

ISAKSON-ROE EDUCATION OVERSIGHT EXPANSION ACT

SEPTEMBER 8, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BOST, from the Committee on Veterans' Affairs,
submitted the following

R E P O R T

[To accompany H.R. 3981]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 3981) to amend title 38, United States Code, to improve the methods by which the Secretary of Veterans Affairs conducts oversight of certain educational institutions, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
Bill	2
Purpose and Summary	2
Background and Need for Legislation	2
Hearings	3
Subcommittee Consideration	4
Committee Consideration	4
Committee Votes	4
Committee Oversight Findings	4
Statement of General Performance Goals and Objectives	4
Earmarks and Tax and Tariff Benefits	5
Committee Cost Estimate	5
Budget Authority and Congressional Budget Office Estimate	5
Federal Mandates Statement	6
Advisory Committee Statement	6
Applicability to Legislative Branch	6
Statement on Duplication of Federal Programs	6
Section-by-Section Analysis of the Legislation	6
Changes in Existing Law Made by the Bill as Reported	6

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Isakson-Roe Education Oversight Expansion Act”.

SEC. 2. EXPANSION OF DEPARTMENT OF VETERANS AFFAIRS OVERSIGHT OF CERTAIN EDUCATIONAL INSTITUTIONS.

(a) **ADDITIONAL REQUIREMENT FOR APPROVAL.**—Section 3675(b) of title 38, United States Code, is amended by adding at the end the following new paragraph:

“(5) The educational institution agrees to, not later than 30 days after any date on which such educational institution becomes subject to an action or event described in section 3673(e)(3) of this title, submit to the State approving agency, or the Secretary when acting in the role of a State approving agency, a notification of such action or event in such form and containing such information as the Secretary determines appropriate.”.

(b) **ADDITIONAL REQUIREMENT FOR APPROVAL OF NONACCREDITED COURSES.**—

(1) **IN GENERAL.**—Section 3676(c) of such title is amended—

(A) by redesignating paragraphs (14) through (16) as paragraphs (15) through (17), respectively; and

(B) by inserting after paragraph (13) the following new paragraph:
 “(14) The institution agrees to, not later than 30 days after any date on which such institution becomes subject to an action or event described in section 3673(e)(3) of this title, submit to the State approving agency, or the Secretary when acting in the role of a State approving agency, a notification of such action or event in such form and containing such information as the Secretary determines appropriate.”.

(2) **CONFORMING AMENDMENTS.**—Such title is further amended—

(A) in section 3672(b)(2)(C), by striking “paragraph (14) or (15)” and inserting “paragraph (15) or (16)”;
 (B) in section 3675(b)(3), by striking “(14), (15), and (16)” and inserting “(15), (16), and (17)”;
 (C) in section 3679(d), by striking “described in paragraph (14) or (15)” and inserting “described in paragraph (15) or (16)”; and
 (D) in section 3680A(a)(4)(C)(iii), by striking “section 3676(c)(14) and (15)” and inserting “section 3676(c)(15) and (16)”.

(c) **ADDITIONAL GROUNDS FOR SUSPENSION OF APPROVAL.**—Section 3679(f)(1) of such title is amended by adding at the end the following new subparagraph:

“(I) Comply with the notification requirements under sections 3675(b)(5) and 3676(c)(14) of this title, when applicable.”.

(d) **DEADLINE FOR RISK-BASED SURVEYS DATABASE.**—The Secretary of Veterans Affairs shall establish the database required under section 3673A(c) of title 38, United States Code, by not later than 180 days after the date of the enactment of this Act.

PURPOSE AND SUMMARY

H.R. 3981, the “Isakson-Roe Education Oversight Expansion Act of 2023,” was introduced by Rep. Morgan McGarvey of Kentucky on June 9, 2023. H.R. 3981, as amended, would require schools to report any adverse actions taken against schools to the State Approving Agencies (SAA) and the U.S. Department of Veterans Affairs (VA) as part of their approval for G.I. Bill benefits. Additionally, VA would be required to develop risk-based surveys within 180 days of enactment. This legislation aims to improve oversight, accountability, and access to quality education for veterans, building on the success of the Isakson-Roe Act.

Finally, the bill would also provide an offset for the cost of these programs by extending the current rates for VA home loan funding fees.

BACKGROUND AND NEED FOR LEGISLATION*Section 1: Short title*

This Act may be cited as the “Veterans Education Oversight Expansion Act.”

Section 2: Department of Veterans Affairs oversight of certain educational institutions

This section would implement a way to track important law-enforcement, judicial, accreditor actions or events at eligible schools, even though such actions or events, if known in a timely manner, could and should trigger a review by the SAA or VA.

The Committee believes it is not practical for VA or SAAs to have knowledge of every adverse incident or situation that occurs in every school. This is due to multiple oversight entities, vast programs in different states and territories, and significant actions not being made public. The Federal Trade Commission, Department of Justice, state law enforcement, and accrediting bodies are not obligated to implement mandatory reporting measures for participating in Title 38 education programs.

This section would require notifying SAAs of adverse actions to lessen the impact on student veterans. This would allow for timely reporting and prevent any issues that could affect their eligibility for VA programs. This bill aims to improve the accountability of educational institutions that receive the G.I. Bill. Under the new legislation, schools would be required to report any violations within 30 days or face additional penalties. Additionally, VA would be required to create a readily accessible, searchable database of the results of risk-based surveys within 180 days of enactment, which would help ensure that federal funds are being used appropriately to benefit veteran populations. The Committee believes this is important to track consistency.

Furthermore, the bill includes reporting requirements that would allow VA and Congress to effectively oversee the program's operations. The Committee believes it is important to continue building on the success of the Isakson Roe Act and ensure that the G.I. Bill remains a valuable resource for veterans seeking meaningful education opportunities.

