



THE UNDER SECRETARY OF VETERANS AFFAIRS FOR BENEFITS
WASHINGTON, D.C. 20420

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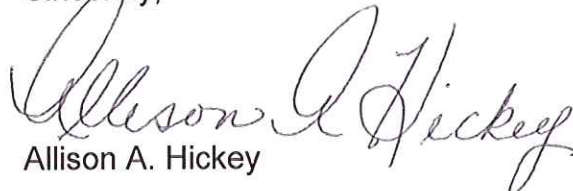
Dear Governor:

The President recently signed into law the Veterans Access, Choice and Accountability Act of 2014 ("Choice Act"). Section 702 of the Choice Act requires the Department of Veterans Affairs (VA) to disapprove programs of education under the Post-9/11 GI Bill and Montgomery GI Bill at a public institution of higher learning if the school charges qualifying Veterans and dependents tuition and fees in excess of the rate for resident students. Section 702 is effective for terms beginning after July 1, 2015.

VA's preliminary review indicates that most states and U.S. territories are not currently compliant with all of the provisions of this new law. In order to effectively assess the impact of Section 702 on Veterans attending public institutions, we are seeking to understand each State's intent and ability to comply with the provisions of the law. I therefore request your response to the questions in the enclosed Governor's Questionnaire. We have included a Fact Sheet and Guide to Determining Section 702 Compliance to assist your office in responding.

I would appreciate your immediate attention on this extremely important matter. Thank you for your commitment to our Nation's Veterans and their families.

Sincerely,


Allison A. Hickey

Enclosures

Governor's Questionnaire

- Will your State require all public institutions of higher learning to charge in-state tuition and fees to qualifying Veterans and dependents as described in Section 702?

(Please see the enclosure entitled "Guide to Determining Section 702 Compliance" to assist in determining if your State complies with all of the requirements.)

- What is the process required to make any changes necessary to bring your State into compliance?
- By what date do you expect all public institutions of higher learning within your State to be compliant?

VA would appreciate your reply by November 28, 2014. Given the short timeframe for the request, you may submit your responses and/or questions regarding Section 702 by email to the following mailbox: Section702.Vbavaco@va.gov.



EDUCATION AND TRAINING

VETERANS ACCESS, CHOICE AND ACCOUNTABILITY ACT OF 2014

SECTION 702 OF THE CHOICE ACT

Section 702 of the Veterans Access, Choice and Accountability Act of 2014 (“Choice Act”), requires VA to disapprove programs of education for payment of benefits under the Post-9/11 GI Bill and Montgomery GI Bill-Active Duty at public institutions of higher learning if the schools charge qualifying Veterans and dependents tuition and fees in excess of the rate for resident students for terms beginning after July 1, 2015.

These new requirements will ensure that our Nation’s recently discharged Veterans, and their eligible family members, will not have to bear the cost of out-of-state charges while using their well-deserved education benefits.

DO PUBLIC SCHOOLS HAVE TO OFFER IN-STATE RATES TO ALL VETERANS AND DEPENDENTS TO MEET THE REQUIREMENTS OF SECTION 702?

No. To remain approved for VA’s GI Bill programs, schools must charge in-state tuition and fee amounts to “covered individuals.” A “covered individual” is defined in the Choice Act as:

- A Veteran who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within three years of discharge from a period of active duty service of 90 days or more.
- A spouse or child using transferred benefits who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within 3 years of the transferor’s discharge from a period of active duty service of 90 days or more.
- A spouse or child using benefits under the Marine Gunnery Sergeant John David Fry Scholarship who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within three years of the Servicemember’s death in the line of duty following a period of active duty service of 90 days or more.



Note: Individuals who initially meet the requirements above will maintain “covered individual” status as long as they remain continuously enrolled at the institution of higher learning, even if they are outside the 3-year window or enroll in multiple programs.

WHAT HAPPENS IF A STATE DOES NOT OFFER IN-STATE TUITION AND FEES TO ALL “COVERED INDIVIDUALS”?

The law requires VA to disapprove programs of education for everyone training under the Post-9/11 GI Bill and the Montgomery GI Bill –Active Duty (MGIB-AD) if in-state tuition and fees are not offered to all “covered individuals.”

WHAT STEPS MUST BE TAKEN TO ENSURE THAT VETERANS AND THEIR FAMILY MEMBERS CAN RECEIVE VA GI BILL BENEFITS AT PUBLIC SCHOOLS IN MY STATE?

States must ensure all public institutions of higher learning offering VA-approved programs charge in-state tuition and fees to “covered individuals” as described, to include same-sex spouses and children (biological, adopted, pre-adoptive, and stepchildren of same-sex spouses) after July 1, 2015. To ensure compliance, States should consider offering in-state tuition and fees to all individuals eligible for benefits under the Post-9/11 and MGIB-AD programs.

WHEN DO STATES HAVE TO MEET THESE REQUIREMENTS?

Public institutions must offer in-state tuition and fees to all “covered individuals” for Veterans and family members to be eligible to receive GI Bill benefits for training beginning after July 1, 2015. VA will not issue payments for any students eligible for the Post-9/11 GI Bill or the MGIB-AD until the school becomes fully compliant. VA is in the process of developing waiver criteria for States that are actively pursuing changes to comply with these provisions. More information regarding the waiver criteria will be included in a regulation published in the Federal Register.

IF MY SCHOOL BECOMES COMPLIANT AFTER JULY 1, 2015, WHEN WILL VA BEGIN ISSUING PAYMENTS?

