

SUPPLEMENTARY INFORMATION: This final rule consists of nonsubstantive changes and, therefore, is not subject to the notice and comment and effective date provisions of 5 U.S.C. 553.

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 (RFA), 5 U.S.C. 601–602. This final rule would not cause a significant effect on any entities since it does not contain any substantive provisions. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64008, 64009, and 64010.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: May 31, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

§ 17.170 [Amended]

2. In § 17.170, paragraph (c) is amended by removing “or the cause of death is unknown”, and paragraph (d) is amended by removing “coroner” each time it appears and adding, in its place, “medical examiner/coroner”.

[FR Doc. 96–14362 Filed 6–7–96; 8:45 am]

BILLING CODE 8320–01–P

38 CFR Part 21

RIN 2900–AH31

Educational Assistance Programs and Service Members Occupational Conversion and Training Act Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the educational assistance regulations and the Service Members Occupational Conversion and Training Act (SMOCTA) regulations. It restates statutory provisions of the Veterans' Benefits Improvement Act of 1994 and the National Defense Authorization Act for Fiscal Year 1995. It also makes changes to set forth statutory interpretations of the Department of Veterans Affairs (VA), to reflect current organizational structure within VA, and to provide clarification. These changes affect the Survivors' and Dependents' Educational Assistance program, the Montgomery GI Bill—Active Duty program, the Montgomery GI Bill—Selected Reserve program, the SMOCTA program, and the Post-Vietnam Era Veterans' Educational Assistance program (VEAP).

EFFECTIVE DATE: This final rule is effective June 10, 1996. For more information concerning the application of the provisions of the final rule, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, (202) 273–7187.

SUPPLEMENTARY INFORMATION: This document amends regulations in 38 CFR Part 21. It amends educational assistance regulations concerning the Survivors' and Dependents' Educational Assistance program in subpart C and the Montgomery GI Bill—Active Duty program in subpart K. Also, this document makes changes to the administrative provisions in subpart D that affect the Survivors' and Dependents' Educational Assistance program, the Montgomery GI Bill—Active Duty program, the Montgomery GI Bill—Selected Reserve program, and VEAP. Further, this document amends the SMOCTA regulations in subpart F–3.

The Veterans' Benefits Improvement Act of 1994 (Pub. L. 103–446) contains many provisions that affect the Montgomery GI Bill—Active Duty program. These include making vocational flight training permanently available under the Montgomery GI Bill—Active Duty program; permitting

approval of alternative teacher certification programs for training under the Montgomery GI Bill—Active Duty program; eliminating VA's authority to functionally supervise State approving agencies; restricting approved correspondence courses to accredited courses; and permitting approval of programs of education offered by foreign educational institutions when those programs include courses offered away from the institution's main campus. Accordingly, the regulations in subparts D and K are amended to incorporate the statutory changes.

Pursuant to Pub. L. 103–446, the provisions concerning alternative teacher certification do not apply to the Survivors' and Dependents' Educational Assistance program, and regulations in subpart C governing that program are revised to clarify that fact. The provisions of Pub. L. 103–446 also provide that certain recipients of Survivors' and Dependents' Educational Assistance in the Philippines who were being paid at the rate equivalent to 50 cents on the dollar in Philippine pesos will now be paid in U.S. dollars. The regulations in subpart C are amended accordingly. We also made various changes to SMOCTA regulations in subpart F–3 to reflect the statutory changes made by Pub. L. 103–446. In this regard, the SMOCTA regulations are amended by eliminating the prohibition against training programs that lasted more than 18 months, by eliminating provisions that required a two week wait before a veteran could begin a training program, and by adding an aggregate limit of not more than \$10,000 or \$12,000, as applicable, that could be paid to employers when a trainee was in more than one training program.

The National Defense Authorization Act for Fiscal Year 1995 (Pub. L. 103–337) contains provisions permitting additional members of the Coast Guard to qualify for the Montgomery GI Bill—Active Duty program. The regulations in subpart K are amended to reflect the statutory change.

