The Enlisted Association
Of the National Guard
Of the United States

Statement for the Record

United States House
Committee on Veterans' Affairs
Subcommittee on Economic Opportunity

On

“Protecting Benefits for All Servicemembers”

October 23, 2019

The Enlisted Association of the National Guard of the United States

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The Enlisted Association of the National Guard of the United States (EANGUS) was created in 1970 by a group of senior Non-Commissioned Officers. It was formally organized and incorporated in 1972 in Jackson, Mississippi, with the goal of increasing the voice of Enlisted persons in the National Guard on Capitol Hill for Enlisted National Guard issues. Beginning with twenty-three states, EANGUS now represents all 54 states and territories, with a constituency base of over 414,000, hundreds of thousands of family members, as well as thousands of retired members.

Headquartered and with offices in Washington, D.C., EANGUS is a long-time member of The Military Coalition (TMC) and is actively engaged with the Guard/Reserve Committee, the Health Care Committee, and the Veterans Committee. EANGUS often partners with other National Guard related associations such as the National Guard Association of the United States (NGAUS), the Adjutants General Association of the United States (AGAUS) and the Reserve Officers Association (ROA) to pursue common legislative goals and outcomes.

EANGUS is a non-profit organization that is dedicated to promoting the status, welfare and professionalism of Enlisted members of the National Guard by supporting legislation that create adequate staffing, pay, benefits, entitlements, equipment and installations for the National Guard.

The legislative goals of EANGUS are published annually. The goals and objectives are established through the resolution process, with resolutions passed by association delegates at the annual conference. From these resolutions come the issues that EANGUS will pursue in Congress, the Department of Defense, and in the Department of Veterans Affairs.

President - Command Sergeant Major (Ret) Karen Craig
Executive Director - Sergeant Major (Ret) Frank Yoakum
Legislative Director – Daniel Elkins

Legislative Director Mr. Daniel Elkins

Daniel Elkins is the Legislative Director for the Enlisted Association of the National Guard (EANGUS) and the Veterans Education Project. Mr. Elkins is also a Green Beret currently serving in the Army National Guard. Mr. Elkins has over fifteen years of experience advocating for Veterans.

Working on behalf of Veterans, Mr. Elkins engages Congress, the White House, and key stakeholders daily. He is a regular member of the Veterans Roundtable Policy board at the Veterans Administration.

Mr. Elkins' primary duties at EANGUS include directing Congressional outreach, engaging in policy reform, ensuring the protection of military benefits, and leading nationwide grassroots advocacy for Veterans. Before working for EANGUS, Mr. Elkins was the Congressional Liaison and Legislative Associate for the Veterans of Foreign Wars of the United States (VFW). At the VFW, Mr. Elkins' portfolio included legislative issues and Economic Opportunity with a focus on accessibility of benefits for Servicemembers, the Post-9/11 G.I. Bill, the National Guard, and Military Engagements.

Mr. Elkins' close ties with Congress, the Departments of Defense, Education, Labor, Consumer Financial Protection Bureau, and Veterans Affairs often place him at the forefront of policy decisions that affect National Guard Servicemembers and Veterans.

Mr. Elkins is a proud combat Veteran, still serving in 19th Special Forces Group Army National Guard. Before working as an advocate for Veterans and serving in the military, Mr. Elkins spent five years working overseas to solve complex issues related to human trafficking. During his time abroad, he worked across multilingual and cultural barriers with local and national governments in South America, sub-Saharan Africa, Europe, and the Middle East.

Mr. Elkins is originally from Western Maryland and currently resides in Washington, D.C. with his wife, Lauren.

Every Day in Uniform Counts

Guard 4.0: Title 32 Reform

The 2005 National Defense Authorization Act (Public Law 108-375) added Chapter 9 to Title 32 for Homeland Defense activities. Since then, however, Congress has failed to recognize the operational nature of the National Guard in Title 32.

Section 904 of Title 32 authorizes active service of National Guard members for homeland defense but specifies that authority as section 502(f), which is a training status and not an operational status. Currently, there are over 2,400 National Guard Servicemembers operating under a 502(f) training status for months at a time in response to the national emergency on the Southern border. Operational missions are not training—they are the application and testing of that training—out of the classroom and onto the field of execution. National Guard personnel performing homeland defense duties on the border deserve the same benefits for their sacrifice and service as Active Duty.

