



VETERANS EDUCATION SUCCESS

Testimony of

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Legislative Hearing

**House Committee on Veterans' Affairs
Subcommittee on Oversight and Investigations**

September 19, 2019

Chairman Pappas, Ranking Member Bergman, and Members of the Committee:

Thank you for the opportunity to provide insight into the debt collection practices at the Department of Veterans Affairs (VA). Veterans Education Success is a non-profit organization that works to advance higher education success for all military-affiliated students and provides free counseling and legal assistance to students using their GI Bill and military benefits.

We are very appreciative of all the hard work this Subcommittee puts into ensuring that the vital function of oversight is properly conducted. We are happy to offer the following comments on VA's debt collection practices and overpayment issues regarding VA educational benefits.

VA's debt collection practices are a critical issue impacting hundreds of thousands of veterans each year. Current VA debt collection practices impact veterans and their families in myriad ways: withholding disability benefits, negative credit reports, large unexpected debts, and other consequences that greatly impact veterans' quality of life.

We have helped approximately 5,000 veterans with GI Bill problems. We have seen a recent uptick in the number of military-connected students who are experiencing VA clawbacks of their earned education benefits, giving us a first-hand view of how opaque and, frankly, Kafkaesque the process can be.

Recommendations

We urge that the Committee take up the following recommendations:

1. **Enact the Forever GI Bill Class Evaluation Act**, which would help solve a major cause of GI Bill overpayments by delaying GI Bill disbursement until the student has completed 10 days of classes, has cleared the add/drop period, and is certain about which classes s/he is taking. This would also help solve GI Bill overpayments by stopping the “Just 1 Day” mentality of unscrupulous college recruiters (who mislead veterans about the college’s offerings because they know the college will receive the full term of GI Bill tuition if a veteran sits for just one day of class).
2. **Enact the Student Veteran Empowerment Act**, which would also help solve GI Bill overpayments by requiring VA to undertake monthly verification of Post-9/11 GI Bill enrollment, just like VA already does with the Montgomery GI Bill, in order to catch enrollment changes earlier and not create overpayments by disbursing too much money. Monthly verification of Post-9/11 GI Bill enrollment is one of the Government Accountability Office (GAO)’s recommendations from its 2015 report on GI Bill overpayments.¹
3. **Align VA’s tuition clawbacks with the US Department of Education**. Since both VA and the Department of Education send tuition directly to the school, it is the school that should pay back any tuition overpayment. The Department of Education handles this directly with schools through “Return to Title IV” procedures. But VA currently requires students to repay tuition funds that never touched the students’ hands. It is unfair to ask students to come up with tens of thousands of dollars, or more, in tuition funds they never touched, which VA sent directly to the school. VA should be aligned with the Department of Education on tuition clawbacks.
4. **Require VA to bring its debt collection practices in line with federal statutes and lessen its aggressive practices**. VA’s regulation calls for, and VA engages in, very “aggressive” debt collection practices. But VA’s regulation and practices are not

¹ U.S. Government Accountability Office, “Post-9/11 GI Bill: Additional Actions Needed to Help Reduce Overpayments and Increase Collections” (Oct. 2015), 10, *available at* <https://www.gao.gov/assets/680/673230.pdf>. GAO made eight recommendations to the VA to address those issues. These recommendations include: expanding monitoring of available information on overpayment debts and collections; providing guidance to student veterans and schools about the consequences of enrollment changes; providing guidance to schools about the benefits of using a dual certification process; implementing a way for GI Bill beneficiaries to verify enrollment status monthly; expanding the methods by which veterans and schools are notified of overpayment debts; including both the cause of the debt and how to repay it in debt letters; revising policy for calculating overpayments to increase collection; and ensuring full recovery of tuition and fee payments if a school does not charge a veteran for any tuition or fees after dropping a class or withdrawing from school. So far, VA has fully addressed only one recommendation and partially addressed three. VA now provides additional guidance in GI Bill award letters about the possible consequences of changes to enrollment. VA reported to GAO that it plans to implement a monthly enrollment verification system in December 2020, and it has deferred other actions for a later date, citing IT upgrade plans for Fiscal Year 2019 as a reason for the delay. There is no indication on the GAO action tracker that VA has expanded monitoring of overpayment debts and collections, expanded the methods by which veterans are notified of overpayment debts, or included both the cause of overpayment debts and how to repay them in initial debt notification letters.

