

December 20, 2017

WASC Senior College and University Commission  
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The accreditation standards of the WASC Senior College and University Commission (WSCUC) underscore the importance of integrity in both an institution's operations (1.7) and leadership (3.6). This Third-Party Comment with supporting evidence outlines Ashford University's noncompliance with these two integrity standards.

In attempting to remain eligible to participate in the GI Bill, Ashford University engaged in misrepresentation with state and federal regulatory agencies and with the veterans it has promised to serve.<sup>1</sup> Rather than obtaining approval from California, the location of its main campus, Ashford "shopped around" for approval from a minimum regulation state willing to overlook statutory and regulatory requirements governing GI Bill participation. In the process, Ashford:

- (1) left a trail of [contradictions](#) as it tailored statements about the location of its main campus to the audience at hand, including the Arizona state licensing authority and WSCUC;
- (2) [colluded](#) with the Arizona State Approving Agency (SAA) to [obfuscate](#) the basis for its approval; and
- (3) [misrepresented](#) VA's position to veteran students enrolled in its academic programs.

Ashford's behavior raises serious questions about the integrity of its leadership.

### Background

Bridgepoint Education purchased a small religious college in Iowa in 2005, retaining the school's existing accreditation by the Higher Learning Commission (HLC). Bridgepoint rebranded its Iowa operations as Ashford University.

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<sup>1</sup>Ashford has a history of misrepresentation, as demonstrated by 2014 and 2016 settlements, ongoing investigations, and the November 2017 California Attorney General lawsuit. Ashford settled with the [Iowa Attorney General](#) over misleading recruiting practices and with the [Consumer Financial Protection Bureau](#) over misleading private student loan interest rates. In addition, Ashford is being investigated by (1) the [Justice Department](#) for misrepresenting its compliance with the 90 percent cap on Title IV revenue; (2) the [Securities and Exchange Commission](#) over its accounting practices; and (3) the Attorneys General of [Massachusetts, New York, and North Carolina](#) over violations of those states respective consumer protection laws. As of May 2017, all of these investigations were still active. Finally, on November 29, 2017, the California Attorney General filed a [lawsuit](#) against Bridgepoint Education alleging "myriad misrepresentations" by recruiters seeking to enroll students, including veterans. Consistent with these settlements and lawsuits, our organization has received [113 complaints](#) from veterans about Ashford misrepresentations on issues ranging from costs to quality. The most frequent misrepresentations centered on accreditation and transfer of credits.

Starting in 2006, Ashford [shifted](#) its online operations from Iowa to California, the location of Bridgepoint's headquarters.<sup>2</sup> HLC, as does WSCUC, requires the majority of a college's administrative and business operations to be located within its jurisdiction (the north-central [region](#)). As a result, Ashford was encouraged to seek accreditation from WSCUC.

In 2011, WSCUC determined that the school was eligible to apply for accreditation on an expedited basis intended for institutions that are already accredited. Its application was [rejected](#) in 2012 for noncompliance with WSCUC standards in six areas, including an imbalance between expenditures on recruitment vs. academics.<sup>3</sup> Moreover, the Commission [found](#) that more than half of new enrollees had left within a short period of time.<sup>4</sup> Having demonstrated progress in addressing these deficiencies a year later, Ashford received [initial accreditation](#) through July 2018.<sup>5</sup>

After Ashford's 2015 announcement about the planned closure of its sole, Iowa-based, brick-and-mortar campus, the Iowa SAA [informed](#) Ashford that it would need to seek GI Bill approval from the state in which its main campus was located.<sup>6</sup> By statute and regulation, only the SAA where a school's main campus is located may authorize participation in the GI Bill. The Iowa SAA cited [38 C.F.R. § 21.4250 \(a\)\(3\)](#) to support its assertion that Ashford was required to seek approval in California.<sup>7</sup>

In June 2016, Ashford did [apply](#) for GI Bill approval in California but withdrew its application about a week before the California SAA was [required](#) to tender a decision.<sup>8</sup> Although Ashford told the SAA that it planned to resubmit its application in August 2016, it never reapplied in California.