As the National Guard moves into Guard 4.0, transitioning from an operational reserve into a ready reserve force, members of the National Guard will see significant increase in training and operational tempo. It is imperative, then, that members of the National Guard are adequately accounted and compensated for their Service. EANGUS urges the Committee to amend section 904 to remove all references to section 502(f) and institute a new authority for active service for the purposes of homeland defense, an operational mission status. In addition to proper accounting and benefits early stated, it will allow for accurate budgeting, manning, and tracking operational service. The revised authority fits well with the proposed duty status reform efforts of the Department of Defense and the increased utilization of the National Guard under Guard 4.0.

In addition, EANGUS urges the Committee to develop a triggering mechanism for using Title 32 in the event of natural disasters. We suggest that once the Presidential declaration of a disaster occurs, or possibly seven days after said declaration, Title 32 section 904 would automatically trigger into authority (much the same as 10 USC 12310 does for WMD-CST and Air Sovereignty missions), changing the duty status of responding National Guard members from State Active Duty to 32 USC 904.

Post 9/11 GI Bill Parity for Education Benefits

The National Guard deserves Post 9/11 GI Bill (PGIB) eligibility parity with Active Duty Servicemembers. Before October 1, 2016, the U.S. Army Human Resources Command interpreted Title 38 U.S.C. § 3301(1)(B) to include only mobilization, contingency, Active Duty Operation Support for Active Component, and Contingency Operations for Active Duty Operation Support for Active Component as qualifying service for their Post-9/11 GI Bill Benefits.

That interpretation resulted in the Army Human Resources Command not reporting qualifying service to the Department of Veterans Affairs through the Veteran Information System, erroneously disapproving National Guard and Reserve Component members' participation in Transfer of Education Benefits (TEB), and not recording orders eligible for their Post-9/11 GI Bill benefits. Beginning October 1, 2016, the Army Human Resources Command expanded their interpretation of title 10 USC §12301(d) to include Reservists who conduct Active Duty for Training (ADT), Active Duty Special Work (ADSW), and Active Duty Operational Support-Reserve Component (ADOS-RC) performed after September 10, 2001 as qualifying service for the PGIB and TEB eligibility.

However, Army Human Resources Command did not include members of the National Guard who conduct other forms of active service within the scope of their interpretation. This leaves members of National Guard disadvantaged and overlooked in the accumulation of their Post-9/11 GI Bill benefits and their Transfer of Education Benefits while performing the same service and following the same orders as their peers. For example, a member of the National Guard will be on orders to attend Active Duty for Training to receive their hazmat certification, or to attend sniper school. Also present could be a Reserve Component member and an Active Duty Servicemember. All are in uniform attending the same classes and serving the same period of time. The National Guard Servicemember will not accrue any eligibility for Post-9/11 GI Bill benefits while performing active service, but the Reservist and Active Duty Servicemember will.

The Enlisted Association of the National Guard believes that Every Day in Uniform Counts, and that members of the National Guard should be at parity with their counterparts in Active Duty to be eligible to earn and accrue benefits from their service. Therefore, EANGUS recommends the 116th Congress to:

- Amend section 3311(b) of Title 38, United States Code, to allow for additional duty statuses to qualify for the Post-9/11 GI Bill;
- Amend section 3301 of Title 38, United States Code, to include duty under section 502 of Title 32, and for which a member is eligible to receive pay under sections 204, 206, or 372 of Title 37; and,
- Amend section 3301 of Title 38, United States Code, to include Active Duty for Training, Active Duty as defined in 101(12) of Title 32, and Full-time National Guard Duty as defined in section 101(19) of Title 32.

Proving Eligibility and the DD Form 214

There is no capstone document that summarizes both Reserve Component (RC) and Active Component (AC) service. The current process disregards transitions across the continuum of service between AC and RC through a Servicemember's career. The lack of a DD Form 214 inhibits RC Servicemembers from claiming earned benefits and proving the full scope of their military service. Additionally, when a RC member does receive a DD Form 214 upon completion of active service, it often does not include cumulative service. This makes it difficult for RC members to maximize their earned benefits.

