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Vocational Rehabilitation and Education

Veterans Benefits Administration

Supplement No. 92

Covering period of *Federal Register* issues
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Custom Federal Regulations Service™

Supplemental Materials for *Book G*

Code of Federal Regulations

Title 38, Part 21

Vocational Rehabilitation and Education

Veterans Benefits Administration

Supplement No. 92

5 June 2019

Covering the period of Federal Register issues
through June 1, 2019

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**Book G, Supplement No. 92
June 1, 2019**

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HIGHLIGHTS

Book G, Supplement No. 92 June 1, 2019

Supplement Highlights references: Where substantive changes are made in the text of regulations, the paragraphs of *Highlights* sections are cited at the end of the relevant section of text. Thus, if you are reading §3.263, you will see a note at the end of that section which reads: “Supplement *Highlights* references—6(2).” This means that paragraph 2 of the *Highlights* section in Supplement No. 6 contains information about the changes made in §3.263. By keeping and filing the *Highlights* sections, you will have a reference source explaining all substantive changes in the text of the regulations.

Supplement frequency: This Book G (*Rehabilitation and Education*) was originally supplemented six times a year, in February, April, June, August, October, and December. Beginning 1 August 1995, supplements will be issued *every month* during which a final rule addition or modification is made to the parts of Title 38 covered by this book. Supplements will be numbered consecutively as issued.

Modifications in this supplement include the following:

1. On 17 May 2019, the VA published a final rule, effective that same day, to amend its regulations regarding the monthly rates payable for the following educational assistance programs: Montgomery GI Bill--Active Duty (MGIB-AD), Montgomery GI Bill--Selected Reserve (MGIB-SR), and Survivors' and Dependents' Educational Assistance (DEA). Instead of publishing the monthly rates in regulations, VA will continue to publish the monthly rates annually on VA's Education Service rate tables website. This website publication provides the public with timely notification of the annual changes to monthly rates. Changes:

- In §21.3131, revised the section heading and paragraph (a),
- In §21.7136, revised paragraphs (b) and (c); added paragraph (i),
- In §21.7636, revised paragraph (a).



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§21.3001 Delegation of authority.

Except as otherwise provided, authority is delegated to the Under Secretary for Benefits and to supervisory or administrative personnel within the jurisdiction of the Education Service, Veterans Benefits Administration, designated by him or her to make findings and decisions under 38 U.S.C. chapter 35 and the applicable regulations, precedents and instructions, as to the program authorized by this subpart. (Authority: 38 U.S.C. 512(a))

[61 FR 26108, May 24, 1996]

Supplement *Highlights* reference: 27(1)

§21.3131 Rates of payment.(a) *Rates.*

(1) VA will publish the monthly rates of basic educational assistance allowance payable under paragraph (a)(2) of this section on the GI Bill education and training website each time there is an increase in the rates.

(2) Except as provided in §21.3132, the monthly rate of basic educational assistance allowance payable to an eligible person, as defined in §21.3021, will be the applicable rate provided in 38 U.S.C. 3532, 3686 or 3687, as increased each fiscal year in accordance with 38 U.S.C. 3564 and 3687(d). The rate of pursuit will be determined in accordance with §21.4270. (Authority: 38 U.S.C. 3532, 3534, 3564, 3686, 3687)

(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 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 §3.8 (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 26109, 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; 84 FR 22372, May 17, 2019]

Supplement *Highlights* references: 27(1), 41(1), 55(2), 62(1), 66(2), 80(1), 92(1).

Reserved

§21.7136 Rates of payment of basic educational assistance.

The monthly rate of educational assistance payable to a veteran or servicemember depends in part upon the service requirements he or she met to establish eligibility for that educational assistance.

(a) *Service requirements for higher rates.* The monthly rate of basic educational assistance payable to a veteran or servicemember shall be the rate stated in paragraph (b) of this section when:

(1) The veteran has established eligibility for educational assistance under §21.7045; or

(2) The veteran has established eligibility under §21.7042, and one of the following sets of circumstances exist.

