



RESERVE AFFAIRS

ASSISTANT SECRETARY OF DEFENSE
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WASHINGTON, DC 20301-1500

MAC 10/17/05

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
UNDER SECRETARIES OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, DEFENSE MANPOWER DATA CENTER
DIRECTOR, ADMINISTRATION AND MANAGEMENT

SUBJECT: Interim Procedures for Implementing the Program of Educational Assistance
Authorized Under the Provisions of Chapter 1607 of Title 10, United States Code

The attachment to this memorandum establishes the procedures and associated responsibilities to implement the provisions of Subtitle C – Reserve Component Personnel Matters of title V of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year (FY) 2005 (NDAA) Public Law 108-375; Chapter 1607, title 10, United States Code; and the National Defense Authorization Act for Fiscal Year 2006, Public Law 109-163.

Section 527 of the NDAA for FY05 established, and Sections 539 and 540 of the NDAA for FY06 amended, a new entitlement of educational assistance for Reserve component members supporting contingency operations and certain other operations. The Secretaries of the Military Departments shall establish or amend existing procedures, as applicable, to comply with and implement the procedures contained in this memorandum. The amount of funds to be provided by each Service to support this program of educational assistance will be identified through separate instructions from the Office of the Under Secretary of Defense (Comptroller). Instructions for the method of payment will be included in the Department of Defense (DoD) Financial Management Regulation 7000.14-R upon completion of the DoD Instruction concerning this program.

This memorandum is effective immediately. A DoD Instruction incorporating the provisions of this memorandum will be published within 180 days.

T. F. Hall

Attachments:
As stated



DUTIES, RESPONSIBILITIES AND PROCEDURES FOR ADMINISTRATION OF
EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS
SUPPORTING CONTINGENCY OPERATIONS AND CERTAIN OTHER OPERATIONS

1. References:
 - (a) Title 10, United States Code
 - (b) Section 502(f) of Title 32, United States Code
 - (c) Section 3015 of Title 38, United States Code
 - (d) DoD Instruction 7730.54, "Reserve Components Common Personnel Data System (RCCPDS)," (August 6, 2004)
 - (e) DoD Instruction 1322.17, "Montgomery GI Bill-Selected Reserve (MGIB-SR)," November 29, 1999

2. Attachments:
 - (a) Statement of Entitlement to Educational Assistance Benefits for Reserve Component Members Supporting Contingency Operations and Certain Other Operations (Chapter 1607, Title 10, United States Code) [SAMPLE]
 - (b) Statement of Election of Educational Assistance Benefits Based on Qualifying for Educational Assistance Under Chapter 30 of Title 38, United States Code and Chapter 1607 of Title 10, United States Code [SAMPLE]

3. Eligibility:
 - a. A member of a Reserve component is entitled to educational assistance if the member was called or ordered to active service in support of a contingency operation or national emergency declared by the President or the Congress and served for 90 consecutive days or more per reference (a). In accordance with reference (b), in the case of a member of the Army or Air National Guard, full-time National Guard duty is creditable only if it was authorized by the President or Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.
 1. September 11, 2001, is the first date from which the 90-day eligibility requirement may be calculated. This date applies to members who began performing service prior to September 11, 2001, and to members who begin performing service on or after September 11, 2001.
 2. Members released from duty before completing 90 consecutive days because of an injury, illness, or disease incurred or aggravated in the line of duty shall be entitled to educational assistance at the rate prescribed in section 16162(c)(4)(A) of reference (a). A Line of Duty determination is required.

 - b. Active Guard and Reserve (AGR) personnel, as defined in section 101(d)(6)(A) of reference (a), may qualify for this benefit, but only if their name is listed on an individual or collective by-name list of personnel stating that they have been mobilized and/or deployed to support a qualifying mission (contingency or operation). AGR personnel cannot establish eligibility solely because the unit, including the overall unit was **alerted** for mobilization. An AGR member

cannot gain eligibility by merely providing support, even if direct support to a mobilized portion of the unit **unless the AGR member is mobilized or deployed with the unit**. An AGR member must possess orders which clearly indicate that he or she was mobilized or deployed with a unit activated to support a contingency, or, in the case of a member of the National Guard, if responding with his or her unit to a national emergency declared by the President. Unit alert orders or deployment orders are insufficient unless there is a by-name list which indicates that the AGR member is included in the mobilization or deployment.

