



# **NATIONAL ASSOCIATION OF VETERANS' PROGRAM ADMINISTRATORS**

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## **Veterans' Education Programs Issues and Legislative Talking Points 2021**

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## ***STATEMENT OF PURPOSE***

The National Association of Veterans' Program Administrators (NAVPA) is an organization of institutions and individuals who are involved or interested in the operation of veterans' affairs programs and/or the delivery of services to veterans as Veterans' Education Program Administrators across the country. A Board of Directors elected at our annual conference governs NAVPA. The purpose of NAVPA is to promote professional competency and efficiency through an association of members and others allied with, and involved in, veterans' educational programs and to promote the development, improvement and extension of opportunities to any service member, veteran or dependent of a veteran, for his or her personal growth and development to its fullest potential. This is achieved through assisting with the assessment and attainment of individual needs, communicating and cooperating with communities, schools, agencies and organizations at the local, state, regional and federal levels; developing productive relations with the Department of Veterans Affairs, Department of Education, Department of Defense, and other federal or national Veterans Service Organization or agency serving veterans; participating in efforts to facilitate the education and/or training of educationally or otherwise disadvantaged veterans and to promote cooperative studies, research, evaluation, workshops, seminars, conferences, and other activities as may be desired or required to fulfill the purpose of NAVPA.

## ***MEMBERSHIP***

NAVPA has served as the voice of advocacy for veterans in higher education since its founding in 1975. Our research, training, and policy initiatives have developed programs and support services to ensure veterans achieve their academic and professional goals. NAVPA's membership includes over 380 Institutions of Higher Learning across the nation that represent over 518,000 veterans.

## **TOP LEGISLATIVE AND REGULATORY ISSUES**

### **PRIORITY ISSUE #1**

#### **85-15 VA PROPOSED CHANGES**

**Issue:** The VA announced they are changing the definition and method of calculation of the 85-15 Rule to go in effect July 1, 2021 causing harmful outcomes to student veterans.

**Discussion:** Per the VA training conducted October and November 2020, the VA announced a national reset of the 35% exemption along with new definitions of a Supported and Non-Supported Student:

*There will be a national reset to rescind all 35% Exemptions. This reset is effective: July 1, 2021*

The changes were first announced to be in effect October 1, 2020. However, NAVPA advocated for a delay as schools across the country were unprepared and unable to meet the new complicated calculations for this unexpected change to be implemented in less than 30 days. There were some institutions that were required to submit these new reports by October 30, 2020. At first VA agreed to give these institutions additional time to implement new processes but on October 30, 2020, at 4:10 in the afternoon, VA sent the following email:

*Greetings School Certifying Officials,*

*Earlier this month, VA provided a refresher training titled, "The 85/15 Rule for School Certifying Officials". Portions of the training content originated from the SCO handbook.*

*The purpose of this message is to answer the question posed regarding a reporting due date of October 30th.*

*Each SCO should review the topic "School Responsibilities - 85/15 Rule - "When Do You Report" located in the SCO handbook to determine their appropriate due date(s).*

*Respectfully,  
Education Service*

The SCO Handbook stated that the due date was October 30<sup>th</sup>. NO extension was given.

The new definitions of Supported and Non-Supported students was changed to include all students who were on payment plans or has not paid their tuition and fees in full by the 30<sup>th</sup> day of class (it was first announced to be paid by the 15<sup>th</sup> day of class but later changed the following month by the VA). As can be seen below, 21.4201 defines a supported student as one who has any part of their tuition, fees, or other charges paid by the VA or institution.

