



VETERANS EDUCATION SUCCESS

November 21, 2019

Department of Veterans Affairs
Attn: Bill Spruce, Acting California State Approving Agency
810 Vermont Avenue NW
Washington, DC 20571

Re: VA acting as California SAA in relation to Ashford University

Dear Mr. Spruce:

We would appreciate the opportunity to meet with you to discuss Ashford University, which is currently seeking approval from the California SAA to retain GI Bill eligibility and has a documented history of deception aimed at both VA itself and prospective student veterans. We would like to bring to your attention a number of concerns: 1) Ashford is facing uncertainty regarding its accreditation and financial status; 2) Ashford has been accused by many students and employees of deceptive and misleading practices, which make Ashford ineligible to receive GI Bill funds under 38 USC § 3696; 3) Ashford University has attempted to mislead VA and SAAs in seeking approval to receive GI Bill benefits; and 4) multiple individuals have a conflict of interest for serving as employees of both VA and Ashford in violation of 38 USC § 3683(c).

1. Ashford University is facing uncertainty regarding its accreditation and financial status

Ashford University is accredited by the Western Association of Schools and Colleges (WASC). In July 2019, the WASC Senior College and University Commission (WSCUC) issued a Formal Notice of Concern to Ashford in response to WSCUC's Accreditation Visit earlier that year.¹ This notice reflected "longstanding concerns regarding Ashford University's student persistence and completion rates and performance on other student metrics."² WSCUC told Ashford it is in danger of being out of compliance with its terms if it does not make significant improvements in the near future.³

Only 25% of full-time, first-time undergraduates return to Ashford University after their first year at the school, and only 8% of full-time students who started college at Ashford graduate within six years. Among full-time and part-time students, and including transfers, only

¹ Commission Action Letter, Accreditation Visit, to Craig Swenson, President, Ashford University, from Jamiene S. Studley, President, WSCUC (Jul. 12, 2019), <https://www.wscuc.org/institutions/ashford-university>.

² *Id.*

³ *Id.*

28% of students graduate within eight years of entering Ashford University, while 41% of students withdraw and 31% transfer. Ten years after entering Ashford University, the median earnings of students who had received federal financial aid is \$41,200. Within three years of leaving Ashford University, only 25% of student borrowers have paid anything towards the principal balance on their federal loans.⁴

In addition, Ashford is currently facing financial instability, as a result of its owner's plan to turn it into a nonprofit institution. Just last month, the U.S. Department of Education required Ashford's new owner, Zovio, to post a \$103 million, irrevocable letter of credit in order to spin Ashford off into a nonprofit institution.⁵ In light of this decision, and the fact that Zovio "had \$104.6 million in cash at the end of its most recent financial quarter," Zovio has pursued the option of selling Ashford to another university instead.⁶

WSCUC initially approved Zovio's plan to spin Ashford off into a nonprofit university, subject to certain conditions.⁷ However, WSCUC is seeking new information from Ashford in response to the letter of credit decision, and it would have to approve any transaction that would change ownership of Ashford.⁸ This new uncertainty regarding Ashford's accreditation and financial status is a cause for concern for student veterans who may attend the school.

2. Ashford University has been accused of deceiving and misleading students who enroll and attend the school, which would be a violation of 38 USC § 3696

As you may remember, 36 veteran and military organizations wrote to VA in February 2019 expressing concerns about VA's enforcement of 38 USC § 3696.⁹ This statute requires the VA Secretary to disapprove schools from receiving GI Bill benefits if they engage in erroneous, deceptive, or misleading advertising, sales, or enrollment practices.¹⁰ Ashford University has been accused of deceiving students and prospective students, which warrants further investigation.

⁴ All of this data is provided by the US Department of Education (Oct. 22, 2019), <https://collegescorecard.ed.gov/school/?154022-Ashford-University>.

⁵ Hallie Busta, *Zovio: \$103M Letter of Credit Required to Spin Off Ashford U*, Education Dive (Oct. 8, 2019), <https://www.educationdive.com/news/zovio-103m-letter-of-credit-required-to-spin-off-ashford-u/564549/>.

⁶ *Id.*; Mike Freeman, *Owner of San Diego's Ashford University Explores Sale to Another Higher Education Institution*, San Diego Union-Tribune (Oct. 8, 2019), <https://www.sandiegouniontribune.com/business/technology/story/2019-10-08/owner-of-san-diegos-ashford-university-explores-sale-to-another-higher-education-institution>.