c. In the case of a member who is separated from the Ready Reserve because of a disability which was not the result of the individual's own willful misconduct and which was incurred on or after the date on which that member became entitled to educational assistance, such member's entitlement to educational assistance expires at the end of the 10-year period beginning on the date on which the member became entitled to such assistance: Section 16164(b), of reference (a).

d. Reclamas concerning eligibility will be submitted by the individual concerned and handled at the Service level under guidance to be provided by the respective Service. Determinations of eligibility will be made using, until the governing Department of Defense Instruction is published, the parameters of eligibility described in chapter 1607, title 10, USC, and this memorandum.

4. Responsibilities:

a. Military Departments:

The Secretaries of the Military Departments "Secretaries" concerned shall publish guidance to implement the procedures contained in this memorandum. When not serving as a service in the Department of the Navy, the Coast Guard shall operate under procedures established by the Secretary of Homeland Security.

b. DMDC:

The Defense Manpower Data Center (DMDC) shall maintain a composite database record of Service-provided data regarding Reserve component members who have performed active service in support of a contingency and other qualifying duty. The DMDC shall provide a weekly consolidated file to the Department of Veterans Affairs (DVA) under the terms of a Computer Matching Agreement to be established between DVA and DoD. The data to be transmitted will be that contained in the Contingency Tracking System currently used, with technical modifications to the data format, as necessary. If the Computer Matching Agreement is not finalized and in effect on the date of this memorandum, DMDC will provide the information to DVA via other mutually acceptable means and format.

5. Procedures:

a. The Secretaries of the Military Departments shall identify all individuals, including those who have been released from active duty, who, on or after September 11, 2001, have been called or ordered to active service in support of a contingency operation (or were then performing active service) under any of the following authorities: 12301(a), 12301(d) (under qualifying criteria),

12301(g), 12302, 12304, 12406, of title 10, United States Code, or any other applicable provision of law; or under 502(f) of title 32, United States Code (reference (b)), in the case of members of the Army National Guard or Air National Guard of the United States, when authorized by the President or the Secretary of Defense in response to a national emergency declared by the President and supported by Federal funds. This information and appropriate associated personnel data set forth in reference (d) are to be provided via the Reserve Component Common Personnel Data System reporting procedures. The Secretaries of the Military Departments must ensure this information is accurate and continually updated to reflect the most current data because such data affects eligibility for educational assistance.

b. Under Section 16163 (c) of reference (a) the Secretaries of the Military Departments shall provide and retain a record of notification, in writing to each member of a Reserve Component who serves or served a minimum of 90 continuous days under the authorities identified in paragraph 5, or to members who are released from active service before completing 90 consecutive days because of an injury, illness, or disease incurred or aggravated in the line of duty, Section 16163(b) of reference (a). The notification shall be provided to members, immediately upon attaining initial eligibility, by using attachment (a) or a form modeled on attachment (a). Similarly, for those personnel who have already exceeded the minimum 90-days of qualifying service, immediate notification is required. Notification shall occur not later than the date of release from active service for those members whose release is due to injury, illness, or disease. Service-specific forms may be used if they include all of the elements of the sample notification.

c. The Services shall terminate a member's eligibility for educational assistance, except the conditions described below: (1) when the member separates from 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) when a member separates from the Ready Reserve, in the case of a member ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve). As an exception, under section 540 of the NDAA for FY06 the Secretary concerned may provide educational assistance to a member of the Selected Reserve of the Ready Reserve who incurs a break in service in the Selected Reserve of **not more than 90 days** if the member continues in the Ready Reserve during such break in service. Only one such break in service is authorized.

d. Educational assistance shall be terminated if the member is receiving financial assistance under section 2107 of reference (a) as a member of the senior ROTC program. However, termination is not applicable to members who receive educational assistance under section 2107a of reference (a).

e. Cases of alleged error in eligibility shall be adjudicated by the Secretary concerned (or his designee). All other terminations of assistance are final. Eligibility may be regained due to additional/separate periods of qualifying service, but may not be regained for periods of service for which eligibility was terminated.

f. The Services shall ensure appropriate measures are taken to properly document a member's termination by using the procedures specified in reference (d).

