



# VETERANS EDUCATION SUCCESS

**Ashford's Fight to Maintain GI Bill Access  
Raises Questions about the Enforcement and the Adequacy of  
Statutory Requirements**

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## **NOTE TO READERS**

This report uses hyperlinks to take readers to the source material that provide the basis for our findings. One of those sources is the result of a Veterans Education Success public records request to the California Department of Veterans Affairs for correspondence related to Ashford's application for approval to enroll eligible veterans and their dependents. The department provided a 2,621-page PDF containing those documents. In order to add the PDF to the VES website, we had to split the PDF into 26 separate files. When you click on one of those links, it will take you to the first page of the file. The footnote attached to the sentence will identify the specific page number where the cited document can be viewed.

## Summary

Ashford's potential loss of its eligibility to enroll veterans using the GI Bill and its more than year-long effort to maintain that eligibility raises questions about the enforcement of statutory approval requirements by State Approving Agencies (SAAs) and the Department of Veterans Affairs (VA).<sup>1</sup> The back and forth between Ashford and state and federal regulatory authorities also raises questions about the sufficiency of those requirements with respect to online programs. This report begins with a brief chronology of the key events involving Ashford, three SAAs, and the VA, with a more detailed chronology included in Appendix I.

The central policy issue is the location of Ashford's "main campus" and its role in online operations. VA maintains that Title 38's provisions reserve GI Bill approval authority for the state in which the institution's main campus is located—California in the case of Ashford. Ashford itself has acknowledged that its main campus is located in California, as reflected in the Education Department's postsecondary enrollment database. Based on the Arizona SAA's approval, however, VA issued a new facility code for Ashford, which allows the school to continue to receive payments for veterans. It is not clear whether VA will hold the SAA accountable for enforcing statutory approval requirements. VA acquiescence to Ashford's approval would send the wrong message to SAAs ("It's ok to ignore statutory requirements") and institutions ("it's ok to 'shop' around for an SAA willing to grant GI Bill approval").

Perhaps a more fundamental issue is whether the federal statutory requirements for approving online degree programs are sufficient. The statutory references are limited and provide little guidance. The relevancy of the main campus test for an online institution is less clear when there are no residential campuses where teaching occurs, operations are dispersed across multiple administrative offices, and the faculty is likely scattered around the country. More appropriate tests could be developed, such as the location of (1) personnel responsible for key functions, including policy development and resource allocation; (2) the majority of the staff that develop the curriculum for an institution's online degree programs; or (3) the primary entity responsible for the agreement with the Department of Education that entitles an institution to participate in federal student aid. State licensing standards, which vary considerably, may be another source of tests for determining the operational location of online for-profit institutions.

In addition, Ashford has not notified the Department of Education if it had moved its main campus from California to Arizona—a move implied by the Arizona SAA's assertion that Ashford would be allowed to enroll veterans because its accreditor had recognized Ashford as having "an online program which is *based in the State of Arizona...*" (emphasis added). As of November 2, 2017, the Department's database of postsecondary education participants still shows San Diego as Ashford's main campus.

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<sup>1</sup>SAAs are [state agencies](#) (often situated in state Departments of Veterans Affairs or Education) and their staff are state employees. However, they operate under a contract with and oversight by the U.S. Department of Veterans Affairs, which funds their operations.

## [Key Events: A Brief Chronology](#)

In July 2015, the publicly traded, for-profit company that owns Ashford, made a [decision](#) to close its Clinton, Iowa, facility—the location of its small, 500-student campus and one of the administrative centers for its online degree programs—at the end of the 2015-16 academic year. Ashford had purchased its Clinton campus as well as its regional accreditation from a religiously affiliated school in 2005.<sup>2</sup> As of 2016, only about 1 percent of Ashford’s students were in residential programs. With the closure of its Iowa campus, Ashford’s academic programs are now 100 percent online.

In the spring of 2016, the Iowa SAA [informed](#) Ashford that its online degree programs would no longer be eligible to enroll veterans after June 2016.<sup>3</sup> Loss of GI Bill eligibility would not only cut off new veteran enrollment but would also end payments for currently enrolled veterans and for servicemembers using Defense Department Tuition Assistance (see text box). The Iowa SAA urged Ashford to seek approval to participate in the GI Bill from the SAA of jurisdiction for any location that met the definition of a “main campus” or “branch campus.” Ashford’s main campus is located in San Diego, California. (See App. I for a detailed chronology of Ashford’s fight to maintain its GI Bill eligibility.)

### **Ashford’s Veteran and Servicemember Enrollment**

According to the GI Bill College Comparison Tool, about [9,500](#) veterans were using the GI Bill to attend Ashford in calendar year 2016, almost 10 percent of its student body. In addition, about [15,500](#) active-duty servicemembers were taking classes at Ashford through the Defense Department Tuition Assistance Program in FY 2016. To participate in the Tuition Assistance Program, institutions must be eligible to enroll veterans using the GI Bill.

Source: GI Bill Comparison Tool and DOD’s TA DECIDE website.

In June 2016, Ashford [sought](#) GI Bill approval in California but then withdrew its application.<sup>4</sup> It simultaneously filed a [petition for injunctive relief](#) in Iowa to block the SAA’s action, which the court stayed until it was able to hand down a decision. The court [ruled](#) a year later—in late July 2017. It rejected Ashford’s appeal, setting the stage for the Iowa SAA to withdraw the school’s GI Bill eligibility.

About a month before the court’s decision, however, Ashford sought GI Bill approval from the Arizona SAA, which it [received](#) in early July. The approval notification indicated that Ashford’s accreditor recognized the school as having “an online program which is *based in the State of Arizona* and covered as such” (emphasis added). This assertion is contradicted by the school’s licensure in Arizona as an out-of-state school whose educational programs are not delivered from within the state of Arizona.

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<sup>2</sup>The 2012 Senate Health, Education, Labor, and Pensions Committee report on for-profit schools profiled 30 institutions, including [Ashford](#).

<sup>3</sup>See p. 1416.

<sup>4</sup>See p. 5.

On August [3](#) and [17](#), 2017, VA wrote to the Arizona SAA, challenging its decision on statutory grounds—only the SAA where Ashford’s main campus is located has the authority to authorize Ashford’s GI Bill participation. On September 13, 2017, VA [notified](#) Ashford that it had assigned a new VA facility code based on the recent approval of its Phoenix campus by the Arizona SAA. It reserved the right, however, to discontinue veteran educational allowances if the school’s programs or courses failed to meet any of the requirements of [chapter 36](#) of Title 38, which governs the approval of degree programs by SAAs. As of late October 2017, it was unclear whether VA had taken any further steps with respect to the Arizona SAA’s approval of Ashford. The Arizona SAA remains under [contract](#) with VA to provide GI Bill oversight.

### [Where Is Ashford’s Main Campus?](#)

Ashford’s quest to remain eligible to participate in the GI Bill centers on a single issue: which SAA has the authority, based on the location of Ashford’s “main campus,” to grant approval?

Both the Department of Education (ED) and VA use and define the term main campus:

*ED Definition.* For purposes of participating in federal student aid, ED distinguishes between an institution’s “main campus” and additional locations, also referred to as “branch campuses.”<sup>5</sup> The Department considers the [main campus](#) to be the primary entity holding the program participation agreement, which entitles the institution to receive Title IV funds. ED recognizes Ashford’s San Diego location as the institution’s main campus. As of November 2, 2017, the Education Department’s Postsecondary Education Participants System (PEPS) shows no Ashford presence in Arizona. PEPS is updated weekly.

*VA Definition.* [Main campus](#), as defined in VA regulations, means the location where the primary teaching facilities of an educational institution are located.<sup>6</sup> If an educational institution has only one teaching location, that location is its main campus. If it is not clear which of the educational institution’s teaching facilities is primary, the main campus is the location of the primary office of its Chief Executive Officer. Ashford’s Chief Executive Officer is located at the institution’s headquarters in San Diego, California.

### [Ashford’s Switch of Accreditors Reflected Growth in Online Offerings](#)

As Ashford’s online programs grew, the locus of its operations [shifted](#) from its residential campus in Iowa to its online operations in California.<sup>7</sup> According to a 2012 report by its accreditor, the Western Association of Schools and Colleges, Senior Colleges and University Commission (WASCUC), Ashford’s [online division](#) has its administrative headquarters in San

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<sup>5</sup>Types of additional locations can vary in character. Examples include full-fledged campuses, classroom locations, and even office buildings or hotels where the school provides a program to a limited audience.

<sup>6</sup>See 38 CFR 21.4266

<sup>7</sup>See p. 1296.

Diego, California, and has been operating since 2005.<sup>8</sup> Between 2007 and 2011, Ashford's online enrollment increased from 10,500 to about 75,000. This growth prompted Ashford to seek a shift in its accreditation from the Higher Learning Commission (HLC), a mid-west based accreditor that includes Iowa, to WASCUC. WASCUC accredits colleges and universities in California, Hawaii, and U.S. Pacific territories. HLC and WASCUC are two of seven [regionally-based](#) accreditors recognized by the [Secretary of Education](#) as reliable authorities concerning the quality of education or training offered by the institutions of higher education that they accredit.

### [Ashford Ultimately Withdrew Its Application for Approval in California](#)

On [June 1, 2016](#), the California SAA received Ashford's application for approval of its online programs in California, the location of its main campus.<sup>9</sup> Ashford's goal was to obtain approval by June 30<sup>th</sup>, the date that the Iowa SAA indicated the school's ability to enroll veterans would expire. After submission of additional documentation, the California SAA determined that Ashford's application was complete, starting a 30-day review clock for notifying Ashford about the status of its application. The [deadline](#) for completing the SAA review was July 8<sup>th</sup>.<sup>10</sup>

On [June 17](#), the California SAA informed Ashford that it had insufficient information to approve the school's application and requested additional clarification to address data gaps, including the administrative structure and capabilities of its San Diego campus, resources at the San Diego campus used to administer resident and online education, and the delineation of responsibilities between its San Diego and out-of-state campus.<sup>11</sup> Ashford and the California SAA exchanged frequent emails and met to discuss the SAA's June 17<sup>th</sup> correspondence, specific approval requirements, and the impact of the Iowa SAA's 90-day stay on the California approval process. On [June 30<sup>th</sup>](#), however, Ashford notified the California SAA that it was withdrawing its application, indicating that it planned to reapply on approximately August 5, 2016.<sup>12</sup> Ashford never reapplied for approval by the California SAA.

