

DVS Veterans Education, Transition and Employment Policy	Virginia Military Survivors and Dependents Education Program	Effective: <u>July 1, 2015</u>
Policy No 2-15		Revised: <u>December 11, 2020</u>

## **VIRGINIA DEPARTMENT OF VETERANS SERVICES**

### **Military Survivors and Dependents Education Program**

#### **2.1 Purpose**

The purpose of this policy is to establish the procedures for administering the Virginia Military Survivors and Dependents Education Program (“the Program” or “VMSDEP”).

#### **2.2 References**

This policy was developed in accordance with, and is subject to, the provisions of Code of Virginia § 23.1-608 and § 23.1-608 .1 (see Appendix A for full text of statute) and Title 2.2, Chapters 20, 24, 26, 27, and 40. This policy, 2-15, supersedes and replaces the former Department of Veterans Services (VDVS) Policy 2-14.

#### **2.3 Responsibility**

The Commissioner or his designee shall be responsible for the application of this policy.

The Commissioner shall appoint a designee, who shall be responsible for administering the Program and developing and implementing the VDVS strategy for and dissemination of information about the Program to veterans whose dependents and survivors qualify under the Program. The designee will use VA records to identify qualified survivors and dependents.

#### **2.4 Interpretation**

The Commissioner shall be responsible for the interpretation of this policy.

#### **2.5 Program Reporting**

VDVS shall disseminate information about the Program and Fund to those spouses and dependents who may qualify. VDVS shall consult VA records to identify veterans and qualified survivors and dependents. The Commissioner shall include in the annual report submitted to the Governor and the General Assembly pursuant to § 2.2-2004 an overview of the agency’s policies and strategies relating to dissemination of information about the Program and Fund.

#### **2.6 Definitions**

In this policy, unless the context otherwise requires:

1. “Armed Conflict” includes any death or permanent disability incurred as a direct result of activity in:
  - A. a war as declared by the United States Congress;
  - B. a named Military Operation, while in the theater of operations; or
  - C. a hostile act against U.S. forces by a state actor.

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2. “Dependent” means biological children, adopted children, and/or spouse of a qualifying military service member.
3. “Domicile” means the present, fixed home of an individual to which he returns following temporary absences and at which he intends to stay indefinitely. No individual may claim more than one domicile at a time. Domicile, once established, is not affected by (i) mere transient or temporary physical presence outside the Commonwealth or (ii) the establishment and maintenance of a place of residence outside the Commonwealth for the purpose of maintaining a joint household with an active duty United States military spouse. *See* Code of Virginia § 23.1-500.
4. “Mandatory fees” means any mandatory charges (other than tuition, room, and board) that are applied by the public institutions of higher education for pursuit of a program of education that all students enrolled in the program must pay. Fees include, but are not limited to, health premiums, freshman fees, graduation fees, and lab fees.
5. “Military operation against terrorism” includes any death or permanent disability incurred as a result of participating in any operation directed by National Command Authority in response to a terrorist attack.
6. “Peace keeping mission” includes any death or permanent disability incurred as a result of participation in:
  - A. a United Nations sanctioned peace keeping effort; or
  - B. military operations, undertaken with the consent of all major parties to a dispute, designed to monitor and facilitate implementation of an agreement (cease-fire, truce, or other such agreement) and support diplomatic efforts to reach a long-term political settlement.
7. “Physical presence” means the place where a person is actually, physically, and continuously located.
8. “Public institutions of higher education” or “public institution” means the Virginia Community College System, Eastern Virginia Medical School and any associate-degree-granting and baccalaureate public institution of higher education in the Commonwealth.
9. “Result of a terrorist attack” includes death or permanent disability as the result of any international or domestic terrorist act defined as follows:
  - A. To be considered “international terrorism”<sup>1</sup> the attack must:
    - i. involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;
    - ii. appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion;

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<sup>1</sup> As defined in 18 U.S. Code 2331

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or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

- iii. occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.

B. To be considered “domestic terrorism”<sup>2</sup> the attack must:

- i. involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
- ii. appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and
- iii. occur primarily within the territorial jurisdiction of the United States.

- 10. “Service member” means active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard.
- 11. “Service-related condition” means a medical condition that is due to service in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard.
- 12. “Survivor” means biological children, adopted children, and/or surviving spouse of a qualifying military service member.
- 13. “Term” means a calendar unit of academic study. Examples include semester or session.

## 2.7 Program Administration

VDVS is responsible for administering the Program in accordance with Code of Virginia § 23.1-608.

