



**STATEMENT FOR THE RECORD
COMMITTEE HEARING ON PENDING LEGISLATION
SUBMITTED TO THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE**

July 13, 2022

Chairman Tester, Ranking Member Moran, and Members of the Committee:

We thank you for the opportunity to share our perspective on the legislation before this body. 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.

Below we provide feedback on legislation before the Committee. Thank you for your consideration of our perspective on these important issues, and for your commitment to the success of veterans in higher education.

S. 4458 - Ensuring the Best Schools for Veterans Act of 2022

We thank the Committee for developing a measured and meaningful bill that we believe will substantially address ongoing concerns with the current guidance on the "85/15 Rule." Over the course of the past year, school officials have expressed outspoken concerns about a new interpretation of the statutory 85/15 Rule by the U.S. Department of Veterans Affairs (VA).

Background

The rule stipulates that to maintain eligibility for participation in Title 38 educational benefit programs, at least 15 percent of institutional enrollments must consist of students who are paying for their education with something other than the GI Bill, Tuition Assistance funds from the U.S. Department of Defense (DoD), or institutional aid. It is rooted in concerns that came about from the Original GI Bill of 1944, when shoddy schools, which only enrolled VA-financed veterans, multiplied across the country.

The rule has always counted not only students using GI Bill benefits, but also students using certain types of institutional aid, as "supported students" who count as part of the institutions' 85 percent cap. The reason for inclusion of institutionally-aided students is to prevent gaming by unscrupulous institutions, which could enroll 15 non-veteran students with free scholarships in order to maintain access to VA funds, which would still represent almost their entire source of revenue.

In response to concerns about the inclusion of institutionally aided students on the 85-percent side of the calculation, VA issued revised guidance last September that clearly excludes students from being counted as “supported students” if they receive institutional grants and scholarships that are equally available to student veterans and student non-veterans alike.

A second source of concern and confusion about VA’s 2020 interpretation focused on its treatment of tuition payment plans. That interpretation severely limited the types of payment plans that would qualify their users as non-supported, and caused alarm for institutions using such plans. As a result of extensive outreach and engagement with veteran service organizations and institutions, VA published updated guidelines in February to set reasonable criteria for qualified tuition payment plans.¹

We thank the Committee for diligently working to develop this legislation, which we believe will be responsive to school concerns about administrative burden, while most importantly also protecting student veterans from unscrupulous actors and practices.

We applaud the approach of this legislation on exemption of installment plans, “at an educational institution that the Secretary determines has a history of offering payment plans that are completed not later than 180 days after the end of the applicable term, quarter, or semester.”

We believe this appropriately recognizes legitimate payment plans consistent with the intent of VA’s definition of “supported student,” while reducing overall burden on institutions who rely on this flexibility as a payment mechanism for students. Schools that apply hollow payment plans – essentially false institutional loans – with the intent to manipulate their calculation will be unable to use this as an accounting ploy for the purposes of the 85/15 calculation.

Recommendations

Based on the proposed legislation, we offer three recommendations for consideration by this Committee:

1. *Exemptions.* Exempting institutions with 35% or fewer veterans and service members from calculating programmatic 85/15 ratios is a reasonable policy, but we believe the Secretary should have authority to verify that institutions claiming the 35% exemption are correctly reporting that enrollment statistic. The 35% exemption does present the risk of being a loophole for filling certain low-quality, yet low-cost, programs with student veterans while maintaining overall percentages below the 35% threshold. This is ultimately something that VA must be cautious of in the long-run.

¹ Department of Veterans Affairs Policy Interpretation, Clarification Concerning Tuition and Fees Payment Plans for Standard Terms and 85/15 Calculations, February 4, 2022, <https://www.federalregister.gov/documents/2022/02/04/2022-02305/clarification-concerning-tuition-and-fees-payment-plans-for-standard-terms-and-8515-calculations>.

