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## Mitigating Circumstances

### COMMISSION RECOMMENDATION:

Modify the "mitigating circumstances" policy to permit students to withdraw without penalty from a course or courses up to a specified limit with a non-punitive grade without producing mitigating circumstances for the withdrawal.

### VA INTERIM RESPONSE:

VA concurs with Commission's position and notes that legislation along these lines was enacted in Public Law 100-689.

### VA RESPONSE:

This provision of Public Law 100-689 has been implemented.

In its final report, the Commission noted a question regarding interpretation of this provision of Public Law 100-689; specifically, whether forgiveness applies to the first instance of withdrawal by any veteran (regardless of prior withdrawals) after the June 1, 1989, effective date, or whether beginning June 1, 1989, VA will "forgive" a veteran's first instance of withdrawal. The Commission asked for clarification of the provision.

The implementing instructions we have issued for this provision of law forgive a veteran's first instance of withdrawal after June 1, 1989, regardless of any withdrawals prior to that date.

COMMISSION RECOMMENDATION:

Specify that "mitigating circumstances" may include child care difficulties.

VA INTERIM RESPONSE:

VA is in agreement and will propose a change in regulations.

VA RESPONSE:

A change to the regulations has been proposed for each of the various education chapters.

A change to the regulations to specify that mitigating circumstances may include child care difficulties was not required, but the change was made for clarification of the regulatory provisions. The Department also has notified all regional offices to immediately implement this policy.

# Publications

## COMMISSION RECOMMENDATION:

Make available on a regular basis up-to-date publications such as newsletters and manuals designed to assist institutions in administering benefits.

## VA INTERIM RESPONSE:

VA agrees.

## VA RESPONSE:

VA continues to make every effort to keep institutions as informed as possible about the administration of the various education programs.

Since our interim report was submitted last year, the Department has already published and distributed one update to the manual, "Certification of Students Under Veterans' Laws," published jointly by the Department and the American Association of Collegiate Registrars and Admissions Officers (AACRAO). A second update is in process at this time and should be printed in the near future to incorporate changes made by Public Laws 100-689 and 101-237. The new loose-leaf format agreed upon between VA and AACRAO is working out well, much to everyone's satisfaction. The Department has received praise for these efforts.

Discussion is included, earlier in this report, in the section "Counseling and Support Services to Veterans," of the recent

legislation (Public Law 101-237) requiring VA to prepare and update a document providing information on education benefits. Distribution of this document on a regular basis to educational institutions and others involved with the administration of education programs is also required. Also discussed in the same section is the cooperative effort between VA and DANES to publish articles in the DANES newsletter sent to Education Service Officers stationed at education centers around the world.

The Department continues to examine alternatives of producing and distributing information to the public. The subscription approach suggested by the Commission is one such possibility. Of course, any effort in this regard must take into account the availability of resources.

Another means of distributing information which has also proven beneficial is VA participation in major meetings of educational associations. The Department has contributed to such meetings of the National Association of Veterans' Program Administrators, AACRAO, the National Home Study Council, the National Association of State Approving Agencies, and many others. All those concerned have expressed the opinion that they have benefited greatly from this direct participation. As resources permit, we will continue to maintain such participation.

COMMISSION RECOMMENDATION:

Rewrite the chapters of Title 38, USC, pertaining to educational assistance programs (and, as necessary, other provisions of law) to provide for better organization, clarity, readability, and understanding (particularly in view of the termination of the chapter 34 program on December 31, 1989.)

VA INTERIM RESPONSE:

VA agrees that provisions could be rewritten to be more understandable to the layman; however, we believe that our limited resources could be put to more effective use.

VA RESPONSE:

We continue in our belief that a rewriting of title 38 could serve to provide greater clarity and we look forward to working with the Committees.

# Remedial, Deficiency, and Refresher Training

## COMMISSION RECOMMENDATION:

Make available G.I. Bill benefits for remedial, deficiency, and refresher training under all of the various educational assistance programs, including the programs established by the Hostage Relief Act (HRA) and the Omnibus Diplomatic Security and Antiterrorism Act, as well as the chapters 30 and 106 and section 901 and 903 programs.

## VA INTERIM RESPONSE:

VA agrees in principle with these recommendations except that it supports charging entitlement for benefits paid for pursuit of remedial, deficiency, and refresher courses as provided in current law. We note that the recently enacted legislation addressing the issue of remedial, deficiency, and refresher training under chapters 30 and 32 did not resolve the consistency issue with respect to chapter 106 and sections 901 and 903. VA supports the Commission's position.

## VA RESPONSE:

VA continues to support the Commission in this regard. We note that, although there continues to be legislation on this issue, there is no standardization of the administration of these programs.

