

Congress of the United States

Washington, DC 20515

November 12, 2021

The Honorable Denis R. McDonough
Secretary of Veterans Affairs
810 Vermont Avenue NW
Washington, DC 20420

Dear Secretary McDonough,

We write to request clarification regarding the newly released guidance concerning the 85/15 Rule, which may negatively impact the ability of colleges and universities to enroll and serve veterans, including those currently enrolled. As you know, the 85/15 Rule was established to combat the predatory practices of schools targeting veterans using the GI Bill and requires that new enrollments in a program of education be disapproved if more than 85 percent of enrolled students have their tuition or other fees paid for by the Department of Veterans Affairs (VA).

The 85/15 Rule is vital to ensuring student veterans and their eligible beneficiaries receive sound and substantial education and training. However, recent guidance from VA on how this rule will be implemented going forward has caused significant confusion and concern for schools and students. The largest area of concern involves the new interpretation of what constitutes a “supported student.” Until recently, a supported student was generally defined as any student receiving any amount of VA education benefits. VA has now expanded that definition to include any student who receives an institutionally-funded scholarship or grant, any student who is granted any waiver or forgiveness of tuition and fees, and any student using a payment plan. Based on this broad definition, it would now seem that students who do not receive any form of assistance from VA would be included in the 85/15 calculation as supported students.

We have heard from schools around the country that VA’s new interpretation of the law will have significant impacts on their ability to accept student veterans and their beneficiaries, including those students who are activated in the Guard or Reserve components during their academic term. Additionally, school officials have expressed strong concerns about the lack of training and communication from VA on accurate implementation of this new guidance.

As such, we ask that VA review its recent guidance on the 85/15 Rule and provide more clarity and communication to schools and students as to how to meet these new requirements. Additionally, please respond to the following requests no later than December 1, 2021:

- Provide a list of schools and/or programs that have been suspended under the new guidance.
- Why did VA change its guidance on the 85/15 Rule when the statutory language in section 3680 of title 38, United States Code, has not been changed?
- What training and communication has been provided to schools on how to implement this new guidance?

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- If students are activated by the Guard or Reserve during their academic term, will they be unable to return to their educational program if it drops below the 85/15 ratio during their activation?
- What resources is VA providing to school certifying officials to ask questions and gain clarification about the new guidance?
- How many Education Liaison Representatives (ELRs) does VA employ?
- How many schools is each ELR responsible for?
- If a school official cannot get in contact with an ELR, or does not receive satisfactory answers, where else can they receive clarification on this new guidance?

We strongly support VA's efforts to ensure student veterans have positive educational outcomes and are not victims of predatory behavior, but we also want to prevent unnecessary barriers for both schools and veterans, so veterans are able to utilize their earned VA education benefits.

We look forward to continuing to work together to ensure veterans are receiving the highest quality education and training.

Sincerely,



Jon Tester
Chairman
Senate Committee on Veterans' Affairs



Jerry Moran
Ranking Member
Senate Committee on Veterans' Affairs



Mark Takano
Chairman
House Committee on Veterans' Affairs