

## §21.5141

(i) Is incarcerated in a Federal, State or local penal institution of conviction of a felony, and

(ii) Is enrolled in a course—

(A) For which the individual pays some (but not all) of the charges for tuition and fees, or

(B) For which a Federal program (other than one administered by VA) or a State or local program pays all the charges for tuition and fees, but which requires the individual to pay for books, supplies and equipment.

(2) The monthly rate of educational assistance allowance payable to such an individual shall be the lesser of the following:

(i) The monthly rate determined by adding the tuition and fees that the veteran must pay and the charge to the veteran for the cost of necessary supplies, books and equipment and prorating the total on a monthly basis, or

(ii) The monthly rate for the individual as determined by §21.5138(c) of this part.

(Authority: 38 U.S.C. 3231(e))

[55 FR 31583, Aug. 3, 1990]

### §21.5141 Tutorial assistance.

An individual who is otherwise eligible to receive benefits under the Post-Vietnam Era Veterans' Educational Assistance Program may receive supplemental monetary assistance to provide tutorial services. In determining whether VA will pay the individual this assistance, VA will apply the provisions of §21.4236.

(Authority: 38 U.S.C. 3234, 3492)

[61 FR 29030, June 7, 1996]

#### STATE APPROVING AGENCIES

### §21.5150 State approving agencies.

In administering chapter 32, title 38, United States Code, VA will apply the provisions of the following sections:

(a) Section 21.4150 (except par. (e))—Designation;

(b) Section 21.4151—Cooperation;

(c) Section 21.4152—Control by agencies of the United States;

(d) Section 21.4153—Reimbursement of expenses;

(e) Section 21.4154—Report of activities;

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(f) Section 21.4155—Evaluations of State approving agency performance.

(Authority: 38 U.S.C. 3241, 3670–3674, 3674A; Pub. L. 94–502, Pub. L. 100–323)

[55 FR 12483, Apr. 4, 1990, as amended at 61 FR 1526, Jan. 22, 1996]

#### SCHOOLS

### §21.5200 Schools.

In the administration of benefits payable under the provisions of chapter 32, title 38, U.S.C., the Department of Veterans Affairs will apply the following sections:

(a) Section 21.4200—Definitions (with the exception of paragraph (a)).

(Authority: 38 U.S.C. 3241; Pub. L. 94–502, Pub. L. 99–576)

(b) Section 21.4201—Restrictions on enrollment; percentage of students receiving financial support.

(Authority: 38 U.S.C. 3241, 3473(d))

(c) Section 21.4202—Overcharges; restrictions on enrollments.

(Authority: 38 U.S.C. 3241, 3690)

(d) Section 21.4203—Reports—Requirements.

(Authority: 38 U.S.C. 3241, 3684; Pub. L. 94–502, Pub. L. 99–576)

(e) Section 21.4204 (except paragraphs (a) and (e))—Periodic certifications.

(Authority: 38 U.S.C. 3241, 3684)

(f) [Reserved]

(g) Section 21.4206—Reporting fee.

(h) Section 21.4209—Examination of records.

(Authority: 38 U.S.C. 3241, 3690; Pub. L. 94–502, Pub. L. 99–576)

(i) Section 21.4210—Suspension and discontinuance of educational assistance payments and of enrollments or reenrollments for pursuit of approved courses.

(j) Section 21.4211—Composition, jurisdiction, and duties of Committee on Educational Allowances.

(k) Section 21.4212—Referral to Committee on Educational Allowances.

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(l) Section 21.4213—Notice of hearing by Committee on Educational Allowances.

(m) Section 21.4214—Hearing rules and procedures for Committee on Educational Allowances.

(n) Section 21.4215—Decision of Director of VA facility of jurisdiction.

(o) Section 21.4216—Review of decision of Director of VA facility of jurisdiction.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3690)

[45 FR 31, Jan. 2, 1980, as amended at 53 FR 34499, Sept. 7, 1988; 57 FR 38613, August 26, 1992; 61 FR 1526, Jan. 22, 1996; 61 FR 29030, June 7, 1996; 63 FR 35836, July 1, 1998; 72 FR 16978, Apr. 5, 2007]

### PROGRAMS OF EDUCATION

#### § 21.5230 Programs of education.

(a) *Approving the selected program of education.* Except as provided in paragraphs (b) and (c) of this section, VA will approve a program of education for a veteran or servicemember under 38 U.S.C. chapter 32, only if—

(1) The program meets the definition of a program of education stated in § 21.5021(q);

(2) Except for a program consisting of a licensing or certification test, the program has an objective as described in § 21.5021(r) or (s);

(3) Any courses, subjects, or licensing or certification tests in the program are approved for VA training; and

(4) Except for a program consisting of a licensing or certification test designed to help the veteran or servicemember maintain employment in a vocation or profession, the veteran or servicemember is not already qualified for the objective of the program.

(Authority: 38 U.S.C. 3202(2), 3689(b))

(b) *Programs which include secondary school training.* VA may approve the enrollment of a veteran or servicemember in a refresher, remedial, deficiency or other preparatory or special educational assistance course when the veteran or eligible servicemember needs the course in order to pursue an approved program of education.

(Authority: 38 U.S.C. 3241(a)(2))

(c) *Refresher training for those already qualified.* The refresher training referred to in paragraph (b) of this section includes training in a course or courses for which the veteran is already qualified provided the course or courses permit the veteran to update knowledge and skills or to be instructed in the technological advances which have occurred in the veteran's field of employment. The relevant field of employment may have been pursued either before, during or after the veteran's active duty.

(Authority: 38 U.S.C. 3241(a)(2); Pub. L. 100-689)

[55 FR 31583, Aug. 3, 1990, as amended at 72 FR 16978, Apr. 5, 2007]

#### § 21.5231 Combination.

In the administration of benefits payable under chapter 32, title 38, U.S.C., the Department of Veterans Affairs will apply § 21.4233(b), (c), and (e).

(Authority: 38 U.S.C. 3241)

[45 FR 31, Jan. 2, 1980, as amended at 61 FR 7218, Feb. 27, 1996]

#### § 21.5232 Change of program.

In determining whether a change of program of education may be approved for the payments of educational assistance, VA will apply § 21.4234 of this part.

(Authority: 38 U.S.C. 3241, 3691; Pub. L. 94-502, Pub. L. 101-366) (June 1, 1991)

[58 FR 46866, Sept. 3, 1993]

### COURSES

#### § 21.5250 Courses.

(a) In administering benefits payable under 38 U.S.C. chapter 32, VA and, where appropriate, the State approving agencies shall apply the following sections.

(1) Section 21.4250 (except paragraph (c)(1))—Course and licensing and certification test approval; jurisdiction and notices.

(2) Section 21.4251—Minimum period of operation requirement for educational institutions.

(3) Section 21.4252—Courses precluded; erroneous, deceptive, or misleading practices.