The Department reiterates the position taken by the Commission in its final report. Although Public Law 100-689 addressed this issue, as did Public Law 101-237, we continue to recommend standardization and consistency among the various educational assistance programs.

As an example, Public Law 100-689 permitted refresher training for chapter 30 and chapter 32. It permitted deficiency and remedial training in chapter 30, chapter 32, and chapter 35. Public Law 101-189 allowed refresher, remedial and deficiency training, effective October 1, 1990, for chapter 106. Refresher training is defined in the regulations as either training at the secondary level

or as training to update knowledge and skills in the individual's field of employment above the elementary or secondary education level. This latter type of training, to update knowledge and skills, was not made available to chapter 35. Subsequently, Public Law 101-237 redefined refresher training for chapter 30 and chapter 32 to specify that the technological advances must have occurred in the individual's field of employment while the individual was on active duty or after his or her release from active duty. No similar provision was made for chapter 35.

It is the Department's position to give full support to the principle of standardization wherever possible. As the Commission continually stressed, there is a tremendous need for standardization and consistency among the various educational assistance programs.

COMMISSION RECOMMENDATION:

Resolve the issue of the charge to entitlement for this type of training in a consistent manner. Based on the precedent established by the chapter 34 program, the Commission believes that there should be no charge to entitlement for benefits paid for this pursuit.

VA INTERIM RESPONSE:

VA is in agreement with resolving the charge to entitlement for this type of training in a consistent manner, but differs in that it advocates that entitlement charges be made for the pursuit of all courses.

VA RESPONSE:

VA continues to support the position taken in our interim response. The Commission urged the Congress to resolve the issue of the charge to entitlement in a consistent manner. The Department concurs. We have submitted a legislative proposal to this effect. (See Exhibit A, Legislative Proposals, #10.)

## Reporting Fees

### COMMISSION RECOMMENDATION:

Increase the amount of reporting fees paid on an annual basis.

### VA INTERIM RESPONSE:

VA opposes. While the activities required by the institutions are significant, they are decreasing as the overall number of students receiving VA benefits decreases. In addition, institutions receive tuition from all of these students, a part of which is attributable to administration. Given the added enrollments provided by VA education programs, there is no need to increase the reporting fee for activities that are best characterized as a cost of doing business.

### VA RESPONSE:

Due to budgetary constraints VA cannot support an increase in reporting fees at this time.

### COMMISSION RECOMMENDATION:

Provide that the amount of the fee be based on a scale, rather than a head count. For example, schools which have 5 or fewer eligibles enrolled would be paid "X", schools with 6 to 25 eligibles enrolled would be paid "Y", and so forth.

### VA INTERIM RESPONSE:

VA agrees that the reporting fees should be a reflection of the total number of veterans who train at an institution during a calendar year. We support in concept the scale approach, but believe that the data for determining placement on the scale should be extracted from VA's own computer system. We further assert that any scale should pay less per student as the number of students increases, recognizing the economies of scale for administering activities.

VA RESPONSE:

The Department believes the present reporting fee provision is workable, but would have no objection to the scale approach, as set forth in our interim response.

COMMISSION RECOMMENDATION:

Include chapter 31 trainees in the count of those on whose behalf the fee is paid.

VA INTERIM RESPONSE:

VA would like to study this issue and will examine the need for the fee in the context of the book handling charge already being paid to institutions.

VA RESPONSE:

Public Law 101-237 included chapter 31 trainees in the annual reporting fee count.

# Restoration of Pay Reductions Under Certain Circumstances

## COMMISSION RECOMMENDATION:

Permit the restoration of pay reductions as a death benefit and in certain other limited circumstances; i.e., in cases of individuals found eligible for chapter 31, and of those who do not complete their required period of service because of a preexisting medical condition.

## VA INTERIM RESPONSE:

VA agrees with the recommendations with respect to death benefits and notes that subsequent to the Commission deliberations on this topic, legislative action was taken to provide a death benefit.

## VA RESPONSE:

Additional amendatory legislation, which the Department supported, addressed the concern expressed by the Commission in its final report, that the death benefit should be extended to those who died on active duty but had not established eligibility for chapter 30 because they had not received their high school diplomas.

We agree with the recommendation to extend the death benefit to survivors of veterans who die of service connected causes following their discharge from active duty. We do not support the recommendations concerning veterans eligible for the Vocational Rehabilitation program or those discharged from active duty because of a medical condition which preexisted service.

Public Law 100-689 provided for a death benefit for survivors of chapter 30 participants who die on active duty. One of the concerns expressed by the Commission in its final report was that in order to establish eligibility for this benefit, the deceased serviceperson must have received a high school diploma or its equivalency by the time of death.

Public Law 101-237 extended eligibility for the death benefit to chapter 30 participants who die on active duty prior to establishing Montgomery G.I. Bill eligibility through the attainment of a high school diploma or the equivalent. The Department is pleased that this inequity has been corrected by the Congress.