## 2.8 Program Overview

The Program provides qualified survivors and dependents of service members with a waiver of tuition and mandatory fees at any public institution. Eligible individuals are entitled to a maximum of eight semesters of Program benefits, as specified in an existing Acts of the Assembly (Title 2.2, Chapters 20, 24, 26, and 27, Code of Virginia). Enrollment, not academic credit earned, is the standard measure of used entitlement.

The Program waives tuition regardless of eligible individuals’ residency classifications while admitted to Virginia public colleges or universities. In state and out-of-state tuition is waived by the Program.

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<sup>2</sup> As defined in 18 U.S. Code 2331

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If a study abroad program is owned by a public institution, then the respective institution is required to waive the tuition and mandatory fees; however, if the program is a contract, or third-party program offered through, but independent of, a public institution, the tuition and fees charges cannot be waived because VMSDEP benefits are not applicable at institutions other than a public institution.

Dependents of qualifying veterans or service members who, while serving as an active duty member of the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, were killed, became missing in action, became a prisoner of war, or have been rated by United States Department of Veterans Affairs (VA) as totally and permanently disabled or at least 90 percent permanently disabled as a direct result of service: during involvement in military operations against terrorism; while on a peacekeeping mission; as the result of a terrorist act; or during involvement in an Armed Conflict may qualify for additional financial assistance. If available, additional financial assistance shall be provided from the Virginia Military Survivors and Dependents Education Fund (“Fund”) in an amount (i) up to \$2,000, or (ii) as provided in the general appropriation act, for room and board charges, books and supplies, and other expenses. This additional financial assistance shall not exceed, when combined with any other form of scholarship, grant, or waiver, the actual costs relating to the survivor’s or dependent’s educational expenses allowed under this subsection.

## **2.9 Eligibility**

Eligibility shall be determined in accordance with the following:

### **2.9 (A) Eligibility – Basic Requirements for Survivors and Dependents**

Eligibility is divided into two tiers.

#### 1. Tier 1 eligibility:

a. The applicant must be the spouse or a child between the ages of 16 and 29<sup>3</sup> of a qualified veteran.

b. A qualified veteran is one who, while serving as an active duty member of the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, was rated permanently and totally disabled or a combined rating of at least 90% permanently disabled with a service-connected condition by the VA. Temporary ratings under 38 CFR 4.29 and 4.30 (Appendix D) do not qualify for this benefit.

c. The qualified veteran must have been discharged or released under conditions other than dishonorable.

#### 2. Tier 2 eligibility:

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<sup>3</sup> The Commissioner may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.

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- a. The applicant must be the spouse or a child between the ages of 16 and 29 of a qualified service member or veteran.
- b. A qualified service member is one who, while serving as an active duty member of the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, was killed, became missing in action, or became a prisoner of war:
  - i. during involvement in military operations against terrorism;
  - ii. while on a peacekeeping mission;
  - iii. as the result of a terrorist act; or
  - iv. during involvement in an Armed Conflict.
- c. A qualified veteran is one who, while serving as an active duty member of the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, became totally and permanently disabled or combined rating of at least 90% permanently<sup>4</sup> disabled as rated by the U.S. Department of Veterans Affairs (VA) as a direct result of:
  - i. involvement in military operations against terrorism;
  - ii. participation in a peacekeeping mission;
  - iii. a terrorist act; or
  - iv. an Armed Conflict.
- d. The qualified veteran must have been discharged or released under conditions other than dishonorable.

## **2.9 (B) Eligibility – Verification**

Proof of eligibility is the responsibility of the applicant. The applicant must provide all information requested by VDVS for VMSDEP eligibility determination. The following evidence is required to establish eligibility:

1. Authorization to Review Records (Appendix C)<sup>5</sup>
2. Applicant's relationship to the service member or veteran as confirmed by:

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<sup>4</sup> Temporary ratings under 38 CFR 4.29 and 4.30 (Appendix D) do not qualify for this benefit.

<sup>5</sup> DVS will review the Veteran's U.S. Department of Veterans Affairs (VA) records to determine eligibility for benefits and will not process an application without a completed copy of the *Authorization to Review Records form*.

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- a. VA records;<sup>3</sup>
  - b. marriage license (for Spouse); or
  - c. birth certificate or adoption order/decreed (for Child).<sup>4</sup>
3. Service-connected disability (any one document or a combination is acceptable):
- a. Department of Defense Form Number 214, Member Copy 4 (DD-214)
  - b. If the service member or veteran is deceased, please provide:
    - i. DD Form 1300/Report of Casualty if the service member died while on active duty; and
    - ii. Death Certificate and DD214 if the veteran died following active duty service
  - c. If receiving Combat-Related Compensation Special Compensation (CRSC), please provide a copy of CRSC Pay Statement or equivalent information showing combat-related rating percentage.
  - d. VA Award Letter
  - e. VA Rating Decision Narratives
4. Relevant Service Treatment Records (STRs)
5. If applicable, documentation sufficient to demonstrate the service member's or veteran's participation in military operations against terrorism, on a peacekeeping mission, in armed conflict or injury or death as a direct result of a terrorist act.
6. If applicable, documentation sufficient to demonstrate the service member's status as killed in action, taken prisoner of war or missing in action.

