

**TESTIMONY OF  
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BEFORE THE  
SUBCOMMITTEES ON ECONOMIC OPPORTUNITY AND TECHNOLOGY  
MODERNIZATION  
COMMITTEE ON VETERANS' AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES  
ON  
MODERNIZING VETERAN EDUCATION IN THE SHADOW OF COVID-19**

**JULY 20, 2022**

Chairman Levin, Chairman Mrvan, Ranking Member Moore, Ranking Member Rosendale, and distinguished members of the Committee, on behalf of National Commander Paul E. Dillard and the nearly 2 million members, we thank you for the opportunity to discuss our perspective and recommendations for modernizing veteran education benefits in the wake of the COVID-19 pandemic.

**GI Bill Parity for National Guard and Reserve Servicemembers**

During the onset of the COVID-19 pandemic in early 2020, more than 44,000 National Guard members and reservists answered the call of service to support the country through the most disruptive national crisis in modern history.<sup>1</sup> Throughout the many ensuing activations, active-duty servicemembers and National Guard units mobilized under federal emergency disaster orders were able to apply their tenure of service towards their GI Bill education benefit eligibility.<sup>2</sup> However, soldiers performing the same duties who were activated under state authorities, generally known as Title 32 orders, have been deprived of this benefit.<sup>3</sup> Every servicemember deserves the ability to count each day they put on their uniform towards their education benefits, regardless of what administrative authorities they were mobilized under. The American Legion applauds Chairman Levin for his leadership on this issue and commends the House of Representatives for passing the *Guard and Reserve GI Bill Parity Act of 2021*. The American Legion calls on the United States Senate to pass this bipartisan legislation and send it to the president's desk as soon as possible to restore hard-earned benefits to many American servicemembers.<sup>4</sup>

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<sup>1</sup> "National Guard Assists Response to the Covid-19 Pandemic," National Conference of State Legislatures, April 28, 2022, <https://www.ncsl.org/research/military-and-veterans-affairs/national-guard-activation-in-every-state-assisting-response-to-the-covid-19-pandemic.aspx>.

<sup>2</sup> Rebecca Kheel, "House Votes to Expand GI Bill Eligibility for National Guard, Reserves," Military.com, January 12, 2022, <https://www.military.com/daily-news/2022/01/12/house-votes-expand-gi-bill-eligibility-national-guard-reserves.html>.

<sup>3</sup> Ibid.

<sup>4</sup> The American Legion Resolution No. 104 (2018): [\*GI Bill Fairness for Activated National Guard Servicemembers\*](#)

## GI Bill for Honorable Service

National Guard members and Reservists are not the only servicemembers who have been denied education benefits. From 2019 to 2021, over 36,000 veterans who separated from the military with a general discharge under honorable conditions did not receive education benefits due to current law prohibiting them from receiving the GI Bill despite their honorable service to the nation.<sup>5</sup>

To receive most Department of Veterans Affairs (VA) benefits, a veteran's character of discharge must be "under honorable conditions."<sup>6</sup> However, education-assistance benefits require servicemembers have an "honorable discharge." If the character of service is "general under honorable conditions," the GI Bill remains out of reach for these veterans.

There is no historical precedent for this status quo. The issue of GI Bill for general discharges was debated vociferously on the Senate floor prior to passage of the 1944 Servicemembers' Readjustment Act – commonly known as the GI Bill of Rights – resulting in a unanimous committee vote to uphold the GI Bill for all discharges other than dishonorable. It was only when the Montgomery GI Bill was passed that education benefits were cut back to only honorable discharges.

The American Legion does not believe there is a compelling reason to have deviated from the initial intent of the GI Bill being for all discharges other than dishonorable. The administrative conditions that result in a general discharge do not negate the honorable service that these servicemembers have provided to our country, and it is time to finally correct this historical inequity by granting these servicemembers the same education benefits that we provided for our World War II veterans and those who served before the Montgomery GI Bill was enacted.

