



**National Association for  
College Admission Counseling**

*Guiding the way to higher education*

## 2008 HEA Policy Briefs: Benefits for Service Members

The College Affordability and Opportunity Act (HR 4137) was signed into law on August 14, 2008 (PL 110-315). Along with the College Cost Reduction and Reconciliation Act (PL 110-84) of September 2007 and the Ensuring Continued Access to Student Loans Act (PL 110-227) of April 2008, this bill reauthorizes all federal higher education programs until 2014, and can be collectively referred to as the Higher Education Act (HEA).

NACAC is committed to improving college access for all students, including students serving in the military or returning from service in the military. The College Affordability and Opportunity Act includes several provisions to guarantee access to higher education for students who are members of the military. The bill requires that:

- state institutions maintain eligibility for in-state tuition for members of the Armed Forces and their dependents;
- eligibility cannot be affected even if the location of the permanent duty station moves out of state;
- institutions establish a re-admission process for students who are members of the Armed Forces and who are called to active duty, and must therefore leave school; and
- the process must allow students to re-enroll at the same academic standing as before they were called to active duty.

Support for education benefits for service members and veterans is a priority identified by NACAC's Board of Directors, as a component of NACAC's policy goal of improving access to postsecondary education for all students. At the recommendation of the Board of Directors and NACAC's Government Relations Committee, NACAC joined coalition partners like AASCU and NAICU in support of the Total Force GI Bill, and other legislation designed to improve education benefits for students already serving in the military (whether active duty, National Guard or Reserve), as well as veterans returning from service in pursuit of higher education. Those other bills included the REAP Enhancement Act and the Post 9/11 Veterans Educational Assistance Act. Key provisions of these bills were passed into law in 2008, and together form the "new GI Bill". The US Department of Veterans Affairs maintains a web page for the new GI Bill.

### **SEC. 114. IN-STATE TUITION RATES FOR ARMED FORCES MEMBERS, SPOUSES, AND DEPENDENT CHILDREN.**

Part C of title I (20 U.S.C. 1015) is further amended by adding after section 134 (as added by section 113 of this Act) the following:

#### **"SEC. 135. IN-STATE TUITION RATES FOR MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY, SPOUSES, AND DEPENDENT CHILDREN.**

"(a) REQUIREMENT.—In the case of a member of the armed forces who is on active duty for a period of more than 30 days and whose domicile or permanent duty station is in a State that receives assistance under this Act, such State shall not charge such member (or the spouse or dependent child of such member) tuition for attendance at a public institution of higher education in the State at a rate that is greater than the rate charged for residents of the State.

"(b) CONTINUATION.—If a member of the armed forces (or the spouse or dependent child of a member) pays tuition at a public institution of higher education in a State at a rate determined by subsection (a), the provisions of subsection (a) shall continue to apply to such member, spouse, or dependent while continuously enrolled at that institution, notwithstanding a subsequent change in the permanent duty station of the member to a location outside the State.

"(c) EFFECTIVE DATE.—This section shall take effect at each public institution of higher education in a State that receives assistance under this Act for the first period of enrollment at such institution that begins after July 1, 2009.

"(d) DEFINITIONS.—In this section, the terms 'armed forces' and 'active duty for a period of more than 30 days' have the meanings given those terms in section 101 of title 10, United States Code."

**SEC. 487. READMISSION REQUIREMENTS FOR SERVICEMEMBERS.**

Part G of title IV (20 U.S.C. 1088 et seq.) is amended by inserting after section 484B the following:

“SEC. 484C. READMISSION REQUIREMENTS FOR SERVICEMEMBERS.

“(a) DEFINITION OF SERVICE IN THE UNIFORMED SERVICES.—

In this section, the term ‘service in the uniformed services’ means service (whether voluntary or involuntary) on active duty in the Armed Forces, including such service by a member of the National Guard or Reserve, for a period of more than 30 days under a call or order to active duty of more than 30 days.

“(b) DISCRIMINATION AGAINST STUDENTS WHO SERVE IN THE UNIFORMED SERVICES PROHIBITED.—A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform, service in the uniformed services shall not be denied readmission to an institution of higher H. R. 4137—214 education on the basis of that membership, application for membership, performance of service, application for service, or obligation.

“(c) READMISSION PROCEDURES.—

“(1) IN GENERAL.—Any student whose absence from an institution of higher education is necessitated by reason of service in the uniformed services shall be entitled to readmission to the institution of higher education if—

“(A) the student (or an appropriate officer of the Armed Forces or official of the Department of Defense) gives advance written or verbal notice of such service to the appropriate official at the institution of higher education;

“(B) the cumulative length of the absence and of all previous absences from that institution of higher education by reason of service in the uniformed services does not exceed five years; and

“(C) except as otherwise provided in this section, the student submits a notification of intent to reenroll in the institution of higher education in accordance with the provisions of paragraph (4).

