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CHAPTER 106—EDUCATIONAL ASSISTANCE FOR ENLISTED MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE

Sec.

- 2131. Educational assistance program: establishment; amount.
- 2132. Eligibility for educational assistance.
- 2133. Termination of assistance; refund by member.
- 2134. Reports to Congress.
- 2135. Termination of program.

Cross References

Assistance, for purposes of advanced education assistance provisions, defined as not including advanced education courses paid for under this chapter, see section 2005 of this title.

§ 2131. Educational assistance program: establishment; amount

(a) To encourage enlistments in units of the Selected Reserve of the Ready Reserve, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Transportation, under regulations prescribed by him with respect to the Coast Guard when it is not operating as a service in the Navy, may establish and maintain a program to provide educational assistance to enlisted members of the Selected Reserve of the Ready Reserve of the armed forces under his jurisdiction.

(b)(1) An educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned of 100 percent of the educational expenses incurred by a member for instruction at an accredited institution. Expenses for which payment may be made under this section include tuition, fees, books, laboratory fees, and shop fees for consumable materials used as part of classroom or shop instruction. Payments under this section shall be limited to those educational expenses normally incurred by students at the institution involved.

(2) To receive assistance under this section, a member must be eligible for such assistance under section 2132 of this title and must submit an application for such assistance in such form and manner as the Secretary concerned shall prescribe and be approved for such assistance by the Secretary concerned.

(c) Educational assistance may be provided to a member under this section until the member completes a course of instruction required for the award of a baccalaureate degree, or the equivalent evidence of completion of study, by an accredited institution, but the amount of educational assistance provided a member under this section may not exceed \$1,000 in any twelve-month period, nor a total of \$4,000.

(d) For purposes of this section, the term "accredited institution" means a civilian college, university, or trade, technical, or vocational school in the United States (including the District of Columbia, Puerto Rico, Guam, and

the Virgin Islands) that provides education at the postsecondary level and that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Secretary of Education.

(Added Pub.L. 95-79, Title IV, § 402(a), July 30, 1977, 91 Stat. 328, and amended Pub.L. 96-107, Title IV, § 402(a), Nov. 9, 1979, 93 Stat. 808; Pub.L. 96-342, Title IX, § 906(a)(1), Sept. 8, 1980, 94 Stat. 1117; Pub.L. 96-513, Title V, § 511(68), Dec. 12, 1980, 94 Stat. 2926.)

Historical Note

1980 Amendments. Subsec. (a). Pub.L. 96-513, § 511(68)(A), substituted "armed forces" for "armed force".

Subsec. (b)(2). Pub.L. 96-513, § 511(68)(B), added "of this title" following "2132".

Subsec. (c). Pub.L. 96-342 substituted "\$1,000" for "\$500" and "\$4,000" for "\$2,000".

Subsec. (d). Pub.L. 96-513, § 511(68)(C), substituted "Secretary of Education" for "Commissioner of Education, Department of Health, Education, and Welfare".

1979 Amendment. Subsec. (b)(1). Pub.L. 96-107 substituted "100 percent" for "50 percent".

Effective Date of 1980 Amendments. Amendment by Pub.L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub.L. 96-513, set out as an Effective Date of 1980

Amendment note under section 101 of this title.

Section 906(a)(2) of Pub.L. 96-342 provided that: "The amendments made by paragraph (1) [amending subsec. (c) of this section] shall take effect on October 1, 1980."

Effective Date of 1979 Amendment. Section 402(c) of Pub.L. 96-107 provided that: "The amendments made by this section [to this section and section 2133 of this title] shall apply only to individuals enlisting in the Reserves after September 30, 1979."

Legislative History. For legislative history and purpose of Pub.L. 95-79, see 1977 U.S. Code Cong. and Adm. News, p. 537. See, also, Pub.L. 96-107, 1979 U.S. Code Cong. and Adm. News, p. 1818; Pub.L. 96-342, 1980 U.S. Code Cong. and Adm. News, p. 2612; Pub.L. 96-513, 1980 U.S. Code Cong. and Adm. News, p. 6333.

