

No. 25-2033

**In the United States Court of Appeals
for the Federal Circuit**

Commonwealth of Virginia, The Veterans of Foreign Wars of the
United States, Iraq and Afghanistan Veterans of America, James R.
Rudisill, Kassidy A. Perkins, Paul H. Yoon, Elizabeth F. Yoon, Toby
Doran, Kenneth Bratland, and McKenna Bratland,

Petitioners,

v.

Secretary of Veterans Affairs,

Respondent.

**BRIEF OF ELEVEN MEMBERS OF UNITED STATES CONGRESS
AS *AMICI CURIAE* IN SUPPORT OF PETITIONERS**

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Certificate of Interest

Counsel for *amici curiae* certifies the following:

1. **Represented Entities.** The full name of every party of *amici curiae* represented by me is:

Senators Richard Blumenthal, Tim Kaine, and Mark R. Warner, and Representatives Donald S. Beyer, Jr., John J. Maguire, Jennifer L. McClellan, Robert C. “Bobby” Scott, Suhas Subramanyam, Eugene Simon Vindman, James R. Walkinshaw, and Robert J. Wittman.

2. **Real Party in Interest.** The name of the real party in interest represented by me is:

None / not applicable.

3. **Parent Corporations and Stockholders.** All parent corporations and any publicly held companies that own 10 percent or more of the stock of each *amici curiae* represented by me are:

None / not applicable.

4. **Legal Representatives.** The names of all law firms and the partners or associates that appeared for the *amici curiae* now represented by me in the trial court or agency or are expected to appear and have not already entered an appearance in this court are:

None / not applicable.

5. **Related Cases.** The following cases are related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a):

None / not applicable.

6. **Organizational Victims and Bankruptcy Cases.** The following information is required under Fed. R. App. 26.1(b) and 26.1(c):

None / not applicable.

Date: March 12, 2026

/s/ Andrew R. Gould
Andrew R. Gould

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Interest of *Amici Curiae*¹

Amici are eleven members of the United States Senate and House of Representatives: Senators Richard Blumenthal, Tim Kaine, and Mark R. Warner, and Representatives Donald S. Beyer, Jr., John J. Maguire, Jennifer L. McClellan, Robert C. “Bobby” Scott, Suhas Subramanyam, Eugene Simon Vindman, James R. Walkinshaw, and Robert J. Wittman. With the exception of Senator Blumenthal, all are members of the Virginia congressional delegation.

Together, these members of Congress have helped design, enact, and oversee the statutory framework governing veterans’ educational benefits, including the Montgomery and Post-9/11 GI Bills. Senators Kaine and Blumenthal sit on the Senate Armed Services Committee; Senator Blumenthal is the Ranking Member of the Senate Committee on Veterans’ Affairs; and Representatives McClellan, Vindman, and Wittman sit on the House Armed Services Committee (with Rep. Wittman serving as Vice Chair). Representative Subramanyam also is the ranking Member of the Oversight Subcommittee on Military and Foreign Affairs. And

¹ No counsel for a party authored this brief in whole or in part. No party, counsel for a party, or person or entity other than amici curiae, their members, and their counsel made a monetary contribution intended to fund the preparation or submission of this brief.

All parties have consented to the filing of this brief.

Representative Scott was the lead sponsor of the House bill that eventually became the statute that this case centers on: the Post-9/11 GI Bill.

Moreover, each of the *amici* has sponsored or voted on many bills supporting our Nation’s veterans. Their constitutional role gives them a strong and distinct institutional interest in how the Department of Veterans Affairs (“VA”) interprets and administers veteran-benefits statutes enacted by Congress. In that capacity, they are directly responsible for the legal structure and for ensuring that the executive branch follows Congress’s policy choices.

Amici present this brief to underscore an institutional concern that they are uniquely positioned to address as members of Congress: The VA continues to resist the statutory scheme, undermining uniform administration, creating inequities among similarly situated veterans, and undermining predictability in implementing Congress’s laws. When an agency reintroduces limits that Congress deliberately omitted—and which courts have properly rejected—it erodes veterans’ rights and upsets the constitutional balance among legislative, judiciary, and executive authority.

Because the outcome directly affects the scope and delivery of benefits that Congress appropriated and directed, *amici* respectfully submit this brief to explain the statutory structure and the institutional stakes. *Amici* take no position on case-

specific factual disputes or remedies beyond the proper construction of the governing law.

Introduction and Summary of Argument

Textual analysis, caselaw, and canons of statutory interpretation all point in the same direction: Each qualifying period of a veteran’s service generates its own statutory right for veterans’ educational benefits. The text, history, and purpose of the Post-9/11 Veterans Educational Assistance Act of 2008 (“Post-9/11 GI Bill”) and its predecessor, the Montgomery GI Bill Act of 1984 (“Montgomery GI Bill”) (collectively, the “GI Bills”)—laws that Congress drafted and oversee—present a coherent picture of a carefully crafted entitlement system supporting a generous understanding of veterans’ educational benefits. Caselaw from the Supreme Court and the Court of Appeals for Veterans’ Claims reinforces this reading. And were more necessary, the Veterans’ Canon adds even further support to what we drafted and intended. The VA’s atextual rules cannot stand.

