

## Department of Veterans Affairs

## § 21.5052

(b) No application to participate may be made before entry upon active duty.

(c) Each application must be submitted in time to permit the Service Department to make the required deduction from the individual's military pay for at least 1 month before the applicant's discharge or release from active duty.

(Authority: 38 U.S.C. 3221)

### § 21.5052 Contribution requirements.

(a) *Minimum period of participation.* Each individual who agrees to participate must do so for a minimum period of 12 consecutive months, unless the participant:

- (1) Is allowed to disenroll for hardship reasons;
- (2) Is permitted to suspend participation for hardship reasons;
- (3) Is discharged or released from active duty;
- (4) Otherwise ceases to be legally eligible to participate; or
- (5) Elects to make a lump-sum contribution which, when taken together with his or her other contributions, equals the equivalent of at least 12 months' participation.

(Authority: 38 U.S.C. 3221, 3222)

(b) *Amount of monthly contribution.* The individual shall specify the amount of his or her contribution to the fund.

(1) The contribution shall be at least \$25 per month but not more than \$100 per month.

(2) The contribution shall be evenly divided by five. See § 21.5292 for contributions made during the 1-year pilot program.

(c) *Amount of total contribution.* An individual may contribute for the number of months required to reach a total contribution of \$2,700.

(d) *Changing the monthly contribution.* An individual may increase or decrease the amount of the monthly contribution, but may not do so more than once a month.

(e) *Prohibition against contributing.* An individual may not make contributions to the fund after the date of his or her discharge. The VA does not consider the return of an unnegotiated refund check to be a contribution. A person

who returns a refund check remains continuously eligible for benefits.

(Authority: 38 U.S.C. 3222)

(f) *Lump-sum contribution.* After September 30, 1980 an individual may make a lump-sum contribution or contributions in place of or in addition to monthly contributions.

(1) A lump-sum contribution:

- (i) Must be evenly divisible by five,
- (ii) Must, when taken together with any monthly contributions the participant may have made or may agree to make, equal or exceed 12 months' participation, and
- (iii) Must not exceed \$2,700 when taken together with any monthly contributions the participant may have made or may agree to make.

(2) The Department of Veterans Affairs will consider the lump-sum contributions to have been made by monthly deductions from the participant's military pay at the rate of \$100 per month unless the participant specifies a different rate which must be

- (i) No lower than \$25 per month,
- (ii) No higher than \$100 per month, and
- (iii) Evenly divisible by five.

(3) If otherwise eligible to make contributions, a participant:

(i) May make a lump-sum contribution to cover any period of his or her active duty. This may entail a retroactive period, including one which—

(A) Begins after December 31, 1976, and before October 1, 1980, or

(B) Although made after October 27, 1986, includes all or part of the period beginning on July 1, 1985, and ending on October 27, 1986.

(Authority: Pub. L. 99-576, sec. 309(c))

(ii) May make a lump-sum contribution which has the effect of increasing the amount of a monthly contribution the participant made previously, but the payment cannot have the effect of increasing the monthly contribution to an amount greater than \$100;

(iii) May make a lump-sum payment to cover a period for which he or she previously obtained a refund;

(iv) May not make a lump-sum payment to cover a period during which the participant was not on active duty or will not be on active duty.

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(4) A participant may make as many lump-sum contributions as he or she desires, but he or she may not make more than one lump-sum contribution per month.

(Authority: 38 U.S.C. 3222(d))

[45 FR 31, Jan. 2, 1980, as amended at 47 FR 51744, Nov. 17, 1982; 48 FR 50530, Nov. 2, 1983; 53 FR 617, Jan. 11, 1988; 53 FR 34496, Sept. 7, 1988]

### § 21.5053 Restoration of contributions (Persian Gulf War).

(a) *Restoration of contributions when no entitlement is charged.* If the provisions of § 21.5072(i) require that a veteran's entitlement not be charged for a payment or payments he or she received, the amount of the veteran's contributions which were included in the payment or payments will be restored to the fund by the Department of Defense.

(Authority: 38 U.S.C. 3235; Pub. L. 102-127) (Oct. 10, 1991)

(b) *Restored contributions are treated like other contributions.* VA will treat contributions which have been restored under paragraph (a) of this section as though the veterans had contributed them for all purposes including—

(1) Computing the veteran's monthly rates and benefit payments under § 21.5138, and

(2) Determining any refund which may become due the veteran under §§ 21.5064 and 21.5065.

(Authority: 38 U.S.C. 3235; Pub. L. 102-127) (Oct. 10, 1991)

[58 FR 34369, June 25, 1993]

### § 21.5054 Dates of participation.

(a) *General.* An individual may participate after December 31, 1976. An individual was not eligible for benefits before July 1, 1977, unless discharged after January 1, 1977, for a service-connected condition. The first date on which an individual on active duty enrolled in a course, courses or a program of education leading to a secondary school diploma or equivalency certificate may receive benefits is subject to

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the eligibility requirements of § 21.5040(f)(4) and (5).

(Authority: 38 U.S.C. 3231 (a) and (b))

(b) *Termination of right to begin participation.* (1) Except as provided in paragraph (b)(3) of this section, no individual on active duty in the Armed Forces may initially enroll after June 30, 1985.

(2) An initial enrollment occurs when a serviceperson who has never contributed to the fund—

(i) First makes a lump-sum payment to the fund, or

(ii) First authorizes an allotment to VA for deposit in the fund. See 32 CFR 59.3(b)(10).

(3) Notwithstanding the provisions of paragraph (b)(1) of this section, any individual on active duty in the Armed Forces who was eligible to enroll on June 30, 1985, may enroll at any time during the period beginning on October 28, 1986, and ending on March 31, 1987.

(Authority: 38 U.S.C. 3221(a), Pub. L. 99-576, sec. 309(c); Pub. L. 99-576)

[51 FR 2695, Jan. 21, 1986; 51 FR 12321, Apr. 10, 1986, as amended at 53 FR 34496, Sept. 7, 1988]

### § 21.5058 Resumption of participation.

(a) *General.* An eligible individual, who remains otherwise eligible, may resume active contribution to the fund, if he or she has:

(1) Voluntarily elected to suspend following completion of minimum participation;

(2) Suspended at any time for reasons of hardship; or

(3) Received a discharge or release from active duty after participation and reenlisted.

(Authority: 38 U.S.C. 3221)

(b) *Disenrollment in order to participate in other educational programs.* A person who elects to disenroll in order to receive educational assistance allowance under 38 U.S.C. chapter 34 or to receive an officer adjustment benefit payable under sec. 207, Pub. L. 101-366, 104 Stat. 442, may not reenroll if he or she has negotiated a check under the provisions of law governing the program elected in lieu of the Post-Vietnam Era