



Wisconsin Department of Veterans Affairs

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“You Have Been Identified...”
Wisconsin State Approving Agency’s
***NEW* Risk Based Compliance Survey**

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THIS IS
STILL NEW
TO US!



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***Seriously, our
first training
was just last
week***



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SAAs have more
training in August,
& a lot of
unanswered
questions.



VA Definitions of Compliance

- **Compliance Action:** Any compliance survey, Risk-Based Survey or Targeted Risk Based Review and site visits conducted.
 - Public Law 115-048, Harry W. Colmery Veterans Educational Assistance Act of 2017 allows the VA to utilize the services of a State Approving Agency (SAA) for conducting compliance and risk-based surveys.
 - Johnny Isakson & David P. Roe, M.D. Veterans Health Care & Benefits Improvement Act of 2020 sets new requirements for risk-based surveys. **As a result, this legislation directs the Department of Veterans Affairs to establish in partnership with State Approving Agencies (SAA) the development of a searchable risk -based survey for oversight of educational institutions with approved courses and programs.**



Types of Compliance Surveys

Routine Compliance Survey (Routine)	Risk Based Compliance Survey (RBS)	Targeted Risk Based Review (TRBR)
<ul style="list-style-type: none">• Conducted by the VA's Education Compliance Survey Specialists (ECSS) and St. George Consulting group.• Used to verify the propriety of payments of educational benefits to eligible individuals under the provisions of the laws administered by VA.	<ul style="list-style-type: none">• Conducted by SAA's.• A mechanism for VA and SAAs to review and mitigate potential fraud, waste, and abuse by utilizing data and risk factors that are outside of the normal approval, compliance, and liaison processes.	<ul style="list-style-type: none">• Conducted by the VA or SAA.• An onsite review conducted because of the identification of known risk indicators or receipt of an allegation of fraud deceptive, advertising and/or other misleading practices.



The purpose of a Risk-Based Survey (RBS) is twofold:

1. For the State Approving Agency to conduct a compliance action as an agent under contract for the federal government assessing various legislative and Department determined risk factors
2. For the State Approving Agency to ensure the program approval meets all federal and state statute and regulations aligning to the GI Bill®



Risk-Based Surveys (RBS) have three principal objectives:

1. For SAAs to review and mitigate potential fraud, waste, and abuse at educational institutions and training facilities by utilizing data and risk factors outside the normal approval, compliance, and liaison processes.
2. To verify the propriety of payments of educational benefits to eligible institutions under the provisions of the laws administered by VA.
3. Assure prompt action is taken through appropriate channels if risk factor is substantiated with RBS visit.



Defining “Risky” Behavior Requiring a Survey

- PL 116-315 outlined specific actions as “Risky,” including:
 - Rapid increase in Veteran enrollment
 - Rapid increase in tuition and fees
 - Complaints tracked:
 - Based upon volume, or
 - Based upon severity
 - 85/15 Violations
 - Veteran Completion Rates
 - Indicators of financial stability
 - Advertising and recruiting practices
 - Other Federal/State Actions



Other Legislative Risk Factors from Public Law 116-315

- Conversion from to a private for-profit educational institution to a private nonprofit or public educational Institution requires a Risk-Based Survey for three consecutive years following the conversion
- Other accreditor actions
- Trend in deficiencies on compliance surveys
- Suspension or withdrawal actions with risk concerns
- Rates of Federal Student Loan Defaults by Veterans
- 90/10 Rule violation



Elements of a Risk-Based Survey (1-9)

- 1. Initial Risk Factor(s):** These risk factors can be identified as one risk factor that meets a specified threshold, or a combination of multiple risk factors considered together.
- 2. Approval/Administrative Review:** Review approval, training, accreditation, and Federal/State investigations.
- 3. Student Records:** Review to ensure that the facility keeps adequate records, as approved by the SAA
- 4. Individual Student Files:** Review to ensure the propriety of payments of educational benefits



Elements of a Risk-Based Survey (cont.)

