

reasonable probability of stable, long-term employment and such training must be provided for a period of not less than 6 months.

* * * * *

(4) If a job training program requires more than 18 months (or the equivalent in training hours) of training to complete, the period of training approvable for purposes of this subpart will be limited to the first 18 months (or the equivalent in training hours) of training under that program, or a period of training not to exceed 18 months (or the equivalent in training hours) from the point at which the eligible person enters the program in the case where the employer grants credit for prior training. (See § 21.4832(a)(3)).

(Authority: 10 U.S.C. 1143 note; sec. 4481–4497, Pub. L. 102–484, 106 Stat. 2757–2769, as amended by sec. 610, Pub. L. 103–446, 108 Stat. 4673–4674)

* * * * *

14. In § 21.4830, paragraph (b)(2) is revised to read as follows:

§ 21.4830 Entrance into training.

* * * * *

(b) * * *

(2) The eligible person may enter the job training program on or after the date the notice of intent to hire described in paragraph (a) of this section is submitted to VA. However, VA may not provide assistance to the employer if, within two weeks after the date on which the notice of intent to hire is transmitted to VA, VA disapproves the eligible person's entry into that program due to a lack of funds.

* * * * *

15–16. In § 21.4832, paragraph (d)(1) introductory text is revised to read as follows:

§ 21.4832 Payments to employers.

* * * * *

(d) *Limitations on amount of payments.* (1) In no case will the sum of the periodic payments and the lump-sum payment made to an employer for all programs of training that an eligible veteran may pursue with that employer exceed:

* * * * *

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

17. The authority citation for subpart K is revised to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

18. In § 21.7020, paragraph (b)(29) is revised and paragraph (b)(43) is added, to read as follows:

§ 21.7020 Definitions.

* * * * *

(b) * * *

(29) *School, educational institution, institution.* The terms *school*, *educational institution*, and *institution* mean—

(i) Any vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university or scientific or technical institution;

(ii) Any public or private elementary school or secondary school which offers courses for adults, provided that the courses lead to an objective other than an elementary school diploma, a high school diploma or their equivalents; and

(iii) An entity, during the period beginning on November 2, 1994, and ending on September 30, 1996, other than an institution of higher learning, that provides training required for completion of a State-approved alternative teacher certification program.

(Authority: 38 U.S.C. 3002(8), 3452(c); Pub. L. 98–525, Pub. L. 103–446)

* * * * *

(43) *Alternative teacher certification program.* The term *alternative teacher certification program*, for the purposes of determining whether an entity offering such a program is a school, educational institution or institution as defined in paragraph (b)(29)(iii) of this section, means a program leading to a teacher's certificate that allows individuals with a bachelor's degree or graduate degree to obtain teacher certification without enrolling in an institution of higher learning.

(Authority: 38 U.S.C. 3452(c))

19. In § 21.7045, paragraph (a)(1), paragraph (b), introductory text, and the authority citations for paragraphs (a) and (b) are revised, to read as follows:

§ 21.7045 Eligibility based on involuntary separation or voluntary separation.

* * * * *

(a) * * *

(1) The individual—

(i) If not a member of the Coast Guard, must be on active duty or full-time National Guard duty either on September 30, 1990, or after November 29, 1993, or if a member of the Coast Guard, must be on active duty after September 30, 1994, and

(ii) After February 2, 1991, must be involuntarily separated, as that term is defined in 10 U.S.C. 1141, with an honorable discharge; or

* * * * *

(Authority: 10 U.S.C. 1141; 38 U.S.C. 3018A)

(b) *Additional requirements for those individuals voluntarily separated after October 23, 1992, or involuntarily separated.* An individual who meets the requirements of paragraph (a)(1) of this section; or an individual who meets the requirements of paragraph (a)(2) of this section and who either was not a member of the Coast Guard and was separated after October 22, 1992, or who was a member of the Coast Guard and was separated after September 30, 1994, must meet the following additional requirements in order to establish eligibility for educational assistance:

* * * * *

(Authority: 38 U.S.C. 3018B)

* * * * *

§ 21.7120 [Amended]

20. In § 21.7120, paragraph (c)(1)(ii)(D) is amended by removing “and before October 1, 1994”.

[FR Doc. 96–14363 Filed 6–7–96; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AE43

Educational Assistance for Members of the Selected Reserve

AGENCIES: Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the regulations for the Montgomery GI Bill—Selected Reserve program to reflect statutory changes by adding for certain reservists new types of permissible training such as apprenticeship and other on-job training, cooperative training, and flight training; by liberalizing the eligibility provisions; and by increasing the rates of payment. The regulations are also amended by adding additional restatements of statute, interpretive rules, and nonsubstantive changes.

DATES: Effective Date: This final rule is effective June 10, 1996.

Applicability Dates: The restatements of statute and VA's statutory interpretations contained in this final rule will be applied retroactively from

the effective dates of the statutory provisions. For more information concerning the application of the provisions of this final rule, see the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, (202) 273-7187.

SUPPLEMENTARY INFORMATION: In a document published in the Federal Register on September 2, 1994 (59 FR 45644), the Department of Defense, the Department of Transportation (Coast Guard), and the Department of Veterans Affairs proposed to amend the "Educational Assistance for Members of the Selected Reserve" regulations which are set forth at 38 CFR § 21.7500 *et seq.* It was proposed to amend the regulations to implement provisions of the Veterans Education and Employment Amendments of 1989 (Title IV of Pub. L. 101-237), the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Pub. L. 101-189), and the Veterans Education and Employment Programs Amendments (Pub. L. 102-16) that affected the Montgomery GI Bill—Selected Reserve program. Interested persons were given 60 days to submit comments. One comment was received. The comment, signed by six students at a university, urged that the proposed rule be adopted.

Based on the rationale set forth in the proposed rule document, we are adopting the provisions of the proposed rule as a final rule, except as otherwise explained below.

Prior to the effective date of this document, as a prerequisite for VA educational assistance, reservists in courses not leading to a standard college degree were required to submit to VA a monthly report endorsed by the educational institution stating each day of absence from scheduled attendance. The proposed rule would have deleted such requirements for reservists in a course not leading to a standard college degree. We are adopting this portion of the proposal. It was proposed with certain exceptions to establish new reporting requirements for reservists both in courses leading to a standard college degree and in courses not leading to a standard college degree. In this regard, it was proposed to require all reservists other than those in flight training or correspondence courses to submit a verification (without endorsement of educational institutions) of continued pursuit of the reservist's program of education before monthly

benefits were paid. The proposed provisions concerning verification of pursuit are not adopted for reservists in courses leading to a standard college degree but are adopted for reservists in courses (other than flight or correspondence courses) not leading to a standard college degree. Experience in similar programs has shown that because of frequent changes in enrollment it is necessary to continue to obtain monthly reports from the small percentage of reservists in courses not leading to a standard college degree. However, the proposed provisions concerning verification of pursuit for reservists in courses leading to a standard college degree are not adopted because VA simply does not have resources at this time to process the verifications.

Restatements of Statutory Provisions and Other Conforming Changes

Changes are made to the final rule to include restatements of statutes and other conforming changes as follows:

1. Section 21.7636 is amended to reflect that the Persian Gulf Supplemental Authorization and Personnel Benefits Act of 1991 (Pub. L. 102-25), the Veterans' Benefit Act of 1992 (Pub. L. 102-568), and the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66) changed the monthly rates of educational assistance payable to reservists beginning October 1, 1991, for training full time, three quarters time, and half time under the Montgomery GI Bill—Selected Reserve program. Section 21.7636 is also amended by making corresponding changes for training one quarter time, which under the regulations is one quarter the amount of full time.

2. Sections 21.7540, 21.7622, 21.7635(r), and 21.7639 (f) and (k) are amended to reflect that Public Law 101-189 added with respect to training that may be pursued under the Montgomery GI Bill—Selected Reserve program certain liberalizing provisions that it applied only to a reservist who, after September 30, 1990, makes a new commitment to serve six years in the Selected Reserve. Accordingly, those sections of the regulations are amended to reflect that such a reservist, if otherwise eligible, may pursue under the Montgomery GI Bill—Selected Reserve program: a course that is offered by an educational institution which is not an institution of higher learning; a correspondence course; a program of education leading to a standard college degree offered solely by independent study; a refresher, remedial, or deficiency course; a cooperative course;

an apprenticeship or other on-job training; and a flight course.

3. Section 21.7576 is amended to reflect the provisions in Public Law 101-189 concerning how VA will apply entitlement charges to flight training, correspondence training, cooperative training, and apprenticeship or other on-job training.

4. Changes are made to §§ 21.7540(b)(3)(iii), 21.7620(c), 21.7622(f)(vi), and 21.7722 to reflect that Public Law 102-568 changed the provisions with respect to approval for VA educational assistance to add a requirement that an independent study program must be accredited, except that such requirement is not added for a reservist who, as of October 29, 1992, was receiving educational assistance for pursuit of an independent study program, and who has remained continuously enrolled in that program.

5. Sections 21.7631(a) and 21.7642(e) are amended to reflect that the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484) provides that a reservist who enters a program of job training under the Service Members Occupational Conversion and Training Act of 1992 (SMOCTA) is barred from receiving educational assistance under the Montgomery GI Bill—Selected Reserve program for the same period for which SMOCTA assistance is paid.

6. Section 21.7635(a) is amended to reflect that Public Law 102-568 provides that when a reservist receives an advance payment of educational assistance and dies during the period covered by the advance payment, the ending date of educational assistance is the last date of the advance payment period.

7. Section 21.7639(a) is amended to reflect that Public Law 101-237 repealed certain provisions concerning payment reductions resulting from excessive absences.

8. Section 21.7639 (f)(1) and (2) is amended to reflect that Public Law 102-568 repealed certain provisions concerning the rate of payment for a program pursued in whole or in part by independent study.

9. Section 21.7645(e) is amended to reflect that Public Law 102-568 limits work-study advance payments to 50 times the hourly wage specified in the work-study contract for reservists eligible for educational assistance under the Montgomery GI Bill—Selected Reserve program who participate in VA's work-study program.

