Education Service
School Certifying Official Training

The 85/15 Rule
School Certifying Officials
LEARNING OBJECTIVES
Upon completion of this module, you should be able to:

1. Gain an understanding of the background and purpose of the 85/15 Rule
2. Know the different types of exemptions and the waiver of the 85/15 Rule
3. Distinguish the differences between supported and non-supported students
4. Find out about reporting requirements and deadlines
5. Learn about 85/15 suspension actions and how they affect your students
Commonly Used Terms

Throughout the presentation the following terms are used interchangeably and wherever used should be understood to refer to an Education and Training Institution (ETI):

- Educational Institution
- ETI
- Facility
- School
- Training Facility
Why do we have the 85/15 Rule?

• To ensure that a minimum number of students, who are not receiving VA funds, are willing to pay for the full cost of the program.

• To ensure that the price of the program responds to the general demands of the open market and that a minimal number of non-VA beneficiaries find the program worthwhile and valuable.
The 85/15 Rule

The 85/15 Rule prohibits paying Department of Veterans Affairs (VA) 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 & Training Institution (ETI) or VA.

If the ratio of Supported students to Non-Supported Students exceeds 85% only students maintaining continuous enrollment may receive benefits for that program.

NOTE: Students receiving Veteran Readiness and Employment (Chapter 31) or Survivors’ and Dependents’ Educational Assistance (Chapter 35) benefits must be counted when calculating 85/15 Rule compliance, but they can continue to be certified and enrolled if the Education & Training Institution (ETI) is found to be in violation of the 85/15 Rule.
SCO Responsibilities

The SCO is required to

- Monitor enrollments for ALL approved programs.
- Routinely report to the ELR any approved programs not awarded an exemption or waiver.
- Apply for exemptions or waiver, as appropriate.
- Maintain adequate records of 85/15 for compliance purposes.
Exemptions & Waiver
Exemptions to the 85/15 Rule

The provisions of the 85/15 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]).

Note: In addition to the types of facilities above, students receiving Veteran Readiness and Employment (Chapter 31) or Survivors’ and Dependents’ Educational Assistance (Chapter 35) benefits. These students must be counted as Supported Students for determining a program’s compliance with the 85/15 Rule, but students receiving these specific benefits can be certified for benefits, even if the program is in violation of the 85/15 Rule.
Department of Defense 85/15 Rule Exemption

A site is exempt from all provisions of the 85/15 Rule if it has a Department of Defense Exemption. In order to be eligible for a Department of Defense 85/15 Rule Exemption, the program must meet all of the following:

Offered under contract
- Department of Defense (DoD)
- Department of Homeland Security (DHS)

On or immediately adjacent to
- Military base
- Facility of the National Guard

Approved by the State Approving Agency (SAA)

Be available only to:
- Military personnel and their dependents
- Civilian base employees
- Persons authorized by the base Commander when the base is located outside the United States
- If on or immediately adjacent to National Guard facility, National Guard members and their dependents
35% Exemption (1 of 2)

What is the 35% Exemption?

An educational institution with a 35% Exemption is not required to routinely (as required by regulation) report 85/15 calculations to the VA.

35% Exemption Criteria

The total number of VA beneficiaries enrolled in programs approved to receive VA benefits must be less than or equal to 35% of the total student enrollment.

NOTE 1 - Any programs that exceed 85% Supported Student enrollment are not exempt and the educational institution must continue to monitor and routinely report enrollment data on any programs not included in the 35% Exemption.

NOTE 2: Total student population is NOT based on Full Time Equivalency (FTE).
35% Exemption (2 of 2)

An ETI with a 35% Exemption is not required to routinely report 85/15 calculations to the VA. However, the 35% Exemption has no impact on 85/15 calculations requested during a Compliance Survey, or if requested by an ELR, SAA or other Education Service VA employee.

The Exemption is specifically limited to the educational institution having to provide routine reports to their ELR of jurisdiction.

Note: There was a national reset to rescind all 35% Exemptions effective October 1, 2020.
Applying for the 35% Exemption

The educational institution interested in applying for the 35% Exemption will do so by providing the 35% Exemption form with a completed Statement of Assurance of Compliance with 85 Percent Enrollment Ratios to their Education Liaison Representative (ELR).

- ELR will assess the sufficiency of the information submitted and develop as necessary.
- The CELO or designee signs 35% Exemption determination letter.
- If confirmed, the ELR will update WEAMS to reflect 35% Exemption status and provide written notification of the determination that the exemption is or is not confirmed.

A partial 35% Exemption may be authorized, if overall enrollment of VA beneficiaries does not exceed 35% but there are programs that do exceed 85% enrollment of Supported Students.
What Is The Education Service Waiver?

When courses exceed 85% Supported Students, the school may apply for a waiver to the Director, Education Service.

When applying, the school must submit enough information to allow the Director, Education Service, to judge the merits of its request against the criteria below.

