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Title 38, Part 21

*Vocational Rehabilitation and Education*

**Veterans Benefits Administration**

Supplement No. 94

Covering period of *Federal Register* issues  
through October 1, 2020

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# GENERAL INSTRUCTIONS

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## **Supplemental Materials for *Book G***

**Code of Federal Regulations**

**Title 38, Part 21**

*Vocational Rehabilitation and Education*

## **Veterans Benefits Administration**

**Supplement No. 94**

5 October 2020

Covering the period of Federal Register issues  
through October 1, 2020

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## FILING INSTRUCTIONS

**Book G, Supplement No. 94  
October 1, 2020**

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21.4138-3 to 21.4318-6	21.4138-3 to 21.4318-6	§§21.4138
21.5132-1 to 21.5134-1	21.5132-1 to 21.5134-1	§§21.5133
21.7140-1 to 21.7140-4	21.7140-1 to 21.7140-4	§§21.7140
21.7639-4 to 21.7642-1	21.7639-4 to 21.7642-1	§§21.7640

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## HIGHLIGHTS

### Book G, Supplement No. 94 October 1, 2020

**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 21 September 2020, the VA published a final rule, effective 21 October 2020, to amend its regulations that contain the requirements for certification of attendance at on-the-job training and apprenticeship programs. This final rule adopts without change a proposed rule implementing a section of the “Veterans Apprenticeship and Labor Opportunity Reform Act” (VALOR Act), which eliminated the requirement that veterans and other eligible persons certify attendance at an on-the-job or apprentice training program prior to disbursement of a training assistance allowance. This final rule also eliminates the certification requirement for trainees in a program of apprenticeship or on-the-job training under chapter 30 of title 38, United States Code. Changes:

- In §21.4138, revised paragraph (e)(2)(ii);
- In §21.5133, revised paragraph (b)(2);
- In §21.7140, revised paragraph (c)(2)(ii); and
- In §21.7640, revised paragraph (a)(3)(iii).



(i) The educational institution has certified his or her enrollment as provided in §21.4203; and

(ii) VA has received from the individual a verification of the individual's enrollment or verification of pursuit and continued enrollment, as appropriate. Generally, this verification will be required monthly, resulting in monthly payments.

(2) VA will pay educational assistance to an individual pursuing a program of apprenticeship or other on-job training only after:

(i) The training establishment has certified his or her enrollment in the training program as provided in §21.4203; and

(ii) VA has received from the training establishment a certification of hours worked.

(3) VA will pay educational assistance to an individual who is pursuing a correspondence course only after:

(i) The educational institution has certified his or her enrollment;

(ii) VA has received from the individual a certification as to the number of lessons completed and serviced by the educational institution; and

(iii) VA has received from the educational institution a certification or an endorsement on the individual's certificate, as to the number of lessons completed by the individual and serviced by the educational institution. (Authority: 38 U.S.C. 5113, 3680(b), 3680(c), 3680(g))

(f) *Payment for intervals and temporary school closings.* VA may authorize payment for an interval or for a temporary school closing that occurs within a certified enrollment period. If a school closing that is or may be temporary occurs during an interval, VA will apply any applicable provisions in paragraphs (f)(1) through (f)(5) of this section concerning intervals and in paragraph (f)(6) of this section concerning temporary school closings. For the purposes of this paragraph, interval means a period without instruction between consecutive school terms, quarters, or semesters or a period without instruction between a summer term and a term, quarter, or semester. (See definitions of divisions of the school year in §21.4200(b).)

(1) *Payment for intervals.* In determining whether a student will be paid for an interval, VA will first review the provisions of paragraph (f)(2) of this section. If none of the provisions apply, VA will review the provisions of paragraphs (f)(3), (f)(4), and (f)(5) of this section to determine if payments may be made for the interval. In determining the length of a summer term, VA will disregard a fraction of a week consisting of 3 days or less, and will consider 4 days or more to be a full week.