10. Section 21.7672 is amended to reflect that Public Law 102-568 revised the course measurement provisions that determine whether a reservist's

enrollment under the Montgomery GI Bill—Selected Reserve program is full time, three-quarter time, half time, or one-quarter time.

11. Section 21.7722 is amended to reflect that Public Law 102–568 specifically allows approval of certain courses for training an individual to become a nurse's aide.

12. Sections 21.7540(b), 21.7620(d), 21.7622(f), 21.7670, and 21.7722 are amended to reflect that Public Law 103–160 makes graduate training available under the Montgomery GI Bill—Selected Reserve program.

13. Section 21.7520(b) is amended to reflect that Public Law 103–446 contains a provision that requires any entity offering an alternative teacher certification program to be considered to be an educational institution for VA purposes during the period beginning on November 2, 1994, and ending on September 30, 1996.

14. Section 21.7520(b) is amended to reflect that Public Law 103–446 prohibits VA from supervising the State approving agencies (SAAs) that approve courses for VA training.

Interpretations

As discussed above, Public Law 102–568 provides that the prohibition against VA payment of educational assistance for nonaccredited independent study programs does not apply to a reservist who, as of October 29, 1992, was receiving educational assistance for pursuit of an independent study program, and who has remained continuously enrolled in that program. This document adds a definition of “continuously enrolled” as meaning being in an enrolled status at an educational institution for each day during the ordinary school year and for consecutive school years. In this regard, continuity of enrollment is not considered broken by holiday vacations, vacation periods, periods during the school year between terms, quarters, or semesters, or by nonenrollment during periods of enrollment outside the ordinary school year (e.g., summer sessions). We believe this is consistent with its common meaning and the congressional intent. We have also provided in § 21.7620(c)(4) that whether or not a reservist is “enrolled” will be determined by the regularly prescribed standards and practices of the educational institution offering the course or unit subject. Further, in determining whether payment may be made for a nonaccredited course or unit subject offered entirely or partly by independent study, we interpret the term “independent study program”, consistently with the definition of

independent study found in § 21.4267, to mean a course or unit subject that is offered entirely or partly by independent study as well as an entire program of education of which such nonaccredited course or unit subject is a required part. We believe that our use of the terms “enrolled” and “independent study program” are consistent with congressional intent.

Public Law 102–484 provided exceptions to the general rule that on the date a reservist ceases to be in the Selected Reserve, the reservist loses eligibility for educational assistance under the Montgomery GI Bill—Selected Reserve program. However, as noted above, these exceptions do not apply to a reservist who ceases to be a reservist because the Secretary of a military department needs to reduce the number of members in certain grades or who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories. For such a reservist, VA will determine which of the rules concerning the ending dates of eligibility apply to the reservist. (For example, the rules concerning discharge for disability, leaving the Selected Reserves in the middle of a school term, etc., may apply to such a reservist). In this regard, § 21.7550 is amended to provide that if more than one rule applies, VA will apply the one that is the most advantageous to the reservist. We believe that this interpretation is in agreement with congressional intent.

Public Law 102–568 sets forth criteria for measuring full-time enrollment for trade courses, technical courses, and undergraduate courses. These courses are measured by the educational institution on either a clock-hour or a credit-hour basis. The current regulations already set forth formulas for converting clock hours into credit hours, and vice versa. In our view, the provisions of Public Law 102–568 require that all hours be measured consistent with the statutory measurement criteria applicable to the primary institution. Accordingly, the regulations at § 21.7673 are amended to reflect this requirement.

As noted above, Public Law 103–446 contains a provision that requires any entity offering an alternative teacher certification program to be considered to be an educational institution for VA purposes during the period beginning on November 2, 1994, and ending on September 30, 1996. This final rule defines “alternative teacher certification program” as follows:

The term *alternative teacher certification program*, for the purposes of determining whether an entity offering such a program is a school, educational institution, or institution [as elsewhere defined in this section], means a program leading to a teacher's certificate that allows individuals with a bachelor's degree or graduate degree to obtain teacher certification without enrolling in an institution of higher learning.

We believe this is consistent with the congressional intent.

As noted above, under the provisions of Public Law 102–568 payments of educational assistance could under certain circumstances be terminated for reservists enrolled in a nonaccredited independent study course. This document provides that educational assistance would terminate from the date the course loses accreditation. VA believes that usually the State approving agency would make its date of withdrawal of approval effective on the date of the loss of accreditation. Rather than have VA continue to pay benefits to someone while waiting for a State approving agency to act, only to have those payments become an overpayment when the SAA formally withdraws approval retroactively to the effective date of the loss of accreditation, this final rule provides that the effective date of termination of payment of educational assistance for pursuit of such a course is the date on which the course loses its accreditation. VA believes this approach accords with the intent of the statutory prohibition concerning payment for nonaccredited independent study courses.

Other Nonsubstantive Changes

Further, this final rule makes nonsubstantive changes to correct typographical errors, to clarify provisions, and to update legal citations.

Dates of Application

Restatements of statute and statutory interpretations made by this final rule will be applied retroactively from the effective dates of the statutory provisions. The dates of application for such changes and for certain of the nonsubstantive changes made for clarity, to correct typographical errors, or to reflect statutory recodification changes are as follows:

December 18, 1989: §§ 21.7639(a); 21.7640(a)(2); 21.7642 (a)(7), (a)(8), and (a)(9); 21.7653; 21.7654; and 21.7672(d).

May 1, 1990: § 21.7645 (a), (b), (c), (d), (e)(1), (f), (g), and (h).

September 30, 1990: §§ 21.7520(b)(19)(i)(E); 21.7576 (a)(1), (b)(5), and (b)(7); 21.7620 (b)(1)(i), (b)(1)(ii)(A), (B), (C), and (D), and (2);

21.7639(i); 21.7640(a)(5); and 21.7670(b).

October 1, 1990: §§ 21.7520 (b)(1), (b)(17), (b)(19)(i)(A), (B), (C), and (D), and (ii), (b)(20), (b)(23)(i), (ii), and (iii), (b)(30), (b)(31), and (b)(32); 21.7540 (a) and (b); 21.7576 (a)(2), (a)(3), (a)(4), (b)(1), (b)(2), (b)(3), (b)(4), and (b)(6); 21.7612; 21.7622 (f)(1), (f)(2), (f)(4)(i), (ii), (iii), (iv), and (v); 21.7624; 21.7631(a)(1) and headings for paragraphs (b) and (c); 21.7635 (b)(3), (b)(4), (b)(5), and (r); 21.7636(a)(2)(ii) and (b); 21.7639(f), (g), (h), (j), and (k); 21.7640 (a)(1), (a)(3), (a)(4), and (b)(1); 21.7674; 21.7700(a); 21.7720 (a) and (b); 21.7722 (a)(1) and (a)(2); and 21.7722(b).

October 23, 1992: §§ 21.7550; 21.7631(g); 21.7635 (w) and (x); 21.7642(e)(2); and 21.7700(f).

October 29, 1992: §§ 21.7520 (b)(11) and (b)(34); 21.7620(c); 21.7622(f)(4)(vi); 21.7635 (a) and (v); 21.7645(e)(2); 21.7670(f); 21.7700(g); 21.7722(a)(3); and the removal of § 21.7670(d).

July 1, 1993: §§ 21.7672 (b)(1), (b)(3), (b)(4), (b)(5), (c), (e), and (f); and 21.7673.

November 30, 1993: §§ 21.7620(d); 21.7622(f)(3); 21.7670, heading and introductory text; and 21.7622, introductory text and the removal of § 21.7722, introductory text, and paragraphs (c), (d), (e), (f), (g), (h) (i), (j), (k), (l), (m), (n), and (o).

October 1, 1994: § 21.7620(b)(1)(ii)(E).
November 2, 1994: §§ 21.7520(b)(23)(iv) and (b)(35); and 21.7700, introductory text.

The effective date for § 21.7636(a)(1) and (a)(3) is June 10, 1996. However, VA will apply the rates stated in those paragraphs retroactively to training completed in the past as stated in those paragraphs.

The amendments to the following are for clarification and for the purpose of eliminating typographical errors, or are authority citations: §§ 21.7639 section heading, (b)(1), and (e); 21.7642(a)(6); and 21.7700, authority citation. The effective date of these provisions is June 10, 1996.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, the information collection or recordkeeping requirements included, in whole or in part, in this final rule have been approved by the Office of Management and Budget (OMB) under OMB control numbers 2900-0073, 2900-0552, and 2900-0553 (see §§ 21.7640, 21.7653, and 21.7654).

As noted above, the proposed reporting requirements for verification

of pursuit, which were approved under OMB control number 2900-0553, are not adopted for reservists in courses leading to a standard college degree. The reporting burden per response will not change. However, fewer reservists will be required to report.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control numbers assigned to the collections of information in these final regulations are displayed at the end of the affected sections of the regulations.

Administrative Procedure Act

In addition to the adoption of provisions based on the proposed rule, this final rule consists of changes not subject to the notice and comment provisions of 5 U.S.C. 553, i.e., interpretive rules and nonsubstantive changes.

Regulatory Flexibility Act

The Secretary of Defense, the Commandant of the Coast Guard, and the Secretary of Veterans Affairs hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This final rule in large part directly affects only individuals. Although it is possible that a small-entity (small-entity school) could be affected by this rulemaking, the number of individuals affected at the school would in all likelihood be an insignificant portion of the student body. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

Catalog of Federal Domestic Assistance

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 17, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

Approved: May 29, 1996.

Al H. Bemis,

Deputy Assistant Secretary of Defense for Reserve Affairs (M&P).

Approved: May 31, 1996.

R.M. Larrabee,

Rear Admiral, U.S. Coast Guard, Director of Reserve and Training.

For the reasons set out in the preamble, 38 CFR part 21 (subpart L) is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

1. The authority citation for part 21, subpart L is revised to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501, ch. 36, unless otherwise noted.

2. In § 21.7520, paragraph (b)(11) is amended by removing “§ 21.4280(c)” and adding, in its place, “§ 21.4267(b)”; and paragraphs (b)(1), (b)(17), (b)(19), (b)(20), and (b)(23) are revised, and paragraphs (b)(30), (b)(31), (b)(32), (b)(33), and (b)(35) are added, to read as follows:

§ 21.7520 Definitions.