Education benefits serve as a catalyst for ensuring that all veterans can secure professional opportunities and financial stability for themselves and their families after service. Accordingly, The American Legion believes that veterans issued a general discharge under honorable conditions should receive 100% of their accrued education benefits and calls on Congress to pass legislation expanding GI Bill benefits to members discharged under this characterization.<sup>7</sup>

## Veterans Rapid Retraining Assistance Program

Congress must ensure that valuable resources dedicated to addressing veteran workforce development challenges are not wasted. It is disappointing that Congress has yet to extend the sunset date for the Veterans Rapid Retraining Assistance Program (VRRAP) past the current deadline of December 11, 2022, given that hundreds of millions of dollars remain in the program's budget. With 1.1 million veterans still seeking federal assistance through the U.S. Department of Agriculture Food and Nutrition Service's Supplemental Nutrition Assistance Program (SNAP) program, it is unacceptable for funds dedicated to providing economic opportunity for veterans to

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<sup>5</sup> Department of Defense email to The American Legion. January 31, 2022.

<sup>6</sup> An addendum to this testimony contains a chart of VA Benefits at Separation from the VA Benefits Handbook.

<sup>7</sup> The American Legion Resolution No. 104 (2022): [Amend Title 38, United States Code, to Provide GI Bill Education Benefits for Veterans Receiving a General Discharge Under Honorable Conditions](#)

go unused.<sup>8</sup> Veteran unemployment and underemployment are persistent issues not limited to the COVID-19 era, and current VRRAP eligibility requirements prevent many veterans who would benefit from the program from otherwise utilizing these funds. The upper-age restriction of 67 and requiring a potential beneficiary to be unemployed due to the COVID-19 pandemic are particularly prohibitive provisions.<sup>9</sup> Furthermore, the absence of an effective outreach strategy and the collection of critical demographic data that could help increase program utilization continues to negatively impact VRRAP's effect. Congress needs to implement policies expanding VRRAP eligibility and outreach to ensure that every cent of the nearly \$400 million allocated to the VRRAP program is used to provide economically disadvantaged veterans with long-term career advancement opportunities.<sup>10</sup>

### Improving Online Education Opportunities

Moving the education industry online virtually overnight during the COVID-19 pandemic demonstrated the need for revising policy to reflect the current state and long-term trajectory of higher education. Currently, many veterans face difficulties in seeking online opportunities due to unclear or inconsistent policies between federal agencies. A recent American Legion report highlights the importance of online education as a pathway to degree completion and how changes to Department of Veterans Affairs (VA) statutes and regulations can increase military-affiliated student access to high-quality online education.<sup>11</sup> One issue the report highlights is how the VA's definition and interpretation of online coursework causes confusion among education institutions and government agencies, and limits veteran students from taking full advantage of their earned benefits, specifically, the outdated use and interpretation of courses labeled as independent study in regulation 38 C.F.R.21.4267(b).

Proposed changes highlighted in this report would seek to change the language to reflect contemporary delivery of postsecondary education by creating definitions for distance learning encompassing both completely online courses and programs, as well as hybrid (blended) courses and programs. By implementing these changes, veteran and military students may benefit from broader course offerings and achieve their educational goals.

Additionally, since online learners only receive half of the Basic Housing Allowance (BAH) provided to on-campus students, veterans choosing an online education are inherently penalized for choosing to apply their benefits towards distance learning.<sup>12</sup> Congress should work to raise this

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<sup>8</sup> "Military and Veteran Families," Food and Nutrition Service U.S. Department of Agriculture, accessed July 10, 2022, <https://www.fns.usda.gov/military-and-veteran-families>.

<sup>9</sup> "Veteran Rapid Retraining Assistance Program (VRRAP)," U.S. Department of Veterans Affairs, accessed July 11, 2022, <https://www.va.gov/education/other-va-education-benefits/veteran-rapid-retraining-assistance/#:~:text=To%20be%20eligible%20for%20this%20program%2C%20you%20must,years%20old%2C%20but%20not%20older%20than%2066%2C%20and>.

<sup>10</sup> GI Bill Stakeholder's Meeting, Veterans Benefits Administration. PDF File. Jun 16, 2022.

<sup>11</sup> "Opening Doors Online: Access, Accountability and Excellence in Veteran Distance Learning" (American Legion, September 11, 2021), <https://www.legion.org/sites/legion.org/files/legion/publications/36VEE0122%20Veteran%20Distance%20Learning%20Report.pdf>.