§ 2132. Eligibility for educational assistance

(a) To be eligible for educational assistance under section 2131 of this title, a member must not be serving on active duty for more than thirty days and must—

- (1) be an enlisted member of the Selected Reserve of the Ready Reserve of an armed force;
- (2) have initially enlisted as a Reserve for service in a unit of the Selected Reserve of a reserve component after September 30, 1977;
- (3) never have served in an armed force before such enlistment;
- (4) at the time of such enlistment have executed an agreement as prescribed by subsection (b);
- (5) be a graduate from secondary school;
- (6) have completed the initial period of active duty for training required of such member;
- (7) if the member is assigned to a unit, be participating satisfactorily in training with such unit; and
- (8) have served less than eight years as a Reserve.

(b)(1) An agreement referred to in subsection (a)(4) shall be in writing and shall provide that if the member accepts educational assistance under section 2131 of this title, the period of enlistment of such member shall be not less than six years and if the member is discharged for the purpose of accepting an appointment as an officer, the member shall remain a member of the Ready Reserve until the last day of the term of such enlistment.

(2) A member who enlists after September 30, 1977, but before regulations to carry out this chapter are promulgated shall be eligible for educational assistance under section 2131 of this title if he is otherwise eligible for such assistance under subsection (a) and if he executes an agreement as described in paragraph (1) not later than one year after the date on which regulations to carry out this chapter are first promulgated.

(c) Educational assistance being provided a member under section 2131 of this title may be continued to a member who otherwise continues to qualify for such assistance if such member—

(1) is discharged in order to accept an immediate appointment as an officer in the Ready Reserve; or

(2) is no longer a member of the Selected Reserve, if such member is a member of the Ready Reserve and has served at least six years in the Selected Reserve of the Ready Reserve.

(Added Pub.L. 95-79, Title IV, § 402(a), July 30, 1977, 91 Stat. 329, and amended Pub.L. 95-485, Title IV, § 402(a), Oct. 20, 1978, 92 Stat. 1613; Pub.L. 96-513, Title V, § 511(69), Dec. 12, 1980, 94 Stat. 2926.)

Historical Note

1980 Amendment. Pub.L. 96-513 inserted "of this title" following "2131" wherever appearing.

1978 Amendment. Subsec. (b)(1). Pub.L. 95-485 substituted "not less than six years" for "automatically extended by two years" and "last day of the term" for "eighth anniversary".

Effective Date of 1980 Amendment. Amendment by Pub.L. 96-513 effective Dec.

12, 1980, see section 701(b)(3) of Pub.L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-79, see 1977 U.S. Code Cong. and Adm. News, p. 537. See, also, Pub.L. 96-513, 1980 U.S. Code Cong. and Adm. News, p. 6333.

§ 2133. Termination of assistance; refund by member

(a) Educational assistance being provided a member under section 2131 of this title shall be terminated if—

(1) the member fails to participate satisfactorily in training with his unit, if he is a member of a unit;

(2) the member is separated from his armed force, unless he is separated in order to accept an immediate appointment as an officer in the Ready Reserve;

(3) the member completes eight years of service; or

(4) the member receives financial assistance under section 2107 of this title as a member of the Senior Reserve Officers' Training Corps.

(b)(1) A member who fails to participate satisfactorily in training with his unit, if he is a member of a unit, during a term of enlistment for which the member entered into an agreement under section 2132(a)(4) of this title shall refund an amount computed under paragraph (2) unless the failure to participate in training was due to reasons beyond the control of the member. Any refund by a member under this section shall not affect the period of obligation of such member to serve as a Reserve.

(2) The amount of any refund under paragraph (1) shall be the amount equal to the product of—

(A) the number of months of obligated service remaining during that term of enlistment divided by the total number of months of obligated service of that term of enlistment; and

(B) the total amount of educational assistance provided to the member under section 2131 of this title.

(Added Pub.L. 95-79, Title IV, § 402(a), July 30, 1977, 91 Stat. 329, and amended Pub.L. 96-107, Title IV, § 402(b), Nov. 9, 1979, 93 Stat. 808; Pub.L. 96-513, Title V, § 511(70), Dec. 12, 1980, 94 Stat. 2926.)

