

(b) *Rates payable.* The amount of apportionment of DIC will be determined in accordance with the provisions of § 3.665.

(Authority: 101(4)(A), 104(a), 5307)

**§§ 3.456 and 3.457 [Added and Reserved]**

■ 12. Add and reserve §§ 3.456 and 3.457.

**§ 3.456 Reserved.**

**§ 3.457 Reserved.**

**§§ 3.458 through 3.461 [Removed and Reserved]**

■ 13. Remove and reserve §§ 3.458 through 3.461.

**§§ 3.458–3.461 [Reserved]**

■ 14. Amend § 3.556 as follows:

■ a. In paragraph (a)(1), remove the words “unless it is determined that apportionment for a spouse should be continued”; and

■ b. In paragraph (e):

■ 1. Remove the words “in the case of a competent veteran” from the second sentence, and remove the third sentence; and

■ 2. Revise the fifth sentence.

The revision reads as follows:

**§ 3.556 Adjustment on discharge or release.**

\* \* \* \* \*

(e) *Regular discharge.* \* \* \* Where an apportionment was made under § 3.551(c), the apportionment will be discontinued effective the day preceding the date of the veteran’s release from the hospital, unless an overpayment would result. In the excepted cases, the awards to the veteran and apportionee will be adjusted as of date of last payment.

(Authority: 38 U.S.C. 5503)

\* \* \* \* \*

■ 15. Amend § 3.665 by revising paragraphs (e), (h) and (i) to read as follows:

**§ 3.665 Incarcerated beneficiaries and fugitive felons—compensation.**

\* \* \* \* \*

(e) *Apportionment—(1) Compensation.* All of the compensation not paid to an incarcerated veteran may be apportioned to the veteran’s spouse, child or children (in equal shares), or dependent parent or parents (in equal shares).

(2) *DIC.* All of the DIC not paid to an incarcerated surviving spouse or other children not in the surviving spouse’s custody may be apportioned to another child or children. All of the DIC not paid to an incarcerated child may be

apportioned to the surviving spouse or other children (in equal shares).

\* \* \* \* \*

(h) *Notice to dependent for whom apportionment granted.* A dependent for whom an apportionment is granted under this section shall be informed that the apportionment is subject to immediate discontinuance upon the incarcerated person’s release or participation in a work release or halfway house program.

(i) *Resumption upon release—(1) No apportionment.* If there was no apportionment at the time of release from incarceration, the released person’s award shall be resumed the date of release from incarceration if the Department of Veterans Affairs receives notice of release within 1 year following release; otherwise the award shall be resumed the date of receipt of notice of release. If there was an apportionment award during incarceration, it shall be discontinued date of last payment to the apportionee upon receipt of notice of release of the incarcerated person. Payment to the released person shall then be resumed at the full rate from date of last payment to the apportionee. Payment to the released person from date of release to date of last payment to the apportionee shall be made at the rate which is the difference between the released person’s full rate and the sum of:

(i) The rate that was payable to the apportionee; and

(ii) The rate payable during incarceration.

(2) *Apportionment to a dependent parent.* An apportionment made to a dependent parent under this section cannot be continued beyond the veteran’s release from incarceration unless the veteran is incompetent and the provisions of § 3.452(b)(1) are for application. When a competent veteran is released from incarceration, an apportionment made to a dependent parent shall be discontinued and the veteran’s award resumed as provided in paragraph (i)(1) of this section.

\* \* \* \* \*

(Authority: 38 U.S.C. 501(a), 5313, 5313B; Sec. 506, Pub. L. 107–103, 115 Stat. 996–997)

**PART 21—VOCATIONAL REHABILITATION AND EDUCATION**

**Subpart A—Vocational Rehabilitation and Employment Under 38 U.S.C. Chapter 31**

■ 16. The authority citation for part 21, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), chs. 18, 31, and as noted in specific sections.