HEARINGS

On June 14, 2023, the Subcommittee on Economic Opportunity held a legislative hearing on H.R. 3981 and other bills that were pending before the subcommittee.

The following witnesses testified:

Mr. Joseph Garcia, Executive Director of Education Service, U.S. Department of Veterans Affairs; Ms. Melissa Cohen, Deputy Executive Director of Outreach, Transition, and Economic Development, U.S. Department of Veterans Affairs; Ms. Monica Diaz, Executive Director, Office of Homeless Programs, U.S. Department of Veterans Affairs; Mr. James Rodriguez, Assistant Secretary for Veterans' Employment and Training Service, U.S. Department of Labor; Mr. Paul Marone, USERRA Policy Chief for Veterans' Employment and Training Service, U.S. Department of Labor; Mr. Patrick Murray, Director, National Legislative Service, Veterans of Foreign Wars of the United States; Mr. Ricardo Gomez, Employment and Education Policy Associate, The American Legion; Mr. Matthew Schwartzman, Director, Legislation and Military Policy, Reserve Organization of America; Ms. Meredith M. Smith, Government Relations Deputy Director, National Military Family

Association, and Mr. Kevin Hollinger, Legislative Director, Enlisted Association of the National Guard of the United States. The following individuals and organizations submitted statements for the record:

Helping Veterans and Families of Indiana, The American Legion Department of California, Disabled American Veterans Department of California, Veterans Education Success, Nation's Finest, New England Center and Home for Veterans, Representative Morgan McGarvey of Kentucky, Volunteers of America of Los Angeles, U.S. VETS Long Beach, Family & Community Services Inc., U.S. VETS Prescott, U.S. VETS Inglewood, Veterans Integration Centers, U.S. VETS Inland Empire, Operation Dignity, and the Alston Wilkes Society.

SUBCOMMITTEE CONSIDERATION

On July 19, 2023, the subcommittee on Economic Opportunity held a markup on the legislation included in the text of this bill. An amendment in the nature of a substitute to H.R. 3981 offered by Rep. McGarvey was adopted by voice vote and the bill was ordered favorably forwarded to the full Committee on Veterans Affairs. The amendment in the nature of a substitute removed G.I. Bill restoration language that had a CBO preliminary score in the double-digit millions.

COMMITTEE CONSIDERATION

On July 27, 2023, the full Committee met in open markup session, a quorum being present, and ordered H.R. 3981, as amended, be reported favorably to the House of Representatives by voice vote. During consideration of the bill no amendments were considered. A motion by Ranking Member Takano to report H.R. 3981, as amended, favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, 1 recorded vote was taken on amendments or in connection with ordering H.R. 3981 as amended, reported to the House.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives of H.R. 3981, as amended, are to provide additional opportunities for education and training for veterans and improve the lives of veterans generally.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 3981, as amended, does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the Congressional Budget Office cost estimate on this measure.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

H.R. 3981, Isakson-Roe Education Oversight Expansion Act			
As ordered reported by the House Committee on Veterans' Affairs on July 26, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	0	0
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	*	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	*	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

H.R. 3981 would require educational institutions that offer certain courses to people who are eligible for education benefits administered by the Department of Veterans Affairs (VA) to notify VA (or relevant state agencies) of specified unfavorable events involving the institution. (Relevant state agencies include those responsible for approving educational institutions, programs, and courses to receive benefit payments from VA.) Reportable events would include punitive actions by state or federal agencies, heightened monitoring of federal student aid, and the potential loss of accreditation. Institutions that fail to report those events would become ineligible to receive benefit payments from VA, which are classified in the federal budget as direct spending. CBO anticipates that almost all students with VA benefits who plan to attend schools that do not comply would use their benefits at other educational institutions instead. The cost of attendance at the substitute institutions could be more or less than the costs of the schools the students had planned to attend. Thus, requiring those notifications would not significantly affect the budget, CBO estimates.

The CBO staff contact for this estimate is Paul B.A. Holland. The estimate was reviewed by Christina Hawley Anthony, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

FEDERAL MANDATES STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) is inapplicable to H.R. 3981.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 3981, as amended.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 3981, as amended, does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

STATEMENT ON DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 3981, as amended, would establish or reauthorize a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 would establish the short title of the bill as “Veterans Education Oversight Expansion Act.”

Section 2. Department of Veterans Affairs oversight of certain educational institutions

This section would amend section 3675(b) of title 38 of the U.S. Code to require that no more than 30 days after an adverse event that, in addition to the VA, that the SAA’s must also be notified of the event. This section would also include a provision of risk-based surveys to provide oversight of the new requirement.

This section would strengthen the reporting requirements of educational entities that receive GI Bill education benefits. Under this section, educational institutions would be required to report any noncompliance within 30 days to avoid penalties.

Finally, this section would require VA to create a previously mandated database of risk-based surveys within 180 days of enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

* * * * *

SUBCHAPTER II—STATE APPROVING AGENCIES

* * * * *

§ 3672. Approval of courses

(a) An eligible person or veteran shall receive the benefits of this chapter and chapters 34 and 35 of this title while enrolled in a course of education offered by an educational institution only if (1) such course is approved as provided in this chapter and chapters 34 and 35 of this title by the State approving agency for the State where such educational institution is located, or by the Secretary, or (2) such course is approved (A) for the enrollment of the particular individual under the provisions of section 3536 of this title or (B) for special restorative training under subchapter V of chapter 35 of this title. Approval of courses by State approving agencies shall be in accordance with the provisions of this chapter and chapters 34 and 35 of this title and such other regulations and policies as the State approving agency may adopt. Each State approving agency shall furnish the Secretary with a current list of educational institutions specifying courses which it has approved, and, in addition to such list, it shall furnish such other information to the Secretary as it and the Secretary may determine to be necessary to carry out the purposes of this chapter and chapters 34 and 35 of this title. Each State approving agency shall notify the Secretary of the disapproval of any course previously approved and shall set forth the reasons for such disapproval.

