

Department of Veterans Affairs

§ 18a.1

AGE DISTINCTIONS IN REGULATIONS GOVERNING FEDERAL FINANCIAL ASSISTANCE PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS—Continued

Program	Regulation	Section and Age Distinction	CFDA
Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPA).	Medical Care for Survivors and Dependents of Certain Veterans (38 CFR 17.54).	Section 17.54 states that medical care may be provided for: "(1) The spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and (2) the surviving spouse or child of a veteran who—(a) died as a result of a service-connected disability, or (b) at the time of death had a total disability, permanent in nature resulting from a service-connected disability and—(3) the surviving spouse or child of a person who died in the active military, naval or air service . . . Who are not otherwise eligible for medical care as beneficiaries of the Armed Forces under the provisions of Chapter 55 of Title 10, United States Code (CHAMPUS) . . . and (4) An eligible child who is pursuing a full-time course of instruction approved under 38 U.S.C. Chapter 36, and who incurs a disabling illness or injury while pursuing such course; . . . shall remain eligible for medical care until: (a) The end of the 6-month period beginning on the date the disability is removed, or (b) the end of the 2-year period beginning on the date of the onset of the disability; or (c) the 23d birthday of the child, whichever occurs first. . . ."	64.009
Veterans' Educational Assistance.	Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36 (38 CFR part 21, subpart D).	Section 21.4135(d) sets forth the following dates for the discontinuance of the educational assistance allowance provided for a dependent child, under Chapter 34 of Title 38: ". . . (1) Last day of the in calendar year in which marriage occurred unless discontinuance is required at an earlier date under other provisions. (2) Age 18. Day preceding 18th birthday. (3) School attendance. Last day of month in which 23rd birthday, whichever is earlier. (4) Helplessness ceased. Last day of month school attendance ceased or day preceding following 60 days after notice to payee that helplessness has ceased." Section 21.4136 sets forth monthly rates for the payment of educational assistance allowance under 38 U.S.C. Chapter 34. Paragraph (f) defines the term "dependent" as a spouse, child or dependent parent who meets the definitions of relationship specified in 38 CFR 3.50, 3.51, 3.57 and 3.59.	

PART 18a—DELEGATION OF RESPONSIBILITY IN CONNECTION WITH TITLE VI, CIVIL RIGHTS ACT OF 1964

Sec.

- 18a.1 Delegations of responsibility between the Secretary of Veterans Affairs and the Secretary, Department of Health and Human Services, and the Secretary, Department of Education.
- 18a.2 Delegation to the Under Secretary for Benefits.
- 18a.3 Delegation to the Chief Medical Director.
- 18a.4 Duties of the Director, Contract Compliance Service.
- 18a.5 Delegation to the General Counsel.

AUTHORITY: 5 U.S.C. 301, 38 U.S.C. 501 and 38 CFR 18.9(d) and appendix A, part 18.

§ 18a.1 Delegations of responsibility between the Secretary of Veterans Affairs and the Secretary, Department of Health and Human Services, and the Secretary, Department of Education.

(a) Authority has been delegated to the Secretary of Veterans Affairs by the Secretary, Department of Health and Human Services, and the Secretary, Department of Education to perform responsibilities of those departments and of the responsible Departmental officials under Title VI of

§ 18a.1

38 CFR Ch. I (7-1-02 Edition)

the Civil Rights Act of 1964 and the Departments' regulations issued thereunder (45 CFR part 80 and 34 CFR part 100) with respect to: Proprietary (i.e., other than public or nonprofit) educational institutions, except if operated by a hospital; and post secondary, nonprofit, educational institutions other than colleges and universities, except if operated by a college or university, a hospital, or a unit of State or local government (i.e., those operating such institutions as an elementary or secondary school, an area vocational school, a school for the handicapped, etc.)

(1) The compliance responsibilities so delegated include:

(i) Soliciting, receiving, and determining the adequacy of assurances of compliance under 45 CFR 80.4 and 34 CFR 100.4;

(ii) All actions under 45 CFR 80.6 including mailing, receiving, and evaluating compliance reports under § 80.6(b) and 34 CFR 100.6(b); and

(iii) All other actions related to securing voluntary compliance, or related to investigations, compliance reviews, complaints, determinations of apparent failure to comply, and resolutions of matters by informal means.

(2) The Department of Health and Human Services and the Department of Education specifically reserve to themselves the responsibilities for the effectuation of compliance under 45 CFR 80.8, 80.9, 80.10 and 34 CFR 100.8, 100.9 and 100.10.