The Commission also recommended that pay restoration be provided for survivors of those honorably discharged veterans who die of service connected causes. The Department supports a death benefit in such cases, with the stipulation that death must have occurred within one year of discharge from active duty. We will propose the appropriate legislation. (Exhibit A, Legislative Proposals, #11).

We do not support the Commission recommendation that individuals who are found eligible for chapter 31 be entitled to pay restoration under the Montgomery G.I. Bill. This provision would have the effect of denying some persons the chance to use their chapter 30 benefits. With recent legislative changes, permitting the military services to authorize "kickers" of up to \$700 monthly, chapter 30 claimants may qualify for monthly benefits of up to \$1,000. In such cases, the exclusion of eligibility under chapter 30 in favor of chapter 31 may represent a significant loss of benefits.

We do not believe there is sufficient basis to justify pay restoration to individuals who do not complete their obligated periods of active duty because of a medical condition which preexisted their active military service. Although such claimants do not earn the maximum entitlement of 36 months, they do retain eligibility for chapter 30 benefits, with entitlement equaling one month for each month served.

## Role of Continuing Education

### COMMISSION RECOMMENDATION:

Make approvals of continuing education courses consistent with the stated principle of the G.I. Bill that programs of education must lead to an educational, vocational, or professional goal.

### VA INTERIM RESPONSE:

VA concurs with recommendation.

### COMMISSION FINAL REPLY:

The Commission has no additional comment.

### VA FINAL REPLY:

VA has no further comment.

## Standardization

### COMMISSION RECOMMENDATION:

Standardize the different features of the various education programs to the maximum extent possible consistent with their design and purpose.

### VA INTERIM RESPONSE:

VA supports this recommendation and is in agreement with the Commission's suggestion that a task force of adjudicators and education liaison representatives be charged with compiling an accurate and reasonably complete listing of the differences in current law.

### VA RESPONSE:

The Department continues to support standardization of the various programs to the maximum extent possible.

An interesting proposal put forth by the Task Force is the idea of having only one G.I. Bill governing all our education programs, with the exception of the Vocational Rehabilitation Program (chapter 31). The basic eligibility criteria for each program would remain.

Because of the unique design and purpose of the Vocational Rehabilitation program, it should be excluded from the G.I. Bill umbrella. For the same reason, the Special Restorative Training and Specialized Vocational Training programs, which are currently administered under chapter 35, would be placed under the Vocational-Rehabilitation umbrella.

The Task Force identified certain areas in which they believe standardization is needed. They are to be commended for their efforts in this regard.

The Department looks forward to working with the Committees in providing technical assistance to effect the necessary modifications to title 38. It should be noted that any such standardization will require incorporation of a savings clause for any individual currently receiving benefits who will be negatively affected by any of these proposals.

# Training and Associated Administrative Resources

## COMMISSION RECOMMENDATION:

Sufficient resources be made available to carry out regular training sessions of all those involved in the administration of G.I. Bill benefits.

## VA INTERIM RESPONSE:

VA supports in concept within the constraints of available resources. The Department's response noted that our FY 1990 budget requested funding for the creation of an Adjudication Training Academy, which would be designed to provide a national training program for Veterans' Claims Examiners.

## VA RESPONSE:

VA reaffirms its support for training within the constraints of available resources.

Since our interim response was written, the Adjudication Training Academy has become a reality, and the first classes have already been held. The Academy is providing a national training curriculum for employees in the adjudication divisions of the Veterans Benefits Administration. As resources permit, it is anticipated that the curriculum will be expanded to encompass other areas within the Veterans Benefits Administration on a nationwide basis.

We also note that many training seminars are conducted periodically by regional offices for school officials and others involved with the administration of education benefits.

Public Law 100-323 amended section 1774, title 38, U.S.C., to provide that VA shall cooperate with State approving agencies (SAAs) in developing and implementing a uniform national training curriculum for SAA employees. Public Law 101-237 further amended section 1774 to provide that effective October 1, 1989 the funds authorized for the reimbursement of expenses incurred by SAAs in the performance of their contractual responsibilities may be used for the development and implementation of the training curriculum. In this connection, the National Association of State Approving Agencies (NASAA) is in the process of negotiating a contract with the University of West Florida to develop a National Training Curriculum.

COMMISSION RECOMMENDATION:

Enhanced computer capabilities (with emphasis on an on-line facilities file) be made a priority within the Department.

VA INTERIM RESPONSE:

VA supports in concept within the constraints of available resources. Enhanced computer capabilities remain a priority within VA. An on-line facilities file is under active consideration with an evaluation currently being prepared.

VA RESPONSE:

VA continues to strive for enhanced computer capabilities and technological modernization within the constraints of available resources. An on-line facilities file is now operating.

