

LESS IS MORE: THE IMPACT OF
BUREAUCRATIC RED TAPE ON
VETERANS EDUCATION BENEFITS

HEARING
BEFORE THE
SUBCOMMITTEE ON ECONOMIC
OPPORTUNITY
OF THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

WEDNESDAY, SEPTEMBER 20, 2023

Serial No. 118-31

Printed for the use of the Committee on Veterans' Affairs



Available via <http://govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

WASHINGTON : 2024

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U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:02 a.m., in room 360, Cannon House Office Building, Hon. Derrick Van Orden (chairman of the subcommittee) presiding.

Present: Representatives Van Orden, Franklin, Ciscomani, Levin, Mrvan, McGarvey, and Ramirez.

OPENING STATEMENT OF DERRICK VAN ORDEN, CHAIRMAN

Mr. VAN ORDEN. You all right? Guess that was a little aggressive. Hey, good morning, everybody. I really appreciate you coming here. The subcommittee will come to order. It is very good to see you here again, and I am glad that you are here. I would like to preface this, as I do with everything, this committee is not a bipartisan committee. It is a nonpartisan committee. Anybody gets out of line either side of this aisle, I will bring them back in, because we are just not doing that. We are just not. That is for the record. We got our gear working this time, right, Mr. Garcia?

Mr. GARCIA. Yes, sir.

Mr. VAN ORDEN. Okay. I tell you what, we had some issues, and I do not mean you. I mean me and these guys. It is good. It is a pleasure to have you all here. Over the last 4 years, the Subcommittee on Economic Opportunity has passed legislation that has greatly improved the veterans access to their GI benefits, which are earned, not given, and has protected them from fraud and other outside factors. Much of this legislation was passed under the leadership of my friend and colleague, Mr. Levin. I appreciate the ranking member and his staff for continuing to work with us in a nonpartisan way as we continue to work with improving the VA system that our subcommittee has jurisdiction over.

Today, our subcommittee comes together to examine the state of the GI Bill and the Education Service. Let me make it clear, I believe this, Mr. Garcia, that your intentions are pure and your staff and the Secretary of Veterans Affairs and I have a very good but somewhat complicated political relationship, as you do. I do believe that the Secretary's intentions are pure. I absolutely know that my ranking members' intentions are pure along with the rest of these

folks. The sole stated intent and our purpose here today is to make sure that our veterans have the best possible access seamless to these educational benefits. Let us lock arms and march together.

Last year, though, however, the subcommittee has also seen you guys getting in the way of yourself and making it harder for our veterans to access their earned benefits. That is an issue. That is what we are here to talk about today.

Last Congress, the House and Senate had to pass an emergency legislative fix for the 85/15 Rule because you had altered their interpretation, your interpretation of the statute, without telling the schools or Congress. If a fix had not been made, thousands of GI Bill students would not have gotten their benefits.

Earlier this year, our committee sent a letter to the Secretary asking for delay of the release of the Enrollment Manager because the VA decided to implement it at the beginning of the semester, when the majority of schools certify student veterans. We have heard additional concerns from the veterans and schools about how the VA interprets Section 1015 waiver authority and the VA's lack of communication with school certifying officials (SCO). This has become a pattern of behavior with the Veterans Benefits Administration (VBA), and it is increasingly frustrating to us and the schools and the veterans.

VA's most recent example of getting in the way of itself is the risk-based surveys. Congress intended for risk-based surveys to be used when the VA and the state approving agencies believe there is an issue with concern. I am going to say the quiet part out loud. We screwed this up. I am using the word we because I have been in Congress for 5 minutes. We had really good intentions, and how we communicated them to you was just wrong. We set parameters that are not good. They are not reasonable. They are not realistic. We are taking that one on the chin. Time to do some truth telling, right?

Unfortunately, you guys have mandated a certain number of risk-based surveys to be performed regardless of whether there is an issue with the number of schools, at that number of schools. This is completely unnecessary red tape and not at all the intent of the law when it was passed. Risk-based surveys were intended to be used as a tool to review schools providing questionable services to veterans and hold them accountable to the veterans they serve. I believe that the VA generally has done good work in the education space. There are many success stories in this area, and we applaud everyone for the work they have done to achieve the ability of our veterans to get education.

However, we are going to hold you guys to the highest standard. That is just it as you try to do yourself. Congress should not have to continuously be called to intervene in your administration of educational benefits, especially when the number of Education Services staff has risen from 75 at the implementation of the post-911 GI Bill to 231 today.

With more people working at the VA today, there should be a better level of service. Once again, I am very thankful that you are here today, and I am looking forward to getting this done. With that, I yield to the ranking member for his opening remarks.

OPENING STATEMENT OF MIKE LEVIN, RANKING MEMBER

Mr. LEVIN. Thank you, Mr. Chairman. I appreciate you all being here. Oftentimes, government regulations are written after misconduct and negligence lead to disastrous consequences. For our subcommittee, those consequences are usually wasted taxpayer dollars and broken promises to our veterans. I am proud that we have responded by establishing strong policies to prevent similar abuses in the future.

To be clear, I think there are legitimate complaints regarding the way VA has implemented some policies, and we are here today to ask VA to refine some things. However, we are talking about refining process, not rolling back underlying protections for veterans. These protections were hard won after decades of fly by-night predatory schools targeting veterans for their earned benefits. It is critical that this subcommittee and VA continue to police bad actors because the GI Bill is a transition benefit. It is a key component of reintegrating service members into civil society and closing the opportunity gaps with their peers who did not serve.

That being said, I have real concerns about how VA is implementing risk-based surveys, and I can empathize with the frustration coming from schools. I hope to learn more from VA today on how the Department plans to move forward with these protections and utilize risk factors to prioritize reviewing potential bad actors targeting veterans and their earned benefits. Congressional intent was that risk-based surveys should be used when schools have grossly failed at one of the standards in law, not that they should duplicate compliance surveys.

I also look forward to hearing from our partners from the state approving agencies, the schools, the Veterans Service Organization (VSO) community, and the program administrators. I see some of them are already here. Glad you all could join us today. Thank you for the work that you do and for the direct impact you have on veterans and their families. The feedback from the people you all represent will help us review and refine GI Bill processes as we focus on serving veterans and protecting their earned benefits.

Last, Mr. Chairman, I just want to say I am excited to come to Wisconsin to join you for a field hearing in the coming months. I hope the weather is as good in Wisconsin as it was in San Diego when you came to visit us a few months ago.

Mr. VAN ORDEN. The chances——of that are zero.

Mr. LEVIN. With that, I will yield back. Thank you.

Mr. VAN ORDEN. Thank you, Ranking Member Levin. I will now introduce our witness panel. Our first witness is Mr. Joseph Garcia, the Executive Director of Education Services at the Department of Veterans Affairs. Mr. Garcia is accompanied by Mr. James Ruhlman, the Deputy Director of Program Management at Education Services. Our second witness is Mr. Joseph Wescott, the Legislative Director for the National Association of State Approving Agencies.

I will ask the witnesses to please stand and raise your right hand.

[Witnesses sworn.]

Very well. Thank you. Let the record reflect the witnesses have answered in the affirmative. Mr. Garcia, you are now recognized

for 5 minutes to deliver your testimony on behalf of the Department of Veterans Affairs.

STATEMENT OF JOSEPH GARCIA

Mr. GARCIA. Good morning, Chairman Van Orden, Ranking Member Levin, and other members of the subcommittee. Thank you for the opportunity to discuss VA's education benefit programs. With me today is James Ruhlman, Deputy Director Program Management, Education Service. Today, I will highlight VA's partnership with the State approving agencies, SAAs, and the National Association of State Approving Agencies, NASAA, to provide program oversight, which is more important than ever before. There are more schools, more training programs, and more options for students.

As part of our oversight efforts, VA works in collaboration with SAAs to perform risk-based surveys (RBS). Risk-based surveys have three principal objectives. First, they provide a mechanism for SAAs to review and mitigate potential fraud, waste, and abuse by using data and risk factors that are outside of the normal program approval and compliance survey process. Second, RBSs allow the SAAs to verify the propriety of benefits paid to education and training institutions under the provisions of the laws administered by VA. Third, if risks are confirmed, corrective action is promptly initiated.

These surveys are an important tool in assuring that institutions are meeting and maintaining VA's approval requirements. The Fiscal Year 2023 cooperative agreements between VA and SAAs requires the completion of 1,308 RBSs. As of September 13, 2023, 1,195 have been conducted. Due to the RBS findings, 55 educational and training institutions have been withdrawn from GI Bill participating in the program.

VA has worked with NASAA to adjust RBS thresholds and revise the Standard Operating Procedures Guide and worksheets for Fiscal Year 2024. Improvements in the RBS process are ongoing. An RBS workgroup was formed by NASAA and Education Service leadership to discuss best practices, gaps, and other areas of concern. The workgroup remains committed to continued improvement, refining the RBS model, guidance, and tools based on SAA feedback and data driven findings.

I would like to take the opportunity to also highlight VA's ongoing focus on employment opportunities for veterans. The Veterans Employment Through Technology Education Courses, or VET TEC program, provide participants computer training through select providers to advance careers in high technology industry. Due to high demand, allocated funds tend to run out before the end of the fiscal year. However, as participants exit the program for various reasons, funds are de-obligated and become available for new enrollments. Past practice was to wait for the upcoming Fiscal Year to start new enrollment. However, the program is entering its final year of the 5-year pilot.

VA wanted to ensure as many veterans as possible had the opportunity to train through this program. As such, VA developed and executed a plan and outreach campaign to allow new VET TEC participants to enroll through the use of the de-obligated funds. In

a matter of days, VA received over 6,000 new applications and over 300 participants are now enrolled. These numbers exceed what typically occurs in a month, and over 6 million of the 13 million that was de-obligated has been reallocated. Average salary for the VET TEC graduates is 66,000, employment secured in an average of 57 days. The success of this initiative is proof of the importance of keeping the veterans first in mind.

As a final point, I would like to express our thanks to NASAA and our SAA partners. Their ongoing commitment ensures accurate and timely delivery of high-quality educational benefits to veterans and their families. Mr. Chairman, VA looks forward to continued opportunities of working with Congress to provide the best possible GI Bill experience for our veterans. This concludes my testimony. My colleague and I look forward to answering any questions you or other members of the subcommittee may have.

[THE PREPARED STATEMENT OF JOSEPH GARCIA APPEARS IN THE APPENDIX]

Mr. VAN ORDEN. Thank you, Mr. Garcia. The written statement of Mr. Garcia will be entered into the hearing record. Mr. Wescott, you are now recognized for 5 minutes to deliver your testimony.

STATEMENT OF JOSEPH WESCOTT

Mr. WESCOTT. Chairman Van Orden, Ranking Member Levin, and members of the Subcommittee on Economic Opportunity, I am pleased to appear before you today on behalf of the 52-member state agencies of the National Association of State Approving Agencies. I appreciate the opportunity to provide comments to this committee pertaining to the impact of bureaucratic red tape on veterans' education benefits. I am accompanied today by NASAA President Frank Myers.

Today, 52 SAAs in 49 states, as well as the District of Columbia and the Territory of Puerto Rico, composed of only 215 personnel, are supervising over 13,000 active facilities and nearly 220,000 programs. SAAs work in collaboration with the VA and our other partners, such as National Association of Veterans' Program Administrators (NAVPA), to promote and safeguard quality education and training programs for veterans and to assist the VA in preventing fraud, waste, and abuse.

NASAA believes the primary responsibility and focus of the SAAs is, and should continue to be, to review, evaluate, and approve programs at schools and training facilities utilizing State and Federal criteria. We do this through an approval process that allows us to carefully evaluate many factors, including curriculum, instructors, and the facilities themselves. We take this responsibility seriously and consider ourselves the gatekeepers of quality by ensuring only quality programs are approved.

Congress rightly concerned that inadequate oversight allowed some bad actors to prey on veterans and too often closed their doors with little warning. Included in the Colmery Act of 2017, provisions that for the first time allowed SAAs to perform risk-based survey, NASAA, emboldened by congressional action and recognizing that compliance surveys alone could not address quality and risk, approached the Lumina Foundation in the summer of 2019 for a grant to provide funding to develop and test an oversight model.

The end result was a model that looked at meaningful metrics, was programmatic in application, and most importantly, veteran centric. In other words, the model could determine if schools were offering quality programs which kept the promise of better jobs and opportunities.

The key to the model's success was that it allowed SAAs to focus their risk-based survey visits on those institutions most likely to present risk. This is why a searchable and comprehensive data base that SAAs can access was and still is absolutely necessary for success.

State approving agencies are adamant about only approving quality programs that provide good jobs and a better future for our veterans and their families. Unfortunately, in recent years, VA interpretation of certain laws have resulted in requirements that led to some schools deciding to withdraw from the GI Bill program or being unable to participate. An example of this is requiring accredited institutions to offer Title IV funding. Unfortunately, the requirement as interpreted and written has resulted in numerous seminary, pastoral, and religious training programs, as well as several medical training programs being withdrawn due to a situation where accredited facilities are unable to participate in the program but nonaccredited ones are.

Likewise, the VA's interpretation that all institutions, including small Non-College Degrees (NCDs), apprenticeships, and On the Job Trainings (OJTs), must undergo hours of certification training and provide their personal Social Security numbers to gain access to the new VA certification software, has resulted in quality training establishments requesting to be withdrawn.

In the past year, largely due to the leadership of Director Garcia, communications between the VA and state approving agencies have improved markedly. Likewise, we sense a renewed commitment to partnership. However, if we are to be successful in assuring the long-term success of the GI Bill educational program, there must be a renewed commitment to this historic State and Federal partnership. Mr. Chairman, today SAAs throughout this great Nation are diligently working with our VA partners, VSO stakeholders, and educational institutions to protect the quality and integrity of the GI Bill, and to ensure that our veterans and their families have unfettered success, access to quality training and educational programs. Thank you again for this opportunity, and I look forward to answering any questions that your committee members may have.

[THE PREPARED STATEMENT OF JOSEPH WESCOTT APPEARS IN THE APPENDIX]

Mr. VAN ORDEN. Thank you, Mr. Wescott. The written testimony or statement of Mr. Wescott will be entered into the hearing record. We are now going to proceed to questioning. You are going to see that clock in front of you. I see the same thing, and I am not going to ask you, I am going to tell you that 5 minutes is 5 minutes. That is for me, too. The chair will now recognize himself for 5 minutes. That is me.

Mr. Garcia, Mr. Wescott has brought up a very salient point in that we seem to be having a declining number of schools participating in this program. The stated goal of this program and your

job and mine and all of ours up here is to make sure we have well educated veterans. Can you like spit ball how many schools have self-selected out of this program recently?

Mr. GARCIA. Sir, I believe what Mr. Wescott is referring to is Enrollment Manager, which was a release as part of the Digital GI Bill in March 2023. We were very proactive with the Customer Experience Group to assist all schools, and it was very well received by the schools in the transition and we want to do more things permanently like that going in the future.

It is a requirement to use id.mellogin.gov for credentials to protect that information for both the school certifying official and the school. We have partnered and listened to NASAA. We have made an exception for 90 days to accept paper for OJT and apprentice programs because they may have issues getting in. We continue to work with them. We will reassess that after October 31 to see what needs to be done.

Mr. VAN ORDEN. I understand.

Mr. GARCIA. We are providing training for them.

Mr. VAN ORDEN. Mr. Garcia, I understand. Are there more schools now participating in this program than there were previously? Are there more or less? There are less. Let us, listen, man, regulations and programs are designed to make things better and more fluid and easier so you can accomplish a task. If the regulation is getting in the way of accomplishing a mission, then the regulation needs to be looked at. It is pretty simple.

You guys have implemented a quota system? This is correct. So, X, so certain schools will have to do X amount of these risk-based surveys, right? Like school X has to do 10 of these and you assign that number. Is that correct?

Mr. GARCIA. We assign assignments of risk-based surveys and other supervisory visits to the states, yes, sir. That is being finalized now. That will go out effective 1 October.

Mr. VAN ORDEN. I get it. You were in the service. I respect your service, Mr. Garcia. You know that you send troops out to the pumpkin patch and you say, bring me back 10 pumpkins, they are bringing back 10 pumpkins. If you tell them to go out and pick pumpkins, they are going to come back with 100, right? My concern with establishing quotas is this, if you say school access to do 10 of these risk-based surveys, they are doing 10, when in fact they may only have to do nine or they should be doing 11.

When you artificially impose these things on these different groups that have, you know, the real touch with their students and they understand the vibe that is going on there, I think that we are not serving our veterans well because we are either putting on too much an administrative burden on these institutions. Or on the other side, we are not making sure that we are preventing as much fraud as possible.

I am going to ask you to really rethink what you are doing and have a much more open line of communications with these schools concerning the risk-based surveys. That we had the chance to talk about how these are implemented. You got 24 hours to do this and that. I want to continue to engage with you and your staff and the schools to make sure that we work this out appropriately.

Mr. GARCIA. Yes.

Mr. VAN ORDEN. Mr. Wescott, I have 1 minute, 9 seconds. In your testimony, you indicated that NASAA and the Education Council undertook the pilot designed by convening an Advisory Council of 22 members representing student veterans, state approving agencies, schools, accreditors, states, and other experts. You also stated that the Advisory Council members developed a model of oversight. Did the VA utilize this model that you developed or some of its tenant in developing the risk-based surveys, to your knowledge?

Mr. WESCOTT. They did not utilize the model as we developed it. Over the course of a year, they revised many elements within the model. Of course, we did not get a data base, which is critical, as I said earlier, to implementing that model, you know. That has been a personal concern of mine because I was in this from the beginning.

Mr. VAN ORDEN. You guys did a whole bunch of work, compiled a whole bunch of stuff. You gave it to some people and they did not act on it.

Mr. WESCOTT. Well, and we gave them a finished product, basically.

Mr. VAN ORDEN. Okay.

Mr. WESCOTT. That worked, that we had data, that we had proven worked.

Mr. VAN ORDEN. Very well. Let us try that again. With that, my time has expired. I now recognize Ranking Member Levin for 5 minutes.

Mr. LEVIN. Thank you, Mr. Chairman. Mr. Garcia, the Isakson-Roe Act set forth eight factors that would prompt a risk-based survey. Can you explain how VA is utilizing those eight factors?

Mr. GARCIA. Yes, sir. Two of those would trigger a risk-based survey.

Mr. LEVIN. Could you explain? I will repeat the question. Could you explain how VA is utilizing those eight factors?

Mr. GARCIA. Yes, sir. Like you say, they are identified and then based on the model and what looks like a potential risk association with the school, then if two of those factors are triggered, again, things like rapid increase in veteran enrollment, 90/10 violation, 85/15, there is a list that you know of. If at least two of those factors are identified or triggered, then that would be a risk-based survey.

Mr. LEVIN. Got it. You brought up rapid increase in enrollment. Has VA selected the school with the largest enrollment increase over the last year?

Mr. GARCIA. Sir, I am not sure how the numbers play out, but you are right. We do not want to have a school that went from four to eight, right? That is a rapid increase of over 30 percent, the same as a larger school that had a 35 percent increase. We evaluate based on that information.

Mr. LEVIN. It would follow that if you are using the factors in Isakson-Roe that you would have in fact reviewed that school?

Mr. GARCIA. We would have looked at the information to start, but then there is judgment by the SAAs to determine if in fact that school had visited. There, to me there would be some qualitative data to assess.

Mr. LEVIN. Okay. Maybe you can take that question back and figure it out. Isakson-Roe also set forth the requirement that educational programs need to either participate in the Department of Education Title IV programs or receive a waiver from VA. How does that waiver process work?

Mr. GARCIA. Yes, sir. As you know, we want Title IV and GI Bill delivery benefits to be used, right? If not, then the veteran does not have access to Federal loans, Federal grants, that kind of thing. If they do not have access to Title IV, it might be more expensive private loans. We would grant a waiver if the school could not participate for whatever reason, in Title IV. That would generate a waiver. We would not generate a waiver just because that school does not want to, okay? That is the difference.

Mr. LEVIN. Mr. Wescott, can I get your input on the waiver process? How you think it is going?

Mr. WESCOTT. Well, I, of course, disagree with that. I think that SAAS, when we approve programs, are very careful to make sure that those programs are quality. I will give you a quick example, sir, and that is in North Carolina, we had to withdraw Reform Theological Seminary because they simply did not wish to, you know, be involved with Title IV. A fine seminary, a seminary that had been approved for many years. There was no reason for that to be the case, and there should have been a waiver granted.

Mr. LEVIN. Mr. Garcia, I will turn back to you. We have heard concerns from schools regarding a lack of transparency with the process by which complaints submitted via the GI Bill School Feedback tool are posted to the GI Bill comparison tool. First, the statute requires VA to publish, and I quote, "only feedback that conforms with criteria for relevancy that the Secretary shall determine." Can you please describe this internal review process and most importantly, who is responsible?

Mr. GARCIA. Yes, sir. The complaints are reviewed and validated before they are submitted for the comparison tool. That is something that, in fact, James' section, Mr. Ruhlman's section looks at, and then they are provided to another section that actually uploads them. If there is an error or mistake, and that could happen, I have gotten emails from a school that says, hey, looks like that was posted erroneously, we deal with it and take it down if necessary. We are open to if something like that occurred by mistake.

Mr. LEVIN. Who is responsible?

Mr. GARCIA. I would say I am responsible.

Mr. LEVIN. You are responsible. Okay, good. Second, the statute requires VA to allow schools, and I quote, "to verify feedback and address issues regarding feedback before the feedback is published." Same question what is the process and who is responsible?

Mr. GARCIA. It is going to be the same process. It would be me.

Mr. LEVIN. You are responsible?

Mr. GARCIA. Yes, sir, I am responsible.

Mr. LEVIN. All right, that is good to know. You heard it here. Another question for you with the time I have left. Schools are given just a few days to prepare for risk-based surveys. Is this an appropriate timeline? Should the timeline be the same for all risk-based surveys? Or should higher risk or lower risk cases change the timeline?

Mr. GARCIA. There is a different timeline across compliance surveys, risk-based surveys, and targeted risk-based surveys. Targeted risk-based surveys, there is a known issue there, and that is the one that could be one day or less. I think there is legislation to make it 2 days, but they are quick notice on a targeted risk-based surveys where there are known issues to address.

Mr. LEVIN. Thanks for your time. I yield back.

Mr. VAN ORDEN. Thank you, Ranking Member Levin. The chair now recognizes Mr. Franklin from the great State of Florida for 5 minutes.

Mr. FRANKLIN. Thank you, Mr. Chairman and ranking member. Appreciate you holding the hearing today. Thank you, gentlemen, for spending time with us this morning. Kind of reiterating what they had stated in opening comments. This is about veterans. This is about how to improve the product that we deliver. We are all inside this room deliberating it today, but this is all about those who are not in the room, so we keep that in mind.

You know, we will often put in bureaucratic measures with good reason. Over time, it is inevitable, you need, at a minimum, course corrections. Sometimes, if there are problems, we need to really take a deeper look at those.

Kind of piggybacking on that last question, I did want to ask Mr. Garcia, the risk-based surveys my understanding are limited to only providing one business days' notice. Is that correct as it stands now?

Mr. GARCIA. Sir, that is on targeted risk-based surveys?

Mr. FRANKLIN. Yes, targeted risk, okay.

Mr. GARCIA. Yes, sir.

Mr. FRANKLIN. The idea there, I guess, is the suspicion is they are doing something wrong. You do not want to have them cover their tracks, so you want to catch them in the act?

Mr. GARCIA. Yes, sir.

Mr. FRANKLIN. Okay. Of the risk-based surveys that you have done, how many did you say you have done so far this year?

Mr. GARCIA. Close to 1,200.

Mr. FRANKLIN. How many of those are targeted versus just routine RBSs?

Mr. GARCIA. Targeted risk-based surveys, about 167 have been completed.

Mr. FRANKLIN. Okay.

Mr. GARCIA. Versus the roughly 1,200 for the risk-based surveys.

Mr. FRANKLIN. Okay. But even the rest of those still have a day's notice for an RBS?

Mr. GARCIA. They should have more days' notice on an RBS, not the targeted risk-based surveys.

Mr. FRANKLIN. Okay. Mr. Wescott, how many typically do you see for just a routine risk-based survey?

Mr. WESCOTT. Well, I can tell you, sir, when we built that model, it was at least 30 days, because the idea was that they would send us the information that we would review advertising, financial stability, and those things prior to us getting onsite, so that when we got onsite, we could look at things and talk to veterans that were necessary.

Mr. FRANKLIN. So, in practice though, are they getting 30 days?

Mr. WESCOTT. I am sorry?

Mr. FRANKLIN. You said when designed they were supposed to give 30 days, but in practice——

Mr. WESCOTT. Right.

Mr. FRANKLIN [continuing]. is that what routine risk-based surveys are getting now, 30 days?

Mr. WESCOTT. Sadly, they are sometimes less than that.

Mr. FRANKLIN. Like how much less?

Mr. WESCOTT. Twenty-something.

Mr. FRANKLIN. Because really, an institution, any organization that is not anticipating this basically has to stop in their tracks and accommodate that so, that is——

Mr. WESCOTT. It should be 30 days.

Mr. FRANKLIN. Should be, okay. The 2023 cooperative agreement says that VA and SAAs must complete 1,308 RBSs. That is a very specific number. Mr. Garcia, can you tell me how you arrive at that specific a number?

Mr. GARCIA. Yes, sir. Every year we look at, again, the risk factors, the data base that shows past risk-based surveys to kind of predict what we are going to look at next year. I will say that for 2024, we are looking at about a 40 percent drop in risk-based surveys compared to the previous year. We are looking at things like a supervisory visit, a two-for-one ratio. If you do two supervisory visits, that would count as a risk-based survey. We are working to try and determine what the optimal number is.

Mr. FRANKLIN. That actually leads me into another question. We have gotten some feedback from those who are getting these inspections, these surveys, that oftentimes they feel that it really should be a compliance inspection, but instead the RBSs are being used instead. Would you agree with that? If we are changing the system now, are we changing because the system is so much better out there, or are you just overstaffed and overworked and it is let us just conveniently cut the target?

Mr. GARCIA. By statute, VA has to do the compliance survey every 2 years for a school that has more than 20, right? So that is by statute, we have to do the compliance survey. Then, of course, the new statute with Isakson-Roe mandates risk-based surveys either for a reactive notice of action, government action, right, that would prompt a survey. Or again, the proactive approach around the risk factors that might lead to a potential fraud, waste, and abuse, or a situation like that.

Mr. FRANKLIN. Okay. Mr. Wescott, of those who have dropped out, in your experience, how frequently is it that someone drops out who has been subjected to one of these RBSs that really did not find any major compliance issues, but they dropped out anyway?

Mr. WESCOTT. We often lose schools due to because scheduling, having compliance and risk-based survey coming in too close together, those egregious administrative requirements. I can get you that number, sir, and I will.

Mr. FRANKLIN. Okay.

Mr. WESCOTT. It is not a large number. I can tell you I did find we only have 2 weeks now to notify schools. We need to double that on risk-based surveys.

Mr. FRANKLIN. Okay. All right. I think that would be fair. Mr. Chairman, I yield back.

Mr. VAN ORDEN. Thank you, Mr. Franklin. I now recognize my dear friend, Mrs. Ramirez from the great State of Illinois.

Ms. RAMIREZ. Thank you, chairman and ranking member, for holding today's hearing. I also want to thank the witnesses for joining us today to talk about a critical issue, which is education and how we protect and we deliver on our promise of quality education for our veterans. Over the past several months, this subcommittee has convened on multiple occasions to discuss how vital education is for our veterans adapting to their life after service. I believe that education is one of the many pathways toward self-improvement, self-sufficiency, and provides communities the opportunity to better live their lives economically, socially, and professionally.

That is why it is essential that when schools are being evaluated, the systems and processes in place are intentional about targeting bad actors like these for-profit colleges that see student veterans as a way to pad their pockets rather than seeing them as people, members of our community with dreams and aspirations. It is why I am so proud of my bill, H.R. 1767, the Student Veteran Benefits Restoration Act that passed through this committee with bipartisan support a couple of months ago. This bill will restore the GI education benefits for student veterans who are wrongfully defrauded by for-profit schools. While my legislation when signed into law will provide relief for many veterans, we still have to get to the root of the issue.

As part of providing student veterans a quality education, I want to ask a couple of questions regarding the complaints. Mr. Garcia, can the VA explain why information about schools that have closed or lost approval disappears from the comparison tool without explanation? Then the follow up to that would be, what steps are you taking to correct the issue?

Mr. GARCIA. Yes, ma'am. On the comparison tool question, as far as impact on a school that might have withdrawn from GI Bill benefits, you know, participation, I have to take that back to find that out. I can take that for the record.

Ms. RAMIREZ. You will go ahead and take back the question about why information about schools that have been closed disappear from the comparison tool, is that correct?

Mr. GARCIA. Yes, ma'am.

Ms. RAMIREZ. Okay. All right. Well, I guess a follow up to that is, how does the VA plan to provide prospective student veterans with access to a school's history of complaints? I particularly am interested in knowing, especially for information that has hit beyond those most recent 2 years, which is obviously crucial for them making an informed decision.

Mr. GARCIA. Yes, ma'am. The comparison tool, I think, currently tracks 2 years. There have been requests to have more years, 7, 10 years of information. Coming from a higher education background myself before taking this job at three different colleges and universities, I think we should take a look at that, because if it goes back that far, let us say 10 years, for example, all complaints I have heard as a recommendation, could that not potentially hurt the vet-

eran because that is old, dated complaints that have been resolved. I think we need to look at both sides of that.

Ms. RAMIREZ. What would you say would be the right number of years?

Mr. GARCIA. I like 2 years because I think that is fairly current. Presidents and administrations turn over. That is my experience. If you had something that is 10 years old and that was a problem, it is likely that that administration changed over. I think we need to be careful that you are hurting the veteran by having a complaint that had probably been addressed.

Ms. RAMIREZ. When a student is looking into the schools and they are looking at complaints, is it easy for them to be able to access information that determines that these issues have been resolved, therefore, making it easier for them to make a decision if this is the right kind of school for them to go to?

Mr. GARCIA. I think that is part of it, right? The comparison tool shows a lot of information about what is offered, Yellow Ribbon, just not only the complaints that are part of the comparison tool, side by side in terms of tuition and fees and graduation rates, that information comes over from Department of Education. It is more than just complaints that I think a prospective student would look at.

Ms. RAMIREZ. A good summary of the school.

Mr. GARCIA. Yes.

Ms. RAMIREZ. Let me ask you now another question which is a little different. This is in regards to nonstudent complaints. Has the VA received anonymous or non-student complaints against a school? If it has, how are these handled?

Mr. GARCIA. What kind of complaint, ma'am?

Ms. RAMIREZ. A nonstudent complaint. So, anonymous or nonstudent complaints against a school. This is not a student. Perhaps it is—

Mr. GARCIA. Oh.

Ms. RAMIREZ [continuing]. a parent or a friend or someone that had some interaction with the school.

Mr. GARCIA. It could be anonymous, right?

Ms. RAMIREZ. Correct.

Mr. RUHLMAN. I can answer that question, Congresswoman. We can and do accept both anonymous complaints as well as complaints from third parties against schools. We do forward that to—

Mr. VAN ORDEN. The gentlelady's time has expired.

Ms. RAMIREZ. I will follow up with you. Thank you, Chairman.

Mr. VAN ORDEN. Absolutely. I now recognize my friend Mr. Mrvan from the great State of Indiana for 5 minutes.

Mr. MRVAN. Mr. Wescott, one of the concerns you raised in your testimony is the increased administrative burden placed on school certifying officials. How much is each individual utilizing the GI Bill benefits worth to a school?

Mr. WESCOTT. Wow, I am not sure that I can give you that exact figure, sir, but I can tell you it is a very valuable benefit, especially underneath Chapter 33. I mean, that is basically tuition and fees. You are talking about 1,000-plus, you know, for living, basic housing allowance or basic living allowance. You are talking about

1,000 for books. It is great for the school when you sign up a veteran under Chapter 33 or 35.

Mr. MRVAN. If that is the case, there is a revenue benefit, why do schools not employ more certifying officials?

Mr. WESCOTT. Well, and I am glad you bring that up, sir, because it is a concern of ours as well, and SAAs have gotten involved in that in the past. On the next panel, my friend, the president of NAVPA, will bring some information about that. The bottom line is lack of understanding sometimes of the true benefit of veterans, you know, who is the president? You know, there should be at least a school certifying official for, you know, 100 veterans or something, 200? I do not know. We have done surveys. The bottom line is I do not understand why they do not engage more.

Mr. MRVAN. Okay, thank you. Then the follow up if you could finish the answer for my colleague's question.

Mr. RUHLMAN. Yes, thank you. We do accept anonymous and third-party complaints. Those are not published to the GI Bill comparison tool. One of the things that we do generally is ensure that the individual was attending a school. Really that is more of an informational type thing. However, we do share that information with our Federal agency partners, who can also search our data as well as data from other Federal agencies that is submitted to the Federal Trade Commission Consumer Sentinel data base. We do accept that and we do share that. However, if we cannot validate that someone was a student, then there is really no way to identify or validate or remediate it.

Mr. MRVAN. Very quickly, what do you believe are the majority of the anonymous complaints?

Mr. RUHLMAN. I do not know off the top of my head. We would have to research that. Anonymous complaints tend to be a small portion of what we receive.

Mr. MRVAN. Okay. I am going to give a hypothetical. In this instance, a Commercial Driver's License (CDL) school in Indiana is charging four times the amount for a GI participant than they would charge for a regular participant. Does that fall under the fraud, waste, and abuse category or are there exceptions to higher costs, because this has been brought to my attention. Same CDL license, four to five times the cost for a veteran GI Bill. If someone off the street who does not have the GI Bill pays significantly less. Where does that fall and how is that investigated?

Mr. RUHLMAN. Thank you for that question. That would be illegal. The law does require that program charges are the same for both GI Bill beneficiaries as well as non-GI Bill beneficiaries. That would be an overcharge of VA benefits. Even if we receive an anonymous complaint of that, because of the egregious nature, that is something that would generally, while not treated as a normal complaint, would cause us to take a look at that school, share that with our SAA partners, as well as Federal law enforcement partners. That is actually how a number of sort of high-profile prosecutions, Federal prosecutions, have started out, is because of anonymous complaints.

Mr. MRVAN. Is there an educational process to the veteran who is using the benefit to look out for these types of things?

Mr. RUHLMAN. I do not think I understand the question.

Mr. MRVAN. If I am a veteran and I am signing up for these classes or a school and I recognize myself that something is more expensive or there is something illegal, is there any kind of toolkit available to the veteran who is going out to apply for these classes of what is and is not legal and what their rights are?

Mr. RUHLMAN. No, sir, not that I am aware of.

Mr. MRVAN. Yes, sir, 16 seconds.

Mr. WESCOTT. I can tell you that in North Carolina, if we were to learn of such, that school would be immediately suspended and withdrawn. In the catalogs for the schools, particularly truck driving schools, there should be a statement in there about the SAA and getting in touch with them if they have concerns.

Mr. VAN ORDEN. The gentleman's time has expired.

Mr. MRVAN. Thank you.

Mr. VAN ORDEN. We are going to proceed to a second round of questioning because I know that you guys you need some more in-depth answers, as do I. We are going to do that. I now recognize myself for 5 minutes.

Mr. Garcia, again, thank you for answering so many of these questions. We really have to talk about this error rate because I am concerned about it. We have been getting, us, the subcommittee, and our staff, have been getting complaints from VA employees about the extra workload of fixing errors in automated claims. I got to do this automated, air quotations. I am concerned about the government paying for claims that are not correctly automated. I understand that the automated error rate is nearly 50 percent. Is that correct?

Mr. GARCIA. Sir, I had 40 percent.

Mr. VAN ORDEN. Okay. Well, you know, a 40 percent error rate is not good. I understand that the automated error rate is nearly 40 percent. Is that correct?

Mr. GARCIA. From reviews that I have seen, yes, sir.

Mr. VAN ORDEN. Okay. I understand that you commissioned and received a report that studies automation in the Regional Processing Offices (RPOs). Is that correct?

Mr. GARCIA. As part of their review, yes, sir.

Mr. VAN ORDEN. Okay.

Mr. GARCIA. We asked them to do that.

Mr. VAN ORDEN. Very well. I understand that this is called the RPO Report. Do you commit to providing the RPO Report to the subcommittee by the end of this week?

Mr. GARCIA. Yes, sir, be glad to do that.

Mr. VAN ORDEN. Dang. Thanks, man. Mr. Wescott, it was really interesting, can you elaborate on your testimony in reference to faith-based schools and their issues with the 10/15 waivers for religious institutions?

Mr. WESCOTT. Referring to the Title IV?

Mr. VAN ORDEN. That is correct, sir. I mean, this is something that the general public needs to understand.

Mr. WESCOTT. Yes, exactly. Many of these schools just do not see the need to offer Title IV, nor do they want to go through the process of engaging with that. They do not really want the, you know, the Federal oversight into their religious instruction. These are, like I said, Reform Theological, we are not talking about schools in

storefronts or church basements. We are talking about legitimate schools that are finding other sources to provide for their students and therefore see no reason to engage with Title IV.

Mr. VAN ORDEN. I mean, just as a side note, my grandson goes to kindergarten in a church basement. Just throwing that out there. Those are valid, too.

