TO: CGA  
FROM: APLU’s Office of Government Affairs  
DATE: September 10, 2021  
RE: Urgent Technical Corrections Needed to the Isakson Roe Act

Summary
In December 2020, Congress passed, and the president signed into law, Public Law 116-315, the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (“Isakson Roe Act”). Public institutions are invested in the continuing education of student veterans and support the goals of this bill, which includes sweeping changes to administration of GI Bill benefits.

Earlier this summer, however, APLU with the higher education community reiterated concerns about several provisions that were set to take effect on August 1, 2021 with the House Veterans Affairs Committee leadership in advance of an HVAC hearing on the Isakson Roe Act. The U.S. Department of Veterans Affairs (VA) is now implementing these provisions that will create unintended consequences for veterans and the colleges and universities that serve them.

Concerns on several provisions merit Congressional attention to fix potential long-term negative consequences. Each issue is detailed below, but specifically APLU along with the higher education community call on Congress to address the following issues:

- **Incentive Compensation (Sec. 1018)**: bring VA practices back into alignment with the U.S. Department of Education (ED) by adding to statute a regulatory exemption allowing the use of incentive compensation to recruit international students, as exists in HEA; specify that the interpretation of the incentive compensation language will be consistent with ED regulations, interpretations, and guidance.

- **Consumer Information Requirements (Sec. 1018)**: amend statute to permit institutions to provide the College Financing Plan as an alternative to the information required in section 1018; consider delaying the effective date of this provision, providing the VA more time to implement this provision.

- **Dual / Second Certification (Sec. 1010)**: at a minimum, create an exception to this requirement for institutions with flat tuition and fee structures, or simply strike this component of Section 1010.

**Incentive Compensation (Sec. 1018)**
In June, Congress passed the THRIVE Act (H.R. 2523), offering technical corrections to the Isakson Roe Act including a prohibition on the use of incentive compensation for all purposes by institutions of higher education that receive GI Bill education benefits. Prior to the passage of the THRIVE Act, the VA already had the authority to regulate the use of incentive compensation, consistent with Department of Education regulations for institutions that receive funding through Title IV of the Higher Education Act (HEA). Importantly, for many years HEA has provided an
exception for the use of incentive compensation to recruit international students, and the VA has similarly provided this exception.¹

Colleges and universities face significant complexity when approaching international student recruitment, particularly as global competition for international students has increased over time. In 2019, there were 5.3 million students studying abroad, with over a million of those students choosing to attend an institution located in the United States. Globally, universities help recruit these students by contracting with third-party, commission-based agencies who have local knowledge of the educational systems, culture, language, and context within specific countries. These agencies and their counselors form an important bridge between other countries and U.S. institutions and represent a cost-effective way of connecting with students around the world, particularly for smaller institutions.

Recent research estimates that there are over 16,000 commissioned international recruitment agencies operating around the world, and the United States has developed a robust process to evaluate potential partners. Both the American International Recruitment Council (AIRC)—a standards development organization recognized by the U.S. Department of Justice, Attorney General, and Federal Trade Commission—and the U.S. Department of Commerce offer help to U.S-based institutions interested in expanding their presence and recruitment network abroad. Further, in 2018, the U.S. Department of State recognized AIRC’s work to help establish best practices in the field of international recruitment and noted the importance of working in partnership with all recruiters to promote the United States as a destination of choice for international students. Further, many countries around the world have also developed their own regulatory frameworks governing the actions of commission-based recruitment agencies.

As noted in the following letter APLU sent along with the higher education community to HVAC leadership this summer, the HEA’s incentive compensation regulations have been set in statute for decades. Further, ED regulations on incentive compensation provide detailed guidance to institutions regarding when certain contracting and recruiting arrangements are permissible, and when they are not. The THRIVE Act, in creating two separate sets of requirements regarding the use of incentive compensation, introduces the real possibility that student veterans at Title IV-eligible institutions of higher education could no longer be able to use their GI Bill education benefits in the pursuit of their degree.