## **2.9 (C) Eligibility – Bona Fide Domiciliary or Physical Presence Requirements and Verification**

Applicants must meet certain domicile or physical presence requirements to be eligible to receive this benefit.

1. For dependents, the domicile or physical presence requirements may be met by one of the following:
  - a. The qualified service member or veteran:
    - i. was domiciled<sup>5</sup> in Virginia at the time of his/her initial entry into the active military service or called to active duty as a member of the Armed Forces of

<sup>3</sup> Applicants, service members or veterans may submit a completed copy of the *Authorization to Disclose Information* (Appendix E) form to allow DVS to directly obtain substantial evidence if the information is not accessible to DVS in VA's internet base systems.

<sup>4</sup> The birth certificate or adoption orders/decreed must identify the qualified service member or veteran as a parent.

<sup>5</sup> Place of entry on the DD214 alone does not qualify as evidence of domicile or physical presence. Place of entry is where the service member is bused to enter into service.

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- the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard. In case of multiple terms of service, the domicile was Virginia at the time of entry into the period during which the qualifying event occurred;
- ii. was domiciled or had a physical presence in Virginia for at least five consecutive years immediately prior to the date on which the admission application was submitted for admission to a public institution; or
  - iii. on the date of her/his death was domiciled in or had a physical presence in Virginia for at least five consecutive years immediately prior to her/his death.
- b. In case of deceased service member or veteran:
- i. the surviving parent, prior to marrying the service member or veteran, established domicile in Virginia for at least five consecutive years; or
  - ii. the surviving parent was domiciled or had a physical presence in Virginia for at least five consecutive years immediately prior to the date on which the admission application was submitted for admission to public institutions of higher education.
2. For spouses, the domicile or physical presence requirements may be met by one of the following:
- a. The service member or veteran:
    - i. was domiciled in Virginia at the time of his/her initial entry into the active military service or called to active duty as a member of the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard. In case of multiple terms of service, the domicile was Virginia at the time of entry into the period during which the qualifying event occurred;
    - ii. was domiciled or had a physical presence in Virginia for at least five years immediately prior to the date on which the admission application was submitted for admission to public institution; or
    - iii. on the date of her/his death was domiciled in or had a physical presence in Virginia for at least five years immediately prior to her/his death.
  - b. If the service member or veteran is deceased, the surviving spouse:
    - i. at some time previous to marrying the service member or veteran, established domicile for at least five years; or
    - ii. had a physical presence in Virginia for at least five years immediately prior to the date on which the admission application was submitted for admission to public institution.

Domicile or proof of physical presence may be verified from a combination of sources. These sources must provide sufficient evidence, as determined by VDVS, to demonstrate five continuous

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years of domiciliary or physical presence in Virginia. Domicile may be verified from a combination of sources, including but not limited to:

- a. State income tax records
- b. Real estate tax records
- c. Personal property tax records
- d. Driver’s License Records
- e. Voter registration records
- f. Mortgage monthly statement or residential rental/lease agreement
- g. Payroll or check stubs issued with Virginia address
- h. Leave & Earning Statement
- i. Annual Social Security Statement
- j. Letter from commanding officer on official letterhead with an original signature stating the Applicant resides in Virginia. The letter must specify the length of time the service member resided in Virginia.
- k. Utility Bills

## **2.9 (D) Continued Eligibility**

Eligible individuals will be certified under the Program on an eight term basis. Certification will be provided for terms within the current fiscal year based on the date of receipt of a completed application for VMSDEP benefits.

In the case of an applicant not matriculating continuously, the student is considered eligible after the initial approval as long as the student is eligible to enroll into a public institution and has not reached the age of 30 years.

Benefits may be used during any term (i.e. Fall, Spring, Summer). Beneficiaries are required to update term information in the VMSDEP student portal. Benefits used for any number of credit hours shall count as one term of VMSDEP eligibility.

## **2.10 Retroactive Approvals**

Authorizations to use VMSDEP benefits will be for current and future terms. VDVS will not routinely issue authorizations for past semesters.

## **2.11 Conserving Benefits**

In cases when a student wishes to pay for a semester in which the VMSDEP waiver has already been applied, the student must first get written confirmation from the school that they will allow the student to pay for the semester in order to use the VMSDEP waiver for a different semester. This written confirmation should be forwarded to the VMSDEP office, and the student’s account



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will be updated. VMSDEP will then notify SCHEV. If the student received stipend funds for the semester that was previously waived, the student will not be eligible for the stipend for the new semester.

### **2.12 Withdrawal from School**

In the case of an applicant who withdraws from a public institution of higher education, adjustments to the tuition and fee waiver (and stipend, if any) for the term will be made based on the tuition refund policy in effect at the institution. If the student withdraws at the point where a financial liability:

1. Has not been incurred, the student will receive neither a tuition and fee waiver nor a stipend.
2. Has been incurred, the student will receive a tuition and fee waiver in the amount of the adjusted tuition and fee charges for the term, and any stipend awarded will be adjusted based on the institution's refund policy. Because the student received VMSDEP benefits for the term, the number of semesters of eligibility will be reduced by one semester.

### **2.13 (A) Application Processing – Applying for the Program**

Applicants must apply for the Program using the online application at <https://myvmsdep.dvs.virginia.gov/>. The processing time for an application, with all of the required documentation, is 46 days from the date the online application was submitted. Effective date of eligibility is from the date the application was submitted, or the date on which VDVS receives all of the evidence necessary to support the request, whichever is later. Effective date of eligibility for VMSDEP benefits does not automatically coincide with the effective date of the Veteran's VA rating.

Initial eligibility is determined by a VMSDEP Program Specialist. Proof of eligibility is the responsibility of the applicant. The applicant will be responsible for providing all information, as identified by VDVS, to fully evaluate the request for VMSDEP eligibility determination.

All correspondence during the application process will come via email. The applicant may receive emails requesting additional information, and the final decision will be sent via email.

### **2.13 (B) Application Processing – Favorable Decision**

In the case of a favorable decision, notification is sent to the student via email informing the student of their responsibilities in regards to the use of VMSDEP benefits. The student will be able to choose the school they will attend within their myVMSDEP account.

### **2.13 (C) Application Processing – Application Denial**

In cases where the application is denied, notification is sent to the student stating the reason(s) for the denial. The email shall inform the applicant of his or her right to submit new and material information for reconsideration.

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## **2.14 Appeals Process**

Appeals of case decisions are handled by VDVS in accordance with Va. Code §2.2-4026.

## **2.15 Closed: Unable to Adjudicate**

If VDVS requests additional documentation and an applicant fails to provide it within 46 days of the date the application was received, the application will be closed as unable to adjudicate. If the applicant still wishes to receive VMSDEP benefits, the applicant must submit a new application.

## **2.16 Release of Information**

To protect the privacy of VMSDEP applicants over the age of 18, this agency will not release personal records or personally identifiable information to anyone except the applicant without prior written request of the individual to whom the record pertains.

If an applicant wishes to grant access or give permission to make certain changes to their records, he/she must complete the Consent for Access to Records form (Appendix F).

If a phone inquiry is received, the VMSDEP staff must verify the caller's identity by confirming:

- address
- date of birth
- email address
- last four digits of social security number

### Application Changes

In the event an applicant needs to make any changes to his/her application the VMSDEP staff must verify the applicants identity before assisting with changes to the student portal.

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## Appendix A

### VIRGINIA DEPARTMENT OF VETERANS SERVICES

#### **§ 23.1-608. Virginia Military Survivors and Dependents Education Program; tuition and fee waivers.**

A. As used in this section, unless the context requires a different meaning:

"Domicile" has the same meaning as provided in § 23.1-500.

"Program" means the Virginia Military Survivors and Dependents Education Program.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became a prisoner of war; or (ii) of a veteran who served in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard and, due to such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.

B. The Virginia Military Survivors and Dependents Education Program is established for the purpose of waiving tuition and mandatory fees at a public institution of higher education or Eastern Virginia Medical School for qualified survivors and dependents who have been admitted to such institution and meet the requirements of subsection C, as certified by the Commissioner of Veterans Services.

C. Admitted qualified survivors and dependents are eligible for a waiver of tuition and mandatory fees pursuant to this section if the military service member who was killed, became missing in action, became a prisoner of war, or is disabled (i) established domicile (a) at the time of entering such active military service or called to active duty as a member of the Reserves of the Armed Forces of the United States or Virginia National Guard; (b) at least five years immediately prior to, or had a physical presence in the Commonwealth for at least five years immediately prior to, the date on which the admission application was submitted by or on behalf of such qualified survivor or dependent for admission to such institution of higher education or Eastern Virginia Medical School; or (c) on the date of his death and for at least five years immediately prior to his death or had a physical presence in the Commonwealth on the date of his death and had a physical presence in the Commonwealth for at least five years immediately prior to his death; (ii) in the case of a qualified child, is deceased and the surviving parent, at some time previous to marrying the deceased parent, established domicile for at least five years,

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or established domicile or had a physical presence in the Commonwealth for at least five years immediately prior to the date on which the admission application was submitted by or on behalf of such child; or (iii) in the case of a qualified spouse, is deceased and the surviving spouse, at some time previous to marrying the deceased spouse, established domicile for at least five years or had a physical presence in the Commonwealth for at least five years prior to the date on which the admission application was submitted by such qualified spouse.

