

## [85/15 Rule](#)

### THE 85/15 PERCENT RATIO REQUIREMENT

On August 26, 2022, the President signed into law PL 117-174, "Ensuring the Best Schools for Veterans Act of 2022" modifying the law known as 85/15 Rule.

For current comprehensive guidance on the 85/15 rule please see 85/15 FAQs page [85/15 Frequently Asked Questions - Education and Training \(va.gov\)](#)

#### What is the 85/15 Ratio Requirement?

The 85/15 Ratio Requirement 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 school or VA.

If the ratio of Supported Students to Non-Supported Students exceeds 85% at the time a new VA beneficiary student enters or reenters (such as after a break in enrollment), the student cannot be certified to receive benefits in the program. **Note: See the Specific Situations to take into consideration** section below for exceptions.

#### Does This Apply to All Facilities?

The provisions of the 85/15 Ratio Requirement do not apply to:

1. A farm cooperative training course (38 USC 3680A [d] [2] [B] and 38 CFR 21.4201 [c] [1] [i]).
2. 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]).
3. 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: Any other type of school or training facility that does not assess tuition, fees, or other charges are not monitored for 85/15 purposes and are not required to calculate or report 85 percent enrollment ratios.

### 35% Exemption from Routine 85/15 Ratio Reporting

#### What is a 35% Exemption?

A school may request an exemption from routine 85/15 reporting if the total number of VA beneficiaries enrolled at the school is less than or equal to 35% of the total student enrollment.

**Important:** The 35% Exemption is based on total student enrollment at the school versus enrollment of students receiving VA funding and is calculated without regard to full-time equivalency. Each student enrolled is counted as one (01) student. This is different than the 85/15 ratio calculation, which is based on supported students versus non-supported students, and which is calculated based on full-time equivalency (FTE). See additional information below for definitions of supported and non-supported students and FTE.

**Example:** 100 total students are enrolled at a school. Of these 100 students, 25 are receiving VA funding. Divide the number of VA students by the total students enrolled ( $25 \div 100 = .25$ ) and the calculation for this school is 25%. This school qualifies for a 35% exemption request, as less than 35% of the students enrolled are receiving VA funding.

### **How does My School Request a 35% Exemption?**

Each approved branch campus that has both administrative capability and a VA Facility Code must submit their own 35% exemption request separate of the main campus.

Calculations for branch campuses without administrative capability and Extension Campuses (facility code identified by an "X" in the 3<sup>rd</sup> position) should be included in the calculation for the Main or Branch campus from which it receives administrative support.

To request a 35% exemption from routine reporting, a school must complete VA Form 22-10216 (35% Exemption Request From 85/15 Reporting Requirement) and upload it to the [Education File Upload Portal](#).

### **Accredited schools approved under 38 CFR 3672:**

- A completed VA Form 22-10215 (Statement of Assurance of Compliance with 85 Percent Enrollment Ratios) does **not** have to be completed or uploaded with the 35% exemption request.
- Once approved for a 35% Exemption, an accredited school is **not** required to calculate, maintain, or periodically report 85/15 calculations to the VA.

**Note:** Accredited schools selected for a compliance survey will still need to furnish 85/15 reports for any enrollment periods beginning before August 26, 2022, or before the date of their 35 percent exemption, *whichever date is later*.

### **Nonaccredited schools:**

- A completed VA Form 22-10215 (Statement of Assurance of Compliance with 85 Percent Enrollment Ratios) **must** be uploaded with the 35% exemption request.
- Nonaccredited schools approved for a 35% Exemption **must still** comply with the 85/15 Ratio Requirement. A nonaccredited school with a 35% Exemption must still:

1. Continue to monitor enrollment data *and submit* routine reports on any programs excluded from the 35 percent exemption.
2. Report to the ELR of jurisdiction when the overall population of VA beneficiaries exceeds 35% of the total enrollment.
3. Monitor each approved program for compliance with the 85% Ratio Requirement.
4. Provide 85/15 calculations at the request of a VA official or an SAA official.

