85/15 Frequently Asked Questions

What is the purpose of the 85 Percent Rule?

The 85 Percent Rule (85/15) prohibits paying Department of Veterans Affairs benefits to students enrolling in a program when more than 85% of the students enrolled in that program are having any portion of their tuition, fees, or other charges paid for them by the Education and Training Institution (ETI) or by VA until Title 38 and Title 10. If the ratio of supported students to non-supported students exceeds 85%, only students maintaining continuous enrollment may continue to receive benefits for that program.

Does the 85/15 Rule apply to every ETI?

The provisions of the 85 Percent Rule do not apply to:

- A farm cooperative training course (38 USC 3680A [d] [2] [B] and 38 CFR 21.4201 [c] [1] [i]).
- Flying clubs (also known as "aero clubs") operating under regulations of the Armed Forces as "non-appropriated sundry fund activities" (38 CFR 21.4201 [c] [1] [ii]).
- Veterans in pursuit of a program leading to a high school diploma, equivalency certificate, or a refresher, remedial, or deficiency course (38 CFR 21.4201 [c] [2]).
- Facilities which do not charge tuition, fees, or other charges (routinely this means that sites approved for On-The-Job [OJT] or Apprenticeship [APP] training) (38 USC 3680A [d] [1]).

All other facilities (including but not limited to IHLs, NCDs, and Vocational Flight Schools) must comply with 85/15.

When should the ETI submit reports?

An ETI that is structured on a term, quarter, or semester basis the routine 85/15 calculations must be provided to the Education Liaison Representative of jurisdiction no later than 30 days after the start of each regular term.

If an ETI that is structured on a non-term basis, the previous quarter’s 85/15 calculations must be submitted to the Education Liaison Representative (ELR) of jurisdiction no later than 30 days after the beginning of each calendar quarter. For VA purposes these calendar quarters align with the quarters of VA’s Fiscal Year.

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<th>Due Date</th>
<th>Enrollment Periods Beginning</th>
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<td>April 30th</td>
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Calculations for an ETI not structured on a term basis must be submitted for all enrollment periods in the previous calendar quarter. One comprehensive calculation is not acceptable, each individual enrollment period must be individually calculated and reported.

The ELR of jurisdiction can confirm your schedule will meet requirements.
How should an ETI submit 85/15 reports to VA?

VA can provide a suggested format for data collection. Contact your ELR to obtain a copy of these documents. Once finalized, mandated forms for 85/15 reporting will be disseminated.

How should ETI that are centrally certified report?

Each approved campus must calculate and submit calculations to the ELR having jurisdiction over the campus upon which the report is based. Note: Most extension campuses are not approved independently of the parent campus. Enrollments in programs where some or all of the courses are taken at an extension campus that does NOT maintain its own facility code and administrative capability must be reported under the parent campus facility code.

If the ETI does not currently have any VA students, is it still required to submit the 85/15 report?

Yes. 85/15 calculations are required for all approved programs, even in situations where there are no VA beneficiaries in a program or when there are no students actively in a program.

The ETI offers a dual degree, would they need to report the students enrolled in the dual degree program separately (i.e., separate them out into the respective degrees for reporting)?

Maybe. If the dual degree is approved by the State Approving Agency (SAA) of jurisdiction as a single program, then the students would only be counted in that one single program that awards a dual degree. However, if a student is enrolled in multiple degrees, in the case that the multiple degrees are not approved by the SAA as a single program, just as we would for dual majors, the student must be counted in each separately approved program under which that student is pursuing a degree - this is true for both supported and non-supported students – and is counted as a full-time or part-time student under each degree program based on the total number of credits the student is pursuing during the enrollment period.

If a student drops in the middle of a program and alters the ratio of supported to non-supported student which subsequently makes the program out of compliance for 85/15 how should the ETI report this?

If the program is out of compliance for the next enrollment period, then the ETI cannot certify new VA students other than Chapter 31 and Chapter 35 students.

When should an ETI separate out any alterations to a program?

Anytime there is difference in program objective, cost, length, or equipment used, a separate calculation is required. Some examples are (not limited to):

- Modality (resident vs. distance)
- Concentrations
- Specializations
- Tracks
- Emphases
What is the difference in calculations for the 35% exemption and the 85/15 calculations?

35% exemption calculations are based on actual student enrollment. 85/15 calculations are based on full time equivalency. Full time equivalency is determined by training time, not rate of pursuit like Post 9/11 benefits. Example student enrolled in 9 credit hours would equal 3/4 training when weighting the value of the student in the report. The ETI must meet all conditions listed in 38 CFR 21.4201.