**§ 21.330 [Removed and Reserved]**

■ 17. Remove and reserve § 21.330.

**§ 21.330 [Reserved]**

[FR Doc. 2021–21816 Filed 10–13–21; 8:45 am]

BILLING CODE 8320–01–P

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 21**

RIN 2900–AQ89

**State Approving Agency Jurisdiction Rule**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend existing regulations to clarify State Approving Agencies’ (SAA) jurisdiction for approval of online distance learning courses and distinguish such courses from “traditional classroom” resident training courses and independent study-resident training courses (also known as “hybrid” courses), which are typically a combination of online and traditional training. Additionally, VA seeks to clarify SAA authority and jurisdiction with regard to approval and disapproval of any course, or licensing or certification test, and to clarify the adjudicatory outcomes available to an SAA when reviewing an approval application for any type of course (*i.e.*, approval, denial of an application for approval, suspension of approval, or withdrawal of approval).

**DATES:** Comments must be received by VA on or before December 13, 2021.

**ADDRESSES:** Comments may be submitted through [www.Regulations.gov](http://www.Regulations.gov). Comments should indicate that they are submitted in response to RIN 2900–AQ89—State Approving Agency Jurisdiction Rule. Comments received will be available at [regulations.gov](http://regulations.gov) for public viewing, inspection or copies.

**FOR FURTHER INFORMATION CONTACT:** Cheryl Amitay, Chief, Policy and Regulation Development Staff (225C), Education Service, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9800. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** Currently, for purposes of determining SAA jurisdiction, VA’s regulation divides courses into residential courses offered in the same state as the state in which the educational institution is located, 38 CFR 21.4250(a)(1), residential courses

offered in one state by an educational institution located in a different state, § 21.4250(a)(2), and courses offered by independent study or correspondence, § 21.4250(a)(3). Current § 21.4250(a)(3) provides that if an educational institution offers a program through independent study or by correspondence, only the SAA for the State where the school's main campus is located may approve the course for VA training. This rule, however, does not explicitly address online distance learning courses. Some stakeholders have thus erroneously concluded that this rule does not address the appropriate SAA of jurisdiction for online distance learning programs. VA views online distance learning as a subset of courses offered through independent study and, therefore, views current § 21.4250(a)(3) as controlling which SAA has jurisdiction to approve a course offered via online distance learning, *i.e.*, the SAA for the State in which the school's main campus is located has exclusive jurisdiction over the approval of online distance learning programs.

The relationship between independent study and online distance learning is further clarified in 38 CFR 21.4267(b). VA defines independent study in that section for the purposes of educational assistance programs as a program that “consists of a prescribed program of study with provision for interaction between the student and [instructor] . . . through use of communications technology, including . . . videoconferencing, computer technology (to include electronic mail), and other electronic means” and is “offered without any regularly scheduled, conventional classroom or laboratory sessions.” 38 CFR 21.4267(b)(1)(i) and (ii). The definition provided for independent study encompasses distance learning in VA's view, which includes courses offered online. Therefore, online distance learning is currently classified as independent study for the purposes of VA educational assistance programs. Consequently, when current § 21.4250(a)(3) states that the SAA for the State where the educational institution's main campus is located is the SAA of jurisdiction for the approval of independent study program, it is likewise stating that such SAA is the SAA of jurisdiction for the approval of online distance learning programs.

Nevertheless, stakeholders have informed VA that the connection between “independent study” in § 21.4250(a)(3) and the definition of that term in § 21.4267(b)(1), which incorporates online distance learning, is

not apparent to them. Therefore, even though § 21.4250(a)(3) already addresses the appropriate SAA jurisdictional rules for independent study in VA's view, and § 21.4267(b)(1)(i) and (ii) appropriately classifies online distance learning as independent study for the purposes of VA educational assistance, VA proposes to amend § 21.4250(a)(3) to explicitly include the term “online distance learning.” Such an amendment would not substantively change the current definitions. Rather, it is proposed to curtail confusion among some SAAs and educational institutions while maintaining the status quo.

