VETERANS EDUCATION SUCCESS

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VA and States Should Act on Early Warning Signs When Risks to GI Bill Beneficiaries and Taxpayers Emerge at Participating Schools

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REPORT

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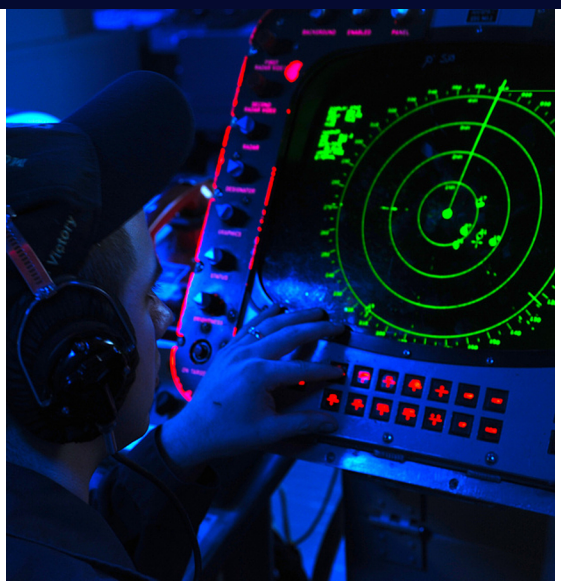

ABOUT VETERANS EDUCATION SUCCESS

Veterans Education Success works to advance higher education success for veterans, service members, and military families, and to protect the integrity and promise of the GI Bill and other federal education programs. We are policy experts, academic researchers, and veterans advocates. We provide:

- **Free Help for Veterans and Military-Connected Students**: Free legal services, advice, and college and career counseling for the GI Bill.
- **Research & Reports**: Non-partisan research on issues of concern to student veterans, including student outcomes and federal oversight.
- **Policy Advocacy:** Assistance to policymakers to improve higher education quality and veterans' success and to protect the integrity of the GI Bill.
- **Civic Engagement**: Helping veterans participate in their democracy by engaging government officials and the media.
- **Legal Advocacy**: Free legal assistance for military-connected students and whistleblowers, and legal work building cases to stop college consumer fraud.

This report is one in a series of three reports by Veterans Education Success on State Approving Agency (SAA) and Department of Veterans Affairs (VA) oversight of GI Bill participating schools. A second report examines inconsistencies and ambiguities in SAA's and VA's statutory approval and disapproval authorities and a third report examines how VA's overemphasis on payment accuracy is impeding more effective SAA oversight of schools.

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Abbreviations

ABA	American Bar Association
ACICS	Accrediting Council for Independent Colleges and Schools
CalVet	California Department of Veterans Affairs
CFPB	Consumer Financial Protection Bureau
COE	Council on Occupational Education
DOD	U.S. Department of Defense
EDMC	Education Management Corporation
FTC	U.S. Federal Trade Commission
GAO	U.S. Government Accountability Office
HCM	Heightened Cash Monitoring
HELP	U.S. Senate Health, Education, Labor, and Pensions Committee
NASAA	National Association of State Approving Agencies
OIG	Office of Inspector General
SAA	State Approving Agency
SCHEV	State Council of Higher Education of Virginia
SEC	U.S. Securities and Exchange Commission
VA	U.S. Department of Veterans Affairs
VIU	Virginia International University
WASC	Western Association of Schools and Colleges

Executive Summary

The precipitous closure of numerous school chains since 2012 was presaged by clear indicators, which we refer to as early warning signs, that enrollment in these schools posed a risk to both GI Bill beneficiaries and taxpayers. An obvious question posed by these closures is what steps did the U.S. Department of Veterans Affairs (VA) and State Approving Agencies (SAA) take in the face of early warning signs to mitigate such risks and protect the integrity of veterans' hard-earned educational benefits? VA contracts with SAAs to serve as gatekeepers for schools that want to participate in the GI Bill. Our case studies suggest that few SAAs acted proactively to protect veterans and that in many cases VA took no action to support those SAAs that did so. In some cases, VA interprets federal statute as limiting its own and SAAs' ability to act.

School Closures Hurt GI Bill Beneficiaries and Taxpayers. The sudden closure of numerous school chains since the collapse of Corinthian Colleges, Inc., and ITT Tech disrupted the postsecondary education goals of an estimated 22,000 veterans and eligible family members, leaving them with two unsatisfactory alternatives. Should they scramble to find an institution that would accept their credits, often another low-quality, predatory school? Or should they resign themselves to the reality that they had wasted valuable months of their GI Bill eligibility and start over at another institution? It also forced Congress to respond with an expensive but laudatory full restoration of GI Bill benefits for beneficiaries affected by school closures in 2015 and most of 2016, primarily those who had been enrolled at Corinthian and ITT when they shut down.[1] But closures have not abated, as evidenced by the 2018 shuttering of Vatterott and Education Corporation of America, and the 2019 closure of schools owned by the nonprofit Dream Center Holdings (formerly owned by the for-profit Education Corporation of America).

VA and Most SAAs Ignore Early Warning Signs. What are VA and SAAs doing to protect beneficiaries from the risks posed by some schools that are approved to enroll veterans and eligible family members? Our examination of six case studies identified "best practices" used by a few SAAs that acted proactively to protect beneficiaries and taxpayers. These SAAs, often citing troubling indicators, chose to disapprove schools' eligibility to enroll beneficiaries. These early warning signs were brought to light by oversight partners that also oversee degree- and non-degree-granting institutions, including accreditors, the U.S. Department of Education, state regulators, and federal and state law enforcement entities. Table 1 provides a list of these partners and the early warning signs they can bring to light.

Table 1: Key VA and SAA Oversight Partners and the Early Warning Signs They Can Generate

VA and SAA oversight partners	Early warning signs
Accreditors	• Probation[a] • Show cause[b]
Other state regulators	• Actions affecting a school's licensure

[1]Section 109 of P.L. 115-48 enacted in August 2017 provides for the restoration of all GI Bill benefits used at a school that closed from January 1, 2015, through August 16, 2017. Beneficiaries attending a school that closed 90 days after August 16, 2017, are eligible for only a partial restoration of benefits—those used in the term during which the school closed. The House Veterans Affairs Committee is considering legislation that would extend full restoration of benefits to any GI Bill beneficiary attending a school that closes.

U.S. Department of Education	• Heightened cash monitoring • Letters of credit • Borrower defense triggers • Limits on Title IV participation • Complaints
Federal and state law enforcement[c]	• Investigations • Civil lawsuits and criminal prosecutions • Settlements • Judgments
Other federal agencies[d]	• Investigations • Suspensions • Complaints
Securities and Exchange Commission filings	• Publicly traded schools file periodic reports with the SEC that often discuss financial and other risks they face
Departmental Offices of Inspector General	• Audits and investigations

Source: Author's analysis.

[a]Indicates that a school is under increased scrutiny. Some accreditors use different terms, such as "notice" or "warning" when a problem is serious. In general, terms such as "withdrawal," "suspension," or "revocation" are used when an accreditor is removing a school's accreditation, which cuts off its access to Title IV federal student aid.

[b]The school must demonstrate why it should retain its accreditation.

[c]For example, U.S. government law enforcement entities include the Federal Trade Commission, the Securities and Exchange Commission, the Consumer Financial Protection Bureau, and the Justice Department. State law enforcement agencies include state Attorneys General or attorneys representing cities.

[d]For example, the U.S. government Department of Labor and Department of Defense.

In many instances, VA took no action to support these proactive SAAs. Nor did other SAAs follow their lead. For example, in early fall 2014, the California and Virginia SAAs rescinded Corinthian's GI Bill participation based on the Education Department's concerns about the school's misrepresentation of job placement rates and financial instability. Their actions halted the enrollment of new beneficiaries in Corinthian's California and Virginia campuses and prevented about 1,400 veterans and family members from continuing to waste their GI Bill benefits for another 6 months; Corinthian finally declared bankruptcy and shut down operations in the spring of 2015. In another example, ITT successfully fought the California and New York SAAs' efforts to rescind ITT's GI Bill participation in state court, more than a year before it also closed precipitously. ITT's demise left about 7,000 beneficiaries scrambling to deal with the closure.

Not all SAA disapprovals have involved for-profit schools. In 2018, the California SAA notified seven public and nonprofit institutions operating on military bases that they were at risk of losing their eligibility in California; the schools were operating as extensions, which by statute must be approved by the state where their main campus is located. Moreover, the schools were enticing beneficiaries to enroll in online courses that entitled them to the full living stipend because one course was taught in a real classroom.

Citing Federal Statute, VA Has Instructed SAAs to Ignore Some Early Warning Signs. VA has issued a policy advisory that instructs SAAs to, in effect, ignore some early warning signs. Specifically, VA believes that SAAs' ability to act on early warning signs from an accreditor or state licensing board is restricted by provisions in GI Bill statute that reference a program's

accreditation or its meeting standards developed by a state board or agency. For example, if an accreditor places a school on a termination track but has not yet formally withdrawn accreditation, VA, consistent with its reading of statute, has advised SAAs to take no action on their own. Following this guidance and at risk of losing its contract with VA, the California SAA reversed its earlier action and restored the GI Bill eligibility of a law school that the American Bar Association (ABA) had placed on a termination track over concerns about the institution's finances, admission practices, bar passage rates, and graduates' employability as lawyers. The law school is appealing the ABA's June 2019 decision to withdraw the school's accreditation, and remains approved for GI Bill.

Other Best Practices. California has proposed or is in the process of implementing several additional best practices to protect beneficiaries and taxpayers. The California SAA asked VA to refocus SAA activities on substantive oversight instead of payment audits of schools. In addition, California has proposed regulations to strengthen school oversight, such as requiring schools to provide accreditation reports and notification of any regulatory actions.