(2) *Restrictions on payment for intervals.* VA will make no payment for an interval if:

(i) The student is training at less than the half-time rate on the last day of training during the term, quarter, semester, or summer term preceding the interval;

(ii) The student is on active duty;

(iii) The student requests, prior to authorization of an award or prior to negotiating the check, that no benefits be paid for the interval period;

(iv) The student's entitlement applicable to such payment will be exhausted by receipt of such payment, and it is to the advantage of the student not to receive payment;

(v) The interval occurs between school years at a school that is not organized on a term, quarter, or semester basis,

(vi) The student withdraws from all courses in the term, quarter, semester, or summer session preceding the interval, or discontinues training before the scheduled start of an interval in a school not organized on a term, quarter, or semester basis; or

(vii) The student receives an accelerated payment for the term, quarter, semester, or summer session preceding the interval.

(3) *Payment for interval between periods of enrollment at different schools.* If the student transfers from one approved school for the purpose of enrolling in and pursuing a similar course at the second school, VA may make payments for an interval that does not exceed 30 days. If the student does not enroll in a similar course at the second school, VA may not make payments for the interval.

(4) *Payment for intervals that occur at the same school.*

(i) If the student remains enrolled at the same school, VA may make payment for an interval which does not exceed 8 weeks and which occurs between:

(A) Semesters or quarters,

(B) A semester or quarter and a term that is at least as long as the interval,

(C) A semester or quarter and a summer term that is at least as long as the interval,

(D) Consecutive terms (other than semesters or quarters) provided that both terms are at least as long as the interval, or

(E) A term and summer term provided that both the term and the summer term are at least as long as the interval.

(ii) If the student remains enrolled at the same school, VA may make payment for an interval that does not exceed 30 days and that occurs between summer sessions within a summer term. (Authority: 38 U.S.C. 3680)

(5) *Payment for intervals that occur between overlapping enrollments.*

(i) If a student is enrolled in overlapping enrollment periods whether before or after an interval (either at the same or different schools), VA will determine whether the student is entitled to payment for the interval between the overlapping enrollment periods, and what dates the interval and enrollment periods will be considered to begin and end, as follows:

- (A) By treating the ending date of each enrollment period as though it were the student's last date of training before the interval,
- (B) By treating the beginning date of each enrollment period as though it were the student's first date of training after the interval,
- (C) By examining the interval payment that would be made to the student on the basis of the various combinations of beginning and ending dates, and
- (D) By choosing the ending date and beginning date that result in the highest payment rate as the start and finish of the interval for VA measurement purposes.

(ii) VA will not reduce the interval rate of payment as a result of training the student may take during the interval, but VA will increase the interval rate of payment if warranted by such training. (Authority: 38 U.S.C. 3680(a))

(6) *Payment for temporary school closings.* VA may authorize payment for temporary school closings that are due to emergencies (including strikes) or established policy based upon an Executive Order of the President. If a school closing that is or may be temporary occurs in whole or in part during an interval, VA will first review the provisions of paragraphs (f)(2) through (f)(5) of this section to determine if payment may be continued during the interval.

(i) If payment would not be inconsistent with the provisions of paragraphs (f)(2) through (f)(5) of this section, a determination to authorize payment for a period of a temporary school closing, or to not authorize payment if, in the judgment of the VA official specified in this paragraph, either the school closing will not be temporary or payment would not otherwise be in accord with this section, or both, will be made by:

- (A) The Director of the VA Regional Processing Office of jurisdiction if:
  - (I) The reason for the school closing does not result in the closing of a school or schools in the jurisdiction of

the Director of another VA Regional Processing Office, and

- (2) If the reason for the closing is a strike, the strike has lasted 30 days or less and is not anticipated to last more than 30 days.

(B) The Director, Education Service if:

- (1) The reason for the school closing results in the closing of schools in the jurisdiction of more than one Director of a VA Regional Processing Office, or

- (2) The reason for the closing is a strike and the strike lasts, or is anticipated to last, more than 30 days.

