



National Association of Independent  
Colleges and Universities

January 22, 2009

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

Re: **RIN 2900-AN10-POST-9/11 GI Bill**

Dear Director:

I am writing on behalf of the National Association of Independent Colleges and Universities (NAICU) in response to the notice of proposed rulemaking dealing with the post-9/11 GI Bill, published in the December 23, 2008, *Federal Register*.

With more than 1,000 member institutions and associations nationwide, NAICU reflects the diversity of private, nonprofit higher education in the United States. NAICU members enroll 85 percent of all students attending private institutions. These institutions include traditional liberal arts colleges, major research universities, church- and faith-related institutions, historically black colleges, Hispanic-serving institutions, single-sex colleges, art institutions, two-year colleges, and schools of law, medicine, engineering, business, and other professions.

At the outset, let me say that we are enthusiastic about the opportunities the new post-9/11 GI Bill offers to our nation's veterans. We understand as well the challenges posed in implementing a major new program in a relatively short period of time. There are, for example, a number of issues and questions related to the interaction between these new benefits and the student financial aid programs administered by the Department of Education—an area that is not addressed in these proposed regulations. Although we will focus our comments on areas that are discussed in the proposal, we do urge that attention be directed to these areas. We want to work constructively with you to assure the program operates smoothly and best serves the needs of the men and women who have earned its benefits.

The “Yellow Ribbon” program (§ 21.9700) is of particular interest to NAICU members, and our comments focus on this portion of the proposed regulations. This type of program is new not only to the Department of Veterans Affairs but also to our institutions. Recognizing that we are all entering uncharted territory, we would urge that the Department provide the maximum amount of flexibility in terms of the details of participation agreements—provided that the agreements offer the equality the proposed regulations seek to

achieve. Particularly in the first year of operation, such an approach would offer an opportunity to determine what works best within the diversity of higher education institutions and programs.

Our comments and requests for clarification address the following aspects of the Yellow Ribbon Program:

- The possibility of having multiple Yellow Ribbon agreements with an institution.
- The length and conditions of the agreement period.
- The form of matching contributions.
- Outreach.

### **Multiple Yellow Ribbon Agreements With an Institution**

The possibility of having multiple Yellow Ribbon agreements within the same institution is not addressed in the proposed regulations, but this question has been raised by many of our members and has been discussed at the regional meetings sponsored by the Department and the American Council on Education (ACE). We request that this issue be clarified in the final regulations.

Many institutions may not be in a budgetary position to commit to unlimited participation in the program—particularly in the initial year when the universe of potential eligible veterans at the institution is an unknown. Consequently, many of our members have raised questions regarding permissible ways in which to structure the yellow ribbon agreements. The specific questions raised most frequently include:

Is it permissible to offer the Yellow Ribbon match only to undergraduate students or only to graduate students?

In a related area, is it permissible to offer the Yellow Ribbon match only in particular schools, programs, or other divisions of an institution?

In the event that an institution did have more than one agreement, would the match percentage need to be uniform across the agreements?

We would suggest that it would serve both the program and eligible individuals best if maximum flexibility were given in these areas. Private colleges are facing one of the most uncertain economic times in recent history. As families lose jobs, and current students face uncertain futures, colleges are making wide institutional cuts to provide increased scholarship funds to students at-risk of dropping out. Most private colleges are enthusiastic about the opportunity to serve the veterans eligible for the Yellow Ribbon Program, but in committing new funds to this effort, they must be prudent in their approach and not put at risk the educational futures of currently enrolled students or the economic stability of their institutions.

Allowing colleges the maximum flexibility--particularly during the program's first year--will make it possible for more colleges to offer assistance in accordance with their financial ability. Ultimately, more colleges participating, even if some are able to do so only

in a limited fashion, will provide more opportunities for eligible veterans. Therefore, we recommend that an institution be given the option to enter into more than one agreement—or, alternatively, to define in a single agreement the schools or programs for which the match will be offered.

### **Length and Conditions of the Agreement Period**

**Annual agreements:** It is our understanding that an institution participating in the program would enter into a Yellow Ribbon agreement with the VA each year. Although the proposed regulations state that the agreement must assure that contributions will be maintained for an entire academic year for eligible individuals, they do not specifically address the question of the period of time covered by the agreement itself.

