

No. 17-_____

**United States Court of Appeals
for the Federal Circuit**

ASHFORD UNIVERSITY, LLC,

Petitioner,

v.

DAVID J. SHULKIN, *in his official capacity as*
SECRETARY OF VETERANS AFFAIRS,

Respondent.

PETITION FOR REVIEW PURSUANT TO 38 U.S.C. § 502

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Counsel for Petitioner Ashford University, LLC

Pursuant to 38 U.S.C. § 502, Rule 15 of the Federal Rules of Appellate Procedure, and this Court's Rule 47.12, Ashford University, LLC ("Ashford"), in its own right and on behalf of its students, hereby petitions the Court for review of legal rules adopted by the Department of Veterans Affairs ("VA") in violation of the Administrative Procedure Act.

These rules, first publicly announced in a November 9, 2017 letter that purports to *enforce* those same rules against Ashford ("the Letter," attached hereto as Exhibit A), are unlawful for at least two reasons. First, the rules are procedurally invalid because VA adopted them without going through the public notice-and-comment process mandated by the Administrative Procedure Act, or even publishing them in the Federal Register. *See* 5 U.S.C. § 706(2)(D). Second, the VA's new rules are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," and are "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." *See id.* § 706(2)(A), (C). Specifically, these rules have the practical effect of usurping authority that Congress granted to State officials, pursuant to a plan of cooperative federalism that not only expressly grants

rulemaking authority to State agencies, but also prohibits VA officials from “exercis[ing] any supervision or control, whatsoever” over participating States. 38 U.S.C. § 3682. The Court should act to invalidate these unlawful rules.

I. Petitioner

Ashford is a regionally accredited, nationally recognized university with over 40,000 students and more than 60 undergraduate and graduate degree programs. In two senses, Ashford’s model differs from that of conventional higher education institutions. *See generally* 38 C.F.R. § 21.4200(h) (defining “Institution of higher learning” for GI Bill benefits purposes). First, Ashford is an almost entirely online university. Its online model allows students flexibly to take classes and to connect with one another and with faculty members across the country or internationally, wherever they may be. Second, Ashford is a for-profit university owned by Bridgepoint Education, Inc., which in turn is a publicly traded company.

Ashford’s online classes, low-cost tuition, and approval for GI Bill benefits (including tuition and housing allowances) are attractive to many veteran students. In part because of these attributes, Ashford has

a long and proud history of serving military and veteran students. Ashford participates in the GI Bill's Yellow Ribbon Education Enhancement Program, has signed and operates under the Department of Defense Memorandum of Understanding, and has affirmed its commitment to the 8 Keys to Veterans Success. Ashford also has received recognition reflecting both its popularity with and value to veteran students and their families.¹

II. Statement of the Case

A. Statutory Background

The GI Bill is “one of the most significant pieces of legislation ever produced by the federal government—one that impacted the United States socially, economically and politically.” *Education and Training*, U.S. Dep't of Veteran's Affairs, <http://www.benefits.va.gov/>

¹ See, e.g. *Top 50 TA Schools by Service*, Military Times (Aug. 28, 2014), <http://www.militarytimes.com/story/military/benefits/education/2014/08/28/top-50-ta-schools-by-service/14736989/> (listing Ashford as one of the ten most popular universities in each of the five branches of the military); *Military Times Names Ashford University to List of Best Colleges for Veteran and Military Students*, Ashford Univ. (Nov. 10, 2015), <https://www.ashford.edu/about/media-room/press-releases/military-times-names-ashford-university-to-list-of-best-colleges-for-veteran-and-military-students>.

gibill/history.asp (last visited Nov. 17, 2017). First enacted as the Servicemen's Readjustment Act of 1944, Pub. L. No. 346, 58 Stat. 284, the GI Bill assists military veterans to reintegrate into civilian life. Among other benefits, the current iterations of the GI Bill—the Montgomery GI Bill (1984) and Post-9/11 GI Bill (2008)—provide military-service members, veterans, and their spouses with tuition assistance up to the full cost of attending an approved college or university of their choice. In addition to tuition assistance, qualified veterans are entitled to a monthly housing allowance, which helps them and their families meet basic living expenses while they are enrolled as students. They also receive stipends to cover textbooks, supplies, and moving expenses. The tuition payments are made by VA directly to the institution on the individual veteran's behalf. Housing allowances and other stipend payments are paid directly to the veteran student each month, provided he or she remains an enrolled student.

As with many large-scale entitlement programs, Congress chose to give States a prominent role in the administration of the GI Bill. With exceptions not relevant here, VA has no role in approving schools to participate in the GI Bill benefits program. Instead, Congress has invited

each State to designate a “state approving agency” (“SAA”) that is responsible for designating GI Bill–eligible institutions, *see* 38 U.S.C. § 3671. Congress also vested the SAAs with authority to approve “a course of education offered by an educational institution” in the “State where such educational institution is located,” *id.* § 3672(a), and made clear that “[a]pproval of courses by [SAAs] shall be in accordance with [federal statutes] ***and such other regulations and policies as the [SAA] may adopt.***” *Id.* (emphasis added).

Congress thus granted the SAAs, rather than VA, the authority to making binding rules regarding the approval of courses and institutions for GI Bill benefits. That allocation of authority is consistent with Congress’s federalism-driven command that “no department, agency, or officer of the United States, in carrying out this chapter, shall exercise any supervision or control, whatsoever, over any State approving agency, or State educational agency, or any educational institution.” 38 U.S.C. § 3682.

