

No. 2026-1063

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

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Charles G. Loomis  
*Claimant-Appellant,*

v.

Douglas A. Collins, Secretary of  
Veterans Affairs,  
*Respondent-Appellee*

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**CLAIMANT-APPELLANT INFORMAL REPLY ARGUMENT**

Pursuant to Federal Circuit Rule 31(e) claimant-appellant, Charles Loomis, *pro se*, respectfully submits this informal reply brief in response to the informal brief and supplemental appendix filled by respondent-appellee, Douglas A. Collins, the Secretary of Veterans Affairs.

**STATUTES REFERENCED**

1. 38 U.S.C. § 3672(b)(2)(A)(ii):

Subject to section 3675 paragraphs (1), (2), and (6) of section 3675(b), 3680A, 3684, and 3696 of this title, a program of education is deemed to be approved for the purpose of this chapter if a State approving agency, or the Secretary when acting in the role of a State approving agency, determines that the program is one of the following programs: ... (ii) A flight training course approved by the Federal Aviation Administration that is offered by a

certified pilot school that possesses a valid Federal Aviation Administration pilot school certificate.

2. 38 U.S.C. § 3680A(a)(3):

The Secretary shall not approve the enrollment of an eligible veteran in a of the following: Any type of course which the Secretary finds to avocation or recreational in character...unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation.

3. 38 U.S.C. § 3680A(b):

Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning credit toward a standard college degree the eligible veteran is seeking.

### QUESTIONS AND ANSWERS

**1. Have you received a copy of the respondent's response brief?**

Yes. Appellant received a copy of the respondent's response brief on March 30, 2026.

**2. What are your arguments in response to the respondent?**

When confronted with information that 100 scientists intended to disprove Albert Einstein's theory of relativity, Mr. Eistein is reported to have replied, "Why 100? If I were wrong, one would be enough."

It only takes one statute for Secretary Collins to definitively disprove Mr. Loomis' argument and put an end to his appeal. As such, appellant offers the following to the Secretary and this Court, if Secretary Collin's council presents a

statute, just one, which meets the Veterans Court's interpretation of section 3680A(b)'s exception clause, Mr. Loomis will immediately withdraw his appeal. Secretary Collins shouldn't be opposed to this offer as it would benefit the respondent to the detriment of the appellant. But Secretary Collins won't present this statute because this is an impossible task as no such statute exists which meets the Veterans Court's interpretation, which is why the Secretary's informal brief doesn't address this fact. Instead, the Secretary presented distractions, a "100 scientists", when one statute would have been enough.

Appellant argues that the statute doesn't exist, but the statute must exist because the Veterans Court majority stated as such when articulating why section 3672(b)(2)(A)(ii) isn't an exception to section 3680A(b)'s exception clause. "[S]ection 3672(b)(2)(A), which allows constructive approval of flight training courses, is subject to (or modified by) section 3680A(b)'s IHL requirement. To avoid this requirement, a statutory provision *must* explicitly exclude this provision (emphasis added)." ROA at 9. Without the "explicit exclusion", the exceptions clause serves no purpose.

Respondent agreed with the majority stating in his brief, "Indeed, Section 3672(b)(2)(A) not only fails to 'specifically' except the IHL requirement, but Section 3672(b)(2)(A) by its own term is 'subject to' the IHL requirement." *See*

Re. Inf. Br. at 11. To be clear, section 3672(b)(2)(A) is “subject to” section 3680A which includes section 3680A(a)(3) and is not limited to section 3680A(b).

The majority continued, “But that doesn’t mean section 3680A(b) doesn’t apply to any other provision with its own criteria; it means another provision under title 38 [or chapter 106 of title 10] may preempt section 3680A(b) with *explicit* language.” ROA at 11. It’s inconceivable that Congress would have established an Institution of Higher Learning (IHL) requirement, amend section 3680A(b) adding an exception clause to the IHL requirement, then fail to explicitly exempt the IHL requirement in any other provision, if the Veterans Court majority’s interpretation is correct.

But section 3680A(b)’s exception clause, as interpreted by the majority, doesn’t apply to any other provision because there isn’t another provision within title 38 or title 10 that explicitly preempts section 3680A(b)’s exception language. If there was one, Secretary Collins would have made it the focal point of his brief presenting it as fact. In addition, Mr. Loomis would have found it.

It’s difficult to believe the Secretary’s council, with six capable attorneys, overlooked the opportunity to address this as appellant repeatedly argued the point in his brief. Cl. App. Inf. Br. at 4, 6, 7, 10, and 16. It is the crux of appellant’s argument. Additionally, the Secretary’s council was fully aware that Mr. Loomis made multiple attempts, and was admonished for doing so, to contact the VA’s

Assistant Director of Policy and Procedures, Thomas Alphonso, for the express purpose of reconfirming which statute or statutes specifically exclude section 3680A(b)'s IHL requirement. Re. App. Inf. Br. at 17. Secretary Collins could have verified that a statute does exist, and Mr. Loomis' appeal would crumble. Instead, the Secretary repeated the majority's interpretation of section 3680A(b)'s exception clause and concluded, based on their premise, that section 3672(b)(2)(A) isn't a valid exception to section 3680A(b)'s exception clause because section 3672(b)(2)(A) doesn't specifically exclude section 3680A(b)'s IHL requirement. This premise is completely dependent on the assumption that a statute exists and explicitly preempts section 3680A(b)'s exception language. If it exists, provide it. The statute doesn't exist which is why the Secretary didn't address it in his brief because it would have proven appellant's argument: The Veterans Court majority clearly erred by misinterpreting section 3680A(b)'s exception clause.

The majority, by statute interpretation, built a road to nowhere incorrectly interpreting section 3680A(b)'s exception clause rendering the exception clause ineffective violating the presumption against ineffectiveness.

As it is the duty of the judiciary to interpret statutes, the Veterans Court's interpretation doesn't comport with the presumption that Congress is intentional, deliberate, and careful when drafting legislation. When Congress acts to amend or enact a statute, the presumption is that the change should have real and substantial

effect. See *Reiter v. Sonotone Corp.*, 442 U. S. 330, 339 (1979) (Court must construe statute to give effect, if possible, to every provision); *Moskal v. United States*, 498 U. S. 103, 109-111 (1990).

A finding that the Veterans Court erred, misinterpreted section 3680A(b)'s exception clause, and rendering the clause ineffective changes the relationship between section 3672(b)(2)(A) and section 3680A(b) and thus reversing the conclusions of the Veterans Court majority.

**3. Are there other arguments you wish to make? If yes, please state them.**

The desired end state of Mr. Loomis' appeal isn't to force the Secretary to approve education benefits, this appeal is to grant Mr. Loomis the ability to *submit justification* as to why the Secretary should exercise the Secretary's congressionally delegated discretionary authority to approve education benefits to pay for avocational training in accordance with section 3680A(a)(3), in Mr. Loomis' case, private pilot flight training, of which the VA considers such training as avocational. Appellant argues the Secretary possesses this authority; the Secretary's council disagrees.

Respectfully submitted,

Dated: April 11, 2026

/s/ Charles G. Loomis  
Appellant, Pro Se  
415 Greenwich Drive  
Richmond Hill, GA 31324  
Tel: (912) 572-1760  
E: [chuck\\_loomis2000@yahoo.com](mailto:chuck_loomis2000@yahoo.com)