

**Servicemember Education Benefits: Using Government Sponsored Programs to Help Lower or Eliminate Higher Education Costs**

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*[A]s an investment, education provides excellent returns, both for individuals and for society. . . . But the benefits of education are more than economic. A substantial body of evidence demonstrates that more-highly educated individuals are happier on average, make better personal financial decisions, suffer fewer spells of unemployment, and enjoy better health . . . . One great challenge in higher education lies in making sure our high-school graduates have access to it . . . .*<sup>1</sup>

I. Introduction

Students, in an effort to achieve the American dream by attending their dream school and securing their dream job, are graduating college with an excessive amount of student loan debt. Unfortunately, these dreams may quickly turn into nightmares as students attend their dream school at any cost, graduate with a burden of debt, and subsequently enter a challenging employment environment.<sup>2</sup>

Fortunately, numerous laws, programs, and benefits exist to help servicemembers, veterans, and their dependents pursue higher education at reasonable cost. This article addresses some of the most relevant issues servicemembers may encounter in their efforts to minimize the cost of higher education. Part II of this article addresses how to obtain in-state tuition at public schools. Part III discusses strategies

for minimizing educational costs. Part IV provides ways to eliminate paying tuition altogether. By learning about and taking advantage of these benefits, servicemembers, veterans, and their dependents can achieve the American dream without graduating under a burden of year's of debt.

II. Federal Law Enables Servicemembers and Their Dependents to Pay In-State Tuition

Federal law<sup>3</sup> mandates that states receiving federal assistance under Title 4 of the Higher Education Act<sup>4</sup> charge members of the Armed Forces<sup>5</sup> and their dependents in-state tuition for attendance at public institutions of higher education.<sup>6</sup> Specifically, federal law states

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 chapter, such State shall not charge such member (or the spouse or dependent child of such

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<sup>1</sup> Ben S. Bernanke, Chairman, Fed. Reserve Sys., Education and Economic Competitiveness, Address at the U.S. Chamber Education and Workforce Summit (Sep. 24, 2007), available at [http://www.federalreserve.gov/news\\_events/speech/bernanke20070924a.htm](http://www.federalreserve.gov/news_events/speech/bernanke20070924a.htm).

<sup>2</sup> See, e.g., Douglas W. Elmendorf, Dir., Cong. Budget Office, The Budget and Economic Outlook Fiscal Years 2011 to 2021, Address before the Committee on The Budget, United States Senate (Jan. 27, 2011), available at <http://budget.senate.gov/republic/hearingarchive/testimonies/2010/2011-01-27Elmendorf.pdf> (explaining that almost nine million workers who wanted full-time work in 2009 and 2010 have been employed only part time; predicting that the recovery in employment will be slow with an unemployment rate of 9.2% in the fourth quarter of 2011, 8.2% in the fourth quarter of 2012, and eventually a natural rate of unemployment around 5.3% in 2016). See also Anne Marie Chaker, *Students Borrow More Than Ever for College*, WALL S. J., available at <http://articles.moneycentral.msn.com/CollegeAndFamily/CutCollegeCosts/students-borrow-more-than-ever-for-college.aspx> (last visited Jan. 31, 2011) (explaining that students borrowed approximately \$75 billion in the 2008-2009 academic year which was up 25% from the previous year; highlighting that in a 2006 survey of college graduates under the age of 35, 39% expected that it would take them more than ten years to pay off their household's education-related debt). But see 20 U.S.C. § 1078 (2006) (capping the interest rates of federally insured student loan debt incurred by servicemembers before they entered the military). As a result, servicemembers with pre-service student loan obligations, either federally or non-federally insured, may be able to pay off their debt sooner due to a potentially lower interest rate cap of 6% provided by the Servicemembers Civil Relief Act, 50 U.S.C. App. 527.

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<sup>3</sup> Higher Education Opportunity Act, 20 U.S.C.A. § 1015d (2008) (reauthorizing the Higher Education Act of 1965).

<sup>4</sup> Higher Education Act of 1965, Pub. L. No. 89-329, 79 Stat. 1219 (codified as amended in 20 U.S.C. §§ 1001-1161aa-1); see, e.g., *Federal Financial Aid Return of Title IV Funds Policy*, CENT. OR. COMMUNITY C., <http://finaid.cocc.edu/Policies/Repayment/default.aspx> (last visited Feb. 1, 2011) (providing that Title IV financial aid programs include Federal Pell Grant, Academic Competitiveness Grant, Federal Supplemental Educational Opportunity Grant, Federal Work-Study, and Federal Stafford Loans). See generally *Title IV Programs*, FED. STUDENT AID, [http://federalstudentaid.ed.gov/about/title4\\_programs.html](http://federalstudentaid.ed.gov/about/title4_programs.html) (last visited Feb. 1, 2011) (discussing the numerous Title IV programs available; explaining that due to the Health Care and Education Reconciliation Act, beginning 1 July 2010, that federal student loans will no longer be made by private lenders and that all loans will now come directly from the U.S. Department of Education under the Direct Loan Program).

<sup>5</sup> Armed Forces is defined as "the Army, Navy, Air Force, Marine Corps, and Coast Guard." 10 U.S.C. § 101(a)(4) (2006).

<sup>6</sup> See 20 U.S.C.A. § 1015d (2008) (mandating that public institutions of higher education receiving assistance under 20 U.S.C. Chapter 28 charge servicemembers on active duty, as well as their spouses and dependent children, in-state tuition rates for the first period of enrollment beginning after 1 July 2009).

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.<sup>7</sup>

This language specifies that servicemembers need only be stationed in the state to qualify for in-state tuition; servicemembers do not need to be domiciled<sup>8</sup> in the state to receive in-state tuition.

