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January 22, 2009

Director, Regulations Management (02REG)
Department of Veterans Affairs
810 Vermont Avenue NW
Room 1068
Washington, DC 20420

Submitted in response to RIN 2900-AN-10—Post-9/11 GI Bill

Dear Sir or Madam:

The American Association of State Colleges and Universities (AASCU) welcomes the opportunity to comment on proposed regulations governing the Post-9/11 GI Bill. AASCU is deeply appreciative of the far-reaching opportunity this bill offers veterans and their families to attend college.

However, given that this is a new program with considerable administrative complexities, AASCU has the following initial suggestions and requests for clarification for the U.S. Department of Veterans Affairs:

- 1) *Definitions in course measurement.* The calculations of course measurement are defined in §21.9750. Point (a2) indicates that 14 credit hours will be considered full-time enrollment unless the Institution of Higher Learning (IHL) certifies that all undergraduate students enrolled for 12 or 13 hours are charged full-time tuition or are considered full-time for other administrative purposes. Since Title IV financial aid programs of the Department of Education define full-time enrollment as 12 credits minimum, AASCU recommends that the U.S. Department of Veteran Affairs use the same definition of full-time student enrollment as the U.S. Department of Education for ease of student understanding and reduced policy confusion.
- 2) *Updating/modernization of regulation language.* AASCU recommends the modernization of regulation language in the proposed regulations. Under §21.9590 Approved programs of education and courses, bullet 2, in the section that discusses approval for course work and tuition payments, the term “course deficiency” is used: “(2) Be pursuing refresher or deficiency courses, (3) Be pursuing other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education” (p. 78895 of NPRM). Higher education currently uses the terms “remedial coursework” or “developmental courses” to indicate necessary coursework designed to help people with learning deficiencies in a specific subject area to

improve their skills or knowledge to a requisite level of understanding sufficient for successful course completion. At the regional meeting in Washington, DC, answers to questions about VA funding for developmental coursework were inadvertently misleading due to the lack of understanding of modern higher education language usage. AASCU recommends, where possible, that VA include multiple word usage to convey broadest understanding of terms to the higher education community. For example, VA can amend the language to include modern terminology in parenthesis so a communication gap is not created that will affect interpretation at the college/university and state certifying official level.

- 3) *Regulation language pertaining to the housing stipend.* Section 3313 of the legislation specifically excludes payment of the monthly housing allowance to individuals pursuing a program of education offered through distance learning. While AASCU recognizes that the Post-9/11 GI Bill regulation cannot override the legislative decision to deny the housing stipend for veterans pursuing online degrees completely via distance learning methods, the proposed language making the housing stipend available to veterans who enroll in at least one classroom-based course opens the flood gate for numerous circuitous efforts, both by institutions of higher learning *and* individual veterans, to finesse the VA payment system.

For example, “at least one course” may be construed to mean as little as 1 or .5 credit hour course to enable online learners to be eligible for the housing stipend. A proliferation of one-credit hour “ground” courses in specific geographic locations may be created by distance learning institutions to meet the technical eligibility requirement for the housing stipend. Individual veterans may also quickly determine how to manipulate the payment system by enrolling in at least one course of classroom-based study per enrollment period.

Thus AASCU recommends adding qualifiers to the “at least one course” language to denote the minimum unit or percentage of rate of pursuit (e.g., 3 semester hours, one-quarter attendance time) in order to avoid efforts to “game” the payment system. Student options to work around the regulation definitions will significantly increase VA accounting costs and payments with tuition disbursements to multiple institutions per veteran.

- 4) *Impact of §21.9675 (d) “No educational assistance for certain enrollments,” condition (5) on special academic programs for veterans.* AASCU requests the VA clarify whether the veteran–nonveteran ratio requirement would include cohort programs being established to support student veterans through their transition from the military to civilian college life such as Cleveland State University’s SERV program. Some cohort programs feature veteran-only courses at their beginning for retention, camaraderie, and support purposes; not allowing courses in these cohort programs to be paid for by the VA would be a significant blow to the support structures being developed for student veterans in their transition to the classroom.
- 5) *Recoupment issues concerning redeployed students and Post-9/11 GI Bill funds.* At the regional meeting in Washington, DC, the issue was raised of whether the VA will expect an IHL to return money to the VA if a student is redeployed before an official term start but after Post-9/11 GI Bill tuition and fee benefits have been paid to the IHL. The answer at that meeting was that the VA would not expect the IHL to return the money under the rationale that if a student is redeployed by the military, neither the student nor the institution that has made outlays for instructional costs should be penalized. Given the potential sums of money involved, AASCU requests affirmation in

final regulations of whether in fact VA is willing to absorb costs in the case of a redeployment and leave both the student whole and the institution unharmed.