VA is prohibited by statute from approving the enrollment of an eligible veteran in a course if 85% or more of the students enrolled in the course are VA-supported. In this regard, vocational flight training is now a permanent part of the Montgomery GI Bill—Active Duty program, the Montgomery GI Bill—Selected Reserve program, and VEAP. The regulations are amended by providing that solo flight training and training in flight simulators are to be included in the calculations for determining whether the 85%–15% requirement has been met in flight courses. This is necessary since in our

view 38 U.S.C. 3680A(d) requires that when educational assistance may be paid to eligible veterans for any courses, those courses are subject to the 85%–15% requirement.

The regulations in subpart D are amended by eliminating references to the Director, Vocational Rehabilitation and Education Service, a position that no longer exists; by removing an obsolete reference to eligibility requirements under the old Vietnam Era GI Bill from the regulations concerning training in foreign schools, since there no longer is any eligibility under the Vietnam Era GI Bill; and clarifying, consistent with the requirements of Pub. L. 103–446, that a person eligible under the Montgomery GI Bill—Active Duty program and the Montgomery GI Bill—Selected Reserve program may train in foreign schools.

Pub. L. 103–446 contains a provision that requires any entity offering an alternative teacher certification program to be considered to be an educational institution for VA purposes during the period beginning on November 2, 1994, and ending on September 30, 1996. This document amends subparts D and K to reflect this statutory change.

This document also amends subparts D and K by adding a definition of “alternative teacher certification program” as follows:

The term *alternative teacher certification program*, for the purposes of determining whether an entity offering such a program is a school, educational institution or institution as defined in * * * this section, means a program leading to a teacher's certificate that allows individuals with a bachelor's degree or graduate degree to obtain teacher certification without enrolling in an institution of higher learning.

We believe this is consistent with congressional intent.

The educational assistance regulations in subparts C, D, and K and the SMOCTA regulations in subpart F–3 are further amended by making other changes for purposes of clarification.

The restatements of statute and statutory interpretations of Pub. L. 102–484 and Pub. L. 103–446 contained in this final rule will be applied retroactively from the effective dates of the statutory provisions. However, the revisions concerning the internal VA reorganization and other clarifications will be applied from the effective date of the rule. Dates of application for provisions covered by this document are as follows:

Oct. 1, 1994: § 21.7120.

Oct. 5, 1994: § 21.7045.

Nov. 2, 1994: §§ 21.3333, 21.4152,

21.4155, 21.4200, 21.4250(f), 21.4820, 21.4830, 21.4832, and 21.7020.

Jan. 31, 1995: §§ 21.4252(e) and 21.4279.
June 10, 1996: §§ 21.4201 and 21.4260.

This document makes no substantive changes. It restates statutory provisions, sets forth statutory interpretations, reflects current organizational structure within VA, and makes changes for clarification. 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 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 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 sections 603 and 604.

The Catalog of Federal Domestic Assistance numbers for programs affected by this final rule are 64.117, 64.120, and 64.124. No Catalog of Federal Domestic Assistance number has been assigned to the Montgomery GI Bill—Selected Reserve program or the training programs under the Service Members Occupational Conversion and Training Act.

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 31, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

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

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart C—Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35

1. The authority citation for subpart C is revised to read as follows:

Authority: 38 U.S.C. 501(a), 512, 3500–3566, unless otherwise noted.

2. In § 21.3021, paragraph (k) is redesignated as paragraph (l); and new paragraph (k) is added and newly redesignated paragraph (l) is revised, to read as follows:

§ 21.3021 Definitions.

* * * * *

(k) *School, educational institution, institution.* The terms *school*, *educational institution* and *institution* mean:

(1) A vocational school or business school;

(2) A junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution;

(3) A public or private secondary school;

(4) A training establishment as defined in § 21.4200(c); or

(5) An institution that provides specialized vocational training, generally recognized as on the secondary school level or above, for people with mental or physical disabilities.

(Authority: 38 U.S.C. 3501(a)(6), 3535)

* * * * *

(l) *Additional definitions.* The definitions of all terms that are defined in § 21.4200 but that are not defined in this section apply to subpart C of this part.

