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(1) For pursuit of a course if approval of the enrollment in the course is precluded by §21.4252;

(2) For training in a foreign country unless the training is in the Philippines or is approved pursuant to the provisions of §21.4260;

(3) For pursuit of a course offered by open-circuit television, unless the eligible person's pursuit meets the requirements of §21.4233(c); or

(4) For pursuit of a course offered by independent study, unless the course is accredited, meets the requirements of §21.4253, and leads to a standard college degree.

(Authority: 38 U.S.C. 3523)

(e) *Commencing date.* In determining the commencing date of an award of educational assistance, VA will apply the provisions of §21.4131.

(Authority: 38 U.S.C. 5113)

[61 FR 26109, May 24, 1996, as amended at 73 FR 2424, Jan. 15, 2008]

§21.3131 Rates—educational assistance allowance—38 U.S.C. chapter 35.

(a) *Rates.* Except as provided in §21.3132, educational assistance allowance under 38 U.S.C. chapter 35 is payable at the following monthly rates—

(1) For training pursued after June 30, 2004, and before October 1, 2004:

Type of course	Monthly rate
Institutional:	
Full time	\$788.00
¾ time	592.00
½ time	394.00
Less than ½ but more than ¼ time ¹	394.00
¼ time or less ¹	197.00
Cooperative training (other than farm cooperative) (full time only).	788.00
Apprenticeship or on-job (full time only):²	
First six months	574.00
Second six months	429.00
Third six months	285.00
Fourth six months and thereafter	144.00
Farm cooperative:	
Full time	636.00
¾ time	477.00
½ time	319.00
Correspondence	55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly. ³

¹ If an eligible person under 38 U.S.C. chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed \$394.00 or \$197.00, as appropriate, per month, if the maximum allowance is not initially authorized.

² See footnote 5 of §21.4270(c) for measurement of full time and §21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.

³ Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is less. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.

(Authority: 38 U.S.C. 3532(a), 3542(a), 3687(b)(2), (d))

(2) For training pursued after September 30, 2004, and before October 1, 2005:

Type of course	Monthly rate
Institutional:	
Full time	\$803.00
¾ time	603.00
½ time	401.00
Less than ½ but more than ¼ time ¹	401.00
¼ time or less ¹	200.75
Cooperative training (other than farm cooperative) (full time only).	803.00
Apprenticeship or on-job (full time only):²	
First six months	585.00
Second six months	438.00
Third six months	291.00
Fourth six months and thereafter	147.00
Farm cooperative:	
Full time	648.00

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Type of course	Monthly rate
¾ time	486.00
½ time	325.00
Correspondence	55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly. ³

¹ If an eligible person under 38 U.S.C. chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed \$401.00 or \$200.75, as appropriate, per month, if the maximum allowance is not initially authorized.

² See footnote 5 of §21.4270(c) for measurement of full time and §21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.

³ Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is less. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.

(Authority: 38 U.S.C. 3532(a), 3542(a), 3687(b)(2), (d))

(3) For training pursued after September 30, 2005, and before October 1, 2006:

Type of course	Monthly rate
Institutional:	
Full time	\$827.00
¾ time	621.00
½ time	413.00
Less than ½ but more than ¼ time ¹	413.00
¼ time or less ¹	206.75
Cooperative training (other than farm cooperative) (full time only).	827.00
Apprenticeship or on-job (full time only):²	
First six months	650.00
Second six months	507.00
Third six months	366.00
Fourth six months and thereafter	151.00
Farm cooperative:	
Full time	667.00
¾ time	500.00
½ time	334.00
Correspondence	55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly. ³

¹ If an eligible person under 38 U.S.C. chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed \$413.00 or \$206.75, as appropriate, per month, if the maximum allowance is not initially authorized.

² See footnote 5 of §21.4270(c) for measurement of full time and §21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.

³ Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is less. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.

