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For-Profit Colleges Facing Loss of Taxpayer Funds Fighting Aid Limit

By John Lauerman - Jan 12, 2011

For-profit colleges are urging the U.S. Congress to change a law that threatens their access to billions of dollars in federal student aid, the companies' biggest source of revenue.

Education companies that get more than 90 percent of their revenue from the Education Department's student grants and loans for two years in a row may lose eligibility for the money under the law. Apollo Group Inc., operator of the University of Phoenix and the biggest U.S. for-profit college, and Santa Ana, California-based Corinthian Colleges Inc. have said they may violate the limit next year.

For-profit college revenue already is being threatened by slowing new-student enrollment amid government investigations of sales practices and the use of federal funds. The companies are lobbying Congress to strike down the revenue cap, called the 90/10 rule, or extend an exemption that would help them comply for the next fiscal year. Changing the rule will be the industry's most important battle in Congress, said Jarrel Price, an analyst with Height Analytics in Washington.

"If the industry fails to push Congress beyond gridlock, several schools are at risk," of violating the rule, Price said in a telephone interview. "There's great urgency."

The 90/10 rule, enacted in 1998, requires for-profit colleges to get at least 10 percent of their revenue from sources outside the Education Department. The law is meant to ensure quality and discourage fraud at for-profit colleges by requiring students to invest some of their own money in tuition, just as homebuyers make down-payments on their mortgages.

Better Assessments

"University of Phoenix believes 90/10 is not a good measure of quality, which is better assessed through graduation rates, default rates, compliance audits, financial ratios, etc.," the for-profit college said in an e-mail. Federal student grants and loans made up about 88 percent of the college's revenue in the year ended Aug. 31, Apollo said in October.

For-profit colleges are approaching the 90 percent cap as the Education Department has increased the availability of student loans and Pell Grants, said Harris Miller, president of the Association of

Private Sector Colleges & Universities, a Washington-based trade group. Congress needs to act so the schools can continue to operate, and students can stay in class, he said.

Essential Relief

"We need relief in the next session," Miller said in an interview in his office. "It's a priority."

Strayer Education Inc., a for-profit college based in Arlington, Virginia, said Jan. 7 that enrollment for the semester beginning this month dropped 20 percent from a year ago. Shares dropped 23 percent on Jan. 10, the most in almost 11 years in Nasdaq Stock Market composite trading. Strayer fell 60 cents, or less than 1 percent, to $117.80 at 9:55 a.m. New York time.

Apollo said Jan. 10 that new student enrollment for the three months ended in November dropped 42 percent from the year earlier to 56,500. Shares yesterday rose 13 percent, the most of the Standard & Poor's 500 Index, to close at $40.74 after the company reported it was cutting costs and quarterly profit excluding some items was $1.63 a share, topping the $1.35 average estimate of 21 analysts surveyed by Bloomberg.

Today, the company fell $1.04, or 2.6 percent, to $39.70. An index of 13 for-profit colleges dropped 31 percent in the past year before today.

$2,000 Exemption

Congress granted an exemption to the 90/10 rule of up to $2,000 per student during the global financial crisis when unemployed workers needed job training. The exemption expires at the end of June, and Apollo and Corinthian said last year the end of the exemption may lead to violations of the rule, putting their major source of revenue at risk.

Pittsburgh-based Education Management Corp., which is partially owned by Goldman Sachs Group Inc., the Washington Post Co.'s Kaplan education unit, and West Orange, New Jersey-based Lincoln Educational Services have also each reported revenue figures indicating that some of their institutions may be at risk of violating the 90/10 rule, Price said.

Kaplan's analysis of its revenue doesn't show that any of its schools will break the rule when the exemption expires, Michele Mazur, a company spokeswoman, said in an e-mail. Kaplan University got less than 87.5 percent of its receipts from federal student grants and loans in the fiscal year ended Jan. 3, 2010, the Washington Post Co. said in a filing in March. Jacquelyn Muller, a spokeswoman for Education Management, declined to comment.

'Few Protections'

Senator Tom Harkin, the Iowa Democrat who chairs the Senate education committee and investigated student recruitment, job- placement claims and use of government funds by for-profit colleges, called the 90/10 rule "one of the few protections students at these schools have."

"Given the abuses that my committee has documented -- alarmingly high dropout rates and crushing debt loads for students -- the 90/10 rule clearly isn't enough," Harkin said in an e-mail. "I intend to look at ways to make it work more effectively to ensure that for-profit colleges put a renewed focus on the success of their students rather than the profits of their shareholders."

Harkin doesn't favor extending the exemption, said Justine Sessions, a spokeswoman.

Minnesota Republican Representative John Kline, chairman of the House education committee, said he is "not thrilled" with the 90/10 rule. Job placement and student loan repayment rates are better indicators of program quality, he said. Senator Mike Enzi of Wyoming, the senior Republican on the Senate education committee, is also assessing the impact of the 90/10 rule, according to Craig Orfield, a spokesman.

'Gainful Employment'

Education companies are also battling an Obama administration proposal, known as "gainful employment," that would tie their eligibility for U.S. student aid to graduates' incomes and loan repayment rates. Publication of that rule was delayed last year, following a lobbying effort by for-profit colleges. Education Secretary Arne Duncan has scheduled release of the final rule for early this year.

To fight the regulations, the companies more than doubled their spending on lobbying in the first nine months of last year to $3.8 million, according to reports filed with Congress. For- profit colleges hired six former members of the U.S. Congress, including Richard Gephardt, a Missouri Democrat and the former House majority leader. Corinthian Colleges, which hired Gephardt, doubled its lobbying bill in the first nine months of 2010 to $570,000 from the year-earlier period.

Approaching Threshold

For-profit colleges received about $30.2 billion dollars in revenue from government student loans and grants, called Title IV funds, in the 2009-2010 school year, according to the Education Department. About one-quarter of 1,890 for-profit institutions got from 80 percent to 90 percent of their revenue in federal student aid in 2007 and 2008, according to an analysis of Education Department statistics by Mark Kantrowitz, publisher of FinAid.org, a website that provides information on student aid. Even more for-profit colleges have likely approached the 90 percent threshold since then, Kantrowitz said.

To avoid violating the 90/10 rule, education companies sometimes raise tuition above federal financial-aid limits, forcing students to pay the difference out-of-pocket or find the money elsewhere, Miller

said. The gainful employment proposal encourages for-profit colleges to lower tuition so students won't default on loans, Kantrowitz said.

Tuition Increase

"If they increase tuition to comply with 90/10, they're going to have problems with the gainful employment rule," he said in a telephone interview. "They're going to be between a rock and a hard place."

Corinthian Colleges is planning a tuition increase in the coming weeks just so it can comply with 90/10, said Mark Pelesh, executive vice president of legislative and regulatory affairs, in an e-mail. The company has pledged to rescind the tuition increase if the 90/10 rule is changed in a favorable manner, Pelesh said.

Kaplan has a high percentage of revenue from the government because many of its students come from low-income backgrounds and are dependent on financial aid, said Mazur, the company spokeswoman. The rule penalizes for-profit colleges for serving poor students, said Miller, the industry-group leader.

"If you're in a poor area, your student population is going to be 100 percent federally eligible," Miller said. "You're walking into a situation where you're almost guaranteed to hit 90 percent."

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