

New Barriers for California Student Veterans

VA Interpretation of Grades at CA Community Colleges

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Overview & Background

Student veterans utilizing GI Bill® benefits at California Community Colleges are at risk for dropping out and homelessness due to Veterans Affairs' (VA) new interpretation of Withdrawal (W) and No-pass (NP)/No-Credit (NC) grades as “non-punitive” grades. Under the new “non-punitive” definition, students that receive W and NP/NC grades may have to repay some or all of their benefits including a monthly housing stipend which could amount to thousands of dollars for just one term. Supporters of student veterans are essential to help advocate for a reversal of the VA’s interpretation of W and NP/NC grades.

California Community Colleges is the largest system of higher education in the United States with 116 colleges, 1.9 million students, 35,000 student veterans, and 74,500 military-affiliated students. California is also the second largest state for individuals receiving GI Bill® benefits, with just over 84,000 recipients in 2020.¹

Prior to the spring of 2021, Veterans Affairs considered W and NP/NC grades for California community colleges as “punitive”, which meant students were not penalized for these grades and would not have to pay back benefits including the monthly housing stipend for the period of time prior to the date of reduction in enrollment. The VA’s acceptance of W and NP/NC grades as “punitive” was included as a notation published to their website, stating “California Community Colleges specifically calculate W, NC and I grades into academic progress standards and these grades can result in probation and dismissal. These three grades are punitive, and not punitive, at California Community Colleges”. In May of 2021, this notation was quietly removed from the VA’s website without formal communication or announcement of this change to the California Community College system. Colleges first became aware of this change when colleges were asked to change W and NP grades to “non-punitive” during compliance reviews. Had the affected schools not questioned the VA interpretation, veteran students would have accumulated massive debts to the VA.

California community colleges are urgently requesting the VA to reverse the change to their interpretation of W and NP/NC grades to the previous “punitive” interpretation before student veterans are severely impacted and their educational goals are derailed. This information is also intended to inform elected officials, advocates, and policy makers of the widespread negative impact of “non-punitive” grades to our student veterans in accessing their earned GI Bill® benefits.

¹ https://www.benefits.va.gov/REPORTS/abr/docs/2020_education.pdf

Example Cases

Example 1: A student in Orange County, California using Post 9/11 GI Bill® takes 6 credits over 8 weeks. The VA will pay that student full-time Basic Housing Allowance (BAH) for the term. In Orange County, CA that is around \$6500 paid over the 8-week term.

Course	Units	Days/Time	Room	Grade	Start Date	End Date
BIO 1	3.00	TBA	INTERNET	A	6/17/2022	8/11/2022
HIST 1	3.00	MW 11:30:AM - 02:20:PM	BSTIC 120	NP	6/17/2022	8/11/2022

If the student receives a NP grade and the VA uses the previous “punitive” interpretation, the student would incur no debt. With the new interpretation of NP as “non-punitive”, the VA would recalculate payments for the term as if the student were never enrolled in Hist 1. This leaves the student with one 3-unit Bio 1 class (or half-time rate of pursuit). Since the VA does not pay housing allowance for students attending half-time under the Post 9/11 GI Bill®, this student would be sent a debt letter for all housing allowance received for the term (about \$6,500). This would put the student at risk for dropping out if they cannot pay back \$6,500 before the new term.

Example 2: A student is attending full-time in Orange County from the beginning of the term 1/14/22 until 4/21/22 when they withdraw from one course Chemistry 1 (Chem 1).

Course	Units	Days/Time	Room	Grade	Start Date	End Date
CHEM 1	5.00	TTh 05:00:PM - 06:50:PM T 07:00:PM - 09:50:PM	B 110 B 247	W Withdraw 4/21/2022	1/14/2022	5/22/2022
ENG 101	4.00	TTh 12:00:PM - 01:50:PM	LA 205	A	1/14/2022	5/22/2022
HIST 20	3.00	TTh 02:00:PM - 03:15:PM	A 207	B	1/14/2022	5/22/2022

If the W grade is considered punitive (the VA’s previous interpretation) the student would get full housing allowance from 1/14/2022 through 4/21/2022, and then start to earn 60% of the housing allowance on 4/22/2022 through the remainder of the semester.

