



**STATEMENT FOR THE RECORD
LEGISLATIVE PRIORITIES SUBMITTED TO THE
SENATE AND HOUSE COMMITTEES ON VETERANS AFFAIRS
117TH CONGRESS, SECOND SESSION**

March 1, 2022

Chairmen Tester and Takano, Ranking Members Moran and Bost, and Members of the Committees on Veterans Affairs:

We thank you for the opportunity to share our legislative priorities for consideration in the second session of the 117th Congress. Veterans Education Success is a nonprofit organization with the mission of advancing higher education success for veterans, service members, and military families, and protecting the integrity and promise of the GI Bill and other federal education programs.

This past year included several crucial successes, which can be credited to the strong bipartisan effort of these Committees. Most notably, the bipartisan closure of the 90/10 loophole is a significant achievement, as is passage of the Responsible Education Mitigating Options and Technical Extensions (REMOTE) Act. We are so grateful to finally have this statutory loophole closed, and are working diligently to ensure the intent of congress is executed within the U.S. Department of Education (ED) rulemaking negotiation process.

Looking ahead, we urge continued Congressional oversight of the U.S. Department of Veterans Affairs' (VA) implementation of the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*, and encourage additional careful oversight of the *Career Ready Student Veterans Act*; inconsistent implementation of the Act remains a significant concern, as identified in our report, "Despite a 2016 Statute, The GI Bill Still Pays for Degrees that Do Not Lead to a Job."¹

Today, we offer our full testimony for consideration, outlining our top legislative priorities for this year. We look forward to working closely with you and your staff members on these issues, and thank you for the invitation to provide our perspective on these pressing topics.

Improve the Approval Criteria for GI Bill Programs

Veterans and taxpayers count on the GI Bill to facilitate a smooth transition from military service to a successful civilian career. Veterans actively rely on VA's program approval as a "stamp of approval" that identifies quality programs. Both veterans and taxpayers are entitled to a reasonable return on investment for the GI Bill. Unfortunately, there are too many approved programs that fail to educate veterans effectively and prepare them for a lifetime of success.

Worse yet, many of these school programs cause serious harm to the veterans they are meant to help, including wasted time at subpar schools, burdensome debts, and reputational damage. Despite poor results, many of these programs and schools continue to rake in millions of

¹ Veterans Education Success, *Despite a 2016 Statute, The GI Bill Still Pays for Degrees that Do Not Lead to a Job* (April 2018), <https://vetsedsuccess.org/ves-report-despite-a-2016-statute-the-gi-bill-still-pays-for-degrees-that-do-not-lead-to-a-job/>.

taxpayer dollars through the recruitment and exploitation of veterans and the abuse of their hard-earned GI Bill benefits. Veterans who attend fraudulent or low-quality schools rightly wonder why VA would approve schools known for producing poor outcomes.

Veterans should never have to wonder why obvious scams like FastTrain College and Retail Ready Career Center were approved in the first place.^{2,3} Both of these schools proved to be a significant waste of taxpayer money, even before the FBI stepped in, and yet so many similar examples continue to reap the benefits veterans earned.

The statutes governing program approval are seriously outdated, even referencing classes taught “by radio,” and they continue to allow a low standard of entry.⁴ It is time to update the statutes with minimum quality standards, so that veterans can count on the VA “stamp of approval” as the level of quality they – and taxpayers – expect. We propose the following requirements as prerequisites for schools to have Title 38 eligibility:

- Ensure that programs are not overcharging VA and that VA tuition funds are spent on education.
- Require a demonstrated track record of minimum student outcomes for a school to maintain Title 38 eligibility.
- Require appropriate faculty credentials relevant to their level and subjects of teaching.
- Require screening of a school’s financial stability before its approval.
- Prohibit approval of any school subject to punitive law enforcement or federal regulatory actions within the last five years.
- Ensure school recruiters have the fiduciary responsibility to tell the truth.

Require Schools to Demonstrate Administrative Support

Last June, a graduate student at Howard University contacted our team to raise their concern about their master’s degree program allegedly losing Title 38 eligibility. Upon examination of VA’s Web Enabled Approval Management System (WEAMS), it became clear the program was not listed, an indication VA did not recognize the program’s approval.

It turned out 52 VA-supported students enrolled in 14 programs at Howard suddenly discovered their programs were not properly approved for GI Bill and VR&E.⁵ We worked with the DC State Approving Agency (SAA), who said the issue boiled down to paperwork. The programs affected included Howard’s medical school, law school, and Master in Social Work program. It took eight months to get the approvals cleared up.