⁷ Structural Change Commission Action Letter, Change of Control and Legal Status, to Craig Swenson, President, Ashford University, from Jamiene S. Studley, President, WSCUC (Jul. 12, 2019), <https://www.wscuc.org/institutions/ashford-university>.

⁸ Lindsay McKenzie, *The Next Purdue-Kaplan Deal?*, Inside Higher Ed (Oct. 9, 2019), <https://www.insidehighered.com/digital-learning/article/2019/10/09/ashford-university-could-be-sold-nonprofit-university>.

⁹ Letter to Robert Wilkie, Secretary of Veterans Affairs, Department of Veterans Affairs (Feb. 14, 2019), <https://vetsedsuccess.org/36-veteran-and-military-organizations-ask-va-for-better-oversight-of-gi-bill-colleges/>.

¹⁰ 38 USC § 3696, <https://www.law.cornell.edu/uscode/text/38/3696>.

a. Many government entities have taken action against Ashford for deceiving and misleading students

There exists significant law enforcement evidence of deceptive and misleading recruiting practices by Ashford, demonstrating that Ashford is not eligible to receive GI Bill funds in light of 38 USC § 3696. Law enforcement officials are interested in speaking with you.

In 2017, the California Attorney General filed a lawsuit against Ashford and its corporate owner, saying, “No school should ever steal the American Dream from its students, but that is exactly what Ashford University did. Ashford University preyed on veterans and people of modest means.”¹¹ The California lawsuit alleges that sales representatives, under intense pressure, entice students to enroll at Ashford with false promises and faulty information, related to students’ ability to get financial aid, the cost of attendance, the transferability of credits into and out of the school, and the ability of the school to prepare students for their careers.¹² The lawsuit also alleges that Ashford has misled investors and inflated the percentage of students who said that their degree prepared them for their career.¹³

Ashford’s own internal audits suggest that its admissions counselors engage in tens of thousands of misrepresentations each year, and that no policy is in place to ensure that Ashford corrects misrepresentations.¹⁴ Finally, the lawsuit alleges that Ashford engages in aggressive and illegal practices to collect student debts, which result from its own employees’ misrepresentations.¹⁵

The evidence of deceptive recruiting gathered by California is significant. We encourage you to take this case very seriously and hope you will please speak with the AG’s office about it. The Deputy Attorney General is leading the case and can provide the most current information regarding Ashford’s illegal deceptive recruiting practices.

Additionally, Ashford has been penalized for deceptive and misleading practices by other government entities:

- In 2016, the CFPB found that Ashford and its corporate owner, Bridgepoint, deceived students into taking out private loans that cost more than advertised. Bridgepoint was required to discharge all outstanding private loans and refund loan payments made by students in a settlement with the CFPB that totaled \$31.5 million.¹⁶

¹¹ *Attorney General Xavier Becerra Sues For-Profit Ashford University for Defrauding and Deceiving Students*, State of California Department of Justice, Office of the Attorney General (Nov. 29, 2017), <https://oag.ca.gov/news/press-releases/attorney-general-xavier-becerra-sues-profit-ashford-university-defrauding-and>.

¹² Complaint at 1, *People v. Ashford University*, No. RG17883963 (Cal. Super. Ct. Nov. 29, 2017), https://oag.ca.gov/system/files/attachments/press_releases/Complaint_8.pdf.

¹³ *Id.*

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 3.

¹⁶ *Consumer Financial Protection Bureau Takes Action Against Bridgepoint Education, Inc. for Illegal Student Lending Practices*, Consumer Financial Protection Bureau (Sept. 12, 2016), <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-takes-action-against-bridgepoint-education-inc-illegal-student-lending-practices/>.

- In 2014, the Iowa Attorney General settled with Ashford and Bridgepoint over violations of Iowa’s consumer protection laws. Ashford and Bridgepoint paid \$7.25 million to Ashford students and agreed to change certain practices.¹⁷
- In recent years, the U.S. Department of Justice and the U.S. Securities and Exchange Commission have investigated Ashford and Bridgepoint.¹⁸
- The Massachusetts, North Carolina, and New York Attorneys General have investigated Ashford for possible violations of consumer protection laws.¹⁹

This amounts to significant law enforcement evidence of deceptive and misleading recruiting practices by Ashford, strongly supporting that Ashford is not eligible to receive GI Bill funds in light of 38 USC § 3696.

b. Ashford whistleblowers are speaking out about Ashford’s deceptive recruiting practices

Several whistleblowers are eager to speak with you regarding Ashford University. Former employees of Ashford have spoken out about Ashford’s misconduct and deception. Two whistleblowers who recently worked as recruiters (known as “enrollment advisors”) at Ashford University have come forward.²⁰ Both worked in the military recruiting division. Both can attest to the deception employed by sales representatives to get students, called “leads,” to enroll, as well as the unwillingness of the school to help those students once enrolled.²¹ They have explained that enrollment advisors would “lie about and twist the information about...facts,” saying “whatever that agent needs to say to close that deal.” Ashford offered a military discount to get potential students to commit, but “what we’d find out is they never filed the right paperwork for the student to get the military discount. University doesn’t care after enrollment. University would not go back and honor it retroactively because they said it was the student’s responsibility.”

