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The Role of State Approving Agencies in the Administration of GI Bill Benefits

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Summary

State Approving Agencies (SAAs) play an important role in the administration of GI Bill® benefits. GI Bill benefits provide educational assistance payments to eligible veterans and servicemembers and their families enrolled in approved programs of education. The SAA role is intended to ensure that veterans and other GI Bill participants have access to a range of high-quality education and training programs at which to use their GI Bill benefits. In FY2017, the Department of Veterans' Affairs (VA) is estimated to distribute over \$14 billion in GI Bill benefits to over 1 million eligible participants.

Statutory provisions provide for the establishment of SAAs and describe their role in administering GI Bill benefits. Each state is "requested" to create or designate a state department or agency as its SAA. The VA contracts (or enters into agreement) with each SAA annually to provide approval, oversight, training, and outreach activities by qualified personnel as specified in the contract to ensure the quality of programs of education and proper administration of GI Bill benefits. The VA oversees the processes for approving and reviewing approved programs of education, educating the entities and individuals involved in GI Bill claims processing, and increasing awareness among potential GI Bill participants. The VA and any other federal entity or individual is prohibited from exercising any supervision or control over SAAs except as specifically provided in statutory provisions. For example, 38 U.S.C. §3674 requires the VA take into consideration an annual evaluation of each SAA's performance on its contractual standards when negotiating a new contract.

One of the key SAA roles is to initially approve programs of education for GI Bill purposes. Each sponsoring facility (e.g., educational institutions and training establishments) must submit an application to its SAA. Approval is intended to ensure that each program of education and sponsoring facility meets all applicable statutory and regulatory requirements, including proper benefit administration and program of education quality. The approval process and requirements vary depending on the program's educational objective (e.g., non-college degree or flight training) and existing government oversight. For example, some programs that are approved by other government programs or processes are "deemed approved" and require a less in-depth review. The remaining programs undergo more comprehensive approval processes that may include the SAA reviewing institutional policies, staff qualifications, and academic curriculum. The SAA may conduct a site visit. Once the SAA completes the initial approval review in accordance with the approval standards, the SAA issues an approval or disapproval letter to the facility. The VA maintains the compiled list of all approved programs of education.

Another key SAA role is to conduct compliance surveys. Compliance surveys are designed to ensure that the facility and approved programs are in compliance with all applicable statutory, regulatory, and policy provisions and the facility understands the provisions. Statutory provisions establish the number of institutions requiring annual compliance surveys. The VA conducts compliance surveys but also assigns some of the required compliance surveys to SAAs. During the onsite compliance survey visit, the SAA reviews student files to verify that GI Bill payments have been made properly, conducts student interviews, verifies institutional operations, and reviews additional documents and areas as outlined on the compliance survey checklist. Discrepancies uncovered during the compliance survey may be resolved immediately, may result in the creation of a GI Bill debt or payment, or may result in the suspension or disapproval of a program of education. The SAA may suspend a program of education from new enrollments for up to 60 days while the SAA provides assistance to help the facility resolve the issue. The SAA may disapprove the program of education such that no GI Bill payments may be made based on an individual's pursuit of the program of education.

Contents

Introduction	1
History	1
Designation and Control of SAAs	2
Coordination and Cooperation between the VA and SAAs	3
Initial Approval of Programs of Education	4
Programs Deemed Approved with Abbreviated SAA Approval	5
Intensive SAA Approval	6
Programs Approved by the VA	7
Approval Updates and Revisions	7
Supervisory Visits	8
Compliance Surveys	8
Inspection Visits and Other Visits	12
Program Suspension and Disapproval	12
Principles of Excellence	14
Professional Development of SAA Employees	16
School Certifying Officials' (SCOs') Training	17
Outreach	17
SAA Accountability to the VA	19
Reimbursement of SAA Expenses	20

Appendixes

Appendix. Program of Education Approval and Compliance Standards	22
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Contacts

Author Information	32
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Introduction

The Department of Veterans' Affairs (VA), previously named the Veterans Administration, has been providing veterans' educational assistance (GI Bill®) benefits since 1944.¹ In general, the benefits provide payments to eligible veterans and servicemembers and their families enrolled in approved programs of education to help them afford postsecondary education. In FY2017, the VA is estimated to distribute over \$14 billion in GI Bill benefits to over 1 million eligible participants.

Since 1947, State Approving Agencies (SAAs) have been an important component in the administration of GI Bill benefits, along with the VA, educational institutions, and training establishments. SAAs are responsible for approving programs of education, conducting VA-assigned compliance visits, providing technical assistance, providing liaison assistance with related organizations and stakeholders and conducting outreach. The SAA role was originally intended to ascertain the quality of on-the-job training establishments and has now expanded to ensuring that veterans and other GI Bill participants have access to a range of high-quality education and training programs at which to use their GI Bill benefits.²

This report provides an overview of state approving agencies (SAAs). It highlights their roles and responsibilities in the administration of GI Bill benefits and the processes through which they fulfill those roles. Because work processes and responsibilities are variable and subject to regular adjustment, the descriptions herein are accurate as of the date of publication.³ Additionally, in a limited number of instances the report identifies some divergent depictions of work processes from difference sources, but it does not attempt to evaluate or reconcile differences in the accounts.

History

The original GI Bill, as enacted in 1944, relied on state agencies to establish standards for and to approve programs of education at which eligible individuals could use GI Bill benefits.⁴ The Department of Veterans' Affairs (VA) had authority to approve programs that were outside the scope of state agency approval. In part, as a consequence of the large numbers of veterans using the GI Bill, newly created educational institutions, and possible abuses among on-the-job training providers,⁵ the state agencies were unable to establish adequate standards for the approval of programs of education.⁶ In addition, because the state agencies were unable to provide the

¹ GI Bill® is a registered trademark of the U.S. Department of Veterans Affairs (VA).

² P.L. 79-679 and FY2016 contracts between the VA and SAAs.

³ To provide information on SAAs and how they carry out their roles, CRS has reviewed statutory provisions, VA guidance materials, some SAA contracts, committee hearing reports, and gathered relevant information through communication with VA and SAA staff. The VA also reviewed this report for accuracy.

⁴ The Servicemen's Readjustment Act of 1944 (P.L. 78-346).

⁵ U.S. Congress, House Committee on World War Veterans' Legislation, *Authorizing the Veterans' Administration to Reimburse State and Local Agencies for Expenses Incurred in Rendering Services in Connection with the Administration of Certain Training Programs for Veterans*, To accompany H.R. 7130, 79th Cong., 2nd sess., July 30, 1946, H.Rept. 79-2703; and U.S. Congress, Senate Committee on Finance, *Authorizing the Veterans' Administration to Reimburse State and Local Agencies for Expenses Incurred in Rendering Services in Connection with the Administration of Certain Training Programs for Veterans*, To accompany S. 2477, 79th Cong., 2nd sess., July 5, 1946, S.Rept. 79-1840.

⁶ U.S. Congress, House Committee on World War Veterans' Legislation, *Authorizing the Veterans' Administration to*

resources necessary for approval and oversight activities, several well-publicized abuses occurred.⁷ Additionally, there was considerable variation in standards between states. As such, the state approving agencies (SAAs), as currently structured, were authorized as a means to provide consistency, guidance, and financial resources in the approval process from the federal government.⁸

More recently, in response to publicized abuses of established educational institutions, the VA and Congress sought ways to improve the oversight of programs of education previously approved for GI Bill purposes. In addition, a 2007 report by the Government Accountability Office (GAO) recommended that the VA coordinate with the Departments of Education and Labor to reduce duplicative approval activities and measure the spending, effectiveness, and performance of SAAs.⁹ Congress enacted the Post-9/11 Veterans Educational Assistance Improvements Act of 2010 (P.L. 111-377) to, among other purposes, modify specific SAA responsibilities related to approval and oversight. Specifically, P.L. 111-377 was intended to provide additional resources and focus on program oversight (compliance surveys) in order to reduce “the possible misuse of benefits and instances of fraud, misrepresentation, and abuse.”¹⁰ The bill expected to accomplish this by reducing SAA approval activities (i.e., deeming some programs approved) and utilizing SAAs for program oversight.¹¹

Designation and Control of SAAs

Statutory provisions “request” that each state create or designate a state department or agency as its SAA. The VA contracts (or enters into agreement) with each SAA annually to provide approval, oversight, training, and outreach activities by qualified personnel as specified in the contract to ensure the quality of programs of education and proper administration of GI Bill benefits. In exchange, the VA pays the reasonable and necessary expenses of salary and travel incurred by SAA employees and an allowance for administrative expenses. In the event that a state fails to create or designate an SAA or fails to enter into a contract/agreement with the VA, the VA fulfills the duties that would have been the responsibility of the SAA in that state.

Forty-eight states and Puerto Rico have SAAs; while Alaska, Washington D.C., Hawaii, and the U.S. Virgin Islands do not have SAAs.¹² At least five of the states with SAAs have two SAAs—

Reimburse State and Local Agencies for Expenses Incurred in Rendering Services in Connection with the Administration of Certain Training Programs for Veterans, To accompany H.R. 7130, 79th Cong., 2nd sess., July 30, 1946, H.Rept. 79-2703.

⁷ Ibid.

⁸ U.S. Congress, House Committee on Veterans’ Affairs, *Readjustment Benefits: Education and Training, and Employment and Unemployment*, A Report on Veterans’ Benefits in the United States, committee print, prepared by The President’s Commission on Veterans’ Pensions, 84th Cong., 2nd sess., September 12, 1956, H.Prt. 291 (Washington: GPO, 1956).

⁹ U.S. Government Accountability Office, *VA Student Financial Aid: Management Actions Needed to Reduce Overlap in Approving Education and Training Programs and to Assess State Approving Agencies*, GAO-07-384, March 8, 2007.

¹⁰ U.S. Congress, Senate Committee on Veterans’ Affairs, *Post-9/11 Veterans Educational Assistance Improvements Act of 2010*, To accompany S.3447, 111th Cong., 2nd sess., October 26, 2010, S.Rept. 111-346

¹¹ Ibid.

¹² Information based on the National Association of State Approving Agencies website, available at <http://www.nasaa-vetseducation.com/Contacts.aspx> on August 8, 2016, and SAA websites. The testimony of Dr. Joseph W. Wescott, Legislative Director, National Association of State Approving Agencies indicated over 55 SAAs in 49 states and Puerto Rico in U.S. Congress, House Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity, *Examining*

each specializing in different types of education.¹³ Almost half of SAAs are organized within the state department of veterans' affairs. The other SAAs are within one of the state's higher education authorities, the state department of labor or workforce development, or the state elementary and secondary education authority.

A VA Education Liaison Representative (ELR) is the VA regional office representative responsible for education liaison, education program approval functions, and informing educational institutions, training establishments, and testing organizations (hereafter, collectively referred to as facilities) of pertinent VA policies and procedures.¹⁴ ELRs work directly with the facilities and SAAs in their region. In addition to these responsibilities, an ELR acts as the SAA for Alaska, Washington D.C., Hawaii, and the U.S. Virgin Islands.

Statutory provisions prevent the VA and any other federal entity or individual from exercising any supervision or control over SAAs except in specified incidences.¹⁵ The VA provides direction to each SAA through the contract.