* * * * *

(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)

* * * * *

(17) *Program of education.* A program of education—

(i) Is any unit course or subject or combination of unit courses or subjects pursued by a reservist at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of 15 U.S.C. 636; or

(ii) Is a combination of subjects or unit courses pursued at an educational institution, which combination is

generally accepted as necessary to meet requirements for a predetermined educational, professional, or vocational objective. It may consist of subjects or courses which fulfill requirements for more than one objective if all objectives pursued are generally recognized as being related to a single career field; and

(iii) Includes an approved full-time program of apprenticeship or of other on-job training.

(Authority: 10 U.S.C. 2131; 38 U.S.C. 3452(b); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; secs. 642(a), (b), (d), 645, Pub. L. 101-189, 103 Stat. 1456-1458)

* * * * *

(19) *Pursuit*.

(i) The term *pursuit* means work, while enrolled, toward the objective of a program of education. This work must be in accordance with approved institutional policy and regulations, and with applicable criteria of 10 U.S.C. and 38 U.S.C.; must be necessary to reach the program's objective; and must be accomplished through—

(A) Resident courses;

(B) Independent study;

(C) Correspondence courses;

(D) An apprenticeship or other on-job training program; or

(E) Flight courses.

(Authority: 10 U.S.C. 2131, 2136; 38 U.S.C. 3680(g); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; secs. 642, 645, Pub. L. 101-189, 103 Stat. 1456-1458)

(ii) VA will consider a reservist who qualifies for payment during an interval, school closing, or holiday vacation to be in pursuit of a program of education during the interval, school closing, or holiday vacation.

(Authority: 10 U.S.C. 2136(b); 38 U.S.C. 3680(g); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642(c), (d), Pub. L. 101-189, 103 Stat. 1457-1458)

(20) *Refresher course*. The term *refresher course* means either:

(i) A course at the elementary or secondary level to review or update material previously covered in a course that has been satisfactorily completed; or

(ii) A course which permits an individual to update knowledge and skills or be instructed in the technological advances which have occurred in the reservist's field of employment since his or her entry on active duty and which is necessary to enable the individual to pursue an approved program of education.

(Authority: 10 U.S.C. 2131(b), (c); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565; secs. 642(a), (b), (d), 645(a), (b), Pub. L. 101-189, 103 Stat. 1456-1458))

* * * * *

(23) *School, educational institution, institution*. The terms *school*, *educational institution*, and *institution* mean:

(i) A vocational school or business school;

(ii) A junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution;

(iii) A public or private elementary school or secondary school which offers courses for adults, provided that the courses lead to an objective other than an elementary school diploma, a high school diploma, or their equivalents; or

(iv) Any entity, during the period beginning on November 2, 1994, and ending on September 30, 1996, other than an institution of higher learning, that provides training required for completion of a State-approved alternative teacher certification program.

(Authority: 10 U.S.C. 2131(a), (c); 38 U.S.C. 3002, 3452; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565; sec. 642(a), (b), (d), Pub. L. 101-189, 103 Stat. 1456-1458)

* * * * *

(30) *Cooperative course*. The term *cooperative course* means a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion.

(Authority: 10 U.S.C. 2131(e); 38 U.S.C. 3686; sec. 642(b), (d), Pub. L. 101-189, 103 Stat. 1456-1458)

(31) *Established charge*. The term *established charge* means the lesser of—

(i) The charge for the correspondence course or courses determined on the basis of the lowest extended time payment plan offered by the educational institution and approved by the appropriate State approving agency; or

(ii) The actual charge to the reservist.

(Authority: 10 U.S.C. 2131(f); sec. 642(b), (d), Pub. L. 101-189, 103 Stat. 1456-1458)

(32) *Training establishment*. The term *training establishment* means any establishment providing apprentice or other on-job training, including those under the supervision of a college, university, any State department of education, any State apprenticeship agency, any State board of vocational education, any joint apprenticeship committee, the Bureau of Apprenticeship and Training established in accordance with 29 U.S.C. chapter 4C, or any agency of the Federal government authorized to supervise such training.

(Authority: 10 U.S.C. 2131(d), 16136(b); 38 U.S.C. 3452(e); sec. 642(b), (d), Pub. L. 101-189, 103 Stat. 1456-1458)

(33) *Continuously enrolled*. The term *continuously enrolled* means being in an enrolled status at an educational institution for each day during the ordinary school year, and for consecutive school years. Consequently, continuity of enrollment is not broken by holiday vacations, vacation periods, periods during the school year between terms, quarters, or semesters, or by nonenrollment during periods of enrollment outside the ordinary school year (e.g., summer sessions).

(Authority: 10 U.S.C. 16136(b))

* * * * *

(35) *Alternative teacher certification program*. The term *alternative teacher certification program*, for the purposes of determining whether an entity offering such a program is a school, educational institution, or institution as defined in paragraph (b)(23)(iv) of this section, means a program leading to a teacher's certificate that allows individuals with a bachelor's degree or graduate degree to obtain teacher certification without enrolling in an institution of higher learning.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3452(c))

3. In § 21.7540, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively; and paragraph (a) is revised, and a new paragraph (b) is added, to read as follows:

§ 21.7540 Eligibility for educational assistance.

(a) *Basic eligibility requirements*. The Armed Forces will determine whether a reservist is eligible to receive benefits pursuant to 10 U.S.C. chapter 1606 (or 10 U.S.C. chapter 106 as in effect before December 1, 1994). To be eligible a reservist—

(1) Shall:

(i) Enlist, reenlist, or extend an enlistment as a Reserve for service in the Selected Reserve so that the total period of obligated service is at least six years from the date of such enlistment, reenlistment, or extension; or

(ii) Be appointed as, or be serving as, a reserve officer and agree to serve in the Selected Reserve for a period of not less than six years in addition to any other period of obligated service in the Selected Reserve to which the person may be subject;

(2) Must complete his or her initial period of active duty for training;

(3) Must be participating satisfactorily in the Selected Reserve; and

(4) Must not have elected to have his or her service in the Selected Reserve

credited toward establishing eligibility to benefits provided under 38 U.S.C. chapter 30.

(Authority: 10 U.S.C. 2132; 38 U.S.C. 3033(c); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565; sec. 4, Pub. L. 100-48, 101 Stat. 331; secs. 643, 645, Pub. L. 101-189, 103 Stat. 1458)

(b) *Eligibility requirements for expanded benefits.* (1) A reservist shall be eligible to pursue all types of training described in subpart L of this part regardless of whether he or she has received a baccalaureate degree or equivalent evidence of completion of study if—

(i) After September 30, 1990, he or she takes one of the actions described in paragraph (a)(1)(i) or (a)(1)(ii) of this section;

(ii) The reservist meets the criteria of paragraphs (a)(2) through (a)(4) of this section; and

(iii) The reservist does not have his or her eligibility limited as described in paragraph (c) of this section.

(2) A reservist shall be eligible to pursue all types of training described in subpart L of this part except the training described in paragraph (b)(3) of this section if—

(i) After June 30, 1985, but not after September 30, 1990, he or she takes one of the actions described in paragraph (a)(1) or (a)(2) of this section;

(ii) The reservist has not received a baccalaureate degree or the equivalent evidence of completion of study;

(iii) The reservist meets all the other eligibility criteria of paragraph (a) of this section; and

(iv) The reservist does not have his or her eligibility limited by paragraph (c) of this section.

(3) The types of training which a reservist described in paragraph (b)(1) of this section may pursue, but which may not be pursued by a reservist described in paragraph (b)(2), are:

(i) A course which is offered by an educational institution which is not an institution of higher learning (to determine if a nursing course is offered by an institution of higher learning, see § 21.7622(f));

(ii) A correspondence course;

(iii) A program of education leading to a standard college degree offered solely by independent study (but see § 21.7622(f) concerning enrollment in a nonaccredited independent study course after October 28, 1992);

(iv) A refresher, remedial or deficiency course;

(v) A cooperative course;

(vi) An apprenticeship or other on-job training; and

(vii) A flight course.

(Authority: 10 U.S.C. 2131, 2132, 2136; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567;

secs. 642, 643, 645, Pub. L. 101-189, 103 Stat. 1456-1458)

* * * * *

4. In § 21.7550, paragraph (a), introductory text, is revised, and paragraph (d) is added, to read as follows:

§ 21.7550 Ending dates of eligibility.

(a) *Time limit on eligibility.* Except as provided in § 21.7551 and paragraphs (a)(3), (b), (c), and (d) of this section, a reservist's period of eligibility expires effective the earlier of the following dates:

* * * * *

(d) *Unit deactivated.* (1) Except as provided in paragraph (d)(3) or (d)(4) of this section, the period of eligibility of a reservist, eligible for educational assistance under this subpart, who ceases to be a member of the Selected Reserve during the period beginning October 1, 1991, and ending September 30, 1999, under either of the conditions described in paragraph (d)(2) of this section, will expire on the date 10 years after the date the reservist becomes eligible for educational assistance.

(2) The conditions referred to in paragraph (d)(1) of this section for ceasing to be a member of the Selected Reserve are:

(i) The deactivation of the reservist's unit of assignment; and

(ii) The reservist's involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to 10 U.S.C. 10143(a).

(3) The provisions of paragraphs (d)(1) and (d)(2) of this section do not apply if the reservist ceases to be a member of the Selected Reserve under adverse conditions, as characterized by the Secretary of the military department concerned. The expiration of such a reservist's period of eligibility will be on the date the reservist ceases, under adverse conditions, to be a member of the Selected Reserve.

(4) A reservist's period of eligibility will expire if he or she is a member of a reserve component of the Armed Forces and (after having involuntarily ceased to be a member of the Selected Reserve) is involuntarily separated from the Armed Forces under adverse conditions, as characterized by the Secretary of the military department concerned. The expiration of such a reservist's period of eligibility will be on the date the reservist is involuntarily separated under adverse conditions from the Armed Forces.

(Authority: 10 U.S.C. 16133)

5. In § 21.7576, paragraphs (a), (b)(1), and (b)(2) are revised, and paragraphs

(b)(3), (b)(4), (b)(5), (b)(6), and (b)(7) are added, to read as follows:

§ 21.7576 Entitlement charges.

