

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-

propriate State approving agency a written application for approval which, in addition to furnishing such information as is required by the State approving agency, contains a certification that—

(A) the wages to be paid the eligible veteran or person (i) upon entrance into training, are not less than wages paid nonveterans in the same training position and are at least 50 per centum of the wages paid for the job for which the veteran or person is to be trained, and (ii) such wages will be increased in regular periodic increments until, not later than the last full month of the training period, they will be at least 85 per centum of the wages paid for the job for which such eligible veteran or person is being trained; and

(B) there is reasonable certainty that the job for which the eligible veteran or person is to be trained will be available to the veteran or person at the end of the training period.

(2) The requirement under paragraph (1)(A)(ii) shall not apply with respect to a training establishment operated by the United States or by a State or local government.

(3) The requirement for certification under paragraph (1) shall not apply to training described in section 3452(e)(2) of this title.

(c) As a condition for approving a program of training on the job (other than a program of apprenticeship) the State approving agency must find upon investigation that the following criteria are met:

(1) The training content of the course is adequate to qualify the eligible veteran or person for appointment to the job for which the veteran or person is to be trained.

(2) The job customarily requires full-time training for a period of not less than six months and not more than two years.

(3) The length of the training period is not longer than that customarily required by the training establishments in the community to provide an eligible veteran or person with the required skills, arrange for the acquiring of job knowledge, technical information, and other facts which the eligible veteran or person will need to learn in order to become competent on the job for which the veteran or person is being trained.

(4) Provision is made for related instruction for the individual eligible veteran or person who may need it.

(5) There is in the training establishment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

(6) Adequate records are kept to show the progress made by each eligible veteran or person toward such veteran's or person's job objective.

(7) No course of training will be considered bona fide if given to an eligible veteran or person who is already qualified by training and experience for the job.

(8) A signed copy of the training agreement for each eligible veteran or person, including the training program and wage scale as approved by the State approving agency, is provided to the veteran or person and to the Secretary and the State approving agency by the employer.

(9) That the course meets such other criteria as may be established by the State approving agency.

(d)(1) The Secretary may conduct a pilot program under which the Secretary operates a program of training on the job under this section for a period (notwithstanding subsection (c)(2)) of up to three years in duration to train employees of the Department to become qualified adjudicators of claims for compensation, dependency and indemnity compensation, and pension.

(2)(A) Not later than three years after the implementation of the pilot project, the Secretary shall submit to Congress an initial report on the pilot project. The report shall include an assessment of the usefulness of the program in recruiting and retaining of personnel of the Department as well as an assessment of the value of the program as a training program.

(B) Not later than 18 months after the date on which the initial report under subparagraph (A) is submitted, the Secretary shall submit to Congress a final report on the pilot project. The final report shall include recommendations of the Secretary with respect to continuation of the pilot project and with respect to expansion of the types of claims for which the extended period of on the job training is available to train such employees.

(Added Pub. L. 90-77, title III, §304(d), Aug. 31, 1967, 81 Stat. 186, §1777; amended Pub. L. 91-219, title II, §212, Mar. 26, 1970, 84 Stat. 83; Pub. L. 92-540, title III, §314, Oct. 24, 1972, 86 Stat. 1084; Pub. L. 94-502, title V, §513(a)(3), Oct. 15, 1976, 90 Stat. 2402; Pub. L. 101-237, title IV, §423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered §3677, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title II, §205(a), Nov. 11, 1998, 112 Stat. 3327; Pub. L. 108-454, title I, §108, Dec. 10, 2004, 118 Stat. 3604; Pub. L. 110-389, title III, §325, Oct. 10, 2008, 122 Stat. 4169.)

#### AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110-389 added par. (3).

2004—Subsec. (d). Pub. L. 108-454 added subsec. (d).

1998—Subsec. (b). Pub. L. 105-368 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), redesignated former cls. (A) and (B) of par. (1) as cls. (i) and (ii), respectively, of subpar. (A), and added par. (2).

1991—Pub. L. 102-83 renumbered section 1777 of this title as this section.

1989—Subsec. (c)(8). Pub. L. 101-237 substituted "Secretary" for "Administrator".

1976—Subsec. (b). Pub. L. 94-502 substituted "the veteran or person" for "he" and "him".

Subsec. (c). Pub. L. 94-502 substituted "the veteran or person" for "he" in two places, and "such veteran's or person's" for "his".