supported by statute, and are unfair to veterans, especially because most debts are inadvertent and unwitting. VA should be required to bring its regulation in line with the statute. VA should also be required to dramatically change its debt collection practices when the cause of the debt is VA's own error in accounting or approval of benefits. For example, "retroactive adjustments" to GI Bill benefits are not fair to a student who has already finished the classes. If VA authorizes a student to attend classes, but later determines the student received a GI Bill overpayment, it is VA that should bear the burden of that mistake, because the student already counted on that GI Bill payment for the classes.

5. **Forbid VA from driving veterans into homelessness or hunger. Embrace the draft Senate bill that would limit VA from taking more than 25% of a veterans' benefits to cover unrelated debts to VA.** GAO determined that VA collects most debts by withholding a veteran's other benefits, such as disability compensation for disabled veterans. Congress should forbid VA from taking a veteran's other VA benefits if taking those benefits would drive the veteran into hunger or homelessness. America does not need more homeless veterans, especially not disabled veterans, who rely on the VA disability compensation for housing and food. The House could take up the draft Senate legislation that would limit VA from taking more than 25% of a veteran's benefits to cover unrelated debts to VA. VA also should slow down the reporting of debts to credit agencies and the Treasury in situations where VA is unable to reach a veteran, so that veterans are not unnecessarily harmed due to a potential administrative issue.
6. **Require VA to modernize its letter process and make the information clearer.** As GAO recommended, VA should expand its notification methods to do a better job of reaching veterans beyond letters in the regular mail. VA should install a central address updating system and allow debt collection letters to be sent via email; update its IT infrastructure so it is not relying on letters sent in the mail to outdated addresses; and collaborate with Veterans Service Organizations to create simple, easy to understand letters that clearly indicate the reason for the overpayment, the amount of the overpayment, and how to repay it. (GAO made the same recommendation in its 2015 report.) Veterans deserve clear information. Congress could ask GAO to conduct a review of best practices in debt collection from other agencies and the private sector to ensure VA's internal structure is modernized and clear.²

Below please find background information and more details on each of these recommendations. We appreciate the Subcommittee's time and attention:

I. GI Bill Overpayments are a Key Problem for Veterans

² 38 USC § 3685(c).

While 88% of VA overpayment debts are related to veterans' health benefits, there has been an increasing number of students using their GI Bill benefits who have incurred overpayment debts.³

GI Bill Overpayments Affect 1 in 4 Beneficiaries: A startling one in four student veteran beneficiaries are affected by an overpayment, according to GAO. In October 2015, GAO released a report analyzing Post-9/11 GI Bill overpayments and VA debt collection efforts.⁴ GAO found that, in Fiscal Year 2014, VA had made \$416 million in Post-9/11 GI Bill overpayments, affecting 1 in 4 beneficiaries.⁵ For-profit institutions received twice as much in overpayments as nonprofit schools and nearly twice as much as public schools.⁶

GI Bill Overpayments are Caused Partly by VA's Payment of Full Tuition After "Just 1 Day": A major cause of GI Bill overpayments is the way VA disburses GI Bill tuition to a school for the entire term after a student sits for just 1 day of class. If a student withdraws or drops a class after the first day, VA nevertheless disburses to the school the entire term of tuition and fees for that student.

This incentivizes predatory schools to use deceptive tactics to convince military-connected students to sit for just 1 day. This "Just 1 Day" mentality leads unscrupulous schools to focus primarily on convincing a veteran to enroll, rather than on the academic success of their students. Veterans who have come to us for help have told us that unscrupulous recruiters lied to them about the types of classes and programs offered, the school's true tuition and how much they would need to pay out of pocket beyond the GI Bill, the school's accreditation and their ability to transfer to a public university, whether the school had real professors, the classroom equipment available, and more. From a recruiter's viewpoint, they are under pressure from their college to enroll veterans with the GI Bill (because the GI Bill is seen as the "military gravy train" and recruiters are told to "get asses in classes," as one recruiter testified before Congress⁷), and may be less than honest in order to get the veteran to enroll.

