

**BOARD OF REGENTS**  
**BRIEFING PAPER**

**1. AGENDA ITEM TITLE:** Handbook Revision, In-State Tuition for Certain Veterans and their Family Members

**MEETING DATE:** January 17-18, 2019 – Special Board Meeting

**2. BACKGROUND & POLICY CONTEXT OF ISSUE:**

In 2015, the Board of Regents adopted a policy under *Title 4, Chapter 15, Section 3* of the *Handbook* to comply with the in-state tuition requirements for certain veterans and their family members pursuant to Section 702 of the federal Veterans Access, Choice and Accountability Act of 2014, which was then codified under 38 U.S.C. 3679(c). The Department of Veterans Affairs subsequently determined Nevada was in compliance with Section 702 based on the policy approved by the Board in 2015. (See the [Briefing Paper/Policy](#) approved by the Board in March 2015 for more information.)

Congress recently passed Public Law 115-251, and Section 301 of that legislation further amends 38 U.S.C. 3679(c) to require that individuals entitled to rehabilitation under Chapter 31, Vocational Rehabilitation and Employment (VR&E) also be charged the in-state tuition rate. Under this federal amendment, effective for courses, semesters, or terms beginning after March 1, 2019, a public institution of higher learning must charge the in-state rate to Chapter 31 participants, as well as the other categories of individuals currently included. When an institution charges these individuals more than the rate for resident students, the U.S. Department of Veterans Affairs (VA) is required to disapprove programs of education sponsored by VA.

System staff recommends revising Board policy to comply with 38 U.S.C. 3679 (c), as amended, by Public Law 115-251.

**3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:**

Amend Board policy under *Title 4, Chapter 15, Section 3* to extend coverage to include individuals entitled to rehabilitation under Chapter 31 (Training and Rehabilitation for Veterans with Service-Connected Disabilities) under Title 38, U.S.C.

**4. IMPETUS (WHY NOW?):**

Congress recently amended 38 U.S.C. 3679 (c) – Section 702 of the Veterans Access, Choice and Accountability Act of 2014 – under Public Law 115-251, and Board policy must be revised accordingly before March 1, 2019, to ensure Nevada remains compliant with the federal law.

**5. CHECK THE NSHE STRATEGIC PLAN GOAL THAT IS SUPPORTED BY THIS REQUEST:**

- Access (Increase participation in post-secondary education)
- Success (Increase student success)
- Close the Achievement Gap (Close the achievement gap among underserved student populations)
- Workforce (Collaboratively address the challenges of the workforce and industry education needs of Nevada)
- Research (Co-develop solutions to the critical issues facing 21<sup>st</sup> century Nevada and raise the overall research profile)
- Not Applicable to NSHE Strategic Plan Goals

**INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL**

(Not applicable – technical revision to remain compliant with federal law as explained above.)

**6. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:**

- Adoption of the policy will ensure institutions and veterans do not lose access to federal veteran-educational assistance dollars.
- This policy is consistent with other Board policy and state law that provides certain tuition and fee benefits to veterans, active duty members of the Armed Forces of the United States, including the Nevada National Guard, and their family members.

**7. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:**

None have been presented

**8. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:**

None have been presented

**9. RECOMMENDATION FROM THE CHANCELLOR'S OFFICE:**

The Chancellor's Office recommends support to maintain NSHE institutions' compliance with federal law.

**10. COMPLIANCE WITH BOARD POLICY:**

- Consistent With Current Board Policy: Title # \_\_\_\_\_ Chapter # \_\_\_\_\_ Section # \_\_\_\_\_
- Amends Current Board Policy: Title 4, Chapter 15, Sections 3.
- Amends Current Procedures & Guidelines Manual: Chapter # \_\_\_\_\_ Section # \_\_\_\_\_
- Other: \_\_\_\_\_
- Fiscal Impact: Yes  No \_\_\_\_\_

Explain: Under the provisions of the proposed policy and federal law, NSHE institutions will forgo non-resident tuition to certain individuals using Chapter 31 VA benefits. The number of individuals who will move to Nevada and qualify cannot be estimated and therefore, the revenue loss cannot be determined.