² Carli Teproff, *Now defunct for-profit college must pay the government \$20 million, a court rules*, Miami Herald (Feb. 21, 2017), <https://www.miamiherald.com/news/local/education/article134161714.html>.

³ Department of Justice Press Release, *For-Profit Trade School Owner Charged with Defrauding VA, Student Veterans* (Nov. 23, 2020), <https://www.justice.gov/usao-ndtx/pr/profit-trade-school-owner-charged-defrauding-va-student-veterans>.

⁴ 38 USC 3672 has almost no requirements. It also incorporates, by reference, the program approval requirements of Chapters 34 and 35, but those are also extremely minimal, forbidding only, for example, bartending and personality development courses, and restricting “radio” courses (indicating an out-of-date statutory framework). 38 USC 3675 (approval of accredited courses) requires only that the school is recognized by a recognized accreditor and keeps records on students and credits, and that the State Approving Agency looks at the catalog, with no further guidance. But some accreditors offer no real service, like ACICS (which accredited ITT Tech, Corinthian, and was caught this year by USA Today accrediting a school with no teachers). 38 USC 3676 (approval of nonaccredited courses) has more restrictions, but many are undefined, including no definition of “quality” in (c)(1); no definition of teacher “qualifications” in (c)(4); no definition of “financially sound” in (c)(9) (which could easily be defined by reference to US Department of Education standards); inadequate ban on deceptive advertising in (c)(10) (which should be clarified to ban any school that has faced legal or regulatory concerns over its advertising in the prior 5 years); and no definition of “good character” in (c)(12) (which should be clarified to ban administrators and teachers who have faced legal or regulatory action or any action by a licensing board).

⁵ Steve Beynon, *Military.com*, *Errors Cost Student Vets GI Bill Benefits. Now, Howard University Is Scrambling to Save VA Funding*, (August 11, 2021). <https://www.military.com/daily-news/2021/08/11/errors-cost-student-vets-gi-bill-benefits-now-howard-university-scrambling-save-va-funding.html>

During this time, students experienced immense uncertainty and undue anxiety. They faced the possibility of having to withdraw from school, pay out-of-pocket to cover housing and living costs, seek loans from the school and external sources, and experienced significant stress due to the uncertainty of the situation. This scenario highlighted the challenge associated with Title 38 benefits, and the relationship between VA, the SAA, the institution, and the student. Unfortunately, we do not believe this to be an issue isolated to one school.

Currently, there is no requirement in Title 38 that schools devote the necessary resources for competent participation in VA programs. We strongly urge the Committees to incorporate an “administrative capability” requirement for institutional eligibility to participate in VA programs, similar to that at ED.

Such a requirement would mandate that institutions demonstrate to the Secretary that they are capable of adequately administering the programs and that they have committed adequate administrative resources. It should also require that schools pledge to fully cover the tuition and housing costs of VA-supported students if the school suddenly loses eligibility due to institutional error, including paperwork non-compliance.

Ensure Quality In Online Learning

When the COVID-19 pandemic became widespread, many colleges moved their classes to a virtual modality. The digital delivery of learning necessitates stronger rules about quality in online education to ensure student veterans and taxpayers get a sufficient return on their investment. Students are unsatisfied to pay tuition to watch YouTube videos while having little to no interaction with their professors.

We provided detailed recommendations for quality control rules at VA in our December 2020 testimony to the House Committee on Veterans’ Affairs Economic Opportunity Subcommittee, including⁶:

- Courses approved for GI Bill that are being held virtually should still meet all prerequisite requirements for the student’s subsequent course work and licensure.
- In response to predatory correspondence courses targeting veterans after the establishment of the Original GI Bill in 1944, ED established the requirement for there to be “regular and substantive interaction” between virtual faculty and students.⁷ Regular interaction with subject matter experts is essential to ensuring student veterans are receiving a worthwhile education, and we encourage VA to implement a similar requirement and monitor colleges’ compliance to best promote success for student veterans.
- Delivery of “clock hours” should be live and not asynchronous (prerecorded) classes. Career and vocational training programs often use “clock hours” instead of credit hours to measure the students’ amount of time in class. It is vital that programs that rely on hands-on experience use live instruction to ensure the students have completed the necessary hours of training. Additionally, further reporting and transparency are needed regarding these programs and how they are accomplishing their hands-on training.
- Many schools are partnering with for-profit online program management (OPM) companies to offer numerous services, including delivery of academic instruction. A loophole in guidance at ED allows for violations of the incentive compensation ban for

