

BOARD OF REGENTS
BRIEFING PAPER

Handbook Revision: In-State Tuition for Certain Veterans

BACKGROUND & POLICY CONTEXT OF ISSUE:

In 2015, the Board 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 who qualify under the Post 9/11 GI Bill (which includes the Marine Gunnery Sergeant John David Fry Scholarship) and the Montgomery GI Bill- Active Duty (Chapters 33 and 30 of Title 38 U.S.C.) pursuant to Section 702 of the federal Veterans Access, Choice and Accountability Act of 2014 (the “Choice Act”), which is codified under 38 U.S.C. 3679(c). Specifically, the Choice Act provides in-state tuition to certain covered individuals who enroll in a higher education within three years of a discharge or release from a period of not fewer than 90 days of service. At that same time, the Board extended the same in-state provisions to include individuals covered under the Survivors’ and Dependents’ Educational Assistance (DEA) Program (Chapter 35 of Title 38 of U.S.C.). In 2017 Congress passed Public Law 114-315 amending 38 U.S.C. 3679(c) to: (1) remove certain time requirements for individuals covered under the Marine Gunnery Sergeant John David Fry Scholarship to receive the in-state tuition; and (2) include certain covered individuals living in the state and using transferred Post 9/11 benefits when the transferor is serving on active duty. The Board then amended *Title 4, Chapter 15, Section 3* of the *Handbook* to comply with Public Law 114-315. Lastly, in 2019 the Board approved a revision to *Title 4, Chapter 15, Section 3* to comply with approved Public Law 115-251. Section 301 of that legislation further amended 38 U.S.C. 3679(c) to include individuals entitled to Chapter 31, Vocational Rehabilitation and Employment (Chapter 31 of Title 38 U.S.C.).

In January 2021, Congress passed Public Law 116-315 once again amending 38 U.S.C. 3679(c). Section 1005 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (Public Law 116-315) removes the three-year time period in which a covered individual must enroll in an institution from the date of discharge to receive in-state tuition. Specifically, there is no longer a time limitation in which a covered individual must enroll to receive in-state tuition.

To ensure NSHE institutions comply with this new amendment to federal law and do not risk the loss of federal veteran educational assistance funds, System staff recommends amending Board policy to comply with 38 U.S.C. 3679(c), as amended by Public Law 116-315. In addition, System staff propose to extend the provisions of Public Law 116-315 to include individuals who are covered under the Survivors’ and Dependents Educational Assistance (Chapter 35 of Title 38 U.S.C.).

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Amend Board policy under *Title 4, Chapter 15, Section 3* to comply with 38 U.S.C. 3679(c), as amended by Public Law 116-315 which removes the three-year time period in which a covered individual must enroll within from the date of discharge to receive in-state tuition. It is recommended the same provisions of Public Law 116-315 to be extended to include individuals who are covered under the Survivors’ and Dependents Educational Assistance (Chapter 35 of Title 38 U.S.C.).

IMPETUS (WHY NOW?):

Congress recently amended 38 U.S.C. 3679(c) – Section 1005 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 - under Public Law 116-315, and Board policy must be revised accordingly before August 1, 2021, to ensure Nevada remains compliant with federal law.

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 21st 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

The proposed revisions will support student access as covered individuals will qualify for in-state registration fees regardless of when they enroll.

BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

- Adoption of the policy revisions will ensure institutions and covered individuals (qualifying veterans and their family members) do not lose access to federal veteran-educational benefits.
- Adoption of the proposed revisions will support student access as more veterans will qualify for in-state registration fees with the removal of the three-year limitation.

POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

None have been presented.

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

None have been presented.

RECOMMENDATION FROM THE CHANCELLOR’S OFFICE:

The Chancellor’s Office recommends the policy revisions as presented here to maintain NSHE institutions’ compliance with federal law.

COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
- Amends Current Board Policy: *Title 4, Chapter 15, Section 3*
- Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
- Other: _____
- Fiscal Impact: Yes No _____
 Explain: *Eliminating the three-year time frame limitation will result in more students qualifying for in-state tuition; however, NSHE cannot predict the number of additional veterans that will enroll and qualify.*

POLICY PROPOSAL
TITLE 4 , CHAPTER 15 , SECTION 3
Tuition for Certain Veterans

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

Section 3: Tuition

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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) *and Section 1005 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (Requirements for In-State Tuition)*, 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, *and Public Law 116-315*. 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~~] *with a* 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 Code¹ ;
- ii. An individual using transferred benefits under the Post-9/11 Veterans Educational Assistance Act² and:
 - a) [~~Who enrolls within three years of the~~] **The** transferor's discharge or release **was** 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")³ ;
- iv. An individual using benefits under the Survivors' and Dependents' Educational Assistance (DEA) program⁴ 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.