As noted earlier in this report, we are studying initiatives for enhancing computer capabilities and modernization. Many possibilities, for example, are being evaluated within the context of our benefit delivery system for handling monthly certifications. We will continue to make every effort to serve the veteran in the best manner possible with available resources.

We now have in operation an on-line facilities file. The On-Line Approval File (OLAF) uses our Wang computer system to maintain approval information for educational institutions and job training establishments. The ELR at each field station is responsible for maintaining and updating the information as revisions are received from the SAA (State approving agency), educational institutions, and job training establishments. OLAF enables our regional processing offices to immediately access approval information for schools located in any of the states for which they process claims.

COMMISSION RECOMMENDATION:

Staffing and other resource allocation decisions take into account the reality of an increasing educational assistance caseload.

VA INTERIM RESPONSE:

Consideration is being given to implementation of a consolidated region approach as an effective means of addressing the increasing caseload. This proposal is discussed under the section on benefit delivery system structure.

VA RESPONSE:

A consolidated region approach could simplify the staffing and other resource allocation decisions needed to be made as the educational assistance caseload increases. This is being taken into consideration as the benefit delivery system continues to be evaluated.

The discussion earlier in this report demonstrates the concern the Department has for the projected increase in education benefits caseload among the regional offices and existing regional processing centers. This is an ongoing evaluation process of all aspects of education claims processing.

COMMISSION RECOMMENDATION:

The work-measurement criteria for the Department of Veterans Affairs reflect the non-paper aspect of the administration of benefits, the need to enhance morale, and the provision of personal attention.

VA INTERIM RESPONSE:

Studies are currently being conducted to evaluate VA's work-measurement criteria and performance standards and the Commission's concern that the current criteria may weigh too heavily on the "paper-pushing" aspects of administration is noted.

VA RESPONSE:

This study has been completed and resulted in only a slight change to work-measurement criteria, which will require minor alterations in performance standards.

We share the concern of the Commission with respect to the need to enhance employee morale and improve the non-paper aspects of claims administration to the maximum extent possible. We are hopeful that other changes to the benefit delivery system, which are discussed in that section of this report, will address these concerns.

Our study of work-measurement criteria and performance standards resulted in a slight overall increase in the base rate for credit given to claims examiners handling education claims.

The consolidation of education claims processing within a few regions should contribute to the enhancement of morale of the employees processing education claims. The increased education claims workload which will result from regionalization will require a degree of specialization which does not now exist due to the relatively small number of education claims which adjudicators currently handle in addition to compensation and pension claims. Specialization will allow adjudicators to increase their expertise, which may have a positive effect on morale.

Additionally, the creation of the education ombudsman position, which is being considered in conjunction with the consolidated delivery system, should help to provide recognition of the non-paper aspect of claims processing. These employees who will, in large part, administer the education program for each regional office,

will have opportunities that do not presently exist for employees at that level. They will be largely concerned with problem solving and trouble shooting, which will require emphasis on the provision of personal attention to problem claims. They must also effectively communicate with education officials and others involved in the administration of VA education benefits, duties which will rely on skills not always utilized in the paper-pushing aspect of claims processing.

## Two-Year Rule, Standards of Progress and the 85-15 Rule

### COMMISSION RECOMMENDATION:

Reaffirm the provisions of title 38 that have been effective in encouraging appropriate use of G.I. Bill benefits, such as the two-year rule, standards of progress criteria, and the 85-15 Rule.

### VA INTERIM RESPONSE:

VA agrees with the Commission's position.

### VA RESPONSE:

The Department continues to support these provisions.

The Commission, in its final report, continued to express concern that the administration of the law governing the two-year period of operation requirement is complex and unwieldy. The Commission also observed that the law presumes that public and tax-supported institutions will always offer quality programs while private and proprietary schools may not.

Although the present regulations for the two-year period of operation are complicated, VA recognizes the historical context within which they have their foundation. We believe that the safeguards presently in place, although complex, have proven their worth over the years, as the Commission has affirmed.

COMMISSION RECOMMENDATION:

Apply these provisions across the board to all the programs of educational assistance administered by VA.

VA INTERIM RESPONSE:

This is an issue that should be studied as part of the Commission's standardization recommendations, consistent with the design and purpose of the programs.

VA RESPONSE:

The Department reaffirms its position taken in the interim report.

COMMISSION RECOMMENDATION:

Incorporate into the criteria for determining waiver or applicability of both the two-year rule and the 85-15 rule those individuals training under the chapter 106 program.

VA INTERIM RESPONSE:

VA favored this recommendation and initiated discussions with DOD as to whether the Commission recommendation was acceptable.

VA RESPONSE:

The Department continues to support this recommendation.