(ii) A school that disagrees with a decision made under paragraph (f)(6) of this section may request an administrative review. The review request must be submitted in writing and received by the Director of the VA Regional Processing Office of jurisdiction within one year of the date of VA's letter notifying the school of the decision. A review of the decision will include the evidence of record and any other pertinent evidence the school may wish to submit. The affirmation or reversal of the initial decision based on an administrative review is final. The review will be conducted by the:

(A) Director, Education Service, if the Director of the VA Regional Processing Office of jurisdiction made the initial decision to continue or discontinue payments.

(B) Under Secretary for Benefits, if the Director, Education Service, made the initial decision to continue or discontinue payments. (Authority: 38 U.S.C. 512, 3680(a))

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 2900-0178 and 2900-0604)

[43 FR 35295, Aug 9, 1978, as amended at 44 FR 62497, Oct. 31, 1979; 46 FR 20673, Apr. 7, 1981; 48 FR 37982, Aug. 22, 1983; 54 FR 33888, Aug. 17, 1989; 57 FR 24367, June 9, 1992; 58 FR 26239, May 3, 1993; 64 FR 52651, Sept. 30, 1999; 66 FR 44053, Aug. 22, 2001; 68 FR 34328, June 9, 2003; 68 35178, June 12, 2003; 73 FR 65263, Nov. 3, 2008; 85 FR 59191, Sept. 21, 2020]

**Supplement *Highlights* references:** 2(3), 6(2), 46(2), 62(2, 3), 79(1), 94(1).

*Next Section is §21.4145*

**§21.5132 Criteria used in determining benefit payments.**

(a) *Training time.* The amount of benefit payment to an individual in all types of training except cooperative training, correspondence training and apprenticeship and other on-job training depends on whether VA determines that the individual is a full-time student, three-quarter time student, half-time student or one-quarter-time student. (Authority: 38 U.S.C. 3241, 3688; Pub. L. 99-576, Pub. L. 100-689)

(b) *Contributions.* The amount of benefit payment to an individual also depends on:

(1) The amount the individual has contributed to the fund.

(2) The amount the Secretary of Defense has contributed to the fund for the individual. (Authority: 38 U.S.C. 3231)

[45 FR 31, Jan. 2, 1980, as amended at 47 FR 51746, Nov. 17, 1982; 48 FR 3369, Jan. 25, 1983; 52 FR 3429, Feb. 4, 1987; 53 FR 34498, Sept. 7, 1988; 55 FR 31582, Aug. 3, 1990; 61 FR 29030, June 7, 1996]

**Supplement *Highlights* reference:** 27(2)

**§21.5133 Certifications and release of payments.**

A veteran or servicemember must be pursuing a program of education in order to receive payment of educational assistance allowance under 38 U.S.C. chapter 32. To ensure that this is the case, the provisions of this section must be met when a veteran or servicemember is seeking such payment.

(a) *General.* VA will pay educational assistance to a veteran or servicemember (other than one pursuing a program of apprenticeship, other on-job training, or a correspondence course; one seeking reimbursement for taking an approved licensing or certification test; or one who qualifies for an advance payment) only after:

(1) The educational institution has certified his or her enrollment as provided in §21.5200(d) of this part; and

(2) VA has received from the individual a verification of the enrollment. Generally, this verification will be required monthly, resulting in monthly payments.

(b) *Apprenticeship and other on-job training.* VA will pay educational assistance to a veteran pursuing a program of apprenticeship or other on-job training only after:

(1) The training establishment has certified his or her enrollment as provided in §21.5200(d); and

(2) VA has received from the training establishment a certification of hours worked. Generally, this certification will be required monthly, resulting in monthly payments.

