

**CALIFORNIA COMMUNITY COLLEGES
CHANCELLOR'S OFFICE**

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May 5, 2015

TO: Superintendents and Presidents
Chief Student Services Officers
Chief Business Officers
Admissions and Records Officers

FROM: Dan Troy, Vice Chancellor
Fiscal Policy

Denise Noldon, Interim Vice Chancellor
Student Services and Special Programs

SUBJECT: Federal Dept. of Veterans Affairs Approval of GI Bill and Post 9/11 Educational Assistance Conditional on In-State Tuition Rate for Veterans (VACA H.R. 3230)

Veterans Access, Choice, and Accountability Act (VACA H.R. 3230)

In August 2014, President Obama signed the Veterans Access, Choice, and Accountability Act of 2014 ("VACA Act"), into law (Public Law No.: 113-146). Section 702 of the VACA Act (38 U.S.C. 3679(c)) requires the U.S. Department of Veterans Affairs (VA) to disapprove programs of education under the Montgomery GI Bill-Active Duty (MGIB-AD) and Post-9/11 GI Bill education benefit programs (Chapters 30 or 33, respectively, of Title 38, U.S. Code) at institutions of higher learning if the school charges qualifying veterans and dependents ("covered individuals") tuition and fees in excess of the in-state rate for resident students for terms beginning after July 1, 2015. A "covered individual" is defined in the VACA Act as:

1. A Veteran who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within three years of discharge from a period of active duty service of 90 days or more.
2. A spouse or child entitled to transferred education benefits who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within 3 years of the transferor's discharge from a period of active duty service of 90 days or more.
3. A spouse or child using benefits under the Marine Gunnery Sergeant John David Fry Scholarship (provides Post-9/11 GI Bill benefits to the children and surviving spouses of

service members who died in the line of duty while on active duty) who lives in the state in which the institution of higher learning is located (regardless of his/her formal state of residence) and enrolls in the school within three years of the Servicemember's death in the line of duty following a period of active duty service of 90 days or more.

4. After expiration of the three year period following discharge or death as described in 38 U.S.C. 3679(c), a student who initially qualifies under the applicable requirements above will maintain "covered individual" status as long as he or she remains continuously enrolled (other than during regularly scheduled breaks between courses, semesters or terms) at the institution, even if they enroll in multiple programs and shall continue to be exempt from paying nonresident tuition and other fees as described in the updated fee policy described below.

Updated Chancellor's Office Fee Policy to Comply with AB 13 and VACA Act

Please note that the VA cannot require a public university or college to charge covered individuals the in-state resident rate for tuition and fees; however, it can and will disapprove funding from the above noted education benefit programs for all beneficiaries if in-state tuition and fee rates are not offered to every "covered individual." To prevent VA disapproval from occurring, and to align state statutes with federal law, Assembly Bill 13 (Conway-Stats. 2014) was approved by Governor Brown in September of 2014 and added Education Code Section 68075.5(c).

Specifically, EC section 68075.5(c) requires the California Community Colleges, the California State University, and requests the University of California to update and adopt policies to conform to the new federal law—the VACA Act. Policies must be updated by July 1, 2015, the day immediately preceding the effective date for section 702 of the VACA Act. Although there's pending state legislation to clarify implementation aspects of AB 13 (2014), this memorandum is being provided to districts as interim guidance and also constitutes the updated fee policy required by EC section 68075.5(c) for the California Community Colleges to put into effect the intent of AB 13 (2014), which we believe to be that the Legislature intended that California's public institutions of higher education update fee policies to conform to the VACA Act in a way that the "covered individuals" attending their respective colleges and universities would continue to receive VA educational benefits consistent with the VACA Act education benefit provisions (i.e., by offering in-state tuition and fee rates to all "covered individuals" as opposed to opting out of these federal programs by not doing so).

