

DATE: 07-18-90

CITATION: VAOPGCPREC 35-90  
Vet. Aff. Op. Gen. Couns. Prec. 35-90

**TEXT:**

**Subject:** Limitations on Educational Assistance under 38 U.S.C. § 1781.

(This opinion, previously issued as General Counsel Opinion 12-73, dated November 21, 1973, 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:**

Whether payment of VA educational assistance benefits to veterans enrolled under the National Program of Apprenticeship for Prosthetists, Orthotists and Restoration Technicians is barred by the limitation contained in section 1781 of title 38, United States Code.

**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 an opinion dated August 16, 1973, it was held, in a related matter, that:

"From the foregoing history, two facts emerge as to the Congressional intent.

First, the Congress viewed section 1781, as amended, as limiting the bar to receipt of G.I. bill educational benefits to only those eligible persons who have the cost of such training paid for or absorbed by the employing agency and who are receiving their regular pay while they are training or learning without being engaged in any concurrent productive work efforts. Second, in liberalizing the prior provisions of law, there was no intention to bar types of training courses, such as on- job and apprentice training, which were

previously allowed and where any outside education was merely an adjunct.

"Accordingly, it is our opinion that apprentice and other on-job training are not within the scope of the limitation of section 1781."

The training provided under the National Program of Apprenticeship for Prosthetists, Orthotists and Restoration Technicians has been registered as meeting the basic standards and policies of the Bureau of Apprenticeship and Training of the Department of Labor. It is offered under the statutory authority of section 4101(b) of title 38 which permits the Administrator to carry out a program of education and training of health manpower. Thus, the program offered appears to be basically an on-job training program with classroom training as an adjunct thereto and is a program specifically authorized by statute.

**HELD:**

Training provided under the National Program of Apprenticeship for Prosthetists, Orthotists and Restoration Technicians which is registered as meeting the basic standards and policies of the Bureau of Apprenticeship and Training of the Department of Labor is not within the limitation set out in 38 U.S.C. § 1781 barring payment of educational assistance allowance. That limitation does not apply to apprentice and other on-job training programs.

VETERANS ADMINISTRATION GENERAL COUNSEL  
Vet. Aff. Op. Gen. Couns. Prec. 35-90