Mr. WESCOTT. Yes, that was in no way to discredit.

Mr. VAN ORDEN. I know. I get you, man. Hey, do you think this is onerous? Are our veterans not able to attend religiously affiliated schools due to this onerous process, in your opinion?

Mr. WESCOTT. Yes, I really do. I mean, the bottom line is we had a school call in North Carolina and say we would like to get accredited. We said, well, if you do, you are going to have to go for Title IV. They said, well, forget know. You know, they do not want to spend thousands to get accreditation. That is the wrong answer. We should encourage accreditation and we have the mechanisms in place to make sure that those are quality programs.

Mr. VAN ORDEN. Okay. What we are doing is what we do not want to do.

Mr. WESCOTT. Exactly, sir.

Mr. VAN ORDEN. Okay. Let us just not do that, man. Let us do great things.

Mr. WESCOTT. Totally agree.

Mr. VAN ORDEN. Yes, can you suggest a fix for this, please?

Mr. WESCOTT. Well, yes, my personal preference would be to do away with that requirement.

Mr. VAN ORDEN. Okay.

Mr. WESCOTT. The second fix would be to find some realistic waiver that will allow those schools to be granted a waiver that does not involve applying for Title IV. I mean, you know, as long as SAAs say these are quality institutions, let us trust the SAAs. We have got the results from the schools and drive on. Requiring them to apply for and have Title IV is just unnecessary.

Mr. VAN ORDEN. Thank you, sir. Mr. Garcia, can you noodle on this? Think about this with, again, the stated intent of our purpose here and your purpose really is to make sure that our veterans have the appropriate amount of educational benefits that they have earned. Can you sit down and can you guys talk about this, please?

Mr. GARCIA. Sir, but if, again, if the purpose is to provide support for veterans, if removing Title IV, though, removes financial aid that they could get, right? If we have schools choosing okay, I do not want to do Title IV, now you are limiting what veterans can get in terms of the educational goal pursuit, right? I think we need to look at that as well, look at the impact on the school. What is the impact on the student veteran? By removing Title IV opportunities, then you are driving veterans to private loans. They are more expensive. That actually hurts the veteran. They need to look at it both sides.

Mr. VAN ORDEN. Mr. Garcia, I really do not believe that is what Mr. Wescott was saying. I would just leave you with this. It is just not that, you know, cut and dry. This is not a conundrum. It certainly is a quandary. I would like you to work on it with Mr. Wescott. With that, my time has expired. The chair now recognizes Ranking Member Levin for 5 minutes.

Mr. LEVIN. Thank you, Mr. Chairman. I want to turn back to last Congress when we passed legislation to resolve issues that foreign based students were having using their GI Bill. What we are hearing is that these students, some of them anyway, are still having delays having their schools approved for the GI Bill. Can you provide us an update on where things stand ensuring foreign students can use their GI Bill?

Mr. GARCIA. Yes, sir. A couple of things at foreign schools. One is that we are also allowing for Enrollment Manager, paper based for them, just like the OJT and apprenticeship. That helps there. Another improvement is around the direct payment. We actually came up with a solution where the schools were not getting timely electronic funds transfer payments because there was a requirement to use a U.S. bank account. We found a way to get around that recently. That allows the payments to go through electronic means. Again, the enrollment part of accepting paper at least until October 31, so we can reevaluate Enrollment Manager participation.

Mr. LEVIN. I appreciate that very much. Also, to your earlier comments about taking responsibility, I really appreciate that you stood up and you said that you take responsibility. It is really critically important. We will hear from our next panel as well about, you know, the work that they are trying to do to just make sure that we are all trying to share this burden to prevent bad actors. I think everybody wants the same thing here. We are going to continue to hold you to account and appreciate the input of our next panel as well. With that, I will yield back.

Mr. VAN ORDEN. Thank you, Ranking Member Levin. The chair now recognizes my dear friend from the great State of Florida, Mr. Franklin.

Mr. FRANKLIN. Thank you, Mr. Chairman. Mr. Mrvan is not here now, but I did want to add just to kind of put a point on a point he was making earlier about the economics for schools. I would just argue if the schools are voting with their feet and not participating, then for whatever reasons, and there may be varied reasons, the juice is not worth the squeeze for them. You know, schools are facing declining enrollments. They need students. They need every opportunity for revenue they can get. If they are not doing it, that needs to be a significant warning to us. As you, Mr. Garcia, as you had said in earlier things, we will find workarounds. We do not want to compromise our standards. I do think we need to sit down and think really hard about how can we make this more palatable to the institutions because we need them to serve the veterans.

Mr. Wescott, we talked about the religious institutions, but whether it is a design, whether it is the way the system is designed, or if it is just misperception, sometimes the nonprofits and some of the online institutions feel like they are being unfairly targeted. Now, anybody that gets targeted is going to feel like they are being picked on. I understand that. Do you think either purposefully or inadvertently, the way the system is constructed, and actually, this question will be for both of you, because we have time. Is the system set up to unfairly penalize online and nonprofit institutions?

Mr. WESCOTT. Well, thank you for that question, Congressman. I would consider it inadvertently. I do have some memory of when this requirement was placed into law. The concern was primarily of those schools that lost Title IV would then lose their approval. Not that, you know, that we would require them to have Title IV. At least that was my interpretation of what we were doing in the earlier days on this legislation. I would hope, and I believe it is inadvertent, but it certainly needs to be addressed—

Mr. FRANKLIN. Mr. Garcia.

Mr. WESCOTT [continuing]. because you are 100 percent correct.

Mr. GARCIA. Sir, real quick, I think you hit on perception. The term religious schools is not in the statutory language at all, right?

Mr. FRANKLIN. Right.

Mr. GARCIA. It is all accredited programs have to participate under the statute.

Mr. FRANKLIN. Yes, sir.

Mr. GARCIA. We would be willing to take a look at it, though.

Mr. FRANKLIN. Okay. That is all I have, Mr. Chairman. I yield back.

Mr. VAN ORDEN. Thank you, Mr. Franklin. I want to thank everybody. The witnesses are now excused.

Please stick around. I think you are going to get some good institutional knowledge from the next panel. Again, thank you very much. We will adjourn shortly while we get readjusted here.

[Recess.]

Mr. VAN ORDEN. Will the witnesses for the second panel please be seated? On our second panel, we will be hearing from the following witnesses: Mrs. Anne Meehan, Assistant Vice President of Government Relations at the American Council on Education (ACE), Dr. Jan Del Signore, President of the National Association of Veterans' Program Administrators. Mr. Will Hubbard, Vice President for Veterans and Military Policy at Veterans Education Success, and Mr. Joe Rasmussen, Director of the University of Wisconsin Veterans Services at the University of Wisconsin, Madison. I want to welcome you here for this panel, and I am going to ask you to stand and raise your right hand.

[Witnesses sworn.]

Let the record reflect the witnesses have all answered in the affirmative. Mrs. Meehan, you are now recognized for 5 minutes to deliver your testimony.

STATEMENT OF ANNE MEEHAN

Ms. MEEHAN. Chairman Van Orden, Ranking Member Levin, and members of the subcommittee, thank you for inviting me to testify. My name is Anne Meehan with the American Council on Education. ACE represents 1,700 public and private colleges and universities and related associations. Colleges and universities recognize the important role that VA plays in the oversight of education benefits. Congress has made significant investments in these programs, and it is critical that safeguards are in place to protect against waste, fraud, and abuse, both to protect taxpayer dollars and to ensure veterans are receiving a high-quality education.

At the same time, in our effort to root out problems and identify bad actors, we must be mindful that we do not inadvertently create

unnecessary burdens on institutions that are serving veterans well. Risk-based surveys, when done right, provide a valuable and efficient oversight tool that allows regulators to focus limited resources on the areas of greatest concern. While we commend VA for its efforts developing the survey, we believe VA's model reflects a misunderstanding of how risk-based surveys are intended to work. Moreover, we are concerned that in several respects, VA's effort may be inconsistent with congressional intent.

In recent months, ACE has heard several concerns from institutions regarding VA's risk-based survey. In general, these concerns fall into three areas. One, concerns related to the triggers VA uses to select an institution for a survey; two, concerns about the information that must be provided once selected for a survey; and three, concerns about information required as part of the Financial Soundness Review.

First, regarding the triggers. Over the past year, VA has selected more than 1,200 institutions of higher learning and more than 600 colleges and universities for a risk-based survey. Given the large number of institutions selected, we questioned whether VA's model is sufficiently targeted to institutions posing a substantial risk of noncompliance. Many campuses report that they are unaware of the reason why they were selected for a risk-based survey. For colleges and universities who know why they were selected, the reason given is often limited and technical in nature, and not one under any reasonable standard that would be indicative of increased risk.

For example, some campuses were selected based on a failure to satisfy VA's prior flawed interpretation of the 85/15 Rule, an interpretation which has subsequently been corrected through legislation. Some campuses were selected based on a single complaint. In one case, the complaint was decades old and had never been verified. In another case, the complaint was from a nonstudent. Some were selected based on a modest increase in the number of veterans enrolled in a program, which was common as we emerged from the pandemic. Finally, some campuses were selected due to nothing more than a standard tuition increase. None of these reasons are ones that suggest a heightened risk of noncompliance by the institution.

I note that we did not hear from any institutions that were chosen for a risk-based survey based on one of the events listed in Section 3673(e) of the law. However, we strongly agree that any of those events should trigger a risk-based survey.

Second, we have heard concerns about the breadth of the information required by VA's survey and the limited time given to respond. One large university reports providing tens of thousands of documents in response to VA's request. Coordinating this response across a university is a massive undertaking, requiring assistance from campus officials in multiple offices. While most offices are happy to help, others may not understand the immediacy or importance of this work, particularly when it requires them to drop other mission critical work in order to comply. As one example of the breadth of the required information, campuses are required to provide copies of any complaint received by the institution over a 3-year period. Institutions are instructed to provide all complaints,

even complaints about the dining hall. More problematic, institutions are required to allow the SAA to monitor a class in order to determine the quality of the instruction. While this requirement is well intentioned, it misses the mark, particularly at a large research university, where it is viewed as an inappropriate intrusion into academic matters.

Third, we have heard concerns about VA's required financial soundness review, which appears to confuse the financial audit information that for-profit institutions report with financial audit information that public and nonprofit institutions typically report.

To summarize, we support risk-based surveys and we believe they are an important oversight tool. However, we believe that VA's model needs further work to ensure it is meeting its intended purpose. We hope that Congress will help VA refocus its efforts on the institutions that pose a serious risk of noncompliance while shielding good institutions from an unnecessary compliance burden. We stand ready to assist in these efforts. Thank you. I would be pleased to answer your questions.

[THE PREPARED STATEMENT OF ANNE MEEHAN APPEARS IN THE APPENDIX]

Mr. VAN ORDEN. Thank you, Mrs. Meehan. The written statement of Mrs. Meehan will be entered into the hearing record. Dr. Signore. I am pronouncing that correct, are not I? Signore, right? Dr. Signore, you are now recognized for 5 minutes to deliver your testimony.

STATEMENT OF JAN DEL SIGNORE

Ms. DEL SIGNORE. Thank you. Good morning and thank you for the opportunity to speak today representing the National Association of Veterans Program Administrators, or NAVPA. My name is Dr. Jan Del Signore, U.S. Air Force retired veteran. Today I am here to speak to you as the NAVPA President on behalf of the men and women who are conducting the daily operations of certifying and administering the GI Bill benefits.

NAVPA is the only national organization comprised of SCOs, school certifying officials, and school administrators working to deliver educational opportunities for veterans since 1975. Our members have seen the SCOs—have been the SCOs who are in the trenches with boots on the ground serving student veterans daily while trying to maintain compliance. I am here to discuss two concerns: risk-based surveys and the impact of increased duties placed on the SCO.

Our primary concern today is the risk-based survey, RBS, and the criteria the VA is using to select schools they deem as at risk. Schools welcome accountability and are proud to maintain compliance with reasonable regulation. However, there has been an unreasonable burden placed upon the institutions through an excess of well-intended oversight. NAVPA conducted a survey of SCOs nationwide and discovered most of the schools selected for our risk-based survey were for minor or unclear reasons. The top reasons these schools were identified for an RBS are student complaints, unknown criteria, an increase in student population, or an unwarranted 85/15 violation. There are examples nationwide of RBS being deployed against all types of institutions, including public

and accredited schools. Several schools reported they received an RBS based on an old student complaint that was addressed by the institution and closed. Other schools reported they were identified for an RBS from a complaint that was never received by the institution and deemed as invalid by the VA. One school reported receiving complaints because of benefit processing errors by the VA, not the school, yet the school still had to respond and an RBS was triggered.

Some institutions reported that they had no idea why they were identified for an RBS, as the state approving agency, SAA, did not or could not explain why this RBS was being conducted.

A third top reason schools reported they were selected for an RBS was due to an increase in student population during the COVID recovery period when students were returning back to campus. The fourth top reason included schools with a 35 percent exemption criteria for 85/15, as they had programs suspended by the VA during spring 2022, with no veterans enrolled because of the calculations implemented by the VA. The VA introduced these new methods during the pandemic and caused many programs to be erroneously suspended nationwide.

None of these situations confirmed a school was at risk to close, nor were they guilty of exploiting or misusing veterans' benefits. NAVPA recommends correcting these measures by establishing an Advisory Council of Higher Education Officials, the SAA, and the VA to develop a model using public data to identify criteria that would trigger an RBS. In the spirit of today's hearing, less is more. The actual key players should be developing the criteria that would meet the intent of Congress. NAVPA respectfully requests outside agencies who have never worked in higher ed and have no understanding of daily operations of an institution not be involved, as this often leads to misleading advice, oftentimes a lack of experience.

Our next concern involves the increased duties placed on SCOs. There have been several changes implemented by the VA on how to administer GI Bill benefits. This includes additional requirements for a catalog approval, less time to prepare for compliance reviews, and return of funding to the VA. Due to the insurmountable requirements for schools to obtain approval and maintain compliance requirements with limited time for preparation, institutions nationwide have withdrawn from administering the GI Bill because of the increased workload and regulatory demands. These schools include first responders, Emergency Medical Technicians (EMTs), police and fire academies, truck driving schools, and religious orders. This creates an economic disparity for the veteran when trying to find needed instructional resources, but unable to use their GI Bill benefits for training.

NAVPA would like to see legislation that would give relief of the many burdensome tasks placed on accredited institutions and recodify Public Law 117-333 to allow the institution sufficient time to prepare for reviews and provide a reasonable response. Additional information can be found in our written testimony. I thank you and I welcome your questions today.

[THE PREPARED STATEMENT OF JAN DEL SIGNORE APPEARS IN THE APPENDIX]

Mr. VAN ORDEN. Thank you, Dr. Del Signore.

Ms. DEL SIGNORE. Yes, sir.

Mr. VAN ORDEN. The written testimony of Dr. Del Signore will be entered into the hearing record. Mr. Hubbard, you are now recognized for 5 minutes to deliver your testimony.

STATEMENT OF WILL HUBBARD

Mr. HUBBARD. Chairman Van Orden, Ranking Member Levin, members of the subcommittee, we thank you for the opportunity to provide testimony before the subcommittee today. Veterans Education Success is a nonprofit organization with the mission of advancing higher education success for veterans, service members, and military families, and protecting the integrity and promise of the GI Bill and other Federal education programs.

Drawing from our team's experience and direct interactions with student veterans, their families, and stakeholders, we submit our observations for the subcommittee's consideration. We would like to express our general gratitude to the leadership and staff in Education Service at the Department of Veterans Affairs. Their collaboration on many of these issues and commitment to serving veterans are worth highlighting specifically. However, we also feel it is important to highlight areas where we believe there is room for improvement. Since the very first GI Bill in 1944, there have been scammers looking to take advantage of veterans' benefits. In 1952, a House Select Committee led by Congressman Olin Teague of Texas exposed the trend of predatory schools targeting veterans for their GI Bill benefits. In 2012, the Senate Health Committee issued an alarming report that found widespread deception by predatory schools.

Given the issues of the past decade and prior, including numerous sudden collapses of risky schools, Congress passed several significant bipartisan laws. These laws aim to combat fraud by bad actor schools and programs ultimately protecting veterans' benefits and taxpayer dollars. This includes the Isakson-Roe Act, the authorizing legislation for risk-based surveys. Risk-based surveys are important both for protecting veterans and taxpayers and for ensuring the efficient use of the limited resources of VA and state approving agencies.

However, our testimony, along with our colleagues at this table, highlights a fundamental point, VA's current approach does not match the clear direction of Congress. As our colleagues at ACE point out, VA is currently selecting an overly broad set of schools for risk-based surveys, in contrast with what the statute had contemplated. Specifically, Congress established five triggers for risk-based surveys. Yet, VA continues to launch risk-based surveys even in the absence of one of these five triggers. As the University of Wisconsin rightly notes, increased enrollment is not a mandatory trigger, but instead listed in another section of the statute, which lays out the issues that the SAAs should consider during review, if and only if such review has been triggered by one of the five mandatory issues.

We also strongly support NASSA's comments that the VA should follow the pilot model and implement the data base, which would result in a dramatically smaller number of schools being selected

for review. In addition to risk-based surveys, persistent red tape, and VA statutory misinterpretations continue to hinder the potential of veterans' education benefits. As outlined in our written testimony, this includes first, school closures and GI Bill restoration policies, where VA continues failing to implement unambiguous statutory guidelines even after the committee clarified them in the Vets Credit Act. Second, a lack of necessary transparency on the GI Bill comparison tool. This harms veterans who should rightfully expect transparent information in their school search process. Third, VA's refusal to exempt Marines under the Excess Leave program from a newly revised interpretation, despite the legal obligation to do so.

We believe there is a pattern to these issues. Time and time again, this body passes thoughtful, well positioned legislation based on stakeholder input with the intention of supporting veterans and their goals. Then VA executes a surprising interpretation, unsupported by law and inconsistent with congressional intent. Couple that with some schools under resourcing the appropriate offices on campus, and the result is that the laws put in place to safeguard hard earned benefits are not being properly executed. We hope to continue our efforts in collaboration with the VA and the committed people here in this room who simply want to do right by veterans, for they and their families should be VA's one and only focus. Thank you.

[THE PREPARED STATEMENT OF WILL HUBBARD APPEARS IN THE APPENDIX]

Mr. VAN ORDEN. Thank you, Mr. Hubbard. The written statement of Mr. Hubbard will be entered into the hearing record. Mr. Rasmussen, you are now recognized for 5 minutes to deliver your testimony.

STATEMENT OF JOE RASMUSSEN

Mr. RASMUSSEN. Thank you. Chairman Van Orden, Ranking Member Levin, and members of the subcommittee, thank you for the invitation. I am excited to share my testimony before the subcommittee on behalf of the veteran and military connected students at the University of Wisconsin, Madison and my staff that serves them. I have also consulted with my peers across the State of Wisconsin, as well as in the Big Ten.

Hearing the conversation thus far, I can tell I am in good company. While I might be critical of this process, it is only because I care. I feel like we are all on the same team, Team Veteran. I would briefly like to share my background, as I hope it provides perspective. I get to serve as the director of Veteran Services at the University of Wisconsin. I am also the grandson of two World War II veterans, the son of a Vietnam veteran, and I proudly served 4 years in the Marine Corps right out of high school. The GI Bill was personally important to me. It helped me pay rent, buy food, and a little further down the road, it even helped pay for my father's gravestone. This program matters.

I would like to introduce one of our student veterans, Eddie. Eddie's a senior who is studying finance. He grew up in Florida, served in California, and moved to Wisconsin, sight unseen. He is a first-generation college student, a first-generation veteran, and a

first-generation American. When I think about this process, I think about how it impacts Eddie.

Today, my highlights are that risk-based surveys is a good idea, but we need more collaboration. In general, there is too much red tape, and the systems need to be updated, students like Eddie need to be centered in the conversation, and that we at the schools want to be partners. We need more of me and my colleagues in the room when we are talking about creating new policies. When we cannot be there, we need trusted partners like my colleagues at the table and folks like the Association of Public Land Grant Universities, or APLU.

Many of our student veterans like Eddie had a difficult time adjusting to campus. UW Madison research tells us that too many of our veterans are not making connections to their college peers or university staff or faculty. That same research shows that students who do connect with veteran service staff specifically rank higher in metrics we know that lead to student success. College veteran service staff have earned the trust of these students, but that trust is eroding as we focus more time on bureaucracy and less time on direct student support.

Enrollment Manager is a great point. There is a lot that could have happened to make the administration on the school side much less time consuming. However, VA chose to build the process close hold, and there was very little in the way of partnering. Unfortunately, today, entering information into the new system takes longer than the old system, and we find too many errors that are leading to students being underpaid, paid late, and in some cases, not receiving payments at all.

There are also longer standing issues with the VA rules that they outline in their handbook. One such rule says that undeclared juniors cannot use the GI Bill. This simply does not work. Most students at UW are transfer students and many come in close or already at the junior mark. Competitive programs such as engineering, computer sciences, and nursing require on campus prerequisites, because these rules run counter to how things work on campus, many student veterans cannot enjoy the same academic college experience as their nonveteran peers.

Each breakdown in this system leads to worse outcomes for our student veterans, and as this process gets more burdensome, we see more veterans driven from our high-quality schools. I am not naive enough to think we can solve every issue overnight, but we are certainly not moving in the right direction with this status quo. It is time for VA Education Services to find real, meaningful ways to bring education partners into the fold. In my experience, GI Bill benefits are often the first place veterans interact with the VA. I often refer to the GI Bill and our schools as the front door to the VA. The GI Bill is a fundamental promise, something that many veterans are proud to earn and proud to use, and we owe it to them to create a system that honors that service and earns their trust. I invite you to come to campus and meet Eddie and our other student veterans. I thank you for the time today, and I look forward to working with you in the future.

[THE PREPARED STATEMENT OF JOE RASMUSSEN APPEARS IN THE APPENDIX]

Mr. VAN ORDEN. Thank you, Mr. Rasmussen. Mr. Rasmussen's written testimony will be entered into the record. I am going to reserve my questions until the end. Now I recognize the Ranking Member, Mr. Levin, for 5 minutes.

Mr. LEVIN. I thank the chairman, and I told him I am ready to go to Wisconsin. I look forward to that. I want to make sure that just as we held VA to account in the first panel, that we make sure to talk to you and to schools and that we understand we all have a responsibility to make this work. I will start with Ms. Del Signore. I am empathetic to the struggles and the issues that schools are facing. VA can absolutely improve their processes. I think we made that clear. Should not some of the shared burden to prevent bad actors also fall on schools?

Ms. DEL SIGNORE. I thank you for the question, sir. The bad actors, from my understanding, that in the past historically have not been accredited institutions. Many of the current risk-based surveys are being applied and focused on accredited schools instead of the unaccredited schools. It is going to take a partnership moving forward to make sure that these bad actors are not doing what they have done in the past. We can definitely provide the quality education to our veterans so they can have a successful academic goal and be able to transition effectively and satisfactorily back into the civilian sector.

Mr. LEVIN. We share that objective. I think the key here is taking the time to have enough staff to do the preventative work, making sure that the burden that is being caused by VA regulations is being met by enough people on the ground at your campuses. Could you tell us the—actually, I will turn to Mr. Rasmussen for this. Could you tell us the ratio of veteran program administrator staff that you have compared to the number of student veterans that you serve and what you think that rough ratio should be?

Mr. RASMUSSEN. Certainly, at the University of Wisconsin, we have four full-time positions in my office, including myself. Two of those folks, 100 percent of their time is dedicated to making sure that the GI Bill works. I would also add to this that we do not live in a vacuum. This is obviously a conversation about Federal benefits, but many states like Wisconsin also offer very high-quality State programs. Those numbers are larger than what they look like just when we examine these numbers.

I agree. I heard earlier, you know, 1-to-100, 1-to-200, I think those are very great goals to work toward. We are not quite at 1-to-200, but we are pretty close. I will tell you, as a former student veteran, as somebody who works with students, I wish that number would be higher. I wish that we would have enough time to give every single student the time that they have earned.

Mr. LEVIN. It is true that student veterans using the GI Bill are bringing full in-State tuition to the table, reducing the amount of aid that schools need to provide, correct?

Mr. RASMUSSEN. If I understand the question correctly, it is, that the GI Bill then is taking the place of other school aid. I can tell you in Wisconsin, and specifically at UW Madison, we have Bucky's Tuition Promise. Student veterans who qualify for Bucky's Tuition Promise get 100 percent of that promise, plus their GI Bill. We do

not change their package based on post-911 GI Bill one bit. I cannot speak for other institutions. We are lucky enough to be able to provide everything that we would give a non-GI Bill student to our GI——

Mr. LEVIN. Is it fair to say that having more student veterans is good in every conceivable way for your campus and for every campus, and therefore, it would make sense to do the preventative work to make sure you have got enough support staff to deal with whatever VA throws your way. Is that fair?

Mr. RASMUSSEN. Absolutely. I cannot agree more that we need to be able to rise and meet the needs.

Mr. LEVIN. I appreciate that. With the time I have left, Mr. Hubbard, I think you knocked it out of the park with your comments, particularly at the end where you talked about that balance. We try to do the best we can in this subcommittee and throughout the House Veterans Affairs Committee to pass well intentioned legislation to try to improve the lives of our veterans and improve their educational opportunities. We often do not agree with how, you know, specifics are implemented at VA. Sometimes they do a fantastic job, on the other hand, but it is all a balancing act. What do you think the balance is between preventing bad actors from accessing GI Bill funds and making it easy and enticing for good actors to serve veterans?

Mr. HUBBARD. Thank you for the question, Mr. Ranking Member. I think it is an imperative one. I recognize the time has expired. I can answer perhaps at a later point or in writing.

Mr. LEVIN. We will come back to you.

Mr. VAN ORDEN. The gentleman's time has expired. The chair now recognizes Mr. Franklin from the great State of Florida.

Mr. FRANKLIN. Thank you, Mr. Chairman. Mr. Hubbard, actually, I would give you the time now to answer that because that is something I am very interested in hearing about.

Mr. HUBBARD. Thank you, sir. I appreciate that. In terms of incentivizing good schools to bring in student veterans, I think there is one important factor to consider, which is these are literally the best students in higher education today. They are non-traditional students. They often have families. They are a little bit older, typically, but they have world experience and they make the best alumni. They offer the most to the classroom and they offer the most by way of packaging. These are fully packaged students that come with full funding. I think any school would be lucky to have student veterans in their classroom and that is really what they should recognize.

Mr. FRANKLIN. Thank you. Actually, I read all your testimony. There are a lot of great ideas and suggestions in there. I do recognize too, as the ranking member had said, that the reason that a lot of this oversight is in place now is because there were a lot of institutions, some rogue actors out there that did not do the right thing. There is a need and we got to strike a balance.

Mr. Garcia had said earlier, where we had talked about ways that we could improve this process, I think, you know, in looking at this hearing today, you know, according to staff, you all were advised of this about a month ago. You have had a month to prepare for this. I would submit that the four of you and the institutions

you represent could get together with the representatives of VA and in 30 days you could probably fix a lot of these problems we are talking about or at least have a good roadmap to move ahead. Just in the brief time, if you could each take about 30 seconds, if you had your way for a day, what would be the first and fastest things you would fix? Starting with you, Mrs. Meehan.

Ms. MEEHAN. I think that a more collaborative process to sort of understand the differences between different types of institutions. You know, we have over 4,000 colleges and universities that are degree granting institutions and it is a very diverse group and so one size does not always fit all. I think that is one of the areas where risk-based surveys could be improved—by thinking about ways that we want to make sure we are identifying the greatest risk and figuring out what those factors are so that we are not putting a compliance burden on the other schools that do not have that level of risk. There is just such a variety when you think about the types of programs that VA provides. They are not all college degree programs, some of them are training programs. I think that is a challenge that VA has in a lot of areas, trying to make sure that we have an approach that is appropriate for the different types of institutions and addresses any challenges.

Mr. FRANKLIN. Thank you. Dr. Del Signore.

Ms. Del Signore. Thank you for the question, sir. Yes, I think communication is a key factor moving forward, looking at quality improvement. There is always processes in place that could be improved, whether from the institution, or from the VA or the SAAs. Coming together as a team, definitely working together to look at those triggers that may or may not be a true risk assessment of that institution based on the institution type, with their accreditation factors involved, but looking at all the moving parts and coming up with a solid data base for the VA to use the actual—

Mr. FRANKLIN. Well, thank you. I do want to hear from the others. You all have given a lot of very, very specific things that are more tangible than just we need to communicate better. I mean, there are a lot of specific things in your testimony. Mr. Hubbard.

Mr. HUBBARD. Thank you for the question. In our written testimony, we identify for every issue that has come up, an executive branch solution. I think all of these issues on the table today could be solved at the executive level. We believe it ultimately comes down to following the letter of the law. We believe the statute is clear and unambiguous and should simply be followed as stated.

Mr. FRANKLIN. Well, if it is clear and unambiguous, I do not know that the solution for fixing laws is more laws, but your point is noted. Mr. Rasmussen.

Mr. RASMUSSEN. I hate to sound like a broken record, but it is communication. Earlier, I heard Mr. Wescott say that NAVPA is a partner, but I did not hear our colleagues at the VA mention schools as they talk about and think about this process. I would make there be groups. Dr. Jan mentions a committee. Ways in which information from people like myself is inserted into the process before it happens and not after it happens, and then we have to clean up the mess.

Mr. FRANKLIN. All right, thank you. I would like to note that you all had today far more time to prepare for this hearing than the

institutions that you are saddling with these risk-based surveys that in many cases are having to provide tens of thousands of documents. It is not fair, and I can fully understand why a lot of them are not wanting to participate. Thank you, Mr. Chairman. I yield back.

Mr. VAN ORDEN. Thank you, Mr. Franklin. The chair now recognizes my great friend, Mr. McGarvey from Kentucky.

Mr. MCGARVEY. Thank you, Mr. Chairman. Thank you all so much for being here. It is good to see you again, Mr. Hubbard. Thanks to all of you for the work you do. One of the most important things to keep in mind while having this discussion today is to highlight what we are seeing on the ground and what is actually happening in the implementation and the administration of these benefits. I wanted to focus on the school certifying officials and their role. Mr. Rasmussen, I am particularly interested to hear your perspective as someone in an educational entity overseeing GI Bill education benefits. Mr. Rasmussen, how hard is it for you to hire and train up someone to work in your office as a school certifying official or GI benefits bill administrator? What are we seeing right now in terms of staffing?

Mr. RASMUSSEN. I very much appreciate this question. Let us actually start with the school certifying official role. It is not something that naturally exists in higher education. The duties that a school certifying official does probably overlaps four or five different offices. It is extremely complex and it is very specific. It is rare that we could hire somebody who has worked in administration, or VA, or any other entity, and they can immediately be a productive school certifying official. The most recent hire I had, a retired lieutenant colonel, took him about a year from when he started until I would say that he can operate independently, not asking a bunch of questions. It is really complicated and it is, to get to your question, hard to hire good school certifying officials and even harder to train them.

Mr. MCGARVEY. I do not know if there is an answer to this next question. Just so the question is sincere, right, is there anything we can do to help in that?

Mr. RASMUSSEN. I do think about, and again, communication. There was a communication that went out several years ago from VA telling schools what an expected ratio of school certifying officials were. That went to a bunch of my staff. A bunch of school certifying officials got a note saying, we need more of you all.

I think if it was a serious act, then that sort of thing should have been communicated in a way where our college presidents and chancellors can hear how important these roles are and they can take action. I put every year into my budget a request for more school certifying officials, but what I need is direction from the top.

Mr. MCGARVEY. I appreciate that. You know, I like what you said when you said we are all on Team Veteran. I think everybody on this committee is on Team Veteran. One of the reasons we get along is to help our veterans get what they have earned and what they deserve. If you do think of anything, any of you all think of anything we can do to help in that regard, whether it is a legislative action or even it is whether using the platforms of our offices and letters in communication with people in charge to let them

know how seriously we take that, you know, please do that. Mrs. Meehan.

Ms. MEEHAN. I was going to mention in my—oh, excuse me. I was going to mention that a common repository for all of the training materials on the VA's website would be really helpful because school certifying officials, it is a relatively junior position on many campuses. The changeover rate may be high, and they need a quick way to come up to speed and have all those resources available for them. That is one thing you might consider.

Mr. MCGARVEY. Thank you very much. Mr. Hubbard, just a similar question to you. We know Veterans Education Success highlighted in your testimony how schools are struggling to maintain enough school certifying officials. What do you see as some of the main barriers here and are seeing in terms of staffing, like, what more can we do? What thoughts do you have on this issue?

Mr. HUBBARD. Thank you for the question, sir. First off, I want to offer my congratulations on the recent passage of your Isakson-Roe Oversight Act. That is a huge win and obviously something that you have championed and led on for good reasons. One thing that I think is important is that schools are paying attention to the requirements of the administrative burdens that are associated with compliance and providing that relevant support.

As we talked about earlier, the GI Bill is the most generous benefit out there when it comes to education, both providing for tuition and fees, but also housing. There is literally nothing in higher ed that is more generous. It is important that schools devote the appropriate resources to make sure that folks like our friends at University of Wisconsin on the ground doing the real work, are getting the right support staff.

Mr. MCGARVEY. Cool, thank you. Just one last question in the very short remaining time. Do you guys have an idea of what you think the ideal ratio is, please?

Mr. HUBBARD. I believe VA recommends 1-to-125, but I certainly defer my colleagues currently.

Ms. DEL SIGNORE. Currently, sir, in the SCO Handbook, it is 1-to-200. It would be nice to have 1-to-100. Chapter 33 is a very complicated process, so any help would be greatly appreciated.

Mr. VAN ORDEN. The gentleman's time has expired.

Mr. MCGARVEY. I appreciate that. I yield back.

Mr. VAN ORDEN. Thank you, Mr. McGarvey. The chair now recognizes my friend from the great State of Arizona, Mr. Ciscomani.

Mr. CISCOMANI. Thank you, Chairman Van Orden, for giving me the time, but also for holding this important hearing. Thank you to the witnesses here today that are here today to help us, inform us, and to better understand how these risk-based surveys are utilized and how the subcommittee can look into streamlining the steps for universities, for colleges, and for veterans that are utilizing the GI Bill benefits.

I represent Tucson, Arizona, and that area which includes the University of Arizona. As a University of Arizona alum, Bear Down, I know that the important work that the U of A does in providing students the tools for success, including with student veterans. Actually, earlier last month, I visited the U of A and I—no, it was this month, actually—and I visited the U of A and I toured

their Veterans Education and Transition Services Center. I was very impressed by their work there. I learned about the important work they do in supporting veteran students, especially since the center is staffed by veterans and that are students at the U of A that have transitioned out of the military to the U of A.

The university has over 5,000 military connected students with about 2,300 veterans in active duty, National Guard, or reserves. These numbers consistently increase every single year. I am proud of the support that they are providing to student veterans, but I also know we can do more. That is where my question leads into. Mr. Rasmussen, what type of factors do you believe should trigger a risk-based survey? Do you feel that the current risk-based surveys are focused on the right factors?

Mr. RASMUSSEN. Thank you for the question. I think risk-based survey, and I said in my testimony, the idea is solid, right, that there is limited amount of resources and that we need to focus those resources in the right place. I do not know that I have the best answer on exactly which factors. I think the factors need to be informed by people on the ground. I think that when we have prescriptive factors that come down from a central office here in Washington and it goes out to the states and it is you must visit these schools, that that needs to be also mixed with somebody in a state education capacity who can put real world context to whatever factors those are.

Some rapid increases, you know, they can be easily explained by many different factors. I said in my written testimony, rapid increase could be because a bunch of post-911 veterans now have kids who are college age. Also, thanks to Congress, those children get to get in-state tuition rates at public schools. I think instead of giving you good answers because I am not the guy who has the best answers on what should be risky, and I am also not at a school that is risky, I would say that they need to be informed by professionals.

Mr. CISCOMANI. Thank you. Thank you for that. Then, Dr. Del Signore, did I pronounce that correctly? Okay, good, good. What are the biggest concerns schools have about risk-based surveys and bureaucratic red tape, and how can we help solve them?

Ms. DEL SIGNORE. Thank you for the question, sir. The survey that NAVPA did to SCOs nationwide, the two biggest reasons that we received were student complaints that were normally old, and closed, addressed, taken care of, or not valid. Or they were not even sent to the institution prior to the risk-based survey, so the institution had the opportunity to read through and understand what the issue was prior to the risk-based survey happening.

The second largest reason was the school was never told by the state approving agency as to what triggered the risk-based survey. They were just, you know, said, hey, you guys have a risk-based survey, give us all this information. We do not know, we cannot tell you why.

Mr. CISCOMANI. How much time do you feel is needed for a risk-based survey inspection to be conducted appropriately?

Ms. Del Signore. Again, thank you for that question, sir. Having gone through that experience myself, it is probably 30 days or more for the institution to prepare. In our testimony, we did say it takes

a multitude of different departments to pull together this information. It is not something that is normally hands on. For example, the school is required to provide the last 2 years of all advertising to include all your social media. If you are a public institution, you have football season right now, those are all your football posts that have to be provided for the SAA. Thank you for the question, sir.

Mr. CISCOMANI. Thank you. I yield back, sir.