If during routine monitoring, a **nonaccredited** school with a 35% Exemption identifies a program exceeding 85% enrollment of supported students, school officials must submit an 85/15 report to VA via the [Education File Upload Portal](#). That non-compliant program is excluded from the 35 percent exemption, and routine reporting is required until such time as it is again compliant with the 85/15 rule.

### **When do Approved 35% Exemptions Expire?**

All 35% exemptions expire 24 months after date of issue. Schools must submit a new VA Form 22-10216 (35% Exemption Request From 85/15 Reporting Requirement) before their current 35% exemption expires. Nonaccredited schools must include a completed VA Form 10215 (Statement of Assurance of Compliance with 85 Percent Enrollment Ratios) with their updated 35% exemption request.

### **Supported and Non-Supported Students**

If a student is receiving multiple types of aid and *any* of it is 'Supported', the student must be counted as a Supported Student.

#### **Supported Students are:**

- Any student receiving any amount of VA Education benefits under Title 38 or Title 10 (chapters 30, 31, 33, 35, 1606)
- Any student where the full amount of tuition, fees, and other mandatory charges has not been paid to the school prior to the reporting date (i.e., no later than 30 days from the start of a term or 30 days after the end of quarter), **unless** the student is using an institutionally funded payment plan to pay the full amount of tuition, fees, and other mandatory charges **and all** the following apply:
  - The availability and requirements of the payment plan policy is published both on the school's website and in the school's approved catalog.
  - The payment plan is available to any enrolled student interested in participating in such plans.
  - The payment plan explicitly requires the student to pay the outstanding balance by the end of the 85/15 reporting period

(academic term or calendar quarter) or by the end of the enrollment period, whichever is later.

- The payment plan must be paid in full before students can begin training for the next term beginning on or after the expiration of the payment plan.
- 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 non-Veterans alike, excluding graduate students (i.e., restricted aid).

**Non-Supported Students are:**

- Any student who pays the full amount of tuition, fees, and other mandatory charges to the school prior to the end of the current reporting period (i.e., no later than 30 days from the start of a term or end of quarter).
- Any student using an institutionally funded payment plan to pay the full amount of tuition, fees, and other mandatory charges when **all** the following apply:
  - The availability and requirements of the payment plan policy is published both on the school's website and in the school's approved catalog.
  - The payment plan is available to any enrolled student interested in participating in such plans.
  - The payment plan explicitly requires the student to pay the outstanding balance by the end of the 85/15 reporting period (academic term or calendar quarter) or by the end of the enrollment period, whichever is later.
  - The payment plan must be paid in full before students can begin training for the next term beginning on or after the expiration of the payment plan.
- A student receiving Title IV Department of Education aid.
- A student Tuition Assistance through the Department of Defense.
- Graduate students in receipt of institutional aid.
- Any student receiving non-institutional aid (scholarships, grants, or other types of aid offered by a third-party entity not affiliated with the school).

- 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 non-Veterans alike (i.e., unrestricted aid).

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 for 85/15 to VA**

### **How is the 85/15 Calculation Reported?**

Schools **WITHOUT** an approved 35% exemption are required to report 85/15% calculations to VA for all approved programs for each cohort of students (i.e., semester, term, etc.). Note: Programs with fewer than 10 supported students are exempt from the 85/15 ratio and the only data required to be reported is the total number of students and total number of supported students in the program.

85/15 calculations must be submitted for each enrollment start date using VA Form 22-10215 (Statement of Assurance of Compliance With 85 Percent Enrollment Ratios). Schools may not generate and provide their own version of this form (i.e., excel documents or custom reports). The VA Form 10215 should be uploaded to the [Education File Upload Portal](#).

Approved branch campuses that have both administrative capability and a Facility Code must complete, and report 85/15 calculations separate of the main campus. Calculations for Extension Campuses (facility code identified by an "X" in the 3<sup>rd</sup> position) and branch campuses without administrative capability should be reported under the associated Main or Branch campus which provides administrative support.

