

June 23, 2022

U.S. Senator Jon Tester, Chair
Senate Committee on Veterans' Affairs
412 Russell Senate Office Building
Washington, DC 20510

U.S. Senator Jerry Moran, Ranking Member
Senate Committee on Veterans' Affairs
412 Russell Senate Office Building
Washington, DC 20510

U.S. Representative Mark Takano, Chair
House Committee on Veterans' Affairs
364 Cannon House Office Building
Washington, DC 20515

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

Dear Chair Tester, Ranking Member Moran, Chair Takano, and Ranking Member Bost:

On behalf of the associations below, representing two- and four-year public and private colleges and universities, thank you for introducing the "Ensuring the Best Schools for Veterans Act of 2022," legislation to address concerns stemming from recent policy changes to the 85-15 rule by the Department of Veterans Affairs (VA). We strongly support this legislation, which will ensure that veterans can continue to enroll in quality programs of their choosing on our campuses. We greatly appreciate your attention to the concerns raised in our March 15 letter to the committee and believe your legislation would fully address them. We also appreciate the committee's careful work to clarify the 85-15 law's "35 percent exemption" so as to ensure that going forward, VA's interpretation of the exemption is consistent with Congressional intent.

The 85-15 rule, provides important safeguards for veterans and their GI bill benefits against waste, fraud and abuse. At its core, the law seeks to ensure that at least 15 percent of the students in any education program are not using GI bill benefits to pay for the program. The presence of these "non-supported" students provides an important indicator of program quality, since a portion of students are willing to pay out of their own pockets. The rule also protects against the creation of programs designed to exclusively target veterans and their generous benefits. Under current law, the 85-15 rule exempts institutions with a total veteran population of less than 35 percent from having to compute or submit 85-15 ratios on a program-by-program basis. As the legislative history explains:

[I]n educational institutions where 35 percent or less of the total enrollment are veterans in receipt of [G.I. bill benefits], the imposition of the requirement of computation [of 85-15 ratios] on a course-by-course basis can result in burdensome and costly recordkeeping requirements with little tangible demonstration that accountability has been assured or abuse has been curbed.

123 Cong. Rec. 23254 (1977).

Unfortunately, as part of VA's 85-15 reset, the VA has required institutions to submit 85-15 ratios as part of their application for the 35 percent exemption -- contrary to the clear letter of

the law and its legislative history. As a result of this change, and changes to VA's guidance about when a student is considered "supported," numerous programs at colleges and universities across the country will be prohibited from enrolling veterans next term. We note that in many cases, programs have lost eligibility ***even though there is not a single veteran enrolled in the program*** – a result turns the purported rationale of the 85-15 rule on its head.

Based on surveys of our members and other data, we estimate that with a few exceptions, nearly all of our institutions have veteran populations below 35 percent, and in most cases, well below this threshold. According to one recent survey of independent non-profit colleges, 99% of respondents reported they served student veterans, with nearly 90 percent participating in the Yellow Ribbon program. With only one exception, all the institutions indicated that that they had fewer than 35 percent veteran student enrollment on campus. Unfortunately, of the institutions who have heard back from VA regarding their 35 percent exemption, more than 20 percent had programs deemed ineligible for veteran enrollment. These included many programs popular with student veterans including programs in information systems, computer science, cybersecurity, criminal justice, liberal arts, teaching, health care, nursing, masters in leadership, and masters in business administration programs, to name a few.

By clarifying the 35 percent exemption, your legislation will undo the negative impacts of VA's recent policy change on institutions with low total veteran populations and the veterans they serve. It will also ensure that veterans who attend these institutions will be able to enroll in their program of choice. For many institutions, registration for the fall term will begin this August. We appreciate that your legislation will be effective upon enactment to help eliminate any disruptions for student veterans this fall. Without this critical fix, institutions will be forced to deny veterans from enrolling in certain programs at their campuses, and in some cases, may be forced to turn them away entirely.

Colleges and universities greatly appreciate your efforts to address the negative consequences brought on by these recent policy changes. The legislation has our full support and we look forward to working with you to help move the bill swiftly to final passage. We thank you and your staff members for your efforts crafting legislation that reflects a considered and balanced approach and restores the original intent of the law.

Sincerely,

Ted Mitchell
President

On behalf of: