

(iii) Materials that were submitted to the Secretary after the date of the final determination under subsection (g) that was the subject of the final decision under paragraph (2)(A)(ii) of this subsection and before the date on which the Secretary issued such final decision.

(j) *Reinstatement of Approval.*—(1) If an educational institution or the owner of an educational institution has had the approval of the courses or programs of education of the educational institution suspended as described in clause (ii) of subsection (h)(1)(A) or revoked as described in clause (iii) of such subsection for a violation of subsection (a), (c), or (d) pursuant to subparagraph (C) or (D) of subsection (h)(1), the educational institution or owner may submit to the applicable State approving agency or the Secretary when acting as a State approving agency an application for reinstatement of approval under this subsection.

(2) Approval under this chapter may not be reinstated under this subsection until—

(A) the educational institution or owner submits to the applicable State approving agency or the Secretary when acting as a State approving agency an application for reinstatement of approval under paragraph (1);

(B) the date that is 540 days after the date of the most recent suspension or revocation described in paragraph (1) of the educational institution or owner;

(C) the educational institution submits a report by an approved third-party auditor on the advertising and enrollment practices of the educational institution, including those of its third-party contractors;

(D) procedures are in place to prevent any future violation of subsection (a), (c), or (d);

(E) that the educational institution has met all factors set forth in subsection (h)(2); and

(F) the Secretary agrees to such reinstatement.

(k) RULE OF CONSTRUCTION REGARDING STATE APPROVING AGENCIES AND RISK-BASED SURVEYS.—Nothing in this section shall be construed to prohibit a State approving agency from conducting any risk-based survey the State approving agency considers appropriate at any educational institution that it considers appropriate for oversight purposes.

(l) DEFINITIONS.—In this section:

(1) The term “approved third-party auditor” means an independent third-party auditor that is approved by the Secretary for purposes of third-party audits under this section.

(2) The term “risk-based survey” means the risk-based survey developed under section 3673A of this title.

(Added Pub. L. 93–508, title II, §212(a), Dec. 3, 1974, 88 Stat. 1585, §1796; amended Pub. L. 94–502, title V, §§512, 513(a)(22), Oct. 15, 1976, 90 Stat. 2402, 2403; Pub. L. 98–543, title IV, §401, Oct. 24, 1984, 98 Stat. 2749; Pub. L. 101–237, title IV, §423(b)(1)(A), (2), Dec. 18, 1989, 103 Stat. 2092; renumbered §3696 and amended Pub. L. 102–83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 112–249, §2, Jan. 10, 2013, 126 Stat. 2401; Pub. L. 116–315, title I, §1020(a)(1), Jan. 5, 2021, 134 Stat. 4950; Pub. L. 117–16, §7(a)(5), June 8, 2021, 135

Stat. 285; Pub. L. 117–76, §3(b)(3), Dec. 21, 2021, 135 Stat. 1518.)

Editorial Notes

AMENDMENTS

2021—Pub. L. 116–315 amended section generally. Prior to amendment, section related to limitation on certain advertising, sales, and enrollment practices.

Subsec. (c). Pub. L. 117–76 designated existing provisions as par. (1), inserted “, except for the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance” after “assistance”, and added par. (2).

Subsec. (g)(4)(A)(iii)(III). Pub. L. 117–16 substituted “paragraph (3)” for “paragraph (3)(B) of this subsection”.

2013—Subsec. (d). Pub. L. 112–249 added subsec. (d).

1991—Pub. L. 102–83, §5(a), renumbered section 1796 of this title as this section.

Subsec. (c). Pub. L. 102–83, §5(c)(1), substituted “3694” for “1794”.

1989—Pub. L. 101–237 substituted “Secretary” for “Administrator” wherever appearing and “Secretary’s” for “Administrator’s” in subsec. (c).

1984—Subsec. (d). Pub. L. 98–543 struck out subsec. (d) which provided that not later than 60 days after the end of each fiscal year the Administrator would be required to report to Congress regarding the disposition of cases under this section.

1976—Subsec. (b). Pub. L. 94–502, §512, added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c). Pub. L. 94–502, §§512(1), 513(a)(22), redesignated former subsec. (b) as (c) and substituted “making the Administrator’s determinations” for “making his determinations”. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94–502, §512(1), redesignated former subsec. (c) as (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116–315 effective on Aug. 1, 2021, see section 1020(c) of Pub. L. 116–315, set out as a note under section 3676 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 512 and 513(a)(22) of Pub. L. 94–502 effective Dec. 1, 1976, and Oct. 15, 1976, respectively, see section 703(b), (c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE

Section effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as an Effective Date of 1974 Amendment note under section 3452 of this title.