In correspondence with Ashford, California highlighted a larger policy issue with respect to online programs. The California SAA [acknowledged](#) that current regulations were not written to address institutions that only provide distance education and provided the following clarification on approval requirements: (1) The critical factor in demonstrating adequate space and equipment was whether Ashford satisfied the requirements of the California state licensing authority for for-profit schools and its accreditor; (2) For online schools without a residential campus, it was acceptable to have staff located outside of California as long as the school met state licensing and accreditor requirements; (3) All school certifying officials for online programs had to be California based.<sup>13</sup>

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<sup>8</sup>See 1295.

<sup>9</sup>See p. 9.

<sup>10</sup>See pp. 1596 and 1778.

<sup>11</sup>See p. 1.

<sup>12</sup>See p. 33.

<sup>13</sup>See p. 1602. School certifying officials are responsible for verifying veteran enrollment with VA.

## [VA and SAA Roles and Authorities](#)

According to a Congressional Research Service 2016 [report](#) on SAAs, VA provides the federal structure and interprets federal statutory provisions while SAAs apply and interpret the standards and processes at the local level, a process that requires coordination and cooperation between the two entities. As CRS points out “SAAs are responsible for conducting a full approval process on most programs of education that are not deemed approved and that are located *in their respective state*” (emphasis added), which includes programs at private, for-profit educational institutions.<sup>14</sup>

With its focus on the approval criteria for residential programs, Title 38 provides little guidance on the authorization of online programs.<sup>15</sup> For example, Section [3523](#) of Title 38 requires online degree programs, which are referred to as “independent study programs,” to be accredited and lead to a standard college degree. VA implementing [regulations](#) provide limited additional guidance—online programs must be accredited by an entity recognized by ED and lead to a standard college degree or certificate offered by an institution of higher learning. Neither the statute nor regulations address the meaning of the term “[primary teaching facilities](#)” for online degree programs, which Ashford apparently administers from several different locations—an administrative staff that remained in Iowa after the closure of its Clinton residential campus, its California headquarters, and now a [2,500-square foot](#) administrative center in Phoenix, Arizona.

<sup>16</sup>

## [VA and Arizona SAA at Odds Over the Ashford Approval](#)

The SAA’s approval of Ashford’s request for recognition of its online programs in Arizona revealed fault lines between the VA and the Arizona SAA concerning statutory approval requirements and their respective roles in that process. As documented in a 2016 Yale Law School Veterans Legal Services Clinic [report](#), the VA and SAA dispute over Ashford is not the first time that the issue of statutory roles and requirements has arisen.<sup>17</sup>

In its August 3, 2017, [letter](#) to the Arizona SAA, VA asked for evidence that Ashford’s Phoenix location met the definition of a main campus because independent study programs (online) may only be approved for VA benefits purposes by SAAs for the state where the institution’s main campus is located.<sup>18</sup> As noted above, VA regulations stipulate that if an institution has

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<sup>14</sup>According to CRS, “deemed approved” refers to certain education and training programs already approved for participation in other government programs. [Section 3672](#) of Title 38 stipulates that benefit payments can be made only if veterans are enrolled in a course that is approved as provided in Title 38 and chapters 34 and 35 of this title by the State approving agency for the State *where such educational institution is located*. See also [38 CFR § 21:4243\(d\)](#).

<sup>15</sup>Title 38 is the statute governing the GI Bill.

<sup>16</sup>Ashford leased space in Phoenix at 2555 East Camelback Rd., Suite 200. It is not clear when the lease was signed.

<sup>17</sup>The Yale report references several instances in which VA disagreed with and overturned SAA actions.

<sup>18</sup>VA’s request for “evidence” may have been triggered by a sentence in the Arizona SAA’s notification that it had approved Ashford for participation in the GI Bill. According to the SAA, Ashford’s accreditor recognized the school as having “an online program which is based in the State of Arizona and covered as such.”

multiple facilities, the main campus is the location of the primary office of its Chief Executive officer. The letter also underscored that the enforcement of approval standards was a shared responsibility for which VA would hold the SAA accountable.

In an August 8 letter, the Arizona SAA did provide VA with additional information to support the state's approval of Ashford. On August 17<sup>th</sup>, the VA [responded](#) that it still lacked sufficient evidence that Ashford's Arizona location met the definition of a main campus.

Although VA subsequently informed Ashford that it was issuing a [new facility code](#) based on the Arizona SAA's approval of the school's Phoenix location, VA reserved the right to discontinue all educational assistance allowances for eligible veterans if it independently determined that Ashford failed to meet any statutory approval requirements.

### [State License: Often a Prerequisite for GI Bill Eligibility](#)

Apart from SAA approval to participate in the GI Bill, states can require for-profit institutions to be licensed in order to offer educational programs to state residents.<sup>19</sup> State licensing approvals shed light on issues raised by Ashford's year-long quest to retain its GI Bill eligibility. The rules and regulations for obtaining such licenses are often statutory and vary across states. According to information submitted in 2015 by Ashford to the Iowa College Student Aid Commission, the state's educational licensing authority, 19 states required Ashford to be [licensed](#) in order to "operate, maintain a presence or offer distance education in that state"—including both California and Iowa.<sup>20</sup> In 2017, Arizona [joined](#) the list of states that have licensed Ashford. See Appendix II for a description of state licensure requirements in Arizona, Iowa, and California.