(b)(1) The Secretary shall be responsible for the approval of courses of education offered by any agency of the Federal Government authorized under other laws to supervise such education. The Secretary may approve any course in any other educational institution in accordance with the provisions of this chapter and chapters 34 and 35 of this title.

(2)(A) Subject to sections 3675(b)(1) and (b)(2), 3680A, 3684, and 3696 of this title, a program of education is deemed to be approved

for purposes of this chapter if a State approving agency, or the Secretary when acting in the role of a State approving agency, determines that the program is one of the following programs:

(i) Except as provided in subparagraph (C) or (D), an accredited standard college degree program offered at a public or not-for-profit proprietary educational institution that—

(I) is accredited by an agency or association recognized for that purpose by the Secretary of Education; and

(II) is approved and participates in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), unless the Secretary has waived the requirement to participate in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(ii) A flight training course approved by the Federal Aviation Administration that is offered by a certified pilot school that possesses a valid Federal Aviation Administration pilot school certificate.

(iii) An apprenticeship program registered with the Office of Apprenticeship (OA) of the Employment Training Administration of the Department of Labor or a State apprenticeship agency recognized by the Office of Apprenticeship pursuant to the Act of August 16, 1937 (popularly known as the “National Apprenticeship Act”; 29 U.S.C. 50 et seq.).

(iv) A program leading to a secondary school diploma offered by a secondary school approved in the State in which it is operating.

(B) A licensure test offered by a Federal, State, or local government is deemed to be approved for purposes of this chapter.

(C) A course that is described in both subparagraph (A)(i) of this paragraph and in ~~paragraph (14) or (15)]~~ *paragraph (15) or (16)* of section 3676(c) of this title shall not be deemed to be approved for purposes of this chapter unless—

(i) a State approving agency, or the Secretary when acting in the role of a State approving agency, determines that the course meets the applicable criteria in such paragraphs; or

(ii) the Secretary issues a waiver for such course under section 3676(f)(1) of this title.

(D) A program that is described in subparagraph (A)(i) of this paragraph and offered by an educational institution that is at risk of losing accreditation shall not be deemed to be approved for purposes of this chapter. For purposes of this subparagraph, an educational institution is at risk of losing accreditation if that educational institution has received from the relevant accrediting agency or association a notice described in section 3673(e)(2)(D) of this title.

(c)(1)(A) The State approving agency for a multi-State apprenticeship program is—

(i) for purposes of approval of the program, the State approving agency for the State in which the headquarters of the apprenticeship program is located; and

(ii) for all other purposes, the State approving agency for the State in which the apprenticeship program takes place.

(B) In this paragraph, the term “multi-State apprenticeship program” means a non-Federal apprenticeship program operating in

more than one State that meets the minimum national program standards, as developed by the Department of Labor.

(2) The period of a program of apprenticeship may be determined based upon a specific period of time (commonly referred to as a “time-based program”), based upon the demonstration of successful mastery of skills (commonly referred to as a “competency-based program”), or based upon a combination thereof.

(3)(A) In the case of a competency-based program of apprenticeship, State approving agencies shall determine the period for which payment may be made for such a program under chapters 30 and 35 of this title and chapter 1606 of title 10. In determining the period of such a program, State approving agencies shall take into consideration the approximate term of the program recommended in registered apprenticeship program standards recognized by the Secretary of Labor.

(B) The sponsor of a competency-based program of apprenticeship shall provide notice to the State approving agency involved of any such standards that may apply to the program and the proposed approximate period of training under the program.

(4) The sponsor of a competency-based program of apprenticeship shall notify the Secretary upon the successful completion of a program of apprenticeship by an individual under chapter 30 or 35 of this title, or chapter 1606 of title 10, as the case may be.

(d)(1) Pursuant to regulations prescribed by the Secretary in consultation with the Secretary of Labor, the Secretary and State approving agencies shall actively promote the development of apprenticeship and on the job training programs for the purposes of sections 3677 and 3687 of this title and shall utilize the services of disabled veterans’ outreach program specialists under section 4103A of this title to promote the development of such programs. The Secretary of Labor shall provide assistance and services to the Secretary, and to State approving agencies, to increase the use of apprenticeships.

(2) In conjunction with outreach services provided by the Secretary under chapter 77 of this title for education and training benefits, each State approving agency shall conduct outreach programs and provide outreach services to eligible persons and veterans about education and training benefits available under applicable Federal and State law.

(e) A program of education exclusively by correspondence, and the correspondence portion of a combination correspondence-residence course leading to a vocational objective, that is offered by an educational institution (as defined in section 3452(c) of this title) may be approved only if (1) the educational institution is accredited by an entity recognized by the Secretary of Education, and (2) at least 50 percent of those pursuing such a program or course require six months or more to complete the program or course.

* * * * *

§ 3675. Approval of accredited courses

(a)(1) A State approving agency, or the Secretary when acting in the role of a State approving agency, may approve accredited programs (including non-degree accredited programs) not covered by section 3672 of this title when—

(A) such courses have been accredited and approved by a nationally recognized accrediting agency or association;

(B) such courses are conducted under the Act of February 23, 1917 (20 U.S.C. 11 et seq.);

(C) such courses are accepted by the State department of education for credit for a teacher's certificate or a teacher's degree; or

(D) such courses are approved by the State as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395i-3(f)(2)(A)(i) and 1396r(f)(2)(A)(i)).

(2)(A) For the purposes of this chapter, the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which that Secretary determines to be reliable authority as to the quality of training offered by an educational institution.

(B) Except as provided in section 3672(e) of this title, a State approving agency may utilize the accreditation of any accrediting association or agency listed pursuant to subparagraph (A) of this paragraph for approval of courses specifically accredited and approved by such accrediting association or agency.