#### A. The Significance of Domicile

The distinction between being stationed and being domiciled in a specific state is extremely important because establishing and maintaining a state as one's domicile means a servicemember must meet certain requirements. Specifically, these requirements include establishing physical presence in the state and forming the intent to make the state the servicemember's permanent home.<sup>9</sup> A servicemember can demonstrate this intent by taking specific steps, such as registering to vote in the state, purchasing real property in the state, obtaining professional and driver's licenses in the state, and telling others about an intent to make the state a permanent home.<sup>10</sup> More importantly, establishing domicile in a state has significant consequences, including submission to the state's jurisdiction for taxation purposes.

In short, due to federal law, servicemembers can obtain in-state tuition privileges without exposing themselves to the many disadvantages of becoming a domiciliary in a

<sup>7</sup> *Id.* § 1015d(a). Active duty for a period of more than thirty days is defined as "active duty under a call or order that does not specify a period of 30 days or less." 10 U.S.C. § 101(d)(2). Active duty is defined as

full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

*Id.* § 101(d)(1); see also U.S. DEP'T OF EDUC., FEDERAL STUDENT AID HANDBOOK 2-35, available at <http://www.ifap.ed.gov/ifap/byAwardYear.jsp?type=fsahandbook&awardyear=2009-2010> (discussing the definitions of armed forces, active duty, and active duty for a period of more than thirty days).

<sup>8</sup> Domicile is defined as "[t]he place at which a person has been physically present and that the person regards as home; a person's true, fixed, principal, and permanent home, to which that person intends to return and remain even though currently residing elsewhere." BLACK'S LAW DICTIONARY 558 (9th ed. 2009).

<sup>9</sup> See generally Major Wendy P. Daknis, *Home Sweet Home: A Practical Approach to Domicile*, 177 MIL. L. REV. 49, 52 (2003) (explaining the requirements of establishing domicile).

<sup>10</sup> See Major Samuel W. Kan, *Setting Servicemembers Up for More Success: Building and Transferring Wealth in a Challenging Economic Environment—A Tax and Estate Planning Analysis*, ARMY LAW., Jan. 2010, at 57 (discussing domicile in terms of taxation and estate planning).

particular state.<sup>11</sup> Furthermore, in addition to mandating that public universities charge in-state tuition to servicemembers and their dependents domiciled or stationed in the state, federal law also requires public universities to continue charging in-state tuition rates even when a servicemember is subsequently stationed elsewhere, as long as the student is continually enrolled at the institution.<sup>12</sup>

#### B. Steps to Paying In-State Tuition

Servicemembers interested in taking advantage of the opportunities created by federal law should take three steps. First, they should research applicable state policies and practices, which may be helpful in understanding how specific states are implementing federal law with regard to paying in-state tuition.<sup>13</sup> By educating oneself about various

<sup>11</sup> For example, Virginia domiciliaries are subject to paying licensing fees and personal property taxes on their personally owned vehicles. However, servicemembers who are stationed in Virginia but are not domiciled in Virginia can contact their local state revenue office, provide them appropriate documentation, and exempt themselves from paying personal property taxes on their vehicles. Servicemembers should be aware that they may still need to pay appropriate licensing fees for their vehicles. For example, servicemembers stationed in Charlottesville, Virginia, could visit the City of Charlottesville Treasurer's Office and provide the office with a copy of the servicemember's military orders and leave and earnings statement. By providing this documentation, servicemembers can exempt their personally owned vehicles from Virginia personal property tax. See generally *Comm'r of Revenue*, CITY OF CHARLOTTESVILLE, <http://www.charlottesville.org/Index.aspx?page=22> (last visited Feb. 1, 2011). Similarly, servicemembers stationed but not domiciled in Georgia can follow comparable procedures to accomplish similar objectives. For example, servicemembers can file an affidavit for exemption of *ad valorem* taxes on motor vehicles, Form PT 471, with the Georgia Department of Revenue. See *Service Member's Affidavit for Exemption of Ad Valorem Taxes for Motor Vehicles*, GA. DEP'T OF REVENUE, available at [http://motor.etax.dor.ga.gov/forms/pdf/motor/MVService\\_Members\\_Affidavit\\_PT471.pdf](http://motor.etax.dor.ga.gov/forms/pdf/motor/MVService_Members_Affidavit_PT471.pdf) (last visited Feb. 1, 2011). By filing this affidavit, servicemembers can exempt not only their personally owned vehicle, but also a vehicle jointly owned with a non-resident civilian spouse. See GA. DEP'T OF REVENUE 2009 GEORGIA MOTOR VEHICLE AD VALOREM ASSESSMENT MANUAL, at ix, available at [http://motor.etax.dor.ga.gov/forms/pdf/motor/MV\\_2009\\_MV\\_Assessment\\_Man\\_Mar\\_Ed.pdf](http://motor.etax.dor.ga.gov/forms/pdf/motor/MV_2009_MV_Assessment_Man_Mar_Ed.pdf) (last visited Feb. 1, 2011).

<sup>12</sup> 20 U.S.C.A. § 1015d (2008). The Act states,

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.

*Id.*

<sup>13</sup> See, e.g., *In-State Tuition Rates for Armed Forces Members, Spouses, and Dependent Children at Public Institutions: Public Law 110-315, Sec. 135*, U.S. ARMY HUM. RES. COMMAND, <https://www.hrc.army.mil/site/education/index.html> (last visited Feb. 1, 2011). This website posted a state-by-state summary of how the states were implementing federal law. Unfortunately, at the time this article was published, the state-by-state summary was not available.

state policies and practices, a servicemember can determine what states are good candidates for future military assignments in terms of available educational opportunities. Second, after researching a state's policies, the servicemember should contact the Registrar's Office at the specific educational institutions of interest to the servicemember for additional guidance. Registrars' offices at many schools, such as the University of California<sup>14</sup> and the State University of New York,<sup>15</sup> may forward servicemembers to a separate residency determination office to answer in-state tuition qualification questions. Third, once the servicemember has determined the specific requirements for in-state tuition at a particular educational institution, the servicemember should gather the appropriate documentation and submit it in a timely fashion.

