



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Education Service
Washington, D.C. 20420

September 6, 2019

Mr. Keith Boylan, Deputy Secretary, Veterans Services
California Department of Veterans Affairs
P.O. Box 942895
Sacramento, CA 94295

Dear Mr. Boylan:

The purpose of this letter is to provide you with the decision of the U.S. Department of Veterans Affairs (VA) not to extend a Cooperative Agreement to the California State Approving Agency for Veterans Education (CSAAVE) for fiscal year (FY) 2020.

Over the last three years, CSAAVE's performance has significantly declined to an unacceptable level, impacting the trust of Veterans in the GI Bill approval process. VA will not offer a Cooperative Agreement with CSAAVE for FY2020 due to its continued refusal to fulfill essential requirements in past agreements, which stands as a breach of the signed agreements.

CSAAVE directly violated adherence to Federal regulations and statutes that govern the GI Bill program, as evidenced by a few examples: (1) CSAAVE refused to approve programs on military bases in multiple instances; (2) CSAAVE erroneously suspended or withdrew public institutions of higher learning (IHLs); (3) CSAAVE failed to identify or take action on potentially erroneous, deceptive, or misleading advertisement practices, according to VA's Office of Inspector General; and, (4) CSAAVE failed to complete the required audits (i.e., compliance surveys), which ensure GI Bill funds are appropriately administered to schools and Veterans. The enclosure provides a detailed list of these and other examples of violations.

VA's ongoing efforts to address and remediate CSAAVE's performance issues have been unsuccessful. CSAAVE's continued refusal to adhere to the requirements of the Cooperative Agreement has negatively impacted the ability of Veterans and qualifying dependents to maximize their utilization of VA educational assistance benefits, and ultimately impacted the relationship between VA and CSAAVE.

Page 2

Mr. Keith Boylan

Moving forward, if CSAAVE is interested in re-entering into a Cooperative Agreement with VA, CSAAVE must be prepared to work with VA to mitigate and resolve all outstanding issues and concerns so the State Approving Agency duties may be transferred back to that state agency.

Respectfully,

A handwritten signature in black ink that reads "Charmain Bogue". The signature is written in a cursive, flowing style with a long horizontal flourish at the end.

Charmain Bogue
Executive Director
Education Service

Enclosure: CSAAVE Performance 2017-2019

cc: Dr. Vito Imbasciani, Secretary, California Department of Veterans Affairs

Enclosure: CSAAVE Performance 2017-2019

Below is a summary of VA's communications with CSAAVE regarding such issues that form the basis for the decision not to extend a Cooperative Agreement.

FY2017

- Annual Performance Evaluation. January 4, 2018 – VA issued a letter to CSAAVE about the annual evaluation rating of Minimally Satisfactory for the FY17 contract year:
 - Completed 121 of 162 compliance surveys (Business plan target was 90%, CSAAVE completed 75%)
 - Non-compliance with VA's requirement to establish end products (EP's)
 - Failure to submit compliance survey reports monthly, as required at the time (CSAAVE submitted quarterly)
 - Second quarter voucher for payment for services was submitted late

The letter recommended a VA/National Association of State Approving Agencies joint visit to assist and address any contract issues and provide training as necessary. VA did not receive a response from CSAAVE regarding this recommendation.

FY2018

- Failure to approve programs.
 - July 10, 2018 – VA sent a letter clarifying that CSAAVE has authority for approval of programs on military bases. CSAAVE questioned this authority and refused to approve new such programs despite VA's guidance and the fact that it had approved many programs of education offered on military bases in the past.
 - July 17, 2018 – In response to CSAAVE's refusal to approve programs on military bases, VA issued a VA Office of General Counsel written opinion entitled "*Whether Congress Granted [SAAs] Authority to Approve Courses of Education Offered on a Military Base by an Educational Institution*". CSAAVE did not begin to approve such programs immediately after VA's guidance but, rather, waited until after the FY18 evaluation period.
- Approval/suspension of programs. August 9, 2018 – VA issued an advisory entitled "*Revised Guidance on the Approval of Programs Involving Online Courses Offered in Another State*" to provide CSAAVE with an interpretation on the approvability of programs or "partial" programs across states in response to the suspensions that CSAAVE had issued for many such programs. SAAs nationwide, including CSAAVE, had approved such programs in the past. The change in CSAAVE's view on the approvability of such programs was not prompted or supported by changes in the structure of such programs, changes in State or Federal