If the W grade is considered non-punitive, the VA would recalculate housing allowance as if the CHEM 1 class never existed on this student’s schedule. This student would not only earn reduced BAH after 4/22/2022, but they would also incur a debt with the VA for 40% of the BAH already received for the semester. In Orange County, CA that would be a debt of about \$3400.

Legal Explanation

Since this issue arose, various groups in the CCC system have contacted VA representatives to dispute the “non-punitive” definition. Each time, the VA responds stating that they legally cannot pay for W grades and quotes [38 U.S. Code § 3680](#) to justify their position, which states:

(a)(1)(A) “...Such payments shall be paid only for the period of such veterans’ or persons’ enrollment in, and pursuit of, such program, but no amount shall be paid... (C) to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless-”

We feel that this argument presents two problems. First, this law does not address NP/NC grades and therefore the argument should not apply to those grades. Second, schools around the country handle withdraw grades differently. This section of the law does not provide a clear definition of what withdrawing means, while other sections of the law are much more explicit. For example, [38 CFR § 21.4135 \(s\)\(3\)](#) more clearly defines how withdraws should be handled. It states:

“VA will reduce an individual's educational assistance allowance effective the date on which an individual reduces training when: ...(iii) There are mitigating circumstances, or the individual receives a punitive grade for the portion of the course from which he or she withdrew.”

Essentially, if a student withdraws from a course and receives a *punitive grade*, VA will not create a debt for the portion of the term prior to the withdraw date. Now we need to determine whether a W grade in the CCC system is punitive. [38 CFR § 21.4200 \(k\)](#) defines a punitive grades as:

“Punitive grade. The term means a grade assigned for pursuit of a course which is used in determining the student's overall progress toward completion of the school's requirements for graduation. Unlike the nonpunitive grade, the punitive grade does affect the criteria to be met by the student for graduation, i.e., it is a factor in computing the student's grade average or grade point average, for example. For this reason it is not the same as an audited course, since it does have an effect upon the student's ability to meet the school's criteria for graduation. See § 21.4135(e).”

Here in the CCC system, both W and NP/NC grades are not treated the same as an audited course because they have an effect upon the student's ability to meet the school's criteria for graduation. Per California Education Code, CCCs must use W and NP/NC grades when calculating academic progress criteria. If the earned/attempted credit standard is not met, students are placed on probation or suspension.

CA Code of Regulations

[5 CA ADC § 55024 Withdrawal \(a\)\(7\)](#)

The “W” shall not be used in calculating grade point averages, but shall be used in determining probation and dismissal pursuant to article 3 of this subchapter.

[5 CCR § 55031 Standards for Probation \(b\)](#)

(b) Progress probation. A student who has enrolled in a total of at least 12 semester or 18 quarter units as shown by the official academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of “W,” “I,” “NP” and “NC” (as defined in sections 55023 and 55030) are recorded reaches or exceeds fifty percent (50 percent).

[5 CA ADC § 55033 Standards for Dismissal.](#)

(b) A student who has been placed on progress probation shall be subject to dismissal if the percentage of units in which the student has been enrolled for which entries of “W,” “I,” “NP” and “NC” (as defined in section 55023 and 55030) are recorded in at least 3 consecutive semesters (5 consecutive quarters) reaches or exceeds fifty percent (50%) in accordance with section 55031.

By the above definitions, W and NP/NC grades in the CCC system should be considered punitive. According to [38 CFR § 21.4135 \(s\)\(3\)](#), VA should pay educational assistance allowance for punitive W (and NP/NC) until the date of reduction.

Our Ask

- 1) Since the cited laws do not specifically call out No Pass (NP) / No Credit (NC) grades as non payable and they do affect criteria for graduation, we ask that VA Education immediately recognize NP/NC grades in the CCC system as punitive.
- 2) Given the explicit language in [38 CFR § 21.4135 \(s\)\(3\)](#) and past precedent, we also ask that VA Education recognize California Community College W grades as punitive. Not only does this section of the law most clearly describe how to handle W grades, but because it is the definition that gives veterans the best chance at achieving a positive educational outcome.
- 3) Alternatively, if previous interpretation of the law and the current SCO Handbook are wrong, we request that the VA change the SCO Handbook to remove the outdated language. Additionally, we ask that VA Education send our colleges an official notice of the change that also gives us a sensible effective date so we can re-educate our students and update our processes. For example, “for terms starting after August 1st, 2022”.