Per § 21.4201,

*Department of Veterans Affairs shall not approve an enrollment in any course for an eligible veteran, not already enrolled, for any period during which more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees or other charges paid for them by the educational institution or by the Department of Veterans Affairs*

Per the VA training:

### **Supported Students**

- Any student receiving any amount of VA Education benefits.
- Any student who is granted any waiver or forgiveness of tuition, fees, or other charges.
- Any student where the full amount of tuition and fees has not been paid to the educational institution prior to the start of the 30th day of term start date as reflected in the published academic calendar.
- Any student who receives a loan considered to be **less than** an Arm's Length<sup>1</sup> transaction. For instance, if the school restricts all students from obtaining loans except from specific financial providers.
- Any student where the educational institution accepts less than full tuition, fees, or other charges from a loan company (the repayment works to essentially reduce the tuition, fees, or other charges accepted by the educational institution from the loan company).
- Any student who receives an institutionally funded loan, scholarship, or grant, if the policy for determining the recipient of such aid is designed or applied in an unequal way with respect to veterans and nonveterans alike (i.e. restricted aid).

### **Non-Supported Students**

- Any student who pays the full amount of tuition, fees, and other mandatory charges to the educational institution prior to the start of the 30th day of term start date as reflected in the published academic calendar.
- Any student who finances their tuition, fees, and other mandatory charges through an Arm's Length Transaction (i.e. a Promissory Note with a neutral 3rd party lending facility).
- Any student receiving Title IV Department of Education aid
- Any student receiving Tuition Assistance through the Department of Defense or Department of Homeland Security.
- Any student receiving non-institutional aid (scholarships, grants, or other types of aid offered by a third-party entity not affiliated with the school).
- Any student receiving an institutionally funded loan, scholarship, or grant, if the policy for determining the recipient of such aid is equal with respect to veterans and nonveterans alike (i.e. unrestricted aid).

*NOTE: If the student is receiving multiple types of aid and any of it is Supported, the student must be counted as a Supported Student.*

**Recommendation:** NAVPA is concerned that language presented in the recent training will preclude any GI Bill® recipient the ability to attend their school of choice for the program they seek, due to potential unintended program suspensions under the new definitions of a *Supported Student*. These new definitions include provisions that are not part of 38 CFR, § 21.4201, *Restrictions on enrollment; percentage of students receiving financial support*.

NAVPA is concerned on how the new categories introduced during the training included some previously non-supported students erroneously being classified as Supported Students. We ask

the VA to review the statute and VA training slide decks posted on the VA.gov website that identifies the following language as defining a Supported Student on a payment plan:

*Any student where the full amount of tuition and fees has not been paid to the ETI prior to the reporting date (i.e., no later than 30 days from the start of a term or end of quarter) must be counted as a Supported Student. This includes students on payment plans where the full amount of tuition and fees charged to the student (to include non-certifiable tuition and fees charges such as application fees, transfer fees, meal plans, etc.) is not paid full by the reporting date. So, when students are on a payment plan which goes beyond the reporting date, then that student must be counted as a Supported Student.*

This added language truly gives a false representation of how many Supported Students are calculated, preventing a student from using their benefit at their school of choice or preferred program. Consequently, programs erroneously suspended are damaging to student veterans. Student veterans will be faced with finding other alternative funding, such as loans, with no Monthly Housing Allowance (MHA), or will be unable to continue with their education at their school of choice while using their earned GI Bill® benefit. These changes will create unintentional detrimental consequences for student veterans.

As an example of a current potential consequence of VA's proposed interpretation, given the current global pandemic, many current GI Bill® users are being called up and activated by the National Guard to address the pandemic and other national concerns. If these new calculations were in effect as planned by the VA last October 2020, schools across the nation would have suspended programs as they would be required to erroneously count non-military students as being supported given normal operating procedures for payment plans. Returning troops would not be able to return to their institution and continue using their GI Bill® to complete their educational goals because of a disruption in their program to serve our nation.

We ask this language to be removed since this is not in the CFR and includes cash paying students utilizing a payment plan with a balance past 30-days. NAVPA asks for the help of Congressional leadership to interpret the true intent and spirit of the law as written.

## **PRIORITY ISSUE #2**

### **ROUNDING OUT**

**Issue:** It has been announced by the VA that they are planning to remove the Rounding Out option effective August 1, 2021 preventing student veterans from using their full benefit.