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This report contains recommendations to Congress, VA, and state governments to help ensure that early warning signs are heeded in order to protect both the entitlement of GI Bill beneficiaries and taxpayers' investment in those educational benefits.

1. Background

Why do some schools pose a risk to beneficiaries and taxpayers and what are the early warning signs that should alert VA and SAAs to the risks posed by schools either approved to enroll beneficiaries or applying to do so? SAAs are state-based organizations that operate under contract with VA to ensure that institutions meet and maintain compliance with statutory requirements as well as other regulations and policies that SAAs may adopt.

What Are Early Warning Signs?

VA and SAAs do not work in isolation. Several oversight partners—accreditors, the U.S. Department of Education, other federal agencies, state regulators, and federal and state law enforcement entities—also oversee degree- and non-degree-granting institutions, many of which enroll GI Bill beneficiaries. Each of these organizations can be the source of valuable information on the risks posed by programs that enroll GI Bill beneficiaries. In some instances, the warning signs are flashing red lights emanating from multiple oversight partners.

Accreditors. Despite well-documented weaknesses in accreditation that were highlighted by the Education Department's 2016 decision to terminate the authority of the Accrediting Council for Independent Colleges and Schools (ACICS), accreditors can and do identify serious problems that warrant the attention of VA and SAAs. For example, as discussed in Chapter 2, accreditors

have warned schools that they are at risk of losing their accreditation because of poor retention, job placement, licensure examination rates, and concerns about a school's financial viability. An accreditor's decision to place a school on probation or to require it to show cause is a clear indication of risks, even though the accreditor has not formally withdrawn the school's accreditation.[2]

Other State Regulators. In general, states require schools that operate in their jurisdiction to be licensed. The potential loss of licensure can be a particularly potent early warning sign, as can a state's decision to cut off state financial aid to a school in those states that offer it. For example, the State Council of Higher Education of Virginia (SCHEV) voted in March 2019 to revoke the license of Virginia International University (VIU). VIU is a nonprofit institution that offers certificates up to master's degrees. The concerns identified by a SCHEV audit focused on, but were not limited to, its online programs, including faculty qualifications, student eligibility for admission; maintenance of student admission; academic and financial files; and the school's processing of refunds. In June 2019, SCHEV reached a consent agreement with VIU to continue operating if it stopped offering online programs for at least 3 years. Although VIU retained its license, SCHEV's findings suggest that the quality of the programs it offers is questionable. VIU enrolled four GI Bill students in 2017.[3] Similarly, the Washington Student Achievement Council informed Ashford in May 2019 that it had denied the school's application to recruit and advertise in Washington state. The letter to Ashford stated that the factors that led the state to designate the school as at risk of closure in 2017 continued to exist. Concerns identified in the letter included uncertainty about Ashford's eligibility to participate in the GI Bill; its involvement in significant litigation; its failure to be transparent with the Council about that litigation; its extremely low graduation rates; and, persistent, significant reductions in institutional assets and student enrollment. Ashford has appealed the decision.

U.S. Department of Education. The Education Department can take several steps to protect the Title IV program and students who rely on federal student aid, including Heightened Cash Monitoring (HCM), rescinding participation in federal student aid, and invoking Borrower Defense financial responsibility triggers.

- *HCM.* As of March 2019, the Education Department had placed about 7 percent of schools that participate in federal student aid on HCM, which governs how an institution is reimbursed for the aid it distributes to students. HCM gives the Education Department additional oversight over schools' cash management. Rather than receiving an advance payment, schools placed on HCM must disburse federal student aid from institutional funds and then seek reimbursement. The Department's June 2014 plan to place Corinthian on HCM revealed the school's financial instability: Lacking sufficient institutional funds to cover the cost of financial aid disbursements, Corinthian informed the Department that HCM would force it to declare bankruptcy.

  There are two levels of HCM—HCM1 and HCM2. Schools placed on HCM1 receive Title IV reimbursements more quickly than those placed on HCM2. As implied by the designation, HCM2 is an indication of serious concerns about a school, such as "severe" program review

[2]Show cause is an action taken by accreditors requiring schools to demonstrate why they should retain accreditation.
[3]The latest available enrollment data are from 2017.

findings. HCM1, on the other hand, can involve late paperwork or other minor problems. Of the 483 institutions placed on HCM, about 13 percent (61) are designated HCM2 and more than half of those are for-profit schools. For these 61 HCM2 schools, the most common reasons cited were severe program review findings; other (common ownership); administrative capability; financial responsibility; and accreditation problems.[4] (See Table 2.) No schools designated HCM1 were cited for accreditation; the most common issues were financial responsibility and late/missing audits and financial statements.

Table 2: Number of Schools Placed on HCM2 by the Education Department by Institutional Sector and the Reasons Cited for that Designation

Sector	HCM2 schools	Reasons (no. of schools)
Public	6	Administrative capability (3) Program review—severe findings (2) Program review (1)
Nonprofit	14	Administrative capability (8) Program review—severe findings (5) OIG (1)
For-profit	36	Administrative capability (7) Program review—severe findings (8) Other—common ownership (8) Financial responsibility (4) Accreditation problems (4) Audit late/missing (1) OIG (1) Audit—severe findings (1) Payment method changed (1) Outstanding liability/offset (1)
Foreign	5	Program review—severe findings (1) Financial responsibility (1) Audit late/missing (2) Other—CIO problems, eligibility (1)
Total	**61**	**61**

Source: Author's analysis of the Education Departments March 2019 list of schools on HCM.
Note: Of the 483 schools on HCM, 422 and 61 were designated HCM1 and HCM2, respectively.

- *Title IV Participation.* Another regulatory tool used by the Education Department is to limit or rescind a school's participation in Title IV federal student aid. For example, the Department informed ITT Tech in August 2016 that the school was not allowed to enroll any new students who would require federal student aid. Separately, in February 2019, the Department rescinded Argosy University's participation in Title IV.

- *Borrower Defense Financial Responsibility Triggers.*[5] The 2016 Borrower Defense rule developed under the Obama Administration identified mandatory and discretionary

[4]Financial responsibility is determined by using a school's audited financial statement to calculate a series of ratios that help to gauge the fundamental elements of its financial health. See p. 15 of this hyperlinked Congressional Research Service report for more details on how the Department determines financial responsibility. "Other (common ownership)" refers to affiliated institutions that are owned by entities that had issues identified at some of their other schools.

[5]Borrower Defense is a statutory authority that allows the Department of Education to forgive federal student loans based on a school's use of misrepresentation to convince students to enroll.

"triggers"—events that would or could require schools to post letters of credit to help defray the costs of student loan forgiveness in case of closure.[6] According to the National Association of Student Financial Administrators, the new rules build on and expand the events or conditions that signal a potential inability to meet financial obligations and provide necessary administrative resources. The Trump Administration delayed implementation of the 2016 Obama rule, which was scheduled to go into effect on July 1, 2017, and initiated a new negotiated rulemaking. However, the Education Department failed to post the final rule in time for it to go into effect in July 2019. In October 2018, a court found that the delayed implementation of the Obama rule was arbitrary and capricious and ordered the Trump Administration to implement the 2016 rule. In August 2019, the Department released a new Borrower Defense rule that will make it very difficult for defrauded student to obtain relief. The new rule will not be implemented until July 1, 2020, and the 2016 rule remains in effect until then.

Federal and State Law Enforcement. Federal and state law enforcement entities are an important source of early warning signs about a school's actions to mislead or defraud students, the government, or investors. At the federal level, U.S government agencies such as the Federal Trade Commission (FTC), the Justice Department, the Securities and Exchange Commission (SEC), and the Consumer Financial Protection Bureau (CFPB) have investigated and sued schools and their CEOs. At the state level, Attorneys General have taken similar actions.

Since 2012, numerous for-profit schools have settled with a law enforcement entity or had a final judgment rendered that documented the widespread use of misleading claims about educational quality, transferability of credits, job placement rates, post-graduation salaries, accreditation, and costs (see text box). Moreover, many other predatory schools remain under investigation by federal and state authorities, which could lead to additional settlements and judgments. For example, the California Attorney General filed a lawsuit against Ashford University in November 2017 alleging that it used misleading advertising and recruiting to encourage veterans to enroll.

Law Enforcement Settlements with and Final Judgments Against Predatory Schools Since July 2012

Alta, Ashworth, ATI, Bridgepoint, Canyon College, Career Education Corporation, Daymar College, DeVry, Education Affiliates, Education Management Corporation (EDMC), Globe University and Minnesota School of Business, Herzing University, Hosanna College of Health, Kaplan, Keiser University, La'James International College, Lincoln Technical Institute, National College, New England College of Business and Finance, Penn Foster, Premier Education Group, and Sullivan and Cogliano Training Centers.

Source: Veterans Education Success, *Law Enforcement Actions Against Predatory Colleges*.
Note: With exception of Keiser University, which converted from for-profit to nonprofit status in 2002, all of these institutions are for-profit schools.

For-profit schools target veterans because GI Bill revenue is not included in the 90 percent cap on revenue from federal sources required by the Higher Education Act—resulting in the so called

[6]The triggers include (1) consecutive cohort default rates exceeding 30 percent, (2) a requirement by an accreditor for a school to submit a teach-out plans, (3) a school's failure to receive at least 10 percent of its revenue from sources other than Title IV during its most recently completed fiscal year, and (4) certain lawsuits. Table 2 of the final Borrower Defense rule contains a full list of the financial responsibility triggers.

90/10 loophole. In essence, for every $1 in revenue from military educational benefits, a school becomes eligible to earn an additional $9 by enrolling students who depend on federal student aid to pay for school. A 2011 *New York Times* op-ed by Holly Petraeus concluded that this loophole in the Higher Education Act "gives for-profit colleges an incentive to see service members as nothing more than dollar signs in uniform and to use aggressing marketing to draw them in."[7] The 2012 Senate Health, Education, Labor, and Pensions (HELP) Committee report meticulously documented the predatory recruiting tactics utilized by for-profit schools, including the misrepresentation of key metrics in order to encourage students to enroll.