RC Servicemembers do not receive a DD Form 214 unless they are on active duty orders for more than 90 consecutive days.[1] In addition to having a period of active service without official documentation, without a DD Form 214 being provided when an RC member serves less than 90 days they cannot prove eligibility for federal Veteran benefits such as the G.I Bill, Veteran's preference for federal employment, and military funeral benefits. According to DODI 1336.01, Reserve Component Servicemembers only receive a DD Form 214 when:

- Separated from a period of active duty for training, full-time training duty, or active duty for special work when they have served 90 days or more.
- When required by the Secretary of the Military Department concerned for shorter periods.
- Upon separation for cause or for physical disability regardless of the length of time served on active duty.
- When ordered to active duty for a contingency operation regardless of the number of days served on active duty.

The VA website[2] instructs servicemembers that the DD Form 214 or "any other documents you think are necessary" must be presented to prove eligibility for various benefits. For example, Post-9/11 G.I. Bill benefits in Title 38 requires 30 days of active duty service to qualify for this benefit. However, RC Servicemembers do not receive a DD Form 214 unless they are on active duty orders for more than 90 consecutive days or for a contingency operation. RC Servicemembers are often placed on assignments lasting less than 90 consecutive days. Complicating the process further, members of the National Guard can transfer states, known as Interstate Transfer (IST), over the course of their career, but the records don't always follow. Critical service-related documentation often remains in the issuing state. Human error and a convoluted personnel system can cause orders to be incorrectly documented or not documented at all. Making matters worse, Servicemembers are often unaware that the onus is on them to maintain personal records of all orders. The result of the current, disaggregated personnel system results in many Servicemembers receiving only a portion of their earned benefits.

As we work with Committees on Armed Services to ensure members of the National Guard consistently receive an updated DD Form 214, the Enlisted Association of the National Guard recommends the House and Senate Committees on Veterans Affairs to:

- Direct the Department of Veterans Affairs to explicitly and publicly list all qualifying documents to prove service, including the NGB Form 22; and,
- Direct the VA to conduct an education campaign at all regional offices to inform employees of all qualifying documents that prove service, including the NGB Form 22.
- Direct the DoD to provide a DD Form 214 for all periods of active service, not just those periods of consecutive 90 days.

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[1] DoDI 1336.01, Enclosure 3, Paragraph 2(d)

[2] https://www.gibill.va.gov/apply-for-benefits/road-map/2-collect-your-information.html

Medical Discharge Parity

Members of the National Guard that are medically discharged documented by NGB Form 22 are not eligible for Post-9/11 GI Bill education benefits; this is a stark contrast to Active Duty Servicemembers who are eligible to receive full Post-9/11 GI Bill education benefits when medically discharged and documented by DD Form 214.

The medical discharge provision in 38 USC 3311(b)(2) only applies to individuals discharged or released from Active Duty for a service-connected disability. It does not cover individuals released from the National Guard or Reserve Components. Consequently, an Active Duty Servicemember who receives a medical discharge noted on a DD Form 214 may have eligibility for full Post-9/11 GI Bill benefits without having served 36 months Active Duty. A Servicemember in the National Guard, however, who receives a medical discharge noted on the NGB Form 22 is not eligible to qualify for any Post-9/11 GI Bill benefits.

Additionally, Legislative Liaisons from the National Guard Bureau and VA have stated that there is an appeals process in VA using the Department of Defense's Identity Repository Veterans Information Solution (VIS). For those who believe they ought to qualify for full Post-9/11 GI Bill benefits, the Department of Veterans Affairs will review the unique nature of the appealing Servicemember's medical discharge. However, VA is very firm that eligibility must be noted on the DD Form 214, disqualifying members of the National Guard from this appeals process.

Members of the National Guard who are medically discharged due to service must have the same opportunity for benefits as Active Duty Servicemembers. The Enlisted Association of the National Guard believes this inequity reinforces the need for a DD Form 214 for all members of the National Guard, and we recommend the Committee direct DoD to provide a DD Form 214 for all periods of active service to members of the National Guard.