(c) *Correspondence training.* VA will pay educational assistance to a veteran or servicemember who is pursuing a correspondence course or the correspondence portion of a combined correspondence-residence course only after:

(1) The educational institution has certified his or her enrollment;

(2) VA has received from the veteran or servicemember a certification as to the number of lessons completed and serviced by the educational institution; and

(3) VA has received from the educational institution a certification or an endorsement on the veteran's or servicemember's certificate, as to the number of lessons completed by the veteran or servicemember and serviced by the educational institution. Generally, this certification will be required quarterly, resulting in quarterly payments. (Authority: 38 U.S.C. 3680(c), 3680(g), 3689)

(Approved by the Office of Management and Budget under control numbers 2900-0178 and 2900-0465)

[57 FR 38612, August 26, 1992; 58 FR 25565, Apr. 27, 1993; 72 FR 16978, Apr. 5, 2007; 85 FR 59191, Sept. 21, 2020]

**Supplement *Highlights* references:** 2(1), 6(1), 73(1), 94(1).

**§21.5134 Restrictions on paying benefits to servicepersons.**

The Department of Veterans Affairs may not pay benefits to a serviceperson (other than one enrolled in a course, courses or a program of education leading to a secondary school diploma or an equivalency certificate) unless he or she:

(a) Has completed 3 months of contributions to the fund or has made a lump-sum payment which is the equivalent of at least 3 months of contributions to the fund;

(b) Has agreed either to have a monthly deduction from his or her military pay, or has made a lump-sum contribution to the fund, or both, so that the 12 months participation requirement of §21.5052(a) of this part will be met; and

(c) Is serving on active duty in an enlistment period subsequent to the initial period of active duty defined in §21.5040(b)(3) of this part. (Authority: 38 U.S.C. 3221, 3231, Pub. L. 94-502)

[45 FR 81, Jan. 2, 1980, as amended at 47 FR 51746, Nov. 17, 1982; 54 FR 49977, Dec. 4, 1989]

**§21.7140 Certifications and release of payments.**

(a) *Advance payments and lump-sum payments.* VA will apply the provisions of §21.4138(a) and (b) in making advance payments and lump-sum payments to veterans and servicemembers. (Authority: 38 U.S.C. 3034 and 3680)

(b) *Accelerated payments.* VA will apply the provisions of §§21.7151(a), (c), and 21.7154(d) in making accelerated payments. (Authority: 38 U.S.C. 3014A)

(c) *Other payments.* Except for an individual who is seeking tuition assistance top-up, an individual must be pursuing a program of education in order to receive payments of educational assistance under 38 U.S.C. chapter 30. To ensure that this is the case, the provisions of this paragraph must be met.

(1) VA will pay educational assistance to a veteran or servicemember (other than one pursuing a program of apprenticeship, other on-job training, or a correspondence course; one seeking tuition assistance top-up; one seeking reimbursement for taking an approved licensing or certification test; one who qualifies for an advance payment; one who qualifies for an accelerated payment; or one who qualifies for a lump sum payment) only after:

(i) The educational institution has certified his or her enrollment as provided in §21.7152; and

(ii) VA has received from the individual a verification of the enrollment. (Authority: 38 U.S.C. 3680(g), 3689)

(2) VA will pay educational assistance to a veteran pursuing a program of apprenticeship or other on-job training only after:

(i) The training establishment has certified his or her enrollment in the training program as provided in §21.7152; and

(ii) VA has received from the training establishment a certification of hours worked. (Authority: 38 U.S.C. 3034, 3680(g))

(3) VA will pay educational assistance to a veteran or servicemember who is pursuing a correspondence course only after:

(i) The educational institution has certified his or her enrollment;

(ii) VA has received from the veteran or servicemember a certification as to the number of lessons completed and serviced by the educational institution; and

(iii) VA has received from the educational institution a certification or an endorsement on the veteran's or servicemember's certificate, as to the number of lessons completed by the veteran or servicemember and serviced by the educational institution.

(4) VA will pay educational assistance to a veteran or servicemember as reimbursement for taking an approved licensing or certification test only after the veteran or servicemember has submitted to VA a copy of the veteran's or servicemember's official test results and, if not included in the results, a copy of another official form (such as a receipt or registration form) that together must include:

- (i) The name of the test;
- (ii) The name and address of the organization or entity issuing the license or certificate;
- (iii) The date the veteran or servicemember took the test; and
- (iv) The cost of the test. (Authority: 38 U.S.C. 3689)