(i) The veteran's qualifying obligated period of active duty is at least three years; or

(ii) The veteran's qualifying obligated period of active duty is at least two years and less than three years and either the veteran has served or is committed to serve in the Selected Reserve for a period of at least four years, or the veteran was committed to serve in the Selected Reserve for a period of at least four years but failed to complete four years service for one of the reasons stated in §21.7042(b)(7)(i) or (iii); or

(iii) The veteran's qualifying obligated period of active duty is at least two years and less than three years and:

(A) The basic educational assistance is payable for training received after August 31, 1993;

(B) The veteran's continuous active duty service beginning on the date of the commencement of his or her qualifying obligated period of active duty is at least three years and upon completion of that continuous period of active duty the veteran either:

(1) Continues on active duty; or

(2) Is discharged from active duty with an honorable discharge; or

(3) Is released after service on active duty characterized by the Secretary concerned as honorable service and is placed on the retired list, transferred to the Fleet Reserve or the Fleet Marine Corps Reserve, placed on the temporary disability retired list; or

(4) Is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service. (Authority: 38 U.S.C. 3015(a))

(b) Rates for veterans whose service is described in paragraph (a) of this section—

(1) *Institutional training (full-time rate of pursuit)*. Except as elsewhere provided in this section or in §21.7139, the monthly rate of basic educational assistance payable to a veteran whose service is described in paragraph (a) of this section and who is pursuing full-time institutional training will be the applicable rate provided in 38 U.S.C. 3015(a), as increased each fiscal year in accordance with 38 U.S.C. 3015(h).

(2) *Institutional training (less than full-time rate of pursuit)*. Except as elsewhere provided in this section or in §21.7139, the monthly rate of basic educational assistance payable to a veteran whose service is described in paragraph (a) of this section and who is pursuing less than full-time institutional training, as determined in accordance with §21.4270, will be the full-time rate described in paragraph (b)(1) of this section reduced proportionately based on the rate of pursuit in accordance with the following:

Table 1 to Paragraph (b)(2)

Training	Percentage of full-time monthly rate
¾ time	75
½ time	50
Less than ½ time but more than ¼ time	50
¼ time	25

(3) *Apprenticeship or other on-job training*. The monthly rate of basic educational assistance payable to a veteran whose service is described in paragraph (a) of this section and who is pursuing apprenticeship or other on-job training will be the full-time rate described in paragraph (b)(1) of this section reduced in accordance with the following:

Table 2 to Paragraph (b)(3)

Training period	Percentage of full-time monthly rate
First six months of training	75
Second six months of training	55
Remaining pursuit of training	35

(4) *Cooperative training.* Except as elsewhere provided in this section or in §21.7139, the monthly rate of basic educational assistance payable to a veteran whose service is described in paragraph (a) of this section and who is pursuing cooperative training will be the full-time rate described in paragraph (b)(1) of this section. (Authority: 38 U.S.C. 3015, 3032(c))

(c) *Rates for some veterans whose qualifying obligated period of active duty is less than three years.* If a veteran has established eligibility under §21.7042, but the veteran's service is not described in paragraph (a)(2) of this section, the monthly rate of educational assistance payable to the veteran will be determined by this paragraph (c).

(1) *Institutional training (full-time rate of pursuit).* Except as elsewhere provided in this section or in §21.7139, the monthly rate of basic educational assistance payable to a veteran whose service is described in paragraph (c) of this section, and who is pursuing full-time institutional training, will be the applicable rate provided in 38 U.S.C. 3015(b)(1), as increased each fiscal year in accordance with 38 U.S.C. 3015(h).

(2) *Institutional training (less than full-time rate of pursuit).* Except as elsewhere provided in this section or in §21.7139, the monthly rate of basic educational assistance payable to a veteran whose service is described in paragraph (c) of this section and who is pursuing less than full-time institutional training, as determined in accordance with §21.4270, will be the full-time rate described in paragraph (c)(1) of this section reduced proportionately based on the rate of pursuit in accordance with the following:

Table 3 to Paragraph (c)(2)

Training	Percentage of full-time monthly rate
¾ time	75
½ time	50
Less than ½ time but more than ¼ time	50
¼ time	25

(3) *Apprenticeship or other on-job training.* The monthly rate of basic educational assistance payable to a veteran whose service is described in paragraph (c) of this section and who is pursuing of apprenticeship or other on-job training will be the full-time rate described in paragraph (c)(1) of this section reduced in accordance with the following:

Table 4 to Paragraph (c)(3)

Training period	Percentage of full-time monthly rate
First six months of training	75
Second six months of training	55
Remaining pursuit of training	35

(4) *Cooperative training.* Except as elsewhere provided in this section or in §21.7139, the monthly rate of basic educational assistance payable to a veteran whose service is described in paragraph (c) of this section and who is pursuing cooperative training will be the full-time rate described in paragraph (c)(1) of this section. (Authority: 38 U.S.C. 3015, 3032(c))

(d) *Increase in basic educational assistance rates (“kicker”).* The Secretary concerned may increase the amount of basic educational assistance payable to an individual who has a skill or specialty which the Secretary concerned designates as having a critical shortage of personnel or for which it is difficult to recruit. The amount of the increase is set by the Secretary concerned, but (except as provided in paragraphs (f) and (g) of this section):

(1) For individuals, who first become members of the Armed Forces before November 29, 1989, (other than those pursuing cooperative training before October 9, 1996, or apprenticeship or other on-job training) it may not exceed:

- (i) \$400 per month for full-time training,
- (ii) \$300 per month for three-quarter-time training,
- (iii) \$200 per month for one-half-time training, or for training which is less than one-half, but more than one-quarter-time, or
- (iv) \$100 per month for one-quarter-time training or less.

(2) For individuals, who become members of the Armed Forces during the period beginning November 29, 1989 and ending September 30, 1998 (other than those pursuing cooperative training before October 9, 1996, or apprenticeship or other on-job training), it may not exceed:

- (i) \$700 per month for full-time training,
- (ii) \$525 per month for three-quarter-time training,
- (iii) \$350 per month for one-half-time training or for training which is less than one-half, but more than one-quarter-time, or
- (iv) \$175 per month for one-quarter-time training or less.

(3) For individuals, who first become members of the Armed Forces after September 30, 1998, (other than those pursuing apprenticeship or other on-job training), it may not exceed:

- (i) \$950.00 per month for full-time training,
- (ii) \$712.50 per month for three-quarter-time training,
- (iii) \$475.00 per month for one-half-time training or for training which is less than one-half, but more than one-quarter-time, or
- (iv) \$237.50 per month for one-quarter-time training or less. (Authority: 38 U.S.C. 3015, 3032)

(4) For individuals who first become members of the Armed Forces before November 29, 1989, and who are pursuing an apprenticeship or other on-job training, the increase may not exceed the rates shown below:

(i) During the first 6 months of training the increase may not exceed \$300 per month, except that during the period October 1, 2005, through December 31, 2007, for training that occurs during that period, the increase may not exceed \$340 per month.

(ii) During the second 6 months of training the increase may not exceed \$220 per month, except that during the period October 1, 2005, through December 31, 2007, for training that occurs during that period, the increase may not exceed \$260 per month.

(iii) During the remaining months of training the increase may not exceed \$140 per month, except that during the period October 1, 2005, through December 31, 2007, for training that occurs during that period, the increase may not exceed \$180 per month.

(5) For individuals who first become members of the Armed Forces during the period beginning November 29, 1989, and ending September 30, 1998, and who are pursuing an apprenticeship or other on-job training, the increase may not exceed the rates shown below:

(i) During the first 6 months of training the increase may not exceed \$525 per month, except that during the period October 1, 2005, through December 31, 2007, for training that occurs during that period, the increase may not exceed \$595 per month.

(ii) During the second 6 months of training the increase may not exceed \$385 per month, except that during the period October 1, 2005, through December 31, 2007, for training that occurs during that period, the increase may not exceed \$455 per month.

(iii) During the remaining months of training the increase may not exceed \$245 per month, except that during the period October 1, 2005, through December 31, 2007, for training that occurs during that period, the increase may not exceed \$315 per month.

(6) For individuals who first become members of the Armed Forces after September 30, 1998, and who are pursuing apprenticeship or other on-job training, the increase may not exceed the rates shown below:

(i) During the first 6 months of training the increase may not exceed \$712.50 per month, except that during the period October 1, 2005, through December 31, 2007, for training that occurs during that period, the increase may not exceed \$807.50 per month.

(ii) During the second 6 months of training the increase may not exceed \$522.50 per month, except that during the period October 1, 2005, through December 31, 2007, for training that occurs during that period, the increase may not exceed \$617.50 per month.

