

U.S.C. chapter 30 in lieu of educational assistance payable under the Post-Vietnam Era Veterans' Educational Assistance Program is irrevocable. The election must have been made before November 1, 2001, pursuant to procedures provided by the Secretary of the military department concerned.

(4) *\$2,700 collection.* (i) An individual who has made the election described in paragraph (e)(3) of this section must have his or her basic pay reduced by \$2,700 in a manner prescribed by the Secretary of the military department concerned. To the extent that basic pay is not so reduced before the individual's discharge or release from active duty, the Secretary of the military department concerned will collect from the individual an amount equal to the difference between \$2,700 and the amount that the individual's basic pay has been reduced. The individual may choose how the \$2,700 is to be collected. The Secretary of the military department concerned, according to the choice the individual makes, will collect this amount—

- (A) From the individual; or
  - (B) By reducing the individual's retired or retainer pay.
- (ii) The individual must pay \$2,700 to the Secretary of the military department concerned, as provided for by that Secretary, during an 18-month period beginning on the date the individual made the election described in paragraph (e)(3) of this section.
- (iii) Educational assistance under authority of paragraph (e) of this section to an individual who was discharged or released from active duty before the Secretary of the military department concerned had collected the full \$2,700 described in paragraph (e)(4) of this section is not payable until that Secretary either—

- (A) Collects in full the \$2,700; or
- (B) Has made the first reduction in retired or retainer pay for the purpose of the \$2,700 payment described in paragraph (e)(4) of this section. Thus, a veteran who is making the \$2,700 payment through having retired or retainer pay reduced may be eligible before the Secretary of the military department concerned collects the full \$2,700.

(5) *Educational requirement.* Before applying for benefits that may be payable as the result of making a valid election, an individual must have—

- (i) Completed the requirements of a secondary school diploma (or equivalency certificate); or
- (ii) Successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree.

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

- 8. Section 21.7050 is amended by:
  - a. In paragraph (a)(1), removing “(c) or (d)” and adding, in its place, “(c), (d), and (e)”.
  - b. Redesignating paragraphs (e) and (f) as paragraphs (f) and (g), respectively.
  - c. Adding new paragraph (e).  
The addition reads as follows:

**§ 21.7050 Ending dates of eligibility.**

\* \* \* \* \*

(e) *Some veterans have a later ending date.* (1) The ending date of the eligibility period of a veteran described in paragraph (e)(2) of this section is the later of:

- (i) November 1, 2010; or
- (ii) 10 years after the date of the veteran's last discharge from a period of active duty of 90 days or more.

(2) The ending date of a veteran's eligibility period will be the date described in paragraph (e)(1) of this section if the veteran would have been prevented from establishing eligibility by one or more of the former requirements described in paragraphs (e)(2)(i) through (e)(2)(iv) of this section and the veteran is enabled to establish eligibility by the removal of the statutory bases for those requirements. (For the purposes of this paragraph, the applicable provisions of those former requirements appear in the July 1, 2002 revision of the Code of Federal Regulations, title 38.)

(i) *A period of active duty other than the initial period was used to establish eligibility.* The veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7042(a)(2)(ii), 21.7042(a)(5)(iv)(A), and 21.7042(a)(5)(iv)(B), revised as of July 1, 2002, that a veteran had to use his or her initial period of active duty to establish eligibility for educational assistance;

(ii) *High school education eligibility criterion met after the qualifying period of active duty.* The veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7042(a)(3), 21.7042(b)(2), and 21.7042(c)(4), revised as of July 1, 2002, that before completing the period of active duty used to establish eligibility for educational assistance, a veteran had to complete the requirements for a secondary school diploma (or an equivalency certificate) or 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;

(iii) *High school education eligibility criterion met after October 29, 1994.* The

veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7042(a)(6), 21.7042(b)(11), and 21.7044(b)(13), revised as of July 1, 2002, that certain veterans meet the requirements for a secondary school diploma (or an equivalency certificate) before October 29, 1994, in order to establish eligibility for educational assistance;

(iv) *High school education eligibility criterion for veterans formerly eligible under 38 U.S.C. chapter 34 met after January 1, 1990.* The veteran was enabled to establish eligibility by the removal of the former eligibility requirement in 38 CFR 21.7044(a)(3) and 21.7044(b)(3), revised as of July 1, 2002, that, as one of the two ways that certain veterans could meet the educational criteria for establishing eligibility for educational assistance, the veteran must before January 1, 1990, meet the requirements for a secondary school diploma (or equivalency certificate).

(Authority: 38 U.S.C. 3031 note; secs. 102(e), 103(e), Pub. L. 106-419, 114 Stat. 1825; 1826-27)

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- 9. Section 21.7072 is amended by:
  - a. In paragraph (a), removing “(c) and (d)” and adding, in its place, “(c), and (d) of this section”.
  - b. In paragraph (b)(1) introductory text, removing “initial” and adding, in its place, “qualifying”.
  - c. Revising paragraphs (b)(1)(ii) and (c)(1).

The revisions read as follows:

**§ 21.7072 Entitlement to basic educational assistance.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) Serves less than 36 months of continuous active duty service after June 30, 1985 (or less than 24 continuous months of a qualifying obligated period of active duty service after June 30, 1985, if his or her qualifying obligated period of active duty is less than 3 years), and

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(c) *Entitlement based on service in the Selected Reserve.* (1) Except as provided in § 21.7073, when the provisions of paragraph (c) of this section are met, an individual is entitled to one month of basic educational assistance (or the equivalent thereof in part-time basic educational assistance) for each month of the individual's active duty service that is after June 30, 1985, and that, in the case of an individual who had no previous eligibility under 38 U.S.C.