Both Iowa and Arizona licensed Ashford to offer online programs through its main campus in California. In addition, Iowa's approval covered its in-state residential program. Ashford's completed Iowa application contains responses to 39 questions and is available online.<sup>21</sup> Arizona has a separate, 10 question application for educational programs not delivered in the state. The application [template](#), but not the completed application, is available online.

California's [Private Postsecondary Education Act of 2009](#) exempted institutions accredited by WASCUC from its requirements. Section 94885 of the 2009 statute, however, required the Bureau of Private Postsecondary Education (BPPE) to adopt by regulation 11 minimum standards for an exempt institution, such as having a qualified faculty, offering programs that can achieve their stated objective, and maintaining written admission standards related to each degree program. Effective January 2016, GI Bill eligible educational institutions were no longer exempted from the 2009 statutory standards.

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<sup>19</sup>Some states [exempt](#) certain categories of for-profit schools from state licensure.

<sup>20</sup>Alabama, Alaska, Arkansas, California, Colorado, Georgia, Indiana, Kansas, Kentucky, Maryland, Minnesota, Missouri, Montana, New Mexico, North Dakota, Tennessee, Washington, Wisconsin, and Wyoming.

<sup>21</sup>Many of Ashford's responses were provided or amplified in attachments, which were not available on the Commission's website.



## California

On [July 24, 2014](#), BPPE approved Ashford’s request to operate under California’s education code until July 15, 2018.<sup>22</sup> Attached to the approval was a [list](#) of the authorized, primarily online, degree programs. Ashford was an exempt institution under California code at the time of its approval. No information is available on the BPPE website about how it determined that Ashford met the 11 minimum regulatory standards.

## Iowa

Ashford [applied](#) to renew its license to operate in Iowa in November 2015. Its application was approved retroactively in December 2016 by the [Iowa College Student Aid Commission](#) through November 2017. The approval covers both residential programs at an Iowa site and distance education programs through its main campus location in San Diego, California. At the time of its retroactive approval, Ashford had announced the closure of its Clinton, Iowa, residential campus but was operating a “[teach out](#)” of students through June 2017. In addition, Ashford told the Commission that it plans to indefinitely domicile academic and operational staff at this location that will provide [support](#) to the University’s students.

## Arizona

Ashford applied for a license with the Arizona State Board for Private Postsecondary Education on June 6, 2017.<sup>23</sup> Because its main campus is located in San Diego, California, Ashford applied as an out-of-state institution whose educational programs are not delivered from within the state of Arizona. An out-of-state application is less demanding than an application for an institution that provides educational programs in Arizona. Although a physical presence is required for licensure in Arizona, a website with an Arizona telephone number would satisfy this condition.

Ashford’s application was approved on June 22, 2017—just over 2 weeks after it sought licensure. According to an official with the Arizona licensing board, Ashford’s approval process was expedited because the school had contacted the governor’s office before applying. The licensure procedure’s [guidance](#) for schools indicates that the board conducts a 180-day administrative and substantive review before it meets to consider the application. Board meetings only occur eight times each year. The official also indicated that Ashford’s Phoenix location is an administrative enrollment center, not a campus.

## [Is Bridgepoint’s Thumb on the Scale?](#)

Robert Eitel was [appointed](#) to the ED “landing team” in February 2017 to provide guidance to the incoming Secretary of Education. To accept the appointment, Eitel took a leave of absence

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<sup>22</sup>See p. 1501.

<sup>23</sup>Information on Ashford’s application and the Board’s approval are based on an Interview with a Board official.

from Bridgepoint where he worked on [regulatory issues](#) as the company's Vice President for Regulatory and Legal Services. Prior to Bridgepoint, he had worked for the Career Education Corporation and had served at the Department of Education under President George W. Bush. In April, he was appointed [Senior Counselor to the Secretary](#). Given his ties to the for-profit industry, questions about his potential role in regulatory issues have been [raised](#).

In a series of letters to the Department of Education, Senators [Murray](#) and [Warren](#), both members of the Senate committee responsible for education, have raised ethics concerns about how his role could affect the bottom line of his former employer.<sup>24</sup> None of the concerns raised involved Ashford's efforts to maintain its GI Bill eligibility, and [press](#) reports indicate that Eitel has recused himself from any matters involving his former employer "going back 2 years."

## Conclusion

As of August 17, 2017, the Arizona SAA had failed to provide VA with evidence that Ashford's main campus is located in Arizona. Absent such evidence, VA maintains that the SAA lacks the statutory authority to approve the school's application to enroll veterans and dependents and to receive GI Bill payments for tuition and fees.

The Arizona SAA's assertion that Ashford's accreditor recognized the school as having "an online program which is *based in the State of Arizona* and covered as such" (emphasis added) lack credibility.

- WASCUC, Ashford's accreditor, has documented the company's decision to transfer its *main campus* and the locus of its online operations from Iowa to California. It is worth pointing out that WASCUC accredits schools located in California, Washington, Oregon, Hawaii, and the Pacific territories—not Arizona.
- In December 2016, the Iowa licensing authority retroactively renewed Ashford's 2015 application to operate in the state, noting that the location of Ashford's online operations was its *main campus* in California.
- As of November 2<sup>nd</sup>, the Education Department's database of participating schools showed that Ashford's *main campus* was in California, with no Arizona location whatsoever.
- The Arizona state licensing entity for for-profit schools approved Ashford's application as an out-of-state entity whose educational programs are not delivered from within the state of Arizona, implicit acknowledgement that Ashford's *main campus* was in California. This approval was sought and received *contemporaneously* (June/July 2017) with Ashford's successful application to the Arizona SAA. Licensure to operate in Arizona was a prerequisite for SAA approval.