(a) *Overview.* VA will make charges against entitlement as stated in this section. Charges are based upon the principle that a reservist who trains full time for one day should be charged one day of entitlement, except for those pursuing:

(1) Flight training;

(2) Correspondence training;

(3) Cooperative training; or

(4) Apprenticeship or other on-job training.

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

(b) *Determining entitlement charge.*

* * *

(1) Except for those pursuing flight training, correspondence training, cooperative training, apprenticeship or other on-job training, VA will make a charge against entitlement—

(i) On the basis of total elapsed time (one day for each day of pursuit for which the reservist is paid educational assistance) if the reservist is pursuing the program of education on a full-time basis; or

(ii) On the basis of a proportionate rate of elapsed time, if the reservist is pursuing the program of education on a three-quarter, one-half, or one-quarter-time basis.

(2) VA will compute elapsed time from the commencing date of the award of educational assistance to the date of discontinuance. If the reservist changes his or her training time after the commencing date of the award, VA will—

(i) Divide the enrollment period into separate periods of time during which the reservist's training time remains constant; and

(ii) Compute the elapsed time separately for each time period.

(3) For each month that a reservist is paid a monthly educational assistance allowance while undergoing apprenticeship or other on-job training, VA will make a charge against entitlement of—

(i) .75 of a month in the case of payments made during the first six months of the reservist's pursuit of the program of apprenticeship or other on-job training;

(ii) .55 of a month in the case of payments made during the second six months of the reservist's pursuit of the program of apprenticeship or other on-job training; and

(iii) .35 of a month in the case of payments made following the first

twelve months of the reservist's pursuit of the program of apprenticeship or other on-job training.

(4) When a reservist is pursuing a program of education by correspondence, VA will make a charge against entitlement for each payment made to him or her. The charge will be made in months and decimal fractions of a month, as determined by dividing the amount of the payment by an amount equal to the rate stated in § 21.7636(a)(1) as the rate otherwise applicable to the reservist for full-time training.

(5) When a reservist is pursuing a program of education partly in residence and partly by correspondence, VA will make a charge against entitlement—

(i) For the residence portion of the program as provided in paragraphs (b)(1) and (b)(2) of this section; and

(ii) For the correspondence portion of the program as provided in paragraph (b)(4) of this section.

(6) When a reservist is pursuing a program of education through cooperative training, VA will make a charge against entitlement of .8 of a month for each month in which the reservist is receiving payment at the rate for cooperative training. If the reservist is pursuing cooperative training for a portion of a month, VA will make a charge against entitlement on the basis of total elapsed time (.8 of a day for each day of pursuit).

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

(7) When a reservist is pursuing a program of education through flight training, VA will make a charge against entitlement at the rate of one month for each amount equal to the monthly rate stated in § 21.7636(a)(1) as applicable for the month in which the training occurred.

(Authority: 10 U.S.C. 16136(c))

* * * * *

6. In § 21.7612, the introductory text and paragraph (a) are revised to read as follows:

§ 21.7612 Programs of education combining two or more types of courses.

An approved program may consist of courses offered by two educational institutions concurrently, or courses offered through class attendance and by television concurrently. An educational institution may contract the actual training to another educational institution, provided the course is approved by the State approving agency having approval jurisdiction over the

educational institution actually providing the training.

(a) *Concurrent enrollment.* When a reservist cannot schedule his or her complete program at one educational institution, VA may approve a program of concurrent enrollment. When requesting such a program, the reservist must show that his or her complete program of education is not available at the educational institution in which he or she will pursue the major portion of his or her program (the primary educational institution), or that it cannot be scheduled within the period in which he or she plans to complete his or her program. A reservist who is limited in the types of courses he or she may pursue, as provided in § 21.7540(b)(2) and (b)(3), may pursue courses only at an institution of higher learning. If such a reservist cannot complete his or her program at one institution of higher learning, VA may approve a concurrent enrollment only if both the educational institutions the reservist enrolls in are institutions of higher learning.

(Authority: 10 U.S.C. 2131(c), 2136(b); 38 U.S.C. 3680(g); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642, Pub. L. 101-189, 103 Stat. 1456-1458)

* * * * *

7. In § 21.7620, paragraph (a) is amended by removing "21.7520(n) of this part" and adding, in its place, "21.7520(b)(17)"; and paragraphs (b) and (c) are revised, and paragraph (d) is added, to read as follows:

§ 21.7620 Courses included in programs of education.

* * * * *

(b) *Flight training.* (1) VA may pay educational assistance for an enrollment in a flight training course when—

(i) An institution of higher learning offers the course for credit toward the standard college degree the reservist is pursuing; or

(ii) When:

(A) The reservist is eligible to pursue flight training as provided in § 21.7540(b)(1) and (b)(3);

(B) The State approving agency has approved the course;

(C) A flight school is offering the course;

(D) The reservist's training meets the requirements of § 21.4263(b)(1);

(E) The reservist meets the requirements of § 21.4263(a); and

(F) The training for which payment is made occurs after September 29, 1990.

(2) VA will not pay educational assistance for an enrollment in a flight training course when the reservist is pursuing an ancillary flight objective.

(Authority: 10 U.S.C. 16131, 16136(c)(1); 38 U.S.C. 3034)

(c) *Independent study.* (1) VA will pay educational assistance to a reservist who is limited in the types of courses he or she may pursue, as provided in § 21.7540(b)(2) and (b)(3), for an enrollment in any course or unit subject offered by independent study only when the reservist is enrolled concurrently in one or more courses or unit subjects offered by resident training.

(2) Only a reservist who meets the requirements of § 21.7540(b)(1) may be paid educational assistance for an enrollment in an independent study course or unit subject leading to a standard college degree without a simultaneous enrollment in a course or unit subject offered by resident training.

(3) Except as provided in paragraph (c)(4) of this section and subject to the restrictions found in paragraph (c)(1) of this section, effective October 29, 1992, VA may pay educational assistance to a reservist who is enrolled in a nonaccredited course or unit subject offered entirely or partly by independent study only if—

(i) Successful completion of the nonaccredited course or unit subject is required in order for the reservist to complete his or her program of education and the reservist:

(A) Was receiving educational assistance on October 29, 1992, for pursuit of the program of education of which the nonaccredited independent study course or unit subject forms a part; and

(B) Has remained continuously enrolled in the program of education of which the nonaccredited independent study course or unit subject forms a part from October 29, 1992, to the date the reservist enrolls in the nonaccredited independent study course or unit subject; or

(ii)(A) Was enrolled in and receiving educational assistance for the nonaccredited independent study course or unit subject on October 29, 1992; and

(B) Remains continuously enrolled in that course or unit subject.

(4) Whether or not the reservist is enrolled will be determined by the regularly prescribed standards and practices of the educational institution offering the course or unit subject.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3680A(a)(4); sec. 313(b), Pub. L. 102-568, 106 Stat. 4332)

(d) *Graduate study.* VA will pay educational assistance for an enrollment in a course or subject leading to a

graduate degree or certificate when the training occurs after November 29, 1993.

(Authority: 10 U.S.C. 16131(c))

8. In § 21.7622, paragraph (f) is revised, to read as follows:

§ 21.7622 Courses precluded.

* * * * *

(f) *Other courses.* (1) A reservist who is limited in the types of courses he or she may pursue, as provided in § 21.7540(b)(2) and (b)(3), may not receive any educational assistance for pursuit of any of the types of training listed in § 21.7540(b)(3).

(2) VA will not consider the hospital or field work phase of a nursing course, including a course leading to a degree in nursing, to be provided by an institution of higher learning unless—

(i) The hospital or fieldwork phase is an integral part of the course;

(ii) Completion of the hospital or fieldwork phase of the course is a prerequisite to the successful completion of the course;

(iii) The student remains enrolled in the institution of higher learning during the hospital or fieldwork phase of the course; and

(iv) The training is under the direction and supervision of the institution of higher learning.

(3) A reservist who is limited in the types of courses he or she may pursue, as provided in § 21.7540(b)(2) and (b)(3), may not receive educational assistance for an enrollment in a course pursued after the reservist has completed the course of instruction required for the award of a baccalaureate degree or the equivalent evidence of completion of study, unless the reservist is pursuing a course or courses leading to a graduate degree or graduate certificate. Such a reservist may receive educational assistance while pursuing a course or courses leading to a graduate degree or graduate certificate (subject to the restrictions in § 21.7620(d)). Equivalent evidence of completion of study may include, but is not limited to, a copy of the reservist's transcript showing that he or she has received passing grades in all courses needed to obtain a baccalaureate degree at the institution of higher learning which he or she has been attending.

(4) No reservist may receive payment of educational assistance from VA for:

(i) An audited course (see § 21.4252(i));

(ii) A new enrollment in a course during a period when approval has been suspended by a State approving agency or VA;

(iii) Pursuit of a course by a nonmatriculated student except as provided in § 21.4252(l);

(iv) An enrollment in a course at an educational institution for which the reservist is an official of such institution authorized to sign certificates of enrollment under 10 U.S.C. chapter 1606;

(v) A new enrollment in a course which does not meet the veteran-nonveteran ratio requirement as computed under § 21.4201; or

(vi) Except as provided in § 21.7620(c), an enrollment in a nonaccredited independent study course.

(Authority: 10 U.S.C. 16131(c), 16136(b); 38 U.S.C. 3672(a), 3676, 3680(a); sec. 642(d), Pub. L. 101-189, 103 Stat. 1458)

9. Section 21.7624 is revised, to read as follows:

§ 21.7624 Overcharges and restrictions on enrollments.

(a) *Overcharges.* VA may disapprove an educational institution for further enrollments when the educational institution charges or receives from a reservist tuition and fees that exceed the established charges which the educational institution requires from similarly circumstanced nonreservists enrolled in the same course.

(Authority: 10 U.S.C. 2136; 38 U.S.C. 3690; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; secs. 642 (c), (d), 645(a)(1), Pub. L. 101-189, 103 Stat. 1457-1458)

(b) *Restriction on enrollments.* The provisions of § 21.4202(b) apply to any determination by VA as to whether to impose restrictions on approval of enrollments and whether to discontinue payments to reservists already enrolled at an educational institution.