- Availability of similar courses
  - Vicinity
- Developing schools - serving a disadvantaged population
  - Strengthening Institutions Program
  - Special Needs Program
- Compliance survey history with no serious discrepancies
- General effectiveness of the courses
  - employment opportunities
    - Factors
      - Course completion
      - Ratio of educational expense to full-time equivalency enrollment
Supported and Non-Supported Students
Supported Students

- Any student receiving any amount of VA Education benefits.
- Any student where the full amount of tuition and fees has not been paid to the educational institution prior to the start of the 15th day of class.
- Any student who received a loan for tuition, fees, or other charges directly from the educational institution if the policy for determining the recipient of such loan is unequal with respect to veterans and nonveterans.
- Any student who receives a loan considered to be less than an Arm’s Length transaction.
- Any student where the educational institution accepts less than full tuition, fees, or other charges from a loan company (the repayment works to essentially reduce the tuition, fees, or other charges accepted by the educational institution from the loan company).
- Any student who is granted any waiver or forgiveness of tuition, fees, or other charges.
- Any student who receives an institutionally funded scholarship or grant, if the institutional policy for determining the recipient of such aid is not equal with respect to veterans and nonveterans alike.
Arm’s Length Transactions

Arm’s Length Transaction

- Transactions between two parties
  - Independent
  - No close relationship with each other
- Parties have equal bargaining power
  - Not subject to undue pressure/influence from the other party
  - No fiduciary duties between the parties
Non-Supported Students

- Any student who pays the full amount of tuition, fees, and other mandatory charges to the educational institution prior to the start of the 15th day of class.

- Any student who finances their tuition, fees, and other mandatory charges through an Arm’s Length Transaction (i.e. a Promissory Note with a neutral 3rd party lending facility).

- Any student receiving Title IV Department of Education aid

- Any student receiving Tuition Assistance through the Department of Defense.

- Any student receiving non-institutional aid (scholarships, grants, or other types of aid offered by a third-party entity not affiliated with the school).

- Graduate Students in Receipt of Institutional Aid.

- Any student receiving an institutionally funded loan, scholarship, or grant, if the policy for determining the recipient of such aid is equal with respect to veterans and nonveterans alike.

NOTE: If the student is receiving multiple types of aid and any of it is Supported, the student must be counted as a Supported Student.
Reporting Requirements
How Do I Report 85/15 Calculations To The VA?

You must complete and submit to your ELR the **Statement of Assurance of Compliance with 85 Percent Enrollment Ratios**.

Please request from your ELR a copy of the updated **Statement of Assurance of Compliance with 85 Percent Enrollment Ratios**.
Routine Reporting Due Dates

If the educational institution is structured on a Term, Quarter, or Semester Basis, then –

• 85/15 calculations must be submitted to the Education Liaison Representative (ELR) of jurisdiction no later than 30 days after the start of the regular term (excluding summer terms).

If the educational institution is not structured on a Term Basis, then –

• 85/15 calculations must be submitted to the ELR of jurisdiction no later than 30 days after the beginning of each calendar quarter.

• Calendar quarters align with the quarters of VA’s fiscal year which starts in October and ends in September.

• Due dates for routine reporting of 85/15 calculations will be as follows:

  - **January 30th** for October – December
  - **April 30th** for January – March
  - **July 30th** for April – June
  - **October 30th** for July – September

![Calendar Image](calendar.png)
Calculating 85/15

How is the 85/15 Calculation Done?

1. Each Facility Code of a Main or Branch campus of an Education and Training Institution (ETI) must submit its own 85/15 Rule calculations. Extension Campus Facility Codes should be calculated using the associated Main or Branch campus.

2. Break students into their individual programs
   - Each program must be reported separately
   - Each track is reported separately
   - Each concentration is reported separately
   - Each modality is reported separately

3. Identify each student as being a Supported Student or a Non-Supported Student.

4. Add the number of Supported Students to the number of Non-Supported Students for a Total Number of Students.

5. Divide the number of Supported Students by the Total Number of students. Convert the result into a percentage.

   If the percentage is equal to or under 85%, the program is in compliance with the 85/15 Rule. If the percentage is over 85%, then the program is not in compliance with the 85/15 Rule.
Assigning Students (1 of 3)

How Are Double Majors Counted?

Students enrolled in double majors must be counted for each major in which they are enrolled in (this is true for both Supported and Non-Supported Students). The student is counted as a full-time or part-time student under each major based on the total number of credits the student is pursuing during the enrollment period.

Example 1: A student is receiving Post 9/11 GI Bill® (Chapter 33) benefits, is enrolled as a full-time student for reporting purposes, and is majoring in both Biology and Chemistry. For 85/15 Rule purposes, this student would count as a full-time Supported Student for both the Biology and Chemistry programs.