Fighting Against Suicide in the National Guard

On average, 20 Veterans commit suicide every day. Members of the National Guard and the Reserve components make up roughly 25 percent of these suicides, and more than half of these victims within the National Guard and Reserve components could not access mental health care (about three in every five). This means that over half of the suicides among Reserve component members might have been prevented, but these men and women are ineligible to gain access to mental health care through the Department of Veterans Affairs because they have never been activated on federal orders.

Current data available through VA[3] indicates that Veterans are most at-risk within the first three years of separation, with the risk factor rising steadily during the first year. Additionally, this risk factor is higher among non-deployed Veterans. On the other hand, if more Reserve Component members are able to access VA mental health care within the critical time-window of the first year of separation, rates of suicide might fall dramatically.

The Enlisted Association of the National Guard believes that every day in uniform counts, and Servicemembers who do not deploy still feel the burden of service of their peers. To maintain the overall lethality of the Reserve components, all members of the National Guard and Reserves need access to mental health care.

The Enlisted Association of the National Guard of the United States recommends that preventative mental health care be extended to never federally activated Reserve component members such that:

- One year of mental health care through VA be available to Reserve component members upon Expiration Term of Service (ETS); and
- An additional year of coverage be allotted if and when a never federally activated Reserve component member contacts VA for mental health care.

[3] https://www.publichealth.va.gov/epidemiology/studies/suicide-risk-death-risk-recent-veterans.asp

Calculating the Return on Investment of the Post 9/11 GI Bill By Creating a GI Bill Calculator

The Enlisted Association of the National Guard believes calculating the Return on Investment (ROI) of the Post 9/11 GI Bill will provide greater oversight of GI Bill eligible institutions, while providing transparency to Veterans deciding where to invest their GI Bill education benefits. We recommend that the Committee direct the Department of Veterans Affairs to form a partnership with the Department of Education in order to share its data with the Institute of Education Sciences (IES). We suggest the VA share the following data sets:

1. The name of the institution receiving benefits
2. The program attended
3. How much benefit used
4. Age and rank, if a Veteran
5. Whether it is a Veteran or their family using Post-9/11 GI Bill Dollars

Individual student-level data systems exist in many federal agencies, but federal data remains siloed, inhibiting the study of student outcomes. Even when agencies recognize the value of linking their data, there is no current infrastructure to facilitate such data sharing. This problem manifests itself in the inability of the VA to accurately report basic outcomes and return on investment of the billions of dollars spent on the Post-9/11 GI Bill.

While VA has made significant progress in the administration and oversight of Veteran education benefits, as the Department of Education moves towards programmatic level data, updating the GI Bill Comparison Tool is essential to ensure that Veteran students are given Veteran-specific outcomes to be at parity with the information given to nonveteran students. Without this necessary improvement to create a GI Bill Calculator, Veterans and their family members who take advantage of GI Bill benefits might enroll in programs that have low Veteran student success rates and low ROI for a specific degree pathway, despite having high institutional outcomes in general. In turn, many Veterans will continue to invest precious time and scarce taxpayer dollars on pursuing a degree or credential that will not produce desired results.

Better data could be used immediately to improve the GI Bill Comparison Tool and calculate the ROI of the Post-9/11 GI Bill, without VA having to obtain all the necessary data-sharing agreements themselves.[4] At present, the Department of Education's College Scorecard displays a range of student outcomes, like the average salary of an institution's graduates, since it is linked with IRS data, or debt data derived from the office of Federal Student Aid. The Scorecard will soon be presenting student outcome data at the even more meaningful programmatic level. If the Department of Veterans Affairs agrees to share its data with The Department of Education, all necessary data will be linked in order to disaggregate Veteran students down to the programmatic level, calculate the ROI of the Post-9/11 GI Bill, and create an improved GI Bill Calculator for all Veteran students. This will provide the transparency Students Veterans deserve when deciding where and how to invest their GI Bill benefits, further enhancing the ROI of the Post-9/11 GI Bill, and provide additional oversight over GI Bill eligible institutions of higher education.