(Authority: 38 U.S.C. 501, 3501)

* * * * *

3. In § 21.3333, paragraph (c) is revised to read as follows:

§ 21.3333 Rates.

* * * * *

(c) *Payments made to eligible persons in the Republic of the Philippines or to certain Filipinos.* When the eligible person is pursuing training at an institution located in the Republic of the Philippines or when an eligible child's entitlement is based on the service of a veteran in the Philippine Commonwealth Army, or as a Philippine Scout as defined in § 3.8(b), (c), or (d) of this chapter, payments of special training allowance made after December 31, 1994, will be made at the rate of 50 cents for each dollar authorized.

(Authority: 38 U.S.C. 3532(d), 3542, 3565)

* * * * *

Subpart D—Administration of Educational Assistance Programs

4. The authority citation for subpart D continues to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

§ 21.4155 [Amended]

5. In § 21.4152, paragraph (a) is amended by removing "Except as provided in § 21.4155 of this part, no" and adding, in its place, "No".

§ 21.4152 [Amended]

6. In § 21.4155, paragraph (b) is removed and paragraphs (c) and (d) are redesignated as paragraphs (b) and (c), respectively.

7. In § 21.4200, paragraph (a) is revised and paragraph (w) is added, to read as follows:

§ 21.4200 Definitions.

(a) *School, educational institution, institution.* The terms *school, educational institution* and *institution* mean:

- (1) A vocational school or business school;
- (2) A junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution;
- (3) A public or private elementary school or secondary school;
- (4) A training establishment as defined in paragraph (c) of this section; or

(5) Any entity during the period beginning on November 2, 1994, and ending on September 30, 1996, other than an institution of higher learning, that provides training for completion of a State-approved alternative teacher certification program.

(Authority: 38 U.S.C. 3452)

* * * * *

(w) *Alternative teacher certification program.* The term *alternative teacher certification program*, for the purposes of determining whether an entity offering such a program is a school, educational institution, or institution as defined in paragraph (a)(5) of this section, means a program leading to a teacher's certificate that allows individuals with a bachelor's degree or graduate degree to obtain teacher certification without enrolling in an institution of higher learning.

(Authority: 38 U.S.C. 3452(c))

* * * * *

8. In § 21.4201, paragraph (e)(3)(ii) introductory text is amended by removing "part 141, Title 14, Code of Federal Regulations" in each place and adding, in its place, "14 CFR part 141"; paragraphs (e)(3)(ii)(B) and (e)(3)(ii)(C) are removed; paragraphs (e)(3)(ii)(D) and (e)(3)(ii)(E) are redesignated as paragraphs (e)(3)(ii)(B) and (e)(3)(ii)(C), respectively; and the section heading and newly redesignated paragraph (e)(3)(ii)(C) are revised to read as follows:

§ 21.4201 Restrictions on enrollment; percentage of students receiving financial support.

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(C) For students enrolled in courses not approved under 14 CFR part 141, such as courses offered by flight simulator or courses for navigator or flight engineer, shall include ground training time or charges; actual logged instructional flight time or charges; and instructional time in a flight simulator or charges for that training.

(Authority: 10 U.S.C. 16136(c); 38 U.S.C. 3034(d), 3680A(d))

* * * * *

9. In § 21.4252, paragraph (e) is revised and paragraph (f) is added, to read as follows:

§ 21.4252 Courses precluded.

* * * * *

(e) *Correspondence courses.* (1) VA will not approve the enrollment of an individual under 10 U.S.C. Chapter 1606 or 38 U.S.C. Chapter 30, 32, or 35 in a correspondence course or the correspondence portion of a correspondence-residence course unless the course is accredited and meets the requirements of §§ 21.4253, 21.4256, and 21.4279, as appropriate.

(2) VA will not approve the enrollment of an eligible child under 38 U.S.C. Chapter 35 in a correspondence course or the correspondence portion of a correspondence-residence course.

