

**38 CFR Part 21****RIN 2900-AR90****VA Veteran Readiness and Employment Program: Removal of Regulation Regarding Repayment of Training and Rehabilitation Supplies**

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is removing a regulation that addresses the circumstances under which a Veteran is to repay the value of training and rehabilitation supplies and the exceptions where repayment is not required. A prior version of the regulation's authorizing statute contained a provision that permitted VA to require the return or repayment of books, supplies, or equipment if a Veteran failed to complete a course of vocational rehabilitation due to fault on their part. However, because the authorizing statute no longer contains that provision, and because there is no statutory authority allowing VA to require reimbursement of books, supplies, or equipment under any circumstance where a Veteran fails to complete a course of vocational rehabilitation, VA is removing the governing regulation.

DATES: This final rule is effective [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Loraine Spangler, Policy Analyst, Veteran Readiness and Employment Service (28), 810 Vermont Ave. N.W., Washington, DC 20420; Loraine.Spangler@va.gov; (202) 461-9600 (this is not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: The purpose of this rulemaking is to remove 38 CFR 21.222 ("Release of, and repayment for, training and rehabilitation supplies") because it is no longer supported by statutory authority.

Section 21.222 sets forth the circumstances under which a Veteran is to repay the value of training and rehabilitation supplies when the Veteran fails to complete a rehabilitation program as planned. Section 21.222 also lists numerous exceptions where VA will not require reimbursement from the Veteran, including when the failure to complete the program is not the Veteran's fault.

A prior version of the regulation's authorizing statute provided that "[a]ny books, supplies, or equipment furnished a veteran under this chapter shall be deemed released to the veteran, except that if, because of fault on the veteran's part, the veteran fails to complete the course of vocational rehabilitation, the veteran may be requir[ed] by the Administrator to return any or all of such books, supplies, or equipment not actually expended, or to repay the reasonable value thereof." 38 U.S.C. 1509(a) (1976).

However, Congress subsequently removed that provision from the authorizing statute. The current statute provides, in pertinent part, that the Secretary may provide "[v]ocational and other training services and assistance, including individualized tutorial assistance, tuition, fees, books, supplies, handling charges, licensing fees, and equipment and other training materials determined by the Secretary to be necessary to accomplish the purposes of the rehabilitation program in the individual case." 38 U.S.C. 3104(a)(7)(A). There is no longer a statutory provision that permits VA to require the return or repayment of books, supplies, or equipment when a Veteran fails to complete a course of vocational rehabilitation because of fault on the Veteran's part.

Accordingly, VA is removing 38 CFR 21.222, the regulation that addresses the circumstances under which a Veteran is to repay the value of training and rehabilitation supplies and the exceptions where repayment is not required. VA is removing § 21.222 in its entirety. The regulation's enumerated exceptions under which a Veteran is not required to repay the value of supplies are moot because there is no longer a statutory authority that permits VA to require the return or repayment of books, supplies, or

equipment under any circumstance where a Veteran fails to complete a course of vocational rehabilitation.

Although 38 U.S.C. 3104 does not authorize VA to require the return or repayment of books, supplies, or equipment when a Veteran fails to complete a course of vocational rehabilitation, controls are in place to protect the integrity of the VR&E program and guard against fraud, waste, and abuse.

To conform with the removal of 38 CFR 21.222, VA is also revising 38 CFR 21.212(b) and 38 CFR 21.224 to remove their references to 38 CFR 21.222.

Administrative Procedure Act

The Secretary of Veterans Affairs finds that there is good cause under the provisions of 5 U.S.C. 553(b)(B) and (d) to publish this final rule without prior opportunity for public comment and with immediate effect. There is no longer a statutory authority that permits VA to require the return or repayment of books, supplies, or equipment under any circumstance where a Veteran fails to complete a course of vocational rehabilitation. VA thus finds that prior opportunity for public comment is unnecessary under 5 U.S.C. 553(b)(B). For the same reason, VA concludes that there is good cause not to delay the effective date of the final rule under 5 U.S.C. 553(d)(3).

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

Executive Orders 12866, 13563 and 14094

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving

Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Executive Order 14094 (Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Orders 12866 and 13563. The Office of Information and Regulatory Affairs has determined that this rulemaking is not a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601-612, is not applicable to this rulemaking because notice of proposed rulemaking is not required. 5 U.S.C. 601(2), 603(a), 604(a).

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, 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.

Signing Authority:

Denis McDonough, Secretary of Veterans Affairs, signed and approved this document on November 27, 2023, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

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Office of General Counsel,
Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 21 as set forth below:

PART 21 – VETERAN READINESS AND EMPLOYMENT AND EDUCATION

Subpart A – Veteran Readiness and Employment

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

Authority: 38 U.S.C. 501(a), chs. 18, 31, and as noted in specific sections.

§ 21.212 [Amended]

2. Amend § 21.212 in paragraph (b) by removing “21.222” and adding in its place “21.220”.

§ 21.222 [Removed]

3. Remove § 21.222.

§ 21.224 [Amended]

4. Amend § 21.224 by removing “21.222” and adding in its place “21.220”.

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