

**Department of Veterans Affairs**

**§21.7639**

(2)(i) The monthly rate of basic educational assistance payable to a reservist for apprenticeship or other on-the-job training full time is payable at the following rates.

(A) For training which occurs after September 30, 2004, and before October 1, 2005:

Training	Monthly rate
First 6 months of pursuit of training .....	\$216.00
Second 6 months of pursuit of training .....	158.40
Remaining pursuit of training .....	100.80

(B) For training which occurs after September 30, 2005:

Training	Monthly rate
First 6 months of pursuit of training .....	\$252.45
Second 6 months of pursuit of training .....	193.05
Remaining pursuit of training .....	133.65

(ii) Full-time training will consist of the number of hours which constitute the standard workweek of the training establishment, but not less than 30 hours unless a lesser number of hours is established as the standard workweek for the particular establishment through bona fide collective bargaining between employers and employees.

(3) The monthly rate of basic educational assistance payable to a reservist for pursuit of a cooperative course is as follows:

(i) For full-time training that occurs after September 30, 2004, and before October 1, 2005, the rate payable is the rate stated in paragraph (a)(1)(i) of this section.

(ii) For full-time training that occurs after September 30, 2005, the rate payable is the rate stated in paragraph (a)(1)(ii) of this section.

(Authority: 10 U.S.C. 16131(b), (c); sec. 8203(b), Pub. L. 105-178, 112 Stat. 493-494)

(b) *Increase (“kicker”) in educational assistance rates.* (1) The Secretary of the military department concerned may increase the amount of educational assistance stated in paragraph (a) of this section that is payable to a reservist who has a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit, or, in the case of critical units, retain personnel.

(2) The Secretary of the military department concerned—

(i) Will set the amount of the increase (“kicker”) for full-time training, but the increase (“kicker”) may not exceed \$350 per month; and

(ii) May set the amount of the increase (“kicker”) payable, for a reservist pursuing a program of education less than full time or pursuing an apprenticeship or other on-job training, at an amount less than the amount described in paragraph (b)(2)(i) of this section.

(Authority: 10 U.S.C. 16131(i)(1))

(c) *Limitations on payments.* VA may withhold final payment until VA receives proof of the reservist’s enrollment and adjusts the reservist’s account.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3680(g))

[61 FR 29305, June 10, 1996, as amended at 62 FR 27964, May 22, 1997; 62 FR 55520, Oct. 27, 1997; 62 FR 66278, Dec. 18, 1997; 64 FR 26297, May 14, 1999; 65 FR 59127, Oct. 4, 2000; 65 FR 60499, Oct. 11, 2000; 66 FR 38937, July 26, 2001; 67 FR 6655, Feb. 13, 2002; 68 FR 42978, July 21, 2003; 69 FR 62205, Oct. 25, 2004; 72 FR 39563, July 19, 2007]

**§21.7639 Conditions which result in reduced rates or no payment.**

The payment of educational assistance at the monthly rates established in §21.7636 shall be subject to reduction, whenever the circumstances described in this section arise.

(a) *Withdrawals and nonpunitive grades.* (1) Withdrawal from a course or receipt of a nonpunitive grade affects payments to a reservist. VA will not pay benefits to a reservist for pursuit of a course from which the reservist withdraws or receives a nonpunitive grade which is not used in computing requirements for graduation unless the provisions of this paragraph are met.

(i) The reservist withdraws because he or she is ordered to active duty; or

(ii) Both of the following exist.

(A) There are mitigating circumstances, and

(B) The reservist submits a description of the circumstances in writing to VA either within one year from the date VA notifies the reservist that he or she must submit the mitigating circumstances, or at a later date if the reservist is able to show good cause why

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the one-year time limit should be extended to the date on which he or she submitted the description of the mitigating circumstances.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3471, 3680(a), 5101, 5113; Pub. L. 102-127) (Aug. 1, 1990))

(2) If VA considers that mitigating circumstances exist because the reservist withdrew during a drop-add period or because the withdrawal constitutes the first withdrawal of no more than six credits after May 31, 1989, the reservist is not subject to the reporting requirement found in paragraph (b)(1)(ii)(B) of this section.

(Authority: 10 U.S.C. 16130(b), 38 U.S.C. 3680(a)) (June 1, 1989)

(b) *No education assistance for some incarcerated reservists.* VA will pay no educational assistance to reservists who are incarcerated and who are training less than one-half time. In addition, VA will pay no educational assistance to a reservist who—

(1) Is incarcerated in 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 and fees, 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

(3) Is incurring no charge for the books, supplies and equipment necessary for the course.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3482(g); Pub. L. 98-525)

(c) *Reduced educational assistance for some incarcerated reservists.* (1) VA will pay reduced educational assistance to a reservist 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 reservist 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 for

which the reservist must pay for books, supplies and equipment.

(2) The monthly rate of educational assistance payable to such a reservist is the lesser of the following:

(i) The monthly rate of the portion of tuition and fees that are not paid by a Federal program (other than one administered by VA) or a State or local program plus the monthly rate of any charges to the reservist for the cost of necessary supplies, books and equipment, or

(ii) The monthly rate as stated in § 21.7636(a) and any increase payable under § 21.7636(b).

