

DEPARTMENT OF DEFENSE**Department of the Air Force****32 CFR Part 818****Personal Financial Responsibility**

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule, removal.

SUMMARY: The Department of the Air Force is amending the Code of Federal Regulations (CFR) by removing its rule on Personal Financial Responsibility. This rule is removed, as the current information contained in it does not reflect current policy of AFI 36-2906, January 1998.

EFFECTIVE DATE: January 1, 2001.

FOR FURTHER INFORMATION CONTACT: MSgt Pamela Martin, HQ AFPC/DPSFM, 550 C Street West, Suite 37, Randolph Air Force Base, Texas, 78148-4737, 210-565-3415.

List of Subjects in 32 CFR Part 818

Alimony, Child support, Claims, Credit, Military personnel.

PART 818—[REMOVED]

Accordingly, and under the authority of 10 U.S.C. 8013, 15 U.S.C. 1073, 42 U.S.C. 659, 660, 665, 32 CFR, Chapter VII is amended by removing Part 818.

Janet A. Long,

Air Force Federal Register Liaison Officer.

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DEPARTMENT OF DEFENSE**DEPARTMENT OF TRANSPORTATION****Coast Guard****DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 21**

RIN 2900-A167

New Criteria for Approving Courses for VA Educational Assistance Programs

AGENCIES: Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) educational assistance and educational benefit regulations by adding new criteria for VA to use in approving

enrollments in courses under the educational programs VA administers. These changes implement provisions of the Veterans' Benefits Improvements Act of 1996 and the Veterans' Benefits Act of 1997. This document also amends the regulations to conform to statutory provisions and makes changes for the purpose of clarification.

DATES: *Effective Date:* This final rule is effective December 27, 2000.

Applicability Date: October 9, 1996.

FOR FURTHER INFORMATION CONTACT:

William G. Susling, Jr., Assistant Director for Policy and Program Development, Education Service (225), Veterans Benefits Administration, 202-273-7187.

SUPPLEMENTARY INFORMATION: On February 2, 2000, VA published a proposed rule in the **Federal Register** (65 FR 4914) to amend the VA educational assistance and educational benefit regulations in 38 CFR part 21, subparts D, K, and L to conform with provisions of the Veterans' Benefits Improvement Act of 1996 (Pub. L. 104-275) and with section 401(e) of the Veterans' Benefits Act of 1997 (Pub. L. 105-114).

Interested persons were given 60 days to submit comments. We received three comments: One from a veterans service organization, one from an educational institution, and one from an association of educational institutions. The service organization indicated that it had no comments.

The educational institution wrote that the provisions of 38 CFR 21.4251, as currently written, concerning (a) courses that were similar in character to other courses and (b) courses offered at additional facilities, should be added to the proposed rule.

The regulations previously provided that VA could approve the enrollment of a veteran or eligible person in a course offered by a school other than a job-training establishment only if the course had been in operation for 2 years or more immediately prior to the date of enrollment of the person. There were two exceptions to this rule which are the subject of the comment. The first exempted courses similar in character to instruction previously offered by the school for more than 2 years. (38 CFR 21.4251(a)(2)). The second exempted courses at additional facilities acquired by a school in the same general locality because of space limitations, since those were not considered to be courses at a subsidiary branch or extension, otherwise required to be offered for 2 years. (38 CFR 21.4251(f)(3)).

The "similar in character" requirement was derived from 38 U.S.C.

3689, which was specifically rescinded by Congress in the enactment of Pub. L. 104-275. The proposed rule is based on 38 U.S.C. 3680A(e), as added by Pub. L. 104-275, which bars approval of enrollment in courses not leading to a standard college degree offered by proprietary schools that have operated on site for less than two years. Under the amended statute it does not matter how long the courses themselves have been offered at that site or whether they are similar in character to courses formerly offered at other sites. Rather, VA need only verify that the educational institution has been in operation at the site for two years. Therefore, we believe that adopting the commenter's suggestion to include the "similar in character" exemption of the old rule is unnecessary.

Similarly, we find no support in law for the old rule exempting courses at additional facilities created as a result of space limitations, because, as amended by Pub. L. 104-275, the law now requires that enrollment in all courses not leading to a standard college degree offered at a branch of a proprietary educational institution must be disapproved if the branch has been operating for less than two years. (38 U.S.C. 3680A(e)(2)).

The association of educational institutions objected that the definition of "change of ownership" in 38 CFR 21.4251(f)(2) was too vague. Specifically, the association stated that the language "Transactions that may cause a change of ownership include, but are not limited to the following * * *" made it difficult for institutions to decide if a change of ownership has taken place. The association suggested that we consider a change of ownership as having taken place when the Department of Education believes this occurred.

After careful consideration, we have decided not to adopt this suggestion. Under the previous rule, VA made the final decision whether changes in ownership had taken place. Thus, we believe VA has sufficient experience in making change-in-ownership decisions. Moreover, we expect that changes in ownership not specifically included in the definition would be extremely rare and approval would be barred only if the facts clearly show a change in ownership did occur.

The association of educational institutions also questioned the final-rule requirement in 38 CFR 21.4251(g) that an educational institution use substantially the same instructional methods and offer courses leading to the same educational objectives following a change of ownership or following a