



May 3, 2024

Nancy J. Kessinger
VA Forms Manager
Veterans Benefits Administration
Department of Veterans Affairs
Via email

Re: OMB Control No. 2900-0859 (VA Form 22-0989)--Open for Public Comments

Dear Ms. Kessinger,

Thank you for accepting our comments via email since there were issues with the link in the VA Federal Register Notice. We trust that you will forward these comments about the proposed form under review, VA Form 22-0989, to the appropriate persons.

We write to alert the Department of Veterans Affairs (VA) that the form under review contains erroneous information that needs to be corrected before being made available to VA education beneficiaries seeking restoration of benefits due to a school closure or program disapproval. Specifically, the instructions incorrectly state that students must enroll in a new school before applying to have their benefits restored,¹ and the instructions misinform students that they must apply on or before September 30, 2025, to have their full benefits restored.

Additionally, the proposed form should clarify when full restoration is available and should explain Item 10's question relating to the hours earned in a non-college degree program.

Below please find details about the erroneous information and our recommendations for correcting the errors:

¹ The "Note" on page 1 of the form states: "For any affected enrollment between August 1, 2021 to September 30, 2025 VA is able to restore entitlement for the entire program of education, not just the last term, quarter or semester if you were not able to transfer at least 12 credits to a new school. (The date of this action is effective August 1, 2021.) *Claims for this temporary provision must be received after enrollment at the new school and on or before September 30, 2023 (sic).*" Similarly, the instructions for Item 9D state: "You may be eligible for Restoration of Entitlement if after enrolling at a new school to complete your interrupted program, you lost credit because your new school accepted fewer than 12 credit hours (or its equivalent, if the hours are reported in clock hours). If this applies, you may be eligible to have your entitlement restored for your entire program of education due to the school closure or disapproval; (Effective August 1, 2021). *Claims for this temporary provision must be received after enrollment at the new school and on or before September 30, 2025.*"

I. Incorrect guidance about the need to enroll in a new school prior to applying for restoration of benefits

The “Note” on page 1 and the instruction for Item 9D contain the following erroneous instruction: “Claims for this temporary provision must be received **after enrollment at the new school.**”

- A. Enrolling in a new school prior to applying for restoration is not required under the law. Pursuant to 38 U.S.C. §3699(c), students whose schools close or whose programs lose approval are entitled to a certificate of eligibility for their fully restored VA education benefits so long as the students transfer fewer than 12 credits to another school. Under the VETS Credit Act of 2023,² in order to obtain the certificate of eligibility, students are required to certify that they have transferred fewer than 12 credits and to acknowledge in writing that if they transfer 12 or more credits the Secretary will rescind the certificate of eligibility issued.³ Congress passed the VETS Credit Act to make clear that students are not required to enroll in another school prior to obtaining a certificate of eligibility. VA’s Education and Training [web page](#) even acknowledges that, with the passage of the VETS Credit Act, enrolling in a new school before applying for restoration of benefits is not required.⁴
- B. The Veterans Benefits Administration (VBA) has interpreted the VETS Credit Act as governing only those school closures occurring after December 27, 2022. This is incorrect, as we have [written previously](#) to explain why the VETS Credit Act is not limited to closures or program disapprovals occurring after December 27, 2022.⁵ Nonetheless, it appears from the [web page](#) that VBA is maintaining that interpretation, telling students that for “any covered closure or disapproval after December 27, 2022, you do not need to enroll in a new school prior to applying for restoration of benefits.” This form, however, does not have exceptions or specific instructions for students whose schools closed after December 27, 2022. Even under VBA’s interpretation, the form misinforms students that they cannot apply to have their VA education benefits restored until “*after enrollment at the new school.*”

Recommendation: VA needs to remove from the Note and instructions for Item 9D the following misleading clause: “Claims for this temporary provision must be received after enrollment at the new school.” The Information and Instructions page should inform students

² Public Law No. 117-297

³ 38 U.S.C. §3699(c)(2)(A)(ii)

⁴ U.S. Dept. of Veterans Affairs, Education and Training, *Restoration of Benefits After School Closure or if a School is Disapproved for GI Bill Benefits* (“Veterans Eligible to Transfer Schools (VETS) Credit Act, has also made it easier to apply for restoration of entitlement. For any covered closure or disapproval after December 27, 2022, you do not need to enroll in a new school prior to applying for restoration of benefits.”) available at: <https://www.benefits.va.gov/GIBILL/Restoration.asp#:~:text=If%20you%20apply%20for%20and,your%20entitlement%20is%20restored%20immediately.>

⁵ Letter to VA Regarding VETS Credit Act, June 14, 2023, available at: [https://vetsedsuccess.org/our-letter-to-va-regarding-the-vets-credit-act/.](https://vetsedsuccess.org/our-letter-to-va-regarding-the-vets-credit-act/)

that they do not need to enroll in a new school before applying for restoration of benefits, and the instructions should explain how to complete the form in such circumstances. At the very least, the Information and Instructions page should make clear that students whose schools closed or whose programs lost approval after December 27, 2022, do not need to have enrolled in a new program to have their benefits restored. Moreover, we believe that no students need to have enrolled in a new program first, given the attestation they sign pursuant to the VETS Credit Act, and we recommend that VA revise the Information and Instructions accordingly.