1. A straightforward reading of the text of the GI Bills shows that veterans’ educational benefits are limited only by the statutory cap on benefits and rules coordinating the election of benefits. The core of the Post-9/11 GI Bill, like GI bills before it, is the provision establishing entitlement to benefits based on qualifying periods of service. When multiple periods of service lead to multiple entitlements, veterans may use their benefits subject only to one limitation that we imposed: an overall cap of 48 months of benefits across all such entitlements. Congress also wrote

coordination provisions that assume precisely this dual-entitlement framework by specifying the proper sequencing or election of benefits when a veteran is eligible for more than one program. Its existence presupposes that multiple entitlements exist and that veterans can use them to their maximum extent.

The statutory history also supports a generous understanding of the benefits, with Congress repeatedly expanding veterans' education benefits over the decades. From the Montgomery GI Bill to the Post-9/11 GI Bill, Congress built each program as a standalone statutory right, earned by serving in a particular capacity during a particular period. Indeed, since our predecessors passed the first GI bill, Congress has continually expanded and strengthened educational benefits to reward veterans for their sacrifices in serving this country.

The legislative purpose behind the GI Bills further confirms that these bills were meant to reward veterans with longer service with more educational support. Since World War II, Congress has enacted these programs to reward service, help veterans return to civilian life, and to promote national economic strength through education. And when Congress enacted the Post-9/11 GI Bill, we did not intend to diminish benefits previously earned under the Montgomery GI Bill. Rather, we created a more generous new program while maintaining the existing one, thus expanding—rather than compressing—the benefits available to veterans with

multiple periods of service. Building on the work of our predecessors, Congress designed the GI Bills to provide more benefits—not less—to veterans who served more.

2. The VA’s cramped reading also runs counter to caselaw, which consistently confirms that veterans are entitled to full benefits, whether or not their service was consecutive. In *Rudisill v. McDonough*, 601 U.S. 294 (2024), the U.S. Supreme Court properly understood Congressional intent: the GI Bills created two independent entitlements—not a single merged entitlement—that servicemembers do not have to choose between. Veterans who separately qualify for multiple GI Bill programs thus may use those entitlements up to the 48-month statutory cap. While *Rudisill* dealt only with nonconsecutive service, the Court held that its “analysis does not focus on [the veteran’s] periods of service. . . . Rather, what matters is that [his] lengthy service conferred two separate entitlements.” 601 U.S. at 306.

Faithfully applying *Rudisill*, the U.S. Court of Appeals for Veterans’ Claims correctly held in *Perkins v. Collins*, 38 Vet. App. 304 (2025), that servicemembers with a sufficient length of service are entitled to benefits under both GI Bills subject to the 48-month cap, with no difference for servicemembers who served consecutively or had breaks in service. *Perkins* explained that the *Rudisill* Court explicitly based its holding on length of service rather than periods. *Perkins*, which

involves the same issues as here, rightly repudiates the atextual interpretation of the GI Bills that the VA advances here. Like *Perkins*, this Court should implement the Congressional intent of the GI bills and reject the VA's effort to rewrite *Rudisill*.

3. Though unnecessary to resolve this case, the Veterans' Canon provides an additional reason to reject the VA's interpretation. For nearly over a century, the Supreme Court has recognized that statutes benefiting veterans must be construed liberally in their favor. If any ambiguity exists in the GI Bills, the canon requires reading them to preserve—not diminish—the entitlements we conferred. Chapters 30 and 33 create two distinct 36-month entitlements, subject only to express limits: no concurrent payment, no duplication of eligibility for the same service, and a 48-month aggregate cap. Nothing in the text collapses these entitlements into one or conditions them on a break in service. At minimum, the canon resolves any interpretive doubt in favor of allowing veterans to use both earned benefits sequentially, consistent with Congress's remedial purpose.

*

Whether based on textual analysis, caselaw, or application of the Veterans' Canon, all methods of interpretation support the same conclusion: Servicemembers who serve for longer periods of time are entitled to greater educational benefits,

whether or not they served consecutively. The 2024 Educational Directives should be set aside, vindicating the legal regime we drafted.

Argument

1. **The GI Bills’ text, history, and purpose all confirm our bills’ design around distinct service-based entitlements, subject only to a 48-month aggregate cap.**

The GI Bills’ text, history, and purpose present a coherent picture of an entitlement system where each qualifying period of service creates its own statutory right. A straightforward reading of the statutory text makes congressional intent clear: Veterans’ educational benefits are limited only by the statutory cap on benefits and rules coordinating the election of benefits. The statutory history also supports a generous understanding of the benefits, where multiple Congresses repeatedly expanded veterans’ education benefits over the decades. Finally, our history of continually expanding educational benefits for veterans reveals that the purpose of the GI Bills was to ensure that longer service is rewarded with more educational support, not less. Nothing—not text, history, nor purpose—supports the VA’s cramped, atextual reading of the GI Bills.

- a. **The statutory text confirms the regime we designed: Each qualifying service period creates its own entitlement.**

The GI Bills built a cumulative benefit system in which each qualifying period of service generates its own statutory right. This leaves no room for the VA’s effort to merge or diminish benefits that Congress created independently.

