

education and training, with the training period shortened proportionately and the eligible person or veteran and the Secretary so notified."

1994—Subsec. (a)(2)(B). Pub. L. 103-446 substituted "Except as provided in section 3672(e) of this title, a State" for "A State".

1992—Subsec. (a). Pub. L. 102-568 designated existing provisions as par. (1), redesignated former par. (1) as subpar. (A), redesignated former par. (2) as subpar. (B), substituted "the Act of February 23, 1917 (20 U.S.C. 11 et seq.);" for "sections 11-28 of title 20; or", redesignated former par. (3) as subpar. (C), added subpar. (D) and pars. (2) and (3), and struck out former concluding provisions which read as follows: "For the purposes of this chapter the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which the Secretary determines to be reliable authority as to the quality of training offered by an educational institution and the State approving agencies may, upon concurrence, utilize the accreditation of such accrediting associations or agencies for approval of the courses specifically accredited and approved by such accrediting association or agency. In making application for approval, the institution shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the school. The catalog or bulletin must specifically state its progress requirements for graduation and must include as a minimum the information required by sections 3676(b)(6) and (7) of this title."

1991—Pub. L. 102-83, §5(a), renumbered section 1775 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted "3676(b)(6)" for "1776(b)(6)" in last sentence.

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted "3676(c)(7)" for "1776(c)(7)".

1989—Subsec. (b). Pub. L. 101-237 substituted "Secretary" for "Administrator".

1980—Subsec. (a). Pub. L. 96-466 substituted "Secretary" for "Commissioner" in two places.

1976—Subsec. (a). Pub. L. 94-502, §513(a)(2), substituted "the Commissioner determines" for "he determines".

Pub. L. 94-502, §504(1), inserted provision requiring that copies of the school bulletin be certified by an authorized representative of the school and that the bulletin specify the progress requirements for graduation and certain other information.

Subsec. (b). Pub. L. 94-502, §504(2), inserted provision requiring that school records contain as a minimum, except for attendance, the requirements set forth in section 1776(c)(7) of this title.

1966—Subsec. (b). Pub. L. 89-358 inserted "or veteran" after "eligible person" in three places.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-377 effective Aug. 1, 2011, see section 203(e) of Pub. L. 111-377, set out as a note under section 3034 of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-454, title I, §110(c)(2), Dec. 10, 2004, 118 Stat. 3605, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as if included in the enactment of section 305(a) of the Veterans Benefits Act of 2003 (Public Law 108-183; 117 Stat. 2660)."

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-183 applicable to courses approved by State approving agencies after Dec. 16, 2003, see section 305(f) of Pub. L. 108-183, set out as a note under section 3452 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-446 applicable with respect to programs of education exclusively by correspondence and to correspondence-residence courses

commencing more than 90 days after Nov. 2, 1994, see section 605(b) of Pub. L. 103-446, set out as a note under section 3672 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96-466, set out as a note under section 3452 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 504 and 513(a)(2) of Pub. L. 94-502 effective Dec. 1, 1976, and Oct. 15, 1976, respectively, see section 703(b), (c) of Pub. L. 94-502, set out as an Effective Date note under section 3693 of this title.

### § 3676. Approval of nonaccredited courses

(a) No course of education which has not been approved by a State approving agency pursuant to section 3675 of this title, which is offered by a public or private, profit or nonprofit, educational institution shall be approved for the purposes of this chapter unless the educational institution offering such course submits to the appropriate State approving agency a written application for approval of such course in accordance with the provisions of this chapter.

(b) Such application shall be accompanied by not less than two copies of the current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

(1) Identifying data, such as volume number and date of publication;

(2) Names of the institution and its governing body, officials and faculty;

(3) A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term, or semester, and other important dates;

(4) Institution policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course;

(5) Institution policy and regulations relative to leave, absences, class cuts, makeup work, tardiness and interruptions for unsatisfactory attendance;

(6) Institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the institution, and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student);

(7) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct;

(8) Detailed schedules of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(9) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom;

(10) A description of the available space, facilities, and equipment;

(11) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, and approximate time and clock hours to be spent on each subject or unit; and

(12) Policy and regulations of the institution relative to granting credit for previous educational training.

(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the eligible person and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person so notified.

(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absence, grading policy, and rules of operation and conduct will be furnished the eligible person upon enrollment.

(6) Upon completion of training, the eligible person is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(8) The institution complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

(9) The institution is financially sound and capable of fulfilling its commitments for training.

(10) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency (A) has ascertained from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice, and (B) has, if such an order has been issued, given due weight to that fact.

(11) The institution does not exceed its enrollment limitations as established by the State approving agency.

(12) The institution's administrators, directors, owners, and instructors are of good reputation and character.

(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the eligible person fails to enter the course or withdraws or is discontinued therefrom at any time before completion and—

(A) in the case of an institution (other than (i) a Federal, State, or local Government institution or (ii) an institution described in subparagraph (B)), such policy provides that the amount charged to the eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length; or

(B) in the case of an institution that is a nonaccredited public educational institution, the institution has and maintains a refund policy regarding the unused portion of tuition, fees, and other charges that is substantially the same as the refund policy followed by accredited public educational institutions located within the same State as such institution.