⁶ Veterans Education Success, *Congressional Testimony Submitted on the Topic of Congressional and Administration Priorities For the Next Congress*, Submitted to the Subcommittee on Economic Opportunity, Committee on Veterans Affairs, U.S. House of Representatives, (December 8, 2020), https://vetsedsuccess.org/our-written-testimony-for-the-house-veterans-affairs-economic-opportunity-subcommittee-hearing-on-2021-legislative-priorities/#_ftn1

⁷ David Whitman, *The Cautionary Tale of Correspondence Schools*, New America (Dec. 11, 2018), <https://www.newamerica.org/education-policy/reports/cautionary-tale-correspondence-schools/>.

recruiting if revenue is shared as part of a bundled package of services.⁸ Given the 90/10 loophole and the incentive for low-quality for-profit colleges – and likely for-profit OPMs – to target student veterans for their GI Bill benefits, the VA should conduct oversight of OPMs and their recruiting practices.

- Colleges should ensure students have access to adequate technology and connectivity to engage in online coursework.

Require Orderly School Closures and Support the VETS Credit Act

Sudden school closures leave students in the lurch, and there is no end in sight to this alarming trend. Committee members recall the closures of ITT Tech, Corinthian Colleges, Argosy University, and three brands owned by the Center for Excellence in Higher Education (CEHE) (CollegeAmerica, Stevens-Henager, and Independence University), and many others.

Once a school has closed, student veterans are left trying to figure out their next step. We recommend the Committees require all VA-approved programs to abide by an orderly closure process in which students are properly notified with advanced warning, are provided viable transfer options, and have free access to their transcripts and records. A new law in Maryland provides a useful model.⁹

We also believe important changes are needed on the Veterans Benefits Administration's (VBA) webpage on restoration of benefits.¹⁰ With the closure of the CEHE schools this past year, student veterans have continued to reach out to us to understand their rights.¹¹ The current language on VBA's website implies students must transfer to a new school *before* they are allowed to apply for restoration of benefits.

Specifically, the language says, "*A student cannot apply for restoration until after the student enrolls in a new school and is given a transferred credits determination from the new school.*" This is incorrect under the statute; this effectively incentivizes—and, indeed, directly instructs—student veterans to rush into transferring to a new school.

As you know, the statute does *not* require students to transfer to a new program; instead, the law clearly provides that, *for those students who have chosen to transfer* to a new program, they are ineligible for restoration if they transfer more than 11 credits. Therefore, the VBA website is incorrect under the statute. The current VBA website wording is concerning because CEHE had been wrongly pushing students to transfer to low-quality partner schools from which CEHE has a benefit.¹²

We're grateful to Congressman Vern Buchanan, his staff, and the Committee for introducing the Veterans Eligible to Transfer School (VETS) Credit Act to address these concerns.¹³ We also feel it is imperative that the webpage offers clarity on the date delimiters and associated qualifying eligibility standards as set forth in the statute. These factors are the primary drivers for a student's understanding of their options.

⁸ New America Foundation, *Considering an Online Program Management (OPM) Contract* (Sept. 15, 2020), <https://www.newamerica.org/education-policy/reports/considering-online-program-management-opm-contract/>.

⁹ MD orderly school closure law: SB 446 (enacted May 7, 2020), <http://mgaleg.maryland.gov/mgaweb/legislation/details/SB0446?ys=2020RS>.

¹⁰ U.S. Department of Veterans Affairs, Restoration of Benefits After School Closure or if a School is Disapproved for GI Bill Benefits, <https://www.benefits.va.gov/gibill/fjib/restoration.asp>, Accessed: February 25, 2022.

¹¹ Dan Bauman, *Education Dept. Warns College Operator Not to Mislead Students as Its Campuses Close*, July 30, 2021, <https://www.chronicle.com/article/education-dept-warns-college-operator-not-to-mislead-students-as-its-campuses-close>.

¹² *ibid.*

¹³ H.R.6604, Veterans Eligible to Transfer School (VETS) Credit Act, <https://www.congress.gov/bill/117th-congress/house-bill/6604?s=1&r=33>.

