

regulations dealing with these rates are amended accordingly.

**EFFECTIVE DATE:** December 3, 1997.

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

**SUPPLEMENTARY INFORMATION:** The law (10 U.S.C. 2145) provides that the Secretary of Defense shall adjust the amount of educational assistance which may be provided in any academic year under the Educational Assistance Test Program, and the amount of subsistence allowance authorized under that program. The adjustment is to be based upon the twelve-month increase in the average actual cost of attendance at public institutions of higher education. As required by law, the Department of Defense has consulted with the Department of Education. The Department of Defense has concluded that these costs increased by 6% in the 1996-97 academic year. Accordingly, this revision changes 38 CFR 21.5820 and 21.5822 to reflect a 6% increase in the rates payable in the 1997-98 academic year.

#### Administrative Procedure Act

Pursuant to 5 U.S.C. 553 there is good cause for finding that notice and public procedure are impractical, unnecessary, and contrary to the public interest and there is good cause for dispensing with a 30 day delay of the effective date. The rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program are determined based on a statutory formula and, in essence, the calculation of rates merely constitutes a non-discretionary ministerial act.

The Secretary of Veterans Affairs and the Secretary of Defense have certified that these amended regulations 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. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the amended regulations directly affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

There is no Catalog of Federal Domestic Assistance number for the program affected by these regulations.

#### 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, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: October 17, 1997.

**Hershel W. Gober,**

*Acting Secretary of Veterans Affairs.*

Approved: November 13, 1997.

**Normand G. Lezy,**

*Lieutenant General, USAF, Deputy Assistant Secretary (Military Personnel Policy).*

For the reasons set out above, 38 CFR part 21 (subpart H) is amended as set forth below.

#### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

##### Subpart H—Educational Assistance Test Program

1. The authority citation for part 21, subpart H, continues to read as follows:

**Authority:** 10 U.S.C. chapter 107, Pub. L. 96-342.

#### § 21.5820 [Amended]

2. In § 21.5820, paragraph (b)(1) is amended by removing "1996-97" and adding, in its place, "1997-98", and by removing "\$2,927" and adding, in its place, "\$3,103"; paragraph (b)(2)(ii) is amended by removing "1996-97" and adding, in its place "1997-98"; paragraph (b)(2)(ii)(A) is amended by removing "\$325.22" and adding, in its place, "\$344.78", and by removing "\$162.61" and adding, in its place, "\$172.39"; paragraph (b)(2)(ii)(B) is amended by removing "\$10.84" and adding, in its place, "\$11.49", and by removing "\$5.42", and adding, in its place, "\$5.75"; paragraph (b)(2)(ii)(C) is amended by removing "increased" both times it appears and adding, in its place, "decreased"; paragraph (b)(3)(ii) is amended by removing "1996-97" and adding, in its place, "1997-98"; paragraph (b)(3)(ii)(A) is amended by removing "\$325.22" and adding, in its place, "\$344.78", and by removing "\$162.61" and adding, in its place, "\$172.39"; paragraph (b)(3)(ii)(B) is amended by removing "\$10.84" and adding, in its place "\$11.49", and by removing "\$5.42" and adding, in its place, "\$5.75"; and paragraph (b)(3)(ii)(C) is amended by removing

"increased" both times it appears and adding, in its place, "decreased".

#### § 21.5822 [Amended]

3. In § 21.5822, paragraph (b)(1)(i) is amended by removing "\$729" and adding, in its place, "\$773" and by removing "1996-97" and adding in its place, "1997-98"; paragraph (b)(1)(ii) is amended by removing "\$364.50" and adding, in its place, "\$386.50" and by removing "1996-97" and adding, in its place, "1997-98"; paragraph (b)(2)(i) is amended by removing "1996-97" and adding, in its place, "1997-98" and by removing "\$729" and adding, in its place, "\$773"; and paragraph (b)(2)(ii) is amended by removing "1996-97" and adding, in its place, "1997-98" and by removing "\$364.50", and adding, in its place, "\$386.50".