(b) Authority has been delegated to the Secretary, Department of Health and Human Services and the Secretary, Department of Education, to perform responsibilities of the Department of Veterans Affairs and of the responsible Department of Veterans Affairs official under Title VI of the Civil Rights Act of 1964 and the Department of Veterans Affairs regulations issued thereunder (part 18 of this chapter) with respect to institutions of higher learning, including post-high school institutions which offer nondegree courses for which credit is given and which would be accepted on transfer by a degree-granting institution toward a baccalaureate or higher degree; hospitals and other health facilities and elementary and secondary schools and school systems in-

cluding, but not limited to, their activities in connection with providing or seeking approval to provide vocational rehabilitation to eligible persons under Chapter 31 of Title 38 U.S.C., or education or training to eligible persons under Chapters 34, 35, or 36 of Title 38 U.S.C.

(1) The compliance responsibilities so delegated include:

(i) Soliciting, receiving, and determining the adequacy of assurances of compliance under § 18.4 of this chapter;

(ii) Mailing, receiving, and evaluating compliance reports under § 18.6(b) of this chapter; and

(iii) All other actions related to securing voluntary compliance or related investigations, compliance reviews, complaints, determinations of apparent failure to comply and resolutions of matters by informal means.

(2) The Department of Veterans Affairs specifically reserves to itself responsibilities for effectuation of compliance under §§ 18.8, 18.9, and 18.10 of this chapter. Not included in the delegation to the Secretary, Department of Health and Human Services and the Secretary, Department of Education and specifically reserved to the Department of Veterans Affairs is the exercise of compliance responsibilities with respect to:

(i) Postsecondary schools which do not offer a program or courses leading, or creditable, towards the granting of at least a bachelor's degree, or its equivalent;

(ii) Privately-owned and operated proprietary technical, vocational, and other private schools at the elementary or secondary level; and

(iii) Those institutions of higher learning and elementary and secondary schools and school systems which, as of January 3, 1969, have already been subjected to formal noncompliance proceedings by the Department of Health and Human Services or the Department of Education and have had their right to receive Federal financial assistance from that agency terminated for noncompliance with Title VI of the Civil Rights Act of 1964.

The Department of Veterans Affairs also retains the right to exercise delegated compliance responsibilities itself in special cases with the agreement of

Department of Veterans Affairs

§ 18a.4

the appropriate official in the Department of Health and Human Services or the Department of Education.

(c) Any institution of higher learning or a hospital or other health facility which is listed by the Department of Health and Human Services or the Department of Education as having filed an assurance of compliance will be accepted as having met the requirements of the law for the purpose of payment under 38 U.S.C. Chapters 31, 34, 35, or 36 and 38 U.S.C. sections 1741, 8131-8137 and 8155.

(d) If the Department of Health and Human Services or the Department of Education finds that a school, hospital or other health facility which has signed an assurance of compliance is apparently in noncompliance, action will be initiated by that Department to obtain compliance by voluntary means. If voluntary compliance is not achieved, the Department of Veterans Affairs will join in subsequent proceedings.

(e) An institution which is on the Department of Health and Human Services or the Department of Education list of noncomplying institutions will be considered to be in a status of compliance for Department of Veterans Affairs purposes if an assurance of compliance is filed with the Department of Veterans Affairs and actual compliance is confirmed. Certificates of eligibility may be issued and enrollments approved and other appropriate payments made until such time as the Department of Veterans Affairs has made an independent determination that the institution is not in compliance.

[35 FR 10759, July 2, 1970, as amended at 51 FR 10385, Mar. 26, 1986]

§ 18a.2 Delegation to the Under Secretary for Benefits.

The Under Secretary for Benefits is delegated responsibility for obtaining evidence of voluntary compliance for vocational rehabilitation, education, and special restorative training to implement Title VI, Civil Rights Act of 1964. Authority is delegated to the Under Secretary for Benefits and designee to take any necessary action as to programs of vocational rehabilitation, education, or special restorative training under 38 U.S.C. Chapters 31, 34,

35, and 36 for the purpose of securing evidence of voluntary compliance directly or through the agencies to whom the Secretary of Veterans Affairs has delegated responsibility for various schools or training establishments to implement part 18 of this chapter. The Under Secretary for Benefits also is delegated responsibility for obtaining evidence of voluntary compliance from recognized national organizations whose representatives are afforded space and office facilities in field facilities under jurisdiction of the Under Secretary for Benefits.

[35 FR 10759, July 2, 1970, as amended at 51 FR 10386, Mar. 26, 1986; 54 FR 34984, Aug. 23, 1989]

§ 18a.3 Delegation to the Chief Medical Director.

The Chief Medical Director is delegated responsibility for obtaining evidence of voluntary compliance implementing the provisions of Title VI, Civil Rights Act of 1964, in connection with payments to State homes, with State home facilities for furnishing nursing home care, and from recognized national organizations whose representatives are afforded space and office facilities in field facilities under jurisdiction of the Chief Medical Director.

