

§21.4146

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which the veteran, reservist, or eligible person terminates training.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3104(a)(4), 3241(a), 3323(a), 3485, 3537)

(h) *Indebtedness for unperformed service.* (1) If the veteran, reservist, or eligible person has received an advance for hours of unperformed service, and the Department of Veterans Affairs has evidence that he or she does not intend to perform that service, the advance:

(i) Will be a debt due the United States, and

(ii) Will be subject to recovery the same as any other debt due the United States.

(2) The amount of indebtedness for each hour of unperformed service shall equal the hourly wage that formed the basis of the contract.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3104(a)(4), 3241(a), 3323(a), 3485, 3537)

(i) *Survey.* The Department of Veterans Affairs will conduct an annual survey of its regional offices to determine the number of veterans, reservists, or eligible persons whose services can be utilized effectively.

(ii) [Reserved]

(Authority: 38 U.S.C. 3485)

[38 FR 12214, May 10, 1973, as amended at 48 FR 37983, Aug. 22, 1983; 61 FR 26113, May 24, 1996; 74 FR 14667, Mar. 31, 2009]

§21.4146 Assignments of benefits prohibited.

(a) *General.* Section 5301(a), Title 38 U.S.C., provides that payments of benefits due or to become due under the laws administered by the Department of Veterans Affairs shall not be assigned, except to the extent specifically authorized by law. No law specifically authorizes assignments of educational assistance allowances payable under 38 U.S.C. chapters 30, 32, 33, 35, or 36, or 10 U.S.C. chapter 1606, and therefore none shall be made.

(b) *Designating an attorney-in-fact.* In any case where a payee of an educational assistance allowance has designated the address of an attorney-in-fact as the payee's address for the purpose of receiving his or her benefit check and has executed a power of attorney giving the attorney-in-fact au-

thority to negotiate such benefit check, such action shall be deemed to be an assignment and is prohibited.

(c) *Arrangements amounting to an assignment.* Payments may be made to a post office box address or a bank address only if the educational institution (other than an organization or entity offering a licensing or certification test) attests that it has not entered into an assignment agreement with the student, and is not the attorney-in-fact of the student with power to negotiate an educational assistance check on behalf of the student and is not otherwise able to control the proceeds of the benefits check. Such statements shall be subject to review and when determined to be false, may be cause for creation of an overpayment to the account of the veteran or other eligible person, for which the educational institution (other than an organization or entity offering a licensing or certification test) may be liable under the provisions of §21.4009.

(d) *Correspondence school addresses.* A request by a veteran or other eligible person to send the benefit check payable to him or her at an address which is an educational institution primarily engaged in correspondence course instruction will be presumed not to be the actual address of the veteran or other eligible person and will not be honored. Benefits checks will not be sent to the veteran or other eligible person in that event until a new address is provided designating the individual's mailing address.

(e) *Referral to Committee on Educational Allowances.* When the evidence of record indicates that an educational institution has violated the terms of this section, the matter will be referred to the facility Committee on Educational Allowances as provided in §§21.4210(g) and 21.4212.

(Authority: 38 U.S.C. 5301(a))

[43 FR 35296, Aug. 9, 1978, as amended at 44 FR 62498, Oct. 31, 1979; 61 FR 26114, May 24, 1996; 63 FR 35831, July 1, 1998; 72 FR 16969, Apr. 5, 2007; 74 FR 14667, Mar. 31, 2009]

STATE APPROVING AGENCIES

§21.4150 Designation.

(a) The Chief Executive of each State is requested to create or designate a

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State department or agency as the *State approving agency* for his State, for the purpose of assuming the responsibilities delegated to the State under 38 U.S.C. chapter 36, or if the law of the State provides otherwise, to indicate the agency provided by such law (38 U.S.C. 3671(a)).

(b) The Chief Executive of each State will notify the Department of Veterans Affairs of any change in the designation of a State approving agency.

(c) The provisions of 38 U.S.C. chapter 36 and the sections in this part which refer to the State approving agency will be deemed to refer to VA:

(1) With respect to a State, when that State:

(i) Does not have and fails or declines to create or designate a State approving agency, or

(ii) Fails to enter into an agreement as provided in §21.4153; and

(2) When VA has approval, disapproval, or suspension authority (under paragraphs (d), (e), (f), or (g) of this section, §21.4152, or as otherwise provided by law).

(Authority: 38 U.S.C. 3671(b)(1))

(d) Any function, power or duty otherwise required to be exercised by a State, or by an officer or agency of a State, will, with respect to the Republic of Philippines, be exercised by the station head.

(Authority: 38 U.S.C. 512(a), 3561(b))

(e) The Secretary shall act as State approving agency for programs of apprenticeship, the standards for which have been approved by the Secretary of Labor pursuant to section 50a of title 29 U.S.C. as a national apprenticeship program for operation in more than one State and the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State.

(Authority: 38 U.S.C. 3672(c))

(f) Approval of a course of education offered by any agency or instrumentality of the Federal Government shall be under the authority of the Secretary.

(Authority: 38 U.S.C. 3672(b))

(g) Approval under 38 U.S.C. 3689 of a licensing or certification test offered by any agency or instrumentality of the Federal government will be under the authority of the Secretary.

(Authority: 38 U.S.C. 3689)

CROSS REFERENCE: *Course and licensing and certification test approval; jurisdiction and notices.* See §21.4250.

[31 FR 6774, May 6, 1966, as amended at 35 FR 9815, June 16, 1970; 37 FR 6679, Apr. 1, 1972; 54 FR 34987, Aug. 23, 1989; 54 FR 49756, Dec. 1, 1989; 72 FR 16969, Apr. 5, 2007]

§21.4151 Cooperation.

(a) The Department of Veterans Affairs and the State approving agencies will take cognizance of the fact that definite duties, functions and responsibilities are conferred upon each of them. To assure that programs of education are administered effectively and efficiently, the cooperation of the Department of Veterans Affairs and the State approving agencies is essential.

(Authority: 38 U.S.C. 3673(a))

(b) *State approving agency responsibilities.* State approving agencies are responsible for:

(1) Inspecting and supervising schools within the borders of their respective States;

(2) Determining those courses which may be approved for the enrollment of veterans and eligible persons;

(3) Ascertaining whether a school at all times complies with its established standards relating to the course or courses which have been approved;

(4) Determining those licensing and certification tests that may be approved for cost reimbursement to veterans and eligible persons;

(5) Ascertaining whether an organization or entity offering an approved licensing or certification test complies at all times with the provisions of 38 U.S.C. 3689; and

(6) Under an agreement with VA rendering services and obtaining information necessary for the Secretary's approval or disapproval under chapters 30 through 36, title 38 U.S.C. and chapters 107 and 1606, title 10 U.S.C., of courses of education offered by any agency or