This problem is exacerbated by the 90/10 loophole in the Higher Education Act, which inadvertently incentivizes for-profit colleges to target veterans with aggressive and deceptive recruiting in order to get the GI Bill, which the schools use to offset the cap on Title IV funds they otherwise face.⁸ Many such schools explicitly adopt a business model called "churn," in

³ Bureau of Consumer Financial Protection, Office of Servicemember Affairs, Annual Report (Jan. 2019), 12, available at https://files.consumerfinance.gov/f/documents/cfpb_osa_annual-report_2018.pdf.

⁴ *Supra* note 1 at 35.

⁵ *Id.* at 10.

⁶ In Fiscal Year 2014, for-profit schools received \$70 million in overpayments, non-profit schools received \$32 million, and public schools received \$44 million. *Id.* at 13 n.20.

⁷ See Testimony of Christopher Neiweem, former recruiter for DeVry, before the US Senate Appropriations Committee, Subcommittee on Defense (June 12, 2013), available at <https://www.appropriations.senate.gov/imo/media/doc/hearings/Neiweem%20Testimony.pdf>.

⁸ *For-Profit Colleges, Vulnerable G.I.'s*, Hollister K. Petraeus, The New York Times (Sep. 21, 2011), available at <https://www.nytimes.com/2011/09/22/opinion/for-profit-colleges-vulnerable-gis.html>.

which they plan for students to drop out quickly, so they focus on quick and short enrollments.⁹ This causes significant waste, fraud, and abuse of a student's hard-earned education benefits and taxpayer dollars.

In contrast to VA's disbursement of a full term of GI Bill after just 1 day, the US Department of Education delays disbursement for new students and prorates the amount of tuition the school has "earned" during the term, up until 60 percent of the semester has passed (after the 60 percent cutoff, a school is viewed as having earned 100 percent of the term of Title IV funds).

"Forever GI Bill Class Evaluation Act" Can Solve This: The House Veterans Affairs Committee recently introduced draft legislation titled the "Forever GI Bill Class Evaluation Act," which would defer disbursement of GI Bill payments until 10 days after the start of the academic term.¹⁰ This bill would greatly benefit both VA and student veterans. It would address the problem of overpayments to the school by only paying for classes after the add/drop date has passed.

GI Bill Overpayments are Also Partly Caused by VA's Slow Enrollment Verification:

According to the GAO report, the biggest cause of GI Bill overpayments in 2014 was veteran enrollment changes, which caused 90% of GI Bill overpayments (VA error constituted 2% and school error 8%).¹¹

A majority of schools rely on a single-stage certification process that is prone to creating overpayments.¹² The problem occurs when a student drops a class early in the semester, even during the add/drop period, but VA does not find out until the end of the semester and has already paid the school for the dropped course, creating an overpayment. The students followed all normal school procedures during the add/drop period, so many veterans are surprised by VA's assertions that they have a GI Bill overpayment.

GAO recommended VA adopt a two-stage certification process that can help reduce overpayments due to enrollment changes:

"Schools can initially precertify a veteran's enrollment for \$0 tuition and fees before the term begins, which allows VA to start paying housing benefits without delay. The school can then recertify the enrollment with the actual tuition and fees amount at a later date – e.g., after the period to add or drop classes ends when many enrollment changes have already occurred. Since VA does not send tuition payments until the school certifies an actual tuition and fee amount, dual-certification can help prevent tuition overpayments that occur when a veteran drops a class at the beginning of the term."¹³

⁹ US Senate Health, Education, Labor and Pensions Committee, For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success (Jul. 30, 2012), 77, available at https://www.help.senate.gov/imo/media/for_profit_report/PartI-PartIII-SelectedAppendixes.pdf.

¹⁰ US House of Representatives, Committee Repository, available at <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=109773>.

¹¹ *Supra* note 1 at 12.

¹² *Id.* at 19.

