**MEMORANDUM**  Ref.: 17-36-01

TO: College Business Officers

FROM: John Boesenberg

 Deputy Executive Director of Business Operations, SBCTC

DATE: August 14, 2017

SUBJECT: Fee Waiver Question

We received a question regarding the fee pay waiver provided by RCW 28B.15.621(4) for a child/spouse/domestic partner/surviving spouse or domestic partner of a deceased or totally disabled veteran.  The questioner asked about the application of this waiver to self-supporting courses.  We checked our response with the AG’s Office and our Student Services unit and thought it would be helpful to share with you.

The relevant statutes are copied at the end of this message.  As you’ll note, this waiver is mandatory and requires higher education institutions to “waive all tuition and fees” for the covered individuals. It does not distinguish between state supported or self-supporting courses.  Subsection (9) defines fees to include all “assessments for costs incurred as a condition to a student's full participation in coursework and related activities.” Given this language, we concluded that colleges must waive “fees” for self-supporting courses.

Although RCW 28B.15.031 states that “operating fees” do not include fees charged for self-supporting programs, the language in RCW 28B.15.621 requires all “assessments for costs” to be waived for covered individuals.  The more specific definition of fees applicable to RCW 28B.15.621(4) that’s in subsection (9) supersedes the exclusion of self-supporting programs in RCW 28B.15.031.

Let me know if you have questions regarding this clarification.

#### RCW 28B.15.621

#### Tuition waivers—Veterans and national guard members—Dependents—Private institutions.

(1) The legislature finds that active military and naval veterans, reserve military and naval veterans, and national guard members called to active duty have served their country and have risked their lives to defend the lives of all Americans and the freedoms that define and distinguish our nation. The legislature intends to honor active military and naval veterans, reserve military and naval veterans, and national guard members who have served on active military or naval duty for the public service they have provided to this country.

(2) Subject to the limitations in RCW [28B.15.910](http://app.leg.wa.gov/RCW/default.aspx?cite=28B.15.910), the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, may waive all or a portion of tuition and fees for an eligible veteran or national guard member.

(3) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, may waive all or a portion of tuition and fees for a military or naval veteran who is a Washington domiciliary, but who did not serve on foreign soil or in international waters or in another location in support of those serving on foreign soil or in international waters and who does not qualify as an eligible veteran or national guard member under subsection (8) of this section. However, there shall be no state general fund support for waivers granted under this subsection.

(4) Subject to the conditions in subsection (5) of this section and the limitations in RCW [28B.15.910](http://app.leg.wa.gov/RCW/default.aspx?cite=28B.15.910), the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, shall waive all tuition and fees for the following persons:

(a) A child and the spouse or the domestic partner or surviving spouse or surviving domestic partner of an eligible veteran or national guard member who became totally disabled as a result of serving in active federal military or naval service, or who is determined by the federal government to be a prisoner of war or missing in action; and

(b) A child and the surviving spouse or surviving domestic partner of an eligible veteran or national guard member who lost his or her life as a result of serving in active federal military or naval service.

(5) The conditions in this subsection (5) apply to waivers under subsection (4) of this section.

(a) A child must be a Washington domiciliary between the age of seventeen and twenty-six to be eligible for the tuition waiver. A child's marital status does not affect eligibility.

(b)(i) A surviving spouse or surviving domestic partner must be a Washington domiciliary.

(ii) Except as provided in (b)(iii) of this subsection, a surviving spouse or surviving domestic partner has ten years from the date of the death, total disability, or federal determination of prisoner of war or missing in action status of the eligible veteran or national guard member to receive benefits under the waiver. Upon remarriage or registration in a subsequent domestic partnership, the surviving spouse or surviving domestic partner is ineligible for the waiver of all tuition and fees.

(iii) If a death results from total disability, the surviving spouse has ten years from the date of death in which to receive benefits under the waiver.

(c) Each recipient's continued participation is subject to the school's satisfactory progress policy.

(d) Tuition waivers for graduate students are not required for those who qualify under subsection (4) of this section but are encouraged.

(e) Recipients who receive a waiver under subsection (4) of this section may attend full-time or part-time. Total credits earned using the waiver may not exceed two hundred quarter credits, or the equivalent of semester credits.

(6) Required waivers of all tuition and fees under subsection (4) of this section shall not affect permissive waivers of tuition and fees under subsection (3) of this section.