We suggest that the agreements be made annually. In later years, it should be possible to provide an expedited process for institutions that plan to continue participating in the program under the terms of their previous agreements.

**Amendment of initial agreements.** We further recommend that an institution be permitted to revise its initial agreement for the purpose of increasing the number of eligible individuals it will serve. There are likely to be situations in which an institution realizes in July, for example, that it is able to include more individuals than estimated in April. There may also be situations in which, say, an institution finds it has admitted 2 or 3 more eligible individuals that it has agreed to include in the program and decides to take extra steps to find the funds to assure that all eligible individuals will be able to participate.

**Length of individual commitments.** A related issue is the length of time over which contributions should be maintained for eligible students. As noted above, the proposed regulations indicate that the institution must assure these contributions for a full academic year. However, a January 12 letter from the VA to higher education executives indicates that institutions participating in the Yellow Ribbon program must maintain contributions for **all** academic years in which an eligible individual maintains satisfactory progress, conduct, and attendance. We share the interest in assuring that Yellow Ribbon benefits will be available to an individual for his or her entire period of eligibility. Nevertheless, imposing such a requirement raises additional legal and financial planning issues. We believe that more detailed regulatory guidance and flexibility is needed.

### **Form of Contributions (§21.9700(a)(2))**

The requirement in the proposed regulations that the institution match be made in the “form of a waiver” is confusing and seems to unnecessarily limit available options. We understand that the intent of the provision is to avoid situations in which only certain segments of the veteran population are selected for the program (i.e. the creation of scholarship programs for which only a subset of veterans are eligible). We concur with the intent that all veterans be treated equitably, but are concerned that a “waiver” limits the institution to a single method of providing aid. We believe the intent to assure equal treatment of all eligible veterans can be served without limiting an institution’s ability to pull together the matching funds from a variety of sources.

Given that the proposed regulations would require institutions to accept participants on a “first-come, first served” basis (§21.9700(a)(1)), it is not clear why an additional condition related to the matching funds is even needed. We recommend dropping the requirement specifying that the match be in the form of a waiver.

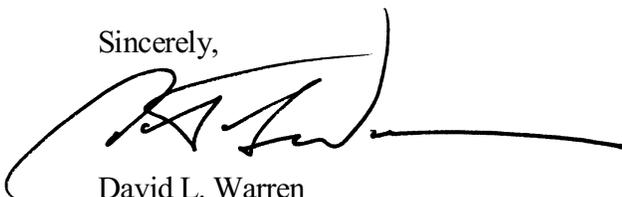
### **Outreach (§21.9700(e))**

§21.9700(e) indicates that the “most current list of colleges and universities **participating** in the Yellow Ribbon Program will be available on the VA’s GI Bill Web site . . .” [*emphasis added*]

This portion of the proposed regulations implements the statutory provision dealing with outreach, and we believe it is important that this information be available and easily accessible. We are concerned, however, that the letter accompanying the survey sent to higher education executives on January 12 indicates that the VA is planning to post on the site a list of “**potential** Yellow Ribbon Program participating institutions” on April 1. We understand the need for VA to obtain an early indication of likely participation in the program. The problem arises with the publication. We believe that publishing a tentative list in the same place and manner as required by the law and regulation will create enormous confusion and misunderstanding—an outcome that is completely at odds with the intent of the provision. We urge the VA to reconsider and to post on the Web site only information about institutions that have entered into formal Yellow Ribbon program agreements.

We appreciate the information dissemination efforts provided by Department of Veterans Affairs officials as demonstrated by activities such as their participation in regional meetings, their presentations to NAICU and other association meetings, and the development of a dedicated page on the Department’s website. We want to continue to work constructively with the VA to determine how to deliver education benefits to our nation’s veterans fairly and efficiently. Please call on us to assist in this effort, as we move together to ensure a successful implementation of this important new program.

Sincerely,

A handwritten signature in black ink, appearing to read "D. L. Warren", with a long horizontal flourish extending to the right.

David L. Warren  
President