

Department of Veterans Affairs

§ 21.4022

(i) *Review.* Review by the School Liability Appeals Board is limited to the issues raised by the educational institution and shall be on the record and not de novo in character. The Board may affirm, modify or reverse a decision of the Committee on School Liability or may remand an appeal for further consideration by the appropriate Committee on School Liability. If new and material evidence is discovered while the School Liability Appeals Board is considering a case, the Board may remand the case to the appropriate Committee on School Liability.

(Authority: 38 U.S.C. 512(a), 3685, 3689)

(j) *Finality of decisions.* The School Liability Appeals Board has authority to act for the Secretary in deciding appeals concerning an educational institution's liability for an overpayment. There is no right of additional administrative appeal of a decision of the School Liability Appeals Board.

(Authority: 38 U.S.C. 512(a), 3685, 3689)

[32 FR 4533, Mar. 25, 1967, as amended at 44 FR 15492, Mar. 14, 1979; 48 FR 37976, Aug. 22, 1983; 49 FR 35630, Sept. 11, 1984; 51 FR 16316, May 2, 1986; 61 FR 20728, May 8, 1996; 61 FR 26112, May 24, 1996; 62 FR 55760, Oct. 28, 1997; 71 FR 28586, May 17, 2006; 72 FR 16968, Apr. 5, 2007]

GENERAL

§ 21.4020 Two or more programs.

(a) *Limit on training under two or more programs.* The aggregate period for which any person may receive assistance under two or more of the following laws may not exceed 48 months (or the part-time equivalent):

(1) Part VII or VIII, Veterans Regulations numbered 1(a), as amended:

(2) Title II of the Veterans' Readjustment Assistance Act of 1952;

(3) The War Orphans' Educational Assistance Act of 1956;

(4) 38 U.S.C. Chapters 30, 32, 34, 35 and 36 and the former Chapter 33;

(5) 10 U.S.C. Chapters 107 and 1606;

(6) Section 903 of the Department of Defense Authorization Act, 1981,

(7) The Hostage Relief Act of 1980, and

(8) The Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(Authority: 38 U.S.C. 3695(a))

(b) *Limit on combining assistance received under Chapter 31 with assistance under another program.* No person may receive assistance under Chapter 31, Title 38 U.S.C. in combination with any provisions of law listed in paragraph (a) of this section in excess of 48 months (or the part-time equivalent) unless the Department of Veterans Affairs determines that additional months of benefits under Chapter 31 are necessary to accomplish the purpose of the veteran's rehabilitation program.

(Authority: 38 U.S.C. 3695(b))

[48 FR 37976, Aug. 22, 1983, as amended at 51 FR 16316, May 2, 1986; 57 FR 29800, July 7, 1992; 61 FR 20728, May 8, 1996]

§ 21.4022 Nonduplication—programs administered by VA.

A veteran or eligible person who is eligible for education or training benefits under more than one of the provisions of law listed in this paragraph based on his or her own service or based on the service of another person cannot receive such benefits concurrently. The individual must elect which benefit he or she will receive for the particular period or periods during which education or training is to be pursued. Except for an election between 38 U.S.C. chapters 32 and 34 which is irrevocable once a check has been negotiated, the person may reelect at any time.

(a) 38 U.S.C. chapter 30,

(b) 38 U.S.C. chapter 31,

(c) 38 U.S.C. chapter 32,

(d) 38 U.S.C. chapter 34,

(e) 38 U.S.C. chapter 35,

(f) 10 U.S.C. chapter 1606,

(g) Section 903 of the Department of Defense Authorization Act, 1981

(h) The Hostage Relief Act of 1980, or

(i) The Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(Authority: 38 U.S.C. 3681)

[34 FR 843, Jan. 18, 1969, as amended at 48 FR 37976, Aug. 22, 1983; 50 FR 27826, July 8, 1985; 51 FR 16316, May 2, 1986; 54 FR 33887, Aug. 17, 1989; 57 FR 29800, July 7, 1992; 61 FR 20728, May 8, 1996; 61 FR 26113, May 24, 1996]

§21.4131

38 CFR Ch. I (7-1-08 Edition)

PAYMENTS; EDUCATIONAL ASSISTANCE
ALLOWANCE

§21.4131 Commencing dates.

VA will determine under this section the commencing date of an award or increased award of educational assistance provided pursuant to subpart C or G. When more than one paragraph in this section applies, VA will award educational assistance using the latest of the applicable commencing dates.

(a) *Entrance or reentrance including change of program or educational institution: individual eligible under 38 U.S.C. chapter 32.* When an eligible veteran or servicemember enters or reenters into training (including a reentrance following a change of program or educational institution), the commencing date of his or her award of educational assistance will be determined as follows:

(1) *For other than licensing or certification tests.* (i) If the award is the first award of educational assistance for the program of education the veteran or servicemember is pursuing, the commencing date of the award of educational assistance is the latest of:

(A) The date the educational institution certifies under paragraph (b) or (c) of this section;

(B) One year before the date of claim as determined by §21.1029(b);

(C) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later; or

(ii) If the award is the second or subsequent award of educational assistance for the program of education the veteran or servicemember is pursuing, the effective date of the award of educational assistance is the later of—

(A) The date the educational institution certifies under paragraph (b) or (c) of this section; or

(B) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later.

(2) *For licensing or certification tests.* VA will award educational assistance for the cost of a licensing or certification test only when the veteran or servicemember takes such test—

(i) While the test is approved under 38 U.S.C. chapter 36;

(ii) While the veteran or servicemember is eligible for educational assistance under subpart G; and

(iii) No more than one year before the date VA receives a claim for reimbursement of the cost of the test.

(Authority: 38 U.S.C. 3672, 3689, 5110, 5113)

(b) *Certification by school—the course or subject leads to a standard college degree.* (1) When the student enrolls in a course offered by independent study, the commencing date of the award or increased award of educational assistance will be the date the student began pursuit of the course according to the regularly established practices of the educational institution.

(2) Except as provided in paragraphs (b)(3), (b)(4) and (b)(5) of this section when a student enrolls in a resident course or subject, the commencing date of the award or increased award of educational assistance will be the first scheduled date of classes for the term, quarter or semester in which the student is enrolled.

(3) When the student enrolls in a resident course or subject whose first scheduled class begins after the calendar week when, according to the school's academic calendar, classes are scheduled to commence for the term, quarter, or semester, the commencing date of the award or increased award of educational assistance allowance will be the actual date of the first class scheduled for that particular course or subject.

(4) When a student enrolls in a resident course or subject, the commencing date of the award will be the date the student reports to the school provided that—

(i) The published standards of the school require the student to register before reporting, and

(ii) The published standards of the school require the student to report no more than 14 days before the first scheduled date of classes for the term, quarter or semester for which the student has registered, and no later than the first scheduled date of classes for the term, quarter or semester for which the student has registered.

(5) When the student enrolls in a resident course or subject and the first day