Other Federal Agencies and Offices. In addition to the Department of Education, other federal agencies such as the Defense Department (DOD) and departmental Offices of Inspector General (OIG) can also provide early warning signs when they take punitive action against a school. Agency complaint systems are also a valuable indicator that schools may be violating statutory requirements that prohibit the use of misleading advertising and recruiting practices.

- *DOD.* In 2015, the DOD suspended new enrollment of servicemembers in degree programs offered by the University of Phoenix while DOD investigated allegations that the school had (1) paid the military for preferential access to installations in order to hold what amounted to recruiting events, a violation of the intent of an executive order; and (2) used the official U.S. military insignias without permission, as a recruiting tool.

- *OIG.* A December 2018 report by the VA OIG found that 57 percent of the oversight errors identified during the OIG audit entailed potentially deceptive advertising, 90 percent of which occurred at for-profit schools. Section 3696 of the statute governing the GI Bill (38 U.S.C.) requires VA to "not approve the enrollment of an eligible veteran" in schools that engage in deceptive advertising and recruiting.VA has never enforced § 3696. See Veterans Education Success Issue Brief #10 for a history of § 3696 and its failed implementation.

- *Federal Complaint Systems.* The Education Department, VA, DOD, CFPB, and the FTC have student complaint systems, which allow individuals to file concerns about the schools they attended. A series of complaints filed with VA by GI Bill beneficiaries resulted in the suspension of new enrollment at ECPI, a case study discussed in Chapter 2 of this report.

*Declining Enrollment/Signs of Financial Instability in the For-Profit Sector***.** In addition to early warning signs provided by VA's and SAAs' oversight partners, periodic filings with the SEC by publicly traded, for-profit schools are another source of information about an institution's financial health, and the filings often disclose issues raised by other regulators. For example, Corinthian's June 2014 SEC filing indicated that the possibility of a delay in Title IV disbursements could result in bankruptcy. Similarly, Bridgepoint Education's December 2016 10-K SEC filing indicated that enrollment at Ashford University and the University of the Rockies had declined from 55,823 to 45,087 since December 2014 and that Bridgepoint had experienced a net income loss in both 2015 and 2016.[8] In addition, Bridgepoint reported that a Department of Education program review of Ashford University resulted in a fine of $139,000

[7]Holly Petraeus was the Assistant Director for Service Member Affairs at the Consumer Financial Protection Bureau (CFPB).
[8]See pp.6 and 45 of hyperlinked report.

related to (1) over-awards in excess of financial need, (2) lack of verifications of enrollment status before disbursement and (3) disbursement of direct subsidized loan funds in excess of the aggregate maximum.[9]

Enrollment trends are a key indicator of potential financial instability, which pose a risk to both GI Bill beneficiaries and taxpayers. As we reported in 2018, the proportion of students, including veterans, enrolled at six publicly traded for-profit chains fell by 26 percent between 2013 and 2016. Two of these chains, EDMC and Kaplan, sold campus brands to other nonprofit and for-profit entities that subsequently declared bankruptcy—Dream Center Holdings (Argosy and South University and the Art Institutes) and the Education Corporation of America (Kaplan Colleges, which were renamed Brightwood College).

Why Heeding Early Warning Signs Matters

The consequences of not acting when early warning signs identify risks to beneficiaries and taxpayers are both psychological and monetary, particularly when a school closes precipitously, as did ITT, Virginia College, Brightwood College, Argosy University, South University, and The Art Institutes. In 2019, the Chronicle of Higher Education reported that 88 percent of the 1,230 college closures from 2014 through 2018 were for-profit schools that enrolled about 451,000 students, including about 22,000 veterans. About 350 of those closures occurred in 2017 and 2018. According to data compiled by the Government Accountability Office (GAO), for-profit schools were much more likely to have closed from 2006 through 2016 than their public and nonprofit counterparts.

Beneficiaries face several intangible, psychological costs, including the waste of time and energy of having attended classes but not earning a degree, and anxiety over whether to start school all over again or to try transferring earned credits to another institution.[10] The monetary costs are also daunting, including loss of entitlement and the loss of living expenses to pay for housing, child care, food, and transportation.

Taxpayers also bear the burden. As of June 2016, the Education Department had forgiven federal student loans totaling $97.6 million for about 7,400 former Corinthian students who qualified for closed school discharges. And, as of June 30, 2019, the Department had approved borrower defense loan discharges totaling $534 million for about 48,000 students, primarily individuals who had attended Corinthian and ITT. School closures, particularly the shuttering of Corinthian and ITT Tech, resulted in pressure on Congress to restore the benefits of GI Bill beneficiaries who had been enrolled in these schools at the time of closure. Although the Education Department had the authority to discharge the loans of students who were enrolled in schools that shut down, VA lacked the authority to restore GI Bill benefits. In August 2017, Congress passed legislation that fully restores benefits for any beneficiary enrolled in a school, such as Corinthian and ITT, that closed between January 1, 2015, and August 16, 2017, the date that the

[9]Ashford submitted revised policies and procedures to avoid future issues related to Title IV disbursements.
[10]GAO found that students who transferred from for-profit to public schools from 2004 to 2009 lost an estimated 94 percent of their credits. The loss of almost all earned credits may explain why for-profit-to-public school transfers accounted for only 4 percent of the students who transferred.

bill was signed into law.[11] A much more limited restoration of benefits was authorized for beneficiaries going forward—eligibility expended during the term in which the school closed.[12]

VA's June 19, 2019, testimony on school closures indicated that the Department had restored 14,252 months of GI Bill entitlement to about 1,380 individuals who were enrolled in schools that closed from 2015 through July 31, 2017—an average of 10 months per beneficiary.[13] These data suggest that only about 20 percent of the more than 7,000 beneficiaries attending Corinthian, ITT, and other schools that closed between 2015 and August 1, 2017, had their benefits restored. In addition, VA stated that it had restored 1,400 months of entitlement to 550 beneficiaries whose schools closed on or after August 1, 2017; these GI Bill beneficiaries were eligible for restoration of benefits only for the term in which the school closed—an average of 2.5 months of benefits per beneficiary.

2. Some SAAs Heeded Early Warning Signs: Six Case Studies

This chapter contains six case studies of actions by a few SAAs to protect GI Bill beneficiaries and taxpayers when early warning signs emerged about an approved school. One of the case studies highlights the divergent approaches of two SAAs to the approval of a school that now has a pending state Attorney General lawsuit for misleading advertising and recruiting. The case studies, which are presented chronologically, involve Corinthian; ECPI; ITT; Ashford; several public and nonprofit schools with online programs situated primarily on military installations; and Thomas Jefferson School of Law. In addition, it provides a chronology of the missed opportunities to protect beneficiaries from the well-publicized risks of attending any of the schools formerly owned by the Education Management Corporation (EDMC), which were purchased by the nonprofit Dream Center in 2017. After months of early warning signs related to financial instability and accreditation, these schools (Argosy University, South University, and The Art Institutes) closed precipitously in March 2019. Both VA and SAAs ignored the abundant early warning signs about these schools.

Corinthian, 2015

Between 2010 and 2014, 22 state Attorneys General opened investigations into Corinthian over concerns about misrepresentations involving job placement rates, accreditation, financial aid, recruiting, and other issues. For example, the California Attorney General filed a lawsuit in 2013 alleging false and predatory advertising, intentional misrepresentations to students, securities fraud, and unlawful use, in recruiting, of military seals of the Army, Navy, Air Force, Marine Corps, and Coast Guards. In addition, the CFPB, the Justice Department, the SEC, and the

[11]See § 109 of P.L. 115-48.
[12]The House Veterans Affairs Committee is considering legislation that would extend full restoration of benefits to any GI Bill beneficiary attending a school that closes.
[13]The hearing was originally scheduled for mid-May but was rescheduled for June 19, 2019.

Department of Education were investigating or had filed lawsuits against Corinthian.[14] Corinthian was among the ten schools receiving the most revenue from the Post-9/11 GI Bill from 2009 through 2013. Post-9/11 tuition and fee payments to Corinthian from 2009 through 2015 totaled $359 million.[15]

In summer 2014, the California and Virginia SAAs ended new enrollment and subsequently withdrew GI Bill approval for all Corinthian campuses operating in California and Virginia. As a result, no new GI Bill beneficiaries started classes and 1,200 beneficiaries in California and 152 in Virginia were no longer enrolled when Corinthian declared bankruptcy and shut down in spring 2015. Apparently, SAAs in other states with Corinthian campuses did not act and, as a result, about 400 veterans wasted 6-7 months of benefits that would have been preserved had those states also taken action against Corinthian.[16] These 400 veterans would have qualified for restoration of their GI Bill benefits under a statute enacted in 2017.[17]

In justifying their actions on Corinthian, the California and Virginia SAAs relied on a June 2014 agreement that Corinthian had reached with the Department of Education to sell or close all of its schools. The Department's motivation for seeking the agreement was the school's failure to turn over job placement rate data for which the Department had made repeated requests. The Department was investigating Corinthian's misrepresentation of those placement rates. In early June, the Department notified Corinthian that disbursement of federal student aid would be delayed for 21 days; Corinthian indicated in an SEC filing that the delay would place a financial burden on the company and could "cause the company to be unable to continue as a going concern."[18]

A press release issued by the California SAA noted that the two filings with the federal government raised the level of concern and suggested that "it was prudent to act now rather than wait until veterans found themselves out of school and out of their GI Bill benefits." Corinthian sold the majority of its assets in February 2015 but was unable to find a buyer for its Heald-brand campuses. In April 2015, the Education Department fined Corinthian $30 million for falsifying its Heald job placement rates. Corinthian filed for bankruptcy shortly thereafter.[19]

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[14]The CFPB lawsuit resulted in a $531 million judgment in October 2015, several months after Corinthian's collapse.