(Authority: 10 U.S.C. 2136; 38 U.S.C. 3690(b); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; secs. 642 (c), (d), 645(a)(1), Pub. L. 101-189, 103 Stat. 1457-1458)

10. In § 21.7631, paragraph (a)(1) and the headings for paragraphs (b) and (c) are revised, and paragraph (g) is added, to read as follows:

§ 21.7631 Commencing dates.

* * * * *

(a) * * *

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

* * * * *

(b) *Certification by educational institution—course or subject leads to a standard college degree.*

* * * * *

(c) *Certification by educational institution—course does not lead to a standard college degree.*

* * * * *

(g) *Service Members Occupational Conversion and Training Act of 1992.* If

the reservist's educational assistance has been barred or has been discontinued because the reservist is training under a job training program for which benefits are payable to his or her employer under the Service Members Occupational Conversion and Training Act of 1992, VA will begin or resume paying educational assistance to the reservist effective the first day following the last date for which benefits are payable under that Act.

(Authority: Sec. 4492(a), Pub. L. 102-484, 106 Stat. 2765-2766)

11. In § 21.7635, paragraph (v) is redesignated as paragraph (x); and paragraph (a) is revised, paragraphs (b)(3), (b)(4), and (b)(5) are added, paragraph (r) is revised, and paragraphs (v) and (w) are added, to read as follows:

§ 21.7635 Discontinuance dates.

* * * * *

(a) *Death of reservist.* (1) If the reservist receives an advance payment and dies before the end of the period covered by the advance payment, the discontinuance date of educational assistance shall be the last date of the period covered by the advance payment.

(2) In all other cases if the reservist dies while pursuing a program of education, the discontinuance date of educational assistance shall be the last date of attendance.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3680(e))

(b) * * *

(3) When a reservist withdraws from a correspondence course, VA will terminate educational assistance effective the date the last lesson is serviced.

(4) When a reservist withdraws from an apprenticeship or other on-job training, VA will terminate educational assistance effective the date of last training.

(Authority: 10 U.S.C. 2136(b); 38 U.S.C. 3680(a); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642 (c), (d), Pub. L. 101-189, 103 Stat. 1457-1458)

(5) When a reservist withdraws from flight training, VA will terminate educational assistance effective the date of last instruction.

(Authority: 10 U.S.C. 2136(b); 38 U.S.C. 3680(a); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642 (c), (d), Pub. L. 101-189, 103 Stat. 1457-1458)

* * * * *

(r) *Completion of baccalaureate instruction.* If a reservist who is limited in the types of courses he or she may pursue, as provided in § 21.7540 (b)(2) and (b)(3), completes a course of instruction required for the award of a

baccalaureate degree or the equivalent evidence of completion of study (see § 21.7622(f)), VA will discontinue educational assistance effective the day after the date upon which the required course of instruction was completed.

(Authority: 10 U.S.C. 2131; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565; secs. 642 (a), (b), (d), 645(a), (b), Pub. L. 101-189, 103 Stat. 1456-1458)

* * * * *

(v) *Independent study course loses accreditation.* If the reservist is enrolled in a course offered in whole or in part by independent study, and the course loses its accreditation (or the educational institution offering the

course loses its accreditation), the date of reduction or discontinuance will be the effective date of the withdrawal of accreditation by the accrediting agency, unless the provisions of § 21.7620 (c)(3) or (c)(4) apply.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3680A(a)(4))

(w) *Service Members Occupational Conversion and Training Act of 1992.* If a reservist enters a training program for the purpose of obtaining assistance under the Service Members Occupational Conversion and Training Act of 1992, the effective date of discontinuance of educational

assistance shall be the date on which the reservist entered the job training program.

(Authority: Sec. 4492(a), Pub. L. 102-484, 106 Stat. 2765-2766)

* * * * *

12. Section 21.7636 is revised, to read as follows:

§ 21.7636 Rates of payment.

(a) *Monthly rate of educational assistance.* (1) Except as otherwise provided in this section and in § 21.7639, the monthly rate of educational assistance payable to a reservist is the amount stated in this table:

Period of pursuit of training	Training time			
	Full-time	3/4 time	1/2 time	1/4 time
Oct. 1, 1990–Sept. 30, 1991	\$140.00	\$105.00	\$70.00	\$35.00
Oct. 1, 1991–Mar. 31, 1993	170.00	128.00	85.00	43.00
Apr. 1, 1993–Sept. 30, 1994	190.00	143.00	95.00	48.00
Oct. 1, 1994–Sept. 30, 1995	192.32	144.74	96.16	48.08
On and after Oct. 1, 1995	197.90	148.42	98.95	49.47

(2) The monthly rate of basic educational assistance payable to a reservist who is pursuing an

apprenticeship or other on-job training full time is the rate stated in these tables:

(i)

Training period	Monthly rate			
	Oct. 1, 1990–Sept. 30, 1991	Oct. 1, 1991–Mar. 31, 1993	Apr. 1, 1993–Sept. 30, 1994	Oct. 1, 1994–Sept. 30, 1995
First six months of pursuit of training	\$105.00	\$127.50	\$142.50	144.24
Second six months of pursuit of training	77.00	93.50	104.50	105.78
Remaining pursuit of training	49.00	59.50	66.50	67.31

Training period	Monthly rate On and after Oct. 1, 1995
First six months of pursuit of training	\$148.42
Second six months of pursuit of training	108.94
Remaining pursuit of training	69.26

(ii) Full-time training will consist of the number of hours which constitute the standard workweek of the training establishment, but not less than 30 hours unless a lesser number of hours is established as the standard workweek for the particular establishment through bona fide collective bargaining between employers and employees.

(3) The monthly rate of educational assistance payable to a reservist who is pursuing a cooperative course is the rate stated in this table:

Oct. 1, 1990–Sept. 30, 1991	Oct. 1, 1991–Mar. 31, 1993	Apr. 1, 1993–Sept. 30, 1994	Oct. 1, 1994–Sept. 30, 1995	On and after Oct. 1, 1995
\$112.00	\$136.00	\$152.00	\$153.86	\$158.32

(Authority: 10 U.S.C. 16131(b), (c); sec. 12009(c), Pub. L. 103-66, 107 Stat. 416)

(b) *Limitations on payments.* VA may withhold final payment until VA receives proof of the reservist's enrollment and adjusts the reservist's account.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3680(g))

13. In § 21.7639, paragraph (b)(1) introductory text is amended by removing the second sentence; the heading of paragraph (e) is amended by removing "Payment for independent"

and adding, in its place, "Independent"; and the section heading, paragraph (a) introductory text, the authority citation for paragraph (a), and paragraph (f) are revised, and paragraphs (g) through (k) are added, to read as follows:

§ 21.7639 Conditions which result in reduced rates or no payment.

* * * * *

(a) *Absences.* A reservist enrolled in a course not leading to a standard college degree will have his or her educational assistance reduced for any day of absence which occurs before December 18, 1989, and which exceeds the maximum allowable absences permitted in this paragraph.

* * * * *

(Authority: 10 U.S.C. 2136(b); 38 U.S.C. 3680; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642 (c), (d), Pub. L. 101-189, 103 Stat. 1457-1458)

* * * * *

(f) *Independent study.* (1) A reservist pursuing only independent study and whose enrollment begins before July 1, 1993, shall be paid educational assistance at the quarter-time rate regardless of the number of credit hours the reservist may be pursuing.

(2) A reservist pursuing only independent study and whose enrollment begins after June 30, 1993, shall be paid educational assistance on the basis of his or her training time.

(3) No payments may be made to a reservist who is limited in the types of courses he or she may pursue, as provided in § 21.7540(b)(2) and (b)(3), and who is pursuing independent study unless he or she is concurrently pursuing one or more courses offered through resident training at an institution of higher learning.

(Authority: 10 U.S.C. 2131; 10 U.S.C. 2136(b); 38 U.S.C. 3532, 3532 note, 3680; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; secs. 642, 645 (a), (b), Pub. L. 101-189, 103 Stat. 1457-1458)

(g) *Payment for correspondence courses.* A reservist who is pursuing a correspondence course or the correspondence portion of a correspondence-residence course shall be paid 55 percent of the established charge which the educational institution requires nonreservists to pay for the lessons—

(1) Which the reservist has completed;

(2) Which the educational institution has serviced; and

(3) For which payment is due.

(Authority: 10 U.S.C. 2131(f); sec. 642 (b), (d), Pub. L. 101-189, 103 Stat. 1456-1458)

(h) *Failure to work sufficient hours of apprenticeship and other on-job training.* (1) For any calendar month in which a reservist pursuing an apprenticeship or other on-job training program fails to complete 120 hours of training, VA shall reduce the rates specified in § 21.7636(a)(2) proportionately. In this computation,

VA shall round the number of hours worked to the nearest multiple of eight.

(2) For the purpose of this paragraph, hours worked include only—

(i) The training hours the reservist worked; and

(ii) All hours of the reservist's related training which occurred during the standard workweek and for which the reservist received wages. (See § 21.7636(a)(2)(ii) as to the requirements for full-time training.)

(Authority: 10 U.S.C. 2131(d)(2); sec. 642 (b), (d), Pub. L. 101-189, 103 Stat. 1456-1458)

(i) *Flight training course.* A reservist who is pursuing a flight training course shall be paid 60 percent of the established charge for tuition and fees (other than tuition and fees charged for or attributable to solo flying hours) which the flight school requires similarly circumstanced nonreservists enrolled in the same course to pay.

(Authority: 10 U.S.C. 16131(g))

(j) *Membership in the Senior Reserve Officers' Training Corps.* A reservist may not receive educational assistance for any period for which he or she receives financial assistance under 10 U.S.C. 2107 as a member of the Senior Reserve Officers' Training Corps.

(Authority: 10 U.S.C. 16134)

(k) *Course not offered by an institution of higher learning or not leading to an identifiable educational, professional, or vocational objective.* A reservist who is limited in the types of courses he or she may pursue, as described in § 21.7540(b)(2) and (b)(3), may not receive educational assistance for instruction in a program of education unless it is offered at an institution of higher learning. The instruction must lead to an identifiable educational, professional, or vocational objective, but does not have to lead to a standard college degree.

