



March 21, 2024

Department of Veterans Affairs
Freedom of Information Act Services (005R1C)
811 Vermont Avenue, NW
Washington, DC 20420

Dear Sir/Madam,

This is a request under the Freedom of Information Act. I request that a copy of the following documents in the possession of the U.S. Department of Veterans Affairs (VA) be provided to Veterans Education Success. Requests for communications include, but are not limited to, communications to, from, and/or with the Veterans Benefits Administration (VBA) Education Service staff and communications to, from, and/or with the VA Office of General Counsel.

1. All communications to, from, or referencing persons outside of VA, including any and all individuals, schools, colleges, universities, trade schools, institutions of higher learning, associations, corporations, or State Approving Agencies, relating to the Notice of Proposed Rulemaking (NPRM), RIN 2900-AQ89-Proposed Rule-State Approving Agency Jurisdiction Rule (hereinafter AQ89 SAA Jurisdiction).
2. All documents, including, but not limited to, internal communications at VA and communications to or from persons outside of VA, relating to the VBA Education Service's PowerPoint presentation titled: Regulatory Change: AQ89: SAA *Jurisdiction*, dated January 2023, (hereinafter PowerPoint presentation) and/or any draft versions, revisions, or edits of the PowerPoint presentation.
3. All communications, including internal communications at VA and communications to or from persons outside of VA, between January 1, 2019 and March 21, 2024:
 - a. Referencing the definition of "independent study" in 38 C.F.R. § 21.4267(b).
 - b. Relating to changes to the definition of "independent study" in 38 C.F.R. § 21.4267(b).
 - c. Relating to unaccredited online programs' eligibility for VA education benefits.
 - d. Relating to changes to the definition of "distance learning" in 38 C.F.R. § 21.9505.
 - e. Relating to defining the new term "standard curriculum" discussed in the PowerPoint presentation.

- f. Relating to changes to the definition of “resident training” in 38 C.F.R. § 21.7520(b)(22).
4. All documents, including, but not limited to, internal communications at VA and communications to or from persons outside of VA, relating to the legality and/or propriety of using the AQ89 SAA Jurisdiction rulemaking to, as described in the PowerPoint presentation, “change the definition of ‘independent study’ to clarify that simply because a program is online that does not automatically mean it is ‘independent study.’”
5. All communications, including internal communications at VA and communications to or from persons outside of VA, relating to the impetus for deviating from the NPRM in AQ89 SAA Jurisdiction, Document No. 2021-21496.
6. All documents, including, but not limited to, internal communications at VA and communications to or from persons outside of VA, relating to the policy implications of changing “the definition of ‘independent study’ to clarify that simply because a program is online that does not automatically mean it is ‘independent study.’”
7. All documents, including, but not limited to, internal communications at VA and communications to or from persons outside of VA, relating to the policy implications of changing the definition of Distance Learning in 38 C.F.R. § 21.9505 , as described in the PowerPoint presentation, by removing the phrase “to support regular and substantive interaction between the students and the instructor, synchronously or asynchronously.”
8. All documents, including, but not limited to, internal communications at VA and communications to or from persons outside of VA, relating to the Education Services’ Regulatory Impact Analysis for AQ89(P) dated October 14, 2021, any draft versions, revisions, or edits of the Analysis, and any subsequent analyses addressing the removal of online programs as a subset of Independent Study.
9. To the extent not already requested above, all documents relating to any oral communications between January 1, 2019, and March 21, 2024, including, but not limited to, internal communications and communications to, from, with, or referencing persons outside of VA, pertaining to changing the definition of “independent study” and/or pertaining to unaccredited online programs’ becoming eligible for VA education benefits.

I seek a waiver of all fees for this request. Disclosure of the requested information is in the public interest because it is likely to contribute significantly to the public understanding of the activities of the government, and it is not primarily in our commercial interest as we are a nonprofit organization that advocates on behalf of veterans and their families.

I also seek expedited process of the request. With regard to this request, Veterans Education Success is primarily engaged in disseminating information to the public. Our

understanding is that a final regulation will be published in April 2024, and the public has not been provided an opportunity to review or comment on the rule to be published. It is imperative that we receive the information requested as soon as possible so that the public can be informed about VA's rulemaking activities and the consequences of the rule.

If the waiver of fees is not granted and fees will exceed \$25, please contact me immediately. If you need to discuss this request or have any questions, you can reach me at della@vetsedsuccess.org. Thank you for your consideration of this request.

Respectfully,

Della M. Justice

Della M. Justice
Vice President for Legal Affairs