

**§ 21.4236**

**38 CFR Ch. I (7-1-03 Edition)**

courses leading to an aircraft type rating, only if the individual has a commercial pilot certificate issued by the Federal Aviation Administration for the category to which the particular course applies.

(4) VA will pay educational assistance to an eligible individual for an enrollment in a ground instructor certificate course, even though the individual does not have any other flight certificate issued by the Federal Aviation Administration, since the Federal Aviation Administration does not require a flight certificate as a prerequisite to ground instructor certification and ground instructor is a recognized vocational objective.

(5) VA will not pay an eligible individual for simultaneous enrollment in more than one flight course, except as provided in paragraph (c)(2) of this section.

(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))

(d) *Some individuals are already qualified for a flight course objective.* (1) The provisions of §§ 21.5230(a)(4), 21.7110(b)(4), and 21.7610(b)(4), prohibiting payment of educational assistance for enrollment in a course for whose objective the individual is already qualified, apply to enrollments in flight courses.

(2) A former military pilot with the equivalent of a commercial pilot certificate and an instrument rating may obtain a commercial pilot certificate and instrument rating from the Federal Aviation Administration without a flight exam within 12 months of release from active duty. Therefore, VA will consider such a veteran to be already qualified for the objectives of a commercial pilot certification course and an instrument rating course if begun within 12 months of the individual's release from active duty.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3241(b), 3471(4))

(e) *Some flight courses are refresher training.* The provisions of §§ 21.5230(c), 21.7020(b)(26), 21.7122(b), 21.7520(b)(20), and 21.7610(b)(4) that provide limitations on payment for refresher training that is needed to update an individual's

knowledge and skill in order to cope with technological advances while he or she was on active duty service apply to flight training.

(1) An individual who held a Federal Aviation Administration certificate before or during active duty service may have surrendered that certificate or the Federal Aviation Administration may have canceled it. The individual may receive the equivalent of the number of months of educational assistance necessary to complete the course that will qualify him or her for the same grade certificate.

(2) A reservist is not eligible for refresher training unless he or she has had prior active duty.

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

(f) *Flight training at an institution of higher learning.* (1) An individual who is eligible for educational assistance under 10 U.S.C. chapter 1606 or 38 U.S.C. chapter 30, 32, or 35 is exempt from the provisions of paragraphs (a)(2) through (d) of this section when his or her courses include flight training that is part of a program of education that leads to a standard college degree.

(2) An individual described in paragraph (f)(1) of this section may pursue courses that may result in the individual eventually receiving recreational pilot certification or private pilot certification, provided that the courses also lead to a standard college degree.

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

[63 FR 34129, June 23, 1998, as amended at 65 FR 12118, Mar. 8, 2000]

**§ 21.4236 Tutorial assistance.**

(a) *Enrollment.* A veteran or eligible person may receive supplemental monetary assistance to provide tutorial services if he or she:

(1) Is pursuing a post-secondary educational program on a half-time or more basis at an educational institution, and

## Department of Veterans Affairs

## § 21.4250

(2) Has a deficiency in a subject which is indispensable to the satisfactory pursuit of an approved program of education.

(b) *Approval.* The Department of Veterans Affairs will grant approval when:

(1) The educational institution certifies that:

(i) Individualized tutorial assistance is essential to correct a deficiency in a specified subject or subjects required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of an approved program of education;

(ii) The tutor selected:

(A) Is qualified, and

(B) Is not the parent, spouse, child, brother or sister of the veteran or eligible person; and

(iii) The charges for this assistance do not exceed the customary charges for such tutorial assistance; and

(2) The assistance is furnished on an individual basis.

(Authority: 10 U.S.C. 16131(h); 38 U.S.C. 3019, 3234, 3492, 3533(b))

(c) *Limits on tutorial assistance.* (1) VA will authorize the cost of tutorial assistance in an amount not to exceed \$100 per month.

(2) The total amount of all tutorial assistance provided under this section will not exceed \$1200.

(Authority: 38 U.S.C. 3019, 3492, 3533(b))

(d) *Entitlement charge.* VA will make no charge against the veteran's or eligible person's entitlement to educational assistance for any amount of tutorial assistance authorized.

(Authority: 38 U.S.C. 3019, 3492, 3533(b))

[48 FR 37989, Aug. 22, 1983, as amended at 50 FR 19935, May 13, 1985; 55 FR 28027, July 9, 1990; 61 FR 26114, May 24, 1996]

### COURSES

#### § 21.4250 Approval of courses.

(a) *General.* A course of education, including the class schedules of a resident course (other than a flight course) not leading to a standard college degree, offered by a school must be approved by the State approving agency for the State in which the school is located, or by the State approving agen-

cy which has appropriate approval authority, or, where appropriate, by the Department of Veterans Affairs.

(Authority: 38 U.S.C. 3672)

(1) A course approved under 38 U.S.C. chapter 36 shall be deemed approved for purposes of 38 U.S.C. chapter 35.

(2) Any course which was approved under 38 U.S.C. chapter 33 (as in effect before February 1, 1965), or under 38 U.S.C. chapter 35 prior to March 3, 1966, and was not or is not disapproved for failure to meet any of the requirements of the applicable chapters will be deemed to be approved for purposes of 38 U.S.C. chapter 36.

(Authority: 38 U.S.C. 3670)

(b) *State approving agencies.* Approval by State approving agencies will be in accordance with the provisions of 38 U.S.C. Chapter 36 and such regulations and policies as the agency may adopt not in conflict therewith.

(1) *Notice of approval.* Each State approving agency will furnish to the Department of Veterans Affairs a current list of schools specifying courses which it has approved, and will furnish such other information as it and the Department of Veterans Affairs may determine to be necessary. See § 21.4258.

(2) *Notice of suspension of approval or disapproval.* Each State approving agency will notify the Department of Veterans Affairs of the suspension of approval or disapproval of any course previously approved and will set forth the reasons for such suspension of approval or disapproval. See § 21.4259.

(Authority: 38 U.S.C. 3672(a))

(3) *Failure to act.* If notice has been furnished that the State approving agency does not intend to act on the application of a school, the school may request approval by the Department of Veterans Affairs.

(c) *Department of Veterans Affairs approval.* (1) The Director, Vocational Rehabilitation and Employment Service may approve special restorative training in excess of 12 months to overcome or lessen the effects of a physical or mental disability to enable an eligible child to pursue a program of education under 38 U.S.C. chapter 35.