II. Incorrect deadline to apply for full restoration of benefits

The Information and Instructions page wrongly informs students that they must submit the form on or before September 30, 2025, in order to obtain a certificate of eligibility.

- C. The September 30, 2025, date appears in 38 U.S.C. §3699(c)(2)(C), which states: “This paragraph [restoration of full entitlement] shall apply with respect to a course or program of education closed or discontinued before September 30, 2025.” September 30, 2025, is the end date for school closures and program disapprovals covered by the full restoration provision. The statute does not establish the deadline for when a student must apply for restoration.
- D. Consider a veteran whose school closes on September 29, 2025, who thinks their credits will transfer to a new school but learns later that their credits will not transfer. There is nothing in the statute that requires the student to apply for restoration by September 30, 2025. Including such a deadline on the form could prevent students from applying for the restoration to which they are entitled under the law.

Recommendation: The September 30, 2025, deadline is not supported by the law and needs to be removed from the form. Specifically, VA should strike from the Note and Instructions for Item 9D the following statement: “*Claims for this temporary provision must be received ...on or before September 30, 2025.*”

III. Misleading language about VA’s authority

The Information and Instructions page unnecessarily characterizes VA’s authority to restore full entitlement as “limited,” without providing needed clarifying information. The form says, “With limited exception, the VA can restore entitlement only for the period of enrollment in which you did not receive credit (or which you lost training time)...” While full entitlement is not provided for closures occurring between August 16, 2017, and August 1, 2021, full entitlement is provided for closures occurring from January 1, 2015, to August 16, 2017, **AND** from August 1, 2021, to September 29, 2025.⁶ For each period, VA applies different criteria of which students should be made aware on the Instructions and Information page.

⁶ Public Law 115-48, Section 109; Public Law 116-315, Section 1021

Recommendation: The “limited exception” paragraph should be removed. Instead, the form should neutrally and clearly provide the criteria for restoration of entitlement for the applicable periods. For instance, the form could provide students with a clear and simple list:

- For school closures occurring from January 1, 2015, to August 16, 2017, full restoration of entitlement is available for eligible students who did not complete their program and did not transfer any credits.
- For school closures occurring after August 16, 2017, and before August 1, 2021, the restoration of entitlement for students who are otherwise eligible is limited to the period of enrollment in which you did not receive credit (or in which you lost training time). Generally, this means that entitlement can only be restored for the single term you were enrolled in when your program was suspended, your school closed temporarily or permanently, or lost its approval to receive VA benefits, as described above.
- For school closures occurring from August 1, 2021, to September 29, 2025, full restoration of entitlement is available for eligible students who did not complete their program and transferred less than 12 credits.

IV. Confusing descriptions

Item 10 is likely to confuse students because it is not clear how Item 10 differs from Item 9D. Item 10 asks: “If you attended a non-college degree (NCD) school that was closed, suspended your program or was disapproved, did that school transfer any hours or credits?” Item 9D asks if the new school granted 12 or more credit hours and refers the applicant to see the instruction for Item 9D. Item 9D does not distinguish between types of programs.

The *instruction for Item 9D* acknowledges that, when a program is reported in clock hours, restoration of entitlement is available for students who transfer the equivalent of fewer than 12 credit hours. It seems Item 10 is meant to ascertain if a student in a clock hour program at a non-college degree school has transferred the equivalent of 12 or more credits. If so, the form should define “non-college degree school,” explain which students need to answer Item 10, and simply ask how many clock hours were transferred to the new school, if any.

Recommendation: (1) Because students whose programs are reported in clock hours are entitled to restoration if they transfer less than the equivalent of 12 credit hours, the form needs to obtain the information necessary to provide these students restoration. (2) Assuming the purpose of Item 10 is to discern how many equivalent hours a student in a clock hour program may have transferred, the Instruction page of the form should explain what is being requested in Item 10 and whether students should skip Item 9D (which asks if the new school granted 12 or more credit hours) and instead answer Item 10. Item 10 should be revised to ask how many, if any, clock hours transferred to a new school. (3) If the purpose of Item 10 is not to equate clock hours and credit hours, we urge VA to provide more explanation about what is being requested and why the information needs to be gathered.

Thank you for taking our comments into consideration. We strongly urge VA to revise the form so that student veterans receive clear instructions for obtaining the restoration to which they are entitled.

Sincerely,

Della M. Justice

Della M. Justice
Vice President for Legal Affairs

Allison Muth

Allison Muth
Senior Attorney