(3)(A) An educational institution shall submit an application for approval of courses to the appropriate State approving agency. In making application for approval, the institution (other than an elementary school or secondary school) shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the institution.

(B) Each catalog or bulletin transmitted by an institution under subparagraph (A) of this paragraph shall—

(i) state with specificity the requirements of the institution with respect to graduation;

(ii) include the information required under paragraphs (6) and (7) of section 3676(b) of this title; and

(iii) include any attendance standards of the institution, if the institution has and enforces such standards.

(b) As a condition of approval under this section, the State approving agency, or the Secretary when acting in the role of a State approving agency, must find the following:

(1) The educational institution keeps adequate records, as prescribed by the State approving agency, or the Secretary when acting in the role of a State approving agency, to show the progress and grades of the eligible person or veteran and to show that satisfactory standards relating to progress and conduct are enforced.

(2) The educational institution maintains a written record of the previous education and training of the eligible person or veteran that clearly indicates that appropriate credit has been given by the educational institution for previous education and training, with the training period shortened proportionately.

(3) The educational institution and its approved courses meet the criteria of paragraphs (1), (2), (3), **[(14), (15), and (16)] (15), (16), and (17)** of section 3676(c) of this title (or, with respect to such paragraphs (14) and (15), the requirements under

such paragraphs are waived pursuant to subsection (f)(1) of section 3676 of this title).

(4) The educational institution is approved and participates in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) or the Secretary has waived the requirement under this paragraph with respect to an educational institution and submits to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives notice of such waiver.

(5) *The educational institution agrees to, not later than 30 days after any date on which such educational institution becomes subject to an action or event described in section 3673(e)(3) of this title, submit to the State approving agency, or the Secretary when acting in the role of a State approving agency, a notification of such action or event in such form and containing such information as the Secretary determines appropriate.*

(c)(1) A State approving agency may approve the entrepreneurship courses offered by a qualified provider of entrepreneurship courses.

(2) For purposes of this subsection, the term "entrepreneurship course" means a non-degree, non-credit course of business education that enables or assists a person to start or enhance a small business concern (as defined pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a))).

(3) Subsection (a) and paragraphs (1) and (2) of subsection (b) shall not apply to—

(A) an entrepreneurship course offered by a qualified provider of entrepreneurship courses; and

(B) a qualified provider of entrepreneurship courses by reason of such provider offering one or more entrepreneurship courses.

(4) Notwithstanding paragraph (3), a qualified provider of entrepreneurship courses shall maintain such records as the Secretary determines to be necessary to comply with reporting requirements that apply under section 3684(a)(1) of this title with respect to eligible persons and veterans enrolled in an entrepreneurship course offered by the provider.

(d)(1) The Secretary shall submit to Congress an annual report on any waivers issued pursuant to subsection (b)(4) or section 3672(b)(2)(A)(i) of this title.

(2) Each report submitted under paragraph (1) shall include, for the year covered by the report, the following:

(A) The name of each educational institution for which a waiver was issued.

(B) The justification for each such waiver.

(C) The total number of waivers issued.

§ 3676. Approval of nonaccredited courses

(a) No course of education which has not been approved by a State approving agency pursuant to section 3675 of this title, which is offered by a public or private, profit or nonprofit, educational institution shall be approved for the purposes of this chapter unless the educational institution offering such course submits to the ap-

propriate State approving agency a written application for approval of such course in accordance with the provisions of this chapter.

(b) Such application shall be accompanied by not less than two copies of the current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

(1) Identifying data, such as volume number and date of publication;

(2) Names of the institution and its governing body, officials and faculty;

(3) A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term, or semester, and other important dates;

(4) Institution policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course;

(5) Institution policy and regulations relative to leave, absences, class cuts, makeup work, tardiness and interruptions for unsatisfactory attendance;

(6) Institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the institution, and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student);

(7) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct;

(8) Detailed schedules of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(9) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom;

(10) A description of the available space, facilities, and equipment;

(11) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, and approximate time and clock hours to be spent on each subject or unit; and

(12) Policy and regulations of the institution relative to granting credit for previous educational training.

(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the eligible person and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person so notified.

(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absence, grading policy, and rules of operation and conduct will be furnished the eligible person upon enrollment.

(6) Upon completion of training, the eligible person is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(8) The institution complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

(9) The institution is financially sound and capable of fulfilling its commitments for training.

(10) The institution, and any entity that owns the institution, does not engage in substantial misrepresentation described in section 3696(e) of this title. The institution shall not be deemed to have met this requirement until the State approving agency—

(A) has ascertained that no Federal department or agency has taken a punitive action, not including a settlement agreement, against the school for misleading or deceptive practices;

(B) has, if such an order has been issued, given due weight to that fact; and

(C) has reviewed the complete record of advertising, sales, or enrollment materials (and copies thereof) used by or on behalf of the institution during the preceding 12-month period.

(11) The institution does not exceed its enrollment limitations as established by the State approving agency.

(12) The institution's administrators, directors, owners, and instructors are of good reputation and character.

(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the eligible person fails to enter the course or withdraws or is discontinued therefrom at any time before completion and—

(A) in the case of an institution (other than (i) a Federal, State, or local Government institution or (ii) an institution described in subparagraph (B)), such policy provides that the amount charged to the eligible person for tuition, fees,

and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length; or

(B) in the case of an institution that is a nonaccredited public educational institution, the institution has and maintains a refund policy regarding the unused portion of tuition, fees, and other charges that is substantially the same as the refund policy followed by accredited public educational institutions located within the same State as such institution.

(14) The institution agrees to, not later than 30 days after any date on which such institution becomes subject to an action or event described in section 3673(e)(3) of this title, submit to the State approving agency, or the Secretary when acting in the role of a State approving agency, a notification of such action or event in such form and containing such information as the Secretary determines appropriate.

