

■ b. In paragraph (b)(6)(iv) introductory text, removing “the initial” and adding, in its place, “the earlier”.

■ c. In paragraph (b)(6)(vi), removing “initial” both places that it appears and adding, in its place, “earlier”.

■ 5. Section 21.7042 is amended by:

■ a. Revising the introductory text.

■ b. Revising paragraph (a)(2), paragraph (a)(3) introductory text, and the authority citation following paragraph (a)(3).

■ c. In paragraph (a)(5)(ii), removing “(July 1, 1985)”.

■ d. In paragraphs (a)(5)(iv)(A) and (a)(5)(iv)(B), removing “if his or her initial” and adding, in its place, “of an”; and by removing “is” and adding, in its place, “that is”.

■ e. Revising the authority citation following paragraph (a)(5).

■ f. Removing paragraph (a)(6).

■ g. Redesignating paragraph (a)(7) as new paragraph (a)(6).

■ h. Revising paragraph (b)(2) introductory text.

■ i. In paragraphs (b)(6)(ii) and (b)(7)(i)(B), removing “(July 1, 1985)”.

■ j. In paragraph (b)(7)(ii)(B), removing “(Oct. 1, 1987)”.

■ k. Removing paragraph (b)(11).

■ l. In paragraph (c)(4), removing “completing the service he or she was obligated to serve on December 1, 1988” and adding, in its place, “applying for educational assistance”.

■ m. In paragraph (d)(1), removing “initial”.

The revisions read as follows:

§ 21.7042 Basic eligibility requirements.

An individual must meet the requirements of this section, § 21.7044, or § 21.7045 in order to be eligible for basic educational assistance. This section requires an individual to complete certain academic requirements before applying for educational assistance. If the individual applies before completing those requirements, VA will disallow the application. However, the individual's premature application will not prevent the individual from establishing eligibility at a later time by applying for educational assistance again after having completed those academic requirements. In determining whether an individual has met the service requirements of this section, VA will exclude any period during which the individual is not entitled to credit for service for the periods of time specified in § 3.15.

(Authority: 38 U.S.C. 3011, 3012, 3018(b), 3018A)

(a) * * *

(2) Except as provided in paragraph (a)(5) of this section, the individual must—

(i) If his or her obligated period of active duty is three years or more, serve at least three years of continuous active duty in the Armed Forces; or

(ii) If his or her obligated period of active duty is less than three years, serve at least two years of continuous active duty in the Armed Forces;

(3) The individual, before applying for educational assistance, must either—

(Authority: 38 U.S.C. 3011, 3016)

(5) * * *

(Authority: 38 U.S.C. 3011)

(b) * * *

(2) The individual, before applying for educational assistance, must either—

* * * * *

■ 6. Section 21.7044 is amended by:

■ a. Revising the introductory text, and paragraphs (a)(3) and (b)(3).

■ b. Removing paragraph (b)(13).

The revisions read as follows:

§ 21.7044 Persons with eligibility under 38 U.S.C. chapter 34.

Certain individuals with 38 U.S.C. chapter 34 eligibility may establish eligibility for educational assistance under 38 U.S.C. chapter 30. This section requires an individual to complete certain academic requirements before applying for educational assistance. If the individual applies before completing those requirements, VA will disallow the application. However, the individual's premature application will not prevent the individual from establishing eligibility at a later time by applying for educational assistance again after having completed those academic requirements. In determining whether an individual has met the service requirements of this section, VA will exclude any period during which the individual is not entitled to credit for service for periods of time specified in § 3.15.

(a) * * *

(3) The individual, before applying for educational assistance, must:

(i) Complete the requirements for a secondary school diploma or an equivalency certificate; or

(ii) Successfully complete (or otherwise receive academic credit for) 12 semester hours (or the equivalent) in a program of education leading to a standard college degree;

* * * * *

(b) * * *

(3) The individual, before applying for educational assistance, must:

(i) Complete the requirements for a secondary school diploma or an equivalency certificate; or

(ii) Successfully complete (or otherwise receive academic credit for) 12 semester hours (or the equivalent) in a program of education leading to a standard college degree.

* * * * *

■ 7. Section 21.7045 is amended by:

■ a. In the introductory text, removing “(d)” and adding, in its place, “(d) or (e)”.

■ b. Adding paragraph (e).

The addition reads as follows:

§ 21.7045 Eligibility based on involuntary separation, voluntary separation, or participation in the Post-Vietnam Era Veterans' Educational Assistance Program.

* * * * *

(e) *Alternate eligibility requirements for former participants in the Post-Vietnam Era Veterans' Educational Assistance Program.* (1) *Definition.* For the purpose of this paragraph a participant is a veteran or servicemember who:

(i) Had enrolled in the Post-Vietnam Era Veterans' Educational Assistance Program, contributed to the fund described in § 21.5021(f), and either—

(A) Is making contributions by monthly payroll deduction to that fund;

(B) Has some or all of the contributions remaining in that fund;

(C) Has disenrolled, and received a refund of contributions; or

(D) Has used all of his or her entitlement to benefits under the Post-Vietnam Era Veterans' Educational Assistance Program; or

(ii) Had enrolled in the Post-Vietnam Era Veterans' Educational Assistance Program, and has had the Secretary of Defense make contributions to the fund described in § 21.5021(f) for him or her.

(2) *Making an election.* To receive educational assistance under authority of this paragraph, a veteran or servicemember must:

(i) Have elected before November 1, 2001, to receive educational assistance payable under 38 U.S.C. chapter 30 in lieu of educational assistance payable under the Post-Vietnam Era Veterans' Educational Assistance Program;

(ii) Have been a participant in the Post-Vietnam Era Veterans' Educational Assistance Program on or before October 9, 1996;

(iii) Have served continuously on active duty since October 9, 1996, through at least April 1, 2000;

(iv) Receive an honorable discharge when discharged or released from the period of active duty during which the servicemember made the election described in paragraph (e)(3) of this section.

(3) *Election.* The election to receive educational assistance payable under 38