In sharp contrast to the Letter, VA’s formal regulations appropriately respect that congressional mandate. They acknowledge that “[a]pproval by [SAAs] will be in accordance with the provisions of 38

U.S.C. Chapter 36 and such regulations and policies as the agency,”—*i.e.*, the SAA—“may adopt not in conflict therewith.” 38 C.F.R. § 21.4250(b). VA’s regulations concede that the SAAs are authorized to exercise all “responsibilities designated to the State under 38 U.S.C. chapter 36,” 38 C.F.R. § 21.4150(a), including “[d]etermining those courses which may be approved for the enrollment of veterans and eligible persons” and “[a]scertaining whether a school at all times complies with its established standards relating to the course or courses which have been approved.” *Id.* § 21.4151(b)(3).

VA’s enacted regulations further concede that VA is expressly forbidden from “exercis[ing] any supervision or control over any State approving agency or State educational agency.” *Id.* § 21.4152(a). Its regulations note that VA’s power to disapprove a school or course is confined to enumerated “reasons stated in the law.” 38 C.F.R. § 21.4152(b)(5); *see, e.g.*, 38 U.S.C. § 3679(c) (authorizing VA to disapprove a course if the institution charges tuition rates higher than the in-state rate). And VA’s regulations reflect that VA’s relationship with the SAAs is to be cooperative rather than supervisory. That is, “in conjunction with [the SAAs],” VA conducts an “annual evaluation of each

[SAA]” based on “standards developed by VA with State approving agencies.” VA then “take[s] into account the result of the annual evaluation of a State approving agency when negotiating the terms and conditions” of the “contract or agreement” that VA makes with each SAA. *See* 38 C.F.R. § 21.4155; 38 U.S.C. § 3674A.

This case, however, involves VA’s clear disregard of the allocation of authority mandated by Congress and echoed in the duly promulgated regulations that VA is obligated by law to follow.

B. Factual Background

Since 2005, Ashford has been continuously approved to receive GI Bill benefits. Beginning in 2016, however, VA undertook a series of actions that appear designed to destroy Ashford’s ability to participate in the GI Bill benefits program, all based on the technical (and erroneous) position that Ashford is approved by the wrong SAA.

The first steps in this campaign were taken in Iowa, beginning in 2016. Although Ashford today operates a predominantly online education model, Ashford began its existence as a traditional bricks-and-mortar college located in Iowa, and it continues to serve residential students in

Iowa. The Iowa SAA thus has continuously approved Ashford to receive GI Bill benefits for over a decade, including as recently as March 2016.

Unexpectedly, in May 2016, the Iowa SAA notified Ashford of its intent to withdraw its approval of Ashford in just 60 days, on the theory that Iowa no longer had jurisdiction to approve Ashford's programs. It soon emerged that Iowa had not come to this view on its own, but instead had yielded to pressure from VA. Ashford has been in litigation with the Iowa SAA regarding its unlawful effort to withdraw its approval for more than a year, and that litigation continues today, with Ashford's Iowa approval still in effect during the pendency of that litigation.

Nonetheless, recognizing that its long-standing Iowa approval was at risk because of the Iowa SAA's actions, Ashford applied for and obtained SAA approval from the Arizona SAA, the Arizona Department of Veterans' Services ("ADVS"). Ashford's Online Administrative and Student Services Center is based in Phoenix. Among other responsibilities, the Center handles the administration of VA benefits and houses certifying officials and records critical to that task. *See* 38 C.F.R. § 21.4266(a)(2) ("[c]ertifying officials" responsible for providing required reports and certifications to VA). Exercising its authority under

38 U.S.C. § 3672, ADVS, after conducting a site visit of the facility, deemed the Center's location within Arizona sufficient to warrant the exercise of approval authority by ADVS, and, consistent with the Iowa SAA's repeated determinations since 2005, concluded that Ashford's programs satisfied all other criteria for GI Bill approval. ADVS accordingly approved Ashford's programs for purposes of GI Bill benefits.

ADVS transmitted notice of approval to VA on July 6, 2017 (attached hereto as Exhibit B). Upon information and belief, VA attempted for months to pressure ADVS to rescind its approval of Ashford, just as it had similarly pressured Iowa's SAA to withdraw its longstanding and repeated approval of Ashford. The Arizona SAA, however, resisted VA's demands.

On September 13, 2017, VA sent Ashford a letter (attached hereto as Exhibit C) that acknowledged the approval issued by the Arizona SAA and agreed to issue a "facility code"—an internal administrative key used to facilitate the payment of GI Bill benefits to enrolled students—to Ashford's Arizona location. In the same September 13 letter, VA stated that it would cancel the facility code that corresponded to Ashford's Iowa approval, based on VA's erroneous belief that the Iowa SAA had

withdrawn Ashford's approval (when it in fact remains in place during ongoing litigation). The necessary and calculated effect of that action was to ensure that all GI Bill benefits for students enrolled at Ashford would run through Ashford's Arizona approval—the very same approval that, just weeks later, the Letter would purport to invalidate.

VA then seized its chance to lash out at Ashford and its students. On November 9, 2017—literally on the eve of the Veterans' Day holiday—VA released the Letter. In the Letter, VA unilaterally announced that it “will suspend payment of educational assistance and suspend approval of new enrollments and reenrollments in [Ashford's] online programs,” thus cutting off Ashford students' GI Bill benefits, based on interpretations of law that previously had not been announced to the public and have never been subjected to notice-and-comment rulemaking or published in the Federal Register.² The Letter does not mention any of the statutory provisions that allocate approval authority to the SAAs

² VA's conduct in this regard was consistent with its recent practices regarding Ashford's status and litigation with IDOE. VA has repeatedly (typically right before the start of the weekend) sent out inaccurate, fear-mongering emails to Ashford's veteran students and then subsequently, in almost all cases, has been forced to retract and/or correct them.

and does not attempt to explain how VA's assertion of authority can be squared with the statutory text. Worse still, the Letter declares that the benefits cut-off will strike Ashford and its veteran students in early January—right in the middle of the traditional academic year and just when post-holiday bills are coming due for students.