¹³ The GAO report identified an issue with school officials having inadequate training, which contributed to reporting errors. Congress addressed this issue by granting VA the ability to set training requirements for

VA discussed the benefits of dual-certification in a 2016 webinar for schools, although it is not clear the extent to which VA has been informing schools of dual-certification's benefits.¹⁴

The Student Veteran Empowerment Act (Section 5) would help solve this: Section 5 of the Student Veteran Empowerment Act requires monthly verification of Post-9/11 GI Bill enrollment, which VA already does for the Montgomery GI Bill. This would help solve VA's slow verification of enrollment.

II. VA Wrongly Claws Back GI Bill Tuition Overpayments from Students, Rather Than Schools, Even Though Schools Received the Tuition Payments Directly from VA

When a student drops a class or drops out - after discovering that the school was not what was promised, which is fairly common with the aggressive and deceptive recruiting by predatory colleges - an overpayment is created. Even though schools receive GI Bill tuition payments directly from VA, VA goes after the student, rather than the school, when there is a GI Bill overpayment. It does not make sense to place the burden on student veterans to repay tuition overpayments when the tuition funds were sent straight to the school from VA and never touched the student's hands. Students are shocked and overwhelmed when they receive a letter from VA requesting tens of thousands of dollars, sometimes even \$100,000, for tuition overpayments, when they never had access to those funds. How are students expected to come up with thousands of dollars in cash to repay money they never had?

And what happens when a student asks the school to give back the tuition overpayments? Many bad actor schools laugh in a student's face. The student is on the hook, but the bad actor school keeps the money.

Agency Alignment with the Education Department Could Solve This: Instead of clawing back from students tuition payments that went directly to the schools without touching the students' hands, VA should work directly with schools to return overpayments. The US Department of Education currently takes this approach with overpayments of federal student aid funds.¹⁵ VA could make a number of changes to its debt collection process, including its collection methods, how it notifies students of overpayment debt, how it tracks overpayment debt, and the information it provides to schools about GI Bill certification methods.

III. VA's Aggressive Debt Collection Practices Harm Veterans, Undermine Military Readiness, and Are Not Supported by Statute

school officials. Considering VA's lack of action on GAO's recommendations from the 2015 report, it would be worth it to determine whether VA followed Congress's statutory directive to set these requirements. *Id.* at 20, 22.

¹⁴ VBA Education Service Quarterly Webinar (Jun. 2, 2016), *available at* https://www.benefits.va.gov/GIBILL/docs/presentations/SCO_Webinar_06-02-2016.pdf.

¹⁵ *Supra* note 1 at 8.

VA's regulations allow aggressive debt collection from veterans that can often hurt veterans and their families.¹⁶

VA's Practices are Not Supported by Statute: VA's aggressive debt collection practices are not supported by statute. Federal statute provides:

*"any overpayment... may be recovered... in the same manner as any other debt due the United States."*¹⁷

VA's regulations instead call for very aggressive debt collection. Specifically, 38 CFR § 1.910- "Aggressive collection action," section (a) states:

*"VA will take aggressive collection action on a timely basis, with effective follow-up, to collect all claims from money or property arising from its activities."*¹⁸

VA's Practices are Traumatic to Veterans: In practice, the impact on veterans is significant. VA has sent out hundreds of thousands of overpayment notification letters in the past few years, and annually recoups around \$1.6 billion in debts.¹⁹ To recoup overpayments, VA is allowed to withhold up to 100% of a veteran's monthly disability benefits until the debt is fully repaid.²⁰

One family we helped had this to say about the stress of the situation:

*"VA is charging our son \$100,000+ GI Bill/911 saying he doesn't qualify for the benefit...they paid four years college and now...four years later they sent a letter asking to pay back that amount of money. We called them every semester and received letters of the remaining of months/benefit. We are under a lot of stress with this...my husband is an 80% Disabled Veteran with 22 years of service/ honorable discharge and I am a disabled person...I don't stop crying."*²¹

VA Withholds Much-Needed Living Allowance for Disabled Veterans and other Benefits:

VA's debt collection process for overpayment debts is too aggressive and puts the livelihood and wellbeing of veterans, servicemembers, and their families at risk. Most often, overpayments are collected directly from subsequent GI Bill or other VA payments to veterans.²²

¹⁶ 38 CFR § 1.911, "Collection of debts owed by reason of participation in a benefits program," governs the debt collection practices of the VA. It outlines the procedure the VA uses for benefits programs like the GI Bill and other education benefits: There must be written demands by the VA once a debt is determined to exist (1.911(b)), and the debtor has a right to informally dispute the amount of the debt, request a waiver of collection and a hearing on the waiver request, and finally appeal the VA's decision underlying the debt (1.911(c)).