The following example illustrates how a servicemember can obtain in-state tuition. A servicemember domiciled or stationed in Virginia, who is interested in sending a dependent to the University of Virginia at the in-state tuition rate, should call the university's Registrar's Office or visit the school's website.<sup>16</sup> Applicants from military families are directed to contact the Committee on Student Status.<sup>17</sup> Military dependents are instructed to fill out an Application for Virginia In-State Educational Privileges form, and the rest of the application process is relatively straightforward. Dependents can qualify for in-state tuition simply by providing appropriate documentation, such as a copy of the servicemember's military orders, a leave and earnings statement, or a lease showing physical residence<sup>18</sup> in Virginia.

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<sup>14</sup> For example, the University of California at Berkeley will forward applicants to the Residence Affairs Office at (510) 642-5990. See generally Office of the Registrar, *Military Waiver of Nonresident Tuition*, BERKELEY, <http://registrar.berkeley.edu/military.html> (last visited Feb. 1, 2011) (providing that students will need to provide a statement from their commanding officer or personnel officer indicating the specific date of their assignment in California); Office of the Registrar, *Exemptions from Nonresident Tuition (Proof of Eligibility Is Required)*, U.C. BERKELEY, [http://registrar.berkeley.edu/current\\_students/exemptions.html](http://registrar.berkeley.edu/current_students/exemptions.html) (last visited Feb. 1, 2011) (listing the numerous ways students may qualify for exemptions from paying nonresident tuition).

<sup>15</sup> For example, the State University of New York at Binghamton will forward applicants to the Student Accounts Office. The Student Accounts Office will inform military applicants that they need to provide a copy of the servicemember's military orders and a letter from the commander verifying that the servicemember is stationed in New York. See generally Student Accounts Office, *Establishing New York Residency*, BINGHAMTON U., <http://www2.binghamton.edu/student-accounts/residency.html> (last visited Feb. 1, 2011).

<sup>16</sup> See generally Office of Undergraduate Admission, *Virginia Domicile*, UNIV. OF VA., <http://www.virginia.edu/undergradadmission/status.html> (last visited Feb. 1, 2011).

<sup>17</sup> The Committee on Student Status can be reached at (434) 982-3391. See *id.*

<sup>18</sup> Residence is defined as,

The act or fact of living in a given place for some time. . . . The place where one actually lives, as distinguished from a domicile... Residence usu. just means bodily presence as an inhabitant in a given

Some schools may require additional documentation. For example, prior to registration each semester, the University of Texas at Austin requires submission of a letter from the servicemember's commander on military letterhead stating that the servicemember is on active duty.<sup>19</sup> Similarly, the University of North Carolina requires an affidavit attesting to the servicemember's "duty status, PCS [Permanent Change of Station] orders, and location."<sup>20</sup>

While many states limit the in-state tuition benefit to active duty servicemembers and their families, some states define active duty military quite broadly. For example, servicemembers interested in attending schools in Texas will discover that active duty military includes active Reserve and National Guard members of units in Texas.<sup>21</sup> The importance of this distinction becomes clear when considering the consequences of not being on active duty and having to establish residency in Texas under the general rules. Individuals who are not on active duty military status and who want to establish residency for purposes of qualifying for in-state tuition must live in Texas for "12 consecutive months and establish a domicile in Texas prior to enrollment."<sup>22</sup> In other words, active duty military members and their dependents can move to Texas, enroll in school, and qualify for in-state tuition immediately, while a person with no military affiliation, or a military member not on active duty, must move to Texas and live in Texas for a year before qualifying for in-state tuition. Enrollment in school prior to satisfying the twelve-consecutive-month residency requirement would result in paying out-of-state tuition for these non-military or non-active duty individuals.

### III. One Step Beyond Paying In-State Tuition: Strategies for Minimizing Educational Costs

Servicemembers can minimize educational costs by pursuing additional cost-saving strategies while paying in-state tuition. For example, students who have weaker high school academic credentials or who need to save as much money as possible may find that attending a local community college may be their best choice. For instance, rather than applying directly to the University of Virginia, a

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place; domicile usu. requires bodily presence plus an intention to make the place one's home. A person thus may have more than one residence at a time but only one domicile.

BLACK'S LAW DICTIONARY, *supra* note 8, at 1423.

<sup>19</sup> See Office of Admissions, *Texas Residency—Frequently Asked Questions*, UNIV. OF TEX. AT AUSTIN, <http://bealonghorn.utexas.edu/residency/faq/> (last visited Feb. 1, 2011) [hereinafter Texas FAQ].

<sup>20</sup> See Office of the Registrar, *Military Tuition Benefits*, UNIV. OF N.C. AT CHAPEL HILL, [http://regweb.unc.edu/residency/military\\_benefits.php](http://regweb.unc.edu/residency/military_benefits.php) (last visited Feb. 1, 2011).

<sup>21</sup> See, e.g., Texas FAQ, *supra* note 19.

<sup>22</sup> *Id.*

student from a military family could attend Piedmont Virginia Community College (PVCC) or another school in the Virginia Community College System (VCCS).<sup>23</sup> By doing so, the student<sup>24</sup> would not only be eligible for extremely inexpensive in-state tuition rates,<sup>25</sup> but also would qualify for guaranteed admission to numerous four-year universities, including the University of Virginia. Under a guaranteed admission agreement between the University of Virginia and schools in the VCCS, students who complete an associate's degree achieving "a cumulative grade point average in VCCS coursework of 3.4 or better on a 4.0 scale" and who meet certain other minor criteria, such as completion of specified courses, are guaranteed admission to the University of Virginia.<sup>26</sup> Attending a local community college and then transferring to a larger university is just one example of how military families can save additional costs on education.