One of these employees, Eric Dean, told NBC News that Ashford pressured him to enroll veterans “no matter what” and to keep them enrolled for at least three weeks, at which point they would become ineligible for a refund.²² The employees felt as though they were “throwing fellow veterans under the bus” by “relating to them, gaining their trust, and taking advantage of their trust.”²³

¹⁷ *Veteran and Servicemember Complaints about Misconduct and Illegal Practices at Ashford University*, Veterans Education Success (Dec. 2017), <https://vetsedsuccess.org/veteran-servicemember-complaints-about-misconduct-illegal-practices-ashford-university/>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Interview notes on file at Veterans Education Success.

²¹ *Wyatt Cenac’s Problem Areas: The Cost of College*, HBO (May 29, 2019), <https://www.youtube.com/watch?v=xylTVXjMSOc>.

²² Heidi Przybyla and Laura Strickler, *Veterans Could Be First to Pay as DeVos Rolls Back For-Profit College Oversight*, NBC News (Apr. 14, 2019), <https://www.nbcnews.com/politics/politics-news/veterans-could-be-first-pay-devos-rolls-back-profit-college-n985891>.

²³ *Id.*; *supra* note 21.

Additionally, a six-year corporate director of Ashford's compliance department alleges that, during his years at Ashford, he documented "a voluminous record of compliance infractions" involving "misrepresentations" by enrollment advisors.²⁴ His department was specifically tasked with reviewing enrollment advisors' audio and documentation to see if students were misled, and his department documented significant and ongoing misrepresentations. This executive started at Ashford as an enrollment advisor, which he says was "a sales job" with "scoreboards for how many enrollments you had visible to the whole team" and "public tallies for quarterly and monthly senior leadership" including "quotas" and "explicit pressure."

Another Ashford executive, who directed all paid media, said, "From what I've been hearing, now the marketing strategy is to get as many (sic) leads and quick enrollments as possible. I've just heard it from a high level."²⁵

Regarding the quality of education at Ashford, a former professor recently released a video, in which he described various problems at Ashford.²⁶ First, Dr. Brewer spoke about how academic freedom is stifled by an onerous process that "restricts creativity, inhibits innovation, and demoralizes otherwise talented, motivated, and forward-thinking educators," discouraging any changes to course content and standardizing guidance given to students. He also described how, after he made informal and formal complaints to management, he was assigned to teach courses "outside his scope of competence," which he informed leadership was "an unethical practice for him to engage in and could risk his license as a clinical and forensic psychologist in California." He later received poor performance reviews for these classes, which he should not have been teaching. Moreover, Dr. Brewer stated that faculty were pressured to inflate grades and to retain students who were lacking the basic competence to succeed.

A recent professor and program chair shared that the directive from administrators is to "do whatever it took to let students pass," even "at the expense of their growth."²⁷ She felt that they were doing a "disservice to students" and "not really teaching." She witnessed an associate faculty member be "deactivated because she was doing what was right ... reporting a student for plagiarizing." The professor "used to also have to approve students to graduate even if they were 2 courses shy of fulfilling their program. It was so unethical." Students were allowed to waive an important introductory course, which was designed to give them the tools to succeed in the program going forward, simply because "students will stay enrolled if they can waive it." Even the professors at Ashford are aware that enrollment numbers matter above all else.

These whistleblowers are eager to speak with you to share their concerns. We respectfully request that you speak with these former employees to learn more about Ashford's deceptive recruiting practices and their impact on student veterans.

²⁴ Interview notes on file at Veterans Education Success.

²⁵ Interview notes on file at Veterans Education Success.

²⁶ *An Open Letter to Ashford University from Dr. Stephen Brewer* (Oct. 31, 2019), https://www.youtube.com/watch?time_continue=139&v=gNe9RvWLYJg.

²⁷ Interview notes on file at Veterans Education Success.

c. Many veterans have filed complaints about Ashford's deceptive recruiting practices

In addition to the governmental concerns, many student veterans have alleged they were deceived or misled by Ashford University. In one recent example, representatives of Veterans Education Success worked with an Ashford student who was promised that she could become a nurse with a Health and Human Services degree from the school. However, she could not sit for an exam to receive a license with this degree. Veterans Education Success is working with her now to get her into a school and program that will allow her to achieve her original goal.

