Mr. Raymond L. Zawacki  
Deputy Commissioner  
State of New Jersey  
Department of Military and Veterans Affairs  
Post Office Box 340  
Trenton, New Jersey  08625-0340

Dear Mr. Zawacki:

I am pleased to respond to your letter of March 23, 2012, seeking the Department of Veterans Affairs' (VA's) interpretation of amendments to the Post-9/11 GI Bill (chapter 33) by the "Post 9/11 Veterans Educational Assistance Improvements Act of 2010" (Public Law 111-377), as they relate to New Jersey National Guard members seeking to avail themselves of benefits under both chapter 33 and New Jersey Statutes 18A:62-24. In pertinent part, the New Jersey statute provides:

The State shall reimburse a public institution of higher education for the tuition cost of each National Guard member who enrolls in the institution pursuant to the provisions of this section to the extent that the tuition cost is not paid through tuition benefits available to the member through the United States Department of Veterans Affairs under the "Post-9/11 Veterans Educational Assistance Act of 2008," Pub.L.110-252 (38 U.S.C. §.3301 et seq.).

To the extent that a State, by legislative enactment, has clearly limited or conditioned the application of a State-sponsored educational assistance benefit as being available for use only after the exhaustion of, or solely as a supplement to, chapter 33 benefits, the VA benefits must be applied to defray applicable charges for tuition and fees for each individual student without regard to consideration of the potential State benefit. In this instance, the State benefit would not be viewed by VA as being available for use in defraying the cost of tuition and fees until the individual's entitlement to his or her VA benefit is fully exhausted. For example, in the case of an individual who is not entitled to a 100 percent payment under the Post 9-11 GI Bill, the State benefit could be applied to defray the charges that are not covered by the VA benefit.
Mr. Raymond L. Zawacki

Our review of the relevant New Jersey statute confirms that, by its own terms, the tuition reimbursement to a public institution of higher learning is not available to the extent benefits are payable under chapter 33, and therefore, cannot be applied until after the payment of such benefits.

I appreciate having the opportunity to review this matter, and would welcome any further input you may have as we work together on behalf of our Nation’s veterans.

Sincerely yours,

Will A. Gunn
General Counsel