



November 21, 2022

George O'Connor, Assistant Commissioner for Academic & Veterans Affairs
Department of Higher Education
Commonwealth of Massachusetts
Via email

Joshua Jacobs, Senior Advisor for Policy
Performing the Delegable Duties of the
Under Secretary for Benefits
Veterans Benefits Administration
Via email

Re: Bay State College

Dear Mr. O'Connor and Mr. Jacobs,

We write to bring to your attention new information about Bay State College and to request that the US Department for Veterans Affairs (VA) and the Massachusetts Department for Higher Education as the designated State Approving Agency ("MA SAA") undertake a risk-based survey, as provided in 38 U.S.C. § 3673, of Bay State College because the school is on probation with its accreditor.¹ Also, the GI Bill Comparison Tool should include a caution flag showing that Bay State College entered into a settlement with the Massachusetts Attorney General, in addition to the "accreditation issue" flag that is already present.

Earlier this year, Bay State College's accreditor, New England Commission of Higher Education (NECHE), placed Bay State College [on probation](#) for a period not to exceed four years because "the institution did not demonstrate that its resources are sufficient to sustain the quality of its educational programs and to support institutional improvement now and in the foreseeable future and that it has an effective system of governance and sufficient administrative capacity."²

According to the [Joint Statement](#) of NECHE and Bay State College, NECHE further issued a "Notation" with its decision because it "found that the College's accreditation may be in jeopardy if current conditions continue or worsen with respect to the Commission's standards on *Students and Teaching, Learning, and Scholarship*."³ NECHE "is concerned about the College's ability to meet its enrollment goals and to ensure it has sufficient faculty and staff to support its educational programs."⁴

¹ US Department of Education, Database of Accredited Postsecondary Institutions and Programs, *Bay State College*, <https://ope.ed.gov/dapip/#/institution-profile/120698> (last accessed 11/18/22)

² Joint Statement of New England Commission of Higher Education and Bay State College, <https://www.neche.org/wp-content/uploads/2022/06/Bay-State-NECHE-Joint-Statement-2022-06.01.pdf> (last accessed 11/18/22)

³ *Id.*

⁴ *Id.*

Pursuant to 38 U.S.C. § 3673, a risk-based survey is required to be conducted under these circumstances. Specifically, subsection (e)(3)(D) requires a survey in the event of “loss, or risk of loss, by an educational institution of an accreditation from an accrediting agency or association, including notice of probation...”⁵ In addition, the reasoning behind NCEHE’s decision indicates the need for a risk-based survey because Bay State may not be providing sufficient resources and teachers to ensure student veterans are receiving an education worthy of their hard-earned GI Bill. NECHE’s decision to place Bay State on probation became final in June 2022.⁶ If the risk-based survey required by the statute has not yet occurred, we respectfully request that the survey be undertaken.

Bay State College entered into a settlement with the Massachusetts Attorney General at the end of 2019⁷ and agreed to provide \$1.1 million in relief to former students “[to resolve allegations](#)” that it “failed to provide required disclosures, engaged in illegal telemarketing practices, and used inaccurate job placement figures.”⁸ When announcing the settlement, Attorney General Healy explained, “[o]ur for-profit regulations protect students and ensure that schools are transparent about what they offer and about job placement figures, so that students can make informed choices about their education.”⁹

Under 38 USC § 3673A(b)(2)(H), the matters at issue in the Massachusetts Attorney General’s legal action should be included within the scope of the risk-based survey.¹⁰ Indeed, Massachusetts’ prior settlement takes on particular significance for the risk-based review in light of recent [media reports](#) that, amid claims of fraud against the school, the Massachusetts Attorney General is once again looking into Bay State College practices.¹¹

Bay State College’s settlement with the Massachusetts Attorney General is relevant information for veterans considering which school to attend, but as mentioned, the GI Bill Comparison Tool [entry](#) for Bay State College does not reference the settlement.¹² The Comparison Tool should be revised to include a caution flag [linking to the information about the settlement](#) as well as providing information about the accreditor probation. Prospective GI Bill students deserve to be informed.

⁵ 38 USC §3673(e)(3)(D)

⁶ Letter to Jeff Mason, Interim President, Bay State College, from Lawrence Schall, New England Commission of Higher Education, dated June 1, 2022 available at US Department of Education, Database of Accredited Postsecondary Institutions and Programs, *Bay State College* <https://ope.ed.gov/dapip/#/institution-profile/120698> (last accessed 11/18/22)

⁷ Steph Solis, *Bay State College Pays \$1.1 Million Settlement Following Allegations It Misled Students*, MassLive (Dec. 31, 2019) <https://www.masslive.com/boston/2019/12/bay-state-college-settles-for-11-million-over-allegations-that-it-misled-students.html> (last accessed 11/18/22)

⁸ Press Release, Massachusetts Attorney General, *Bay State College to Pay \$1.1 Million in Relief for Misleading Hundreds of Former Students*, (Jan. 2, 2020) <https://www.mass.gov/news/bay-state-college-to-pay-11-million-in-relief-for-misleading-hundreds-of-former-students> (last accessed 11/18/22)

⁹ Press Release, *supra* <https://www.mass.gov/news/bay-state-college-to-pay-11-million-in-relief-for-misleading-hundreds-of-former-students>

¹⁰ 38 USC §3673A(b)(2)(H), “At a minimum the scope determined under paragraph (1) shall include the following: ... Matters for which the Federal Government or State Government brings an action in a court of competent jurisdiction against an educational institution, including matters in cases in which the Federal Government or the State comes to a settled agreement on such matters outside of court.”

¹¹ Kirk Carapezza, *Following Claims of Fraud, Mass. Attorney General Gathers Information About Bay State College*, GBH News (Oct. 26, 2022) <https://www.wgbh.org/news/education/2022/10/26/following-claims-of-fraud-mass-attorney-general-gathers-information-about-bay-state-college> (last accessed 11/18/22)

¹² GI Bill Comparison Tool for Bay State College, <https://www.va.gov/education/gi-bill-comparison-tool/institution/34005821> (last accessed 11/18/22)

We appreciate your consideration of these matters. We urge VA and MA SAA to conduct a risk-based survey and take all appropriate action to protect the veterans' GI Bill benefits and ensure that Bay State College is delivering the quality education promised to the veterans.

Sincerely,

A handwritten signature in cursive script that reads "Della M. Justice".

Della M. Justice
Vice President for Legal Affairs