[FR Doc. 97-31627 Filed 12-2-97; 8:45 am]

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#### DEPARTMENT OF VETERANS AFFAIRS

##### 38 CFR Part 21

RIN 2900-AH91

#### Veterans Education: Approval of Correspondence Programs or Courses

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the VA-administered educational assistance and educational benefits regulations concerning approval of programs of education pursued exclusively by correspondence and the correspondence portion of correspondence-residence courses for Department of Veterans Affairs (VA) training. A number of changes are made to conform to statutory changes. The regulations are also amended to require that the educational institution offering a correspondence program or course certify to the State approving agency (SAA) that at least 50 percent of those pursuing the program or course require six months or more to complete it based on the six-month period immediately preceding the educational institution's application for approval. The certification is to enable the SAA to determine whether the program or course meets the statutory requirement that at least 50 percent of those pursuing the program or course require six months or more to complete it. The regulations are also amended to expressly provide that the SAA may periodically review the program or course approvals already granted and that this determination would be based

on the records of the school for a two-year period reasonably related to the date on which such review is conducted. These periods are appropriate to determine compliance with the statutory requirements. Further, due to the deletion of the statutory basis for its adoption, the requirement that the program or course must require not less than six hours preparation per week over any 26-week period is deleted, and related requirements for SAAs are changed. In addition, this document clarifies that the provisions concerning enrollments in the program or course apply not only to eligible veterans, spouses, and surviving spouses, but also to reservists. Other changes are made for purposes of clarity.

**DATES:** Effective Date: January 2, 1998.

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

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on July 1, 1997 (62 FR 35464), VA proposed to amend the "Administration of Educational Assistance Programs" regulations which are set forth in 38 CFR 21.4001 *et seq.* It was proposed to amend the regulations at §§ 21.4256 and 21.4279 to reflect amended statutory provisions contained in the Veterans' Benefits Improvement Act of 1994, Public Law 103-446. These provisions:

- Require that programs of education offered exclusively by correspondence or the correspondence portion of a correspondence-residence course may be approved for VA training only if they are offered by an accredited educational institution;

- Negate the prior regulatory requirement providing that the normal period required to complete a program of education by correspondence or the correspondence portion of a combination correspondence-residence course may not be less than six months; and

- Impose a requirement that at least 50 percent of those pursuing the program or course shall require six months or more to complete it.

In addition to these statutory requirements, VA proposed to:

- Require an SAA when reviewing an application for a new correspondence program or course approval to determine whether it meets the course completion requirements based on the six-month period immediately preceding the educational institution's application for approval;

- Permit SAAs to review periodically correspondence program or course approvals already granted to determine whether the completion requirement was met by examining a prior two-year period reasonably related to the date on which such review is conducted.

- Remove the regulatory requirement that a correspondence program or course must require at least six hours of preparation per week over any 26-week period;

- Require that correspondence-residence courses would have to meet the same course completion criteria as correspondence programs, including the time periods during which the SAA will determine whether the course completion criterion have been met; and

- Clarify that the provisions concerning enrollments in correspondence courses apply not only to eligible veterans, spouses, and surviving spouses, but also to reservists.

Interested persons were given 63 days to submit comments. We received no comments. Accordingly, based on the rationale set forth in the proposed rule document, we are adopting the provisions of the proposed rule as a final rule.

#### **Paperwork Reduction Act of 1995**

Information collection and recordkeeping requirements associated with this final rule (38 CFR 21.4256(a)(1), 21.4256(b)(3), and 21.4279) have been approved by OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501-3520) and have been assigned OMB control numbers 2900-0575 and 0576. These regulations require that an educational institution offering a program of education by correspondence or the correspondence portion of a correspondence-residence course would have to certify to the SAA that at least 50 percent of those pursuing the program or course require six months or more to complete it in order to have that program or course approved for VA training. There is no VA form to collect this information; therefore, there is no corresponding form number.

VA is not authorized to impose a penalty on persons for failure to comply with information collection requirements which do not display a current OMB control number, if required.

#### **Regulatory Flexibility Act**

The Secretary of Veterans Affairs 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.

Although it is possible that small entities could be among the educational institutions affected by this rulemaking, this final rule would have only a minuscule effect on any educational institution. 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 numbers for programs affected by this final rule are 64.117, 64.120, and 64.124. This final rule will also affect the Montgomery GI Bill—Selected Reserve program, for which there is no Catalog of Federal Domestic Assistance number.

#### **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: October 30, 1997.

**Hershel W. Gober,**

*Acting Secretary of Veterans Affairs.*

For the reasons set out above, 38 CFR part 21, subpart D, is amended as set forth below.

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

#### **Subpart D—Administration of Educational Assistance Programs**

1. The authority citation for part 21, subpart D, is revised 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.

2. Section 21.4256 is revised to read as follows:

#### **§ 21.4256 Correspondence programs and courses.**

(a) *Approval of correspondence programs and courses.* (1) An educational institution desiring to enroll veterans under 38 U.S.C. chapter 30 or 32, spouses and/or surviving spouses under 38 U.S.C. chapter 35, and/or reservists under 10 U.S.C. chapter 1606 in a program of education to be pursued exclusively by correspondence, or in the correspondence portion of a combination correspondence-residence

course, may have the program or course approved only when the educational institution meets the requirements of §§ 21.4252(e), 21.4253, and 21.4279, as applicable.