[15]In 2014, the Senate HELP Committee reported that Corinthian's Post-9/11 GI Bill revenue totaled $186 million from 2009-10 through 2012-13. A subsequent report by the Senate Committee on Homeland Security and Governmental Affairs reported that Corinthian received an additional $172.8 million in tuition and fee payments for Post-9/11 beneficiaries in fiscal years 2013 through 2015.

[16]But for the sale of about 56 Everest and WyoTech campuses to a student loan guaranty agency and debt collector in February 2015, the number of affected beneficiaries would have been much higher.

[17]In 2014, VA lacked the authority to restore GI Bill benefits when a school closed. Sec. 109 of P.L. 115-48, popularly known as the "Forever GI Bill," authorized VA to fully restore GI Bill eligibility to veterans who attended any school that closed between January 2015 and the date the legislation became law—August 16, 2017.

[18]In 2017, GAO reported that Corinthian had taken steps to hide its financial instability in order to avoid being required to post a letter of credit with the Education Department.

[19]Notwithstanding the Education Department's findings, ACICS, Corinthian's accreditor, subsequently told Congress that the school had been in compliance with its standards up until the moment it collapsed. This 2015 statement by Albert Gray, then the President and CEO of ACICS, is cited on p. 4 of a report by Senator Warren.

The actions by the Department of Education and the California and Virginia SAAs triggered no broad action by VA or other SAAs; hundreds of veterans continued attending these schools in other states.[20]

ECPI, 2015-2016

In September 2016, the Virginia SAA stopped new GI Bill enrollment at ECPI's Medical Career Institute in Virginia Beach to investigate complaints from veterans. About 60 days later, the SAA withdrew the Institute's approval to enroll any beneficiaries at its Virginia Beach location and suspended new enrollment at three branch campuses. The Virginia SAA's investigation found that the Medical Career Institute had violated the ban in § 3696 of 38 U.S.C. on advertising, sales, enrollment practices, or candidate handbooks that are erroneous, deceptive, and misleading by actual statement, omission, or intimation.

According to the SAA press release "…the issues that facilitated the withdrawal were: the school changing policies and not adhering to the students' contracts, the school withholding student transcripts against the published school policy, the school changing school policy without any reasonable notification to the students, and an overall lack of clarity and consistency in communicating school policies and changes."[21] For example, ECPI introduced a new testing requirement for nursing students without notifying veteran students of the impact on graduation if they failed to pass the test. ECPI allegedly designed the test to weed out students who might not pass the state's nursing licensing exam. Students who failed the new exam were required to pay for and retake certain nursing classes. On 5 of 12 licensing exams offered between January and September 2015, only 47-64 percent of ECPI students passed. Overall, licensing exam pass rates in Virginia were over 90 percent. In addition, the SAA found that ECPI continued to enroll beneficiaries after new enrollment was suspended; charged veterans differently than other students for some courses; incorrectly certified veterans for courses that they were only auditing; and refused to provide transcripts to certain veteran students.

ECPI filed a lawsuit and lobbied Congress to have the withdrawal overturned. Despite requests from veterans' organizations, the VA declined to release the Virginia SAA's compliance surveys supporting its actions. As a result, Congress had a one-sided perspective on the findings when ECPI lobbied Congress. After the Veterans Legal Services Clinic at Yale Law School released a report that discussed the ECPI case, ECPI officials contacted the Clinic staff to dispute the statement that the SAA had found deceptive recruiting and advertising. ECPI, however, declined to provide any evidence to dispute the facts, including a copy of the SAA's compliance survey findings.

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[20]In a December 2018 VA OIG report, VA stated that it had a limited role in approving or disapproving degree programs, a responsibility delegated by statute to SAAs, which VA is prohibited from supervising. The OIG pointed out that VA's argument was contradicted by statute and by VA's prior actions against schools. In 2015, the VA Under Secretary for Benefits had similarly argued that SAAs are responsible for the disapproval of degree programs and "VA is prohibited, by law, from exercising any supervision or control over the activities of the SAAs, except during the annual SAA performance evaluations." A Veterans Education Success report on VA and SAA approval and disapproval authorities found that 2016 changes to statute created ambiguity about those authorities.

[21] By regulation, schools must inform SAAs of any change in requirements and these changes must be approved, a standard which ECPI failed to meet.

ECPI subsequently withdrew its lawsuit and negotiated a settlement with the SAA. The school's GI Bill eligibility was restored in April 2016.

ITT Tech, 2016

Like Corinthian, ITT faced significant regulatory scrutiny. In February 2014 and May 2015, the CFPB and the SEC filed lawsuits over ITT's predatory private student loan program; the lawsuits alleged that the school had implemented the program in order to skirt the statutory requirement that no more than 90 percent of a for-profit school's revenue can come from Title IV federal student aid. Private loans increased ITT's revenue from non-federal sources, allowing the school to enroll even more students who relied on federal aid to pay for school (see text box). In addition, the CFPB lawsuit alleged ITT misled students about job prospects and their ability to transfer credits. In 2013-14, the Education Department estimated that more than 80 percent of ITT's revenue came from federal student aid.[22] ITT was among the 10 schools receiving the most revenue from the Post-9/11 GI Bill from 2009 through 2013. From Fiscal Years 2009 through 2017, ITT's revenue from the Post-9/11 GI Bill totaled $982 million.

CFPB and SEC Lawsuits

CFPB. According to the CFPB press release announcing the lawsuit, ITT engaged in predatory student lending. ITT pressured students into taking out private loans by threatening expulsion, knowing that students' ITT credits would not transfer to available public and nonprofit institutions and that their credits and investment to date would be lost. In addition, the lawsuit alleged that ITT misled students about their job placement prospects.

SEC. The 56-page lawsuit alleges that ITT "engaged in a fraudulent scheme and course of business and made various false and misleading statements and omissions to defraud ITT's investors by concealing the extraordinary failure of two off-balance sheet student loan programs, and the looming effect of that failure on ITT's financial condition…. By 2012, the loans made through these programs had performed so abysmally, with extremely high default rates, that ITT's guarantee obligations began to balloon. The Defendants knew ITT faced looming, massive payments on these guarantees. However, rather than disclosing the significant impact of these guarantee obligations to ITT's investors, the Defendants engaged in a series of deceptive acts to hide the poor performance of the student loan programs and their financial impact on ITT. The Defendants also made numerous misstatements and omissions – in ITT's public filings and in conference calls with financial analysts – that similarly concealed the condition of the student loan programs and ITT's guarantee obligations."

Source: CFPB press release and SEC lawsuit.

On May 15, 2015, the California SAA suspended new enrollment at ITT Tech's California campuses because the school did not meet the required accreditation standards for approval—that is, ITT failed to demonstrate that it fully complied with the financial stability standards for accreditation published by ACICS, ITT's accreditor. In addition, the SAA's announcement referred to ITT's failure to provide the SEC and the Department of Education with audited financial statements. The New York SAA, which used a similar justification for its action, suspended new enrollment at New York's ITT campuses effective May 18, 2015.[23]

On June 1, 2015, ITT filed a lawsuit in a U.S. District Court in California, which was remanded to the Orange County Superior Court because of lack of "federal question jurisdiction." On June 23, 2015, the Orange County Superior Court issued an order staying the California SAA's

[22]See Table 5 on p. 10 of this hyperlinked report.
[23]An ITT filing with the SEC references the New York SAA's action. See p. 77.

suspension of new enrollment at ITT's California campuses, pending the Court's adjudication of ITT's lawsuit in August. However, on July 12, the suspension expired and the SAA indicated it would not suspend ITT again based on the justification used for its action in May. On August 21, the Court, apparently unaware of the expiration and the SAA's intent going forward, issued a tentative ruling requiring the California SAA to rescind ITT's suspension. After its tentative ruling, the Court heard oral arguments and denied ITT's petition because the issue was now moot based on expiration of the suspension.[24]

During the litigation, ITT provided the California SAA with a statement from ACICS indicating that ITT was in compliance with ACICS' financial stability standards.[25] However, contemporaneously, ACICS had informed ITT that its accreditation was at risk at a significant number of campuses because of poor retention, job placement, and licensure examination pass rates.[26] ACICS gave ITT until November 2015 to raise those rates to acceptable levels. And, in April 2016, a year after the California and New York suspension, ACICS notified ITT that allegations from various state and federal agencies "call into question" the institution's "administrative capacity, organizational integrity, financial viability and ability to serve students in a manner that complies with ACICS standards…."[27]

On August 25, 2016, the Department of Education banned ITT from enrolling new students using Title IV funds, justifying its actions on the accreditor's conclusion that ITT was not in compliance with ACICS standards and was unlikely to be able to return to compliance. The following day, the California Bureau of Private Postsecondary Education issued an "emergency decision" requiring ITT to cease enrollment at all 15 ITT campuses in the state. The California SAA sent notice of disapproval to ITT on September 1, 2016.