The Secretary of Veterans' Affairs (the Secretary) is authorized to enter into contracts or agreements with SAAs to approve programs of education, supervise such programs of education, and furnish related services as requested by the Secretary in exchange for the payment of expenses and travel. Each such contract or agreement must be conditioned upon compliance with the standards and provisions of the GI Bill statutes.¹⁶ The relevant statutes establish the approval and compliance standards for programs of education (see **Appendix**), SAA personnel standards, SAA evaluation standards (see subsequent section entitled *SAA Accountability to the VA*), SAA reimbursement amounts (see subsequent section entitled *Reimbursement of SAA Expenses*), and other administrative requirements. The VA primarily establishes the terms of the contracts.

Statutory provisions require that prototype SAA personnel qualifications and performance standards be developed by the VA, in conjunction with the SAAs. The SAA may, with VA assistance if requested, develop and apply the personnel qualifications and performance standards in consideration of the state's merit system requirements and other state and local requirements and conditions.¹⁷

Coordination and Cooperation between the VA and SAAs

Although statutory provisions make the VA accountable for the overall administration of GI Bill benefits, statutory provisions also, in some instances, differentiate the responsibilities between the VA and SAAs, while simultaneously requiring coordination and cooperation between the

VA's On-the-Job Training and Apprenticeship Program, Written, 114th Cong., 1st sess., November 18, 2015.

¹³ One Washington SAA evaluates and approves non-college degree (NCD) education programs offered at public and private institutions, while the other SAA evaluates and approves other forms of education. Connecticut, Massachusetts, North Carolina, and Wisconsin each have one SAA that focuses on apprenticeship training, and another SAA for other forms of education.

¹⁴ Virginia SAA Technical Assistance Handbook 2016, p. 8.

¹⁵ 38 U.S.C. §3682.

¹⁶ The GI Bill statutes are Title 38 U.S.C., Chapters 30-36; and Title 10 U.S.C., Chapters 106-106A.

¹⁷ As an example, the standard language in the FY2016 contracts describes the minimum qualification standards for personnel approving and supervising courses offered by job training establishments as a bachelor's degree with two years of related experience (or the equivalent) in education and /or related work experience totaling six years.

entities.¹⁸ Statutory language also includes provisions that make the distinctions in responsibilities between SAAs and the VA less clear.¹⁹

The VA oversees the processes for approving and reviewing approved programs of education, educating the entities and individuals involved in GI Bill claims processing, and increasing awareness among potential GI Bill participants. The VA is responsible for coordinating approval activities to avoid duplicative efforts by the VA, SAAs, Department of Labor (DOL), Department of Education (ED), and other entities.²⁰ The VA may request that an SAA provide services to aid the VA in its approval of programs of education and to aid the VA in administering GI Bill benefits.²¹ The VA is required to provide SAAs with informational and instructional materials to aid them in carrying out their duties.²²

In practice, while the VA provides the federal structure and interprets federal statutory provisions, the SAAs apply and interpret the standards and processes at the local level. The VA, through the ELR, provides regulations, policy advisories, and other information to help clarify the standards, processes, and activities. The SAAs communicate with their ELR in a close working relationship to interpret the federal and state requirements and apply them to actual practice. The SAA brings knowledge of the state and local environment and needs of the state. For example, reviewing programs of education that are not easily categorized within the current structure and typography requires considerable communication between the SAA and ELR.

Initial Approval of Programs of Education

For eligible individuals to receive GI Bill benefits, they must be enrolled in approved programs of education. Approval is intended to ensure that each program can meet the needs of GI Bill participants pursuing the program, including by being a quality program, and properly administer GI Bill benefits.²³ Educational institutions (including locations of educational institutions with separate administrative capability, e.g., applicable branch campuses), training establishments (e.g., an entity providing on-the-job training such as a police department), and testing organizations (e.g., an entity offering an approved test such as a state bar organization) must submit a state application to their SAA to have new programs of education approved for GI Bill purposes.²⁴ The application contents differ depending on the type of program of education (e.g., licensing test, on-the-job training (OJT), etc.) (see **Appendix** for required content).

There are a few practices that may direct a new program toward the initial approval process. First, a facility, such as one with approved programs of education, may initiate the approval process on its own by contacting its SAA. Alternatively, an individual who wants to use GI Bill benefits for a program of education offered by a facility that has never had a GI Bill approved program of education may alert the facility to the existence of GI Bill benefits so that the facility can contact

¹⁸ 38 U.S.C. §3673(a)-(b).

¹⁹ For example of differing interpretations, see Erin Baldwin, Corey Meyer, and Rachel Tuchman, *MEMORANDUM: RE: VA's Failure to Protect Veterans from Deceptive Recruiting Practices*, Yale Law School, Veterans Legal Services Clinic, New Haven, CT, February 26, 2016.

²⁰ 38 U.S.C. §3673(b).

²¹ 38 U.S.C. §3674(a)(1).

²² 38 U.S.C. §3673(c).

²³ U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *The Evolution of State Approving Agencies*, 111th Cong., 1st sess., July 16, 2009, H.Hrg. 111-35 (Washington: GPO, 2010), p. 24.

²⁴ For information on the precise jurisdiction of SAAs, see 38 C.F.R. §21.4250(a), 21.4266, and 21.4268(b)(1).

its SAA and submit an application to have the program of education approved. If an individual applies to use GI Bill benefits for an unapproved program, the VA would send a “Denial of Benefits” letter, and the SAA would contact the facility in an attempt to encourage the submission of an application for approval, if appropriate. SAAs may receive new program applications daily.

Once the SAA or the VA completes the initial approval review in accordance with the program of education approval standards (see **Appendix**), the SAA or VA issues an approval or disapproval letter to the facility naming the approved or disapproved programs of education and any specific requirements or limitations.²⁵ Finally, the SAA sends a copy of the approval or disapproval letter and substantiating documents (approval package) to the ELR for review and approval for GI Bill funding, if appropriate. If the ELR determines that more information or review is required before accepting the approval or disapproval or disagrees with the SAA’s determination, the ELR and SAA will resolve the differences.²⁶ The VA maintains the compiled list of approved programs of education.²⁷ Once the program is on the VA list of approved programs for GI Bill purposes, individuals may begin receiving GI Bill benefits while pursuing the program.

There are three main processes used for initially approving programs of education for GI Bill purposes. One is for programs “deemed approved,” usually applicable to certain education and training programs already approved for participation in other government programs. The others are more comprehensive SAA and VA approval processes. The following sections describe the responsibility and general procedures for the three processes. More specific approval requirements for each type of program of education are outlined in the **Appendix**.

Programs Deemed Approved with Abbreviated SAA Approval

Prior to 2011, SAAs and the VA conducted the initial approval of programs of education through in-depth reviews. P.L. 111-377 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. The following programs are deemed approved:

- College degree programs offered directly by a public or private nonprofit educational institution that is accredited by an agency recognized by the U.S. Department of Education (ED);²⁸

²⁵ 38 U.S.C. §3678.

²⁶ Letter from Jim Parker, Program Manager, State of Washington, Workforce Training and Education Coordinating Board, SAA, to Annie Walker, Virginia State Approving Agency, Robert Breekner, Ohio State Approving Agency, Joseph Wescott, North Carolina State Approving Agency, and Rufus Coburn, Texas State Approving Agency, November 12, 2015.

²⁷ The approved programs of education are available on the VA website at <http://inquiry.vba.va.gov/weamspub/buildSearchInstitutionCriteria.do>.

²⁸ Degree programs offered under a contract by a public or private nonprofit educational institution that is accredited by an agency recognized by ED are not deemed approved (Letter from Robert M. Worley II, Director, Education Service, Department of Veterans Affairs, to School Officials, October 1, 2013). The Higher Education Act (HEA) requires the Department of Education to recognize accrediting agencies and associations that are “a reliable authority as to the quality of education or training offered” as part of the process for allowing institutions of higher education (IHEs) to participate in student aid programs authorized by HEA Title IV. For more information about accreditation, see CRS Report R43826, *An Overview of Accreditation of Higher Education in the United States*, by Alexandra Hegji.

- Flight training courses approved by the Federal Aviation Administration (FAA) and offered by a certified pilot school that possesses a valid FAA pilot school certificate;²⁹
- Department of Labor (DOL) Registered Apprenticeship programs;³⁰
- Apprenticeship programs approved by a state apprenticeship agency recognized by the DOL Office of Apprenticeship;
- Programs leading to a secondary school diploma offered by a secondary school approved by the state in which it is operating; and
- Licensure or certification tests offered by a federal, state, or local government.

Following enactment of P.L. 111-377, the VA reinterpreted which programs are deemed approved and the process for their approval.³¹ In 2015, the VA required that deemed approved programs undergo an abbreviated approval process. Such deemed approved programs undergo an abbreviated approval process that reduces duplicative approval efforts by multiple federal agencies. The abbreviated approval process requires the SAA to determine that the program meets criteria concerning the program objectives, mode of delivery, the 85-15 rule,³² and contractual arrangements, and that the institutions/establishments offering the program meet criteria concerning adequate and appropriate recordkeeping; enrollment reporting; duration of operation; and advertising, sales, and enrollment practices (see **Appendix** for more information).³³ The Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 (P.L. 114-315) codifies the VA process by requiring that SAAs, or the VA when acting as an SAA, determine which programs meet the statutory definition of deemed approved and approve them.

Intensive SAA Approval

SAAs are responsible for conducting a full approval process on most programs of education that are not deemed approved and that are located in their respective state. These include but are not limited to non-college degree (NCD) programs; programs at private, for-profit educational institutions;³⁴ programs at educational institutions that are not accredited by an agency recognized by ED; and on-the-job training programs. NCD programs are programs of education that do not lead to a degree and are not on-the-job training, apprenticeship, correspondence, or vocational flight programs. The VA may also request that SAAs approve licensing and certification tests (e.g., the Professional Paralegal exam provided by the NALS-The Association for Legal Professionals in Oklahoma) that are not deemed approved.

²⁹ FAA-approved pilot schools are certificated in accordance with 14 C.F.R., Part 141.

³⁰ For more information on Registered Apprenticeships, see CRS Report R44174, *Apprenticeship in the United States: Frequently Asked Questions*, by Benjamin Collins.

³¹ As initially implemented, all programs at a public or private nonprofit educational institution accredited by an ED-recognized agency were deemed approved such that SAAs were not required to review initial applications or updates. Over time, the deemed approved programs at public or private nonprofit educational institutions accredited by an ED-recognized agency have been limited to college degree programs. In addition, all deemed approved programs undergo an abbreviated approval process conducted by the SAAs or VA.

³² The 85-15 rule requires that the Secretary disapprove new enrollments in all courses, not otherwise exempt or waived, if more than 85% of the enrolled students have all or part of their educational charges paid to or for them by the educational institution or by the Vocational Rehabilitation & Employment program or a GI Bill.

³³ The criteria are established in 38 U.S.C. §§3675(b)(1) and (b)(2), 3680A, 3684, and 3696.

³⁴ Statutory provisions require that all programs at private for-profit educational institutions be approved by SAAs or the VA regardless of accreditation status.

