

SEC. 4. *Strengthening Enforcement and Compliance Mechanisms.* Service members, veterans, spouses, and other family members should have access to a strong enforcement system through which to file complaints when institutions fail to follow the Principles. Within 90 days of the date of this order, the Secretaries of Defense and Veterans Affairs, in consultation with the Secretary of Education and the Director of the CFPB, as well as with the Attorney General, as appropriate, shall submit to the President a plan to strengthen enforcement and compliance mechanisms. The plan shall include proposals to:

(a) create a centralized complaint system for students receiving Federal military and veterans educational benefits to register complaints that can be tracked and responded to by the Departments of Defense, Veterans Affairs, Justice, and Education, the CFPB, and other relevant agencies;

(b) institute uniform procedures for receiving and processing complaints across the State Approving Agencies (SAAs) that work with the Department of Veterans Affairs to review participating institutions, provide a coordinated mechanism across SAAs to alert the Department of Veterans Affairs to any complaints that have been registered at the State level, and create procedures for sharing information about complaints with the appropriate State officials, accrediting agency representatives, and the Secretary of Education;

(c) institute uniform procedures for referring potential matters for civil or criminal enforcement to the Department of Justice and other relevant agencies;

(d) establish procedures for targeted risk-based program reviews of institutions to ensure compliance with the Principles;

(e) establish new uniform rules and strengthen existing procedures for access to military installations by educational institutions. These new rules should ensure, at a minimum, that only those institutions that enter into a memorandum of agreement pursuant to section 3(a) of this order are permitted entry onto a Federal military installation for the purposes of recruitment. The Department of Defense shall include specific steps for instructing installation commanders on commercial solicitation rules and the requirement of the Principles outlined in section 2(c) of this order; and

(f) take all appropriate steps to ensure that websites and programs are not deceptively and fraudulently marketing educational services and benefits to program beneficiaries, including initiating a process to protect the term "GI Bill" and other military or veterans-related terms as trademarks, as appropriate.

SEC. 5. *General Provisions.* (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

SUBCHAPTER II—EDUCATIONAL ASSISTANCE

§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

(1) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty; or

(ii) is discharged or released from active duty as described in subsection (c).

(2) An individual who—

(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

(3) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 36 months; or

(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

(4) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 30 months; or

(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

(5) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 24 months; or

(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

(6) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 6

months, but less than 18 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 18 months; or

(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

(7) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 6 months; or

(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

(8) An individual who is the child or spouse of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces.

(9) An individual who is the child or spouse of a person who, on or after September 11, 2001, dies in line of duty while serving on duty other than active duty as a member of the Armed Forces.

(10) An individual who is the child or spouse of a member of the Selected Reserve who dies on or after September 11, 2001, while a member of the Selected Reserve from a service-connected disability.

(11) An individual who is awarded the Purple Heart for service in the Armed Forces occurring on or after September 11, 2001, and continues to serve on active duty in the Armed Forces or is discharged or released from active duty as described in subsection (c).

(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

(1) A discharge from active duty in the Armed Forces with an honorable discharge.

(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(4) A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service for—

(A) a medical condition which preexisted the service of the individual as described in

the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

(B) hardship; or

(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

(2) A period of service on active duty of an officer pursuant to an agreement under section 7448, 8459, or 9448 of title 10 or section 182¹ of title 14.

(3) A period of service that is terminated because of a defective enlistment and induction based on—

(A) the individual's being a minor for purposes of service in the Armed Forces;

(B) an erroneous enlistment or induction; or

(C) a defective enlistment agreement.

(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of subsection (b).

(f) MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP.—

(1) IN GENERAL.—Educational assistance payable by reason of paragraphs (8), (9), and (10) of subsection (b) shall be known as the "Marine Gunnery Sergeant John David Fry scholarship".

(2) LIMITATION.—The entitlement of an individual to assistance under subsection (a) pursuant to paragraphs (8), (9), and (10) of subsection (b) because the individual was a spouse of a person described in such paragraph shall expire on the earlier of—

(A) the date that is 15 years after the date on which the person died; or

(B) the date on which the individual remarries.

(3) ELECTION ON RECEIPT OF CERTAIN BENEFITS.—Except as provided in paragraph (4), a surviving spouse entitled to assistance under subsection (a) pursuant to paragraphs (8), (9), and (10) of subsection (b) who is also entitled to educational assistance under chapter 35 of this title may not receive assistance under both this section and such chapter, but shall make an irrevocable election (in such form and manner as the Secretary may prescribe)

¹ See References in Text note below.

under which section or chapter to receive educational assistance.

(4) EXCEPTION FOR CERTAIN ELECTIONS.—

(A) IN GENERAL.—An election made under paragraph (3) by a spouse described in subparagraph (B) may not be treated as irrevocable if such election occurred before the date of the enactment of this paragraph.