§ 3697. Funding of contract educational and vocational counseling

(a) Subject to subsection (b) of this section, educational or vocational counseling services obtained by the Department of Veterans Affairs by contract and provided to an individual under section 3697A of this title or to an individual applying for or receiving benefits under section 1524 or chapter 30, 32, 33, 34, or 35 of this title, or chapter 106 of title 10, shall be paid for out of funds appropriated, or otherwise available, to the Department of Veterans Affairs for payment of readjustment benefits.

(b) Payments under this section shall not exceed \$6,000,000 in any fiscal year.

(Added Pub. L. 100–687, div. B, title XIII, §1302(a), Nov. 18, 1988, 102 Stat. 4127, §1797;

amended Pub. L. 101-237, title IV, §423(b)(1)(B), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102-16, §2(b)(3), Mar. 22, 1991, 105 Stat. 49; renumbered §3697 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title VI, §609(a), Nov. 2, 1994, 108 Stat. 4673; Pub. L. 110-252, title V, §5003(b)(2)(A)(vi), June 30, 2008, 122 Stat. 2375.)

Editorial Notes

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-252 inserted “33,” after “32.”

1994—Subsec. (b). Pub. L. 103-446 substituted “\$6,000,000” for “\$5,000,000”.

1991—Pub. L. 102-83, §5(a), renumbered section 1797 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “3697A” for “1797A” and “1524” for “524”.

Pub. L. 102-16 inserted “under section 1797A of this title or to an individual” after “individual”.

1989—Subsec. (a). Pub. L. 101-237 substituted “Department of Veterans Affairs” for “Veterans’ Administration” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-252 effective Aug. 1, 2009, see section 5003(d) of Pub. L. 110-252, set out as a note under section 16163 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-446, title VI, §609(b), Nov. 2, 1994, 108 Stat. 4673, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1994.”

§ 3697A. Educational and vocational counseling

(a) The Secretary shall make available to an individual described in subsection (b) of this section, upon such individual’s request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the Secretary determines necessary to aid the individual in selecting—

(1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective; or

(2) an employment objective that would be likely to provide such individual with satisfactory employment opportunities in the light of the individual’s personal circumstances.

(b) For the purposes of this section, the term “individual” means an individual who—

(1) is eligible for educational assistance under chapter 30, 31, 32, or 33 of this title or chapter 106 or 107 of title 10;

(2) was discharged or released from active duty under conditions other than dishonorable if not more than one year has elapsed since the date of such last discharge or release from active duty; or

(3) is serving on active duty in any State with the Armed Forces and is within 180 days of the estimated date of such individual’s discharge or release from active duty under conditions other than dishonorable, including those who are making a determination of whether to continue as members of the Armed Forces.

(c) In any case in which the Secretary has rated the individual as being incompetent, the counseling services described in subsection (a) of this section shall be required to be provided to the individual before the selection of a program of education or training.

(d) At such intervals as the Secretary determines necessary, the Secretary shall make available information concerning the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the Secretary determines practicable.

(e) The Secretary shall take appropriate steps (including individual notification where feasible) to acquaint all individuals described in subsection (b) of this section with the availability and advantages of counseling services under this section.

(Added Pub. L. 102-16, §2(a), Mar. 22, 1991, 105 Stat. 48, §1797A; renumbered §3697A, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; amended Pub. L. 110-252, title V, §5003(b)(2)(B), June 30, 2008, 122 Stat. 2375.)

Editorial Notes

AMENDMENTS

2008—Subsec. (b)(1). Pub. L. 110-252 substituted “32, or 33” for “or 32”.

1991—Pub. L. 102-83 renumbered section 1797A of this title as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-252 effective Aug. 1, 2009, see section 5003(d) of Pub. L. 110-252, set out as a note under section 16163 of Title 10, Armed Forces.

DEPARTMENT OF VETERANS AFFAIRS PROVISION OF INFORMATION ON ARTICULATION AGREEMENTS BETWEEN INSTITUTIONS OF HIGHER LEARNING

Pub. L. 114-315, title IV, §415, Dec. 16, 2016, 130 Stat. 1564, provided that:

“(a) INFORMATION.—Department of Veterans Affairs counselors who provide educational or vocational counseling services pursuant to section 3697A of title 38, United States Code, shall provide to any eligible individual who requests such counseling services information about the articulation agreements of each institution of higher learning in which the individual is interested.

“(b) CERTIFICATION OF ELIGIBILITY.—When the Secretary of Veterans Affairs provides to an individual a certification of eligibility for educational assistance provided by the Department of Veterans Affairs, the Secretary shall also include detailed information on such educational assistance, including information on requesting education counseling services and on articulation agreements.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘institution of higher learning’ has the meaning given such term in section 3452(f) of title 38, United States Code.

“(2) The term ‘articulation agreement’ has the meaning given such term in section 486A of the Higher Education Act of 1965 (Public Law 89-329; 20 U.S.C. 1093a).

“(d) DEADLINE FOR IMPLEMENTATION.—The Secretary of Veterans Affairs shall implement this section not later than 90 days after the date of the enactment of this Act [Dec. 16, 2016].”