Historical Note

1980 Amendment. Subsec. (a). Pub.L. 96-513 added "of this title" following "2131" and "2107".

1979 Amendment. Subsec. (b). Pub.L. 96-107 redesignated existing provisions as par. (1) and, as so redesignated, added provisions respecting agreement for term of enlistment and substituted provisions relating to computation under par. (2), for provisions relating to computation under section 2131, and added par. (2).

Effective Date of 1980 Amendment. Amendment by Pub.L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub.L. 96-513, set out as an Effective Date of 1980

Amendment note under section 101 of this title.

Effective Date of 1979 Amendment. Amendment by Pub.L. 96-107 applicable only to individuals enlisting in the Reserves after Sept. 30, 1979, see section 402(c) of Pub.L. 96-107, set out as an Effective Date of 1979 Amendment note under section 2131 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-79, see 1977 U.S. Code Cong. and Adm. News, p. 537. See, also, Pub.L. 96-107, 1979 U.S. Code Cong. and Adm. News, p. 1818; Pub.L. 96-513, 1980 U.S. Code Cong. and Adm. News, p. 6333.

§ 2134. Reports to Congress

The Secretary of Defense shall submit a report to the Congress every three months stating the number of members of the Selected Reserve of the Ready Reserve receiving educational assistance under this chapter at the time of such report and listing each unit of the Selected Reserve of the Ready Reserve to which any such member is assigned at the time of such report. The first such report shall be submitted not later than December 31, 1977.

(Added Pub.L. 95-79, Title IV, § 402(a), July 30, 1977, 91 Stat. 330.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 95-79, see 1977 U.S. Code Cong. and Adm. News, p. 537.

§ 2135. Termination of program

No educational assistance may be provided under this chapter to any person enlisting as a Reserve after September 30, 1985.

(Added Pub.L. 95-79, Title IV, § 402(a), July 30, 1977, 91 Stat. 330, and amended Pub.L. 95-485, Title IV, § 402(b), Oct. 20, 1978, 92 Stat. 1613; Pub.L. 96-342, Title IX, § 906(b), Sept. 8, 1980, 94 Stat. 1117.)

Historical Note

1980 Amendment. Pub.L. 96-342 substituted "September 30, 1985" for "September 30, 1980".

1978 Amendment. Pub.L. 95-485 substituted "September 30, 1980" for "September 30, 1978".

Legislative History. For legislative history and purpose of Pub.L. 95-79, see 1977 U.S. Code Cong. and Adm. News, p. 537. See, also, Pub.L. 96-342, 1980 U.S. Code Cong. and Adm. News, p. 2612.

CHAPTER 107—EDUCATIONAL ASSISTANCE FOR PERSONS ENLISTING FOR ACTIVE DUTY

Sec.

- 2141. Educational assistance program: establishment.
- 2142. Educational assistance program: eligibility.
- 2143. Educational assistance: amount.
- 2144. Subsistence allowance.
- 2145. Adjustments of amount of educational assistance and of subsistence allowance.
- 2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance.
- 2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children.
- 2148. Duration of entitlement.
- 2149. Applications for educational assistance.

Cross References

Assistance, for purposes of advanced education assistance provisions, defined as not including advanced education courses paid for under this chapter, see section 2005 of this title.

§ 2141. Educational assistance program: establishment

(a) To encourage enlistments and reenlistments for service on active duty in the armed forces, the Secretary of each military department may establish a program in accordance with this chapter to provide educational assistance to persons enlisting or reenlisting in an armed force under his jurisdiction. The costs of any such program shall be borne by the Department of Defense, and a person participating in any such program may not be required to make any contribution to the program.

(b) The Secretary of Defense shall prescribe regulations for the administration of this chapter. Such regulations shall take account of the differences among the several armed forces.

(c) In this chapter, "enlistment" means original enlistment or reenlistment.

(Added Pub.L. 96-342, Title IX, § 901(a), Sept. 8, 1980, 94 Stat. 1111.)