(7) Private vocational schools and private higher education institutions are encouraged to provide waivers consistent with the terms in subsections (2) through (5) of this section.

(8) The definitions in this subsection apply throughout this section.

(a) "Child" means a biological child, adopted child, or stepchild.

(b) "Eligible veteran or national guard member" means a Washington domiciliary who was an active or reserve member of the United States military or naval forces, or a national guard member called to active duty, who served in active federal service, under either Title 10 or Title 32 of the United States Code, in a war or conflict fought on foreign soil or in international waters or in support of those serving on foreign soil or in international waters, and if discharged from service, has received an honorable discharge.

(c) "Totally disabled" means a person who has been determined to be one hundred percent disabled by the federal department of veterans affairs.

(d) "Washington domiciliary" means a person whose true, fixed, and permanent house and place of habitation is the state of Washington. "Washington domiciliary" includes a person who is residing in rental housing or residing in base housing. In ascertaining whether a child or surviving spouse or surviving domestic partner is domiciled in the state of Washington, public institutions of higher education shall, to the fullest extent possible, rely upon the standards provided in RCW [28B.15.013](http://app.leg.wa.gov/RCW/default.aspx?cite=28B.15.013).

(9) As used in subsection (4) of this section, "fees" includes all assessments for costs incurred as a condition to a student's full participation in coursework and related activities at an institution of higher education.

(10) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges shall report to the higher education committees of the legislature by November 15, 2010, and every two years thereafter, regarding the status of implementation of the waivers under subsection (4) of this section. The reports shall include the following data and information:

(a) Total number of waivers;

(b) Total amount of tuition waived;

(c) Total amount of fees waived;

(d) Average amount of tuition and fees waived per recipient;

(e) Recipient demographic data that is disaggregated by distinct ethnic categories within racial subgroups; and

(f) Recipient income level, to the extent possible.

#### RCW 28B.15.020

#### "Tuition fees" defined—Use.

The term "tuition fees" as used in this chapter shall mean the fees charged students registering at the state's colleges and universities which consist of:

(1) The "building fees" as defined in RCW [28B.15.025](http://app.leg.wa.gov/RCW/default.aspx?cite=28B.15.025); and

(2) The "operating fees" as defined in RCW [28B.15.031](http://app.leg.wa.gov/RCW/default.aspx?cite=28B.15.031).

#### RCW 28B.15.031

#### "Operating fees"—Defined—Disposition.

(1) The term "operating fees" as used in this chapter shall include the fees, other than building fees, charged all students registering at the state's colleges and universities but shall not include fees for short courses, self-supporting degree credit programs and courses, marine station work, experimental station work, correspondence or extension courses, and individual instruction and student deposits or rentals, disciplinary and library fines, which colleges and universities shall have the right to impose, laboratory, gymnasium, health, technology and student activity fees, or fees, charges, rentals, and other income derived from any or all revenue producing lands, buildings and facilities of the colleges or universities heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land, or the appurtenances thereon, or such other special fees as may be established by any college or university board of trustees or regents from time to time. All moneys received as operating fees at any institution of higher education shall be deposited in a local account containing only operating fees revenue and related interest: PROVIDED, That a minimum of four percent of operating fees shall be retained by four-year institutions of higher education and a minimum of three and one-half percent of operating fees shall be retained by the community and technical colleges for the purposes of RCW [28B.15.820](http://app.leg.wa.gov/RCW/default.aspx?cite=28B.15.820). At least thirty percent of operating fees required to be retained by the four-year institutions for purposes of RCW [28B.15.820](http://app.leg.wa.gov/RCW/default.aspx?cite=28B.15.820) shall be used only for the purposes of RCW [28B.15.820](http://app.leg.wa.gov/RCW/default.aspx?cite=28B.15.820)(10).

(2) In addition to the three and one-half percent of operating fees retained by the institutions under subsection (1) of this section, up to three percent of operating fees charged to students at community and technical colleges shall be transferred to the community and technical college innovation account for the implementation of the college board's strategic technology plan in RCW [28B.50.515](http://app.leg.wa.gov/RCW/default.aspx?cite=28B.50.515). The percentage to be transferred to the community and technical college innovation account shall be determined by the college board each year but shall not exceed three percent of the operating fees collected each year.

(3) Local operating fee accounts shall not be subject to appropriation by the legislature but shall be subject to allotment procedures by budget program and fiscal year under

cc: Student Services Commission