



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

June 15, 2023

Carrie Wofford, President
Veterans Education Success
1501 K St., Suite 200
Washington, DC 20005

Dear Ms. Wofford:

Thank you for your letter, dated June 1, 2023, to the Department of Veterans Affairs (VA) expressing additional concerns regarding the implementation of risk-based surveys, as codified in 38 U.S.C. § 3673(e) (“Notice of Government Action”) and Education Service’s Standard Operating Procedure (SOP) for the risk-based surveys, which implements the provisions of 38 U.S.C. § 3673A.

VA assures you that our office and State Approving Agency (SAA) partners are aware of the triggering events and timing requirements specified in 38 U.S.C. § 3673(e), as amended by the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*, P.L. 116-315 § 1014. The annual VA/SAA Cooperative Agreements require SAAs to adhere to all applicable statutory provisions. The statutory language on this matter is clear, precise and unambiguous regarding the scope and timing for the performance of risk-based surveys triggered by notices of government action. VA is not aware of any lack of clarity on the part of any SAA.

VA developed the Risk-Based Survey (RBS) SOP in partnership with the SAAs to fulfill the requirements of 38 U.S.C. § 3673A (P.L. 116-315 § 1013). VA disagrees with the interpretation that 38 U.S.C. § 3673A(b)(2) sets forth the “scope” of factors an SAA should cover during a risk-based survey. VA’s intent is to set forth a minimum list of the items an SAA should look at during a review, which does not set forth the risk factors that trigger a survey. The law granted VA latitude to define the scope of a comprehensive oversight program to conduct such surveys. The SOP also expressly states that all procedures are not necessarily contained within the SOP and acknowledges that periodic reevaluation and revision of the information contained therein may be necessary. To date, VA has not received SAA feedback regarding serious omissions.

Based on your feedback and to ensure clarity between VA and SAA personnel, we have issued an SOP dedicated to the statutorily specified triggers and timeframes. Enclosed is the Notice of Government Action SOP, which references the existing RBS SOP for information on the current framework outlining how to perform an RBS.

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Ms. Carrie Wofford

As part of the ongoing collaborative effort with our SAA partners, VA plans to revise the RBS SOP for fiscal year 2024 as we refine the framework based on an analysis of RBS findings. VA will explore the possibility of adding information on Notices of Government Action and incorporating the changes you suggest in your letter into the RBS SOP. We welcome the feedback of the SAAs and other interested parties as we continue refining processes and procedures governing various oversight and compliance activities, including bi-annual compliance surveys, risk-based surveys and targeted risk-based reviews. These oversight and compliance activities are complementary and augment, but do not replace one another, and work together to ensure that education and training providers meet program requirements and deliver on their promises to our Nation's Veterans and their dependents.

Finally, I want to speak to your comments about leveraging data from the Salesforce-based database and the Approval Manager system for prospective GI Bill students. As part of the ongoing Digital GI Bill information technology modernization and integration project, VA will be looking at making enhancements to the GI Bill Comparison Tool, including the display of additional data elements from various sources and the VA systems that you mention, to better assist Veterans and their dependents in making informed choices about where to use their benefits. VA looks forward to your comments and suggestions as we continue the development process.

If you have additional questions regarding SOPs or the implementation of statutory requirements, you may reach out directly to James Ruhlman, Deputy Director, Program Management, VA Education Service, via email at james.ruhlman@va.gov.

Thank you for your continued support of our mission.

Sincerely,



Joseph L. Garcia
Executive Director
Education Service

Enclosure