[35 FR 10759, July 2, 1970, as amended at 51 FR 10386, Mar. 26, 1986]

§ 18a.4 Duties of the Director, Contract Compliance Service.

Upon referral by the Chief Medical Director or the Under Secretary for Benefits, the Director, Contract Compliance Service will:

(a) Investigate and process all complaints arising under Title VI of the Civil Rights Act of 1964;

(b) Conduct periodic audits, reviews and evaluations;

(c) Attempt to secure voluntary compliance by conciliatory or other informal means whenever investigation of a complaint, compliance review, failure to furnish assurance of compliance, or other source indicates noncompliance with Title VI; and

report to the Chief Medical Director or the Under Secretary for Benefits, whichever is appropriate, the results of

§ 18a.5

investigations, audits, reviews and evaluations or the results of attempts to secure voluntary compliance.

[35 FR 10759, July 2, 1970, as amended at 51 FR 10386, Mar. 26, 1986]

§ 18a.5 Delegation to the General Counsel.

The General Counsel is delegated the responsibility, upon receipt of information from the Under Secretary for Benefits, the Chief Medical Director, or the designee of either of them, that compliance cannot be secured by voluntary means, of forwarding to the recipient or other person the notice required by § 18.9(a) of this chapter, and also is delegated the responsibility of representing the agency in all proceedings resulting from such notice.

[35 FR 10759, July 2, 1970]

PART 18b—PRACTICE AND PROCEDURE UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND PART 18 OF THIS CHAPTER

GENERAL RULES

Sec.

- 18b.1 Scope of rules.
- 18b.2 Reviewing authority.
- 18b.9 Definitions.
- 18b.10 Records to be public.
- 18b.11 Use of number.
- 18b.12 Suspension of rules.

APPEARANCE AND PRACTICE

- 18b.13 Appearance.
- 18b.14 Authority for representation.
- 18b.15 Exclusion from hearing for misconduct.

PARTIES

- 18b.16 Parties.
- 18b.17 Amici curiae.
- 18b.18 Complainants not parties.

DOCUMENTS

- 18b.20 Form of documents to be filed.
- 18b.21 Signature of documents.
- 18b.22 Filing and service.
- 18b.23 Service; how made.
- 18b.24 Date of service.
- 18b.25 Certificate of service.

TIME

- 18b.26 Computation.
- 18b.27 Extension of time or postponement.
- 18b.28 Reduction of time to file documents.

38 CFR Ch. I (7-1-02 Edition)

PROCEEDINGS BEFORE HEARING

- 18b.30 Notice of hearing or opportunity for hearing.
- 18b.31 Answer to notice.
- 18b.32 Amendment of notice or answer.
- 18b.33 Request for hearing.
- 18b.34 Consolidation.
- 18b.35 Motions.
- 18b.36 Responses to motions and petitions.
- 18b.37 Disposition of motions and petitions.

RESPONSIBILITIES AND DUTIES OF PRESIDING OFFICER

- 18b.40 Who presides.
- 18b.41 Designation of an administrative law judge.
- 18b.42 Authority of presiding officer.

HEARING PROCEDURES

- 18b.50 Statements of position and trial briefs.
- 18b.51 Evidentiary purpose.
- 18b.52 Testimony.
- 18b.53 Exhibits.
- 18b.54 Affidavits.
- 18b.55 Depositions.
- 18b.56 Admissions as to facts and documents.
- 18b.57 Evidence.
- 18b.58 Cross-examination.
- 18b.59 Un-sponsored written material.
- 18b.60 Objections.
- 18b.61 Exceptions to rulings of presiding officer unnecessary.
- 18b.62 Official notice.
- 18b.63 Public document items.
- 18b.64 Offer of proof.
- 18b.65 Appeals from ruling of presiding officer.

THE RECORD

- 18b.66 Official transcript.
- 18b.67 Record for decision.

POSTHEARING PROCEDURES; DECISIONS

- 18b.70 Posthearing briefs; proposed findings and conclusions.
- 18b.71 Decisions following hearing.
- 18b.72 Exceptions to initial or recommended decisions.
- 18b.73 Final decisions.
- 18b.74 Oral argument to the reviewing authority.
- 18b.75 Review by the Secretary.
- 18b.76 Service on amici curiae.

POSTHEARING DEPARTMENT ACTIONS

- 18b.77 Final Department action.

JUDICIAL STANDARDS OF PRACTICE

- 18b.90 Conduct.
- 18b.91 Improper conduct.
- 18b.92 Ex parte communications.
- 18b.93 Expeditious treatment.
- 18b.94 Matters not prohibited.