35% exemption calculations are based on the overall percentage of the total enrollment of students who are veterans, eligible persons, and reservists receiving assistance under 38 U.S.C. chapters 30, 31, 32, 33, 35 and 36, and 10 U.S.C. chapter 1606, whereas the 85/15 calculations are based on the percentage of supported vs. non-supported students.

If an ETI, not organized on a standard term, quarter or semester basis, but that instead offers multiple modules during a calendar quarter, does the ETI have to report one combined 85/15 report or individual 85/15 reports for each module?

When calculating 85/15 for programs offered on a non-term basis (i.e., modular, cohort, etc.) the school administrators will review and report on all students enrolled in a program at the start of each module or cohort. The submission of these multiple reports is due within 30 days of the end of the quarter. This submission must include all enrollment periods beginning during the quarter upon which the ETI is reporting.

Note: This does not refer to programs offered on a term basis, such as those offered in “mini-mesters” at an otherwise traditionally term-structured institution.

Are CH35 Students included in the calculations for 85/15?

Yes. Both Ch35 and Ch31 students are counted as supported students when calculating 85/15.

Should ELR tell ETI that they can’t certify a student’s enrollment until the 30th day to ensure that all programs are within limits? How can VA tell the ETI to certify prior to verifying their 85/15 ratio report?

85/15 calculations are complex. Schools must have policies that ensure compliance prior to certifying enrollments of students.

What if someone’s enrollment shouldn’t have been certified?

Exceeding the 85/15 ratio prohibits an ETI from certifying any new supported students. If the program exceeds 85% enrollment of supported students at the beginning of the term, no additional supported students may be certified until the program is compliant.

Note: If on compliance it is found that an ETI certified a supported student when the overall enrollment ratio of supported students already exceeded 85%, then the surveyor must review for patterns of this type of occurrence. Multiple or habitual occurrences would be identified as a risk factor and would require a full review of the institution, which may lead to a referral for school liability, and/or investigation to identify possible fraud.
Why are 35% exemptions being rescinded?
Recent reviews conducted by VA of 85/15 compliance found that a number of schools were not correctly computing the ratio of supported to non-supported students, especially schools with a generally applicable 35 percent exemption.

The ETI previously had a 35% exemption, after the reset on October 1, 2021, will the ETI need to apply for a new one?
Yes. 35% Exemption Requests will be accepted with the submission of 85/15 Enrollment Ratios for reporting dates beginning on or after October 1, 2021.

When granted, does the 35% Exemption expire?
Yes. For all types of Educational and Training Institutions, the 35% Exemption expires 24 months from the date of issue.

Does the ETI have to retain 85/15 calculations if the school has a 35% exemption?
Yes. All 85/15 calculations must be retained and provided when requested by a VA or an SAA employee.

Can vocational flight school receive the 35% exemption?
There is no exclusion that would exempt a vocational flight school from applying for the exemption.

Does the Oversight and Accountability Office grant 85/15 waivers or 35% exemptions for VET-TEC?
No.

If my ETI is located on a military installation, is it exempt from the 85/15 Rule?
Not necessarily. The ETI must meet all conditions listed in 38 CFR 21.4201.

1. It must be offered under contract with the Department of Defense or the Department of Homeland Security.
2. It must be on, or immediately adjacent to, a military base or a facility
3. The program must be approved by the State Approving Agency of jurisdiction
4. It must be available only to:
   a) Military personnel and their dependents;
   b) Military personnel, their dependents and civilian employees of a base located in a State;
   c) Persons authorized by the base commander to attend the course provided the base is located outside the United States; or
   d) In the case of a program offered on or immediately adjacent to a facility of the National Guard, the Air National Guard or the Selected Reserve, members of the National Guard, Air National Guard, Selected Reserve and their dependents.

An ETI interested in confirming if it has a Department of Defense Exemption must contact its ELR of jurisdiction.
Do extension campuses located on a military base qualify for the exemption from 85/15 reporting?
If they meet all the requirements listed in 38 CFR 21.4201, and have their own administrative capabilities, it is possible for that campus to receive a DoD Exemption.

Does an ETI have to calculate the 85/15 ratios for every semester if you get an Education Service Waiver?
If your ETI receives an Education Service Waiver, the ETI does not need to comply with 85/15 limitations for the program(s) explicitly listed in the waiver letter for the period specified in the letter.
Any other approved programs offered at the ETI are subject to the 85/15 Rule and the ETI is required to calculate and report 85/15 enrollment ratios as per normal reporting requirements.