Historical Note

Repayment of Loans for Service in Armed Forces; Authorization, Criteria, Etc. Section 902 of Pub.L. 96-342, as amended by Pub.L. 97-86, Title IV, § 406, Dec. 1, 1981, 95 Stat. 1106, provided that:

"(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay any loan made, insured, or guaranteed under part B of the Higher Education Act of 1965 [section 1071 et seq. of Title 20, Education], or any loan made under part E of such Act [sec-

tion 1087aa et seq. of Title 20], after October 1, 1975. Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

"(2) The Secretary of Defense may repay loans described in paragraph (1) in the case of any person for—

"(A) service performed (i) as an enlisted member of the Selected Reserve of the Ready Reserve of an Armed Force after September 30, 1980, and (ii) in a Reserve

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component and military specialty specified by the Secretary of Defense; or

"(B) service performed on active duty as an enlisted member of the Armed Forces after September 30, 1980, in a military specialty specified by the Secretary of Defense.

In the case of service described in clause (A) of the first sentence of this paragraph, the Secretary of Defense may repay a loan described in paragraph (1) only if the person to whom the loan was made performed such service after the loan was made.

"(b) The portion or amount of a loan that may be repaid under subsection (a) is—

"(1) 15 percent of \$500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(A); or

"(2) 33 1/3 percent of \$1,500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(B).

"(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

"(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

"(e) Any individual who transfers from service described in clause (A) or (B) of subsection (a)(1) of this section to service described in the other clause of such subsection during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

"(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).

"(g) The authority provided under this section shall apply only in the case of persons who enlist or reenlist in the Selected Reserve of the Ready Reserve of an Armed Force or enlist or reenlist for service on active duty after September 30, 1980, and before October 1, 1983."

Educational Assistance Pilot Program; Payment of Monthly Contribution by Secretary; Manner, Scope, Etc., of Payments. Section 903 of Pub.L. 96-342 provided that:

"(a)(1) As a means of encouraging enlistments and reenlistments in the Armed

Forces, the Secretary of Defense, on behalf of any person who enlists or reenlists in the Armed Forces after September 30, 1980, and before October 1, 1981, and who elects or has elected to participate in the Post-Vietnam Era Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code [section 1601 et seq. of Title 38, Veterans' Benefits], may pay the monthly contribution otherwise deducted from the military pay of such person. No deduction may be made under section 1622 of title 38, United States Code [section 1622 of Title 38], from the military pay of any person for any month to the extent that the contribution otherwise required to be made by such person under such section for such month is paid by the Secretary of Defense.

"(2) No payment may be made under this section on behalf of any person for any month before the month in which such person enlisted or reenlisted in the Armed Forces or for any month before October 1980.

"(b) The amount paid by the Secretary of Defense under this section on behalf of any person shall be deposited to the credit of such person in the Post-Vietnam Era Veterans Education Account established under section 1622(a) of title 38, United States Code [section 1622(a) of Title 38].

"(c)(1) Except as provided in paragraph (2), the provisions of chapter 32 of title 38, United States Code [section 1601 et seq. of Title 38], shall be applicable to payments made by the Secretary of Defense under this section.

"(2) Notwithstanding the provisions of section 1631(a)(4) of title 38, United States Code [section 1631(a)(4) of Title 38], the Secretary of Defense, in the case of any person who enlists or reenlists in the Armed Forces or any officer who is ordered to active duty with the Armed Forces after September 30, 1980, and before October 1, 1981, or whose active duty obligation with the Armed Forces is extended after September 30, 1980, and before October 1, 1981, and who is a participant in the educational assistance program described in subsection (a), may make monthly payments out of the Post-Vietnam Era Veterans Education Account to the spouse or child of such person to assist such spouse or child in the pursuit of a program of education. Payments under this subsection may be made to the spouse or child of a person participating in such educational assistance program only upon the request of such person and only for such period of time as may be specified by such person. The total amount paid under this subsection in the case of any spouse or child may not

exceed the amount credited to such person in the Post-Vietnam Era Veterans Education Account.

"(d)(1) The authority conferred on the Secretary of Defense under this section shall be used by the Secretary only for the purpose of encouraging persons who possess critical military specialties (as determined by the Secretary of Defense) to enter or to remain in the Armed Forces.

"(2) Except as otherwise provided in this section, the Secretary of Defense may offer the benefits of this section to persons eligible therefor for such period as the Secretary determines necessary or appropriate to achieve the purpose of this section.

