

imposed on the officer under regulations issued by the Secretary of Defense for purposes of this section.

(2) In no case shall an officer be required to serve on active duty under paragraph (1) for any period in excess of one year for each year or part thereof the officer participated in the program.

(h) LIMITATION ON DETAILS.—No agreement detailing an officer of the armed forces to an accredited school of psychology may be entered into during any period in which the President is authorized by law to induct persons into the armed forces involuntarily. Nothing in this subsection shall affect any agreement entered into during any period when the President is not authorized by law to so induct persons into the armed forces.

(Added Pub. L. 111-84, div. A, title V, §521(a), Oct. 28, 2009, 123 Stat. 2283; amended Pub. L. 111-383, div. A, title X, §1075(b)(26), Jan. 7, 2011, 124 Stat. 4370.)

#### AMENDMENTS

2011—Subsec. (b)(1). Pub. L. 111-383 substituted “pay grade O-3” for “pay grade O-3”.

#### § 2005. Advanced education assistance: active duty agreement; reimbursement requirements

(a) The Secretary concerned may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement with the Secretary concerned under the terms of which such person shall agree—

(1) to complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement;

(2) that if such person fails to complete the education requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement;

(3) that if such person does not complete the period of active duty specified in the agreement, or does not fulfill any term or condition prescribed pursuant to paragraph (4), such person shall be subject to the repayment provisions of section 303a(e) or 373 of title 37; and

(4) to such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

(b) The Secretary concerned shall determine the period of active duty to be served by any person for advanced education assistance to be provided such person by an armed force, except that if the period of active duty required to be served is specified under another provision of law with respect to the advanced education assistance to be provided, the period specified in the agreement referred to in subsection (a) shall be the same as the period specified in such other provision of law.

(c) As a condition of the Secretary concerned providing financial assistance under section 2107 or 2107a of this title to any person, the Secretary concerned shall require that the person enter into the agreement described in subsection (a). In addition to the requirements of paragraphs (1) through (4) of such subsection, the

agreement shall specify that, if the person does not complete the education requirements specified in the agreement or does not fulfill any term or condition prescribed pursuant to paragraph (4) of such subsection, the person shall be subject to the repayment provisions of section 303a(e) or 373 of title 37 without the Secretary first ordering such person to active duty as provided for under subsection (a)(2) and sections 2107(f) and 2107a(f) of this title.

(d) In this section:

(1) The term “advanced education” means education or training above the secondary school level but does not include technical training provided to a member of the armed forces to qualify such member to perform a specified military function, to workshops, or to short-term training programs.

(2) The term “assistance” means the direct provision of any course of advanced education by the Secretary concerned, reimbursement by the Secretary concerned for any course of advanced education provided by another department or agency of the Federal Government, or the payment, in whole or in part, by the Secretary concerned for any course of advanced education provided by any public or private educational institution or other entity, but such term does not include the payment for any course of advanced education which is paid for under chapter 106 or 107 of this title.

(3) The term “cost of advanced education” means those costs which are, under regulations prescribed by the Secretary concerned, directly attributable to the education of the person to whom a course of advanced education is provided, including the cost of tuition and other fees (or, if none is charged, an amount determined by the Secretary concerned to be a reasonable charge for the education provided), the cost of books, supplies, transportation, and miscellaneous expenses, and the cost of room and board, but such term does not include pay or allowances under title 37 or a stipend under section 2121 of this title.

(Added Pub. L. 96-357, §2(a), Sept. 24, 1980, 94 Stat. 1180; amended Pub. L. 98-94, title X, §1003(b)(1), title XII, §1268(10), Sept. 24, 1983, 97 Stat. 656, 706; Pub. L. 100-180, div. A, title XII, §1231(17), Dec. 4, 1987, 101 Stat. 1161; Pub. L. 101-510, div. A, title V, §534, Nov. 5, 1990, 104 Stat. 1564; Pub. L. 103-160, div. A, title V, §573(a), Nov. 30, 1993, 107 Stat. 1673; Pub. L. 109-163, div. A, title VI, §687(c)(2), Jan. 6, 2006, 119 Stat. 3333; Pub. L. 115-91, div. A, title VI, §618(a)(1)(B), Dec. 12, 2017, 131 Stat. 1426.)

#### AMENDMENTS

2017—Subsecs. (a)(3), (c). Pub. L. 115-91 inserted “or 373” before “of title 37”.

2006—Subsec. (a)(3). Pub. L. 109-163, §687(c)(2)(A), added par. (3) and struck out former par. (3) which read as follows: “that if such person, voluntarily or because of misconduct, fails to complete the period of active duty specified in the agreement, or fails to fulfill any term or condition prescribed pursuant to clause (4), such person will reimburse the United States in an amount that bears the same ratio to the total cost of advanced education provided such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve; and”.