And lastly, we urge VA to de-couple the school closure page from the Forever GI Bill web address hierarchy; though it was initiated under the Forever GI Bill, it may confuse some veterans if they are unfamiliar with the relationship to that law. Since closures will continue as a major topic of interest, we believe nesting the page as a standalone resource page under the broader GI Bill heading would be more accessible. We ask for the Committee's support in encouraging VBA to make these much-needed updates.

Provide GI Bill Restoration In Cases of Fraud

Veterans who have been cheated out of their GI Bill because they were victims of fraud by a predatory college deserve to have their GI Bill restored if there exists government evidence of fraud by the school. This should be a high priority for the Committees. The idea that veterans are defrauded out of their hard-earned GI Bill is anathema to the Congressional intent.

To cover the costs of GI Bill restoration, we recommend the Committees authorize VA to require schools to obtain a financial guarantee through a "letter of credit," as ED does.¹⁴ Alternatively, the Committees could require all schools or all at-risk schools (as ED defines it) to contribute to a "GI Bill recovery fund"—like the student tuition recovery funds operated by many states, akin to Unemployment Insurance funds for employers—which would be available for defrauded students' GI Bill restoration.

Change VA's Debt Collection Practices

We urge the Committees to rein in VA's debt collection practices, which are intentionally aggressive but are not supported by statute, as we testified previously.¹⁵ We also urge the Committees to halt VA's debt collection for "retroactive readjustments" of GI Bill benefits awarded to a veteran. A "retroactive readjustment" means that VA adjusts a veteran's GI Bill eligibility after the veteran has used the benefit. If the problem was VA error, and the veteran honorably relied on VA's procedures, then it is not fair to subject the veteran to debt collection.

Improve the GI Bill Comparison Tool

Countering the aggressive marketing by predatory colleges necessitates VA to provide consumer protection warnings and dramatically improve the GI Bill Comparison Tool. We recommend the Committees require VA to educate students about what a "Master Promissory Note" is because too many veterans wind up with student loans they did not want. Second, we recommend the Committees strengthen the GI Bill Comparison Tool.

Previous changes that have been incorporated at our urging include the ability to perform side-by-side comparisons of schools and to execute searches by major or degree sought and by geographic area. We welcome and applaud these updates, and continue to urge the following additional modernizations:

- Update student outcome metrics using data from ED.
- Include a "Risk Index" to enable students to avoid risky schools and improved "Caution Flags" to show government or accreditor action against the school.
- Provide the text of student complaints received by VA, and require VA to show all complaints, not just those that have been closed out.

¹⁴ U.S. Department of Education, Financial Responsibility Standards Requiring a Letter of Credit, <https://studentaid.gov/data-center/school/loc>.

¹⁵ Veterans Education Success, Written Testimony, House Committee on Veterans' Affairs Subcommittee on Oversight and Investigations Legislative Hearing, September 19, 2019, <https://vetsedsuccess.org/our-written-testimony-for-house-veterans-affairs-hearing-on-va-debt-collection-practices/>.

- Include closed schools like ITT Tech on the data dashboard for historical reference, used by researchers and other government agencies.
- Give students the option to make the narrative portion of their complaint public.

Strengthen Veteran Readiness & Employment (VR&E)

We applaud both Committees' commitment to the VR&E program and VA's continued efforts to improve it. As we testified previously, we recommend the Committees further decrease the number of clients per counselor, increase training for VR&E counselors to ensure consistency in counseling, and establish a similar Monthly Housing Allowance (MHA) for VR&E students as for Post-9/11 GI Bill students.¹⁶

Conclusion

Veterans Education Success sincerely appreciates the opportunity to express our legislative priorities before the Committees. As the higher education industry continues to evolve in these very dynamic times, we emphasize the importance of maintaining high standards of quality. Student veterans, taxpayers, and Congress must expect the best outcomes from the use of hard-earned GI Bill benefits. We look forward to the enactment of these priorities, and we are grateful for the continued opportunities to collaborate on these initiatives.

¹⁶ Veterans Education Success, Statement for the Record, House Committee on Veterans' Affairs Economic Opportunity Subcommittee Hearing, *Getting Veterans to Work after COVID-19*, July 21, 2020, <https://vetsedsuccess.org/our-sfr-for-july-21-hvac-economic-opportunity-subcommittee-hearing-getting-veterans-to-work-after-covid-19/>.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, Veterans Education Success has not received any federal grants in Fiscal Year 2022, nor has it received any federal grants in the two previous Fiscal Years.