[(14)] (15) In the case of a course designed to prepare an individual for licensure or certification in a State, the course—

(A) meets all instructional curriculum licensure or certification requirements of such State; and

(B) in the case of a course designed to prepare an individual for licensure to practice law in a State, is accredited by a specialized accrediting agency for programs of legal education or association recognized by the Secretary of Education under subpart 2 of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099b), from which recipients of law degrees from such accredited programs are eligible to sit for a bar examination in any State.

[(15)] (16) In the case of a course designed to prepare an individual for employment pursuant to standards developed by a board or agency of a State in an occupation that requires approval, licensure, or certification, the course—

(A) meets such standards; and

(B) in the case of a course designed to prepare an individual for licensure to practice law in a State, is accredited by a specialized accrediting agency for programs of legal education or association recognized by the Secretary of Education under subpart 2 of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099b), from which recipients of law degrees from such accredited programs are eligible to sit for a bar examination in any State.

[(16)] (17) Such additional criteria as may be deemed necessary by the State approving agency if the Secretary, in consultation with the State approving agency and pursuant to regulations prescribed to carry out this paragraph, determines such criteria are necessary and treat public, private, and proprietary for-profit educational institutions equitably.

(d) The Secretary may waive, in whole or in part, the requirements of subsection (c)(13) of this section in the case of an educational institution which—

(1) is a college, university, or similar institution offering postsecondary level academic instruction that leads to an associate or higher degree,

(2) is operated by an agency of a State or of a unit of local government,

(3) is located within such State or, in the case of an institution operated by an agency of a unit of local government, within the boundaries of the area over which such unit has taxing jurisdiction, and

(4) is a candidate for accreditation by a regional accrediting association,

if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, that such requirements would work an undue administrative hardship because the total amount of tuition, fees, and other charges at such institution is nominal.

(e) Notwithstanding any other provision of this title, a course of education shall not be approved under this section if it is to be pursued in whole or in part by independent study.

(f)(1) The Secretary may waive the requirements of paragraph (14) or (15) of subsection (c) in the case of a course of education offered by an educational institution (either accredited or not accredited) if the Secretary determines all of the following:

(A) The educational institution is not accredited by an agency or association recognized by the Secretary of Education.

(B) The course did not meet the requirements of such paragraph at any time during the 2-year period preceding the date of the waiver.

(C) The waiver furthers the purposes of the educational assistance programs administered by the Secretary or would further the education interests of individuals eligible for assistance under such programs.

(D) The educational institution does not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except for the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(2) Not later than 30 days after the date on which the Secretary issues a waiver under paragraph (1), the Secretary shall submit to Congress notice of such waiver and a justification for issuing such waiver.

* * * * *

§ 3679. Disapproval of courses

(a)(1) Except as provided by paragraph (2), any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter (including failure to comply with a risk-based survey under this chapter or secure an affirmation of approval by the appropriate State approving agency following the survey) shall be immediately disapproved by the Secretary or the appropriate State approving agency. An educational institution which has its courses disapproved by the Secretary or a State approving

agency will be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

(2) In the case of a course of education that would be subject to disapproval under paragraph (1) solely for the reason that the Secretary of Education withdraws the recognition of the accrediting agency that accredited the course, the Secretary of Veterans Affairs, in consultation with the Secretary of Education, and notwithstanding the withdrawal, may continue to treat the course as an approved course of education under this chapter for a period not to exceed 18 months from the date of the withdrawal of recognition of the accrediting agency, unless the Secretary of Veterans Affairs or the appropriate State approving agency determines that there is evidence to support the disapproval of the course under this chapter. The Secretary shall provide to any veteran enrolled in such a course of education notice of the status of the course of education.

(3) In this section, the term “risk-based survey” means a risk-based survey developed under section 3673A(a) of this title.

(b) Each State approving agency shall notify the Secretary of each course which it has disapproved under this section. The Secretary shall notify the State approving agency of the Secretary’s disapproval of any educational institution under chapter 31 of this title.

(c)(1) Notwithstanding any other provision of this chapter and subject to paragraphs (3) through (6), the Secretary shall disapprove a course of education provided by a public institution of higher learning if the institution charges tuition and fees for that course for covered individuals who are pursuing the course with educational assistance under chapter 30, 31, 33, or 35 of this title while living in the State in which the institution is located at a rate that is higher than the rate the institution charges for tuition and fees for that course for residents of the State in which the institution is located, regardless of the covered individual’s State of residence.

(2) For purposes of this subsection, a covered individual is any individual as follows:

(A) A veteran who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, air, or space service.

(B) An individual who is entitled to assistance under—

(i) section 3311(b)(8) of this title; or

(ii) section 3319 of this title by virtue of the individual’s relationship to—

(I) a veteran described in subparagraph (A); or

(II) a member of the uniformed services described in section 3319(b) of this title who is serving on active duty.

(C) An individual who is entitled to rehabilitation under section 3102(a) of this title.

(D) An individual who is entitled to assistance under section 3510 of this title.

(3) If after enrollment in a course of education that is subject to disapproval under paragraph (1) by reason of paragraph (2)(A), (2)(B), or (2)(C) a covered individual pursues one or more courses of education at the same public institution of higher learning while remaining continuously enrolled (other than during regularly

scheduled breaks between courses, semesters or terms) at that institution of higher learning, any course so pursued by the covered individual at that institution of higher learning while so continuously enrolled shall also be subject to disapproval under paragraph (1).

(4)(A) It shall not be grounds to disapprove a course of education under paragraph (1) if a public institution of higher learning requires a covered individual pursuing a course of education at the institution to demonstrate an intent, by means other than satisfying a physical presence requirement, to establish residency in the State in which the institution is located, or to satisfy other requirements not relating to the establishment of residency, in order to be charged tuition and fees for that course at a rate that is equal to or less than the rate the institution charges for tuition and fees for that course for residents of the State.