As indicated in our interim report, the Department has proposed regulations to include chapter 106 reservists and reserve units, including National Guard and Coast Guard facilities, in the count for the 85-15 rule. We will propose as a regulatory change the inclusion of 106 reservists in the exceptions to the two-year rule. (See Exhibit B, Regulatory Changes, #3).

## Value of Home Study Courses; Educational Assessment

### COMMISSION RECOMMENDATION:

No finding was made by the Commission on this issue.

### VA INTERIM RESPONSE:

VA has no comment to make or add.

### VA RESPONSE:

The Commission offered no further comment in its final report. VA notes the Commission's observation that the issue of quality assessment within the education community is not confined to any one particular mode of study.

## Work-Study Program

### COMMISSION RECOMMENDATION:

Overhaul VA's work-study program to provide for a flexible progressive payment scale that could be used to attract and retain quality work-study students, especially in high-cost areas.

### VA INTERIM RESPONSE:

VA does not support the recommendation of the Commission for a progressive payment scale, noting that the proposal to establish a payment schedule for high-cost areas merits further study. In the case of a State where the State minimum wage is higher than the Federal minimum wage, VA proposes that the higher wage be paid.

### VA RESPONSE:

The Department continues to disagree with the Commission regarding a payment scale and opposes such an approach to the work-study benefit program.

Adopting the Department's proposal, Public Law 101-237 amended the work-study program to permit payment of work-study allowance on the basis of the higher of the Federal minimum wage or the minimum wage of the State in which the work is performed.

The Commission, however, remains concerned that this change does not help the work-study student, at a VA office or other off-campus position, who incurs additional work-related expenses, including the costs of commuting. In its final report the Commission suggested

that some consideration be given to paying a transportation allowance under certain circumstances.

The Department does not support adding a commuting allowance to the work-study program. The program is designed to assist the veteran student by providing an additional source of income while attending school.

COMMISSION RECOMMENDATION:

Expand eligibility for VA's work-study program to individuals training under the chapters 35 and 106 programs.

VA INTERIM RESPONSE:

VA opposes. Its position is that chapter 35 recipients may utilize many government-wide opportunities for educational assistance; it takes no position insofar as inclusion of chapter 106 trainees.

VA RESPONSE:

Public Law 101-237 provided for the inclusion of chapter 35 and chapter 106 trainees in the work-study program.

Public Law 101-237 extended work-study benefits to eligible students under chapter 35 and to Selected Reserve members under chapter 106. The law also permits individuals who are receiving educational assistance under chapter 106 to perform work-study activities relating to the administration of the chapter 106 program at Department of Defense facilities. The Department notes, however,

that this legislation, by referring only to DOD facilities, does not address the concerns of reservists at National Guard armories or Coast Guard stations. We have incorporated this as Legislative Proposal #12, Exhibit A.

EXHIBIT A

LEGISLATIVE PROPOSALS

Exhibit A  
LEGISLATIVE PROPOSALS

Item 1: ADVANCE PAYMENT OF BENEFITS IN DEATH CASES

(a) Section 1780(e) is amended by striking out "If" and inserting in lieu thereof "Except in the case of an individual described in section 3013 (c) of this title, if".

(b) Section 3013 is amended--

(1) in subsection (a), by inserting "or (c)" after "(b)";  
and

(2) by adding at the end the following new subsection:  
"(c) The effective date of termination of educational assistance or subsistence allowance by reason of death of the payee of an advance payment of such allowance, delivered as certified pursuant to section 1780(e)(5) of this title, shall be the last date of the period for which the advance payment was made if the payee died on or before that date."

Items 2 and 3: CHANGE OF PROGRAM.

Section 1791(d) is amended by inserting "(1) has been successfully completed; (2) leads to a vocational, educational or professional objective in the same general field as the second program; or (3)" after "first program".

Item 4: ELIMINATION OF BENEFIT DIFFERENTIAL FOR INDEPENDENT STUDY COURSES.

Section 1732(c) is amended by striking out paragraphs (3) and (4).

Item 5: DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY.

(a)(1) Section 1776(a) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this title, a course of education shall not be approved under this section if it is to be pursued in whole or in part by independent study."

(2) Chapter 36 of this title is amended by inserting before section 1781 the following new section:

**"§ 1780A. Disapproval of enrollment in certain courses**

"(a) The Secretary shall not approve the enrollment of an eligible veteran in--

"(1) any bartending course or personality development course;

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

"(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's presentor contemplated business or occupation; or

"(4) any independent study program except one leading to an accredited standard college degree.

"(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, United States Code, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

"(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

"(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10. The Secretary

may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other per centum as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Secretary may apply the provisions of this subsection with respect to any course in which the Secretary has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

"(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran--

"(A) in a course offered pursuant to section 1419, 1434(a)(3), 1634, or 1641(a)(2);

"(B) in a farm cooperative training course; or

"(C) in a course described in section 1789(b)(6) of this title."