The original GI bill set the template for veterans' education-benefit laws to follow. Servicemen's Readjustment Act, Pub. L. No. 78-346, 58 Stat. 284. It entitled veterans to one year of education benefits, plus extra benefits equal to the time the veteran spent in service after September 1940—up to four years total. *See* Pub. L. No. 78-346, § 400(b), 58 Stat. at 288.

The original GI bill also allowed veterans who qualified under multiple education and training programs to receive assistance under each program—limited only by a bar on receiving both benefits concurrently, or beyond the statutory caps. *See id.* Noting that veterans may also be eligible for a separate “benefit . . . payable for training” under an earlier program, Congress decided that a veteran “may elect which benefit he desires.” *Id.* § 400(b), 58 Stat. at 289. Congress did not require veterans to exhaust any prior benefits before gaining access to the new GI Bill education benefits.

When creating this, our predecessors adopted only one coordination rule: an aggregate cap, which states that “[t]he aggregate period for which any person may receive assistance under two or more of the [veterans' educational provisions] may not exceed 48 months (or the part-time equivalent thereof).” 38 U.S.C. § 3695(a). This 48-month cap limits use, not eligibility. It does not collapse entitlements into a single reservoir. It does not require veterans to exhaust one program before invoking

another. It does not authorize the VA to deny a second entitlement because the veteran has not yet used the first in a manner the agency prefers. Congress knows how to explicitly impose forfeiture rules or mandatory sequencing when that is our intent. *See, e.g.*, 38 U.S.C. § 6103(a) (forfeiture for fraud); *id.* § 6104(a) (forfeiture for treason or related offenses); *id.* § 3033(a) (prohibiting concurrent payment of Montgomery GI Bill benefits with certain other educational benefits); *id.* § 1521(j) (imposing service-sequencing prerequisites for pension eligibility). We did not do so here.

Congress also wrote coordination provisions that assume precisely this dual-entitlement framework. Section 3322 states that “[a]n individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title... may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.” 38 U.S.C. § 3322. But rather than being a merger clause, the statutory language and structure show that § 3322 was meant to serve as a traffic-control rule, specifying the proper sequencing or election of benefits when a veteran is eligible for more than one program. *Id.* § 3322(a). Its existence presupposes that multiple entitlements exist and that veterans can use them. Nothing in § 3322

authorizes the VA to treat coordinated entitlements as mutually exclusive or to extinguish one entitlement simply because a veteran earned another. And confirming the Congressional intent inherent in the statutory structure and language, (*see infra* § 2(a)), the U.S. Supreme Court in *Rudisill* expressly rejected the VA’s view that § 3322 collapses or caps entitlements beyond what the statute’s text permits.

Title 38 confirms our understanding that modern military careers often span multiple enlistments and eras. When Congress created the Post-9/11 GI Bill, we specifically discussed the importance of increasing benefits for those “who have served multiple tours of duty[.]” 154 Cong. Rec. H3940 (daily ed. May 15, 2008) (statement of Rep. Scott).

In short, when creating these entitlements, Congress intentionally designed veteran-benefits laws to further the policy that increased or extended service should yield more—not less—benefits. Congress has *never* enacted a scheme in which a veteran’s greater service diminishes the educational support available to them. Rather, the statutes reflect a cumulative design: each qualifying service period carries its own value and produces its own rights.

b. Statutory history illustrates our continuous intent to provide generous veterans' education benefits.

Congress's intent in multiple GI bills across eight decades tell the same story: Each time we revisited veterans' education laws, Congress chose to broaden eligibility and strengthen benefits—not narrow them.

In 1933, President Franklin D. Roosevelt sought to use newly granted executive powers to unilaterally slash veterans' benefits to pay for several New Deal programs. See James D. Ridgway, *The Splendid Isolation Revisited: Lessons from the History of Veterans' Benefits Before Judicial Review*, 3 *Veterans L. Rev.* 135, 179-80 (2011). Congress intervened by passing—over President Roosevelt's veto—the Independent Offices Appropriation Act of 1935, Pub. L. No. 73-141, 48 Stat. 509, which reinstated (and then safeguarded against future cuts) many benefits the President had cut. See James D. Ridgway, *Recovering an Institutional Memory: The Origins of the Modern Veterans' Benefits System from 1914 to 1958*, 5 *Veterans L. Rev.* 1, 22 (2013); Ridgway, *The Splendid Isolation Revisited, supra*, at 180 & n.302.

In 1944, Congress passed the Servicemen's Readjustment Act, Pub. L. No. 78-346, 58 Stat. 284—commonly known as the “GI Bill”—which enabled millions of working-class Americans to buy a home and attend college. Edward Humes, *Over Here: How the G.I. Bill Transformed the American Dream*, 6 (2006). The GI Bill entitled veterans to one year of education benefits, plus further benefits equal to the time the

veteran spent in service after September 1940—up to four years total. *See* Pub. L. No. 78-346, § 400(b), 58 Stat. at 288. It also allowed veterans who qualified under multiple education and training programs to receive assistance under each program—limited only by a bar on receiving both benefits concurrently, or beyond the statutory caps. *Id.* Noting that veterans may also be eligible for a separate “benefit . . . payable for training” under an earlier program, Congress decided that a veteran “may elect which benefit he desires.” *Id.* § 400(b), 58 Stat. at 289.

