

**§21.7138**

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

(i) Establishes eligibility for educational assistance under §21.7044(a); 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, set the amount of the increase (“kicker”) payable for full-time training, but the increase (“kicker”) may not exceed \$350 per month;

(ii) May set the amount of the “kicker” payable, for a veteran 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 (e)(2)(i) of this section.

(Authority: 10 U.S.C. 16131(i)(2))

(f) *Concurrent benefits.* VA may pay additional educational assistance to a veteran for a dependent concurrently with additional pension or compensation for the same dependent.

(Authority: 38 U.S.C. 3015(d), Pub. L. 98-525)

(g) *Two veteran cases.* VA may pay additional educational assistance to a veteran for a spouse who is also a veteran. This will not bar the payment of additional educational assistance or subsistence allowance under §21.260 of this part to the spouse for the veteran. If the veteran is paid additional educational assistance for a child, that will not bar payment of additional educational assistance or subsistence allowance under §21.260 of this part to the spouse for the same child.

(Authority: 38 U.S.C. 3015(d); Pub. L. 98-525)

[53 FR 1757, Jan. 22, 1988, as amended at 54 34987, Aug. 23, 1989; 55 FR 28387, July 11, 1990; 56 FR 20135, May 2, 1991; 56 FR 31332, July 10, 1991; 57 FR 11911, Apr. 8, 1992; 57 FR 57104, Dec. 3, 1992; 61 FR 6789, Feb. 22, 1996; 61 FR 15191, Apr. 5, 1996; 61 FR 24237, May 14, 1996; 62 FR 14825, 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 32230, June 14, 2001; 68 FR 34324, June 9, 2003]

**§21.7138 Rates of supplemental educational assistance.**

In addition to basic educational assistance, a veteran or servicemember who is eligible for supplemental educational assistance and entitled to it shall be paid supplemental educational assistance at the rate described in this section unless a lesser rate is required by §21.7139 of this part.

(a) *Rates for veterans.* (1) Except for a veteran pursuing apprenticeship or other on-job training, the rate of supplemental educational assistance payable to a veteran is at least the rate stated in this table.

TRAINING	MONTHLY RATE
Full time .....	\$300.
¾ time .....	225.
½ time .....	150.
Less than ½ but more than ¼ time.	150 See paragraph (c).
¼ time or less .....	75 See paragraph (c).
Cooperative .....	240.

(Authority: 38 U.S.C. 3015(d), 3022, 3032(d); Pub. L. 98-525, Pub. L. 100-689) (Jan. 1, 1989)

(2) For a veteran pursuing apprenticeship or other on-job training the rate of supplemental educational assistance payable to a veteran is as provided in this table.

Training period	Monthly rate
First 6 months of pursuit of program.	\$225.00
Second 6 months of pursuit of program.	165.00
Remaining pursuit of program	105.00

(Authority: 38 U.S.C. 3015(c), 3032(c); Pub. L. 99-576)

(b) *Increase in supplemental educational assistance rates (“kicker”).* The Secretary concerned may increase the amount of supplemental 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—

(1) For an individual other than one pursuing an apprenticeship or other on-

## Department of Veterans Affairs

## §21.7139

job training or cooperative training it may not exceed—

(Authority: 38 U.S.C. 3032(d)) (Jan. 1, 1989)

(i) \$300 per month for full-time training.

(ii) \$225 per month for three-quarter-time training,

(iii) \$150 per month for one-half-time training and for training which is less than one-half-time, but more than one-quarter-time, or

(iv) \$75 per month for one-quarter-time training or less.

(2) For an individual pursuing an apprenticeship or other on-job training it may not exceed—

(i) \$225 per month for the first six months of training,

(ii) \$165 per month for the second six months of training, and

(iii) \$105 per month for the remaining months of training.

(Authority: 38 U.S.C. 3022(b), 3032(c); Pub. L. 99-576)

(3) For an individual pursuing cooperative training, it may not exceed \$240 per month.

(Authority: 38 U.S.C. 3022(b), 3032(d)) (Jan. 1, 1989)

(c) *Rates of supplemental educational assistance for less than one-half-time training and for servicemembers.* The monthly rate of supplemental educational assistance payable to a veteran who is training less than half-time or to a servicemember is determined as follows:

(1) The monthly rate of the veteran's or servicemember's basic educational assistance is determined as provided in §§21.7136(d), and 21.7137 (b), (c) and (d) of this part.

(2) If the monthly rate of basic educational assistance equals or is greater than the monthly rate of the cost of the course, no supplemental educational assistance is payable.

(3) If the monthly rate of basic educational assistance is less than monthly rate of the cost of the course, the monthly rate of supplemental educational assistance is the lesser of—

(i) The monthly rate provided in paragraph (a) of this section, plus the monthly rate provided in paragraph (b) of this section, if appropriate, or

(ii) The difference between the monthly rate of the cost of the course and the monthly rate of the veteran's or servicemember's basic educational assistance.

(Authority: 38 U.S.C. 3022, 3032; Pub. L. 98-525)

[53 FR 1757, Jan. 22, 1988, as amended at 55 FR 28388, July 11, 1990; 56 FR 20136, May 2, 1991]

### §21.7139 Conditions which result in reduced rates or no payment.

The monthly rates established in §§21.7136, 21.7137 and 21.7138 shall be reduced as stated in this section whenever the circumstances described in this section arise.

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

(1) The veteran withdraws because he or she is ordered to active duty; or

(2) All of the following exist.

(i) There are mitigating circumstances; and

(ii) The veteran or servicemember submits a description of the mitigating circumstances in writing to VA within one year from the date VA notifies the veteran or servicemember that he or she must submit a description of the mitigating circumstances, or at a later date if the veteran or servicemember 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; and

(iii) The veteran or servicemember submits evidence supporting the existence of mitigating circumstances within one year of the date that evidence is requested by VA, or at a later date if the veteran or servicemember 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