

## Department of Veterans Affairs

## § 21.5835

### § 21.5831 Commencing date of subsistence allowance.

The commencing date of an award or increased award of subsistence allowance will be determined by this section

(a) *Entrance or reentrance.* Latest of the following dates:

(1) Date certified by school or establishment under paragraph (b) or (c) of this section.

(2) Date 1 year before the date of receipt of the application or enrollment certification.

(3) Date of reopened application under paragraph (d) of this section.

(4) In the case of a spouse, surviving spouse, or dependent child, the date that transfer of eligibility and entitlement to the individual was effective.

(Authority: 10 U.S.C. 2144)

(b) *Certification by the school-course leads to a standard college degree.* The date of registration or the date of reporting where the student is required by the school's published standard to report in advance of registration, but not later than the date the individual first reports for classes.

(Authority: 10 U.S.C. 2144)

(c) *Certification by school or establishment-course does not lead to a standard college degree.* First date of class attendance.

(Authority: 10 U.S.C. 2144(a))

(d) *Reopened application after abandonment.* Date of receipt in VA of application or enrollment certification, whichever is later.

(e) *Increase due to increased training time.* The date the school certifies the individual became a full-time student.

(f) *Liberalizing laws and administrative issues.* In accordance with facts found, but not earlier than the effective date of the act or administrative issue.

(Authority: 10 U.S.C. 2144)

(g) *Correction of military records.* When a veteran becomes eligible following correction or modification of military records under 10 U.S.C. 1552 or change, correction or modification of a discharge or dismissal under 10 U.S.C. 1553; or other competent military authority, the commencing date of sub-

sistence allowance will be in accordance with the facts found, but not earlier than the date the change, correction or modification was made by the service department.

(Authority: 10 U.S.C. 2142)

### § 21.5834 Discontinuance dates: General.

(a) *Educational assistance.* Although educational assistance is paid only once in a term, quarter, or semester, VA may discontinue it under the circumstances stated in § 21.5835. The discontinuance may cause an overpayment. (See also § 21.5838.) If the individual dies during an enrollment period, the provisions of § 21.5835(a) will apply, even if other types of discontinuances are involved. In all other cases where more than one type of reduction or discontinuance is involved, the earliest date found in § 21.5835 will control.

(Authority: 10 U.S.C. 2143)

(b) *Subsistence allowance.* The effective date of a reduction or discontinuance of subsistence allowance will be as specified in § 21.5835. If more than one type of discontinuance is involved, the earliest date will control.

(Authority: 10 U.S.C. 2144)

### § 21.5835 Specific discontinuance dates.

The following rules will govern reduction and discontinuance dates for educational assistance and subsistence allowance.

(a) *Death of individual.* If an individual dies—

(1) VA will discontinue educational assistance effective the last day of the most recent term, quarter, semester or enrollment period of which the individual received educational assistance.

(2) VA will discontinue subsistence allowance effective the individual's last date of attendance.

(Authority: 10 U.S.C. 2144)

(b) *Lump-sum payment.* When a servicemember accepts a lump-sum payment in lieu of educational assistance, VA will discontinue educational assistance effective the date on which he or

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she elects to receive the lump-sum payment.

(Authority: 10 U.S.C. 2146)

(c) *Reduction due to decreased training time.* (1) If a decrease in an individual's training time requires a decrease in educational assistance, the decrease is effective the end of the month in which the individual become a part-time student or the end of the term, whichever is earlier.

(2) When an individual decreases his or her training time from full-time to part-time, VA will decrease his or her subsistence allowance effective the end of the month in which the individual became a part-time student, or the end of the term, whichever is earlier.

(Authority: 10 U.S.C. 2143, 2144)

(d) *Course discontinued, interrupted, terminated or withdrawn from.* If an individual withdraws, discontinues, ceases to attend, interrupts or terminates all courses, VA will discontinue educational assistance and subsistence allowance effective the last date of attendance.

(Authority: 10 U.S.C. 2143)

(e) *False claim.* VA will discontinue educational assistance and subsistence allowance effective the first day of the term for which the false claim is submitted.

(Authority: 10 U.S.C. 2141)

(f) *Withdrawal of accreditation.* If an accrediting agency withdraws accreditation from a course in which an individual is enrolled, VA will discontinue educational assistance and subsistence allowance effective the end of the month in which the accrediting agency withdrew accreditation, or the end of the term, whichever is earlier.

(Authority: 10 U.S.C. 2143(c), 2144)

(g) *Remarriage of surviving spouse.* VA will discontinue educational assistance and subsistence allowance effective the last date of attendance before the date on which the surviving spouse remarries.

