

November 9, 2021

GI Bill Amendments Enacted in the 116th Congress: Non-COVID-19-Related

The U.S. Department of Veterans Affairs (VA) administers several GI Bills that provide grant aid to eligible veterans and servicemembers and their dependents who are enrolled in approved educational and training programs. The Post-9/11 GI Bill, originally enacted by the Post-9/11 Veterans' Educational Assistance Act of 2008 (Title V of the Supplemental Appropriations Act, 2008 [P.L. 110-252]), is the most heavily used program. It provided an estimated \$10 billion to over 600,000 participants in FY2021. Approximately 240,000 participants are estimated to receive \$1.6 billion in benefits under four other GI Bills, which include the Montgomery GI Bill-Active Duty (MGIB-AD). Prior to passage of the Post-9/11 GI Bill, the most heavily used GI Bill was the MGIB-AD, enacted as Title VII of the Department of Defense Authorization Act, 1985 (P.L. 98-525). For more information on veterans educational assistance programs, see CRS Report R42785, *Veterans' Educational Assistance Programs and Benefits: A Primer*.

Several laws enacted in the 116th Congress amended the GI Bills. Some provided temporary special authorities to address the COVID-19 emergency. (For a brief summary of these special authorities, see CRS In Focus IF11685, *Special Authorities for Veterans' Educational Assistance Programs During the COVID-19 Emergency*). Others established permanent authorities.

This In Focus summarizes key permanent authorities that made consequential modifications to the benefits and administration of the GI Bills. Most of the amendments discussed herein were enacted by the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116-315). A key policy goal was also achieved by an amendment enacted in the National Defense Authorization Act for Fiscal Year 2020 (P.L. 116-92). Other amendments enacted in the 116th Congress providing incremental GI Bill modifications are outside the scope of this report. This In Focus begins with a summary of significant amendments to the Post-9/11 GI Bill, followed by a summary of one amendment to the MGIB-AD. It concludes with a summary of key amendments affecting the administration of all of the GI Bills.

Amendments to the Post-9/11 GI Bill

Marine Gunnery Sergeant John David Fry Scholarship Program

Prior to P.L. 116-315, the Fry Scholarship provided Post-9/11 GI Bill entitlement to the dependents of servicemembers who, on or after September 11, 2001, die in the line of duty while serving on active duty as a member

of the Armed Forces. Effective for academic terms beginning on or after August 1, 2021, P.L. 116-315 expands eligibility to the dependents of servicemembers who, on or after September 11, 2001, die

- in the line of duty while serving on duty other than active duty as a member of the Armed Forces, or
- from a service-connected disability while a member of the Selected Reserve.

Transferability

Post-9/11 GI Bill-eligible servicemembers with at least six years of service and an agreement to serve four additional years may designate one or more dependents to receive all or a portion of their Post-9/11 GI Bill entitlement. The U.S. Department of Defense (DOD) issued a policy limiting transferability to eligible servicemembers with at least 6 but no more than 16 years of service, and an agreement to serve 4 additional years. Section 578 of P.L. 116-92 prevented DOD from implementing the policy and prevented DOD from limiting eligibility to transfer benefits based on a maximum number of years of service in the Armed Forces.

Overpayments

Prior to P.L. 116-315, Post-9/11 GI Bill participants were responsible for most overpayments of tuition and fees and of Yellow Ribbon overpayments that resulted from changing their rate of pursuit. Under P.L. 116-315, and effective January 5, 2021, such overpayments are the responsibility of the educational institution. The educational institution may seek repayment from the participant.

Amendment to the MGIB-AD: Reduction in Eligibility

During the first 12 months of active military service and unless servicemembers opt out, DOD generally deducts \$1,200 from servicemembers' pay to secure their MGIB-AD eligibility. MGIB-AD is currently used by few individuals and rarely provides a higher level of benefits than the Post-9/11 GI Bill. The VA requires some applicants who are eligible for both the Post-9/11 GI Bill and MGIB-AD to irrevocably relinquish eligibility for the MGIB-AD in order to receive Post-9/11 GI Bill benefits.

Under P.L. 116-315, beginning in 2023 members of the active component will have additional time to opt out of the MGIB-AD before DOD deducts their pay. Members of the active component who first enter active duty after September 30, 2030, will not qualify for MGIB-AD eligibility. P.L. 116-315 does not affect MGIB-AD eligibility for members of the Selected Reserve.