Our study of student complaints showed that the most common student complaint was about accreditation and the transfer of credits, with a number of student complaints also touching on the quality of education, student loans, recruiting/marketing, program costs, job opportunities, veteran-specific problems, the release of transcripts, and changes to degree requirements.²⁸ Some of these complaints are as follows:

- “I was promised and assured that my credits would transfer but when I switched schools, none of them transferred.” -K.H., VA Claim # 8474
- “During my time at Ashford, I kept noticing that the numbers were different for credits taken and credits needed and how they did not line up. I spoke to academic advisor after academic advisor concerning the discrepancy asking them if they could explain it to me. They all kept telling me that everything is fine and I will graduate on time. Nope.” -K.M., VA Claim # 8505
- “I was signed up for loans I did not know about when my GI Bill ran out.” -D.S., VA Claim # 01583164
- “I was promised a military grant that would pay over 25% of my tuition and fees. Now I’m overwhelmed with loan debt because that grant was only 5%.” -N.G., VA Claim #8103
- “I was told that with their tuition break and my gi bill I would have no out of pocket expenses and each time a new semester came around I needed more money and was told a student loan was the best way to do it.” -M.C., VA Claim # 7887

3. Ashford University has misled VA and SAAs in seeking approval to receive GI Bill benefits

As you are aware, during Ashford’s fight to seek approval to remain eligible to receive GI Bill benefits (following its loss of Iowa approval in 2015), Ashford misled VA and several state SAAs, and it failed to provide adequate information to the relevant parties.²⁹

First, Ashford misled the California SAA by providing inadequate information for approval. Since Ashford’s administrative headquarters is in San Diego, California, Ashford must

²⁸ *Supra* note 17.

²⁹ A full timeline and description of the relevant events can be found in the following report: *Ashford's Fight to Maintain GI Bill Access Raises Questions about the Enforcement and the Adequacy of Statutory Requirements*, Veterans Education Success (Nov. 2017), <https://vetsedsuccess.org/report-ashfords-fight-to-maintain-gi-bill-access-raises-questions/>.

seek approval from the California SAA. The application Ashford submitted in June 2016 was incomplete, lacking information regarding the suitability of the San Diego campus for educating students.³⁰ Despite frequent correspondence and in-person meetings with the California SAA, Ashford withdrew its application by the end of the month and did not refile a complete application.³¹ Then, in 2018, Ashford again sought approval from the California SAA, which determined twice that it could not act on Ashford's application because of Ashford's failure to comply with standards and requirements for approval and because of concerns about Ashford's advertising practices.³²

Second, Ashford misled VA and the SAAs by attempting to turn Arizona into the school's home state through "legal maneuvering and political lobbying."³³ In June 2017, Ashford applied for approval from the Arizona SAA after opening a small office in Phoenix, "roughly the size of a Chipotle restaurant."³⁴ Multiple checks on the facility by VA showed that the lights were off in the office and it was not being regularly staffed.³⁵

Ashford's communications with the Arizona State Board for Private Postsecondary Education also demonstrate "political maneuvering" meant to deceive the SAAs and VA about where Ashford's main campus is. The board's guidelines call for a 90-day administrative review and a 90-day substantive review of license applications. Nevertheless, the board approved Ashford's license in just three weeks. The board held a special conference call to discuss only the Ashford license, and during that meeting the board stated that it planned to hold California responsible for any serious problems that might arise with the school, as California was still Ashford's home state.³⁶ Arizona was willing to license the school, but not to take any blame if the school failed.

Despite the maneuvers of Ashford lobbyists and Arizona state officials, in August 2017, VA informed the Arizona SAA that it could not accept its approval of Ashford. Ashford was asked to provide additional information, including whether the Phoenix location offered a course of education, whether it contained adequate resources, whether a certifying official was onsite, and whether the Phoenix location met the definition of a main campus.³⁷ The director of the

³⁰ *Id.*

³¹ *Id.*

³² Letter to Stephanie Cowsert, AVP Financial Aid Policy and Compliance, Ashford University, from Shane Ferrebee, Senior Education Specialist, California State Approving Agency for Veterans Education (Feb. 21, 2018), <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5a8e2580419202db3237db9b/1519265152485/CA+SAA+Denial+Ashford.21Feb2018.pdf>; Letter to Stephanie Cowsert, AVP Financial Aid Policy and Compliance, Ashford University, from Shane Ferrebee, Senior Education Specialist, California State Approving Agency for Veterans Education (Dec. 14, 2018), https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5c34e8c61ae6cfc3bbde242/1546971338376/12_2018+CSAAVE+rejection.pdf.