<sup>12</sup> Paul Fain, "Military Students and Online Colleges," Veterans Education Project, August 20, 2021, <https://veteranseducationproject.org/2021/08/20/military-students-online-colleges/>.

stipend to 100% of the BAH national average so that veterans utilizing their GI Bill for online programs maintain the flexibility to pursue their education without impacting their quality of life. Neither student veterans seeking an online education, nor their families, should be punished for choosing the program that provides them with the greatest employment prospects. Furthermore, investment in broadband infrastructure is critical for expanding options for online learning, and The American Legion is dedicated to working with Congress to ensure that veterans in rural and underserved communities continue to receive the necessary support for continuing their distance education.<sup>13</sup>

### Improving Risk-Based Surveys

More must be done to prevent deceptive organizations claiming to provide quality education from taking advantage of veterans and taxpayer dollars. The recent closure of institutions wrought with scandals such as Corinthian College and ITT Technical Institute illustrate the cost of ineffective oversight of academic programs.<sup>14</sup> Closing the 90-10 loophole through the American Rescue Plan was a welcome measure to address this issue. The American Legion fully supports the expansion of the risk-based survey oversight model for assessing the education quality at institutions of higher learning.<sup>15</sup> However, the risk-based survey model established under the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020* can only be effective to the extent that data on critical institution performance indicators, including graduation rates, closure risk, average debt, and long-term earnings, is available for State Approving Agencies (SAAs).<sup>16</sup> Only through sufficient data will SAAs and lawmakers be able to hold institutions accountable for providing quality education to veterans with taxpayer dollars. Accordingly, Congress should work to establish a comprehensive data framework that protects the privacy of veterans' academic records while providing lawmakers and state approving agencies with the critical information needed to operate the risk-based survey framework successfully.<sup>17</sup>

### Conclusion

Chairman Levin, Chairman Mrvan, Ranking Member Moore, Ranking Member Rosendale and distinguished members of the Committee, The American Legion thanks you for your efforts to improve education benefits on behalf of our nation's veterans and their families. We are grateful for the opportunity to voice the perspective of our nearly 2 million members on these critical education matters. Please contact Mr. John Kamin, Legislative Associate at The American Legion's Legislative Division, at (202)-263-5748 or [jkamin@legion.org](mailto:jkamin@legion.org) for additional information or questions regarding this testimony.

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<sup>13</sup> The American Legion Resolution No. 1 (2021): [Expansion of Broadband in Rural Areas](#)

<sup>14</sup> Danielle Douglas-Gabriel, "Veterans Are Getting Short Shrift as for-Profit Colleges Close down, Report Says," The Washington Post (WP Company, October 21, 2016), <https://www.washingtonpost.com/news/grade-point/wp/2016/10/21/veterans-are-getting-the-short-shrift-as-for-profit-college-close-down-report-says/>.

<sup>15</sup> The American Legion Resolution No. 104 (2021): [GI Bill Risk-Based Survey](#)

<sup>16</sup> Nathan Arnold et al., "Lessons from a Risk-Based Oversight Model Designed to Protect Students and Taxpayers" (The American Legion, EducationCounsel, January 2022), <https://www.legion.org/sites/legion.org/files/legion/publications/RiskBasedReviewReportFinal012822.pdf>.

<sup>17</sup> Ibid.

# BENEFITS AT SEPARATION

**Honorable** DD Form 256A

**General** Under Honorable Conditions DD Form 257A "4"

**Other Than Honorable** "5"

**Bad Conduct Discharge**

**Dishonorable Discharge**  
(General Court-Martial) "6"

**E** Eligible  
**NE** Not Eligible  
**TBD** To be determined by Administering Agency  
**DV** Eligibility for these benefits depend upon specific disabilities of the veteran