Subsecs. (c) to (h). Pub. L. 109-163, §687(c)(2)(B)–(D), added subsec. (c), redesignated former subsec. (e) as (d),

and struck out former subssecs. (c), (d), and (f) to (h) relating to the obligation to reimburse the United States under an advanced education assistance agreement in subsec. (c), the effect of a discharge in bankruptcy under title 11 in subsec. (d), requirements for providing financial assistance in subsec. (f), failure to complete a period of active duty specified in an agreement in subsec. (g), and modification of agreements by the Secretary concerned in subsec. (h).

1993—Subsecs. (g), (h). Pub. L. 103-160 added subssecs. (g) and (h).

1990—Subsec. (a)(3). Pub. L. 101-510, § 534(1), inserted “or fails to fulfill any term or condition prescribed pursuant to clause (4),” after “agreement.”

Subsec. (f)(1). Pub. L. 101-510, § 534(2), inserted “or fails to fulfill any term or condition prescribed pursuant to clause (4) of such subsection,” after “agreement.”

1987—Subsec. (e). Pub. L. 100-180, § 1231(17), inserted “The term” after each par. designation and revised first word in quotes in each par. to make initial letter of such word lowercase.

1983—Subsec. (c). Pub. L. 98-94, § 1268(10)(A), struck out “of this section” after “subsection (d)” and “subsection (a)”.

Subsec. (d). Pub. L. 98-94, § 1268(10)(A), struck out “of this section” after “subsection (a)”.

Subsec. (e). Pub. L. 98-94, § 1268(10)(B), substituted a colon for a dash after “In this section” preceding par. (1).

Subsec. (f). Pub. L. 98-94, § 1003(b)(1), added subsec. (f).

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title V, § 573(b), Nov. 30, 1993, 107 Stat. 1674, provided that:

“(1) Subsection (g) of section 2005 of title 10, United States Code, as added by subsection (a), shall apply with respect to persons separated from the Armed Forces after the end of the six-month period beginning on the date of the enactment of this Act [Nov. 30, 1993].

“(2) Subsection (h) of such section, as added by subsection (a), shall apply with respect to persons separated from the Armed Forces after the date of the enactment of this Act.”

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title X, § 1003(b)(2), Sept. 24, 1983, 97 Stat. 657, provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to agreements entered into after September 30, 1983.”

#### SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of this title.

### § 2006. Department of Defense Education Benefits Fund

(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Education Benefits Fund (hereinafter in this section referred to as the “Fund”), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance armed forces education liabilities on an actuarially sound basis.

(b) In this section:

(1) The term “armed forces education liabilities” means liabilities of the armed forces for benefits under chapter 30 or 33 of title 38 and for Department of Defense benefits under paragraphs (3) and (4) of section 510(e) and

chapters 1606 and 1607 of this title, including funds provided by the Secretary of Homeland Security for education liabilities for the Coast Guard when it is not operating as a service in the Department of the Navy.

(2) The term “normal cost”, with respect to any period of time, means the total of the following:

(A) The present value of the future benefits payable from the Fund for amounts attributable to increased amounts of educational assistance authorized under section 3015(d) of title 38 to persons who were not on active duty on July 1, 1985, and who during such period enter on active duty.

(B) The present value of the future benefits payable from the Fund for amounts attributable to educational assistance authorized under subchapter III of chapter 30 of title 38 to persons who were not on active duty on July 1, 1985, and who during such period—

(i) enter a fourth year of active duty, in the case of persons eligible for basic educational assistance under section 3011 of such title; or

(ii) enter a period of service that will establish entitlement to such educational assistance under section 3021(b) of such title, in the case of persons eligible for basic educational assistance under section 3012 of such title.

(C) The present value of the future Department of Defense benefits payable from the Fund (including funds from the Department in which the Coast Guard is operating) for educational assistance under chapters 1606 and 1607 of this title to persons who during such period become entitled to such assistance.

(D) The present value of future benefits payable from the Fund for the Department of Defense portion of payments of educational assistance under subchapter II of chapter 30 of title 38 attributable to increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of that title during such period.

(E) The present value of future benefits payable from the Fund for educational assistance under paragraphs (3) and (4) of section 510(e) of this title to persons who during such period become entitled to such assistance.

(F) The present value of any future benefits payable from the Fund for amounts attributable to increased amounts of educational assistance authorized by section 3316 of title 38.

(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Amounts paid into the Fund by the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating under subsection (f).

(2) Any amount appropriated to the Fund.

(3) Any return on investment of the assets of the Fund.