(Authority: 10 U.S.C. 2131(b), 2136(b); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; secs. 642 (b)(1), (c), (d), 645(a), (b), Pub. L. 101-189, 103 Stat. 1456-1458)

14. In § 21.7640, paragraph (d)(1) introductory text is amended by removing "institution of higher learning" and adding, in its place, "educational institution"; and the section heading and paragraph (a) are revised, to read as follows:

§ 21.7640 Release of payments.

(a) *Payments are dependent upon certifications, reports, and verifications of pursuit.* When certifications, reports, or verifications of pursuit are mentioned in this paragraph, the certifications, reports, and verifications of pursuit are

to be made in the form prescribed by the Secretary of Veterans Affairs.

(1) VA will pay educational assistance to a reservist who is pursuing a standard college degree only after the educational institution has certified his or her enrollment.

(2) VA will pay educational assistance to a reservist who is pursuing a course not leading to a standard college degree (other than a correspondence course, a course of flight training, or an apprenticeship or other on-job training) only after:

(i) The educational institution has certified his or her enrollment in the form prescribed by the Secretary of Veterans Affairs; and

(ii) VA has received a report by the reservist, which report is endorsed by the educational institution, of—

(A) Each day of absence that occurred before December 18, 1989; or

(B) A verification of pursuit from the reservist of training that occurred on or after December 18, 1989.

(3) VA will pay educational assistance to a reservist pursuing a program of apprenticeship or other on-job training only after:

(i) The training establishment has certified his or her enrollment in the training program in the form prescribed by the Secretary of Veterans Affairs; and

(ii) VA has received certification by the reservist and the training establishment of the reservist's hours worked.

(4) VA will pay educational assistance to a reservist who is pursuing a correspondence course only after:

(i) The educational institution has certified his or her enrollment in the form prescribed by the Secretary of Veterans Affairs; and

(ii) VA has received a certification by the reservist, which certification is endorsed by the educational institution, as to the number of lessons completed and serviced by the educational institution.

(5) VA will pay educational assistance to a reservist who is pursuing a flight course only after:

(i) The educational institution certifies the reservist's enrollment in the form prescribed by the Secretary of Veterans Affairs; and

(ii) VA has received a report by the reservist of the flight training the reservist has completed, which report is endorsed by the educational institution.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3680)

* * * * *

15. In § 21.7642, paragraph (a)(6) is amended by removing "38" and adding, in its place, "10"; paragraph (d)(3) is amended by removing "during any period that full salary is being paid to him or her as an employee of the United States"; and paragraphs (a)(7) and (a)(8) are revised, and paragraphs (a)(9) and (e) are added, to read as follows:

§ 21.7642 Nonduplication of educational assistance.

(a) * * *

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

(8) The Hostage Relief Act of 1980; or

(9) The Omnibus Diplomatic Security Act of 1986.

(Authority: 10 U.S.C. 2136(b); 38 U.S.C. 3695; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; secs. 642(c), (d), Pub. L. 101-189, 103 Stat. 1457-1458)

* * * * *

(e) *Service Members Occupational Conversion and Training Act of 1992.* A reservist may not receive educational assistance under the Montgomery GI Bill—Selected Reserve program during the period for which benefits are payable under the Service Members Occupational Conversion and Training Act of 1992.

(Authority: Sec. 4492(a), Pub. L. 102-484, 106 Stat. 2765-2766)

16. Section 21.7645 is added, immediately after the cross-reference that follows § 21.7644, to read as follows:

§ 21.7645 Work-study allowance.

(a) *Eligibility.* Reservists pursuing three-quarter-time or full-time programs of education or training under 10 U.S.C. chapter 1606 are eligible to receive a work-study allowance.

(Authority: 38 U.S.C. 3485)

(b) *Selection criteria.* Whenever feasible, VA will give priority in selection for the work-study allowance to veterans with service-connected disabilities rated at 30 percent or more. VA shall consider the following additional selection criteria:

(1) Need of the reservist to augment his or her educational assistance allowance;

(2) Availability to the reservist of transportation to the place where his or her services are to be performed;

(3) Motivation of the reservist; and

(4) Compatibility of the work assignment to the reservist's physical condition.

(Authority: 38 U.S.C. 3485)

(c) *Utilization.* The service for which the reservist is being paid a work-study allowance may be utilized in connection with—

(1) Outreach services programs as carried out under the supervision of a VA employee;

(2) Preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of VA;

(3) Hospital and domiciliary care and medical treatment at VA facilities;

(4) Activities relating to the administration of 10 U.S.C. chapter 1606 (or 10 U.S.C. chapter 106 as in effect before December 1, 1994), at Department of Defense facilities, Coast Guard facilities, or National Guard facilities; and

(5) Any other appropriate activity of VA.

(Authority: 38 U.S.C. 3485)

(d) *Rate of payment.* (1) In return for the reservist's agreement to perform services for VA totaling 25 hours times the number of weeks contained in an enrollment period, VA will pay an allowance in an amount equal to the higher of—

(i) The hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times the number of hours the reservist has agreed to work; or

(ii) The hourly minimum wage under comparable law of the State in which the services are to be performed times the number of hours the reservist has agreed to work.

(2) VA will pay proportionately less to reservists who agree to perform a lesser number of hours of services.

(Authority: 38 U.S.C. 3485)

(e) *Payment in advance.* (1) For work-study commencing during the period beginning on May 1, 1990, and ending on October 28, 1992, VA will pay in advance an amount equal to 40 percent of the total amount payable under the contract.

(2) For work-study commencing after October 28, 1992, VA will pay in advance an amount equal to the lesser of the following:

(i) 40 percent of the total amount payable under the contract; or

(ii) An amount equal to 50 times the applicable minimum hourly wage in effect on the date the contract is signed.

(Authority: 38 U.S.C. 3485)

(f) *Reservist reduces rate of training.* In the event the reservist ceases to be at least a three-quarter-time student before completing an agreement, the reservist, with the approval of the Director of the VA field station or his or her designee,

may be permitted to complete the unworked portion of an agreement in the same term, quarter, or semester in which the reservist ceases to be at least a three-quarter-time student or in the immediately following term, quarter, or semester.

(Authority: 38 U.S.C. 3485)

(g) *Reservist terminates training.* (1) If the reservist terminates all training before completing an agreement, the Director of the VA field station or his or her designee—

(i) May permit him or her to complete the portion of the agreement represented by the money VA has advanced the reservist for which he or she has performed no service, but

(ii) Will not permit him or her to complete that portion of an agreement for which no advance has been made.

(2) The reservist must complete the allowed portion of an agreement in the same or immediately following term, quarter, or semester in which the reservist terminates training.

(Authority: 38 U.S.C. 3485)

(h) *Indebtedness for unperformed service.* (1) If the reservist has received an advance for hours of unperformed service, and VA has evidence upon which the Director of the VA Regional Office of jurisdiction or his or her designee concludes that the reservist does not intend to perform that service, the advance—

(i) Will be deemed a debt due the United States; and

(ii) Will be subject to recovery the same as any other debt due the United States.

(2) The amount of indebtedness for each hour of unperformed service shall equal the hourly wage that formed the basis for the contract.

(Authority: 38 U.S.C. 3485)

17. In § 21.7653, the section heading and paragraphs (c) and (d) are revised, and paragraph (e) is added, to read as follows:

§ 21.7653 Progress, conduct, and attendance.

* * * * *

(c) *Satisfactory attendance.* In order to receive educational assistance for pursuit of a program of education, a reservist must maintain satisfactory course attendance. VA will discontinue educational assistance if the reservist does not maintain satisfactory course attendance. Attendance is unsatisfactory if the reservist does not attend according to the regularly prescribed standards of the educational institution in which he or she is enrolled.

(Authority: 10 U.S.C. 2136(b); 38 U.S.C. 3474; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642 (c), (d), Pub. L. 101-189, 103 Stat. 1457-1458)

(d) *Reports.* At times the unsatisfactory progress, conduct, or course attendance of a reservist is caused by or results in his or her interruption or termination of training. If this occurs, the interruption or termination shall be reported in accordance with § 21.7656(a). If the reservist continues in training despite making unsatisfactory progress, the fact of his or her unsatisfactory progress must be reported to VA within the time allowed by paragraphs (d)(1), (d)(2), and (d)(3) of this section.

(1) A reservist's progress may become unsatisfactory as a result of the grades he or she receives. The educational institution shall report such unsatisfactory progress to VA in time for VA to receive it before the earlier of the following dates is reached:

(i) Thirty days from the date on which the school official who is responsible for determining whether a student is making progress first receives the final grade report which establishes that the reservist is not progressing satisfactorily; or

(ii) Sixty days from the last day of the enrollment period during which the reservist earned the grades that caused him or her to meet the unsatisfactory progress standards.

(2) If the unsatisfactory progress of the reservist is caused solely by any factors other than the grades which he or she receives, the educational institution shall report the unsatisfactory progress in time for VA to receive it within 30 days of the date on which the progress of the reservist becomes unsatisfactory.

(3) The educational institution shall report the unsatisfactory conduct or attendance of the reservist to VA in time for VA to receive it within 30 days of the date on which the conduct or attendance of the reservist becomes unsatisfactory.

(e) *Reentrance after discontinuance.* In order for a reservist to receive educational assistance following discontinuance for unsatisfactory progress, conduct, or attendance, the provisions of this paragraph must be met.

(1) The reservist's subsequent reentrance into a program of education may be for the same program, for a revised program, or for an entirely different program, depending on the cause of the discontinuance and removal of that cause.

(2) A reservist may reenter following discontinuance because of unsatisfactory attendance, conduct, or

progress when either of the following sets of conditions exists:

(i) The reservist resumes enrollment at the same educational institution in the same program of education and the educational institution has both approved the reservist's reenrollment and certified it to VA; or

(ii) In all other cases, VA determines that—

(A) The cause of the unsatisfactory attendance, conduct, or progress in the previous program has been removed and is not likely to recur; and

(B) The program which the reservist now proposes to pursue is suitable to his or her aptitudes, interests, and abilities.