Instead, Ashford [applied](#) to the Arizona Bureau of Private Postsecondary Education for licensure in early June 2017 as an "out-of-state institution operating an administrative services center

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<sup>2</sup>See p. 1250.

<sup>3</sup>See p. 1254. WSCUC's findings parallel the conclusions of the 2012 [report](#) on for-profit schools by the Senate Committee on Health, Education, Labor, and Pensions, which [profiled](#) Bridgepoint Education. The Committee found that Bridgepoint allocated 30.3 percent of its revenue to profit and 29.7 percent to marketing and recruiting in 2010. In fact, Bridgepoint spent a higher proportion of its revenue on marketing than any of the other 15 publicly traded education company profiled by the Committee. On the other hand, Bridgepoint only spent \$1,212 per student on instruction in 2009. The Committee commented that while the expectation is that per student instruction expenses should be lower at an almost exclusively online school, the savings generated by these models did not appear to be passed on to students in lower tuition costs.

<sup>4</sup>See p. 1252. The [College Scorecard](#) reports a current retention rate of 34 percent, half of the national average.

<sup>5</sup>See p. 1392. The WSCUC approval notice reflected the fact that Ashford was under a deadline from the HLC to relocate its central administrative offices and personnel from San Diego to the HLC region by summer 2013 if it was not granted accreditation by WSCUC.

<sup>6</sup>See p. 1416. SAAs are [state agencies](#) (often situated in state Departments of Veterans Affairs or Education) and their staff are state employees. However, they operate under a contract with and oversight by the U.S. Department of Veterans Affairs, which funds their operations.

<sup>7</sup>Although based in statute and regulation, the Iowa SAA's action was consistent with the HLC policy regarding the locus of a school's administrative and business operations.

<sup>8</sup>See p. 1596.

only.” State licensure is a prerequisite in Arizona for SAA approval to participate in the GI Bill. Ashford’s license as an out-of-state school was approved on June 22<sup>nd</sup>. The Board’s [discussion](#), which included Ashford’s President, Craig Swenson, confirmed that the institution’s main campus would remain in California and that California, not Arizona, would retain responsibility for handling non-Arizona, student complaints and for collecting student records in the event Ashford closed.<sup>9</sup> In a June 30, 2017, letter to Ashford’s Accreditation Liaison Officer, WSCUC acknowledged the school’s notification that it planned to establish an additional location in Phoenix, Arizona—an administrative online student services center.

Ashford first [approached](#) the Arizona SAA about obtaining GI Bill approval in May 2017. SAA approval, however, was contingent on Arizona state licensure. With licensure approval in hand, the Arizona SAA [approved](#) Ashford’s application to educate and train veterans and their eligible dependents using VA educational benefits on July 6, 2017. In its approval notification, the Arizona SAA stated that WSCUC recognized Ashford as having “an online program which is *based in the State of Arizona...*” (emphasis added). On July 17, an Iowa District Court upheld the Iowa SAA’s rescission of Ashford’s GI Bill eligibility, underscoring the importance of the Arizona SAA approval. Ashford only announced its Arizona approval on July 25, 2017, about a week after the Court handed down its decision.

When notified of the approval, the Department of Veterans Affairs (VA) asked the Arizona SAA for some additional information, much of which was provided. However, in an exchange of letters on [August 3](#) and [August 17](#), VA noted that the Arizona SAA had failed to provide sufficient information to demonstrate that Ashford’s “main campus” was located in Arizona, which was required to give the SAA jurisdiction over the approval. On [September 13, 2017](#), VA issued a new facility code based on Arizona’s approval, which allowed Ashford to continue enrolling veterans and receive tuition payments. VA alerted Ashford, however, that its GI Bill eligibility through Arizona was still in jeopardy if the approval failed to meet statutory requirements. VA also reminded Ashford that it was authorized by statute to independently determine if institutions failed to meet any requirements under Chapter 36, Title 38, U.S.C.