1972—Subsecs. (b), (c). Pub. L. 92-540 inserted "or person" after "veteran" wherever appearing.

1970—Subsec. (a). Pub. L. 91-219 inserted "and supervised".

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-368, title II, §205(b), Nov. 11, 1998, 112 Stat. 3327, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to approval of programs of training on the job under section 3677 of title 38, United States Code, on or after October 1, 1998."

## EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94-502, set out as an Effective Date note under section 3693 of this title.

## EFFECTIVE DATE

Section effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

**§ 3678. Notice of approval of courses**

The State approving agency, upon determining that an educational institution has complied with all the requirements of this chapter, will issue a letter to such institution setting forth the courses which have been approved for the purposes of this chapter, and will furnish an official copy of such letter and any subsequent amendments to the Secretary. The letter of approval shall be accompanied by a copy of the catalog or bulletin of the institution, as approved by the State approving agency, and shall contain the following information:

- (1) date of letter and effective date of approval of courses;
- (2) proper address and name of each educational institution;
- (3) authority for approval and conditions of approval, referring specifically to the approved catalog or bulletin published by the educational institution;
- (4) name of each course approved;
- (5) where applicable, enrollment limitations such as maximum numbers authorized and student-teacher ratio;
- (6) signature of responsible official of State approving agency; and
- (7) such other fair and reasonable provisions as are considered necessary by the appropriate State approving agency.

(Added Pub. L. 88-126, § 1, Sept. 23, 1963, 77 Stat. 162, § 1777; renumbered § 1778, Pub. L. 90-77, title III, § 304(d), Aug. 31, 1967, 81 Stat. 186; amended Pub. L. 101-237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3678, Pub. L. 102-83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

## AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1778 of this title as this section.

1989—Pub. L. 101-237 substituted "Secretary" for "Administrator".

**§ 3679. Disapproval of courses**

(a)(1) Except as provided by paragraph (2), any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the Secretary or the appropriate State approving agency. An educational institution which has its courses disapproved by the Secretary or a State approving agency will be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

(2) In the case of a course of education that would be subject to disapproval under paragraph (1) solely for the reason that the Secretary of Education withdraws the recognition of the accrediting agency that accredited the course, the

Secretary of Veterans Affairs, in consultation with the Secretary of Education, and notwithstanding the withdrawal, may continue to treat the course as an approved course of education under this chapter for a period not to exceed 18 months from the date of the withdrawal of recognition of the accrediting agency, unless the Secretary of Veterans Affairs or the appropriate State approving agency determines that there is evidence to support the disapproval of the course under this chapter. The Secretary shall provide to any veteran enrolled in such a course of education notice of the status of the course of education.

(b) Each State approving agency shall notify the Secretary of each course which it has disapproved under this section. The Secretary shall notify the State approving agency of the Secretary's disapproval of any educational institution under chapter 31 of this title.

(c)(1) Notwithstanding any other provision of this chapter and subject to paragraphs (3) through (6), the Secretary shall disapprove a course of education provided by a public institution of higher learning if the institution charges tuition and fees for that course for covered individuals who are pursuing the course with educational assistance under chapter 30 or 33 of this title while living in the State in which the institution is located at a rate that is higher than the rate the institution charges for tuition and fees for that course for residents of the State in which the institution is located, regardless of the covered individual's State of residence.

(2) For purposes of this subsection, a covered individual is any individual as follows:

(A) A veteran who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, or air service less than three years before the date of enrollment in the course concerned.

(B) An individual who is entitled to assistance under—

- (i) section 3311(b)(9) of this title; or
- (ii) section 3319 of this title by virtue of the individual's relationship to—

(I) a veteran described in subparagraph (A); or

(II) a member of the uniformed services described in section 3319(b) of this title who is serving on active duty.

(3) If after enrollment in a course of education that is subject to disapproval under paragraph (1) by reason of paragraph (2)(A) or (2)(B) a covered individual pursues one or more courses of education at the same public institution of higher learning while remaining continuously enrolled (other than during regularly scheduled breaks between courses, semesters or terms) at that institution of higher learning, any course so pursued by the covered individual at that institution of higher learning while so continuously enrolled shall also be subject to disapproval under paragraph (1).

(4) It shall not be grounds to disapprove a course of education under paragraph (1) if a public institution of higher learning requires a covered individual pursuing a course of education at the institution to demonstrate an intent, by means other than satisfying a physical presence requirement, to establish residency in the State