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# Threats From The Left, Relief From The Right? Reality Check on the Current Higher Education Legal and Policy Landscape for CAPPS Membership

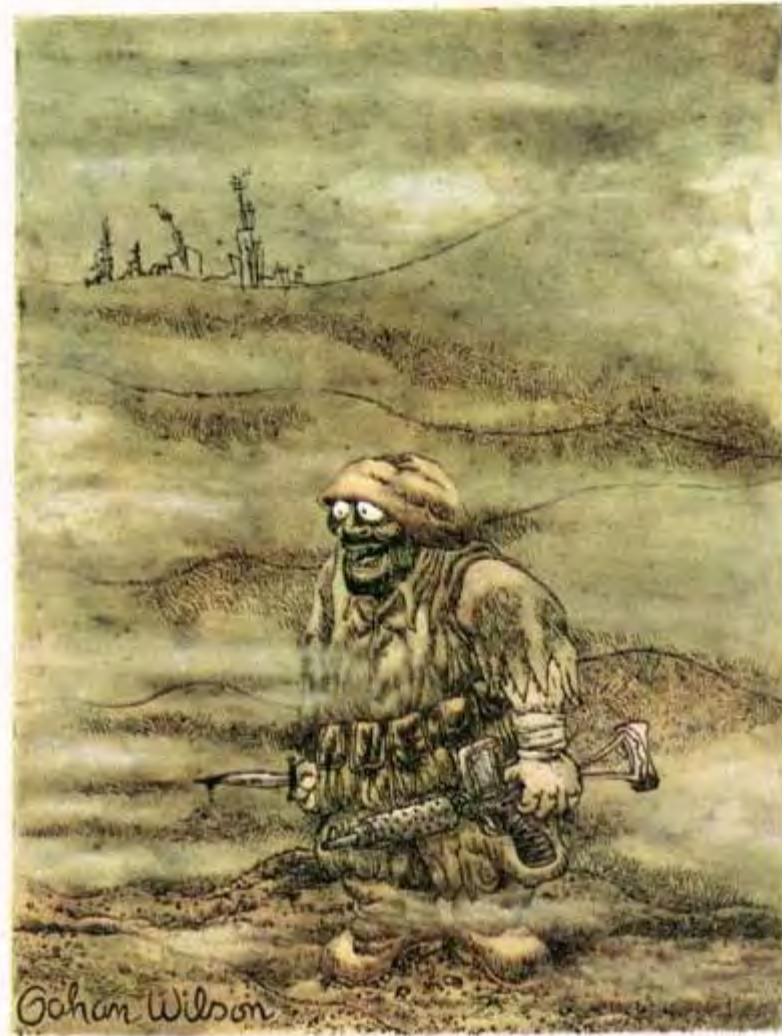
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*"I think I won!"*

## The Undead “Resistance” Movement



## “The Resistance”

- Senate and House Democrats
- State Attorneys General – CA, CT, DE, HI, IA, IL, KY, MD, ME, MA, MN, NM, NY, ND, OR, PA, RI, VT, VA, WA, DC (at least)
- Organizations representing student, consumer, veteran, service member, academia, civil rights, college access and other interests
- Politically active members of the public via social media and protest movements

## Resisting what exactly?

- Resisting rollback of Obama education regulations
  - GE; Borrower Defense to Repayment (BDR) – New Claim Bases and New Financial Responsibility components; State Authorization for Distance Education; Enforcement Unit at ED; Other
- Resisting weakening of existing laws and regulations by Congress or ED
  - 90/10, Incentive Compensation Ban, Other
- Resisting ED staff picks and appointments
- Resisting weakening of accreditation oversight
- Resisting weakening of campus safety laws and Title IX
- Resisting weakening of other efforts to increase oversight and accountability

## Examples

- DeVos Confirmation Hearing
- Education Committee Hearings – Democrat message points
- February 2 Letter to House/Senate Leaders from Veteran and Servicemember Groups
- February 22 Letter from 21 state attorneys general to Secretary DeVos, House/Senate Leadership and Jerry Falwell Jr/WH Task Force on Deregulation
- March 13 Senate Democrat letters to Secretary DeVos and US DOE Inspector General
- March 22 Letter to Congress from 50+ Consumer Groups

## Continued Resistance by the Undead Expected ...

Focus: Holding Republicans in Congress and Administration accountable for regulatory roll-back as anti-consumer.

Focus: Push back on ED on appointees.

Bright spot: Increasing awareness in Congress that change must be made through statutory amendments not agency action to be lasting. Bipartisan proposals have strongest likelihood of moving in Congress in the short term.

BUT: bipartisan proposals likely to be pretty scarce...



## And Resistance from the Very Much Alive ..

- State of California
  - Legislature (new bills)
  - Consumer Groups
  - HQ of Resistance
- State AGs
  - Request to intervene in ACICS lawsuit
  - Letter to DeVos and House/Senate leadership re GE, BDR, Accreditation
  - Investigations – school groups
  - Possibility of increased investigations and litigation the more federal regulations are rolled back, funded by consumer groups and others

## And More...

- Consumer and Civil Rights Groups and Non-profit Advocacy Organizations
  - Major fundraising going on
  - Major social media advocacy going on
  - Litigation possible from these groups depending on ED action on GE and BDR

## Is a Rescue Underway From the Right?



## The rescue mission is complicated ...

- Elections 2018 and 2020
- Do No (Further) Harm to Republican Brand, maintain control – WH, Senate, House
- Making major changes to GE and BDR will be hard – optics and law
  - Congress leaving it to ED
  - Possible lawsuits if ED goes too far
  - Likely attempts at political embarrassment, legal and ethics questions
- Delay in putting in place senior policymakers at ED is delaying decision-making
- Other challenges to short term regulatory relief

## Our View from the Swamp

- Compliance must stay top of mind and be deeply ingrained in your business culture
- De-Regulation is Not All Upside for Business
  - De-regulation at federal level kicks more regulation to states
  - “De-regulation” means different things: state occupational licensing de-regulation has some negative impacts on the sector
- Controlled and ethical growth is essential
- Bipartisan support is critical to long term stability and survival of the career sector
- Embrace common sense regulation and compromise, not “anti-regulation” mindset
- Be prepared to compromise.