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<sup>24</sup>The concerns involve potential conflicts of interest related to the implementation of regulations to (1) ensure that degrees lead to jobs enabling graduates to manage their student loan debt, ([Gainful Employment](#)) and (2) protect students from schools that misrepresent their degree programs ([Borrower Defense](#)).

The ball is now in the Arizona SAA's court to convincingly demonstrate that Ashford has indeed transferred its main campus to Arizona from California on or before the date that the Arizona SAA approved the school's GI Bill participation. Lacking such evidence, the Arizona SAA is in violation of the statute governing the operation of the GI Bill. Ultimately, it is VA's responsibility to hold the Arizona SAA accountable for its actions.

A larger policy issue is that current regulations were not written to address institutions, such as Ashford, that only provide distance education. The relevancy of the main campus test for an online institution is less clear when there are no residential campuses where teaching occurs, operations are dispersed across multiple administrative offices, and the faculty is likely scattered around the country. More appropriate tests can and should be developed.

## APPENDIX I

### Ashford Chronology

<b>2015</b>	
July 7	<p>Ashford <a href="#">committed</a> to closing its Clinton, Iowa campus at the end of the 2015-16 academic year.</p> <ul style="list-style-type: none"> <li>○ Bridgepoint, which owns and operates Ashford, had <a href="#">purchased</a> a small religiously affiliated and regionally accredited nonprofit in 2005 and rebranded it as Ashford. Ashford retained the school’s regional accreditation by the Higher Learning Commission.</li> <li>○ Ashford cited declining enrollment as the reason for the closure—only about 500 students were enrolled for the 2015-16 academic year.</li> </ul> <p>The Clinton campus only accounted for about 1 percent of Ashford’s overall enrollment, with online enrollment accounting for the remaining 99 percent.</p>
<b>2016</b>	
May 8	<p>Ashford <a href="#">wrote</a> to the Iowa SAA about its authority to continue approving the school’s online programs for the GI Bill benefits.<sup>25</sup></p>
May 19	<p>The SAA <a href="#">reaffirmed</a> its earlier determination that it would no longer continue to approve Ashford’s programs for the GI Bill after June 30, 2016, and encouraged the school to obtain approval from the California SAA where its main campus was located.<sup>26</sup></p>
June 1	<p>Ashford sought <a href="#">approval</a> to participate in GI Bill from the California SAA; its “main campus” is located in San Diego, California.</p> <ul style="list-style-type: none"> <li>○ According to an <a href="#">SEC filing</a>, Ashford indicated that, in deciding to obtain WASC Senior College and University Commission (WASCUC) accreditation in 2013, it had designated its San Diego, California facilities as its main campus and Clinton, Iowa as an additional location. The San Diego main campus is <a href="#">administrative</a> and no classes are taught there.</li> </ul>
June 6	<p>The Department of Veterans Affairs (VA) <a href="#">informed</a> GI Bill students that if the California SAA did not approve Ashford’s application by June 30, 2016, they could complete any term beginning before but not subsequent to that date. It also indicated that the principal statutory requirement for GI Bill approval was that the school must operate in the same state from which it was seeking SAA approval.</p>
June 14	<p>Ashford petitioned the <a href="#">Polk County District Court</a> to stay the Iowa SAA action and, in August, it asked for the stay to be in place through <a href="#">June 1, 2017</a>, when its Clinton teach-out would end.</p> <ul style="list-style-type: none"> <li>○ Ashford alleged that the California SAA had told the Iowa SAA that it would “never” approve Ashford’s application.</li> <li>○ Ashford also alleged that VA and the California SAA had improperly pressured the Iowa SAA to withdraw approval for the school’s online programs.</li> </ul>
June 17	<p>The California SAA informed Ashford that it had <a href="#">insufficient information</a> to support its “full compliance with applicable approval standards.” The letter outlined the deficiencies in Ashford’s application and the additional information required before the SAA could consider it for approval.</p> <p>In particular, the SAA asked Ashford for more information on the “operational status” of its San Diego campus, including its “administrative structure, faculty resources, programs, policies, and available services” because “there fails to be a delineation between the proposed San Diego campus and Ashford’s out-of-state campus.” The information requested included “A detailed description of available equipment, space, resources, and instructional materials utilized at the proposed San Diego campus to administer resident and online instruction.”</p>
June 20	<p>The Iowa SAA <a href="#">informed</a> Ashford that it was extending the school’s eligibility to participate in the GI</p>

<sup>25</sup>See p. 1416.

<sup>26</sup>See p. 1416.