(iii) During the remaining months of training the increase may not exceed \$332.50 per month, except that during the period October 1, 2005, through December 31, 2007, for training that occurs during that period, the increase may not exceed \$427.50 per month. (Authority: 38 U.S.C. 3015, 3032; §103, Pub. L. 108-454, 118 Stat. 3600)

(7) For individuals who first become members of the Armed Forces before November 29, 1989, and who are pursuing cooperative training, it may not exceed \$320 per month for training received before October 9, 1996.

(8) For individuals who first become members of the Armed Forces after November 28, 1989, and who are pursuing cooperative training, it may not exceed \$560 per month for training received before October 9, 1996. (Authority: §108(a)(2), Pub. L. 100-689, 102 Stat. 4170; §5(a), Pub. L. 102-83, 105 Stat. 406)

(e) *Less than one-half-time training and rates for servicemembers.* Except as provided in paragraph (g) or (h) of this section, the monthly rate for a veteran who is pursuing a course on a less than one-half-time basis or the monthly rate for a servicemember who is pursuing a program of education is the lesser of:

(1) The monthly rate stated in either paragraph (b) or (c) of this section (as determined by the veteran's or servicemember's initial obligated period of active duty) plus any additional amounts that may be due under paragraph (d) or (f) of this section, or

(2) The monthly rate of the cost of the course. If there is no cost for the course, educational assistance is not payable. (Authority: 38 U.S.C. 3015, 3032)

(f) *Increase in basic educational assistance rates ("kicker") for those eligible under §21.7045.* A veteran who formerly was eligible to receive educational assistance under 38 U.S.C. ch. 32, and becomes eligible for educational assistance under 38 U.S.C. ch. 30 as described in §21.7045(b)(1)(ii), (c)(1)(ii), (d), or (e) may receive an increase in basic educational assistance allowance (kicker). The increase will be determined as follows.

(1) The basis of the increase will be that portion of the amount of money:

(i) Which remains in the VEAP fund after the veteran has been paid all assistance due him or her under 38 U.S.C. ch. 32 and refunded all of his or her contributions to the VEAP fund, and

(ii) Which represents the Secretary of Defense's additional contributions for the veteran as stated in §21.5132(b)(3) of this part.

(2) For a student pursuing a program of education by residence training:

(i) VA will determine the monthly rate of the increase by dividing the amount of money described in paragraph (f)(1) of this section by the number of months of entitlement to educational assistance under 38 U.S.C. chapter 30 which the veteran has at the time his eligibility for benefits under 38 U.S.C. chapter 30 is first established;

(ii) VA will use the monthly rate of the increase determined in paragraph (f)(2)(i) of this section if the veteran is pursuing his or her program full time;

(iii) VA will multiply the monthly rate determined by paragraph (f)(2)(i) of this section by .75 for a student pursuing his or her program three-quarter time;

(iv) VA will multiply the monthly rate determined by paragraph (f)(2)(i) of this section by .5 for a student pursuing his or her program half time; and

(v) VA will multiply the monthly rate determined by paragraph (f)(2)(i) of this section by .25 for a student pursuing his or her program less than one-half time.

(3) For a veteran pursuing cooperative training VA will multiply the rate determined by paragraph (f)(2)(i) of this section by .8 for training received before October 9, 1996.

(4) For a veteran pursuing a program of apprenticeship or other on-job training:

(i) During periods before October 1, 2005, and after December 31, 2007, VA will multiply the monthly rate determined by paragraph (f)(2)(i) of this section:

(A) By .75 for a veteran in the first six months of pursuit of training,

(B) By .55 for a veteran in the second six months of pursuit of training, or

(C) By .35 for a veteran in the remaining months of pursuit of training.

(ii) During the period beginning October 1, 2005, and ending December 31, 2007, VA will multiply the monthly rate determined by paragraph (f)(2)(i) of this section:

- (A) By .85 for a veteran in the first six months of pursuit of training,
- (B) By .65 for a veteran in the second six months of pursuit of training, or
- (C) By .45 for a veteran in the remaining months of pursuit of training. (Authority: 38 U.S.C. 3015(e); §103, Pub. L. 108-454, 118 Stat. 3600)

(g) *Increase (“kicker”) in basic educational assistance rates payable for service in the Selected Reserve.*

(1) The Secretary of the service department concerned may increase the amount of basic educational assistance payable under paragraph (b), (c), (d), (e), or (f) of this section, as appropriate. The increase (“kicker”) is payable to an individual, 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, if the individual:

- (i) Establishes eligibility for education under §§21.7042(a), 21.7045, or 21.7080; and
- (ii) Meets the criteria of §21.7540(a)(1) with respect to service in the Selected Reserve.

(2) The Secretary of the military department concerned:

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

(h) *Increase in monthly rates due to contributions.* Effective May 1, 2001, a servicemember who establishes eligibility under §21.7042(a), (b), or (c) may contribute up to \$600 to the Secretary of the military department concerned in multiples of \$20.

(1) VA will increase the monthly rate provided in paragraphs (b)(1) through (b)(4) and (c)(1) through (c)(4) of this section by:

- (i) \$5 for every \$20 an individual pursuing a program of education full time has contributed;

- (ii) \$3.75 for every \$20 an individual pursuing a program of education three-quarter time has contributed;
- (iii) \$2.50 for every \$20 an individual pursuing a program of education half time or less than one-half time but more than one-quarter time has contributed; and
- (iv) \$1.25 for every \$20 an individual pursuing a program of education one-quarter time has contributed.

(2) If a veteran is pursuing apprenticeship or other on-job training:

(i) During periods before October 1, 2005, and after December 31, 2007, VA will increase the veteran's monthly educational assistance that is otherwise payable:

- (A) During the first 6 months of pursuit of training, by \$3.75 for every \$20 the veteran contributed,
- (B) During the second 6 months of pursuit of training, by \$2.75 for every \$20 the veteran contributed, or
- (C) During the remaining months of the veteran's pursuit of training, by \$1.75 for every \$20 the veteran contributed.

(ii) During the period beginning October 1, 2005, and ending December 31, 2007, VA will increase the veteran's monthly educational assistance that is otherwise payable:

- (A) During the first 6 months of pursuit of training, by \$4.25 for every \$20 the veteran contributed,
- (B) During the second 6 months of pursuit of training, by \$3.25 for every \$20 the veteran contributed, or
- (C) During the remaining months of the veteran's pursuit of training, by \$2.25 for every \$20 the veteran contributed.

(3) VA will increase the monthly rate provided in paragraphs (b)(9) or (c)(9) of this section by \$5 for every \$20 the veteran has contributed. (Authority: 38 U.S.C. 3015(g); §103, Pub. L. 108-454, 118 Stat. 3600)

(i) *Publication of monthly rates.* VA will publish the monthly rates of basic educational assistance payable under this section on the GI Bill education and training website each time there is an increase in the rates.

[55 FR 28386, July 11, 1990, as amended at 55 FR 50324, Dec. 6, 1990; 56 FR 20135, May 2, 1991; 57 FR 11911, April 8, 1992; 57 FR 57104, Dec. 3, 1992; 59 FR 24053, May 10, 1994; 61 FR 6788, Feb. 22, 1996; 61 FR 15191, Apr. 5, 1996; 61 FR 24237, May 14, 1996; 62 FR 14824, Mar. 28, 1997; 62 FR 55519, Oct. 27, 1997; 62 FR 58655, Oct. 30, 1997; 64 FR 31694, June 14, 1999; 65 FR 44980, July 20, 2000; 65 FR 55193, Sept. 13, 2000; 66 FR 32228, June 14, 2001; 68 FR 34322, June 9, 2003; 68 FR 34331, June 9, 2003; 68 FR 37206, June 23, 2003; 69 FR 74978, Dec. 15, 2004; 71 FR 75677, Dec. 18, 2006; 72 FR 19383, Apr. 18, 2007; 73 FR 65265, Nov. 3, 2008; 845 FR 22373, May 17, 2019]

Supplement *Highlights* references: 12(3), 23(1), 25(2), 26(2), 30(1), 35(1, 3), 43(1), 51(1), 55(2), 62(1,2), 67(1), 71(2), 72(1), 73(2), 79(1), 92(1).