#### IV. Two Steps Beyond Paying In-State Tuition: Tuition Elimination Possibilities

##### A. Federal Programs

Before relishing the possibility of paying only in-state tuition, servicemembers and their families should be aware of educational opportunities that do not require paying any tuition at all. For example, students who apply and are accepted to attend the nation's service academies, such as the U.S. Military Academy at West Point, not only receive a free education,<sup>27</sup> but also draw a salary while in school and are guaranteed a job upon graduation.<sup>28</sup> Similarly, military

officers who apply and are accepted to the Funded Legal Education Program<sup>29</sup> or numerous Master of Laws (LL.M.) programs<sup>30</sup> at civilian law schools not only do not have to pay tuition, but they also receive their full salary throughout their attendance in school. Furthermore, the military<sup>31</sup> provides other opportunities to earn a graduate degree through the Advanced Civil Schooling program for those interested in attending other types of full-time, fully-funded graduate programs, such as business school.<sup>32</sup>

In addition to these traditional programs, which have existed for some time, many relatively new programs have been created to assist servicemembers. For example, the Post-9/11 GI Bill will pay for undergraduate or graduate school education.<sup>33</sup> Eligible servicemembers on active duty may currently receive the total amount of a school's tuition and fees.<sup>34</sup>

In contrast, those not on active duty (e.g., eligible veterans who have been discharged) may currently only receive an amount limited to the highest in-state tuition<sup>35</sup>

<sup>23</sup> See generally *PIEDMONT VA. COMMUNITY C.*, <http://www.pvcc.edu/> (last visited Feb. 1, 2011) (providing general information about PVCC).

<sup>24</sup> Students from military families with questions regarding in-state tuition should contact the Welcome Center in room 144 of PVCC's Main Building or call (434) 961-6551. See *Piedmont Va. Cmty. Coll., Admissions: Am I Eligible for In-State Tuition Rates*, available at [http://www.pvcc.edu/admissions/am\\_i\\_eligible.php](http://www.pvcc.edu/admissions/am_i_eligible.php) (last visited Feb. 1, 2011).

<sup>25</sup> For example, Virginia in-state tuition at PVCC is approximately \$110.65 per credit hour. See *Piedmont Va. Cmty. Coll., Tuition & Fees*, available at [http://www.pvcc.edu/tuition\\_fees/](http://www.pvcc.edu/tuition_fees/) (last visited Feb. 1, 2011). Taking twelve credits in a semester in 2011, students at PVCC would have to pay approximately \$1328 for in-state tuition. A similar undergraduate student taking twelve credits at the University of Virginia would have to pay approximately \$10,836 for in-state tuition. See *Univ. of Va., Tuition, Fees & Estimated Costs of Attendance*, available at [http://www.virginia.edu/Facts/Glance\\_Tuition.html](http://www.virginia.edu/Facts/Glance_Tuition.html) (last visited Feb. 1, 2011).

<sup>26</sup> See *Guaranteed Admission Agreement: University of Virginia and Virginia Community College System*, available at <https://www.vccs.edu/Portals/0/ContentAreas/Transfer/uva.pdf> (last visited Feb. 1, 2011).

<sup>27</sup> The U.S. Military Academy at West Point was ranked as America's Best College by Forbes in 2009. See *Forbes, America's Best Colleges*, available at [http://www.forbes.com/2009/08/02/best-colleges-ratings-opinions-rank-ing-2009\\_land.html](http://www.forbes.com/2009/08/02/best-colleges-ratings-opinions-rank-ing-2009_land.html) (last visited Feb. 1, 2011).

<sup>28</sup> See *West Point Admissions, Overview of the Academy*, U.S. MIL. ACAD., <http://admissions.usma.edu/overview.cfm> (last visited Feb. 1, 2011) (explaining that cadets receive free tuition, room, board, and medical care, as well as an annual salary of more than \$6,500).

<sup>29</sup> See U.S. DEP'T OF ARMY, REG. 27-1, JUDGE ADVOCATE LEGAL SERVICES para. 14-1 (30 Sept. 1996), available at [http://army.pubs.army.mil/epubs/pdf/r27\\_1.pdf](http://army.pubs.army.mil/epubs/pdf/r27_1.pdf) (last visited Feb. 1, 2011) (explaining the process to obtain a law degree at government expense at approved civilian law schools). See also *JAGCNet.army.mil, Funded Legal Education Program*, available at [https://www.jagcnet.army.mil\\_8525769A00495E0D.nsf/0/D88CC9A221321F27852577680059F095?Open](https://www.jagcnet.army.mil_8525769A00495E0D.nsf/0/D88CC9A221321F27852577680059F095?Open) (last visited Feb. 1, 2011) (describing the selection criteria, including average undergraduate GPA and LSAT score, and providing Ms. Yvonne Caron as a point of contact at (703) 588-6774).

<sup>30</sup> See *JAG PUB. 1-1, JAGC PERSONNEL AND ACTIVITY DIRECTORY AND PERSONNEL POLICIES* para. 7-9 (1 Nov. 2010), available at [https://www.jagcnet2.army.mil/852573690045CE9E/0/F96A7D8D811B0691852577F2006DDDFC/\\$file/The%20Directory%202010-11.pdf](https://www.jagcnet2.army.mil/852573690045CE9E/0/F96A7D8D811B0691852577F2006DDDFC/$file/The%20Directory%202010-11.pdf) (explaining the process to obtain advanced LL.M. degrees at government expense in specialized areas including international law, criminal law, contract law, information technology law, environmental law, labor and employment law, and tax law).

<sup>31</sup> See, e.g., *About Us*, U.S. ARMY STUDENT DETACHMENT, <http://www.jackson.army.mil/sites/usasd/pages/222> (last visited Dec. 21, 2010) (providing information such as the unit's mission and policies).

<sup>32</sup> See generally *Advanced Civil Schooling (ACS), MYARMYBENEFITS*, [http://myarmybenefits.us.army.mil/Home/Benefit\\_Library/Federal\\_Benefits\\_Page/Advanced\\_Civil\\_Schooling\\_\(ACS\).html?serv=147](http://myarmybenefits.us.army.mil/Home/Benefit_Library/Federal_Benefits_Page/Advanced_Civil_Schooling_(ACS).html?serv=147) (last visited Feb. 1, 2011) (providing an information paper on the requirements, application procedures, and benefits of Advanced Civil Schooling). See also U.S. DEP'T OF ARMY, REG. 621-1, TRAINING OF MILITARY PERSONNEL AT CIVILIAN INSTITUTIONS para. 1-1 (28 Aug. 2007) (explaining the scope and goals of numerous educational programs).