(5) VA will pay educational assistance for tuition assistance top-up only after the individual has submitted to VA a copy of the form(s) that the military service with jurisdiction requires for tuition assistance and that had been presented to the educational institution, covering the course or courses for which the claimant wants tuition assistance top-up. If the form(s) submitted did not contain the amount of tuition assistance charged to the individual, VA may delay payment until VA obtains that information from the educational institution. Examples of these forms include:

- (i) DA Form 2171, Request for Tuition Assistance—Army Continuing Education System;
- (ii) AF Form 1227, Authority for Tuition Assistance—Education Services Program;
- (iii) NAVMC 10883, Application for Tuition Assistance, and either NAVEDTRA 1560/5, Tuition Assistance Authorization or NAVMC (page 2), Tuition Assistance Authorization;
- (iv) Department of Homeland Security, USCG CG-4147, Application for Off-Duty Assistance; and
- (v) Request for Top-Up: eArmyU Program. (Authority: 38 U.S.C. 5101(a))

(d) *Payment for intervals and temporary school closings.* In administering 38 U.S.C. chapter 30, VA will apply the provisions of §21.4138(f) when determining whether an individual is entitled to payment for an interval or temporary school closing. (Authority: 38 U.S.C. 3034, 3680)

(e) *Payee.*

(1) VA will make payment to the veteran or servicemember or to a duly appointed fiduciary. The VA will make direct payment to the veteran or servicemember even if he or she is a minor.

(2) The assignment of educational assistance is prohibited. In administering this provision, VA will apply the provisions of §21.4146 to 38 U.S.C. chapter 30. (Authority: 38 U.S.C. 3034, 3680)

(f) *Limitations on payments.* VA will not apportion educational assistance. (Authority: 38 U.S.C. 3034, 3680)

(g) *Payments of accrued benefits.* Educational assistance remaining due and unpaid at the date of the servicemember's or veteran's death is payable under the provisions of §3.1000 of this chapter. (Authority: 38 U.S.C. 5121)

(The Office of Management and Budget has approved the information collection provisions in this section under control numbers 2900-0178, 2900-0695, and 2900-0698.)

[53 FR 1757, Jan. 22, 1988, as amended at 55 FR 28388, July 11, 1990; 56 FR 20136, May 2, 1991; 56 FR 31332, July 10, 1991; 57 FR 15025, April 24, 1992; 61 FR 26117, May 24, 1996; 62 FR 55761, Oct. 28, 1997; 64 FR 52652, Sept. 30, 1999; 68 FR 35180, June 12, 2003; 72 FR 16982, Apr. 5, 2007; 73 FR 65269, Nov. 3, 2008; 85 FR 59192, Sept. 21, 2020]

**Supplement *Highlights* references:** 27(1), 46(2), 62(3), 73(1), 79(1), 94(1).

Reserved

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); §705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; §§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 57105, Dec. 3, 1992; 58 FR 51781, 51783, Oct. 5, 1993; 58 FR 65930, Dec. 17, 1993; 59 FR 39966, Aug. 5, 1994; 61 FR 20729, 20730, May 8, 1996; 61 FR 29305, June 10, 1996; 61 FR 29482, June 11, 1996; 62 FR 55521, Oct. 27, 1997; 62 FR 55762, Oct. 28, 1997]

**Supplement *Highlights* references:** 9(1), 9(2), 14(1), 27(4, 5), 35(1).

**§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:

(A) Each day of absence that occurred before December 18, 1989;  
or

(B) A verification of pursuit from the reservist of training that occurred on or after December 18, 1989.

(3) VA will pay educational assistance to a reservist pursuing a program of apprenticeship or other on-job training only after:

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

(ii) VA has received certification by the training establishment of the reservist's hours worked.

(4) VA will pay educational assistance to a reservist who is pursuing a correspondence course 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 certification by the reservist, which certification is endorsed by the educational institution, as to the number of lessons completed and serviced by the educational institution.