“(2) EXCEPTIONS.—

“(A) MILITARY NECESSITY.—No notice is required under paragraph (1)(A) if the giving of such notice is precluded by military necessity, such as—

“(i) a mission, operation, exercise, or requirement that is classified; or

“(ii) a pending or ongoing mission, operation, exercise, or requirement that may be compromised or otherwise adversely affected by public knowledge.

“(B) FAILURE TO GIVE ADVANCE NOTICE.—Any student (or an appropriate officer of the Armed Forces or official of the Department of Defense) who did not give advance written or verbal notice of service to the appropriate official at the institution of higher education in accordance with paragraph (1)(A) may meet the notice requirement by submitting, at the time the student seeks readmission, an attestation to the student’s institution of higher education that the student performed service in the uniformed services that necessitated the student’s absence from the institution of higher education.

“(3) APPLICABILITY.—This section shall apply to a student who is absent from an institution of higher education by reason of service in the uniformed services if such student’s cumulative period of service in the Armed Forces (including the National Guard or Reserve), with respect to the institution of higher education for which a student seeks readmission, does not exceed five years, except that any such period of service shall not include any service—

“(A) that is required, beyond five years, to complete an initial period of obligated service;

“(B) during which such student was unable to obtain orders releasing such student from a period of service in the uniformed services before the expiration of such five year period and such inability was through no fault of such student; or

“(C) performed by a member of the Armed Forces (including the National Guard and Reserves) who is— H. R. 4137—215

“(i) ordered to or retained on active duty under section 688, 12301(a), 12301(g), 12302, 12304, or 12305 of title 10, United States Code, or under section 331, 332, 359, 360, 367, or 712 of title 14, United States Code;

“(ii) ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;

“(iii) ordered to active duty (other than for training) in support, as determined by the Secretary

concerned, of an operational mission for which personnel have been ordered to active duty under section 12304 of title 10, United States Code;

“(iv) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the Armed Forces (including the National Guard or Reserve); or

“(v) called into Federal service as a member of the National Guard under chapter 15 of title 10, United States Code, or section 12406 of title 10, United States Code.

“(4) NOTIFICATION OF INTENT TO RETURN.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a student referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the institution of higher education of the student’s intent to return to the institution not later than three years after the completion of the period of service.

“(B) HOSPITALIZATION OR CONVALESCENCE.—A student who is hospitalized for or convalescing from an illness or injury incurred in or aggravated during the performance of service in the uniformed services shall notify the institution of higher education of the student’s intent to return to the institution not later than two years after the end of the period that is necessary for recovery from such illness or injury.

“(C) SPECIAL RULE.—A student who fails to apply for readmission within the period described in this section shall not automatically forfeit such eligibility for readmission to the institution of higher education, but shall be subject to the institution of higher education’s established leave of absence policy and general practices.

“(5) DOCUMENTATION.—

“(A) IN GENERAL.—A student who submits an application for readmission to an institution of higher education under this section shall provide to the institution of higher education documentation to establish that—

“(i) the student has not exceeded the service limitations established under this section; and

“(ii) the student’s eligibility for readmission has not been terminated due to an exception in subsection d.

“(B) PROHIBITED DOCUMENTATION DEMANDS.—An institution of higher education may not delay or attempt to avoid a readmission of a student under this section H. R. 4137—216 by demanding documentation that does not exist, or is not readily available, at the time of readmission.

“(6) NO CHANGE IN ACADEMIC STATUS.—A student who is readmitted to an institution of higher education under this section shall be readmitted with the same academic status as such student had when such student last attended the institution of higher education.

“(d) EXCEPTION FROM READMISSION ELIGIBILITY.—A student’s eligibility for readmission to an institution of higher education under this section by reason of such student’s service in the uniformed services terminates upon the occurrence of any of the following events:

“(1) A separation of such person from the Armed Forces (including the National Guard and Reserves) with a dishonorable or bad conduct discharge.

“(2) A dismissal of such person permitted under section 1161(a) of title 10, United States Code.

“(3) A dropping of such person from the rolls pursuant to section 1161(b) of title 10, United States Code.”

NACAC will continue in its effort to provide information to members regarding the counseling and admission of veterans, as well as attempt to offer veterans with reliable sources of information regarding academic and financial preparation for higher education. NACAC’s online resources for veterans are collected under the student resources section.