Mr. VAN ORDEN. Thank you, Mr. Ciscomani. The chair now recognizes the fact that my microphone's not up here. I now recognize myself for 5 minutes.

Hey, before I get going here, Mr. Hubbard and Mr. Rasmussen, I want to thank you very much for the herculean effort of getting yourself here from South Carolina after you recovered your lost F35. That was amazing. Thank you for getting up here. Yes, I just said that.

Mr. HUBBARD. I think I would get in trouble if I commented on that, sir.

Mr. VAN ORDEN. That is okay. Let us work on that one later. Hey, the subcommittee, we have heard a lot about the Enrollment Manager from the VA in the last few months. Thank you, Mr. Ciscomani. However, we have not been able to hear from you guys. What has your experience been with the Enrollment Manager? To a greater extent, with the Digital GI Bill? I am going to throw that out to you, Mr. Rasmussen.

Mr. RASMUSSEN. Thank you, Mr. Van Orden. I really appreciate the question. I think that is why I am here, right? I am representing the real on the ground experience.

I said in my testimony, it takes longer. It takes longer to use. It is not accurate. The data that we see in that system is not the truth. It is very one way we submit things.

Then there is things that happen outside of the system. The system is not adequate in capturing what we need it to capture in order for the process to work. Then we get secondary emails from processors at regional processing offices almost daily, asking for questions about what an individual certification means. Then because it is tied into this ID.me, or whatever, and my staff being veterans themselves, this last weekend, one of my staff members got an email from the VA processing office to his personal Gmail that contained data about a student enrollment. It is not working anywhere.

Mr. VAN ORDEN. Okay. I am going to ask you all real quick. Can we all agree or do you agree that there is the potential for, and more likely than not, fraud involved in this education system because of its size? Mr. Rasmussen.

Mr. RASMUSSEN. I am sorry, sir, I did not hear the last part of your question.

Mr. VAN ORDEN. Because of the size and scope of these programs, do you agreed that fraud does exist?

Mr. RASMUSSEN. Oh, absolutely, fraud exists.

Mr. VAN ORDEN. Mr. Hubbard.

Mr. HUBBARD. Yes, without a doubt.

Mr. VAN ORDEN. Dr. Del Signore.

Ms. DEL SIGNORE. There is definitely opportunity there.

Mr. VAN ORDEN. Okay. Mrs. Meehan.

Ms. MEEHAN. Agreed.

Mr. VAN ORDEN. Okay, good. We can clearly determine that some type of system has to be in place, right? Okay, so let us figure out how to do it better. What I get from your written testimony, which I have read and it is awesome talking to you guys, is what I have heard is that it seems to be a huge lack of communication between your institutions and the Veterans Affairs Administration. Did I characterize that accurately? It seems like you are just not talking. Do you have a way, Mr. Rasmussen? Do you have a formal way to get a hold of VA when you need to?

Mr. RASMUSSEN. I am noisy enough that I have found a couple of contacts, but that is not common for my peers at other schools that are, you know, not quite as well received.

Mr. VAN ORDEN. How often do you talk to your Big Ten colleagues?

Mr. RASMUSSEN. Well, almost daily in email. We meet on Zoom calls at least once a month, but more frequently.

Mr. VAN ORDEN. How often do you and your Big Ten colleagues speak to the Veterans Affairs Administration?

Mr. RASMUSSEN. Almost never.

Mr. VAN ORDEN. Okay.

Mr. RASMUSSEN. There is no avenue in.

Mr. VAN ORDEN. Mr. Garcia, I have got a huge ask for you, man. Will you give Mr. Rasmussen your personal cell phone number?

Mr. GARCIA. I have got it right here.

Mr. VAN ORDEN. Is that your personal or is that the office?

Mr. GARCIA. It is my personal.

Mr. VAN ORDEN. Please do. That is a big ask because he is from Madison, so you may get some inappropriate phone calls about 2 in the morning. Here is what we want to do. We want to solve this problem. Do you have something you would like to say, ma'am? Please do.

Ms. DEL SIGNORE. Yes, if I could, sir. At one point, the schools had access to our education liaison representatives, ELRS. We do not anymore. During the pandemic, emails went out unanswered from the VA, and those were our go-to people to receive those answers. We need our ELRS back. I know there has been a huge shortage. I know the VA has filled those for the most part, that shortage, but they are not ready to basically hit the ground running. They need to be trained to answer and help support the SCO in administering the GI Bill, because, as I said earlier, it is a very complicated process and any help you could give would be greatly appreciated.

Mr. VAN ORDEN. Okay. I found from personal experience that oftentimes we ascribe the worst intentions to people simply because we do not know what they are thinking. I think there is a case of that, because I talked to Mr. Garcia on the regular and his intentions are pure. They really are. It is just, you know, the bureaucracy is so huge. You are getting his number and you are going to talk. You got a group of Big Ten dudes together with, you know, 50-pound brains and whatnot to think about this stuff all the time. I want you to share your lessons learned with this cat. Mr. Garcia, I would love it if you would listen to them. This is awesome. My

time has expired. Kate always wants one more. Okie doke. Let us get Mr. Levin. I now recognize Ranking Member Levin for his closing statement.

Mr. LEVIN. I want to thank the chairman for helping to improve the communication between VA and our second panel. I think it is so critically important that it just does not stop there, but that each of you take the time and the effort to get to know one another. You are all here. You might as well stick around, get to know one another. I think that the eight risk factors in Isakson-Roe are not the problem, but I do think that they really should only be triggered when schools have grossly failed at one of the standards in law.

I would hope that you would understand the intent at the time was not that we have this overwhelming administrative burden on these schools, but that we reserve, you know, for bad actors and, you know, try to make the best judgment that we can on that basis.

Just the same, I would hope that the schools would do more to try to hire folks and to try to hit the 1-in-100. When I think about the revenue that—and forget about all the things that Mr. Hubbard said and that I agree with about all the reasons why you want more student veterans on your campuses, they are the best of the best. It is also a tremendous amount of revenue for your schools. That was the point that we were trying to make earlier. To that end, when you consider the amount that you are actually going to be spending that incremental cost of having one more person on your staff or two more people on your staff who can handle these matters regardless of how difficult, to Mr. McGarvey's question, how difficult it might be to find qualified people. Even just a couple more people would hopefully go a long way toward addressing the issue and really would be a drop in the bucket when you consider the amount of revenue that we are talking here to a school like the University of Wisconsin or anywhere else.

I think there is plenty of criticism that can be levied. I do not think that is helpful or useful. I think to my friend the chairman's point, communication is really useful. I hope that you will take this opportunity. I hope VA will take the opportunity. I hope the schools will take the opportunity. I hope you will continue to communicate and that we get this right because our student veterans are caught in the middle. With that, I will yield back to my friend, the chairman.

Mr. VAN ORDEN. Thank you, Ranking Member Levin. Gosh, you know what? This is such a weird feeling because I think we have actually moved the ball down the field today in Congress. That is shocking to me personally. It is, man. I am just, just talk to each other and please, please try not to ascribe negative intentions to another party unless they prove it, man. Ronald Reagan, trust but verify.

If you have noticed, we are a single unit moving forward, and that is not changing anytime soon. Mr. Garcia, if you have issues with these cats, I want you to come talk to us. Everybody at this panel, you have issues with that dude, get a hold of us and we will respond. The demand signal comes from you, Okay? That is why we are here.

I want to thank you all for coming. Your testimony is very valuable and all the members that participated today. I believe that this hearing has helped illuminate some issues, and we are moving forward with a purpose. With that, I would like to thank you all for coming.

I ask unanimous consent that all members may have 5 legislative days to review and extend their remarks and include any extraneous materials. Without objection, so ordered. This hearing is adjourned.

[Whereupon, at 11:52 a.m., the subcommittee was adjourned.]

A P P E N D I X

PREPARED STATEMENTS OF WITNESSES

Prepared Statement of Joseph Garcia

Chairman Van Orden, Ranking Member Levin and other Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss the Department of Veterans Affairs' (VA or the Department) education benefits programs. I will highlight the current partnership between State Approving Agencies (SAA), the National Association of State Approving Agencies (NASAA) and VA; risk-based surveys (RBS); and the status of VA's Digital GI Bill (DGIB) modernization effort. Accompanying me today is James Ruhlman, Deputy Director of Education Service.

NASAA and SAAs

I would like to start by acknowledging and thanking our NASAA and SAA partners for their continued commitment to work with their respective educational institutions and VA, to ensure the accurate and timely delivery of high-quality educational benefits to the Nation's Veterans and their families. As you know, VA administers educational benefits to eligible Veterans and dependents, while SAAs ensure the quality of the educational and vocational programs pursued and monitor the institutions providing education and training to Veterans.

SAAs are VA's vital frontline partners in ensuring Veterans receive the quality education and training they deserve. SAAs have a long history of serving Veterans dating back to when they were first created by Congress as part of the original GI Bill in the Servicemen's Readjustment Act of 1944. Although the DGIB program has evolved immensely since its inception, the need and function of SAAs have not diminished. Today, thorough oversight is more necessary than ever with the evolving programs available to Veterans. There are now more schools, many of which have multiple campuses spread across the country and more training programs and options, such as distance learning. Furthermore, online education has become a regular modality for Veterans and many fully accredited institutions have a majority of their students participating through online courses.

Title 38 of the United States Code establishes the parameters for the relationship between VA and SAAs. Section 3671 requests that each state create or designate a state department or agency as the "State Approving Agency." SAAs are charged with approving courses, including apprenticeship programs, in accordance with the provisions of chapters 34, 35 and 36 of title 38. SAAs ensure that education and training programs meet approval requirements through a variety of approval activities, such as evaluating course quality, assessing school financial stability and monitoring student progress. SAAs provide data on all programs approved under their authority to VA's Education Liaison Representatives (ELR) who review the information and enter data pertaining to the programs into VA's approval system. VA also utilizes the services of SAAs to assist VA in conducting program oversight activities by performing RBSs at educational institutions with approved programs. The assistance of SAAs in the performance of these activities has been, and will continue to be, invaluable in ensuring that Veterans receive the highest quality post-secondary education in accordance with statutory requirements.

VA currently has contracts with 52 SAAs in 49 states (with 2 in the State of Washington), the District of Columbia and the Commonwealth of Puerto Rico. VA does not have an SAA contract (during fiscal year (FY) 2023) with the state of New Hampshire; in which case VA performs the SAA duties. SAAs continue to play a vital role in program approval, outreach, training and oversight of VA-administered education benefits. VA values its collaboration and partnership with SAAs and anticipates entering into contracts with all 53 SAAs, including the state of New Hampshire, for FY 2024.

Currently, there are 18,623 domestic and international Institutions of Higher Learning (IHL) and Non-College Degree Programs (NCD) with programs approved for VA educational assistance benefits by the SAAs or approved by VA for foreign schools. Of the 18,623 approved, there were 12,675 active IHL and NCD institutions

in calendar year 2022. During FY 2022 and FY 2023, VA and SAAs completed over 6,200 surveys, with just over 3,000 compliance activities completed to date in FY 2023. These activities include compliance surveys required under 38 U.S.C. § 3693, as well as Targeted Risk-Based Reviews and RBSs. VA anticipates completing a similar number of compliance activities in FY 2024.

Risk-Based Surveys (RBS)

The Risk Based Survey is an onsite review conducted at educational and training institutions, with three principal objectives. First, the survey serves as a mechanism for SAAs to review and mitigate potential fraud, waste and abuse by utilizing data and risk factors outside of the normal program approval and compliance survey processes. Second, it allows the SAAs to verify the propriety of educational benefits paid under the provisions of the laws administered by VA, to education and training institutions on behalf of eligible individuals. Third, the RBS ensures SAAs initiate prompt action when risk factors and associated deficiencies are substantiated.

There have been two influential pieces of legislation that directly address RBSs. First, section 310 of the Harry W. Colmery Veterans Educational Assistance Act of 2017 (P.L. 115-48) amended 38 U.S.C. § 3673(d) to allow VA to utilize the services of SAAs for conducting compliance and RBSs. Second, section 1013 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116-315) established new requirements for the performance of RBSs at educational institutions. Section 1013 amended title 38, United States Code, by adding 38 U.S.C. § 3673A, which directs VA to develop, in partnership with SAAs, a comprehensive program to conduct RBSs and establish a searchable data base. In addition, section 1014 mandates the performance of RBSs by SAAs when notified or informed of certain actions or conduct concerning educational institutions.

The RBS process allows for the identification of risk factors from continuous data collection and analyses gathered from various Federal and state sources. The data analyses are used to identify facilities with risk factors that indicate potential need for corrective action in order to remediate problems and ensure successful outcomes for GI Bill beneficiaries. In August 2021, VA added a module to its existing Salesforce-based application to capture institution risk-factor information from completed surveys, as required by P.L. 116-315 § 1013. Additionally, the information is searchable through data mining, allowing for research and revision of the RBS model in a data-driven manner. VA believes the requirements of the law, effective October 1, 2022, have been met.

VA continues to work collaboratively with SAAs in the execution of RBSs. Surveys are completed in accordance with legislative requirements, including identifying and measuring risk factors present at institutions and taking appropriate actions to mitigate risks that violate program approval requirements, jeopardize the integrity of the GI Bill or negatively impact the outcomes of Veterans and other beneficiaries.

Partnership

During the first quarter of FY 2022, NASAA and VA's Education Service leadership established an RBS workgroup to discuss best practices, gaps and other areas of concern. The main purpose and focus of the workgroup were strategizing and formulating the future State of the RBS process by evaluating the results of the FY 2021 NASAA pilot model.

The RBS workgroup refined the RBS job aids initially developed for the NASAA pilot to eliminate duplicative information and to streamline the risk-review process. The job aids are used during visits to schools, helping SAA staff by providing clear and concise step-by-step instructions, information or guidance. Additionally, a standard operating procedure (SOP) was developed to consistently execute RBSs in accordance with legislative requirements. The SOP¹ identifies risk factors potentially present at institutions and provides direction on taking appropriate actions to mitigate any risks that jeopardize the integrity of the GI Bill and the outcomes of beneficiaries.

In June and July 2022, NASAA conducted two virtual training events and one in-person training session during the NASAA Summer Conference. The training provided an understanding of the RBS process from beginning to end. In addition, NASAA created an FY 2023 RBS Guide to assist SAA members in conducting RBSs. This guide addresses specific areas in greater detail and provides guidance and recommendations on how to address each step of the process.

¹ [https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/55440000001048/content/554400000220722/Standard-Operating-Procedure-Risk-Based-Surveys?query=RBS percent20standard percent20operating percent20procedure](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/55440000001048/content/554400000220722/Standard-Operating-Procedure-Risk-Based-Surveys?query=RBS%20standard%20operating%20procedure)

FY 2023 RBS Results

For FY 2023, educational institutions were identified for RBSs using a data-driven decision-making approach, as described above. This sought to find patterns or correlations between different data points indicating problems that may impact compliance with program approval requirements and/or the ability to effectively educate VA beneficiaries. It was determined that, apart from the statutorily specified RBS triggers, facilities need a minimum of two risk factors to trigger a review. The modifications were made based on feedback from SAA staff, reviews and analyses of data.

Data are derived from public sites such as the Department of Education; extracts from the GI Bill Comparison Tool; and information from Education Service's Data Analytics Team. The risk factors and thresholds include but are not limited to:

- **Rapid Increase in Veteran Enrollment.** Evaluates prior Academic Years to determine a 30 percent increase or more in the Veteran population.
- **Rapid Increase in Tuition and Fees.** Reviews the facility as a whole and the total tuition and fees paid to the institution. The difference is calculated between successive years and is a function of the number of trainees and the total tuition and fees paid. The threshold for a 'rapid' increase is 30 percent.
- **Volume and/or Severity of Student Complaints.** Reviews GI Bill complaints or complaints received from Federal partners, consumer agencies and state partners. The GI Bill Feedback Tool is the primary source of this information.
- **90/10 Rule Violation.** The established threshold to trigger an RBS is established at 85 percent, prior to exceeding the Department of Education's requirement.
- **85/15 Rule Violation.** Reviews for compliance with 38 U.S.C. § 3680A(d), as outlined in 38 U.S.C. § 3673A.
- **Caution Flag.** One or more flags displayed on the GI Bill Comparison Tool notifying users of issues that should be taken into consideration when choosing an educational institution.

The FY 2023 Cooperative Agreements between VA and SAAs requires the completion of 1,308 RBSs over the course of the fiscal year. As of September 13, 2023, 1,195 (91 percent of the required 1,308) RBSs have been conducted. There have been 55 education and training institutions withdrawn from GI Bill participation due to RBS findings. The following discrepancies were identified by SAAs:

- **Enrollment Certification Errors**
 - Incorrect term dates;
 - Incorrect tuition and fees;
 - Graduation not reported;
 - Leave of absence not reported;
 - Incomplete grades not reported;
 - Operating on-line instruction and hybrid courses beyond June 1, 2022;
 - Non-compliance with Dual Certification, as required by 38 U.S.C. § 3313(l);
 - Late report of enrollment certification;
 - Satisfactory academic progress not properly applied; and
 - 85/15 rule violation; multiple programs exceeded ratio.
- **Approval Violations**
 - Operating with unapproved catalog;
 - Inappropriate marketing and advertising;
 - Prior credit evaluation;
 - Lacking proper articulation agreements in place;
 - Discrepancy with grading policy;
 - Operating without business license;
 - Inconsistent attendance records;
 - Incomplete financial ledgers;
 - Certifying unapproved program; and
 - Enrollment agreement clause imposing penalties and/or denying attendance or participation prior to the earlier of the date of VA benefit payment for tuition and fees or 90 days from date of certification of tuition and fee charges to VA; violation of 38 U.S.C. § 3679(e).

- **Miscellaneous Errors**

- o GI Bill Trademark violation.

During the last quarter of FY 2023, VA has been working with the SAAs to revise the RBS model, thresholds, procedures and job aids based on SAA feedback and the findings of the RBSs completed during this fiscal year as part of an ongoing process of continuous improvement. The revisions are being made in collaboration with VA's SAA partners, and updated materials will be released prior to October 1, 2023. In addition, ELRs and supervisory staff have held meetings with the SAAs to discuss the selection of RBSs for completion during FY 2024. Each SAA is expected and encouraged to take advantage of the opportunity to identify any RBS candidate(s) and priorities at the beginning of the fiscal year, and any that may arise throughout the year, based on data that support risk factors and align with RBS objectives.

Regulatory Changes

VA has also taken the initiative to reduce burdens on schools and improve customer service to Veterans by modernizing several regulatory requirements.

Stakeholders have expressed confusion regarding VA's regulations when it comes to which SAA they should apply for program approval of an online course. In October 2021, VA published a proposed rule to clarify SAAs' jurisdiction for approval of online distance learning courses.²

VA proposed that the SAA with jurisdiction over the school's main campus would be the only SAA to which the school needs to apply for approval of any of its solely online courses. Additionally, the rule seeks to clarify the adjudicatory outcomes available to an SAA when reviewing an approval application (i.e., an SAA may approve, deny, suspend or withdraw approval. VA proposed to remove the option for an SAA to simply not act on an application). Furthermore, VA proposed that when an SAA denies an application for approval, suspends a program or withdraws a program, the SAA must provide schools with a notice of decision outlining reasons for the denial, suspension or withdrawal. VA believes the proposed rule would make the program application process simpler for schools and SAAs to understand. VA also believes that student Veterans would be positively impacted by more expedient approvals, resulting in faster additions of program choices for training. Additionally, certain online and distance learning modalities that may have been previously denied may be able to be approved.

In October 2022, VA published a proposed rule to simplify the rules and clearly state that aid provided by the educational institution is considered institutional aid.³ This would reduce the administrative burden on schools in calculating the "85/15 rule" where statute requires that no more than 85 percent of the students in a program of education can have all or part of their tuition, fees or other charges paid to or for them by their educational institution or VA.

Digital GI Bill (DGIB)

As discussed during the July 2023 "Reviewing the Digital GI Bill" hearing, VA is modernizing the GI Bill's Information Technology (IT) platform to deliver benefits faster and enhance customer service. The goal of this effort is to develop a modern digital platform, leveraging cloud-based automation, digital service transformation, human-centered design, world-class communications, analytics and other important IT services. The improvements will provide world-class customer and benefit services to Veterans and VA's partners, enabling more timely and accurate delivery of education benefits, providing near real-time eligibility and benefit information and allowing for first contact resolution.

Since March 2021, when VA awarded a contract to Accenture Federal Services (AFS) to develop the DGIB, there have been 6 major releases and several smaller releases to modernize GI Bill services. Notably, VA incorporated legislative updates from the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116–315); activated the DGIB Managed Service platform; deployed capabilities to make enrollment-related processes faster and simpler, such as verifying enrollment status via email or text message; migrated Veteran Employment Through Technology Education Courses claims into the DGIB Managed Service platform; improved the application process for first-time applicants by automating portions of the Post-9/11 Bill application experience and launching Enrollment Manager to modernize the system for School Certifying Officials (SCO).

² <https://www.federalregister.gov/documents/2021/10/14/2021-21496/state-approving-agency-jurisdiction-rule>.

³ <https://www.federalregister.gov/documents/2022/10/12/2022-22107/8515-rule-calculations-waiver-criteria-and-reports>.

VA received positive feedback from SCOs and its customers, and these systems are continuing to improve the Veteran experience every day. For instance, VA is pleased to note that Enrollment Manager has just reached its 2 millionth enrollment just 5 months after its initial release and 1 month after it reached 1 million enrollments.

VA currently fully automates 33 percent of original and 62 percent of supplemental GI Bill claims⁴ and is targeting December 2024 to automate 35 percent of original and 70 percent of supplemental claims. VA is further targeting July 2025 to automate 50 percent of original and 80 percent of supplemental claims. To achieve this, VA has scheduled the following five upcoming automation deployments:

1. **October 2023:** Enrollment Manager Custom Remarks
2. **December 2023:** My Education Benefits Transfer of Entitlement (TOE)
 - o Non-College Degree Enrollment Received for Claimant
3. **February 2024:** A Change in VA Defense Information Repository (VADIR) TOE Data Has Been Detected
 - o Claimant Disagrees With Service Data From VADIR
4. **March 2024:** A Change in VADIR Service Data Has Been Detected
5. **October 2024:** Reserve Officer Training Corp/Service Academy/Loan Repayment Plan Discrepancy
 - o Validation of Initial Active-Duty Training/Entry Level Skill Training Time Requirement

VA continues to leverage a human-centered design to inform its conceptualization and development of the future state of DGIB. VA has worked with AFS and VA stakeholders to develop a schedule that takes DGIB through 2025 when VA's major deployments in the modernization effort will come to an end.

Major deployments planned include Enterprise Management of Payments, Workload and Reporting Release, Business Manager, Benefits Delivery Network-C and Approval Manager. VA has made tremendous strides in the administration of VA education benefits in recent years through modernization efforts. Many lessons have been learned along the way, and VA continues to seek feedback from partners and find ways to improve education benefits delivery through modernization. VA looks forward to continued opportunities of working with Congress to address Veterans' concerns to provide a better GI Bill experience.

Conclusion

VA will continue working closely with NASAA, SAAs, AFS and VA stakeholders as we deliver the accurate and timely educational benefits the Nation's Veterans have earned. VA remains committed to ensuring proper oversight of those benefits and that VA systems are modernized in a customer-centric way while remaining effective stewards of taxpayer dollars. VA appreciates the support of this Committee and looks forward to continued opportunities to work with Congress to address Veterans' concerns and provide a better VA experience. Mr. Chairman, this concludes my testimony. We would be happy to answer any questions you or the other Members of the Subcommittee may have.

Prepared Statement of Joseph Wescott

Introduction

Chairman Van Orden, Ranking Member Levin and members of the Subcommittee on Economic Opportunity, I am pleased to appear before you today on behalf of the fifty-two member State agencies of the National Association of State Approving Agencies (NASAA). I appreciate the opportunity to provide comments to this committee pertaining to "Less is More: The Impact of Bureaucratic Red Tape on Veterans Education Benefits," and particularly how we can work together with federal and state agencies to ensure unrestricted access to quality education and training, while continuing to protect students from substandard programs and predatory practices. I am accompanied today by NASAA President Frank Myers.

⁴ As of 31 July 2023.

Role of the State Approving Agencies: Past and Present

State Approving Agencies (SAAs) play a critical role in the administration of GI Bill benefits. Shortly after passage of the Servicemen's Readjustment Act of 1944, or the GI Bill of Rights, Congress, recognizing it was the responsibility of the states within our federal system of government to oversee the education of its citizens, required that each state establish a "State Approving Agency." In response, the Governor of each state designated a state bureau or department as the SAA. The SAA was to be supported through reimbursement of its expenses by the US Department of Veterans Affairs (VA). Thus evolved a truly cooperative federal-state partnership that maintains the rights of the states while monitoring and protecting a federally sponsored program administered under the terms and conditions of federal law.

The original GI Bill, as enacted in 1944, relied on state agencies to establish standards for and to approve programs of education in which eligible individuals could use GI Bill benefits. Over time SAAs have evolved to become the primary means of assuring institutional accountability. Federal law is clear in that SAAs are the primary governmental body through which approval of education and training for Veterans' educational benefits is to occur. With specialized authorization under the Code of Federal Regulations and State statutes, they exercise the state's authority to approve, disapprove and monitor education and training programs. The SAA brings to this mission knowledge of state law and regulations as well as knowledge of the local environment and needs of the state. SAAs also assist the states and VA with exposing fraudulent and criminal activity involving the payment of Veteran's benefits.

In 1948, SAA representatives met to form a professional organization to promote high professional standards, create a forum for the exchange of best practices, and promote uniformity of purpose and practice. For more than seventy-five years, NASAA has worked with our VA partners, VSOs, and all agencies to ensure the greatest numbers of quality programs are available to those eligible for education and training benefits. We do this through our primary mission of program approval and our related efforts-compliance, oversight, training, liaison and outreach. Indeed, with the exception of federal facilities, the State Approving Agencies are the sole authority responsible for the approval of all programs of education and training within the nation. We take this responsibility seriously and consider ourselves the "gatekeepers of quality" to protect the integrity of the GI Bill by ensuring only quality programs are approved.

Practice and Partnership

Today, fifty-two SAAs in 49 states, as well as the District of Columbia and the territory of Puerto Rico (One state has two SAAs), composed of approximately 215 professional and support personnel, are supervising over 13,000 active facilities and nearly 220,000 programs. The Subcommittee is no stranger to our fundamental role as it is the same today as when we were created by Congress. SAAs work in collaboration with the VA and our other partners, such as the National Association of Veterans Program Administrators (NAVPA), to promote and safeguard quality education and training programs for Veterans and other eligible persons *and* assist the VA in preventing fraud, waste, and abuse in the administration of the GI Bill. NASAA believes the primary responsibility and focus of the SAAs is, and should continue to be, to review, evaluate, and approve programs at schools and training facilities, utilizing state and federal criteria.

It is critical that, as Congress intended, each state has an adequately resourced SAA to protect the integrity of the GI Bill. In 2022 alone, SAAs across our nation completed over 304,000 approval actions for all of NASAA's Core Functions: Approval, Compliance, Technical Assistance, Outreach, and Liaison. Almost 220,000 programs of education and training at universities, colleges, training institutions, vocational flight schools, and correspondence schools were approved. We do this through an approval process that allows us to carefully evaluate many factors including curriculum, instructors, policies, facilities, equipment, and advertising. At new facilities, after a careful review of the completed application, we schedule an inspection visit to the facility to ensure the institution understands federal and state requirements and has the capability to oversee and administer the program. If we find that they do, we provide training on the remainder of the approval process and the continuing expectations. After our initial approval, we continue to review the facilities on a recurring basis as schools and training providers add or change programs and policies. Also, as a part of this approval process, where applicable, we ensure that schools are in compliance with Public Law 112-249 and are not providing any "commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or enti-

ties engaged in any student recruiting or admission activities.” For schools who are signatories of the “Principles of Excellence (POE),” we provide training and information to them as well. We also explain important requirements such as the 85/15 rule, notification to us if there are negative accreditation findings, and other areas of concern.

In 2011, with the implementation of Section 203 of Public Law 111–377, the Post–911 Veterans Educational Assistance Improvements Act, we began assisting VA with their requirement to perform compliance survey visits at SAA-approved institutions. By 2018, we were conducting over 2,000 compliance survey visits. An unintended consequence of Section 203 was the diminution of the ability of SAAs to devote adequate time to approvals and robust oversight to ensure student veterans were being provided quality education and training. P.L. 111–377, specifically Section 203, established “deemed approved” programs that do not require an in-depth review because another agency with an established process and related mission has approved them. As interpreted and implemented by VA, an unfortunate and unforeseen consequence was all programs at institutions meeting such “deemed approved” criteria did not receive the rigorous oversight required by the SAA approval process. This hindered our oversight of these approvals, in some cases to the extent that certain contracted programs, particularly flight training, became approved costing taxpayers millions and graduating Veterans who were hard pressed to find meaningful employment. Furthermore, the increased focus on compliance surveys adversely impacted the SAA’s ability to dedicate time and personnel to our critical approval and oversight functions, as codified by law. Prior to 2011, SAAs generally visited more than 80 percent of all institutions with approved programs in their states annually. Today, most SAAs visit less than 50 percent of these institutions. All of these factors, and those addressed below, called for change. Congress recognized the need for a new day in compliance and oversight.

Risk Based Surveys

The House and Senate Veterans Affairs committees watched with growing bipartisan impatience as inadequate oversight allowed some schools to prey on veterans, capture millions in taxpayer dollars, and too often close their doors with little warning. In response to this situation, in 2017, they included in the Harry W. Colmery Veterans Educational Assistance Act (also known as the Forever GI Bill) provisions that for the first time would allow SAAs to evaluate the risk of these programs: the risk of poor finances, of harming student veterans, and of leaving taxpayers holding the bag when schools consistently fail students or abruptly shut down. The Colmery Act also authorized a modest, and much needed, funding increase for SAAs and mandated the Government Accountability Office issue a report on SAA capacity and performance. That GAO report found that a focus on risk was indeed warranted. Recognizing that compliance surveys were insufficient as a tool to address low-quality education leaving students worse off or the use of misleading and deceptive practices, the Colmery Act required for the first time that SAAs begin evaluating the risk that schools approved to disburse GI Bill funds posed to veterans and their families. This was the first time such a robust requirement for risk-based reviews was passed in any higher education context. Yet in the first two years following passage, VA and the SAAs did not have either the resources or the experience required to design and create a risk-based system, and there was no publicly transparent precedent to use as a model.

In late 2020, the Colmery Act’s focus on risk-based surveys was reinforced with the passage of P.L. 116–315, the Isakson and Roe Veterans Health Care and Benefits Improvement Act of 2020 (Isakson-Roe), which was championed by veterans’ service organizations (VSOs). Isakson-Roe further strengthened the SAAs’ risk-based survey authority and required that SAAs exclusively conduct risk-based reviews beginning in October 2022. The law would further specify minimum criteria that must be examined during risk-based reviews. NASAA, aware of the intent of Congress and recognizing that compliance surveys alone could not address questions surrounding quality and risk, sought to establish a new model of oversight. We approached the Lumina Foundation in the summer of 2019 for a grant to provide funding to develop and test that model. That early effort would lead to a dedicated effort to design, build, pilot, and scale a model that could be effectively used by all SAAs, from those in small states with only one full-time employee, to large states that must oversee hundreds of GI Bill recipient institutions. This process resulted in the development and implementation of a quantitative model that evaluated programs based on risk to veterans and taxpayers and focused limited resources on those programs evincing the highest level of risk—with attendant requirements for improvement or risk of loss of GI Bill eligibility. A report produced by the American Legion

in January 2022 entitled “Lessons from a Risk-Based Oversight Model Designed to Protect Students and Taxpayers” summarized the collective efforts to design, build, and pilot these statutorily required risk-based surveys, learn from the pilot and make any needed adjustments, and in the coming year, scale to all 50 states by October 2022 consistent with the law.

With funding from Lumina Foundation and pro bono support from Nelson, Mullins, Riley, and Scarborough, a total of almost half a million dollars, NASAA and EdCounsel undertook the pilot design by convening an advisory council of 22 members representing student veterans, State Approving Agencies, schools, accreditors, states, and other experts. These advisory council members—along with many others who were consulted throughout this process—provided regular and invaluable guidance on the overall structure and principles of the model. NASAA and EdCounsel also worked closely with six pilot SAAs (in addition to the two non-pilot SAAs serving on the advisory council) to understand their capacity and perspectives on risk. Research was conducted on precedents and examples of risk-based surveys in other contexts, such as higher education oversight models from other countries and models predicting housing foreclosure risk and financial oversight of publicly traded companies; and previous work on risk-based surveys. During the design of the initial risk filter and deeper review tools and forms, the focus was intentionally on feasibility of implementation and scaling across SAAs as well as other federal contexts. The end result was a new model of oversight that looked at meaningful metrics (graduation and retention rates, advertising, financial security, increases in veteran’s enrollment, etc.), was programmatic in application and oversight, and most importantly, veteran centric. In other words, the model would determine if the schools were offering quality programs which kept the promise of better jobs and opportunities.

The key to the model’s success was that the risk-based survey system seeks to separate low-risk schools from high-risk schools using quantitative measures, and to then prioritizes further data requests and site visits to those schools showing the highest levels of risk within a specific state. The system uses publicly available data to automate the process of ranking programs in a state from higher to lower risk. This allowed SAAs to focus their risk-based survey visits on those institutions most likely to present risk to students and taxpayers. This is why a searchable data base that SAAs could access was and still is absolutely necessary for the success of the nationwide rollout. The risk-based model had received positive responses from VA, the SAAs, and lawmakers on the Congressional veterans authorizing committees. With a data base to guide them to potentially troubled institutions, SAAs could then conduct an extensive review of detailed data and documents furnished by schools prior to a site visit that looked closely at curriculum, instructors and veteran support services. In the end, schools are evaluated on the opportunities and outcomes provided for and to student veterans. The model proved that SAAs were able to better identify schools that were at risk of closure due to substandard programming, fraudulent advertising and/or improper practices.

So, what went wrong? As already stated, the absence of a data base as required by law, resulted in the VA assigning schools for a risk-based survey that were not actually at risk. SAAs spent valuable resources reviewing accredited institutions that had experienced minor increases in veteran enrollment but were otherwise operating sound, quality programs. The time spent conducting unnecessary reviews created a waste of SAA, school official, and ultimately taxpayer resources. In addition, due to an inordinate interest in process and being able to perform quality assurance at some future time, VA insisted that SAAs upload almost all documents produced during a Risk Based Survey. While the intent of the model had been a focus on outcomes with a final comprehensive report to detail the findings, SAAs were instead required to direct their time toward cataloguing and uploading survey materials. Finally, the VA took several months reviewing and revising the model, which would have been better spent developing a searchable data base or preparing for and providing training for SAAs and institutions. Thankfully, Director Garcia and his team are attempting to move in the direction of the original model with a more streamlined process for the coming year, and I believe they understand the critical necessity of the searchable and comprehensive data base.

Red Tape and Bureaucratic Overreach

State Approving Agencies are adamant about only approving quality programs that provide good jobs, opportunities and a better future for our veterans and their families. This consists of ensuring that all veterans, including those in rural areas, have access to quality education programs and job training. Unfortunately, in recent years, VA interpretation of certain laws have resulted in requirements which led to

some schools deciding to withdraw from the GI Bill program. In fact, in the last year alone, almost 500 schools have requested that their approvals be withdrawn due to SCO certification training requirements, audits performed too close together, too many requirements for reapproval, and ID.Me requirements. Sadly, the impact of these withdrawals has been more severe on small but high-quality programs, often serving rural areas or programs of specialty training that are not housed at a large school where interaction with student-veterans is more frequent. The result of this is that veterans in rural America are losing access to essential training and quality education aimed at serving those who are not attending a large college or university. With the loss of these in resident programs, there is concern that veterans from rural areas may be driven to lesser quality online education or worse, not even be able to utilize the benefits they have rightfully earned. Equally troubling are the VA plans to redefine “independent study” and “online education” in such a way that there will no longer be a regulatory barrier to offering online training at unaccredited Non College Degree (NCD) programs. While SAAs are generally welcoming of a change to approving online education and would welcome additional language in law surrounding this modality of learning, there is some concern that implementation of these changes could create a perfect storm of approving a plethora of inadequate education and training programs. As we are witnessing these small in-residence facilities withdraw due to administrative burdens, we hesitate to open the flood gates to larger online facilities that may have more capacity but offer asynchronous instruction that is difficult to regulate or monitor for quality.

Another example of unnecessary bureaucratic red tape is requiring accredited institutions accepted by the US Department of Education to offer Title IV funding. P.L. 116-315 Section 1015 implemented this requirement, and as I recall from the drafting of the statute in this area, the intent was to create a mechanism allowing SAAs to suspend or withdraw approval from institutions that lost the ability to offer Title IV due to actions that would indicate a concern with a facility being able to continue offering high-quality education. Unfortunately, the requirement as written has resulted in numerous institutions, particularly those offering strictly religious education, medical residency, EMT, and paramedic programs, feeling forced to withdraw from the GI Bill program. These are programs and facilities that are accredited by regional accrediting bodies that oversee other colleges and universities large and small, but because these facilities do not participate in the Federal Title IV program, they are no longer eligible for GI Bill benefits. The VA’s restricted reading of their waiver authority, as allowed by the law, has resulted in numerous seminary, pastoral, and other religious training programs, as well as several medical training programs being withdrawn due to a law change that creates a situation where accredited facilities are unable to participate in the program, but nonaccredited ones are.

