

## § 21.7551

## 38 CFR Ch. I (7–1–14 Edition)

(2) If a reservist is enrolled in an educational institution not regularly operated on the quarter or semester system, and the reservist's period of eligibility as defined in paragraph (a) of this section would expire after a major portion of the course is completed, the period of eligibility shall be extended until the earlier of the following occurs:

- (i) The end of the course, or
- (ii) 12 weeks from the date on which the reservist's eligibility otherwise would have expired.

(Authority: 10 U.S.C. 16133(b)(1); Pub. L. 98–525)

(d) *Discharge for disability.* In the case of a reservist separated from the Selected Reserve because of a disability which was not the result of the individual's own willful misconduct and which was incurred on or after the date on which the reservist became entitled to education assistance, the reservist's period of eligibility expires effective the last day of the—

(1) 10-year period beginning on the date the reservist becomes eligible for educational assistance if the reservist became eligible before October 1, 1992; or

(2) 14-year period beginning on the date the reservist becomes eligible for educational assistance if the reservist becomes eligible after September 30, 1992.

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

(e) *Unit deactivated.* (1) Except as provided in paragraph (e)(3) or (e)(4) of this section, the period of eligibility of a reservist, eligible for educational assistance under this subpart, who ceases to become a member of the Selected Reserve during the period beginning October 1, 1991, and ending December 31, 2001, under either of the conditions described in paragraph (e)(2) of this section will expire on the date—

(i) 10 years after the date the reservist becomes eligible for educational assistance if the reservist became eligible before October 1, 1992; or

(ii) 14 years after the date the reservist becomes eligible for educational assistance if the reservist becomes eligible after September 30, 1992.

(2) The conditions referred to in paragraph (e)(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 (e)(1) and (e)(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)

[53 FR 34740, Sept. 8, 1988, as amended at 57 FR 57106, Dec. 3, 1992; 58 FR 51783, Oct. 5, 1993; 61 FR 29302, June 10, 1996; 68 FR 59731, Oct. 17, 2003; 71 FR 1498, Jan. 10, 2006; 71 FR 24582, Apr. 26, 2006]

## § 21.7551 Extended period of eligibility.

(a) *Period of eligibility may be extended.* VA shall grant an extension of a delimiting period determined by § 21.7550(a) of this part provided:

(1) The individual applies for an extension within the time period specified in § 21.1033(c) of subpart B.

(2) The individual was prevented from initiating or completing the chosen program of education within the otherwise applicable eligibility period, because of a physical or mental disability, which is not the result of the reservist's own willful misconduct, and

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which was incurred in or aggravated by service in the Selected Reserve. VA will not consider the disabling effects of chronic alcoholism to be the result of willful misconduct. (See §21.7520(b)(29)). Evidence must establish that such a program of education was medically infeasible. VA will not grant a reservist an extension for a period of disability which was 30 days or less unless the evidence establishes that the reservist was prevented from enrolling or reenrolling in the chosen program, or was forced to discontinue attendance, because of the short disability.

(Authority: 10 U.S.C. 16133(b)(2), 38 U.S.C. 105, 3031(d); Pub. L. 98-525, Pub. L. 100-689)(Nov. 18, 1988)

(b) *Commencing date.* The reservist shall elect the commencing date of an extended period of eligibility. The date chosen—

(1) Must be on or after the original date of expiration of eligibility as determined by §21.7550(a) of this part, and

(2) Must either be—

(i) On or before the 90th day following the date on which the reservist's application for an extension was approved by VA if the reservist is training during the extended period of eligibility in a course not organized on a term, quarter or semester basis, or

(ii) On or before the first day of a term, quarter or semester within an ordinary school year following the 90th day after the reservist's application for an extension was approved in VA, if the reservist is training during the extended period of eligibility in a course organized on a term, quarter or semester basis.

(Authority: 10 U.S.C. 16133(b)(2), 38 U.S.C. 3031(d); Pub. L. 98-525)

(c) *Length of extended period of eligibility.* A reservist's extended period of eligibility shall be for the length of time that the reservist was prevented from initiating or completing his or her chosen program of education, except that it must end when the reservist is separated from the Selected Reserve. VA shall determine the length of time the reservist was prevented from initiating or completing his or her chosen program of education as follows:

(1) If the reservist is in training in a course organized on a term, quarter or semester basis, his or her extended period of eligibility shall contain the same number of days as the number of days from the date during the reservist's original eligibility period that his or her training became medically infeasible to the earliest of the following dates:

(i) The commencing date of the ordinary term, quarter or semester following the day the reservist's training became medically infeasible,

(ii) The last date of the reservist's delimiting date as determined by §21.7550(a) of this part, or

(iii) The date the reservist resumed training.

(2) If the reservist is training in a course not organized on a term, quarter or semester basis, his or her extended period of eligibility shall contain the same number of days as the number of days from the date during the reservist's original delimiting period that his or her training became medically infeasible to the earlier of the following dates:

(i) The date the reservist's training became medically feasible, or

(ii) The reservist's delimiting date as determined by §21.7550(a)(1) of this part.

(Authority: 10 U.S.C. 16133(b)(2), 38 U.S.C. 3031(d); Pub. L. 98-525)

[53 FR 34740, Sept. 8, 1988, as amended at 57 FR 57106, Dec. 3, 1992; 71 FR 1498, Jan. 10, 2006]

### ENTITLEMENT

#### §21.7570 Entitlement.

Except as provided in §21.7576(e) each reservist is entitled to a maximum of 36 months of educational assistance (or its equivalent in part-time educational assistance) under this program, but is also subject to the provisions of §21.4020 (a) and (b).

(Authority: 10 U.S.C. 16131(c); Pub. L. 98-525, Pub. L. 102-127) (Oct. 10, 1991)

[58 FR 51783, Oct. 5, 1993]

#### §21.7576 Entitlement charges.

(a) *Overview.* VA will make charges against entitlement as stated in this section. Charges are based upon the