(Authority: 10 U.S.C. 2136(b); 38 U.S.C. 3474; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642 (c), (d), Pub. L. 101-189, 103 Stat. 1457-1458)

(Approved by the Office of Management and Budget under control number 2900-0552)

18. Section 21.7654 is revised, to read as follows:

§ 21.7654 Pursuit and absences.

(a) *Verifying pursuit of courses not leading to a standard college degree.* (1) If a reservist is pursuing a course not leading to a standard college degree and the course is neither a flight course nor a correspondence course, the reservist must monthly verify pursuit of that course. The reservist's verification in the form prescribed by the Secretary will attest to the following items as to the period verified, when applicable:

- (i) Actual attendance;
- (ii) Continued enrollment in and pursuit of the course;
- (iii) The reservist's unsatisfactory progress, conduct, or attendance;
- (iv) Date of interruption or termination of training;
- (v) Changes in the number of credit hours or in the number of clock hours of attendance;
- (vi) The award of nonpunitive grades;
- (vii) Any other changes or modifications in the course as certified at enrollment.

(2) The verification of enrollment or the verification of pursuit and continued enrollment must—

- (i) Contain the information required by paragraph (a)(1) of this section for release of payment;
- (ii) Be signed by the reservist on or after the final date of the reporting period; and
- (iii) Show the date on which it was signed.

(Authority: 10 U.S.C. 2136(b); 38 U.S.C. 3680(g); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642 (c), (d), Pub. L. 101-189, 103 Stat. 1457-1458)

(b) *Additional requirements for apprenticeships and other on-job training programs.* (1) When a reservist is pursuing an apprenticeship or other on-job training, he or she must monthly certify training by reporting the number of hours worked.

(2) The information provided by the reservist must be verified by the training establishment.

(Authority: 10 U.S.C. 2136(b); 38 U.S.C. 3680(a); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642(c), (d), Pub. L. 101-189, 103 Stat. 1457-1458)

(Approved by the Office of Management and Budget under control number 2900-0553)

19. In § 21.7670, paragraph (d) and reserved paragraph (e) are removed; paragraph (f) is redesignated as paragraph (d); and the heading, introductory text, and newly redesignated paragraph (d) are revised to read as follows:

§ 21.7670 Measurement of courses leading to a standard, undergraduate college degree.

Except as provided in § 21.7672, VA will measure a reservist's courses as stated in this section.

* * * * *

(d) *Other requirements.* Notwithstanding any other provision of this section, in administering benefits payable under 10 U.S.C. chapter 1606, VA shall apply the provisions of § 21.4272 (a), (b), (d), (e) (except paragraph (e)(4)), (f), (g), and (k).

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3688(b))

20. In § 21.7672, the introductory text of paragraph (b)(1) is revised, paragraph (b)(2)(ii) is revised, paragraphs (b)(3), (b)(4), and (b)(5) are added, and paragraph (c) introductory text, paragraph (d), paragraph (e) introductory text, the heading of paragraph (f), paragraph (f) introductory text, paragraph (f)(1)(iv), and the authority citation for paragraph (f) are revised, to read as follows:

§ 21.7672 Measurement of courses not leading to a standard college degree.

* * * * *

(b) *Credit-hour measurement—standard method.* (1) For new enrollments that begin before July 1, 1993, VA will measure a reservist's enrollment in a course not leading to a standard college degree on a credit-hour basis when all conditions listed in paragraphs (b)(1)(i) and (b)(1)(ii) of this section are met.

* * * * *

(2) * * *
(ii) Apply the provisions of § 21.4272(g) if one or more of the

reservist's courses are offered during a nonstandard term.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3688)

(3) For new enrollments beginning on or after July 1, 1993, when a course is offered by an institution of higher learning in residence on a standard quarter- or semester-hour basis, VA will measure a reservist's enrollment in a course not leading to a standard college degree on the same credit-hour basis as courses leading to a standard undergraduate degree, as provided in § 21.7670.

(4) For new enrollments beginning on or after July 1, 1993, when a course is offered in residence on a standard quarter- or semester-hour basis by an educational institution which is not an institution of higher learning, VA also will measure on a credit-hour basis as provided in § 21.7670 a reservist's enrollment in a course not leading to a standard college degree, provided that the educational institution requires at least the same number of clock-hours of attendance as required in paragraph (f) of this section. If the educational institution does not require at least the same number of clock-hours of attendance as required in paragraph (f) of this section, VA will not apply the provisions of § 21.7670, but will measure the course according to paragraph (f) of this section.

(5) VA will apply the provisions of § 21.4272(g) to new enrollments beginning on or after July 1, 1993, if one or more of the reservist's courses are offered during a nonstandard term.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3688(a)(7))

(c) *Credit-hour measurement—alternate method.* The provisions of this paragraph apply only to the measurement of new enrollments that begin before July 1, 1993. Even though courses not leading to a standard college degree do not qualify for credit-hour measurement as provided in paragraph (b) of this section, an educational institution offering courses not leading to a standard college degree may measure those courses on a quarter- or semester-hour basis as indicated for collegiate courses in § 21.7670 provided—

* * * * *

(d) *Mixed credit-hour and clock-hour measurement (conversion to equivalent clock hours).* The provisions of this paragraph apply to training occurring on or after December 18, 1989, provided that if the training resulted from a new enrollment, the enrollment began before July 1, 1993.

(1) When a course not leading to a standard college degree in which the reservist is enrolled cannot qualify for credit-hour measurement under either paragraph (b) or (c) of this section, VA will measure the course on a combined clock-hour and credit-hour basis when the provisions of this paragraph are met.

(i) The course in which the reservist is enrolled—

(A) Is offered by an institution of higher learning; and

(B) Does not lead to a standard college degree; and

(ii) The institution of higher learning requires as part of the reservist's program of education one or more unit subjects for which credit is granted toward a standard college degree.

(2) When measuring a reservist's enrollment during a semester or quarter when he or she is pursuing one or more courses which the educational institution measures on a credit-hour basis, VA will convert the credit to equivalent clock hours as provided in paragraph (d)(3) of this section, and combine them with the clock hours of the other courses measured by the school on that basis, as provided in paragraph (d)(4) of this section.

(3) VA will—

(i) Determine the equivalent clock hour factor by dividing the number of clock hours which constitute full time for the enrollment as stated in paragraph (e) or (f) of this section by the number of credit hours which constitute a full-time undergraduate enrollment at the educational institution as stated in paragraph (a) of this section; and

(ii) Except as provided in paragraphs (d)(5) and (d)(6) of this section, multiply the number of credit hours in which the reservist is enrolled by the equivalent clock hour factor as determined by paragraph (d)(3)(i) of this section. This will result in the number of equivalent clock hours in which the reservist is enrolled.

(4) VA will add the number of clock hours in which the reservist is enrolled to the number of equivalent clock hours in which he or she is enrolled.

(i) If the course is nonaccredited and shop practice is an integral part of the course, the course will be measured as provided in paragraph (e)(1) of this section with the total number of clock hours and equivalent clock hours considered to be clock hours for the purpose of applying that paragraph.

(ii) If the course is nonaccredited and classroom instruction predominates, the course will be measured as provided in paragraph (e)(2) of this section with the total number of clock hours and equivalent clock hours considered to be

clock hours for the purpose of applying that paragraph.

(iii) If the course is accredited and shop practice is an integral part of the course, the course will be measured as provided in paragraph (f)(1) of this section with the total number of clock hours and equivalent clock hours considered to be clock hours for the purpose of applying that paragraph.

(iv) If the course is accredited and classroom instruction predominates, the course will be measured as provided in paragraph (f)(2) of this section with the total number of clock hours and equivalent clock hours considered to be clock hours for the purpose of applying that paragraph.

(5) When the number of class sessions per credit hour is so low that § 21.4272 (f)(2)(ii) or (f)(3) would control the way in which VA would measure those credit hours, VA will make the calculations required by paragraph (d)(3)(ii) of this section by multiplying the number of class sessions determined by the equivalent clock hour factor.

(6) When the reservist is attending a nonstandard term, VA will make the calculations required by paragraph (d)(3)(ii) of this section by determining the equivalent credit hours in which the reservist is enrolled as provided in § 21.4272(g), and multiplying the equivalent credit hours by the equivalent clock hour factor.

(7) In calculations required by this paragraph, fractions of an equivalent clock hour will be dropped.

(Authority: 10 U.S.C. 16136; 38 U.S.C. 3688(e))

(e) *Nonaccredited courses—clock-hour measurement for new enrollments beginning before July 1, 1993.* The provisions of this paragraph apply to new enrollments beginning before July 1, 1993. If, after having examined the courses in which a reservist is enrolled, VA concludes that the reservist's enrollment qualifies neither for credit-hour measurement as provided in paragraphs (b) and (c) of this section nor for a combination of credit-hour and clock-hour measurement as provided in paragraph (d) of this section, VA shall measure a nonaccredited course not leading to a standard college degree as follows. For the purpose of this paragraph, clock hours and class sessions mean clock hours and class sessions per week.

* * * * *

(f) *Clock-hour measurement.* The provisions of this paragraph apply to enrollments before July 1, 1993, in accredited courses not leading to a standard college degree, and to all new enrollments on or after July 1, 1993, in

courses not leading to a standard college degree. If VA concludes that the courses in which a reservist is enrolled qualify neither for credit-hour measurement as provided in paragraph (b) or (c) of this section nor for a combination of clock-hour and credit-hour measurement as provided in paragraph (d) of this section, VA shall measure those courses as follows. (Supervised study shall be excluded from measurement of all courses to which this paragraph applies.)

(1) * * *

(iv) One-quarter-time training shall be 1 through 10 clock hours attendance. For attendance of 6 through 10 clock hours, there shall be not more than one quarter hour rest period allowance. For attendance of 1 through 5 clock hours, there shall be no rest period allowance.

* * * * *

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3688)

21. In § 21.7673, paragraph (a)(2) is removed; paragraph (a)(3) is redesignated as paragraph (a)(2); and paragraph (a)(1), newly redesignated paragraph (a)(2), and paragraph (d) are revised, to read as follows:

§ 21.7673 Measurement of concurrent enrollments.

