

VA Sheds Light on Post-9/11 GI Bill Rules

April 2, 2009

By Terry Howell

This week the VA released the "Post-9/11 GI Bill; Final Rule." This set of regulations governing the policy and procedures for the new GI Bill, is not an easy read. But, it does offer clarification and answers some of the questions we have been asking for the last six months.

The final rule was developed by the Department of Veterans Affairs based on the statutes as currently written. Many details are clearly defined by the statute. However, the law also has many gaps and several ambiguous passages. Leaving the VA to try fill the gaps as best they could.

While the VA doesn't have the authority to alter or create rules that conflict with the existing law, they do have the authority to set policy based on past rulings and policies where applicable.

It appears that the VA used as "veteran-friendly" an approach as possible in developing the final rule. As part of the process, the VA issued a preliminary copy of the regulations and provided time for comments and feedback. The first 13 pages of the document are dedicated to listing and answering the comments they received.

Although far from finished reading it, I decided to pull out some of the more interesting rulings found in the comment response section of the document.

Note: It is important to remember the VA was given a poorly written law to start with, and in my opinion, they have done their best to make it work within the limits of their authority.

Some National Guard and Active Guard Reserve Deemed Ineligible

The VA has determined that there is no section of the existing statute that will allow them to authorize eligibility for members of the National Guard or Active Guard Reserve (AGR) serving under title 32, U.S.C..

NOAA and PHS Officers Now Deemed Eligible

According to the final rule, service as a commissioned National Oceanic and Atmospheric Administration or Public Health Services officer meets the active duty requirement for eligibility as long as all other Post-9/11 GI Bill eligibility requirements have been met.

Clarifications on Transferring Benefits

Although the DoD has yet to issue their final policy on transferability, the VA has clarified how it will apply to those the DoD deem eligible. The general rule is that the person receiving the transferred GI Bill benefits will get the same payment and benefits as the servicemember or veteran would have got if they kept it.

- **Transferring Kickers:** Based on comments and the statute, the VA has clarified that the rate of payment for transferred benefits under the Post-9/11 GI Bill will include

any kicker to which the transferor is entitled.

- Payment Rate and Stipends for Transferred Benefits: A dependent child and *surviving* spouse will always receive benefit payments in the same manner as an individual **off** active duty (or veteran). This means that they will be eligible to receive the housing allowance if all other criteria are met.

However, a dependent spouse of an active duty servicemember will receive benefits in the same manner as the transferor, thus he or she will not be eligible for the monthly housing allowance.

- Combining Transferred and Earned GI Bill Benefits: If a spouse and/or dependent child has earned GI Bill benefits of their own and had benefits transferred to them, he or she may use their own (earned) Post-9/11 GI Bill benefits and/or benefits that were transferred to them.

In addition, the VA's final rule states that this "combining of education assistance" is not subject to the 48 months limit as long as the only educational assistance paid is under the Post-9/11 GI Bill. However, if the dependent is awarded educational assistance under another program, such as the Montgomery GI Bill, the 48 months limit will apply.

This means that spouses who are qualified for the Post-9/11 GI Bill due to their own active-duty service and have Post-9/11 GI Bill benefits transferred to them by their husband or wife can get up to 72 months of the Post-9/11 GI Bill.

Education Benefits for Students Attending Foreign Institutions

Tuition and fee limits for eligible students studying abroad will be based on the national average "in-state tuition and fees" rates. In addition, the living stipend (Monthly Housing Allowance) will also be based on the national average as set by the DoD's Basic Allowance for Housing at the E-5 with Dependents rate (approximately \$1,200 a month). Note: students taking classes solely via distance learning (online) are not eligible for the monthly housing stipend.

No Monthly Verification Requirement

The new GI Bill will no longer require students to verify their status each month to receive their benefits. However, they will be required to notify the VA if they change the number of units they are carrying during a given term.

Keep in mind that the topics covered here are only the tip of the iceberg, I will continue to comb through the document to find answers to your more frequently asked questions.

Now that the "Final Rule" has been released, VA representatives will have better information and a greater ability to answer your personal benefit eligibility and status questions. Be sure to ask as many questions as possible since you will soon be asked to make an irrevocable choice of which GI Bill program – [Montgomery GI Bill \(Chapter 30\)](#) or [Post-9/11 GI Bill \(Chapter 33\)](#) – will work best for you.

My advice—don't rush to judgment, weigh the facts and make a careful decision. Here is a link to a recent blog posting that could help you know what to ask: [VA Offers Info on GI Bill Decision](#).

Call the VA at 1-888-GIBILL-1 or visit the [Q&A section of the VA website](#) to get the facts on your personal GI Bill benefits.

For those suffering insomnia, feel free to read the VA's [Post-9/11 GI Bill; Final Rule](#) (PDF). – Beware it contains 42 single-spaced three-column pages of Government speak.