As part of the application review, SAAs coordinate and share information related to the applicant and its programs of education with several state partners and relevant accrediting agencies, as appropriate. The partners may include, as appropriate, state departments of labor or workforce development, licensing boards, vocational rehabilitation offices, departments of higher education, and departments of economic development. The information may alert the SAA, state partner, and accrediting agency to potential issues. It also helps the SAA avoid duplicative efforts. SAA personnel may use professional judgement and the expertise of state partners to guide their review of new programs beyond what is established in law and regulations.

The application review is generally completed within 30 days but may require as long as 90 days, depending on the thoroughness and level of detail in the application; the level of cooperation, expertise, and resources of the applying facility, and the nature of the program of education. New programs of education at established and well-resourced educational institutions with several approved programs of education often require the least effort. Programs of education that use innovative mediums of delivery or are offered by facilities that do not have approved programs of education often require more time, research, interpretation, coordination, and review. The SAA will often conduct a site visit to verify the application and that the approval requirements may be met. The SAA works with the facility to complete the application review with sufficient evidence proving that the facility and program meet the approval requirements (see **Appendix**).

Programs Approved by the VA

The VA approves programs of education that are outside the purview of SAAs. For example, the VA approves programs offered in foreign countries, by the federal government, and in states that do not have an SAA, and approves programs that help dependents participating in the Survivor's and Dependent's Educational Assistance program (38 U.S.C., Chapter 35; DEA) overcome a physical or mental disability. The VA also approves apprenticeship programs operated by interstate training establishments that are not registered with DOL.

Approval Updates and Revisions

Following initial approval, specific changes to the program of education or facility require review and approval. The facility may contact the SAA in anticipation of a change in order to avoid a potential approval issue after the change. A revision to the initial approval is required when

- the facility revises its catalogs, handbooks, schedules, or policies;
- the name, curriculum, or delivery of a program of education changes;
- the tuition and fee charges change;
- a new school certifying official (SCO)³⁵ is named;
- the location of the program of education changes;
- the facility changes ownership; or
- the facility or program of education changes accreditation or state licensure status.³⁶

³⁵ The SCO is the individual tasked by the institution/establishment/organization with fulfilling the requisite responsibilities for administering GI Bill benefits.

³⁶ Virginia SAA Technical Assistance Handbook, pp. 13-19; and 38 U.S.C. §3680A(e).

The level of review is in proportion to the change and may require a site visit.³⁷ Failure to obtain approval in a timely manner may result in suspension or disapproval of a program of education. Following an approval review, the SAA reports the review and notifies the VA of any change to the approval and the reasons.

Supervisory Visits

Supervisory visits allow the SAA to ensure facilities and their programs of education are in compliance with law, regulations, guidance, and policy advisories through a review of the approval requirements and student records. The visits may include interviews with faculty and students; a review of GI Bill participant files for attendance, transfer credit, student transcripts, and enrollment status; a review of correspondence with the VA and SAA to ensure currency; a review of state licensure or accreditation for currency; a review of advertising materials; a review of distance learning policies and programs; a review of instructor qualifications and evaluations; and a review of the adequacy of facility resources.³⁸ These visits allow SAAs to uncover issues, including overpayments, and provide additional training to the facility and SCOs, as necessary.

Prior to October 1, 2011, SAAs were contractually required to conduct annual supervisory visits, examining at least 80% of active facilities (facilities with GI Bill participants) and their programs of education.³⁹ They are no longer required to conduct annual supervisory visits; however, some SAAs continue to conduct supervisory visits. Some SAAs have indicated that supervisory visits serve the valuable purpose of “fulfill[ing] the SAA’s historic role of providing training and supervision to facilities on broader education issues.”⁴⁰ According to testimony by the Student Veterans of America and SAA interviews,⁴¹ the professional qualifications, traditional training, and local focus of SAAs are well suited to the expectations of supervisory visits.⁴² In addition, supervisory visits can be conducted annually to ensure all facilities are reviewed often and regularly.

Compliance Surveys

Compliance surveys are designed to ensure that each facility and its approved programs are in compliance with all applicable statutory, regulatory, and policy provisions and that the facility

³⁷ Massachusetts Department of Higher Education, *Veterans Education Certifying Officials Conference*, Worcester State College, July 25, 2008.

³⁸ State of Connecticut, Office of Higher Education, “Guide to Schools Seeking Approval to Offer Programs for Veterans Benefits,” downloaded August 18, 2016, from <https://www.ctohe.org/vet/SchoolApproval.shtml>; and Arizona Department of Veterans’ Services, *IHL/NCD Supervisory Visit Report*, August 11, 2009.

³⁹ U.S. Congress, House Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity, *The Evolution of State Approving Agencies*, 111th Cong., 1st sess., July 16, 2009, H.Hrg. 111-35 (Washington: GPO, 2010), p. 57.

⁴⁰ U.S. Congress, House Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity, *Examining Executive Order #13607 and Its Impact on Schools and Veterans*, 112th Cong., 2nd sess., May 16, 2012, S.Hrg. 112-62 (Washington: GPO, 2013), p. 21.

⁴¹ CRS interviewed staff of three SAAs in July and August 2016.

⁴² U.S. Congress, House Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity, *The Role of the State Approving Agencies in Ensuring Quality Education Programs for Veterans*, 113th Cong., 2nd sess., November 19, 2014, H.Hrg. 113-91 (Washington: GPO, 2015), p. 11.

understands the provisions.⁴³ In practice, these reviews focus on reviewing student records to ensure proper payments through a financial accountability perspective.⁴⁴

Prior to 2011 and enactment of P.L. 111-377, in accordance with statute, compliance surveys were conducted by VA Education Compliance Survey Specialists. P.L. 111-377 granted the VA authority to utilize SAAs for compliance surveys and other oversight activities. SAAs assumed responsibility for VA-assigned compliance surveys in FY2012.⁴⁵ The number of projected compliance surveys is established in each annual contract. To support the new responsibility, the VA and National Association of State Approving Agencies (NASAA) formed a joint Compliance Survey Redesign Work Group to improve the compliance survey process.⁴⁶ NASAA is the voluntary organization of SAAs founded to coordinate their efforts.

Statutory provisions establish the nature and targeting of compliance surveys. Prior to passage of the Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 (P.L. 114-315), the VA, with the assistance of SAAs as appropriate, was required to conduct annual compliance surveys of educational institutions enrolling at least 300 GI Bill or Vocational Rehabilitation & Employment program (VR&E) participants and institutions offering NCDs.⁴⁷ The requirement was not contingent on whether programs of education are deemed approved or are approved by an SAA or the VA. The Secretary may waive the requirement based on an institution's demonstrated record of compliance.⁴⁸ Statutory provisions also require one SAA or VA employee for each 40 compliance surveys. Some evidence suggests that the VA, with the assistance of SAAs, has insufficient resources to complete the requisite surveys.⁴⁹ P.L. 114-315 changed the criteria for determining at which institutions to conduct annual compliance surveys and modified the nature of the survey. P.L. 114-315 requires annual compliance surveys at educational institutions and training establishments enrolling at least 20 GI Bill or VR&E participants. P.L. 114-315 further authorizes the Secretary, in consultation with SAAs, to revise the compliance survey parameters annually.

The VA determines the list of facilities to be reviewed for the year and assigns the reviews to either the VA or appropriate SAAs. On-site compliance surveys are preferable; however, some may be conducted remotely.⁵⁰ Per statute, the compliance survey is intended to assure that each

⁴³ Virginia SAA Technical Assistance Handbook, p. 20.

⁴⁴ Source: CRS interviews with SAA staff. The VA and SAAs may review education records in accordance with 38 U.S.C. §3690(c), 34 C.F.R. §99.31(a)(4), and the Family Educational Rights and Privacy Act (FERPA) of 1974, sometimes referred to as the Buckley Amendment. For more information on FERPA, see CRS Report CRS Report RS22341, *The Family Educational Rights and Privacy Act (FERPA): A Legal Overview*, by Jody Feder.

⁴⁵ U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, *Improving Educational Outcomes for Our Military and Veterans*, 112th Cong., 1st sess., September 22, 2011, S.Hrg. 112-446 (Washington: GPO, 2012), p. 8.

⁴⁶ U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *The Role of the State Approving Agencies in Ensuring Quality Education Programs for Veterans*, 113th Cong., 2nd sess., November 19, 2014, H.Hrg. 113-91 (Washington: GPO, 2015), p. 50.

⁴⁷ For a description of VR&E, see CRS Report RL34627, *Veterans' Benefits: The Vocational Rehabilitation and Employment Program*, by Benjamin Collins.

⁴⁸ 38 U.S.C. §3693.

⁴⁹ Ron Marcinko and Ursula Bailey, "Compliance Surveys," National Association of Veterans Program Administrators Buffalo School Certifying Official Conference, June 2014. In 2015, the VA reassigned 30 full-time equivalent employees to compliance work (Source: Robert M. Worley II, Director, Education Service, "NASAA Mid-Winter Training & Business Meeting," Education Service Updates, February 8, 2016).

⁵⁰ Department of Veterans' Affairs, "Procedural Advisory: FY2017 Compliance Survey Scheduling."

facility and each program of education meets all statutory requirements. VA policy indicates that the two primary purposes of compliance survey visits are

- to assist school or training establishment officials and veterans or potential GI Bill recipients in understanding the provisions and requirements of the law; and
- to verify and assure the propriety of VA educational benefit payments to veterans and other eligible persons.⁵¹

The policy of the VA is to establish annual priorities in order to conduct compliance surveys of higher risk programs, institutions, and establishments.⁵² For example, the FY2017 strategy will ensure compliance surveys of all IHLs with flight programs, and further prioritize private for-profit and nonaccredited institutions and federal on-the-job and federal non-registered apprenticeship establishments.⁵³ The compliance survey follows procedures prescribed by the VA.⁵⁴ The aspects reviewed and required standards are the same regardless of whether the program was deemed approved or approved by the VA or an SAA and regardless of whether the VA or SAA conducts the survey.⁵⁵

Besides selecting the facilities, the VA also determines the number of student files that will be reviewed at each facility during the compliance survey based on the GI Bill participant population.⁵⁶ The scope of the review of student files and the number of files reviewed are the major differences between supervisory visits and compliance surveys. The SAAs review the VA database to select the requisite number of students and may select a representative sample that is not duplicative of prior year surveys. The recent certification history of each selected student's enrollment, entrance, reentrance, change in hours of credit or attendance, pursuit, and interruption and termination of attendance as recorded in the database are noted. The selected student names are provided to the facility's SCO when the compliance survey visit is scheduled by the VA or SAA and SCO. During the on-site visit, the SAA will compare the facility's student files to the students' VA enrollment and certification history to verify that GI Bill payments have been made properly and that the institution is following the approval standards and published policies. The facility's student files include, as appropriate, transcripts, prior credit evaluations, financial accounts of charges and refunds, courses taken, attendance records, circumstances for withdrawal, relevant VA forms, student aid received, academic progress, and other pertinent records.⁵⁷

In addition to reviewing student records, compliance surveys also include student interviews (as applicable), various verifications, and a review of additional documents and areas outlined on the compliance survey checklist. The review may also include a classroom visit, if appropriate. As of FY2015, SAAs must also assess the number of complaints in the VA GI Bill Feedback System.⁵⁸ The compliance survey will verify the SCO as named to the VA, the SCO's understanding of the

⁵¹ Department of Veterans Affairs, *Web Automated Reference Material System*, Education Procedures, Part 10. Compliance Survey, downloaded in 2011.

