.

17 Senator Cruz: The latter is always perilous in this
18 committee.

19 [Laughter.]

20 Mr. Levine: It is, and I understand that, sir.

21 [Laughter.]

22 Mr. Levine: I believe that there were some substantive
23 violations on the part of the University of Phoenix, which
24 Ms. Barna and Ms. Bilodeau were reacting to in good faith
25 when they put the institution on probation. However, what -

1 and in answer to your question, What went wrong? -- I think
2 that the process was, as I put it, "crappy," as Senator
3 Levin -- as Senator McCain, the Chairman, put it --

4 Senator Cruz: Now, is that a technical military term?

5 [Laughter.]

6 Mr. Levine: That was a technical military error on my
7 behalf, in naming the Chairman, yes, sir.

8 As -- there were -- the process was lousy. We did not
9 give University of Phoenix advance notice that they were
10 going to be put on probation, an opportunity to respond, so
11 they were put in a position where they were already on
12 probation and forced to respond in that status rather than
13 being warned and having an opportunity to respond in
14 advance. I don't believe that's the way we should treat
15 institutions like that. If it created the damage that
16 Senator McCain caused, that's on us, and we shouldn't have
17 done it. So, that's what went wrong.

18 Senator Cruz: Well, let me ask -- I mean, aside from
19 the fairness to one particular institution, I mean, what
20 about the over 9,000 current service members in the TA
21 program that have made the decision to attend the University
22 of Phoenix? I mean, what about them? What consideration
23 was given to them? And --

24 Mr. Levine: Ms. Barna has described how we took
25 measures to protect them and ensure that they could continue

1 to get the education, continue to work with University of
2 Phoenix during the time that University was on probation.
3 So, thought was given to that. I don't think that makes
4 this a fair process. I think we should have given notice,
5 and we should have given an opportunity to comment.

6 Senator Cruz: Well, and I guess my point would be, if
7 you've got over 9,000 service members that have made the
8 decision that they like what University of Phoenix is
9 offering, and they think it's beneficial to them,
10 personally, professionally, shouldn't they be entitled to
11 make that decision? And what about the next service members
12 who might make that decision that were being told, "That
13 option's not going to be available to you"?

14 Mr. Levine: So, I believe that our service members go
15 into this program because they want to better themselves.
16 They go in for the right reasons. And -- but, this is a
17 program where we have 2700 education institutions involved
18 in it. Some of them are better than others. And we, as the
19 Department of Defense, don't really have good information on
20 which ones are better than others. Some of them appear to
21 have been engaging in inappropriate practices, and it's --
22 we feel it's our obligation to protect our students and to
23 protect the taxpayer from that. We need a better process to
24 do that with, and we're going to work to improve our
25 process.

1 Senator Cruz: Well, thank you for your candor, in
2 terms of the mistakes that were made, here. Thank you for
3 being here. And let me suggest some principles, going
4 forward, that may be beneficial. And I would put right at the
5 top of that list protecting freedom of choice of our
6 servicemen and -women, that they are in a position to make
7 judgments about what's best for themselves and their
8 careers. And there's certainly a legitimate role in
9 preventing fraud and deception, but there's no -- as I
10 understand it, no serious allegations of that. But, short
11 of that, I would just encourage you to protect servicemen
12 and -women's freedom of choice.

13 Mr. Levine: Senator, I -- and I appreciate that. I
14 think we should. What I would like to be in a better
15 position to do than I am is to provide service members with
16 advice as to quality of institution. We don't have that
17 expertise. We don't have objective benchmarks. And we need
18 to be better -- we need to have better information that we
19 can provide our service members to inform the choices that
20 they make. We shouldn't be making choices for them, but the
21 more information, the better information we can provide
22 them, the better off they'll be.

23 Senator Cruz: Given the many challenges facing this
24 country on the national security front, I'm not sure it
25 should be a top priority of DOD to become an expert on

1 educational institutions rather than simply entrusting
2 individuals to make those determinations.

3 Mr. Levine: So, Senator, I agree with you, it's not
4 our -- as I started out by saying, earlier today, that's not
5 our wheelhouse, we're not the ones to do that. But, it
6 would be helpful to us if those who are in that business
7 would develop systems that would help us provide that
8 information.