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[4] This data sharing is already established in 20 U.S. Code § 1015, which directs the Commissioner of Education Statistics to: develop a uniform methodology of reporting postsecondary spending, design systems capable of receiving and analyzing data from other federal agencies, disseminate data to stakeholders, and work with the Secretary of the Department of Veterans Affairs to collect, study, and disseminate information on financial aid and education benefits.

Holistic Military Assessments for Postsecondary Credit
Analysis of Programs of Instruction

Currently the American Council on Education (ACE) holds the DoD contract to recommend to institutions of higher education the credit equivalencies of DoD training for postsecondary degree and credentialing programs. However, ACE does not fully evaluate all military training curriculums; ACE only evaluates Basic Training and some Military Occupational Skill schools with few exceptions–ignoring Servicemembers' duties, additional training, assignments and responsibilities, yearly performance reviews, and deployment time.

Furthermore, ACE's recommendations fall short of what Servicemembers deserve because they do not fully capture competencies, as ACE does not fully review Programs of Instruction (POI), or cross-reference these POI's to college syllabi in order to recommend academic credits. The lack of an accepted peer reviewed evaluation of military POIs often places institutions of higher education in a difficult position, since, without an accepted standard of evaluation, institutions that are willing to innovate to award more college credit to Servicemembers and Veterans must invest substantial resources to attempt their own evaluations of POIs, while potentially jeopardizing their accreditation.

Consequently, Servicemembers and Veterans are denied postsecondary credit they deserve for their military training and experience. This forces Servicemembers and Veterans to take redundant courses in order to earn a degree and enter the workforce. These additional barriers are redundant expenditures of taxpayer dollars in the form of military training, Post-9/11 GI Bill benefits, and even Title IV loans. Institutions are often unaware of how to successfully evaluate prior military training for credit without being able to review training curriculum (POIs).

The Enlisted Association of the National Guard recommends that:

- The Department of Veterans Affairs require institutions to develop official policy on the analysis of available Programs of Instruction; and,
- To develop policy that aims to award the maximum amount of postsecondary credit to Servicemembers and Veterans for their military training; and,
- Whenever possible, that these awarded credits be directly applicable to a Servicemember's or Veteran's degree pathway.

Uniformed Services Employment and Reemployment Rights Act

The Uniformed Services Employment and Reemployment Rights Act (USERRA) was enacted to eliminate or minimize disadvantages created by military duty to civilian careers. Its intention is to minimize the disruption to the lives of persons performing military service, their employers, their fellow employees, and their communities, by providing for the prompt reemployment of Servicemembers upon completion of duty, and to prohibit discrimination against persons because of their service in the uniformed services.

However, under the Guard 4.0 initiative, members of the National Guard are being called upon more frequently than ever before to conduct more Active Duty for Training, longer and more frequent drill periods, and must reach readiness for combat deployment every three years, resulting in many more Servicemembers in the National Guard deploying for combat rotation. Due to these more frequent training rotations, employers of members of the National Guard are becoming increasingly disincentivized to hire these Servicemembers, and members of the National Guard are exhausting their five-year time cap of USERRA protections faster than anticipated. Ultimately, without further protections, enlistment and retention in the National Guard will decrease, and employers will begin to discriminate against members of the National Guard and Reserve components.

The Enlisted Association of the National Guard (EANGUS) recommends amending 38 U.S. Code to:

- Extend the five-years of employment and reemployment protections in § 4312; and,
- Extend the five years of pension benefit protections in § 4318(b)(2); and,
- Grant employers increased tax credits for hiring National Guard Servicemembers.

Student Loan Forbearance

Members in Active Duty are eligible for student loan forbearance while on Active Duty orders, but members of the National Guard are not eligible for student loan forbearance while on State Active Duty or when activated on federal orders for national emergency for less than 30 days.
Unfortunately, as with Servicemembers Civil Relief Act (SCRA) protections, members of the National Guard are sometimes placed on multiple 30-day orders consecutively, effectively denying Servicemembers in the National Guard protections and benefits because these orders are not viewed consecutively. While consecutive short deployments are not uncommon, each deployment has its own set of orders that are viewed as discreet times of service. When these consecutive orders happen repeatedly, however, such as when National Guard Servicemembers have been deployed for six months, and each month had its own set of 30-day orders, it is clear that National Guard Servicemembers are being intentionally denied benefits due to a loophole in U.S. Code. This must be stopped. The Enlisted Association of the National Guard urges the Committee to address this abuse and ensure that member of the National Guard receive the protections and benefits they deserve by closing the 30-day loophole, and counting back-to-back sets of orders as continuous.

