receive assistance under the Educational Assistance Test Program and any of the laws listed in paragraph (c)(2) of this section, may not exceed 48 months (or the part-time equivalent thereof):
(i) Chapter 30 of title 38, U.S.C., and
(ii) Chapter 1606 of title 10, U.S.C.

(Authority: 38 U.S.C. 3695)

§ 21.5742 Entitlement.
(a) Educational assistance. A veteran or servicemember shall be entitled to one standard academic year (or the equivalent) of educational assistance for each year of service following the first enlistment beginning after November 30, 1980 (up to a maximum of four years). If the veteran or servicemember completes two years of active duty in the term of enlistment, but fails to complete the enlistment or fails to complete four years of active duty in an enlistment of more than four years, his or her entitlement to educational assistance shall be calculated as follows:
(1) VA shall determine the number of years, months and days in the veteran’s qualifying period of service by subtracting the entry on duty date from the release from active duty date. Any deductible time under §3.15 of this chapter (during the period of service on which eligibility is based) will be excluded from the calculation.
(2) VA shall convert the number of years determined in paragraph (a)(1) of this section to months by multiplying them by 12.
(3) VA shall convert the number of days determined in paragraph (a)(1) of this section to 0 months if there are 14 days or less, and to 1 month if there are more than 14 days.
(4) VA shall determine the number of total months by adding the number of months determined in paragraph (a)(1) of this section (exclusive of years and days) to the number of months determined in paragraph (a)(2) of this section, and the number of months in paragraph (a)(3).
(5) VA shall multiply the number of total months in paragraph (a)(4) of this section by 75.

(Authority: 10 U.S.C. 2142(a)(2))
[51 FR 27026, July 29, 1986, as amended at 51 FR 29471, Aug. 18, 1986]

§ 21.5743 Transfer of entitlement.
(a) Entitlement may be transferred. (1) A veteran or servicemember may transfer all or part of his or her entitlement to educational assistance and subsistence allowance to a spouse or dependent child. He or she may not transfer entitlement to more than one person at a time.
(2) The Secretary of the Navy may authorize a member or veteran of the Navy or Marine Corps to make a transfer described in paragraph (a)(1) of this section provided:
(i) The servicemember or veteran has entitlement to educational assistance as provided in §21.5742;
(ii) The enlistment that established the servicemember’s or veteran’s entitlement was his or her second reenlistment as a member of the Armed Forces;
(iii) The servicemember or veteran has completed at least four years of active service of that second reenlistment; and
(iv) The servicemember’s or veteran’s second reenlistment was for a period of at least six years.
(3) No transfer, other than one described in paragraph (a)(2) of this section, may be made until the veteran or servicemember—
(i) Has completed the enlistment upon which his or her entitlement is
based or has been discharged for reasons described in §21.5740(b)(2), and
(ii) Has thereafter reenlisted.
(4) The servicemember or veteran may revoke at any time a transfer described in either paragraph (a)(2) or (3) of this section.
(5) If a veteran attempts to transfer entitlement after 10 years have elapsed from the date he or she has retired, has been discharged or has otherwise been separated from active duty, the transfer shall be null and void.

(Authority: 10 U.S.C. 2147(a), 2148; Pub. L. 99–145)

(b) Transfer of entitlement upon death of veteran or servicemember. (1) A veteran’s or servicemember’s entitlement to educational assistance and subsistence allowance shall be transferred automatically subject to provisions of paragraph (b)(2) of this section, provided he or she—
(i) Completed the enlistment upon which the entitlement is based;
(ii) Thereafter reenlisted;
(iii) Never elected not to transfer entitlement; and
(iv) Dies while on active duty or within 10 years from the date he or she retired, was discharged, or was otherwise separated from active duty.
(2) The veteran’s or servicemember’s entitlement will be transferred to—
(i) The veteran’s or servicemember’s surviving spouse, or
(ii) If the veteran or servicemember has no surviving spouse, the veteran’s or servicemember’s dependent children.
(3) A surviving spouse who receives entitlement under paragraph (b)(2) of this section may elect to transfer that entitlement to the veteran’s or servicemember’s dependent children.
(4) If a servicemember transfers entitlement and then dies, and the effective date of the transfer is more than 10 years from the date of his or her death, the transfer shall be void. The entitlement will be transferred automatically as provided in paragraph (b)(2) of this section.

(Authority: 10 U.S.C. 2147(a))

(c) Effect of transfer upon educational assistance and subsistence allowance: veteran or servicemember living. (1) A person to whom a veteran or servicemember transfers entitlement is entitled to educational assistance and subsistence allowance in the same manner and at the same rate as the person from whom entitlement was transferred.
(2) The total entitlement transferred to the veteran’s or servicemember’s spouse and children shall not exceed the veteran’s or servicemember’s remaining entitlement. The veteran or servicemember may transfer entitlement to only one person at a time.

(Authority: 10 U.S.C. 2147)

(d) Effect of transfer upon educational assistance and subsistence allowance: Veteran or servicemember deceased. (1) A person to whom entitlement is transferred after the death of a veteran or servicemember is entitled to payment of educational assistance and subsistence allowance in the manner as the veteran or servicemember. The rate of educational assistance and subsistence allowance will be as stated in §§21.5820 and 21.5822.
(2) If entitlement is transferred to more than one person following the death of a veteran or servicemember, the total remaining entitlement to educational assistance and subsistence allowance of all is equal to the total entitlement of the person on whose service entitlement is based.

(Authority: 10 U.S.C. 2147)

(e) Revocation of a transfer of entitlement. A surviving spouse who has transferred entitlement to a dependent child may revoke the transfer by notifying VA in writing. A veteran or servicemember who has transferred entitlement may revoke that transfer by notifying VA in writing. The veteran, servicemember or surviving spouse may choose the effective date of the revocation subject to the following conditions:
(1) If the person to whom entitlement is transferred never enters training, the effective date of the revocation may be any date chosen by the veteran, servicemember or surviving spouse who transferred the entitlement.
(2) If the person to whom entitlement is transferred is not in training on the date the VA processes the revocation, but he or she has trained before that
§ 21.5744 Charges against entitlement.

(a) Charges against entitlement to educational assistance. (1) Except as provided in paragraph (a)(2) of this section VA will make a charge against an individual’s entitlement to educational assistance of—
   (i) One month for each month of a term, quarter or semester—
      (A) For which the servicemember receives educational assistance, and
      (B) During which the servicemember is a full-time student; and
   (ii) One-half month for each month of a term, quarter or semester—
      (A) For which the individual receives educational assistance, and
      (B) During which the individual is a part-time student.

(b) Charges against entitlement to subsistence allowance.

38 CFR Ch. I (7–1–10 Edition)

§ 21.5745 Period of entitlement.

(a) Veterans. The period of entitlement of a veteran expires on the first day following ten years from the date the veteran retires or is discharged or otherwise separated from active duty.

(b) Spouses, surviving spouses, and dependent children. If the veteran’s or servicemember’s entitlement is transferred, the period of entitlement of the spouse, surviving spouse, or dependent child expires 10 years from—

   (1) The date the veteran retires, is discharged or otherwise separated from active duty, or