9 Senator Cruz: Thank you.

10 Chairman McCain: Senator Shaheen.

11 Senator Shaheen: Thank you, Mr. Chairman.

12 And recognizing your concern about the University of
13 Phoenix, I do think it's important to point out that this
14 hearing has gotten broader issues with respect to how
15 servicemen and -women choose continuing education, and that
16 that's a good discussion for this committee to be having.

17 And I was -- as I was looking at the materials that
18 were given to us, I noticed, in the statement from the
19 president of the University of Phoenix, that he talks about
20 his support and the University's support for Executive Order
21 13607, which, I think, most people who have asked questions
22 on this committee have agreed is a good thing, that we want
23 to ensure that men and women who are serving have access to
24 higher education and are not preyed on by predatory
25 practices. So, I do appreciate the president's comments in

1 support of that executive order.

2 And I have to say, I agree with Senator Blumenthal, and
3 am a cosponsor of his legislation, that part of the problem
4 here is the loophole, the 90/10 loophole, that encourages
5 colleges, for-profit or not, to be able to benefit from
6 targeting members of the military for additional education,
7 and that we really need to change that and make everybody
8 play by the same rules.

9 Now, having said that, I want to follow up, Mr. Levine,
10 on your statement about trying to make sure that service
11 members and veterans have the resources that they need to
12 better make choices about educational institutions. And
13 again, I think they should be able to determine where they
14 want to go, as long as the educational institution complies
15 with the requirements. But, it's important to make sure the
16 information is available to them.

17 So, I wonder -- I don't know if this is for you or for
18 Ms. Barna -- what currently is being done to provide
19 information to men and women who are serving, so that they
20 can make informed decisions?

21 Ms. Barna: Senator, one of the tools on which we rely
22 and on which our service members rely is an online tool
23 called Tuition Assistance Decide, or TA Decide. A service
24 member can go online at any time and view all manner of
25 information about a particular academic institution. And

1 all institutions are reflected. There's no distinction at
2 all between for-profit or not-for-profit. Any institution
3 that has signed an MOU is reflected. We pull information
4 from other agencies. We pull graduation rates. We pull
5 student loan rates. Again, all provided by other Federal
6 agencies. But, all of that is available there for the
7 service member to view, to sort through, to compare
8 different institutions and find the one that best meets his
9 or her needs. So, that's a tool that we've rolled out in
10 the last 18 months. And we're very gratified by the usage
11 that it's receiving, and believe it's a good first step in
12 better informing our service member populations.

13 Senator Shaheen: And is there someone -- if somebody
14 looking at that Web site has questions about material that's
15 there or needs further guidance, is there somebody who they
16 can go to? Do you suggest somebody in an institution, or is
17 there somebody on base? My oldest granddaughter has been
18 applying to colleges, and I have watched how overwhelming
19 that process is. So, I think it's overwhelming, no matter
20 what age we are, to get a lot of information and not
21 necessarily be able to translate that in a way that is most
22 effective for our lives.

23 Mr. Levine: So, I believe we have --

24 Senator Shaheen: Sometimes we need help.

25 Mr. Levine: -- I believe we have -- what, is it 286

1 education assistance officers distributed around the world
2 and around the Department. I can't tell you that that's any
3 more satisfactory to a student than a high school guidance
4 counselor, but it -- but we try.

5 Senator Shaheen: And how do people know about those
6 people? One of the things that I've heard concerns about is
7 not being aware of what information is available. So, what
8 kind of outreach is done to make sure people are aware of
9 that, or try and help them be more aware?

10 Ms. Barna: So, ma'am, there are many things that are
11 done to try to publicize the opportunity to consult with an
12 education counselor, to visit the Education Assistance
13 Center. They're usually located right in the heart of the
14 installation garrisons. It's put -- information is put out,
15 briefings are put out at unit assemblies. Again, not
16 advocating for or against a particular institution, but
17 encouraging service members who are interested in bettering
18 themselves and in better preparing themselves for the
19 ultimate transition back to civilian life, "Come in to the
20 Education Center, let's sit down, let's talk about your
21 educational goals and see how we can assist you."