Servicemember Civil Relief Act

The Servicemember Civil Relief Act (SCRA) was enacted in order to provide for, strengthen, and expedite the defense of the nation. SCRA enables Servicemembers to devote their entire energy into the defense needs of the nation by protecting Servicemembers during active duty service–granting them temporary suspension of judicial and administrative proceedings, capping accruing interest rates, and pausing transactions that may adversely affect the civil rights of Servicemembers during their military service.
However, when the first iteration of SCRA, 50 U.S.C. §§ 501- 579, was amended, it excluded Reserve Component and National Guard Servicemembers. In place of federal protections, the onus was put on individual States to pass SCRA protections for their members of the National Guard and Reserve Components. During this process, SCRA protections were annulled for members of the National Guard while on Title 32 orders for less than 30 consecutive days.

Unfortunately, this has made members of the National Guard vulnerable to civil actions during periods of unavailability due to military obligation. The amendment to this act has allowed civil attorneys to exploit National Guard personnel; with civil attorneys being trained to bring emergency motions and schedule appearances during times of unavailability, rendering a default judgment against Servicemembers on Title 32 orders, which they have very little, if any, ability to reconcile.

The Enlisted Association of the National Guard (EANGUS) recommends amending 50 U.S. Code §§ 3901–4043 to include:

- National Guard personnel performing Inactive Duty for Training;
- National Guard personnel performing Annual Training;
- National Guard personnel attending training; and,
- National Guard personnel performing service due to an emergency not ordered by the President.

85/15 Reform

Members of the National Guard have faced undue difficulty persisting in postsecondary education due to diverse interpretations of the 85/15 Rule. 38 CFR § 21.4201 and 38 USC § 3680A state that Department of Veterans Affairs (VA) shall not approve the use of education benefits in any course for an eligible Veteran if the percent of Veterans using education benefits in that course exceeds 85 percent. While these Veterans may still enroll, the 85/15 Rule prohibits paying VA education benefits to students enrolling in a program when more than 85 percent of the students enrolled in that program are having any portion of their tuition, fees, or other charges paid for them by the school or VA. This means that VA cannot give eligible Veterans their benefits to attend a program or curriculum with a high 85-15 student ratio.

While this accountability metric has been helpful in overseeing the use and abuse of VA education benefits, it has had an unforeseen adverse effect on members of the National Guard, who often must disenroll from their current postsecondary programs for military service. While deployed, members of the National Guard are often notified they will be unable to reenroll in their postsecondary programs due to changes in their program's 85/15 ratio.

Believing this to be an incorrect application of this oversight metric, EANGUS appealed to the Secretary of the Department of Veterans Affairs for an official statement regarding the application of the 85/15 Rule. The Secretary's response has changed policy governing 85/15 application in order to secure VA education benefits for disenrolled Veteran Students if they wish to reenroll, but does not specify the conditions of disenrollment to military service.[5]

The Enlisted Association of the National Guard believes this interpretation of policy is too wide in scope, and weakens the oversight provided by the 85/15 Rule. Therefore, EANGUS recommends the 116th Congress to amend 38 USC § 3680A to limit the scope of reenrolling Veteran students eligible for VA benefits, regardless of the current 85/15 ratio of their program, only to Veteran students that had to disenroll due to military service.

[5] Official Letter from Secretary Wilkie of the Department of Veterans Affairs included in Appendix

GI Bill Transferability

Beginning January 2020, new policy will go into effect that restricts eligibility for Transfer of Education Benefits (TEB) only to Servicemembers with "at least six years, but not more than 16 years, of total creditable service…Eligibility does not guarantee approval.[6]" This policy change would require Servicemembers to commit to an additional four years of service at the time of their application for TEB, rather than after six years of service, canceling previous exceptions. Additionally, this revised policy precludes Servicemembers with more than 16 years of services from transferring their earned education benefits to their families.

