

## Department of Veterans Affairs

## § 21.7136

transfer of entitlement, the dependent's date of discontinuance is the effective date of the revocation of transfer as determined under § 21.7080(g)(2).

(Authority: 38 U.S.C. 3020)

(ff) *Transferor fails to complete additional active duty service requirement.* VA will discontinue each award of educational assistance given to a dependent, effective the first date of each such award when—

(1) The transferor fails to complete the additional active duty service requirement that afforded him or her the opportunity to transfer entitlement to educational assistance; and

(2) The service department discharges the transferor for a reason other than one of the reasons stated in § 21.7080(m)(1).

(Authority: 38 U.S.C. 3020)

(gg) *Spouse eligible for transferred entitlement and transferor divorce.* If a spouse eligible for transferred entitlement and the transferor divorce, the spouse's discontinuance date is the date of the divorce.

(Authority: 38 U.S.C. 101(31), 103, 3020)

(hh) *Child eligible for transferred entitlement marries.* If a child eligible for transferred entitlement marries, the date of discontinuance is the date the child marries.

(Authority: 38 U.S.C. 101(4), 3020)

(ii) *Stepchild eligible for transferred entitlement no longer member of transferor's household.* If a stepchild eligible for transferred entitlement ceases to be a member of the transferor's household, the date of discontinuance is the date the stepchild was no longer a member of the transferor's household. See § 21.7080(c)(4).

(Authority: 38 U.S.C. 101(4), 3020)

[53 FR 1757, Jan. 22, 1988, as amended at 55 FR 28386, July 11, 1990; 57 FR 15024, Apr. 24, 1992; 58 FR 26242, May 3, 1993; 61 FR 6788, Feb. 22, 1996; 61 FR 26116, May 24, 1996; 62 FR 55519, Oct. 27, 1997; 63 FR 35837, July 1, 1998; 64 FR 38577, July 19, 1999; 64 FR 51901, Sept. 27, 1999; 66 FR 38939, July 26, 2001; 66 FR 42586, Aug. 13, 2001; 70 FR 25787, May 16, 2005; 71 FR 75677, Dec. 18, 2006; 72 FR 16981, Apr. 5, 2007]

### § 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

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(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.* (1) Except as elsewhere provided in this section or in §21.7139, the monthly rate of basic educational assistance payable for training that occurs after September 30, 2004, to a veteran whose service is described in paragraph (a) of this section, is the rate stated in the following table:

Training	Monthly rate
Full time .....	\$1004.00
¾ time .....	753.00
½ time .....	502.00
Less than ½ but more than ¼ .....	502.00
¼ time .....	251.00

(Authority: 38 U.S.C. 3015.)

(2) If a veteran's service is described in paragraph (a) of this section, the monthly rate of basic educational assistance payable to the veteran for pursuit of apprenticeship or other on-the-job training that occurs after September 30, 2004, is the rate stated in the following table:

Training period	Monthly rate
First six months of training .....	\$753.00
Second six months of training .....	552.20
Remaining pursuit of training .....	351.40

(Authority: 38 U.S.C. 3015, 3032(c).)

(3) If a veteran's service is described in paragraph (a) of this section, the monthly rate of basic educational assistance payable to the veteran for pursuit of a cooperative course is \$1004.00 for training that occurs after September 30, 2004.

(Authority: 38 U.S.C. 3015.)

(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.

(1) Except as elsewhere provided in this section or in §21.7139, the monthly rate of basic educational assistance payable to a veteran for training that occurs after September 30, 2004 is the rate stated in the following table:

Training	Monthly rate
Full time .....	\$816.00
¾ time .....	612.00
½ time .....	408.00
Less than ½ but more than ¼ .....	408.00
¼ time or less .....	204.00

(Authority: 38 U.S.C. 3015.)

(2) The monthly rate of basic educational assistance payable to a veteran for pursuit of apprenticeship or other on-the-job training that occurs after September 30, 2004 is the rate stated in the following table:

Training period	Monthly rate
First six months of training .....	\$612.00
Second six months of training .....	448.80
Remaining pursuit of training .....	285.60

(Authority: 38 U.S.C. 3015, 3032(c).)

(3) The monthly rate of basic educational assistance payable to a veteran for pursuit of a cooperative course is \$816.00 for training that occurs after September 30, 2004.

(Authority: 38 U.S.C. 3015.)

(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:

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(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, it may not exceed—

(i) \$300 per month during the first six months of training,

(ii) \$220 per month during the second six months of training, and

(iii) \$140 per month during the remaining months of training.

(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, it may not exceed:

(i) \$525 per month during the first six months of training,

(ii) \$385 per month during the second six months of training, and

(iii) \$245 per month during the remaining months of training.

(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, it may not exceed:

(i) \$712.50 per month during the first 6 months of training,

(ii) \$522.50 per month during the second 6 months of training, or

(iii) \$332.50 per month during the remaining months of training.

(Authority: 38 U.S.C. 3015, 3032)

(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: Sec. 108(a)(2), Pub. L. 100-689, 102 Stat. 4170; Sec. 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

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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), or (e)(2), 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 (e)(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 (e)(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 (e)(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 (e)(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 (e)(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 (e)(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 VA will multiply the monthly rate determined by paragraph (e)(2)(i) of this section

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

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

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

(Authority: 38 U.S.C. 3015(e))

(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.

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

(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.

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(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 an apprenticeship or other on-job training—

- (i) During the first 6 months of the veteran's pursuit of training, VA will increase the monthly rate provided in paragraphs (b)(5) through (b)(8) and (c)(5) through (c)(8) of this section by \$3.75 for every \$20 the individual contributed;
- (ii) During the second 6 months of the veteran's pursuit of training, VA will increase the monthly rate provided in paragraphs (b)(5) through (b)(8) and (c)(5) through (c)(8) of this section by

\$2.75 for every \$20 the individual contributed; and

(iii) During the remaining months of the veteran's pursuit of training, VA will increase the monthly rate provided in paragraphs (b)(5) through (b)(8) and (c)(5) through (c)(8) of this section by \$1.75 for every \$20 the individual 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))

[55 FR 28386, July 11, 1990]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §21.7136, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. chapter 34.**

(a) *Minimum rates.* (1) Except as elsewhere provided in this section, the monthly rate of basic educational assistance for training that occurs after September 30, 2004 is the rate stated in the following table:

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Full time .....	\$1,192.00	\$1,228.00	\$1,259.00	\$16.00
¾ time .....	894.50	921.00	944.50	12.00
½ time .....	596.00	614.00	629.50	8.50
Less than ½ but more than ¼ time .....	596.00	596.00	596.00	0
¼ time or less .....	298.00	298.00	298.00	0

(Authority: 38 U.S.C. 3015.)

(2) For veterans pursuing apprenticeship or other on-the-job training, the

monthly rate of basic educational assistance for training that occurs after September 30, 2004 is the rate stated in the following table:

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
1st six months of pursuit of program .....	\$855.75	\$868.13	\$879.00	\$5.25
2nd six months of pursuit of program .....	608.58	617.93	625.63	3.85
3rd six months of pursuit of program .....	375.20	381.33	386.05	2.45
Remaining pursuit of program .....	363.30	369.08	374.33	2.45