(5) VA will pay educational assistance to a reservist who is pursuing a flight course only after:

(i) The educational institution certifies the reservist's enrollment in the form prescribed by the Secretary of Veterans Affairs; and

(ii) VA has received a report by the reservist of the flight training the reservist has completed, which report is endorsed by the educational institution. (Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3680)

(b) *Payment for intervals and temporary school closings.* In administering 10 U.S.C. chapter 1606, VA will apply the provisions of §21.4138(f) when determining whether a reservist is entitled to payment for an interval or temporary school closing. (Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680)

(c) *Payee.*

(1) VA will make payment to the reservist or to a duly appointed fiduciary. VA will make direct payment to the reservist even if he or she is a minor.

(2) The assignment of educational assistance is prohibited. In administering this provision, VA will apply the provisions of §§21.4146(a), (b), (c) and (e) of this part to 10 U.S.C. chapter 1606 in a manner not inconsistent with the way in which they are applied in the administration of 38 U.S.C. chapters 34 and 36. (Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680, 5301(a))

(d) *Advance payments.* VA will apply the provisions of §21.4138(a) in making advance payments to reservists. (Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3680)

(e) *Frequency of payment.* Except as provided in §21.4138(a), VA shall pay educational assistance in the month following the month for which training occurs. VA may withhold payment to a reservist who is enrolled in a course not leading to a standard college degree for any month until the reservist's attendance has been reported for that month. VA may withhold final payment in all cases until it both receives certification that the reservist pursued his or her course, and makes any necessary adjustments. (Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680(g))

(f) *Apportionments prohibited.* VA will not apportion educational assistance. (Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680)

(Approved by the Office of Management and Budget under control numbers 2900-0073 and 2900-0178)

[53 FR 34740, Sept. 8, 1988, as amended at 61 FR 20729, May 8, 1996; 61 FR 29306, June 10, 1996; 61 FR 29482, June 11, 1996; 64 FR 52652, Sept. 30, 1999; 72 FR 39564, July 19, 2007; 73 FR 65269, Nov. 3, 2008; 85 FR 59192, Sept. 21, 2020]

**Supplement *Highlights* references:** 27(4, 5), 46(2), 76(1), 79(1), 94(1).

*Next Section is §21.7642*

**§21.7642 Nonduplication of educational assistance.**

(a) *Payments of educational assistance shall not be duplicated.* A reservist is barred from receiving educational assistance concurrently under 10 U.S.C. chapter 1606 and any of the following provisions of law:

- (1) 38 U.S.C. 30 (Montgomery GI Bill—Active Duty);
- (2) 38 U.S.C. 31 (Vocational Rehabilitation and Employment);
- (3) 38 U.S.C. 32 (Post-Vietnam Era Veterans' Educational Assistance);
- (4) 38 U.S.C. 33 (Post-9/11 GI Bill);
- (5) 38 U.S.C. 35 (Survivors' and Dependents' Educational Assistance);
- (6) 10 U.S.C. 1607 (Reserve Educational Assistance Program);
- (7) 10 U.S.C. 106a (Educational Assistance Test Program);
- (8) Section 903 of the Department of Defense Authorization Act, 1981 (Pub. L. 96-342, 10 U.S.C. 2141 note);
- (9) The Hostage Relief Act of 1980 (Pub. L. 96-449, 5 U.S.C. 5561 note); or
- (10) The Omnibus Diplomatic Security Act of 1986 (Pub. L. 99-399). (Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3033(a), 3241(a), 3322(a), 3681)

(b) When paragraph (a) of this section applies, the reservist must choose which benefit he or she wishes to receive. The reservist may choose to receive benefits under another program (other than 38 U.S.C. chapter 33) at any time, but not more than once in a calendar month. The reservist may choose to receive benefits under 38 U.S.C. chapter 33 at any time, but not more than once during a certified term, quarter, or semester.

(c) *Senior Reserve Officers' Training Corps scholarship program.* Educational assistance may not be provided to a reservist receiving financial assistance under 10 U.S.C. 2107 as a member of the Senior Reserve Officers' Training Corps scholarship program. (Authority: 10 U.S.C. 16134; Pub. L. 98-525)

(d) *Nonduplication—Federal program.* Payment of educational assistance is prohibited to an otherwise eligible reservist:

(1) For a unit course or courses which are being paid for entirely or partly by the Armed Forces during any period he or she is on active duty.