To calculate the 85/15% ratio, divide the number of supported students by the total number of students. Convert the result into a percentage. Do not round the result up or down. If the percentage is equal to or less than 85%, the program is compliant with the 85/15 Ratio Requirement. If this percentage is over 85%, then the program has violated the 85/15 Ratio Requirement. Note: Changes in enrollment which happen on or after the first day of term do not require the 85/15 ratio to be recalculated and resubmitted. Changes in enrollment that occurred prior to the start of the term (with an official or unofficial withdrawal) require a new 85/15 ratio calculation to be provided.

### **Calculating Part-Time Students:**

Students are either part-time or full-time based on the total number of credits or clock hours pursued at the school.

The school must compute the full-time equivalency for part-time students based on the total number of hours in which the student is enrolled for the term or enrollment period

and add it to the number of full-time students, (e.g., take the total number of one-half time students, divide by two, and add the quotient to the number of full-time 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.

### **When Do I Report?**

#### **If the school is structured on a Term, Quarter, or Semester Basis**

85/15 calculations must be uploaded to the [Education File Upload Portal](#) no later than 30 calendar days after the start of the regular term (excluding summer terms).

#### **If the school is not structured on a Term Basis**

85/15 calculations must be uploaded to the [Education File Upload Portal](#) no later than 30 calendar 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 are as follows:

<b>DUE DATE</b>	<b>ENROLLMENT PERIODS BEGINNING</b>
January 30 <sup>th</sup>	October 1 through December 31
April 30 <sup>th</sup>	January 1 through March 31
July 30 <sup>th</sup>	April 1 through June 30
October 30 <sup>th</sup>	July 1 through September 30

**TABLE 1.01 DUE DATES FOR 85/15 SUBMISSIONS**

### **Reporting Changes in Enrollment**

Changes in enrollment which happen on or after the first day of term do not require 85/15 calculations to be amended and resubmitted for that enrollment period start date. These changes must be factored in for any subsequent overlapping enrollment start dates, however. If the 85/15 ratio report for a subsequent overlapping start is affected, it must be recalculated and resubmitted.

Changes in enrollment where a student preregistered but never attended (with an official or unofficial withdrawal) do require 85/15 calculations to be amended and

resubmitted to VA for that enrollment period start date. The 85/15 ratio report for any affected subsequent overlapping start dates must also be recalculated and resubmitted.

## **Specific Situations to Take into Consideration**

### **Chapter 31 and Chapter 35 students**

Students receiving Veteran Readiness and Employment (chapter 31), or Survivors' and Dependents' Educational Assistance (chapter 35) benefits must be counted as Supported Students for determining a program's compliance with the 85/15 Ratio Requirement, but students receiving these specific benefits can be certified for benefits, even if the program is in violation of the 85/15 Ratio Requirement.

### **Students who have not declared a major**

The school must count students who have not declared a major, together in a separate category. Students must declare a major at the time specified by the school, but in no event may the student be certified beyond his or her sophomore year unless a major is declared.

### **Students in remedial and deficiency courses**

The school must count students in a remedial or deficiency course with the other students in their declared majors or certificate courses. If they have not declared a major or selected a certificate course, the school must count them with other students who have not declared a major or selected a certificate course.

### **Calculating Double Majors, Multiple Concentrations or Dual Degrees Counted**

Students enrolled in double majors, multiple concentrations, or dual degrees must be counted for each major, concentration, or degree in which they are enrolled (this is true for both Supported and Non-Supported Students) at their applicable full or part-time equivalency during the term. Students enrolled in Dual Degrees approved by the State Approving Agency (SAA) as one combined program will be counted only under that one approved program.

**Example 1:** A full-time student is receiving Post 9/11 GI Bill (chapter 33) benefits and is majoring in both Biology and Chemistry. For 85/15 Ratio Requirement, 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 majoring in French, Latin, and Spanish. For 85/15 Ratio Requirements, this student would be reported as a Non-Supported Student for all three majors in which they are enrolled at their applicable full or part-time equivalency during the term. This requirement is similarly true for concentrations/tracks.