In the face of the Korean War, our predecessors reexamined the GI Bill and its educational benefits. This 1952 “Korean Conflict GI Bill” explicitly addressed veterans who had served in multiple conflicts, with multiple periods of qualifying service. *See* Veterans Readjustment Assistance Act of 1952, Pub. L. No. 82-550, § 214(a), 66 Stat. 663, 665. This bill entitled veterans who served in the Korean War to up to 36 months of benefits for their service in that conflict. *Id.* And those who had also served in World War II (and were thus eligible under the 1944 Act too) were “entitled under this title together with the education or training received under [the training program mentioned above] or [the original GI Bill]” to use benefits provided under each such program. *Id.*

Just as before, Congress imposed no exhaustion rule. Once again, the only limit Congress set was to cap combined benefits at “forty-eight months in the aggregate.” *Id.*

In 1984, Congress passed the last major update to veterans’ educational benefits before the Post-9/11 GI Bill: the Montgomery GI Bill. *See* Veterans’ Educational Assistance Act of 1984, Pub. L. No. 98-525, § 701, 98 Stat. 2492, 2553-71 (codified at 38 U.S.C. § 3001 et seq.). Like those bills before it, the Montgomery GI Bill provided qualifying veterans with 36 months of educational benefits (this time in statutorily defined, fixed monthly amounts), subject only to § 3695’s overall 48-month cap, plus bars on the receipt of “concurrent[]” benefits from this bill and prior GI Bills, and on receiving credit under multiple GI Bills for the same service period. *See* 38 U.S.C. §§ 3011(a), 3014(a)(2), 3015(a)(1)(A), 3033(a)(1), (c).

But by 2008, a new generation of veterans found that the government was no longer holding up its end of this bargain. The existing version of the GI Bill—the 1984 Montgomery GI Bill—no longer covered the cost of a college degree, preventing many from attending school and relaunching their lives at home. *Pending Montgomery GI Bill Legislation: Hearing Before the H. Subcomm. on Economic Opportunity of the Comm. on Veterans’ Affairs*, 110th Cong. 9 (2008) (statement of Director Eric Hilleman); *see* 154 Cong. Rec. S4714 (daily ed. May 22, 2008)

(statement of Sen. Jon Tester) (existing benefits were merely “a drop in the bucket” for many schools).

So once again, Congress acted. Rejecting a more modest proposal, we passed the Post-9/11 GI Bill—the largest revamp of veterans’ educational benefits in generations—which keyed educational benefits to the actual cost of college, thereby often doubling the benefits that were available under the old, Montgomery GI Bill. Michael J. Carden, *New GI Bill Provides Increased Educational Benefits*, U.S. Army (July 29, 2008), *available at* <https://tinyurl.com/fdpxjxmr> (estimating annual value of Post-9/11 GI Bill benefits at \$80,000, or “double the value of those in the previous program”).

In doing so, Congress repeatedly emphasized our main goal: to replace the “outmoded” Montgomery GI Bill for those who had served after September 11, restoring the system to one like the World War II-era GI Bill that had once revolutionized American society. Post-9/11 Veterans Educational Assistance Act of 2008, Pub. L. No. 110-252, § 5002, 122 Stat. 2323, 2358 (codified at 38 U.S.C. § 3301 note) (noting the Montgomery GI Bill was “outmoded,” “designed for peacetime service,” and unable to provide for veterans who had experienced the “especially arduous” conditions of post-9/11 service).

*

Accordingly, throughout the history of veterans' educational benefits, we and our predecessors have chosen the same course repeatedly. In each bill, Congress rejected narrow readings of veterans' educational benefits, instead expanding and supporting generous educational benefits for the nation's service members.

c. This statutory history confirms the unambiguous legislative purpose of the GI Bills: Lengthier service yields greater, not fewer, benefits.

Congress's longstanding approach to veterans' education benefits confirms a simple legislative intent—longer qualifying service is meant to yield more support, not less.

From the original World War II Servicemen's Readjustment Act to the Montgomery and Post-9/11 GI Bills, Congress has constructed each program to reflect the intuitive moral and civic logic that longer, more demanding service merits proportionally greater educational opportunity. *See, e.g.*, Pub. L. No. 78-346, § 400(b), 58 Stat. at 288 (providing under the Montgomery GI Bill entitled veterans to one year of education benefits, plus further benefits equal to the time the veteran served after September 1940, up to four years total.). The architecture of these statutes—service thresholds, percentage tiers, and months of entitlement—expresses deliberate link between sacrifice and support.

Congress enacted the Montgomery GI Bill and the Post-9/11 GI Bill to honor different generations of service in different eras, not to create a single elastic benefit that could collapse one into the other. The Montgomery GI Bill rewarded sustained peacetime enlistment, while the Post-9/11 Bill recognized the unique burdens of wartime deployments after September 11, 2001. *See* Post-9/11 Veterans Educational Assistance Act of 2008, Pub. L. No. 110-252, § 5002, 122 Stat. 2323, 2358 (codified at 38 U.S.C. § 3301) (noting that the Montgomery GI Bill was “outmoded” and “designed for peacetime service,” and thus not suited to veterans who had gone through the “especially arduous” conditions of Post-9/11 service). In passing the Post-9/11 Bill, Congress intended to achieve the same goals—providing robust access to higher education for veterans—in light of changing conditions that had rendered assistance under the Montgomery GI Bill obsolete and insufficient. *See, e.g.*, 154 Cong. Rec. H5701 (daily ed. June 19, 2008) (statement of Rep. Mitchell) (explaining that the Montgomery GI Bill “[wa]s not meeting the needs of our veterans”); 154 Cong. Rec. S4714 (daily ed. May 22, 2008) (statement of Sen. Tester) (stating the Montgomery GI Bill had become “woefully inadequate”); 154 Cong. Rec. S4468 (daily ed. May 20, 2008) (statement of Sen. Dorgan) (stating the Montgomery GI Bill was incapable of doing “what we have historically been able to do and willing to do for those who serve our country”).