g. If, by virtue of the same period of active service, the member is able to establish eligibility for the program of educational assistance established by chapter 30 of title 38, United States Code, and chapter 1607 of title 10, United States Code, reference (a), the member will make an irrevocable election, in writing, as to the program to which such service is to be credited, by using Attachment (b) as the model for such notification. Such election must be processed through the respective Service for validation prior to being submitted to DVA for payment. If the chapter 30 of title 38, United States Code, program is selected, the Service will document this selection via the procedures contained in reference (d) and verify the \$1200.00 pay reduction has been made prior to validation of the member's election and submission to DVA. Upon validating the member's election, the Service will record the member's election, provide a copy to the member, and retain a copy of the document.

6. Additional benefits:

a. The period of service which establishes eligibility for the chapter 1607 of reference (a) benefit will concurrently satisfy an equal period of the 6-year Selected Reserve obligation for chapter 1606 of reference (a) eligibility, if applicable.

b. Use of the "kicker" benefit described in section 16131(i) of reference (a) follows the procedures as outlined in reference (e) and may be applied to existing contracts executed for the Chapter 1606 program (reference (a)) or for new contracts applied to the Chapter 1607 benefit.

c. Under section 539 of the NDAA for FY06, educational assistance is available for licensing or certification tests. Such amount will be the lesser of the actual fee charged for the test or \$2000, but shall not exceed the available remaining educational assistance entitlement (Sec 539 of the FY06 NDAA).

**Statement of Entitlement to Educational Assistance Benefits
for Reserve Component Members Supporting Contingency Operations
and Certain Other Operations (Chapter 1607, 10 USC) [SAMPLE]**

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C., Sections 16161 through 16165; E.O. 9397

PRINCIPAL PURPOSE(S): Information will be used to establish entitlement to educational assistance benefits by eligible members of the Selected Reserve or Ready Reserve for members supporting contingency operations and certain other operations

ROUTINE USE(S): To the Department of Veterans Affairs, to substantiate eligibility for educational assistance under the Reserve Education Assistance Program (Chapter 1607, 10 U.S.C.)

DISCLOSURE: Voluntary; however, failure to provide personal information may preclude processing eligibility for educational assistance benefits

COMPUTER MATCHING: Information provided on the Statement of Entitlement to Educational Assistance Benefits for Reserve Component Members Supporting Contingency Operations and Certain Other Operations is subject to a computer matching agreement between the Department of Defense and the Department of Veterans Affairs. Computer matching is employed to verify an individual's eligibility for and continued compliance with Federal benefit programs, and in some instances is used to effect adjustments or recovery of improper payments made to or delinquent debts owed by a beneficiary or former beneficiary.

NAME: _____ RANK: _____ SSAN: _____ - _____ - _____
(Last, First, MI)

SERVICE: _____ COMPONENT: _____ CATEGORY: _____
(National Guard/Reserve) (SelRes/IRR)

By signing this document I acknowledge that:

---by serving at least 90 continuous days and less than one continuous year of active service in a qualifying status, I am entitled to educational assistance benefits under chapter 1607 of title 10, U.S.C., which are equal to 40% of the Montgomery GI Bill benefit authorized in section 3015 of title 38, U.S.C;

---by serving at least one continuous year but less than two continuous years of qualifying service, I am entitled to 60% of the referenced benefit;

---by serving two or more continuous years of qualifying service, I am entitled to 80% of the referenced benefit;

---if released from active service before completing 90 consecutive days because of an injury, illness, or disease incurred or aggravated in the line of duty, I shall be entitled to educational assistance at the 40% rate;

---if, after becoming entitled to educational assistance, I am separated from the Ready Reserve because of a disability not due to my own willful misconduct, that my entitlement expires at the end of the 10-year period beginning on the date on which I became entitled to educational assistance;

---entitlement is limited to a maximum of 36 months of fulltime benefits (or equivalent part-time benefits) or a maximum of 48 cumulative months of fulltime benefits if I use benefits from other educational assistance programs;

---entitlement to educational benefits is limited to, and ceases upon receipt of 36 months of benefits (or fulltime equivalent of 48 months of aggregate benefits if I use (or have used) benefits from more than one educational assistance program) or upon transfer from the Reserve Component category in which I was serving at the time of being ordered to active service, under section 16164(a) or 16164(a)(2), title 10, U.S.C., as applicable.