Does the ETI need to calculate guest, non-matriculated or undeclared students?
No. There is no currently existing requirement to calculate or report guest, non-matriculated or undeclared students or undeclared students.

If a student is awarded payments from another Federal or State agency is the student counted as a supported student?
No. The funds from another Federal or State agency do not make the student supported.

If a student is using DoD or DHS Tuition Assistance, MyCAA, or some other type of federally funded program but is not using any VA benefits or receiving any type of restricted aid from the institution, would he or she be considered a non-supported student?
A student receiving Federal or State funded assistance alone would be considered a non-supported.
If the student is receiving multiple types of aid and any of it is supported, the student must be counted as a supported student.

Some states offer a benefit that is available only after all other benefits, to include VA benefits, are fully exhausted. If the beneficiary is entitled to less than 100% benefit level for Chapter 33, it would be available to cover the percentage not covered by Chapter 33. Should ETI count these students as supported if they are receiving this benefit?
State grants, such as those available under the Hazelwood Act, Illinois Veterans Grant, the California College Promise Grant, are considered 3rd Party Aid. Students receiving 3rd Party Aid and no other aid that would require they be counted as supported students, are considered non-supported so long as all other conditions are met.

How can I tell if institutional aid is "restricted aid"?
If the aid somehow disqualifies all students receiving VA benefits, all students in receipt of the aid must be counted as supported students.
If students receiving GI Bill benefits can access the aid, without having to relinquish their GI Bill benefits, then the aid is considered unrestricted and other students receiving that aid can be counted non-supported students.
When determining if aid is restricted, what does "unequal" mean as it relates to institutional aid?

If the terms for awarding institutional aid, either written OR in application, serve to exclude VA beneficiaries from receiving that aid, then the aid is considered to be “unequal”.

Can an ETI obligate a student to decline an institutional scholarship in order to be certified for Yellow Ribbon benefits?

Yes, but all students receiving the scholarship then become supported students.

Is there a violation when there is only one supported student in the entire degree program?

If a program only has one supported student then the program will not be suspended, however the school may not certify another supported student until at least one non-supported student enrolls.

An ETI has two supported students enrolled in an approved program, but each of the students is enrolled at half-time (0.5). The total number of supported students is 2 but the FTE is 1. Since the supported student FTE is 1, is the program still compliant?

No. VA allows that only one supported student may be enrolled in the program without taking action to suspend the program. The full-time equivalency of that student is irrelevant.

Are graduate students calculated as non-supported when the student is receiving restricted aid?

38 CFR 21.4201 specifies that graduate students in receipt of institutional aid are considered Non-Supported for purposes of 85/15 calculations.

Graduate students who meet other supported student criteria (i.e., are using GI Bill® benefits) must still be counted as supported students.

What is the difference in an 85/15 suspension vs SAA suspension? If the ELR sends a referral to the SAA due to neglect to comply who suspends the facility, the ELR or SAA?

The ELR suspends for payment, because of 85/15 violation or failure to report. SAA suspends approval for violations for failure to produce records. A program can be suspended for both at the same time.

What is the process for a program suspended for a violation of the 85/15 Rule?

If a violation occurs, the program is given a payment suspension (which should not be confused with an approval suspension). This payment suspension means that payment for certifications will automatically be denied for any newly enrolling VA beneficiaries receiving benefits under Title 38 or Title 10 (except those VA beneficiaries utilizing Chapters 31 and 35).

Continuously enrolled VA beneficiary students may continue to be certified for a program suspended for 85/15 provided they were enrolled in, and attending, the program during the previous term without a break in enrollment (a break over a summer term is not considered a break in enrollment).

The 85/15 Suspension alone does not affect the approval of the program as State Approving Agencies maintain program approval authority.
When conducting a compliance survey, do surveyors ask for the 85/15 calculations that were last submitted to the ELR or obtain new calculations?

The surveyor will request all 85/15 reports for the survey period.

If an 35% exemption was recently approved, does the 85/15 calculation need to be reviewed by the ECSS?

The 35% exemption does not de-obligate the school from calculating and producing those reports during a compliance survey.

When is a full 85/15 review warranted?

When risk factors are identified. Although professional judgement could come into play if a VA employee, a contracted employee, or an SAA employee sees other factors at play that warrant a further review.

Does the ELR notify the Regional Processing Office (RPO) when a suspension occurs or is lifted?

The Chief Education Liaison Officer (CELO) notifies the RPO of all suspensions and changes to a suspension.