

**STATEMENT FOR THE RECORD OF THE OFFICE OF INSPECTOR GENERAL
DEPARTMENT OF VETERANS AFFAIRS
FOR THE SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
THE COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
LEGISLATIVE HEARING ON APRIL 14, 2016**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to provide information on the Office of Inspector General's (OIG) views regarding the draft bill titled *GI Bill Oversight Act of 2016*. The OIG has issued several audits and reviews in the past on issues associated with the Post 9/11 GI Bill.¹ Currently, we are finalizing a national audit on tuition and fee payments under the program.

We are concerned about several provisions in the draft bill and appreciate the efforts of the Minority Subcommittee staff to address them. We believe some provisions of the draft bill would pose a serious threat to how the OIG conducts its work, including the impact the requirements might have on an investigation. The OIG's responsibility is to conduct an investigation to gather facts, not determine guilt. We work with authorities such as U.S. Attorneys and state attorneys who have responsibility for making a prosecutorial decision and prosecuting a case. It is a judge or jury who makes a decision on guilt or innocence.

Section 2 of the draft creates a new subchapter of chapter 36 of Title 38 of the United States Code which identifies three situations that would require the OIG to conduct an investigation. We understand from Minority Subcommittee staff that section (a)(1) regarding class action lawsuits will be deleted. We support that deletion.

In the current draft, the second provision would require the OIG to investigate if the institution of higher learning is under investigation by any Federal or state agency for deceptive or misleading practices. If the investigation is Federal and relates to VA benefits, the OIG would already likely be involved. However, when this is not the case, conducting parallel investigations is duplicative and may create confusion among possible witnesses. Not only is there a risk of the inquiries interfering with each other, there is also a risk that they may produce inconsistent findings. We could support a provision that required coordination of efforts to produce a single report and, if feasible, a single prosecution in situations where the issues under investigation impact more than one Federal agency or a Federal agency and a state entity.

The third provision would require the OIG to investigate when the institution has been found guilty of deceptive or misleading practices. If an institution of higher learning has already been found guilty of deceptive or misleading practices, and VA is impacted,

¹ *Audit of Post 9/11 GI Bill Housing Allowances and Book Stipends*, July 11, 2014; *Audit of Initial Post 9/11 GI Bill Education Payments*, November 2, 2010; *Audit of VA's Implementation of the Post 9/11 GI Bill Long Term Solution*, September 30, 2010; *Review of Alleged Inadequate Controls on Education Emergency Payments*, September 14, 2010.

conducting a second investigation may be duplicative. We would support a provision requiring that VA take action when an institution of higher learning has been found guilty of deceptive or misleading practices to determine whether the conduct impacted VA's program and, if so, take corrective action.

The new subchapter also includes a section regarding notice to students. We understand that staff is considering changing the notification requirement from the OIG to VA. We have concerns regarding any required notifications by any official during an ongoing investigation. Should the institution under investigation become aware of the notice to students, such forewarning could prompt the destruction of evidence, and it would give officials the opportunity to compare statements and coordinate witness testimony. Moreover, requiring any entity to identify and provide notice to every student of an institution under investigation would create an enormous burden on finances and staff workload.

Further with respect to the bill's counseling provision, requiring the OIG to counsel students to take actions prejudicial to the organization under investigation, prior to any findings being made, runs contrary to the OIG's mandate to remain objective and neutral during the course of an investigation. The OIG is an investigative body and is not in a position to offer educational advice.

Lastly, if the investigation does not result in a finding of wrongdoing and the institution loses business because of these activities, VA could be subject to litigation if either the OIG or VA suggests individuals transfer to another institution without actual cause. prematurely.

Section 3 of the current draft again references a finding of guilt by the Inspector General. If this section remains, it should be amended to indicate that it is a court of law that determines whether an institution of higher learning is guilty of deceptive or misleading practices.