(3) Chapter 34 is amended by repealing section 1673.

(4) Section 1434 is amended--

(A) in subsection (a)(1), by striking out "1673,"; and

(B) in subsection (d)(1), by striking out "1673(b)" and inserting in lieu thereof "1780A".

(5) Section 1641 is amended by striking out "1673," both places it appears.

(6) Section 2136 (c)(1) of title 10, United States Code, is amended by striking out "1673(b)" and inserting in lieu thereof "1780A".

(7) Section 1723(a)(4) is amended by striking out "a" and inserting in lieu thereof "an accredited".

(8) The table of sections at the beginning of chapter 36 is amended by inserting before the item relating to section 1781 the following new item:

"1780A. Disapproval of enrollment in certain courses."

(b) SAVINGS PROVISION--The amendments made by paragraphs (2) through (6) of subsection (a) of this section shall not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of this section, for as long as such person is continuously thereafter so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under this title in effect on that date.

Items 6, 7, 8 and 9

Item 6: ELIMINATION OF STANDARD CLASS SESSION REQUIREMENT;  
Item 7: ELIMINATION OF DIFFERENTIAL FOR GRADUATE COURSES  
PURSUED CONCURRENTLY WITH UNDERGRADUATE COURSES; ITEM 8:  
ELIMINATION OF MIXED MEASUREMENT IN NCD COURSES; ITEM 9:  
REMOVAL OF DISTINCTION BASED ON ACCREDITATION IN NCD COURSES:

Section 1788 is amended--

(a) in subsection (a), by--

(1) striking out, in clause (1), "thirty hours" and all that follows through "full time" and inserting in lieu thereof "22 hours per week of attendance (excluding supervised study) is required, with no more than 2 1/2 hours of rest periods per week allowed";

(2) striking out, in clause (2), "twenty-five hours" and all that follows through "full time" and inserting in lieu thereof "18 hours per week net of instruction (excluding supervised study but which may include customary intervals not to exceed ten minutes between hours of instruction) is required";

(3) in clause (4), by--

(A) striking out "in residence"; and

(B) inserting "other than a course pursued as part of a program of education beyond the baccalaureate level," after "semester-hour basis";

(4) in clause (6), by striking out "1691(a)(2)" and inserting in lieu thereof "1434(a)(3), 1641(a)(2) or 1733(a)"; and

(5) by striking out clause (7) and all that follows to the end of the subsection and inserting in lieu thereof the following:

"(7) an institutional course not leading to a standard college degree offered by an educational institution on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided in clause (4) of this subsection, but if the educational institution offering the course is not an institution of higher learning, then in no event shall such course be considered full time when it requires less than the minimum weekly hours of attendance required for full time by clause (1) or (2) of this subsection, as appropriate.";

(b) in subsection (b), by striking out "34" and inserting in lieu thereof "30, 32, 34"; and

(c) by striking out subsections (c), (d) and (e).

Item 10: ENTITLEMENT CHARGE FOR REFRESHER, REMEDIAL, OR DEFICIENCY TRAINING.

Section 1733(a) is amended by--

- (a) striking out "(1)"; and
- (b) striking out paragraph (2).

Item 11: DEATH BENEFIT.

Section 1417(a)(1) is amended, in clause (B), by inserting before the comma "or within one year after discharge or release from active duty".

Item 12: WORK-STUDY ALLOWANCE

Section 1685(a)(5) is amended by inserting "or facilities of the Selected Reserve of the Ready Reserve if the Secretary, in consultation with the Secretary of Defense, determines that such activities and facilities are appropriate" after "Department of Defense facilities".

EXHIBIT B

REGULATORY CHANGES

Exhibit B

Regulatory Changes

Item 1: Beginning date of award  
for IHL and NCD students

§21.4131(b)

(b) Certification by school  
-resident course

(1) Except as provided in subparagraphs (2) or (3) of this paragraph when a student enrolls in a resident course or subject, the commencing date of the award or increased award of educational assistance allowance will be the first scheduled date of classes for the term, quarter or semester in which the student is enrolled.

(2) When a student enrolls in a resident course or subject the commencing date of the award will be the date of reporting provided that-

(i) The published standards of the school require the student to register before reporting, and

(ii) The published standards of the school require the student to report no more than 14 days before the first scheduled date of classes for the term, quarter or semester for which the student has registered.

(3) When a student enrolls in a resident course or subject the commencing date of the award or increased award of educational assistance allowance will be the first date of the student's classes when the first day of classes does not occur before the end of the first regularly scheduled calendar week of classes during the term, quarter or semester in which the student is enrolled.

