§ 21.7122 Courses precluded.

(a) Unapproved courses. The provisions of this section which refer to a State approving agency will be deemed to refer to VA with respect to a State when that State does not have and fails or declines to create or designate a State approving agency; or fails to enter into an agreement as provided in §21.4153 (see §21.4150(c)). Except for payment of tuition assistance top-up, VA will not pay educational assistance for:

1. An enrollment in any course that a State approving agency has not approved;
2. A new enrollment in a course while a State approving agency has suspended the course for new enrollments;
3. Any period within an enrollment in a course if the period occurs after the date a State approving agency disapproves the course; or
4. Taking a licensing or certification test after the date a State approving agency disapproves the test. See §21.7220.

(b) Courses outside a program of education. VA will not pay educational assistance for an enrollment in any course that is not part of a program of education unless the veteran or servicemember is enrolled in:

1. A refresher course (including a course which will permit the veteran or servicemember to update knowledge and skills or be instructed in the technological advances which have occurred in the veteran’s or servicemember’s field of employment);
2. A deficiency course;
3. A preparatory, special education, or training course necessary to enable the veteran or servicemember to pursue an approved program of education; or
4. A course for which the veteran or servicemember is seeking tuition assistance top-up.

(c) Erroneous, deceptive, misleading practices. (1) VA will not pay educational assistance for:

1. An enrollment in any course offered by an educational institution that uses advertising, sales, or enrollment practices that are erroneous, deceptive, or misleading by actual statement, omission, or intimation.
2. Taking a licensing or certification test if the organization or entity offering the test uses advertising or sales practices, or candidate handbooks, that are erroneous, deceptive, or misleading by actual statement, omission, or intimation.

(2) VA will apply the provisions of §21.4252(h) in making these payment decisions.

(d) Restrictions on enrollment: percentage of students receiving financial support. Except as otherwise provided VA shall not approve an enrollment in any

(Authority: 38 U.S.C. 3002(3), 3014(b), 3034, 3452(b))
course for a veteran or servicemember, not already enrolled for any period during which more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees or other charges paid for them by the educational institution or by VA pursuant to title 38, United States Code. This restriction may be waived in whole or in part. In determining which courses to apply this restriction to and whether to waive this restriction, VA will apply the provisions of §21.4201 of this part to enrollments under 38 U.S.C. chapter 30 in the same manner as it does to enrollments under 38 U.S.C. chapter 34.

(e) Other courses. VA shall not pay educational assistance for—

(1) An enrollment in an audited course (see §21.4252(i));

(2) An enrollment in a course for which the veteran or servicemember received a nonpunitive grade in the absence of mitigating circumstances (see §21.4252(j));

(3) New enrollments in a course where approval has been suspended by a State approving agency;

(4) An enrollment in certain courses being pursued by nonmatriculated students as provided in §21.4252(l);

(5) Except as provided in §21.4252(j), an enrollment in a course from which the veteran or servicemember withdrew without mitigating circumstances;

(6) An enrollment in a course offered by a proprietary school when the veteran or servicemember is an official of the school authorized to sign certificates of enrollment or monthly certificates of attendance or monthly certifications of pursuit, an owner of the school, or an operator of the school;

(7) Except as provided in §21.7120(d), an enrollment in a nonaccredited independent study course;

(8) An enrollment in a course offered under contract for which VA approval is prohibited by §21.4252(m); or

(9) Taking a licensing or certification test after the date the State approving agency suspends approval of the test.

(Authority: 38 U.S.C. 3002(3), 3034, 3672(a), 3676, 3680(a), 3680A(f), 3689(g), 3690(d))