

section, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of educational assistance under paragraph (1).

(3) Paragraph (2) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

(A) by reason of the death of the individual; or

(B) for a reason referred to in section 16133(b).

(j) REGULATIONS.—(1) The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section.

(2) Such regulations shall specify—

(A) the manner of authorizing the transfer of entitlements under this section;

(B) the eligibility criteria in accordance with subsection (b); and

(C) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).

(k) SECRETARY CONCERNED DEFINED.—For purposes of this section, the term “Secretary concerned” has the meaning given in section 101(a)(9) in the case of a member of the armed forces.

(Added Pub. L. 110-252, title V, § 5006(c), June 30, 2008, 122 Stat. 2383; amended Pub. L. 111-383, div. A, title X, § 1075(b)(56), Jan. 7, 2011, 124 Stat. 4372.)

AMENDMENTS

2011—Subsec. (b)(2). Pub. L. 111-383 substituted “subsection (j)” for “section (j)”.

§ 16164. Time limitation for use of entitlement

(a) DURATION OF ENTITLEMENT.—Except as provided in subsection (b), a member remains entitled to educational assistance under this chapter—

(1) while the member is serving—

(A) in the Selected Reserve of the Ready Reserve, in the case of a member called or ordered to active service while serving in the Selected Reserve; or

(B) in the Ready Reserve, in the case of a member ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve); and

(2) in the case of a person who separates from the Selected Reserve of the Ready Reserve after completion of a period of active service described in section 16163 of this title and completion of a service contract under honorable conditions, during the 10-year period beginning on the date on which the person separates from the Selected Reserve.

(b) DURATION OF ENTITLEMENT FOR DISABLED MEMBERS.—(1) In the case of a person who is separated from the Ready Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, such person's entitlement to educational assistance expires at the end of the 10-year period

beginning on the date on which such person became entitled to such assistance.

(2) The provisions of subsections (d) and (f) of section 3031 of title 38 shall apply to the period of entitlement prescribed by paragraph (1).

(Added Pub. L. 108-375, div. A, title V, § 527(a), Oct. 28, 2004, 118 Stat. 1892; amended Pub. L. 110-181, div. A, title V, § 530(a)(1), Jan. 28, 2008, 122 Stat. 110; Pub. L. 110-417, [div. A], title V, § 546(a), Oct. 14, 2008, 122 Stat. 4466.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181 substituted “this chapter—” and pars. (1) and (2) for “this chapter while serving—

“(1) in the Selected Reserve of the Ready Reserve, in the case of a member called or ordered to active service while serving in the Selected Reserve; or

“(2) in the Ready Reserve, in the case of a member ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve).”

Subsec. (a)(2). Pub. L. 110-417 substituted “honorable conditions” for “other than dishonorable conditions”.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-417, [div. A], title V, § 546(b), Oct. 14, 2008, 122 Stat. 4466, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 14, 2008] and shall apply to a person described in section 16163 of title 10, United States Code, who—

“(1) separates from a reserve component on or after January 28, 2008, the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008 [Pub. L. 110-181]; and

“(2) as of the date of the enactment of this Act, has not used any of the person's entitlement to educational assistance under chapter 1607 of such title.” Pub. L. 110-181, div. A, title V, § 530(c), Jan. 28, 2008, 122 Stat. 110, provided that: “The amendments made by this section [amending this section and section 16165 of this title] shall take effect as of October 28, 2004, as if included in the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375), to which such amendments relate.”

§ 16165. Termination of assistance

(a) IN GENERAL.—Except as provided in subsection (b), educational assistance may not be provided under this chapter, or if being provided under this chapter, shall be terminated—

(1) if the member is receiving financial assistance under section 2107 of this title as a member of the Senior Reserve Officers' Training Corps program; or

(2) when the member separates from the Ready Reserve as provided in section 16164(a)(1) of this title, or upon completion of the period provided for in section 16164(a)(2) of this title, as applicable.

(b) EXCEPTION.—Under regulations prescribed by the Secretary of Defense, educational assistance may be provided under this chapter to a member of the Selected Reserve of the Ready Reserve who incurs a break in service in the Selected Reserve if the member continues to serve in the Ready Reserve during and after such break in service.

(Added Pub. L. 108-375, div. A, title V, § 527(a), Oct. 28, 2004, 118 Stat. 1893; amended Pub. L. 109-163, div. A, title V, § 540(b), Jan. 6, 2006, 119 Stat. 3251; Pub. L. 110-181, div. A, title V, § 530(a)(2), (b), Jan. 28, 2008, 122 Stat. 110.)