

Defense. The law further provides those rates must be adjusted based upon the average actual cost of attendance at public institutions of higher education in the 12-month period since the rates were last adjusted. After obtaining data from the Department of Education, the Department of Defense has concluded that the rates for the 2002–03 academic year should be increased by 4.3% over the rates payable for the 2001–02 academic year. The regulations dealing with these rates are amended accordingly.

DATES: *Effective Date:* November 20, 2003.

Applicability Date: The changes in rates are applied retroactively to October 1, 2002, to conform to statutory requirements. For more information concerning the applicability date, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: The law (10 U.S.C. 2145) provides that the Secretary of Defense shall adjust the amount of educational assistance which may be provided in any academic year under the Educational Assistance Test Program and the amount of subsistence allowance authorized under that program. The law further requires that the adjustment is to be consistent with the change in the average actual cost of attendance at public institutions of higher education over the preceding 12-month period. As required by law, the Department of Defense has obtained data from the Department of Education. The Department of Defense has calculated that these costs increased by 4.3%. Accordingly, this final rule changes 38 CFR 21.5820 and 21.5822 to reflect a 4.3% increase in the rates payable in the 2002–03 academic year, including changes needed to compensate for rounding.

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied from October 1, 2002, in accordance with the applicable statutory provisions discussed above.

Administrative Procedure Act

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with notice-and-

comment and a delayed effective date under 5 U.S.C. 552 and 553.

Paperwork Reduction Act

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

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Executive Order 12866

This document has been reviewed by the Office Of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary of Defense and the Secretary of Veterans Affairs hereby certify that this final 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. 501–612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

List of Subjects in 38 CFR Part 21

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

Approved: May 9, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

Approved: September 5, 2003.

William J. Carr,

Acting Deputy Under Secretary (Military Personnel Policy).

■ For the reasons set out above, 38 CFR part 21, subpart H, is amended as set forth below:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart H—Educational Assistance Test Program

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

Authority: 10 U.S.C. ch.107; 38 U.S.C. 501(a), 3695, 5101, 5113, 5303A; 42 U.S.C. 2000; sec. 901, Pub. L. 96–342, 94 Stat. 1111–1114, unless otherwise noted.

■ 2. Section 21.5820 is amended by:

■ a. In paragraph (b)(1), removing “2001–02” and adding, in its place, “2002–03”, and by removing “\$3,690” and adding, in its place, “\$3,849”.

■ b. In paragraph (b)(2)(ii), removing “2001–02” and adding, in its place, “2002–03”.

■ c. In paragraphs (b)(2)(ii)(A) and (b)(3)(ii)(A), removing “\$410.00” and adding, in each place, “\$427.67”, and by removing “\$205.00” and adding, in each place, “\$213.84”.

■ d. In paragraphs (b)(2)(ii)(B) and (b)(3)(ii)(B), removing “\$13.67” and adding, in each place, “\$14.26”, and by removing “\$6.83” and adding, in each place, “\$7.13”.

■ e. Revising paragraphs (b)(2)(ii)(C) and (b)(3)(ii)(C).

■ f. In paragraph (b)(3)(ii) introductory text, removing “2001–02” and adding, in its place, “2002–03”.

The revisions read as follows:

§ 21.5820 Educational assistance.

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(b) * * *

(2) * * *

(ii) * * *

(C) Adding the two results. If the enrollment period is as long as or longer than the standard academic year, this amount will be decreased by 3 cents for a full-time student and decreased by 6 cents for a part-time student.

(3) * * *

(ii) * * *

(C) Adding the two results. If the enrollment period is as long as or longer than a standard academic year, this amount will be decreased by 3 cents for a full-time student and decreased by 6 cents for a part-time student; and

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