On November 9, 2017, VA [announced](#) that it had given Ashford 60 days to seek GI Bill approval from a state with jurisdiction—the state where its main campus is located. In addition, because Arizona lacked the authority to approve Ashford, VA reportedly gave the Arizona SAA until November 21<sup>st</sup> to rescind its approval of Ashford or risk losing its contract with the Department to approve and oversee GI eligible schools. Finally, Ashford filed a [lawsuit](#) challenging VA’s actions on November 21<sup>st</sup>. Ashford’s lawsuit, arguing that the VA has introduced a new requirement subject to federal notice and rulemaking, ignores longstanding regulations that define “main campus” and allocate jurisdiction over approval of an institution to the SAA where its main campus is located.<sup>10</sup>

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<sup>9</sup>To hear this discussion, go to minutes 6:00 and 11:00 of the Board’s recording of the meeting using the hyperlink in this sentence.

<sup>10</sup>See 38 CFR § 21.4266(a)(3), 38 CFR 3672(a)(1), and 38 CFR § 21.4250(a)(3).

## Ashford Tailored Statements on the Location of its Main Campus to Its “Audience”

In fighting to maintain its GI Bill eligibility, Ashford left a trail of contradictory statements about the location of its main campus.

- As of November 30, 2017, the Education Department’s database on schools that participate in Title IV still listed California as the location of Ashford’s main campus. There was no mention of an Arizona location.
- Ashford filed for licensure in Arizona with the Bureau of Private Postsecondary Education as an [out-of-state institution](#) whose educational programs are not delivered from within the state of Arizona. An out-of-state application allowed Ashford to obtain approval more quickly. Moreover, state licensure was a prerequisite for GI Bill approval in Arizona.
- During the June 22, 2017, licensing [board](#) meeting on Ashford’s application, a board member indicated that she would be comfortable not having answers to her questions about financial aid because student’s would not be coming to the board with consumer complaints given Ashford’s application to open what was characterized as a “call center” operated by an “out-of-state school.”<sup>11</sup> Rather the questions posed by board were “for the record” and the answers could be submitted after the board voted to approve the school’s application at the conclusion of its meeting.
- Prior to obtaining the Arizona SAA’s approval, Ashford informed WSCUC that it was opening an online administrative services center in Arizona. WSCUC’s June 30, 2017, response to Ashford referred to the Phoenix student services center as an “additional location” and confirmed that the institution’s main campus was still located in California.
- Based on the Iowa SAA’s action and guidance, Ashford applied for approval in California in 2016, implicitly acknowledging the California SAA’s jurisdiction. Nonetheless, the school submitted an application for GI Bill approval in Arizona in June 2017. As discussed below, Ashford likely colluded with the SAA in crafting its own approval letter, which “artfully” described the basis for the Arizona SAA’s approval.
- Bridgepoint’s evasion about the location of Ashford’s main campus continued even after it received GI Bill approval from the Arizona SAA. According to an investigative report in the [Chronicle of Higher Education](#), Bridgepoint’s President, Andrew S. Clark, repeatedly refused in July and October 2017 to answer questions about the location of Ashford’s main campus or the nature of Ashford’s physical presence in Arizona given its California-based headquarters.

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<sup>11</sup>To hear this discussion, go to minutes 13:50 and 21:50 of the Board’s recording of the meeting using the hyperlink in this sentence.

- In an [email](#) to veterans on November 9, 2017, Ashford asserted that “The Arizona State Approving Agency has decided that Ashford met the standards for approval in that state, including meeting their determination for having a ‘main campus.’” This assertion contradicts the carefully worded approval by the Arizona SAA, which avoids the use of “main campus” and states that Ashford’s online program was “based in the State of Arizona.” Ashford’s email to veterans also falsely claims that it is not uncommon for institutions to have more than one main campus, contradicting the very concept of “main campus.”

### Ashford Likely Helped to Obfuscate the Basis for Its Arizona SAA Approval

In granting [approval](#), the Arizona SAA stated that Ashford’s accreditor recognized the school as having “an online program which is *based in the State of Arizona* and covered as such” (emphasis added). The phrase “based in the State of Arizona” appears to be a euphemism for “main campus”—an attempt to legitimize the rationale for the approval without using the term “main campus.”