¹⁷ 38 USC § 3685(c).

¹⁸ 38 CFR § 1.910- "Aggressive collection action."

¹⁹ *Veterans shouldn't have to shoulder VA errors: VA debt collection must be improved*, Kayla Williams, The Hill (Mar. 28, 2019), available at <https://thehill.com/opinion/healthcare/436219-va-debt-collection-must-be-improved>.

²⁰ *Id.*

²¹ E.R., a mother of a veteran who telephoned Veterans Education Success to seek help on Aug. 19, 2019.

²² *Supra* note 1 at 15.

Veterans²³ have four options once they receive a letter from the Debt Management Center (DMC): “[T]hey can arrange to repay the debt in full, set up a payment plan, dispute the existence or amount of the debt, or request a waiver of the debt due to financial hardship or special circumstances.”²⁴ If a veteran does not pursue one of these four options, VA takes more aggressive steps to collect the debt, such as offsetting future Post-9/11 GI Bill payments, other VA benefits, or tax returns, and reporting debts to credit rating agencies.²⁵

In its report, GAO found that, at least in Fiscal Year 2014, VA tapped into veterans’ other benefits to cover 84% of debts, and another 12% of payments came from other federal payments, such as a veteran’s tax funds or social security checks.²⁶

What this means in practice can be horrific. Too often, VA will withhold a veteran’s much-needed benefits like disability compensation. Pulling the rug out from under veterans’ feet like this can prevent them from finishing their schooling and have devastating effects on their health and well-being. By going after veterans’ much-needed basic funds for housing and food, VA’s debt collection practices could leave them homeless or hungry. Veterans rely on disability compensation to make ends meet.²⁷ In less dramatic cases, when VA offsets a veteran’s benefits, such as a student’s Basic Allowance for Housing, it could prevent the veteran from covering his or her expenses and continuing his or her education.²⁸

Worse still, by taking a veterans’ much-needed benefits, VA could push veterans with PTSD and other psychological disorders over the edge.

For example, MSG Tad Steckler, a recipient of the Soldier’s Medal for heroism who retired after serving for 22 years, was suddenly faced with a \$21,000 disability compensation overpayment. Steckler was unable to work due to his service-connected disabilities, and the added stress of this unexpected debt and possible deduction from his benefits reportedly exacerbated his PTSD symptoms. Loved ones were afraid to leave him alone due to disturbing comments he made that indicated he was contemplating suicide. At one point, he told VA representatives, “How are you going to get the money if I’m dead?” Steckler’s story highlights the adverse effect VA debt collection practices can have on veterans.²⁹

In another example, LCpl Brian Easley, a Marine Corps veteran who suffered from PTSD and schizophrenia, attempted to rob a bank after VA garnished his disability compensation to

²³ Schools have similar repayment options and are responsible for an overpayment if it is made before the start of the semester. *Id.* at 5.

²⁴ *Id.* at 7.

²⁵ *Id.*

²⁶ *Id.* at 15 n.22 (“In fiscal year 2014, VA collected 61 percent of veteran overpayments by deducting the debts from subsequent GI Bill or other VA payments, 23 percent from direct payments, 12 percent from offsetting other federal payments, and 5 percent from private debt collection agencies.”)

²⁷ *The VA overpaid tens of thousands of veterans, and now it says they have to give their money back*, Sara Jerving, Vice (Mar. 27, 2017), available at https://www.vice.com/en_ca/article/ywn9xb/va-veterans-overpayment.

²⁸ *Id.*

²⁹ *Id.*

recover GI Bill overpayments.³⁰ Easley's story ended abruptly after he was killed by police during crisis negotiation.