(B) To the extent feasible, the Secretary shall make publicly available on the internet website of the Department a database explaining any requirements described in subparagraph (A) that are established by a public institution of higher learning for an individual to be charged tuition and fees at a rate that is equal to or less than the rate the institution charges for tuition and fees for residents of the State in which the institution is located. The Secretary shall disapprove a course of education provided by such an institution that does not provide the Secretary—

(i) an initial explanation of such requirements; and

(ii) not later than 90 days after the date on which any such requirements change, the updated requirements.

(5) The Secretary may waive such requirements of paragraph (1) as the Secretary considers appropriate.

(6) Disapproval under paragraph (1) shall apply only with respect to educational assistance under chapters 30, 31, 33, and 35 of this title.

(d) Notwithstanding any other provision of this chapter, the Secretary or the applicable State approving agency shall disapprove a course of education **【described in paragraph (14) or (15)】** *described in paragraph (15) or (16) of section 3676(c) of this title* unless the educational institution providing the course of education—

(1) publicly discloses any conditions or additional requirements, including training, experience, or examinations, required to obtain the license, certification, or approval for which the course of education is designed to provide preparation; and

(2) makes each disclosure required by paragraph (1) in a manner that the Secretary considers prominent (as specified by the Secretary in regulations prescribed for purposes of this subsection).

(e)(1) Notwithstanding any other provision of this chapter, beginning on August 1, 2019, a State approving agency, or the Secretary when acting in the role of the State approving agency, shall disapprove a course of education provided by an educational institution that has in effect a policy that is inconsistent with any of the following:

(A) A policy that permits any covered individual to attend or participate in the course of education during the period beginning on the date on which the individual provides to the educational institution a certificate of eligibility for entitlement to

educational assistance under chapter 31, 33, or 35 of this title and ending on the earlier of the following dates:

- (i) The date on which the Secretary provides payment for such course of education to such institution.
 - (ii) The date that is 90 days after the date on which the educational institution certifies for tuition and fees following receipt from the student such certificate of eligibility.
- (B) A policy that ensures that the educational institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that a covered individual borrow additional funds, on any covered individual because of the individual's inability to meet his or her financial obligations to the institution due to the delayed disbursement of a payment to be provided by the Secretary under chapter 31, 33, or 35 of this title.
- (2) For purposes of this subsection, a covered individual is any individual who is entitled to educational assistance under chapter 31, 33, or 35 of this title.
- (3) The Secretary may waive such requirements of paragraph (1) as the Secretary considers appropriate.
- (4) It shall not be inconsistent with a policy described in paragraph (1) for an educational institution to require a covered individual to take the following additional actions:
- (A) Submit a certificate of eligibility for entitlement to educational assistance not later than the first day of a course of education for which the individual has indicated the individual wishes to use the individual's entitlement to educational assistance.
 - (B) Submit a written request to use such entitlement.
 - (C) Provide additional information necessary to the proper certification of enrollment by the educational institution.
- (f)(1) Except as provided by paragraph (5), a State approving agency, or the Secretary when acting in the role of the State approving agency, shall take an action described in paragraph (4)(A) if the State approving agency or the Secretary, when acting in the role of the State approving agency, determines that an educational institution does not perform any of the following:
- (A) Prior to the enrollment of a covered individual in a course of education at the educational institution, provide the individual with a form that contains information personalized to the individual that describes—
 - (i) the estimated total cost of the course, including tuition, fees, books, supplies, and any other additional costs;
 - (ii) an estimate of the cost for living expenses for students enrolled in the course;
 - (iii) the amount of the costs under clauses (i) and (ii) that are covered by the educational assistance provided to the individual under chapter 30, 31, 32, 33, or 35 of this title, or chapter 1606 or 1607 of title 10, as the case may be;
 - (iv) the type and amount of Federal financial aid not administered by the Secretary and financial aid offered by the institution that the individual may qualify to receive;

- (v) an estimate of the amount of student loan debt the individual would have upon graduation;
 - (vi) information regarding graduation rates;
 - (vii) job-placement rates for graduates of the course, if available;
 - (viii) information regarding the acceptance by the institution of transfer of credits, including military credits;
 - (ix) any conditions or additional requirements, including training, experience, or examinations, required to obtain the license, certification, or approval for which the course of education is designed to provide preparation; and
 - (x) other information to facilitate comparison by the individual of aid packages offered by different educational institutions.
- (B) Not later than 15 days after the date on which the institution (or the governing body of the institution) determines tuition rates and fees for an academic year that is different than the amount being charged by the institution, provide a covered individual enrolled in a course of education at the educational institution with the form under subparagraph (A) that contains updated information.
- (C) Maintain policies to—
- (i) inform each covered individual enrolled in a course of education at the educational institution of the availability of Federal financial aid not administered by the Secretary and financial aid offered by the institution; and
 - (ii) alert such individual of the potential eligibility of the individual for such financial aid before packaging or arranging student loans or alternative financing programs for the individual.
- (D) Maintain policies to—
- (i) prohibit the automatic renewal of a covered individual in courses and programs of education; and
 - (ii) ensure that each covered individual approves of the enrollment of the individual in a course.
- (E) Provide to a covered individual enrolled in a course of education at the educational institution with information regarding the requirements to graduate from such course, including, to the maximum extent practicable, information regarding when required classes will be offered and a timeline to graduate.
- (F) With respect to an accredited educational institution, obtain the approval of the accrediting agency for each new course or program of the institution before enrolling covered individuals in such courses or programs if the accrediting agency determines that such approval is appropriate under the substantive change requirements of the accrediting agency regarding the quality, objectives, scope, or control of the institution.
- (G) Maintain a policy that—
- (i) ensures that members of the Armed Forces, including the reserve components and the National Guard, who enroll in a course of education at the educational institution may be readmitted at such institution if such members are temporarily unavailable or have to suspend such enrollment by reason of serving in the Armed Forces; and

(ii) otherwise accommodates such members during short absences by reason of such service.