(Authority: 38 U.S.C. 3534(b))

(f) *Alternative teacher certification program.* VA will not approve the enrollment of an eligible person under 38 U.S.C. Chapter 35 in an alternative teacher certification program unless that program is offered by an institution of higher learning as defined in § 21.4200(h).

(Authority: 38 U.S.C. 3452(c), 3501(a)(6))

* * * * *

10. In § 21.4260, paragraphs (b)(2), (b)(3)(ii)(B), (b)(5), and (b)(6) are amended by removing "Vocational Rehabilitation and"; paragraph (c)(1) is amended by removing "of eligible" and adding, in its place, "or eligible"; and paragraphs (c)(1)(i), (c)(1)(ii), and (c)(2) are revised to read as follows:

§ 21.4260 Courses in foreign countries.

* * * * *

(c) * * *

(1) * * *

(i) The eligible person, serviceperson, veteran, or reservist meets the eligibility and entitlement requirements of either §§ 21.3040 through 21.3046, §§ 21.5040

and 21.5041, §§ 21.7040 through 21.7045, or § 21.7540, as appropriate;

(ii) The eligible person's, serviceperson's, veteran's, or reservist's program of education meets the requirements of either § 21.3021(h), § 21.5230, § 21.7020(b)(23), or § 21.7520(b)(17), as appropriate; and

* * * * *

(2) VA may deny or discontinue the payment of educational assistance allowance to a veteran, serviceperson, eligible person or reservist pursuing a course in an institution of higher learning not located in a State when VA finds that the veteran's, serviceperson's, eligible person's, or reservist's enrollment is not in his or her best interest or the best interest of the Federal Government.

(Authority: 38 U.S.C. 3687)

11. In § 21.4279, paragraph (b) introductory text and paragraph (b)(1) are revised to read as follows:

§ 21.4279 Combination correspondence-residence program.

* * * * *

(b) *Payment for pursuit of a correspondence-residence program.* The rate of educational assistance payable to a spouse or surviving spouse under 38 U.S.C. Chapter 35 for the residence portion of a correspondence-residence course or program shall be computed as set forth in § 21.3131(a) and 21.4270.

(1) The charges for that portion of the course or program pursued exclusively by correspondence will be in accordance with § 21.3131(a) with 1 month entitlement charged for each \$404 of cost reimbursed.

(Authority: 38 U.S.C. 3534)

* * * * *

Subpart F-3—Service Members Occupational Conversion and Training Program

12. The authority citation for subpart F-3 is revised to read as follows:

Authority: 10 U.S.C. 1143 note; sec. 4481-4497, Pub. L. 102-484, 106 Stat. 2757-2769; sec. 610, Pub. L. 103-446, 108 Stat. 4673-4674, unless otherwise noted.

13. Section 21.4820 is amended by removing paragraph (a)(3) introductory text; redesignating paragraphs (a)(3)(i) and (a)(3)(ii) as paragraphs (a)(3) and (a)(4), respectively; and paragraph (a)(1) and newly redesignated paragraph (a)(4) are revised to read as follows:

§ 21.4820 Job training program approval.

(a) * * *

(1) The training provided under an employer's job training program must be in a field of employment providing a

reasonable probability of stable, long-term employment and such training must be provided for a period of not less than 6 months.

* * * * *

(4) If a job training program requires more than 18 months (or the equivalent in training hours) of training to complete, the period of training approvable for purposes of this subpart will be limited to the first 18 months (or the equivalent in training hours) of training under that program, or a period of training not to exceed 18 months (or the equivalent in training hours) from the point at which the eligible person enters the program in the case where the employer grants credit for prior training. (See § 21.4832(a)(3)).

(Authority: 10 U.S.C. 1143 note; sec. 4481–4497, Pub. L. 102–484, 106 Stat. 2757–2769, as amended by sec. 610, Pub. L. 103–446, 108 Stat. 4673–4674)

* * * * *

14. In § 21.4830, paragraph (b)(2) is revised to read as follows:

§ 21.4830 Entrance into training.