In March of 2019, a bipartisan group of Senators introduced legislation that would limit the amount VA can withhold from veterans' benefits to 25% and limit the recovery period of overpayments to 5 years.³¹ Senator Jon Tester, speaking on VA debt collection practices and the proposed legislation, said, "It's wrong to put the debt from the VA's accounting mistakes on the shoulders of men and women who have served their country."³²

VA's Retroactive Readjustments of GI Bill Benefits can be Harmful to Veterans: Veterans who bring complaints to Veterans Education Success largely fall into two main overpayment situations: overpayments for enrollment changes, and retroactive readjustments of GI Bill benefits awarded to a veteran. We have seen VA retroactively lower the percentage of GI Bill benefits to which a veteran is entitled after the veteran has begun using the benefits, and even after the veteran has left school. This can often occur years later, many times for substantial amounts, as much as \$100,000.

One such case brought to Veterans Education Success involved a beneficiary who had had the Post-9/11 GI Bill transferred to her by her father, who was assured by his personnel office that retiring 33 days before the end of the two-year service obligation he incurred for transferring his education benefit would not affect that benefit transfer. Seven years after her father retired, and six years after she graduated, VA sent the beneficiary a debt collection notice stating that she owed up to \$100,000, and that they were also going to restore *her father's* education benefit, in clear contravention of the wishes of the family.

If the veteran lied or misled VA in some way, then it is understandable for VA to request reimbursement. Absent that, and with enrollment certified by VA officials every semester, Congress should give serious consideration as to whether it is fair to retroactively change a veteran's GI Bill payments when he or she has already finished the classes. In these cases, veterans rely on a promise that the GI Bill would cover their classes, VA comes back to the veteran after the classes are completed to say it was a mistake, and the veteran needs to come up with tens of thousands of dollars. This is not a client-oriented action.

In the case of our client, we were able to obtain assistance from the VA Education Service, which agreed to waive the debt. This prevented a young woman's credit from being destroyed

³⁰ Prior to the attempted robbery, Easley repeatedly called the Veterans Crisis Line, which hung up on him. He also attempted to plead his case in person at a VA regional office, where he was sent away to obtain paperwork. "*They Didn't Have to Kill Him*": *The Death of Lance Corporal Brian Easley*, Aaron Gell, Task and Purpose (Apr. 9, 2019), available at <https://taskandpurpose.com/didnt-kill-death-lance-corporal-brian-easley>.

³¹ *Should veterans have to pay for VA's benefit errors?*, Leo Shane III, Military Times (Mar. 20, 2019), available at <https://www.militarytimes.com/news/pentagon-congress/2019/03/20/should-veterans-have-to-pay-for-vas-benefits-errors/>.

³² *Id.*

and her dreams of becoming a homeowner from being dashed. But we do not believe that VA is taking this approach in a proactive manner.

Retroactive adjustment of GI Bill benefits can also take place when a school moves from a higher-cost BAH “code” to a lower-cost one. A defect in the Long Term Solution (LTS) system, which pays GI Bill benefits, is that if a school moves it will trigger an overpayment notice *for any student who has ever attended that school, even if they attended it when it was in the higher-cost area*. VA employees must notice this error and manually correct it. Sometimes they are successful and, like all humans, sometimes they are not. VA can do better here.

VA’s Notification Process Does Not Adequately Inform Veterans of their Obligations:

VA’s aggressive approach to debt collection is especially troubling because VA often has not adequately informed veterans of their overpayment debts. At the time of the 2015 GAO report, veterans received information regarding their debts in two separate letters. The initial letter included information on the debt amount and the cause of the overpayment debt, but did not include information on how to repay it.³³ Veterans had to wait for a second letter that explained how to repay overpayment debt. According to GAO, “[t]his delay in receiving all of the information associated with their debt could also delay the collection process since veterans may be less likely to repay their debts until they understand both the cause of overpayments and have the information they need on how to repay them.”³⁴ VA concurred with GAO’s recommendation and said it would, by January 2016, modify initial debt letters to students and schools on both the cause of the debt and how to repay it, but there is no evidence that VA has changed its practices, at least according to the GAO tracker.

