

### § 21.7303

chapter 30, shall not affect his or her eligibility for educational assistance.

(Authority: 38 U.S.C. 3011(a), 3012(a); Pub. L. 98-525)

#### § 21.7303 Revision of decisions.

The revision of a decision on which an action was predicated is subject to the following sections:

(a) Clear and unmistakable error, § 3.105(a) of this chapter; and

(b) Difference of opinion, § 3.105(b) of this chapter.

(Authority: 38 U.S.C. 511; Pub. L. 98-525)

#### § 21.7305 Conflicting interests.

In administering benefits payable under 38 U.S.C. chapter 30, VA will apply the provisions of § 21.4005.

(Authority: 38 U.S.C. 3034, 3036)

[62 FR 55761, Oct. 28, 1997]

#### § 21.7307 Examination of records.

In administering benefits payable under 38 U.S.C. chapter 30, VA will apply the provisions of § 21.4209.

(Authority: 38 U.S.C. 3034, 3690)

[62 FR 55761, Oct. 28, 1997]

#### § 21.7310 Civil rights.

(a) *Delegation of authority concerning Federal equal opportunity laws.* The Under Secretary for Benefits is delegated the responsibility to obtain evidence of voluntary compliance with Federal equal opportunity laws from educational institutions and from recognized national organizations whose representatives are afforded space and office facilities under his or her jurisdiction. See part 18 of this chapter. These equal opportunity laws are:

(1) Title VI, Civil Rights Act of 1964;

(2) Title IX, Education Amendments of 1972, as amended;

(3) Section 504, Rehabilitation Act of 1973; and

(4) The Age Discrimination Act of 1975.

(b) *Role of State approving agencies.* In obtaining evidence from educational institutions of compliance with Federal equal opportunity laws, the Under Secretary for Benefits may use the

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

State approving agencies as provided in § 21.4258(d).

(Authority: 42 U.S.C. 2000)

[62 FR 55761, Oct. 28, 1997]

#### § 21.7320 Procedural protection; reduction following loss of dependent.

(a) *Notice of reduction required when a veteran loses entitlement to additional educational assistance for a dependent.* Except as provided in paragraph (b) of this section, VA will not reduce an award of educational assistance following the veteran's loss of a dependent unless:

(1) VA has notified the veteran of the adverse action; and

(2) VA has provided the veteran with a period of 60 days in which to submit evidence for the purpose of showing that the educational assistance should not be reduced.

(b) *No advance notice required in certain situations.* When the reduction is based solely on written, factual, unambiguous information as to dependency or marital status provided by the veteran or his or her fiduciary with knowledge or notice that the information would be used to determine the monthly rate of educational assistance allowance:

(1) VA will not send either an advance or a prereduction notice as stated in paragraph (a) of this section; but

(2) VA will send notice of the adverse action contemporaneous with the reduction in educational assistance.

(Authority: 38 U.S.C. 5112, 5113)

[58 FR 63530, Dec. 2, 1993]

### Subpart L—Educational Assistance for Members of the Selected Reserve

AUTHORITY: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36, and as stated in specific sections.

SOURCE: 53 FR 34740, Sept. 8, 1988, unless otherwise noted.

#### § 21.7500 Establishment and purpose of educational assistance program.

An educational assistance program for certain members of the Selected Reserve is established to encourage

## Department of Veterans Affairs

## § 21.7520

membership in the Selected Reserve of the Ready Reserve.

(Authority: 10 U.S.C. 16131(a); Pub. L. 98-525)

### DEFINITIONS

#### § 21.7520 Definitions.

For the purposes of regulations from § 21.7500 through § 21.7999, governing the administration and payment of educational assistance under 10 U.S.C. chapter 1606, the Selected Reserve Educational Assistance Program, the following definitions apply. (See also additional definitions in § 21.1029).

(a) *Definitions of participants*—(1) *Reservist*. The term *reservist* means a member of the Selected Reserve who is eligible for educational assistance under 10 U.S.C. chapter 1606.

(2) *Selected Reserve*. The term *Selected Reserve* means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces of the United States, as required to be maintained under section 268(b), 10 U.S.C.

(Authority: 10 U.S.C. 16131; Pub. L. 98-525)

(b) *Other definitions*—(1) *Attendance*. The term *attendance* means the presence of a reservist—

(i) In the class where the approved course in which he or she is enrolled is taught;

(ii) At a training establishment; or

(iii) In any other place of instruction, training, or study designated by the educational institution or training establishment where the reservist is enrolled and is pursuing a program of education.

(Authority: 10 U.S.C. 2131(c)(1), 2136(b); 38 U.S.C. 3474; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642, Pub. L. 101-189, 103 Stat. 1456-1458)

(2) *Audited course*. The term *audited course* has the same meaning as provided in § 1.4200(i) of this part.

(Authority: 10 U.S.C. 16136(b) 38 U.S.C. 3680(a); Pub. L. 98-525)

(3) *Deficiency course*. The term *deficiency course* means any secondary level course or subject not previously

completed satisfactorily which is specifically required for pursuit of a post-secondary program of education.

(Authority: 10 U.S.C. 16136(b); Pub. L. 98-525)

(4) *Divisions of the school year*. The term *divisions of the school year* has the same meaning as provided in § 21.4200(b) of this part.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680(a); Pub. L. 98-55)

(5) *Drop-add period*. The term *drop-add period* has the same meaning as provided in § 21.4200(1) of this part.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680(a); Pub. L. 98-525)

(6) *Educational assistance*. The term *educational assistance* means the monthly payment made to members of the Selected Reserve for pursuit of a program of education.

(Authority: 10 U.S.C. 16131(b); Pub. L. 98-525)

(7) *Educational objective*. An approvable educational objective is one that leads to the awarding of an associated degree, a bachelor's degree or the equivalent.

(Authority: 10 U.S.C. 16131(b), 38 U.S.C. 3680(a); Pub. L. 98-525)

(8) *Enrollment*. The term *enrollment* means the state of being on that roll or file of an educational institution which contains the names of active students.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680(g); Pub. L. 98-525)

(9) *Enrollment period*. The term *enrollment period* has the same meaning as provided in § 21.4200(p) of this part.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680(g); Pub. L. 98-525)

(10) *In residence on a standard quarter- or semester-hour basis*. The term *in residence on a standard quarter- or semester-hour basis* has the same meaning as provided in § 21.4200(r) of this part.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3688(c); Pub. L. 98-525)