§21.4131(c)

(c) Certification by school or establishment - course does not lead to a standard college degree.

(1) Residence school:  
See paragraph (b) of this section.

(2) Correspondence school:  
Date first lesson sent or date of affirmance whichever is later.

(3) Job training: First date of employment in training position. educational assistance allowance will the first scheduled date of classes for the term, quarter or semester in which the student is enrolled.

§21.7131(b)

(b) Certification by school-resident course

(1) Except as provided in subparagraphs (2) or (3) of this paragraph when a student enrolls in a resident course or subject, the commencing date of the award or increased award of educational assistance allowance will be the first scheduled date of classes for the term, quarter or semester in which the student is enrolled.

(2) When a student enrolls in a resident course or subject, the commencing date of the award will be the date of reporting provided that-

(i) The published standards of the school require the student to register before reporting, and

(ii) The published standards of the school require the student to report no more than 14 days before the first scheduled date of classes for the term, quarter or semester for which the student has registered.

(3) When a student enrolls in a resident course or subject leading to a standard college degree, the commencing date of the award or increased award of educational assistance allowance will be the first date of the student's classes when the first day of classes does not occur before the end of the first regularly scheduled calendar week of classes during the term, quarter or semester in which the student is enrolled.

§21.7131(c)

(c) Certification by educational institution or training establishment - course does not lead to a standard college degree.

(1) When a veteran or servicemember enrolls in a course which does not lead to a standard college degree and which is offered in residence, the commencing date of the award of educational assistance allowance will be as stated in paragraph (b) of this section.

(2) When a veteran or servicemember enrolls in a course which is offered by correspondence, the commencing date of the award of educational assistance shall be the later of-

(i) The date the first lesson was sent, or

(ii) The date of affirmance.

(3) When a veteran enrolls in a program of apprenticeship or other on-job training, the commencing date of the award of educational assistance shall be the first date of employment in the training position.

(Authority: 38 U.S.C. 1414, 1423; Pub. L. 98-525, Pub. L. 99-576)

§21.7631(b)

(b) Certification by school-course leads to standard college degree

(1) Except as provided in subparagraphs (2) or (3) of this paragraph when a student enrolls in a resident course or subject, the commencing date of the award or increased award of educational assistance allowance will be the first scheduled date of classes for the term, quarter or semester in which the student is enrolled.

(2) When a student enrolls in a resident course or subject, the commencing date of the award will be the date of reporting provided that-

(i) The published standards of the school require the student to register before reporting, and

(ii) The published standards of the school require the student to report no more than 14 days before the first scheduled date of classes for the term, quarter or semester for which the student has registered.

(3) When a student enrolls in a resident course or subject, the commencing date of the award or increased award of educational assistance allowance will be the first date of the student's classes when the first day of classes does not occur before the end of the first regularly scheduled calendar week of classes during the term, quarter or semester in which the student is enrolled.

§21.7136(c)

(c) Certification by educational institution or training establishment - course does not lead to a standard college degree.

(1) When a reservist enrolls in a course which does not lead to a standard college degree and which is offered in residence, the commencing date of the award of educational assistance allowance will be as stated in paragraph (b) of this section.

(2) When a reservist enrolls in a course which is offered by correspondence, the commencing date of the award of educational assistance shall be the later of-

(i) The date the first lesson was sent, or

(ii) The date of affirmance.

(3) When a reservist enrolls in a program of apprenticeship or other on-job training, the commencing date of the award of educational assistance shall be the first date of employment in the training position.

(Authority: 10 U.S.C. 2136(b), Pub. L. 98-525, Pub. L. 101-189)

Item 2: Change of Program

§21.4234(a)

(a) Change of program.

(1) Except as provided in subparagraph (2) of this paragraph a change of program consists of a change in the educational, professional or vocational objective for which the veteran or eligible person entered training.

(2) VA does not consider any of the following to be changes of program.

(i) A change in the type of courses needed to attain a vocational objective,

(ii) A change in the veteran's or eligible person's educational, professional or vocational objective following the successful completion of the immediately preceding program of education, or

(iii) A return to the veteran's or eligible person's prior educational, professional or vocational objective following a change in program.

(Authority: 38 U.S.C. 1791)

§21.5232

§21.5232 Change of program.

The provisions of §21.4234 apply to the administration of benefits under Chapter 32, Title 38, United States Code. VA shall consider references in §21.4234(c) to a veteran eligible to receive educational assistance under chapter 34 to refer to a veteran or servicemember eligible to receive educational assistance under chapter 32.

(Authority: 38 U.S.C. 1641, 1791)

§21.7114

§21.7114 Change of program.

