

applicability to removal of Board records. Previous paragraphs (b) through (e) restate statutory and other regulatory provisions regarding access to records which we believe are unnecessary in the Board's Rules of Practice.

This final rule concerns agency procedure or practice and, consequently, pursuant to 5 U.S.C. 553, is exempt from notice and comment requirements.

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This rule will affect VA beneficiaries and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans.

Approved: May 31, 1996.  
Jesse Brown,  
*Secretary of Veterans Affairs.*

For the reasons set out in the preamble, 38 CFR part 20 is amended as set forth below:

## **PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE**

1. The authority citation for part 20 continues to read as follows:  
Authority: 38 U.S.C. 501(a).

### **Subpart G—Representation**

#### **§ 20.606 [Amended]**

2. In § 20.606, paragraph (a) is removed; and paragraphs (b), (c), (d) and (e) are redesignated as paragraphs (a), (b), (c) and (d), respectively.

3. In § 20.606, newly redesignated paragraph (c) is amended by removing "paragraph (b)" in the fourth sentence and adding, in its place, "paragraph (a)"

4. In § 20.606, newly redesignated paragraph (d) is amended by adding "or presiding Member" immediately following "Chairman" in the last sentence.

### **Subpart H—Hearings on Appeal**

5. Section 20.710 is revised to read as follows:

#### **§ 20.710 Rule 710. Witnesses at hearings.**

The testimony of witnesses, including appellants, will be heard. All testimony must be given under oath or affirmation. Oath or affirmation is not required for

the sole purpose of presenting contentions and argument.

Authority: 38 U.S.C. 7102, 7105(a), 7107.

### **Subpart N—Miscellaneous**

6. Section 20.1300 is revised to read as follows:

#### **§ 20.1300 Rule 1300. Removal of Board records.**

No original record, paper, document or exhibit certified to the Board may be taken from the Board except as authorized by the Chairman or except as may be necessary to furnish copies or to transmit copies for other official purposes.

Authority: 38 U.S.C. 5701.

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## **DEPARTMENT OF DEFENSE**

### **DEPARTMENT OF VETERANS AFFAIRS**

#### **38 CFR Part 21**

**RIN 2900-AH64**

#### **Post-Vietnam Era Veterans' Educational Assistance: Miscellaneous**

**AGENCIES:** Department of Defense and Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the regulations concerning the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP). It removes provisions that are obsolete, duplicative, or otherwise unnecessary. It also makes changes for purposes of clarification.

**EFFECTIVE DATE:** June 7, 1996.

**FOR FURTHER INFORMATION CONTACT:** June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 202-273-7187.

**SUPPLEMENTARY INFORMATION:** The regulations governing VEAP are set forth in 38 CFR Part 21, Subpart G (see 38 CFR 21.5001 through 21.5300). This document amends these regulations as discussed below.

Section 21.5001 is revised to specify delegations of authority to various employees to make decisions concerning claims for benefits under VEAP. Previously these delegations were included by incorporation by reference.

Section 21.5020 is revised by referring readers to applicable statutory provisions instead of restating the statutory provisions.

Section 21.5021 is amended to correct a typographical error.

Section 21.5022 is amended to update information concerning the relationship between VEAP benefits and other benefit programs.

Section 21.5040 contained a paragraph that required each person who was eligible for educational assistance under both the Vietnam Era GI Bill and VEAP to elect under which program he or she wished to receive benefits. These provisions are removed. Since the Vietnam Era GI Bill has expired, no one is eligible under both programs. However, if such an election was made in the past, it remains irrevocable by statute (see 38 U.S.C. 3221(f)).

Section 21.5058 is amended by removing a reference to § 21.4703, since § 21.4703 was removed by another Federal Register document. Also, the reference to § 21.4703 is replaced by a reference to the corresponding statutory provision.

Section 21.5060 contained material concerning disenrollment from VEAP by individuals who instead chose to participate in the Vietnam Era GI Bill. Since individuals can no longer do that, the material is removed.

Section 21.5064 contained provisions concerning an officer adjustment benefit. Eligibility can no longer be established for this benefit. Therefore, this material is obsolete and is removed.