22 Senator Shaheen: Thank you all very much.

23 Chairman McCain: Senator Kaine.

24 Senator Kaine: Thank you, Mr. Chair. And, Mr. Chair,
25 I appreciate the comments that you made earlier. You know,

1 we talked a bit about this last week, so I have some
2 unresolved emotions from the campaign, but the one that is
3 very resolved is, this committee has really been the center
4 of my work in the Senate in the 4 years I've been here, and
5 I really have appreciated my relationships with my
6 colleagues, and am glad to be back to take up this important
7 matter. So, I appreciate you and Senator Reed and all my
8 colleagues. And it's good to be back at work.

9 A couple of items, just to tie --

10 Chairman McCain: Thank you.

11 Senator Kaine: -- up some loose ends. Because of -- a
12 lot of this hearing is about the process of notification,
13 I'm not exactly sure, Mr. Chair, what back-and-forth
14 correspondence is in the record. I think it's important to
15 have the communication between the University of Phoenix and
16 DOD in the record on this hearing.

17 I wanted to offer the October 7, 2015, letter, which
18 was the Notice of Probation letter, but that wouldn't be
19 sufficient. I'm assuming I can put this in the record,
20 without objection. But, I hope maybe the staffs, together,
21 would work on putting together the communication, beginning
22 in June of probably 2015 all the way through the restoration
23 after the probation period. I think that would be helpful,
24 if we could --

25 Chairman McCain: Sure.

1 Senator Kaine: -- seek that to happen.

2 Chairman McCain: Without objection. And the record
3 will be made clear that efforts were made, on the part of
4 the University of Phoenix, which were not received -- which
5 were not responded to in an affirmative fashion. And other
6 influences clearly affected this decision, at least in the
7 view of the Chairman. But, I thank you for that, and those
8 communications will be made part of the record.

9 [The information referred to follows:]

10 [COMMITTEE INSERT]

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1 Senator Kaine: Second, just to clarify a factual
2 point, the testimony of the witnesses were that four
3 institutions have been put on probation. I think the
4 testimony was that the University of Phoenix and Heald
5 College are both for-profits, the other two were Globe
6 University and the Minneapolis -- Minnesota Business
7 College. I checked both of those. They're both for-
8 profits, as well. So -- based on their own Web site
9 information -- so, the four that have been put on probation
10 are all for-profits.

11 I don't necessarily think that demonstrates a double
12 standard. I mean, they're -- this committee has shown
13 concern in the past about for-profit institutions and
14 whether servicemen and -women, folks in Active Duty, are,
15 you know, singled out even for deceptive treatment by them.
16 I think the committee, for example, has adopted a Federal
17 rule that limits interest rates on payday loans to Active
18 Duty, that that is not a rule that applies to other American
19 citizens, but it does apply to Active Duty military because
20 of a concern that payday lenders were singularly focusing
21 attention upon Active Duty military members. But, it is
22 important to notice that the four institutions that have
23 been put on probation are all for-profit institutions. And
24 you can draw the conclusions that you want about that.

25 Your opening testimony, Mr. Levine, "This is not in our

1 wheelhouse," you know, that really has struck me during the
2 course of this hearing. You know, and I've wondered if you
3 just took the entire amount we spend on this and just gave
4 everybody a raise and said, you know, "You can decide what
5 education that you want to access if you do want to,"
6 whether that would be a better way to do that than to have a
7 tuition assistance benefit program and then have the DOD --
8 and it's not in the DOD's wheelhouse -- try to determine
9 what institutions can receive those funds.

10 I'm going to give you a pet peeve of mine, and tell me
11 if I'm wrong. Maybe it's been corrected. In Virginia,
12 ordnance officers and ordnance specialists are trained at
13 Fort Lee, which has a huge ordnance -- I'm sorry --
14 logistical specialists of all kinds -- chefs, ordnance
15 officers, heavy equipment operators. There is an ordnance
16 school there. And I'm told, by members who go through the
17 ordnance school, that they take metalworking and welding
18 training, and yet the Military Tuition Assistance Benefit
19 Program, as it currently exists -- and I just looked at TA
20 Decides, based on your testimony, Ms. Barna -- would allow
21 you to get tuition assistance to use at 2700 universities,
22 but you couldn't get \$300 to pass the American Welding
23 Society certification exam out of a tuition assistance
24 program. You could get 4,000, 5,000, thousands of dollars
25 to go to a private, a public, or a for-profit college, but