If the Letter is permitted to stand, VA will have imposed new rules governing the approval of educational institutions without taking even a single step that the Administrative Procedure Act requires when an agency adopts new legal interpretations that purport to have binding effect—rules that, moreover, directly contradict the statutory mandates set in place by Congress.

Unless this Court intervenes, VA's precipitous and unlawful decision will force Ashford's veteran students to face an unpalatable set of choices. First, if they choose to stay at Ashford, they will have to pursue their programs of study at their own expense, without the tuition assistance and housing allowances that these veterans have earned and inarguably deserve. Second, they can switch to another institution that they would not otherwise have selected, but if so they may lose credits that cannot be transferred, be forced to pursue a different course of study,

or suffer a partial loss of benefits. The third option, which at least some veteran students would no doubt select, would be to pause or end their studies if they cannot use GI Bill benefits at Ashford, the school of their choice.

III. VA's Unlawful Actions Will Harm Ashford and its Students.

Absent intervention by this Court, in fewer than 60 days, VA “will suspend payment of educational assistance”—including housing allowances—to Ashford’s approximately 5,000 veteran students, denying these students the opportunity to use the education benefits that they valiantly earned in service to our country at the higher-education institution of their choice. As a result, veteran students who have worked—sometimes for years—toward an Ashford degree will be forced to abandon their studies at Ashford or to complete their degree at their own expense. Since veteran students tend to be older than the average college student, the additional delay and expense may well discourage them from completing their degrees or other programs altogether. In addition, Ashford’s nearly 6,000 active-duty military students may also lose access to their GI Bill benefits. While the Department of Defense, rather than VA, directly administers GI Bill benefits for active-duty

personnel, the Defense Department typically looks to VA's conclusions. All told, then, *more than 10,000* students who have served or are currently serving in the armed forces stand at risk because of VA's unlawful actions.

Ashford also faces significant harm. VA's actions create an incentive for veteran students to leave Ashford and to attend other educational institutions. Such losses would be permanently damaging to the University. Conceivably, thousands of current or potential students could enroll at other institutions instead of pursuing a degree at Ashford. Ashford's reputation for providing affordable and high-quality course offerings for veterans, too, could be permanently and unfairly tarnished.

IV. Jurisdiction

This Court has original and exclusive jurisdiction pursuant to 38 U.S.C. § 502, because the Letter adopts, or reflects the prior *sub rosa* adoption, of new substantive rules without notice-and-comment, in violation of the Administrative Procedure Act's rulemaking requirements. *See* 5 U.S.C. § 553. As this Court has recognized, a "change in existing law or policy" that "affects the veteran's substantive ... rights" is a rule subject to review under 38 U.S.C. § 502 and 5 U.S.C. § 553.

Military Order of Purple Heart of USA v. Sec’y of Veterans Affairs, 580 F.3d 1293, 1296 (Fed. Cir. 2009); *see also Splane v. West*, 216 F.3d 1058, 1062-64 (Fed. Cir. 2000).

This Court also has jurisdiction, insofar as the Letter is deemed to set forth interpretive rules, *i.e.*, “statements of general policy or interpretations of general applicability formulated and adopted by the agency,” 5 U.S.C. § 552(a)(1)(D); *see, e.g., Coal. for Common Sense in Gov’t Procurement v. Sec’y of Veterans Affairs*, 464 F.3d 1306, 1314 (Fed. Cir. 2006) (Section 502 authorizes judicial review of interpretive rules); *LeFevre v. Sec’y of Veterans Affairs*, 66 F.3d 1191, 1196 (Fed. Cir. 1995) (this Court has jurisdiction to review “interpretations of general applicability”).

The Petition is timely because it is filed within 60 days of Ashford’s November 9, 2017 receipt of the Letter setting forth the unlawful rules challenged herein. *See* Federal Circuit Rule 47.12(a).

V. Relief Sought

Ashford respectfully requests that the Court:

1. Vacate the unlawful substantive and interpretive rules stated or reflected in the Letter;

2. Declare the Letter null and void, insofar as it expresses and purports to rely upon unlawful substantive and interpretive rules; and

3. Grant such other relief as this Court deems just, proper, or in aid of its jurisdiction.

Respectfully submitted,

/s/ Carter G. Phillips

Carter G. Phillips

Counsel of Record

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*Counsel for Petitioner Ashford
University, LLC*

Dated: November 17, 2017

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Appellate Procedure 15(c), I hereby certify that the above Petition for Review Pursuant to 38 U.S.C. § 502 was filed with the U.S. Court of Appeals for the Federal Circuit via CM/ECF on November 17, 2017. I further certify that, on the same day, two copies of the same were transmitted via U.S. Postal Service,

Certified Mail, to:

The Hon. David Shulkin
Secretary of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Ave., N.W.
Washington, DC 20420

/s/ Carter G. Phillips
Carter G. Phillips

EXHIBIT A



U.S. DEPARTMENT OF VETERANS AFFAIRS

Muskogee Regional Office
125 South Main Street
Muskogee, OK 74401

November 9, 2017

Dr. Craig Swenson
University President and CEO
Ashford University
8620 Spectrum Center Blvd.
San Diego, CA 92123

Leanna DeKing
Director, Arizona State Approving Agency
3839 N. 3rd Street, Suite 200
Phoenix, AZ 85012