Section 21.5074 contained provisions for reducing the monthly payment made to a VEAP participant who has excessive absences during that month. Due to a statutory change, these provisions applied only to absences occurring prior to December 18, 1989. Consequently, this section is obsolete and is removed.

Section 21.5100 is amended by replacing obsolete authority citations with current citations.

Section 21.5103 is amended by removing obsolete rules concerning when travel connected with counseling will be reimbursed by the Department of Veterans Affairs (VA), and replacing those rules with a reference to the sections of the U.S. Code that govern these reimbursements.

Section 21.5130 contained statements as to which of several regulations governing payments of educational assistance VA will apply to the payments of educational assistance under VEAP. This section is revised to eliminate references to sections and paragraphs that no longer exist.

Section 21.5132 is amended by removing provisions that are no longer necessary because they applied only to payments that have already been made.

Section 21.5141 contained the rules for determining the amount of tutorial assistance for which a VEAP participant may be eligible. The method for making this determination is the same as the method used in determining tutorial assistance for several of the other educational assistance programs VA administers, such as the Montgomery GI Bill—Active Duty program. Hence, instead of repeating the detailed instructions in § 21.5141, the same instructions in § 21.4236 are incorporated by reference.

Section 21.5145 is removed because it is no longer necessary. VA recently revised § 21.4145 so that it applies to VA's work-study programs in all the education programs VA administers. There is no need for a separate regulation restating work-study provisions for VEAP participants.

In § 21.5200, paragraph (f) contained material concerning absences which, as noted above, no longer is applicable. Hence, this material is obsolete and is removed.

Section 21.5300, and a reference in § 21.5292 to § 21.5300, are removed because § 21.5300 merely concerned the applicability of sections that were removed by another Federal Register document.

This document also makes changes to some of the sections referred to above for clarification.

This document removes provisions that are obsolete, duplicative, or without substantive effect and makes changes for clarification. This document makes no substantive changes. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Secretary of Veterans Affairs and the Secretary of Defense hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule makes no substantive changes. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.120.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs—education, Grant

programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 22, 1996.  
Jesse Brown,  
*Secretary of Veterans Affairs.*  
Samuel E. Ebbesen,  
*Lieutenant General, USA, Deputy Assistant Secretary (Military Personnel Policy), Department of Defense.*

For the reasons set out in the preamble, 38 CFR part 21 (subpart G) is amended as set forth below.

## **PART 21—VOCATIONAL REHABILITATION AND EDUCATION**

### **Subpart G—Post-Vietnam Era Veterans' Educational Assistance Under 38 U.S.C. Chapter 32**

1. The authority citation for 38 CFR part 21, subpart G is revised to read as follows:

Authority: 38 U.S.C. 501(a), ch. 32, unless otherwise noted.

2. Section 21.5001 is revised to read as follows:

#### **§ 21.5001 Administration of benefits: 38 U.S.C. Chapter 32.**

(a) *Delegation of authority.* Except as otherwise provided, authority is delegated to the Under Secretary for Benefits and to supervisory or administrative personnel within the jurisdiction of the Education Service, Veterans Benefits Administration, designated by him or her to make findings and decisions under 38 U.S.C. Chapter 32 and the applicable regulations, precedents, and instructions, as to the program authorized by subpart G of this part.

(Authority: 38 U.S.C. 512(a))

(b) *Administrative provisions.* In administering benefits payable under 38 U.S.C. Chapter 32, VA will apply the following sections:

(1) Section 21.4002—Finality of decisions;

(2) Section 21.4003 (except paragraphs (d) and (e))—Revision of decisions;

(3) Section 21.4005—Conflicting interests;

(4) Section 21.4006—False or misleading statements;

(5) Section 21.4007—Forfeiture;

(6) Section 21.4008—Prevention of overpayments; and

(7) Section 21.4009—Overpayments; waiver or recovery.

(Authority: 38 U.S.C. 3241(a), 3680, 3683, 3685, 3690, 6103)

3. Section 21.5020 is revised to read as follows:

#### **§ 21.5020 Post-Vietnam era veterans' educational assistance.**

Title 38 U.S.C. Chapter 32 provides for a participatory program for educational assistance benefits to eligible veterans and servicepersons. The intent of the Congress for this program is stated in 38 U.S.C. 3201.

