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ONE HUNDRED TENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

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October 31, 2007

The Honorable Robert M. Gates  
Secretary  
U.S. Department of Defense  
1000 Defense Pentagon  
Washington, DC 20301

Dear Mr. Secretary:

Recent news reports have raised concerns about whether members of the 1/34<sup>th</sup> Brigade Combat Team of the Minnesota National Guard have been treated fairly with regard to their education benefits under the Montgomery GI Bill.<sup>1</sup> Despite serving the longest continuous deployment of any U.S. ground combat unit in Iraq, these soldiers have been denied education benefits under the Montgomery GI Bill.

Guard and Reserve troops must be called to active duty for 730 days — two full years — in order to become eligible for Montgomery GI education benefits. In the case of the 1/34<sup>th</sup> Brigade Combat Team, reports indicate that after a nearly two-year deployment (which included six months of training at Camp Shelby and an extended fifteen month deployment in Iraq), hundreds of soldiers received orders that ended their active duty just short of the 730 day active duty requirement, rendering them ineligible for their education benefits. Some of these soldiers have suggested that the date on which their deployment was ended (September 29, 2007) was chosen purposefully to deprive them of benefits and to cuts costs for DOD.<sup>2</sup>

The Committee seeks answers to several key questions regarding the deactivation of the Guard's 1/34<sup>th</sup> Brigade Combat Team. First, how were the orders that resulted in these soldiers ineligibility for benefits prepared? Second, have the National Guard and the Army responded appropriately to rectify the problems caused by these orders? Third, are there other National

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<sup>1</sup> *Army Denies Guard Members Education Benefits*, National Public Radio, (Oct. 11, 2007)

<sup>2</sup> *National Guard Troops Denied Benefits After Longest Deployment Of Iraq War*, NBC News WCSH, (online at <http://www.wcsh6.com/news/article.aspx?storyid=71741>) (Oct. 3, 2007).

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Guard units that have been denied benefits under similar circumstances? Fourth, are the National Guard and Army putting procedures in place to ensure that future deployments and deactivation decisions appropriately maximize soldiers' legitimate eligibility for benefits?

In order to answer these questions, we ask that you provide the Committee with the following documents:

1. Any regulations, policies, or procedures that guide deployment or deactivation orders that contain any reference to the potential impact of such orders on Montgomery GI Bill benefits;
2. A detailed timeline of the service of the 1/34<sup>th</sup> Brigade Combat Team of the Minnesota National Guard since January 2003. Please ensure that this document contains a record, by name, of all military or civilian officials who drafted, edited, or approved orders for these troops;
3. Any documents prepared by military or civilian officials, or government contractors, discussing the potential impact on Montgomery GI Bill benefits, or other benefits, of the orders ending deployment for this Guard unit in September 2007;
4. A detailed description of all steps taken by the Department of the Army and the National Guard to remedy the problems caused by the orders that ended active duty for these soldiers in September 2007, including specific efforts to contact and inform soldiers who may have been affected, and the success or failure of those efforts; and
5. Information on all National Guard units nationwide that have served at least 20 months on active duty since October 2001, and whose service was ended within 45 days of the 730-day benefit cutoff. Please provide a detailed description of the service times and nature of the service for these units.

Please provide these materials to the Committee by November 15, 2007.

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. An attachment to this letter provides additional information about how to respond to the Committee's request.

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If you have any questions regarding this letter, please contact Brian Cohen or Matt Sieglar of the full Committee staff at (202) 225-5420 or Dave Turk of the Subcommittee staff at (202) 225-2548.

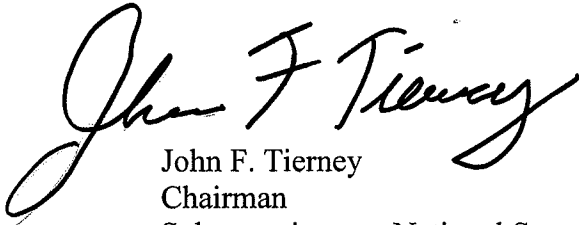
Sincerely,



Henry A. Waxman  
Chairman  
Committee on Oversight  
and Government Reform



Tom Davis  
Ranking Minority Member  
Committee on Oversight  
and Government Reform



John F. Tierney  
Chairman  
Subcommittee on National Security  
and Foreign Affairs



Christopher Shays  
Ranking Minority Member  
Subcommittee on National Security  
and Foreign Affairs



Bruce L. Braley  
Member  
Committee on Oversight  
and Government Reform



Betty McCollum  
Member  
Committee on Oversight  
and Government Reform

Enclosure

cc: Lieutenant General H Steven Blum  
Chief  
National Guard Bureau  
1411 Jefferson Davis Highway  
Arlington VA 22202-3231

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### **Responding to Oversight Committee Document Requests**

In responding to the document request from the Committee on Oversight and Government Reform, please apply the instructions and definitions set forth below.

#### **Instructions**

1. In complying with the request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Records, documents, data, or information called for by this request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization, or individual denoted in this request has been, or is currently, known by any other name than that herein denoted, the request should be read also to include them under that alternative identification.
3. Each document produced should be produced in a form that renders the document capable of being copied.
4. When you produce documents, you should identify to which paragraph in the Committee's request the documents respond.
5. Documents produced in response to this request should be produced together with copies of file labels, dividers or identifying markers with which they were associated when this request was issued. To the extent that documents were not stored with file labels, dividers, or identifying markers, they should be organized into separate folders by subject matter prior to production.
6. Each folder and box should be numbered, and a description of the contents of each folder and box, including the request number to which the documents are responsive, should be provided in an accompanying index.

7. It is not a proper basis to refuse to produce a document that any other person or entity also possesses a non-identical or identical copy of the same document.
8. If any of the requested information is stored in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer backup tape), you should consult with Committee staff to determine the appropriate format in which to produce the information.
9. If compliance with the request cannot be made in full, compliance should be made to the extent possible and should include an explanation of why full compliance is not possible.
10. In the event that a responsive document is withheld on any basis, you should provide the following information concerning the document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author, and addressee; and (e) the relationship of the author and addressee to each other.
11. If any document responsive to this request was, but no longer is, in your possession, custody, or control, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
12. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.
13. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.
14. All documents should be bates-stamped sequentially and produced sequentially.
15. Two sets of documents should be delivered, one set to the majority staff and one set to the minority staff. When documents are produced to the Committee, one production set should be delivered to the majority staff in Room 2157 of the Rayburn House Office Building and one to the minority staff in Room B350A in the Rayburn House Office Building.

#### Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices,

confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), and electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, telexes, discussions, releases, personal delivery, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request? any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms "person" or "persons" means natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof
5. The terms "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is in any manner whatsoever pertinent to that subject.