	Army Administered						Authority and References "7"
1. Payment for Accrued Leave	E	E	NE	NE	NE		37 USC 501-503; DODPEM Par. 40401a
2. Death Gratuity (six months pay)	E	E	E	E	NE		10 USC 1480; DODPEM Par. 40501b
3. Wearing of Military Uniform	E	E	NE	NE	NE		10 USC 771a, 772; AR 670-1
4. Admission to Soldiers' Home "1"	E	E	NE	NE	NE		24 USC 49, 50
5. Burial in Army National Cemeteries	E	E	NE	NE	NE		38 USC 1002; AR 290-5
6. Burial in Army Post Cemeteries "2"	E	E	NE	NE	NE		AR 210-190
7. Army Board for Correction of Military Records	E	E	E	E	E		10 USC 1552; AR 15-185
8. Army Discharge Review Board	E	E	E	NE "9"	NE		10 USC 1553; AR 15-180
9. Transportation to Home "3"	E	E	E	E	E		37 USC 404; JTR par. U7500-7506
10. Transportation of Dependents and Household Goods to Home	E	E	TBD "8"	TBD "8"	TBD "8"		37 USC 406; JTR par. U5225, par. U5370
<b>Transitional Benefits &amp; Services "14"</b>							
1. Pre-separation Counseling	E	E	E	E	E		10 USC Section 1142
2. Employment Assistance	E	E	E	E	NE		10 USC Section 1143, 1144
3. Health Benefits	E	E	NE	NE	NE		10 USC Section 1145
4. Commissary/Exchange	E	E	NE	NE	NE		10 USC Section 1146
5. Military Family Housing	E	E	NE	NE	NE		10 USC Section 1147
6. Overseas Relocation Assistance	E	E	NE	NE	NE		10 USC Section 1148
7. Excess Leave/Permissive TDY	E	E	NE	NE	NE		10 USC Section 1149
8. Preference for USAR/ARNG	E	E	NE	NE	NE		10 USC Section 1150
9. Montgomery G.I. Bill (Additional Opportunity)	E	NE	NE	NE	NE		38 USC Section 3011
<b>Department of Veteran Affairs "10"</b>							
1. Dependency and Indemnity Compensation	E	E	E	E	NE		38 USC 410(b)
2. Pension for Non-Service Connected Disability or Death	E	E	TBD	TBD	NE		38 USC 521; 38 USC 3103
3. Medal of Honor Roll Pension	E	E	TBD	TBD	NE		38 USC 562; 38 USC 3103
4. Insurance	E	E	TBD "11"	TBD "11"	TBD "11"		38 USC 711, 773; AR 608-2
5. Vocational Rehabilitation (DV)	E	E	TBD	TBD	NE		38 USC 1502, 1503
6. Educational Assistance	E	NE	NE	NE	NE		38 USC 1411
7. Survivors & Dependents Educational Assistance	E	E	E	E	NE		38 USC 1701-1765
8. Home and other Loans	E	E	TBD	TBD	NE		38 USC 1802, 1818
9. Hospitalization & Domiciliary Care	E	E	TBD	TBD	NE		38 USC 610; 38 USC 3103
10. Medical and Dental Services	E	E	TBD	TBD	NE		38 USC 612; 38 USC 3103
11. Prosthetic Appliances (DV)	E	E	TBD	TBD	NE		38 USC 614; 38 USC 612(b); 38 USC 3103
12. Guide Dogs & Equipment For Blindness (DV)	E	E	TBD	TBD	NE		38 USC 614; 38 USC 3103
13. Special Housing (DV)	E	E	TBD	TBD	NE		38 USC 801; 38 USC 3103
14. Automobiles (DV)	E	E	TBD	TBD	NE		38 USC 1901; 38 USC 3103
15. Funeral and Burial Expenses	E	E	TBD	TBD	NE		38 USC 902; 38 USC 3103
16. Burial Flag	E	E	TBD	TBD	NE		38 USC 901; 38 USC 3103
17. Burial in National Cemeteries	E	E	TBD	TBD	NE		38 USC 1002
18. Headstone Marker	E	E	TBD	TBD	NE		38 USC 906; 38 USC 3103
<b>Administered by Other Federal Agencies</b>							
1. Preference for Farm Loan (Dept. of Agriculture)	E	E	E	E	NE		7 USC 1983(5)
2. Preference for Farm & other Rural Housing Loans (Dept. of Agriculture)	E	E	E	E	NE		42 USC 1477
3. Civil Service Preference "13" (Office of Personnel Management)	E	E	NE	NE	NE		5 USC 2108, 3309-3316, 3502, 3504
4. Civil Service Retirement Credit	E	NE	NE	NE	NE		5 USC 8331, 8332
5. Reemployment Rights (Dept. of Labor)	E	E	NE	NE	NE		38 USC 2021-2026
6. Job Counseling & Employment Placement (Dept. of Labor)	E	E	E	E	NE		38 USC 2001-2014
7. Unemployment Compensation for Ex-Service members (Dept. of Labor)	E	E	NE	NE	NE		5 USC 8501, 8521
8. Naturalization Benefits (Dept. of Justice Immigration & Naturalization Service)	E	E	NE	NE	NE		8 USC 1439, 1440; AR 608-3, par. 2-2-3
9. Old Age, Survivors & Disability Insurance (Social Security Administration)	E	E	TBD	TBD	NE "12"		42 USC 417
10. Job Preference, Public Works Projects "13" (Dept. of Commerce)	E	E	TBD	TBD	NE		42 USC 6706; 13 CFR.317.35