The Department of Defense states that the purpose of these policy changes is to improve retention in the uniformed services, based on the "authority to transfer unused education benefits to family members" stipulated in Title 38 U.S.C. Section 3319(a)(2): "The purpose of this authority…is to promote recruitment and retention in the uniformed services." However, this policy change effectively breaks our promise to military families: it moves the goalpost for eligibility, sows confusion among Servicemembers, exacerbates current inequities for eligibility, and most importantly it penalizes the men and women who have served in uniform the longest.

The Enlisted Association of the National Guard of the United States respectfully urges Congress to make the Post-9/11 GI Bill truly an earned benefit, ensuring that all Servicemembers who have completed 10 years of service in the uniformed services are eligible to transfer their benefits to their families at any time–both while serving on Active Duty and as a Veteran.

Air National Guard Tuition Assistance Parity

The U.S. Air Force (USAF) does not allocate funds for members of the Air National Guard (ANG) to receive Federal Tuition Assistance (TA). Historically, Title 32 Airmen could access the TA funds when they were deployed in a Title 10 status, or on Active Guard and Reserve Title 32 status. In October 2015, an Associate's degree became a mandatory prerequisite for promotion to the ranks of E-8 (Senior Master Sergeant) and E-9 (Chief Master Sergeant) in the Air National Guard. A recent USAF policy change, impacting Airmen's need to receive higher education, created a scenario where EANGUS members believe the Air Force should consider changing its policy to allow members to receive TA. Specifically, this policy change mandates that in order to achieve senior enlisted ranks, ANG members must possess a degree.

State Tuition Assistance programs substitute a force-wide funding for the Air National Guard. Unfortunately, State programs are disparate and disadvantage Airmen in States where resources are marginal or nonexistent. Federal TA provides a common foundation of funding to achieve policy requirements.

The Enlisted Association of the National Guard of the United States urges the Air National Guard to fund Federal Tuition Assistance for all ANG members.

[6] DODI 1341.13, Page 9

Montgomery Selected Reserve and Federal Tuition Assistance Parity

On March 15, 2011, Department of Defense Instruction (DODI) 1322.25 changed existing policy governing the Montgomery GI Selected Reserve (MGIB-SR). Previously, Reserve component Servicemembers eligible for MGIB-SR could use federal Tuition Assistance (TA) concurrently with their GI Bill benefit. This policy was at parity with Active Duty benefits, i.e. the Montgomery GI Bill-Active Duty (MGIB-AD) and the Post-9/11 GI Bill (PGIB), which are both able to be used concurrently with federal tuition assistance. However, Department of Defense Instruction 1322.25 changed this policy, barring Servicemembers of the Selected Reserve from being able to use TA concurrently with their education benefit.

The Department of Defense states a reversal of this DODI will not bring parity to the Selected Reserve but must require a legislative solution. For, Servicemembers eligible for MGIB-AD and PGIB are, by statute, able to concurrently use TA with their education benefit. 38 U.S.C. § 3014(b) governs MGIB-AD, and states that Servicemembers may use MGIB-AD funds to supplement tuition, fees and expenses directly attributable to the school that are not covered by TA; housing, transportation, and subsistence expenses cannot be paid by MGIB-AD while in concurrent receipt of TA.

The Post-9/11 GI Bill is more generous and flexible in concurrent use with TA. While 33 U.S.C. § 3313(e)(f) restricts PGIB funds to tuition and fees of an educational institution not covered by TA or other assistance, it also provides a lump sum for "books, supplies, equipment, and other educational costs."

Presently, no similar statutory provision exists in law governing the MGIB-SR program.

The Enlisted Association of the National Guard of the U.S. recommends amending 10 U.S.C. § 16131 to provide a program authorizing the concurrent use of TA benefits and MGIB-SR benefits to the same extent that such benefits may be used under the Post-9/11 GI Bill (33 U.S.C § 3313(e)(f)).

Amending DODI 1322.25 and 32 CFR §68 to reflect changes in statute will also be required.

Appendix A

Department of Veterans Affairs Letters on the 85/15 Rule