D. The Department of Veterans Services shall disseminate information about the Program to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the General Assembly pursuant to § **2.2-2004** an overview of the agency's policies and strategies relating to dissemination of information about the Program and Fund.

E. Each public institution of higher education and Eastern Virginia Medical School shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

**§ 23.1-608.1. Virginia Military Survivors and Dependents Education Fund; stipends.**

A. As used in this section:

"Fund" means the Virginia Military Survivors and Dependents Education Fund.

"Qualified survivors and dependents" means the spouse or a child between the ages of 16 and 29 (i) of a military service member who, while serving as an active duty member in the Armed Forces of the United States, Reserves of the Armed Forces of the United States, or Virginia National Guard, during military operations against terrorism, on a peacekeeping mission, as a result of a terrorist act, or in any armed conflict, was killed, became missing in action, or became a prisoner of war or (ii) of a veteran who, as a direct result of such service, has been rated by the U.S. Department of Veterans Affairs as totally and permanently disabled or at least 90 percent permanently disabled and has been discharged or released under conditions other than dishonorable. However, the Commissioner of Veterans Services may certify dependents above the age of 29 in those cases in which extenuating circumstances prevented the dependent child from using his benefits before the age of 30.

B. From such funds as may be appropriated and from such gifts, bequests, and any gifts, grants, or donations from public or private sources, the Virginia Military Survivors and Dependents Education Fund is established for the sole purpose of providing financial assistance, in an amount (i) up to \$2,000 or (ii) as provided in the general appropriation act, for room and board charges, books and supplies, and other expenses at any public institution of higher education or Eastern Virginia Medical School for the use and benefit of qualified survivors and dependents, provided that the maximum amount to be expended for each such survivor or dependent pursuant to this subsection shall not exceed, when combined with any other form of scholarship, grant, or

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waiver, the actual costs relating to the survivor's or dependent's educational expenses allowed under this subsection.

C. Each year, from the funds available in the Fund, the Council and each public institution of higher education and Eastern Virginia Medical School shall determine the amount and the manner in which financial assistance shall be made available to beneficiaries and shall make that information available to the Commissioner of Veterans Services for distribution.

D. The Council shall disburse to each public institution of higher education and Eastern Virginia Medical School the funds appropriated or otherwise made available by the Commonwealth to support the Fund and shall report to the Commissioner of Veterans Services the beneficiaries' completion rate.

E. The Department of Veterans Services shall disseminate information about the Fund to those spouses and dependents who may qualify. The Department of Veterans Services shall coordinate with the U.S. Department of Veterans Affairs to identify veterans and qualified survivors and dependents. The Commissioner of Veterans Services shall include in the annual report submitted to the Governor and the General Assembly pursuant to § **2.2-2004** an overview of the agency's policies and strategies relating to dissemination of information about the Fund.

F. Each public institution of higher education and Eastern Virginia Medical School shall include in its catalog or equivalent publication a statement describing the benefits available pursuant to this section.

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## Appendix B

### **U.S. Code Title 18 – Crimes and Criminal Procedure, Part I – Crimes, Chapter 113B – Terrorism (current as of December 1, 2016)**

#### **18 U.S. Code § 2331 – Definitions**

As used in this chapter—

- (1) the term “international terrorism” means activities that—
  - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;
  - (B) appear to be intended—
    - (i) to intimidate or coerce a civilian population;
    - (ii) to influence the policy of a government by intimidation or coercion; or
    - (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and
  - (C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;
- (2) the term “national of the United States” has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;
- (3) the term “person” means any individual or entity capable of holding a legal or beneficial interest in property;
- (4) the term “act of war” means any act occurring in the course of—
  - (A) declared war;
  - (B) armed conflict, whether or not war has been declared, between two or more nations; or
  - (C) armed conflict between military forces of any origin; and
- (5) the term “domestic terrorism” means activities that—
  - (A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;
  - (B) appear to be intended—
    - (i) to intimidate or coerce a civilian population;
    - (ii) to influence the policy of a government by intimidation or coercion; or
    - (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

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(C) occur primarily within the territorial jurisdiction of the United States.