<sup>33</sup> See *The Post-9/11 GI Bill*, U.S. DEP'T OF VETERANS AFFAIRS, <http://www.gibill.va.gov/post-911/post-911-gi-bill-summary/> (last visited Feb. 1, 2011) (providing information on Post-9/11 GI Bill benefits).

<sup>34</sup> See *Post-9/11 GI Bill: General Information*, U.S. DEP'T OF VETERANS AFFAIRS [hereinafter *Post-9/11 GI Bill: General Information*], [http://www.gibill.va.gov/documents/Post-911\\_General\\_Info.pdf](http://www.gibill.va.gov/documents/Post-911_General_Info.pdf) (last visited Feb. 1, 2011) (explaining that individuals on active duty may currently receive the total amount of tuition and fees); see also *infra* note 59 and accompanying text.

<sup>35</sup> See, e.g., *2010-2011 Maximum In-State Tuition & Fees*, U.S. DEP'T OF VETERANS AFFAIRS [hereinafter *Maximum Tuition*], available at <http://>

charged by a public educational institution in the state where the school is located.<sup>36</sup> Although they may not qualify for the same amount of tuition and fees available to active duty servicemembers, they may qualify for a monthly housing allowance as well as an annual book and supply stipend.<sup>37</sup> For those attending schools with higher tuition than what the Post-9/11 GI Bill will cover, the Yellow Ribbon Program<sup>38</sup> allows schools to voluntarily contribute funds to help close the tuition gap.<sup>39</sup> Schools can contribute up to 50% of the expenses and the Department of Veterans Affairs will match the amount.<sup>40</sup>

Depending on the situation, other benefits may also be available. Some of these benefits may include a one-time rural relocation benefit, a one-time reimbursement for a certification or licensing exam, and college fund or “kicker” payments.<sup>41</sup>

Furthermore, additional Post-9/11 GI Bill educational benefits will soon be available.<sup>42</sup> First, starting on 1 October

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[www.gibill.va.gov/gi\\_bill\\_info/ch33/tuition\\_and\\_fees.htm](http://www.gibill.va.gov/gi_bill_info/ch33/tuition_and_fees.htm) (last visited Feb. 1, 2011) (providing a state-by-state list of the maximum tuition and fees applicable for the 2010–2011 school year).

<sup>36</sup> See *Post-9/11 GI Bill: General Information*, *supra* note 34.

<sup>37</sup> *Id.*

<sup>38</sup> See *Yellow Ribbon Program Information 2010–2011 School Year*, U.S. DEP’T OF VETERANS AFFAIRS, [http://www.gibill.va.gov/GIBill\\_Info/CH33/YRP/YRP\\_List\\_2010.htm](http://www.gibill.va.gov/GIBill_Info/CH33/YRP/YRP_List_2010.htm) (last visited Feb. 1, 2011) (providing a list of the participating schools by state such as the Massachusetts Institute of Technology in Cambridge, Massachusetts). The Yellow Ribbon Program, which is officially known as the Yellow Ribbon GI Education Enhancement Program, allows institutions of higher learning “to voluntarily enter into an agreement with the VA to fund tuition expenses that exceed the highest public in-state undergraduate tuition rate.” *Yellow Ribbon Program*, U.S. DEP’T OF VETERANS AFFAIRS, [http://www.gibill.va.gov/gi\\_bill\\_info/ch33/yellow\\_ribbon.htm](http://www.gibill.va.gov/gi_bill_info/ch33/yellow_ribbon.htm) (last visited Feb. 1, 2011). In general, to be eligible for the Yellow Ribbon Program, individuals must: (1) have served an aggregate period of active duty after 10 September 2001, of at least thirty-six months; (2) have been honorably discharged from active duty for a service connected disability, and served thirty continuous days after 10 September 2001; or (3) be a dependent eligible for transfer of entitlement under the Post-9/11 GI Bill based on a veteran’s service under the eligibility criteria listed above. See *id.*

<sup>39</sup> See generally *Benefits of The Yellow Ribbon Program*, U.S. DEP’T OF VETERANS AFFAIRS, available at <http://www.gibill.va.gov/post-911/post-911-gi-bill-summary/yellow-ribbon-program.html> (last visited Feb. 1, 2011) (providing examples of how much money students can receive through the Yellow Ribbon Program).

<sup>40</sup> See *Post-9/11 GI Bill: General Information*, *supra* note 34.

<sup>41</sup> See *id.*; see also MILITARY.COM, UNDERSTANDING THE POST-9/11 GI BILL (2009), available at <http://images.military.com/media/education/pdf/post-911-gi-bill.pdf>. See generally MILITARY.COM, YOUR MILITARY EDUCATION BENEFITS HANDBOOK (2009), available at <http://images.military.com/media/education/pdf/education-benefits.pdf> (providing information concerning the numerous types of educational benefits including the Post-9/11 GI Bill). See generally MILITARY.COM, SPOUSE BENEFITS OF THE POST-9/11 GI BILL (2009), available at [http://images.military.com/education/Spouse\\_GIBill\\_Benefits.pdf](http://images.military.com/education/Spouse_GIBill_Benefits.pdf) (providing information concerning spousal education benefits).

<sup>42</sup> Post-9/11 Veterans Educational Assistance Improvement Act of 2010, Pub. L. No. 111-377, 124 Stat. 4016 (amending 38 U.S.C. §§ 101–3680).

