

(8) Hostage Relief Act of 1980.

(Authority: 38 U.S.C. 3034(a), 3322, 3323(a), 3681; section 901, Pub. L. 96–342)

(b) An individual who is eligible for educational assistance under more than one program listed in paragraph (a) of this section must specify in writing which benefit he or she wishes to receive. The eligible individual may choose to receive payment under another educational assistance program at any time, but may not change which benefit he or she will receive more than once during a term, quarter, or semester.

(Authority: 38 U.S.C. 3034(a), 3322, 3323(a), 3681)

(c) *Nonduplication—Federal program.* Payment of educational assistance is prohibited to an otherwise eligible re-servist—

(1) For a unit course or courses that are being paid for entirely or partly by the Armed Forces during any period in which he or she is on active duty service; or

(2) For a unit course or courses that are being paid for entirely or partly by the United States under the Government Employees' Training Act.

(Authority: 38 U.S.C. 3034(a), 3323(a), 3681)

§ 21.9695 Overpayments.

(a) *Prevention of overpayments.* In administering educational assistance payable under 38 U.S.C. chapter 33, VA will apply the provisions of §§ 21.4008 and 21.4009 to eligible individuals and, when appropriate, to institutions of higher learning.

(Authority: 38 U.S.C. 3034(a), 3323(a), 3690(b))

(b) *Liability for overpayments.* (1) An overpayment of educational assistance paid to an eligible individual constitutes a liability of that individual unless—

(i) The overpayment was waived as provided in §§ 1.957 and 1.962 of this chapter, or

(ii) The overpayment results from an administrative error or an error in judgment. See § 21.9635(r).

(2) An overpayment of educational assistance paid to the institution of

higher learning on behalf of an eligible individual constitutes a liability of the individual unless the individual never attended the term, quarter, or semester certified by the institution of higher learning. If the individual never attended the term, quarter, or semester certified by the institution of higher learning, the institution must return to VA all educational assistance received under the provisions of 38 U.S.C. chapter 33 on behalf of the individual for such term, quarter, or semester.

(3) The amount of the overpayment of educational assistance paid to the eligible individual, or paid to the institution of higher learning on behalf of the eligible individual, constitutes a liability of the institution of higher learning if VA determines that the overpayment is the result of willful or negligent—

(i) False certification by the institution of higher learning; or

(ii) Failure to certify excessive absences from a course, discontinuance of a course, or interruption of a course by the eligible individual.

(Authority: 38 U.S.C. 3034(a), 3323(a), 3685)

(iii) In determining whether an overpayment resulting from the actions listed in paragraphs (b)(3)(i) and (ii) of this section should be recovered from an institution of higher learning, VA will apply the provisions of § 21.4009 (except paragraph (a)(1)) to overpayments of educational assistance under 38 U.S.C. chapter 33.

(4) VA will determine the amount of an overpayment as follows—

(i) For an individual who does not complete one or more courses in the certified period of enrollment for which he or she received payment, and who does not substantiate mitigating circumstances for not completing such course or courses, VA will establish an overpayment equal to the amount of educational assistance paid for the course or courses not completed during that certified period of enrollment.

(ii) For an individual who does not complete one or more courses in the certified period of enrollment, but who substantiates mitigating circumstances for not completing such course or courses, VA will prorate the

amount of educational assistance to which he or she is entitled.

(A) VA will determine the prorated amount of the established charges by dividing the amount the individual was paid for the course or courses not completed by the number of days in the certified enrollment period, and multiplying the result by the number of days from the beginning date of the enrollment period through the last date of attendance. The result of this calculation will equal the amount the individual is due. The difference between the amount of educational assistance paid and the amount of educational assistance the individual is due for the course or courses not completed will be established as an overpayment.

(B) VA will determine the prorated amount of the monthly housing allowance by determining the amount the individual was entitled to while enrolled and subtracting that amount from the total amount paid. The difference between the amount of the monthly housing allowance paid and the amount of the monthly housing allowance the individual is due will be established as an overpayment.

(C) Individuals who have substantiated mitigating circumstances will not be charged an overpayment for the lump sum payment for books, supplies, equipment, and other educational costs ("book stipend").

(Authority: 38 U.S.C. 3034(a), 3323, 3685, 5302)

§ 21.9700 Yellow Ribbon Program.

(a) *Establishment.* The "Yellow Ribbon G.I. Education Enhancement Program", known as the "Yellow Ribbon Program," permits an institution of higher learning (IHL), at the IHL's option, to enter into an agreement with VA to allow the two parties to provide matching funds to cover a portion of the outstanding amount of established charges not covered under 38 U.S.C. chapter 3313(c)(1)(A).

(b) *Eligible individuals.* This program is only available to individuals entitled to the 100 percent educational assistance rate (based on service requirements) as shown in the chart in § 21.9640(a) or to their designated dependents using entitlement transferred

under § 21.9570, who are pursuing training at an eligible IHL.

(c) *Eligible IHLs.* This program is only available at IHLs located in the United States or at a branch of such IHL that is located outside the United States.

(d) *Agreements.* VA will enter into an agreement with an eligible IHL located in the United States seeking to participate in the Yellow Ribbon Program based on a general agreement format developed by VA in which the IHL must agree to—

(1) Provide contributions to eligible individuals who apply for such program at that institution (in a manner prescribed by the institution) on a first-come-first-served basis, regardless of the rate at which the individual is pursuing training (*i.e.*, full-time versus less than full-time), during the academic year;

(2) Provide contributions during the current academic year and all subsequent academic years in which the IHL participates in the Yellow Ribbon Program and the student maintains satisfactory progress, conduct, and attendance according to the regularly prescribed standards of the institution;

(3) Limit contributions made on behalf of a participant to funds under the unrestricted control of the IHL (*e.g.*, a scholarship sent directly to an IHL on behalf of an individual or specific group of individuals from a third party may not be included in Yellow Ribbon Program contributions). Funds received directly or indirectly from Federal sources may not be counted toward contributions;

(4) State the maximum number of individuals for whom contributions will be made during the academic year;

(5) State the manner (whether by direct grant, scholarship, or otherwise) contributions will be made under the Yellow Ribbon Program;

(6) State the maximum dollar amount of contributions that may be provided on behalf of any particular individual during the academic year regardless of the rate at which the individual is pursuing training. IHLs may specify different contributions amounts—

(i) Based on student status (*i.e.*, undergraduate, graduate, doctoral), or