	Bill until the earlier of (1) 90 days (September 18, 2016) or (2) the date on which the California SAA completed its review and issued a decision regarding the approval of Ashford in California.
June 30	Ashford <a href="#">withdrew</a> its application in California, noting that the California SAA had said it needed additional documentation before it could consider the school's request for approval in California.
July 9	Ashford formally <a href="#">announced</a> the closure of its Clinton, Iowa campus, on July 9, 2016, indicating that it was implementing a teach-out for the 1 percent of students enrolled there.
Sept. 15	The Polk County District Court <a href="#">extended</a> the Iowa SAA 90-day stay until it reached a decision on the Ashford petition.
Dec.	Robert Eitel, a Bridgepoint executive working on <a href="#">regulatory issues</a> , was approached by the incoming Trump Administration to serve on the Education Department's " <a href="#">landing team</a> " to provide transition guidance. Because he was employed by a for-profit company, he is reported to have consulted with a Departmental ethics officer. Eitel served as Deputy General Counsel at the department under President George W. Bush.
<b>2017</b>	
Feb. 13	Eitel was <a href="#">appointed</a> to serve on the Education Department landing team. <sup>27</sup> Landing team members were given a 120-day temporary appointments. He reportedly recused himself not only from any matters involving his employer for the last 2 years but also from any issues involving the Gainful Employment rule, which holds public, nonprofit, and for-profit career education programs accountable for a manageable debt to earnings ratio for graduates.
March 30	<a href="#">Senator Murray</a> requested that the Department's Designated Agency Ethics Official respond to a series of questions ensuring that Mr. Eitel had taken the proper steps to remove himself from any conflicts of interest. <a href="#">Senator Warren's letter</a> to Secretary DeVos questioned Eitel's involvement in multiple rules that could directly benefit Bridgepoint.
April 5	Robert Eitel is appointed as " <a href="#">Senior Counselor to the Secretary.</a> "
May 8	The Education Department's Designated Ethics Official, responding to Senator Warren's March 30 <sup>th</sup> letter, <a href="#">confirmed</a> that Mr. Eitel has not been granted a waiver of federal ethics standards.
May 22	Following up their March 30 <sup>th</sup> letters, Senators Elizabeth Warren and Patty Murray wrote to the <a href="#">Department's designated ethics official</a> to determine why Robert Eitel continued to advise the Department on matters pertaining to pending regulations given his ethics pledge. The required ethics pledge recuses officials from participation in any matter "directly and substantially related to my former employer or former clients, including regulations and contracts." Despite the Department's assertion that it was not aware of any waivers issued to Eitel, the letter also reiterated concern over the Department's refusal to release any waivers issued under the ethics pledge. <ul style="list-style-type: none"> <li>○ The letter cited pending investigations of Bridgepoint by the Justice Department, the SEC, and the Attorneys General of California and Massachusetts. It also cited a \$31 million settlement with the Consumer Financial Protection Bureau over allegedly deceiving students about the cost of their private student loans and a 2014 settlement for \$7.25 million with the Iowa Attorney General over consumer fraud, including pressuring students to enroll by making false and misleading statements<sup>28</sup></li> </ul>
June 6	Ashford applied to the Board for Private Postsecondary Education (BPPE) for licensure in Arizona. <sup>29</sup>
June 21	The Education Department's Assistant General Counsel and <a href="#">designated ethics official</a> responded to

<sup>27</sup>Eitel took an [unpaid leave of absence](#) from Bridgepoint when he accepted the landing team position.

<sup>28</sup>For example, Ashford told prospective students who wished to become teachers that an online Ashford education degree would allow them to become classroom teachers when, in fact, many Ashford graduates are subject to additional requirements that may require further time, coursework, or money.

<https://www.iowaattorneygeneral.gov/newsroom/ashford-university-and-parent-company-bridgepoint-education-agree-to-7-25-million-payment-and-majo/>

<sup>29</sup>Interview with a BPPE Board official.

	the May 22 <sup>nd</sup> letter from Senators Warren and Murray. The letter indicated that Eitel had voluntarily recused himself from matters related to the Gainful Employment rule but that he was advised that he is not subject to disqualification under paragraph 6 of the Ethics Pledge or the conflict of interest statute in regard to review of and any possible changes to the borrower defense regulations that were to be effective July 1, 2017, and are now delayed. A signed copy of the ethics pledge was attached to the response. It does not document his voluntary recusal from matters involving the Gainful Employment rule.
June 22	Ashford was licensed to operate in the state by the <a href="#">Arizona State Board for Private Postsecondary Education</a> . According to a Board official, the Phoenix location is an administrative enrollment center, not a campus.
July 6	The Arizona SAA <a href="#">approved</a> Ashford’s application to provide education and training to veterans and their eligible dependents using GI Bill benefits “in the state of Arizona.” The approval notification indicated that Ashford’s accreditor, WASCUC, recognized the school as having “an online program which is based in the State of Arizona and covered as such.” This assertion is in conflict with the Bureau of Private Postsecondary Education’s licensure of Ashford as an out-of-state school whose educational programs are not delivered from within the state of Arizona. The approval covered 67 or 68 online degree programs. <sup>30</sup> Ashford indicated that it received notice of the approval on <a href="#">July 25</a> , and was awaiting the assignment of facility codes by the Department of Veterans Affairs. It also indicated that it would continue to “pursue its options in Iowa as well.”
July 17	The Iowa Polk County District Court <a href="#">dismissed</a> the Ashford petition. The Iowa SAA indicated it would take no action against Ashford until the school’s 30-day right to appeal had expired.
July 20	VA <a href="#">notified</a> GI Bill students using their benefits at Ashford that, pending the results of an appeal by the school, they were at risk of not being able to use those benefits after August 16, 2017, when the right to appeal lapsed. <ul style="list-style-type: none"> <li>○ In a July 26, 2017 <a href="#">email</a> to students, Ashford indicated that the White House had established a hotline, available at 855-948-2311, to give veterans an outlet to voice concerns about “misinformation provided to you by the VA regarding certification of your benefits for attendance at Ashford University....”</li> </ul>
Aug. 3	VA <a href="#">informed</a> the Arizona SAA that it was unable to accept its notice of approval for Ashford in its current form because the information submitted was insufficient to determine statutory and regulatory compliance—a shared responsibility, particularly with respect to enforcement of approval standards. Missing data identified by VA included: <ul style="list-style-type: none"> <li>○ Evidence that the Phoenix location offered a course of education given that the school’s 2016-17 catalogue identified Clinton and San Diego as campuses and Phoenix as an online administrative center.</li> <li>○ Evidence that the Phoenix location possessed adequate resources (space, instructors, equipment, instructional material) to provide training of good quality.</li> <li>○ Evidence that the Phoenix location had a certifying official onsite.</li> <li>○ Evidence that the Ashford’s Phoenix location met the definition of a main campus because independent study programs (online) may only be approved for VA benefits purposes by SAAs for the state where the institution’s main campus is located.<sup>31</sup></li> </ul>