(Authority: 38 U.S.C. 3201)

4. In § 21.5021, the authority citation following paragraph (b)(5) is amended by removing “320” and adding, in its place, “3202)” and the authority citation following paragraph (c) is amended by removing “101” and adding, in its place, “101(20)”.

5. In § 21.5022, paragraphs (a), (b)(1)(i), (b)(1)(ii), (b)(1)(iii), and (b)(1)(iv) are revised, and paragraphs (b)(1)(v), (b)(1)(vi), and (b)(1)(vii) are added, to read as follows:

#### **§ 21.5022 Eligibility under more than one program.**

(a) *Concurrent benefits under more than one program.* An individual may not receive educational assistance under 38 U.S.C. Chapter 32 concurrently with benefits under any of the following provisions of law:

- (1) 38 U.S.C. Chapter 31;
- (2) 38 U.S.C. Chapter 35;
- (3) 10 U.S.C. Chapter 107;
- (4) 10 U.S.C. Chapter 1606;
- (5) Section 903 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note); or
- (6) The Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(Authority: 38 U.S.C. 3681(b))

(b) *Total eligibility under more than one program.*

- (1) \* \* \*
- (i) 38 U.S.C. Chapter 30;
- (ii) 38 U.S.C. Chapter 35;
- (iii) 10 U.S.C. Chapter 107;
- (iv) 10 U.S.C. Chapter 1606;
- (v) Section 903 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);
- (vi) The Hostage Relief Act of 1980 (5 U.S.C. 5561 note); or
- (vii) The Omnibus Diplomatic Security and Antiterrorism Act of 1986.

\* \* \* \* \*

6. In § 21.5040, paragraph (g) is removed and paragraph (h) is redesignated as paragraph (g).

7. In § 21.5058, paragraph (b) is amended by removing “§ 21.4703 of this part” and adding, in its place, “sec. 207, Pub. L. 101–366, 104 Stat. 442.”

8. In § 21.5060, paragraph (a)(2) is revised to read as follows:

**§ 21.5060 Disenrollment.**

(a) *Voluntary disenrollment.* \* \* \*

(2) At any time within the initial 12 months of participation, an individual may elect to disenroll for reasons of personal hardship only.

(Authority: 38 U.S.C. 3221(a), (b))

\* \* \* \* \*

9. In § 21.5064, paragraphs (b)(1) and (b)(2) are revised to read as follows:

**§ 21.5064 Refund upon disenrollment.**

\* \* \* \* \*

(b) *Effective date of refund.* \* \* \*

(1) If an individual voluntarily disenrolls from the program before discharge or release from active duty, VA will refund the individual's unused contributions:

(i) On the date of the participant's discharge or release from active duty; or  
(ii) Within 60 days of VA's receipt of notice of the individual's discharge or disenrollment; or

(iii) As soon as possible after VA's receipt of notice indicating that an earlier refund is needed due to hardship or for other good reasons.

(Authority: 38 U.S.C. 3223(b), 3232)

(2) If an individual voluntarily disenrolls from the program after discharge or release from active duty under other than dishonorable conditions, his or her contributions shall be refunded within 60 days of receipt by VA of an application for a refund from the individual.

(Authority: 38 U.S.C. 3202(1)(A), 3223(c), 3232(b))

\* \* \* \* \*

**§ 21.5074 [Removed]**

10. Section 21.5074 is removed.

**§ 21.5100 [Amended]**

11. In § 21.5100, the authority citation following paragraph (b) is amended by removing "3463; Pub. L. 96-466, Pub. L. 99-576", and adding, in its place, "3697A(a)"; the authority citation following paragraph (c) is amended by removing "3463; Pub. L. 99-466, Pub. L. 99-576" and adding, in its place, "3241, 3697A (a) and (b)"; and the authority citation following paragraph (d) is amended by removing "3697A" and adding, in its place, "3697A(c)".