Therefore, to fulfill this legislative intent, and towards ensuring compliance with the VACA Act, it is the Chancellor's Office updated fee policy that community college districts are required by EC Section 68075.5(c) to grant a full exemption from the nonresident fee for all students verified to be "covered individuals" per the above criteria **and** that qualify to use Montgomery GI Bill-Active Duty or Post-9/11 GI Bill education benefits (Chapters 30 and 33, respectively, of Title 38, U.S. Code) while living in California. Students granted such an exemption should not be charged any other fee that is otherwise also exclusively chargeable of nonresident students, such as the "capital outlay fee" under EC Section 76140 or the "processing fee" under EC 76142. This

updated fee policy for the California Community Colleges is effective for terms beginning after July 1, 2015.

Eligibility Determination

As it relates to verifying student eligibility for “covered individual” status and qualification for Montgomery GI Bill-Active Duty or Post-9/11 GI Bill education benefits (Chapters 30 and 33, respectively, of Title 38, U.S. Code), districts will need to rely on actual evidence and not a self-certification that the student meets the above criteria. In this regard, it is our understanding that students eligible for VA education benefits are provided a “Certificate of Eligibility” (COE) by the VA that will confirm the approved education benefits for the veteran or eligible dependent (who is made eligible through the Transfer of Entitlement (TOE) to basic educational assistance under chapters 30 and 33 of title 38, U.S. Code). The DD Form 214, Certificate of Release or Discharge from Active Duty, generally referred to as a “DD 214”, may also be of assistance in confirming “covered individual” status as it will show the effective date of the veteran’s discharge from active service. Districts may want to revise its local residency questionnaire to help identify potentially eligible students.

Residence classification, Attendance Reporting and Apportionment Eligibility

Unless otherwise indicated through subsequent legislation, exempted nonresident “covered individuals” should be classified as nonresident students unless and until they meet applicable physical presence and intent requirements for resident status re-classification. However, like AB 540 students that retain their nonresident status, it is also our reading of the law that districts may claim apportionment for credit courses taken by the nonresident “covered individuals” who are exempted from the payment of nonresident tuition in accordance with the updated fee policy (Note: FTES generated by these exempted students would be reported as “resident FTES” on the Apportionment Attendance Report—CCFS-320). To be clear, districts are only permitted to claim state apportionment for properly exempted nonresident students in accordance with this updated fee policy and that meet the requirements to be considered a “covered individual” as prescribed by the VACA Act and as outlined above.

Action Requested

Districts are urged to take immediate action to implement this updated fee policy to ensure timely compliance with the VACA Act, which again is effective for enrollment in terms starting after July 1, 2015 (there is no need for district Governing Boards to take action to put this updated fee policy into effect). The repercussions for not doing so will be that college courses and programs will no longer be approved for the above noted federal educational benefit programs. Obviously, the effect of this on veteran students and their families would be grave. To assist districts in this effort, below are links to the VACA Act (H.R. 3230) and two informational documents from the VA that provide compliance information, including a Question and Answer section and important reporting procedures that must be followed by the college’s “Certifying Official.” It is imperative that the district fully review all of the provisions of the VACA Act and all related implementation guidance provided by the VA. The Chancellor's Office will provide districts with updated information on the pending state legislation mentioned above as it

becomes available and if it results in any changes from the guidance provided in this memorandum.

- [VACA Act, H.R. 3230 \(click on the "Text" tab and go to section 702\)](#)
- [Letter from the Director of Education Service to School Certifying Officials about certifying tuition and fees for the Choice Act of 2014](#)
- [VA Factsheet: Complying with Section 702 of the Choice Act of 2014](#)

Contact: For questions concerning attendance accounting and reporting for apportionment purposes, please contact Elias Regalado at eregalad@cccco.edu or (916) 445-1165. For questions concerning federal education benefits for veterans or questions specific to VACA Act compliance, please contact David Lawrence at dlawrence@cccco.edu or at (916) 327-0749. For admissions questions, please contact Mia Keeley at mkeeley@cccco.edu or (916) 323-5953.