³³ Michael Vasquez, *Inside the Scramble to Save Ashford U.*, The Chronicle of Higher Education (Nov. 10, 2017), <https://vetsedsuccess.org/wp-content/uploads/2018/11/inside-scramble-to-save-ashford-university-for-profit-school-scram.pdf>.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Letter to Leanna DeKing, Program Director, Arizona State Approving Agency, from Suzanne Swafford, Education Liaison Representative, Department of Veterans Affairs (Aug. 3, 2017),

Arizona SAA allowed Bridgepoint's top lobbyist to rewrite Arizona's response to VA.³⁸ Ashford again failed to provide adequate information in the approval process, and VA ruled that Ashford's definition of a main campus did not follow VA regulation.³⁹

Third, during this fight for GI Bill approval, Ashford misled students by "correcting" VA's emails to Ashford students. For example, VA sent updates to students explaining the impact of Ashford's various maneuvers on the students' GI Bill benefits. Ashford wrote to students in July 2017, "If you are concerned about the **misinformation** provided to you by the VA regarding certification of your benefits for attendance at Ashford University, or the threat to your educational benefits that has been spread by these **miscommunications**..."⁴⁰ Ashford's attempt to undercut VA and to mischaracterize its eligibility status is yet another example of deception by the school.

Ashford has repeatedly failed to act in good faith during its attempt to retain GI Bill eligibility. VA and SAAs have not received adequate information from Ashford, and Ashford has attempted to circumvent seeking approval in California, the state in which Ashford maintains a main campus.

4. Ashford University employs VA employees as adjunct professors

As 38 USC § 3683(c) states, "A State approving agency shall not approve any course offered by an educational institution operated for profit... if it finds that any officer or employee of the Department [of Veterans Affairs] or the State approving agency owns an interest in, or receives any wage, salary, dividend, profit, or gift from, such institution."⁴¹

As of April 4, 2018, nine VA employees were listed by Ashford as adjunct faculty.⁴² Under 38 USC § 3683(c), the SAA may not approve Ashford, given this conflict of interest, absent evidence that they do not receive any wages or other compensation in exchange for their teaching, or absent a waiver by VA. Currently, there is no indication that either of these exceptions apply to Ashford's VA employees.

Conclusion

In summary, Ashford University is facing uncertainty with its accreditation and financial status, it has been accused of deceiving students and prospective students in violation of 38 USC

<https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/59a0b98dccc5c5e77ddfe027/1503705486484/AZ+SAA+Ashford+%26+VA+response.Aug2017.pdf>.

³⁸ *Supra* note 33.

³⁹ *Id.*

⁴⁰ Email to Ashford students from Craig Swenson, President and CEO, Ashford University (Jul. 26, 2017), <https://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/59fb520f27ef2df8c343720e/1509642767749/Ashford+Email+to+Students+July+26+2017.pdf>.

⁴¹ 38 USC § 3683, <https://www.law.cornell.edu/uscode/text/38/3683>.

⁴² Response to Public Records Act Request, to Walter Ochinko, Research Director, Veterans Education Success, from John Ruocco, Senior Staff Counsel, California Department of Veterans Affairs (Apr. 4, 2018), <https://vetsedsuccess.org/wp-content/uploads/2019/01/calvet-foia-ashford.pdf>.

§ 3696, it has misled VA and SAAs in an attempt to retain GI Bill eligibility, and it has employed individuals who are also VA employees in violation of 38 USC § 3683(c).

We request the opportunity to meet with you and urge you to speak with the whistleblowers and with the California Attorney General's office. We think there are several available paths⁴³ and that you have several options for how to handle Ashford. We would like the opportunity to describe these options and discuss it with you. Thank you very much for your consideration and all the great work you do!

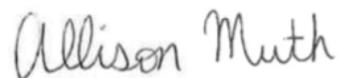
Sincerely,



Tanya Ang
Vice President



Aniela Szymanski
Senior Director for Legal Affairs and Military Policy



Allison Muth
Law Fellow

⁴³ See generally, *Memorandum Re: VA's Failure to Protect Veterans from Deceptive Recruiting Practices*, Yale Law School Veterans Legal Services Clinic (Feb. 26, 2016), <https://vetsedsuccess.org/yale-law-school-va-failure-to-protect-veterans-from-deceptive-college-recruiting-practices/>.