**POLICY PROPOSAL**  
**TITLE 4, CHAPTER 15, SECTION 3**  
**Tuition –Compliance under the Federal Veterans Access, Choice and Accountability Act**

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

**Section 3. Tuition**

Tuition shall be charged to nonresident students except as otherwise provided in this Section. Tuition shall not be charged:

....

12. To a covered individual, as defined by this Subsection, who is living in Nevada.
  - a. This Subsection complies with Section 702 of the Veterans Access, Choice, and Accountability Act of 2014 (Approval of Courses of Education provided by Public Institutions of Higher Learning for Purposes of All-Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance Conditional on In-State Tuition Rate for Veterans), as codified under 38 U.S.C. 3679(c), including but not limited to amendments under Public Law 114-315 *and Public Law 115-251*. The provisions contained herein must be interpreted to comply with the applicable federal provisions and definitions.
  - b. To affirm a covered individual is living in Nevada, institutions shall only require the covered individual to:
    - i. Provide a physical address in Nevada; and
    - ii. Sign a statement affirming the covered individual is living in Nevada and intends to become a bona fide Nevada resident.
  - c. An institution shall not require a covered individual to complete a residency form or application.
  - d. Except as otherwise provided in this paragraph, a covered individual must provide:
    - i. Either a DD-214 (Discharge Orders) or a DD-1300 (Report of Casualty) or similar documentation verifying the date of discharge or casualty; and
    - ii. A Certificate of Eligibility issued by the United States Department of Veterans Affairs or similar documentation verifying eligibility. A covered individual using transferred benefits under the Post-9/11 Veterans Educational Assistance Act when the transferor is a member of the uniformed services who is on active duty pursuant to paragraph e(ii)(b) of this section must provide documentation required by the institution to confirm that the covered individual is eligible to use the transferred benefits.
  - e. For purposes of this Subsection, “covered individual” means:
    - i. A veteran who:
      - a) Enrolls within three years from his or her discharge or release from a period of not fewer than 90 days of service in the active military, naval, or air service, including the reserve components thereof and the National Guard; and
      - b) Is pursuing a course of education with educational assistance under Chapter 30 (All-Volunteer Force Educational Assistance Program) or Chapter 33 (Post-9/11 Veterans Educational Assistance Act) of Title 38, United States Code<sup>1</sup>;
    - ii. An individual using transferred benefits under the Post-9/11 Veterans Educational Assistance Act<sup>2</sup> and:
      - a) Who enrolls within three years of the transferor’s discharge or release from a period of active-duty service of 90 days or more; or
      - b) The transferor is a member of the uniformed services who is serving on active duty;
    - iii. An individual using benefits under the Marine Gunnery Sergeant John David Fry Scholarship (“Fry Scholarship”)<sup>3</sup>; [øø]
    - iv. An individual using benefits under the Survivors’ and Dependents’ Educational Assistance (DEA) program<sup>4</sup> and who enrolls within three years of the transferor’s discharge from or service member’s death in the line of duty following a period of active-duty service of 90 days or more[-] *or*
    - v. *An individual entitled to rehabilitation under Section 3102(a) of Chapter 31 (Training and Rehabilitation for Veterans with Service-Connected Disabilities) of Title 38, United States Code.*

<sup>1</sup> Includes the Montgomery GI Bill – Active Duty (Chapter 30 of Title 38, United State Code) and the Post 9/11 GI Bill (Chapter 33 of Title 38, United State Code).

<sup>2</sup> Chapter 33 of Title 38 of the United States Code. 38 U.S.C. § 3319 sets forth the authority to transfer unused education benefits to family members.

<sup>3</sup> The Fry Scholarship is educational assistance for an individual who is the child or spouse of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces to educational assistance under the Post-9/11 Veterans Educational Assistance Act (See 38 U.S.C. § 3311(b)(9)).

<sup>4</sup> The Survivors’ and Dependents’ Educational Assistance (DEA) Program under Chapter 35 of Title 38 of the United States Code sets forth education and training opportunities to eligible dependents of veterans who are permanently and totally disabled due to a service-related condition or of veterans who died while on active duty or as a result of a service-related condition.