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## Appendix C



### **VIRGINIA DEPARTMENT OF VETERANS SERVICES**

#### **AUTHORIZAION TO REVIEW RECORDS IN ORDER TO DETERMINE ELIGIBILITY FOR BENEFITS THROUGH THE VIRGINIA MILITARY SURVIVORS AND DEPENDENTS PROGRAM (VMSDEP)**

Please complete and upload this form to you online application at the time of submission or  
 Email to: [VMSDEP@dvs.virginia.gov](mailto:VMSDEP@dvs.virginia.gov) ; or  
 Fax to: (804) 786-0809; or  
 Mail to: VMSDEP, 101 North 14<sup>th</sup> Street, 17<sup>th</sup> Floor, Richmond, VA 23219

**PURPOSE:** This form serves as notification and authorization that VDVS may access your U.S. Department of Veterans Affairs (VA) records in order to determine your dependent's eligibility for the Virginia Military Survivors and Dependents Education Program (VMSDEP). Your acknowledgment, as endorsed by your signature below, is required for VDVS to process your dependent's application.

<b>Applicant's Name</b>	Last Name	First Name/MI
<b>Veteran's Name</b>	Last Name	First Name/MI
<b>Last 4 of SSN</b>		<b>DOB</b>
<b>Veteran's Home Phone</b>	(    )       -	
<b>Veteran's Cell Phone</b>	(    )       -	

**SIGNER'S ACKNOWLEDGMENT:** I HEREBY AUTHORIZE VDVS to review my VA records which contain information that may have been obtained in connection with a physical, psychological or psychiatric examination or treatment in order to determine my dependent's eligibility for VMSDEP. I understand that if my VA records are used to determine my dependent's eligibility for VMSDEP, the information will no longer be protected by the HIPAA Privacy Rule, but will be protected by the Federal Privacy Act, 5 USC 552a. VDVS may only disclose this information as authorized by law. I understand that although VDVS may access my VA records, I will be responsible for providing all information, as identified by VDVS, to fully evaluate my dependent's request for VMSDEP eligibility determination. I also understand that I may revoke this authorization in writing; and to revoke, I must send a written statement to VDVS that I no longer wish to utilize my VA records for VMSDEP eligibility determination; upon which, VDVS would not be able to process my dependent's application for VMSDEP benefits.

This acknowledgment endorses the use of my VA records to determine VMSDEP eligibility for following dependent(s):

Last Name:	First Name:	Date of Birth:

**Veteran's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**CONTACT INFORMATION:**

Virginia Department of Veterans Services  
 Veterans Education Training and Employment  
 Virginia Military Survivors and Dependents Education Program  
 101 North 14<sup>th</sup> Street, 17<sup>th</sup> Floor  
 Richmond, VA 23219  
 Phone: (804) 225-2083  
 Fax: (804) 708-0580  
 Email: [VMSDEP@dvs.virginia.gov](mailto:VMSDEP@dvs.virginia.gov)



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Policy No. 2-15		Revised: <u>May 20, 2020</u>

## Appendix D

### **Code of Federal Regulations Title 38 – Pensions, Bonuses, and Veterans’ Relief**

#### **Chapter I Department of Veterans Affairs**

#### **Part 4 – Schedule for Rating Disabilities**

#### **Subpart A – General Policy in Rating**

**(current as of December 1, 2016)**

#### **38 CFR §4.29. Ratings for service-connected disabilities requiring hospital treatment or observation.**

A total disability rating (100 percent) will be assigned without regard to other provisions of the rating schedule when it is established that a service-connected disability has required hospital treatment in a Department of Veterans Affairs or an approved hospital for a period in excess of 21 days or *hospital observation at Department of Veterans Affairs expense* for a service-connected disability for a period in excess of 21 days.

(a) Subject to the provisions of paragraphs (d), (e), and (f) of this section this increased rating will be effective the first day of continuous hospitalization and will be terminated effective the last day of the month of hospital discharge (regular discharge or release to non-bed care) or effective the last day of the month of termination of treatment or observation for the service-connected disability. A temporary release which is approved by an attending Department of Veterans Affairs physician as part of the treatment plan will not be considered an absence.

(1) An authorized absence in excess of 4 days which begins during the first 21 days of hospitalization will be regarded as the equivalent of hospital discharge effective the first day of such authorized absence. An authorized absence of 4 days or less which results in a total of more than 8 days of authorized absence during the first 21 days of hospitalization will be regarded as the equivalent of hospital discharge effective the ninth day of authorized absence.

(2) Following a period of hospitalization in excess of 21 days, an authorized absence in excess of 14 days or a third consecutive authorized absence of 14 days will be regarded as the equivalent of hospital discharge and will interrupt hospitalization effective on the last day of the month in which either the authorized absence in excess of 14 days or the third 14 day period begins, except where there is a finding that convalescence is required as provided by paragraph (e) or (f) of this section. The termination of these total ratings will not be subject to §3.105(e) of this chapter.

