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38 CFR Ch. I (7-1-08 Edition)

course if it is to be pursued in whole or in part by independent study.

(Authority: 38 U.S.C. 3676(e))

[31 FR 6774, May 6, 1966, as amended at 33 FR 9546, June 29, 1968; 47 FR 42733, Sept. 29, 1982; 61 FR 6783, Feb. 22, 1996]

§ 21.4255 Refund policy; nonaccredited courses.

(a) *Acceptable refund policy.* A refund policy meets the requirements of § 21.4254(c)(13), if it provides that the amount charged for tuition, fees, and other charges for a portion of the course does not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to the total length. The school may make provision for refund within the following limitations:

(1) *Registration fee.* An established registration fee in an amount not to exceed \$10 need not be subject to proration. Where the established registration fee is more than \$10, the amount in excess of \$10 will be subject to proration.

(2) *Breakage fee.* Where the school has a breakage fee, it may provide for the retention of only the exact amount of the breakage, with the remaining part, if any, to be refunded.

(3) *Consumable instructional supplies.* Where the school makes a separate charge for consumable instructional supplies, as distinguished from laboratory fees, the exact amount of the charges for supplies consumed may be retained but any remaining part must be refunded.

(4) *Books, supplies and equipment.* (i) A veteran or eligible person may retain or dispose of books, supplies and equipment at his or her discretion when:

(A) He or she purchased them from a bookstore or other source, and

(B) Their cost is separate and independent from the charge made by the school for tuition and fees.

(ii) The school will make a refund in full for the amount of the charge for unissued books, supplies and equipment when:

(A) The school furnishes the books, supplies and equipment.

(B) The school includes their cost in the total charge payable to the school for the course.

(C) The veteran or eligible person withdraws or is discontinued before completing the course.

(iii) The veteran or eligible person may dispose of issued items at his or her discretion even if they were included in the total charges payable to the school for the course.

(5) *Tuition and other charges.* 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 or eligible person than the approximate pro rata basis as provided in this paragraph, such established policy will be applicable. Otherwise, the school may charge a sum which does not vary more than 10 percent from the exact pro rata portion of such tuition, fees, and other charges that the length of the completed portion of the course bears to its total length. The exact proration will be determined on the ratio of the number of days of instruction completed by the student to the total number of instructional days in the course.

(6) *Prompt refund.* In the event that the veteran, spouse, surviving spouse or child fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion of the course, the unused portion of the tuition, fees and other charges paid by the individual shall be refunded promptly. Any institution which fails to forward any refund due within 40 days after such a change in status, shall be deemed, prima facie, to have failed to make a prompt refund, as required by this paragraph.

(b) *Waiver.* (1) An educational institution may apply through the appropriate State approving agency to the Director of the VA facility of jurisdiction for a waiver of the requirements of paragraph (a) of this section as they apply to a veteran or eligible person. The State approving agency shall forward the application to the Director along with its recommendations. The Director shall consider the recommendations and shall grant a waiver only when he or she finds that the educational institution:

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(i) Is a college, university, or similar institution offering post-secondary level academic instruction leading to an associate or higher degree;

(ii) Is operated by an agency of a State or a unit of local government;

(iii) If operated by an agency of a State, is located within that State;

(iv) If operated by a unit of local government, is located within the boundaries of the area over which that unit has taxing jurisdiction;

(v) Is a candidate for accreditation by a regional accrediting agency; and

(vi) Charges the veteran or eligible person no more than \$120 per quarter, \$180 per semester or \$360 per school year in tuition, fees and other charges for the course.

(2) If an educational institution disagrees with a decision of a Director of a VA facility, it may ask that the Director, Education Service review the decision. In reviewing the decision the Director must consider the evidence of record. He or she may not grant a waiver unless all the criteria of paragraph (b)(1) of this section are met.

(Authority: 38 U.S.C. 3676(d))

[47 FR 42733, Sept. 29, 1982]

§ 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 affirmance, 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))