"(f) As used in this section:

"(1) The term 'program of education' shall have the same meaning as provided in chapter 32 of title 38, United States Code [section 1601 et seq. of Title 38].

"(2) The term 'child' shall have the same meaning as provided in section 101(4) of title 38, United States Code [section 101(4) of Title 38].

"(3) The term 'Armed Forces' means the Army, Navy, Air Force, and Marine Corps."

Authorization of Appropriations; Allocation of Amounts. Section 904 of Pub.L. 96-342 provided that:

"(a) There is hereby authorized to be appropriated to carry out chapter 107 of title 10, United States Code (as added by section 901) [this chapter], and sections 902 and 903 [set out above] a total of \$75,000,000.

"(b) The Secretary of Defense shall equitably allocate the amount appropriated under this section among the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901) [this chapter], the repayment as authorized by section 902 [set out above] of loans made, insured, or guaranteed under part B of the Higher Education Act of 1965 [section 1071 et seq. of Title 20, Education], and of loans made under part E of such Act [section 1087aa et seq. of Title 20], and the educational assistance program provided for

under section 903 [set out as a note under this section]."

Reports Respecting Educational Assistance Programs; Submission, Contents, Etc. Section 905 of Pub.L. 96-342 provided that:

"(a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, within 30 days after the end of each quarter of fiscal year 1981, a report on the implementation and operation of the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901) [this chapter], and of the programs provided for under sections 902 and 903 [set out above].

"(b) The Secretary of Defense shall also submit to such committees, not later than December 31, 1981, a report on the extent to which the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901) [this chapter] the Post-Vietnam Era Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code [section 1601 et seq. of Title 38, Veterans' Benefits], and the program established under section 902 [set out above] have encouraged persons to enter or remain in the Armed Forces. The Secretary shall include in such report—

"(1) an evaluation of contributory and noncontributory educational assistance programs as incentives for individuals to enter or remain in the Armed Forces;

"(2) an analysis of the costs and benefits of various educational assistance incentive programs designed to encourage persons to enter and remain in the Armed Forces; and

"(3) recommendations for such new programs or revision of existing programs as the Secretary determines necessary or appropriate to successfully encourage persons to enter and remain in the Armed Forces."

Legislative History. For legislative history and purpose of Pub.L. 96-342, see 1980 U.S. Code Cong. and Adm. News, p. 2612.

§ 2142. Educational assistance program: eligibility

(a)(1) A program of educational assistance established under this chapter shall provide that any person enlisting or reenlisting in an armed force under the jurisdiction of the Secretary of the military department concerned who meets the eligibility requirements established by the Secretary in accordance with subsection (b) shall, subject to paragraph (3), become entitled to

educational assistance under section 2143 of this title at the time of such enlistment.

(2) The period of educational assistance to which such a person becomes entitled is one standard academic year (or the equivalent) for each year of the enlistment of such person, up to a maximum of four years. However, if the person is discharged or otherwise released from active duty after completing two years of the term of such enlistment but before completing the full term of such enlistment (or before completing four years of such term, in the case of an enlistment of more than four years), then the period of educational assistance to which the person is entitled is one standard academic year (or the equivalent) for each year of active service of such person during such term. For the purposes of the preceding sentence, a portion of a year of active service shall be rounded to the nearest month and shall be prorated to a standard academic year.

(3)(A) A member who is discharged or otherwise released from active duty before completing two years of active service of an enlistment which is the basis for entitlement to educational assistance under this chapter or who is discharged or otherwise released from active duty under other than honorable conditions is not entitled to educational assistance under this chapter.

(B) Entitlement to educational assistance under this chapter may not be used until a member has completed two years of active service of the enlistment which is the basis for entitlement to such educational assistance.

(b) In establishing requirements for eligibility for an educational assistance program under this chapter, the Secretary concerned shall limit eligibility to persons who—

(1) enlist or reenlist for service on active duty as a member of the Army, Navy, Air Force, or Marine Corps after September 30, 1980, and before October 1, 1981;

(2) are graduates from a secondary school; and

(3) meet such other requirements as the Secretary may consider appropriate for the purposes of this chapter and the needs of the armed forces.