(v) *Independent study course loses accreditation.* If the reservist is enrolled in a course offered in whole or in part by independent study, and the course loses its accreditation (or the educational institution offering the course loses its accreditation), the date of reduction or discontinuance will be the effective date of the withdrawal of accreditation by the accrediting agency, unless the provisions of §21.7620 (c)(3) or (c)(4) apply. (Authority: 10 U.S.C. 16136; 38 U.S.C. 3680A(a)(4))

(w) [Removed and reserved]

(x) *Reduction following loss of increase (“kicker”).* If a reservist is entitled to an increase (“kicker”) in the monthly rate of basic educational assistance as provided in §21.7636(b) and loses that entitlement, the effective date for the reduction in the monthly rate payable is the date, as determined by the Secretary of the military department concerned, that the reservist is no longer entitled to the increase (“kicker”). (Authority: 10 U.S.C. 16131)

(y) *Election to receive educational assistance under 38 U.S.C. chapter 30.* VA shall terminate educational assistance effective the first date for which the reservist received educational assistance when:

(1) The service that formed a basis for establishing eligibility for educational assistance under 10 U.S.C. chapter 1606 included a period of active duty as described in §21.7020(b)(1)(iv); and

(2) The reservist subsequently made an election, as described in §21.7042(a)(7) or (b)(10), to become entitled to basic educational assistance under 38 U.S.C. chapter 30. (Authority: §107, Pub. L. 104-275, 110 Stat. 3329-3330)

(z) *Except as otherwise provided.* If the reservist’s educational assistance must be discontinued for any reason other than those stated in the other paragraphs of this section, VA will determine the date of discontinuance of payment of educational assistance on the basis of facts found. (Authority: 38 U.S.C. 5112(a), 5113; Pub. L. 98-525)

[53 FR 34740, Sept. 8, 1988, as amended at 57 FR 57106, Dec. 3, 1992; 58 FR 51783, Oct. 5, 1993; 61 FR 20729, May 8, 1996; 61 FR 29304, June 10, 1996; 62 FR 55520, Oct. 27, 1997; 63 FR 35837, July 1, 1998; 65 FR 5788, Feb. 7, 2000; 65 FR 61101, Oct. 16, 2000; 66 FR 38939, July 26, 2001; 72 FR 39563, July 19, 2007]

Supplement *Highlights* references: 9(2), 27(4), 35(1), 39(4), 47(1), 54(1), 56(2), 76(1).

§21.7636 Rates of payment.

(a) *Monthly rate of educational assistance.* VA will publish the monthly rates of basic educational assistance payable under this section on the GI Bill education and training website each time there is an increase in the rates.

(1) *Institutional training.* Except as otherwise provided in this section or in §21.7639, the monthly rate of basic educational assistance payable to a reservist pursuing institutional training will be the applicable rate provided in 10 U.S.C. 16131(b)(1), as increased each fiscal year in accordance with 10 U.S.C. 16131(b)(2). The rate of pursuit will be determined in accordance with §21.4270.

(2) *Apprenticeship and other on-the-job training.*

(i) The monthly rate of basic educational assistance payable to a reservist pursuing apprenticeship or other on-the-job training will be a percentage of the full-time rate determined in paragraph (a)(1) of this section. In accordance with 10 U.S.C. 16131(d)(1), VA will determine the monthly rate payable by multiplying the full-time monthly rate payable to the reservist by the applicable percentage based on the reservist's training period as follows:

Table 1 to Paragraph (a)(2)(i)

Training period	Percentage of full-time monthly rate
First six months of training	75
Second six months of training	55
Remaining pursuit of training	35

(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) *Cooperative training.* The monthly rate of basic educational assistance payable to a reservist pursuing cooperative training will be equal to the applicable full-time monthly rate determined in paragraph (a)(1) of this section. (Authority: 10 U.S.C. 16131)

(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))

[53 FR 34740, Sept. 8, 1988, as amended at 57 FR 57107, Dec. 3, 1992; 61 FR 20729, May 8, 1996; 61 FR 29305, June 10, 1996; 62 FR 27963, 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; 84 FR 2273, May 17, 2019]

Supplement *Highlights* references: 27(4), 31(1), 35(1), 36(3), 42(2), 51(3), 56(1), 57(1), 63(1), 66(1), 76(1), 92(1).

Next Section is §21.7639

§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 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. 16136(b), 38 U.S.C. 3680(a)) (Jun. 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