Each GI bill reflects a distinct congressional judgment about how to value service under its own conditions, and how to achieve that goal. But across both programs, the steadfast intent of Congress over the decades is unmistakable: Longer or more arduous service yields greater entitlement—not fewer months of assistance.

The VA’s reading inverts our logic. Under the VA’s reading, a veteran who served continuously for six years may receive less educational support than one who separates and reenlists for two discrete periods totaling the same service time.

Nothing in either statute suggests such disparities. That result would be alien to the Congressional objectives behind the GI Bills: to encourage sustained service by rewarding, not penalizing, the veteran who never leaves the field.

Congress imposed clear limits in the GI bills when that was our intent. For example, we set an aggregate cap in § 3695 to prevent indefinite double-counting of entitlement months. 38 U.S.C. § 3695(a). But Congress never merged or erased distinct statutory entitlements earned under separate programs in the GI bills. *See* 154 Cong. Rec. H5611-07, H5617, 2008 WL 2467200 (statement of Rep. Jackson-Lee) (“This legislation restores the promise of a full, four-year college education, and will entitle veterans who enlisted after the Sept. 11 attacks and served three years or more to what amounts to four years of college education at a state university.”).

The VA’s approach conflates a temporal cap with a substantive merger—effectively rewriting the statutory balance that Congress struck between equity and restraint. By reading the GI Bills to penalize continuous service, the agency undermines the very incentive structure that Congress designed to strengthen the force and honor those who commit to it over time.

The legislative record reflects this Congressional intent. Debates surrounding the Post-9/11 GI Bill repeatedly emphasize fairness to those who have served the longest and borne the greatest burden. As one of us said about the subject of veterans with multiple tours of service during passage of the bill, “The 21st Century GI Bill in this bill will give our men and women in uniform who have served multiple tours of duty and extended tours of duty in Iraq and Afghanistan the educational benefits similar to the ones earned in World War II.” *See, e.g.*, 154 Cong. Rec. H3940 (daily ed. May 15, 2008); *see also id.* (statement of Rep. Scott) (criticizing the Montgomery GI Bill as falling “far short in meeting the needs of today’s college students”—especially those “who have served multiple tours of duty and . . . are getting pulled away from school, their jobs, and their families”).

Congressional reports on the Post-9/11 GI Bill are in accord. The Senate made clear that the bill created an *additional* entitlement, one to be used on top of the Montgomery GI Bill benefits. The third sentence below is explicit on this point:

Under current law, an individual entering active duty may establish eligibility for the MGIB, the Reserve Educational Assistance Program, and the Post-9/11 GI Bill based on the same period of service. For example, an individual, who entered into service on September 1, 2002, and who completed three years of service, could have established eligibility for 36 months of educational assistance under the MGIB in addition to eligibility for 36 months of educational assistance under the Post-9/11 GI Bill. **Subject to the 48-month limitation on aggregate months of assistance under two or more programs provided for in section 3695 of title 38, this means that an individual, who exhausts entitlement to 36 months of training under the MGIB, can subsequently enroll and receive an additional 12 months of entitlement under the Post-9/11 GI Bill based on the same period of service.**

S. Rep. No. 111-346, at 19 (2010), *reprinted at* U.S.C.C.A.N. 1503 (emphasis added).

The House said the same. In its report, it stated that “[t]he amendment *expands* the education benefits veterans receive under the GI bill.” H.R. Rep. No. 110-636, at 3 (2008) (emphasis added). This is because we recognized that it was “in the national interest . . . to provide veterans who serve on active duty . . . after September 11, 2001, with enhanced educational assistance benefits that are worthy” of veterans’ service, “and are commensurate with the educational assistance benefits provided by a grateful nation to veterans of World War II.” Post-9/11 Veterans Educational Assistance Act of 2008, Pub. L. No. 110-252, § 5002, 122 Stat. 2323, 2358 (codified at 38 U.S.C. § 3301 note).

But the VA’s contrary approach turns that purpose upside down. Under its post-*Rudisill* rules, a veteran who serves six continuous years may receive fewer

benefits than one who serves the same time in two enlistments. *See* Appx0001; Appx0034-0068. That result has no textual anchor and defies our express understanding of how the GI Bills were meant to interact. Congress rewarded extended service; we never conditioned those rewards on administrative breaks. The legislative intent and language of the GI Bills is unmistakable. Congress meant to reward long and committed service, not to punish it. Any reading that yields the opposite result is inconsistent with the design, history, or moral logic of the GI bills.