VA will not issue payments under the Post-9/11 GI Bill and MGIB-AD for all students in terms beginning after July 1, 2015, if the requirements of Section 702 are not met, unless a waiver is granted. If the in-state tuition and fee policies are brought into compliance with the requirements after July 1, 2015, and no waiver was previously granted, VA will begin making payments for terms, quarters, or semesters that begin on or after the date that the compliant policies take effect.

WHERE CAN I GO TO GET MORE INFORMATION?

Questions regarding the provisions of Section 702 may be submitted to Section702.Vbavaco@va.gov. VA will provide updates on its website at www.benefits.va.gov/gibill.



Guide to Determining Section 702 Compliance

The questions below can be used to identify potential areas of non-compliance with the new requirements of Section 702 of the Veterans Access, Choice, and Accountability Act ("Choice Act"). The Fact Sheet also enclosed provides a description of "covered individuals." If you have specific questions regarding eligibility for your State, please email Section702.Vbavaco@va.gov.

Veterans

Veterans eligible for educational assistance under the Post-9/11 GI Bill and Montgomery GI Bill are the primary group of individuals who are considered "covered individuals." Benefit eligibility may be established based on one, or more than one, period of active duty service, and qualifying service may be earned in the various branches of the armed forces and uniformed services.

- VA will use any period of fully honorable service to establish eligibility under the Post-9/11 GI Bill and Montgomery GI Bill. For individuals with more than one period of service, the final discharge need not be fully honorable. Consequently, an individual who receives an other-than-honorable or less than fully honorable final discharge (e.g. general- under honorable conditions or bad conduct) can still be eligible for GI Bill benefits and "covered individual" status.
- "Covered individual" can include Veterans of the regular components of Army, Navy, Air Force, Marine Corps, and Coast Guard; Veterans who performed certain full-time service in, or were called up from, the reserve components or the National Guard; and Veterans of the commissioned corps of the Public Health Service or National Oceanic and Atmospheric Administration are also included.

Please keep these facts in mind when answering the following question.

1. Are public institutions of higher learning (IHLs) in your State required to charge in-state tuition and fees for a Veteran eligible for benefits under the Post-9/11 GI Bill or Montgomery GI Bill who-
 - a. Enrolls within 3 years of being discharged from active duty service of 90 days or more, and
 - b. Lives in your State, regardless of his/her state of residency?

Family Members Using Transferred Entitlement

Spouses and children using transferred entitlement under the Post-9/11 GI Bill and Montgomery GI Bill are considered "covered individuals." VA requires the family member to meet the definition of a spouse or child at the time that he/she is determined to be eligible for benefits. Please note that eligibility is retained even if the status changes at some later point in time.

- A spouse, for the purposes of determining eligibility for transferred GI Bill benefits includes those wedded through both same-sex and opposite-sex marriages. Divorced spouses (including same-sex spouses) retain eligibility, even if they remarry, as long as the Veteran chooses not to revoke the transfer.
- A child, for the purposes of determining eligibility for transferred GI Bill benefits includes biological children, adopted children, pre-adoptive children, and stepchildren. A child does not have to be financially dependent on the parent or have been listed on the current or previous tax return. A stepchild (including the child of a same-sex spouse) retains eligibility if the Veteran divorces the child's biological parent, even if the parent remarries, as long as the Veteran chooses not to revoke the transfer. Children may use benefits up to the age of 26, and a child's marital status has no effect on benefit eligibility.

Please keep these facts in mind when answering the following question.

2. Are public IHLs in your State required to charge in-state tuition and fees for family members using transferred entitlement under the Post-9/11 GI Bill and Montgomery GI Bill who-
 - a. Enroll within 3 years of the transferor's release from active duty service of 90 days or more, and
 - b. Live in the State, regardless of their state of residency (regardless of whether the transferring Veteran is a resident of, or lives in, your state)?

Family Members Using Benefits Under the Marine Gunnery Sergeant John David Fry Scholarship provisions of the Post-9/11 GI Bill

Surviving spouses and children eligible for the Fry Scholarship are considered "covered individuals" as well. VA requires the family member to meet the definition of a spouse or child at the time that he/she is determined to be eligible for benefits..

- A spouse, for the purposes of determining eligibility for the Fry Scholarship, includes those wedded through both same-sex and opposite-sex marriages. Remarriage results in the loss of benefit eligibility.

- A child, for the purposes of determining eligibility for the Fry Scholarship, includes biological children, adopted children, pre-adoptive children, and stepchildren. A child does not have to be financially dependent on the parent or have been listed on the current or previous tax return. A child (including the child of a same-sex spouse) retains eligibility even if the surviving spouse remarries. Generally, children may use benefits up to the age of 33, and a child's marital status has no effect on benefit eligibility.

Please keep these facts in mind when answering the following question.

3. Are public IHLs in your State required to charge in-state tuition and fees for family members using benefits under the Marine Gunnery Sergeant John David Fry Scholarship provisions of the Post-9/11 GI Bill who-
 - a. Enroll within 3 years of the Servicemember's death in the line of duty following active duty service of 90 days or more, and
 - b. Live in the State, regardless of their State of residency (regardless of whether the transferring Veteran is a resident of, or lives in, your State)?

All Types of Beneficiaries

4. Are public IHLs in your State required to continue to charge in-state tuition and fee rates for the individuals described above for as long as they remain continuously enrolled?
5. Are public IHLs in your State required to charge in-state tuition and fee rates for the individuals described above for all approved programs they offer (e.g. certificate, undergraduate, graduate, etc.)?