⁵² Department of Veterans Affairs, "Procedural Advisory: FY2017 Compliance Survey Scheduling."

⁵³ Ibid.

⁵⁴ FY2016 contracts between the VA and SAAs.

⁵⁵ Ron Marcinko and Ursula Bailey, "Compliance Surveys," National Association of Veterans Program Administrators Buffalo School Certifying Official Conference, June 2014.

⁵⁶ CRS interviews with SAA staff.

⁵⁷ Julie Harden, SC Education Liaison Representative, *Compliance and Certification*, Department of Veterans Affairs, SCASFAA, April 13, 2015.

⁵⁸ VA Central Office - Education Service, Contract Management Team (223C), "Contract Management Training," October 2014.

job requirements, fund transfers, the school catalog, tuition and fees charges, relevant school policies, procedures for ensuring timely and accurate certifications, and other administrative actions.⁵⁹ The areas of review on the checklist include, but are not limited to, establishing compliance with the 85-15 rule, independent study requirements, private pilot's license requirements, and nonaccredited school enrollment limitations. Some statutory standards such as those related to curriculum quality and faculty qualifications are not reflected on the compliance checklist.

Finally, SCOs are given an opportunity to ask questions and address their problems/issues, and the SAA has the opportunity to provide training and technical assistance. Initial survey results, including discrepancies, are shared with the facility prior to the end of the visit, and any discrepancies that may be addressed easily are resolved immediately.⁶⁰

Following the compliance survey, the compliance survey report and any referrals are shared with the facility, SAA, and ELR. Referrals are discrepancies discovered during the review of student files that may create a student or school GI Bill debt or payment. Follow-up and corrective action will be initiated by the SAA if required.

Although compliance surveys are more focused on proper administration and controls of federal funds than supervisory visits, there are concerns with their implementation. One concern suggested by the VA is that its capabilities in uncovering educational and financial noncompliance may not be strong.⁶¹ Another concern raised by the National Association of Veterans' Program Administrators (NAVPA), a professional organization of SCOs and their facilities, is that "diverting [SAA] resources to [compliance surveys] has proven problematic, however, and leaves no one to fulfill the SAA's historic role of providing training and supervision to facilities on broader education issues."⁶² Compliance surveys have different foci compared to training and supervisory visits, but each serves an important purpose. The two approaches may also require different skill sets and training that are not currently optimized.⁶³ In addition, NASAA has expressed concerns that many facilities are not reviewed regularly as it estimates that as of 2016 SAAs conduct compliance visits of approximately 15% of active institutions/establishments annually.⁶⁴ In 2016, the VA reported that the VA and SAAs complete approximately 5,000 compliance surveys annually.⁶⁵

⁵⁹ Department of Veterans Affairs, *Web Automated Reference Material System*, Education Procedures, Part 10. Compliance Survey, downloaded in 2011.

⁶⁰ Virginia SAA Technical Assistance Handbook 2016, p. 24; and Julie Harden, SC Education Liaison Representative, *Compliance and Certification*, Department of Veterans Affairs, SCASFAA, April 13, 2015.

⁶¹ Kimberly Hefling, "Despite for-profit college troubles, Veterans Affairs rarely cuts off GI Bill dollars," *PoliticoPro.com*, February 18, 2016.

⁶² U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *Examining Executive Order #13607 and Its Impact on Schools and Veterans*, 112th Cong., 2nd sess., May 16, 2012, S.Hrg. 112-62 (Washington: GPO, 2013), p. 21.

⁶³ U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *The Role of the State Approving Agencies in Ensuring Quality Education Programs for Veterans*, 113th Cong., 2nd sess., November 19, 2014, H.Hrg. 113-91 (Washington: GPO, 2015), p. 11.

⁶⁴ U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *Legislative hearing on: H.R. 748; H.R. 2551; H.R. 3286; H.R. 3419; H.R. 4138; and 4 draft bills*, 114th Cong., 2nd sess., April 14, 2016.

⁶⁵ U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Education Denied: The Importance of Assisting Veterans Harmed by School Closures*, prepared by Staff Report Prepared for Ranking Member Tom Carper, 114th Cong., 2nd sess., October 21, 2016, p. 11. CRS calculated over 10,000 active facilities in FY2015 using the Department of Veterans Affairs, GI Bill Comparison Tool Data, updated November 10, 2016.

Inspection Visits and Other Visits

In addition to visits to complete compliance surveys, the SAA may conduct

- technical assistance visits to provide information on the facility's responsibilities, help the facility provide services to veterans and GI Bill participants, and provide information on non-GI Bill veterans' benefits;
- inspection visits within approximately 30 days of the initial approval of a program at a new facility to train the SCO and ensure the facility and program may remain approved;
- visits, at the request of the VA, to investigate third party information (e.g, media, GI Bill participant complaint, ED, or other state agency) that suggests noncompliance with the approval standards; and
- visits motivated by SAA professional judgment.⁶⁶

For example as of December 30, 2015, seventy-nine risk-based program reviews had been conducted based on complaints submitted through its GI Bill Feedback System.⁶⁷ Also for example, after Corinthian Colleges, Inc. (CCI) filed with the U.S. Securities and Exchange Commission (SEC) indicating fiscal instability and an intention to sell or close some of its institutions and to “teach out” students currently enrolled in their programs, the VA requested that all SAAs review CCI facilities in their state. At the conclusion of a visit, the SAA submits a visit report and any referrals to the VA.

Program Suspension and Disapproval

Statutory provisions authorize the VA or SAAs to *immediately* disapprove any program of education that does not meet the approval criteria.⁶⁸ Statutory provisions also provide specific circumstances in which the VA may suspend GI Bill payments to those enrolled or pursuing an approved program of education, disapprove new enrollments in a program of education, or disapprove one or more programs of education:

- The VA may disapprove new GI Bill enrollments at a facility if the facility charges a GI Bill participant more than another similarly circumstanced individual.⁶⁹
- The VA may discontinue GI Bill benefits to an individual who receives benefits for which the individual is not eligible when the program of education or providing facility fails to meet any statutory requirements.⁷⁰
- The VA may suspend GI Bill benefits to individuals and disapprove new enrollments using GI Bill benefits in a program of education that demonstrates a

⁶⁶ Virginia SAA Technical Assistance Handbook, p. 20; and FY2016 contracts between the VA and SAAs.

⁶⁷ The GI Bill Feedback System allows recipients of GI Bill benefits to submit complaints against educational institutions or employers. The system is accessible at <http://benefits.va.gov/GIBILL/Feedback.asp>. Source: Robert M. Worley II, Director, Education Service, “NASAA Mid-Winter Training & Business Meeting,” Education Service Updates, February 8, 2016.

⁶⁸ 38 U.S.C. §3679(a).

⁶⁹ 38 U.S.C. §3690(a).

⁷⁰ 38 U.S.C. §3690(b)(1)-(2).

substantial pattern of individuals receiving GI Bill benefits for which they are not eligible because the program does not meet the statutory approval requirements or the facility is not fulfilling its recordkeeping and reporting requirements. Prior to suspension, the VA must notify the facility and SAA, the facility must fail to take corrective action within 60 days,⁷¹ and the VA must notify the GI Bill participants 30 days prior to the suspension.⁷²

- The VA must disapprove a program of education and discontinue any Post-9/11 GI Bill or Montgomery GI Bill-Active Duty (38 U.S.C., Chapter 30; MGIB-AD) payments thereafter in the event that a public institution of higher learning (IHL) charges tuition and fees above the in-state rate for that course to a qualified Post-9/11 GI Bill or MGIB-AD participant who is living in the state in which the IHL is located.⁷³
- The VA or SAA must disapprove an unaccredited course designed to lead to state licensure or certification or to prepare an individual for an occupation that requires such approval or licensure if the educational institution does not publicly disclose any additional conditions required to obtain licensure, certification, or approval.

In practice, the SAAs fulfill the initial responsibility of suspending or disapproving a program of education. SAAs, or the VA acting in capacity of an SAA, may determine that the facility or program is not in compliance with the law or regulations during a compliance survey, supervisory visit, or other interaction. SAAs indicate that interactions other than compliance surveys are more likely to uncover compliance issues.⁷⁴ The SAA may provide training and technical assistance to resolve the issue and then follow up to ensure compliance. Additionally, the SAA may suspend a program of education from new enrollments of GI Bill recipients for up to 60 days if it fails to meet any of the approval requirements.⁷⁵ During the up to 60-day period, the SAA will provide assistance to help the facility resolve the issue and may provide outreach and technical assistance to GI Bill participants to mitigate any potential educational disruptions.⁷⁶ If the institution/establishment fails to resolve the issue during the suspension, the SAA will disapprove the program(s) of education.⁷⁷ Program disapproval affects GI Bill participants currently pursuing the program as well as prospective participants. Any suspension or disapproval by the SAA will be communicated through a registered or certified letter with return receipt to the facility and through written notice to the ELR.⁷⁸ The ELR will review the action and supporting

⁷¹ The VA may allow a longer period if reasonable and appropriate.

⁷² 38 U.S.C. §3690(b)(3).

⁷³ 38 U.S.C. §3679(c). The VA may waive this requirement. An institution of higher learning (IHL) is an institution offering postsecondary level academic instruction that leads to an associate's or higher degree if the school is empowered by the appropriate state education authority under state law to grant an associate's or higher degree, or in the absence of a state education authority, if the school is accredited for degree programs by a recognized accrediting agency. IHLs are also hospitals offering educational programs at the postsecondary level and foreign educational institutions that offer courses leading to a college degree, or the equivalent, and that are recognized as such by the secretary of education (or a comparable official) of the country or other jurisdiction in which the institution is located.

⁷⁴ CRS interviews with SAA staff.

⁷⁵ 38 C.F.R. §21.4259(a)(1).

⁷⁶ CRS interviews with SAA staff; and California Department of Veterans Affairs, "CalVet Withdraws Approval for Corinthian Colleges," press release, August 25, 2014, <https://www.calvet.ca.gov/Pages/CalVet-WithdrawsApproval-for-Corinthian-Colleges.aspx>.

⁷⁷ 38 C.F.R. §21.4259(a)(2).

⁷⁸ 38 C.F.R. §21.4259(a)(3) and (b) and 38 U.S.C. §3679(a).

documentation to ensure the action is in accordance with statutory provisions. The VA has indicated, however, that it does not have the legal authority to override an SAA decision on approval, suspension, or withdrawal.⁷⁹

Facilities that disagree with an SAA suspension or disapproval decision have some recourse. Although statutory provisions do not require that the SAA permit an appeal, some SAAs allow facilities to appeal to their parent agency (e.g., a state department of education). Otherwise, the institution/establishment may write an informal letter to the SAA or its parent agency if it disagrees with the actions being taken by the SAA, and the SAA or parent agency may consider the letter. A testing organization may appeal a decision to the VA Education Service Director (or the VA Under Secretary of Benefits, if the VA disapproved the test).⁸⁰ On occasion, the VA may reverse the SAA decision based on additional information.⁸¹ In addition, the facility may litigate against the SAA. For example, the California SAA was forced by court order to reverse its suspension of courses at ITT Educational Services, Inc. (ITT) in 2015.⁸² Also for example in 2015, ECPI University's Medical Careers Institute (MCI) filed a lawsuit against the Virginia SAA following the disapproval of all programs at one of its campuses and the suspension of all programs at three campuses.⁸³

After disapproval, the facility may apply for initial program approval after a reasonable time period.