**Discussion:** Per the SCO Handbook:

#### *Rounding Out*

*A VA student can round out a schedule with non-required courses to bring his/her course load up to a full-time schedule in his/her last term only. This allows students to continue to receive benefits*

*at the full-time rate in their last term of enrollment, even though fewer credits are required to complete the program. This procedure can be done only once per program. In rounding out a full-time schedule, VA students may use any credit hour unit subject, including a subject that has previously been successfully completed (received a passing grade).*

*EXAMPLE: A claimant needs to complete 60 credit hours to obtain a B. A. degree. After passing 57 credit hours, the claimant enrolls in four 3-credit-hour courses. VA may pay the Veteran educational assistance for full-time training during this last term.*

**NOTE:** Rounding Out will be phased out for terms beginning on or after August 1, 2021.

NAVPA NOTE: If the student enrolls in additional hours to satisfy full time enrollment per school policy. Not all student veterans need to use this option.

**Recommendation:** NAVPA is concerned this issue will have a negative impact and place an undue burden on student veterans. Without the option of using their full GI Bill® benefits, the student will have to find alternative funding, such as loans, to cover their housing and living expenses during their final semester. There is also the likelihood of the student dropping out of school and not completing their degree requirements due to this unwarranted financial burden.

NAVPA recommends VA continue to support the veteran by allowing the flexibility to obtain full-time status (as needed).

### **PRIORITY ISSUE #3**

#### **PUBLIC LAW 116-315 VETERANS HEALTH CARE AND BENEFITS IMPROVEMENT ACT OF 2020**

**Issue:** Many provisions of P.L. 116-315 had implementation dates of January 5th with no directive from the VA on how these will be applied.

**Discussion:** VA hosted an “Office Hours” on January 27, 2021 to review the recent passage of P.L. 116-315. Although no specific guidance was presented.

NAVPA has concerns regarding Section 1019 which covers overpayment to eligible persons or veterans. In this provision the law calls for schools to be responsible for returning Post 9/11 GI Bill® Chapter 33 overpayments to the VA and then collect the owed tuition from the student through normal school collection processes. This includes overpayments created due to change of enrollments, terminations, or lack of attendance. Main points of concern are as follows:

- VA has no published guidance to the field on this process other than announcing schools should hold on to any refunds normally provided to students pending VA guidance.
- Makes schools responsible for collecting student debt that was previously done by the VA. The intent of this law was to decrease VA overpayments but ultimately just reclassifies it from being a student overpayment to a school overpayment.
- Previously students were able to appeal a debt to the VA and offer mitigation and extenuation. With the VA being billed for repayment of tuition this will no longer be an option to student veterans regardless of mitigating circumstances. Schools will only be able to include a comment on the 1999 form *if* it is known at time of reporting for

extenuating circumstances. Oftentimes student veterans are unable to communicate with the institution the cause of preventing their continued enrollment.

- Student veteran debts to a school that was created by the VA may generate barriers for students to register for future classes until they have addressed the debt to the institution. This could disrupt studies as well as cause financial hardships on a student veteran. Student veterans will not be able to move forward with their school and program of choice until the debt to the institution is cleared.

**Recommendation:** NAVPA is concerned these issues will negatively impact our student veterans. NAVPA recommends a call to action. VA needs to immediately issue training guidance to the field.

NAVPA supports an open dialogue round table with the VA prior to new processes being implemented. These round table discussions will help alleviate any known and unknown issues prior to nationwide execution with the common goal of sustainable workable solutions during transitional periods.

## **PRIORITY ISSUE #4**

### **SCO HANDBOOK UPDATES**

**Issue:** The School Certifying Official (SCO) Handbook has been moved to an online format by the VA. This has created an issue in that little or no communication is sent to the field surrounding updates made to the Handbook.

**Discussion:** At the beginning of June 2020 during the global pandemic, VA moved the SCO Handbook to the E-Benefits platform. There was no formal announcement to SCO's. During this same time, the VA published their announcement of the elimination of Rounding Out in the Handbook but with no notice to schools. Unless an institution was in attendance for VA leadership updates at a conference held in February, schools were uninformed of this change.