(The information collection requirements in this section have been approved by the Office of Management and Budget under control number 2900-0575)

(Authority: 38 U.S.C. 3672(e))

(2) The application of an educational institution for approval of a program of education to be pursued exclusively by correspondence or the correspondence portion of a combined correspondence-residence course must demonstrate that the program or course is satisfactory in all elements. The educational institution must certify to the State approving agency that at least 50 percent of those pursuing the program or course require six months or more to complete it. For applications for approval that are pending approval by the State approving agency on February 2, 1995, and for applications received by the State approving agency after that date, the required certification shall be based on the experience of students who completed the program or course during the six-month period immediately preceding the educational institution's application for approval.

(Authority: 38 U.S.C. 3672(e))

(3) State approving agencies have the authority to review periodically the length of time needed to complete each approved correspondence program or approved correspondence-residence course in order to determine whether the program or course should continue to be approved. In implementing this authority, a State approving agency will examine the results over a prior two-year period reasonably related to the date on which such a review is conducted.

(Authority: 38 U.S.C. 3672(e))

(b) *Enrollment agreement.* (1) An educational institution offering a program of education to be pursued exclusively by correspondence must enter into an enrollment agreement with the veteran, spouse, surviving spouse, or reservist who wishes to receive educational assistance from VA while pursuing the program. The enrollment agreement shall disclose fully the obligations of the institution and the veteran, spouse, surviving spouse, or reservist, and shall display in a prominent place on the agreement the conditions for affirmation, termination, refund, and payment of the educational assistance by VA.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(a)(1), 3686(b))

(2) A copy of the agreement shall be given to the veteran, spouse, surviving spouse, or reservist when it is signed.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(b))

(3) The agreement shall not be effective unless the veteran, spouse, surviving spouse, or reservist after the expiration of 10 days after the agreement is signed, shall have signed and submitted to VA a written statement, with a signed copy to the institution, specifically affirming the agreement.

(The information collection requirements in this section have been approved by the Office of Management and Budget under control number 2900-0576)

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(b))

(c) *Mandatory refund policy.* (1) Upon notification of the educational institution by the veteran, spouse, surviving spouse, or reservist of an intention not to affirm the enrollment agreement, any fees paid by the individual shall be returned promptly in full to him or her.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(2) Upon termination of enrollment under an affirmed enrollment agreement for training in the accredited course by the veteran, spouse, surviving spouse, or reservist, without having completed any lessons, a registration fee not in excess of 10 percent of the tuition for the course or \$50, whichever is less, may be charged him or her. When the individual terminates the agreement after completion of less than 25 percent of the lessons of the course, the institution may retain the registration fee plus 25 percent of the tuition. When the individual terminates the agreement after completing 25 percent but less than 50 percent of the lessons, the institution may retain the registration fee plus 50 percent of the tuition for the course. If 50 percent or more of the lessons are completed, no refund of tuition is required.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(3) Where the school either has or adopts an established policy for the refund of the unused portion of tuition, fees, and other charges subject to proration, which is more favorable to the veteran, spouse, surviving spouse, or reservist than the pro rata basis as provided in paragraph (b)(2) of this section, such established policy will be applicable.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(4) Any institution that fails to forward any refund due to the veteran, spouse, surviving spouse, or reservist within 40 days after receipt of a notice of termination or disaffirmance, shall be deemed, prima facie, to have failed to make a prompt refund as required by this section.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

3. In § 21.4279, paragraph (a) introductory text and paragraph (a)(4) are revised, and paragraph (a)(5) is added, to read as follows:

**§ 21.4279 Combination correspondence-residence program.**

(a) *Requirements for pursuit.* A program of education may be pursued partly in residence and partly by correspondence for the attainment of a predetermined and identified objective under the following conditions:

\* \* \* \* \*

(4) The educational institution offering the course is accredited by an agency recognized by the Secretary of Education; and

(5) The State approving agency has approved the correspondence-residence course and has verified compliance with the requirement of 38 U.S.C. 3672(e) and § 21.4256(a) that at least 50 percent of those pursuing the correspondence-residence course require six months or more to complete it.

(The information collection requirements in this section have been approved by the Office of Management and Budget under control number 2900-0575.)

(Authority: 38 U.S.C. 3672(e))

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**POSTAL SERVICE**

**39 CFR Part 111**

**Domestic Mail Manual; Miscellaneous Amendments**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This document describes the numerous amendments consolidated in the Transmittal Letter for Issue 53 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations, see 39 CFR 111.1. These amendments reflect changes in mail preparation requirements and other miscellaneous rules and regulations not previously published in the **Federal Register**.

**EFFECTIVE DATE:** January 1, 1998.