

(B) either—

(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

(ii) the attainment by the child of 18 years of age.

(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the member making the transfer at the rate of one month for each month of transferred entitlement that is used.

(2) Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this chapter in the same manner as the member from whom the entitlement was transferred.

(3) The monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 16162 and 16162a to the member making the transfer.

(4) The death of a member transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

(5) Notwithstanding section 16164(a)(2), a child to whom entitlement is transferred under this section may use the benefit without regard to the 10-year delimiting date, but may not use any entitlement so transferred after attaining the age of 26 years.

(6) The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible member for purposes of such provisions.

(7) The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

(i) OVERPAYMENT.—

(1) JOINT AND SEVERAL LIABILITY.—In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the member making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of title 38.

(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—Except as provided in paragraph (3), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (b)(1) in accordance with the terms of the agreement of the individual under that subsection, 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.)

Editorial Notes

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.)

Editorial Notes

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”.

Statutory Notes and Related Subsidiaries

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.)

Editorial Notes

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110-181, § 530(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “when the member separates from the Ready Reserve, as provided for under section 16164(a)(1) or section 16164(a)(2), as applicable, of this title.”

Subsec. (b). Pub. L. 110-181, § 530(b), struck out “of not more than 90 days” after “in the Selected Reserve”.

2006—Pub. L. 109-163 designated existing provisions as subsec. (a), inserted heading, substituted “Except as provided in subsection (b), educational assistance” for “Educational assistance”, and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-181 effective as of Oct. 28, 2004, as if included in the enactment of Pub. L. 108-375 to which such amendment related, see section 530(c) of Pub. L. 110-181, set out as a note under section 16164 of this title.

§ 16166. Administration of program

(a) ADMINISTRATION.—Educational assistance under this chapter shall be provided through the Department of Veterans Affairs, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Homeland Security, with the Secretary of Veterans Affairs. Such agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Department of Veterans Affairs for the making of payments under this chapter.

(b) PROGRAM MANAGEMENT.—Except as otherwise provided in this chapter, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term “eligible veteran” and the term “person”, as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

(c) FLIGHT TRAINING.—The Secretary of Veterans Affairs may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 3680A(b) of title 38) by an individual entitled to educational assistance under this chapter if—

(1) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

(2) the individual possesses a valid private pilot certificate and meets, on the day the member begins a course of flight training, the medical requirements necessary for a commercial pilot certificate; and

(3) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

(d) TRUST FUND.—Amounts for payments for benefits under this chapter shall be derived from the Department of Defense Education Benefits Fund under section 2006 of this title.