(Added Pub.L. 96-342, Title IX, § 901(a), Sept. 8, 1980, 94 Stat. 1111.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96-342, see 1980 U.S. Code Cong. and Adm. News, p. 2612.

§ 2143. Educational assistance: amount

(a) Subject to subsection (b), an educational assistance program established under section 2141 of this title shall provide for payment by the Secretary concerned of educational expenses incurred for instruction at an accredited institution by a person entitled to such assistance under this chapter. Expenses for which payment may be made under this section include tuition, fees, books, laboratory fees, and shop fees for consumable

materials used as part of classroom or laboratory instruction. Payments under this section shall be limited to those educational expenses normally incurred by students at the institution involved.

(b)(1) The Secretary concerned shall establish the amount of educational assistance for a standard academic year (or the equivalent) to which a person becomes entitled under this chapter at the time of an enlistment described in section 2142 of this title. Depending on the needs of the service, different amounts may be established for different categories of persons or enlistments. The amount of educational assistance to which any person is entitled shall be adjusted in accordance with section 2145 of this title.

(2) The amount of educational assistance which may be provided to any person for a standard academic year (or the equivalent) may not exceed \$1,200, adjusted in accordance with section 2145 of this title.

(c) In this section, "accredited institution" means a civilian college or university or a trade, technical, or vocational school in the United States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands) that provides education at the postsecondary level and that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Secretary of Education.

(Added Pub.L. 96-342, Title IX, § 901(a), Sept. 8, 1980, 94 Stat. 1112.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96-342, see 1980 U.S. Code Cong. and Adm. News, p. 2612.

§ 2144. Subsistence allowance

(a) Subject to subsection (b), a person entitled to educational assistance under this chapter is entitled to receive a monthly subsistence allowance during any period for which educational assistance is provided such person. The amount of a subsistence allowance under this section is \$300 per month, adjusted in accordance with section 2145 of this title, in the case of a person pursuing a course of instruction on a full-time basis and is one-half of such amount (as so adjusted) in the case of a person pursuing a course of instruction on less than a full-time basis.

(b) The number of months for which a subsistence allowance may be provided to any person under this section is computed on the basis of nine months for each standard academic year of educational assistance to which such person is entitled.

(c) For purposes of subsection (a), a person shall be considered to be pursuing a course of instruction on a full-time basis if the person is enrolled in twelve or more semester hours of instruction (or the equivalent, as determined by the Secretary concerned).

(Added Pub.L. 96-342, Title IX, § 901(a), Sept. 8, 1980, 94 Stat. 1112.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96-342, see 1980 U.S. Code Cong. and Adm. News, p. 2612.

§ 2145. Adjustments of amount of educational assistance and of subsistence allowance

(a) Once each year, the Secretary of Defense shall adjust the amount of educational assistance which may be provided to any person in any standard academic year under section 2143 of this title, and the amount of the subsistence allowance authorized under section 2144 of this title for pursuit of a course of instruction on a full-time basis, in a manner consistent with the change over the preceding twelve-month period in the average actual cost of attendance at public institutions of higher education.

(b) In this section, "actual cost of attendance" means the actual cost of attendance as determined by the Secretary of Education pursuant to section 411(a)(2)(B)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1070a(a)(2)(B)(iv)).

(Added Pub.L. 96-342, Title IX, § 901(a), Sept. 8, 1980, 94 Stat. 1113.)

Historical Note

References in Text. Section 411(a)(2)(B)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1070a(a)(2)(B)(iv)), referred to in subsection (b), is classified to section 1070a(a)(2)(B)(iv) of Title 20, Education.

Legislative History. For legislative history and purpose of Pub.L. 96-342, see 1980 U.S. Code Cong. and Adm. News, p. 2612.

§ 2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance

(a) A member who is entitled to educational assistance under this chapter and who reenlists at the end of the enlistment which established such entitlement may, at the time of such reenlistment, elect to receive a lump-sum payment computed under subsection (b) in lieu of receiving such educational assistance. An election to receive such a lump-sum payment is irrevocable.