(B) ELIGIBLE SURVIVING SPOUSE.—A spouse described in this subparagraph is an individual—

(i) who is entitled to assistance under subsection (a) pursuant to paragraphs (8), (9), and (10) of subsection (b); and

(ii) who was the spouse of a member of the Armed Forces who died during the period beginning on September 11, 2001, and ending on December 31, 2005.

(5) DEFINITION OF CHILD.—For purposes of paragraphs (8), (9), and (10) of subsection (b), the term “child” includes a married individual or an individual who is above the age of twenty-three years.

(Added Pub. L. 110-252, title V, §5003(a)(1), June 30, 2008, 122 Stat. 2359; amended Pub. L. 111-32, title X, §1002(a), June 24, 2009, 123 Stat. 1889; Pub. L. 111-377, title I, §101(b), (c), Jan. 4, 2011, 124 Stat. 4107; Pub. L. 113-146, title VII, §701(a), (b), Aug. 7, 2014, 128 Stat. 1795; Pub. L. 114-315, title IV, §401(b), (c), Dec. 16, 2016, 130 Stat. 1553; Pub. L. 115-48, title I, §§102(a), 105(a), (c)(1), Aug. 16, 2017, 131 Stat. 975; Pub. L. 115-232, div. A, title VIII, §809(n)(3), Aug. 13, 2018, 132 Stat. 1844; Pub. L. 116-315, title I, §1002(a), (b)(1), Jan. 5, 2021, 134 Stat. 4938.)

Editorial Notes

REFERENCES IN TEXT

Section 182 of title 14, referred to in subsec. (d)(2), was repealed by Pub. L. 115-282, title I, §110(c)(2), Dec. 4, 2018, 132 Stat. 4215.

The date of the enactment of this paragraph, referred to in subsec. (f)(4)(A), is the date of enactment of Pub. L. 114-315, which was approved Dec. 16, 2016.

AMENDMENTS

2021—Subsec. (b)(9) to (11). Pub. L. 116-315, §1002(a), added pars. (9) and (10) and redesignated former par. (9) as (11).

Subsec. (f). Pub. L. 116-315, §1002(b)(1), substituted “paragraphs (8), (9), and (10)” for “paragraph (8)” wherever appearing.

2018—Subsec. (d)(2). Pub. L. 115-232 substituted “section 7448, 8459, or 9448 of title 10” for “section 4348, 6959, or 9348 of title 10”.

2017—Subsec. (b)(6)(A). Pub. L. 115-48, §105(a)(1), substituted “6 months” for “12 months”.

Subsec. (b)(7) to (9). Pub. L. 115-48, §105(a)(2), (3), redesignated pars. (8) to (10) as (7) to (9), respectively, and struck out former par. (7) which read as follows: “An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 12 months; or

“(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).”

Subsec. (b)(10). Pub. L. 115-48, §105(a)(3), redesignated par. (10) as (9).

Pub. L. 115-48, §102(a), added par. (10).

Subsec. (f). Pub. L. 115-48, §105(c)(1), substituted “paragraph (8)” for “paragraph (9)” wherever appearing.

2016—Subsec. (f)(3). Pub. L. 114-315, §401(b)(1), substituted “Except as provided in paragraph (4), a surviving spouse” for “A surviving spouse”.

Subsec. (f)(4). Pub. L. 114-315, §401(b)(3), added par. (4). Former par. (4) redesignated (5).

Subsec. (f)(5). Pub. L. 114-315, §401(b)(2), (c), redesignated par. (4) as (5) and substituted “paragraph (9) of subsection (b)” for “that paragraph”.

2014—Subsec. (b)(9). Pub. L. 113-146, §701(a), inserted “or spouse” after “child”.

Subsec. (f)(2) to (4). Pub. L. 113-146, §701(b), added pars. (2) and (3) and redesignated former par. (2) as (4).

2011—Subsec. (c)(4). Pub. L. 111-377, §101(b), substituted “A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service” for “A discharge or release from active duty in the Armed Forces” in introductory provisions.

Subsec. (d)(2). Pub. L. 111-377, §101(c), inserted “or section 182 of title 14” before period at end.

2009—Subsec. (b)(9). Pub. L. 111-32, §1002(a)(1), added par. (9).

Subsec. (f). Pub. L. 111-32, §1002(a)(2), added subsec. (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-315, title I, §1002(c), Jan. 5, 2021, 134 Stat. 4939, provided that: “The amendments made by this section [amending this section and sections 3313, 3317, 3320, and 3322 of this title] shall take effect immediately after the amendments made by section 105 of the Harry W. Colmery Veterans Educational Assistance Act of 2017 (Public Law 115-48) [see section 105(d) of Pub. L. 115-48 set out as a note below] take effect [Aug. 1, 2020] and shall apply with respect to a quarter, semester, or term, as applicable, commencing on or after August 1, 2021.”