- laws or regulations, or a corresponding change in interpretation, either previously or subsequently, by VA or any other SAAs.
- Unresolved Issues. August 24, 2018 – VA sent a letter outlining the numerous outstanding unresolved issues relevant to CSAAVE’s FY2018 contract and related program approvals and compliance surveys. Issues included:
 - Improper suspension and/or withdrawal actions and notifications to educational institutions, including-
 - University of Maryland University College (UMUC)
 - Thomas Jefferson School of Law
 - Out-of-state institutions operating within California and those that operate on military bases.
 - CSAAVE’s refusal to approve programs offered on military bases and the forwarding of requests for approval of those programs to VA.
 - CSAAVE’s erroneous interpretation of “administrative capabilities” of an institution (e.g., Northcentral University). CSAAVE conceptualized and implemented its own definition which inexplicably diverged from VA’s definition, as codified in 38 CFR 21.4266(a)(1), which has remained unchanged since 2007.
 - CSAAVE’s unsupported requirement that IHLs provide job placement rates as a condition of approval for non-college degree programs. Such a requirement does not exist in statute, VA regulations, or published interpretations or policies.
 - CSAAVE’s lack of timely responses to VA’s requests for information (e.g., Spartan School of Aeronautics, compliance referral updates, etc.).
 - Failure to complete required compliance surveys. At the time of the letter, CSAAVE had only completed 75 of the 188 required surveys.
- Inappropriate Program Withdrawals. August 31, 2018 - VA released a Procedural Advisory titled, “*Acceptance of Certifications by Other Appropriately Authorized Agencies or Offices that Applicable Standards Have Been Met*”, to clarify VA’s interpretation of the Department’s regulations and advise SAAs that they should accept determinations made by other state agencies with jurisdiction. CSAAVE attempted to question accreditation and state licensure determinations by other agencies in arguing those programs failed to meet Post-9/11 GI Bill approval requirements. This advisory was released to notify CSAAVE that its withdrawal of approval for numerous programs of education was not in accordance with VA regulations. After VA issued this advisory, CSAAVE did not reinstate the schools immediately but, rather, delayed several months.

- Missing and delayed program reports of modifications; schools with potentially erroneous, deceptive, or misleading advertisement practices - December 3, 2018 – CSAAVE cited in OIG Report #16-00862-179 – “VA’s

Oversight of State Approving Agency Program Monitoring for Post-9/11 GI Bill Students.” OIG asserted that CSAAVE – (1) failed to ensure that programs continue to meet the conditions of their approval, and (2) failed to review and identify schools using potentially erroneous, deceptive, or misleading advertising.

- Annual Performance Evaluation. December 13, 2018 – VA issued a letter to CSAAVE about the annual evaluation rating of Unsatisfactory for the FY2018 contract year:
 - Completed only 79 of the assigned 188 surveys (42%).
 - Improper suspension of a University of Maryland University College campus (subsequently reinstated).
 - Improper suspension of programs offered by out-of-state colleges at branches in California based on the perceived inadequacy of such institutions’ operations (25 institutions affected).

FY2019

- Failure to Act. February 20, 2019 - VA released Procedural Advisory titled “*Clarification Regarding 38 C.F.R. § 21.4250: Failure to Act, Notice of Intent Not to Act, Denial of an Application for Approval, and the Fiscal Year 2019 Cooperative Agreement Between the Department of Veterans Affairs and State Approving Agencies*” based on CSAAVE’s determination and notice to VA that they intended “not to act” on Ashford University’s application for approval.
- Failure to Act. March 18, 2019 – VA sent a letter informing CSAAVE that it was in violation of the requirements of the Cooperative Agreement by not taking action on Ashford University’s application.
- Material Breach. August 15, 2019 - CSAAVE failed to complete the compliance survey visits required for FY2019. All facilities were to be visited by August 15, 2019. CSAAVE visited 116 of the 151 that were assigned (77%). The minimum standard for satisfactory completion is 90%, as stated in the Cooperative Agreement.

Future State: VA and CSAAVE

- If CSAAVE is interested in re-entering into a Cooperative Agreement with VA for fiscal year 2021 (FY21), VA will enter into discussions with the California Department of Veterans Affairs (CalVet), likely in the April or May 2020 timeframe, regarding the possibility of transferring the State Approving Agency duties back to California.
- VA will invite California representatives to participate in the annual Western Region Conference to be held in the summer of 2020.
- VA will structure a transition plan focused on the successful performance of roles and responsibilities and actively participate in the transition effort.