Likewise, the VA’s interpretation that all institutions, including small NCDs, Apprenticeships and OJTs, must undergo hours of certification training and provide their personal SSN information to gain access to new VA software that certifies veteran attendance participating in education programs, has resulted in quality schools requesting to be withdrawn. An example of the impact of this requirement is that today, there are NO private truck driving schools approved in the State of Illinois. Until recently, the VA offered low-bar online methodologies for small facilities to submit accurate enrollment information in a quick and efficient manner but that is no longer an option. While many of these affected programs had small (1-2) veteran enrollments, NASAA firmly believes that every veteran should have access to use their entitlement. The VA should work in partnership with the State Approving Agencies to find meaningful ways to address these areas if we are to assure continued veteran access to quality training and education, particularly in rural America.

While SAAs always believe in strong approval criteria and oversight of training programs accepting GI Bill benefits, some specialty areas of training who wish to become approved are subject to undue burdens that often duplicate the efforts of other State or Federal agencies that oversee and approve their curriculum. For example, public criminal justice, fire, and rescue academy programs which lead to certification as a law enforcement officer, correctional officer, sheriff, firefighter, or first responder are subject to the same approval criteria and mechanisms as colleges, universities, and trade-schools. These criteria are often unnecessary given the type of training provided at these facilities, such as providing a financial aid shopping sheet or designating to the VA that specific employees are providing academic or career counseling. In addition, accredited medical residency and fellowship programs, and Part 141 and Part 142 pilot schools and flight training centers, are subject to approval criteria that is poorly defined in US Code and often subject to confusion by veterans, facilities, SAAs, and the VA. NASAA supports efforts to formally move these programs as being approvable under 38 USC § 3672’s “deemed ap-

proved” criteria, as another agency with an established process and related mission has accredited or approved them. It is our belief that these programs meet the spirit of the reason the deemed approved law was created, and formalizing these facilities approval criteria would continue strong oversight by SAAs while also allowing access to a wide variety of career and technical training opportunities.

Real Partnership and a Renewed Focus on Veteran Success

In the last year, largely due to the vision and leadership of Director Joseph Garcia, communications between the VA and State Approving Agencies have improved markedly. Likewise, we sense a renewed commitment to partnership in formulating policy and process. However, if we are to be successful in assuring the long term success of the GI Bill educational program, there must be a renewed commitment to this historic State and Federal partnership as well as an undiminished focus on ensuring that there are limited or no negative impacts on our veterans and their families. We can begin this new partnership with the VA, as it did for many years, by sharing the funding model for SAAs with the NASAA Cooperative Agreement Committee so we can better understand what governs the distribution of funds allocated to each SAA and States can better plan how to best use resources to protect our Veterans. Likewise, regulatory and policy/process changes should not be made in a vacuum. SAAs should be at the table, early on, so as to help the VA make practical changes which avoid unpleasant and unforeseen consequences for our student veterans. Finally, enhanced communication with SAAs and particularly the educational and training institutions we serve will go far to renew trust and ensure quality service for our veterans. The recent late great unpleasantness surrounding complex and confusing 85/15 requirements, which eventually required congressional intervention, is an example of how real partnership and meaningful communication could have avoided a painful process for all.

State Approving Agencies desire to perform robust risk-based surveys, combined with less comprehensive but equally important supervisory visits, as part of the approval and oversight function of the SAAs. SAAs are committed to protecting Veterans by identifying high risk activities at the institutions we approve through the completion of these visits in addition to our equally important focus on approval. Both of these activities will help proactively identify red flags at the institutions and entities we oversee and thus enable SAAs to properly identify systematic issues so as to prevent educational or financial harm to our veterans and loss of taxpayer funds. As such, NASAA strongly believes the VA and SAAs must remain committed to the more proactive approach provided by risk-based surveys and enhanced approval requirements. We must continue to look rigorously at accreditation issues, enrollment practices and where possible, employment data. As trained educators, we are best suited to provide this important rigorous oversight and in-depth evaluation. Though we maintain the approval of non-Federal programs is properly vested in the States, we believe the VA should ensure states are adequately protecting the integrity and independence of SAAs and ensuring Federal funds are properly expended. In the long term, this proactive approach will continue to protect the integrity of the GI Bill and taxpayer interests in our combined efforts to serve Veterans and their families.

Conclusion

Mr. Chairman, today, SAAs throughout this great nation as well as US territories and the District of Columbia, are committed to ensuring that our Veterans and their families have unfettered access to quality training and educational programs while utilizing their earned benefits provided to them by the GI Bill. We are extremely grateful for the opportunity to once again appear before this committee to share our positions on the important topic of protecting our veterans and the GI Bill from unnecessary red tape that restricts veteran access to the benefits they need for better lives. We remain committed to working closely with our VA partners, VSO stakeholders and educational institutions on these and other initiatives designed to protect the quality and the integrity of the various GI Bill programs and the Veterans and family members who have sacrificed so much for this great Nation. They are truly our greatest treasure. I thank you again for this opportunity and I look forward to answering any questions that you or committee members may have.

Prepared Statement of Anne Meehan

Chairman Van Orden, Ranking Member Levin, and Members of the Subcommittee:

Thank you for inviting me to speak at this hearing on ways to remove bureaucratic red tape and streamline the administration of veterans education programs. My name is Anne Meehan, Assistant Vice President of Government Relations at the American Council on Education (ACE). ACE represents approximately 1,700 public and private colleges and universities and related higher education associations.

I would like to highlight for the Subcommittee some of the issues that have arisen with the Department of Veterans Affairs' (VA) recent implementation of a "risk-based survey" compliance tool.

Colleges and universities recognize the important role that Congress and the VA play in the oversight of veterans education benefits. Congress has made a significant investment in these programs, and it is critical that appropriate safeguards are in place to protect against waste, fraud and abuse – both to protect taxpayer dollars and to ensure veterans are receiving a high quality education. At the same time, in our effort to root out problems and identify bad actors, we must be mindful that we do not inadvertently create unnecessary compliance burdens on colleges and universities that are serving veterans well.

We commend the VA for its efforts to develop and implement a risk-based survey model, as required under the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020* ("Isakson Roe"). We recognize VA's commitment to ensuring oversight of all institutions approved to receive veterans education benefits. At the same time, we believe VA's tool, both in design and practice, reflects a misunderstanding of how a risk-based, or risk-informed, compliance tool is intended to work. Further, while we recognize that portions of the statute could be clearer, we believe that VA's model is inconsistent with the statutory requirements and Congressional intent.

To be clear, the higher education community is not opposed to the concept of risk-based models.¹ To the contrary, we believe that risk-based surveys, when done right, can be a valuable and efficient oversight tool. The goal of a risk-based survey model is to identify a limited number of institutions exhibiting certain "red flags" on readily available public metrics. Based on these flags, the institution is then subject to further scrutiny to determine if there is a risk to students or taxpayer funds and to allow the regulator to take further action as needed. A risk-based model is a way to target finite oversight resources to address the areas of greatest concern.

ACE has heard from a number of institutions who have been subject to VA's risk-based survey over the past year. In general, concerns have fallen into three areas: (1) concerns related to the triggers VA uses to select institutions for a risk-based survey; (2) concerns about the information required once selected for a risk-based review; and (3) specific concerns about the "financial soundness review" required as part of a risk-based survey.

1. Concerns related to the triggers used to select an institution for a risk-based review.

Over the past year, VA has selected more than 1,200 institutions of higher learning—including more than 600 public and private, degree-granting college and universities – for a risk-based review. The large number of institutions selected suggests that VA's model is not sufficiently focused on the institutions of greatest concern. We have heard that some State Approving Agencies (SAAs) have been required to conduct risk-based surveys at hundreds of institutions. This raises questions about whether, despite their best efforts, SAAs will be spread too thin, and unable to focus on institutions that pose the greatest risks.

Many campuses report they are unaware of the reason why they were selected for a risk-based review, and we would urge the VA to be more transparent about these triggers. In cases where institutions know what has triggered the review, the purported reason often appears insufficient to suggest a heightened risk of non-compliance.

For example, some campuses were selected on the basis of having a program fail the 85/15 rule during a period when VA had drastically changed its policies around compliance and before Congress overrode these policies through legislation. In one case, the 85/15 "failure" occurred in a program without a single veteran at an institution that qualified for the 35 percent exemption and had a total veteran population below 5 percent.

¹ A risk-informed approach to regulation and oversight is not a new idea in higher education circles. In fact, as part of a 2015 bipartisan task force on regulation, ACE commissioned a white paper examining a risk-informed approach to reduce regulatory burden while maintaining adequate safeguards for federal dollars. See Appendix III of the task force's report at <https://www.acenet.edu/Documents/Higher-Education-Regulations-Task-Force-Report.pdf>.

Some campuses were selected based on a single complaint on matters unrelated to the quality of the education program. In one case, the complaint was decades old and had never been verified. In another case, the complaint was from a non-student.

Some campuses were selected due to nothing more than a standard tuition increase. Some were selected because of a slight increase in the total number of veterans in a program – which was common in 2021 as we emerged from the pandemic and a positive sign, not a sign of risk.²

We are unaware of any cases where the risk-based survey was triggered by one of the events listed in section 3673(e), even though we believe those situations are ones that should trigger a risk-based survey.

2. Concerns about the information required once selected for a review.

Campuses also have expressed concerns regarding the large amount of information they must provide to their SAA – typically within 10 days or less. One large university was required to produce “tens of thousands of documents” in response to the survey. Coordinating this response is a massive undertaking requiring assistance from campus officials across multiple offices. While most offices are happy to help, many may not understand the immediacy or importance of the response and it is difficult to ask them to drop everything when they are busy assisting students and engaged in other essential tasks. When one campus raised concerns about their ability to gather the necessary documents in time to meet a two-week deadline, the SAA noted that they were only required to give the school two days’ notice.

To some, the risk-based review appears to be “a large fishing expedition” resulting in a massive information dump that would be impossible for the SAA to review in any meaningful way.

Among the requirements, campuses must provide:

- complaints received over a three-year window on virtually any topic (e.g., complaints about the dining hall or complaints to information technology that a server was down);
- all advertising for the prior 24 months including digital, print and video aids, student handouts and brochures, a list of entities paid for advertising or marketing, and websites created or used by third party contractors for purposes of advertising, marketing or recruiting; and
- detailed student information for selected students including admissions documents, test scores, attendance records, student transcripts, and student financial records.

In addition, institutions must permit the SAA to monitor a class in order to “determine the educational quality of the instruction.” As one campus put it:

“This is another item which, while well-intentioned, severely misses the mark when put into practice at a major research institution. It is insulting to both the faculty and the [SAA] to put them in a position to determine the suitability of the instruction.”

This level of intrusion into institutional academic and curricula matters is highly inappropriate, which is why Federal statute specifically prohibits the U.S. Department of Education (ED) from engaging in this type of interference.

3. Concerns about VA’s “financial soundness review.”

Campuses also raised concerns about the information required under the “financial soundness review.” The balance sheet and income statement categories requested on this form oversimplify financial information on audited financial statements. It also fails to comport with definitions in U.S. GAAP promulgated by the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB) used for nonprofit and public higher education institutions, respectively. The requested financial information appears to confuse what business entities, such as for-profit institutions, report in their audited financial statement as compared to what nonprofit and public institutions are required to report. In short, the financial information requested appears to parallel for-profit financial reporting but does not work for nonprofit and public institutions. We ques-

²Some of the reasons given sound similar to items listed in section 3673A, which defines the “scope” of the risk-based surveys. While parts of this section could be clarified, it is clear that the items listed were not intended as a second list of mandatory triggers. Rather, these appear to be items that considered together or in conjunction with other information might form the basis for the SAA to conclude, in its discretion, that a risk-based survey is warranted at a particular institution. Further clarification to distinguish the specific purposes and goals of sections 3673(e) and section 3673A may be instructive.

tion the need for public institutions to complete this survey, given that they are backed by the full faith and credit of their respective states, and they do not receive a financial composite score from ED.

By requiring institutions to provide additional financial information from audited statements directly to the VA, the financial soundness review runs contrary to the intention behind the Single Audit Act. Nonprofit and public institutions are subject to the Act, and annual federal audits are conducted using a regularly updated Office of Management and Budget (OMB) Compliance Supplement, with related audited financial statements submitted through the clearinghouse to OMB. Such financial statements are available upon request. Duplicating audited information already submitted to the federal government creates an additional and unnecessary burden for nonprofits and public institutions.

If the current risk-based survey remains in place, VA runs the risk that some colleges and universities will begin to question their continued participation in VA's education programs, particularly at institutions where veterans make up a small percentage of the student population. We hope that Congress will encourage the VA to narrow its risk-based survey to focus on institutions that pose a serious risk of non-compliance, while shielding other institutions from an unnecessary compliance burden. We stand ready to work with the Subcommittee and with the VA to help VA improve its current risk-based survey protocol.

Other Issues:

In addition to our concerns around risk-based surveys, I would like to mention three other issues for the Subcommittee's consideration:

1. A dedicated webpage for all VA's Education Service policies, guidance, and training:

We have long recommended that VA create a website that provides links to all policy guidance, email notices, electronic announcements, webinars, and training modules related to the administration of veteran education benefits. We believe that the Department of Education, Office of Federal Student Aid's "Knowledge Center" provides a useful model in this regard. See <https://fsapartners.ed.gov/home>.

2. 85/15 Reporting:

Despite passage of the Ensuring the Best Schools for Veterans Act, we continue to hear concerns about VA's oversight of 85/15 rules at traditional college and universities. 85/15 reporting continues to be tedious, as it is calculated by program and academic term. It is also required even when there are no VA students enrolled in a given program and term. Further, schools with a 35 percent exemption are still required to maintain calculations, despite having a waiver in place. Finally, the definition of a supported student includes students utilizing a payment plan, unless that payment plan is offered to all students. Some schools within an institution may not allow payment plans, which brings the payment plan into the calculation as support.

3. School Catalogs:

When administering veterans' benefits, one of the most significant roadblocks schools encounter is the annual catalog process. There is no standard catalog checklist to help school certifying officials compile their catalog and often, the SAA and VA disagree on the requirements for program approval. These issues, in addition to the volume of catalogs the VA must review, can cause delays (often years) in catalogs and new programs being approved, which has negative financial implications on veterans and eligible dependents.

For accredited schools with Title IV eligible programs, it would be prudent for the VA to mirror the ED's requirements, removing the cumbersome program approval process if a program is listed on the Program Participation Agreement and the school has a valid Eligibility and Certification Approval Record, allowing standard degree programs to be deemed approved as laid out in 38 U.S. Code 3672(b)(2). For non-accredited programs, the VA should focus on a clear and consistent catalog approval process.

Conclusion

Thank you for the opportunity to testify before the Subcommittee, and for your efforts on behalf of our nation's veterans. I would be pleased to answer any questions.

Prepared Statement of Jan Del Signore



NATIONAL ASSOCIATION OF VETERANS PROGRAM ADMINISTRATORS

September 15, 2023

U.S. Representative Derrick Van Orden, Chair
House Committee on Veterans' Affairs
364 Cannon House Office Building
Washington, DC 20515

U.S. Representative Mike Levin, Ranking
Member
House Committee on Veterans' Affairs
364 Cannon House Office Building
Washington, DC 20515

Dear Chairman Van Orden and Ranking Member Levin,

We thank you for the opportunity to provide testimony for the "Less is More: The Impact of Bureaucratic Red Tape on Veterans Education Benefits" hearing. 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 across the country. The majority of NAVPA members are School Certifying Officials (SCOs) and school administrators who are involved with administering GI Bill® benefits.

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.

NAVPA would like to address two concerns:

1. The new Risk Based Survey (RBS)
2. The impact of increased duties placed on the School Certifying Official (SCO)

Our primary concern today is the RBS and the criteria the VA is using to select schools they deem as "At Risk." Schools' welcome accountability and are proud to maintain compliance with reasonable regulation. However, there has been an unreasonable burden placed upon the institutions through an excess of well-intended regulation.

NAVPA conducted a survey of SCOs nationwide and discovered that most of the schools identified for an RBS are for minor or unclear reasons. The top reasons these schools were

identified for an RBS are: student complaints, unknown criteria, an increase in student population, or an unwarranted 85/15 violation.

The top reason schools received an RBS was for a student complaint. NAVPA has concerns that this criterion is not vetted by the VA nor is it valid for the institution. For example, several schools reported they received an RBS based on an old student complaint that was addressed by the institution and closed. Other schools reported they were identified for an RBS complaint that was never received by the institution and/or deemed as invalid by the VA.

Institutions of higher learning receive unvetted/unwarranted complaints against them as part of the GI Bill® feedback system, which is then posted on the public GI Bill® Comparison Tool. This results in institutions erroneously having a “black mark” on their public record which directly impacts a veteran’s choice in selecting a reputable school and program of study; now these same complaints are being used to trigger an RBS.

The 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). While complaints are supposed to be reviewed by the VA and addressed by the institution, not all complaints filed have been true violations of POE; yet these grievances are held and counted against the institution for an RBS.

Institutions are required to provide a response to the VA after addressing the complaint with the student and the complaints are then supposedly closed. However, these same closed complaints are now being used to trigger an RBS. There have been reports of the VA call center advising veterans to file a complaint against their school.

Complaint examples:

- A school received a complaint that they are not a Yellow Ribbon school, but they are published as such on the GI Bill® Comparison Tool.
- A school received a complaint from a non-student demanding to be certified for on-ground classes in an online only program. She was directed by the VA to file the complaint.
- A school received an RBS for 2 complaints that they never received and were closed by the VA as not valid.
- One school reported receiving complaints because of benefit processing errors by the VA, not the school. Yet the school still had to respond, and an RBS was triggered.
- A spouse filed a complaint regarding the VA processing of the veteran’s benefit. This triggered an RBS.

Some institutions reported that they had no idea why they were identified for an RBS as the State Approving Agency (SAA) did not or could not explain why this RBS was being conducted.

Schools surveyed wanted to address the issue that triggered the RBS to correct any problem. Some schools have not received any communication from the VA or SAA regarding the closure of the RBS conducted months ago. Some schools reported the SAA advised them that they did not have enough schools to complete their annual quota and selected their institution.

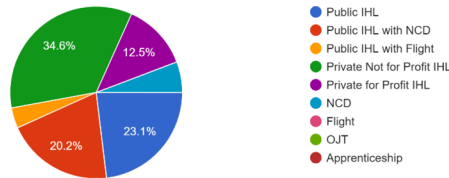
The third top reason schools reported they were selected for an RBS was due to an increase in student population. The VA has shared that they pulled data points from June 1, 2021 – May 31, 2022, which was during the time of COVID recovery for the nation. Many students were returning to school during the Fall of 2021 and Spring 2022. Schools also reported that they had added new programs of study at their institution that were approved by the VA. The schools felt that the VA should have considered these new programs and the COVID recovery as a cause to increased student population. These are not “risk” factors for an institution but rather examples of growth after the global pandemic.

SCOs also reported their school was identified for an RBS from an 85/15 violation. Although the schools that reported this had a 35% exemption, they had programs that were suspended during the Spring 2022 semester with no student veterans enrolled under the new calculations implemented by the VA. These new methods were introduced by the VA during the pandemic and caused many programs to be suspended nationwide that were previously considered in compliance. During the pandemic, the VA had rescinded the 35% exemption rule adding more issues and work for the SCO. Some schools reported they were teaching out a program with less than 10 students and were identified for an RBS because of an 85/15 “violation.” Violations of 85/15 would occur if an institution enrolled a GI Bill® student into a suspended program.

None of these situations constituted a school was “At Risk” to close nor were they guilty of exploiting or misusing veteran’s benefits. These RBS criteria were created by the VA when they changed how to process and calculate the 85/15 Rule in October of 2020. The programs that were in question due to the changes by the VA are now considered compliant under the new legislation Congress had to pass to correct these issues.

During the NAVPA RBS Survey, Fall 2023, there were over 83% IHL schools that participated with 48% being public institutions and 35% private-not-for-profit schools. The survey showed 60% of the respondents stated they had completed a VA Compliance Survey within the past 12-months while 20% of those had completed their Compliance Survey within 30 days or less of their RBS.

8. What type of institution are you?
104 responses



Singling out schools for an RBS using vague criteria is not only a waste of taxpayers' money, but also places undue hardship on the institution and their student veterans. Of the schools that participated in the survey, over 46% stated the criteria given for triggering the RBS were not substantiated while 28% stated they had no idea as they are still waiting for the results. The amount of workload required to complete an RBS requires weeks and reams of documents to prepare the information by the institution through multiple departments. Most institutions were given a minimum of 2-weeks to provide the overwhelming amount of information requested by the SAA; some institutions were given only a 24-hour notice or less. In addition to gathering the large amount of information requested, the school is required to provide additional student files the day of the site visit to the SAA, which again prevents school officials from serving their student population. Student veterans had limited to no access to their SCOs or administrative offices during this time. One school reported that they had to complete three Compliance Surveys within four weeks and then an RBS the week after, leaving the SCO no time to administer to the needs of their student veterans. This caused a delay in certification of benefits while the institution focused resources on compliance instead of their students and daily operations.

NAVPA recommends a solution to correct these measures by establishing an advisory council of higher education officials, the SAA, and the VA to develop a model using public data to identify more than one criterion that would trigger an RBS. In the spirit of today's hearing, "*Less is More: The Impact of Bureaucratic Red Tape on Veterans Education Benefits*," the actual key players should be developing the criteria that would meet the intent of Congress. NAVPA respectfully requests outside agencies who have never worked in higher education and have no understanding of daily operations of an institution not be involved, as this often leads to misleading advice oftentimes from lack of experience and working knowledge. The National Association of State Approving Agencies (NASAA) led a diverse committee to develop a risk-

based model and conducted beta testing in six states. However, the VA failed to adopt the tested model or create a database.

NAVPA recommends the VA listen to student concerns and complaints but not ask students to file a complaint when schools are following VA directives. Oftentimes, the student veteran is not fully understanding the complicated processing of Chapter 33 benefits or school policy. Unfounded and closed complaints should not be used to trigger an RBS as these have been addressed and the resolution accepted by the VA.

NAVPA's next concern involves the impact of increased duties placed on SCOs.

There have been several changes implemented by the VA on how to process or calculate certain requirements SCOs are responsible for in administering GI Bill® benefits. For example, when schools publish a new catalog, they are required to send it to the SAA for approval within 30 days after publication. Now, in addition to the catalog, the SCO must also submit several internal documents to include leases, insurance, licenses, etc. dependent on the type of institution to obtain approval to administer GI Bill® benefits. Depending on the size of the institution and how many programs are offered, the program spreadsheet itself usually takes weeks to complete. Effective October 1, 2023, schools will now be required to submit a new 30+ page application in addition to the already growing laundry list of documents required to receive a catalog approval.

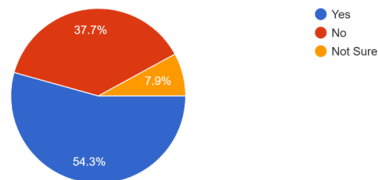
Schools are required to submit all or most of this same information again to be reviewed during an RBS or Compliance Survey. An example of the increased workload is in P.L. 117-333, which added a time limitation upon all SCOs to prepare for either a VA Compliance or Risk Based Survey. Schools are being tasked to complete both a Compliance and Risk Based Survey often at times within weeks of each other. The amount of preparation for these reviews is preventing the SCO from serving their student veteran populations.

In 2021, the VA signed onto a contract with Saint George Consulting Inc. (SGC) to conduct Compliance Surveys. The contract does not allow SGC to conduct a centralized Compliance Survey for institutions that may have additional campus locations. These additional Compliance Surveys increased the total of visits and workload on the SCO dependent upon the school. One institution shared that their Compliance Survey requirements increased by 300% over their normal requirement when the SAA conducted these reviews. These schools have one catalog and one OPEID but neither SGC nor the VA is accepting the identity of the institution as one school.

Due to the insurmountable requirements for schools to obtain approval and maintain compliance requirements with a limited time for preparation, institutions nationwide have withdrawn from administering the GI Bill® because of the increased workload and regulatory demands. These schools include first responders (EMTs, police and fire academies), truck driving schools and religious orders. This creates an economic disparity for the veteran when trying to find needed instructional resources but unable to use their GI Bill® for training. Communities are being left without these valuable and needed services that a veteran could provide if they were able to obtain the necessary training. Media outlets are reporting police shortages around the country, a shortfall that could easily be filled by veterans if they had access to the training required. NASAA has reported that 458 schools have withdrawn from administering GI Bill® benefits due to the increased burden placed on the institution.

The SCO is the gate keeper of administering GI Bill® benefits for student veterans. The Post 9/11 GI Bill® is the most comprehensive, complex, and robust benefit to manage. The SCOs' responsibilities have continued to evolve and expand oftentimes creating overworked employees who are leaving their positions in increasing numbers due to in large part to an increased administrative workload from the VA. In the NAVPA ELR survey conducted in December 2022, 54% of respondents reported having to submit a VA Form 22-8794 to garner access to the VA database for a new SCO.

Have you submitted a VA Form 22-8794 in 2022?
151 responses



Unintended consequences of I&R Section 1019 is another example of additional workload and loss of revenue on the institution. The VA has determined that all debts must be returned to the VA from the institution regardless of when the student attended or even if the institution received the monies. NAVPA schools are reporting they have received debt letters from the VA as far back as 2010 for a student veteran that attended and graduated or is no longer attending the institution.

The impact of this interpretation from the VA is creating unexpected negative outcomes for the veteran by impacting their credit score unbeknownst to the student. They are placed into collections for tuition that was previously paid for by the VA but then returned upon request. Unlike the VA, schools do not have the resources to locate these students to communicate that the VA has removed their funding.

NAVPA recommends the VA review these mandates for accredited institutions and remove the continued redundant request of information. NAVPA would like to see Congress pass legislation that would give relief of the many burdens placed on accredited institutions that are approved under USC 38 §3675 and §3672. Perhaps model an exemption policy for accredited institutions that is similar to the 35% exemption policy for 85/15.

Before an RBS is identified and facilitated, it would be helpful to have the VA review the merit of the school and scrutinize to see if there is truly a need for this institution to have an RBS. When a school does have an RBS, the VA should be a true partner and want the best outcomes for the institution giving the school plenty of time to prepare properly for the visit.

P.L. 117-333 should be recodified allowing more time for all inspections to allow the institution sufficient time to prepare for these complicated reviews and to provide a reasonable response. Leaning towards a negative outcome regardless of the institution without sufficient time to prepare is not in the best interest of the student veteran or in the administration of GI Bill® benefits.

Prepared Statement of Will Hubbard

**TESTIMONY OF WILLIAM HUBBARD,
VICE PRESIDENT FOR VETERANS & MILITARY POLICY
SUBMITTED TO THE
U.S. HOUSE VETERANS' AFFAIRS COMMITTEE
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
ON THE TOPIC OF
"LESS IS MORE: THE IMPACT OF BUREAUCRATIC
RED TAPE ON VETERANS EDUCATION BENEFITS"**

September 20, 2023

Chairman Van Orden, Ranking Member Levin, and Members of the Subcommittee:

We thank you for the opportunity to provide testimony before the Subcommittee on the pressing topic of, "Less is More: The Impact of Bureaucratic Red Tape on Veterans Education Benefits."

Veterans Education Success is a nonprofit organization with the mission of advancing higher education success for veterans, service members, and military families, and protecting the integrity and promise of the GI Bill and other federal education programs. Drawing from our team's experience and direct interactions with student veterans, their families, and stakeholders, we offer our observations for the Subcommittee's consideration.

We would like to note our general gratitude to the leadership and staff of the Veterans Benefits Administration's (VBA) team in the Office of Education Service under the U.S. Department of Veterans Affairs (VA). Their collaboration on many issues, and commitment to serving veterans, are worth highlighting specifically. We rely on this important relationship based on candor and trust to develop solutions based on the collective expertise of our team. We recognize the importance of this relationship with VA, especially moving forward in light of the specific recommendations we offer below.

In this testimony, we will highlight four specific issue areas that provide an illustration of times when VA's processes or decisions represent – in our view – unnecessary and unsupported interpretations of the law. These have made protecting veterans and their hard-earned benefits more difficult, and presents significant red tape for veterans to overcome:

- First, risk-based surveys have multiple issues which we believe require additional attention from Congress, including: implementation by VA so that schools warranting a risk-based survey are selected for review and a thorough review is completed in a timely manner; creating the statutorily-mandated database to aid SAAs in completing the surveys; and aligning VA's standard operating procedures with statutory requirements.

- Second, VA's insistence that students must enroll in a new school to get their Certificate of Eligibility has created an unnecessary and complicated two-tiered process. VA also continues to misinform students in the required application that they must apply for restoration before September 30 in order to get their GI Bill restored, when in actuality this is false under the statute. VA continues sharing this guidance, despite legislation that passed thanks to Representative Vern Buchanan, the VETS Credit Act, which streamlines the process and protects veterans and their rights.
- Third, VA arbitrarily restricts consumer information on the GI Bill Comparison Tool, including factual information about SAA decisions and student complaints about a school.
- Fourth, VA refuses to exempt veterans already enrolled in school under the Marine Corps' "Excess Leave Program" from a newly adopted interpretation. These students relied on the prior interpretation allowing them to receive the monthly housing allowance (MHA) provided with their GI Bill benefits while attending law school. Without an exemption, they receive no housing allowance at all while attending school. VA has the latitude – and we would argue the *legal obligation* – to apply the new interpretation only to new enrollees and exempt current students from the new policy. This would allow veterans already enrolled to continue to receive their MHA while they apply their earned GI Bill benefits.

Before exploring each of these issues in greater depth, we would like to provide a brief historical context for the rules and regulations governing veterans' education benefits under this Subcommittee's oversight. We have been fortunate to work closely with the professional staff and personal offices under the current leadership. And, as an organization, we have heard from thousands of veterans since our founding in 2013, many of whom have detailed harrowing accounts of persistent scams to defraud veterans of their hard-earned benefits. Indeed, since the very first GI Bill – the Servicemen's Readjustment Act of 1944 – there have been examples of scammers looking to take advantage of VA benefits.^{1, 2}

In 1952, a House Select Committee, led by Congressman Olin Teague of Texas, who served several decades as Chairman of the House Veterans Affairs Committee, exposed the trend of predatory schools targeting veterans and the GI Bill, "an unfortunate pattern that has continued to this day."³ In response, Congress passed several bipartisan landmark laws to address the need for stamping out fraud schemes of bad actor schools and programs to rightfully protect valuable veterans benefits and taxpayer dollars.

¹ U.S. National Archives, "Servicemen's Readjustment Act (1944)," Archives.gov, accessed September 14, 2023, <https://www.archives.gov/milestone-documents/servicemens-readjustment-act>.

² The Century Foundation, "The Cycle of Scandal at For-Profit Colleges," accessed September 14, 2023, <https://tcf.org/topics/education/the-cycle-of-scandal-at-for-profit-colleges/>.

³ House Select Committee to Investigate Educational, Training, and Loan Guaranty Programs Under GI Bill. "House Report No. 1375: Report of the House Select Committee to Investigate Educational, Training, and Loan Guaranty Programs Under GI Bill," 82nd Cong., 2nd sess., 1952. <https://vetsedsuccess.org/wp-content/uploads/2018/10/1952-house-committee-report-gi-bill-fraud.pdf>.

More recently, the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*⁴ (Isakson-Roe) established the statutory requirement for the VA to conduct risk-based surveys of schools. This approach is intended to be more efficient and effective in prioritizing quality assurance reviews for the riskiest schools and programs.

Also contained in Isakson-Roe, the *Protect the GI Bill Act*⁵ enhances oversight of programs, prohibits deceptive recruiting, restores education benefits for military-connected students at closed schools, ensures fair treatment regarding overpayments, safeguards students from failing schools, and additional key protections. In the years prior, we also successfully advocated for the unanimous passage of the *Career Ready Student Veterans Act*, ensuring that education programs funded by the GI Bill meet accreditation and state licensure requirements, preventing veterans from wasting their benefits on degrees that do not lead to jobs. These bills, and many others, provide necessary and common sense safeguards.

At the outset, we would urge the Subcommittee to consider that poor implementation of laws by VA and refusal by schools to devote adequate resources are often the real reason behind school complaints and opposition to perfectly reasonable laws. Institutions, in particular, tend to see any compliance requirements – intended to protect student veterans and taxpayers – as imposing unnecessary costs. Often, the real problem isn't the rules themselves, but how they are put into practice by VA and how unwilling some institutions are to invest resources in providing the appropriate staff support.

Take, for example, the fact that VA suggests that schools should have one school certifying official (SCO) for every 125 students, but most schools don't meet this standard. Many SCOs are overwhelmed with work, but SCOs' feeling overwhelmed is not a function of legitimate laws but instead of schools' failure to hire enough staff to perform the work. This is especially unfair in light of the generous GI Bill benefits that schools receive; too many institutions don't invest enough in providing the necessary services, like processing veterans' benefits. Moreover, protecting student veterans is a core responsibility of this Subcommittee, which should not be swayed by school complaints about common-sense laws to protect veterans and the GI Bill funds.

Also, VA has changed their operations, such that SCOs seeking support and information from VA have very few channels for direct feedback and guidance. It is important to balance the need to maintain rigorous protections on these earned benefits, while having schools spend these precious resources wisely on their intended recipients. Unfortunately, low-quality and sham schools continue to be approved for GI Bill benefits, indicating the need for more robust approval processes and oversight by VA. Further, VA's failures to interpret laws as Congressional staff and advocates believe they should be interpreted have prevented these laws from being effectively implemented.

⁴ Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, H.R. 7105, 116th Cong., 2nd sess., 2020, <https://www.congress.gov/bill/116th-congress/house-bill/7105>.

⁵ Protect the GI Bill Act of 2019, H.R. 4625, 116th Cong., 1st sess., 2019, <https://www.congress.gov/bill/116th-congress/house-bill/4625>.

We believe VA can, and should, implement the proposed solutions bulleted throughout our testimony below. However, we have also provided potential Legislative Branch Solutions for consideration under the potential scenario that VA does not execute an Executive Branch Solution to these issues. Finally, we thank the Subcommittee for hosting this hearing to examine ways to streamline existing processes, and to make the system work better for VA's primary group of customers: *veterans*.

Fixing Risk-Based Surveys

Risk-based surveys aim to engage with educational institutions more meaningfully than the historical tool (compliance surveys) to address deficiencies and potential problems that would negatively affect student veterans. However, discrepancies persist in VA's execution of the statute, creating unfair doubts about the efficacy of the new risk-based approach. Specifically, three areas of risk-based surveys should be looked at closely: implementation, the database, and standard operating procedures. Addressing these issues and ensuring compliance with the law is crucial to maintaining the integrity of the risk-based survey system and providing adequate protection for veterans pursuing their education and training goals.

1. Implementation: The implementation of risk-based surveys by VA has been a subject of concern due to its failure to align with the statutory requirements. Despite the clear mandates set forth in 38 U.S.C. §3673A⁶, it has become evident that VA's execution of risk-based surveys has fallen short of the required standards. Risk-based surveys are not intended to be simply a revamped version of compliance surveys. We have contacted VA multiple times about our concerns that the surveys are not being implemented consistent with the law. We appreciate that VA has been responsive to some of our concerns, including its recognition that the nature or volume of student veteran complaints can lead to the need for a risk-based survey. However, there continue to be instances where VA's procedures do not accurately reflect the law, particularly in terms of the timeline for conducting surveys and the triggering events that should prompt immediate action.

For instance, until recently VA and the SAAs did not understand that certain events affecting a school, such as risk of loss of accreditation, automatically triggers a risk-based survey to be completed within sixty days of becoming aware of the event. Time is of the essence for completing a risk-based survey when one of the automatic triggers in the statute occurs. Those kinds of events indicate serious compliance and financial risk and often occur just before a sudden school closure. Addressing these shortcomings and ensuring compliance with the law is essential to maintain the integrity of the risk-based survey system, and to provide adequate protection for veterans pursuing education and training.

- **Executive Branch Solution:** Working with the National Association of State Approving Agencies, VA should implement the statutorily codified risk-based survey methodology, consistent with Congress' intent and the six-state pilot.⁷

⁶ 38 U.S.C. §3673A, "Risk-based surveys", [https://uscode.house.gov/view.xhtml?req=\(title:38%20section:3673a%20edition:prelim\)%20OR%20\(granuleid:USC-prelim-title38-section3673a\)&f=treesort&edition=prelim&num=0&jumpTo=true](https://uscode.house.gov/view.xhtml?req=(title:38%20section:3673a%20edition:prelim)%20OR%20(granuleid:USC-prelim-title38-section3673a)&f=treesort&edition=prelim&num=0&jumpTo=true)

⁷ In 2019, our colleagues at The American Legion, EducationCounsel, and the National Association of State Approving Agencies carried out an overwhelmingly successful six-state pilot

- **Legislative Branch Solution:** Provide additional oversight of VA's implementation of 38 U.S.C. §3673A and risk-based surveys to ensure the effective implementation of policies and regulations aligned with the original Congressional intent of the statute.