During the recent 85/15 announcement, VA had updated the SCO Handbook to reflect the new computational requirement. However, there was never any announcement that the SCO Handbook was updated. Even after VA had rescinded the change, the SCO Handbook was not updated until December with no announcement to the field. This created much confusion for institutions especially those during a VA Compliance Survey due to internal lack of communication. The Handbook tracks revisions posted after the table of contents. Currently, the only way SCO's can be made aware of VA changes is to review the SCO Handbook revisions and check daily.

NAVPA is concerned about the many changes occurring in the SCO Handbook with no communication and how that will affect Compliance Surveys. There are no historical Handbooks for schools or evaluators to access to review a process at that point in time.

**Recommendation:** NAVPA asks that the VA submit all update announcements to SCO's immediately regarding the SCO Handbook users via a formal announcement tool such as the mass

emails received from the VA using the following email methodology: [Veteransbenefits@messages.va.gov](mailto:Veteransbenefits@messages.va.gov) and create a public archive of SCO Handbooks.

## **CONTINUING ISSUE (FROM 2019)**

### **GI BILL® COMPARISON TOOL – COMPLAINT SYSTEM**

**Issue:** Institutions of higher learning receive unvetted/unwarranted complaints against them as part of the Department of Veterans Affairs (VA) GI Bill® feedback system, which is then posted on the public GI Bill® Comparison Tool. Schools have no recourse to remove or refute the complaints from their public-facing profile regardless of the validity of the complaint. This results in higher education institutions erroneously having a “black mark” on their public record that directly impacts a veteran or other VA education beneficiary’s choice in selecting a reputable school and program of study.

**Discussion:** The VA GI Bill® feedback system, allows recipients of VA educational benefits to submit complaints against educational institutions they believe have failed to follow the Principles of Excellence (POE) established under Executive Order, 13607, signed April 27, 2012. While complaints are supposed to be reviewed by the VA and addressed by the institution, not all complaints filed have been true violations of EO 13607 and yet are still posted on the institutions profile for public viewing with no option of removal or refutation by the institution.

VA announced in 2020 that complaints older than 2-years would be removed. However, when the Complaint System was launched January 30, 2014, those original complaints are still posted on the GI Bill® Comparison Tool even though the initial complaint has been resolved. Complaints posted on the public site are not vetted by the VA, have issues with a delimiting date, and are posted after student issues/concerns have been resolved.

The institutions are required to provide a response to the complainant and to VA as soon as possible, but no later than 30 days from the date that the complaint is sent to the school.

Currently, there is no method to notify the institution when the complaint response submitted to the student is considered satisfactory and the issue closed. There is no opportunity for institutions to refute the complaint. Nor are there any known delimiting dates for complaints as they are posted on the GI Bill® Comparison Tool and all complaints are reviewed during Compliance Surveys.

**Recommendation:** VA should review all complaint responses and vet valid student complaints while ensuring non-valid EO 13607 complaints are not published on the GI Bill® Comparison Tool.

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## ***Area of Concern***

### **GRADUATION RATES**

School Certifying Officials (SCO’s) are prevented from reporting a student graduating via VA-ONCE during a term in which the student is not currently using GI Bill® education benefits, even though the student has used their benefits towards the degree. There have been students who



exhaust their GI Bill® benefits before graduating or choose to keep some of their benefit for future use such as a graduate or professional degree/certification.

SCO's are not required to report family members who have graduated using GI Bill® transfer of entitlement. Transfer of benefits occurs while the Veteran is Active Duty and can transfer educational benefits to family members. These students' graduation rates are not currently being tracked by the VA.

NAVPA recommends Congressional support of the partnership between NAVPA, the VA, Department of Education, and other vested parties to identify the best method to track graduation and other academic success measures effectively for all military-connected students regardless of if/when they use their GI Bill® for more accurate data collection.