If the VA finds that a facility has willfully submitted a false or misleading claim, or that an individual, with the complicity of a facility, has submitted such a claim, the Secretary shall notify the appropriate SAA and, as appropriate, the Attorney General of the United States.⁸⁴ The SAA would then conduct an investigative visit and determine the next steps accordingly.

Principles of Excellence

Executive Order 13607, Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members, signed April 27, 2012, was intended to help veterans and servicemembers and their families pursue a high-quality education and make more informed decisions about their VA and Department of Defense (DOD) educational assistance benefits. The Executive Order provides a designation for educational

⁷⁹ 38 C.F.R. §21.4152; 38 U.S.C. §3682; and Letter from Allison A. Hickey, Under Secretary of Veterans' Affairs for Benefits, U.S. Department of Veterans' Affairs, to Honorable Richard J. Durbin, United States Senate, September 4, 2015.

⁸⁰ 38 C.F.R. §21.4268(f).

⁸¹ Aaron Glantz, "VA overturns veteran enrollment ban on University of Phoenix programs," *Reveal from The Center for Investigative Reporting*, August 5, 2014.

⁸² CRS interviews with SAA staff; and California State Approving Agency for Veterans Education, "ITT Educational Services, Inc., Public Notice," press release, June 23, 2015.

⁸³ Sources: Virginia Department of Veterans Services, "Medical Careers Institute (MCI) – School of Health Science of ECPI University, Virginia Beach Campus, Withdrawn from Offering Education and Training to Veterans and their Dependents," press release, December 7, 2015, <http://www.dvs.virginia.gov/news-room/education-employment-news/medical-careers-institute-va-beach-approval-withdrawn/>; Liz Palka, "ECPI University files lawsuit against state agency," *10WAVY.com*, December 11, 2015; Department of Veterans' Affairs, WEAMS Institution Search, <http://inquiry.vba.va.gov/weamspub/buildSearchInstitutionCriteria.do>, as of September 9, 2016; and Department of Veterans' Affairs, GI Bill Comparison Tool, <https://www.vets.gov/gi-bill-comparison-tool/>, as of September 9, 2016. As of September 9, 2016, several programs at all four MCI campuses are included in the VA's list of approved programs.

⁸⁴ 38 U.S.C. §3690(d).

institutions to distinguish themselves as an informative, supportive, and protective environment for veterans and servicemembers and their families and requires the VA to strengthen enforcement and compliance. The Executive Order also describes roles for the SAAs. These roles are described below.

The Executive Order encourages educational institutions receiving veterans and military educational benefits, to the extent permitted by law, to abide by the Principles of Excellence. Schools that agree to abide by the principles may be perceived by veterans and servicemembers and their families as providing a more supportive environment compared to other institutions and thus may experience higher enrollments. The principles encourage educational institutions to

- “provide meaningful information to service members, veterans, spouses, and other family members about [the institution's] financial cost and quality”;
- end fraudulent, abusive, deceptive, and aggressive recruiting practices of potential GI Bill participants and DOD Tuition Assistance recipients;⁸⁵
- gain accreditation for new programs of education before enrolling students;
- provide high-quality academic and student support services to veterans and servicemembers and their families;
- readmit and accommodate servicemembers forced to suspend their studies or be absent while fulfilling service obligations;
- establish an institutional refund policy for course withdrawals aligned with that required for Department of Education student financial aid programs;⁸⁶
- provide a timeline and education plan for graduation; and
- designate a point-of-contact for academic and financial advising and career services.

As of FY2015 for those institutions that voluntarily agree to abide by the principles, the SAA will review their voluntary compliance during any initial approval, compliance visit, or other visit.⁸⁷ If the institution is not in compliance, the SAA will notify the VA to remove the institution from the list of schools adhering to the Principles of Excellence. The VA also reviews institutions’ voluntary compliance during compliance surveys that it conducts and takes action, as required.

Among the efforts to strengthen compliance mechanisms, the Executive Order required the VA to use the SAAs to improve information sharing among educational stakeholders that oversee institutional and program quality. Specifically the VA was required to institute uniform procedures for receiving and processing complaints across SAAs; provide a coordinated mechanism across SAAs to alert the VA to any complaints that have been registered at the state level; and create procedures for sharing information about complaints with the appropriate state officials, accrediting agency representatives, and the Secretary of Education. The VA was also tasked with establishing procedures for targeted risk-based program reviews of institutions to ensure compliance with the Principles.

⁸⁵ Under DOD Tuition Assistance, military service branches may pay a certain amount of tuition and expenses for the education and training of servicemembers.

⁸⁶ Section 484B of the Higher Education Act.

⁸⁷ FY2016 contracts between the VA and SAAs; and VA Central Office - Education Service, Contract Management Team (223C), “Contract Management Training,” October 2014.

Professional Development of SAA Employees

SAA personnel must meet the qualification standards established in the contract with the VA. As an example, the standard language in the FY2016 contracts describes the minimum qualification standards for personnel approving and supervising courses offered by job training establishments as a bachelor's degree with two years of related experience (or the equivalent) in education and/or related work experience totaling six years. However, there are several opportunities for new and continuing SAA employees to receive training on their responsibilities. The SAAs indicate that new employees benefit from mentoring and job shadowing. Contractually, the only training required of SAA employees is the annual privacy and information security awareness training required of federal employees.⁸⁸

The VA, in coordination with the SAAs, develops a training curriculum to train new and continuing SAA employees on the performance of their functions.⁸⁹ In accordance with the VA's responsibility to ensure SAAs have the informational materials necessary to fulfill their obligations,⁹⁰ the VA makes available to SAAs a variety of other professional development materials. VA employees attend and provide training at National Association of State Approving Agencies (NASAA) conferences.⁹¹

NASAA conducts the national training institute (NTI), which offers several opportunities for SAA training, and provides a manual, the National Training Curriculum (NTC). The NTI provides an overview of SAA responsibilities and activities.⁹² The October 2015 three-day NTI agenda included information on public laws, accreditation, GI Bill approval criteria, satisfactory academic progress, inspection visits, technical assistance, outreach, compliance surveys, self-evaluation, and key partners such as the ELR.⁹³ Most new SAA employees attend the NTI within the first year of employment. The NTC is provided to all SAA employees.⁹⁴

The VA also makes its Education Compliance Survey Specialist (ECSS)/ELR training module available to train new SAA employees in performance of their compliance survey work.⁹⁵ The course requires approximately 64 hours to complete.⁹⁶

Ongoing professional development is offered to SAA employees through several options. Refresher training and timely topics are incorporated into NASAA mid-winter and summer conferences and VA and National Association of Veterans' Program Administrators (NAVPA) conferences.⁹⁷ In FY2014, VA in conjunction with the SAAs, developed an SAA Training

⁸⁸ FY2016 contracts between the VA and SAAs.

⁸⁹ 38 U.S.C. §3674A(a)(3).

⁹⁰ 38 U.S.C. §3673(c).

⁹¹ For example, 2016 National Association of State Approving Agencies, Mid-Winter Training & Business Meeting, February 5-10, 2016 Agenda.

⁹² The most recent NTIs were October 4-6, 2016 and October 27-29, 2015, according to the NASAA website as of November 18, 2016.

⁹³ National Association of State Approving Agencies, *National Training Institute*, Agenda, Indianapolis, IN, October 27, 2015.

⁹⁴ CRS interviews with SAA staff; and email to CRS from Department of Veterans Affairs, OLCA Benefits Team, September 29, 2014.

⁹⁵ Email to CRS from Department of Veterans Affairs, OLCA Benefits Team, September 29, 2014.

⁹⁶ Department of Veterans' Affairs, "Training Opportunities," NASAA Summer Conference, August 4-8, 2013.

⁹⁷ NAVPA is an organization of institutions and individuals who are involved or interested in the operation of veterans' affairs programs and/or the delivery of services to veterans as school certifying officials across the country.

Performance Support System module that updated and encompassed the information from the NTC. In 2014, the VA and NASAA held a joint training conference focused on critical issues related to program approvals, compliance surveys, VA training and liaison activities with SCOs and ELRs, and the achievement of contractual requirements. The VA also holds regional conferences throughout the year.⁹⁸ Finally in September 2014, the VA and NASAA formed a Joint Advisory Committee to resolve issues in VA/SAA responsibilities.⁹⁹

School Certifying Officials' (SCOs') Training

In order to ensure proper administration of GI Bill benefits, SAA employees provide training to SCOs on their responsibilities. The VA, SAAs, NASAA, National Association of Veterans' Program Administrators (NAVPA), and other organizations offer various formal and informal training opportunities. SAAs offer formal training programs, on-site training, and as-needed technical assistance to SCOs. The SAA training may be offered jointly with the ELR, or the ELR may be asked to participate and present. SAAs make an effort to provide formal training opportunities to new institutions/establishments. They provide refresher and update training to experienced and new SCOs.

SCOs at smaller schools and schools with few GI Bill participants are less likely to attend formal training and thus often require additional in-person training.¹⁰⁰ In addition, SCO staff at smaller schools often perform several administrative roles that may be unrelated to the GI Bill.¹⁰¹ SAAs and ELRs conduct informal, in-person training of SCOs during most site visits. The 2007 GAO report indicated that facilities value the training provided by SAAs because it ensures proper administration of GI Bill benefits and, by extension, timely payments.¹⁰²

Outreach

Outreach is an “activity designed to promote increased participation and utilization by eligible [individuals] of VA or [DOD] educational assistance programs” and includes any activity, which encourages facilities to obtain approval of programs for GI Bill purposes.¹⁰³ In addition to outreach, SAAs liaise “with other education and training professionals [to] promote and encourage [an] exchange of information and support, and integrate the SAA into associations that

⁹⁸ U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *The Role of the State Approving Agencies in Ensuring Quality Education Programs for Veterans*, 113th Cong., 2nd sess., November 19, 2014, H.Hrg. 113-91 (Washington: GPO, 2015), p. 44.

⁹⁹ U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *The Role of the State Approving Agencies in Ensuring Quality Education Programs for Veterans*, 113th Cong., 2nd sess., November 19, 2014, H.Hrg. 113-91 (Washington: GPO, 2015), pp. 18, 24.

¹⁰⁰ CRS interviews with SAA staff; and U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *The Role of the State Approving Agencies in Ensuring Quality Education Programs for Veterans*, 113th Cong., 2nd sess., November 19, 2014, H.Hrg. 113-91 (Washington: GPO, 2015), p. 46.

¹⁰¹ U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *The Role of the State Approving Agencies in Ensuring Quality Education Programs for Veterans*, 113th Cong., 2nd sess., November 19, 2014, H.Hrg. 113-91 (Washington: GPO, 2015), p. 11.