2. *Searchable Database.* The statute requires VA to establish a comprehensive searchable database for risk-based surveys, yet they have fallen short of fulfilling these statutory obligations. In June, we provided a statement for the record annotating our concerns with the lack of progress of VA in implementing the statute governing this requirement.⁸ The phrase in the statute “in partnership with” not only signifies a cooperative relationship between Education Service and the SAAs, but also underscores the imperative for collaboration in accessing the database. This straightforward phrase conveys the importance of joint efforts rather than unilateral control ensuring that the SAAs have essential access to the database.

We also believe there is an opportunity to simplify current procedures by making schools report specific events to the relevant SAAs and VA. These events, as outlined in 38 U.S.C. 3673(e)(3), include punitive actions taken by a state and the loss or risk of losing accreditation. This is information schools will readily have available. The most efficient method for assuring that SAAs and VA receive timely notice when these events occur is to require the schools to provide notice.

- **Executive Branch Solution:** Establish a searchable database accessible by the SAAs, and import current data which is presently only accessible by VA officials.
- **Legislative Branch Solution:** Pass H.R. 3981, which will require VA to finally establish the database within 180 days of passage, so that risk-based reviews by SAAs can be conducted as Congress intended.⁹ This legislation would also require schools to self-report any adverse actions, which we believe to be an administratively simpler approach than asking VA to independently track every single action themselves. We thank Representative Morgan McGarvey for offering this important and timely legislation mandating an explicit timeline in complement with the statutory requirements as codified in Isakson-Roe.

3. *Standard Operating Procedures:* In response to concerns raised about the procedures for risk-based surveys under 38 U.S.C. §3673A¹⁰, VA shared their new Standard Operating Procedure (SOP) to address these issues. While the SOP is

of this new approach; American Legion, “Risk-Based Review Report Final,” January 28, 2022, accessed September 14, 2023, <https://www.legion.org/sites/legion.org/files/legion/publications/RiskBasedReviewReportFinal012822.pdf>

⁸ Veterans Education Success, “Statement for the Record on the June 14, 2023, Legislative Hearing of the House Veterans Affairs Subcommittee on Economic Opportunity,” accessed September 14, 2023, <https://vetsedsuccess.org/our-statement-for-the-record-on-the-june-14-2023-legislative-hearing-of-the-house-veterans-affairs-subcommittee-on-economic-opportunity/>.

⁹ H.R. 3981, Veterans Education Oversight Expansion Act, Subcommittee on Economic Opportunity, Committee on Veterans' Affairs, U.S. House of Representatives, July 26, 2023, accessed September 14, 2023, <https://docs.house.gov/meetings/VR/VR00/20230726/116265/BILLS-1183981ih.pdf>.

¹⁰ 38 U.S.C. §3673A, *ibid*.

very good, and beneficial for SAAs, we have expressed some notable concerns that it is not fully consistent with the statute.¹¹ Firstly, it suggests that SAAs should take action only upon receiving a formal notice, rather than when they become aware of an event – but the statute explicitly calls for SAA action upon “becoming aware” of an event. Secondly, the SOP starts the 60 days for completing the survey from the date the SAAs notify VA and allows SAAs to wait for up to 10 business days before notifying VA, which extends the 60-day timeline – and this is, again, at odds with the explicit language of the statute.

Lastly, when VA receives notice or becomes aware of an event, it is statutorily mandated to notify the SAAs within 30 days. VA’s current SOP, however, implies that notice will be provided within 30 days of the Oversight and Accountability Office completing review. VA should clarify with staff and in the SOP that the notification to the relevant SAA must be provided no later than 30 days after the date VA receives notice or becomes aware of the event. We are grateful to VA for developing the SOP’s and have offered further discussion or a marked-up version if needed.

- **Executive Branch Solution:** Align the standard operating procedures with statutory requirements, specifically addressing concerns raised about SAAs’ response to formal notices, potential delays in notification, and the need for clarity in VA’s timeline for notifying SAAs.
- **Legislative Branch Solution:** Provide additional oversight of 38 U.S.C. §3673A and VA’s standard operating procedures to ensure they are aligned with the original Congressional intent of the statute and are effectively implemented.

Reducing Administrative Burden

When a school closes or a program is disapproved, student veterans are left wondering what comes next. This is a difficult question for anybody in that situation to answer; however, it is further complicated when VA establishes unnecessary hurdles for student veterans who desire to take the next step in their education goals. We encouraged VA to remove their unwarranted barrier that had prevented students from applying for GI Bill restoration at any time.

Although Congress’ statutory language was clear in our view and that of Committee staff, under VA’s interpretation, student veterans were compelled to enroll in a new school before being eligible to obtain certificates of eligibility for benefits restoration. This policy raised valid concerns about students being rushed into decisions and the risk of enrolling in predatory institutions. What exacerbates the situation is the undeniable fact that VA inappropriately interpreted the statute to mean that a veteran would not find out if they could get their GI Bill restored until after they had actually transferred to a new school, but of course a student would not transfer to a new school if they didn’t know if they were going to get any GI Bill back.

Faced with VA’s reluctance, we collaborated with Rep. Vern Buchanan to pass H.R. 6604, known as the *Veterans Eligible to Transfer Schools (VETS) Credit Act*. This act ensures that veterans have the chance to learn about their GI Bill benefits before

¹¹ See Appendix for complete exchange between Veterans Education Success and VBA Education Service.

transferring. We find it unfortunate that such a legislative intervention was necessary due to VA's entrenched and narrow interpretation of existing statutes; VA could have chosen to address the issue administratively. Nevertheless, the VETS Credit Act strives to streamline and clarify the restoration process.

Today, however, we face a new hurdle, presenting yet another example of VA's failure to implement the law.¹² VA currently limits the new process for obtaining the Certificate of Eligibility before transferring to a new school solely to students enrolled in schools that close after December 27, 2022, when the VETS Credit Act became law. This directly contradicts the express provisions in the statute making the VETS Credit Act applicable to schools closing before September 30, 2023.^{13, 14} The VETS Credit Act amended 38 U.S.C. §3699(c) and as incorporated by statute, the provisions of the VETS Credit Act apply to courses and programs closed before September 30, 2023. Section 3699(c)(2)(C) expressly provides: "This paragraph shall apply with respect to a course or program of education closed or discontinued before September 30, 2023." The VETS Credit Act left this existing provision untouched. There is no justification for VA's decision to limit the provisions of the VETS Credit Act to students attending schools that close or lose approval after December 27, 2022.

The remaining discrepancies, along with inaccuracies in the VA's restoration application form, might discourage student veterans from fully accessing their earned benefits. Correcting these items is paramount to ensuring that veterans have an easier, more accessible avenue for restoring their education benefits in the aftermath of school closures. More importantly, we urge the Subcommittee's quick action because all of the statutory authorities for GI Bill restoration in case of school closure will expire September 30, 2023, unless Congress takes action. We strongly advocate that the law should be extended to afford student veterans the chance to get their GI Bill benefits reinstated when these situations outside of their control occur.

- **Executive Branch Solution:** Fully implement the VETS Credit Act, and apply to all veterans who apply for GI Bill restoration regardless of timeline, as Congress intended.
- **Legislative Branch Solutions:** Amend 38 U.S.C. 3699(c)(2)(A) to explicitly instruct VA to consider a student veteran's application for restoration under the provisions of the VETS Credit Act regardless of when their program was affected or when they apply as long as they meet other eligibility standards. Also, it is imperative for Congress to extend the current September 30, 2023, expiration date associated with GI Bill restoration in closure and disapproval scenarios.

¹² Veterans Education Success, "Letter from Rep. Buchanan Urging VA to Update Its Guidance on GI Bill Restoration After Closed Schools," accessed September 14, 2023, <https://vetsedsuccess.org/letter-from-rep-buchanan-urging-va-to-update-its-guidance-on-gi-bill-restoration-after-closed-schools/>.

¹³ Veterans Education Success, "Letter to VA Regarding the VETS Credit Act," June 14, 2023, accessed September 14, 2023, <https://vetsedsuccess.org/wp-content/uploads/2023/06/VA-VETS-Credit-Act-letter.pdf>.

¹⁴ U.S. Department of Veterans Affairs, "Restoration of Benefits After School Closure or if a School is Disapproved for GI Bill Benefits," accessed September 14, 2023, <https://www.benefits.va.gov/GIBILL/Restoration.asp>.

Streamlining Consumer Information

The GI Bill Comparison Tool provides important information to student veterans. We have commented often to this Subcommittee about the various ways in which the Comparison Tool should be implemented to provide better information to veterans. We are glad VA has implemented some of the changes we have recommended for the Feedback Tool and the Comparison Tool.¹⁵

However, we continue to find that information important to veterans and that could be easily available on the Comparison Tool is not provided. For instance, one particular issue we have continued to raise is the importance of retaining historical information on the Comparison Tool. Currently, when a school closes or a program loses approval, it simply disappears from the Comparison Tool and WEAMS (Web Enabled Approval Management System) without any explanation. The lack of transparency and information, including the relevant dates for when the school closed or lost approval, creates unnecessary hurdles for student veterans as well as for researchers and Congress.

We were recently contacted by a veteran who had attended an unaccredited school approved to receive GI Bill benefits. The student reported that they thought the school lost its VA approval. The Comparison Tool and WEAMS did not offer details about the student's school or program, including the timing and reasons for its approval loss, crucial information for GI Bill restoration. We attempted to help the student by reaching out to the appropriate agencies to obtain the information, but it's an unnecessary and inefficient way for students to learn about a school that lost its approval. A much more efficient and direct way to assist veterans is to provide information in the Comparison Tool.

Similarly, we continue to urge VA to retain information in the Comparison Tool about all student complaints received, and especially beyond the most recent two years. A school's history of complaints is information a prospective student veteran is entitled to know, and is information that may impact their school selection. Currently, VA publishes information about complaints closed in just the most recent two years, which denies prospective students important information about the history and volume of student complaints to VA about a school.

- **Executive Branch Solution:** Implement 38 U.S.C. §3698 so that the Comparison Tool provides information that is relevant to student veterans. The Comparison Tool is a centralized mechanism for delivering important information to student veterans and by statute should publish complaints and information from students and the State approving agencies.¹⁶ VA has incorrectly concluded that information about a history of complaints about a school or decisions by the SAA affecting a program – including program disapproval – is not relevant information for student veterans.

¹⁵ Veterans Education Success, "Our Letter to VA Regarding January 12, 2023 Meeting and Feedback Tool," February 15, 2023, accessed September 14, 2023, <https://vetsedsuccess.org/our-letter-to-va-regarding-january-12-2023-meeting-and-feedback-tool/>.

¹⁶ 38 U.S.C. § 3698(b): "In developing the policy required by subsection (a), the Secretary shall include each of the following elements: (1) A centralized mechanism for tracking and publishing feedback from students and State approving agencies regarding the quality of instruction, recruiting practices, and post-graduation employment placement of institutions of higher learning..."

- **Legislative Branch Solution:** Propose a companion bill to S. 1309 to increase student veterans' access to relevant consumer information.¹⁷

Delaying VA Policy

VA created an issue stemming from their abrupt policy shift concerning service members enrolled in the Marine Corps Excess Leave Program (ELP). This policy change, initiated by VA's Office of General Counsel, reclassifies ELP participants as being on "active duty," thereby stripping them of their MHA under their GI Bill benefits. Effective August 1, 2023, this new policy from VA imposes severe financial hardships on seven service members who embarked on law school studies with the assurance of MHA support. Under the new interpretation, service members attending school as ELP participants are not entitled to the MHA with their GI Bill benefits, while also not receiving housing benefits from DOD. VA has refused to exempt currently enrolled students from this new interpretation.

There are currently seven students who enrolled in law school based on the longstanding policy that ELP participants are entitled to the MHA. Despite starting their program under one set of rules, these student veterans now face substantial housing expenses and the likely need to take out loans with limited options to withdraw from school due to career repercussions and extended service obligations.

The situation underscores the need for immediate action to exempt current ELP participants from the new interpretation and explore legislative remedies in collaboration with the VA Committees. We have called on VA to make the commonsense and fair decision to not implement this new policy for these seven service members to prevent harm to these individuals, and to afford them to use their full GI Bill benefits they rightfully earned.¹⁸

- **Executive Branch Solution:** VA has both the discretion and, in our view, a *legal obligation* to apply the new interpretation exclusively to new students and exempt current students from the new policy. Additionally, VA should make it explicitly understood to all new program participants what the new policy is, and how it may affect students financially.
- **Legislative Branch Solution:** Amend 38 U.S.C. § 3313(e) to explicitly authorize a monthly housing allowance for Excess Leave Program participants notwithstanding their active-duty service status.

Conclusion

We would like to extend our gratitude to the Education Service staff and leadership for their diligent efforts in supporting student veterans and their families, as we continue to work through these issues. We acknowledge their hard work, though it's

¹⁷ Veterans Education Oversight Expansion Act of 2023, S. 1309, 118th Cong., 1st sess., 2023, <https://www.congress.gov/bill/118th-congress/senate-bill/1309>.

¹⁸ Veterans Education Success, "Our Letter to the Department of Veterans Affairs on the Marine Corps Excess Leave Program," June 21, 2023, accessed September 14, 2023, <https://vetsedsuccess.org/our-letter-to-the-department-of-veterans-affairs-on-the-marine-corps-excess-leave-program/>.

evident that we must prioritize the welfare of our veterans and address pressing issues that have occasionally led to unintended consequences. The four notable challenges we've highlighted continue to stand out: risk-based surveys, VA's interpretation of Congressional intent on GI Bill restoration, Comparison Tool Data, and the Excess Leave Program.

Unfortunately, we continue to see alarming examples of fraud that make it necessary to maintain a strong regulatory and oversight framework. Just last year, a school called House of Prayer Bible College had five campuses raided by the FBI after a multi-year investigation proved they were a sham operation.¹⁹ Two years prior, we alerted VA to student veteran concerns and whistleblower complaints about House of Prayer, but this unfortunate instance demonstrated the fact that current program standards are inconsistent with VA's implied "stamp of approval" for too many programs.²⁰

We sincerely appreciate the opportunity to express our views before this Subcommittee. As the higher education industry continues to evolve in these very dynamic times, we emphasize the importance of maintaining high standards of quality. Student veterans, taxpayers, and Congress must expect the best outcomes from the use of hard-earned GI Bill benefits. We look forward to the consideration and discussion of these issues, and we are grateful for the continued opportunities to collaborate with this esteemed body.

¹⁹ Beynon, Steve. "House of Prayer Church Accused of Squeezing Veterans' Benefits, Stripped of GI Bill Eligibility." Military.com, October 4, 2022. Accessed September 14, 2023. <https://www.military.com/daily-news/2022/10/04/house-of-prayer-church-accused-of-squeezing-veterans-benefits-stripped-of-gi-bill-eligibility.html>.

²⁰ Veterans Education Success, "Our Letter to VA and Georgia SAA Regarding House of Prayer Christian Church," August 2020, <https://vetsedsuccess.org/letter-to-va-and-georgia-saa-regarding-house-of-prayer-christian-church>.

Information Required by Rule XI2(g)(5) of the House of Representatives

Pursuant to XI2(g)(5) of the House of Representatives, we hereby confirm that neither William Hubbard nor Veterans Education Success has received any federal grants during Fiscal Year 2023, and there have been no federal grants awarded in the two preceding Fiscal Years. There is no existing fiduciary involvement with any organization or entity that holds a direct or indirect interest in the subject matter of this hearing. This disclosure statement is provided in adherence to the aforementioned rule and is presented as an accurate representation of the financial and fiduciary affiliations relevant to this testimony.



**William Hubbard,
Vice President for Veterans & Military Policy**



William Hubbard serves as the Vice President for Veterans & Military Policy at Veterans Education Success, focused on advancing higher education success for service members, veterans, and their families, and protecting the promise of federal education programs. Previously, he served as the Vice President of Government Affairs and Chief of Staff for Student Veterans of America. He has been frequently called to testify to Congress on a variety of topics related to higher education and veterans, and spearheaded the coalition that led to the unanimous passage of the Forever GI Bill.

Prior to his roles in higher education advocacy, Will worked as Federal Strategy and Operations Consultant at Deloitte, and spent several years serving government agencies to include the Department of the Navy, Department of State, and the State of Indiana Department of Revenue in his role. Also, as a National Executive Committee Member of Deloitte's Armed Forces Business Resource Group.

Will joined the Marine Corps Reserves in 2006 and continues his service, presently serving as a Consulting & Strategy Manager with the Marine Innovation Unit. His last overseas deployment was to Kabul City, Afghanistan, where he served in the Special Operations Joint Task Force as a member of a small cell of intelligence professionals. He also worked with Southern Command (SOUTHCOM) to conduct activities in Honduras, Guatemala, and El Salvador, and humanitarian assistance/disaster relief in Haiti.

He serves as an Advocacy Ambassador Advisor for the National Marrow Donor Program, and was previously a member of the U.S. Small Business Administration's Interagency Task Force on Veterans Small Business Development and the American University President's Council on Diversity and Inclusion. He is a recipient of the American University Alumni Association's Rising Star Award for 2019.

He graduated with a bachelor's degree in international studies from American University and has a certificate in Diversity, Equity and Inclusion in the Workplace from the University of South Florida. Will and his wife, Noelle, presently reside in Arlington, VA with their daughters, Lucy and Ruby.

APPENDIX



March 7, 2023

Joseph L. Garcia, Executive Director
Education Service
Veteran Benefits Administration
Via email

Re: Risk-Based Surveys

Dear Director Garcia:

We thank you and your team at the Education Service for making progress towards implementing risk-based surveys as required by the Protect the GI Bill Act, enacted as part of the larger *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*.

We recognize the considerable time and effort your team has put into the VBA Education Service's Standard Operating Procedure for Risk Based Surveys¹ and Standard Operating Procedures for Targeted Risk Based Reviews² (SOPs).

While the Education Service is to be commended for preparing thorough and thoughtful SOPs, we wish to bring to your attention a very important gap: Specifically, both SOPs fail to reflect Section 1014 of the Isakson-Roe law, codified at 38 U.S.C. § 3673(e) ("Notice of Government Action"). This is actually the key section of the law as it outlines when a risk-based survey should take place. Specifically, section 3673(e) of the law requires a risk-based survey by the State Approving Agency (SAA) within 60 days of VA's or the SAA's receiving notice or becoming aware of one or more "events" that are set forth in § 3673(e)(3):

- The placement of an institution on Heightened Cash Monitoring Level 2. See 38 USC § 3673(e)(3)(A);

¹ VBA Education Service, Oversight and Accountability Division, *Standard Operating Procedure, Risk Based Surveys* (Jul. 22, 2022), <https://vetsedsuccess.org/vbas-standard-operating-procedures-for-risk-based-surveys-july-22-2022/>.

² VBA Education Service, Oversight and Accountability Division, *Standard Operating Procedure, Targeted Risk Based Review (TRBR)* (Oct. 1, 2022), <https://vetsedsuccess.org/vbas-standard-operating-procedures-for-targeted-risk-based-reviews-oct-1-2022/>.

- Punitive action against an institution by a federal agency or department for misconduct or misleading marketing practices that would violate the standards defined by the Secretary of Veterans Affairs. See 38 USC § 3673(e)(3)(B);
- Punitive action against an institution by a State for any reason. See 38 USC § 3673(e)(3)(C);
- The loss, or risk of loss, by an institution of accreditation, including notice of probation, suspension, an order to show cause relating to the educational institution's academic policies and practices or to its financial stability, or revocation of accreditation. See 38 USC § 3673(e)(3)(D); and
- The placement of an educational institution on provisional certification status by the Secretary of Education. See 38 USC § 3673(e)(3)(E).

There are several problems that arise from the SOPs' failure to reflect the requirements of 3673(e).

First, the SOPs appear to confuse the "scope" of a risk-based survey, codified at 38 U.S.C. § 3673A(b)(2), with the triggering events, listed above and codified at 38 U.S.C. § 3673(e)(3). This apparent confusion results in the SOPs' instructing SAAs to conduct a risk-based survey when an institution's veteran enrollment increases from, for example, two students to four students. (Enrollment increase is a factor in the statute's "scope" of a review in 38 U.S.C. § 3673A(b)(2) but is not a triggering event for a review under 38 U.S.C. § 3673(e)(3).)

This apparent confusion also has resulted in the SOPs' explanation that the loss or risk of loss of accreditation is merely an additional factor worth considering, but not a statutory trigger, in determining whether a risk-based survey is needed. This is clearly at odds with the explicit language of 38 U.S.C. § 3673(e)(3)(D), which specifically names the loss or risk of loss of accreditation as a trigger for a risk-based review. Similarly, the SOPs incorrectly limit state government actions to those that reach a court verdict or settlement, which is clearly at odds with the explicit language of 38 U.S.C. § 3673(e)(3)(C).

This is not to say that the SOPs are not thoughtful. We do appreciate that the topics outlined in 38 USC § 3673A(b)(2) ("scope" of a review), such as veteran complaints, may actually indicate risk before one of the triggering events in § 3673(e)(3) occurs. Similarly, the "Targeted" SOP provides well-thought out appendices providing numerous "risk indicators" worth reviewing during a targeted risk-based review (see pp. 11-12 and 18-20 of "Targeted" SOP). Therefore, we commend VBA's efforts to identify risky schools early. To do this, however, VBA should ensure that the automatic triggers for a risk-based survey in § 3673(e)(3) are incorporated into the SOPs and should develop an algorithm for using the items listed in § 3673A(b)(2) as early indicators of risk.

Second, the SOPs also fail to reflect the statute's strict time limits for VA and the SAAs to act, codified at 38 U.S.C. § 3673(e)(1), including that VA must alert an SAA within 30 days of becoming aware of a triggering event, see § 3673(e)(1)(A), while the SAA must immediately notify the Secretary upon becoming aware of a triggering event. See 38 USC § 3673(e)(1)(B). Most important, the SAA must complete the risk-based survey and provide the Secretary with a complete report within 60 days. See 38

USC § 3673(e)(1)(C). Nowhere in either SOP is there any mention of the requirement that an SAA complete the risk-based survey and deliver the results to the Secretary within 60 days. This statutory time limit – specifically imposed by Congress to ensure that risky schools receive prompt examination – would surely be worth teaching SAAs about and including in the SOP.

Third, the SOPs also fail to reflect Isakson-Roe’s methodology of assigning risk-based reviews to SAAs to complete, codified at 38 U.S.C. § 3673(e)(1). In contrast, the Education Services’s Targeted SOP states that Education Service staff (“Chief Education Liaison Office” staff) will conduct “targeted” risk-based surveys (see p. 7 of the “Targeted” SOP). This is at odds with the statute.

Again, we thank you for your thoughtful work on the SOPs. We hope it will not be difficult for your staff to incorporate 38 U.S.C. § 3673(e) into your SOPs.

Finally, a question, please: Has the Education Service made progress on the creation of a database for SAAs to utilize in conducting risk-based surveys, as required by 38 U.S.C. § 3637A(c)? If not, how can we be of assistance on that?

Thank you for your work to serve student veterans.

Sincerely,



Carrie Wofford
President

Cc:

- Joshua Jacobs, Nominee for UnderSecretary of Veterans Benefits
- House and Senate Veterans Affairs Committee professional staff
- The American Legion
- National Association of State Approving Agencies



DEPARTMENT OF VETERANS AFFAIRS
WASHINGTON

March 16, 2023

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

Dear Ms. Wofford:

Thank you for your letter, dated March 7, 2023, to the Department of Veterans Affairs (VA) regarding the implementation of risk-based surveys, as codified in 38 U.S.C. § 3673(e) ("Notice of Government Action") following the enactment of section 1014 of P.L. 116-315, the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*.

First and foremost, I want to inform you that P.L. 116-315 § 1014 was fully implemented as required by law. The statutory language is clear, precise and unambiguous regarding the scope and timing for the performance of risk-based surveys triggered by notices of government action, and these are understood by both VA Education Service and State Approving Agency (SAA) staff. VA Education Service only develops Standard Operating Procedures (SOP) for processes that are either not elsewhere defined, are unclear, or where VA is given statutory discretion for defining the scope and timing of such activities. Consequently, since no further elucidation was required for implementation, VA Education Service did not develop an SOP for this provision.

Targeted Risk Based Reviews (TRBRs) are ad hoc reviews created by VA that supplement bi-annual compliance surveys (required by 38 U.S.C. § 3693) and the risk-based surveys (described in 38 U.S.C. § 3673A), as part of a comprehensive oversight strategy. The selection, scope and timing of risk-based surveys based on notices of government action are driven by statutory triggers and, therefore, are not included in the strategic planning of oversight activities. They must be performed regardless of any other planned oversight activities. Consequently, the risk-based surveys described in 38 U.S.C. § 3673(e) are not mentioned in the SOP because they are not applicable to the issue at hand.

The SOP for risk-based surveys described in 38 U.S.C. § 3673A was developed because VA, in partnership with the SAAs, is granted latitude in defining the scope and schedule of such surveys. VA Education Service felt it prudent to include past notices of government action as additional risk factors, in the form of a lagging indicator for planning in the subsequent fiscal year, because of its gravity. The risk-based surveys described in 38 U.S.C. § 3673(e) are not explicitly covered in the SOP because they are outside the scope of that document.

Page 2.

Ms. Carrie Wofford

Finally, you asked about the creation of a database for SAAs to utilize in conducting risk-based surveys, as required by 38 U.S.C. § 3637A(c). VA's Salesforce-based system is currently the database used for the performance and planning of oversight activities, and the SAAs have access to that that system. Additional tools, features and functionality for research, planning and performance of risk-based surveys are being planned as the new Approval Manager system is being developed as part of the ongoing Digital GI Bill project focusing on information technology modernization, integration and automation.

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 concern regarding the effective oversight of educational institutions and the protection of our GI Bill beneficiaries.

Sincerely,

**JOSEPH
GARCIA**

Joseph L. Garcia

Digitally signed by
JOSEPH GARCIA
Date: 2023.03.20 09:32:09
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Executive Director, Education Service
Veterans Benefits Administration



June 1, 2023

Joseph L. Garcia, Executive Director
 Education Service
 Veterans Benefits Administration
Via email

Re: Risk-Based Surveys

Dear Director Garcia:

Thank you for your response to our previous letter concerning the implementation of risk-based surveys. We apologize for our delay. We appreciate your detailed response, which was informative. While we understand the points you have raised, we believe the Education Service's Standard Operating Procedures (SOPs) for the risk-based surveys still contain some inaccuracies.

We are very grateful that the Education Service has taken seriously the Isakson-Roe law and has dedicated time and effort to complying with the new law. We understand you are confident that P.L. 116-315 § 1014 has been implemented as required by law. However, there are still discrepancies between your interpretation of the statutory language and the concerns we raised in our previous letter. We believe the SOPs developed by Education Service confuse 38 U.S.C. § 3673(e)(3) and 38 U.S.C. § 3673A(b)(2) and fail to incorporate the specific triggers outlined in 38 U.S.C. § 3673(e)(3) that require a risk-based survey by the State Approving Agency (SAA) within 60 days of receiving notice or becoming aware of certain events.

Specifically, you state that the risk-based surveys described in 38 U.S.C. § 3673(e) are not mentioned in the SOP because they are not applicable to the issue at hand. You regard the Risk-Based Survey (RBS) SOP as pertaining only to *Section 1013* of Isakson-Roe (PL 116-315) and not Section 1014, which lists the triggers for a risk-based survey that must be completed by the SAA within 60 days. However, the SOP specifically presents itself, in the introduction, as broadly implementing Isakson-Roe's risk-based surveys. The RBS SOP states under the *Purpose* section that it "establishes the framework necessary to consistently execute RBSs in accordance with legislative requirements."¹

Given this objective and the presentation of the SOPs to SAAs, we strongly recommend that the "framework" for consistent execution of RBSs needs to include circumstances when an SAA is required to complete a risk-based survey within 60 days of receiving notice or becoming aware of certain triggers, as provided in Section 1014 of Isakson-Roe and codified at 38 U.S.C. § 3673(e). By omitting these triggers, the SOPs may lead to an inconsistent application of risk-based surveys, causing indirect adverse effects on students, and a potential neglect of institutions that truly warrant examination.

¹ VBA Education Service Oversight & Accountability Division, "Standard Operating Procedure: Risk Based Surveys" (Version 1.0), Jul. 22, 2022. Pg. 4.

Furthermore, while we understand your assertion that the SOPs do not need to directly address 38 U.S.C. § 3673(e) because you find the statutory provisions clear and unambiguous, we believe it is crucial to consider the practical implications of omitting certain statutory requirements – especially as SAAs seek to address issues in the field.

Consider the fact that there is a heavy reliance on these SOPs by SAAs; in the guidelines produced by the National Association of State Approving Agencies (NASAA), they even go so far as to indicate this reliance up front, stating, “Please ensure that you are following the latest guidance in the RBS SOP and any written guidance provided by Department of Veterans Affairs.”²

We are very grateful to your team for developing these SOPs. At the same time, we strongly believe the following changes are needed in the SOPs:

- The statutory time limits for VA and SAAs to act when certain triggers are present, as specified in 38 U.S.C. § 3673(e)(1), are one of the most essential components of this law – but are omitted entirely from your SOPs. These time limits were developed in collaboration with the Congressional Veterans Affairs Committees and SAA input to ensure that risk-based surveys are completed with the intended timeliness they necessitate. However, the current SOPs fail to mention the requirement for SAAs to complete the survey and provide a complete report to the Secretary within 60 days. By not including this critical timeframe in the SOPs explicitly, there is a risk of delayed or inadequate actions in response to triggering events, as some SAAs may be less familiar with these statutory requirements. We understand that NASAA has expressed to your staff that they, too, believe the SOPs’ failure to mention the 60-day time limit is a serious omission.
- The Risk-Based Survey SOP lists “legislatively mandated risk factors”³ in three places, but, in each instance, quotes the wrong statutory provision – quoting from 38 U.S.C. § 3673A(b)(2) (which sets forth the “scope” of factors an SAA should cover *during* a risk-based survey) and failing to list the actual statutorily-mandated risk *triggers* located at 38 U.S.C. § 3673(e)(3). The “scope” factors from 3873A(b)(2) were intended to set forth a minimum list of the items an SAA should look at *during* a review. They do not set forth the risk factors that trigger a survey. We do not object to the inclusion of these scope items as possible additional triggers for a risk-based survey given that many items listed in the “scope” – such as student complaints – are indeed likely to suggest risk. But, at the least, the RBS SOP certainly needs to specifically list out the triggers that Congress did provide in 38 U.S.C. § 3673(e) and explain that when the SAA receives notice or becomes aware of any one of the § 3673(e) triggers the SAA is required to complete a risk-based survey and submit a report to the Secretary within 60 days. The SOP also should set forth the legislatively-required standard for an SAA’s report.

² NASAA RBS Guide (FY 2023), Pg. 2

³ Specifically, page 5 lists “legislatively mandated risk factors,” and pages 7 and 16 each have a section titled, “Legislative Risk Factors From Public Law 116-315.”

- The RBS SOP identifies “loss of accreditation” under “Other Risk Factors for Consideration.”⁴ This is at odds with the clear directive of Congress. Loss of accreditation or risk of loss of accreditation is a statutory event that Congress has deemed must trigger a risk-based survey, per 38 U.S.C. § 3673(e)(3)(D). The SOP should be revised to correctly identify loss, or risk of loss, of accreditation as a trigger for an RBS to be completed within 60 days, and not merely as an “other... factor” to be considered.
- The SOPs erroneously limit one of the risk factors to being, “Federal or State government actions *in court*.”⁵ This is at odds with the statute. The language in 38 U.S.C. § 3673(e)(3) does not limit the risk to being “in court.” Instead, the statute states it should apply to, “Punitive action taken by” federal agencies and “Punitive action taken by a State against an educational institution,” which goes beyond the narrower definition of actions solely within the judicial realm.⁶ Indeed, upon notice from the Secretary of any trigger in §3673(e)(3), there must be a careful review of “any other action against the educational institution by any Federal or State government entity or by the educational institution’s accreditor.”⁷ Clearly, it is incorrect to suggest in the SOPs that a risk-based survey is only required for or concerned with actions “in court.”
- The assignment of risk-based surveys to SAAs. The SOPs specify that the Education Service staff may conduct targeted risk-based reviews (TRBR).⁸ Specifically, the TRBR SOP states, “Once the TRBR is approved, the Oversight and Accountability team will create a TRBR schedule in Salesforce and a notification will be sent to the appropriate Chief Education Liaison Officer (CELO) to schedule and assign the compliance activity.”⁹ This is inconsistent with the statute and should be revised to ensure compliance with the law. We understand your assertion that TRBRs are “ad hoc reviews created by VA,” but Congress has promulgated a specific statute and the agency must adhere to it. 38 U.S.C. § 3673(e)(1) clearly assigns the responsibility of completing risk-based surveys triggered by notices of government action to the SAAs. To ensure consistency and maximize the effectiveness of risk-based surveys, it is essential to align the Education Service’s practices with the statutory requirements.

⁴ VBA Education Service Oversight & Accountability Division, “Standard Operating Procedure: Risk Based Surveys” (Version 1.0), Jul. 22, 2022. Pg. 26. Pages 7-8 of the SOP provides a long list of various risk factors, and the only mention of accreditation is the bullet, “Other accreditor actions” under “Other Risk Factors for Consideration” on page 8.

⁵ VBA Education Service Oversight & Accountability Division, “Standard Operating Procedure: Targeted Risk Based Review (TRBR)” (Version 3), Oct. 1, 2022. Pg. 6.

⁶ 38 U.S.C. § 3673(e)(3)(B) and (C).

⁷ 38 U.S.C. § 3673(e)(6)

⁸ VBA Education Service Oversight & Accountability Division, “Standard Operating Procedure: Targeted Risk Based Review (TRBR)” (Version 3), Oct. 1, 2022. Pg. 4 (“3. Applicability: This procedure applies to Education Service, Oversight and Accountability Division and State Approving Agencies (SAA), when assigned a TRBR.”).

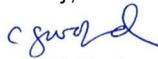
⁹ VBA Education Service Oversight & Accountability Division, “Standard Operating Procedure: Targeted Risk Based Review (TRBR)” (Version 3), Oct. 1, 2022. Pg. 7.

We would be very grateful for your incorporation of these statutory requirements into your SOPs and look forward to their expeditious incorporation.

Finally, we are grateful for your update about the use of the Salesforce-based database and the Approval Manager system. We have been eagerly following the progress on the Digital GI Bill work, and are hopeful that these systems will integrate in a meaningful manner. We would also be interested to know if there is any consideration towards leveraging these tools and data for prospective student veterans. We believe the insights that could be gleaned from these tools would be invaluable to veterans as they select where to apply their hard-earned benefits.

Thank you for your attention to these matters. We are so appreciative of you and your team for your unwavering dedication to our Nation's student veterans. We believe that by addressing these concerns, your SOPs can correctly carry out the letter of the law and strengthen the implementation of risk-based surveys – which will better serve students as they seek to achieve their academic goals.

Sincerely,



Carrie Wofford
President

Cc:

- Joshua Jacobs, Under Secretary for Benefits
- House and Senate Veterans Affairs Committee professional staff
- The American Legion
- National Association of State Approving Agencies



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.

Page 2.

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



July 10, 2023

James Ruhlman, Deputy Director
Program Management
Education Service
Veterans Benefits Administration
Via email

Dear Mr. Ruhlman,

In response to concerns we raised about the standard operating procedures for the risk-based surveys as required by 38 U.S.C. §3673, Director Garcia wrote to inform us that VBA had developed a new SOP and he forwarded a copy of the *Standard Operating Procedure, Notice of Government Action (38 USC §3673(e), June 1, 2023 (hereinafter "SOP")*. Director Garcia suggested that we contact you directly if we had any questions or comments about the new SOP.

We are so grateful for VBA's responsiveness to our concerns and the creation of an SOP to address the requirements of section 3673. Overall, it looks very good and closely aligns with the statute. It should provide very helpful and much-needed guidance to the SAAs. However, there are a few instances where the new SOP does not align with the underlying statute and consequently extends the time for completing the risk-based surveys (RBS) beyond the period allowed in the statute. We request that you correct these few instances so that the SOP correctly implements the law.

Specifically, per 38 U.S.C. §3673(e)(1)(B) and (C), an SAA is required to complete the RBS no later than 60 days after the date it receives notice "or otherwise becomes aware of an action or event described in paragraph (3)."¹ SAAs also must immediately notify

¹ 38 U.S.C. §3673(e)(3) describes the actions or events as follows:

- (3) *An action or event under this paragraph is any of the following:*
- (A) *The receipt by an educational institution of payments under the heightened cash monitoring level 2 payment method...*
 - (B) *Punitive action taken by the Attorney General, the Federal Trade Commission, or any other Federal Department or agency for misconduct or misleading marketing practices...*
 - (C) *Punitive action taken by a State against an educational institution.*

VA when they receive notice or otherwise become aware of one of the actions or events listed in paragraph 3, and, likewise, under subsection (e)(1)(A), VA is supposed to notify the relevant SAA if it receives notice or otherwise becomes aware of one of the actions or events.

We request that you review the following issues and make the corrections suggested:

1. The SOP currently does not include that ‘becoming aware’ of one of the actions or events described in 38 U.S.C. §3673(e)(3) triggers the VA and SAAs’ obligations.