(Authority: 38 U.S.C. 3532(a), 3542(a), 3687(b)(2), (d))

(4) For training pursued after September 30, 2006, and before October 1, 2007:

Type of course	Monthly rate
Institutional:	
Full time	\$860.00
¾ time	645.00
½ time	429.00
Less than ½ but more than ¼ time ¹	429.00
¼ time or less ¹	215.00
Cooperative training (other than farm cooperative) (full time only).	860.00
Apprenticeship or on-job (full time only):²	
First six months	676.00
Second six months	527.00
Third six months	380.00
Fourth six months and thereafter	157.00
Farm cooperative:	
Full time	693.00
¾ time	520.00
½ time	347.00

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Type of course	Monthly rate
Correspondence	55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly. ³

¹ If an eligible person under 38 U.S.C. chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed \$429.00 or \$215.00, as appropriate, per month, if the maximum allowance is not initially authorized.

² See footnote 5 of § 21.4270(c) for measurement of full time and § 21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.

³ Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is less. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.

(Authority: 38 U.S.C. 3532(a), 3542(a), 3687(b)(2), (d))

(5) For training pursued after September 30, 2007, and before January 1, 2008:

Type of course	Monthly rate
Institutional:	
Full time	\$881.00
¾ time	661.00
½ time	439.00
Less than ½ but more than ¼ time ¹	439.00
¼ time or less ¹	220.25
Cooperative training (other than farm cooperative) (full time only).	881.00
Apprenticeship or on-job (full time only):²	
First six months	692.00
Second six months	540.00
Third six months	389.00
Fourth six months and thereafter	160.00
Farm cooperative:	
Full time	710.00
¾ time	533.00
½ time	355.00
Correspondence	55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly. ³

¹ If an eligible person under 38 U.S.C. chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed \$439.00 or \$220.25, as appropriate, per month, if the maximum allowance is not initially authorized.

² See footnote 5 of § 21.4270(c) for measurement of full time and § 21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.

³ Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is less. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.

(Authority: 38 U.S.C. 3532(a), 3542(a), 3687(b)(2), (d))

(6) For training pursued after December 31, 2007, and before October 1, 2008:

Type of course	Monthly rate
Institutional:	
Full time	\$881.00
¾ time	661.00
½ time	439.00
Less than ½ but more than ¼ time ¹	439.00
¼ time or less ¹	220.25
Cooperative training (other than farm cooperative) (full time only).	881.00
Apprenticeship or on-job (full time only):²	
First six months	641.00
Second six months	480.00
Third six months	317.00
Fourth six months and thereafter	160.00
Farm cooperative:	
Full time	710.00
¾ time	533.00
½ time	355.00

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Type of course	Monthly rate
Correspondence	55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly. ³

¹ If an eligible person under 38 U.S.C. chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed \$439.00 or \$220.25, as appropriate, per month, if the maximum allowance is not initially authorized.
² See footnote 5 of § 21.4270(c) for measurement of full time and § 21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.
³ Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is less. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.

(Authority: 38 U.S.C. 3532(a), 3542(a), 3687(b)(2), (d))

(7) For training pursued after September 30, 2008:

Type of course	Monthly rate
Institutional:	
Full time	\$915.00
¾ time	686.00
½ time	456.00
Less than ½ but more than ¼ time ¹	456.00
¼ time or less ¹	227.75
Cooperative training (other than farm cooperative) (full time only).	915.00
Apprenticeship or on-job (full time only):²	
First six months	666.00
Second six months	499.00
Third six months	329.00
Fourth six months and thereafter	166.00
Farm cooperative:	
Full time	737.00
¾ time	553.00
½ time	368.00
Correspondence	55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly. ³

¹ If an eligible person under 38 U.S.C. chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed \$456.00 or \$227.75, as appropriate, per month, if the maximum allowance is not initially authorized.
² See footnote 5 of § 21.4270(c) for measurement of full time and § 21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.
³ Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is less. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.