(a) Provisions of §21.4234 are applicable. The provisions of §21.4234 apply to the administration of benefits under 38 U.S.C. ch. 30. VA will consider references in §21.4234(c) to a veteran eligible to receive educational assistance under chapter 34 to refer to a veteran or servicemember eligible to receive educational assistance under 38 U.S.C. ch. 30.

(Authority: 38 U.S.C. 1434, 1791)

(b) Prior programs under other chapters. VA will not consider programs of education a veteran or servicemember may have pursued under 38 U.S.C. ch. 34 or 36 before January 1, 1990, if he or she wishes to change programs of education under 38 U.S.C. ch. 30.

(Authority 38 U.S.C. 1434, 1791)

§21.7614

§21.7614 Change of program. - - -

The provisions of §21.4234 apply to the administration of benefits under 10 U.S.C. ch. 106. VA shall consider references in §21.4234(c) to a veteran eligible to receive educational assistance under chapter 34 to refer to a reservist eligible to receive educational assistance under chapter 106.

(Authority: 10 U.S.C. 2136(b), 1791)

Item 3

§21.4251(g)(1)

(1) The Director of the VA field station of jurisdiction may exercise the waiver authority found in paragraph (a)(6) of this section to exempt from the 2-year operation requirement certain courses given pursuant to a contract with the Department of Defense or the Department of Transportation on or immediately adjacent to a military base, Coast Guard station, National Guard facility, or facility of the Selected Reserve located within a State. He or she may grant such a waiver only when he or she finds that:

(i) The school on an application sent through the State approving agency certifies that the course is available only to-

(A) Military personnel, or

(B) Coast Guard personnel,

(C) Members of the Selected Reserve,

(D) Members of the National Guard,

(E) Dependents of active duty military personnel,

(F) Dependents of active duty Coast Guard personnel,

(G) Civilian employees of the base or station,

(H) Persons who began the course while on active duty and who were discharged while remaining continuously enrolled in it, or

(I) Any combination of these classes of people.

(ii) The State approving agency of the State in which the course is offered certifies that the course meets all other approval requirements. (38 U.S.C. 1789(b))

EXHIBIT C

COSTING ESTIMATES

**COST ESTIMATE  
FOR VA PROPOSAL**

Monthly self-certification verifying pursuit of training extended to all education benefit programs.

The additional benefit savings to the Department of Veterans Affairs resulting from this proposal is estimated to be minimal (i.e. less than \$1 million in any year) because of the relatively low overpayments for Chapter 35 participants and the termination of Chapter 34.

Preliminary findings by the Vocational Rehabilitation and Education Service in its evaluation of monthly self certification in the chapter 30 program reveal that for every \$1 of cost, \$5 in debt is prevented.

Actual cost savings will largely depend on the system utilized to handle the increasing numbers of certifications which will need to be processed in the chapter 30 program.

Similar reductions in overpayments can be anticipated with application of month self-certification to the Selected Reserve program (chapter 106). All such savings will revert to the Department of Defense as this is a title 10 program.

The following chart is the preliminary cost estimate for the legislative proposals:

Final Report on Veterans' Education Policy  
Legislative Proposals

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>Costs (+) or Savings (-)</u>
Item 1: Advance Payment of Benefits in Death Cases .....	\$380	\$380	\$380	\$380	\$380	\$1,900
Items 2 & 3: Change of Program .....	...	...	...	...	...	...
(VA does not concur)						
Item 4: Elimination of Benefit Differential for Independent Study Courses * .....	\$1,287,682	\$1,402,014	\$1,568,742	\$1,710,540	\$1,847,386	\$7,816,364
Item 5: Disapproval of Nonaccredited Independent Study .....	...	...	...	...	...	...
This proposal would be cost neutral because of the assumption that trainees would switch to an accredited school that offers an independent study course.						
Item 6: Elimination of Standard Class Session Requirement * .....	\$2,019,474	\$2,336,016	\$2,644,102	\$2,928,348	\$3,185,102	\$13,113,042
Item 7: Elimination of Differential for Graduate Courses Pursued Concurrently with Undergraduate Courses * .....						
There are no know cases affected by this proposal.						
Item 8: Elimination of Mixed Measurement in NCD Courses * .....	\$143,100	\$155,300	\$167,100	\$177,800	\$187,300	\$830,600
Item 9: Removal of Distinction Based on Accreditation in NCD Courses .....	\$715,500	\$776,600	\$835,300	\$888,900	\$936,500	\$4,152,800
Item 10: Entitlement Charge for Refresher, Remedial, or Deficiency Training .....	(\$1,233,000)	(\$1,218,400)	(\$1,204,100)	(\$1,190,200)	(\$1,176,500)	(\$6,022,200)
Item 11: Death Benefit .....	\$1,800	\$1,800	\$1,800	\$1,800	\$1,800	\$9,000

\* Chapter 106 would have an impact, however, we defer to DOD for those estimates.