(Authority: 10 U.S.C. 2147(d))

(h) *Divorce.* If entitlement has been transferred to the veteran's or servicemember's spouse, and the spouse is subsequently divorced from the veteran or servicemember, the spouse's award of educational assistance and subsistence allowance will end on the last date of attendance before the divorce decree becomes final.

(Authority: 10 U.S.C. 2147(d))

(i) *Revocation of transfer.* If a veteran or servicemember revokes a transfer of entitlement, the spouse's or dependent child's award of educational assistance will end on the effective date of the revocation. See § 21.5743(e).

(Authority: 10 U.S.C. 2147)

(j) *Dependent child ceases to be dependent: veteran or servicemember living.* If a veteran or servicemember is living and has transferred entitlement to his or her dependent child who is not incapable of self support due to physical or mental incapacity, VA will discontinue the dependent child's award of educational assistance and subsistence allowance whenever the child does not meet the definition of a *dependent child* found in § 21.5720(c). The effective date of discontinuance is the earliest of the following:

(1) The child's 21st birthday, if on that date—

(i) The veteran or servicemember is not providing over one-half the child's support, or

(ii) The child is not enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense or the Secretary of Education, as the case may be;

(2) The date, following the child's 21st birthday, on which the veteran or servicemember stops providing over one-half the child's support;

(3) The date, following the child's 21st birthday, on which he or she is no longer enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense or the Secretary of Education, as the case may be;

(4) The child's 23rd birthday;

(5) the date the child marries.

(Authority: 10 U.S.C. 2147(d))

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(k) *Dependent child ceases to be dependent: veteran or servicemember deceased.* If a veteran or servicemember is deceased and his or her dependent child is not incapable of self support due to physical or mental incapacity, VA will discontinue the dependent child's award of educational assistance whenever the child does not meet the definition of a *dependent child* found in § 21.5720(c). The effective date of discontinuance is the earliest of the following:

(1) The day after the child's 21st birthday, if on that date the child is not enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense or the Secretary of Education, as the case may be;

(2) The date following the child's 21st birthday on which he or she is no longer enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense or the Secretary of Education, as the case may be;

(3) The child's 21st birthday; or

(4) The date the child marries.

(Authority: 10 U.S.C. 2147(d))

### § 21.5838 Overpayments.

(a) *Educational assistance.* If an individual receives educational assistance but the educational assistance must be discontinued according to § 21.5835, the amount of educational assistance attributable to the portion of the term, quarter or semester following the effective date of discontinuance shall constitute a debt due the United States.

(1) The amount of the debt is equal to the product of—

(i) The number of days the individual was entitled to receive subsistence allowance during the enrollment period for which educational assistance was paid, divided by the total number of days in that enrollment period, and

(ii) The amount of educational assistance provided for that enrollment period.

(2) Nothing in this method of calculation shall change the fact that the number of months of educational assistance to which the individual remains entitled shall always be the same as the number of months of sub-

sistence allowance to which the individual is entitled.

(Authority: 10 U.S.C. 2143)

(b) *Subsistence allowance.* If an individual receives subsistence allowance under any of the following conditions, the amount of that subsistence allowance shall constitute a debt due the United States unless the debt is waived as provided by §§ 1.955 through 1.970 of this chapter.

(1) Subsistence allowance received for courses pursued while on active duty;

(2) Subsistence allowance received for courses which are precluded under § 21.5800(b);

(3) Subsistence allowance received by a person who is not eligible for educational assistance under § 21.5740;

(4) Subsistence allowance received by an individual who has exhausted all entitlement provided under § 21.5742;

(5) Subsistence allowance received by an individual for a period before the commencing date determined by § 21.5831.

(6) Subsistence allowance received by an individual for a period following a discontinuance date determined by § 21.5835.

(7) Subsistence allowance received by an individual in excess of the part-time rate for a period following a reduction date determined by § 21.5835.

(Authority: 10 U.S.C. 2144)

### MEASUREMENT OF COURSES

#### § 21.5870 Measurement of courses.

(a) *Credit hour measurement: undergraduate, standard term.* An individual who enrolls in a standard quarter or semester for 12 undergraduate credit hours is a full-time student. An individual who enrolls in a standard quarter or semester for less than 12 undergraduate credit hours is a part-time student.

(Authority: 10 U.S.C. 2144(c))

(b) *Credit hour measurement: Undergraduate, nonstandard term.* (1) If an individual enrolls in a nonstandard term, quarter or semester, and the school measures the course on a credit-hour