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Intent: Determining Eligibility for the ND Dependent Tuition Waiver Program

Purpose: This document is being created to establish guidance for schools that administer eligibility for the ND Dependents Tuition Waiver Program as outlined in NDCC 15-10-18.2 and NDCC 15-10.18.3 respectively.

Disclaimer: This document is not official legal interpretation of North Dakota Century Code, and all official interpretation of state law is the purview of your agency's general council.

ND Century Code Reference: [NDCC 15-10-18.2](#), [NDCC 15-10-18.3](#), [NDCC 37-01-40](#)

Determination of veteran's status and Character of Discharge:

The ND Dependent Tuition Waiver Program is designed to be a benefit for dependents of service members that meet a particular criterion established in Century Code. When determining eligibility, the first thing the school needs to establish is does the veteran meet the definition of a "veteran" under NDCC 37-01-40 section 1.

- A "veteran" is an individual who has served on continuous federalized active military duty for one hundred eighty days or the full period for which the individual was called or ordered to active military duty for reasons other than training, and who was discharged or released under other than dishonorable conditions. A discharge reflecting "expiration of term of service" or "completion of required service" or words to that effect qualifies the shorter term of service as making the individual a veteran.

When a school is determining whether the veteran meets this definition, the school representative should collect the veteran's DD214. If the veteran has multiple periods of service may collect all DD214s but this is not required.

The Department of Defense (DOD) is responsible for determining a veteran's character of service. The DD214 is the primary document that shows a veteran's "Character of Service". The US Department of Veterans Affairs (VA) does not make this determination and any correspondence from the VA should not be the primary source material used when determining a veteran's character of service.

A veteran's dependents may qualify for this benefit with any character of discharge other than "Dishonorable". Other characters of discharge where a veteran's dependents would still be eligible include:

- Honorable
- General
- Under Honorable Conditions
- Under Other than Honorable conditions
- Bad Conduct

A veteran may have multiple periods of service and different character of discharge determinations between service periods. If a school observes that a veteran has a dishonorable period of service but also has a separate and distinct period of service that is one of the characters of service determinations listed above, then the veteran's dependents would still be eligible for the benefit. A veteran having one dishonorable discharge period does not cancel out the other periods of services that the veteran may have completed.

Determination of Dependent:

In order to be considered a dependent for purposes of this benefit the dependent must be:

- a child
- stepchild
- spouse
- widow
- widower
- adopted child

This does not include the following:

- Grandchildren
- Children in legal custody
- Former spouses.

The school, in order to establish dependency, should require some sort of documentation. Examples of documentation could include:

- Marriage Certificate
- Birth Certificate
- Adoption papers

Determination of a “Resident Veteran”:

There are four ways for the veteran to meet the residency requirement for this benefit.

- a. Was born in and lived in this state until entrance into the armed forces of the United States;
- b. Was born in, but was temporarily living outside this state, not having abandoned residence therein prior to entrance into the armed forces of the United States;
- c. Was born elsewhere but had resided within this state for at least six months prior to entrance into military service and had prior to or during such six-month period:
 - (1) Registered for voting, or voted in this state;
 - (2) Being an unemancipated minor during such period of residence, had lived with a parent or person standing in loco parentis who had acquired a residence as set forth in this section; or
 - (3) If not registered for voting in this state, not registered for voting in another state; or
- d. Has been a resident of this state for the five years prior to the request for tuition waiver.

To meet the criteria under part (a)

You may ask for the veteran’s birth certificate and DD214. This will show that the veteran was born here and the DD214 will show a ND address at the time of entry into active duty. Generally, this is all that is required to meet the criteria under this section.

To meet the criteria under part (b)

To meet this criterion, you would generally need similar documentation that you acquired under part (a). Schools should ask for DD214 and birth certificate. If the DD214 shows an address at time of entry that is outside of North Dakota, you may need additional documentation to show that the veteran never abandoned residency.

To meet the criteria under part (c)

In this situation, the veteran was not born here but had lived here for six months prior to entry into the armed forces. Proof of eligibility under this section may be difficult. You would have to show that they resided in the state for the six-month period prior to entry into the armed forces and either registered to vote or at least did not vote in another state. If they were still a minor at this time they would have had to have been in residence with a parent or person standing in as a parent.

To meet the criteria under part (d)

In this situation you would need to show that the veteran had lived in North Dakota for the 5 years immediately preceding a request for the waiver. To establish residency, documentation is required. This could include tax returns, mortgage or loan documentation for the prior 5 years, or the VA’s tax abatement letter showing a North Dakota address, among other documents.

What status, other than resident veteran, does the school have to determine that the veteran meets?

The school must show that the veteran meets **one** of the criteria listed below:

- 100% Service-Connected Disability Rating
- 100% Service-Connected Disability Rating (Permanent and Total)
- 100% rated through Individual Unemployability
- 100% rated through Individual Unemployability (Permanent and Total)
- Veteran was killed in action.
- Died from wounds or other service-connected causes.
- Died from Service-Connected Disability Rating
- Was a prisoner of war
- Declared Missing in Action

How do we determine residency of the dependent if the veteran has passed away?

The child or stepchild of the veteran is eligible provided the child's other parent has been a resident of this state and was a resident of this state at the time of death or determination of total disability of the veteran, **or**

The child or stepchild of the veteran is eligible provided the child's other parent establishes residency in this state and maintains that residency for a period of five years immediately preceding the child's or stepchild's enrollment at an institution under the control of the state board of higher education.

The widow or widower who satisfies the residency requirement and who is in receipt of Dependency and Indemnity Compensation (DIC) is also eligible.

What institutions does this program apply to?

- Bismarck State College
- Dakota College at Bottineau
- Dickinson State University
- Lake Region State College
- Mayville State University
- Minot State University
- North Dakota State College of Science
- North Dakota State University
- University of North Dakota
- Valley City State University
- Williston State College

What programs are allowable under the waiver program?

Any program can be utilized up to and including a bachelor's degree. This includes undergraduate certificate programs, diploma programs, associate degrees and bachelor's degrees. This does not include cost for aviation flight charges or expenses.

If beneficiary has already used the waiver for a degree can, they use it to pursue another bachelor's degree?

No. If they have already used the waiver program to pursue another a bachelor's degree they cannot utilize the waiver again for another program.

Can a beneficiary use the waiver if they already have a bachelor's degree but have never used the waiver previously?

Yes. If a student has previously been conferred a bachelor's degree but never utilized the waiver, they may pursue another bachelor's degree with the waiver. The same rule would apply for associate degree, certificates, or diplomas.

Can a beneficiary pursue a bachelor's after receiving an associate degree utilizing the waiver?

Yes. If they have utilized the waiver for a lesser degree, they may pursue another degree up to and including a bachelors.

Can beneficiaries use the waiver program for graduate level programs?

No, they may only pursue programs up to and including a bachelors.

Can students use the waiver for grad courses applied to a bachelor's degree?

Beneficiaries may use the waiver for graduate level courses only if those courses are being taken in pursuit of a bachelor's level program or lower. Once a degree has been conferred, they are no longer eligible to utilize the waiver.

Can High School dual credit classes utilize the waiver?

Yes, if those classes are taken for college credit at one of the eleven ND University System schools with the intent of being used toward the completion of a degree.

How many months of entitlement does a beneficiary have?

There is no time limit to utilize the benefit.

How long does a beneficiary remain eligible?

There is no time limit or age cap of the beneficiary.

Sincerely,

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