2011, servicemembers and their spouses enrolled in school while on active duty will receive book allowances.<sup>43</sup> Second, National Guard members performing active service “for the purpose of organizing, administering, recruiting, instructing, or training the National Guard” or “under section 502(f) of title 32 when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency” will be entitled to benefits.<sup>44</sup> Third, starting 1 October 2011, students will be able to attend vocational and other types of non-degree training.<sup>45</sup> Fourth, also starting on 1 October 2011, non-active duty distance learners on more than a half-time basis will receive housing allowances.<sup>46</sup> Fifth, beginning 1 August 2011, students will be able to obtain reimbursement of fees for multiple licensure and certification tests (previously only a single reimbursement was authorized), and can now also obtain reimbursement for national tests required for admission, such as the Standard Aptitude Test (SAT).<sup>47</sup>

However, with these additional benefits also comes the possibility of losing certain benefits. First, effective 1 August 2011, active duty members, veterans, and transferees attending private and foreign school will have a national annual maximum of \$17,500 to cover tuition and fees.<sup>48</sup> Second, housing allowances will be prorated so that a student taking fewer credits would receive a smaller housing allowance than a student taking the credits required for full-time pursuit of the program.<sup>49</sup> Additionally, students will

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See also *Major Changes to GI Bill in 2011*, U.S. DEP’T OF VETERANS AFFAIRS [hereinafter *2011 GI Bill Changes*], available at [https://www.gibill2.va.gov/cgi-bin/vba.cfg/php/enduser/std\\_adp.php?p\\_faq\\_id=1417&p\\_created=1292942163&p\\_sid=pGCp5tlk&p\\_accessibility=0&p\\_redirect=&p\\_lva=&p\\_sp=cF9zcmNoPSZwX3NvcnRfYnk9JnBfZ3JpZHNvcnQ9JnBfcm93X2NudD00MzUsNDM1JnBfcHJvZHM9JnBfY2F0cz0mcf9wdj1\\_YW55fiZwX2N2PX5hbnl\\_JnBfc2VhcmNoX3R5cGU9YW5zd2Vy cy5zZWYy2hfbmwmcF9wYWdlPTE\\* &p\\_li=&p\\_topview=1](https://www.gibill2.va.gov/cgi-bin/vba.cfg/php/enduser/std_adp.php?p_faq_id=1417&p_created=1292942163&p_sid=pGCp5tlk&p_accessibility=0&p_redirect=&p_lva=&p_sp=cF9zcmNoPSZwX3NvcnRfYnk9JnBfZ3JpZHNvcnQ9JnBfcm93X2NudD00MzUsNDM1JnBfcHJvZHM9JnBfY2F0cz0mcf9wdj1_YW55fiZwX2N2PX5hbnl_JnBfc2VhcmNoX3R5cGU9YW5zd2Vy cy5zZWYy2hfbmwmcF9wYWdlPTE* &p_li=&p_topview=1) (last visited Jan. 31, 2011) (outlining the changes to the GI Bill in 2011).

<sup>43</sup> Pub. L. No. 111-377 § 103, 124 Stat. 4016. See also *2011 GI Bill Changes*, *supra* note 42.

<sup>44</sup> Pub. L. No. 111-377 § 101, 124 Stat. 4016 (providing that although Post-9/11 GI Bill benefits for national guard members on active duty become effective on Aug. 1, 2009, no benefits will actually be paid before Oct. 1, 2011).

<sup>45</sup> *Id.* § 105.

<sup>46</sup> *Id.* § 102(c)(2). “The housing allowance payable is equal to ½ the national average BAH for an E-5 with dependents. The full-time rate for an individual eligible at the 100% eligibility tier would be \$673.50 for 2011.” *2011 GI Bill Changes*, *supra* note 42.

<sup>47</sup> Pub. L. No. 111-377 §§ 107, 108, 124 Stat. 4016. See also *2011 GI Bill Changes*, *supra* note 42.

<sup>48</sup> Pub. L. No. 111-377 §§ 102(a), 103(a), 124 Stat. 4016. See also *id.* § 103. See also *Upcoming Changes to the Post-9/11 GI-Bill*, U.S. Dep’t of Veterans Affairs, available at [http://www.gibill.va.gov/post-911/post-911-gi-bill-summary/Post911\\_changes.html](http://www.gibill.va.gov/post-911/post-911-gi-bill-summary/Post911_changes.html) (last visited Feb. 25, 2011) (providing that effective 5 Mar. 2011, the benefits of active duty servicemembers will be prorated based on eligibility tiers previously established for veterans).

<sup>49</sup> *Id.* § 102(b).

not receive housing allowances during breaks in school such as breaks between semesters.<sup>50</sup>

Despite the potential loss of some benefits, the Post-9/11 GI Bill still offers a great deal of flexibility. For example, servicemembers can use their Post-9/11 GI Bill educational benefits themselves or choose to transfer their benefits to their dependent family members.<sup>51</sup> Furthermore, if the active duty servicemember dies in the line of duty after 11 September 2001, all of the servicemember's children may<sup>52</sup> be able to take advantage of Post-9/11 Educational Assistance under the Marine Gunnery Sergeant John David Fry Scholarship.<sup>53</sup> This program provides children of deceased servicemembers "up to the highest public, in-state undergraduate tuition and fees, plus a monthly living stipend and book allowance."<sup>54</sup> The Department of Veterans Affairs began accepting applications for this benefit on 1 May 2010.<sup>55</sup> Applicants enrolled in school from 1 August 2009 through 31 July 2010 "may receive retroactive payments for that time."<sup>56</sup>

Using this information, servicemembers can strategically structure their educational pursuits as well as their dependents' educational pursuits based on the applicable benefits available. For example, a servicemember could personally pay his or her dependents' tuition and fees to attend an inexpensive public undergraduate school in

Washington, D.C., while saving the Post-9/11 GI Bill benefits to pay for the servicemember's own tuition and fees at a more expensive private school in Washington, D.C., such as Georgetown Law. Following this strategy, rather than allowing the dependents to receive a capped benefit of approximately \$3,500 per semester for twelve credits,<sup>57</sup> the active duty servicemember could use the benefit to attend Georgetown Law and receive a benefit of \$22,553 per semester<sup>58</sup> since tuition and fees would not be limited to the highest in-state tuition charged by a public educational institution.<sup>59</sup> However, the effectiveness of this strategy will be of limited duration, because starting 1 August 2011, the servicemember would begin being capped at \$17,500 for tuition and fees since the servicemember attended a private school.