2. Courts consistently—and correctly—reject the VA’s atextual interpretations.

Courts have already resolved the core interpretive issues and confirmed that veterans are entitled to full benefits, whether or not their service was consecutive. In *Rudisill*, the U.S. Supreme Court correctly held that the GI Bills created two independent entitlements, which servicemembers do not have to choose between. *Rudisill v. McDonough*, 601 U.S. 294, 314 (2024). Faithfully applying *Rudisill*, the U.S. Court of Appeals for Veterans Claims rightly held in *Perkins* that servicemembers with a sufficient length of service are entitled to benefits under both GI Bills, with no difference for servicemembers who served consecutively or had breaks in service. *Perkins v. Collins*, 38 Vet. App. 304, 307 (2025). These cases squarely repudiate the VA’s effort to rewrite the statutes.

a. Rudisill confirms Congressional intent as reflected in the statutory structure and language of the GI bills.

Rudisill correctly resolves how the GI Bills operate when a veteran qualifies for more than one program. The Supreme Court held that the Montgomery GI Bill and the Post-9/11 GI Bill confer two distinct statutory entitlements, each tied to its own qualifying service, and that those entitlements do not merge, collapse, or self-cancel. *Rudisill*, 601 U.S. at 314. *Rudisill* thus confirms the structural premise of the statutes: When Congress creates separate programs with separate eligibility criteria and separate 36-month benefit periods, a veteran who meets both sets of criteria holds two entitlements—not one flexible, blended benefit.

The Court began with the undisputed fact that “Rudisill earned two separate entitlements to educational benefits due to the length of his military service.” *Id.* at 305. The question, then, was whether a servicemember entitled to benefits under both provisions “must also “coordinate” those two entitlements under § 3322(d).” *Id.* at 307.

The Court held that there is no such requirement. Not only do the Montgomery and Post-9/11 GI Bills statutes require no such a thing, § “3695—the provision that specifically addresses veterans with more than one entitlement—does not require, or even mention, coordination.” *Id.* at 307. Instead, § 3322(d) simply lets “a servicemember who is entitled to Montgomery GI Bill benefits but has become

eligible for Post-9/11 benefits for his period of qualifying service” elect the more generous Post-9/11 benefits. *Id.* Additionally, “[f]or the person covered by § 3322(d)’s coordination requirement... the statute distinguishes between “entitlement to” and “receipt of” benefits,” with § 3322(d) only concerning entitlement. *Id.* at 307-08. Since Rudisill was already entitled to two separate benefits, there was nothing for § 3322(d) to “coordinate.” *Id.* at 308-09.

The Court also rejected the VA’s attempt to use § 3327’s election provision as a backdoor merger rule. The VA argued that when a veteran elects to receive Post-9/11 benefits, that election retroactively converts or extinguishes Montgomery GI Bill benefits. *Id.* at 308. The Court refused to read § 3327 that way. It noted that “a § 3327(a) election is optional If [Rudisill] decides not to opt for a § 3327(a) election, nothing in § 3327, § 3322, or anywhere else purports to alter his entitlement.” *Id.* at 310.

Section 3327, the Court concluded, represents an optional conversion mechanism—not a mandatory forfeiture regime. *Id.* The Court held that “if a person who is directed to ‘coordinate,’ receives one thing ‘instead of’ another, that ‘coordination’ is understood to effect a swap.” *Id.* at 308. Congress authorized veterans to convert if they choose but never stated that becoming eligible for one program wipes out a previously earned entitlement; instead, the veterans swap one

program for another. *Id.* As a result, veterans retain their entitlement to both programs even after a § 3327(a) election. *Id.*

Finally, the Court made clear that the VA may not limit dual entitlements to a narrow subset of veterans or to particular fact patterns. As it expressly stated: “[O]ur analysis does not focus on [Rudisill’s] periods of service. . . . Rather, what matters is that his lengthy service conferred two separate entitlements.” *Rudisill*, 601 U.S. at 306.

The VA now seeks to cabin *Rudisill* to its facts by suggesting that only veterans with multiple discrete enlistments could have truly “separate” entitlements. *See* Appx0035 (“The issue decided in *Rudisill* pertains to individuals with multiple periods of active-duty service[.]”); *id.* (“The new *Rudisill* interpretation changes how multiple periods of qualifying military service impacts benefits earned.”). But *Rudisill* did not turn on this. The Court expressly said the opposite: “By blurring all elections into one, instead of recognizing that the statute contemplates multiple distinct elections, the Government—and the dissent—make a crucial misstep.” *Rudisill*, 601 U.S. at 311.

b. Perkins also correctly follows Congressional intent evident in the structure and language of the GI bills.

In *Perkins v. Collins*, the U.S. Court of Appeals for Veterans Claims addressed the exact scenario here: whether a veteran who served a single, continuous six-year period of active duty could receive benefits under both the Montgomery GI Bill and the Post-9/11 GI Bill. It rejected the Board of Veterans' Appeals' ("the Board") interpretation that 38 U.S.C. § 3322(h) barred dual eligibility absent "separate periods of service." *Perkins*, 38 Vet. App. at 307. Instead, the court held that "a veteran whose single period of service is long enough to qualify for benefits under both the [GI Bill] programs without using any period of time twice to establish eligibility is entitled to receive benefits under both programs up to a statutory 48-month cap on such educational benefits." *Id.* at 306.