The November 9, 2017, *Chronicle* report indicates that Ashford and the Arizona SAA [exchanged emails](#) in August 2017 about how to respond to push back from the VA about Arizona’s authority to approve the school’s GI Bill participation. “As the *Chronicle* reported, “The back-and-forth exchange shows Ashford attempting to walk a fine line legally — pushing for Arizona approval, but also trying keep open the possibility of resurrecting the Iowa authorization. “Here are the changes we’d suggest,” [the Bridgepoint lobbyist] wrote on August 8 [to the Arizona SAA]. “In paragraph one, we suggest cutting the final sentence: ‘No other state can show that the Online Center emanates from that particular state’? We are not sure it meaningfully adds to AZ’s assertion of authority to approve, and we worry that it could be used against us in Iowa.” Based on these emails, it’s reasonable to conclude that Ashford and the Arizona SAA also colluded on the wording of the assertion that recognized Ashford’s online program as “based in Arizona.”

Both the Arizona SAA and Ashford understood that claiming Arizona to be the location of its main campus would contradict the information that Ashford had already provided to the state’s licensing authority and its accreditor. Using a euphemism for main campus allowed Ashford and the SAA to defend the basis for the approval without resorting to an overt lie.

### Ashford Misrepresented VA’s Position to Veteran Students

During 2016 and 2017, Ashford [periodically](#) updated students receiving VA educational benefits about the status of its efforts to remain eligible to participate in the GI Bill. These communications frequently misrepresented the facts and VA’s position in an attempt to create the impression that Ashford, not VA, had the backs of veterans, and to discourage veterans from withdrawing. According to VA’s [GI Bill Comparison Tool](#), Ashford enrolled about 9,300 veterans in 2016 (about 10 percent of its enrolled students), receiving \$38 million in GI Bill payments that year.

For example, 2 days after VA's [September 16, 2016](#) email to veterans explaining the impact on their benefits use if Ashford were to lose its court challenge to the Iowa SAA's decision, Ashford [informed](#) veterans that the VA "did not accurately reflect the status of the Iowa state court litigation or your continuing right to use GI Bill benefits at Ashford University." VA did in fact provide accurate information to veterans in its email. To use GI Bill benefits at an institution, it must be approved to participate in the GI Bill. Veterans do not have a "right" to use their educational benefits at an institution unless it is approved by an SAA with jurisdiction. Both VA and an SAA have the [authority](#) to rescind a school's GI Bill eligibility.<sup>12</sup>

Ashford also asserted that "...the University meets all applicable requirements for continued approval of GI Bill benefits by the IDOE [Iowa SAA] and, thus, that the University will prevail in the litigation." Ashford's communication failed to acknowledge that it had applied for GI Bill approval in California in June or explain why it subsequently withdrew its application. In addition to being misleading, Ashford's email was incomplete.

Ashford's November 9, 2017, [email](#) to veterans again accused VA of providing incorrect or misleading information that needed to be corrected. In addition to claiming that it had provided enough information for the Arizona SAA to conclude its main campus was located in Arizona, Ashford asserted that "Congress has been clear that authority to oversee and approve educational programs is delegated to state officials, and that the VA is prohibited from interfering with that authority." VA never denied the authority of SAAs to approve schools' participation in the GI Bill. It implicitly recognized the Arizona SAA's authority when it provided a new facility code to Ashford on September 13, 2017, based on the Arizona approval. VA also [pointed out](#), however, that it had a role in ensuring adherence to statutory and regulatory requirements:

"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\(e\)](#)." Section (e) spells out the procedures for revoking GI Bill participation.

In addition, VA had previously [informed](#) the SAA that it risked losing its contract with VA if its approval of Ashford was found to contravene statutory and regulatory requirements.

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<sup>12</sup>See p. 8.

## Conclusion

Although Ashford has the right to take steps to maintain its GI Bill eligibility, it has chosen to do so in a way that undermines its integrity. Rather than resolving the potential loss of its GI Bill eligibility in a straightforward manner by applying for approval in a state with jurisdiction, it has left a long trail of misleading and incomplete statements that violate WSCUC integrity standards.

Thank you for the opportunity to submit this Third-Party comment. Please feel free to contact me if you have any questions.

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