As with Corinthian, neither VA nor other SAAs took action to support the proactive ITT suspensions announced by California and New York in 2015. When ITT declared bankruptcy and shut down a few days later, about 7,000 veterans and family members were enrolled nationwide at ITT campuses.[28]

Ashford University, 2017-2019

Ashford's 2016 decision to close its brick and mortar campus in Iowa led to a more than 3-year-long dispute involving three SAAs, VA, and Ashford, an ongoing dispute discussed in our

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[24]On August 25, 2015, ITT issued what appears to be a misleading press release, saying that the California SAA had "abandoned its unlawful attempt to suspend ITT" after the Court issued its tentative ruling. As supported by the chronology presented here, ITT's suspension had expired over a month earlier. ITT's misrepresentation raises a question about the accuracy of another statement in its press release—that the judge observed that "[t]he problem with [California SAA's] decision is that there does not appear to be any statutory or regulatory authority allowing this [suspension]." We found no minutes of the August 21st oral arguments to support ITT's assertion.
[25]See p. 77 of the hyperlink.
[26]A June 2015 report by Senator Warren references ACICS's May 2015 action (p. 2) but the notification from ACICS to ITT is no longer available on the ACICS website.
[27]ACICS cited the Department of Education's decision to place ITT on HCM, a lawsuit by the CFPB, a lawsuit by the SEC, and investigations into the company by several state Attorneys General. The show-cause order required ITT to go before ACICS in a hearing where it could argue why its accreditation should not be withdrawn or conditioned.
[28]See p. 4 of this hyperlinked report.

November 2017 report. The dispute revealed VA and SAA disagreement over statutory requirements, raised questions about the adequacy of those requirements with respect to online programs, and highlighted the differing perspectives of the California and Arizona SAAs on approvals.

Ashford's approval to operate in Iowa stemmed from its owner's purchase of a small religious college in 2005, which was rebranded "Ashford." The majority of Ashford students, however, were enrolled online, not at its brick and mortar campus in Iowa. Based on the closure of Ashford's Iowa campus, the Iowa SAA revoked the school's GI Bill eligibility in 2016. The statute governing the GI Bill requires a school to seek approval to enroll GI Bill beneficiaries from the SAA in the state where its main campus is located.[29] Ashford itself has acknowledged that its main campus is located in California, as reflected in the Education Department's postsecondary enrollment database.

The relevancy of the main campus test for an online institution is less clear when there are no residential campuses where teaching occurs, operations are dispersed across multiple administrative offices, and the faculty is likely scattered around the country.[30] Ashford apparently administers its online programs from several different locations—Iowa, where administrative staff remained after the closure of its Clinton residential campus, its California headquarters, and now a 2,500 square foot administrative center in Phoenix, Arizona.[31]

Although its main campus is located in California, Ashford submitted an application to participate in the GI Bill to the Arizona SAA, which gave its approval in July 2017.[32] Despite its position that Arizona lacked jurisdiction to approve Ashford, VA issued a new facility code, which allowed Ashford to continue to receive payments for veterans; however, VA also notified Arizona that it was at risk of losing its contract for ignoring statutory requirements. VA's acquiescence to Ashford's approval sent the wrong message to SAAs ("It's ok to ignore statutory requirements") and institutions ("It's ok to shop around for an SAA willing to grant GI Bill approval").

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[29]As defined in VA regulations (38 CFR 21.4266), main campus means the location where the primary teaching facilities of an educational institution are located. If an educational institution has only one teaching location, that location is its main campus. If it is not clear which of the educational institution's teaching facilities is primary, the main campus is the location of the primary office of its Chief Executive Officer. Ashford's Chief Executive Officer is located at the institution's headquarters in San Diego, California.

[30]More appropriate "main campus" tests should be developed for online institutions, such as the location of (1) personnel responsible for key functions, including policy development and resource allocation; (2) the majority of the staff that develop the curriculum for an institution's online degree programs; or (3) the primary entity responsible for the agreement with the Department of Education that entitles an institution to participate in federal student aid. State licensing standards, which vary considerably, may be another source of tests for determining the operational location of online for-profit institutions. The issue of how to deal with online institutions is likely to only grow as for-profits migrate from a brick and mortar model to a primarily online presence and as public and nonprofit institutions increase their online footprint.

[31]Ashford leased space office space in Phoenix in mid-2017.

[32]In June 2016, Ashford had sought GI Bill approval in California, but it withdrew that application.

In an about-face in November 2017, however, VA gave Ashford 60 days to apply for GI Bill eligibility in California or risk losing its ability to enroll veterans.[33] Ashford responded by filing a petition for review with the U.S. Court of Appeals for the Federal Circuit challenging VA's actions. Later that same month, the California Attorney General filed a lawsuit against Ashford alleging that its admissions counselors "preyed" on veterans, making "a wide variety of false and misleading statements to prospective students to meet their enrollment growth targets, including how much financial aid students would get, how many prior academic credits would transfer into the school, and the school's ability to prepare students for careers in fields like social work, nursing, medical billing, and teaching."

In January 2018, Ashford applied for GI Bill eligibility in California, meeting VA's 60-day deadline to submit its application. The California SAA requested additional information, which Ashford failed to provide. In February 2018, the SAA sent Ashford a notice of "intention not to act." Based on continuing discussions with VA, Ashford submitted yet another application for GI Bill approval in California in December 2018. The California SAA notified Ashford on December 14, 2018, of its "intention not to act" on the application because of pending lawsuits alleging that the school had used erroneous, deceptive, or misleading advertising practices related to the enrollment of veterans, a violation of Sec. 3696 of Title 38; Sec. 3696 prohibits the GI Bill participation of schools that engage in such practices and authorizes VA to refer allegations against schools to the FTC for investigation.[34] As of February 2019, VA had not referred allegations about Ashford's use of misleading advertising to the FTC. The SAA's letter to Ashford noted that it could apply to VA for approval.

In January 2019, VA notified the California SAA that its "intention not to act" was not an option and that its cooperative agreement with VA permitted only approval or disapproval of a degree program that is not currently approved. Furthermore, VA warned that "…continued inaction on Ashford's application may provide sufficient grounds to terminate the current agreement for Fiscal Year 2019 and/or take other actions." The California SAA's response to VA explained the rationale for its decision not to act on Ashford's application:

> Title 38 limits "disapproval" to those courses previously approved and where the requirements for approval are not being met (38 U.S.C. 3672(a), 38 U.S.C. 3679, 38 C.F.R. 21.4259, 38 C.F.R 21.4250(b)(2). Since Ashford submitted an initial application for approval, CSAAVE is unable to disapprove courses not previously approved. More so, CSAAVE finds no authority within Title 38 to "deny" approval.

A month later, VA issued a new policy advisory to all SAAs asserting its view that the only options available to SAAs are to approve or disapprove a school's application to participate in the GI Bill, so as not to "leave that school in limbo because the SAA would be refusing to act while the Secretary would lack the authority to act," under VA's interpretation of the statute.

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[33]VA's about face occurred the day after the *Chronicle of Education* published an article and Veterans Education Success published a report, both exposing potentially misleading behavior in Ashford's fight to maintain its eligibility to enroll veterans.

[34]A Veterans Education Success Issue Brief provides background on the rationale for the enactment of Sec. 3696, documents the failure of VA to effectively enforce the ban on deceptive advertising, and makes recommendations for strengthening this important GI Bill safeguard.

VA had threatened to rescind the California SAA's contract several times in 2018 and 2019. In September 2019, VA notified California that it would not be offered a contract for Fiscal Year 2020, citing Ashford as one reason.[35]

In April 2019, Ashford announced plans to relocate its corporate headquarters to Arizona which may resolve VA's dispute with Arizona and California. From Fiscal Years 2009 through 2017, Ashford received about $250 million in revenue from beneficiaries using the Post-9/11 GI Bill, making it one of the top 20 recipients of veterans educational benefits.

Public and Nonprofit Online Schools Operating on Military Installations, 2018

In June 2018, the California SAA acted to stop new GI Bill students from enrolling in several public and nonprofit institutions operating in the state, primarily on military bases, that allowed beneficiaries to game the statutory requirements that limit housing benefits for veterans enrolled in exclusively online programs.[36]

> *Suspension Rationale.* On June 29, 2018, California notified seven public and nonprofit institutions that it was suspending the new enrollment of GI Bill beneficiaries.[37] New enrollment of active-duty military using DOD Tuition Assistance benefits was unaffected.[38] These schools had been operating on military installations (or in one instance, out of a community college) for some time. SAAs other than California told us that similar online programs were approved to operate in their states. One of the seven schools, Missouri-based Park University has locations in 22 states, primarily on military installations, and has been operating in California since 1990. For many years, the seven schools had been approved to operate by both the California SAA and the state's Bureau of Private Postsecondary Education. According to the California SAA, discussions with the accreditor of three of the schools had identified the discrepancy between how the schools operated in California and the Title 38 requirements. In the suspension notice, the California SAA said that the school's

[35]However, VA renewed Arizona's SAA contract in October 2018 and October 2019—despite VA's publicly stated belief that the Arizona SAA lacked jurisdiction to approve Ashford's online programs. VA declined to respond to a question about its dispute with the Arizona SAA, indicating that "VA does not publicly disclose its correspondence with SAAs regarding disagreements over the interpretation of statutes or VA regulations." See Appendix 1, question 13 for our question and VA's response.

[36]The status of primarily online degree programs offered by schools operating extensions on military installations—off-campus instructional sites dependent on the institution's main campus—provides another illustration of outdated statutory requirements that clash with the reality of how some online schools function. Many of these schools do have a brick and mortar location in some states but not in every state where they operate an extension. However, Title 38 allows SAAs to approve the GI Bill eligibility of an extension only if the school's main or branch campus is also located in the state. In many instances, main campuses are not located in the same state as the military installation extensions. The statutory requirements for approval of extensions are summarized in 38 C.F.R. 21.4266. The specific statutory citation is 38 U.S.C. § 3672.

[37]Previously, the SAA had suspended two other schools—Vincennes University and University of Maryland University College. The seven institutions were Park University, Webster University, Columbia College, Central Michigan University, Central Texas College, Embry-Riddle Aeronautical University, and Southern Illinois University at Carbondale.