Furthermore, we propose to also include the qualifier “solely” to the type of courses addressed in our proposed amendment to § 21.4250(a)(3). The qualifier “solely” is appropriate and preferable to avoid confusion regarding jurisdiction for SAA evaluation of any training that is not solely through independent study (including online distance learning), correspondence, or any combination of independent study (including online distance learning) and correspondence. Unless training is offered “solely” via independent study (including online distance learning), correspondence, or any combination of independent study (including online distance learning) and correspondence, it is addressed in either § 21.4250(a)(1), or (2). Current paragraph (a)(1) addresses “traditional classroom” resident training and independent study-resident training, also known as “hybrid” training, which VA considers resident training for the purpose of VA approval when the resident training is offered in the same state in which the educational institution is located. Current and proposed paragraph (a)(2) addresses residential courses offered in one state by an educational institution located in a different state and “hybrid” training when the resident training is offered in one state by an educational institution located in a different state. VA defined “resident training” and “independent study-resident training” for purposes of the Selected Reserve Educational Assistance Program in 38 CFR 21.7520(b)(22) and (12), respectively, but generally understands those terms as they are defined in that section. The distinction between courses offered exclusively by independent study and those offered in part by independent study is also addressed in § 21.4267. Section 21.4267(b)(1) defines courses offered “entirely by independent study,” while § 21.4267(b)(2) defines courses offered “in part by independent study.” VA intends for § 21.4250(a)(1) or (2) to

control jurisdiction unless the course is offered exclusively through independent study (including online distance learning), correspondence, or a combination of independent study (including online distance learning) and correspondence. If offered solely via independent study (including online distance learning), correspondence, or a combination of these methods, only the SAA for the state where the educational institution's main campus is located may approve independent study (including online distance learning), correspondence, and courses provided via a combination of independent study (including online distance learning) and correspondence, in accordance with § 21.4250(a)(3).

Additionally, current § 21.4250(b)(3), titled “Failure to act,” states that an SAA can respond to a school's application for program approval by issuing a notice to the school that the SAA does not intend to act on the school's application, and the school may, instead, request approval from the Secretary. Issuance of such a notice is not a program denial but rather serves as an attempted abdication of the SAA's prescribed role in 38 U.S.C. 3672(a)(1) and for which SAAs are reimbursed under 38 U.S.C. 3674(a)(1). Therefore, VA proposes to remove this exception and to require an SAA with jurisdiction to approve or disapprove any course for which a VA beneficiary seeks to use his or her VA educational benefits. However, expressly eliminating the authority of an SAA to take no action on an application arguably creates ambiguity as to what an SAA should do when a school submits an incomplete, insufficient, or otherwise unapprovable application, or when the SAA lacks jurisdiction to make a determination on the application. In those cases, the SAA should deny the application—an implicit authority VA views as naturally and obviously arising as the alternative to the explicit authority to approve an application. While SAAs already have this authority in VA's view, some SAAs have expressed a belief that they lack the authority to issue a denial of approval because that term is not specifically mentioned in any regulatory section.

To remove any potential ambiguity, VA proposes to amend § 21.4250(b) by removing the language currently following the heading “State approving agencies” and adding language to explicitly list “Approval of an Application for Approval,” “Denial of an Application for Approval,” “Suspension of Approval,” and “Withdrawal of Approval” as the four types of decision an SAA is authorized

to make under 38 U.S.C. 3672 and 3679. VA does not view this change as substantive in nature but, rather, is making the change to clarify existing authority based on stakeholder feedback.