¹⁰² U.S. Government Accountability Office, *VA Student Financial Aid: Management Actions Needed to Reduce Overlap in Approving Education and Training Programs and to Assess State Approving Agencies*, GAO-07-384, March 8, 2007, p. 27.

¹⁰³ FY2016 contracts between the VA and SAAs.

will serve the interest of the GI Bill programs.”¹⁰⁴ SAAs cooperate with the VA to promote, conduct, and support several outreach efforts. SAAs are generally tasked, in conjunction with the VA and also independently, to conduct outreach programs and provide outreach services to eligible persons and veterans about federal and state veterans’ education and training benefits.¹⁰⁵ SAAs help veterans and their families navigate VA benefits generally through information and referrals. For example, the SAA may brief transitioning servicemembers about GI Bill benefits during DOD sponsored events, attend events sponsored by educational institutions, and participate in community or employment fairs. SAAs are in a unique position to counsel veterans and their families on the use of GI Bill benefits in area facilities.

The VA and SAAs are required, in accordance with statutory provisions, to actively promote the development and use of apprenticeship and on-the-job training programs. Such efforts utilize the services of disabled veterans’ outreach program (DVOP) personnel. DVOP is part of the Department of Labor’s (DOL’s) Jobs for Veterans State Grants (JVSG) program,¹⁰⁶ which provides formula grants to states to hire staff to provide a range of intensive services to veterans with service-connected disabilities as well as other veterans with multiple barriers to employment.¹⁰⁷ It is NASAA’s assertion that prior to 2012, when the VA began utilizing SAAs for compliance surveys, SAA outreach efforts contributed to increasing the number of active training establishments; whereas since 2012, outreach activities have been curtailed in order to fulfill SAA compliance survey obligations.¹⁰⁸ The VA contends that time spent on compliance surveys replaced time spent on supervisory visits and not outreach activities.¹⁰⁹

SAAs are required to meet biennially with the Local Veterans Employment Representatives (LVERs) or the equivalent to ensure that students who have graduated are aware of employment resources and opportunities. LVERs are state employees located in state employment offices who conduct outreach to employers on behalf of veterans and facilitate employment, training, and placement services through the state workforce system.¹¹⁰ The SAA ensures that appropriate referrals are made to relevant employment resources and opportunities.¹¹¹

¹⁰⁴ Sample Third Quarter *Fiscal Year 2016 Department of Veterans Affairs Quarterly Report for State Approving Agency Activities*.

¹⁰⁵ FY2016 contracts between the VA and SAAs.

¹⁰⁶ JVSG is described in greater detail in the CRS Report R42790, *Employment for Veterans: Trends and Programs*, coordinated by Benjamin Collins. More information on veteran-related initiatives administered by the DOL, including the JVSG program, is available at <http://www.dol.gov/vets/>.

¹⁰⁷ While non-disabled veterans with barriers to employment may receive direct services from DVOP personnel, statute specifies that veterans with service-connected disabilities receive the highest priority of service. See 38 U.S.C. 4103A.

¹⁰⁸ According to NASAA, the number of active training establishments increased from 4,471 in FY2008 to 5,285 in FY2011. According to VA, the number of active training establishments increased from 4,409 in FY2008 to 4,462 in FY2011. Sources: U.S. Congress, House Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity, *Examining VA’s On-the-Job Training and Apprenticeship Program*, Written Testimony of Dr. Joseph W. Wescott, Legislative Director, National Association of State Approving Agencies, 114th Cong., 1st sess., November 18, 2015; and VA correspondence to CRS dated October 25, 2016.

¹⁰⁹ VA correspondence to CRS dated October 25, 2016.

¹¹⁰ The Jobs for Veterans State Grant program (38 U.S.C., Chapters 41-42) provides formula grants to states to fund personnel positions, including LVERs, that work to assist veterans within the local federally funded American Job Center (AJC) system, as established by the Workforce Innovation and Opportunity Act (WIOA; P.L. 113-28).

¹¹¹ FY2016 contracts between the VA and SAAs.

SAA Accountability to the VA

The VA holds SAAs accountable for fulfilling their contractual obligations through regular reporting, annual evaluation, contract monitoring, and the reimbursement of expenses. The contract specifies that SAAs must

- perform duties necessary for the inspection, approval, compliance, and supervision of programs of education;
- process initial program approval applications in a timely and thorough manner;
- conduct and follow up on a specified number of compliance visits;
- conduct and report on inspection and other visits as requested by the VA;
- comply with and enforce requirements of the Principles of Excellence, as appropriate;
- provide technical assistance to SCOs;
- provide specified trainings to SCOs;
- conduct and report informational outreach sessions to key stakeholders and through various mechanisms;
- liaise with veterans, the ELR, NASAA, and VA;
- submit quarterly reimbursement and activity reports;
- submit an annual self-evaluation and receive a satisfactory rating;
- use fully qualified personnel;
- complete required SAA employee training; and
- comply with other contractual responsibilities and obligations.¹¹²

The contract terms are the same for each SAA except that the types of programs for which an SAA is responsible, the funding allocation, business plan, and the number of required compliance surveys may differ. The number of required compliance visits is proportional to the number of full-time equivalent professional SAA staff. The state determines the number of personnel required to fulfill the contract obligations. The contract includes a business plan and performance measures with targets for each activity and subactivity. The business plan comprises the SAA's goals, which are based on the performance standards. The performance measures and targets focus on the percentage of required activities completed within specified time periods and are consistent across SAAs. For example in FY2016, SAAs were expected to visit facilities for initial program approval within 30 days of request in 90% of cases.¹¹³

Periodic SAA/ELR meetings are required under the contract. SAAs are required to submit monthly or quarterly reports to the VA on their activities, including services performed and decisions made regarding programs of education.¹¹⁴ This includes a quarterly report of the number of approval actions, technical assistance interactions, compliance survey visits, facility

¹¹² FY2016 contracts between the VA and SAAs.

¹¹³ FY2016 contracts between the VA and SAAs.

¹¹⁴ 38 U.S.C. §3674(c) requires that such reports be submitted not less than annually. 38 C.F.R. §21.454(a) require such reports be submitted monthly or quarterly.

visits, staff development activities, and outreach activities, and detailed monthly or quarterly reports for reimbursement claims for operational costs.¹¹⁵

The VA, in conjunction with SAAs, evaluates each SAA annually to inform subsequent contract negotiations. The evaluation is based on the contract terms. The evaluation begins with a self-evaluation allowing the SAA to describe actual personnel utilization, activities completed, outstanding activities, effective practices, resources used, and the degree to which it achieved its performance standards and business plan. In addition to the self-evaluation, the VA ELR who is also the Contracting Officer Representative (COR) completes an evaluation and submits an assessment report. The self-evaluation and assessment are then reviewed and rated by a Joint Peer Review Group (JPRG) for contract compliance. The JPRG comprises four NASAA members and four VA representatives.¹¹⁶ SAAs may be given a rating of satisfactory, minimally satisfactory, or unsatisfactory.¹¹⁷ The SAA may appeal the rating to both the VA Education Service Director and the President of NASAA for a joint decision.¹¹⁸ If the VA and the President of NASAA do not reach a joint decision, the VA makes the final determination on the appeal.¹¹⁹

The VA must take into consideration the annual evaluation of each SAA when negotiating a new contract,¹²⁰ but not necessarily the JPRG rating.¹²¹

Reimbursement of SAA Expenses

Although SAAs are state agencies or organizations and the employees are state employees, the VA pays the “reasonable and necessary expenses” required for the SAA to fulfill its contractual obligations and as specified in the contractual agreement.¹²² Current law has provided \$19 million in mandatory funds annually for SAAs since FY2006.¹²³ Actual expenditures have increased from approximately \$17 million in FY2006 to approximately \$19 million since FY2013. The SAAs have indicated that the VA reimbursement may not cover actual agency costs. NASAA has requested additional funds to offset increased SAA responsibilities of approval, outreach and marketing, and technical assistance.¹²⁴

¹¹⁵ FY2016 contracts between the VA and SAAs; and Sample Third Quarter *Fiscal Year 2016 Department of Veterans Affairs Quarterly Report for State Approving Agency Activities*.

¹¹⁶ VA Central Office - Education Service, Contract Management Team (223C), “Contract Management Training,” October 2014.

¹¹⁷ Virginia SAA Self-Evaluation, FY2015.

¹¹⁸ FY2016 contracts between the VA and SAAs.

¹¹⁹ FY2016 contracts between the VA and SAAs.

¹²⁰ 38 U.S.C. §3674A(a).

¹²¹ Email to CRS from Department of Veterans Affairs, OLCA Benefits Team, September 29, 2014.

¹²² 38 U.S.C. §3674.

¹²³ The amount was increased from \$18 million in FY2005 by the Veterans Benefits Act of 2002 (P.L. 107-330) to account for the recent expansions in SAA responsibilities (e.g., outreach and program approvals). Source: U.S. Congress, Senate Committee on Veterans’ Affairs, *Veterans Hearing Loss Compensation Act of 2002*, To accompany S. 2237, 107th Cong., 2nd sess., August 1, 2002, S.Rept. 107-234.

¹²⁴ U.S. Congress, House Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity, *The Evolution of State Approving Agencies*, 111th Cong., 1st sess., July 16, 2009, H.Hrg. 111-35 (Washington: GPO, 2010), p. 37; and U.S. Congress, House Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity, *Examining VA’s On-the-Job Training and Apprenticeship Program*, Written Testimony of Dr. Joseph W. Wescott, Legislative Director, National Association of State Approving Agencies, 114th Cong., 1st sess., November 18, 2015..

The reimbursable expenses include salaries and benefits, necessary travel, and administrative expenses but exclude administrative overhead expenses. SAA salaries and benefits must be commensurate with the salaries of other state employees with comparable qualifications and responsibilities. Allowable travel expenses are those for inspection, approval or oversight of programs of education, compliance surveys, outreach activities, and professional development.¹²⁵ Travel expense amounts are limited by state laws and regulations. “Administrative expenses may include, but are not limited to, outreach events and supplies, rental, repair, fees, maintenance, utility, and insurance expenses for agency facilities; postage; costs of office equipment and supplies, educational supplies, freight and delivery services; in-state and out-of-state non-reimbursed travel expenses; and other miscellaneous operating expenses.”¹²⁶ The administrative expense allowance is specified in current law and is calculated based on the reimbursable salary costs.¹²⁷ The contract determines each SAA allocation by estimating travel costs, calculating reimbursable salary and fringe benefits, and calculating administrative expenses.

Funds are allocated to the individual SAAs in accordance with the weighted number of active facilities (facilities with GI Bill participants) for which each is responsible, and then smoothed using a three-year rolling average. The weighting is based on the type of institution.¹²⁸ The state determines the number of personnel required to fulfill the contractual obligations.

At the end of the fiscal year, the VA may redistribute funds that were not used by SAAs as supplementary awards to support contracted salary or travel that was not able to be reimbursed within the SAA’s fiscal year allocated contract amount.

If the VA determines that the SAA is not complying with statutory provisions or the contract, it may require the SAA to conform to the contractual requirements and/or withhold reimbursement.¹²⁹ In the event that reimbursement is withheld, the SAA may ask the VA to reconsider its decision or may initiate action under the Disputes clause of the contract and the Contract Disputes Act of 1978 (41 U.S.C. §601-613).