[38]DOD would have been required to rescind the schools' Tuition Assistance participation had the schools lost GI Bill eligibility. The agreement that schools sign to participate in Tuition Assistance stipulates that they must be approved to enroll GI Bill beneficiaries. See para. 3(b) of the Memorandum of Understanding that schools must sign to participate in Tuition Assistance.

accreditor recognizes the "extensions" as "additional locations," that is, off-campus instructional sites dependent on its Missouri main campus.[39]

In lieu of establishing a main or branch campus in California, each of the seven institutions set up "extensions" consisting of (1) an administrative office for a school "certifying official," and (2) a class room for instruction.[40] According to the California SAA, the office consisted of a 9 x15 foot room with a computer, a desk, two chairs, and filing cabinets; the classroom accommodated 36 students and was shared with another institution. Under California statute, the SAA said, these facilities did not meet the requirements to be considered an institution of higher learning because they were teaching sites (not schools). According to the SAA, however, the institutions were already approved in the state where their main campus was located and therefore were seeking approval in California only in order to compete with California-based educational institutions.

Finally, California SAA officials told us that enrolled GI Bill students at these seven institutions take just one classroom-based course—all the remaining classes are offered online. That one classroom-based course allows enrolled veterans to skirt the limit on living stipends for exclusively online programs. This arrangement is likely a powerful recruiting tool for the seven schools operating in California. Attending one of the classes required to earn a certificate or degree in an actual classroom significantly increases the amount of the Post-9/11 living stipend paid to GI Bill students. For exclusively online degree programs, the living stipend is $895—half the national average. Because the stipend is paid based on the zip code of the school where a beneficiary actually takes classes, payments are significantly higher in expensive, West Coast cities such as San Diego ($3,015) and San Francisco ($4,581).[41] By statute, a combination of classroom and even one distance learning course entitles beneficiaries to receive the full living stipend.[42] The Senate Committee's report language explaining the rationale for a reduced living stipend for distance education noted that:

> "…for some individuals, pursuit of a program of education solely by distance learning may be the only manner available to them and that payment of some portion of the living allowance is appropriate. However, since one of the basic purposes of the living allowance is to offset the cost of housing away from

[39]See p. 32 of the hyperlinked document. In addition, the California SAA asserted that Park's California locations did not offer degrees, certificates, or diplomas but rather taught "individual subject courses" that are applied toward a degree by its main campus located in Missouri.

[40]A school-certifying official is responsible for reporting student enrollment information—term dates, credit loads, qualifying costs—to VA in order for benefit payments to be disbursed.

[41]Effective August 1, 2018, Sec. 107 of P.L. 115-48 changed the basis for determining the amount of a living stipend from the zip code of "the institution of higher learning at which the individual is enrolled" to the campus "where the individual physically participates in a majority of classes." The change was a response to schools with a VA facility code located in a high-cost area, which was used to determine the amount of the living stipend, even though instruction took place at a branch campus in an area with a lower cost of living. The transition to this new basis for determining living stipends has been delayed because VA was unable to set up a new system that accurately calculated the monthly payments.

[42]Prior to October 1, 2011, beneficiaries enrolled in online classes were not eligible for a living stipend. P.L. 111-377, § 102, provided that individuals enrolled in an entirely online program were eligible to receive a living stipend equal to one half of the national average.

home and since most distance learning is pursued from home, the full allowance does not appear supported at this time." [43]

Suspension and eventual loss of GI Bill eligibility in California would have resulted in savings to taxpayers as well as significant reduction in living stipend payment for many enrolled GI Bill beneficiaries. According to the California SAA, about 750 beneficiaries were enrolled at the seven facilities when it issued the suspension notice. These schools enrolled other military-connected students that were using DOD Tuition Assistance benefits. For example, Embry-Riddle indicated that only about half of its students enrolled on military installations were using the GI Bill.

VA Policy Advisories. The issue of schools' offering in-residence courses in one state and online courses in a different state had come up previously. In an April 30, 2012, policy advisory, VA's Director of Education Services stated that SAAs "*can*" approve such programs. After the California SAA's July 2018 suspensions, VA clarified this guidance, stating that VA is of the opinion that SAAs "*should*" approve such programs. According to VA's August 9, 2018, guidance: "This advisory is a liberalization of the current restrictions…found at 38 C.F.R. § 21.4266(e)…that…only applies to in-residence courses combined with distance learning courses offered by the same institution. This advisory is not a repeal of § 21.4266(e)." As noted earlier, 21.4366(e) limits the approval of extensions to schools that have a main campus in the same state. Rather than suggesting that the requirements of 21.4266(e) might need to be updated, the policy advisory suggested ignoring the statutory requirements.

The three Missouri-based institutions filed a lawsuit, asserting that the SAA's interpretation of statute was erroneous. Moreover, the lawsuit asserted that documentation submitted by the institutions' accreditor contradicted California SAA findings about their degree programs. Although the court stayed the California SAA's action, the SAA rescinded the suspensions in September 2018 based on a letter from the VA Director of Education Services in which the Department disagreed with the action initiated by the SAA. The VA letter implied that the California SAA would lose its contract if it failed to rescind the suspension and VA cited this suspension in its September 2019 letter informing the California SAA that its contract would not be renewed.

According to NASAA officials, the issues raised by California were concerning. They suggested, however, that California should have grandfathered these seven institutions and applied their interpretation of the statute to future approvals. The SAA directors we interviewed declined to comment on California's actions.

Thomas Jefferson School of Law, 2017-2018

In 2017, the California SAA withdrew the eligibility of Thomas Jefferson School of Law to participate in the GI Bill based on the decision of its accreditor, the American Bar Association (ABA), to place the law school on probation for noncompliance with five standards (see text box). ABA's probation notice cited concerns about Thomas Jefferson's finances, admission

[43]See discussion of Sec. 102 in hyperlinked Senate report.

practices, bar passage rates, and graduates' employability as lawyers. The school was first put on notice about these compliance concerns in May 2017.

News articles about these very problems, however, had been circulating for several years. For example, a 2014 article catalogued the school's financial woes: (1) a 50 percent decline in enrollment between 2010 and 2013, even though it had moved to an open admissions policy, which increased its acceptance rate from 45 percent to 80 percent between 2008 and 2013; (2) failure to meet debt payment obligations in 2013; and (3) a very limited endowment, even though it had been founded 45 years ago. In 2018, the school was forced to sell its only tangible asset, the campus building it had constructed in 2011, because it could not afford the payments. In October 2018, Thomas Jefferson confirmed that it would not enroll a new class in spring 2019 as it normally did.

Examples of Accreditor Findings on Thomas Jefferson School of Law

- "The ABA's Council of Legal Education and Admissions to the Bar determined that the Law School's present and anticipated financial resources, admissions practices, academic program, and bar passage outcomes have resulted in the Law School now being in a position where only immediate and substantial action can bring about sufficient change to put the Law School on a realistic path back to operating in full compliance within the time allowed by the Standards and Rules of Procedure."
- According to a notice about the ABA's probation decision posted in the ABA Journal:
    - The law school's 509 Report from 2016 states that its median GPA was 2.89, and the median LSAT score was 143. The school had a total of 572 students.
    - The lawschool's 2017 bar pass rate for first-time test takers was 30 percent, 1 percentage point lower than in 2016. Many other California law schools saw their bar passage rates increase from 2016 to 2017.
    - Annual full-time tuition at the law school is $51,000, its website states. According to its employment summary for the class of 2016, out of 210 graduates, 46 had full-time, long-term jobs that required bar passage.

Source: ABA accreditation report.

In September 2018, the California SAA reversed its 2017 withdrawal of eligibility for Thomas Jefferson School of Law. The decision to restore the school's GI Bill eligibility was the result of two August 2018 VA directives indicating that (1) the California SAA was at risk of not being offered a contract for fiscal year 2019 if it did not reverse its disapproval, and (2) SAAs should not question an institution's accreditation as long as that accreditation had not been revoked. VA's second advisory specified, "There are numerous provisions of title 38, United States Code, and title 38, Code of Federal Regulations, that require educational institutions or specific programs of education to satisfy criteria established and/or adjudicated by an entity other than the Department of Veterans Affairs (VA) or the State Approving Agency." The advisory pointed to several places in the GI Bill statute that reference a program's accreditation or its meeting standards developed by a state board or agency, and concluded,

> "…it is inefficient and a waste of VA resources for a SAA to repeat their work [the work of other duly authorized agencies] and expend further resources in an attempt to confirm or overrule their determinations. Furthermore, these agencies and offices are presumed to be the authoritative experts on these requirements, and the same cannot be presumed of the SAA. Consequently, it seems illogical for a SAA to assume the roles and responsibility of these agencies and offices in an effort to overrule their adjudicatory findings. Finally, given that fact that the Federal or a state government has already determined that such agencies or offices are competent and capable of ensuring compliance, VA likewise has confidence in their abilities to ensure compliance."

Currently, the statutes cited by VA do not explicitly address a program's status if its accreditation is in jeopardy even though it has not been formally revoked. VA apparently interprets the statute as meaning that an SAA cannot rescind approval of a program until after the program formally and finally loses its accreditation. Given that SAAs act as a gatekeeper to protect GI Bill benefits, Congress may need to clarify the statute to give VA and SAAs explicit authority to act when a school has been sanctioned by its accreditor, such as being placed on probation or asked to show cause.

On June 10, 2019, the ABA notified Thomas Jefferson of its decision to withdraw ABA approval. Thomas Jefferson will appeal the decision and its loss of accreditation would not be effective until the outcome of the appeal, which the ABA has indicated would be a 6- to 9-month process. In the meantime, Thomas Jefferson remains approved for the GI Bill.

Despite the ABA's findings and probation decision, the school remained accredited and thus continued to participate in federal student aid. According to VA's policy advisory, no action by the California SAA was warranted even after the school's accreditor withdrew Thomas Jefferson's accreditation because it remained accredited pending the outcome of the appeals process. From Fiscal Years 2009 to 2017, Thomas Jefferson School of Law received about $4.4 million in tuition and fee payments for beneficiaries using the Post-9/11 GI Bill.