Additionally, VA proposes to amend 38 CFR 21.4259 to include the new phrasing for the denial of an application in proposed § 21.4250(b). VA proposes to amend § 21.4259(a) to explicitly state that an SAA may deny an application when the program either fails to satisfy any approval criterion or when the program is outside the SAA's jurisdiction. VA proposes to include, in proposed § 21.4259(a)(3) and (b), denial of an application for approval in the list of reasons for which an SAA must send a notification of decision to the educational institution and VA, respectively. Additionally, VA proposes to amend § 21.4259(b) to explicitly state that the notification to VA must set forth the reasons for such denial, suspension, or withdrawal. Under 38 U.S.C. 3672(a) an SAA must notify VA of its reasons for disapproval of a previously approved course. VA intends to explicitly apply the requirement under 38 U.S.C. 3672(a) to every SAA action that may negatively impact a student's ability to use GI Bill benefits at a particular educational institution. The language requiring the SAA to set forth reasons for adverse approval action is being moved from current § 21.4250(b)(2), which contains vital notification requirements, to proposed § 21.4259(a)(3) and (b) because it appears to better fit with proposed § 21.4259. We propose to include a cross-reference in § 21.4250(b)(2) to indicate that requirements for an SAA's notice of denial, suspension, or withdrawal is covered in § 21.4259(a)(3) and (b). VA further proposes to relocate the sentence, "It is incumbent upon the State approving agency to determine the conduct of courses and to take immediate appropriate action in each case in which it is found that the conduct of a course in any manner fails to comply with the requirements for approval," in a revised form, from current § 21.4259(a)(3) to proposed § 21.4259(a)(2) as a matter of style, not to have any substantive effect.

Lastly, VA would remove the term "disapproval" from § 21.4259 and replace it with the terms "Denial of an Application for Approval" and "Withdrawal of Approval" as applicable. VA interprets, as it always had, its authority to disapprove courses in 38 U.S.C. 3679 as including authority to deny applications for approval, suspend approvals, and withdraw approvals. This non-substantive change

would provide consistency in the terminology used throughout proposed § 21.4259 and proposed § 21.4250(b).

In the interest of properly assisting SAAs in effectively and efficiently administering VA education benefits approval standards and resolve confusion expressed by some SAAs in recent years regarding how to respond to educational institutions seeking approval of strictly online distance learning training courses, it is necessary for VA to make these regulatory amendments. Additionally, these amendments would help ensure course approvals or denials are made by the correct SAA and to provide appropriate guidance regarding the denial of an application for approval.

#### **Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at [www.regulations.gov](http://www.regulations.gov).

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would 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). VA has determined there are no small entities involved with the approval of online distance learning courses or any involvement with administering VA's educational benefits. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the

expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### **Paperwork Reduction Act**

Although this action contains provisions constituting collections of information at 38 CFR 21.4250 and 21.4259 under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no new or proposed revised collections of information are associated with this proposed rule. The information collection requirements for §§ 21.4250 and 21.4259 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900–0051.

#### **Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.027, Post-9/11 Veterans Educational Assistance; 64.028, Post-9/11 Veterans Educational Assistance; 64.032, Montgomery GI Bill Selected Reserve; Reserve Educational Assistance Program; 64.117, Survivors and Dependents Educational Assistance; 64.120, Post-Vietnam Era Veterans' Educational Assistance; 64.124, All-Volunteer Force Educational Assistance.

#### **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, and Vocational rehabilitation.

#### **Signing Authority**

Denis McDonough, Secretary of Veterans Affairs, approved this document on September 14, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication

electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons stated in the preamble, VA proposes to amend 38 CFR part 21 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 continues to read as follows:

**Authority:** 10 U.S.C. 2141 note, ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 33, 34, 35, 36, and as noted in specific sections.

■ 2. Amend § 21.4250 by revising paragraphs (a)(2) and (3), revising in paragraph (b) the introductory text following the paragraph heading, revising paragraph (b)(2), and removing paragraph (b)(3) to read as follows:

#### § 21.4250 Course and licensing and certification test approval; jurisdiction and notices.

(a) \* \* \*

\* \* \* \* \*

(2) If an educational institution with a main campus in a State offers a resident course not located in the same State, only the State approving agency for the State where the educational institution's main campus is located may approve the course for VA training. If the State approving agency chooses to approve a resident course (other than a flight course) not leading to a standard college degree, it must also approve the class schedules of that course.