¹²⁵ FY2016 contracts between the VA and SAAs.

¹²⁶ FY2016 contracts between the VA and SAAs.

¹²⁷ 38 C.F.R. §21.4153(a)(3)(i). The administrative expense allowance was last increased by the Veterans Rehabilitation and Education Amendments of 1980 (P.L. 96-466).

¹²⁸ Training establishments are weighted at 50% to reflect the VA’s estimation of the time and work to complete initial approval and supervisory visits. In previous years, the weighting also included a cost of living adjustment. Source: U.S. Congress, House Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity, *The Evolution of State Approving Agencies*, 111th Cong., 1st sess., July 16, 2009, H.Hrg. 111-35 (Washington: GPO, 2010), p. 62.

¹²⁹ FY2016 contracts between the VA and SAAs.

Appendix. Program of Education Approval and Compliance Standards

The standards that facilities and programs of education must meet to receive and maintain GI Bill approval are specified in 38 U.S.C., Chapter 36, regulations, and Department of Veterans' Affairs (VA) policies. Generally, the standards and requirements provide limited opportunity for the Secretary of Veterans' Affairs (the Secretary) alone, or in collaboration with the State Approving Agencies (SAAs), or through negotiated rulemaking, to develop additional criteria or modify the existing criteria to ensure the integrity and quality of approved programs of education.¹³⁰ SAAs are authorized to adopt state regulations and policies in addition to the federal statutory standards and requirements.¹³¹ Some of the federal statutory language and standards do not reflect current educational practice. For example, statutory provisions relating to distance education requirements have not been updated since 2001 despite changes in the nature and extent of distance education. The regulations have not been updated since 2009 to include substantial amendments to the approval process in 2011 by P.L. 111-377.

The following describes the general approval and compliance requirements for programs of education. First, it describes the initial approval standards for deemed approved programs. It then describes additional approval and compliance requirements applicable to specific types of programs. Programs that are deemed approved have an abbreviated set of approval standards, but the compliance standards are the same as for programs that are not deemed approved.

Initial Approval Standards for Programs Deemed Approved¹³²

The abbreviated initial approval process requires the SAA to determine the following:

- The educational institution keeps adequate records to show GI Bill participant progress and grades and to show that satisfactory standards relating to progress and conduct are enforced.
- The educational institution maintains a written record of each GI Bill participant's previous education and training that clearly indicates that appropriate credit has been given and the training period shortened proportionately.
- The facility reports GI Bill participant enrollment or change in enrollment in a timely manner to the VA in accordance with regulations.
- The facility does not utilize advertising, sales, or enrollment practices of any type that is erroneous, deceptive, or misleading, either by actual statement, omission, or intimation.¹³³
- The facility does not provide a commission, bonus, or other incentive payment for securing enrollments or financial aid to any persons or entities engaged in

¹³⁰ The authority of the Secretary in 38 U.S.C. §3689(a) to prescribe regulations for the approval requirements of licensing and certification test and test organizations is an exemplary exception.

¹³¹ 38 U.S.C. §3672(a).

¹³² 38 U.S.C. §3672(c)(2).

¹³³ The Secretary is required to enter into an agreement with the Federal Trade Commission (FTC) to utilize, where appropriate, its services and facilities, in carrying out investigations, and the Secretary is required to make determinations and take appropriate action based on FTC preliminary findings of such investigations.

student recruiting or admission activities or in making decisions regarding the award of student financial assistance.

- The programs are not avocational and recreational.
- If offered in part or exclusively through independent study, the program leads to either a college degree or a certificate that reflects educational attainment offered by an IHL.¹³⁴
- If the program includes flight training, the program is offered by an IHL for credit toward a standard college degree sought by the GI Bill participant; or by a non-IHL flight school that has an FAA pilot school certificate, has an FAA provisional pilot school certificate, is exempt from FAA certification but permitted to offer flight simulator training, or has an FAA training center certificate.
- Courses are not offered via radio.
- Unless waived or exempt, the program meets the 85-15 rule, which requires that the Secretary disapprove new enrollments in all courses if more than 85% of the enrolled students have all or part of their educational charges paid to or for them by the educational institution or by VR&E or a GI Bill.
- For NCD programs, the private not-for-profit or for-profit educational institution or its branch campus has been in operation for at least two years.¹³⁵
- For NCD programs, the private not-for-profit or for-profit educational institution either retains substantially the same faculty, student body, and courses following a change in ownership or a complete move outside its original general locality or has been in operation for at least two years following the change or move.¹³⁶
- For programs offered in part or exclusively through contractual agreements, the contracted courses are approved for GI Bill purposes.
- The program is not offered under a contract by another entity.
- If the program is designed to lead to state licensure or certification, the courses must meet state instructional curriculum licensure or certification requirements, unless waived.
- If the program is designed to prepare an individual to practice law, the courses must be accredited by an ED-recognized accrediting agency, unless waived.
- If the program is designed to prepare an individual for employment in an occupation that requires such state approval, licensure, or certification, the courses must meet the standards developed by the relevant state board or agency if, unless waived.

Following initial approval during compliance surveys, deemed approved programs must be able to demonstrate that they meet the same standards as programs that are not deemed approved.

¹³⁴ Additional independent study requirements are established in 38 C.F.R. 21.4267.

¹³⁵ This requirement does not apply to courses offered under contract with the Department of Defense or the Department of Homeland Security and given on or immediately adjacent to a military base, Coast Guard station, National Guard facility, or facility of the Selected Reserve.

¹³⁶ *Ibid.*

Initial Approval Standards for Programs Not Deemed Approved and Compliance Standards for All Programs¹³⁷

Federal law and regulations establish the standards that must be met by programs of education to remain approved for GI Bill purposes. These same standards must be met by programs that are not deemed approved during the initial approval process. In addition to program-specific approval standards, there are criteria that all programs and program providers must meet. These are as follows:

- Avocational and recreational programs are not approved.
- Courses offered via radio are not approved.
- Unless waived or exempt, the program must meet the 85-15 rule, which requires that the Secretary disapprove new enrollments in all courses if more than 85% of the enrolled students have all or part of their educational charges paid to or for them by the educational institution or by VR&E or a GI Bill.
- The program provider does not enroll GI Bill participants in courses for which the individual is already qualified, unless the course is required for an individual to pursue an approved program of education, is needed to update knowledge and skills, or is needed for instruction in the technological advances that have occurred in the veteran's field of employment.¹³⁸
- The facility does not utilize advertising, sales, or enrollment practices of any type that is erroneous, deceptive, or misleading, either by actual statement, omission, or intimation.
- The facility does not provide a commission, bonus, or other incentive payment for securing enrollments or financial aid to any persons or entities engaged in student recruiting or admission activities or in making decisions regarding the award of student financial assistance.
- The facility designates an SCO.
- The facility reports GI Bill participant enrollment or change in enrollment in a timely manner to the VA in accordance with regulations.
- For NCD programs, the private not-for-profit or for-profit educational institution or its branch campus have been in operation for at least two years.¹³⁹
- For NCD programs, the private not-for-profit or for-profit educational institution either retains substantially the same faculty, student body, and courses following a change in ownership or a complete move outside its original general locality or has been in operation for at least two years following the change or move.¹⁴⁰

¹³⁷ 38 U.S.C. §§3677, 3679, 3680A, 3683, 3684, 3696.

¹³⁸ Students are considered "already qualified" if they have previously completed education or training at the same level in the same field or they were previously employed in a job for which the education or training is intended to qualify an individual.

¹³⁹ This requirement does not apply to courses offered under contract with the Department of Defense or the Department of Homeland Security and given on or immediately adjacent to a military base, Coast Guard station, National Guard facility, or facility of the Selected Reserve.

¹⁴⁰ *Ibid.*

- For programs offered in part or exclusively through contractual agreements, the contracted courses are approved for GI Bill purposes.
- For programs offered by public IHLs, the public IHL does not charge tuition and fees above the in-state rate for that course to a qualified Post-9/11 GI Bill or MGIB-AD participant who is living in the state in which the IHL is located.¹⁴¹
- Unless waived, SAA and VA employees do not receive any remuneration from or have an interest in a private for-profit educational institution at which a GI Bill participant is pursuing a program of education.¹⁴²
- For purposes of the Montgomery GI Bill—Selected Reserve (MGIB-SR) and Reserve Educational Assistance Program (REAP), programs of education are further limited to those at institutions of higher education that participate in Title IV programs, as defined in the Higher Education Act; licensure or certification programs that meet state requirements; and state approved or licensed programs leading to state licensure or certification.¹⁴³
- For programs designed to lead to state licensure or certification, the courses must meet state instructional curriculum licensure or certification requirements, unless waived.
- For programs designed to prepare an individual to practice law, the courses must be accredited by an ED-recognized accrediting agency, unless waived.
- For programs designed to prepare an individual for employment in an occupation that requires such state approval, licensure, or certification, the courses must meet the standards developed by the relevant state board or agency if, unless waived.
- Such additional criteria as may be deemed necessary by the SAA as long as such criteria are in accordance with VA regulations; are deemed necessary by the VA; and treat public, private not-for-profit, and private for-profit educational institutions equitably.

Apprenticeships¹⁴⁴

Apprenticeships offer individuals the opportunity to earn a salary while learning the skills necessary for full employment in a career. Apprenticeships are DOL Registered Apprenticeship programs and apprenticeship programs approved by a state apprenticeship agency recognized by the DOL Office of Apprenticeship. Apprenticeships are deemed approved if the job does not require a wage subsidy.¹⁴⁵

In the application, apprenticeship programs must provide information on the job objective, length of the training period, approximate schedule for achievement of learning objectives, number of hours of supplemental instruction, and other information requested by the SAA. The training establishment must certify that the program will be pursued full-time. To maintain approval, the

¹⁴¹ The VA may waive this requirement.

¹⁴² The VA will halt the reimbursement of SAA expenses until the situation is rectified.

¹⁴³ This provision was established by section 541 of the National Defense Authorization Act for Fiscal Year 2014 (P.L. 113-66) but has not been implemented as of February 2016.

¹⁴⁴ 38 U.S.C. §§3672(c)(2) and 3687 and 38 C.F.R. §21.4261.

¹⁴⁵ FY2016 contracts between the VA and SAAs.

training establishment must provide a training agreement, including the training program and wage scale, to each GI Bill participant and the VA.

On-the-Job Training (OJT)¹⁴⁶

OJT provides progression and appointment to the next higher classification based upon skills learned through organized and supervised training on the job. OJT excludes apprenticeships and may not be deemed approved.

Along with meeting the same requirements as apprenticeship programs, OJT must meet several additional requirements. The training content must qualify the trainee for the specified job objective, and the job must not require a wage subsidy.¹⁴⁷ The job must customarily require full-time training for a period of not less than six months and not more than two years,¹⁴⁸ and the length of the training period must not be longer than that customarily required by training establishments in the community. The training establishment must provide for related instruction when needed and have adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job. The training establishment must keep adequate records showing trainee progress, and the training must not be offered to GI Bill participants who are already qualified by training and experience for the job. To maintain approval, the training establishment must provide a training agreement to each GI Bill participant and the VA. Finally, the SAA may establish additional criteria.

