



NATIONAL ASSOCIATION OF VETERANS' PROGRAM ADMINISTRATORS

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Veterans' Education Programs Issues and Legislative Talking Points 2022

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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 400 Institutions of Higher Learning across the nation that represent over 530,000 veterans.

TOP LEGISLATIVE AND REGULATORY ISSUES

PRIORITY ISSUE #1

85-15 VA CHANGES

Issue: The Department of Veterans Affairs (VA) implemented new definitions and methods of calculating the 85-15 Rule, which went into effect October 1, 2021, and has caused harmful outcomes for student veterans. Overall, the VA's new definitions and methods have limited student veterans' choices of academic options. Many of the eliminated programs have career, STEM, and vocational value to student veterans.

Discussion: Per the VA training conducted in October & November 2020, and again in September 2021, the VA announced a national reset of the 35% exemption along with new definitions of a Supported and Non-Supported Student for the calculation of 85/15 percentages.

Per the VA:

- *There will be a national reset to rescind all 35% Exemptions*
- *This reset is effective October 1, 2021*
- *VA is resetting the 35% Exemption because recent reviews of 85/15 conducted by VA revealed that a number of ETI were not correctly computing the ratio of supported to non-supported students, especially those ETI with the 35% Exemption*

NOTE: ETI is a new identifier for schools from VA

The new definitions of Supported and Non-Supported students were changed to include all students who were on payment plans or has not paid their tuition and fees in full by the 30th day of class (it was first announced to be paid by the 15th 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

To be clear, payment plans are paid by the student, not the institution or the VA making this group of students non-supported by either entity.

Per the SCO Handbook:

Supported Students are:

- ***Any student receiving any amount of VA Education benefits under Title 38 or Title 10***
- *Any student where the full amount of tuition, fees, and other mandatory charges 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 30 days after the end of quarter), unless the student is using an*

*institutionally funded payment plan to pay the full amount of tuition, fees, and other mandatory charges and **all** of the following apply:*

- The availability and requirements of the payment plan policy is published both on the ETI's website and in the ETI's approved catalog*
 - The payment plan is available to any enrolled student interested in participating in such plans*
 - The payment plan explicitly requires the student to pay the outstanding balance by the end of the 85/15 reporting period (academic term or calendar quarter) or by the end of the enrollment period, whichever is later*
 - The payment plan policy prevents the student from training beyond the reporting period unless the outstanding balance is paid in full*
- Any student who is granted any waiver or forgiveness of tuition, fees, or other charges*
 - Any student who receives an institutionally funded scholarship or grant, if the institutional policy for determining the recipient of such aid is not equal with respect to Veterans and non-Veterans alike, excluding graduate students (i.e., restricted aid)*

Non-Supported Students are:

- Any student who pays the full amount of tuition, fees, and other mandatory charges to the ETI prior to the end of the current reporting period (i.e., no later than 30 days from the start of a term or end of quarter)***
- Any student using an institutionally funded payment plan to pay the full amount of tuition, fees, and other mandatory charges when all the following apply:*
 - The availability and requirements of the payment plan policy is published both on the ETI's website and in the ETI's approved catalog*
 - The payment plan is available to any enrolled student interested in participating in such plans*
 - The payment plan explicitly requires the student to pay the outstanding balance by the end of the 85/15 reporting period (academic term or calendar quarter) or by the end of the enrollment period, whichever is later*
 - The payment plan policy prevents the student from training beyond the reporting period unless the outstanding balance is paid in full*
- Any student receiving Title IV Department of Education aid*
- Any student receiving Tuition Assistance through the Department of Defense*
- Graduate students in receipt of institutional aid*
- Any student receiving non-institutional aid (scholarships, grants, or other types of aid offered by a third-party entity not affiliated with the ETI)*
- 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 non-Veterans 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.

Harmful Outcomes of this 85/15 Policy Changes for Student Veterans:

- This added language gives a false representation of how Supported Students are calculated, preventing student veterans from using their benefits at their schools of choice or preferred programs.
- 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 have unintentional detrimental consequences for student veterans. Our membership is reporting several of their programs are not in compliance under these new definitions and have NO student veterans or GI Bill® users enrolled. These institutions are facing programs suspended by the VA where student veterans will be unable to enroll.
- Another concern of NAVPA is that many of these programs have been identified as first responders or STEM programs. With the current pandemic, our country should not be limiting these types of degree programs to our student veterans.
- As an example of a current potential consequence of VA's new 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. As these new calculations go into effect by the VA, schools are encountering potential suspended programs across the nation as they are now required to erroneously count non-military students as being supported by the institution given normal operating procedures for payment plans. Returning troops will 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.
- On another note, these new guidelines from the VA on what constitutes an acceptable payment plan were not announced until the end of September 2021. Most institutions across the nation would already have a catalog or school bulletin published for the Fall semester and submitted for approval to the State Approving Agency within the 30-day VA requirement. In order for those schools who did not meet all the VA requirements listed in the September announcement, the school would need to address internal policy and procedures and have these published on their school website and in the respective catalog/bulletin if approved by school leadership.