The SOP prompts the VA and SAAs to take action if they receive a notice or “become[] aware of **a notice** of certain action(s) taken against” a school.² The statute, however, does not mention becoming aware of a *notice*. The statute provides that notification must be given and risk-based surveys conducted when VA/SAA receives notice **or otherwise becomes aware of the actions or events** listed in 3673(e)(3). In other words, the SOP suggests that SAAs should not take action (and that the 60 day clock does not begin) when they become aware of an event, but – instead – only when they become aware that they have been notified by VA or aware of notice to the school from another agency. In short, by instructing SAAs that they should act only after becoming aware of a *notice*, the SOP inadvertently raises the threshold for when an RBS is triggered. For instance, an SAA could discover a state’s punitive action against a school through a news media report, but – by following the wording of the SOP – delay notifying the VA or conducting the RBS because it did not actually become informed about a *notice* that was provided. The statute, however, starts the clock from the date the SAA receives notice or becomes aware of an action or event, not the date the SAA becomes aware of a notification about the event.

We recommend correcting the SOP to state that an RBS must be completed not later than 60 days after the date the SAA receives notice *or becomes aware of* the action or event, and not after the date the SAA notifies VA. To avoid any confusion and to ensure

(D) *The loss, or risk of loss, by an educational institution of an accreditation from an accrediting agency or association, including notice of probation, suspension, an order to show cause...*

(E) *The placement of an educational institution on provisional certification status by the Secretary of Education.*

² In the Background section on page 3, the SOP states: “section 1014 amended chapter 36 of title 38 USC 3673(e) to establish communication between the Secretary and State Approving Agencies **when either receives or becomes aware of a notice of certain action(s)** taken against an ETI [Education and Training Institution]. Additional requirements outlined by this legislation includes oversight activities in the form of a risk-based survey *when such notice is received.*” Immediately following is a list of the “Types of *notices.*” (emphasis added).

that SAAs conduct the risk-based surveys on the schedule that Congress carefully established (which is when the SAA becomes aware of one of the triggering events), the relevant SOP sections should be revised to incorporate the specific language from the statute: “or otherwise becomes aware of an action or event” described in 38 U.S.C. §3673(e)(3).

2. The SOP starts the 60 days to complete an RBS on the date when SAAs notify VA, which can give the SAA two weeks longer than the 60 days provided in the statute to complete the RBS.

Another issue impacting the timeliness of the risk-based surveys is that the SOP allows the SAAs to wait **10 business days** before notifying the VA.³ The SOP directs SAAs to provide to VA the notice or information received “as soon as feasible but no later than 10 business days after becoming aware of such action.”⁴ Thereafter, “[w]ithin 60 days of receiving notice from VA or when a SAA provides notice to VA of such an event, SAAs are to complete a risk-based survey.”⁵ That effectively extends the period for completing the risk-based surveys by two weeks beyond the 60 days allowed by statute.

Time is of the essence for completing a risk-based survey when one of the actions or events listed in the statute occurs. Those actions and events indicate serious compliance and financial risk, and often occur just before a school closes suddenly. In these circumstances, it is necessary for the SAA to complete the RBS as soon as possible to protect student veterans and their GI Bill benefits.

3. The VA should clarify that the Oversight and Accountability staff will complete their review within the 30 days to ensure that VA will notify the SAAs within 30 days of receiving notice or becoming aware of one of the actions or events in 38 U.S.C. §3673(e)(3).

Under 38 U.S.C. §3673(e)(1)(A), if VA receives notice or otherwise becomes aware of an action or event in subsection (e)(3), it must notify the relevant SAA not later than 30 days after the date on which it received the notice or became aware of the action or event. Unless the SAA has otherwise learned of the action or event, this notice by VA to the SAA triggers the SAA’s obligation to complete the RBS. The SOP’s provision covering this requirement explains that the VA will give notice to the SAAs within 30

³ The statute requires the SAAs to “**immediately** notify” the Secretary when they receive notice or otherwise become aware of one of the triggering actions or events. 38 U.S.C. 3673(e)(1)(B) The ten business days allowed in the SOP does not seem to meet the statutory requirement of **immediate** notification to the VA.

⁴ Notification Actions Required, SOP, p. 3.

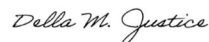
⁵ Compliance Required Actions, SOP, p. 3.

days "after VA becomes aware of such event **and the** Oversight and Accountability (O/A) staff within Education Service has reviewed the action that gave rise to such notice" (emphasis added).

Perhaps it is understood within VA that the O/A staff must complete their review within that 30 days so that VA can notify the relevant SAA in accordance with the statutory timeframe. However, as written, the SOP suggests that the 30 days for VA to notify the SAA starts to run after the O/A staff complete their review. If O/A staff review can take longer than the 30 days from when VA received notice or became aware of the action or event, then the SOP appears to be extending the notification to the SAAs beyond the 30 days allowed by statute. We recommend clarifying in the SOP and with VA staff that the notification to the relevant SAA must happen no later than 30 days after the date that the Secretary received notice or otherwise became aware of an action or event listed in 38 U.S.C. §3673(e)(3) – as the statute specifies.

Thank you for considering these comments on the SOP. We would be happy to discuss these further if you would like. Also, if it would be helpful, we would be happy to send a mark-up of the SOP showing our comments on the document itself.

Respectfully,



Della M. Justice
Vice President for Legal Affairs

Prepared Statement of Joe Rasmussen

University Veteran Services
STUDENT AFFAIRS
UNIVERSITY OF WISCONSIN-MADISON

September 20, 2023

Chairman Van Orden, Ranking Member Levin, and Members of the Subcommittee:

Thank you for the invitation. I'm excited to share my testimony before the Subcommittee on your topic, "Less is More: The Impact of Bureaucratic Red Tape on Veterans Education Benefits." I'm here today on behalf of the veteran and military-connected students at the University of Wisconsin – Madison and our staff that serves them. I've also consulted with colleagues in our University of Wisconsin System as well as my peers across our Big Ten Academic Alliance and our independent colleges and universities in Wisconsin.

Before directly addressing today's topic, I'd like to start with a bit of background and the perspective I'm bringing. I serve as the Director of University Veteran Services at the University of Wisconsin. More importantly, I'm the Grandson of two World War II Veterans, the son of a Vietnam Veteran, and I proudly served on active duty in the Marine Corps from 2002-2006. I returned to Wisconsin, navigated my way through earning a bachelor's and master's degree in social work from two Wisconsin state schools with the support of the Montgomery GI Bill and the Post 9/11 GI Bill.

The reason I share who I am is important, it's because my story is common among my peers. My experience and those I represent is firsthand, front line, and always determined first by what's best for our veterans.

I plan to share how we can do better for our student veterans and military-connected students. My comments are informed by my experiences. I'm also going to share the impacts of who is most important in this process, our student veterans.

1. Risk Based Surveys are a good idea. I support the concept that resources are limited, and focus should be placed where it's going to best help student veterans.
 - a. We need more coordination with education professionals to set standards and we need a lot more transparency.
2. There's too much 'Red Tape' in this process. A lot of GI Bill policy and practice needs to be readjusted to ensure that it's best supporting student veterans.
 - a. Higher education has adjusted and too many GI Bill rules haven't followed suit. We need to update rules for higher education professionals working with VA policymakers.
3. We all need to center student veterans in this process, including how Return on Investment (ROI) is discussed. Veterans made the investment, and their returns should be the most important.
 - a. Each new change needs to look at the entire system and determine if it delivers better outcomes for student veterans.
4. When changes are made, education professionals need to be involved.

- a. I've personally asked numerous times to be involved in the VA's Advisory Committee on Education or any other avenue to help improve this system. VA Education Services should use workgroups to create policy like the Department of Education's partnership with higher education.

My testimony begins with how this process affects student veterans. I'll be sharing the story of Eddie, one of our Student Veterans. Eddie is currently a senior at UW-Madison, studying finance, and works locally in an insurance company. He grew up in Florida, served on active duty in the Marine Corps, and moved to Madison from Southern California with his fiancé having never even visited the state. Eddie is a first-generation American, first-generation service member, and first-generation college student.

Like many student veterans, Eddie's military experience set him apart from his freshmen peers. Eddie had a hard time finding his place among a campus of nearly 50,000 students. In fact, this is an all-too-common scenario that plays out across the country. Our data from a UW-Madison based study, The Veterans Education to Workforce Affinity and Success Study (Benbow & Xie, 2021) shows that most student veterans do not have close ties with their college peers. However, VETWAYS also tells us that student veterans who engage with Veteran Services offices on campus show higher results in areas that are more likely to lead to academic success. When I think about today's topic, I do so always with the question – How does this help Eddie? Eddie made the investment in his time and earned the right to use this fundamental benefit. The GI Bill is the reason many chose to join the service and we are the ones entrusted with fulfilling that promise and ensuring that Eddie can succeed.

Recent legislation and GI Bill changes in policy have created a lot of turmoil in the veteran education world. I'd say that the last 3-4 years have produced more changes than the previous decade. Unfortunately, during this time, higher education hasn't had a great opportunity to be involved and we often are reacting to change. Each time we need to react to change, it takes more and more time away from providing that direct support our student veterans need.

Our Student Veteran, Eddie, trusts me and my staff. We speak the same language, have had the same experiences, and show up every day to make sure he and our other student veterans can find their educational and personal success. However, every minute taken up by unnecessary change or supporting an audit (survey) is time that we can't spend with Eddie. And every change we're not ready for makes staff look less reliable – it's eroding the trust we built with our student veterans.

[Risk Based Surveys](#)

The Risk Based Surveys should be a tool to focus time and attention on supporting veterans. It should allow VA to focus on places that need the extra help and make sure resources are not devoted to auditing an institution that poses little to no risk to our student veterans. However, after speaking with colleagues who have been subject to Risk-based Surveys recently I've learned that many are not risky, but simply instead tripping criteria that is misinformed.

The pilot project of Risk-based Surveys was informed by a diverse group of veterans and higher education professionals. This new tool was truly built in a multidisciplinary fashion and should have been a near off the shelf solution to safeguarding student veterans, like Eddie.

What we need is an understanding into the metrics and methodology. Simply put, we're looking for the predictability that will allow us to do our job. I've heard that one of the metrics VA uses is an increase in GI Bill enrollment of 10 or more from one year to the next – at face value, an increase may be a factor to suggest a school could be involved in risky behavior. However, thanks to Congress, more and more military-connected students are eligible for in-state tuition rates across the country. These changes leveled the playing field for military families and gives opportunity and access to students to attend big name schools like Wisconsin, South Carolina, UCLA, or Arizona. This tied with veterans serving after 9/11 that are beginning to have college age children means a lot of schools will see increases for years to come. These increases are not risk, but simply the nature of children maturing and the intended positive outcomes from removing non-resident tuition charges.

Risk-based Surveys need to be informed by VA staff, the SAA, and higher education professionals. There's too much 'inside baseball' in higher education to do this solely in house. My colleagues are spending their important time focusing on audits instead of providing direct student veteran support. Moreover, the truly risky behavior could be missed because resources are being used in the wrong place.

Administrative Burden

The last several years have been the most difficult in my time supporting Student Veterans. The VA reinterpreted 85/15 several times, study abroad rules shifted, and full-time calculations were updated overnight. Meanwhile, VA Education Services dismantled the Education Liaison Representatives (ELRs) to fill other needs. The department put out a few Policy Advisories, but none were shared with schools. Many left a lot of questions with no one to turn to at the VA for help.

Enrollment Manager is a perfect example of recent changes that could have improved outcomes for student veterans but are currently causing harm. This new system was designed solely to make the process streamlined for VA Education Services, something that clearly needs to happen if tens of thousands of beneficiaries need to be paid, but it forgot about the most important equation – our student veterans.

The rollout of Enrollment Manager consisted of very little communication to education partners. The VA promised the new system would be an improvement over VA-Once and would maintain similar functionality, but we only got to see glimpses of the new system during development. I'm here to report that the improvements are obvious, the system looks more modern. It also takes much longer to use with more scrolling, doesn't always contain accurate information, and the quirks on the school side can only be solved by a complex set of steps not found on any VA document but are passed along through colleagues on listservs. When VA Education Services does communicate about the system, it is often to ask schools to take five extra steps on their end so that VA systems can automate.

We are now spending more time in Enrollment Manager and less time helping student veterans. This new system hasn't delivered promised functionality and VA Education Services never got even close to exploring efficiencies schools have been asking for. Simply put, the process is as slow or slower today than it was before Enrollment Manager.

Another example of burden to our veterans is related to rules outlined in the School Certifying Official's Handbook on course applicability. UW-Madison has created First-year Interest Groups (FIGs), which allow

20 or fewer students to take a grouping of courses related to their academic interests. The 66 FIGs UW offers this fall makes a large university feel smaller for students. FIGs offer courses around themes such as: “Game Design,” “Fakes and Forgeries: From the Ancient World to Modern Times,” or “Fresh Water Past, Present, and Future.” Many students who complete FIGs have a better understanding of their academic discipline, know which specific major they want to declare, and have developed close ties with their peers as well as faculty. Unfortunately, most student veterans cannot join a FIG as GI Bill rules say undeclared freshmen can only get paid for certain ‘General Education’ courses.

Course applicability problems with GI Bill rules are also found with our upperclassman. Another GI Bill rule says undeclared student veterans in junior standing cannot be certified for benefits. Anyone working in education knows that student veterans are much more likely to be transfer students, and many come to campus already with junior standing. They may be closer to graduation than their peers, but they cannot declare in high demand majors such as engineering, computer science, or nursing without taking some specific prerequisites on campus.

According to GI Bill rules, we cannot allow student veterans to have the same high-quality experiences their non-veteran peers enjoy. However, if they wanted to take ROTC courses, even if they are undeclared or it doesn’t fit in their major, GI Bill allows for that. These systems are not set up for most student veterans.

My experience is that these types of breakdowns are all too common. Many of our new student veterans, like Eddie, are coming to campus just weeks after leaving active duty and they need their education benefits. Our veterans are taking the right steps, yet the system just doesn’t work. To make matters worse, we often don’t know of the VA error until student veterans call us frantically when they don’t receive their funds. Instead of focusing on Math or Chemistry, they spend time and energy trying to navigate this administrative burden with us.

Closing

I’m both proud and sad to say that we have a ‘Veterans Crisis Fund’. Our campus community steps up to provide a campus food pantry and bridge funds when GI Bill payments are delayed. If we didn’t have these campus resources too many of our student veterans couldn’t pay rent and buy baby formula when the next error happens.

The missteps of Risk-based Surveys, Enrollment Manager, and administrative burden are all symptoms of the same underlying issue – VA Education Services needs more input, feedback, and collaboration from education partners and Student Veterans. Education benefits combined with quality schools equals a lot of success for our nation’s Student Veterans. But success only comes when the system centers student veterans.

I’ve had the pleasure to meet Secretary McDonough twice in Madison in the last couple of years. Both times I presented the idea that schools and VA education benefits are the front door to a positive, life-long relationship with the VA.

My being here is likely a sign that I know the right information and have related to the right people. However, I sit in a place that not a lot of my colleagues do – I’m at a flagship institution and benefit from staff and support not enjoyed at many schools. This has meant my opportunities to reach VA staff or

others in positions of power, like this subcommittee, is not the norm. Every student veteran, regardless of campus, deserves honest communication and should expect their school has the power to reach out when there's an issue.

Thank you for the opportunity to present my views to the Subcommittee. I look forward to working with all involved to make sure this process continues to be fair while offering a high-quality service. I hope you have seen my commitment and dedication to our student veterans, and I thank you for considering my statements and suggestions.

Joe Rasmussen
Director, University Veteran Services
University of Wisconsin – Madison
USMC Veteran 2002-2006

References

Benbow, R., & Xie, X. (2021, August). *VETWAYS Reserch Briefs*. Retrieved from <https://vetways.wceruw.org/research-briefs/>

STATEMENTS FOR THE RECORD

Prepared Statement of Charles Bernstein

STATEMENT FOR THE RECORD SUBMITTED TO THE HOUSE COMMITTEE ON VETERANS' AFFAIRS SUBCOMMITTEE ON ECONOMIC OPPORTUNITY 118TH CONGRESS, FIRST SESSION

DELIVERED BY CHARLES BERNSTEIN

ON THE HEARING TOPIC OF “LESS IS MORE: THE IMPACT OF BUREAUCRATIC RED TAPE ON VETERANS EDUCATION BENEFITS”

September 20, 2023

Chairman Van Orden, Ranking Member Levin, and Members of the Subcommittee:

I am a Captain in the Marine Corps, where I have served since 2014, and a JD candidate at Harvard Law School.

I joined the Marine Corps because I wanted to serve others, challenge myself, and earn a place among an elite group of peers. After attending Officer Candidate's School and commissioning as a Second Lieutenant I had the tremendous honor to lead infantry Marines at Camp Lejeune, North Carolina. I completed my first overseas tour with the infantry, and a second as a foreign military advisor, before competing for the privilege of joining Marine Reconnaissance. After 17 weeks of training and assessment I was assigned to 1st Reconnaissance Battalion in Camp Pendleton, California.

I completed my third and most recent deployment as a Force Reconnaissance Platoon Commander. Notable Marines who have held this role include Major James Capers, who fought off a North Vietnamese regiment with his 10 men, and Colonel John Ripley, who swung from the beams beneath the Dong Ha Bridge to place explosives in the path of an enemy advance. Words cannot describe the privilege of serving in such a storied unit among such a tremendously talented group of Marines and sailors.

When I think about my career, however, the accomplishments above pale in comparison to the pride I take in having successfully advocated for my Marines. The small role I've had in facilitating their personal successes – accelerated promotions, personal awards, college acceptances, commissioning program selections, and others – is more fulfilling to me than any operational accomplishment.

For this reason, I applied to the Marine Corps' Excess Leave Program – Law (ELP). The ELP allows officers to take an unpaid leave of absence to pursue a law degree at their own expense, after which they continue to serve as Judge Advocates (military attorneys). I leapt at the opportunity to formalize my advocacy for Marines by representing their interests and those of the service.

I was selected for ELP in November, 2021. In March, 2022 the Department of Veterans Affairs (VA) [confirmed in writing](#) that as an ELP participant I would receive a Monthly Housing Allowance (MHA) while using my Chapter 33 Post-9/11 GI Bill Education Benefits. Because of VA's assurance that I would have the financial resources to pay my tuition and living expenses, I formally accepted a place in ELP and committed to three years of post-law school service. I also relied on VA's assurance in committing to attend Harvard Law School, which is located in a high cost city and does not offer merit-based financial aid.

As I finished my first semester of law school, VA informed me and four other ELP Marines that [they would no longer pay us MHA](#) as of August 1, 2023. This decision is financially crushing – MHA in my high-cost area is over \$4,000 per month. And sadly, it is voluntary on the part of VA – there was no legislative amendment or regulatory change that forced their hand.

Worse than its financial effects, losing MHA impacts my ability to become a high-performing, effective Judge Advocate. I am foregoing critical educational opportunities because of financial hardship. Rather than selecting classes based on their relevance, I must now arrange my academic schedule to facilitate two part-time jobs (this year I will miss out on a once-in-a-career opportunity to study Military Justice with two Court of Appeals for the Armed Forces judges). Instead of spending next summer completing on-the-job training in a military court under the supervision of practicing Judge Advocates, I am seeking permission from the Marine Corps to take further paid civilian employment to make ends meet. Even with these efforts I do not know whether I will have the resources to complete my third year of law school.

The Marine Corps' motto is Semper Fidelis – Always Faithful. My four fellow ELP participants and I continue to serve, and in return we ask that VA remains faithful to us. Please ensure that VA keeps the commitment it made by extending MHA for ELP through at least June, 2025 when the last of the affected group graduates.

Respectfully Submitted,



Charles Bernstein

Additional Background Facts

- Veterans Education Success (VES) met with VA Veterans Benefit Administration leadership in July and August 2023 to discuss deferring the MHA change until 2025 or otherwise “grandfathering” current ELP participants in. VA was unwilling to do so.
- Despite VA’s rationale above, ELP participants relied on written communications from VA and their own policies in understanding that ELPers were treated as “Veterans:”
 - The Buffalo Regional Office of VA [confirmed to me via email on March 31, 2022](#), before I committed to attending law school or participating in ELP, “that participants in the Marine Corps’ Excess Leave Program - Law (ELP) are considered Veterans by the VA while in this program.” My peers were similarly reliant;
 - [VA’s own processing handbook, M22-4](#), explains that “A Serviceperson attending school in an excess leave status, if otherwise eligible, may be paid at the rates payable to Veterans;”
 - [VA’s regulations make clear](#) in 38 CFR 21.9505 that “Active duty does *not* include . . . Any period during which the individual was assigned full-time by the Armed Forces to a civilian institution to pursue a program of education that was substantially the same as programs of education offered to civilians.” ELP participants are assigned to their civilian institutions – we have [obligatory military orders](#) assigning us to our respective schools.
- It has been VA’s longstanding practice to treat ELP participants as “Veterans” and thus meriting MHA - [since 1967, VA’s General Counsel has held](#) that educational “excess leave... should *not* be held to be active duty” for VA benefits purposes.
- [In its own determination letter of December 2022](#), VA already acknowledges the challenge created by changing policy midstream, saying “since [our] education is in progress, VA is making an exception to allow current ELP participants to receive the appropriate MHA until... 2023.” We merely ask that this be corrected to the appropriate date of 2025.

March, 2022 Email Confirming MHA for ELP Participants



Charlie Bernstein <criberstein@gmail.com>

Request for MHA in conjunction with Marine Corps Excess Leave Program Law

Cotterman, David J. VBABUF <david.cotterman@va.gov>

Thu, Mar 31, 2022 at 9:31 AM

To: "criberstein@gmail.com" <criberstein@gmail.com>

CAPT Bernstein,

You are correct that participants in the Marine Corps' Excess Leave Program - Law (ELP) are considered Veterans by the VA while in this program. The documents you provided are what is required to verify you are in Marine Corps' Excess Leave Program - Law (ELP).

The next step is for the Harvard Law School to submit an enrollment certification (VA Form 22-1999). After we receive this document from the school, we will determine what payments you are eligible for.

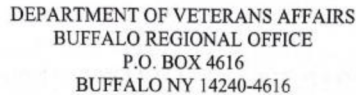
Since your excess leave is not until August 24, 2022, you are still in an active duty status till then. Once law school starts, we will update your status to veteran while you are a participant in the Marine Corps' Excess Leave Program - Law (ELP). Please note that if you are no longer in the program, please let me know.

Once, Harvard submits the enrollment certification, please reach back out to me at that time so I can ensure you are properly paid.

If you have any questions or concerns please let me know

Sincerely,

Dave



DECEMBER 22, 2022

307/22
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XXX-XX

Dear Mr. Bernstein:

We are writing to inform you of a recent VA Office of General Counsel (OGC) decision regarding the U.S. Marine Corps Excessive Leave Program (Law), here abbreviated as ELP(L) and your VA education benefits under the Post 9/11 GI Bill (Chapter 33).

On September 13, 2022, the Benefits Law Group of the VA Office of General Counsel (OGC) clarified the administration of VA Education benefits for participants in the ELP(L). This clarification impacts eligibility and the monthly housing allowance. The VA must treat participants in the ELP(L) as on active duty for purposes of Post 9/11 GI Bill eligibility tier and will no longer pay the Monthly Housing Allowance (MHA) to impacted individuals effective August 1, 2023.

Why Did VA Make This Change?

The VA Office of General Counsel updated its interpretation of Excess Leave Programs in which the student is not assigned to the school based on the definition of 38 USC 3311(b) and (c), since the participants in the ELP(L) do not meet the criteria for a discharge or release from active duty.

How Will This Impact Me?

The decision to treat ELP(L) participants as on active duty and therefore not eligible for the MHA will be effective immediately for all new applicants. However, since your education is in progress, VA is making an exception to allow current ELP(L) participants to receive the appropriate MHA payment based on your rate of pursuit, eligibility percentage level, and location of training until August 1, 2023. Due to system limitations, our letters and education records will show that you are "off active duty" effective the first day of the term we started paying you under the ELP(L).

Effective August 1, 2023, we will update your file to reflect your status as "on active duty" until your official discharge from active duty. Your school should continue to certify you if you wish to continue using your VA benefits for tuition & fees and/or the books & supplies stipend. If you wish to preserve your GI Bill benefits for future use, please discuss this with your school so you are certified correctly.

Explanation of ELP Pay

SECNAVINST 1520.7G
22 Jan 2019

the LSAT at their own expense. All LSAT scores must be submitted and received prior to convening of the selection board. The LSAT is administered by the Law School Admission Council, www.lsac.org.

f. A statement of 500 words or less indicating the steps the applicant has taken to learn about a career as a member of the Judge Advocate General's Corps or as a Marine Corps judge advocate and the reasons for seeking such a career.

g. Prior to submitting an application, Navy officers shall complete a structured interview with two Navy judge advocates, both of whom must be senior to the applicant. If available, one of the two interviewers should be a former LEP participant. Navy applicants will be granted only one interview in a 3-year period. Marine Corps officers shall be interviewed by a senior (O-5 or O-6) Marine Corps judge advocate. Navy and Marine Corps candidates shall refer to this interview and identify their interviewer in their application.

h. Current work mailing and e-mail addresses and phone number must be included.

2. The Marine Corps uses two programs, the Funded Law Education Program (FLEP) and ELP(L):

a. FLEP. Pursuant to section 2004 of reference (a), as implemented by reference (b), commissioned officers of the Marine Corps, while continuing to draw full pay and allowances, may be ordered as students at Government expense to ABA accredited law schools located in the United States for education leading to the degree of Juris Doctor.

b. ELP(L). Commissioned officers of the Marine Corps may be placed in excess leave to attend ABA accredited law schools located in the United States for a period not to exceed 36 months leading to a Juris Doctor and completion of legal licensing requirements. Excess leave is leave other than that accrued under section 701 of reference (a). It is not charged against an officer's leave account and does not have to be repaid. Pursuant to section 502 of reference (i), **no pay and allowances are authorized for such periods**, and ordinary leave is not accumulated. Officers continue to accrue time for

VA General Counsel Letter of 1967 Construing ELP Participants as Veterans

7. The provisions of the law relating to veterans' benefits cannot be interpreted in a literal and mechanical manner, if to do so would defeat the manifest intent of the Congress. The consequences outlined in the preceding paragraph cannot be rationalized as consistent with the Congressional pattern for educational benefits under chapter 34. This becomes particularly clear when the extended excess leave situation is contrasted with "Operation Bootstrap." Under "Operation Bootstrap" a serviceman likewise attends a civilian institution and pays his own tuition and fees but contrary to the situation on extended excess leave, the serviceman having the benefit of "Operation Bootstrap" receives full military pay and allowances for the entire period which he is going to school. This latter is an excellent example of the situation such as the Congress had in mind when it limited payments of educational assistance allowance to persons on active duty to the amount of tuition and fees, and is strongly suggestive that the Congress never contemplated a holding that a non-paid status was consistent with active duty status insofar as educational assistance benefits in chapter 34 are concerned.

8. To summarize our views, while, as stated, it is clear that extended excess leave is considered by the military as active duty and, in fact, does have many of the attributes of active duty, this is not controlling upon the Veterans Administration (see A.D. 972) and it is our opinion that a correct evaluation of all factors impels the legal conclusion that extended excess leave, as here discussed, should not be held to be active duty for the purposes of chapter 34. The foregoing conclusion is consistent with the views expressed in the letter from the Chief Benefits Director, dated June 13, 1966, to the Assistant Director, Veterans' Affairs Commission, Austin, Texas, which was concurred in by this office, and which stated in part:

"It has been determined that a serviceman who is placed on excess leave without pay for the purpose of attending school may not accrue additional entitlement to educational assistance during such period. Accordingly, the rate of

(OGC 22-08186-F) 000005

5.

Current VA Regulation Defining Active Duty, Payment of MHA**Department of Veterans Affairs****§21.9640**

(a) *Percentage of maximum amounts payable.* Except as provided in paragraph (d) of this section, VA will apply the applicable percentage of the maximum amounts payable under this section for pursuit of an approved program of education, in accordance with the following table—

Aggregate length of creditable active duty service after 09/10/01	Percentage of maximum amounts payable
At least 36 months ¹	100
At least 30 continuous days (Must be discharged due to service-connected disability)	100
At least 30 months, but less than 36 months ¹	90
At least 24 months, but less than 30 months ¹	80 ²
At least 18 months, but less than 24 months ²	70 ³
At least 12 months, but less than 18 months ²	60
At least 6 months, but less than 12 months ²	50
At least 90 days, but less than 6 months ²	40

¹ Includes entry level and skill training.

² Excludes entry level and skill training.

³ If the service requirements are met at both the 80 and 70 percentage level, the maximum percentage of 70 must be applied to amounts payable.

(Authority: 38 U.S.C. 3311, 3313)

(b) *Maximum amounts payable for training at more than one-half time.* An individual, other than one on active duty, who is pursuing a program of education at more than one-half time (at a rate of pursuit greater than 50 percent) and who—

(1) is enrolled at an institution of higher learning located in the United States, or at a branch of such institution that is located outside the United States, may receive—

(i) A lump sum amount for established charges paid directly to the institution of higher learning for the entire quarter, semester, or term, as applicable. The amount payable will be the sum of the lower amount of tuition as determined in paragraph (b)(1)(i)(A) and the lower amount of fees as determined in paragraph (b)(1)(i)(B) of this section.

(A) The amount of tuition payable is the lesser of—

(i) The actual amount of tuition charged by the institution of higher learning; or

(2) The maximum amount of tuition regularly charged per credit hour to full-time undergraduate in-State students by the public institution of higher learning having the highest rate of regularly-charged tuition per credit hour in the State in which the individual is enrolled or, if the individual is enrolled at a branch located outside the United States, in the State where the main campus of the institution of

higher learning is located, multiplied by the number of credit hours in which the individual is enrolled.

(B) The amount of fees payable is the lesser of—

(i) The actual amount of fees charged by the institution of higher learning; or

(2) The maximum amount of fees regularly charged full-time undergraduate in-State students in a term, quarter, or semester by the public institution of higher learning having the highest rate of regularly-charged fees in a term, quarter, or semester in the State in which the individual is enrolled or, if the individual is enrolled at a branch located outside the United States, in the State where the main campus of the institution of higher learning is located.

(C) The lesser amount of paragraph (b)(1)(i)(A) or (B) of this section, divided by the number of days in the individual's quarter, semester, or term, as applicable, to determine the individual's daily rate which will then be multiplied by the individual's remaining months and days of entitlement to educational assistance in accordance with §21.4020 and §21.9635(o);

(ii) Except for individuals pursuing a program of education offered entirely through distance learning, a monthly housing allowance. The monthly housing allowance will be equal to the monthly amount of the basic allowance for housing payable under 37 U.S.C. 403

§21.9505 Definitions.

For the purposes of this subpart (governing the administration and payment of educational assistance under 38 U.S.C. chapter 33) the following definitions apply. (See also additional definitions in §§21.1029 and 21.4200).

Academic year means the period of time beginning August 1st of each calendar year and ending July 31st of the subsequent calendar year.

(Authority: 38 U.S.C. 3034(a), 3323(a), 3680(a))

Active duty means full-time duty in the regular components of the Armed Forces or under a call or order to active duty under 10 U.S.C. 688, 12301(a), 12301(d), 12301(g), 12302, or 12304. **Active duty does not include—**

(1) Full-time National Guard Duty performed under 32 U.S.C. orders;

(2) **Any period during which the individual—**

(i) Was assigned full-time by the Armed Forces to a civilian institution to pursue a program of education that was substantially the same as programs of education offered to civilians;

(ii) Served as a cadet or midshipman

VA Processing Handbook M22-4

3/26/23, 1:34 AM

Part 3: Chapter 3 - Processing Applications for Benefits

(2) Service under the provisions of Section 12103 (formerly Section 511(d) of Title 10) pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

(3) Periods of military service in an excess leave status.

NOTE 1: A Serviceperson attending school in an excess leave status, if otherwise eligible, may be paid at the rates payable to Veterans including additional allowance for dependents. Excess leave is defined as leave without pay and is granted only by the service department under emergency or unusual circumstances. The service department places the individual in a "leave without pay" status; the Serviceperson pays the tuition and fees and agrees to extend the length of service on active duty. Education benefits may be authorized for the full period of enrollment certified by the school even though there may be a brief period of active duty during a holiday or during any other day the school was not in session which did not interrupt the continuity of pursuit of the course.

NOTE 2: There is an important distinction in service department programs in which the Serviceperson attends a civilian school while on excess leave without pay and other programs in which the Serviceperson attends a civilian school while on a temporary "duty assignment with full pay and allowances." In the latter instance, the student is considered to be on active duty and should be paid education benefits at the rates payable to Servicepersons unless the military is paying for the training.

(4) Periods of Service Not considered Active Duty for Chapter 33

- Was assigned to a civilian institution for a course of education which was substantially the same as established courses offered to civilians,
- Served as a cadet or midshipman at one of the service academies, or
- Served under the provisions of Section 12103(d) (initial skills and training) of Title 10 pursuant to an enlistment in the Army National Guard, Air National Guard or Reserve components.
- Was called up to active duty from a reserve component of the Armed Forces, Army National Guard or Air National Guard, under Title 10 and it was under a section other than 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 or Section 712 of Title 14 for the USCG Reserve.
- Was called up to active duty under Title 32 that was NOT under Title 32 502(f) for the purpose of responding to a national emergency declared by the President and supported by Federal Funds.
- Served full time in the National Guard under Title 32 for a purpose other than organizing, administering, recruiting, instructing, or training.

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Military Orders Assigning Me to Law School**MARINE CORPS BASIC ORDER**

RANK: CAPT	NAME: CHARLES R BERNSTEIN	EDIPI:	PMOS: 0302
FROM MCC: 1R1	PRESENT COMMAND: 1ST RECON BN 1STMARDIV CAMP PENDLETON CA		

HQMC ORDER DETAILS - 20220704

FMCC: JVB	FUTURE COMMAND: SPECIAL EDUCATION PROGRAMS - BOSTON MA	TOUR: 36 MONTHS, CONUS (OPERATIONAL- FROM/WITHIN CONUS)
ESTIMATED DETACH DATE: 20220729	REPORT NO LATER THAN: 20220828	BILLET: 4401, 03

THIS IS AN INVOLUNTARY ASSIGNMENT.

20220704 - Modification

1. TRANSFER SUBJECT NAMED OFFICER DIRECT REPORT NLT 28 AUG 2022 TO HARVARD LAW SCHOOL FOR FOR THE EXCESS LEAVE PROGRAM (LAW).
2. WHILE ON THE ABOVE DUTY SNO WILL BE CARRIED ON THE ROLLS AND SUPPORTED ADCON SITE SPT (FT DEVENS MA) 25THMAR
- 4TH MARDIV, FOR ADMIN PURPOSES. DIR SNO TO SETTLE TRAVEL CLAIM WITHIN 10 DAYS OF CHECK-IN TO NEW DUSTA. ENSURE ORIG ORDS W/ENDS AND TRAVEL ITINERARY ARE FWD'D TO GAINING ADMIN UNIT. FITREP REPORTING, ANNUAL TRAINING REQUIREMENT COMPLETION AND ALL OTHER LEGAL, MEDICAL AND ADMINISTRATIVE REPORTING REQUIREMENTS WITH GAINING CMD.
3. INCL IN ORDS ISS: YOUR ATTN IS INVITED TO MARCORSEPMAN PARS 2003 AND 5002 AND SECNAVINST 1520.7F REGARDING THE OBL SVC INCURRED AS A RESULT OF PARTICIPATION IN THE EXCESS LEAVE PROGRAM.
4. MARINES ARE ENCOURAGED TO ACCESS THE MOST CURRENT INFORMATION ON FAMILY MEMBER TRICARE PRIME AND TRANSFER ENROLLMENT TO THE NEW REGION VIA THE ONLINE WEBSITE AT WWW.TRICARE.MIL/ENROLLMENT.
5. IT IS RECOMMENDED THAT SNO VISITS THE FUTURE DUTY STATION'S WEBSITE PRIOR TO EXECUTION OF PCSO FOR ADDITIONAL INFORMATION REGARDING CHECK-IN PROCEDURES AND BASE POLICIES. (HTTP://WWW.MILITARYINSTALLATIONS.DOD.MIL)
6. DELAY AUTHORIZED PER MCO 1050.3J CHAP 2. MCO 1000.6 CHAP 4, MCO 11000.22 APPLY.

Prepared Statement of The American Legion

**STATEMENT FOR THE RECORD OF
MR. KEVIN O'NEIL
EMPLOYMENT & EDUCATION POLICY ASSOCIATE
VETERANS EMPLOYMENT & EDUCATION DIVISION
THE AMERICAN LEGION
TO THE
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
COMMITTEE ON VETERANS' AFFAIRS,
UNITED STATES HOUSE OF REPRESENTATIVES
ON
"LESS IS MORE: THE IMPACT OF BUREAUCRATIC RED TAPE ON VETERANS'
EDUCATION BENEFITS"**

SEPTEMBER 20, 2023

Chairman Van Orden, Ranking Member Levin, and distinguished members of the Subcommittee, on behalf of our National Commander Daniel Seehafer and our 1.6 million dues-paying members, The American Legion thanks you for the opportunity to offer this statement on bureaucratic red tape impacting veterans' education benefits. The American Legion is directed by active Legionnaires who dedicate their time and resources to serve veterans and their families. As a resolution-based organization, our positions are guided by more than 104 years of advocacy that originates at the grassroots level. Every time The American Legion testifies, we offer a direct voice from the veteran community to Congress.

