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B-326074

July 29, 2014

The Honorable Carl Levin  
Chairman  
The Honorable James Inhofe  
Ranking Member  
Committee on Armed Services  
United States Senate

The Honorable Howard P. "Buck" McKeon  
Chairman  
The Honorable Adam Smith  
Ranking Member  
Committee on Armed Services  
House of Representatives

Subject: *Department of Defense, Office of the Secretary: Voluntary Education Programs*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Defense (DOD), Office of the Secretary entitled "Voluntary Education Programs" (RIN: 0790-AJ06). We received the rule on July 11, 2014. It was published in the *Federal Register* as a final rule on May 15, 2014. 79 Fed. Reg. 27,732.

The final rule implements new policies, responsibilities, and procedures for the operation of voluntary education programs within DOD. The new policies discussed in the rule include the following: all educational institutions providing education programs through the DOD Tuition Assistance (TA) Program will provide meaningful information to students about the financial cost and attendance at an institution so military students can make informed decisions on where to attend school; not use unfair, deceptive, and abusive recruiting practices; and provide academic and student support services to Service members and their families. The rule establishes new criteria to strengthen existing procedures for access to DOD installations by educational institutions. The rule requires an annual review and notification process if there are changes made to the uniform semester-hour (or equivalent) TA caps and annual TA ceilings. Military departments will be required to provide their Service members with a joint services transcript (JST). The rule implements DOD's Postsecondary Education Complaint System for Service members, spouses, and adult family members to register student complaints. The rule authorizes the military departments to establish Service-specific TA eligibility criteria and management controls. Additionally, educational institutions with a current DOD Voluntary Education Partnership Memorandum of Understanding (MOU) that have initiated their application for Title IV eligibility with the Department of Education will have 18 months following the publication of this final rule to successfully meet the Title IV requirement. New applicants will be required to meet the Title IV requirement before signing a DOD Voluntary Education Partnership MOU.

The Congressional Review Act requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. 801(a)(3)(A). This final rule has a stated effective date of July 14, 2014. The rule was published in the *Federal Register* on May 15, 2014, and received on July 11, 2014. Therefore, the final rule does not have the required 60-day delay in effective date.

Enclosed is our assessment of DOD's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. With the exception of the required 60-day delay in effective date, our review of the procedural steps taken indicates that DOD complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: Patricia Toppings  
OSD *Federal Register* Liaison Officer  
Department of Defense

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF DEFENSE,  
OFFICE OF THE SECRETARY  
ENTITLED  
"VOLUNTARY EDUCATION PROGRAMS"  
(RIN: 0790-AJ06)

(i) Cost-benefit analysis

The Department of Defense (DOD) described the costs associated with its Tuition Assistance (TA) Program. According to DOD, tuition assistance costs for Service members participating in high school completion and accredited undergraduate or graduate education programs totaled approximately \$562 million in fiscal year (FY) 2011, \$568 million in FY 2012, and \$540 million in FY 2013. Operational costs totaled approximately \$102 million in FY 2011, \$92 million in FY 2012, and \$84 million in FY 2013. Operational costs for DOD Voluntary Education Programs include such items as salaries, TDY, training, supplies, and equipment. DOD also discussed the benefits provided by the TA Program. During FY 2011, 325,324 Service members received TA for 866,788 courses. During FY 2012, 286,665 Service members received TA for 874,094 courses and in FY 2013, 277,872 Service members received TA for 827,176 courses. A total of 45,220 degrees, diplomas, or certificates were earned in FY 2011, 50,497 in FY 2012, and 55,792 in FY 2013.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

DOD determined that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

DOD determined that this final rule does not contain a federal mandate that may result in expenditures by state, local, and tribal governments, in aggregate, or by the private sector of \$100 million or more in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On August 14, 2013, DOD published a proposed rule. 78 Fed. Reg. 49,382. DOD received 44 public comment submissions containing 123 comments, which it reviewed and considered in promulgating this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

DOD determined that this final rule contains an information collection requirement under the Act. The requirements for the new student complaint system entitled "Postsecondary Education

Complaint Intake System” were approved by the Office of Management and Budget (OMB) under OMB Control Number 0704-0501.

Statutory authorization for the rule

DOD promulgated this final rule under the authority of sections 2005 and 2007 of title 10, United States Code.

Executive Order No. 12,866 (Regulatory Planning and Review)

DOD determined that this is an economically significant rule under the Order.

Executive Order No. 13,132 (Federalism)

DOD determined that this final rule does not have federalism implications under the Order in that the rule does not have substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government.