VA is Still Sending Only Paper Letters, Which May Not Reach the Veteran: Students often do not receive debt notification letters. As of January 2019, VA was still sending only paper letters to veterans to notify them of their debts.³⁵ Because student veterans move so often, debt notification letters can easily be sent to the wrong address.³⁶

Not receiving notification letters can set off a harmful chain of events for veterans. Not knowing of an overpayment debt can cause veterans to miss key deadlines to request waivers or dispute the debt, resulting in missing out on the opportunity to suspend collection actions.³⁷

For example, one military family we helped just barely received the debt notice because of address changes. In November 2018, our client was living out of the country. She found out that she had a sizeable six year old debt to VA only because VA sent letters to a group house that

³³ *Supra* note 1 at 28.

³⁴ The VA’s rationale for sending two separate letters was prompt notification to allow veterans to dispute debts. *Id.* at 28-29.

³⁵ *Supra* note 3 at 13.

³⁶ *Supra* note 1 at 26.

³⁷ “Specifically, VA will not suspend collection actions if a veteran requests a waiver or disputes the amount of a debt more than 30 days after the initial notification letter.” *Id.*

she lived in before she graduated, and a current resident miraculously knew how to get in touch with her.

In addition to using shockingly outdated addresses, the letters our client received from VA and the DMC told her that she owed \$82,000, and then \$100,000. These are obviously stunningly high amounts and would cause enormous stress to anybody. Moreover, if VA cannot effectively communicate the correct amount of money that is owed, what chance do veterans have of avoiding crushing hits to their credit reports?

VA could address this issue by expanding methods of debt notification, as GAO recommended in 2015. Rather than relying only on mail, VA could use existing infrastructure, such as VA's eBenefits portal, to notify veterans of their overpayment debt. According to the 2015 GAO report, eBenefits "provides over 3 million veterans with access to personalized information about their VA benefits. VA officials have said this system could be upgraded to provide veterans with online access to debt notification letters; however, the agency has not implemented this proposal due to other funding priorities."³⁸

These issues with notifying veterans of their debt led GAO to conclude that VA debt collection is hampered by the processes VA uses to notify and collect debts from veterans and schools.³⁹ Additionally, GAO concluded that the lack of a single source of information on both the cause of debts and repayment options creates unnecessary confusion for veterans, which can lead to delays in repayment and administrative burdens for schools.⁴⁰

The House Committee on Veterans' Affairs Economic Opportunity Subcommittee held a hearing in 2017 which addressed VA debt collection and overpayment issues. Chairman Jodey Arrington discussed the GAO report's recommendations and implementation issues, saying:

"The GAO made eight recommendations to the VA to reduce these overpayments going forward and to increase collections of this money. However, many of these recommendations still have not been implemented, and based on the Department's written statement, it is unclear when they will be implemented, if ever. . . [I]t is clear that in many ways it is a matter of lack of IT resources and the need for greater prioritization to be placed on these programs within the VBA. I know that IT resources are tight, but I believe it's time for the VA to prioritize resources for projects that provide direct impact to veterans..."⁴¹

We understand that there are significant hurdles to updating the current IT system, but we feel that it is necessary not only to safeguard veterans and their families from having their lives

³⁸ *Id.* at 27-28.

³⁹ *Id.* at 34.

⁴⁰ *Id.*

⁴¹ House Committee on Veterans' Affairs, Improving the Quality and Timeliness of GI Bill Processing for Student Veterans (Jun. 8, 2017), 26:38, available at <https://republicans-veterans.house.gov/calendar/eventsingle.aspx?EventID=1771>.

negatively impacted by an unexpected debt, but also to cut down on the money and manpower VA assigns to overpayment issues.⁴²

VA's Letters are Often Confused and Confusing: We have helped veterans who have received letters that just do not make sense. The following is an example of the types of complaints we have seen regarding GI Bill overpayments:

"I... don't believe a human has looked at any of the letters I have been sent. They don't add up or make sense. Semesters are omitted, figures they quote as what I 'owe' on one document don't match with figures they quote on a different document. Dates and explanations don't make sense. All in all the letters appear to be form based, built by bad queries running new protocol on an old file... automatically [sent] to me without review. A small part of me hopes as soon as a person does look at the situation to put together a 'statement of the case,' that they will find a waiver on my file and the whole situation will go away. But I am prepared for the worst."