From 2018-2023, the number of academic institutions with enrolled Post-911 GI Bill students declined from 9,082 to 7,892.¹ The American Legion believes that a contributing factor to this institutional disengagement is bureaucratic red tape and the administrative burdens that too often fall on overworked School Certifying Officials (SCOs). As the workload to participate in the GI Bill program demands excessive time and problem-solving on the part of SCOs, schools are withdrawing. Consequently, veterans are left with fewer options to chart their academic future. The risk-based survey is one tool that, while intended to help veterans, has increased red tape and subsequently created unintended barriers for student veterans.

The American Legion has long been a proponent of effective oversight that evaluates institutions of higher learning, but this oversight should not adversely affect veterans seeking an education.² Currently, veterans are being adversely affected by ineffective Department of Veterans Affairs (VA) oversight, due to repeated and unnecessary assessments and the absence of a risk-based survey database. A database would provide transparent and comprehensive information on various quality factors relating to academic institutions and assist in determining whether conducting a

¹ "GI Bill® Comparison Tool." Department of Veterans Affairs. XLS data downloaded on all schools on June 21, 2018 and September 7, 2023.

² American Legion Resolution No. 327 (2016): *Support Further Assessment and Evaluation of Institutions of Higher Learning to Enable Veterans to Make Informed Education Choices* <https://archive.legion.org/node/475>

full-blown risk-based survey is appropriate. It is essential to ensure that risk-based surveys operate efficiently and effectively, and allows for seamless interaction between SCOs, VA and State Approving Agencies (SAAs).

Clear information and better communication between SCOs, VA and SAAs would eliminate repetitive surveys and reduce the amount of red tape involved with accepting GI Bill students. We believe this would reverse the decline in the number of academic institutions willing to admit GI Bill students, and, most importantly, provide veterans with greater flexibility in achieving their educational goals. The intention of the risk-based survey, which the American Legion and its partners first developed, was to protect veterans from predatory institutions and not limit their options for achieving academic success.

Background

Since the enactment of the GI Bill, veterans have often been targets of nefarious activity by institutions including deceptive ads and sales tactics that disguise the true nature of for-profit institutions. In previous years, the focus of oversight has centered on an academic institution's financial compliance with VA regulations, rather than on the quality of education provided to the student. This became apparent when the quality of education at academic institutions was diminishing, VA expanded oversight to include assessing the quality of education factors to ensure that veterans actually receive the academic benefits they earned. Through the *Harry W. Colmery Veterans Educational Assistance Act of 2017*,³ Congress mandated that SAAs conduct risk-based reviews to evaluate the quality of education at academic institutions; however, the risk-based reviews were ineffective on two counts: First, there was the issue of scaling, as the implementation of risk-based surveys was slow and arduous — ultimately disincentivizing SAAs from initiating and then conducting these surveys; Second, there was the issue of access — SAAs and SCOs were not granted access to the information that was gathered through these surveys, leaving SAAs with limited information on which schools were considered to be high-risk. Both of these factors led to increased work and duplication, which disincentivized some schools' participation in the GI Bill.

Acknowledging these deficiencies, Congress included a provision to require all SAAs to evaluate academic institutions using a risk-based survey model in the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*.⁴ This prompted the American Legion, the Lumina Foundation, Veterans Education Success, and Education Counsel to work with the National Association of State Approving Agencies to create a pilot program utilizing a data-informed approach to conduct risk-based surveys (*See Exhibit 1*). The data-informed approach consisted of performance indicators used to determine the quality of the institution, including graduation rates, closure risk, average debt, and long-term earnings. The thought behind this approach was that high-risk schools would be targeted for surveys if the indicators demonstrated

³ *Harry W. Colmery Veterans Educational Assistance Act of 2017*. Public Law 115-48, § 310

⁴ *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*. Public Law 116-315, § 1013

possible nefarious activity or substandard performance. This process allowed SAAs to prioritize their resources in identifying high-risk schools while saving tax-payer dollars.

Today

Despite the overall success and positive feedback from the pilot program, there has been a drift from its original intent partially due to the absence of the mandated risk-based survey database. Section 1013 of the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020* required the establishment of “a searchable database or use [of] an existing system, as the Secretary considers appropriate, to serve as a central repository for information required for or collected during site visits for the risk-based survey.”⁵ A central repository of information would allow SAAs to optimize the risk-based survey model, simply due to ease of access to vital information. Barring this database, we see that institutions are subjected to multiple surveys for reasons not warranting a risk-based survey. These practices inadvertently discourage academic institutions from accepting GI Bill recipient students, while creating obstacles for SAAs that make it difficult to do their work effectively.

Recently, there was an effort to mandate a deadline for the development of the risk-based survey database. H.R. 3981, the *Veterans Education Oversight Expansion Act*, was introduced in June of 2023 by Representative Morgan McGarvey and requires VA to create a risk-based database within 180 days of its enactment. Enacting the *Veterans Education Oversight Expansion Act* would be an important step forward in seeing that the risk-based survey model is once again used as intended.

With the establishment of a database, we encourage more robust communication amongst SCOs, SAAs, and VA. After meetings with multiple SAA staff, The American Legion became aware of myriad issues resulting from poor communication between SAAs and VA. These conversations led us to propose that VA improve its risk-based survey outreach and training. A recurring scenario expressed is VA not providing the necessary training required to complete risk-based surveys. Even when academic institutions actively admit GI Bill students, SCOs may not possess the proper training to complete the survey. Compounding the problem is that SCOs are often given a single day to complete it. Schools with limited staffing find it difficult to complete the risk-based survey in its proper form and in the specified timeline.

The superfluous surveys conducted by SAAs, in conjunction with the lack of knowledge of risk-based surveys on the part of SCOs, are evidence that communication is severely lacking. Breakdowns in communication are likely the cause of many of the issues we see with risk-based surveys today. This being so, establishing a transparent risk-based survey database is more important than ever to ensure more seamless interaction amongst SCOs, SAAs, and VA, and ensure that academic institutions are not burdened by arbitrary surveys.

⁵ *Ibid*

Conclusion

The pervasiveness of predatory practices on the part of academic institutions has led to countless veterans struggling to move forward in their academic endeavors. The risk-based survey was intended to protect veterans from predatory institutions that aim to take advantage of them and open more avenues for veterans seeking an education. Proper implementation of a risk-based survey database is essential to seeing that risk-based surveys are conducted in the most efficient and effective way to ensure that academic institutions are not reluctant to admit GI Bill students for fear of administrative burdens. By taking these steps and creating more seamless lines of communication between SCOs, SAAs, and VA, a framework could be advanced to reverse the decline in the number of academic institutions willing to accept GI Bill students, and most importantly, provide veterans with greater flexibility in achieving their educational goals.

Chairman Van Orden, Ranking Member Levin, and distinguished members of the Committee, The American Legion thanks you for your leadership and for allowing us the opportunity to share the position. For additional information or questions, please contact John Kamin, Senior Legislative Associate, at (202) 263-5748 or jkamin@legion.org.

EXHIBIT 1



Lessons from a Risk-Based Oversight Model Designed to Protect Students and Taxpayers

Nathan Arnold, Joe Wescott, Beth Stein, and Bethany Little ♦ January 2022

Over the past 20 years, many higher education institutions have closed without warning, leaving student veterans without degrees and with few options to complete their degrees and get better jobs. Partially in response to these concerns, and recognizing the limited staffing and budgets of state approving agencies to provide quality assurance, Congress passed for the first time a law requiring risk-based reviews. Six pilot state approving agencies have now successfully implemented a process targeting reviews to schools most likely to leave veterans worse off—having used up their limited GI Bill benefits, often taking out loans, and lacking a marketable degree. The goal of this work is to protect student veterans and taxpayers from schools at risk of closure or persistent failure to deliver on their promise to students, given the problem of limited oversight capacity. Importantly, this piloted system is built on public data, making it replicable to other contexts, such as state and federal oversight of the nearly quarter trillion dollar annual federal investment in Title IV financial aid (student loans and Pell grants), Department of Defense Tuition Assistance, federal investments in workforce training, and college accreditation. In all of these contexts, regulators have limited resources that should be focused on improving or weeding out schools and providers that pose a greater level of risk.

These risk-based reviews are a critical example of the federal government taking bipartisan action to protect student veterans and taxpayers, and this pilot shows that such a system can—and does—work. This work provides important information and insight for policymakers and can serve as a model to inform higher education quality assurance and consumer protection more broadly.

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The authors wish to thank Jessica Morales, Joe Fretwell, Meghan-Joy Woodall, and CJ Libassi for their numerous contributions to the design, implementation, and evaluation of the pilot.

Executive Summary

For the past two decades, veterans and their families have been hurt by risky colleges and other postsecondary training programs because the generous benefits available through the Post 9/11 GI Bill make these students prime targets for low-quality institutions. The federal government is spending approximately \$12 billion per year for veterans and their family members to attend college. While much of this investment is well spent, some colleges target military-connected students with misleading ads and high-pressure sales tactics, sometimes even promising guaranteed jobs and six-figure incomes after graduating and consistently failing to deliver. These taxpayer dollars and the students who have wasted their limited benefits and precious time are particularly put at risk when schools close suddenly. For example, at least \$9 billion in Pell grants alone flowed to schools that closed between 2010 and 2018.¹ But veterans are also at risk of less obvious harms, including low quality, unmarketable educational offerings and wasting their hard-earned benefits on programs that do not give them the skills and credentials needed to significantly increase their earning power. Risky schools are often for-profit colleges, but not exclusively so. There are schools from every sector that are not financially sound, that have extremely poor student outcomes, with low rates of retention, and that often fail to lead to the better jobs and higher wages veterans were promised.



The state approving agencies (SAAs) tasked by Congress with overseeing GI Bill-eligible schools in service of veterans and taxpayers have focused their reviews mostly on auditing financial compliance—do the dollars disbursed by the U.S. Department of Veterans Affairs (VA) to the school match the dollars the school disbursed to students—rather than on whether schools leave student veterans better or worse off

(and therefore whether directing taxpayer dollars to such schools is a reasonable investment). These compliance surveys have failed to identify schools that were consistently leaving veterans worse off or were dangerously at risk for abrupt closure, putting students and taxpayers at great risk.



Aware that the current review system was insufficient to counter the poor outcomes for veterans and risk to taxpayers, Congress in 2017 passed the Forever GI Bill² (or Colmery Act), including in it provisions that directed the SAAs to

conduct risk-based reviews—evaluating whether a school was likely to leave students better or worse off and if taxpayers were getting a good return on their investment. In the first two years since passage, there

¹ Calculations of Title IV Program Volume Reports (2009-10 to 2019-20), conducted by TICAS and reflected in <https://ticas.org/wp-content/uploads/2021/11/Coalition-FP-Pell-Exclusion-Letter.pdf>

² Harry W. Colmery Veterans Educational Assistance Act of 2017 (P.L. 115-48)

was very limited implementation of risk-based reviews. In response to those two years of lack of progress, and with support from Lumina Foundation and pro bono support from Nelson, Mullins, Riley, and Scarborough, EducationCounsel (EdCounsel) and the National Association of State Approving Agencies (NASAA) undertook a project to develop and pilot an effective, data-informed approach to implement these risk-based reviews.

NASAA, EducationCounsel, and the six pilot SAAs have worked with a diverse 22-member advisory council representing veterans, schools, accreditors, and states to collaboratively create a first-of-its-kind GI Bill institutional risk model and successfully executed a multi-state pilot implementing the model. The pilot model leverages publicly available metrics to measure the likelihood of risk posed by all institutions receiving GI Bill dollars in each state and allow SAAs to prioritize limited oversight resources toward deeper review of the institutions evincing the most risk. The findings of the site visits conducted by the six pilots identified numerous risky institutional practices and outcomes, such as significant numbers of student complaints and poor institutional financial health that put students at risk of sudden college closure. The findings of this pilot also show that the risk filter was effective at predicting many of these negative outcomes—which is critical because such findings were not directly knowable from public data prior to conducting the deeper institutional review.

This risk-based model has received positive responses from VA, the SAAs, and lawmakers on the Congressional veterans authorizing committees. In 2020, Congress unanimously strengthened risk based reviews and the authority of the SAAs to conduct them as part of the Isakson and Roe Veterans Health Care and Benefits Improvement Act of 2020 (Isakson-Roe). As a result of the new statute, all SAAs will be required to review GI Bill-eligible institutions using risk-based reviews starting in October 2022.

This work is also significant for the broader higher education policy community focused on quality and oversight, not just student veterans. Because the model is based on public data, regulators and oversight entities in various other contexts can leverage both the lessons and specific metrics in this pilot to improve their own accountability mechanisms. The final section of this report includes specific policy recommendations for the U.S. Department of Education's (ED)



upcoming rulemaking on institutional accountability, Federal Student Aid (FSA) program reviews and enforcement, state authorization, accreditation, the U.S. Department of Defense (DOD) Tuition Assistance (TA) program, and workforce funding. The data collected in this pilot and the tools developed and used by the SAAs provide insights on how to improve the efficiency and effectiveness of limited oversight capacity to protect students and taxpayers in myriad other contexts.

Background on GI Bill, State Approving Agencies, and “Compliance Surveys”

Since 1944, the GI Bill has provided qualifying veterans with grants to cover all or some of the costs for postsecondary education or training.³ The modern-day GI Bill, which was enacted in 2008 and is commonly referred to as the Post-9/11 GI Bill, provides assistance for tuition and fees, books and supplies, and housing, similar to the original GI Bill. In award year 2019-2020, nearly one million students received GI Bill benefits totaling \$12 billion.

Given this enormous investment, the VA relies on a combination of ED safeguards and VA safeguards, including the SAAs. SAAs are responsible for the review of higher education institutions and the approval of programs that are eligible to enroll military students using GI Bill benefits. While traditionally accredited institutions of higher education can apply for approval to enroll GI Bill beneficiaries, so can unaccredited programs, including unaccredited flight schools, beauty schools, and vocational programs. SAAs are bodies authorized in federal law, but are staffed by state employees contracted by VA to conduct approvals and oversee schools in the state that are approved by SAAs and VA to receive GI Bill benefits.

In addition to conducting initial program approvals, SAAs also conduct institutional oversight using what are referred to as compliance surveys or compliance reviews. These compliance reviews are traditionally not assigned on the basis of risk—depending on the year, institutions have been selected for review either randomly, based on length of time since previous review, or using somewhat arbitrary factors such as type (e.g. flight schools) or sector (e.g. for-profits). The reviews themselves are essentially in-person payment audits—the SAAs review whether funding from VA was allocated to eligible students, and whether there were any overpayments or underpayments to resolve. The scope of these reviews is extremely limited, and the possible findings correspondingly limited to payment errors. The narrow scope of these reviews, combined with perennially low levels of oversight funding and shifting priorities from VA on how to select schools for deeper review have left SAAs largely unable to consistently identify and address schools or programs that pose significant risk to student veterans and taxpayers.

³ Department of Veterans Affairs Website: About the GI Bill <https://www.va.gov/education/about-gi-bill-benefits/>

Risky Schools, Focus on Veterans, and Broader Higher Education Impact

Over the past two decades, the limited ability to conduct consistent and comprehensive reviews coincided with the growth in tactics and practices by some colleges that harmed student veterans and students more broadly. Many of these practices made headlines, and the harm to students and taxpayers from deceptive and predatory recruiting tactics and financial collapse of high-risk institutions like ITT and Corinthian Colleges were obvious. These events are certainly damaging to students—who often are



unaware of the significant financial problems at these schools until they show up one day to find padlocks on the doors—and taxpayers, who end up footing the bill for closed school discharges, defaulted loans, and borrower defense claims. But a less obvious but equally harmful outcome of risky schools is consistently poor institutional performance, leaving majorities of their graduates without sufficient earnings to repay their loans, or simply failing to graduate most of their students at all.

Even though the number one reason students and veterans go to college is to get a job so they can have a stable and secure career,⁴ there are far too many institutions where most students don't get that kind of a quality education. Indeed, more than 1,800 Title IV-eligible institutions graduate less than 50 percent of their students, even after eight years. And some are particularly low-performing: There are more than 500 institutions that leave 75 percent of the students they enroll without any certificate or degree.⁵ Failing to complete a degree makes a big difference to students' financial wellbeing, because students who start college but don't finish are three times as likely to default on their loans.⁶ This subset of particularly low-performing institutions presents a unique risk to students, because students enrolling in them are so much more likely to be left worse off by having attended them.

There are also instances where students are actively misled by claims or deceptive practices of institutions eager to enroll students with generous federal benefits.⁷ For years, military-connected students have been attractive to colleges because of their generous benefit packages.⁸ The explosive growth of for-profit colleges during the great recession occurred at the same time the Post 9/11 GI Bill benefits became available, and created a particularly poor set of policy incentives. For-profit colleges are subject to a requirement that at least 10 percent of revenue come from non-federal student aid sources—payments from students themselves or from employers willing to fund education for employees. Many were struggling to comply with this market viability test—failing to attract even 10 percent of students willing to pay for their education out of pocket or with employer support. Even though tax dollars fund the GI

⁴ New America, "College Decisions Survey: Deciding to Go to College." <https://www.newamerica.org/education-policy/edcentral/collegedecisions/>

⁵ Michael Itzkowitz, Third Way: "The State of American Higher Education Outcomes in 2019." <https://www.thirdway.org/report/the-state-of-american-higher-education-outcomes-in-2019>

⁶ College Board, "Trends in Student Aid Highlights." <https://trends.collegeboard.org/student-aid/figures-tables/two-year-default-rates-sector-and-completion-status>

⁷ Veterans Education Success Report: VA Still Not Enforcing 1974 Ban on Schools that Engage in Deceptive Advertising and Recruiting <https://vetsedsuccess.org/va-still-not-enforcing-1974-ban-on-schools-that-engage-in-deceptive-advertising-and-recruiting/>

⁸ The Century Foundation Report: Truman, Eisenhower, and the First GI Bill Scandal <https://sites.ed.gov/naciqi/files/2018/05/Complete-History-Series.pdf>

Bill, the way the law was written, GI Bill benefits could be counted toward the 10 percent side of the equation.⁹ The result was a troubling increase in deceptive recruiting practices specifically targeting veterans, often by high-cost programs at schools that rarely lead to good outcomes for veterans and their families. Numerous state and federal investigations, independent reports, and a comprehensive Senate Committee investigation¹⁰ confirmed these findings and provided troubling details of the many instances of predatory recruiting behavior, especially on the part of for-profit colleges. In response, Congress passed and President Biden signed a law closing this loophole in March 2021. This should reduce some targeting of veterans by predatory providers that mislead students about the quality of the program in an effort to secure generous federal financial benefits, but other incentives to mislead students who can supply generous federal benefits to enroll in shoddy colleges remain.

In short, there are three primary types of risk institutions present to students and taxpayers: (1) institutions that pose financial or administrative risk, particularly that leads to precipitous closure; (2) institutions that offer high-cost, low quality programs that do not lead to sufficient earnings to justify the time or dollar investment; and (3) institutions that engage in predatory recruiting and enrollment practices that lead to large swings in enrollment, exceptionally high dropout rates, and significant numbers of students and veterans in default or having wasted their federal grant dollars. All three of these types of risk should be considered in determining which institutions present the most overall risk to students and taxpayers, and therefore how to allocate limited oversight resources.

Yet the current structure of the VA Compliance Survey process administered by the SAAs puts very little focus on elements like misleading and deceptive advertising and enrollment practices, exceptionally low completion rates and attainment of required credentials and licenses, and increased earning power or program quality. Instead, compliance reviews have been directed to focus almost entirely on payment accuracy to the exclusion of the overall financial health, recruiting and enrollment practices, academic quality, employment outcomes, or rapid growth or contraction of the college. The absence of meaningful oversight has led to both disproportionate veteran enrollment in low-quality programs and a higher proportion of veterans exposed to schools abruptly closing their doors.¹¹

To be clear, there are schools that serve the veterans they enroll well, and do not present significant risk to students or taxpayers. However, some colleges and some programs—more prevalent in the for-profit sector but existing across all sectors of higher education—can pose a genuine risk of leaving their students worse off, having wasted students' time and limited federal benefits. All of these risks to students and taxpayers—precipitous institutional closure, chronically leaving students financially worse off, and predatory recruiting of federal grant recipients—are ones that the risk-based model described in this report tries to account for when allocating limited oversight resources.



⁹ The Brookings Institution Report: Understanding the 90/10 Rule https://www.brookings.edu/wp-content/uploads/2019/01/ES_20190116_Looney-90-10.pdf

¹⁰ For Profit Higher Education Report: The Failure to Safeguard the Federal Investment and Ensure Student Success https://www.help.senate.gov/imo/media/for_profit_report/Contents.pdf

¹¹ Veterans Education Success Report: Overemphasis on Payment Accuracy Impedes More Effective SAA Oversight of Schools Participating in the GI Bill <https://vetsedsuccess.org/overemphasis-on-payment-accuracy-impedes-more-effective-saa-oversight-of-schools-participating-in-the-gi-bill/>

Congress Acts in Response to Inspector General and Veterans Organizations

The House and Senate Veterans Affairs committees watched with growing bipartisan impatience as inadequate oversight allowed some schools to prey on veterans, capture millions in taxpayer dollars, and too often close with little warning. In response, in 2017, they included in the Harry W. Colmery Veterans Educational Assistance Act (also known as the Forever GI Bill) provisions that for the first time required SAAs to evaluate the risk of these programs: the risk of poor finances, of harming student veterans, and of leaving taxpayers holding the bag when schools consistently fail students or shut down suddenly. The Colmery Act also authorized a modest funding increase for SAAs and mandated the Government Accountability Office issue a report on SAA capacity and performance. That GAO report found that a focus on risk was indeed warranted.¹²

Recognizing that compliance surveys were insufficient as a tool to address the widespread use of misleading and deceptive tactics and low-quality education leaving students worse off, the Colmery Act required for the first time that SAAs begin evaluating the risk that schools approved to disburse GI Bill funds pose to students and taxpayers. This is the first time such a robust requirement for risk-based reviews was passed in any higher education context. In the first two years following passage, little progress was made. VA and the SAAs did not have experience designing and creating a risk-based system, and there was no publicly transparent precedent to use as a model.

In late 2020, the Colmery Act's focus on risk-based reviews was further strengthened with passage of the Isakson and Roe Veterans Health Care and Benefits Improvement Act of 2020 (Isakson-Roe), which was championed by veterans groups. Isakson-Roe further strengthened the SAAs' risk-based review authority, added triggering events necessitating a review, and required that SAAs exclusively conduct risk-based reviews beginning in October 2022 and further specified minimum criteria that must be examined in the course of risk-based reviews.

During drafting and negotiation of Isakson-Roe, NASAA—as the national body representing the SAAs—recognized the need for a dedicated effort to design, build, pilot, and scale a model that could be effectively used by all SAAs, from those in small states with only one full-time employee, to large states that have to oversee hundreds of GI Bill recipient institutions. This process resulted in the development and implementation of a quantitative model that evaluates programs based on risk to veterans and taxpayers and focuses limited resources on those programs evincing the highest level of risk—with

attendant requirements for improvement or risk of loss of GI Bill eligibility. This report summarizes the collective efforts to design, build, and pilot these statutorily required risk-based reviews, learn from the pilot and make any needed adjustments, and, in the coming year, scale to all 50 states by October 2022 consistent with the law; it also evaluates the extent to which this model might have applicability to a broader Title IV context.

With funding from Lumina Foundation and pro bono support from Nelson, Mullins, Riley, and Scarborough, NASAA and EdCounsel undertook the pilot design by convening an advisory council of 22 members representing student veterans, state approving agencies, institutions, accreditors, states, and other experts. These advisory council members—along with several others who



¹² GAO Report: VA Needs to Ensure That It Can Continue to Provide Effective School Oversight
<https://www.gao.gov/assets/700/695462.pdf>

were consulted throughout this process—provided regular and invaluable guidance on the overall structure and principles of the model. NASAA and EdCounsel also worked closely with six pilot SAAs (in addition to the two non-pilot SAAs serving on the advisory council) to understand their capacity and perspectives on risk. Research was also conducted on precedents and examples of risk-based reviews in other contexts, such as higher education oversight models from other countries and predicting housing foreclosure risk and financial oversight of publicly traded companies; and previous work on risk-based reviews.¹³ During the design of the initial risk filter and deeper review tools and forms, the focus was intentionally on feasibility of implementation and scaling across SAAs as well as other federal contexts.

In developing the risk-based review process, NASAA and EdCounsel consulted with several researchers, policy experts, and veterans' advocates. Chief among these efforts to gather feedback and input from experts in the veterans and higher education fields was the establishment of an Advisory Council of 22 members representing a diverse set of perspectives, interests, and experiences. This group met regularly to discuss the priorities and effective design of a risk-based system and pilot. The Advisory Council provided critical input and feedback, but their participation in this effort does not imply individual or organizational endorsement.

Accrediting Commission of Career Schools and Colleges	Michale McComis
American Association of Collegiate Registrars and Admissions Officers	William Gil
American Council for Education	Anne H. Meehan
American Legion	Joseph Sharpe
Center for American Progress	Antoinette Flores Ben Miller
Distance Education Accrediting Commission	Leah Matthews
National Association of Independent Colleges and Universities	Stephanie Giesecke
National Association of Student Financial Aid Administrators	Jill Desjean
National Association of Veterans' Program Administrators	Dr. Jan Del Signore
New America	Clare McCann
New Jersey Office of the Secretary of Higher Education	Zakiya Smith Ellis
New Mexico State Approving Agency for Veterans' and Training	Marilyn Dykman Katherine Snyder
New York State Division of Veterans' Services	William Clarke
State Higher Education Executive Officers Association	David Tandberg
Student Veterans of America	Lauren Augustine
The Education Trust	Dr. Kayla C. Elliott
University of Phoenix	Patrick Sutliff
Veterans Education Success	Carrie Wofford, Tanya Ang
WASC Senior College and University Commission	Jamienne S. Studley
Washington State Approving Agency	John Murray

¹³ For a deeper discussion of the theoretical foundations of this model, please see EducationCounsel's previous policy briefs on this topic: "Framework for Risk-Informed, Differentiated Accreditation" at <https://educationcounsel.com/?publication=framework-risk-informed-differentiated-accreditation> and "Getting Our House in Order: Clarifying the Role of the State in Higher Education Quality Assurance" at <https://educationcounsel.com/?publication=getting-house-order-clarifying-role-state-higher-education-quality-assurance>.

SAA Pilot States



Texas, Illinois, New York, Delaware, Virginia, Nevada

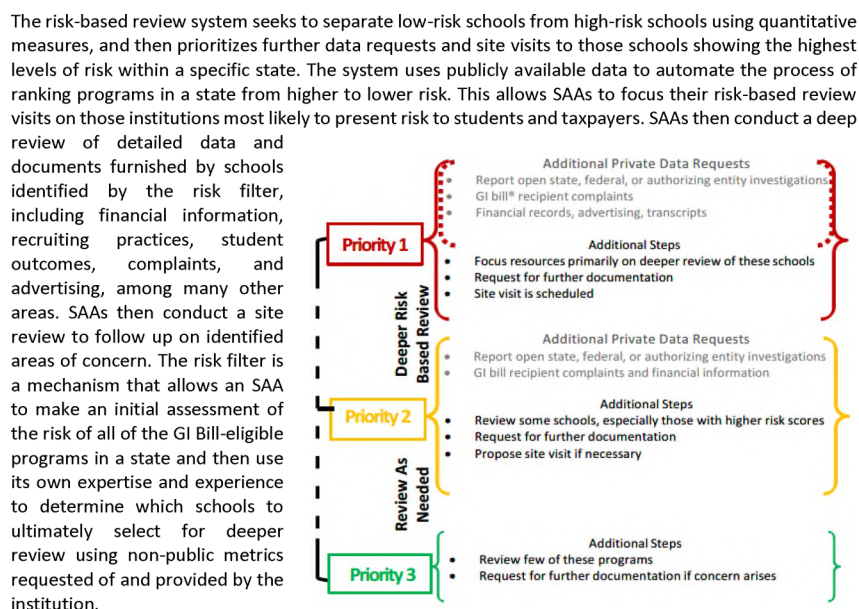
The Theory of Risk-Based Reviews

The underlying theory of this model presupposes that not all institutions pose an equivalent risk to students and taxpayers. In other words, an oversight or compliance system would be inefficiently allocating its limited resources if regulators spent equal time reviewing every institution or program under its purview rather than focusing those resources on institutions evincing indicators of potential harm to students and taxpayers. That's why this model is designed to maximize the effectiveness of regulators' capacity by making an initial determination of risk on the basis of readily-available data and then devoting relatively more resources to reviews at institutions that collect more tax dollars, have worse student outcomes, and have a higher risk of poor financial circumstances.



The purpose of a risk-based filter is to

better identify and focus resources on schools that pose the most risk to taxpayers and to military-connected students. A risk-based review is premised on the idea that some schools pose less risk than others, and that limited State Approving Agency (SAA) resources should be focused on schools that pose a greater level of risk. But because SAAs do not have unlimited capacity to execute a deep and focused review of every single educational program in their state each year, there must first be a process that allows SAAs to initially assess the risk of all of the GI-Bill eligible programs in a state and determine which pose a greater risk than others—and therefore, which programs an SAA should prioritize for deeper review and site visits. Under current practice, there is no transparent process that establishes which schools pose the greatest risk and thus should receive the most attention from the SAAs.



The goal of the risk-based filter is not to conclusively determine that a school is out of compliance or is not serving students effectively. The purpose of the filter is only to determine that the school merits a closer look. Thus, the metrics used to assess the risk level of a school in a risk filter are not, by themselves, grounds for action by an SAA against a school.

In order to be usable by state oversight entities, a risk-based filter should be composed of metrics that are relatively easy to access, and the risk filter used by the model includes more than a dozen publicly-available metrics. Isakson-Roe also lists non-exhaustive factors that could be included in analyzing risk (including enrollment, outcomes, default rates, numbers of complaints, and previous SAA compliance issues). The following section describes in detail the metrics that were used to determine which schools posed the most risk.

How the Risk-Based Model Works

The model is subdivided into four parts: (1) the risk-based filter, (2) the data and document request to selected institutions and review of the information furnished, (3) the site visit, and (4) findings, SAA and school actions, and potential consequences.

Risk-based filter

As described in the previous section, before an SAA (or analogous entity) can conduct deeper reviews and site visits, it must have a method by which to select those institutions it believes warrant additional oversight. To build a risk-based filter, publicly available data was compiled for all institutions under SAA jurisdiction in each of the six pilot states, including metrics that have not yet been widely utilized in oversight frameworks—such as graduate earnings, percent of institutional revenue spent on instruction, and completion rates disaggregated by student income and race. Also included were six metrics not publicly available but collected by and available to the pilot SAAs.

Publicly available metrics	SAA-provided metrics
Enrollment change over one and two years	Multi-state facilities
Veteran enrollment	Newly approved facilities
Tuition change over one and two years	Recent change of ownership
Average total net price to students	Recent expanded audit or training by SAA
Total complaints reported to VA	Recent suspension
Heightened cash monitoring status	Recent withdrawal
Three-year cohort default rate	
Completion rate – total and disaggregated by student group (With comparisons by Pell recipients and for Black and Latino students)	
Full- and part-time retention rate	
Ratio of graduate earnings to state high school graduate earnings	
Percent of revenue spent on instruction	

Each of these metrics represents a different vector of risk. For example, to reflect risks of potential harms to students, the risk filter includes measures of poor completion rates, both for all students and disaggregated by income (Pell status) and race to account for completion gaps between different demographic groups; it also includes a measure of the percentage of students earning more than the average high school graduate in the state, reflecting whether the institution can provide enough value to allow students to earn more than those with no degree or certificate. Risk of poor financial health are reflected in the ED heightened cash monitoring status (the only financial risk metric ED publicly releases), and significant increases or decreases in enrollment. In the case of public metrics, the risk filter includes as many potentially predictive metrics as possible with the intention of measuring the overall efficacy and eliminating potentially duplicative or contraindicative metrics. All six measures of potential risk available

privately to SAAs are also included in the risk filter, but those data are not publicly available, so are not replicable to other, non-GI Bill contexts.

Descriptive statistics for each indicator were then calculated within each state, such as the mean, median, standard deviation, and relative performance (by percentile) for each variable across all programs. The distribution of data was identified in order to create risk brackets for each indicator, using the following assumptions: highest risk = worst 10 percent of outcomes; high risk = worst 25 percent of outcomes; moderate risk = middle 50 percent of outcomes; and low risk = best 25 percent of outcomes, assigning a risk score (1.5, 1, 0.5, 0, respectively) to each of these outcomes. Finally, these numerical scores were aggregated to arrive at a total risk score for each institution in the six pilot states, and provided a listing of the institutions in the state ordered by risk score, divided into three priority risk groups: priority 1 institutions (the riskiest 15 percent of institutions in a state), priority 2 institutions (the middle 50 percent of institutions in a state) and priority 3 institutions (the 35 percent lowest-risk institutions in a state). This last step provided a clear layout to support the SAAs in their determinations of which schools were relatively high and low risk in their state, so they could easily determine which institutions they wanted to select for deeper review. SAAs were, however, encouraged to focus relatively more resources on higher-priority institutions given the theory of risk-based reviews.

Again, no final determinations of quality, harm, or performance were derived from this initial risk filter process; it simply provides SAAs with indicators of risk that they can leverage when determining how to select institutions for deeper review. Determinations of poor performance or noncompliance with federal law and regulations—and the potential for technical assistance, corrective action, consequences, or even positive feedback and relief from subsequent near-term reviews—are made only on the basis of institution-provided data and documentation and the SAA's evaluation of the institution during a site visit.

Data and document request for selected institutions

Priority 1 institutions are likely to show significant indication of risk, but this indication alone is an insufficient basis to make a comprehensive determination of institutional quality or likelihood of imminent closure, necessitating deeper review by the SAAs. The scope of this deeper review can depend on the capacity of the SAA and the type of program being evaluated (e.g. size, mission, dollars received, etc.) but as a first step will typically include additional requests for data that are not publicly available. Relative to compiling publicly available data, this is a more labor-intensive process for schools to furnish and for SAAs to review, which is why the initial risk-filter prevents the data and document request from being required of all schools each year—decreasing the burden for all involved and focusing resources on those evincing the most significant indicators of risk.

As part of this work and with the regular input of the pilot SAAs, several forms were developed that SAAs could leverage when requesting and analyzing nonpublic information to be furnished by selected

institutions. This included admissions documentation, advertising and third-party lead generation materials, complaints to various state and federal agencies, background on state and federal investigations of the school, and detailed financial data. For more detail on what was collected, see below. Several of the forms the pilot SAAs used are also included as an appendix to this report for those entities that are interested in leveraging these tools for their own use.

Information collected by SAAs from priority institutions prior to site visits

Student file review	Advertising, marketing, and lead generation
Enrollment Agreement	All digital print and video ads for the last year, including but not limited to:
Degree Evaluation	Information includes scholarships and discounts
Attendance Records	Student handouts and brochures
Student Transcripts	All scripts used by enrollment counselors or other recruiters
Standards of Progress Reporting	List of all entities the institution has paid for advertising or marketing
Transcripts of Prior Training	All websites created or used by third party contractors for purposes of advertising, marketing, or recruitment
Documentation of Credit for Prior Training	
Student Financial Records (including Title IV)	
Complaints	Financial Soundness Review
All student complaints made directly to the school by students	Prepared Financial Statement(s)
All available GI Bill complaints	Balance Sheet
Complaints in possession of the school filed by students at any local, state, federal, or consumer agency or accreditor	Income Statement
	Cash Flow Statement
	Compiled Financial Statement(s)
	90/10 revenue ratio for two years
	85/15 ratio of enrolled veterans

Once the SAA requested and received all documentation, they began a detailed review. NASAA and EdCounsel, in consultation with other subject-matter experts, developed and provided forms for the pilot SAAs to use in determining whether the information was evidence of poor performance or ran afoul of existing laws or regulations, and guides on how to make final determinations of findings by raising issues and questions as part of the site review. Critically, all of these documents and data were furnished prior to the site visit and the SAAs reviewed the materials in detail for several days, allowing SAAs to prepare their areas of inquiry and concern in advance of the site visit, rather than spending limited time on-site reviewing documents and then being ill-prepared to discuss findings.

Site visit

At this stage, the pilot SAAs were ready to conduct site visits. Using the forms described above to guide their visits, SAAs prepared questions using findings identified in the document request and identified ahead of time those individuals whose presence would be critical to answer these questions. During the site visit itself (many of which were conducted virtually due to COVID-19 restrictions), SAAs discussed their findings and concerns with relevant staff. This started a conversation between the SAA and the institution to do several things: give institutions an opportunity to clarify or justify findings the institution believes are inaccurate, alert the institution of worrying findings it might not have been previously aware of, and solidify for the SAAs which findings are sufficiently serious that they give rise to required corrective actions on the part of the institution or remediation or other consequences required by the SAA under the law. In addition to an evaluation of the concerning factors identified, the SAAs also made a qualitative assessment of factors that cannot be reviewed off-site, reviewed facilities and class instruction to ensure adequate resources and quality of instruction, and in some cases conducted interviews with students or faculty.