(14) In the case of a course designed to prepare an individual for licensure or certification in a State, the course—

(A) meets all instructional curriculum licensure or certification requirements of such State; and

(B) in the case of a course designed to prepare an individual for licensure to practice law in a State, is accredited by an accrediting agency or association recognized by the Secretary of Education under subpart 2 of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099b).

(15) In the case of a course designed to prepare an individual for employment pursuant to standards developed by a board or agency of a State in an occupation that requires approval, licensure, or certification, the course—

(A) meets such standards; and

(B) in the case of a course designed to prepare an individual for licensure to practice law in a State, is accredited by an accrediting agency or association recognized by the Secretary of Education under subpart 2 of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099b).

(16) Such additional criteria as may be deemed necessary by the State approving agency if the Secretary, in consultation with the State approving agency and pursuant to regulations prescribed to carry out this paragraph, determines such criteria are necessary and treat public, private, and proprietary for-profit educational institutions equitably.

(d) The Secretary may waive, in whole or in part, the requirements of subsection (c)(13) of this section in the case of an educational institution which—

(1) is a college, university, or similar institution offering postsecondary level academic

instruction that leads to an associate or higher degree,

(2) is operated by an agency of a State or of a unit of local government,

(3) is located within such State or, in the case of an institution operated by an agency of a unit of local government, within the boundaries of the area over which such unit has taxing jurisdiction, and

(4) is a candidate for accreditation by a regional accrediting association,

if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, that such requirements would work an undue administrative hardship because the total amount of tuition, fees, and other charges at such institution is nominal.

(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.

(f)(1) The Secretary may waive the requirements of paragraph (14) or (15) of subsection (c) in the case of a course of education offered by an educational institution (either accredited or not accredited) if the Secretary determines all of the following:

(A) The educational institution is not accredited by an agency or association recognized by the Secretary of Education.

(B) The course did not meet the requirements of such paragraph at any time during the 2-year period preceding the date of the waiver.

(C) The waiver furthers the purposes of the educational assistance programs administered by the Secretary or would further the education interests of individuals eligible for assistance under such programs.

(D) The educational institution does not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except for the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(2) Not later than 30 days after the date on which the Secretary issues a waiver under paragraph (1), the Secretary shall submit to Congress notice of such waiver and a justification for issuing such waiver.

(Added Pub. L. 88-126, § 1, Sept. 23, 1963, 77 Stat. 159, § 1776; amended Pub. L. 89-358, § 3(a)(9), Mar. 3, 1966, 80 Stat. 21; Pub. L. 97-66, title VI, § 606, Oct. 17, 1981, 95 Stat. 1037; Pub. L. 101-237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3676 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, § 313(a)(1), Oct. 29, 1992, 106 Stat. 4331; Pub. L. 109-461, title III, § 303, Dec. 22, 2006, 120 Stat. 3428; Pub. L. 110-389, title III, § 322, Oct. 10, 2008, 122 Stat. 4168; Pub. L. 114-315, title IV, §§ 409(a), (b), 410(a), Dec. 16, 2016, 130 Stat. 1559, 1561.)

#### REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c)(14)(B), (15)(B), is Pub. L. 89-329, Nov. 8, 1965, 79

Stat. 1219. Subpart 2 of part H of title IV of the Act is classified generally to subpart 2 (§ 1099b) of part H of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

#### AMENDMENTS

2016—Subsec. (c)(14), (15). Pub. L. 114-315, § 409(a)(2), added pars. (14) and (15). Former par. (14) redesignated (16).

Subsec. (c)(16). Pub. L. 114-315, § 410(a), inserted before period at end “if the Secretary, in consultation with the State approving agency and pursuant to regulations prescribed to carry out this paragraph, determines such criteria are necessary and treat public, private, and proprietary for-profit educational institutions equitably”.

Pub. L. 114-315, § 409(a)(1), redesignated par. (14) as (16).

Subsec. (f). Pub. L. 114-315, § 409(b), added subsec. (f).

2008—Subsec. (c)(4). Pub. L. 110-389 struck out “and the Secretary” before “so notified”.

2006—Subsec. (c)(13). Pub. L. 109-461 substituted “before completion and—” and subpars. (A) and (B) for “prior to completion and such policy must provide that the amount charged to the eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length.”

1992—Subsec. (e). Pub. L. 102-568 added subsec. (e).

1991—Pub. L. 102-83, § 5(a), renumbered section 1776 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 5(c)(1), substituted “3675” for “1775”.

1989—Subsecs. (c)(4), (d). Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing.

1981—Subsec. (d). Pub. L. 97-66 added subsec. (d).

1966—Subsec. (a). Pub. L. 89-358 struck out “1653 or” before “1775”.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-315, title IV, § 410(c), Dec. 16, 2016, 130 Stat. 1561, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to—

“(1) criteria developed pursuant to paragraph (16) of subsection (c) of section 3676 of title 38, United States Code, on or after January 1, 2013; and

“(2) an investigation conducted under such subsection that is covered by a reimbursement of expenses paid by the Secretary of Veterans Affairs to a State pursuant to section 3674 of such title on or after October 1, 2015.”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97-66, set out as a note under section 1114 of this title.

### § 3677. Approval of training on the job

(a) Any State approving agency may approve a program of training on the job (other than a program of apprenticeship) only when it finds that the job which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training on the job and not on such factors as length of service and normal turnover, and that the provisions of subsections (b) and (c) of this section are met.

(b)(1) The training establishment offering training which is desired to be approved for the purposes of this chapter must submit to the ap-