

MEMORANDUM (REVISED)

DATE: April 27, 2021
TO: Residency Officers
FROM: Gail Wootan, Associate Director of Consumer Protection
SUBJECT: New federal law requires resident tuition for certain veterans and dependents

This memorandum replaces the April 16, 2021 memorandum. It corrects an error in the April 16 memorandum that did not include veteran dependents.

In January 2021, Congress passed [HR 7105](#). This bill requires public institutions to give resident tuition to the following:

- Veterans using the GI Bill® who live in Washington.
- Veteran dependents (spouse and children) using the Post 9/11 GI Bill® who live in Washington.

The requirement is effective for any term that begins on or after August 1, 2021. It does not apply to active duty military members.

Veterans newly served by federal law

Veterans who *live in Washington* must be charged resident tuition and fees, regardless of domicile or how long they have lived in Washington, if they are *actively using* VA educational assistance under Chapter 30, 31, or 33 to pay for at least one course (Public Law 116-315 Sec. 1005).

- The VA benefits must be one of the following:
 - Montgomery GI Bill® – Active Duty
 - Vocational Rehabilitation and Employment
 - Post-9/11 GI Bill®
 - Marine Gunnery Sergeant John Fry Scholarship
 - Edith Nourse Rogers STEM Scholarship
- There is no time limit for when they must enroll after leaving the military (Public Law 116-315 Sec. 1005)
- The veteran must have had 90 days of service in the active military, naval, or air service. (38 U.S. Code § 3679 (c)(2)(A))
- The veteran must have been discharged or released under conditions other than dishonorable (separation does not have to be from active duty). (38 U.S. Code § 101 (2))
- The veteran continues to receive resident tuition and fees for future courses as long as they are continuously enrolled at the same institution.

Note that this does not make them a “resident student” as defined in [RCW 28B.15.012\(2\)](#), so they do not meet residency requirements for state aid unless they are a resident student through another part of the RCW.

Veteran dependents newly served by federal law

Veteran spouses and children who *live in Washington* must be charged resident tuition and fees, regardless of domicile or how long they have lived in Washington, if they are *actively using* the Post 9/11 GI Bill® to pay for at least one course.

- There is no time limit for when they must enroll after the veteran leaves the military.

- The veteran must have had 90 days of service in the active military, naval, or air service.
- The veteran must have been discharged or released under conditions other than dishonorable (separation does not have to be from active duty).
- The dependent continues to receive resident tuition and fees for future courses as long as they are continuously enrolled at the same institution.

Note that this does not make them a “resident student” as defined in [RCW 28B.15.012\(2\)](#), so they do not meet residency requirements for state aid unless they are a resident student through another part of the RCW.

Public institutions can require this new group of veterans and veteran dependents to establish residency in WA

In order to qualify for resident tuition and fees under the new federal law, public institutions can require veterans and dependents served under the law to “demonstrate an intent . . . to establish residency in the State in which the institution is located, or to satisfy other requirements not relating to the establishment of residency.” Institutions who wish to create such a requirement must submit an explanation of the requirements to the Secretary of Veterans Affairs within 90 days of instituting the requirements. See Public Law 116-315 Sec. 1005.

Veterans currently served by state law

Currently, veterans who are one of the following are considered resident students for tuition and fee purposes. This also means they meet residency requirements for some state aid programs:

1. Veterans who are *eligible for VA educational assistance benefits and enter school within three years of separation from the military. They do not need to live in Washington, nor do they need to be actively using the benefits (RCW 28B.15.012(2)(m)).*

- Veteran must have at least 90 days of active duty service¹ as a member of the uniformed services.²
- Veteran must have separated with any period of honorable service (separation does not have to be from active duty).
- Veteran must be eligible for one of the following VA educational assistance benefits:
 - Montgomery GI Bill® – Active Duty
 - Vocational Rehabilitation and Employment
 - Post-9/11 GI Bill®
 - Veterans Educational Assistance Program
 - Dependents’ Educational Assistance Program
 - Marine Gunnery Sergeant John David Fry Scholarship
 - Edith Nourse Rogers STEM Scholarship
- Veteran maintains resident student status as long as they stay continuously enrolled.