Argosy University, 2018-2019

The longer-term implications of VA's interpretation of federal statute, as laid out in its August 2018 policy advisory, are now becoming clear. Even when GI Bill-eligible schools are struggling financially and under intense scrutiny by regulators, SAAs are unable to take prudent steps to protect beneficiaries because that scrutiny has not resulted in a final action by a regulator, such as loss of accreditation. The slow-motion dissolution of former EDMC schools is a case in point. At no juncture did VA or SAAs take prudent action to prevent the enrollment of new GI Bill beneficiaries and protect taxpayers—an action that could have been taken while continuing payments for those already enrolled for up to 60 days.

The warning signs about the former EDMC schools were clear. Questions had been raised frequently about the viability of the three EDMC brands—Argosy, Art Institutes, and South University—since they were sold in 2017 to a nonprofit entity, the Dream Center Education Holdings. In fact, EDMC had long been under the scrutiny of law enforcement agencies. In November 2015, 2 years before the sale of its assets to the Dream Center, EDMC settled lawsuits with the Justice Department ($95 million) and 39 state Attorneys General ($103 million). The settlements involved allegations that EDMC had (1) run a "recruitment mill" that paid admission staff purely on the number of students they enrolled, a violation of the statutory ban on incentive compensation; and (2) used aggressive and misleading recruiting practices to persuade students to enroll.

- In July 2018, the Dream Center announced the closure of 18 Art Institute, 9 Argosy, and 3 South University campuses by the end of the year.

- In November 2018, the Middle States Commission on Higher Education, the accreditor of The Art Institute of Pittsburgh, notified the school of its decision to continue its show-cause order until March 2019 and required the school to demonstrate why its accreditation shouldn't be withdrawn.

- In January 2019, the Dream Center was facing bankruptcy and filed for financial receivership in order to prevent the closure of its remaining schools.

- On February 27, 2019, the Western Association of Schools and Colleges (WASC) Senior College and University Commission (Argosy's accreditor) continued its January 2019 "show-cause" order, which required the Dream Center to demonstrate that it had the resources to continue operations through the next 30, 60, and 90 days.

- On February 27, 2019, the Department of Education ended Argosy's participation in the federal student aid program for failure to meet federal financial responsibility and administrative capability standards as well as the fiduciary standard of conduct. Termination of an institution's participation in Title IV is closely associated with bankruptcy. For weeks, the press had been reporting that Argosy had failed to distribute nearly $16.3 million in Title IV funds to students, which they counted on to pay for rent, food, transportation, and other basic needs. Other former EDMC brands also appeared to be in serious trouble. Despite this Title IV termination, VA notified beneficiaries enrolled at Argosy that it was monitoring the situation and that the Education Department's actions did not affect their GI Bill payments.

- In late February 2019, the Washington Student Achievement Council, the state oversight authority, notified students that the Art Institute of Seattle was at risk of imminent closure.

- On March 6, 2019, the Arizona Republic published an article indicating that Argosy could close permanently on March 7th unless it was able to identify and interested buyer.

- Shortly afterwards, the Dream Center announced that it was shutting down its remaining campuses.

Why did neither VA nor SAAs heed any of these early warning signs? As VA wrote in its 2018 policy advisory, VA believes Title 38 requires SAAs not to question a program's accredited status until it has formally and finally lost accreditation. Although it had received show-cause orders from various accreditors, Argosy and The Art Institutes of Pittsburgh remained accredited and any action by an SAA would have contravened VA's 2018 policy directive and its interpretation of the governing statutes. In addition, Title IV eligibility is not a condition for schools to participate in the GI Bill, and the Education Department's decision to rescind Argosy's eligibility was apparently seen as an insufficient reason for VA or SAAs to take any action—despite Argosy's widely-reported Title IV fraud and the imminent threat of closure.

Although VA officials declined to be interviewed for this report, they reportedly have said their hands are further tied by 38 USC 3672(b)(2)(A), which specifies that accredited public and nonprofit programs shall be "deemed approved," a status VA interprets as prohibiting VA's and

the SAAs' ability to act on early warning signs—even when a program loses its ability to receive Title IV funds from the Education Department.

In fact, a March 1, 2019 email from VA to SAAs acknowledged the dilemma: "At this time, EDU Service [Education Service] is not aware of any action taken by Accrediting agencies" regarding Argosy or the Art Institutes. As previously noted, VA's 2018 policy advisory instructed SAA not to questions a school's accreditation as long as that accreditation has not been formally revoked. The advisory took suspension of new enrollment at any Dream Center schools off the table.

An additional constraint is the mandatory link between suspension and disapproval. If schools do not address the underlying cause of a new enrollment suspension within 60 days, SAAs must rescind the schools' GI Bill eligibility, which leads to the termination of benefit payments for any veterans and family members currently enrolled.[44] In the end, VA's fallback response was to instruct SAAs to review any Argosy campus in their jurisdiction that was approved for the GI Bill.

According to June 2019 testimony by the Acting Director of Education Services, about 1,800 beneficiaries were affected by the closure of Argosy and The Art Institutes. These totals did not include beneficiaries who had been enrolled at South University.

Between Fiscal Years 2009 and 2017, EDMC received $1.13 billion in tuition and fee payments for beneficiaries using the Post-9/11 GI Bill.

3. California's Proposals to Enhance Protections for GI Bill Beneficiaries

As discussed in Chapter 2 of this report, several SAAs have acted proactively to prevent beneficiaries from wasting their benefits at schools that (1) exhibit warning signs or (2) attempt to skirt statutory limits on benefits. In this chapter, we summarize two California proposals to enhance the protection of veterans by reorienting SAAs' oversight activities and promulgating new regulations.

California SAA Proposed a "Return-to-Basics" for Fiscal Year 2018 Contract

On September 25, 2017, the California Department of Veterans Affairs (CalVet) wrote to VA requesting a modification to the proposed SAA fiscal year 2018 contract. According to the letter, the state's compliance survey workload had limited the California SAA's ability to:

- inspect and supervise schools,
- determine those courses that should be approved for the enrollment of veterans and other eligible persons, and

[44]The 60-day limit on suspension of new enrollment is found in 38 C.F.R. § 21.4259.

- ascertain whether a school at all times complies with its established standards relating to the course(s) that have been approved.

Since 2011, VA has shifted SAAs' oversight from approvals and routine monitoring of schools' compliance with statutory requirements to compliance surveys, which are essentially payment audits of a sample of GI Bill beneficiaries (see Veterans Education Success' report, *Overemphasis on Payment Accuracy Impedes More Effective Oversight of Schools Participating in the GI Bill*).

To help minimize the risk of veterans' wasting or losing their hard-earned educational benefits, CalVet proposed that the California SAA devote more resources to (1) ascertaining the qualifications of educational institutions for furnishing courses of education to GI Bill beneficiaries prior to their enrollment, and (2) ensuring that institutions are properly educated and fully understand federal statute and regulations. The letter to VA stated that the SAA's inability to adequately monitor and supervise the growing number of institutions desiring to enroll veterans had contributed to an increase in enforcement activities—from 87 in fiscal year 2015, to 173 in fiscal year 2016, to 115 in fiscal year 2017. "The necessity for enforcement action is reduced," the letter stated, "when the understanding of institutional responsibility for obtaining and maintaining compliance is promoted and encouraged." The CalVet letter proposed contract performance priorities in three areas—education and training, outreach, and risk-based assessment surveys (see Table 3).

Table 3: California SAA's Proposed Performance Priorities for Fiscal Year 2018

Education and training
• Develop training for new institutions and training establishments seeking to enroll veterans and other Title 38 beneficiaries.
• Develop training for institutions and training establishments to maintain compliance with the standards and requirements for approval.
Outreach
• Conduct quarterly training events to assist new applicants with understanding VA programs, laws and requirements, necessary to obtain a grant of approval.
• Conduct quarterly training events to assist institutions and establishments in maintaining approval.
• Develop and distribute informational publications and promotional materials.
• Enhance and update California SAA's website.
• Participate in internal and external activities sponsored by industry partners and stakeholders
Risk-based assessment surveys
• Conduct 150 risk-based survey visits.
• Survey institutions and training establishments that have not been visited within the last 5 years.
• Survey institutions and training establishments that have not submitted an application for approval within the last 5-10 years.

Source: CalVet's September 2017 letter to VA.

On September 29, 2017, the VA contracts office informed CalVet via email that it was unable to negotiate the terms of the fiscal year 2018 contract and requested submission of a signed copy of the standard contract offer that VA had previously provided.

VA's Director of Education Services, in an October 2, 2017, follow-up email to CalVet, noted that VA would be unable to reimburse California for any work performed after September 30, 2017, because the California SAA did not have a current fiscal year 2018 contract. That same

day, VA notified all California schools participating in the GI Bill that California had declined to enter into a contract with VA for fiscal year 2018 and that a "a VA official will be delegated to assume the duties and functions of the California SAA." CalVet submitted a signed standard fiscal year 2018 contract on October 11, 2017. VA's notice that it had assumed the duties of the California SAA appears to have been a negotiating tactic. The impact on VA resources remains to be seen given the Department's September 2019 decision to assume the role of overseeing California's approximately 1,100 GI Bill eligible institutions.[45]

For the fiscal year 2018 contract year, California was assigned 188 compliance surveys (payment audits). It completed 75 surveys, about 40 percent of its allocated workload. According to the California SAA, the state decided to use the resources VA allocated to such surveys to meet its own proposed performance priorities (see Table 3). In effect, California implemented some of the performance priorities it had outlined in its September 2017 letter to VA.

Proposed California Regulations Strengthen SAA's Authority to Hold Schools Accountable

On October 26, 2018, CalVet published a notice of proposed rulemaking that would apply to California's Code of Regulations, Title 12, § 443, 444, 445, 446, and 447 to postsecondary educational institutions seeking to enroll veterans or persons eligible for the GI Bill. Table 4 summarizes the proposed regulations.