Dear Dr. Swenson and Ms. DeKing:

The purpose of this letter is to notify you that I intend to suspend payment of educational assistance and suspend approval of new enrollments and reenrollments for Ashford University's (Ashford) distance education (i.e., online) programs in 60 days unless corrective action is taken. I am taking this action because the Arizona State Approving Agency (SAA) has provided insufficient evidence to establish that it has jurisdictional authority over your online programs in accordance with 38 C.F.R. § 21.4250(a)(3). Consequently, the Arizona SAA's approval does not constitute an approval by the SAA for the State where your educational institution is located, as required by 38 U.S.C. § 3672(a)(1). Therefore, in accordance with 38 C.F.R. § 21.4210(e), I intend to suspend payment of educational assistance and suspend approval of new enrollments and reenrollments for your online programs if you refuse to take corrective action or do not take corrective action within 60 days. I am taking these actions in accordance with 38 U.S.C. § 3690(b) and 38 C.F.R. §§ 21.4210(d) and 21.4211(a)(6).

I have reached my conclusion based on the following reasoning:

Section 3672(a)(1) allocates jurisdiction for approval of an educational institution to the SAA where it "is located." Section 21.4250(a)(3) implements this authority and clarifies that courses offered by independent study may only be approved for VA educational assistance by the SAA for the State in which the institution's main campus is located. The term "main

campus” is defined in 38 CFR § 21.4266(a)(3) as the location where the primary teaching facilities of an educational institution are located. There does not appear to be any teaching location in Phoenix, AZ, according to the evidence provided by the Arizona SAA.

The Western Association of Schools and Colleges (WASC) does not list a recognized teaching location for Ashford in Arizona. Ashford’s main campus is listed in San Diego, CA, with an additional campus location in Clinton, Iowa, and an Administrative Online Student Services Center in Phoenix, Arizona. Consequently, I conclude that the Phoenix, AZ, location is not a teaching facility for purposes of section 21.4266(a)(3) based on the evidence available to me. As discussed below in more detail, I encourage you to submit additional evidence to the extent that you disagree with my conclusion.

Additionally, I note that both WASC and the U.S. Department of Education recognize Ashford University’s main campus as being in San Diego. While the school’s 2016-2017 Academic Catalog and Supplement do not identify a main campus, it is stated on page 1 of the catalog that “With the growth of the online student population, the University’s leadership decided to move its headquarters from Clinton, IA, to San Diego, CA, and to apply for accreditation with [WASC].” WASC only has jurisdiction to approve institutions with main campuses in California, Hawaii, and the Pacific, as well as a limited number of institutions outside the U.S. This fact also suggests that the main campus is not in Phoenix, AZ.

Further supporting this conclusion, it appears that the Arizona State Board of Private Postsecondary Education (Board) does not consider Ashford to be an Arizona institution and does not appear to recognize an Ashford teaching location in Arizona. Ashford is only listed in that office’s online directory of out-of-state institutions; therefore, it appears that the Board does not recognize Ashford as an Arizona institution. Additionally, the Board recognizes a single Ashford location in Phoenix, which it described merely as an “online administrative and student services center.” Nor are any Ashford programs listed as being approved for the Phoenix location. For the sake of comparison, the Board does not describe the Phoenix, AZ, location of the University of Phoenix, Online, as an administrative center, instead listing dozens of programs as being taught at that location. This evidence is consistent with what we received regarding WASC’s approval of your school, and also supports my conclusion that the Phoenix, AZ, location is not a teaching location.

Furthermore, the regulation defining “main campus,” 38 CFR § 21.4266(a)(3), states that “[i]f it is unclear which of the education institution’s teaching facilities is primary, the main campus is the location of the primary office of its Chief Executive Officer [(CEO)].” Therefore, if a teaching facility existed in Arizona and a disagreement over which of Ashford’s teaching facilities is primary existed, the regulations use the location of the primary office of the CEO as the main campus. The Arizona SAA provided us no evidence that the CEO’s primary office is not located at Ashford’s Headquarters at 8620 Spectrum Center Blvd., San Diego, CA, suggesting that the main campus would be in San Diego, CA, and not Phoenix, AZ, even under this scenario.

To put it succinctly, the information provided by the SAA strongly indicates that the Phoenix, AZ, location does not meet the definition of a main campus. Therefore, the Arizona SAA lacks jurisdiction under 38 C.F.R. § 21.4250(a)(3) and, consequently, the SAA's approval of Ashford's online programs does not comply with Title 38 requirements.

Please note that if Ashford fails to remedy this deficiency through corrective action within 60 days, I will suspend payment of educational assistance and suspend approval of new enrollments and reenrollments in your online programs. I will then refer the matter to the Committee on Educational Allowances in accordance with 38 C.F.R. §§ 21.4210(g), 21.4211 and 21.4212, to assist me in making a determination as to whether educational assistance should be discontinued for all individuals enrolled in your online courses, and, if appropriate, whether approval of all further enrollments or reenrollments in your online courses should be denied to veterans, servicemembers, reservists, or other eligible persons pursuing those courses under educational assistance programs administered by VA. Ashford will be provided with the opportunity for a hearing before the Committee in accordance with 38 C.F.R. §§ 21.4212-14. The Committee will make a recommendation to me, and I will render a decision pursuant to 38 C.F.R. § 21.4215 regarding discontinuance. Ashford will then be afforded an opportunity to request a review of such decision by the Director, Education Service, Veterans Benefits Administration, pursuant to 38 C.F.R. § 21.4216. However, if Ashford has any additional information regarding the Phoenix, AZ, location that justifies a conclusion that the Phoenix, AZ, location is indeed the "main campus" in accordance with 38 C.F.R. § 21.43266(a)(3), or makes changes to its existing structure, please provide such information to this office as soon as possible as such information may resolve this issue. Please submit any additional information to U.S. Department of Veterans Affairs, 125 S. Main Street, Muskogee, OK 74401.

