

## Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

## Regulatory Flexibility Act

The Secretary of Veterans Affairs (VA) hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule affects educational institutions. Although some educational institutions may be small entities, the proposed rule will not have an adverse economic impact on them. This is because the proposed rule allows educational institutions that offer courses at more than one location more flexibility in centralizing administrative activities they perform in connection with VA approved training. Pursuant to 5 U.S.C. 605(b), this proposed rule, therefore is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

## Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this proposed rule are 64.117, 64.120, and 64.124. This proposed rule also affects the Montgomery GI Bill Selected Reserve program. There is no Catalog of Federal Domestic Assistance number for the Montgomery GI Bill Selected Reserve program.

## List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflicts of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 2, 2003.

**Anthony J. Principi,**  
Secretary of Veterans Affairs.

For the reasons set out above, 38 CFR part 21 (subpart D) is proposed to be amended as set forth below.

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

### Subpart D—Administration of Educational Assistance Programs

1. The authority citation for part 21, subpart D, continues to read as follows:

**Authority:** 10 U.S.C. 2141 note, ch. 1606; 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

2. Section 21.4266 is revised to read as follows:

#### § 21.4266 Approval of courses at a branch campus or extension.

(a) *Definitions.* The following definitions apply to the terms used in this section.

(1) *Administrative capability.* The term *administrative capability* means the ability to:

(i) Maintain all records and accounts that § 21.4209 requires;

(ii) Designate and have a certifying official on-site; and

(iii) Provide VA with the reports and certifications that §§ 21.4203, 21.4204, 21.7152, and 21.7652 require based on source data on site, without referral to another location of an educational institution for documentation.

(Authority: 38 U.S.C. 3675, 3676, 3684)

(2) *Main campus.* The term *main campus* means the location where the primary teaching facilities of an educational institution are located. If an educational institution has only one teaching location, that location is its main campus. If it is unclear which of the educational institution's teaching facilities is primary, the main campus is the location of the primary office of its Chief Executive Officer.

(3) *Branch campus.* The term *branch campus* means a location of an educational institution that—

(i) Is geographically apart from and operationally independent of the main campus of the educational institution;

(ii) Has its own faculty, administration and supervisory organization; and

(iii) Offers courses in education programs leading to a degree, certificate, or other recognized education credential.

(4) *Extension.* The term *extension* means a location of an educational institution that is geographically apart from and is operationally dependent on the main campus or a branch campus of the educational institution.

(b) *State approving agency jurisdiction.* (1) The State approving agency for the State where a residence course is being taught has jurisdiction over approval of that course for VA education benefit purposes.

(2) The fact that the location where the educational institution is offering the course may be temporary will not serve to change jurisdictional authority.

(3) The fact that the main campus of the educational institution offering the course may be located in another State will not serve to change jurisdictional authority.

(Authority: 38 U.S.C. 3672)

(c) *Approving a course offered by a branch campus or an extension of an educational institution.* Before approving a course or a program of education offered in residence at a branch campus or an extension of an educational institution, the State approving agency must ensure that:

(1) The course or program meets the requirements of § 21.4253, or § 21.4254, as the case may be;

(2) Accredited courses meet the requirements of § 21.4253(d)(7) and (8) and nonaccredited courses meet the requirements of § 21.4254(c)(2) and (3) concerning the adequacy of space, equipment, instructional material, and instructors at the location where the educational institution is offering the course; and

(3) Except as provided in paragraph (d) of this section each location (other than an extension) where the course is offered must have administrative capability.

(Authority: 38 U.S.C. 3672)

(d) *Exceptions to the requirement that administrative capability exist at each location.* An educational institution may ask for an exception to the requirement in paragraph (c) of this section that each location with an approved course or program of education have administrative capability.

(1) If the educational institution wants to consolidate administrative capability at one or more locations in the same State, the State approving agency must allow it to do so when the location where administrative capability is maintained can demonstrate the following:

(i) The location with administrative capability maintains all records and accounts that § 21.4209 requires for each student attending the location (or locations) without administrative capability. These records may be originals, certified copies, or in an electronically formatted record keeping system.

(ii) The educational institution has an employee (or employees) physically present at the location with administrative capability who is able to discuss with or explain to VA the relationship between the student's