- 6) *Long-term implementation plan issues.* The implementation of the Post-9/11 GI Bill faces many challenges, not the least of which are timely payments to institutions and individual veterans. To the extent possible, AASCU recommends VA leverage automated procedures and processes utilized by the Department of Education in the disbursement of federal financial aid as a long-term solution for implementing financial payments for veteran education benefits. Supporting reasons include:
- Department of Education interfaces with 6000+ schools and universities including career and vocational schools to deliver Title IV benefits with extensive overlap with Post-9/11 GI Bill schools
 - Department of Education disburses over \$80 billion annually in financial aid (\$28 billion in Direct Loans and Pell Grants annually through its Common Origination and Disbursement [COD] system)
 - Department of Education financial aid origination and disbursement system can be seamlessly integrated with existing systems/Web sites that are familiar to veterans
- 7) *Yellow Ribbon Program master agreement issues.* In order to ease administrative burden on both the VA and on individual IHLs, AASCU recommends that the VA use a single master agreement with separate sections for different schools/programs at an institution. This will help prevent potential confusion and duplicate effort (particularly at large institutions with both undergraduate and graduate/professional programs participating in the Yellow Ribbon Program) and help streamline the process of Yellow Ribbon Program implementation.
- 8) *Self-verification of enrollment by student veterans.* AASCU requests clarification of §21.9730, specifically the requirement that student veterans submit their own verifications of enrollment each month to receive the Post-9/11 GI Bill housing allowance after an initial verification of enrollment by the institution. As currently written, the student would be required to report on his/her own “unsatisfactory conduct, progress, or attendance” (which is problematic in terms of creating a conflict of interest for students or requiring students to accurately interpret each professor’s course policies according to the VA rules), yet the institution can be held liable for “willful or negligent failure to report excessive absences from a course, discontinuation of a course, or interruption of a course from an individual or from willful or negligent false certification by the institution of higher learning.”

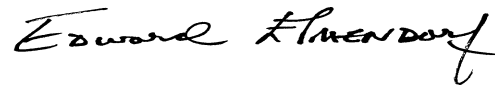
Given the breadth of variation at the college/university level in who is responsible for setting attendance policy and what freedom faculty members have to set their own attendance policies (which could include separate grades for attendance and subject mastery, making it possible for a student in the class to get a low grade on attendance but still pass the course on subject mastery alone), a monthly verification of attendance by a student—with the institution being potentially held liable for “negligent failure to report”—seems ripe for confusion, inaccuracy, and unintentional errors by all parties involved. Also, given the breadth of the Post-9/11 GI Bill, faculty members who may have never dealt with the VA or student veterans before may construct attendance policies that directly conflict with the proposed VA regulations but not know the conflict exists.

Thus AASCU requests the VA clarify how verification of attendance will be handled, what cross-checks and processes of appeal will be implemented, and how the higher education community—not simply VA certification officers, but faculty as well—will be informed regarding this complex requirement.

- 9) *Issues regarding §3318 and rural relocation benefit determinations.* AASCU requests the VA clarify the processes that will be put into place for student veterans to appeal determinations of ineligibility for the rural relocation benefit. Given variances in Internet search engines' mapping, it is possible that a student veteran may qualify for the rural relocation benefit using Search Engine A, but not Search Engine B (the one used by the VA). While this is only expected to affect a small population of student veterans, AASCU nevertheless suggests that a clearly defined appeals process would benefit both the VA and the student veteran.

AASCU thanks the VA for the opportunity to comment and looks forward to working with the VA to implement the Post-9/11 GI Bill and assist America's veterans in enrolling in colleges and universities to earn degrees.

Sincerely,

A handwritten signature in black ink that reads "Edward M. Elmendorf". The signature is written in a cursive style with a prominent loop at the end of the last name.

Edward M. Elmendorf
Senior Vice President
Government Relations and Policy Analysis