(Authority: 38 U.S.C. 3532(a), 3542(a), 3687(b)(2), (d))

(b) *Less than half time.* The monthly rate for an eligible person who is pursuing an institutional course on less than one-half time basis may not exceed the monthly rate of the cost of the course computed on basis of the total cost for tuition and fees which the school requires similarly circumstanced individuals enrolled in the same course to pay. “Cost of the course” does not include the cost of books or supplies which the student is required to purchase at his or her own expense.

(Authority: 38 U.S.C. 3532(a)(2))

(c) *Courses leading to a secondary school diploma or equivalency certificate.* The monthly rate of Survivors’ and Dependents’ Educational Assistance payable for an eligible person enrolled in a course leading to a secondary school diploma or equivalency certificate shall be the rate for institutional training stated in paragraph (a) of this section.

(Authority: 38 U.S.C. 3532(d), 3533)

(d) *Payments made to eligible persons in the Republic of the Philippines or to certain Filipinos.* When the eligible person is pursuing training at an institution

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located in the Republic of the Philippines or when an eligible child's entitlement is based on the service of a veteran in the Philippine Commonwealth Army, or as a Philippine Scout as defined in §3.40 (b), (c), or (d) of this chapter, payments of educational assistance allowance made after December 31, 1994, will be made at the rate of 50 cents for each dollar authorized.

(Authority: 38 U.S.C. 3532(d), 3565)

[61 FR 26110, May 24, 1996, as amended at 63 FR 67778, Dec. 9, 1998; 66 FR 32227, June 14, 2001; 68 FR 34321, June 9, 2003; 68 FR 37206, June 23, 2003; 69 FR 62207, Oct. 25, 2004; 73 FR 79647, Dec. 30, 2008]

§21.3132 Reductions in survivors' and dependents' educational assistance.

The monthly rates established in §21.3131 shall be reduced as stated in this section whenever the circumstances described in this section arise.

(a) *No educational assistance allowance for some incarcerated eligible persons.* VA will pay no educational assistance allowance to an eligible person who:

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

(2) Is enrolled in a course:

(i) For which there are no tuition or fees, or charges for books, supplies, and equipment; or

(ii) For which tuition and fees are being paid by a Federal program (other than one administered by VA) or by a State or local program, and the eligible person is incurring no charge for the books, supplies, and equipment necessary for the course.

(Authority: 38 U.S.C. 3532(e))

(b) *Reduced educational assistance allowance for some incarcerated eligible persons—felony conviction.* (1) VA will pay a reduced educational assistance allowance to an eligible person who:

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

(ii) Is enrolled in a course:

(A) For which the eligible person 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 eligible person to pay for books, supplies, and equipment.

(2) The monthly rate of educational assistance allowance payable to such an eligible person who is pursuing a course on a half-time or greater basis shall be the lesser of the following:

(i) The monthly rate of the tuition and fees that the eligible person must pay plus the monthly rate of the charge to the eligible person for the cost of necessary supplies, books, and equipment; or

(ii) The monthly rate stated in §21.3131.

(3) The monthly rate of educational assistance payable to such an eligible person who is pursuing the course on a less than half-time basis or on a one quarter-time basis shall be the lowest of the following:

(i) The monthly rate of the tuition and fees charged for the course;

(ii) The monthly rate of tuition and fees which the eligible person must pay plus the monthly rate of the charge to the eligible person for the cost of necessary supplies, books, and equipment; or

(iii) The monthly rate stated in §21.3131.

(Authority: 38 U.S.C. 3482(g))

(c) *Reduction in training assistance allowance.* (1) For any month in which an eligible person pursuing an apprenticeship or on-job training program fails to complete 120 hours of training, VA shall reduce the rate specified in §21.3131(a) proportionally. In this computation VA shall round the number of hours worked to the nearest multiple of eight.

(2) For the purpose of this paragraph *hours worked* include only:

(i) The training hours the eligible person worked; and

(ii) All hours of the eligible person's related training which occurred during the standard workweek and for which the eligible person received wages.

(Authority: 38 U.S.C. 3687(b)(3))

(d) *Mitigating circumstances.* (1) VA will not pay benefits to any eligible person for a course from which the eligible person withdraws or receives a