¹ “Active duty service” means full-time duty, other than active duty for training. Active duty service as a national guard member must be for certain actions related to responding to a national emergency (RCW 28B.15.012(8)).

² “Uniformed services” includes the United States army, United States marine corps, United States navy, United States air force, United States coast guard, United States public health service commissioned corps, and the national oceanic and atmospheric administration commissioned officer corps ((RCW 28B.15.012(9)).

- Does not apply to veterans who have a dishonorable discharge from the uniformed services, unless the student is receiving VA educational assistance benefits.

2. Veterans who are entitled to Chapter 31 Vocational Rehabilitation and Employment benefits (RCW 28B.15.012(2)(s)).

- They do not need to live in Washington.
- They do not need to enter school within a certain amount of time after separating from the military.
- They do not need to be actively using the benefits to qualify.
- Veteran maintains resident student status as long as they stay continuously enrolled.
- Does not apply to veterans who have a dishonorable discharge from the uniformed services, unless the student is receiving VA educational assistance benefits.

3. Veterans who were discharged due to sexual orientation or gender identity/expression. (RCW 28B.15.012(2)(q)).

- They do not need to live in Washington.
- They do not need to enter school within a certain amount of time after separating from the military.
- Veteran maintains resident student status as long as they stay continuously enrolled.
- Does not apply to veterans who have a dishonorable discharge from the uniformed services, unless the student is receiving VA educational assistance benefits.

For terms that begin on or after August 1, 2021, there will be four primary ways that veterans can qualify for resident tuition and fees (if they do not qualify under another part of residency law)

	Federal law – PL 116-315 Sec. 1005	WA law – RCW 28B.15.012(2)(m)	WA law - RCW 28B.15.012(2)(s)	WA law - RCW 28B.15.012(2)(q)
Student location	Veteran must live in WA (but could have a domicile elsewhere)	Veteran does not have to live in WA or have a domicile in WA.		
VA educational benefits usage	Veteran must be <u>actively using</u> Chapter 30, 31, or 33 VA educational benefits to pay for at least one course.	Veteran must be <u>eligible for</u> VA educational benefits under Title 38 U.S.C.; does not have to actively use them.	Veteran must be <u>entitled to</u> Chapter 31 Vocational Rehabilitation and Employment benefits; does not have to actively use them	N/A
Timing after separation	Eligible any time after separation	Eligible for 3 years after separation	Eligible any time after separation	
Discharge conditions	Must be discharged under conditions other than dishonorable	Must have separated with any period of honorable service.	Does not apply to veterans who have a dishonorable discharge, unless the student is receiving VA educational assistance benefits.	
State aid eligibility	Veteran is not eligible for state aid	Veteran meets residency requirements for all state aid programs except WA College Grant and College Bound Scholarship. Must also meet other state aid program requirements.		

Veteran dependents currently served by state law

Currently, veteran dependents who are one of the following are considered resident students for tuition and fee purposes. This also means they meet residency requirements for some state aid programs:

1. Veteran dependents who are *entitled to VA educational assistance benefits and enter school within three years of the veteran's separation from the military. They do not need to live in Washington, nor do they need to be actively using the benefits (RCW 28B.15.012(2)(o)).*

- Veteran must have at least 90 days of active duty service as a member of the uniformed services.
- Veteran must have separated with any period of honorable service (separation does not have to be from active duty).
- Dependent must be eligible for one of the following VA educational assistance benefits:
 - Post-9/11 GI Bill®
 - Dependents' Educational Assistance Program
 - Marine Gunnery Sergeant John David Fry Scholarship
 - Edith Nourse Rogers STEM Scholarship
- Dependent maintains resident student status as long as they stay continuously enrolled.
- Does not apply to dependents of veterans who have a dishonorable discharge from the uniformed services, unless the dependent is receiving VA educational assistance benefits.