I look forward to working with you to ensure that our nation's Servicemembers and Veterans can continue to receive benefits for enrollment in your school's programs.

Sincerely,



C. JASON McCLELLAN
Director, Muskogee Regional Office

EXHIBIT B



State of Arizona Arizona State Approving Agency

Certifies that

Ashford University

is granted approval for the education and training of veterans and their eligible dependents, using United States Department of Veterans Affairs educational benefits, in the State of Arizona, in accordance with Section 3675, Title 38, United States Code. This approval is based on the institution's accreditation by the Western Association of Schools and Colleges Senior College and University Commission, licensure by the Arizona State Board of Private Postsecondary Education, the provisions of Titles 10 and 38, United States Code, and on the standards of the Arizona State Approving Agency (SAA).

INSTITUTION APPROVAL INFORMATION

Institution Name: Ashford University
Address: 2555 E Camelback Rd., Suite 250, Phoenix, AZ 85016
Phone: 866-711-1700 **Approval Action:** Initial
Institution Type: IHL **Approval Type:** Initial Revised
Facility Code: **Approval Date:** 7/6/17
Catalog Version: June 26, 2017 **Approval Effective Date:** 7/10/17
Catalog Years: 2017 **Catalog Start Date:** 6/22/17 **Catalog End Date:** 6//22/18

Note: New institution catalogs must be submitted to the SAA within 30 days of catalog end/expiration date.

Independent Study/Distance Learning: Yes No **Cooperative:** Yes No
Practical Training: Yes No **Remedial Courses:** Yes No
Accreditation: Yes No **Accredited by:** WASC-SCUC
Licensed: Yes No **Licensure by:** AZPPE
FAA Air Agency: Yes No **FAA Air Agency Certificate Number:**
FAA Air Agency Certificate Date: **Letter of Authority:**

Enrollment Limit: N/A **VA-ONCE:** Yes No
Branch Locations: N/A

| | |
|--|--|
| <p>Arizona Department of Veterans' Services Arizona State Approving Agency 3839 North 3RD Street, Suite 209 Phoenix, Arizona 85012</p> | |
|--|--|

CERTIFYING OFFICIALS

| Name | Title |
|-------------------|---|
| Conan Stanley | Director of Veteran & Military Financial Services |
| Bobbie Stull | Financial Services Manager |
| Stephanie Cowsert | Director of Financial Aid & Policy |

REMARKS

Ashford University is recognized by their Accreditor, WASC-SCUC, a U.S. Department of Education recognized accreditor, as having an online program which is based in the State of Arizona and covered as such. Additionally, Ashford University is licensed in the State of Arizona by the Arizona State Board of Private Post-Secondary Education. Ashford University demonstrates full administrative capability in the State of Arizona. This approval is done in accordance with 38 U.S.C. § 3672 and 38 U.S.C. § 3675.

Ashford University is responsible for maintaining the following approval criteria. The institution:

- Maintains a written record of previous education and training that clearly indicates that appropriate credit has been granted and the training period shortened proportionately;
- Advises the SAA of any changes in institution name/ownership, chief administrative officer(s), VA certifying official(s), licensure, accreditation, programs, facilities, address/location, catalogs, schedules, tuition and fees, or any other pertinent information, as soon as it becomes available;
- Maintains adequate records as prescribed by the SAA to show that satisfactory standards relating to progress and conduct are enforced;
- Maintains these records for at least three years following completion of the training program;
- Makes these records available for inspections by authorized representatives of the Arizona State Approving Agency (SAA) and the U.S. Department of Veterans Affairs (VA);
- Does not utilize advertising, sales, or enrollment practices that are erroneous, misleading or deceptive;
- Offers programs, curriculum, and instruction that are consistent in quality, content, and length with similar programs in other accredited public and private schools in the state;
- Has adequate space, equipment, instructional materials, and instructor personnel to provide training of good quality; and
- Employs instructors and staff that have appropriate education, experience and qualifications.

The VA Certifying Officials at Ashford University are responsible for identifying and correctly certifying all courses and for maintaining and monitoring individual program plans and class schedules for the duration of the approved program. The institution must fulfill all reporting requirements under 38 Code of Federal Regulations 21.4203.

APPROVED PROGRAMS

| # | Major or Program Title | Degree or Certificate | Credit Hours | Catalog Page # | Remarks |
|------------------------|--------------------------------------|-----------------------|--------------|----------------|---------|
| Degree Programs | | | | | |
| 1. | Accounting | BA | 120 | 133 | |
| 2. | Business Administration | BA | 120 | 134 | |
| 3. | Business Economics | BA | 120 | 135 | |
| 4. | Business Information Systems | BA | 120 | 135 | |
| 5. | Business Leadership | BA | 120 | 136 | |
| 6. | Consumer & Family Financial Services | BA | 120 | 137 | |
| 7. | eMarketing | BA | 120 | 138 | |