---if I qualify for this educational assistance benefit while a member of the Selected Reserve, notwithstanding the exclusion text above, I may incur a break in service from the Selected Reserve of not more than 90 days, provided I remain in the Ready Reserve during such break in service, and that only one such break in service from the Selected Reserve is allowed;

---if I qualify for educational assistance under this program, I will not receive credit for such service under both this program and the program established by chapter 30 of title 38, U.S.C., pertaining to the Montgomery GI Bill, but must make an irrevocable election as to the program to which such service is to be credited;

---educational assistance will not be provided under this program, or if being provided, shall be terminated if I am receiving education assistance under section 2107 of title 10, U.S.C., as a member of the senior ROTC program;

---claims for educational assistance must be validated and processed (separately) through my Service prior to being submitted to the Department of Veterans Affairs.

(Signature and Date)

(Authorized Service POC Signature and Date)

Attachment (a) to Directive-type Memorandum, Chapter 1607

**Statement of Election of Educational Assistance Benefits
Based on Qualifying for Educational Assistance Under
Chapter 30, Title 38, U.S.C. and Chapter 1607, Title 10, U.S.C. [SAMPLE]**

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C., Sections 16161 through 16165; 38 U.S.C., Sections 3011 through 3015; E.O. 9397

PRINCIPAL PURPOSE(S): Information will be used to establish entitlement to educational assistance benefits by eligible members of the Selected Reserve or Ready Reserve for members supporting contingency operations and certain other operations or for the Montgomery GI Bill

ROUTINE USE(S): To the Department of Veterans Affairs, to substantiate eligibility for educational assistance under the Reserve Education Assistance Program (Chapter 1607, 10 U.S.C.) or the Montgomery GI Bill (Chapter 30, 38 U.S.C.)

DISCLOSURE: Voluntary; however, failure to provide personal information may preclude processing eligibility for educational assistance benefits

COMPUTER MATCHING: Information provided on the Statement of Entitlement to Educational Assistance Benefits for Reserve Component Members Supporting Contingency Operations and Certain Other Operations is subject to a computer matching agreement between the Department of Defense and the Department of Veterans Affairs. Computer matching is employed to verify an individual's eligibility for and continued compliance with Federal benefit programs, and in some instances is used to effect adjustments or recovery of improper payments made to or delinquent debts owed by a beneficiary or former beneficiary.

NAME: _____ RANK: _____ SSAN: _____
(Last, First, MI)

SERVICE: _____ COMPONENT: _____ CATEGORY: _____
(National Guard/Reserve) (SelRes/IRR)

Based upon my continuous performance of active service (other than full-time National Guard duty performed as a member of the National Guard for the purpose of organizing, administering, recruiting, instructing, or training the National Guard (the Active Guard Reserve program)) from _____ to _____ in support of a contingency or national emergency declared by the President or Congress, I qualify for educational assistance under the program established by chapter 30 of title 38, United States Code, pertaining to the Montgomery GI Bill, and the program of assistance established by chapter 1607 of title 10, United States Code, pertaining to Reserve component members called or ordered to active service in support of contingency operations and certain other operations.

Fully understanding that I may not receive credit for both programs based on the same period of active service and that I must make an **irrevocable election** as to which program of educational assistance such service is to be credited, I make the following election:

(Initial) I want my active service indicated above to be credited toward the program of educational assistance established by **chapter 30 of title 38, United States Code, (Montgomery GI Bill—Active Duty)** and understand that **I will incur a reduction of basic pay in the amount of \$1200.00 or that I must provide such payment via Cash Collection and provide proof of such payment** prior to this election being validated by my Service and before I can submit a claim to the Department of Veterans Affairs.

(Initial) I want my active service indicated above to be credited toward the program of educational assistance established by **chapter 1607 of title 10, United States Code, pertaining to Reserve component members called or ordered to active service in support of contingency operations and certain other operations, and understand that there is no monetary contribution required on my part and that, per Department of Veterans Affairs decision, electing this benefit is not the same as declining the program of educational assistance established by chapter 30 of title 38, United States Code.**

I understand that I must process this election through my Service for validation/verification prior to submitting any claim to the Department of Veterans Affairs for educational assistance payments.

(Signature and Date)

(Authorized Service POC Signature and Date)