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-48, title I, §102(c), Aug. 16, 2017, 131 Stat. 975, provided that: “The amendments made by this section [amending this section and section 3313 of this title] shall take effect on August 1, 2018.”

Pub. L. 115-48, title I, §105(d), Aug. 16, 2017, 131 Stat. 977, provided that: “The amendments made by this section [amending this section and sections 3313, 3316, 3317, 3321, 3322, and 3679 of this title] shall take effect on August 1, 2020.”

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-146, title VII, §701(d), Aug. 7, 2014, 128 Stat. 1796, as amended by Pub. L. 114-315, title IV, §401(a), Dec. 16, 2016, 130 Stat. 1553, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 3321 of this title] shall apply with respect to a quarter, semester, or term, as applicable, commencing on or after January 1, 2015.

“(2) DEATHS THAT OCCURRED BETWEEN SEPTEMBER 11, 2001, AND DECEMBER 31, 2005.—For purposes of section 3311(f)(2) of title 38, United States Code, any member of the Armed Forces who died during the period beginning on September 11, 2001, and ending on December 31, 2005, is deemed to have died on January 1, 2006.”

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title I, §101(d)(4), (5), Jan. 4, 2011, 124 Stat. 4108, provided that:

“(4) HONORABLE SERVICE REQUIREMENT.—The amendment made by subsection (b) [amending this section] shall take effect on the date of the enactment of this Act [Jan. 4, 2011], and shall apply with respect to discharges and releases from the Armed Forces that occur on or after that date.

“(5) SERVICE IN CONNECTION WITH ATTENDANCE AT COAST GUARD ACADEMY.—The amendment made by subsection (c) [amending this section] shall take effect on the date of the enactment of this Act, and shall apply with respect to individuals entering into agreements on service in the Coast Guard on or after that date.”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-32, title X, §1002(d), June 24, 2009, 123 Stat. 1890, provided that:

“(1) EFFECTIVE DATE.—The amendments made by this section [amending this section and sections 3313 and 3321 of this title] shall take effect on August 1, 2009.

“(2) APPLICABILITY.—The Secretary of Veterans Affairs shall begin making payments to individuals entitled to educational assistance by reason of paragraph (9) of section 3311(b) [now 38 U.S.C. 3311(b)(8)] of title 38, United States Code, as added by subsection (a), by not later than August 1, 2010. In the case of an individual entitled to educational assistance by reason of such paragraph for the period beginning on August 1, 2009, and ending on July 31, 2010, the Secretary shall make retroactive payments to such individual for such period by not later than August 1, 2010.”

EFFECTIVE DATE

Section effective Aug. 1, 2009, see section 5003(d) of Pub. L. 110-252, set out as an Effective Date of 2008 Amendment note under section 16163 of Title 10, Armed Forces.

CONSTRUCTION OF COVERED INDIVIDUALS

Pub. L. 115-48, title I, §106(c), Aug. 16, 2017, 131 Stat. 977, provided that: “Section 3311(b)(6) of title 38, United States Code, shall be construed to include an individual who, before November 25, 2015, established eligibility for educational assistance under chapter 1607 of title 10, United States Code, pursuant to section 16163(b) of such title, but lost such eligibility pursuant to section 16167(b) of such title.”

§ 3312. Educational assistance: duration

(a) IN GENERAL.—Subject to section 3695 and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 equal to 36 months.

(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2).

(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—

(1) IN GENERAL.—Any payment of educational assistance described in paragraph (2) shall not—

(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

(B) be counted against the aggregate period for which section 3695 limits the individual's receipt of educational assistance under this chapter.

(2) DESCRIPTION OF PAYMENT OF EDUCATIONAL ASSISTANCE.—Subject to paragraph (3), the

payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

(B) failed to receive credit or lost training time toward completion of the individual's approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A), the individual's course pursuit.

(3) PERIOD FOR WHICH PAYMENT NOT CHARGED.—The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

(Added Pub. L. 110-252, title V, §5003(a)(1), June 30, 2008, 122 Stat. 2362.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Aug. 1, 2009, see section 5003(d) of Pub. L. 110-252, set out as an Effective Date of 2008 Amendment note under section 16163 of Title 10, Armed Forces.

§ 3313. Educational assistance: amount; payment

(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is approved for purposes of chapter 30 (including approval by the State approving agency concerned).

(c) PROGRAMS OF EDUCATION LEADING TO A DEGREE PURSUED AT INSTITUTIONS OF HIGHER LEARNING ON MORE THAN HALF-TIME BASIS.—The amounts payable under this subsection for pursuit of an approved program of education leading to a degree at an institution of higher learning (as that term is defined in section 3452(f)) are amounts as follows:

(1) In the case of an individual entitled to educational assistance under this chapter by