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by an eligible person who is concurrently engaged in agricultural employment which is relevant to such institutional course may be approved if the course meets the requirements of § 21.4264.

(e) *Contract.* All or part of the program of education of a school may be provided by another school or entity under contract. Such school or entity actually providing the training must obtain approval of the course from the State approving agency in the State having jurisdiction of that school or entity. If the course is a course of flight training, the school or entity actually providing the training must also obtain approval of the course from the Federal Aviation Administration. Measurement of the course and payment of an allowance will be appropriate for the course as offered by the school or entity actually providing the training.

(Authority: 10 U.S.C. 16136(c); 38 U.S.C. 3002(8), 3034(d), 3241(b), 3323(a), 3452(c), 3501(a)(6), 3675, 3676)

[31 FR 6774, May 6, 1966]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 21.4233, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 21.4234 Change of program.

(a) *Definition.* (1) Except as provided in paragraph (a)(2) of this section, a change of program consists of a change in the educational, professional, or vocational objective for which the veteran, reservist, or eligible person entered training.

(2) VA does not consider any of the following to be changes of program:

(i) A change in the type of courses needed to attain a vocational objective;

(ii) A change in the individual's educational, professional or vocational objective following the successful completion of the immediately preceding program of education;

(iii) A return to the individual's prior program of education following a change of program if the individual resumes training in the program without any loss of credit or standing in that program;

(iv) An enrollment in a new program of education when that program leads to a vocational, educational or professional objective in the same general field as the immediately preceding program of education; or

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241, 3323(a), 3691)

(v) An enrollment or reenrollment of a servicemember seeking to be paid tuition assistance top-up benefits to meet all or a portion of an educational institution's charges for education or training that the military department concerned has not covered under tuition assistance.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241, 3323(a), 3691)

(b) *Application.* A veteran, reservist, or eligible person may request a change of program by any form of communication. However, if the veteran, reservist, or eligible person does not furnish sufficient information to allow the Department of Veterans Affairs to process the request, the Department of Veterans Affairs will furnish the prescribed form for a change of program to him or her for completion.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241, 3323(a), 3691)

(c) *Optional change of program.* A spouse or surviving spouse eligible to receive educational assistance under 38 U.S.C. chapter 35 may make one optional change of program if his or her previous course was not interrupted due to his or her own misconduct, neglect, or lack of application.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241, 3323(a), 3691)

(d) *Other changes of program.* (1) The following changes of program may not be made solely at the option of the veteran, reservist, or eligible person. The Department of Veterans Affairs must approve them before paying educational assistance allowance:

(i) A second or subsequent change of program made by a veteran or eligible person other than a child receiving educational assistance under 38 U.S.C. chapter 35,

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(ii) An initial change of program made by a veteran or eligible spouse or surviving spouse if the first program was interrupted or discontinued due to his or her own misconduct, neglect or lack of application, or

(iii) Any change of program made by a child receiving educational assistance under 38 U.S.C. chapter 35.

(2) The Department of Veterans Affairs will approve a change of program listed in paragraph (d)(1) of this section if:

(i) The program of education which the veteran, reservist, or eligible person proposes to pursue is suitable to his or her aptitudes, interests and abilities,

(ii) In any instance where the veteran, reservist, or eligible person has interrupted, or failed to progress in his or her program due to his or her own misconduct, neglect or lack of application, there is a reasonable likelihood with respect to the program the veteran, reservist, or eligible person proposes to pursue that there will not be a recurrence of such an interruption or failure to progress, and

(iii) In the case of an eligible child receiving educational assistance under 38 U.S.C. chapter 35 the new program meets the criteria applicable to final approval of an original application. See § 21.4230.

(3) The Department of Veterans Affairs may approve a third or subsequent change of program if applicable conditions of paragraph (d)(2) of this section are met and the additional change or changes are necessitated by circumstances beyond the control of the veteran, reservist, or eligible person. Circumstances beyond the control of the veteran, reservist, or eligible person include, but are not limited to:

(i) The course being discontinued by the school when no other similar course leading to the same objective is available within normal commuting distance.

(ii) Unexpected financial difficulties preventing completion of the last program because of the overall cost of the program needed to reach the objective, or

(iii) The veteran, reservist, or eligible person being required to relocate because of health reasons in an area

where training for the last objective is not available within normal commuting distance.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241, 3323(a), 3691)

(4) Notwithstanding any provision of any other paragraph of this section, if a third or subsequent change of program occurs after May 31, 1991, VA will apply only the applicable provisions of paragraph (d)(2) of this section. If the applicable provisions of paragraph (d)(2) of this section are met, VA will approve the change of program. VA will not apply any of the provisions of paragraph (d)(3) of this section in determining whether the change of program should be approved.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241, 3323(a), 3691)

(e) *Adjustments; transfers.* A change in courses or places of training will not be considered a change of objective in the following instances:

(1) The pursuit of the first program is a prerequisite for entrance into and pursuit of a second program.

(2) A transfer from one school to another when the program at the second school leads to the same educational, professional or vocational objective, and does not involve a material loss of credit, or increase training time.

(3) Revision of a program which does not involve a change of objective or material loss of credit nor loss of time originally planned for completion of the veteran's or eligible person's program. For example, an eligible person enrolled for a bachelor of science degree may show a professional objective such as chemist, teacher or engineer. His or her objective for purposes of this paragraph shall be considered to be "bachelor degree" and any change of courses will be considered only an adjustment in the program, not a change, so long as the subjects he or she pursues lead to the bachelor degree and there is no extension of time in the attaining of that degree.

(Authority: 10 U.S.C. 510(h), 16136(b), 16166(b); 38 U.S.C. 3034(a), 3241, 3323(a), 3691)

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CROSS REFERENCE: *Counseling*. See § 21.4100.

(The Office of Management and Budget has approved the information collection provisions in this section under control numbers 2900–0074 and 2900–0099)

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§ 21.4235 Programs of education that include flight training.

VA will use the provisions of this section to determine whether an individual may be paid educational assistance for pursuit of flight training. See § 21.4263 for approval of flight courses for VA training.

(a) *Eligibility*. A veteran or service-member who is otherwise eligible to receive educational assistance under 38 U.S.C. chapter 30 or 32, or a reservist who is eligible for expanded benefits under 10 U.S.C. chapter 1606 as provided in § 21.7540(b), may receive educational assistance for flight training in an approved course provided that the individual meets the requirements of this paragraph. Except when enrolled in a ground instructor certification course or when pursuing flight training under paragraph (f) of this section, the individual must—

(1) Possess a valid private pilot certificate or higher pilot certificate such as a commercial pilot certificate;

(2) If enrolled in a course other than an Airline Transport Pilot (ATP) course, hold a second-class medical certificate on the first day of training and, if that course began before October 1, 1998, hold that certificate continuously during training; and

(3) If enrolled in an ATP certification course, hold a first-class medical certificate on the first day of training and, if that course began before October 1, 1998, hold that certificate continuously during training.

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

(b) *Approval of program*. VA may approve the individual's program of education as described on the individual's application if:

(1) The flight courses that constitute the program of education meet Federal Aviation Administration standards for such courses and the Federal Aviation Administration and the State approving agency approve them; and

(2) The flight training included in the program—

(i) Is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation; or

(ii) Is given by an educational institution of higher learning for credit toward a standard college degree that the individual is pursuing.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3002(3)(A), 3034(a), 3202(2)(A), 3241(a), 3241(b), 3452(b), 3680A(a)(3))

(c) *Pursuit of flight courses*. (1) VA will pay educational assistance to an eligible individual for an enrollment in a commercial pilot certification course leading to Federal Aviation Administration certification for a particular category even if the individual has a commercial pilot certificate issued by the Federal Aviation Administration for a different category, since each category represents a different vocational objective.

(2) VA will pay educational assistance to an eligible individual for an enrollment in an instrument rating course only if the individual simultaneously enrolls in a course required for a commercial pilot certificate for the category for which the instrument rating course is pursued or if, at the time of enrollment in the instrument rating course, the individual has a commercial pilot certificate issued by the Federal Aviation Administration for such category. The enrollment in an instrument rating course alone does not establish that the individual is pursuing a vocational objective, as required for VA purposes, since that rating equally may be applied to an individual's private pilot certificate, only evidencing an intent to pursue a non-vocational objective.

(3) VA will pay educational assistance to an eligible individual for an enrollment in a flight course other than an instrument rating course or a ground instructor course, including