(b) Notwithstanding that hospital admission was for disability not connected with service, if during such hospitalization, hospital treatment for a service-connected disability is instituted and continued for a period in excess of 21 days, the increase to a total rating will be granted from the first day of such treatment. If service connection for the disability under treatment is granted after hospital admission, the rating will be from the first day of hospitalization if otherwise in order.

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(c) The assignment of a total disability rating on the basis of hospital treatment or observation will not preclude the assignment of a total disability rating otherwise in order under other provisions of the rating schedule, and consideration will be given to the propriety of such a rating in all instances and to the propriety of its continuance after discharge. Particular attention, with a view to proper rating under the rating schedule, is to be given to the claims of veterans discharged from hospital, regardless of length of hospitalization, with indications on the final summary of expected confinement to bed or house, or to inability to work with requirement of frequent care of physician or nurse at home.

(d) On these total ratings Department of Veterans Affairs regulations governing effective dates for increased benefits will control.

(e) The total hospital rating if convalescence is required may be continued for periods of 1, 2, or 3 months in addition to the period provided in paragraph (a) of this section.

(f) Extension of periods of 1, 2 or 3 months beyond the initial 3 months may be made upon approval of the Veterans Service Center Manager.

(g) Meritorious claims of veterans who are discharged from the hospital with less than the required number of days but need post-hospital care and a prolonged period of convalescence will be referred to the Director, Compensation Service, under §3.321(b)(1) of this chapter.

### **38 CFR §4.30. Convalescent ratings.**

A total disability rating (100 percent) will be assigned without regard to other provisions of the rating schedule when it is established by report at hospital discharge (regular discharge or release to non-bed care) or outpatient release that entitlement is warranted under paragraph (a) (1), (2) or (3) of this section effective the date of hospital admission or outpatient treatment and continuing for a period of 1, 2, or 3 months from the first day of the month following such hospital discharge or outpatient release. The termination of these total ratings will not be subject to §3.105(e) of this chapter. Such total rating will be followed by appropriate schedular evaluations. When the evidence is inadequate to assign a schedular evaluation, a physical examination will be scheduled and considered prior to the termination of a total rating under this section.

(a) Total ratings will be assigned under this section if treatment of a service-connected disability resulted in:

(1) Surgery necessitating at least one month of convalescence (Effective as to outpatient surgery March 1, 1989.)

(2) Surgery with severe postoperative residuals such as incompletely healed surgical wounds, stumps of recent amputations, therapeutic immobilization of one major joint or more, application of a body cast, or the necessity for house confinement, or the necessity for continued use of a wheelchair or crutches (regular weight-bearing prohibited). (Effective as to outpatient surgery March 1, 1989.)

(3) Immobilization by cast, without surgery, of one major joint or more. (Effective as to outpatient treatment March 10, 1976.)

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A reduction in the total rating will not be subject to §3.105(e) of this chapter. The total rating will be followed by an open rating reflecting the appropriate schedular evaluation; where the evidence is inadequate to assign the schedular evaluation, a physical examination will be scheduled prior to the end of the total rating period.

(b) A total rating under this section will require full justification on the rating sheet and may be extended as follows:

(1) Extensions of 1, 2 or 3 months beyond the initial 3 months may be made under paragraph (a) (1), (2) or (3) of this section.

(2) Extensions of 1 or more months up to 6 months beyond the initial 6-month period may be made under paragraph (a) (2) or (3) of this section upon approval of the Veterans Service Center Manager.

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## Appendix E



### **VIRGINIA DEPARTMENT OF VETERANS SERVICES**

#### **AUTHORIZATION TO DISCLOSE INFORMATION TO VIRGINIA DEPARTMENT OF VETERANS SERVICES (VDVS) IN ORDER TO DETERMINE ELIGIBILITY FOR BENEFITS THROUGH THE VIRGINIA MILITARY SURVIVORS AND DEPENDENTS PROGRAM (VMSDEP)**

VDVS requests permission to access your U.S. Department of Veterans Affairs (VA) records from your Veterans Service Organization (VSO) representative, agent, or attorney in order to determine your dependent's eligibility for the Virginia Military Survivors and Dependents Education Program (VMSDEP). Your permission, as endorsed by your signature below, is required for VDVS to process your dependent's application unless the applicant and/or you can provide VDVS the necessary documents to make an eligibility determination on your dependent's request for VMSDEP.