At the conclusion of the site visits, the SAAs and the institutions both have a deeper understanding of potential issues and problems and how they must be addressed. Just as critically, for institutions that have serious issues or where there is strong evidence of predatory actions or other affirmative wrongdoing, the totality of the findings reflected in these documents provide the basis to justify action needed to protect student veterans and taxpayers, such as suspension or termination of eligibility for federal GI Bill benefits.

Findings, SAA and school actions, and potential consequences

The findings and justification for those findings were then compiled by the pilot SAAs; this is a relatively straightforward process once the preceding forms are completed. Depending on the findings, SAAs made a determination of what corrective action the institution should take and whether referral to other oversight entities is necessary.

Depending on the findings of the deeper review, various types of consequences may be justified and carried out by the SAA. Some reviews will find the initial risk factors were not actually indicative of heightened risk and no reason for corrective action is warranted. Other reviews, however, will find academic shortcomings, financial noncompliance, or other harmful behaviors that necessitate action on the part of the SAA. In the pilot, states found numerous harmful practices, including findings of deceptive advertising of awards received by schools, enrollment quotas for recruiters, student complaints about academic quality that went unaddressed by state licensing agencies, and schools with severely limited cash reserves that posed a serious risk of collapse.

For example, if the financial soundness analysis demonstrates that the institution has worryingly low amounts of cash on hand, several appropriate steps might be warranted: there may be a need to have a plan to remediate the near-term cash flow problem; a teach-out agreement with another local institution might be warranted; and, in almost all cases, informing relevant state and federal authorities that an institution may be at risk of closure or significant degradation of administrative capability based on worsening financial circumstances. Other areas of inquiry may call for other interventions, and if an SAA finds evidence of serious wrongdoing, suspension or termination of the program or institution's eligibility for federal aid may be justified.

Of course, state oversight entities leveraging this model may not find significant areas of deficiency or clear explanations for why risk-filter indicators initially showed the institution in question had deficiencies on publicly available metrics—that's why the deeper review and site visit serve as the basis for findings and final determinations of risk and quality. And the response from SAAs need not only take the form of corrective actions or negative consequences—for institutions confirmed to be high performing, the SAA

might determine that deeper review might not be warranted in future years, even if a future year's risk score would normally justify further review. In addition, some problems discovered by SAAs in a given review year may not be quickly resolvable, such as poor retention rates that require an overhaul of the institution's student services or course design. Other problems may appear to be resolved but their potential severity could give rise to automatic reviews in subsequent years to ensure the problem is fully addressed.

Evaluation of Pilot Outcomes

One of the most significant benefits of the new statutory requirements for risk-based reviews is the direct positive impact on veterans and their families because it allows SAAs to prioritize their resources on schools that pose the most risk to taxpayers and to military-connected students, rather than a narrower focus on payment compliance.

But there are additional potential benefits from this work, particularly because the pilot SAAs are targeting their resources to evaluating higher risk programs on the basis of publicly available data and focusing on identified risk in a facility review. Since the risk filter uses publicly available data, there is nothing proprietary about this model that would prevent accreditors, states, or federal oversight entities from implementing a risk-based model now. There is a wide range of such agencies and their level of experience with oversight; through this method, state and federal oversight entities with limited resources can focus their capacity on addressing issues with schools presenting the highest degree of risk to students and taxpayers. In return, this creates time and money savings for the high-performing schools less likely to be subject to reviews based on risk.

In short, this pilot has demonstrated that risk-based, outcomes-focused reviews are feasible, effective for regulators and students, and can be realistically implemented—right now. Congress has recognized the importance and effectiveness of risk-based reviews. With the pilot's initial findings, and with significant work from the veterans advocacy community, Congress unanimously strengthened the risk-based review process by integrating key elements from this pilot and strengthening the risk-based oversight authority of the SAAs in Isakson-Roe that was unanimously passed and signed in early 2021. Veterans organizations have also recognized the value of this work—the American Legion unanimously passed a resolution in September 2021 supporting this pilot model and encouraging its use in scaling nationally to all SAAs.

The best case for the success of this model is the pilot SAAs themselves—the only entities that have used both compliance reviews and the risk-based system. Feedback from the SAAs included:

“This new type of review where we examine a wider range of data and information has allowed me to have conversations with the schools I oversee that I have never had before.”

“When I think about compliance surveys compared to the new risk-based process, it felt like I had blinders on that I’ve finally been able to take off.”

“One school noted that questions asked were unlike accreditation—in a good way—and we looked at areas that are not covered in other reviews.”

“During this review, most of my facilities had limited student record errors and in a compliance survey there would have been few to no findings. However, with a risk-based survey the majority of my schools had an area to improve on or an area of concern that required action.”

Comparing compliance surveys to the risk-based review model

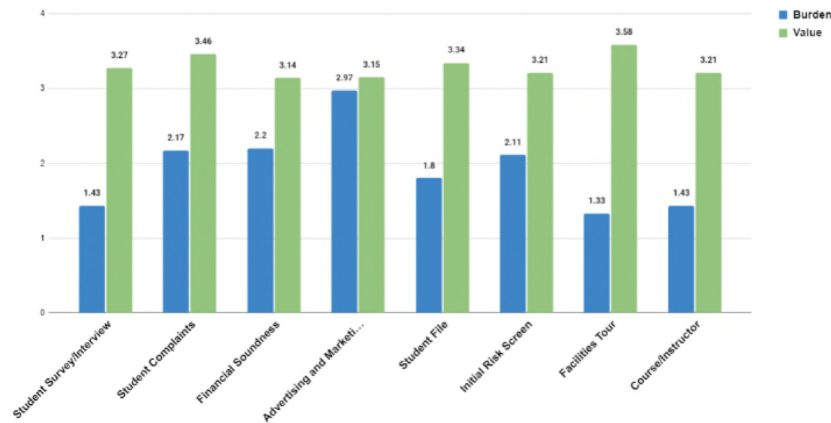
	Compliance survey	Risk-based review
Facility selection	Schools chosen at random, or using qualitative factors like size or sector type without regard to risk	Schools chosen using quantitative, publicly available metrics
Review Capability	Small number of facilities reviewed because of limited staff capacity, and random selection means many did not merit review	Small number of facilities reviewed because each review is deeper and more comprehensive, but risk filter ensures that most or all schools merit review
Documents/ data reviewed	No data or documents reviewed in advance	Robust data and document requests made of schools <i>in advance</i> of site visit based on insight from risk data to allow SAAs a week or more to review and prepare questions before site visit; documents provided include information about finances, complaints, advertisements
On site review	Most time spent reviewing student files; some limited interviews of staff if they happen to be available that day; no prepared questions possible because documents not reviewed in advance	SAAs come prepared with questions based on documents reviewed and ensure ahead of time that relevant staff will be present. Time is not spent reviewing documents; instead SAAs tour facilities, observe classes, and conduct interviews with staff
Findings	Only findings reasonably likely are compliance errors found in student files, e.g. GI Bill payment errors	SAAs are now capable of substantiating findings across all relevant lines of inquiry that could impact students and taxpayers, and can explain those findings to the school using its own data to demonstrate how it should improve

Pilot State Feedback on Risk-Based Reviews

The six pilot states also provided feedback on their perceptions of the relative effectiveness and burden of each of the components of the pilot. As demonstrated in the graph below, on a scale of 0 to 4, the SAAs found all elements of the pilot model to be worthwhile—all elements of the model scored on average above a 3 out of 4 on effectiveness, and most elements were rated about 2 out of 4 for burden or less. The most burdensome element—review of the advertising—was primarily because the pilot’s initial design required that SAAs review each piece of advertising using a separate form; that form has been revised to a single questionnaire reflecting the totality of advertising reviewed, significantly saving time and effort on the part of SAAs.

SAA-Reported Burden to Value Analysis of Reviews

Scale of 0-4 (0=low burden/value; 4=high burden/value)



These findings and positive feedback show how a risk-based quality assurance model would be a more impactful and cost-effective model for higher education oversight entities across the state and federal contexts beyond veterans. The reviews succeeded in identifying areas of concern and SAAs took corrective actions and made referrals to other agencies that never would have happened absent these reviews. Schools provided the detailed information SAAs requested without exception and generally in a timely manner. This work has strong support from the participating SAAs, who appreciated the ability to take a more comprehensive approach to their reviews. The model offers a benefit to low-risk institutions, who save time and money, and it is replicable to many contexts including accreditation, state authorization, Department of Defense (DOD) program reviews, and the Title IV oversight process.

Quantitative Findings

Overall risk filter to site visit correlations

The following are descriptions of how well the risk filter—which is driven by publicly available data—predicted instances of concerning findings and institutional practices not available to the public but observed and catalogued by the pilot SAAs during the site-review process. This is valuable because if the risk filter successfully predicts poor outcomes on site visits, it means that publicly available metrics can be leveraged by oversight entities to determine the likelihood of finding outcomes that are unknowable before deeper review and therefore conserve limited capacity for those institutions most likely to be problematic. In this context, poor outcomes on the site visit reflect a range of financial, administrative, and complaint elements—things like less cash on hand, high rates of student complaints, failure to award transfer credit, and misleading advertising or recruiting practices.

All the correlations described below reflect the frequency that a poor risk filter score occurred at an institution where a given problematic outcome was later found. All the findings discussed below are based on information collected during the site visit process by pilot SAAs—none of them are publicly available data and none are included among the metrics used in the risk filter calculations.

Student complaints, oversight investigations, and accreditator actions

Institutions with higher risk scores are much more likely than those with lower risk scores to have higher instances and rates of student complaints. For example, such an institution is more likely to have complaints reported to federal and state oversight entities ($r = .19$), and consumer agencies ($r = .37$). It is also extremely likely to have higher rates of complaints (i.e. not just the presence or absence of complaints) with respect to specific areas of concern, such as rates of complaints about costs ($r = .45$) and recruiting practices ($r = .79$). A higher risk score was also predictive of SAA perceptions that an institution had failed to make any changes to resolve the complaints identified ($r = -.32$). Interestingly, in spite of all these strong correlations about complaints to third parties, there is effectively no correlation between risk score and complaints made directly to the institution ($r = -.01$), perhaps reflecting an unwillingness or inability of students to make such complaints directly.

An institution rated by the risk filter as riskier is effectively no more or less likely to have been under investigation by an oversight entity within the past three years ($r = -.004$). It should be noted, however,

What are correlation coefficients?

A correlation coefficient (denoted by the variable “ r ”) is a number between -1 and $+1$ calculated so as to represent the linear dependence of two variables or sets of data. A correlation of 1.0 means that there is perfect correlation between two variables—if one occurs, the other always occurs as well. On the other hand, a correlation of -1.0 means that there is perfect inverse correlation between two variables—if one occurs, the other will never occur. A correlation of 0 means that there is no correlation between the two variables—if one occurs, there is a 50 percent chance of the other occurring or not.

For this work, a correlation between a poor risk filter score (i.e., the school is rated as risky) and a poor site visit finding means that the (previously unknown) site visit finding in question occurs more frequently the more risky a school is rated by the risk filter. For example, a poor risk filter score is correlated with SAAs finding more student complaints made to consumer agencies, with a correlation coefficient of $r = .37$. That means that as the risk score gets worse, it is 37 percent more likely that an SAA will find complaints to consumer agencies when conducting the deeper review of the institution.

that there are some individual metrics in the risk filter that are more strongly predictive of investigations by oversight entities and therefore poor performance on such metrics may give rise to additional scrutiny by oversight entities (see “Individual metrics that more effectively predict review by oversight entities” section below). The institution’s accreditor is effectively no more or less likely to have placed it or one of its programs on “warning,” “probation,” or “show cause” ($r = .03$).¹⁴

Overall, the risk filter does a very good job predicting both the presence and volume of student complaints. It does not strongly predict (in either direction) accreditor or other investigations by oversight entities. Ironically, the latter might actually be a function of an insufficient number of justified oversight actions by accreditors and enforcement entities, rather than poor predictive validity of the risk filter, particularly given the risk filter’s strong prediction of student complaints.

Financial health

There are several financial indicators where the overall risk filter shows some—though not strong—ability to correctly predict relatively poorer financial health. For example, a higher risk filter predicts relatively lower total current assets in the current fiscal year ($r = -.07$) and the previous FY ($r = -.07$); relatively lower net worth than other institutions in the current FY ($r = -.07$) and the previous FY ($r = -.07$); and relatively lower amounts of cash and cash equivalents in the current FY ($r = -.06$) and previous FY ($r = -.05$).

Overall, the risk filter correctly predicts elements of poor financial health, but not as strongly as it predicts other poor site visit outcomes such as student complaints or instances of misleading marketing. This is not completely unexpected because the risk filter only includes a single metric directly accounting for financial health—heightened cash-monitoring status—and relatively few schools in the country are placed by the U.S. Department of Education (ED) on the heightened cash-monitoring list, which limits its predictive utility. **It should be noted, however, that there are some individual metrics that are more strongly predictive of bad financial outcomes and therefore may justify additional financial responsibility oversight** in such instances (see “Potential metrics for ED to consider as discretionary financial triggers” section below).

Advertising, marketing, and misrepresentation

Institutions with higher risk scores are more likely than those with lower risk scores to contract with a third party to generate leads to recruit students based on advertising ($r = .28$) or via an intermediary website ($r = .17$). Institutions rated as higher risk are also more likely to make claims and assurances about job placement, including high demand for graduates or assurances about job placement ($r = .20$). Such institutions are also much more likely than those with low risk scores to employ advertising materials with improper or inadequate explanation of military affiliations with the school ($r = .37$).

Overall, the risk score effectively predicts institutions’ use of third-party lead generators and instances of misleading advertising and marketing.

¹⁴ Overall, most of the metrics included in our risk filter did not do a good job of predicting accreditor oversight actions such as probation. However, three metrics that did predict accreditor actions: Heightened cash monitoring status ($r = .39$), Cohort default rate ($r = .17$), and a change in school ownership changed in the past year ($r = .39$). These results are consistent with accreditors taking actions in situations where established metrics and school status are already under review (or will likely be soon). This is consistent with the reality that accreditors are not already undertaking reviews and actions on a risk-based approach, but rather in response to noncompliance with statutory requirements or because of accreditor requirements for review.

Administrative capability

Institutions with higher risk scores are much more likely than those with lower risk scores to have instances where it should have awarded prior credit based on previous coursework completed, but it failed to award such credit to the student ($r = .45$). Such institutions are also very unlikely to have satisfactory records of high school completion on file ($r = -.32$). Institutions rated as higher risk also are somewhat less likely to have charged students the correct tuition and fees as reflected in its catalogue or other public materials ($r = -.10$).

Overall, the risk filter effectively predict whether an institution has demonstrated effective administrative capability with respect to its records, tuition charges, and awarding of prior credits.

Summary of key correlations between risk filter scores and site visit findings

Indicator	Correlation coefficient
Student complaints, oversight investigations, and accreditor actions	
Higher rates of complaints made to federal and state oversight entities	$r = .19$
Higher rates of complaints made to consumer agencies	$r = .37$
Higher rates of complaints about costs	$r = .45$
Higher rates of complaints about recruiting practices	$r = .79$
Lower likelihood of institution resolving complaints identified	$r = -.32$
Null prediction: Complaints made to the institution	$r = -.01$
Financial Health	
Lower total current assets, current and prior FY	$r = -.07$
Lower net worth, current and prior FY	$r = -.07$
Lower amounts of cash and cash equivalents, current and prior FY	$r = -.06$
Advertising, marketing, and misrepresentation	
Likelier to contract with third-party lead generation advertising	$r = .28$
Likelier to contract with third-party lead generation website	$r = .17$
Advertising likelier to make assurances about job placement	$r = .20$
Likelier to use advertising with misleading military affiliation/endorsement	$r = .37$
Administrative capability	
Failure to award credit for prior coursework completed	$r = .45$
Less likely to have records of high school completion on file	$r = -.32$
Less likely to charge students proper published tuition	$r = -.10$

Overall conclusion: The pilot model risk filter appears to effectively predict and differentiate between higher-risk institutions and lower-risk institutions across nearly all key areas of deeper site visit inquiry—though it does a better job of predicting the presence of some negative findings than others.

This shows that focusing deeper institutional reviews on the basis of this pilot model risk filter is an effective method to allocate limited oversight resources to those institutions presenting the most risk and harm to students and taxpayers. Implicitly, it also demonstrates that with additional and better-reported publicly available data, more metrics would be available to populate a more effective risk filter that could be further improved over time.

Potential metrics for ED to consider as discretionary financial triggers

As described above, the overall risk filter has a relatively smaller level of predictive validity with respect to financial metrics. However, there were some elements of the risk filter that did a more effective job of predicting poor financial health than the risk filter overall. The five individual metrics that appear to have the best predictive validity for areas of imminent financial risk are (1) poor completion rates overall (2) poor completion rates for Pell recipients in particular, (3) high net prices, (4) large year-over-year changes in tuition, and (5) enrollment.¹⁵ As shown in the table below, these metrics all predict with fairly strong accuracy institutions that have a limited ability to quickly address or withstand a financially distressing event. Though not as strongly predictive, ED may also consider using high cohort default rates (CDRs). As explained in the following section of this report, these results support including at least some metrics in proposed ED regulations governing financial risk to students and taxpayers (see “Recommendations for Higher Education Policymakers and Oversight Entities” section, below).

Indicator	Fewer total current assets	Lower cash and equivalents	Lower net worth
Lower completion rate	$r = -.37$	$r = -.36$	$r = -.38$
Lower completion rate – Pell recipients	$r = -.35$	$r = -.32$	$r = -.37$
Higher net price	$r = -.39$	$r = -.37$	$r = -.32$
Larger YoY change in tuition	$r = -.43$	$r = -.40$	$r = -.13$
Bigger increases/decreases in enrollment	$r = -.25$	$r = -.26$	$r = -.18$
Higher cohort default rates	$r = -.06$	$r = -.07$	$r = -.25$

Individual metrics that more effectively predict review by oversight entities

The overall risk filter does not effectively predict in either direction the likelihood that a school has been under investigation by a state or federal oversight entity within the past three years. However, there were four elements of the risk filter that more effectively predicted such an oversight investigation as shown in the table below. Oversight entities may want to consider reviewing institutional outcomes on these metrics when determining whether to conduct additional oversight.

¹⁵ The correlations for these metrics were calculated for reviews conducted at private nonprofit and proprietary institutions given that the Department’s regulations on financial responsibility in Title 34, Subpart K only apply to such institutions—under the theory that public institutions backed by the full faith and credit of a state are not at risk of imminent closure. However, correlations for individual metrics were also calculated with respect to institutions from all sectors of higher education and the values were broadly similar.

Metrics that correlate most strongly with investigations by oversight entities

Indicator	Under investigation by oversight entity in last three years
Lower rates of earnings above high school graduates	$r = .62$
Higher incidence of VA-reported complaints	$r = .37$
Wider completion gap between white and Latino students	$r = .22$
School ownership changed in past year	$r = .24$

Recommendations for Higher Education Policymakers and Oversight Entities

This work has produced a number of findings relating specifically to the VA context that have already been communicated to relevant VA staff and are described in more detail below. Although this work takes place in a veterans context, the lessons learned, tools developed, and findings from deeper review of institutions demonstrate that this pilot model can form the basis for policy and practice in analogous circumstances, particularly in the Title IV context. The sections below include recommendations for policymakers in the Title IV, Higher Education Act (HEA) rulemaking context, Federal Student Aid program review, oversight, and enforcement functions, accreditors and state authorizers, the DOD Tuition Assistance (TA) program, and for Congress more broadly.

ED negotiated rulemaking and executive action

In its forthcoming rulemaking, ED plans to pursue a renewed accountability and oversight agenda, with the potential to regulate in areas of gainful employment in a recognized occupation, financial oversight of institutions, and requirements for institutional certification for student aid eligibility.¹⁶ The pilot model described in this report should inform several areas of ED's forthcoming rulemaking.

Legal authority to regulate in areas of institutional oversight and accountability

In addition to the direct statutory authority the HEA grants to ED to regulate on topics relating to institutional quality, financial solvency, and institutional oversight,¹⁷ there is additional reason for ED to regulate to protect students and taxpayers. Certainly, there has been significant scholarly and real-world evidence demonstrating the need for regulatory oversight of poor performing, risky, and predatory institutions.¹⁸

What this risk-based pilot demonstrates is that the precedent and authority exists in federal law for governmental oversight of institutions on the basis of risk to students and taxpayers, and that such oversight can be effective for determinations of potential harm to students and cause for subsequent

¹⁶ ED Notice of Intention to Establish Rulemaking Committees, May 24, 2021.

<https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/frnintentionnegotiateunoffcopy.docx>

¹⁷ See HEA sections 101(b)(1), 487, and 498.

¹⁸ See, e.g., Cellini, Stephanie R. and Chaudhary, L. (2012). "The Labor Market Returns to For-Profit College Education," Avery, C., and Turner, S. "Student Loans: Do College Students Borrow Too Much Or Not Enough? The Journal of Economic Perspectives 26, no. 1 (2012), and Cellini, S. R., and Darolia, R. (2013). College Costs and Financial Constraints: Student Borrowing at For-Profit Institutions."

action. The circumstances for this oversight are highly analogous to the Title IV context—not only are many of the same schools approved to enroll GI Bill, Federal Pell grant, student loan recipients, but both also have several metrics and data sources in common. This law and its implementation—i.e. carrying out oversight of institutions evincing risk on publicly available metrics—establishes a proof of concept to carry out similar types of oversight and provide for regulatory requirements on the basis of student outcomes in the Title IV context. This pilot also provides additional evidence that such a course of action would be effective in protecting student and taxpayer interests.

Gainful employment in a recognized occupation

Advocates and policymakers have been particularly interested in earnings metrics in recent years, not only because of the inclusion of this metric in ED’s college scorecard and the ability to distinguish between different graduates’ earning potential, but also because this metric is relevant for ED’s forthcoming rulemaking on gainful employment. The connection between a graduate’s ability to earn more than if they had not attended the program at all (i.e. a high-school graduate in the state) certainly speaks to a student’s ability to secure gainful employment as a result of completing the program. In addition, the “earnings above high school graduate” metric was strongly correlated with complaints and investigations made to state and federal oversight entities, and in particular complaints made with respect to academic quality. In addition to all the other reasons why an earnings metric is a valid way to evaluate whether a school is providing students with an education of sufficient quality to secure gainful employment, these findings provide more evidence that ED should consider whether use of earnings in any forthcoming gainful employment regulations would be appropriate and effective.

Site-visit findings that correlate most strongly to the College Scorecard earnings metric

Site visit finding	Correlation with earnings metric
Investigations by state or federal oversight entity	$r = .62$
Complaints made to oversight entities	$r = .35$
Complaints made relating to academic quality	$r = .39$

Financial responsibility

Given ED’s re-regulation of the Trump Administration’s borrower defense regulations, it is also planning to re-regulate the related financial responsibility provisions to ensure sufficient oversight and taxpayer collateral with respect to financially risky schools. One likely area of regulation is providing for automatic and discretionary financial risk triggers given what was included in the final Obama borrower defense regulations: schools that had certain investigations, numbers of borrower defense claims, or that were put on accreditor probation, for example, might be required to submit financial collateral to ED to continue participating in the Title IV programs.

As discussed in the quantitative results section above, titled “Potential metrics for ED to consider as discretionary financial triggers,” the pilot’s correlations justify adding at least five, and possibly as many as six, publicly available metrics to the list of discretionary financial risk triggers, given the extent to which these elements predict poor financial health (i.e., lower completion rate; lower completion rate – Pell recipients; higher net price; larger year-over-year change in tuition; bigger changes in enrollment; and higher cohort default rates¹⁹).

¹⁹ The 2016 borrower defense regulations already included a financial trigger for CDRs above 30 percent, demonstrating that ED may already be considering including these types of triggers in its regulatory regime. To the

Based on the findings of this pilot, ED should also require any institution triggering a financial responsibility event or surety to also fill out the financial soundness spreadsheet included in the appendix to this report (or a close analogue) to inform whether additional financial oversight or protection is required. For example, if a private institution had an extremely low completion rate and therefore could be at higher risk for poor financial health, ED should not only consider requiring financial collateral for continued participation in the Title IV programs on the basis of that poor completion rate (i.e. a discretionary trigger), it should also require the institution to provide sufficient information to determine whether it has sufficient cash and cash equivalents to make payroll in subsequent months, or to cover continued costs in the event of an enrollment decline.²⁰ Such findings may justify additional financial collateral (including from majority and minority owners to protect against the risk of sudden closure) or other actions on the part of ED.

Institutional certification

ED has also signaled its intention to update the regulations governing the institutional certification requirements to be approved to participate in the Title IV grant and loan programs.²¹ These requirements are both a critical element of ED's regularized oversight of institutions through its program review system and a closely comparable analogue to the SAA oversight system. The findings in this report support two primary recommendations for ED in this area.

First, the regulations governing institutional certification should include a requirement that ED's selection of program reviews and duration of institutional certification should use a risk-based approach. The specifics such as metrics used in a risk model, the detailed inquiries made of institutions evincing risk, and consequences and duration of certification terms should not be codified in regulation to allow flexibility and improvement of such practices over time. But the general approach of allocating Departmental resources to institutions demonstrating multiple indicators of risk—including indicators not available to the public but known by ED—should be a required practice for ED that persists across administrations.

Second, ED should require minimum program review protocols that include requirements that institutions provide specified and regularized data submission consistent with the elements requested by SAAs when conducting deeper review and site visits. Again, the specific contents of the forms should not be codified in regulation to allow for flexibility in implementation and use. However, ED should require that upon request, institutions provide detailed data regarding present and future financial soundness including liquidity measures, full and complete documentation of recruiting and advertising practices including enrollment scripts and call records as well as all advertising and lead generation by contracted third parties, identification of investigations by local state and federal enforcement agencies, as well as actions by accreditors and state authorizers. Finally, all student complaints in the possession of the school should be reviewed for a pattern and practice of common issues.

Additionally, the law implemented through this pilot—Isakson-Roe—codifies the ED definition of misrepresentation. The process the pilot SAAs used for judging misrepresentative statements in advertising, marketing, and statements to students should also be part of the regular institutional

extent that CDR predicted poor financial health in our pilot model, the other five metrics have even stronger correlations, which would justify their inclusion if CDR is deemed a sufficient risk trigger.

²⁰ Note that in both the Obama 2016 Borrower Defense regulations and in policy discussions governing financial risk triggers, only those institutions that are not backed by the full faith and credit of a state are subject to requirements to post financial collateral, i.e. private nonprofit and proprietary institutions. That is because public institutions backed by the state are not considered at risk for precipitous closure due to insufficient funds.

²¹ ED Notice of Intention to Establish Rulemaking Committees, May 24, 2021.

<https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/frnintentionnegotiateunoffcopy.docx>

certification for all Title IV eligible institutions (see appendix to this report for sample forms covering recommendations in all these areas).

Federal Student Aid oversight and enforcement

As outlined broadly in the regulatory recommendations above, the pilot model described in this report has applicability to the FSA program reviews, oversight, and enforcement contexts. From selecting the institutions and programs it reviews, to determining which elements need additional reporting, to corrective action and time between reviews, FSA should evaluate its program compliance model in light of the findings in this pilot and determine both what updates to its own processes are necessary and what elements can be shared across regulators to make one another aware of bad practices at institutions the oversight bodies have in common.

In addition to the public metrics leveraged as part of this pilot, it is likely FSA has access to other nonpublic data and indicators it could use to inform whether institutions merit deeper review. Use of student loan debt and repayment data, borrower defense claims, financial responsibility composite scores, 90/10 reviews that flag suspected manipulation, CDR appeals and discrepancies between 3 and 5 year rates, complaints made to FSA or ED more generally, ongoing investigations by the Office of the General Council and Office of the Inspector General, and other elements could supplement publicly available metrics to make FSA's own risk filter effective at predicting findings upon deeper review. Choosing which elements to prioritize in a risk filter and what elements to require for institutional reporting should also be informed by the findings of FSA's own program reviews, both in the past and going forward. To the extent that FSA can establish a broader sample of site review findings to further fine-tune the elements of a risk filter, that will lead to both higher confidence intervals regarding the predictive validity of risk filter metrics and better determinations about relative weighting of factors included in the risk filters. FSA should also review and consider whether some or all elements from the forms used in this pilot and reproduced in the appendix to this report have applicability to their own processes, particularly the financial soundness worksheet, advertising and lead generation reporting, and student complaints to various consumer, regulatory and licensing bodies.

Accreditors and State authorizers

The Title IV context that is perhaps most directly comparable to the SAA risk-based model is the quality assurance and oversight functions carried out by accreditors and state authorizers. The findings from this model directly support the notion that these actors should evaluate the risk presented by the institutions they oversee and prioritize their limited capacity reviewing institutions based on that risk.

There is a great degree of variance in size, experience, sophistication, and funding of these state, regional, and national actors and there are a few oversight bodies that already use elements of risk in their oversight. This pilot shows that such an approach is both a feasible and effective way for all entities to address the challenges of limited funding and time, regardless of their size or expertise.

In addition to leveraging public data to filter and select institutions on the basis of risk, accreditors and state authorizers should also require deeper reporting of the elements included in the sample forms as described in previous sections and included in the appendix to this report (i.e. the financial soundness worksheet, advertising and lead-generation reporting, identification of lawsuits, enforcement activity, and law enforcement investigations, and complaints to various regulatory and licensing bodies). Again, some entities may already be leveraging some or many of these types of tools, but the tools used in this pilot are salient for two reasons.

First, because SAAs, accreditors, and state authorizers all have common oversight over several of the same institutions, it would be advantageous to collect the information identified in these forms in a

standardized format and to share these data with other oversight entities with responsibility over the same institutions. This would allow (1) partner enforcement entities to be made aware of issues in the institutions they oversee in a common format and (2) institutions would be able to fill out a single form to be used in reporting compliance with all relevant oversight entities, and would be relieved of the time it takes to fill out forms containing the same information to multiple agencies.

Second, state, regional, and national oversight entities should have generalized agreement about the types of poor outcomes that give rise to bigger concerns about administrative capacity and quality of institutions. They should all be broadly focused on categories like student complaints, misrepresentation, poor finances, poor student outcomes, and lack of administrative capability. The elements requested of schools in these forms represent the most critical elements of student and taxpayer protection that should be commonly reviewed and considered by oversight entities.

Finally, in two years of designing and implementing this pilot, it has become clearer than ever that improved coordination is needed within and among states. Many of the historical failures to proactively identify risky schools share a common denominator: a need for better communication among actors within a state and nationally, among states. Often, bad actors benefit from a lack of coordination. This is because multiple agencies responsible for different components of a school's compliance aren't aware that other agencies are finding problems with the same school, failing to see the big picture of a school in trouble on multiple fronts. Colleges operating multi-state online programs pose additional challenges for regulators. Lack of coordination leads to a lack of clear responsibility, where even in obviously harmful situations different oversight bodies wait for others to act first. Building a consistent, agreed-upon set of elements of institutional quality will help improve coordination among oversight entities and ultimately lead to better oversight of risky institutions.

Department of Defense (DOD) Tuition Assistance (TA) Program

Much like the state authorizer and accreditor contexts, the oversight process for the DOD TA program has a similar overall structure to the oversight required of GI Bill benefits. DOD allocates limited resources toward (typically randomly) assigning review "audits" of schools participating in the GI Bill program. All of the considerations and dangers described in this report and applicable to student veterans are also true of the DOD TA program, particularly that military servicemembers have limited but generous tuition assistance benefits that makes them a target for unscrupulous providers.

For this reason, DOD should evaluate its current audit selection process to determine the feasibility of selecting institutions for deeper review based on risk, particularly if its current process continues to be based on random assignment. DOD should also consider deeper review using the tools reproduced in the appendix to this report to guide those audits to factors most relevant to risks to students and taxpayers.

Department of Veterans Affairs (VA)

The Isakson and Roe Veterans Health Care and Benefits Improvement Act of 2020 requires that all SAAs no longer conduct compliance surveys and, starting in October 2022, will conduct only risk-based reviews going forward. NASAA continues to assist SAAs in preparing for national scaling of a risk-based review model and is collaborating with VA to maximize the likelihood of success when implementing risk-based reviews.

VA should continue its collaborative efforts with NASAA to scale this risk-based model—which not only complies with all components of Isakson-Roe, but also has significant evidence of effectiveness, strong support from the pilot SAAs, and can be implemented immediately. The SAAs would benefit from training on certain aspects of the risk-based reviews, particularly the financial health review and the experience of the pilot SAAs is a valuable resource to be leveraged in communicating those lessons. This would ensure sufficient preparation of SAA personnel in advance of the statutory deadline.

In addition, ensuring that the identification and selection of institutions is predicated on risk is a fundamental aspect of the implementation of VA's new statutory directives. The data included in this report demonstrate that VA should use this pilot risk filter to select sites for deeper review; VA may also have access to nonpublic data that could supplement the pilot risk filter and provide additional accuracy.

Finally, VA should work closely with the SAAs to ensure easily comparable site-visit findings are collected in an easily accessible national database as required by statute, so that the risk filter can be adjusted to make its predictions even stronger. For example, additional site-visit data may inform choices about which metrics should be weighted more heavily in future iterations of the risk filter.

The statutory imperative to conduct risk-based reviews of GI Bill eligible institutions presents VA and the SAAs with a critical opportunity to protect students and taxpayers, and the lessons and tools from this work give clear directions on how the new law can be effectively implemented.



Congress

The risk-based review structure and authority was first established by a bipartisan act of Congress in the Colmery Act in 2017 and strengthened by a unanimous Congress in Isakson-Roe. In the veterans context, Congress has recognized the need for student and taxpayer protections by establishing a comprehensive system of risk-based evaluation that maximizes limited oversight resources available to states. This pilot has demonstrated that the bipartisan action taken to protect students and taxpayers can and does work.

As policymakers review the lessons of this effort, they should consider what elements from this model are applicable to the Title IV oversight context. One area of potential efficacy is to consider which elements from the risk-based sections of Isakson-Roe are applicable to the Title IV context and whether to require use of risk as a basis for institutional oversight by ED, accreditors, and state authorizers.

This pilot has also demonstrated that data availability and quality are key. Without robust, valid, publicly available data, there is no basis to build a risk model and nothing to distinguish a high-risk school from a low-risk school. Some metrics are only available for certain types of programs, and some data are poorly reported, limiting which metrics can be used in a risk filter. Instituting a privacy-protected national student-level data network would provide policymakers with a more complete picture of student outcomes to construct a more precise risk model.

Finally, this work has shown that the intent of policy will not often fit neatly with the complex realities of the country's higher education system, and so policymakers will need to design oversight structures that fit the real world. When requiring oversight from state authorizers, accreditors, and ED, Congress should consider what these regulators are capable of implementing. Given that some SAAs have more than a dozen employees and others have only one full-time staffer, the pilot model was designed to be used by oversight entities that varied widely in size, capacity, experience, and expertise. A risk-based review focuses limited budgets, time, and staff on the areas of inquiry that matter—completion, debt, earnings, risk of closure, complaints, and misleading practices—and on the programs impacting the most students. With the impact of COVID, it becomes even more important to design a system that accounts for identified risk factors and allows for oversight of program quality when in-person site visits are impracticable.

Conclusion

As demonstrated by two pieces of bipartisan legislation and the successful implementation of this pilot model, risk-based reviews are an effective way for the federal government to ensure that oversight entities across higher education contexts actually improve the higher education system's protection of students and taxpayers. It is a feasible way to allocate scarce resources and focus oversight on those institutions creating the greatest risk exposure—not just of precipitous closure, but of chronically poor outcomes that leave students misled, ill-prepared, unlikely to graduate, or unable to earn an income sufficient to repay their loans.

This pilot has demonstrated that risk-based, outcomes-focused reviews are feasible, effective for regulators and students, and can be realistically implemented, right now. The evidence from this pilot shows that public data can be used to effectively prioritize limited oversight resources, and this is a model that can be used by accreditors, state authorizers, and Department of Education program reviews and enforcement.

The risk filter in the model correctly predicted bad outcomes at institutions that were unknowable before conducting deeper review. Schools identified by the filter as higher risk had:

- Higher rates of student complaints to federal, state, and consumer agencies
- Much higher rates of complaints about costs and high-pressure or misleading recruiting tactics
- Greater likelihood of concerning advertising practices, particularly implying nonexistent military endorsements; and
- Lower likelihood of getting the basics right, like awarding transfer credit or even charging the correct published tuition, among many other negative findings.

This model is built for the real world: Every school examined fully complied with all requirements of the reviews and the pilot states implementing risk-based reviews are strong supporters. The findings from this pilot provide justification for several critical provisions of ED's ongoing rulemaking, including support for use of a scorecard earnings threshold as a gainful employment metric and several specific metrics that correctly predict if a school is unlikely to withstand a financially distressing event and close suddenly.

State and federal policymakers in the Title IV context should adopt relevant elements from this model and increase the scale and scope of the effective practices outlined in this report. Additional iteration and improvement of the pilot model will produce further benefits across the system of higher education and make sure tax dollars are serving all students better.

