

Department of Veterans Affairs

§ 21.5001

(b) *Delivery and certification.* (1) The educational institution, electing to participate in this program, shall deliver an education loan check to the eligible spouse or surviving spouse and shall certify the fact of delivery to the Department of Veterans Affairs immediately upon delivery. If the delivery is not made within 30 days after the institution receives the check, it shall return the check to the Department of Veterans Affairs.

(2) The Director of the Department of Veterans Affairs facility of jurisdiction may direct that education loan checks be sent directly to spouses or surviving spouses when:

(i) The educational institution demonstrates an inability to comply with these requirements; or

(ii) The educational institution fails to provide adequately for the safekeeping of the checks prior to the delivery to the student or return to the Department of Veterans Affairs; or

(iii) The educational institution elects not to participate in this program; or

(iv) There is compelling evidence that the institution is unable to discharge its responsibilities under this program.

(Authority: 38 U.S.C. 3512(f), 3698)

[44 FR 62508, Oct. 31, 1979, as amended at 61 FR 26116, May 24, 1996]

§ 21.4507 Advertising.

(a) *General.* No educational institution or training establishment shall include a statement in advertisements or brochures intended to solicit students as to the availability of education loans from the Department of Veterans Affairs for eligible spouses and surviving spouses, except as provided in paragraph (b) of this section.

(b) *Form.* The statement which is permitted shall be as follows: "Certain eligible spouses and surviving spouses may qualify for a maximum educational loan of \$2,500 per academic year from the Department of Veterans Affairs depending upon need. Applications for such loans shall be made to

the Department of Veterans Affairs on forms prescribed by it."

(Authority: 38 U.S.C. 3512(f), 3696, 3698(b))

[44 FR 62510, Oct. 31, 1979, as amended at 61 FR 26116, May 24, 1996]

Subparts F-1—F-3 [Reserved]

Subpart G—Post-Vietnam Era Veterans' Educational Assistance Under 38 U.S.C. Chapter 32

AUTHORITY: 38 U.S.C. 501(a), chs. 32, 36, and as noted in specific sections.

SOURCE: 45 FR 31, Jan. 2, 1980, unless otherwise noted.

ADMINISTRATIVE

§ 21.5001 Administration of benefits: 38 U.S.C. Chapter 32.

(a) *Delegation of authority.* Except as otherwise provided, authority is delegated to the Under Secretary for Benefits and to supervisory or administrative personnel within the jurisdiction of the Education Service, Veterans Benefits Administration, designated by him or her to make findings and decisions under 38 U.S.C. Chapter 32 and the applicable regulations, precedents, and instructions, as to the program authorized by subpart G of this part.

(Authority: 38 U.S.C. 512(a))

(b) *Administrative provisions.* In administering benefits payable under 38 U.S.C. Chapter 32, VA will apply the following sections:

(1) Section 21.4002—Finality of decisions;

(2) Section 21.4003 (except paragraphs (d) and (e))—Revision of decisions;

(3) Section 21.4005—Conflicting interests;

(4) Section 21.4006—False or misleading statements;

(5) Section 21.4007—Forfeiture;

(6) Section 21.4008—Prevention of overpayments; and

(7) Section 21.4009—Overpayments; waiver or recovery.

(Authority: 38 U.S.C. 3241(a), 3680, 3683, 3685, 3690, 6103)

[61 FR 29029, June 7, 1996]

§ 21.5020

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

GENERAL

§ 21.5020 Post-Vietnam era veterans' educational assistance.

Title 38 U.S.C. Chapter 32 provides for a participatory program for educational assistance benefits to eligible veterans and servicepersons. The intent of the Congress for this program is stated in 38 U.S.C. 3201.

(Authority: 38 U.S.C. 3201)

[61 FR 29029, June 7, 1996]

§ 21.5021 Definitions.

For the purposes of subpart G and payment of benefits under 38 U.S.C. chapter 32, the following definitions apply (see also §§ 21.1029 and 21.4200):

(a) *Veteran*—means anyone whose service meets the requirements of § 21.5040.

(Authority: 38 U.S.C. 3202(1))

(b) *Active duty*—means full-time duty in the Armed Forces or as a commissioned officer of the regular or Reserve Corps of the Public Health Service or of the National Oceanic and Atmospheric Administration. It does not include any period during which an individual:

(1) Was assigned full-time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians,

(2) Served as a cadet or midshipman at one of the service academies,

(3) Served under the provisions of section 511(d) of Title 10, United States Code, pursuant to an enlistment in the military reserve or national guard,

(4) Served in an excess leave without pay status, or

(5) Served in a status specified in § 3.15 of this chapter.

(Authority: 38 U.S.C. 3202)

(c) *State*—means each of the several States, territories and possessions of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Canal Zone.

(Authority: 38 U.S.C. 101(20))

(d) *School, educational institution, institution.* The terms, *school, educational institution,* and *institution* mean—

(1) Any vocational school, business school, correspondence school, junior college, teacher's college, college, normal school, professional school, university or scientific or technical institution;

(2) Any public or private elementary school or secondary school which offers courses for adults; and

(3) An entity, other than an institution of higher learning, that provides training required for completion of a State-approved alternative teacher certification program.

(Authority: 38 U.S.C. 3202(2), 3452(c))

(e) *Participant*—means a person who is participating in the educational benefits program established under Chapter 32. This includes:

(1) A person who has enrolled in and is making contributions by monthly payroll deduction to the *fund*.

(2) Those individuals who have contributed to the *fund* and have not disenrolled (*i.e.*, users or potential users of benefits).

(Authority: 38 U.S.C. 3202)

(3) A person who has enrolled in and is having monthly contributions to the *fund* made for him or her by the Secretary of Defense.

(Authority: Sec. 903, Pub. L. 96-342, 94 Stat. 1115)

(4) A person who has made a lump-sum contribution to the fund in lieu of or in addition to monthly contributions deducted from his or her military pay.

(Authority: 38 U.S.C. 3222)

(5) Those individuals who have contributed to the *fund* and—

(i) Have been automatically disenrolled as provided in § 21.5060(b)(3) of this part,

(ii) Whose funds have been transferred to the Treasury Department as provided in § 21.5064(b)(4)(iii) of this part, and