<sup>30</sup>The Arizona SAA did not approve Ashford’s BA in Health Information Management because it was not accredited by the Commission on Accreditation for Health Informatics and Information Management Education and its graduates would be ineligible to sit for the national certification exam, which allows graduates to obtain a job. In September 2015, Veterans Education Success released a [report](#) showing that 20 percent of 300 for-profit schools did not have the appropriate programmatic accreditation to allow students, including veterans, to obtain the state license or certification needed to obtain a job. 2016 legislation prohibits such schools from participating in the GI Bill.

<sup>31</sup>As noted earlier in this chronology, Ashford had designated San Diego as its main campus for accreditation purposes. The Department of Education also lists San Diego as Ashford’s main campus for purposes of federal student aid.

	<p>In addition, the VA letter noted that the copy of the catalogue required to be submitted had expired prior to the Arizona SAA approval effective date of July 10, 2017.</p> <p>VA stated that failure to submit this information in a timely manner would delay the adjudication of education awards for GI Bill students at Ashford. VA also stated that it lacked sufficient information to determine if the Arizona SAA was in compliance with the standards and provisions of law and its VA contract terms, which could reflect negatively on VA’s annual performance review of the SAA.</p>
August 4	<p>VA <a href="#">informed</a> GI Bill students enrolled in Ashford degree programs that they would continue to receive benefits beyond August 16<sup>th</sup> because the school had filed a motion for reconsideration of the District Court’s June 17<sup>th</sup> decision dismissing the Ashford lawsuit. The Court’s decision had cleared the way for the Iowa SAA to terminate the school’s GI Bill eligibility.</p>
Aug. 8	<p>The Arizona SAA <a href="#">submitted</a> additional documentation on its Ashford approval to VA.</p>
Aug. 15	<p>In a <a href="#">letter</a> to Secretary DeVos, Senator Elizabeth Warren asked for copies of the ethics rules that applied to Robert Eitel, Senior Counselor to the Secretary, in order to determine whether he may have violated a federal criminal conflict-of-interest statute by working on the Department of Education’s Borrower Defense regulation while simultaneously employed by both the Department and Bridgepoint Education. Eitel served as Vice President of Regulatory Legal Services at Bridgepoint from July 2015 through April 2017.<sup>32</sup> Bridgepoint’s SEC filings underscored the deleterious financial implications of the Department’s Gainful Employment regulation on the company’s enrollment and revenue. The letter alleges that while Eitel had recused himself from involvement in specific Borrower Defense claims, he was not required to recuse himself from the rewriting of those rules.</p>
Aug. 16	<p>VA notified GI Bill students that Ashford had filed a motion for reconsideration for the Court’s July 17<sup>th</sup> ruling, delaying the August 16<sup>th</sup> benefits cut-off date.</p> <ul style="list-style-type: none"> <li>○ In an <a href="#">online portal</a> accessible by students, Ashford accused VA of providing misleading information to veterans regarding the certification of GI Bill benefits at the school.</li> </ul>
Aug. 17	<p>In a <a href="#">letter</a> to the Arizona SAA, VA thanked the SAA for providing additional documentation on its approval of Ashford to participate in the GI Bill based on its Arizona location, including a current catalogue, evidence of an onsite certifying official, and evidence of sufficient onsite resources.</p> <p>However, VA said that it still lacked sufficient evidence that Ashford’s Arizona location meets the definition of a main campus, indicating that by <a href="#">regulation</a> independent study (online) courses can only be approved by the SAA of the state in which the institution’s main campus (<a href="#">primary teaching facility</a>) is located.</p>
Sept. 13	<p>VA notified Ashford that it was assigning a <a href="#">new facility code</a> for its Arizona campus based on its recent approval by the Arizona SAA. However, VA closed its letter to Ashford with the following caveat:</p> <ul style="list-style-type: none"> <li>○ “Although the Arizona SAA has exercised its authority under <a href="#">38 U.S.C. § 3672(a)(1)</a> to approve your courses of education, VA is authorized to independently determine whether your institution, programs, or courses fail to meet any of the requirements of chapter 36, title 38, United States Code. See <a href="#">38 U.S.C. § 3690(b)</a>; 38 C.F.R. § 21.4210(d). If VA determines that your institution, programs, or courses do not satisfy one or more of the requirements of chapter 36, then, in accordance with 38 U.S.C § 3690(b) and 38 C.F.R. § 21.4210(d), the Director of the Muskogee Regional Processing Office may discontinue all educational assistance allowances of any eligible veteran or eligible person. Such a discontinuance will only be taken only after completing the actions required in <a href="#">38 C.F.R. § 21.4210(e)</a>.” Section (e) spells out the procedures for revoking GI Bill participation.</li> </ul>