Recommendation:

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 to protect the student veteran and their GI Bill® to attend the approved school and program of their choice.

PRIORITY ISSUE #2

SECTION 1019 IMPLEMENTATION

Issue: The VA's interpreting the new law as applying to all debts to institutions regardless of how or when the debts were created.

Discussion: Per Section 1019 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116-315),

SEC. 1019. OVERPAYMENTS TO ELIGIBLE PERSONS OR VETERANS.

(a) IN GENERAL. — Subsection (b) of section 3685 of title 38, United States Code, is amended to read as follows:

(b) “(b) Any overpayment to a veteran or eligible person with respect to pursuit by the veteran or eligible person of a program of education at an educational institution shall constitute a liability of the educational institution to the United States if— “(1) the Secretary finds that the overpayment has been made as the result of—

“(A) the willful or negligent failure of an educational institution to report, as required under this chapter or chapter 34 or 35 of this title, to the Department of Veterans Affairs excessive absences from a course, or discontinuance or interruption of a course by the veteran or eligible person; or

“(B) the willful or negligent false certification by an educational institution; or “(2) the benefit payment sent to an educational institution on behalf of an eligible veteran or person is made pursuant to— “(A) section 3313(h) of this title; “(B) section 3317 of this title; or “(C) section 3680(d) of this title; or “(D) section 3320(d) of this title.”. (b) CLARIFYING AMENDMENT. — Subsection (a) of such section is further amended by inserting “relating to educational assistance under a law administered by the Secretary” after “made to a veteran or eligible person”.

EXAMPLES: Several student veterans received tuition and fees paid directly to them last summer (instead of being paid to the institution per VA procedures). The VA sent overpayment letters to the institutions requesting monies never received by the schools to be returned to the VA.

The VA has determined some GI Bill® recipients were paid Chapter 33 benefits incorrectly, such as TOE beneficiaries whose active-duty family member did not meet retention requirements prior to January 2021. NAVPA members are reporting this includes tuition payments as far back as 2010. The VA has sent overpayment letters to the institutions requesting monies be returned.

NOTE: These are real world examples reported by NAVPA members and totaling thousands of dollars.

Issues from this Policy Change:

- NAVPA is concerned this issue is creating a negative impact and place an undue financial burden on student veterans. With a balance on the students' ledger card, they will not be able to register for upcoming semesters creating an unwarranted financial hardship on the student veteran. They may be faced with leaving their school of choice and enroll at a different institution, but with a balance and owing their previous school monies, they

will not be able to obtain an official copy of their transcripts. Without an official copy of their transcripts, the student veteran will not be able to transfer in courses already successfully completed. This creates a domino effect causing the student to retake courses that were already successfully completed and paid for with their GI Bill® or have the student retake the same courses and pay out of pocket or possibly with student loans.

- There is also the likelihood of the student dropping out of school and not completing their degree requirements due to this unwarranted financial burden.
- As schools are receiving these debt letters from the VA for non-active student veterans, the monies are returned to the VA then the student is responsible for paying the tuition and fees that were paid on their behalf by the VA. NAVPA membership is reporting many students have graduated years ago or have stopped attending the institution making it impossible for the school to contact the student regarding this new debt. These students are placed into collections causing unforeseen consequences and impacting their credit score unbeknownst to the student.

Recommendation:

NAVPA recommends VA follow the law as written and administer valid student debt to the student. VA has the authority to work with these students with payment plans or forgive the debt altogether based on extenuating circumstances.

PRIORITY ISSUE #3

ARMY IGNITED

Issue: After 12-months of implementation of Army IgnitED, the new system is still dysfunctional and inoperable, preventing soldiers from attending school and using their TA benefit.

Discussion: The US Army implemented a new data processor to administer Federal Tuition Assistance (TA) for soldiers. Army IgnitED went live February 2021. Several training sessions were conducted in 2021 with institutions to learn new data processes.

Several issues have arisen with the new system that is preventing soldiers from using TA to attend school.

- Schools have submitted several technological issues to Army as a work order. These are called SNOW cases. Many schools are reporting they have been told by Army IgnitED that these cases have gone unmonitored for several months.
- Army IgnitED has experienced many technical difficulties with data input issues.
- Schools have no means to verify if required data uploads were successful.

Recommendation: NAVPA is concerned these issues have negatively impacted our student soldiers. NAVPA recommends a call to action. US Army needs to immediately issue a pause on implementation and address the following with institutions:

- Ask for feedback
- Increase transparency
- Add human resources to address processing issues

NAVPA supports an open dialogue roundtable with Army to new procedures being implemented that affects student soldiers. These roundtable 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

NEW THIRD-PARTY COMPLIANCE SURVEYS

Issue: The new third-party contractor, Saint George Consulting, are contacting schools to conduct an in-person Compliance Survey regardless of when the institution last completed their review.

Discussion: The VA announced at the end of November 2021 that schools:

“may be contacted by staff from St. George Consulting Inc. regarding a compliance survey. VA has contracted with Saint George Inc. to support expanded compliance survey capabilities.”

NAVPA has received several reports from members that they are being contacted from Saint George for an in-person Compliance Survey. Some of these members have shared that it has been less than 6-months since their last Compliance Survey conducted by either the VA or the SAA. Other members have been told by Saint George that previous Compliance Surveys no longer count regardless if they were conducted virtually or in-person.

Per the SCO Handbook:

The law requires that periodic surveys be conducted at educational institutions. The two main purposes of these surveys are to (1) ensure that VA payments going to the school and students enrolled at the school are based upon proper and correct enrollment information as furnished by the school to VA; and, (2) assist school and training officials and students in understanding the requirements of the law in order to prevent deficiencies or violations which could develop because of misunderstandings or misinterpretations of the law.

Compliance Surveys are usually conducted on-site however, under certain conditions, a remote survey review option could be used. The remote survey option is intended to make more efficient use of time and funds expended for travel while conducting compliance survey reviews. Remote reviews are intended to supplement, rather than replace, personal contact.

Remote Survey Option

A remote survey review can be conducted if the following circumstances are met:

- a. The IHL/NCD has been surveyed at least once on-site*
- b. The facility agrees to complete the review remotely*
- c. The facility agrees to submit copies of specified documents regarding each student to be surveyed*
- d. Documents submitted by school must be delivered with a tracking device*

During the pandemic lockdown, many institutions were required by the VA to participate in a remote survey.

From a communication from Saint George Consulting:

In July of 2021, Saint George Consulting (SGC) was contracted to conduct on-site compliance survey's (sic) by the Department of Veterans Affairs (VA). The VA provided SGC a list of 2500 Educational Training Institutions (ETIs) we are contractually obligated to survey.

The contract explicitly denies SGC the ability to conduct remote, consolidated or centralized survey's (sic). Additionally, the VA has asked us to survey all the ETI's on our list regardless (sic) if the ETI previously had a remote, consolidated or centralized survey conducted in 2020 or 2021. As such we are required to reach out to all 2500 ETIs and schedule surveys.

NAVPA is concerned with the many changes occurring in the VA spectrum with no communication and how this will affect Compliance Surveys. There are questionable protocols, if true, in this contract with Saint George Consulting.

Recommendation: While NAVPA understand the necessity of a Compliance Survey, NAVPA asks that the VA be good stewards of taxpayer monies to ensure schools are not redundantly completing a Compliance Survey unnecessarily.

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, it appears that the GI Bill® Comparison Tool has not been updated in a timely manner. 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. Nor are schools notified when complaints have been removed from the public facing GI Bill® Comparison Tool. There is no opportunity for institutions to refute a complaint. There are no 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.

Areas of Concern

ELR AND VA STAFFING SHORTAGE

There have been recent job postings by the VA for ELRs across the nation. It is our understanding that the VA is experiencing a major employee shortage. This has been realized in the SCO community from lack of communication from ELRs, missing WEAMS report updates and lack of catalog approvals.

With the insurmountable number of changes from the VA and implementations of new legislation, it is imperative that responses and questions from institutions are answered and timely. Oftentimes, schools go months without a response or never receive an answer. NAVPA members are reporting they are still waiting for an updated WEAMS report from their ELR from 2020 & 2021.

NAVPA recommends VA review the current organizational structure and internal policy and procedures to help retain current, productive, and efficient VA employees. A stabilized and trained VA workforce will ensure communication and support functions are in place to better serve our student veteran population and support the institutions administering the GI Bill®.

CHAPTER 33 STUDY ABROAD

NAVPA members are reporting that current guidance and scenarios in the published SCO Handbook does not support the VA Office Hours training administered in December 2019 regarding Study Abroad. The training and examples differ greatly creating confusion in administering GI Bill® benefits.

NAVPA recommends the VA update the training and SCO Handbook to reflect continuity, accuracy, and standardization of all materials to include the FAQ handout for Study Abroad.