Another strategy to maximize benefits might include having a dependent attend school on slightly more than a half-time basis. For example, by taking seven credits in a semester rather than twelve credits, the dependent would still qualify for the full monthly housing allowance.<sup>60</sup> In this manner, although it would take longer to complete school, the dependent would receive more benefits due to the longer period of time the dependent would qualify for and receive a housing allowance. However, this strategy would also be of limited duration, because starting 1 August 2011, housing allowances will be prorated based on the number of credits taken. At that time, students will have to take a full load of credits to get the full monthly housing allowance.

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<sup>50</sup> 2011 GI Bill Changes, *supra* note 42.

<sup>51</sup> See *Transfer of Education Benefits*, DEF. MANPOWER DATA CTR, <https://www.dmdc.osd.mil/appj/agentsso/LoginSelect.jsp?gotourl=%2FTEB%2Findex.jsp&modules=DFAS,FAM,CAC> (last visited Feb. 1, 2011) (providing a secure means to transfer Post-9/11 GI Bill benefits). Applicants may check the status of their applications and verify their acceptance and approval on the website.

<sup>52</sup> See Pub. L. No. 111-377 § 111, 124 Stat. 4016. It is important to note that due to the Post-9/11 Veterans Educational Assistance Improvement Act of 2010, individuals who take advantage of educational assistance under the Fry Scholarship under 38 U.S.C. § 3311(b)(9) will not be able to receive other possible entitlements such as dependent indemnity compensation under 38 U.S.C. §§ 1301–1323 and transferred education benefits under 38 U.S.C. § 3319. *Id.*

<sup>53</sup> See 38 U.S.C. § 3311 (2006). See also *Information About the Fry Scholarship*, U.S. DEP'T OF VETERANS AFFAIRS, available at [https://www.gibill2.va.gov/cgi-bin/vba.cfg/php/enduser/std\\_adp.php?p\\_faqid=1411&p\\_created=1273158744&p\\_sid=TLeyitlk&p\\_accessibility=0&p\\_redirect=&p\\_lva=&p\\_sp=cF9zcmNoPSZwX3NvcnRfYnk9JnBfZ3JpZHNvcnQ9JnBfcm93X2NudD00MzUsNDM1JnBfcHJvZHM9JnBfY2F0cz0mcF9wdj1\\_YW55fiZwX2N2PX5hbml\\_JnBfc2VhcmNoX3R5cGU9YW5zd2Vy cy5zZWYy2hfbmwmcF9wYWdlPTE\\*&p\\_li=&p\\_topview=1](https://www.gibill2.va.gov/cgi-bin/vba.cfg/php/enduser/std_adp.php?p_faqid=1411&p_created=1273158744&p_sid=TLeyitlk&p_accessibility=0&p_redirect=&p_lva=&p_sp=cF9zcmNoPSZwX3NvcnRfYnk9JnBfZ3JpZHNvcnQ9JnBfcm93X2NudD00MzUsNDM1JnBfcHJvZHM9JnBfY2F0cz0mcF9wdj1_YW55fiZwX2N2PX5hbml_JnBfc2VhcmNoX3R5cGU9YW5zd2Vy cy5zZWYy2hfbmwmcF9wYWdlPTE*&p_li=&p_topview=1) (last visited Jan. 31, 2011) (providing information about eligibility (e.g., students may use the benefit between their 18th and 33d birthday), when benefits will be paid, how long the benefits will last (i.e., 36 months of benefits at the 100% level), and how to apply online for benefits (i.e., VA Form 22-5490 Dependent Application for VA Education Benefits)).

<sup>54</sup> U.S. Dep't of Veterans Affairs, Post-9/11 GI Bill: Marine Gunnery Sergeant John David Fry Scholarship, available at [http://www.gibill.va.gov/documents/Fry\\_Scholarship.pdf](http://www.gibill.va.gov/documents/Fry_Scholarship.pdf) (last visited Feb. 1, 2011).

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

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<sup>57</sup> See, e.g., *Maximum Tuition*, *supra* note 35 (establishing a maximum charge per credit hour of \$265.83 and a maximum total fees per term of \$310 in the District of Columbia).

<sup>58</sup> See Office of Student Affairs, *Tuition and Fees Per Semester*, GEORGETOWN LAW, <http://www.law.georgetown.edu/finaff/studaccts/tuition.html> (last visited Dec. 17, 2010) (establishing that full time J.D. and LL.M. students would be charged \$22,553 per semester for tuition and fees in the 2010–2011 school year).

<sup>59</sup> See *Chapter 33 Benefit Estimator*, U.S. DEP'T OF VETERANS AFFAIRS, <http://gibill.va.gov/CH33Estimator/> (last visited Feb. 1, 2011) (providing a calculator to calculate benefits). For example, an active duty servicemember who enters Georgetown's zip code of 20001 and clicks the "estimate benefit" tab will be informed that "Active duty individuals are not subject to in-state maximums. Active duty individuals will receive 100% of tuition and fees certified by the school (excluding any amount paid using tuition assistance)." *Id.*

<sup>60</sup> See *Frequently Asked Questions*, U.S. DEP'T OF VETERANS AFFAIRS, available at [https://www.gibill2.va.gov/cgi-bin/vba.cfg/php/enduser/std\\_alp.php](https://www.gibill2.va.gov/cgi-bin/vba.cfg/php/enduser/std_alp.php) (last visited Feb. 1, 2011) (providing information on how much money students may receive under the Post-9/11 GI Bill and explaining that students receive a housing allowance equal to the housing allowance payable to an E-5 (i.e., sergeant) with dependents, based on the zip code of the school). For example, in 2011, a student attending school in Washington, D.C., in the zip code 20001, would receive a housing allowance of \$1,881 per month. See *Basic Allowance for Housing Query Results for Zip Code 20001*, DEF. TRAVEL MGMT. OFF., <http://www.defensetravel.dod.mil/site/bahCalc.cfm> (last visited Feb. 1, 2011).