OJT establishments must certify that the wages meet approval criteria and that there is a high likelihood that the job will be available. Starting OJT wages must be at least 50% of journeyman wages and not less than wages paid nonveterans, and wages must increase in regular periodic increments until, not later than the last full month of the training period, they must be at least 85% of journeyman wages.¹⁴⁹ Federal, state, and local governments are not required to provide the final 85% wage.

Programs of Education that Are Offered by Accredited Educational Institutions and that Are Not Deemed Approved¹⁵⁰

Programs of education that are offered by accredited educational institutions and that are not deemed approved include courses offered by a private for-profit educational institution that is accredited by an ED-recognized accrediting agency, non-college degree programs (NCDs) at accredited public and private not-for-profit educational institutions, courses accepted by the state department of education for credit for a teacher's certificate or a teacher's degree, and courses

¹⁴⁶ 38 U.S.C. §3677 and 38 C.F.R. §21.4262.

¹⁴⁷ Employers participating in some federal, state, or local programs that encourage the development and provision of OJT may receive a wage subsidy of some percentage of a trainee's wage to compensate for training costs.

¹⁴⁸ A full-time OJT program may be shorter than six months if it is intended to lead to licensure to engage in a self-employment occupation or required for ownership and operation of a franchise that is the objective of the training (38 U.S.C. §3452(e)(2)).

¹⁴⁹ An establishment providing self-employment on-the-job training consisting of full-time training for a period of less than six months that is needed or accepted for purposes of obtaining licensure to engage in a self-employment occupation or required for ownership and operation of a franchise is not required to certify the starting, ending, and progression of wages.

¹⁵⁰ 38 U.S.C. §3675.

approved by the state as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services for skilled nursing facilities.¹⁵¹

Each institution must submit its catalog or bulletin describing graduation requirements, policies regarding standards of academic progress, policies regarding student conduct and dismissal for unsatisfactory progress, and attendance standards. The institution must be able to demonstrate that it

- keeps adequate records to show the progress and grades of GI Bill participants;
- keeps adequate records to show enforcement of its policies on student conduct and academic progress standards;
- maintains a written record of GI Bill participants' previous education and training, credit awarded, and the effect on the training period;
- has courses, curriculum, and instruction consistent in quality, content, and length with similar courses in public schools and other private schools in the state with recognized accepted standards;
- has adequate space, equipment, instructional material, and instructor personnel to provide training of good quality; and
- has directors, administrators, and instructors with adequate qualifications.

If offered in part or exclusively through independent study, the program must lead to either a college degree or a certificate that reflects educational attainment offered by an IHL.¹⁵²

Correspondence Courses¹⁵³

Correspondence courses usually provide lessons through the mail and have a limited time period for their completion. A program of education offered exclusively or partially by correspondence must be offered by an educational institution accredited by an ED-recognized accrediting agency. In addition, at least 50% of those pursuing the correspondence program or course for six months or more must complete the program or course. The program or course must meet the aforementioned requirements for accredited programs and additional requirements:

- A program of education offered exclusively by correspondence must provide an enrollment agreement to each GI Bill participant. The enrollment agreement describes the obligations of each party, the processes for affirming and terminating the agreement, the refund policy, and requirements to receive GI Bill benefit payments. The GI Bill participant must sign the agreement and affirm such agreement to the VA.
- A program pursued in part by correspondence must offer the residence and correspondence portions sequentially (not concurrently), must not award more credit for the correspondence portion than required to complete the program, and must grant credit toward program completion for the correspondence portion.

¹⁵¹ Skilled nursing facilities are defined in 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)).

¹⁵² Additional independent study requirements are established in 38 C.F.R. §21.4267.

¹⁵³ 38 U.S.C. §§3672(e) and 3686 and 38 C.F.R §§21.4252(e), 21.4256 and 21.4279.

Entrepreneurship Programs¹⁵⁴

An entrepreneurship course is a non-credit NCD 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))). Entrepreneurship courses must be offered by a qualified provider of entrepreneurship courses. A qualified provider of entrepreneurship courses is any small business development center described in section 21 of the Small Business Act (15 U.S.C. 648), insofar as such center offers, sponsors, or cosponsors an entrepreneurship course. The provider must be able to demonstrate that it can maintain adequate records to comply with VA reporting requirements; has adequate space, equipment, instructional material, and instructor personnel to provide training of good quality; and has directors, administrators, and instructors with adequate qualifications.

Nonaccredited Programs¹⁵⁵

Nonaccredited programs are programs offered by educational institutions that are not accredited by ED-recognized entities but exclude entrepreneurship programs. Each institution must submit a catalog or bulletin, which must include

- identifying data, such as volume number and date of publication;
- names of the institution and its governing body, officials, and faculty;
- a calendar of the institution showing legal holidays, beginning and ending date of each quarter, term, or semester, and other important dates;
- institution policy and regulations on enrollment related to enrollment dates and specific entrance requirements for each course;
- institution policy and regulations related to leave, absences, class withdrawals, makeup work, tardiness, and interruptions for unsatisfactory attendance;
- institution policy and regulations related to academic standards of progress;
- institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct;
- detailed schedules of fees and charges;
- institution policy and regulations relative to the refund of the unused portion of charges in the event the student does not enter the course or withdraws or is discontinued therefrom;
- a description of the available space, facilities, and equipment;
- 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
- institutional policy and regulations related to granting credit for previous educational training.

In addition, the institution must demonstrate the following:

¹⁵⁴ 38 U.S.C. §§3452(h) and 3675.

¹⁵⁵ 38 U.S.C. §3676 and 38 C.F.R. §21.4254.

- 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;
- There is adequate space, equipment, instructional material, and instructor personnel to provide training of good quality;
- Educational and experience qualifications of directors, administrators, and instructors are adequate;
- 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, including a record of a proportional reduction in required training for such credit received and notification of such reduction to the eligible person;
- The GI Bill participant will receive 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;
- Upon completion of training, the GI Bill participant is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed;
- Adequate records as prescribed by the SAA are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced;
- The institution complies with all local, city, county, municipal, state, and federal regulations, such as fire, building, and sanitation codes. The SAA may require such evidence of compliance as is deemed necessary;
- The institution is financially sound and capable of fulfilling its commitments for training;
- The institution does not exceed its enrollment limitations as established by the SAA;
- The institution's administrators, directors, owners, and instructors are of good reputation and character;
- Unless waived,¹⁵⁶ 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
 1. in the case of a private institution, such policy provides that the amount charged to the eligible person 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
 2. in the case of a nonaccredited public educational institution, the institution has and maintains a refund policy regarding the unused portion of charges that is substantially the same as the refund policy followed by accredited

¹⁵⁶ The VA may waive this requirement if the educational institution offers postsecondary instruction that leads to a degree, is operated by a state or local government and is located in such jurisdiction, is a candidate for accreditation, and charges no more than \$120 per quarter, \$180 per semester or \$360 per school year in tuition, fees and other charges for the course.

public educational institutions located within the same state as such institution; and

- The institution publicly discloses any additional conditions required to obtain licensure, certification, or approval for unaccredited courses designed to lead to state licensure or certification or to prepare an individual for an occupation that requires such approval or licensure.

Finally, the program of education offered by the institution must meet the following criteria:

- The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses with recognized accepted standards in public schools and other private schools in the state; and
- The programs are not offered in whole or in part by independent study.

Flight Training Programs¹⁵⁷

Flight training programs lead to Federal Aviation Administration (FAA) certifications or ratings to operate aircraft. Three types of flight training programs may be approved for GI Bill purposes:

1. Flight training offered in-house by an IHL for credit toward a standard college degree sought by the GI Bill participant;
2. Flight training that is offered by an IHL through a contract and that provides credit toward a standard college degree sought by the GI Bill participant; and
3. Flight training offered by a non-IHL flight school that has an FAA pilot school certificate, has an FAA provisional pilot school certificate, is exempt from FAA certification but permitted to offer flight simulator training, or has an FAA training center certificate.

For flight training that is offered by an IHL through a contract, the contracted entity must be approved to offer the program and the individual must be eligible to enroll as a GI Bill participant in the contracted program. The IHL must document any mandatory fees and the number of required flight training hours for each course.¹⁵⁸

The program of education that includes flight training must otherwise meet the general approval requirements and the standards for accredited or nonaccredited programs, as applicable. In addition, GI Bill benefits are only available for approved aircraft and a maximum number of hours that are established relative to FAA regulations.¹⁵⁹ For flight training that is not part of a degree program at an IHL, the flight courses must be FAA approved. Nonaccredited flight courses must meet additional criteria:

- All ground school training is in residence; and
- The flight school maintains records of the students' private pilot certificate, prior training, medical certificate, flight log, ground school record, progress log, and other flight-related information.

¹⁵⁷ 38 U.S.C. §3680A(f) and 38 C.F.R. §21.4235 and 21.4263.

¹⁵⁸ Robert M. Worley II, Director, Education Service, "NASAA Mid-Winter Training & Business Meeting," Education Service Updates, February 8, 2016.

¹⁵⁹ In some circumstances, the maximum number of hours may be increased.

Unless the GI Bill participant is enrolled in a ground instructor certification course or flight training offered in-house by an IHL leading to a degree, the participant must have a valid private pilot certificate (or higher pilot certificate) and the requisite medical certificate.

Licensing and Certification Tests That are Not Deemed Approved¹⁶⁰

The SAAs and VA approve licensing and certification tests. Tests are either

- required under federal, state, or local law or regulation for an individual to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession; or
- generally accepted, in accordance with relevant government, business, or industry standards, employment policies, or hiring practices, as attesting to a level of knowledge or skill required to qualify to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession.

There are several requirements of all organizations offering such tests:

- It maintains appropriate records with respect to all candidates who take the test.
- It promptly issues test results.
- It has in place a process to review complaints with respect to the test or the process for obtaining a license or certificate required for vocations or professions.
- It furnishes to the Secretary information as necessary to ensure proper payments.
- It furnishes a description of the licensing or certification test offered, the purpose of the test, required prerequisites for taking the test, the entities that recognize the test, the license or certificate issued upon successful completion of the test, the period for which the license or certificate awarded is valid, and the requirements for maintaining or renewing the license or certificate.

There are several additional requirements of nongovernmental organizations offering such tests:

- It certifies that the test meets generally accepted employment requirements.
- It is licensed, chartered, or incorporated in a state and has offered such test, or a test to certify or license in a similar or related occupation, for a minimum of two years before applying for approval.
- It employs, or consults with, individuals with expertise or substantial experience with respect to all areas of knowledge or skill that are measured by the test and that are required for the license or certificate issued.
- It has no direct financial interest in the outcome of the test or organizations that provide the education or training of candidates for licenses or certificates required for vocations or professions.¹⁶¹
- It provides sufficient information to compare the test with the level of knowledge or skills that a license or certificate attests and the applicability of the test, as requested by the Secretary.

¹⁶⁰ 38 U.S.C. §3689 and 38 C.F.R. §21.4268.

¹⁶¹ This provision does not apply if the entity offers a sample test or preparatory materials to a candidate but does not otherwise provide preparatory education or training to the candidate; or has a financial interest in an organization that provides preparatory education or training of a candidate for a test, but that test is advantageous in but not required for practicing a vocation or profession.

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