

another separate written document must authorize the disclosures. Furthermore, a consent that authorizes multiple disclosures or multiple uses must specifically and separately identify each disclosure or use. See § 301.7216–3(a)(3)(iii) for an exception to this rule for certain taxpayers.

(2) *Disclosure of entire return.* A consent may authorize the disclosure of all information contained within a return. A consent authorizing the disclosure of an entire return must provide that the taxpayer has the ability to request a more limited disclosure of tax return information as the taxpayer may direct.

(3) *Copy of consent must be provided to taxpayer.* The tax return preparer must provide a copy of the executed consent to the taxpayer at the time of execution. The requirements of this paragraph (c)(3) may also be satisfied by giving the taxpayer the opportunity, at the time of executing the consent, to print the completed consent or save it in electronic form.

(d) *Effective/applicability date.* This section applies to disclosures or uses of tax return information occurring on or after January 1, 2009.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

Approved: December 21, 2007.

**Eric Solomon,**

*Assistant Secretary of the Treasury (Tax Policy).*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

RIN 2900–AM72

### Dependents' Educational Assistance

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) regulation regarding dependents' educational assistance. A recent statutory change provides eligibility for dependents' educational assistance for dependents of servicepersons who meet certain criteria. This final rule is necessary to incorporate statutory amendments into VA regulations.

**DATES:** *Effective Date:* This final rule is effective January 7, 2008.

*Applicability Date:* In accordance with statutory provisions, the amendment in this final rule will be

applied retroactively. The amendment to 38 CFR 3.807 is applicable for a course of education pursued after December 22, 2006.

#### FOR FURTHER INFORMATION CONTACT:

Maya Ferrandino, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7210. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Section 301 of the Veterans Benefits, Health Care, and Information Technology Act of 2006, Public Law 109–461, amended the basic eligibility criteria for dependents' educational assistance (DEA) in 38 U.S.C. 3501(a). Under prior law, spouses and children of servicemembers missing in action, captured in the line of duty by a hostile force, or forcibly detained or interned in the line of duty by a foreign government or power had eligibility for DEA. The amendments expand eligibility, for pursuit of a course of education that occurs after December 22, 2006, to include spouses and children of servicemembers receiving treatment for permanent and total disability incurred in the line of duty and likely to result in discharge or release from service.

VA's DEA regulations, specifically 38 CFR 3.807(a)(5), restate the statutory basic eligibility criteria for spouses and children of servicemembers. Accordingly, we are amending that provision, consistent with the amendments to section 3501(a), to clarify that spouses and children of certain permanently and totally disabled servicemembers are eligible for DEA for pursuit of a course of education that occurs after December 22, 2006.

#### Administrative Procedures Act

Substantive changes made by this final rule merely reflect statutory requirements. Accordingly, there is a basis for dispensing with prior notice and comment and a delayed effective date under the provisions of 5 U.S.C. 553. Use of those procedures would be impracticable, unnecessary, and contrary to the public interest.

#### Paperwork Reduction Act

This document contains no provisions constituting a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

The Office of Management and Budget (OMB) assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless it displays a currently valid OMB control number.

In § 3.807 (concerning certification of basic eligibility for dependents' educational assistance), the final rule amends provisions concerning information collection requirements that are currently approved by OMB under the following control numbers: 2900–0049 (VA Form 21–674, Request for Approval of School Attendance), 2900–0098 (VA Form 22–5490, Application for Survivors' and Dependents' Educational Assistance), 2900–0099 (VA Form 22–5495, Request for Change of Program or Place of Training Survivors' and Dependents' Educational Assistance).

#### Regulatory Flexibility Act

The initial and final regulatory flexibility analysis requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. This final rule would not affect any small entities. Only individual VA beneficiaries would be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is also exempt from the regulatory flexibility analysis requirements of sections 603 and 604.

#### Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by OMB unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan

programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, codified at 2 U.S.C. 1532, requires agencies to prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program number and title for this rule is 64.117, Survivors and Dependents Educational Assistance.

#### List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: November 16, 2007.

**Gordon H. Mansfield,**

*Acting Secretary of Veterans Affairs.*

■ For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 3 as set forth below:

### PART 3—ADJUDICATION

#### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Revise § 3.807(a)(5) to read as follows:

#### § 3.807 Dependents' educational assistance; certification.

\* \* \* \* \*

(a) \* \* \*

(5) Is on active duty as a member of the Armed Forces and

(i) Now is, and, for a period of more than 90 days, has been listed by the Secretary concerned as missing in

action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign Government or power; or

(ii) Has been determined by VA to have a total disability permanent in nature incurred or aggravated in the line of duty during active military, naval, or air service; is hospitalized or receiving outpatient medical care, services, or treatment for such disability; is likely to be discharged or released from such service for such disability; and the pursuit of a course of education by such individual's spouse or child for which benefits under 38 U.S.C. chapter 35 are sought occurred after December 22, 2006.

\* \* \* \* \*

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### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 21

RIN 2900-AM80

#### Education: Approval of Accredited Courses for VA Education Benefits

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends regulations governing aspects of educational assistance programs administered by the Department of Veterans Affairs (VA) to remove a requirement that had mirrored a former statutory requirement. This final rule reflects a statutory amendment that removed the statutory requirement that educational institutions offering accredited courses must notify VA and the student using VA education benefits of the amount of credit granted for the student's prior education and training.

**DATES:** *Effective Date:* This final rule is effective January 7, 2008.

**FOR FURTHER INFORMATION CONTACT:** Devon E. Seibert, Management and Program Analyst, Education Service, Veterans Benefits Administration, Department of Veterans Affairs (225C), 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-9837. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** This document amends VA regulations set forth in 38 CFR part 21 concerning approval criteria for payment under education programs administered by VA for accredited courses of education. Specifically, it removes a requirement from 38 CFR 21.4253(d)(3) that had

mirrored a statutory requirement. On October 9, 1996, section 103(c) of the Veterans' Benefits Improvements Act of 1996 (Pub. L. 104-275) removed the requirement in 38 U.S.C. 3675(b) that had required institutions offering accredited courses to notify VA and the student using VA education benefits of the amount of credit granted for a student's prior education and training.

A similar statutory requirement, in 38 U.S.C. 3676(c)(4), imposing the same reporting requirement for institutions offering non-accredited courses, was not removed by Pub. L. 104-275 and still remains in effect. When Pub. L. 104-275 was enacted, VA had no administratively efficient way to distinguish between the enrollment certifications submitted by institutions offering accredited courses and non-accredited courses. Consequently, retaining in VA regulations the same reporting requirement for educational institutions offering accredited or non-accredited courses assisted VA in being able to monitor compliance by institutions offering non-accredited courses.

However, distinguishing between accredited and non-accredited course enrollments is now administratively feasible for VA. Because we now have the means to make this distinction, we are amending § 21.4253(d)(3) to remove the notification requirements for institutions offering accredited courses.

#### Administrative Procedure Act

This document is being published without regard to the notice-and-comment and delayed-effective-date provisions of 5 U.S.C. 553(b) and (d) since it merely changes an interpretive rule to reflect a statutory amendment, by removing language that had mirrored the former statutory requirement.

#### Paperwork Reduction Act of 1995

This final rule contains no provisions constituting a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.