| # | Major or Program Title | Degree or Certificate | Credit Hours | Catalog Page # | Remarks |
|-----|--|-----------------------|--------------|----------------|---------|
| 8. | Entrepreneurship | BA | 120 | 139 | |
| 9. | Finance | BA | 120 | 140 | |
| 10. | Human Resources Management | BA | 120 | 141 | |
| 11. | International Business | BA | 120 | 141 | |
| 12. | Operations Management & Analysis | BA | 120 | 142 | |
| 13. | Organizational Management | BA | 120 | 143 | |
| 14. | Project Management | BA | 120 | 144 | |
| 15. | Public Administration | BA | 120 | 145 | |
| 16. | Public Relations & Marketing | BA | 120 | 146 | |
| 17. | Real Estate Studies | BA | 120 | 147 | |
| 18. | Service Management | BA | 120 | 148 | |
| 19. | Sports & Recreation Management | BA | 120 | 149 | |
| 20. | Supply Chain Management | BA | 120 | 150 | |
| 21. | Sustainable Enterprise Management | BA | 120 | 151 | |
| 22. | Early Childhood Education | AA | 67 | 152 | |
| 23. | Child Development | AA | 120 | 154 | |
| 24. | Cognitive Studies | AA | 120 | 155 | |
| 25. | Early Childhood Education | BA | 120 | 157 | |
| 26. | Early Childhood Education Administration | BA | 120 | 158 | |
| 27. | Education Studies | BA | 120 | 161 | |
| 28. | English Language Learner Studies | BA | 120 | 163 | |
| 29. | Instructional Design | BA | 120 | 164 | |
| 30. | Library Science and Media | BA | 120 | 165 | |
| 31. | Adult Development | BA | 120 | 166 | |
| 32. | Applied Behavioral Science | BA | 120 | 167 | |
| 33. | Complementary and Alternative Health | BA | 120 | 168 | |
| 34. | Gerontology | BA | 120 | 169 | |
| 35. | Health and Human Services | BA | 120 | 170 | |
| 36. | Health and Wellness | BA | 120 | 171 | |
| 37. | Health Care Administration | BA | 120 | 172 | |
| 38. | Health Education | BA | 120 | 173 | |
| 39. | Psychology | BA | 120 | 176 | |
| 40. | Nursing – RN to BSN | BS | 120 | 179 | |
| 41. | Military Studies | AA | 64 | 180 | |
| 42. | Applied Linguistics | BA | 120 | 181 | |
| 43. | Communication Studies | BA | 120 | 182 | |
| 44. | Cultural Anthropology | BA | 120 | 183 | |
| 45. | English | BA | 120 | 184 | |
| 46. | Environmental Studies | BA | 120 | 185 | |
| 47. | History | BA | 120 | 186 | |
| 48. | Homeland Security and Emergency Management | BA | 120 | 187 | |
| 49. | Journalism & Mass Communication | BA | 120 | 188 | |
| 50. | Law Enforcement Administration | BA | 120 | 189 | |
| 51. | Liberal Arts | BA | 120 | 190 | |
| 52. | Military Studies | BA | 120 | 191 | |
| 53. | Political Science and Government | BA | 120 | 191 | |
| 54. | Social and Criminal Justice | BA | 120 | 192 | |
| 55. | Social Science | BA | 120 | 193 | |
| 56. | Sociology | BA | 120 | 194 | |
| 57. | Accountancy | MA | 48 | 218 | |
| 58. | Arts in Organizational Management | MA | 33 | 220 | |
| 59. | Business Administration | MBA | 42 | 221 | |
| 60. | Public Administration | MPA | 36 | 223 | |
| 61. | Education | MA | 36-39 | 224 | |
| 62. | Education, Instructional Practice | MA | 36 | 227 | |
| 63. | Special Education | MA | 30 | 231 | |

| # | Major or Program Title | Degree or Certificate | Credit Hours | Catalog Page # | Remarks |
|-----|-------------------------------------|-----------------------|--------------|----------------|---------|
| 64. | Teaching & Learning with Technology | MA | 30 | 233 | |
| 65. | Health Care Administration | MA | 36 | 234 | |
| 66. | Psychology | MA | 36 | 235 | |
| 67. | Criminal Justice | MS | 39 | 236 | |

Total Programs Record Count:

67 Approved

PROGRAMS NOT APPROVED

| # | Major or Program Title | Degree or Certificate | Credit Hours | Catalog Page # | Remarks |
|----|-------------------------------|-----------------------|--------------|----------------|---|
| 1. | Health Information Management | BS | 120 | 177 | Not approvable until accredited by CAHIIM. Without accreditation students will not be eligible to sit for RHIA national certification exam. |

Total Non-Approved Programs Record Count:

1

APPROVED EDUCATION SITES

| Name | Address |
|--------------------|--|
| Ashford University | 2555 E Camelback Rd., Suite 250, Phoenix, AZ 85016 |

APPROVAL CERTIFICATION

| | | |
|-----------------------|---|----------------|
| SAA Approval: |  <u>Leanna DeKing</u> | 7/6/17 Date |
| | Leanna DeKing, SAA Director State Approving Agency - Arizona (SAA) 3839 N. 3 rd St., Phoenix, AZ 85012 Phone: 602-653-9026 Email: ldeking@azdvs.gov | |
| VA Acceptance: | VA Form 22-1998, Web Enabled Approval Management System (WEAMS) Document, dated (Enclosed) | |
| Distribution: | VARO LO File | |

**ARIZONA DEPARTMENT OF VETERANS' SERVICES
STATE APPROVING AGENCY - ARIZONA**

INSTITUTIONAL INSPECTION/EVALUATION REPORT

| | | |
|--|--|--|
| Name of School or Facility <i>Ashford University</i> | | Date <i>6-28-17</i> |
| Main Address (Street, City, Zip Code) <i>2555 E. Camelback #200, Phx 85014</i> | | Telephone No. <i>866-753-1883 x27400</i> |
| Address at which instruction will be given (Street, City, Zip Code) <i>on line - same as above</i> | | |
| Official(s) Interviewed: <i>Vickie Shroy</i> | Title: <i>Exec VP Regulatory Affairs & Public Policy</i> | |
| Official(s) Interviewed: <i>Sheri Jones</i> | Title: <i>SVP Strategic Planning</i> | |
| Official(s) Interviewed: <i>Conan Stanley - Director of Veterans Military Financial Services</i> | | |

