

BOARD OF REGENTS
BRIEFING PAPER

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

MEETING DATE: April 27, 2017 – 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 114-315 amending 38 U.S.C. 3679(c). As in 2015, public institutions in states that do not enact policy to comply with these revised provisions by July 1, 2017, risk the loss of federal veteran educational assistance dollars under the Post-9/11 GI Bill (Chapter 33 of Title 38 of the *United States Code*, which includes the Fry Scholarship) and Montgomery GI Bill-Active Duty (Chapter 30 of Title 38 of the *United States Code*).

System staff recommends revising Board policy to comply with 38 U.S.C. 3679 (c), as amended, and extend the in-state tuition benefit to include: (1) A covered individual living in Nevada using benefits under the Marine Gunnery Sergeant John David Fry Scholarship, regardless of the time of the service member's death, and (2) A covered individual living in Nevada and using transferred Post-9/11 G.I. Bill benefits and the transferor is a member of the uniformed services who is serving on active duty.

3. SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Amend Board policy under *Title 4, Chapter 15, Section 3* to extend coverage to include: (1) Covered individuals living in Nevada and using benefits under the Marine Gunnery Sergeant John David Fry Scholarship, regardless of the time of the service member's death; and (2) Covered individuals living in Nevada using transferred Post-9/11 G.I. Bill benefits and the transferor is a member of the uniformed services serving on active duty.

In addition, make technical revisions to the Board policy to identify the codified section of Section 702 of the Veterans Access, Choice, and Accountability Act of 2014, in the event that Congress makes additional changes to 38 U.S.C. 3679(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 114-315, and Board policy must be revised accordingly before July 1, 2017, to ensure Nevada remains compliant with the federal law.

5. 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 and active duty members of the Armed Forces of the United States, including the Nevada National Guard.

6. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

None have been presented.

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

None have been presented.

8. COMPLIANCE WITH BOARD POLICY:

Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____

X Amends Current Board Policy: ***Title 4, Chapter 15, Section 3***

Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____

Other: _____

X Fiscal Impact: Yes X No _____

Explain: Under the provisions of the proposed policy and federal law, NSHE institutions will forgo non-resident tuition to certain military family members. The number of family members 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

In-State Tuition –
Veterans Access, Choice and Accountability Act of 2014, as Amended

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:

1. To current enrollees or graduates of a Nevada high school.
2. To returning students who had established an exemption from tuition charges at any NSHE institution in their prior enrollment period.

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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), *as codified under 38 U.S.C. 3679(c), including but not limited to amendments under Public Law 114-315*. 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. 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.
 - 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 Code¹.
- ii. An individual using transferred benefits under the Post-9/11 Veterans Educational Assistance Act² and:
 - a) *Who* [~~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")³ [~~who enrolls within three years of the service member's death in the line of duty following a period of active-duty service of 90 days or more~~]; or
 - 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.

¹ 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).

² 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.

³ 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)).

⁴ 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.