(3) If an educational institution offers a course solely by independent study as defined in § 21.4267(b)(1), which includes online distance learning, solely by correspondence, as addressed in § 21.4256, or solely by a combination of independent study and correspondence, only the State approving agency for the State where the educational institution's main campus is located may approve the course for VA training.

\* \* \* \* \*

(b) \* \* \* State approving agencies may make four types of decisions: Approval of an Application for Approval; Denial of an Application for Approval; Suspension of Approval; and Withdrawal of Approval.

(1) \* \* \*

(2) *Notice of denial, suspension, or withdrawal.* See § 21.4259(a)(3) and (b).

\* \* \* \* \*

■ 3. Revise § 21.4259 to read as follows:

#### § 21.4259 Denial of an Application for Approval, Suspension of Approval, or Withdrawal of Approval.

(a)(1) A State approving agency may deny an application for approval of any course, or licensing or certification test, after reviewing the application and determining that either:

(i) The course, or licensing or certification test, fails to meet any of the requirements for approval; or

(ii) The State approving agency lacks jurisdiction under § 21.4250.

(2) With respect to any approved course, or licensing or certification test, it is incumbent upon the State approving agency to determine whether the course continues to comply with the requirements for approval and to take immediate appropriate action in each case in which the evidence of record establishes that the conduct of a course fails to comply with the requirements for approval. If so found, the State approving agency:

(i) Will suspend the approval of a course for new enrollments, or approval of a licensing or certification test, for a period not to exceed 60 days to allow the institution to correct any deficiencies; or

(ii) Will immediately withdraw the approval of the course, or licensing or certification test, if any of the requirements for approval that are not being met cannot be corrected within a period of 60 days.

(3) Upon denying an application for approval, or suspending or withdrawing an approval, the State approving agency will notify the educational institution by certified or registered letter with a return receipt secured (38 U.S.C. 3679). The notification will set forth the reasons for such denial, suspension, or withdrawal.

(b) Each State approving agency will immediately notify VA of each course, or licensing or certification test, for which it has denied an application for approval, or suspended or withdrawn the approval, and set forth the reasons for such action.

(c) VA will deny an application for approval, or suspend or withdraw the approval, of courses, or licensing or certification tests, under conditions specified in paragraph (a) of this section where it functions for the State approving agency. See § 21.4150(c).

(d) VA will immediately notify the respective State approving agency, if applicable, in each case VA suspends or withdraws approval of any school under 38 U.S.C. chapter 31.

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900-0051)

(Authority: 38 U.S.C. 3672, 3679, 3689)

[FR Doc. 2021-21496 Filed 10-13-21; 8:45 am]

BILLING CODE 8320-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[CC Docket No. 02-6; FCC 21-107; FRS 51933]

### Schools and Libraries Universal Support Mechanism

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission propose to update the definition of library in the Commission's rules to provide clarity regarding the eligibility of Tribal libraries and promote increased participation of underrepresented Tribal libraries in the E-Rate Program. The Federal Communications Commission seeks to address a longstanding issue that has impeded Tribal libraries in seeking E-Rate support.

**DATES:** Comments are due on or before November 15, 2021, and reply comments are due on or before November 29, 2021.

**ADDRESSES:** All filings should refer to CC Docket No. 02-6. Comments may be filed by paper or by using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

■ *Electronic Filers:* Comments and replies may be filed electronically by using the internet by accessing ECFS: <http://www.fcc.gov/ecfs>.

■ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

■ Filings can be sent by commercial overnight courier or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

■ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

■ U.S. Postal Service first-class, Express, and Priority mail must be