FACILITIES:

Is the facility a stand-alone or located in an office complex? STAND ALONE OFFICE COMPLEX

Is the institutional operation in a private home? YES NO

Is the school operating with, or, as subsidiary of a commercial enterprise? YES NO

Is the facility American Disability Act (ADA) equipped? YES NO

Is there adequate parking for the facility? YES NO

Is the security adequate for students and staff? YES NO

Is there adequate space in classrooms, offices, and hallways? YES NO

Is the Lighting adequate in each classroom and office? YES NO

Is the Heating & Cooling adequate for the facility? YES NO

Review their financial record keeping. Is there an adequate record keeping system to show financial ledgers to include accounts receivable and payable for each student? YES NO

Review the student record keeping system.

Are the student records kept locked up? YES NO *Campus Use*

Are records available for student review? YES NO

What documents are kept in each student file?
ledger, application, transcripts, certs, attendance program of study

Are adequate records kept to show student met admission criteria? YES NO

Adequate records to show attendance, grades, progress, transcripts, financial ledgers, and student conduct?
YES NO

Is facility in compliance with all state and federal regulations such as fire, safety, building codes, sanitation and health codes? YES NO

Are the instructional tools, supplies and equipment adequate for the number of instructors and students? YES NO *online*

Does the school have their Arizona State Board for Private Postsecondary Education license displayed (if required)? YES NO N/A *Mar 2017*

Are there other certificates and accreditations displayed? YES NO *1 certificate*

Are professional procedures used to enroll students? YES NO

Review Institutions advertisements, brochures and /o marketing materials. Does the institution appear to utilize advertising of any type which is erroneous or misleading, either by actual statement, omission or intimation? YES NO

Does the school contract with any other institutions or entities? If yes, review and copy contracts if they have not already been provided. YES NO

What is the institutions requested approval date(s)? *July 10, 2017*

Non-accredited Schools Only: Facilities are available to train _____ students in all programs.

REMARKS:

[Signature]
Signed _____
SAA Education & Training Specialist

Printed Name *Leanne DeKing*



Department of Veterans Affairs

DESIGNATION OF CERTIFYING OFFICIAL(S)

GENERAL INSTRUCTIONS

1. This form **MUST ONLY** be completed by a responsible official with the authority to designate certifying officials for the school or training establishment.
2. This form must be completed whenever there is a change in any of the information. Include the names, titles, and signatures of all certifying officials, not just the changed information.

SPECIFIC INSTRUCTIONS

1. Item 1: Enter the complete name and address of the school or training establishment.
2. Item 2: Enter the certifying official's telephone number.
3. Item 3: Enter the certifying official's fax number.
4. Item 4: Enter the certifying official's e-mail address. As an alternative, you may enter the e-mail address for the office where the certifying official works.
5. Item 5A: Enter the complete name and title for each designated certifying official. Have each person sign the form on the same line as his or her name and title. If any of the certifying officials have limited jurisdiction, note such limitations in Item 6, "Remarks". Use space below if needed.
6. Item 5B: If facsimile (e.g., rubber stamp) signatures will be used for any certifying officials, enter a sample in the appropriate block. In addition, have the individual initial next to the sample.
7. Item 5C: If veterans and other eligible persons will be claiming individualized tutorial assistance, complete these blocks.
8. Items 7 and 8: Sign and date the form. The person signing the form must be a person of significant authority, i.e., registrar, academic dean, or higher.

PURPOSE: This form is used to provide the names and signatures of those individuals who are authorized to certify enrollment information to the Department of Veterans Affairs.

1. NAME AND ADDRESS OF SCHOOL OR TRAINING ESTABLISHMENT (Include ZIP Code)

Ashford University
2555 E. Camelback Road, Suite 250
Phoenix, AZ 85016

FOR VA USE ONLY

| | | | | | | | |
|--|--|--|--|--|--|--|--|
| | | | | | | | |
|--|--|--|--|--|--|--|--|

2. TELEPHONE NUMBER(S) OF CERTIFYING OFFICIAL(S) (Include Area Code)

866 753-1883 ext. 27400

3. FAX NUMBER OF CERTIFYING OFFICIAL(S) (Include Area Code)

866-514-0769

4. E-MAIL ADDRESS OF CERTIFYING OFFICIAL(S)

Conan.Stanley@ashford.edu

5. THE FOLLOWING ARE DESIGNATED AS CERTIFYING OFFICIALS OF THIS SCHOOL OR TRAINING ESTABLISHMENT

A. OFFICIALS DESIGNATED TO SIGN VA ENROLLMENT CERTIFICATIONS, CERTIFICATIONS OF CHANGE IN STUDENT STATUS, CERTIFICATIONS OF DELIVERY OF ADVANCE PAYMENTS, CERTIFICATIONS OF PURSUIT, ATTENDANCE, FLIGHT TRAINING, ON-THE-JOB OR APPRENTICESHIP TRAINING (AS APPLICABLE), OTHER CERTIFICATIONS OF ENROLLMENT ARE:




| NO. | NAME | TITLE | SIGNATURE |
|-----|--|---|-----------|
| (1) | Conan Stanley Conan.Stanley@ashford.edu | Director of Veteran & Military Financial Services | |
| (2) | Stephanie Cowser Stephanie.Cowser@ashford.edu | Director of Financial Aid and Policy | |
| (3) | Bobbye Stull Bobbye.Stull@bpiedu.com | Financial Services Manager | |
| (4) | | | |