Example 2: A student is completely self-paying for their schooling and is enrolled as a part-time student majoring in French, Latin, and Spanish. For 85/15 Rule purposes, this student would count as a Non-Supported Student enrolled part-time for all three majors in which s/he is enrolled.
Assigning Students (2 of 3)

**How Are Concentrations and Tracks Counted?**

Students must be counted for each concentration and track in which they are enrolled (this is true for both Supported and Non-Supported Students).

Example: A student is receiving Post 9/11 GI Bill® (Chapter 33) benefits and is majoring in Aviation Management (which has a flight component). The Education and Training Institution (ETI) would list on the 85/15 Statement of Assurance of Compliance with Enrollment Ratios

Aviation Management – Flight Track  
Aviation Management – Non-Flight Track

And would count this student as a Supported Student in the Aviation Management – Flight Track.

Remember: A student is counted as a full-time or part-time student under each approved concentration or track based on the student’s overall rate of pursuit or individual training time.
Assigning Students (3 of 3)

Calculating part-time students

Part-time students must be converted to a full-time equivalent number.

This is done by multiplying the number of part-time students by the student's training time:

Example:

<table>
<thead>
<tr>
<th>Number of Students</th>
<th>Individual Training Time or Rate of Pursuit</th>
<th>Calculation</th>
<th>Full Time Equivalent Number of Students</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>.25</td>
<td>20 * .25</td>
<td>5</td>
</tr>
<tr>
<td>15</td>
<td>.5</td>
<td>15 * .50</td>
<td>7.5</td>
</tr>
<tr>
<td>10</td>
<td>.75</td>
<td>10 * .75</td>
<td>7.5</td>
</tr>
</tbody>
</table>

These 45 part-time students equate to a total of 20 FTE which must be added to the total full-time number of either Supported or Non-Supported Students.

A student is counted as a full-time or part-time student under each approved concentration or track based on the student’s overall rate of pursuit or individual training time.
85/15 Suspensions (1 of 2)

If an educational institution provides calculations that show a program violated the 85/15 Rule, the ELR must:

1. Suspend enrollments and reenrollments for the out of compliance program effective the date that the ratio exceeded 85% of Supported Students. The ELR will do this by notifying the SELR and CELO of jurisdiction. The CELO will contact the Processing Division to inform them of the suspension.

If the educational institution has a 35% Exemption – the exemption will be reviewed and may be revoked.
2. Inform the educational institution by letter that all further enrollments for the programs are suspended, and inform the educational institution that they may not submit enrollment certifications for VA students enrolling or reenrolling on or after the effective date of the suspension (with the exception of students receiving Chapter 31 or Chapter 35 benefits).

A copy of this letter will also be submitted to the SAA of jurisdiction. The educational institution should continue to submit certifications for students who already enrolled in the program, have been previously paid for the program, and have been continuously enrolled in the program. The educational institution must continue to submit all changes in enrollments (reductions, terminations, etc.) for enrolled students.
Non-Compliance

If the 85/15 ratio is exceeded in a program, the ELR of jurisdiction will:

1. Suspend enrollments and reenrollments for the out of compliance program effective the date that the ratio exceeded 85% of Supported Students.

2. Inform the Education and Training Institution (ETI) by letter that all further enrollments are suspended and inform the Education and Training Institution (ETI) not to submit enrollment certifications for VA students enrolling or reenrolling on or after the effective date of the suspension. A copy of this letter will also be submitted to the SAA of jurisdiction for informational purposes.

The ETI will continue to submit certifications for the following students:

- Students who are already enrolled in and pursuing the program;
- Students who have previously received VA benefits for the program; and
- Students who have been continuously enrolled in the program.
Non-Compliance (1of 2)

How Does 85/15 Suspension Affect VA Students?

The Regional Processing Office (RPO) of jurisdiction will not authorize payment for benefits for VA students enrolling or reenrolling on or after the date the program exceeded 85% Supported Students, unless a student has been continuously enrolled in the same program.

The exception to this rule is students receiving benefits under Chapter 31 or Chapter 35. VA students that enroll or reenroll and are using one of these benefits may continue to be certified and paid.

Note: An 85/15 suspension is a suspension of payment and should not be confused with a suspension of approval. Suspension of a program for violating the 85/15 is done by the VA, not the SAA of jurisdiction.
Non-Compliance (2 of 2)

If an educational institution states that they are unwilling or unable to provide 85/15 Rule calculations at the required reporting period or when requested by an authorized individual the facility will be reminded that failure to provide the information can result in the following:

- No benefits will be paid for the enrollment of any VA beneficiary enrolled in any of the educational institutions approved programs, until the educational institution completes the 85/15 Rule calculations and is found to be in compliance with it (38 CFR 21.4201 [g] [3]); and

- The SAA of jurisdiction will be informed that the educational institution is in violation of 38 CFR 21.4209 (5).
Lesson References

38 U.S. Code § 3680A

38 CFR § 21.4201