12. Section 21.5103 is revised to read as follows:

**§ 21.5103 Travel expenses.**

(a) *General.* VA shall determine and pay the necessary expense of travel to and from the place of counseling for a veteran who is required to receive

counseling as provided under 38 U.S.C. 111 (a), (d), (e), and (g).

(Authority: 38 U.S.C. 111(a), (d), (e), and (g))

(b) *Restriction.* VA will not pay the necessary cost of travel to and from the place of counseling when counseling is not required, but is provided as a result of a voluntary request by the veteran.

(Authority: 38 U.S.C. 111)

13. In § 21.5130, paragraph (a) is amended by removing "(except paragraph (e))"; the authority citations following paragraphs (a) and (b) are removed; paragraph (d) is amended by removing "paragraphs (b), (c), (d), (o), and (v)" and adding, in its place, "paragraph (b)"; the authority citation following paragraph (d) is removed; paragraph (e) is amended by removing "paragraphs (a), (b), and (c)" and adding, in its place, "paragraph (b)"; paragraph (f) is removed; paragraphs (g) and (h) are redesignated as paragraphs (f) and (g), respectively; the authority citations following newly redesignated paragraphs (f) and (g) are amended by removing "3241" and adding, in its place, "3241(a)"; and the introductory text is revised to read as follows:

**§ 21.5130 Payments; educational assistance allowance.**

VA will apply the following sections in administering benefits payable under 38 U.S.C. Chapter 32:

\* \* \* \* \*

14. In § 21.5132, paragraph (b)(2) is removed; and paragraph (b)(3) is redesignated as paragraph (b)(2) and is revised to read as follows:

**§ 21.5132 Criteria used in determining benefit payments.**

\* \* \* \* \*

(b) *Contributions.* \* \* \*

(2) The amount the Secretary of Defense has contributed to the fund for the individual.

(Authority: 38 U.S.C. 3231)

15. Section 21.5141 is revised to read as follows:

**§ 21.5141 Tutorial assistance.**

An individual who is otherwise eligible to receive benefits under the Post-Vietnam Era Veterans' Educational Assistance Program may receive supplemental monetary assistance to provide tutorial services. In determining whether VA will pay the individual this assistance, VA will apply the provisions of § 21.4236.

(Authority: 38 U.S.C. 3234, 3492)

**§ 21.5145 [Removed]**

16. Section 21.5145 is removed.

**§ 21.5200 [Amended]**

17. In § 21.5200, paragraph (f) is removed and reserved.

**§ 21.5292 [Amended]**

18. In § 21.5292, paragraph (e)(2) is amended by removing "21.5300" and adding, in its place, "21.5270".

19. The undesignated center heading preceding § 21.5300 is removed.

**§ 21.5300 [Removed]**

20. Section 21.5300 is removed.

[FR Doc. 96-14202 Filed 6-6-96; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Parts 2120, 4100, 4600**

[WO-160-1820-02-24 1A]

RIN 1004-AC66

**Leases; Grazing Administration**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule.

**SUMMARY:** This administrative final rule transfers the regulations at 43 CFR Subpart 2120 in their entirety to a new 43 CFR Part 4600 which is under Subchapter D, Range Management. The regulations at former part 2120 were included under 43 CFR Group 2100, Acquisitions. The regulations at the former Part 2120 implement provisions of the Pierce Act (43 U.S.C. 315m-1 to 315m-4 inclusive) to provide for the lease of State, county or privately owned land located in grazing districts. The purpose of this transfer is to consolidate all range management regulations for public convenience in one area of Title 43. This administrative final rule also adds a reference to new Part 4600 in Subpart 4130 and corrects a cross reference citation in former part 2120.

**EFFECTIVE DATE:** July 8, 1996.

**FOR FURTHER INFORMATION CONTACT:** Frank Bruno, Regulatory Management, (202) 452-0352.

**SUPPLEMENTARY INFORMATION:** This section of the regulations explains that the Bureau of Land Management (BLM) may seek to lease land from the owners of State, county, or privately owned lands located within grazing districts that are chiefly valuable for grazing and are necessary to promote the orderly use, improvement and development of grazing districts. This section of the regulations has been in 43 CFR Group 2100, entitled Acquisitions, because this