B. THE USE OF THE FOLLOWING FACSIMILE (e.g., rubber stamp) SIGNATURES FOR THE OFFICIALS LISTED IN ITEM 5A ABOVE ARE AUTHORIZED.

| | | | |
|-----|--|-----|--|
| (1) | | (2) | |
| (3) | | (4) | |

5. THE FOLLOWING ARE DESIGNATED AS CERTIFYING OFFICIALS OF THIS SCHOOL OR TRAINING ESTABLISHMENT (Continued)

C. FOR POSTSECONDARY EDUCATIONAL INSTITUTIONS ONLY - OFFICIALS DESIGNATED TO SIGN THE SCHOOL PORTION OF VA FORM 22-1990T, APPLICATION AND ENROLLMENT CERTIFICATION FOR INDIVIDUALIZED TUTORIAL ASSISTANCE, ARE:


| NO. | NAME | TITLE | SIGNATURE |
|-----|------------------|---|---|
| (1) | Conan Stanley | Director of Veteran & Military Financial Services |  |
| (2) | Stephanie Cowser | Director of Financial Aid and Policy |  |
| (3) | Bobbye Stull | Financial Services Manager |  |

6. REMARKS

It is acknowledged that each of the individuals designated as certifying officials must successfully complete online training for new certifying officials prior to being granted access to VA's certification system. It is hereby certified that the Department of Veterans Affairs will be notified of any changes in the designations shown on this form as they occur.

7. SIGNATURE AND TITLE OF DESIGNATING OFFICIAL

8. DATE

 Director of Veteran & Military Financial Services 6-28-17

PENALTY - The law provides that whoever makes any statement of a material fact knowing it to be false shall be punished by fine or imprisonment or both.

PRIVACY ACT NOTICE: VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses as identified in the VA system of records, 58VA21/22/28, Compensation, Pension, Education, Vocational Rehabilitation and Employment Records - VA, and published in the Federal Register. An example of a routine use (e.g., VA sends educational forms or letters with a veteran's identifying information to the veteran's school or training establishment to (1) assist the veteran in the completion of claims forms or (2) for VA to obtain further information as may be necessary from the school for VA to properly process the veteran's education claim or to monitor his or her progress during training). Your obligation to respond is required to obtain or retain education benefits. VA cannot recognize you as the proper certifying official unless the information is furnished as required by existing law (38 U.S.C. 3680(g)). The responses you submit are considered confidential (38 U.S.C. 5701). Any information provided by applicants, recipients, and others is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to identify you as the certifying official for your school or job training establishment when reporting pursuit of training for veterans and other eligible persons (38 U.S.C. 3684). Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 10 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.reginfo.gov/public/do/PRAMain. If desired, you can call 1-888-GI-BILL-1 (1-888-442-4551) to get information on where to send comments or suggestions about this form.

EXHIBIT C



DEPARTMENT OF VETERANS AFFAIRS

**VA Regional Office
3333 North Central Avenue
Phoenix AZ 85012-2458**

September 13, 2017

BOBBYE STULL
FINANCIAL SERVICES MANAGER
ASHFORD UNIVERSITY
2555 E CAMELBACK RD, SUITE 250
PHOENIX, AZ 85016

Dear Ms. Stull,

Due to the withdrawal of approval of Ashford University's Iowa campus by the Iowa State Approving Agency (SAA), we will be removing the VA facility code assigned to that location (21000415). A facility code has been assigned to Ashford University's Arizona campus, based on its recent approval by the Arizona SAA. The facility code for the Arizona campus is 21007103.

Effective September 18, 2017, you will no longer be able to certify or report enrollment status changes for VA beneficiaries under the facility code of the Iowa campus in VA-ONCE. Please submit any changes in student status prior to this date. A VA-ONCE account will be established for the Arizona campus. Login credentials will be sent to you and the other designated certifying officials via email on September 18, 2017.

By changing the facility code in VA-ONCE, your programs and current students from the Iowa campus will carry over to the new facility code. **You will need to add students who will be certified for enrollment periods beginning on or after September 18, 2017 not already in your database. It is important that you review records of active students prior to that date in order to identify any enrollment changes that may have occurred, and to report them promptly.** You will not be able to report changes to terms certified under the old code after it has been withdrawn, and will need to create a new (duplicate) certification under the new code to report such changes.

Claims for students you certify under the new facility code will be processed by the VA Regional Processing Office in Muskogee, OK. If your students have questions about their VA benefits, they can call VA toll-free at 1-888-442-4551.

Although the Arizona SAA has exercised its authority under 38 U.S.C. § 3672(a)(1) to approve your courses of education, VA is authorized to independently determine whether your institution, programs, or courses fail to meet any of the requirements of chapter 36, title 38, United States Code. See 38 U.S.C. § 3690(b); 38 C.F.R. § 21.4210(d). If VA determines that your institution, programs, or courses do not satisfy one or more of the requirements of chapter 36, then, in accordance with 38 U.S.C § 3690(b) and 38 C.F.R. § 21.4210(d), the Director of the Muskogee Regional Processing Office may discontinue all educational assistance allowances of any eligible veteran or eligible person. Such a discontinuance will only be taken only after completing the actions required in 38 C.F.R. § 21.4210(e).

If you have any questions, please contact me at (602) 627-3227 or suzanne.swafford@va.gov.

Sincerely yours,

Suzanne Swafford

Suzanne Swafford
Education Liaison Representative

cc: Arizona SAA