General Eligibility. The eligibility of benefits set forth are not the sole determining factors, but only list the various types of discharge. The states also provide various benefits that will be influenced by the type of discharge, but information on state benefits should be obtained from state agencies.

**FOOTNOTES:**

"1" The veteran must have served "honestly and faithfully" for 20 years or been disabled and excludes convicted felons, deserters, mutineers, or habitual drunkards unless rehabilitated or soldier may become ineligible if that person following discharge is convicted of a felony, or is not free from drugs, alcohol, or psychiatric problems.

"2" Only if an immediate relative is buried in the cemetery.

"3" Only if no confinement is involved, or confinement is involved, parole or release is from a US military confinement facility or a confinement facility located outside the US.

"4" This discharge category includes the discharge of an officer under honorable conditions but under circumstances involving serious misconduct. See AR 608-8-24

"5" An officer who resigns for the good of the service (usually to avoid court-martial charges) will be ineligible for benefits administered by the Department of Veterans Affairs (DVA). 38 USC 3103.

"6" Including Commissioned and Warrant Officers who have been convicted and sentenced to dismissal as a result of general courts-martial. See AR 608-8-24, Chapter 5

"7" Additional references include Once a Veteran, Rights, Benefits and Obligations, DA Pam 360-526; and Federal Benefits for Veterans and Dependents, (VA Fact Sheet IS-1)

"8" To be determined by the Secretary of the Army on case-by-case basis.

"9" Only if the Bad Conduct Discharge was a result of conviction by General Court-Martial.

"10" Benefits from the Department of Veterans Affairs are not payable to (1) a person discharged as a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise comply with lawful orders of competent military authority, (2) by reason of a sentence of a general court-martial, (3) resignation by an officer for the good of the service, (4) as a deserter, and (5) as an alien during a period of hostilities. 38 USC 3103. A discharge (1) by acceptance of an other than honorable discharge to avoid court-martial (2) for mutiny or spying, (3) for a felony offense involving moral turpitude, (4) for willful and persistent misconduct, or (5) for homosexual acts, involving aggravating circumstances or other factors will be considered to have been issued under dishonorable conditions and thereby bar veterans benefits. 38 CFR 3.112. A discharge under dishonorable conditions from one period of service does not bar payment if there is another period of eligible service on which the claim may be predicated (Administrator's Decision, Veterans Admin, No. 655, 20 June 1945).

"11" Any person guilty of mutiny, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces or refuses to wear the uniform shall forfeit all rights to National Service Life Insurance and Servicemember's Group Life Insurance.

"12" Applies to Post-1957 service only. Post-1957 service qualifies for Social Security benefits regardless of type of discharge. Pre-1957 service under conditions other than dishonorable qualifies a service member for a military wage credit for Social Security purposes.

"13" Disabled and Vietnam-era veterans only. Post-Vietnam-era Veterans are those who first entered on active duty as or first became members of the Armed Forces after May 7, 1975. To be eligible, they must have served for a period of more than 108 day active duty and have other than a dishonorable discharge. The 180 day service requirement does not apply to (1) veterans separated from active duty because of a service-connected disability, or (2) reserve and guard members who served on active duty (under 10 USC 672a, d, or g, 673, or 673b) during a period of war (such as the Persian Gulf War) or in a military operation for which a campaign or expeditionary medal is authorized.

"14" Transitional benefits and services are available only to soldiers separated involuntarily, under other than adverse conditions.