

DATE: 07-18-90

CITATION: VAOPGCPREC 52-90
Vet. Aff. Op. Gen. Couns. Prec. 52-90

TEXT:

Subject: Application of 38 U.S.C. § 1781 to the Related Instruction Portion of an Apprenticeship Program

(This opinion, previously issued as General Counsel Opinion 9-77, dated October 12, 1976, is reissued as a Precedent Opinion pursuant to 38 C.F.R. §§ 2.6(e)(9) and 14.507. The text of the opinion remains unchanged from the original except for certain format and clerical changes necessitated by the aforementioned regulatory provisions.)

QUESTION PRESENTED:

Does the limitation of section 1781 of title 38, United States Code, apply to programs of apprenticeship and other on-the-job training given by an agency of the United States Government where some part or all of the period on which benefit payments may otherwise be based consists of related instruction for which the Government pays the tuition?

COMMENTS:

Section 1781 of title 38, United States Code, reads as follows:

"1781. Limitations on educational assistance

"No educational assistance allowance granted under chapter 34, 35, or 36 of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health, Education, and Welfare in the case of the Public Health Service); or (2) who is attending a course of education or training paid for under the Government Employees' Training Act and whose full salary is being paid to him while so training." (Emphasis supplied.)

In our opinion dated August 16, 1973 (OP.G.C. 11-73), we concluded that in the amendment to section 1781 of title 38, enacted in 1970 (Public Law 91-219), the Congress, in liberalizing that section of title 38, did not intend to bar types of training courses, such as on-job and apprentice training, which were previously allowed under prior law, where outside education was merely an adjunct. It would appear from the facts you have furnished that the instruction given, while

possibly longer than that previously given, would still be considered as an adjunct to the overall program.

HELD:

Apprenticeship and other on-job training programs do not come within the scope of the limitation of 38 U.S.C. section 1781(a)(2) regarding training paid under the Government Employees Training Act for a person in receipt of full salary while so training.

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