**Example 3:** A student is receiving Post 9/11 GI Bill (chapter 33) benefits and is majoring in Aviation Management (which has a flight component). The school

would list on the VA Form 10215 (Statement of Assurance of Compliance with 85 Percent Enrollment Ratios):

Aviation Management – Flight Track

Aviation Management – Non-Flight Track

This student as a Supported Student in the Aviation Management – Flight Track.

### **Non-Compliance with 85/15 Ratio Requirement**

#### **If the 85/15 Ratio Requirement is exceeded in a program:**

1. The ELR will inform the school by letter that all certifications for new VA beneficiary students enrolling in the program suspended for 85/15 violation, are suspended, and inform the school to not submit enrollment certifications for VA beneficiary 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.

Note: Reenrolling is defined as a student with a gap in his or her training. Summer terms are not considered a break in enrollment.

2. Effective the date the ratio exceeded 85% of Supported Students, the Regional Processing Office (RPO) payment of enrollments and reenrollments for VA beneficiary students are suspended for the out of compliance program of Supported Students.
3. The school should continue to submit certifications for students who:
  - Are already enrolled in and are pursuing the program *and*
  - Have been previously paid for the program *and*
  - Have been continuously enrolled in the program, or
  - Are new or continuing and using chapter 35 or ch31 benefits

The school must continue to submit all changes in enrollments (reductions, terminations, etc.) for enrolled students.

#### **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 without a break.

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.

#### **Lifting an 85/15 Suspension**



Once a non-compliant program falls to at or below 85 percent supported student enrollment, a school may submit an interim report to have the 85/15 payment suspension lifted.

The school submits the interim reports to VA, who will lift the payment suspension to new enrollees effective the date the program became compliant.

Once the ratio is reestablished, the school must individually compute every enrollment of a VA beneficiary to ensure the 85 percent limitation is not again immediately exceeded until:

- The end of the term during which the payment suspension is lifted; or
- The end of the calendar quarter during which the ratio is reestablished, when the program is not operated on a term-basis.

### **Failure to Provide 85/15 Ratio Requirement Calculations**

If a school is unwilling or unable to provide 85/15 Ratio Requirement calculations at the required reporting period or when requested by a VA official or SAA official:

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

### **Exemptions and Waiver of the 85/15 Ratio Requirement**

Some schools might qualify for an exemption or waiver. Here is the list of exemptions and waivers that VA will consider:

**1. 35% Exemption.** The total number of students receiving VA benefits must be less than or equal to 35% of the total student enrollment.

An accredited school with a 35% Exemption is **not** required to calculate, maintain, or periodically report 85/15 calculations to the VA. See the **35% Exemption from Routine 85/15 Ratio Reporting** section of this Handbook for more information.

A nonaccredited school, with a 35% Exemption is **not exempt** from complying with the 85/15 Ratio Requirement. A nonaccredited school with a 35% Exemption **must** still:

- Report to the ELR of jurisdiction when the overall population of VA beneficiaries exceeds 35% of the total enrollment.
- Monitor and maintain calculations for each approved program for compliance with the 85% Ratio Requirement.
- Provide 85/15 calculations at the request of a VA official or an SAA official

If during routine monitoring, a nonaccredited school with a 35% Exemption identifies a program exceeding 85% enrollment of supported students, school officials must submit the 85/15 report to VA via the [Education File Upload Portal](#). That non-compliant

program is excluded from the 35 percent exemption, and routine reporting is required, until such time as it is again compliant with the 85/15 rule.

**2. Department of Defense Exemption.** A school is exempt from all provisions of the 85/15 Ratio Requirement if it has a Department of Defense Exemption.

**3. Education Service Waiver.** A program may be exempt from all provisions of the 85/15 Ratio Requirement if the school has requested and been granted an Education Service Waiver.

\*Please see 85/15 FAQs page **[85/15 Frequently Asked Questions - Education and Training \(va.gov\)](#)** for more details on any of these Exemptions and Waiver for which you believe your institution may qualify.