Table 4: CalVet's Proposed Requirements for GI Bill Participating Schools

Topic	Requirement
Data	• Submit data on licensing pass rates, graduation rates, and cohort default rates
Advertising	• Comply with federal/state provisions on advertising, representation, claims, and marketing
URL	• Provide school URL links for use on the California SAA website
Licensure	• Ensure that graduates qualify to take any required licensing or certification exams
Employment assessment	• Conduct an employment market assessment at program creation to help the California SAA substantiate student outcomes
Compliance criteria	• Agree that the California SAA can use, as a basis for granting approval, a school's compliance with standards, rules, or requirements by any federal or state licensing or approving agency or entity and any accrediting body, agency or association
Report availability	• Provide copies of all documents and other materials maintained by the governmental, accrediting, or licensing entity to ensure that the California SAA has knowledge of actions that have been taken
Suspension/disapproval	• Authorize the California SAA to suspend approval or immediately disapprove degree programs pursuant to statutory requirements governing schools that participate in the GI Bill

Source: CalVet proposed rule.

As explained in the CalVet's notice of proposed rulemaking, the California SAA had not previously adopted comprehensive criteria for Title 38 funding. Pursuant to 38 U.S.C. § 3672(a),

[45]A November 2018 GAO report expressed concern that assigning the tasks of a State Approving Agency to VA staff's existing workload is likely to stretch agency resources (see discussion beginning on page 13).

SAAs, like California's, may adopt additional regulations and policies to ensure careful consideration of educational programs for GI Bill recipients. Specifically, 38 U.S.C. § 3672(a) sets forth the method by which states can approve education programs for the GI Bill: "Approval of courses by State approving agencies shall be in accordance with the provisions of this chapter and chapters 34 and 35 of this title *and such other regulations and policies as the State approving agency may adopt*" (emphasis added).[46]

The state's proposed regulations would codify the California SAA's current practices of carefully checking the education and training programs that seek Title 38 funds, helping to ensure proper oversight of such schools. Currently, the requirements outlined in the regulation are embedded in the California SAA's application that schools must complete to be approved to enroll veterans. For example, schools must disclose any regulatory actions, provide their most recent accreditation reports, and make available job placement rate data, which the SAA audits to verify its accuracy. According to the California SAA, however, there is currently no legal authority for the SAA's approval requirements if they were to be challenged in court. The regulation would give the SAA such legal authority and could be used by the state Attorney General or local prosecutors who want to bring cases against schools. In December 2018, 21 veteran, military, and education organizations sent a letter to CalVets supporting the proposed regulations, including suggestions for strengthening them.

4. Conclusions

Our examination of the use of early warning signs identified several SAA best practices to protect both GI Bill beneficiaries and taxpayers. One such best practice is rescinding a school's approval to enroll veterans and eligible family members when there are abundant warning signs, such as accreditor actions, numerous state and federal investigations and lawsuits, or clear indications that a school may be financially unsound. The precipitous closure of schools owned by Corinthian, ITT, Education Corporation of America, and Dream Center Holdings highlight the costs of ignoring those early warning signs. Another best practice, one championed by California and other proactive SAAs, is to focus more resources on traditional oversight activities to hold schools accountable, including inspecting and surveying schools and ensuring that institutions remain in compliance with statutory requirements.

[46]This authority would likely be limited in the case of nonaccredited programs by Section 3676(c)(16) of 38 U.S.C., approval of nonaccredited programs by SAAs; this provision also recognizes the SAA's authority to develop and apply additional approval criteria but it was amended in 2016 by § 410 of P.L. 114-315 to require the Secretary to determine that "such criteria are necessary and treat public, private, and proprietary for-profit educational institutions equitably." Additionally, SAAs likely have authority to require accredited institutions to report data on GI Bill students, under § 3675(b)(1), which states that a condition of approval is for schools to keep "adequate records, as prescribed by the State approving agency....to show progress and grades of the eligible person or veteran and to show that satisfactory standards relating to progress and conduct are enforced."

Unfortunately, the best practices highlighted in this report have not been widely adopted by most SAAs or actively supported by VA. Our recommendations in this report and in a companion report—*Overemphasis on Payment Accuracy Impedes More Effective Oversight by SAAs of Schools Participating in the GI Bill*—would ensure GI Bill benefits and taxpayer funds are protected when early warning signs are identified by VA's and SAAs' federal and state oversight partners.

5. Recommendations

Senate and House Committees on Veterans Affairs

- To better protect veterans and taxpayers from financially risky, low-quality, predatory schools, the Committees should consider making the following statutory changes:
    - VA and SAAs should be explicitly authorized to rely on the findings of or actions taken by accreditors, other federal agencies and offices, federal and state law enforcement, and state regulators in determining which educational programs should (1) be approved to enroll GI Bill beneficiaries, or (2) be allowed to continue enrolling beneficiaries. This may require statutory changes in 38 USC § 3672, § 3675, and § 3676(c)(14-15) to make explicit that a program must be in good standing with its accreditor and not under probation or show cause, and that it has not lost its ability to participate in Title IV federal student aid. It may also necessitate similarly clarifying program disapprovals in 38 USC § 3679.
    - SAAs should be required to conduct risk-based program reviews if an institution is (1) placed on HCM2 by the Department of Education or fails the Department's Borrower Defense financial responsibility triggers, (2) the subject of a punitive action by a federal or state department or agency, (3) notified that it is being placed on probation or asked to show cause by its accreditor, (4) the subject of a departmental OIG audit or review, (5) reports financial instability in its SEC filings, or (6) is the subject of concerning student complaints.
    - Given the local knowledge of SAAs, VA should be encouraged to support the independent findings of SAAs regarding a school's fitness to serve veterans and VA should be required to report their rationale to the committees of jurisdiction when they overturn an SAA's findings.
    - Enforcement of the ban on deceptive advertising and recruiting in 38 USC § 3696 should be strengthened by adding automatic triggers based on early warning signs that require VA to suspend new enrollment within 90 days of the receipt of credible allegations of misrepresentation, such as those found in court judgements and settlements, lawsuits, penalties imposed by local, state, or federal government entities, or student complaints from more than 50 beneficiaries. Additional recommendations to strengthen the enforcement of the ban on deceptive advertising and recruiting are outlined in our Issue Brief #10.
    - SAAs should be authorized to suspend new enrollment for periods exceeding 60 days without triggering a rescission of the school's eligibility to serve currently enrolled GI

Bill beneficiaries. Currently, a school has 60 days to address the underlying cause of a suspension before it loses its ability to participate in the GI Bill.

- To help resolve the jurisdictional issues related to online programs, the Committees should consider updating the statutory requirements governing the approval of such programs and the application of the "main campus" test to better reflect the way distance education programs operate.
- To increase the transparency surrounding VA and SAA oversight, the Committees should direct VA to publish on a website accessible to the public the results of all compliance surveys, actions based on findings related to enforcing the ban on deceptive advertising, and the results of risk-based surveys.

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- To ensure that best practices are disseminated and used across all SAAs, VA should:
    - Develop, in conjunction with NASAA, a list of early warning signs for use by SAAs in determining if a school should be suspended or have its eligibility withdrawn;
    - Establish procedures to coordinate best practices across SAAs, perhaps through a standing NASAA subcommittee;
    - Coordinate with other federal agencies to help ensure that VA is aware of their concerns about or actions against GI Bill-participating schools; and
    - Adopt the California SAA's practice of (1) requiring schools to submit accreditation reports, regulatory actions, and SEC filings in a timely fashion, and (2) auditing a sample of schools' job placement rates, when available.

State Legislatures and Regulators

Several of the recommendations to Congressional Committees and to VA could be used as models by legislatures and regulators to strengthen state-level oversight of financially unstable, low-quality, predatory schools. States could improve oversight through both their higher education commission or entity, and, to a lesser degree, their SAAs in light of Title 38, § 3672(a), which explicitly authorizes SAAs to approve schools in accordance with the statute and "*such other regulations and polices the State approving agency may adopt*."[47] States should consider the following:

- Identify the appropriate early warning signs that SAAs and state licensing agencies must monitor for risk-based reviews, including, but not limited to, HCM2, the U.S. Education Department's Borrower Defense financial responsibility triggers, punitive actions by state or

[47]This authority would likely be limited in the case of nonaccredited programs by Section 3676(c)(16) of 38 U.S.C., approval of nonaccredited programs by SAAs; this provision also recognizes the SAA's authority to develop and apply additional approval criteria but it was amended in 2016 by § 410 of P.L. 114-315 to require the Secretary to determine that "such criteria are necessary and treat public, private, and proprietary for-profit educational institutions equitably." Additionally, SAAs likely have authority to require accredited institutions to report data on GI Bill students, under § 3675(b)(1), which states that a condition of approval is for schools to keep "adequate records, as prescribed by the State approving agency....to show progress and grades of the eligible person or veteran and to show that satisfactory standards relating to progress and conduct are enforced."

federal agencies, sanctions by accreditors, audits or reviews by federal OIGs, schools' filings with the SEC, and student complaints.

- Authorize state licensing agencies to rescind the approval of schools to operate in the state based on early warning signs, including those provided by the SAA, or to restrict access to state-funded student aid programs for those states that have them.
- Authorize their SAA and state licensing authority to require schools to (1) submit data on licensing passage rates, graduation rates, and cohort default rates; (2) provide copies of accreditation reports, regulatory actions, and SEC filings in a timely fashion; and (3) audit a sample of a school's job placement rates, when available.
- Require SAAs and state licensing agencies to refer schools to each other for review when one becomes aware of early warning signs that suggest the school poses a risk to its enrolled students.
- Require the SAA to establish a training program for and issue guidance to staff on best practices for identifying misleading advertising and recruiting.