(b) The amount of a lump-sum payment under subsection (a) is 60 percent of the sum of—

(1) the product of (A) the rate for educational assistance under section 2143(b) of this title applicable to such member which is in effect at the time of such reenlistment, and (B) the number of standard academic years of entitlement of such member to such assistance; and

(2) the product of (A) the rate for the subsistence allowance authorized under section 2144 of this title for pursuit of a course of instruction on a full-time basis at the time of such reenlistment, and (B) the number of months of entitlement of such member to such allowance.

(Added Pub.L. 96-342, Title IX, § 901(a), Sept. 8, 1980, 94 Stat. 1113.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96-342, see 1980 U.S. Code Cong. and Adm. News, p. 2612.

§ 2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children

(a)(1) A person who is entitled to educational assistance under section 2142 of this title and who reenlisted in an armed force at any time after the end of the enlistment which established such entitlement may at any time after such reenlistment elect to transfer all or any part of such entitlement to the spouse or dependent child of such person. Any transfer under the preceding sentence may be revoked at any time by the person making the transfer.

(2) If a person described in paragraph (1) dies before making an election authorized by such paragraph but has never made an election not to transfer such entitlement, any unused entitlement of such person shall be automatically transferred to such person's surviving spouse or (if there is no eligible surviving spouse) to such person's dependent children. A surviving spouse to whom entitlement to educational assistance is transferred under this paragraph may elect to transfer such entitlement to the dependent children of the person whose service established such entitlement.

(3) Any transfer of entitlement under this subsection shall be made in accordance with regulations prescribed by the Secretary of the military department concerned.

(b) A spouse or surviving spouse or a dependent child to whom entitlement is transferred under subsection (a) is entitled to educational assistance under this chapter in the same manner and at the same rate as the person from whom the entitlement was transferred.

(c) The total amount of educational assistance available to a person entitled to educational assistance under section 2142 of this title and to the person's spouse, surviving spouse, and dependent children is the amount of educational assistance to which the person is entitled. If more than one person is being provided educational assistance for the same period by virtue of the entitlement of the same person, the subsistence allowance authorized by section 2144 of this title shall be divided in such manner as the person may specify or (if the person fails to specify) as the Secretary concerned may prescribe.

(d) In this section:

(1) "Dependent child" has the meaning given the term "dependent" in section 1072(2)(D) of this title.

(2) "Surviving spouse" means a widow or widower who is not remarried.

(Added Pub.L. 96-342, Title IX, § 901(a), Sept. 8, 1980, 94 Stat. 1113, and amended Pub.L. 97-22, § 10(b)(3), July 10, 1981, 95 Stat. 137.)

Historical Note

1981 Amendment. Subsec. (d)(1). Pub.L. 97-22 substituted "section 1072(2)(D) of this title" for "section 1072(2)(E) of this title".

Effective Date of 1981 Amendment. Section 10(b) of Pub.L. 97-22 provided in part that the amendment by Pub.L. 97-22 is effective Sept. 15, 1981.

Legislative History. For legislative history and purpose of Pub.L. 96-342, see 1980 U.S. Code Cong. and Adm. News, p. 2612; Pub.L. 97-22, 1981 U.S. Code Cong. and Adm. News, p. 24.

§ 2148. Duration of entitlement.

The entitlement of any person to educational assistance under this chapter expires at the end of the ten-year period beginning on the date of the retirement or discharge or other separation from active duty of the person upon whose service such entitlement is based. In the case of a member entitled to educational assistance under this chapter who dies while on active duty and whose entitlement is transferred to a spouse or dependent child, such entitlement expires at the end of the ten-year period beginning on the date of such member's death.

(Added Pub.L. 96-342, Title IX, § 901(a), Sept. 8, 1980, 94 Stat. 1114.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96-342, see 1980 U.S. Code Cong. and Adm. News, p. 2612.

§ 2149. Applications for educational assistance

To receive educational assistance benefits under this chapter, a person entitled to such assistance under section 2142 or 2147 of this title shall submit an application for such assistance to the Secretary concerned in such form and manner as the Secretary concerned may prescribe.

(Added Pub.L. 96-342, Title IX, § 901(a), Sept. 8, 1980, 94 Stat. 1114.)

Historical Note

Legislative History. For legislative history and purpose of Pub.L. 96-342, see 1980 U.S. Code Cong. and Adm. News, p. 2612.