(a) * * *

(1) If VA measures the course at the primary institution on a credit-hour basis (including a course which does not lead to a standard college degree, which is being measured on a credit-hour basis as provided in § 21.7672(b)), and VA measures the courses at the second school on a clock-hour basis, the clock hours will be converted to credit hours.

(2) If VA measures the courses pursued at the primary institution on a clock-hour basis, and VA measures the courses pursued at the second school on a credit-hour basis, including courses which qualify for credit-hour measurement on the basis of § 21.7672(b), VA will convert the credit hours to clock hours to determine the reservist's training time.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3688)

* * * * *

(d) *Standards for measurement the same.* If VA measures the courses pursued at both institutions on either a clock-hour basis or a credit-hour basis, VA will measure the reservist's enrollment by adding together the units of measurement for the courses in the second school and the units of measurement for courses in the primary institution. The standard for full time

will be the full-time standard for the courses at the primary institution.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3688)

§ 21.7674 [Amended]

22. In § 21.7674, paragraph (b) is amended by removing "21.7720(b)(3) of this part" and adding, in its place, "21.7720(b)(9)" and by removing "21.7672 of this part" and adding, in its place, "21.7672"; and paragraph (c) is amended by removing "appropriate, if approved under § 21.7720(b)(4) of this part" and adding, in its place, "appropriate".

23. In § 21.7700, paragraphs (f) and (g) are removed; and the introductory text, paragraph (a), and the authority citation are revised, to read as follows:

§ 21.7700 State approving agencies.

VA and State approving agencies have the same general responsibilities for approving courses for training under 38 U.S.C. chapter 1606 (or 10 U.S.C. chapter 106 as in effect before December 1, 1994) as they do for approving courses for training under 38 U.S.C. chapter 30 or 32. Accordingly, in administering 10 U.S.C. chapter 1606 (or 10 U.S.C. chapter 106 as in effect before December 1, 1994), VA will apply the provisions of the following sections:

(a) § 21.4150—Designation,

* * * * *

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3670 through 3676)

24. Section 21.7720 is revised to read as follows:

§ 21.7720 Course approval.

(a) *Courses must be approved.* (1) A course of education offered by an educational institution must be approved by—

(i) The State approving agency for the State in which the educational institution is located; or

(ii) The State approving agency which has appropriate approval authority; or

(iii) VA, where appropriate.

(2) In determining when approval authority rests with the State approving agency or VA, the provisions of § 21.4250 (b)(3), (c)(2)(i), (c)(2)(ii), (c)(2)(iii), and (c)(2)(iv) apply.

(3) A course approved under 38 U.S.C. chapter 36 is approved for purposes of 10 U.S.C. chapter 1606 (or 10 U.S.C. chapter 106 as in effect before December 1, 1994).

(Authority: 10 U.S.C. 2131(c), 2136(b); 16131(c)(1), 16136(b); 38 U.S.C. 3672; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642, Pub. L. 101-189, 103 Stat. 1456-1458)

(b) *Course approval criteria.* In administering benefits payable under 10

U.S.C. chapter 1606 (or 10 U.S.C. chapter 106 as in effect before December 1, 1994), VA and, where appropriate, the State approving agencies, shall apply the following sections:

(1) § 21.4250 (except paragraph (c)(1))—Approval of courses;

(2) § 21.4251—Period of operation of course;

(3) § 21.4253 (except those portions of paragraphs (b) and (f) that permit approval of a course leading to a high school diploma)—Accredited courses;

(4) § 21.4254—Nonaccredited courses;

(5) § 21.4255—Refund policy—nonaccredited courses;

(6) § 21.4258—Notice of approval;

(7) § 21.4259—Suspension or disapproval;

(8) § 21.4260—Courses in foreign countries;

(9) § 21.4265 (except paragraphs (a), (e), and (g))—Practical training approved as institutional training or on-job training;

(10) § 21.4266—Courses offered at subsidiary branches or extensions; and

(11) § 21.4267—Approval of independent study.

(Authority: 10 U.S.C. 16131(c)(1), 16136(b); 38 U.S.C. 3670 through 3676)

25. Section 21.7722 is revised to read as follows:

§ 21.7722 Courses and enrollments which may not be approved.

(a) The Secretary of Veterans Affairs may not approve an enrollment by a reservist in, and a State approving agency may not approve for training under 10 U.S.C. chapter 1606 (or 10 U.S.C. chapter 106 as in effect before December 1, 1994):

(1) A bartending or personality development course;

(2) A course offered by radio;

(3) Except for enrollments in a nurse's aide course approved pursuant to § 21.4253(a)(5), an institutional course for the objective of nurse's aide or a nonaccredited nursing course which does not meet the licensing requirements in the State where the course is offered; or

(4) Effective October 29, 1992, a nonaccredited course or unit subject offered entirely or partly by independent study. However, see §§ 21.7620(c) and 21.7622(f) concerning payment of educational assistance to reservists enrolled in such a course.

(Authority: 10 U.S.C. 16131(c)(1), 16136(b); 38 U.S.C. 3452)

(b) A State approving agency (or VA when acting as a State approving agency) may approve the following courses for training under 10 U.S.C. chapter 1606 (or 10 U.S.C. chapter 106

as in effect before December 1, 1994), but VA may not approve an enrollment in any of these courses by a reservist who is limited in the types of courses he or she may pursue, as provided in § 21.7540 (b)(2) and (b)(3):

- (1) A correspondence course;
- (2) A cooperative course;
- (3) An apprenticeship or other on-job training program;
- (4) A nursing course offered by an autonomous school of nursing;
- (5) A medical or dental specialty course not offered by an institution of higher learning;
- (6) A refresher, remedial, or deficiency course; or
- (7) A course or combination of courses consisting solely of independent study.

(Authority: 10 U.S.C. 2131(c), 2136(b), 16131(c)(1), 16136(b); 38 U.S.C. 3670 through 3676; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642, Pub. L. 101-189, 103 Stat. 1456-1458)

[FR Doc. 96-14369 Filed 6-7-96; 8:45 am]

BILLING CODE 8320-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 96-225]

Authority Delegated to the General Counsel

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has concluded that the proper dispatch of its business and the public interest will be best served by expanding the authority delegated to the General Counsel regarding hearing matters. In order to facilitate prompt resolution of adjudicatory hearing proceedings, the Commission has delegated authority to the General Counsel to issue all appropriate orders and to act on all requests for relief regarding hearing matters pending before the Commission en banc, except those requests which involve final disposition on the merits of a previously specified issue concerning an applicant's basic qualifications or two or more applicants' comparative qualifications.

EFFECTIVE DATE: June 10, 1996.

FOR FURTHER INFORMATION CONTACT: John I. Riffer, Office of General Counsel, (202) 418-1756.

SUPPLEMENTARY INFORMATION:

Adopted: May 20, 1996.

Released: May 29, 1996.

1. By its Order, 11 FCC Rcd 1062 (1996), the Commission eliminated the Review Board. In light of the many demands currently imposed on the Commission concerning nonhearing matters, the Commission has concluded that the proper dispatch of its business and the public interest will be best served by expanding the authority delegated to the General Counsel regarding hearing matters. Thus, in order to facilitate prompt resolution of adjudicatory hearing proceedings which are pending before the Commission en banc, we are amending § 0.251 to delegate authority to the General Counsel to act on all requests for relief in such proceedings, and to issue all appropriate orders, except those requests which involve final disposition on the merits of a previously specified issue concerning an applicant's basic qualifications or two or more applicants' comparative qualifications. At the same time, various other, conforming editorial changes have also been made in § 0.251.

2. Authority for the adoption of the amendments adopted herein is contained in Sections 4(i), 4(j), 5(b), 5(c), and 303(r) of the Communications Act of 1934, as amended. 47 U.S.C. 154(i), 154(j), 155(b), 155(c) and 303(r). Because these amendments pertain to agency organization, practice and procedure, the notice and comment and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553(b)(A) and 553(d), are inapplicable.

3. Accordingly, it is ordered, that, effective June 10, 1996, part 0 is amended as set forth below.

List of Subjects in 47 CFR Part 0

Organization and functions (Government Agencies).

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

Rule Changes

Part 0 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

§ 0.251 [Amended]

2. Section 0.251 is amended by adding paragraphs (c), (d), and (e), removing paragraphs (f), (g), and (h) and

redesignating paragraphs (i) and (j) as paragraphs (f) and (g) to read as follows:

* * * * *

(c) The General Counsel is delegated authority in adjudicatory hearing proceedings which are pending before the Commission en banc to act on all requests for relief, and to issue all appropriate orders, except those which involve final disposition on the merits of a previously specified issue concerning an applicant's basic qualifications or two or more applicants' comparative qualifications.

(d) When an adjudicatory proceeding is before the Commission for the issuance of a final order or decision, the General Counsel will make every effort to submit a draft order or decision for Commission consideration within four months of the filing of the last responsive pleading. If the Commission is unable to adopt an order or decision in such cases within five months of the last responsive pleading, it shall issue an order indicating that additional time will be required to resolve the case.

(e) The official record of all actions taken by the General Counsel pursuant to § 0.251 (c) and (d) is contained in the original docket folder, which is maintained by the Secretary in the Dockets Branch.

* * * * *

[FR Doc. 96-14570 Filed 6-7-96; 8:45 am]

BILLING CODE 6712-01-P

47 CFR Part 73

[MM Docket No. 90-66, RM-7139, RM-7368, RM-7369]

Radio Broadcasting Services; Lincoln, Osage Beach, Steelville and Warsaw, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document denies the petition for reconsideration filed by Twenty One Sound Communications, Inc., licensee of Station KNSX(FM), Steelville, Missouri of our *Report and Order*, 57 FR 21040 (May 18, 1992) substituting Channel 228C3 for Channel 228A at Osage Beach, Missouri and modified the license of Station KYLC, Osage Beach, Missouri, to specify the higher class channel. The Commission affirmed the dismissal of Twenty One's counterproposal for failure to verify pursuant to Section 1.52 of the Commission's Rules. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 10, 1996.