

## Update on the Veterans Access, Choice & Accountability Act of 2014

### Background

In August 2014, the Veterans Access, Choice, and Accountability Act of 2014 (“Choice Act”) was signed into law. Section 702 of the Choice Act requires the US Department of Veterans Affairs (VA) to disapprove programs of education under the Post-9/11 GI Bill and Montgomery GI Bill – Active Duty (MGIB-AD) at public institutions of higher learning if the school charges qualifying Veterans and dependents tuition and fees in excess of the rate for resident students for terms beginning after July 1, 2015 (**Attachment**).

Under the Choice Act, the VA must disapprove programs of education for students training under the Post-9/11 GI Bill and MGIB-AD, if resident charges are not offered to all “covered individuals.” Covered individuals are persons who are receiving Montgomery and Post-9/11 GI Bill educational assistance and who either enroll within three years of discharge after serving at least 90 days on active duty or are using a transferred entitlement within three years of the transferor’s discharge after serving at least 90 days of active duty. Under this Act, covered individuals living in the state in which the institution of attendance is located, and to be covered within three years of discharge must remain continuously enrolled to qualify for in-state tuition under Section 702. Since the signing of the Choice Act, the VA has worked with states to determine intentions to comply with the Act. As of February 13, 2015, 31 states and the District of Columbia had indicated their intent to comply with Section 702 by the established July 1, 2015 deadline. South Carolina is included in this group. To date, the VA has confirmed only **two** states to be fully in compliance, Texas and Georgia. Texas has passed state legislation mirroring Section 702, allowing individuals receiving Federal education benefits to be considered eligible for in-state tuition. Georgia has issued a Board of Regents policy that incorporates provisions of Section 702 into its policies for in-state tuition benefits for military.

Certifying officials at public colleges and universities can certify covered individuals as far as 120 days in advance of the start of a term. At present, because South Carolina’s current law is not in compliance with Section 702, certifying officials have been directed to certify the tuition amount of a covered individual to be \$0.00 until South Carolina comes into compliance with Section 702. The certifying official will document the number of credit or clock hours for that covered individual, and the appropriate charges will be determined once South Carolina comes into compliance with Section 702.

The South Carolina Commission on Higher Education State Approving Agency (SAA) staff have been directed by the VA to review the public colleges and universities for adherence to Section 702 during compliance survey visits.

South Carolina law currently requires Veterans seeking to be considered in-state for tuition and fee purposes to establish their intent to be South Carolina residents prior to their discharge from the military. Those Veterans who do not show intent prior to their discharge would be eligible to be considered residents once they demonstrate intent become residents and then fulfill the mandatory twelve-month physical presence requirement. Because current law is inconsistent with Section 702 of the Choice Act, a change in state law will be necessary to bring South Carolina into compliance Section 702 of the Choice Act. South Carolina is not unique in its effort to become compliant with Section 702. As previously stated only Texas and Georgia are currently considered to be in compliance. Two pieces of legislation, S. 391 and H. 3037 have been introduced in the SC General Assembly relating to in-state tuition and residency of discharged Veterans.

S. 391 closely mirrors the Choice Act, allowing for covered individuals who are receiving Post-9/11 and MGIB-AD benefits to be charged in-state tuition at public higher education institutions in South Carolina. The bill is presently under discussion in the Senate Education Higher Education Subcommittee.

H. 3037 is legislation that allows for a Veteran, who has established intent to be a South Carolina resident, to forego the mandatory twelve-month physical presence requirement and qualify to pay in-state rates immediately. H. 3037 has been passed by the House and is now in Senate Education. It is not consistent with Section 702 and if enacted as it is currently proposed will afford a benefit to discharged Veterans and their dependents who are presently establishing residency in SC.

CHE staff have been in contact with legislative staff regarding the proposed bills and are working with those parties as the legislation advances. Both pieces of legislation, as well as any relevant amendments being considered, have been reviewed by CHE staff and sent to the VA for review with respect to the Choice Act. The VA recently provided feedback regarding both bills, which has been provided to legislative staff and bill sponsors.

**Attachment**

**Veterans Access to Care through Choice, Accountability and Transparency Act of 2014**

**Sec. 702. 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.**

(a) In general.—Section 3679 of title 38, United States Code, is amended by adding at the end the following new subsection:

(c) (1) Notwithstanding any other provision of this chapter and subject to paragraphs (3) through (6), the Secretary shall disapprove a course of education provided by a public institution of higher learning to a covered individual pursuing a course of education with educational assistance under chapter 30 or 33 of this title while living in the State in which the public institution of higher learning is located if the institution charges tuition and fees for that course for the covered individual at a rate that is higher than the rate the institution charges for tuition and fees for that course for residents of the State in which the institution is located, regardless of the covered individual's State of residence.

(2) For purposes of this subsection, a covered individual is any individual as follows:

(A) A veteran who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, or air service less than three years before the date of enrollment in the course concerned.

(B) An individual who is entitled to assistance under section 3311(b)(9) or 3319 of this title by virtue of such individual's relationship to a veteran described in subparagraph (A).

(3) If after enrollment in a course of education that is subject to disapproval under paragraph (1) by reason of paragraph (2)(A) or (2)(B) a covered individual pursues one or more courses of education at the same public institution of higher learning while remaining continuously enrolled (other than during regularly scheduled breaks between courses, semesters or terms) at that institution of higher learning, any course so pursued by the covered individual at that institution of higher learning while so continuously enrolled shall also be subject to disapproval under paragraph (1).

(4) It shall not be grounds to disapprove a course of education under paragraph (1) if a public institution of higher learning requires a covered individual pursuing a course of education at the institution to demonstrate an intent, by means other than satisfying a physical presence requirement, to establish residency in the State in which the institution is located, or to satisfy other requirements not relating to the establishment of residency, in order to be charged tuition and fees for that course at a rate that is equal to or less than the rate the institution charges for tuition and fees for that course for residents of the State.

(5) The Secretary may waive such requirements of paragraph (1) as the Secretary considers appropriate.

(6) Disapproval under paragraph (1) shall apply only with respect to educational assistance under chapters 30 and 33 of this title.

(b) Effective date.— subsection (c) of section 3679 of title 38, United States Code (as added by subsection (a) of this section), shall apply with respect to educational assistance provided for pursuit of a program of education during a quarter, semester, or term, as applicable, that begins after July 1, 2015.