Like *Rudisill*, *Perkins* also faithfully interprets statutory structure and language of the GI bills as Congress intended. While the Supreme Court spoke to veterans' educational entitlements in *Rudisill*, that case involved a servicemember who had nonconsecutive periods of service. 601 U.S. at 303. The Board focused on that point, finding that *Rudisill* was factually distinguishable from Perkins's case, as Perkins had a single period of service. *Perkins*, 38 Vet. App. at 306. The Board also found that "subsection 3322(h)(1) prohibits veterans who complete a single period of service

that began on or after August 1, 2011, from eligibility for more than one educational benefit.” *Id.* at 308.

The court, however, rejected the Board’s interpretation on both counts. *First*, the court denied that *Rudisill* turned on distinct periods of service, identifying instead that it turned on “length of service.” *Second*, the *Rudisill* majority declined the dissent’s attempt to tie the case outcome to periods of service, as “the majority in *Rudisill* not only told us what the basis for its decision *was*—length of service—but it also affirmatively disclaimed the basis of the dissent in that case—distinct periods of service.” *Id.* at 314.

The court also rejected the Board’s holding that § 3322(h) applied because appellant’s active service began after August 1, 2011 (the effective date of subsection (h)), meaning she would be unqualified to obtain more than one educational benefit even if *Rudisill* applied in her case. It correctly explained that nothing in § 3322(h)’s text suggests that the “effective date has anything to do with when a veteran served in the armed forces.” *Id.* And looking at legislative history, the court highlighted that Congress’s concern in § 3322(h) was preventing duplication of eligibility for a single period of service, not penalizing veterans with lengthy continuous service. *Id.* at 318. Reversing the Board, the court directed VA to award benefits under both programs.

Perkins—which the Government initially appealed to this Court, only to later withdraw that appeal on March 3, 2026—confirms what *Rudisill* established: Congress intended that eligibility turn on the length and character of service, not the administrative happenstance of multiple enlistments. *See Perkins v. Collins*, No. 2025-2003 (Fed. Cir. Mar. 3, 2026) (order) (dismissing the case under Fed. R. App. P. 42(b)). *Perkins* squarely rejected the VA’s attempt to narrow *Rudisill* by imposing a “separate periods of service” requirement. 38 Vet. App. at 316. That rule would invert Congress’s logic by penalizing the longest-serving veterans—the very opposite of our intent. Congress designed these programs to reward extended service, not to diminish benefits for those who serve continuously.

c. The VA’s atextual interpretation violates *Rudisill* and *Perkins*.

The VA’s new post-*Rudisill* guidance repeats the same atextual reasoning, treating coordination provisions as merger rules and conditioning dual entitlement on administrative breaks. These courts correctly reject the VA’s misguided effort to override Congressional intent evident in the structure and language of the GI bills.

Despite *Rudisill*’s clear guidance, the VA revised its internal manuals after *Rudisill*, ostensibly to incorporate the Court’s holding. *See* Appx0001; Appx0034-0068. But rather than implement Congress’s statutory framework, the VA’s guidance seeks to write *Rudisill* out of existence. The new rules recast *Rudisill* as a decision

about administrative sequencing rather than statutory entitlement and then conditions dual benefits on a set of bureaucratic prerequisites that do not appear in the Montgomery or Post-GI Bills, or any other relevant statute. The result is a framework that does not implement *Rudisill*, but one that recreates the single-entitlement structure the Congress never intended, and the Court unanimously rejected.

The revised manuals proceed from the premise that a veteran may obtain both Montgomery and Post-9/11 benefits only if the VA recognizes multiple “periods of service,” meaning only veterans that have a break in their service may utilize both benefits. *See* Appx0035 (“The issue decided in [Rudisill] pertains to individuals with multiple periods of active-duty service”); *id.* (“The new Rudisill interpretation changes how multiple periods of qualifying military service impacts benefits earned.”). Under this approach, the VA can deny these dual entitlements to veterans who served continuously—even for decades—simply because they did not break their service into multiple reenlistment contracts.

The VA’s interpretation contradicts the statute. Congress tied eligibility to service itself, not to the number of administrative contracts recorded in a veteran’s personnel file. Nothing in the text authorizes the agency to collapse two independent

entitlements into one—or to treat a statutory election under § 3327 as extinguishing rights that Congress preserved.

The problems with the new guidance mirror the flaws that led the Supreme Court to reverse the VA in *Rudisill*. The manuals subordinate Congress’s deliberate substantive choices to the agency’s preference for administrative simplicity; they treat the Post-9/11 GI Bill election as wiping out a Montgomery GI Bill entitlement without statutory authority; and they generate outcomes that depend on paperwork rather than service. As the Court of Veterans Appeals properly recognized in *Perkins*—and as the Government’s withdrawal of its appeal seemingly acknowledges—the VA’s post-*Rudisill* interpretation would grant *more* benefits to a veteran who happened to divide their service across multiple reenlistments than to a veteran who served continuously and longer. 38 Vet. App. at 318. Congress did not intend such an anomaly.

Nor can the VA’s manuals substitute a different cap or impose new conditions that Congress did not enact. Both *Rudisill* and *Perkins* make clear that administrative guidance cannot override statutory rights or reintroduce, under a new label, the very framework the Supreme Court rejected.