2. Veteran dependents who are *entitled to VA educational assistance benefits based on their relationship to a deceased military member who died in the line of duty (RCW 28B.15.012(2)(r)).*

- The dependent must be eligible for one of the following:
 - Dependents' Educational Assistance Program
 - Marine Gunnery Sergeant John David Fry Scholarship
- The dependent does not need to live in Washington.
- The dependent does not need to be actively using educational benefits to qualify.
- The dependent does not need to enter school within a certain amount of time after the veteran separated from the military.
- For dependents with DEA, it must be due to the death of the military member.
- Dependent maintains resident student status as long as they stay continuously enrolled.
- Does not apply to dependents of veterans who have a dishonorable discharge from the uniformed services, unless the dependent is receiving VA educational assistance benefits.

3. Dependents of veterans who separated from the military with at least ten years of honorable service (RCW 28B.15.012(2)(p)).

- The dependent must enter school within three years of the veteran's separation from the military (separation does not have to be from active duty).
- The dependent does not have to be eligible for or be using VA educational benefits to qualify.
- Neither the dependent nor the veteran need to live in Washington.
- The veteran must have had at least 90 days of active duty service.
- Dependent maintains resident student status as long as they stay continuously enrolled.
- Does not apply to dependents of veterans who have a dishonorable discharge from the uniformed services, unless the dependent is receiving VA educational assistance benefits.

For terms that begin on or after August 1, 2021, there will be four primary ways that veteran dependents can qualify for resident tuition and fees (if they do not qualify under another part of residency law)

	Federal law – PL 116-315 Sec. 1005	WA law – RCW 28B.15.012(2)(o)	WA law - RCW 28B.15.012(2)(r)	WA law - RCW 28B.15.012(2)(p)
Student location	Dependent must live in WA (but could have a domicile elsewhere)	Dependent does not have to live in WA or have a domicile in WA.		
VA educational benefits usage	Dependent must be <u>actively using</u> Chapter 33 (Post-9/11 GI Bill®) VA educational benefits to pay for at least one course.	Dependent must be <u>entitled to</u> VA educational benefits under Title 38 U.S.C.; does not have to actively use them.	Dependent must be <u>entitled to</u> DEA or the Fry Scholarship due to the veteran dying in the line of duty; does not have to actively use them	N/A
Timing after separation	Eligible any time after veteran separation	Eligible for 3 years after separation	Eligible any time after separation	Eligible for 3 years after separation
Discharge conditions	Veteran must be discharged under conditions other than dishonorable	Veteran must have separated with any period of honorable service.	N/A	Veteran must have separated with at least 10 years of honorable service.
State aid eligibility	Dependent is not eligible for state aid	Dependent meets residency requirements for all state aid programs except WA College Grant and College Bound Scholarship. Must also meet other state aid program requirements.		

Putting the new law into action

This law effectively removes the three-year enrollment requirement for most veterans and their dependents, as long as they live in Washington and are using the GI Bill® to pay for college. It does not matter how long the student has lived in Washington or even if they have a domicile in another location. The only time a residency officer will need to check how long the veteran has been out of the military is if the student does not live in WA or if they are not actively using the GI Bill®.

State policy and practice

In the recent past, changes to federal law that required resident tuition and fees for veterans and dependents were encoded in state law. That did not happen with HR 7105, so it is imperative that institutional documents and policies incorporate this new change. In addition, WSAC is working on a new resource for residency officers and students to help determine which veterans, military members, and families qualify for resident tuition and fees. You will be notified when the new tool is available. In the meantime, please see [WSAC's residency guide](#).

As always, please contact me if you have questions about the contents of this memorandum.

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