2. *Spot-Checks.* The Secretary should have the ability to perform periodic checks on specific programs at all institutions, including the ones eligible for this exemption, for 85/15 compliance on a case-by-case basis. As noted, we maintain some reservation with the approach based on the emergence of complex mega-universities that may fill predatory programs with student veterans, yet still maintain institutional enrollments below 35%.
3. *Accountability.* We additionally believe having State approving agencies (SAA) monitor compliance would be the most effective approach for monitoring 85/15 nationwide, and this could take two distinct forms of oversight:
 - Certification Periods. For schools taking advantage of the 35% exemptions, that statistic should be certified every term for standard calendar institutions and biannually for others. The intent should be to prevent schools from falsely or evasively claiming the exemption if they do not genuinely qualify for it. We believe this is a reasonable approach, and would not present an overly burdensome administrative requirement to schools.
 - Intermittent Reviews. SAAs should review programmatic compliance with the 85-15 calculation to ensure that schools below the 35% threshold are not segregating veterans in low-quality programs on a case-by-case basis. Schools should not be expected to calculate 85-15 compliance ratios on a constant basis; however, if selected for an intermittent review, the school should be able to produce a calculated ratio for specific programs. The SAA should be able to disqualify these institutions if they find reasons for concern, such as a pattern of program as being low-quality or high-cost.

We look forward to working closely with you on the implementation of this legislation.

S. 4319 - Informing VETS Act of 2022

The “Informing Veterans on Education for Transitioning Servicemembers Act of 2022,” otherwise known as the “Informing VETS Act of 2022,” would seek to greatly increase awareness of veterans’ eligibility for services under Veteran Readiness and Employment (VR&E), the program formerly known as Vocational Rehabilitation and Employment.

This legislation would focus on three specific areas to educate those who may be eligible on the benefits of the VR&E services, including:

1. Sending a letter to each veteran entitled to such a program that explains the educational benefits of such programs;
2. Providing a side-by-side comparison of benefits between such programs and educational assistance under Chapter 33 of Title 38; and
3. Publish this information on a publicly accessible website of the Department.

We applaud this legislation for taking steps to increase awareness about VR&E. We share the Committee's view that any veteran who is eligible for this program is entitled to be aware of the related services and opportunities. In addition, we would like to raise four previous recommendations about the VR&E program, noting greater program awareness will inherently increase program participation rates:^{2, 3}

1. *VR&E Improvements.* As we have requested in the past, we call on Congress to further decrease the number of clients per counselor from 125 clients to around 85 clients per counselor. While VA has worked to reduce the number of clients per counselor, we believe it would be beneficial to further decrease the Congressionally mandated ratio to a maximum of 85 clients per counselor. The current threshold of 125 is too high for counselors to adequately address the individual needs of student veterans, and students often complain about the lack of responsiveness of their counselors.
2. *Counselor Consistency.* We continue to recommend increased training for VR&E counselors that includes comprehensive information for all five tracks in the VR&E program, consistent expectations, and requirements for quality to help improve veteran outcomes and overall customer experience. There are too many complaints from VR&E students that indicate the VR&E counselors lack sufficient training.
3. *Housing Allowance.* We urge Congress to establish a Monthly Housing Allowance (MHA) for VR&E students at rates similar to the Post-9/11 GI Bill to keep pace with the rising cost of living.
4. *System Modernization.* Finally, we believe it is imperative for VA to continue to focus on improving and modernizing the current case management system, so that payments to students are not delayed is vital given the dire financial situations many veterans are currently facing. As program participation rates rise, we feel these suggestions should be considered for future legislation to provide veterans with the world-class experience they deserve.

We thank the Members and their staff for diligently working to provide greater awareness and access to programs student veterans have earned the right to use.

² Veterans Education Success, *Congressional Testimony submitted on the Topic of Congressional and Administrative 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/>.

³ 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/>.

S. 3606 - A bill to amend title 38, United States Code, to eliminate the requirement to specify an effective period of transfer of Post-9/11 educational assistance to a dependent, and for other purposes.

We applaud the Committee for proposing this legislation, which would remove the current statutory requirement that beneficiaries “specify the period for which the transfer shall be effective for each dependent designated” of section (e), “Designation of Transferee.”⁴ This requirement is arbitrary, and leads to unnecessary logistical hardship for families of service members. We are proud to support this legislation.

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Veterans Education Success sincerely appreciates the opportunity to express our views before the Subcommittee today. We look forward to working with you and members of your staff on these important issues.

⁴ Title 38, US Code Section 3319, [https://uscode.house.gov/view.xhtml?req=\(title:38%20section:3319%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title38-section3319\)&f=treesort&edition=prelim&num=0&jumpTo=true](https://uscode.house.gov/view.xhtml?req=(title:38%20section:3319%20edition:prelim)%20OR%20(granuleid:USC-prelim-title38-section3319)&f=treesort&edition=prelim&num=0&jumpTo=true).