(H) Designate an employee of the educational institution to serve as a point of contact for covered individuals and the family of such individuals needing assistance with respect to academic counseling, financial counseling, disability counseling, and other information regarding completing a course of education at such institution, including by referring such individuals and family to the appropriate persons for such counseling and information.

(I) Comply with the notification requirements under sections 3675(b)(5) and 3676(c)(14) of this title, when applicable.

(2) Except as provided by paragraph (5), a State approving agency, or the Secretary when acting in the role of the State approving agency, shall take an action described in paragraph (4)(A) if the State approving agency, the Secretary, or any Federal agency, determines that an educational institution, or any person with whom the institution has an agreement to provide educational programs, marketing, advertising, recruiting or admissions services, does any of the following:

(A) Carries out deceptive or persistent recruiting techniques, including on military installations, that may include—

(i) misrepresentation (as defined in section 3696(e)(2)(B) of this title) or payment of incentive compensation;

(ii) during any one-month period making three or more unsolicited contacts to a covered individual, including contacts by phone, email, or in-person; or

(iii) engaging in same-day recruitment and registration.

(B) Provides a commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except for the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(C) In determining whether a violation of subparagraph (B) has occurred, the State approving agency, or the Secretary when acting in the place of the State approving agency, shall construe the requirements of this paragraph in accordance with the regulations and guidance prescribed by the Secretary of Education under section 487(a)(20) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(20)).

(3) A State approving agency, or the Secretary when acting in the role of the State approving agency, shall take an action described in paragraph (4)(A) if the State approving agency or the Secretary, when acting in the role of the State approving agency, determines that an educational institution is the subject of a negative action made by the accrediting agency that accredits the institution, including any of the following:

(A) Accreditor sanctions.

(B) Accreditation probation.

(C) The loss of accreditation or candidacy for accreditation.

(4)(A) An action described in this subparagraph is any of the following:

(i) Submitting to the Secretary a recommendation that the Secretary publish a warning on the internet website of the Department described in section 3698(c)(2) of this title, or such other similar internet website of the Department, that describes how an educational institution is failing to meet a requirement under paragraph (1), (2), or (3).

(ii) Suspending the approval of the courses and programs of education offered by the educational institution by disapproving new enrollments of eligible veterans and eligible persons in each course or program of education offered by that educational institution.

(iii) Revoking the approval of the courses and programs of education offered by the educational institution by disapproving all enrollments of eligible veterans and eligible persons in each course or program of education offered by that educational institution.

(B)(i) The Secretary shall establish guidelines to ensure that the actions described in subparagraph (A) are applied in a proportional and uniform manner by State approving agencies, or the Secretary when acting in the role of the State approving agency.

(ii) Each State approving agency and the Secretary, when acting in the role of the State approving agency, shall adhere to the guidelines established under clause (i).

(C) The State approving agency, in consultation with the Secretary, or the Secretary when acting in the role of the State approving agency, may limit an action described in subparagraph (A)(ii) to individuals not enrolled at the educational institution before the period described in such subparagraph.

(5)(A) The Secretary may waive the requirements of paragraph (1) or waive the requirements of paragraph (2) with respect to an educational institution for a one-academic-year period beginning in August of the year in which the waiver is made. A single educational institution may not receive waivers under this paragraph for more than 2 consecutive academic years.

(B) To be considered for a waiver under this paragraph, an educational institution shall submit to the Secretary an application prior to the first day of the academic year for which the waiver is sought.

(6) Not later than October 1 of each year, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives the following reports:

(A) A report, which shall be made publicly available, that includes the following:

(i) A summary of each action described in paragraph (4)(A) made during the year covered by the report, including—

- (I) the name of the educational institution;
- (II) the type of action taken;
- (III) the rationale for the action, including how the educational institution was not in compliance with this subsection;
- (IV) the length of time that the educational institution was not in such compliance; and

- (V) whether the educational institution was also not in compliance with this subsection during any of the 2 years prior to the year covered by the report.
- (ii) A summary and justifications for the waivers made under paragraph (5) during the year covered by the report, including the total number of waivers each educational institution has received.
- (B) A report containing the recommendations of the Secretary with respect to any legislative actions the Secretary determines appropriate to ensure that this subsection is carried out in a manner that is consistent with the requirements that educational institutions must meet for purposes of other departments or agencies of the Federal Government.
- (7) This subsection shall not apply to an educational institution—
 - (A) located in a foreign country; or
 - (B) that provides to a covered individual consumer information regarding costs of the program of education (including financial aid available to such covered individual) using a form or template developed by the Secretary of Education.
- (8) In this subsection, the term “covered individual” means an individual who is pursuing a course of education at an educational institution under chapter 30, 31, 32, 33, or 35 of this title, or chapter 1606 or 1607 of title 10.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

* * * * *

§ 3680A. Disapproval of enrollment in certain courses

- (a) The Secretary shall not approve the enrollment of an eligible veteran in any of the following:
 - (1) Any bartending course or personality development course.
 - (2) Any sales or sales management course which does not provide specialized training within a specific vocational field.
 - (3) Any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran’s present or contemplated business or occupation.
 - (4) Any independent study program except an independent study program (including such a program taken over open circuit television) that—
 - (A) is accredited by an accrediting agency or association recognized by the Secretary of Education under subpart 2 of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099b);
 - (B) leads to—
 - (i) a standard college degree;
 - (ii) a certificate that reflects educational attainment offered by an institution of higher learning; or
 - (iii) a certificate that reflects completion of a course of study offered by—
 - (I) an area career and technical education school (as defined in subparagraphs (C) and (D) of sec-

tion 3(3) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302(3))) that provides education at the postsecondary level; or

(II) a postsecondary vocational institution (as defined in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c))) that provides education at the postsecondary level; and

(C) in the case of a program described in subparagraph (B)(iii)—

(i) provides training aligned with the requirements of employers in the State or local area where the program is located, which may include in-demand industry sectors or occupations; and

(ii) provides a student, upon completion of the program, with a recognized postsecondary credential that is recognized by employers in the relevant industry, which may include a credential recognized by industry or sector partnerships in the State or local area where the industry is located; and

(iii) meets such content and instructional standards as may be required to comply with the criteria under **section 3676(c)(14) and (15)]** *section 3676(c)(15) and (16)* of this title.