* * * * *

(b) * * *

(2) The eligible person may enter the job training program on or after the date the notice of intent to hire described in paragraph (a) of this section is submitted to VA. However, VA may not provide assistance to the employer if, within two weeks after the date on which the notice of intent to hire is transmitted to VA, VA disapproves the eligible person's entry into that program due to a lack of funds.

* * * * *

15–16. In § 21.4832, paragraph (d)(1) introductory text is revised to read as follows:

§ 21.4832 Payments to employers.

* * * * *

(d) *Limitations on amount of payments.* (1) In no case will the sum of the periodic payments and the lump-sum payment made to an employer for all programs of training that an eligible veteran may pursue with that employer exceed:

* * * * *

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

17. The authority citation for subpart K is revised to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

18. In § 21.7020, paragraph (b)(29) is revised and paragraph (b)(43) is added, to read as follows:

§ 21.7020 Definitions.

* * * * *

(b) * * *

(29) *School, educational institution, institution.* The terms *school*, *educational institution*, and *institution* mean—

(i) Any vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university or scientific or technical institution;

(ii) Any public or private elementary school or secondary school which offers courses for adults, provided that the courses lead to an objective other than an elementary school diploma, a high school diploma or their equivalents; and

(iii) An entity, during the period beginning on November 2, 1994, and ending on September 30, 1996, other than an institution of higher learning, that provides training required for completion of a State-approved alternative teacher certification program.

(Authority: 38 U.S.C. 3002(8), 3452(c); Pub. L. 98–525, Pub. L. 103–446)

* * * * *

(43) *Alternative teacher certification program.* The term *alternative teacher certification program*, for the purposes of determining whether an entity offering such a program is a school, educational institution or institution as defined in paragraph (b)(29)(iii) of this section, means a program leading to a teacher's certificate that allows individuals with a bachelor's degree or graduate degree to obtain teacher certification without enrolling in an institution of higher learning.

(Authority: 38 U.S.C. 3452(c))

19. In § 21.7045, paragraph (a)(1), paragraph (b), introductory text, and the authority citations for paragraphs (a) and (b) are revised, to read as follows:

§ 21.7045 Eligibility based on involuntary separation or voluntary separation.

* * * * *

(a) * * *

(1) The individual—

(i) If not a member of the Coast Guard, must be on active duty or full-time National Guard duty either on September 30, 1990, or after November 29, 1993, or if a member of the Coast Guard, must be on active duty after September 30, 1994, and

(ii) After February 2, 1991, must be involuntarily separated, as that term is defined in 10 U.S.C. 1141, with an honorable discharge; or

* * * * *

(Authority: 10 U.S.C. 1141; 38 U.S.C. 3018A)

(b) *Additional requirements for those individuals voluntarily separated after October 23, 1992, or involuntarily separated.* An individual who meets the requirements of paragraph (a)(1) of this section; or an individual who meets the requirements of paragraph (a)(2) of this section and who either was not a member of the Coast Guard and was separated after October 22, 1992, or who was a member of the Coast Guard and was separated after September 30, 1994, must meet the following additional requirements in order to establish eligibility for educational assistance:

* * * * *

(Authority: 38 U.S.C. 3018B)

* * * * *

§ 21.7120 [Amended]

20. In § 21.7120, paragraph (c)(1)(ii)(D) is amended by removing “and before October 1, 1994”.

[FR Doc. 96–14363 Filed 6–7–96; 8:45 am]

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DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AE43

Educational Assistance for Members of the Selected Reserve

AGENCIES: Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the regulations for the Montgomery GI Bill—Selected Reserve program to reflect statutory changes by adding for certain reservists new types of permissible training such as apprenticeship and other on-job training, cooperative training, and flight training; by liberalizing the eligibility provisions; and by increasing the rates of payment. The regulations are also amended by adding additional restatements of statute, interpretive rules, and nonsubstantive changes.

DATES: Effective Date: This final rule is effective June 10, 1996.

Applicability Dates: The restatements of statute and VA's statutory interpretations contained in this final rule will be applied retroactively from