We understand that due to the statutory changes in the THRIVE Act, the VA will soon announce that institutions paying incentive compensation to recruit foreign students will no longer be eligible to participate in the GI Bill, which according to recent estimates includes nearly half of American colleges and universities. To address this urgent issue, APLU recommends that Congress work quickly to bring VA practices back into alignment with ED by adding to statute a regulatory exemption that would permit the use of incentive compensation to recruit international

¹ 20 USC CHAPTER 28, SUBCHAPTER IV, Part G: “the institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.”
students. Technical corrections should also specify that the interpretation of the incentive compensation language will be consistent with ED regulations, interpretations, and guidance.

Changes to Consumer Information Requirements (Sec. 1018)
The Isakson Roe Act also requires a broad range of new consumer information requirements aimed at providing student veterans with information to support informed decisions about GI Bill education benefits. We understand these provisions were intended to codify the Principles of Excellence, which the vast majority of APLU member institutions have voluntarily adopted. The Isakson Roe Act, however, goes much further than what has been previously required and has introduced real inconsistencies with existing institutional consumer information disclosures.

As was shared in the higher education community letter to HVAC leadership this summer, Principles of Excellence schools are already required to use the ED College Financing Plan (CFP), a reporting template that has been in use for nearly a decade. The CFP was developed with stakeholder input and has been consumer-tested to ensure that the financial aid information it provides is helpful to and easily understood by students. The CFP is already advancing the goal of providing student veterans with clear information on costs and aid and making financial aid offers easier for students to compare between schools.

Many of the required elements included in the Isakson Roe Act—in particular, the provision of college cost and financial aid estimates for the duration of a student’s program and the increased number of student notices, each providing different information disclosures—differ from the requirements in the ED College Financing Plan and would require institutions to provide new and untested forms. This will only serve to cause confusion amongst student veterans around costs and aid eligibility.

On July 13, 2021, the VA released guidance to institutions on applying for a 1-year waiver from these provisions. APLU understands that nearly 4,000 institutions have submitted waiver requests, and that the deadline for application was extended by the VA to account for the number of schools interested in applying for a waiver. The VA has indicated it may be several months before institutions know if their waiver has been granted, creating real uncertainty for institutions that already did not have adequate time to implement this change.

To address this issue, APLU requests that Congress amend statute to permit institutions to provide the College Financing Plan as an alternative to the information required in section 1018. Further, technical corrections could also delay the effective date of this provision, providing the VA more time to carefully implement this provision and to provide further clarity regarding how institutions can meet the waiver requirements.

Dual Certification Requirements (Sec. 1010)
Finally, the Isakson Roe Act required the VA to develop policies for institutions to submit verification of enrollment of students receiving GI Bill benefits at two specified times, as determined by the Secretary.

Currently, many institutions voluntarily choose to do this through a process called dual certification. When an institution using dual certification first certifies a student veteran’s
enrollment, they initially report tuition and fees as $0 dollars, which allows the VA to start the student’s housing payments. After the institution’s add/drop period ends and tuition and fees are set, the institution then amends the certification with the correct tuition and fees amount. Dual certification is not currently required by the VA, but it is strongly encouraged.

The process provides strong benefits to both students and institutions as it allows the VA to promptly begin processing housing payments, while preventing overpayment of education benefits for student veterans who may choose to add or drop courses. However, requiring dual certification in all circumstances does more harm than good at institutions with a flat tuition and fee structure, where tuition and fee charges are unlikely to change at the add/drop period. At these institutions, which include several APLU member institutions, the dual certification process would dramatically increase the amount of time needed to certify students for VA benefits. Moreover, it could delay the disbursement of additional institutional or state financial aid funding to veterans.

APLU understands that the VA has outlined a different approach that institutions may use to satisfy the Isakson Roe requirement, rather than requiring all institutions to use dual certification. Under this new approach, institutions may first certify the full amount of tuition and fees to start, then provide a “second certification” that would simply confirm the amount provided during the first certification. VA staff have indicated that they will begin to process payments to schools after the first certification, so student veterans should not experience delays in receiving benefits.

While this is a welcome interpretation to Section 1010 by the VA, it still creates costly and duplicative work for institutions that distract from our mission to serve student veterans. APLU recommends at a minimum that Congress create an exception to this requirement for institutions with flat tuition and fee structures, or simply strike this component of Section 1010.