

**Comments on the Student Veteran Benefit Restoration Act**

May 15, 2026

Comments based on the **original text** as introduced in consideration of any committee legislative hearing, mark-up, or passage

CECU submits the following comments and recommendations on the Student Veteran Benefit Restoration Act (H.R. 1391) to the House Veterans Affairs Committee. Our comments and recommendations aim to create necessary procedural guarantees and align with our position shared with the Committee in August 2023 on the compromise **amended text** that passed the Committee and House with overwhelming bipartisan support. The sections for recommended changes are bolded at the beginning of each recommendation.

**Covered Periods**

- **§ 3699C(b)**. The liability created in the bill should be enforceable for actions taken only after enactment of this bill. **CECU recommends** maintaining language to limit liability for determined fraudulent actions leading to enrollment and use of VA benefits to a period after enactment of this legislation.

**Repayment of Funds**

- **§ 3699C(c)(1)**. The limited liability established in this section appropriately applies restoration for only “the amount of that portion of the covered educational assistance that the education institution received for that individual,” ensuring only verified individual claims and not unsubstantiated group claims based on a summary review are eligible for repayment. **CECU recommends** maintaining language limiting institutional financial liability to only amounts directly attributable to an individual’s claims that prove fraud and only after all appeals have been exhausted.
- **§ 3699C(c)(2)**. The False Claims Act centers liability for fraud around “knowingly” submitting false claims to the government. **CECU recommends** amending the language to state, “...an educational institution that has been found guilty of, or liable for, knowingly committing fraud...” as the basis for a court of competent jurisdiction’s determination of fraud.
- **§ 3699C(c)(?)**. Any final determination that an institution has engaged in fraudulent behavior and is subject to repayment of funds to the Secretary should occur only after institutions have had opportunities to review all Secretary findings, including original claim and all appeals findings, and exercise all options to appeal. **CECU recommends** adding a new section stating that a final repayment of funds determination under **§ 3699C(c)(1)** and **§ 3699C(c)(2)** can only be made after all reviews and appeals have been completed, pursuant to **§ 3699C(d)**.

**Review and Appeals**

- **§ 3699C(d)(?)** CECU is extremely concerned that there is due process provided to the institution before a final determination that an institution engaged in fraudulent behavior and must repay the Secretary or Federal Government. **CECU recommends** adding new language stating that any determination of fraudulent behavior leading to repayment of funds to the Secretary or Federal Government cannot be made until all reviews and appeals at the Department of Veterans Affairs or appellate courts have been completed.

- **§ 3699C(d)(1)**. This section appropriately grants educational institutions or owners of educational institutions a review of the Secretary’s findings but also directs the Secretary to establish a process for requesting a review of findings. CECU recommends adding language directing the Secretary to establish a review and appeals process that includes a necessary standard of proof, an opportunity for review and response, and appeal options at the Department of Veterans’ Affairs.

CECU notes the hard work performed by the Committee to reach a bipartisan compromise on the Student Veteran Benefit Restoration Act that passed the Committee and the House under suspension of the rules in 118<sup>th</sup> Congress. CECU encourages bipartisan agreement during consideration of H.R. 1391 and submits the following comment expressing concerns and opposition to Department of Veteran Affairs restoration determinations based on the Department of Education’s Borrower Defense to Repayment rule that was included in last Congress’s amended text.

### **Borrower Defense to Repayment Lacks Adequate Process for Veterans’ Affairs Reliance**

The Department of Education’s Borrower Defense to Repayment program has proven to be an unreliable and potentially illegal mechanism to adjudicate claims of fraud and misrepresentation. The fourth iteration of the BDR rule currently faces a strong challenge in court, and the 5th Circuit issued an order postponing the effective July 1, 2023, date of the 2022 borrower defense to repayment and closed school loan discharge regulations. Public Law 119-21, signed into law on July 4, 2025, delays the BDR rule until July 1, 2035.

The BDR Rule effectively creates broad liability for schools for any substantial misrepresentation about the institution or its programs, financial matters, or employability, even if inadvertent and not intentionally deceptive. Additionally, the final rule makes schools liable for omissions of fact, even if it does not make actual representations misleading, if the information would have been deemed material to an enrollment or attendance decision. More concerning, although the Department agreed with CECU that a borrower must show that the injury or omission causes injury to him or her, the Department will presume injury to every borrower if group claims are brought. *Schools are afforded no practical opportunity to contest injury and rebut that presumption, and absent such rebuttal every borrower in the group will receive full discharge of his or her loans if a misrepresentation, omission, or other violation is proven. The Department will then seek recoupment of all the discharged debt from schools in a summary “program review” proceeding that does not afford adequate due process protections.* Thus, any school that is found to have engaged in a misrepresentation or omission (even if inadvertent) that gives rise to a group claim could face potentially existential liability if the presumptively affected group is large enough.

The use of BDR as a mechanism for VA Student Veteran benefit restoration lacks necessary procedural guarantees for institutions to meaningfully respond to borrower allegations. The VA should retain its authority over VA student benefit programs and provide schools with necessary and prudent opportunities to respond to claims of fraud or misrepresentation.

*CECU recommends provisions for creating an automatic referral of BDR claims to the Department of Veterans’ Affairs not to be included in the legislation.*

For questions or comments:

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