In 2017, the Veterans Fair Debt Notice Act was introduced in the House to address a number of issues with VA debt collection practices, specifically to have VA work with Veterans Service Organizations to collaborate on standard language for debt letters, and to allow veterans to elect to be notified through electronic means.⁴³ Providing information to veterans would help clear confusion and make it easier for them to dispute overpayment debts. One suggestion, from John Towles, deputy director of legislative service for Veterans of Foreign Wars, is that the VA should provide "line item accounting similar to a credit card statement" to veterans.⁴⁴

VA's Debt Collection Practices Undermine Military Readiness and the Pentagon Budget:

Reporting debts to credit agencies can put veterans' and servicemembers' careers at risk. (Active duty servicemembers may use the GI Bill through the "Top Up" program, as a veteran who has subsequently returned to active service, or as a family member of a veteran, and as a result may face VA debt collection.)

In 2018, the US Department of Defense (DoD) announced a policy of "Continuous Evaluation" (CE) of security clearance eligibility, which entails real-time tracking of the credit reports of security clearance holders. According to the CFPB, "over 187,000 veterans received overpayment notices from [the DMC].... Approximately one in four veterans using the Post-9/11 GI Bill received an overpayment."⁴⁵ Considering the number of veterans who receive overpayments, VA is putting a large number of veterans' careers at risk through its aggressive debt collection practices.

⁴² *The VA is spending millions of dollars to collect debts that it created*, Sara Jerving, Vice (Oct. 25, 2017), available at https://www.vice.com/en_us/article/8xmve3/the-va-is-spending-millions-of-dollars-to-collect-debts-that-it-created.

⁴³ H.R. 3705 - Veterans Fair Debt Notice Act of 2017, available at <https://www.congress.gov/bill/115th-congress/house-bill/3705>.

⁴⁴ *Supra* note 42.

⁴⁵ *Supra* note 3 at 12.

Similarly, the CFPB's Office of Servicemembers Affairs recently documented how VA debt collection practices can harm servicemembers' security clearances:

"Recently, in preparation for an upcoming periodic reinvestigation of my security clearance I conducted a review of my credit score and noted [a VA] reporting action which I was previously unaware of... I provided [an] on time [payment] to the VA, however internal processing of that payment caused a delay in crediting the payment to my account. Additionally, VA DMC (debt management center) continued to receive, acknowledge, and process payments up to and beyond the date the debt was transferred to Treasury.... Because VA DMC transferred the debt to Treasury and submitted a negative report to the credit reporting agencies, I have been characterized as financially irresponsible... In more than twenty years of active service to my country and over thirty total years of military service, including three combat tours, I have always lived up to my commitments."

- Active duty servicemember from Louisiana⁴⁶

The harm also extends to the Pentagon's costs and military readiness. The Defense Department has determined:

"Each separation of a Service member is estimated to cost the Department \$58,250, and the Department estimates that each year approximately 4,640 to 7,580 Service members are involuntarily separated where financial distress is a contributing factor."⁴⁷

VA's stated mission is "to fulfill President Lincoln's promise 'To care for him who shall have borne the battle, and for his widow, and his orphan' by serving and honoring the men and women who are America's Veterans."⁴⁸ VA's aggressive debt collection practices are currently harming the veterans VA is supposed to care for, serve, and honor.

Conclusion

Veterans Education Success sincerely appreciates the opportunity to share our views on this important topic. Pursuant to Rule X12(g)(4) of the House of Representatives, Veterans Education Success has received no federal grants in Fiscal Year 2019, nor in the two previous fiscal years.

⁴⁶ *Id.*

⁴⁷ Limitations on Terms of Consumer Credit Extended to Service Members and Dependents, 80 FR 43559 (Jul. 22, 2015), available at <https://www.federalregister.gov/documents/2015/07/22/2015-17480/limitations-on-terms-of-consumer-credit-extended-to-service-members-and-dependents>.

⁴⁸ US Department of Veterans Affairs, About VA, Mission Statement, available at https://www.va.gov/about_va/mission.asp.