5. **Advertising:** Review of advertising and marketing materials (including enrollment materials) in order to evaluate the facility's advertising, marketing and recruiting materials, including materials generated or used by third party contractors, and to ensure those materials do not make representations that are deceptive or misleading or constitute substantial misrepresentations
6. **Complaints:** Review to ensure that all complaints being made by students, not just those made to the Department of Veterans Affairs, are addressed



Elements of a Risk-Based Survey (cont.)

7. **Financial Soundness:** To evaluate the facility's financial information to ensure that it demonstrates financial soundness (i.e., the facility can fulfill its commitment to provide quality education, stability, benefits to faculty and staff, and up-to-date facilities)
8. **Regulatory Compliance:** Review of any pending matters initiated by accreditors or by other state or federal regulators
9. **Prior Compliance Survey Data or Approval Action:** Any errors or patterns of errors noted on previous compliance surveys or suspension/withdrawal actions



Things Risk Based Surveys are NOT:

1. Punitive actions against a facility
2. Actions designed to scare veterans away from enrolling at your facility

Thing Risk Based Surveys are:

1. A mechanism for VA and SAAs to review facilities and mitigate potential fraud, waste, and abuse

What Happens During a Survey?

SAA Notifies School of Survey & Reason



School & SAA Collect Data Simultaneously



Survey Date Occurs & Data Reviewed



What Is Reviewed During a Survey?

1. Basic Facility Information – Including information we already collect for our yearly approvals or what we have previously collected in surveys. We will also collect information on items like graduation rates, veteran completion , licensing, or job placement rates
2. Student Files – Similar to what we already collect on a routine compliance survey – admissions documents, transcripts, attendance, enrollment, ledger statements with Title IV, etc.



What Is Reviewed During a Survey?

3. Advertising Documents – Advertising from the previous 24-month period to review for compliance with regulations
4. Student Compliant Documents – Any complaints filed directly with the school, a review of VA systems for complaints, BBB, or other state/federal agencies
5. Financial Soundness – Information on a balance sheet, income statement, cash flows, 90/10 & 85-15 compliance
6. Student &/or Graduate Interviews – An ability to have students provide feedback directly to us



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Gentle
Reminder: THIS
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The Day of a Survey

- On the day of a compliance survey, *there will likely be very little that changes from the way we currently conduct routine compliance surveys at facilities*
- At the entrance interview, if you have not already emailed or given the SAA the information, you will bring the data that we have requested you collect – including student files, financial information, etc.
- We will then have a conversation about the identified risk factor and review what the documentation shows to us on how your facility is operating



The Day of a Survey & Beyond

- We may stay on site to complete our review, or we may gather the information and complete our review offsite
- Over the next several days, the SAA will enter information we have gathered, reviewed, or verified into various VA computer systems, just like what we already do on routine compliance surveys
- When we complete the survey, we will review with you in an exit briefing and written narrative what our findings of the survey showed about your facility and any next steps



Survey Results and Reporting

- Findings with no impact to Approval requirements:
 - We will hold an exit meeting and provide a written narrative indicating that any findings do not impact facility approval
- Findings that could potentially impact Approval:
 - SAA Actions include – suspension or withdrawal of approval, mitigation and enforcement actions by State agencies or accreditation agencies, etc.
 - VA Actions include – evaluation of expanded surveys, liability cases, cooperation and coordination with OIG or FTC investigations.



When a School Fails to Comply With an RBS

As a result of the Isakson and Roe Act (Public Law 116-315), section 1017 amended chapter 36 of Title 38 USC §3679 to establish grounds for disapproval of a course when an Education and Training Institution (ETI) fails to comply with a risk-based survey.

An ETI can fail to comply with a risk-based survey by:

1. Failure to respond to a request to schedule a risk-based survey
2. Failure to provide or produce documentation upon request during a compliance action under CFR 21.4209

Failure to comply with the provisions of an RBS are grounds for withdrawal for approval from accepting VA education benefits

Questions?