**NOTE:** VDVS will not pay any fees charged by a custodian to provide records requested.

<b>Veteran's Name</b>	Last Name	First Name/MI			
<b>SSN</b>		<b>DOB</b>			
<b>Applicant's Name</b>	Last Name	First Name/MI			
<b>SSN</b>		<b>DOB</b>			
<b>Applicant's Address</b>					
<b>City</b>		<b>State</b>		<b>ZIP</b>	
<b>Applicant's Email</b>					
<b>Applicant's Home Phone</b>	(    )    -	<b>Best time to Call</b>	<b>AM</b>	<b>to</b>	<b>PM</b>
<b>Applicant's Cell Phone</b>	(    )    -				
<b>I give permission for VDVS to obtain information from the following VSO representative, agent, or attorney for VMSDEP processing:</b>	Please list your VSO representative, agent, or attorney.		Telephone # (    )    -		

**Please complete and upload this form at the time of your online application submission or fax to:**

*Virginia Department of Veteran Services  
Virginia Military Survivors and Dependents Education Program (VMSDEP)  
Fax: (804) 786-0809*

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**SIGNER'S ACKNOWLEDGMENT:** I HEREBY AUTHORIZE the listed VSO representative, agent, or attorney to release any information that may have been obtained in connection with a physical, psychological or psychiatric examination or treatment, with the understanding that VDVS will use this information in determining my dependent's eligibility for VMSDEP. I understand that once my VSO representative, agent, or attorney sends this information to VDVS under this authorization, the information will no longer be protected by the HIPAA Privacy Rule, but will be protected by the Federal Privacy Act, 5 USC 552a, and VDVS may disclose this information as authorized by law. I understand that the VSO representative, agent, or attorney being asked to provide VDVS with records under this authorization may refuse as the listed source is not obligated to release such information; upon which, I will be responsible for providing all information, as identified by VDVS, to fully evaluate my dependent's request for VMSDEP eligibility determination. I also understand that I may revoke this authorization in writing; and to revoke, I must send a written statement to VDVS and also send a copy directly to the listed VSO representative, agent, or attorney that I no longer wish to disclose information about me. I understand that VDVS may use information disclosed prior to revocation to decide on my dependent's request for VMSDEP.

**VDVS USE ONLY:**

Document:	Date Received:	Staff:	Application Number:

DVS Veterans Education, Transition and Employment Policy Policy No. 2-15	Military Survivors and Dependents Education Program	Effective: <u>July 1, 2015</u> Revised: <u>May 20, 2020</u>
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## Appendix F



### CONSENT FOR ACCESS TO RECORDS

### Virginia Military Survivors & Dependents Education Program

Name (Last, First, Middle Initial):	DOB
IMPORTANT: You are not obliged to grant anyone access to information regarding you.	

<b>SECTION A: Information to be released (check all that apply):</b>			
<input type="checkbox"/> Application Information (status, name and/or address changes)			
<input type="checkbox"/> Benefits Information (registration, enrollment status, stipend)			
<b>SECTION B: Person(s) to whom access to education records may be provided:</b>			
I hereby authorize the Department of Veterans Services/VMSDEP to release information checked in section A to the following individuals:			
Name (Last, First)	Telephone Number	Address	Relationship
Name (Last, First)	Telephone Number	Address	Relationship
<b>SECTION C: Rights granted (check one):</b>			
<input type="checkbox"/> I grant permission for the person(s) listed in section B to make changes to my application (name and address changes, enrollment changes, etc.)			
<input type="checkbox"/> I do not grant permission for the person(s) listed in section B to make changes to my application (name and address changes, enrollment changes, etc.)			
<b>SECTION D: Duration of release (check one):</b>			
<input type="checkbox"/> One-time Use: This authorization can be used only once.			
<input type="checkbox"/> Limited Use: This authorization is valid from date of signing below until: _____			
<input type="checkbox"/> Ongoing until written notice is given to VMSDEP to terminate.			
<b>SECTION E: Purpose of release (check all that apply):</b>			
<input type="checkbox"/> VMSDEP Program eligibility			
<input type="checkbox"/> Managing benefits			
<input type="checkbox"/> Other (please specify)			
I understand that I have the right not to consent to the release of my records/information, and I have the right to revoke this consent at any time by delivering a written revocation to the VMSDEP office.			

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**Instructions for completing this form:**

1. The form must be fully completed and signed by the applicant. Records cannot be released if any section of this form is not filled out entirely.
2. Completed forms should be submitted by mail to the Department Veterans Services/VMSDEP, James Monroe Building, 101 N. 14<sup>th</sup> Street, FL 17, Richmond, Virginia 23219, or emailed to VMSDEP [vmsdep@dvs.virginia.gov](mailto:vmsdep@dvs.virginia.gov) or faxed to VMSDEP at 804-786-0809. Questions about this form may be directed to the VMSDEP office at (804) 225-2083.

*This information is released subject to the confidentiality provisions of appropriate state and federal laws and regulations which prohibit any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations.*