<sup>32</sup>Moreover, from January 2013 until April 2017, Eitel worked for another for-profit institution—the [Career Education Corporation](#)—where he supervised accreditor and state regulatory operations.





## Appendix II

### State Licensure of For-Profit Institutions

#### Arizona

Arizona requires educational institutions applying for state licensure to demonstrate that they have had no pending actions by their accreditor and are in good standing with the U.S. Department of Education and the state licensing board for private postsecondary education, the regulatory agency that licensed the institution's main campus location (referred to in the application as the institution's "state of residence"). In addition, institutions are required to submit (1) a \$15,000 letter of credit; (2) copies of its incorporating documents; (3) proof of liability insurance; (4) information demonstrating financial responsibility; (5) the most current Title IV Financial Assistance Compliance Audit; (6) a list of the current programs approved by the regulatory agency where the main campus is located; (7) copies of student-related materials, such as its grievance procedures, refund policy, enrollment contract, catalogue/student handbook, financial aid disbursement policy, and all sales material distributed to potential and current students; (8) an organizational chart that includes position titles and employee names for both administrators and faculty; (9) resumes for each owner, board member, executive officer, and administrative director; and (10) facilities information.<sup>33</sup> Because Ashford is regionally accredited, no site visit is required.

#### California

To gain approval, Ashford had to meet the following minimum regulatory standards: (1) The content of each educational program can achieve its stated objective. (2) The institution maintains specific written standards for student admissions for each educational program and those standards are related to the particular educational program. (3) The facilities, instructional equipment, and materials are sufficient to enable students to achieve the educational program's goals. (4) The institution maintains a withdrawal policy and provides refunds. (5) The directors, administrators, and faculty are properly qualified. (6) The institution is financially sound and capable of fulfilling its commitments to students. (7) Upon satisfactory completion of an educational program, the institution gives students a document signifying the degree or diploma awarded. (8) Adequate records and standard transcripts are maintained and are available to students. (9) The institution is maintained and operated in compliance with the chapter and all other applicable ordinances and laws. (10) Accreditation is by an accrediting agency recognized by the U.S. Department of Education, with the scope of that accreditation covering the offering of at least one degree program by the institution, and (11) An

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<sup>33</sup>Because Ashford's Arizona operations are administrative in nature, it is not clear what facility information was submitted. The application states: "If your Arizona operations will be limited to recruitment and sales and you will not maintain a physical location in Arizona, do not complete this form. Instead identify all anticipated recruitment and sales sites, such as High Schools, Hotels, Prospective Student Homes, on a separate sheet of paper and submit."

accreditation plan, approved by the bureau, exists for the institution to become fully accredited within five years of the bureau's issuance of a provisional approval to operate.

## [Iowa](#)

Ashford was required to address the following topics in its application to the Iowa College Student Aid Commission: (1) name of institution, (2) institutional sector, (3) campus location, (4) residential and distance education degree programs to be offered in Iowa, including estimated total program charges, (5) distance education programs offer a structured field experience, (6) other Iowa state agencies required to approve the applicant's school in Iowa, (7) programs offered prepare student for first-time, licensed professional employment, (8) school's refund policy, (9) contact information for school chief executive officer, (10) links to information disclosed to students, such as course titles and descriptions, (11) contact information for a representative in Iowa, (12) information on officers and governing members, (13) names and addresses for individuals owning more than 10 percent of the school, (14) accreditor, including accreditation status and any pending or final actions, (15) student records safeguards, (16) how to obtain a transcript, (17) other states and regulatory agencies that have required institutional licensure of the school, (18) revocation of license by any regulatory agency, (19) sanctions within the past year by any regulatory agency, (20) enforcement actions, (21) agreement to notify the commission of any pending or final sanction, (22) description of academic and instructional methodologies and delivery systems, (23) any U.S. Department of Education sanctions and a copy of its financial aid participation agreement, (24) Iowa student enrollment and faculty, (25) employment of Iowa staff other than faculty, (26) data on full-time Iowa faculty, (27) number of full and part-time Iowa faculty, (28) how the school will comply with providing students with the Commission's contact information for complaints or questions, (29) compliance with specific provisions of Iowa code § 261.9, (30) agreement to file annual reports with the Commission, (31) copy of the school's independent audit report, (32) library resources available to students, (33) evidence that faculty are involved in developing and evaluating the curriculum, (34) evidence of adequate physical facilities and copy of signed agreement for facility purchase or lease, (35) organizational plan with contact information for each operating location, (36) complaints policy, (37) most recent U.S. Department of Education cohort default rate, (38) average loan debt for graduates, and (39) graduation rate reported to the U.S. Department of Education.