

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 reason of paragraph (1), (2), (8), (9), (10), or (11) of section 3311(b), amounts as follows:

(A) An amount equal to the following:

(i) In the case of a program of education pursued at a public institution of higher learning, the actual net cost for in-State tuition and fees assessed by the institution for the program of education after the application of—

(I) any waiver of, or reduction in, tuition and fees; and

(II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b))) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees.

(ii) In the case of a program of education pursued at a non-public or foreign institution of higher learning, the lesser of—

(I) the actual net cost for tuition and fees assessed by the institution for the program of education after the application of—

(aa) any waiver of, or reduction in, tuition and fees; and

(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

(II) the amount equal to—

(aa) for the academic year beginning on August 1, 2011, \$17,500; or

(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).

(B) A monthly stipend in an amount as follows:

(i) Except as provided in clauses (ii) and (iii), for each month an individual pursues a program of education on more than a half-time basis, a monthly housing stipend equal to the product of—

(I) the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the campus of the institution of higher learning where the individual physically participates in a majority of classes, multiplied by

(II) the lesser of—

(aa) 1.0; or

(bb) the number of course hours borne by the individual in pursuit of the program of education, divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

(ii) In the case of an individual pursuing a program of education at a foreign institution of higher learning on more than a half-time basis, for each month the individual pursues the program of education, a monthly housing stipend equal to the product of—

(I) the national average of the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5, multiplied by

(II) the lesser of—

(aa) 1.0; or

(bb) the number of course hours borne by the individual in pursuit of the program of education, divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

(iii) In the case of an individual pursuing a program of education solely through distance learning on more than a half-time basis, a monthly housing stipend equal to 50 percent of the amount payable under clause (ii) if the individual were otherwise entitled to a monthly housing stipend under that clause for pursuit of the program of education.

(iv) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational