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U.S. Department of Veterans Affairs: Who Is a Veteran?

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U.S. Department of Veterans Affairs: Who Is a Veteran?

The U.S. Department of Veterans Affairs (VA) provides a broad range of benefits to uniformed services veterans and certain family members. Among these benefits are monthly, tax-free payments to disabled veterans; health care; education benefits; housing assistance; and burial benefits. To receive any of these benefits, a former servicemember must meet certain basic criteria, including the statutory definition of *veteran*.

For a former servicemember to establish veteran status, generally the individual must have served in active military service for a minimum period of time and be discharged “under conditions other than dishonorable.” Reservists and National Guard members may or may not always qualify for veteran status.

This report examines the eligibility criteria for veteran status as the foundation for benefits administered by VA. This includes an explanation of the two statutory provisions that create the definition of *veteran*, the service requirements for benefits eligibility, and an explanation of when individuals who serve in the reserve components—including the National Guard—are considered veterans eligible for VA benefits. The report ends with an appendix that differentiates between wartime and peacetime military service.

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Introduction

To be eligible for most benefits from the Department of Veterans Affairs (VA), the claimant must be a veteran or, in some circumstances, a survivor or dependent of a veteran. By statute, *veteran* is defined as a “person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable.”¹ For a former servicemember to establish veteran status, generally the individual must have completed active military service for a minimum period of time, which is usually the lesser of the full period the individual was ordered to active duty or 24 months, and be discharged “under conditions other than dishonorable.”²

Former servicemembers may also need to meet other “Service Requirements for Benefits Eligibility” such as proof of service, length of service, and specific character of military service discharge requirements. This report explains these requirements, along with the two components of the statutory definition of *veteran*. It then breaks down the requirements for reservists and National Guard members to be eligible for VA benefits as veterans during federal active duty or in certain instances of active duty for training or inactive duty for training. Finally, the report ends with an appendix that explains the difference between wartime and peacetime military service, as for some VA benefits this distinction in service is important.

Definition of *Veteran*

The statutory definition of *veteran* contains two key provisions that a servicemember must meet to be considered a veteran by law. First, the servicemember must have served and completed “active military, naval, air, or space service.” *Active military, naval, air, or space service*³ includes:

- Active duty;
- Any period of active duty for training during which the individual was disabled or died from a disease or injury incurred or aggravated in line of duty; and
- Any period of inactive duty training during which the individual was disabled or died
 - from an injury incurred or aggravated in line of duty; or
 - from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident occurring during such training.⁴

Additional explanations of these types of active military service are found in the “Active Military Service Requirement” section of this report.

The second provision is that a servicemember must be discharged from service under “other than dishonorable conditions.” That definition includes discharge statuses that have been upgraded

¹ 38 U.S.C. §101(2). *Space service* refers to individuals who serve in the U.S. Space Force and not individuals employed by NASA.

² In limited circumstances, the Secretary of Defense was authorized to grant “veteran” status to members of certain civilian groups or contractors by the GI Bill Improvement Act of 1977 (P.L. 95-202). In 1979, the Department of Defense (DOD) issued a final rule to implement P.L. 95-202. See Office of the Secretary of Defense, “PART 47—Determinations of Active Military Service and Discharge,” 44 *Federal Register* 11220, February 28, 1979. See also CRS In Focus IF12242, *Veteran Status Based on Service with Certain Civilian Groups*.

³ Hereinafter referred to as “active military service.”

⁴ 38 U.S.C. §101(24).

from dishonorable to something other than dishonorable or reviewed by VA through its character of discharge process. More details on this criterion is found in the “Military Discharge Requirement” section of this report.

Active Military Service Requirement

To establish veteran status, a servicemember must satisfy the statutory requirement of “active military, naval, air, or space service.” This requirement may encompass one or a combination of three types of service: Active Duty for Training (in certain circumstances), Inactive Duty for Training (in certain circumstances), and Active Duty. VA reviews the former servicemember’s service records to determine whether the service meets one of these categories. If a former servicemember has more than one period of service, the determination of status may differ for each period.

*Active Duty for Training*⁵

A period of active duty for training constitutes active military service only if, during that period, the servicemember was disabled or died from an injury or disease incurred or aggravated in the line of duty. Active duty for training includes:

- full-time duty for training performed by reservists;⁶
- full-time duty for training purposes as a commissioned officer in the Reserve Corps of the Public Health Service;⁷
- full-time training duty by members of the Air or Army National Guard;⁸
- duty by members of the Senior Reserve Officers’ Training Corps (ROTC) program on field training or practice cruise;⁹ and
- authorized travel to and from duty for training.¹⁰

This training includes the servicemember receiving initial training or advanced individual training as well as acquiring or maintaining his or her military skills throughout service.

*Inactive Duty for Training*¹¹

A period of inactive duty for training constitutes active military service only when the servicemember was disabled or died from an injury—but not a disease—incurred or aggravated in the line of duty or from certain health conditions incurred during the training. Inactive duty for training includes:

- duty, other than full-time duty, for reservists;¹²

⁵ 38 U.S.C. §101(22).

⁶ 38 U.S.C. §101(22)(A); 38 C.F.R. §3.6(c)(1).

⁷ 38 U.S.C. §101(22)(B); 38 C.F.R. §3.6(c)(2).

⁸ 38 U.S.C. §101(22)(C); 38 C.F.R. §3.6(c)(3).

⁹ 38 U.S.C. §101(22)(D); 38 C.F.R. §3.6(c)(4).

¹⁰ 38 U.S.C. §101(22)(E); 38 C.F.R. §3.6(c)(6).

¹¹ 38 U.S.C. §101(23).

¹² 38 U.S.C. §101(23)(A); 38 C.F.R. §3.6(d)(1).

- other duties authorized for reservists performed on a voluntary basis;¹³
- training (other than active duty for training) by a member of, or applicant for membership in, Senior ROTC;¹⁴ and
- duty, other than full-time, for members of the Air or Army National Guard.¹⁵

This training may also include special additional duties performed during training or maintenance activities for the units the servicemember is assigned to. For National Guard members this training may also include unit training assemblies.

*Active Duty*¹⁶

Generally, *active duty* for the purpose of determining active military service means full-time duty, other than active duty for training, as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, and Space Force, including active duty in the reserve components. It also includes full-time duty (other than for training purposes) as a commissioned officer of the Public Health Service and as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessors. Additionally, service as a cadet at the U.S. Military, Air Force, or Coast Guard Academies or as a midshipman at the U.S. Naval Academy qualifies as active duty. Finally, authorized travel to or from duty or service of any of the individuals described in this section is considered active duty.

Military Discharge Requirement

In addition to meeting the active military service requirements, a former servicemember must also be separated from military service “under conditions other than dishonorable.”¹⁷ A veteran’s service branch determines the character of the veteran’s service at discharge, which is reported on the Certificate of Release or Discharge, more commonly referred to as a DD Form 214, provided by the Department of Defense (DOD). Generally, DOD defines five service characterizations as seen in **Table 1**:

Table 1. Character of Service Upon Discharge from the Military

Type of Discharge	Description
Honorable	Servicemembers who receive a rating from good to excellent for their service and meet or exceed their required standards of duty performance and personal conduct.
General (Under Honorable Conditions)	Servicemembers whose performance is satisfactory but may have several incidents contrary to the performance and expected conduct of military servicemembers.
Other Than Honorable	Servicemembers whose conduct and actions are a serious departure from the proper conduct of military members. Typically, these discharges are given to servicemembers convicted in civilian courts.
Bad Conduct	Servicemembers who receive punishment from court-martial. This is a disciplinary discharge roughly equivalent to a civilian misdemeanor.

¹³ 38 U.S.C. §101(23)(B); 38 C.F.R. §3.6(d)(2).

¹⁴ 38 U.S.C. §101(23)(C); 38 C.F.R. §3.6(d)(3).

¹⁵ 38 U.S.C. §101(23); 38 C.F.R. §3.6(d)(4).

¹⁶ 38 U.S.C. §101(21).

¹⁷ 38 U.S.C. §101(2); 38 C.F.R. §3.12(a). For more details on DOD’s policy on discharge statuses, see “Separation, Discharge, and Discharge Review” in CRS Report R46107, *FY2020 National Defense Authorization Act: Selected Military Personnel Issues*.

Type of Discharge	Description
Dishonorable	Servicemembers who receive disciplinary discharge for actions and behaviors seen as severe and reprehensible to the proper conduct of the military. Offenses that can result in a sentence of dishonorable discharge are equivalent to civilian felonies.

Source: Table created by CRS using information from: DOD, *Instruction 1332.14, Enlisted Administrative Separations*, April 12, 2019; DOD, *Instruction 1332.30, Commissioned Officer Administrative Separations*, September 9, 2021.

Notes: This table defines only the types of discharge most relevant to VA benefits claims.

Servicemembers who receive honorable or general (under honorable conditions) discharges are generally eligible for VA benefits. For servicemembers who receive other kinds of discharge, VA reviews their service records to determine if they would be eligible for VA benefits through the “VA Character of Service Determination” process, which is covered later in this report.

Service Requirements for Benefits Eligibility

Other requirements may be needed in order to be eligible to claim specific VA benefits. First, the veteran or eligible family member¹⁸ must demonstrate *eligibility* for veterans’ benefits in general. For non-veteran claimants, the eligibility requirement also includes whether the claimant is an eligible dependent of the veteran. Second, the veteran must establish *entitlement* to the particular benefit being sought. For example, to be entitled to receive disability compensation, a veteran must provide sufficient evidence of certain elements (e.g., current diagnosis, medical evidence of an in-service occurrence, and link between the in-service occurrence and the current disability). Proof of service, length of service, and character of service are all important requirements for VA benefits eligibility.

Proof of Service

VA requires a “genuine and accurate” copy of the veteran’s military service records to determine eligibility for VA benefits regardless of whether the claimant is the veteran or the spouse/dependent. The copy of the original record must be:

- issued by the former servicemember’s military service branch;
- issued by a public custodian of records (the individual responsible for maintaining an agency’s or organization’s records) who certifies that it is a true and exact copy of the document;
- submitted by an accredited agent, attorney, or service representative with VA training on military records who certifies that it is a copy of the original document or copy issued by a service department or public custodian of records; or
- uncertified but determined by VA to be satisfactory and free from alteration.¹⁹

Military service records document the length, dates, and character of the military service.²⁰ If not provided, or if the submitted material does not meet VA requirements, VA “shall request

¹⁸ From here on, the word *claimant* will be used to identify the individual applying for benefits. This could be the veteran, an eligible spouse or child, or, in some situations, a parent.

¹⁹ 38 C.F.R. §§3.203(a)(1).

²⁰ 38 C.F.R. §3.203(a)(2)-(3).

verification of service from the service department.”²¹ VA uses these records to verify several elements of the military service record, including active military service, length of service, and military discharge status.

Length of Service

Veterans who entered service prior to September 8, 1980, were not subject to a minimum length of service requirement for VA benefits eligibility except for certain programs, such as the Vietnam-era educational benefits. Prior to September 8, 1980, servicemembers needed one day of active military service to qualify for VA benefits. Individuals who initially enlisted (not including officers) in the service on or after September 8, 1980, and who do not have service-connected disabilities are generally required to have a continuous 24-month length of service to be eligible for VA benefits. The same requirement applies to officers and enlisted servicemembers who (1) entered active military service after October 16, 1981, and (2) had not already completed a previous 24-month period of active military service.²²

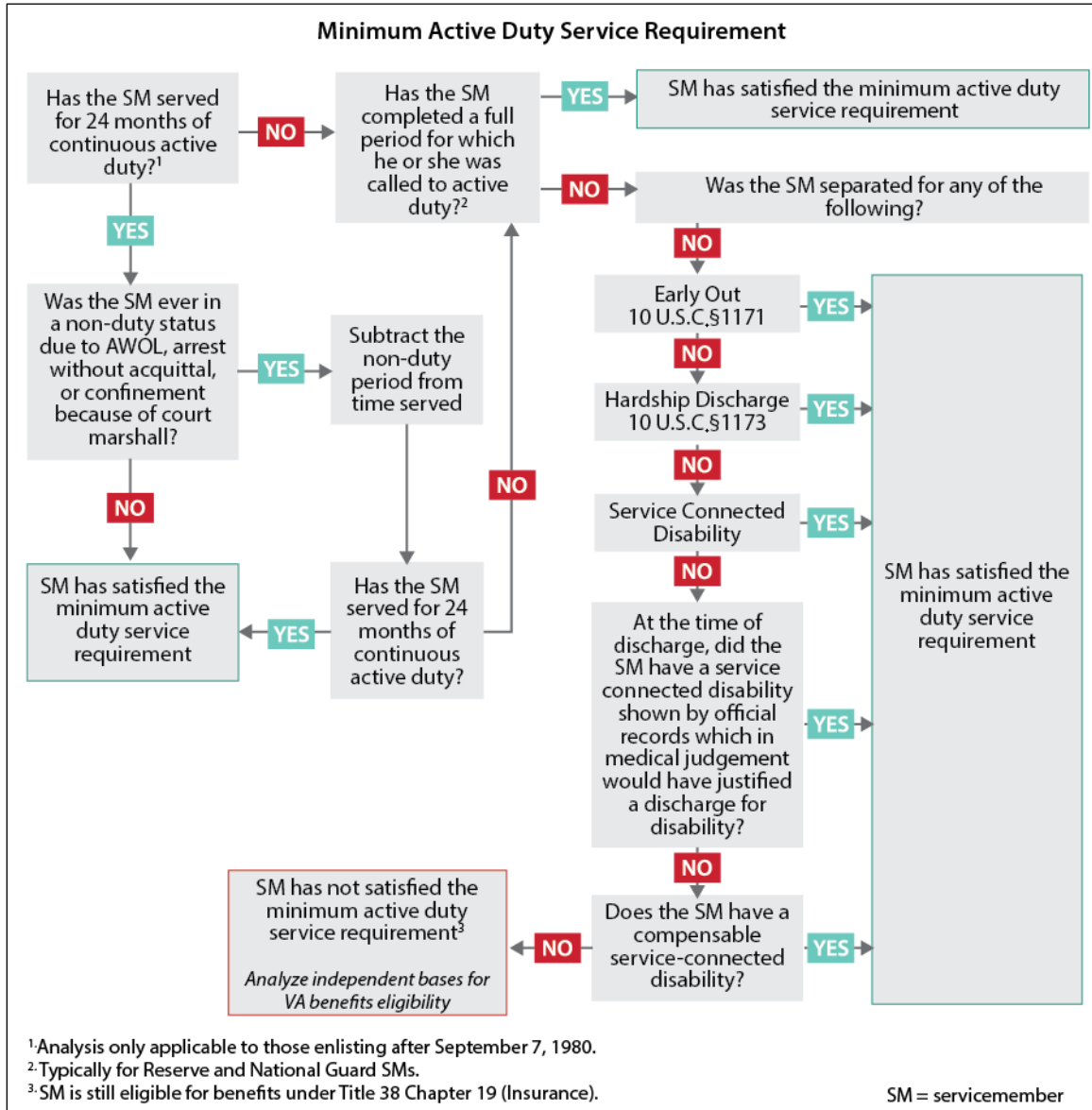
Figure 1 demonstrates how VA determines whether a former servicemember meets the minimum active duty requirements for benefits. If the former servicemember completed less than 24 months of continuous active military service but nonetheless completed the full period for which he or she was called or ordered to active duty, that service would count and the requirement would be met. If the former servicemember was separated under a hardship discharge or early discharge, medically discharged due to a service-connected disability, or medically retired from service, the 24-month requirement does not apply.²³ For a National Guard and reserve member who did not complete a continuous 24-month period of active military service but served the full period for which he or she was called up to active duty, this service counts as active military service, and the 24-month requirement does not apply.

²¹ 38 C.F.R. §3.203(c).

²² 38 U.S.C. §5303A.

²³ 10 U.S.C. §1173; 10 U.S.C. §1171; 38 U.S.C. §5303A.

Figure 1. Length of Active Duty Service Requirement
 Applies to Veterans with Service That Began on or After September 8, 1980



Source: CRS, reproduced from Section 2.3.2 of the National Veterans Legal Services Program’s *Veterans Benefits Manual 2021-2022*.

VA Character of Service Determination²⁴

VA uses the servicemember’s character of service upon discharge described in **Table 1** as a basis to review eligibility for VA benefits. **Table 2** lists VA’s initial response to each type of service,

²⁴ VA also refers to this as a characterization of discharge determination. The idea and processes are the same in determining VA benefits. In some situations, a servicemember has served more than one period of enlistment. In that case, different discharge categories may be specified for each period. See VA, Veterans Benefits Administration, “Claims for VA Benefits and Character of Discharge,” https://www.benefits.va.gov/BENEFITS/docs/COD_Factsheet.pdf.

subject to further review. Generally, a veteran must receive either an honorable or general discharge to be eligible for VA benefits and programs. Veterans who receive other types of discharges may not be eligible for VA benefits or programs. In those cases, the individual's application would undergo a VA character of discharge determination.

Table 2. VA Eligibility Prior to Character of Service Determination

Types of Service Characterizations				
Administrative (Separation Process)			Punitive (Court-Martial)	
Honorable	General or Under Honorable Conditions	Other Than Honorable	Bad Conduct Discharge	Dismissal or Dishonorable Discharge
VA Presumption of Eligibility			VA Presumption of Ineligibility	

Source: Table created by CRS.

When making a character of service determination, VA assesses the veteran's entire period of military service. In some cases, the veteran may have multiple periods of service with different service characterizations. In such cases, only those periods resulting in less than honorable discharges go through the review process. VA's review process cannot result in a discharge upgrade, as that can take place only through DOD military review boards.²⁵ Instead, VA's assessment could lead to VA determining that the veteran's record falls into one of three categories, rendering the veteran eligible for partial or full benefits:

1. **Honorable for VA benefits:** The evidence provided by a former servicemember supports a determination that the veteran's service was honorable for VA purposes. Such a determination establishes basic eligibility for all benefits administered by the VA so long as all other requirements are met.
2. **Health care eligible:** VA uses the guidance given in Title 38, Section 1710, of the *U.S. Code*, "Hospital, Nursing Home, Domiciliary, and Medical Care," to determine if a former servicemember's discharge is considered other than honorable. An other than honorable determination can result in the denial of access to benefits; however, a former servicemember with such a discharge might still be permitted to qualify for health care for service-connected disabilities.²⁶
3. **Dishonorable for VA Benefits:** A determination that the circumstances surrounding a former servicemember's discharge bar that individual from receiving any benefits or services provided by VA.

Reserve Components' Veteran Status

Some members of the reserve components—including the National Guard²⁷—do not meet the active military service and length of service requirements due to the nature of service performed with either the reserves or National Guard. However, a member of the reserve components who is activated for federal military service and either serves the entire activation period or meets

²⁵ For more information on military discharge review boards, see "Separation, Discharge, and Discharge Review" section of CRS Report R46107, *FY2020 National Defense Authorization Act: Selected Military Personnel Issues*.

²⁶ 38 U.S.C. §1710; P.L. 95-126 §2, S. 1307, 95th Congress.

²⁷ Hereinafter, *reserve components* will be used to describe the National Guard and reserves unless otherwise distinguished. See 10 U.S.C. §10101 for defining *reserve components* as including the National Guard; and 38 U.S.C. §101(27), which defines *reserve component* to include the National Guard.

the length of service requirement is generally considered a veteran for purposes of VA benefits. In addition, a member of a reserve component who has not served on active duty can establish veteran status in limited situations during active duty training or inactive duty training. National Guard and reserve components may meet the “active military service” requirements through different kinds of service. In 2016, Congress passed the Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act (P.L. 114-315), which granted “honorary” veteran status to those National Guard and reserve members with 20 or more years of service but no active duty. The law does not grant access to any VA benefits as stated in Section 305 of the law.

Title 10 Service

Members of the reserve components serve on active duty when activated by the President of the United States under various provisions of Title 10 of the *U.S. Code*. When serving on active duty, reserve component members are paid by the federal government. With the exception of active duty for training, a reserve component member would satisfy the active military service criterion for veteran status by having performed “active military, naval, air, or space service.”

A period of active duty for training or inactive duty for training under Title 10 typically does not satisfy the active military service requirement for establishing veteran status. However, a period of active or inactive duty for training may qualify as active military service if the servicemember meets one of the following disability requirements:

- Completion of a period of active duty for training, including authorized travel to or from such duty, if the servicemember becomes disabled or dies from an injury or disease incurred or aggravated during that period of duty.
- Completion of a period of inactive duty training if the servicemember member becomes disabled or dies from an injury (but not disease) incurred or aggravated during that period of duty or from a heart attack or stroke during that period of duty.

National Guard Duty (Title 32 Service)

Members of the National Guard can be activated under Title 32 of the *U.S. Code* for activities including, but not limited to, the COVID-19 pandemic or other public health response support, disaster relief, and homeland defense. Unlike active duty, where the servicemember is under the control of the President, those called up under Title 32 remain under control of their states’ governors. Payment for this service is from the federal government.

National Guard duty under Title 32 typically does not qualify members for veteran status. However, they could qualify as veterans while serving in Title 32 status and conducting “active duty for training or inactive duty for training” if they meet one of the following disability requirements:

- Completion of a period of active duty for training, including authorized travel to or from such duty, if the National Guard member becomes disabled or dies from an injury or disease incurred or aggravated during that period of duty.
- Completion of a period of inactive duty training, such as weekend drills, if the National Guard member becomes disabled or dies from an injury (but not disease) incurred or aggravated during that period of duty or from a heart attack or stroke during that period of duty.

Appendix. Wartime vs. Peacetime Military Service

All military service is classified as either wartime or peacetime. The type of service may affect a veteran’s eligibility for certain VA benefits. For example, only veterans with wartime service qualify for VA’s Veterans Pension, which pays benefits to low-income veterans who are elderly or have non-service-connected disabilities.²⁸

Periods considered *wartime* for the purposes of veterans’ benefits, listed in **Table A-1**, are defined in law and designated by Congress or presidential declaration. A former servicemember who served during the periods listed in **Table A-1** is not required to have served in a combat zone for the service to be considered wartime.

Table A-1. Congressionally Designated Wartime Periods

Name	Beginning Date	Ending Date
Indian Wars ^a	January 1, 1817	December 31, 1898
Spanish-American War ^b	April 21, 1898	July 4, 1902
Mexican Border Period ^c	May 19, 1916	April 5, 1917
World War I	April 6, 1917 ^d April 6, 1917 ^e	November 11, 1918 ^d April 1, 1920 ^e
World War II	December 7, 1941	December 31, 1946 ^g
Korean Conflict ^f	June 27, 1950	January 31, 1955
Vietnam Era	November 1, 1955 ^h August 5, 1964 ⁱ	May 7, 1975 ^h May 7, 1975 ⁱ
Persian Gulf War ^j	August 2, 1990	Ongoing

Source: Table created by CRS.

Notes:

- a. 38 C.F.R. §3.2(a). Service must have been rendered with the U.S. military forces against Indian tribes or nations.
- b. 38 U.S.C. §101(6).
- c. 38 U.S.C. §101(30).
- d. 38 U.S.C. §101(7)(A) and 38 C.F.R. §3.2(c). If a veteran was in service between November 11, 1918, and July 2, 1921, and also served on active duty between April 5, 1917, and November 12, 1918, the veteran’s service is considered part of the World War I period.
- e. 38 U.S.C. §101(7)(B). This time period is for veterans who served with the U.S. military forces in Russia.
- f. 38 U.S.C. §101(9).
- g. 38 U.S.C. §101(8) and 38 C.F.R. §3.2(d). If the veteran was in service on December 31, 1946, with continuous service before July 26, 1947, this service is considered part of the World War II period.
- h. 38 U.S.C. §101(29)(A). This time period is for veterans who served in the Republic of Vietnam.
- i. 38 U.S.C. §101(29)(B). This time period is for veterans who served outside the Republic of Vietnam.
- j. 38 U.S.C. §§101(33), 1501(4). The Persian Gulf War period is inclusive of the post-9/11 Iraq and Afghanistan conflicts. The ending date has not yet been established and will end only on the date prescribed by presidential proclamation or law.

²⁸ 38 U.S.C. §1521(j). For more information on VA’s Veterans Pension program, see CRS Report R46511, *Veterans Benefits Administration (VBA): Pension Programs*.

Times not designated as periods of war by Congress or the President, such as the period between the end of the Vietnam era and beginning of the Persian Gulf War, are considered to be peacetime. Three U.S. military operations occurred during this span of peacetime that could be confused for periods of war:

1. Lebanon: U.S. Marines deployed on August 21, 1982, and September 29, 1982, as part of a temporary multinational force to “promote the economic and political stability of that country and to support the international effort to strengthen a sovereign and independent Lebanon.”²⁹
2. Grenada: In response to a request from the Organization of Eastern Caribbean States to help “restore order” and concern for American lives, U.S. military forces landed on the island on October 25, 1983. Combat operations ended on November 2, 1983, with troops leaving the island over the next couple of months.³⁰
3. Panama: President George H. W. Bush announced on December 21, 1989, that he ordered U.S. military forces to Panama following deteriorating diplomatic relations, increased violence by General Manuel Noriega, and the threat to American lives.³¹

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²⁹ Section 2a of P.L. 98-43; P.L. 98-119.

³⁰ Ronald H. Cole, *Operation Urgent Fury: The Planning and Execution of Joint Operations in Grenada, 12 October–2 November 1983*, Joint History Office, Office of the Chairman of the Joint Chiefs of Staff, 1997, https://www.jcs.mil/Portals/36/Documents/History/Monographs/Urgent_Fury.pdf.

³¹ Ronald H. Cole, *Operation Just Cause: The Planning and Execution of Joint Operations in Panama, February 1988–January 1990*, Joint History Office, Office of the Chairman of the Joint Chiefs of Staff, 1995, https://www.jcs.mil/Portals/36/Documents/History/Monographs/Just_Cause.pdf.

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