(3) In determining the monthly rate stated in paragraph (c)(2)(i) of this paragraph, VA will—

(i) Add the portion of tuition and fees that are not paid by a Federal program (other than one administered by VA) for the reservist's enrollment period to the total cost to the reservist for the cost of necessary supplies, books and equipment, and

(ii) Divide the figure obtained in paragraph (c)(3)(i) of this paragraph by the number of months and fractions of a month in the reservist's enrollment period.

(Authority: 10 U.S.C. 16131(i)(1), 16136(b); 38 U.S.C. 3482(g))

(d)(1) A reservist pursuing only independent study and whose enrollment begins after June 30, 1993, shall be paid educational assistance on the basis of his or her training time.

(2) No payments may be made to a reservist who is limited in the types of courses he or she may pursue, as provided in § 21.7540(b)(2) and (b)(3), and who is pursuing independent study unless he or she is concurrently pursuing one or more courses offered through resident training at an institution of higher learning.

(Authority: 10 U.S.C. 2131; 10 U.S.C. 2136(b); 38 U.S.C. 3532, 3532 note, 3680; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; secs. 642, 645 (a), (b), Pub. L. 101-189, 103 Stat. 1457-1458)

(e) *Payment for correspondence courses.* A reservist who is pursuing a correspondence course or the correspondence portion of a correspondence-residence course shall be paid 55 percent of

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the established charge which the educational institution requires non-reservists to pay for the lessons—

- (1) Which the reservist has completed;
- (2) Which the educational institution has serviced; and
- (3) For which payment is due.

(Authority: 10 U.S.C. 2131(f); sec. 642 (b), (d), Pub. L. 101-189, 103 Stat. 1456-1458)

(f) *Failure to work sufficient hours of apprenticeship and other on-job training.*

(1) For any calendar month in which a reservist pursuing an apprenticeship or other on-job training program fails to complete 120 hours of training, VA will reduce proportionally—

(i) The rates specified in § 21.7636(a)(2); and

(ii) Any increase set by the Secretary of the military department concerned as described in § 21.7636(b).

(2) In making the computations required by paragraph (f)(1) of this section, VA will round the number of hours worked to the nearest multiple of eight.

(3) For the purpose of this paragraph, hours worked include only—

(i) The training hours the reservist worked; and

(ii) All hours of the reservist's related training which occurred during the standard workweek and for which the reservist received wages. (See § 21.7636(a)(2)(ii) as to the requirements for full-time training.)

(Authority: 10 U.S.C. 2131(d)(2), 16131(i)(1); sec. 642 (b), (d), Pub. L. 101-189, 103 Stat. 1456-1458)

(g) *Flight training course.* A reservist who is pursuing a flight training course shall be paid 60 percent of the established charge for tuition and fees (other than tuition and fees charged for or attributable to solo flying hours) which the flight school requires similarly circumstanced nonreservists enrolled in the same course to pay.

(Authority: 10 U.S.C. 16131(g))

(h) *Membership in the Senior Reserve Officers' Training Corps.* A reservist may not receive educational assistance for any period for which he or she receives financial assistance under 10

U.S.C. 2107 as a member of the Senior Reserve Officers' Training Corps.

(Authority: 10 U.S.C. 16134)

(i) *Course not offered by an institution of higher learning or not leading to an identifiable educational, professional, or vocational objective.* A reservist who is limited in the types of courses he or she may pursue, as described in § 21.7540(b)(2) and (b)(3), may not receive educational assistance for instruction in a program of education unless it is offered at an institution of higher learning. The instruction must lead to an identifiable educational, professional, or vocational objective, but does not have to lead to a standard college degree.

(Authority: 10 U.S.C. 2131(b), 2136(b); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; secs. 642 (b)(1), (c), (d), 645(a), (b), Pub. L. 101-189, 103 Stat. 1456-1458)

[53 FR 34740, Sept. 8, 1988, as amended at 57 FR 57107, Dec. 3, 1992; 58 FR 51783, Oct. 5, 1993; 58 FR 65930, Dec. 17, 1993; 61 FR 29305, June 10, 1996; 61 FR 29482, June 11, 1996; 62 FR 55521, Oct. 27, 1997; 62 FR 55762, Oct. 28, 1997]

### § 21.7640 Release of payments.

(a) *Payments are dependent upon certifications, reports, and verifications of pursuit.* When certifications, reports, or verifications of pursuit are mentioned in this paragraph, the certifications, reports, and verifications of pursuit are to be made in the form prescribed by the Secretary of Veterans Affairs.

(1) VA will pay educational assistance to a reservist who is pursuing a standard college degree only after the educational institution has certified his or her enrollment.

(2) VA will pay educational assistance to a reservist who is pursuing a course not leading to a standard college degree (other than a correspondence course, a course of flight training, or an apprenticeship or other on-job training) only after:

(i) The educational institution has certified his or her enrollment in the form prescribed by the Secretary of Veterans Affairs; and

(ii) VA has received a report by the reservist, which report is endorsed by the educational institution, of—