1 you couldn't get 300 bucks to pass the American Welding
2 Society's certification exam, which, in terms of producing
3 an outcome in the civilian workforce, a credential that
4 would enable you to be hired almost immediately, would
5 probably be preferable than virtually any other degree that
6 you could get. We have been working to try to resolve that
7 second-class treatment for career and technical education
8 for some time. But, it -- the gatekeeping function of an
9 organization that acknowledges "This is not our wheelhouse"
10 trying to decide what is a good educational program and what
11 isn't, it seems to me that you can work awful hard on that,
12 but it's still not going to be in your wheelhouse, and there
13 will still be overinclusion of institutions that possibly
14 shouldn't be included, and then underinclusion of
15 institutions or training programs that should. And that's
16 been an aspect of this hearing that I think has been really
17 helpful. It's raised the question of what really is the
18 DOD's expertise in this area. And I wonder if you have any
19 comments about that.

20 Mr. Levine: Well, it's an interesting problem that you
21 pose there, Senator. We rely on institutions being
22 accredited educational institutions. If we go beyond that,
23 then the question is, What is our minimum baseline that
24 we're going to go to? Because that's one of the few things
25 we have to measure against.

1 With regard to certificates, that's something that we
2 are specifically concerned about, and we're working toward
3 enabling servicemembers to get certificates. We're doing
4 that through other programs. And so, it may be that the
5 best answer to enable people to take the -- to get the kind
6 of training you're talking about without lowering our
7 standards for the Tuition Assistance Program is to develop--
8 an approach that is specifically tailored to that kind of
9 certificate so that it doesn't mix apples and oranges and
10 undermine both programs.

11 Senator Kaine: Can I just make one last point, Mr.
12 Chair?

13 The -- you used the word "lowering our standards," and
14 I just want to underline that and put a big spotlight on it.
15 In Virginia, there is a marvelous career and technical
16 program that trains shipbuilders at the shipyard in Newport
17 News. It's been in existence since 1919. Individuals who
18 go to that program, they get paid to go. They don't
19 accumulate debt. They graduate in 3 years, and they move
20 into a job that is well paid, doing something really
21 patriotic for the country. But, we do not count them as
22 having a higher education degree. The admission rate into
23 the program is lower than getting into Harvard, but we do
24 not count them as having a higher education degree.

25 There has been, across Federal policy in the DOD and

1 DOE, a sense that career and technical education is a
2 lowered standard, is a -- some kind of a subjugated or
3 second-class kind of education. And you can look at the way
4 Pell Grants are administered or the way the military tuition
5 assistance benefit is administered, and you'll see that
6 notion, that career and technical training is second class.
7 And yet, we have to bring in welders from foreign countries
8 on specialty visas because we don't train enough in the
9 country, and the living that they make is vastly better than
10 what a lot of college graduates make.

11 You know, this is a hearing about a very particular
12 thing, and we'll fill the record up with the communication
13 about the process and how it can be made better, but it also
14 touches upon something much larger, which is, What is the
15 definition of a first-class education or an accredited or
16 approved education program? And the fact that we don't
17 recognize technical certifications that will enable you to
18 get a job anywhere in the United States as being of a high
19 standard, but we pay thousands and thousands of dollars of
20 public money for people to get degrees that, in some
21 instances, may not be that helpful, in terms of either their
22 military MOS or their post-military career, is just an
23 example of the amount of reform that I think needs to --

24 Mr. Levine: And, Senator, you're right. I certainly
25 shouldn't have implied that those career and technical

1 programs you're referring to are, in some way, worse or less
2 important than the more traditional education programs.
3 What I meant to say was, if we were to remove the
4 accreditation requirement, then we would have to worry about
5 what the other impacts of that might be.

6 Chairman McCain: I want to thank the witnesses for
7 appearing. And I know it is unusual for Ms. Barna and Ms.
8 Bilodeau to be before this committee, but it's also the
9 first time that I have seen decisions of this magnitude made
10 at the level that they testified was their decision making
11 which had such profound impact.

12 Mr. Levine, I'd -- you're an old friend of this
13 committee. I thank you for your candor. I thank you for
14 your continued service. And, believe it or not, from time
15 to time, we miss you.

16 [Laughter.]

17 Mr. Levine: Thank you, Mr. Chairman.

18 Chairman McCain: This hearing is adjourned.

19 [Whereupon, at 11:29 a.m., the hearing was adjourned.]

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