A 2021 court decision (*Rudisill v. McDonough*, 4 F.4th 1297, 1304-05 (Fed. Cir. 2021)) allows individuals with more than one period of separately qualifying service to receive up to 48 months of entitlement under more than one GI Bill. Implementation of the decision might increase MGIB-AD utilization in the future.

Amendments Affecting All of the GI Bills

Additional Relief for Closed Schools

Generally, GI Bill recipients are entitled to benefits equal to a specified number of months of full-time enrollment. Prior to P.L. 116-315, those individuals who did not receive credit or lost training time as a result of an educational institution closing had their entitlement restored. For closures occurring after September 29, 2017, the amount restored was commensurate with the portion of the period of enrollment not completed due to closure. Under P.L. 116-315, the amount of entitlement restored for closures occurring after July 31, 2021, and before September 30, 2023, is based on the entire period of the individual's enrollment in the closed school if the individual transferred fewer than 12 credits and if the individual was so enrolled within 120 days of the closure.

Requirements of Approved Programs of Education

GI Bill benefits are only paid to individuals pursuing programs of education approved for GI Bill purposes. Programs of education meeting statutory and regulatory requirements are approved by a state approving agency (SAA) and/or the VA. The SAA or VA may suspend or disapprove a program of education as a result of a survey or other information.

Misleading Advertising and Enrollment Practices

Prior to P.L. 116-315, programs of education offered by an institution that utilized advertising, sales, or enrollment practices of any type that were erroneous, deceptive, or misleading were disapproved for GI Bill purposes based on the findings and results of a Federal Trade Commission (FTC) investigation. As of August 1, 2021, P.L. 116-315 requires the Under Secretary of the VA to develop a process for investigating and taking action on an institution based on evidence of substantial misrepresentation, including but not limited to an FTC investigation or SAA survey. If substantial misrepresentation is determined, the Under Secretary of the VA must take action, ranging from notifying current enrollees to disapproving programs of education. Also under P.L. 116-315, an SAA must conduct a risk-based survey of an educational institution if punitive action is taken by the U.S. Attorney General, the FTC, or any other federal agency for misconduct or misleading marketing practices that would violate GI Bill standards.

Principles of Excellence

Executive Order 13607 encouraged educational institutions to provide meaningful information to servicemembers and veterans and their families about the institutions' financial cost and quality to assist such individuals in making choices

about their federal educational benefits, with the intention of preventing aggressive or deceptive recruiting practices and providing such individuals high-quality academic and student support services. For example, institutions were encouraged to voluntarily designate a point of contact for academic and financial advising to assist such individuals with the successful completion of their studies. P.L. 116-315 requires that educational institutions meet most of the previously voluntary standards and additional disclosure standards or risk disapproval for GI Bill purposes as of August 1, 2021. P.L. 116-315 additionally provides the VA authority to waive these requirements for an educational institution for a limited period.

U.S. Department of Education (ED) Oversight Activities

ED evaluates some institutions of higher education to certify their eligibility to participate in and administer student aid programs authorized under Title IV of the Higher Education Act (HEA). If ED has concerns about an institution's financial responsibility or administrative capability, ED may impose a variety of sanctions and corrective actions, including but not limited to placing it on an HEA Title IV funds payment method known as Heightened Cash Monitoring 2 (HCM2) or giving it provisional certification to participate in the Title IV aid programs. Under P.L. 116-315, an SAA must conduct a risk-based survey of an educational institution if ED places it on HCM2 or gives it provisional certification. This does not apply to programs of education offered by institutions that do not participate in the Title IV aid programs.

Accreditation

Programs of education, and their educational institutions, are not required to be accredited for GI Bill approval. However, accreditation reduces the initial approval criteria they must meet. Effective August 1, 2021, P.L. 116-315 establishes the following requirements for accredited educational institutions:

- Accredited educational institutions must participate in a Title IV aid program for their programs of education to be approvable for GI Bill purposes, unless the VA waives this requirement.
- Although standard college degree programs offered by accredited public or private nonprofit educational institutions are provided *deemed approved* status, those at risk of losing accreditation (e.g., through a notice of probation) lose their *deemed approved* status. Deemed approved programs must meet the least initial approval criteria for GI Bill purposes.
- An SAA must conduct a risk-based survey if an educational institution is at risk of losing accreditation.

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