(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio.

(d)(1) The Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 1606 of title 10, except with respect to tuition, fees, or other charges that are paid under a payment plan at an educational institution that the Secretary determines has a history of offering payment plans that are completed not later than 180 days after the end of the applicable term, quarter, or semester.

(2) The Secretary may waive the requirements of paragraph (1), in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.

(3)(A) The Secretary shall establish a process by which an educational institution may request a review of a determination that the educational institution does not meet the requirements of paragraph (1).

(B) An educational institution that requests a review under subparagraph (A)—

(i) shall request the review not later than 30 days after the start of the term, quarter, or semester for which the determination described in subparagraph (A) applies; and

(ii) may include any information that the educational institution believes the Department should have taken into account when making the determination, including with respect to any mitigating circumstances.

(C) The Under Secretary of Benefits shall issue an initial decision for each review requested under subparagraph (A) by not later than 30 days after the date of the request, to the extent feasible.

(D) An educational institution may request the Secretary to review the decision by the Under Secretary under subparagraph (C). The Secretary shall review each decision so requested and, pursuant to such review, shall issue a final decision sustaining, modifying, or overturning the decision by the Under Secretary.

(E) The Secretary shall carry out this paragraph without regard to any review process carried out by the Secretary under chapter 51 of this title.

(4) Paragraph (1) shall not apply to any course offered by an educational institution if—

(A) the majority of courses offered by the educational institution are approved under section 3672 or 3675 of this title; and

(B) the total number of veterans and persons receiving assistance under this title or under chapter 1606 of title 10 who are enrolled in such institution equals 35 percent or less of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution).

(5)(A) Paragraph (1) shall not apply to any course offered by an educational institution if—

(i) the majority of courses offered by the educational institution are approved under section 3676 of this title; and

(ii) the total number of veterans and persons receiving assistance under this title or under chapter 1606 of title 10 who are enrolled in such institution equals 35 percent or less of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution).

(B) Notwithstanding subparagraph (A), on a case by case basis, the Secretary may apply paragraph (1) with respect to any course otherwise covered by such subparagraph if the Secretary has reason to believe that the enrollment of veterans and persons described in clause (ii) of such subparagraph may be in excess of 85 percent of the total student enrollment in such course.

(6) The Secretary shall ensure that an educational institution that meets the requirements of paragraph (4) or (5) submits information to the Secretary on a biennial basis to verify meeting such requirements. During such biennial period in which an educational institution is covered by such verification, the Secretary may not require the educational institution to submit information with respect to meeting the requirements of paragraph (1).

(7) Paragraph (1) shall not apply with respect to the enrollment of a veteran—

(A) in a program of education for which fewer than 10 students are having all or part of their tuition, fees, or other

charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 1606 of title 10;

(B) in a course offered pursuant to section 3019, 3034(a)(3), 3234, or 3241(a)(2) of this title;

(C) in a farm cooperative training course; or

(D) in a course described in subsection (g).

(e) The Secretary may not approve the enrollment of an eligible veteran in a course not leading to a standard college degree offered by a proprietary profit or proprietary nonprofit educational institution if—

(1) the educational institution has been operating for less than two years;

(2) the course is offered at a branch of the educational institution and the branch has been operating for less than two years; or

(3) following either a change in ownership or a complete move outside its original general locality, the educational institution does not retain substantially the same faculty, student body, and courses as before the change in ownership or the move outside the general locality (as determined in accordance with regulations the Secretary shall prescribe) unless the educational institution following such change or move has been in operation for at least two years.

(f)(1) Except as provided in paragraph (2), the Secretary may not approve the enrollment of an eligible veteran in a course as a part of a program of education offered by an educational institution if the course is provided under contract by another educational institution or entity and—

(A) the Secretary would be barred under subsection (e) from approving the enrollment of an eligible veteran in the course of the educational institution or entity providing the course under contract; or

(B) the educational institution or entity providing the course under contract has not obtained approval for the course under this chapter.

(2)(A) In the case of a covered study-abroad course, the Secretary may approve the course for a period of not more than five years, if the contract or other written agreement under which the course is offered provides that—

(i) the educational institution that offers a course that is approved under this chapter agrees—

(I) to assume responsibility for the quality and content of the covered study-abroad course; and

(II) to serve as the certifying official for the course for purposes of this chapter; and

(ii) the educational institution that offers the covered study-abroad course agrees to seek the approval of the course under this chapter by not later than five years after the date of the agreement.

(B) In this paragraph, the term “covered study-abroad course” means a course that—

(i) is provided as a part of a program of education offered by an educational institution under a contract or other written

agreement by another educational institution that offers a course that is approved under this chapter;

(ii) is provided at a location in a foreign country; and

(iii) has not been approved under this chapter.

(g) Notwithstanding subsections (e) and (f)(1), the Secretary may approve the enrollment of an eligible veteran in a course approved under this chapter if the course is offered by an educational institution under contract with the Department of Defense or the Department of Homeland Security and is given on or immediately adjacent to a military base, Coast Guard station, National Guard facility, or facility of the Selected Reserve.

(h) In this section, the terms “State or local area”, “recognized postsecondary credential”, “industry or sector partnership”, and “in-demand industry sector or occupation” have the meaning given such terms in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

* * * * *