3. Though unnecessary, applying the Veterans’ Canon confirms this interpretation.

Rudisill and *Perkins* show that this Court need not go beyond the statutory text, structure, and purpose to resolve this case. But should this Court find textual ambiguity, the Veterans’ Canon provides yet another reason to strike down the VA’s atextual rule.

When drafting legislation, Congress does so in the shadow of settled precedent recognizing the uniquely remedial nature of veterans’ legislation. For nearly eighty years, the Supreme Court has treated such statutes as expressions of national gratitude, not ordinary benefit schemes. This widely recognized canon guides courts to follow the “[b]ackground legal conventions”—namely Congress’s longstanding solicitude for veterans—when determining congressional intent in the veteran-benefits context. *Biden v. Nebraska*, 600 U.S. 477, 511 (2023) (Barrett, J., concurring).

As a result, courts generally “presume congressional understanding of . . . interpretive principles” like “the canon that provisions for benefits to members of the Armed Services are to be construed in the beneficiaries’ favor.” *King v. St. Vincent’s Hosp.*, 502 U.S. 215, 220 n.9 (1991); *see also McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 496 (1991) (explaining assumption that “Congress legislates with knowledge of our basic rules of statutory construction” (citation omitted); *Finley v. United States*, 490 U.S. 545, 556 (1989) (noting the “paramount importance” of

Congress being able to “legislate against a background of clear interpretive rules”). Supreme Court precedent repeatedly reinforces the validity of the Veterans’ Canon. *See, e.g., Henderson v. Shinseki*, 562 U.S. 428, 440–41 (2011) (emphasizing Congress’s “solicitude for veterans” and the uniquely pro-claimant character of this system); *Brown v. Gardner*, 513 U.S. 115, 118 (1994) (“interpretive doubt is to be resolved in the veteran’s favor”); *Fishgold v. Sullivan Drydock & Repair Corp.*, 328 U.S. 275, 285 (1946) (“This legislation is to be liberally construed for the benefit of those who left private life to serve their country in its hour of great need.”).

Applied here, the Veterans’ Canon reinforces—rather than expands—Congress’s statutory design. Chapters 30 and 33 establish two distinct entitlements of 36 months each. Congress imposed only three express cross-program limits:

- No concurrent payment, 38 U.S.C. § 3322(a);
- No “duplication of eligibility based on a single event or period of service,” *id.* § 3322(h); and
- A 48-month aggregate cap across programs, *id.* § 3695(a).

Section 3327 adds an optional conversion mechanism triggered only by a veteran’s election. Nothing in the text collapses these separate entitlements into a single, elastic benefit. The VA’s contrary reading—requiring exhaustion, a break in service, or a mandatory “swap”—find no footing in the statute. But more to the point, if the text can reasonably bear either the straightforward reading that *amici*

defend in which veterans may draw sequentially on two distinct entitlements subject to the express limits, or an extratextual interpretation that collapses those entitlements, the canon requires the former.

The continuous-service context illustrates the point. A veteran who serves a single, extended tour may satisfy the eligibility criteria for both programs. Nothing in the statute demands a break in service or a formal election to “unlock” the second benefit. Reading the GI Bills to allow sequential use—drawing first from one 36-month grant, then the other—accords with the statutory language and avoids penalizing the very veterans Congress meant to reward. If ambiguity remains, the Veterans’ Canon resolves it decisively in that direction.

This reading also coheres with other interpretive principles. It gives independent effect to every provision—§§ 3011, 3311, 3322(a), 3322(h)(1), 3327, and 3695—while avoiding surplusage. It honors the structural limits we imposed: no concurrent payment, no duplication of eligibility, and no expansion beyond the 48-month maximum. It thus complements, rather than displaces, ordinary textual analysis.

The canon advances the institutional design of the veterans’ benefits system itself. It promotes uniform and predictable administration in a non-adversarial scheme, minimizes error costs that fall disproportionately on veterans, and prevents

sub-regulatory narrowing from eroding the benefits that we deliberately conferred. In this way, it reinforces—not supplants—Congress’s intent.

The Veterans’ Canon thus confirms what the text and structure already show. Congress created two distinct, sequentially usable entitlements, limited only by §§ 3322(a), 3322(h)(1), and 3695(a), with § 3327 affecting entitlement only when an actual election occurs. Even if any ambiguity remained, the veteran-favorable construction—preserving both earned entitlements—is the one the law, precedent, and congressional purpose require.

Conclusion

Upholding the VA's rules limiting veterans' educational benefits would run contrary to the Congressional intent as reflected in the statutory structure and language of the GI Bills. It also would run contrary to the Supreme Court's guidance in *Rudisill*, as well as this court's decision on the same issue in *Perkins*. And if any ambiguity remains, the Veterans' Canon requires resolving it in favor of veterans, preserving the full entitlements that Congress intentionally and carefully chose to confer upon those who have borne the greatest sacrifices in support of our Nation. For these reasons, *amici* respectfully request that this Court vacate and/or set aside the 2024 Education Directives as arbitrary, capricious, in excess of statutory authority, or otherwise unlawful.

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Respectfully submitted,

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/s/ Andrew R. Gould
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I hereby certify that I electronically filed the foregoing on March 12, 2026. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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