## B. State Programs

In addition to these federal programs, servicemembers and veterans can benefit from significant educational opportunities offered by many states. For example, prospective students who want to attend state colleges or universities in New Hampshire may qualify for tuition waivers as a member of the New Hampshire National Guard.<sup>61</sup> Similarly, veterans and their dependents interested in attending schools in Texas, including the University of Texas at Austin, may take advantage of state educational programs, such as the Hazelwood Exemption.<sup>62</sup> The Hazelwood Exemption allows eligible veterans, their children, and their spouses to receive “an exemption from the payment of all tuition, dues, fees, and other required charges.”<sup>63</sup> To find out more about individual eligibility for state tuition assistance, applicants can contact the veterans education office or financial aid office of the school to which they wish to apply. Interested applicants will generally be required to provide documentation, such as a Department of Defense Form 214 (DD Form 214) or an education benefits letter from the Veteran’s Administration, to prove their eligibility.<sup>64</sup>

Although these benefits are tremendous, some states go even further. For example, Georgia’s HOPE Scholarship funds “the full cost of tuition, certain HOPE-approved mandatory fees, and a book allowance of up to \$100 per quarter or \$150 per semester.”<sup>65</sup> An applicant does not even have to be from a military family to apply. To qualify for the HOPE Scholarship, an applicant must be a U.S. citizen and a Georgia resident who graduated from “an Eligible High School with a minimum of a 3.00 cumulative grade

point average on a 4.00 scale.”<sup>66</sup> Significantly, dependent children of active duty servicemembers who are stationed in Georgia qualify as Georgia residents for purposes of HOPE Scholarship eligibility.<sup>67</sup> Meanwhile, applicants with a cumulative grade point average below a 3.0 may qualify for Georgia’s HOPE Grant Program.<sup>68</sup> Similar to Georgia’s HOPE Scholarship, Georgia’s HOPE Grant Program provides for tuition, HOPE Grant-approved fees, and a book allowance.<sup>69</sup> However, while Georgia’s HOPE Scholarship allows for students to attend degree-granting programs at colleges or universities, Georgia’s HOPE Grant Program only allows students to attend technical colleges to earn certificates or diplomas.<sup>70</sup>

## V. Conclusion

Although the high price of tuition may appear to be a significant barrier to attending and completing college, members of military families can easily avoid paying out-of-state tuition and benefit from in-state tuition rates at public institutions of higher education due to federal law. Those who think strategically and plan ahead can request an assignment in their preferred state and can begin working in the state before their family members begin school. In addition, applicants who want to minimize educational costs can take advantage of tuition-free programs provided by the Federal Government and many states. In short, students from military families can attend college without accumulating excessive educational debt, which can be extremely beneficial, especially in an ever-changing economic environment.

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<sup>61</sup> See NEW HAMPSHIRE REV. STAT. § 110-B: 63-c Educational Assistance Authorized (West 2010) (establishing the minimum requirements to take courses tuition-free on a space-available basis, such as being an active member of the New Hampshire national guard, enrolling in a degree-enhancing curriculum, and first utilizing federally funded military tuition assistance programs); see also Educational Resources, N.H. NAT’L GUARD, <https://www.nh.ngb.army.mil/members/education> (last visited Feb. 1, 2011).

<sup>62</sup> See TEX. ED. CODE ANN. § 54.203 (Vernon 2010) (establishing the Hazelwood Legacy Act and the numerous requirements, such as Texas residency, to qualify for the Hazelwood Exemption).

<sup>63</sup> *Exemptions for Texas Veterans*, COLLEGE FOR ALL TEXANS, <http://www.collegeforalltexas.com/index.cfm?ObjectID=6D1D574C-EC9F-C46E-831E6865C9C6F882> (last visited Feb. 1, 2011). In general, to qualify for the Hazelwood Exemption, veterans seeking the exemption must have entered the service in Texas, served at least 181 days of active military duty, and received an honorable discharge. See *id.* Children and spouses of veterans who died as a result of service-related injuries or illness can also qualify for these benefits. See *id.* Veterans can also transfer their benefits to their dependents under certain conditions. See *id.*

<sup>64</sup> *Id.* Applicants can find out more information by visiting the U.S. Department of Veterans Affairs’ website at [www.gibill.va.gov](http://www.gibill.va.gov) or by calling the VA office in Muskogee, Oklahoma, at (888) 442-4551. See *id.*

<sup>65</sup> Ga. Student Fin. Comm’n, HOPE Scholarship Program at Public Institutions: Regulation–100, at 21, available at [http://www.gsfc.org/main/publishing/pdf/2009/hope\\_public\\_regs.pdf](http://www.gsfc.org/main/publishing/pdf/2009/hope_public_regs.pdf) (last visited Feb. 1, 2011).

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<sup>66</sup> See *id.*

<sup>67</sup> *Id.*

<sup>68</sup> See Georgia’s HOPE Grant Program, GACOLLEGE411, available at [http://www.gacollege411.org/Financial\\_Aid\\_Planning/HOPE\\_Program/Gorgia\\_s\\_HOPE\\_Grant\\_Program.aspx](http://www.gacollege411.org/Financial_Aid_Planning/HOPE_Program/Gorgia_s_HOPE_Grant_Program.aspx) (last visited Feb. 1, 2011).

<sup>69</sup> See *id.*

<sup>70</sup> See HOPE, TECH. C. SYS. OF GA., available at <http://www.dtae.org/hope.html> (last visited Feb. 1, 2011). See generally Ga. Student Fin. Comm’n, HOPE Grant Program: Regulations–300, [http://www.gsfc.org/main/publishing/pdf/2009/hope\\_grant\\_regs.pdf](http://www.gsfc.org/main/publishing/pdf/2009/hope_grant_regs.pdf) (last visited Feb. 1, 2011) (providing detailed information about the HOPE Grant Program).