

**§ 21.400**

**38 CFR Ch. I (7-1-03 Edition)**

(b) *Grants.* VA may make grants to, or contract with, public or nonprofit agencies, including institutions of higher learning, to carry out the provisions of paragraph (a) of this section.

(Authority: 38 U.S.C. 3119(b))

(c) *Research by Vocational Rehabilitation and Employment (VR&C) staff members.* VA will encourage research by VR&C staff members. This research will address problems affecting service delivery, initiation and continuation in rehabilitation programs, and other areas directly affecting the quality of VR&C services to veterans.

(Authority: 38 U.S.C. 3119(a))

(d) *Interagency coordination.* VA shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the National Institute of Handicapped Research in the Department of Education, the Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding rehabilitation studies, research, and special projects of mutual programmatic concern.

(Authority: 38 U.S.C. 3119(c))

[49 FR 40814, Oct. 18, 1984, as amended at 62 FR 17710, Apr. 11, 1997]

VETERANS' ADVISORY COMMITTEE ON REHABILITATION

**§ 21.400 Veterans' Advisory Committee on Rehabilitation.**

(a) *General.* The Secretary shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation.

(b) *Purpose.* The purposes of the Veterans' Advisory Committee on Rehabilitation, hereafter referred to as the committee, are to:

- (1) Assess the rehabilitation needs of service and nonservice-disabled veterans; and
- (2) Review the programs and activities of VA designed to meet such needs;

(Authority: 38 U.S.C. 3121(c))

(c) *Members.* The committee shall include:

- (1) Members of the general public;
- (2) Appropriate representation of veterans with service-connected disabilities; and
- (3) Persons who have distinguished themselves in the public and private sectors in the fields of rehabilitation, and employment and training programs.

(d) *Members terms.* The Secretary shall appoint members of the committee for three-year terms. Members may be reappointed for additional three-year terms.

(e) *Chairperson.* The Secretary will designate one of the members of the committee to chair the committee.

(f) *Ex-officio members.* The committee shall also include ex-officio members named by the following agencies. The ex-officio members shall include one representative from:

- (1) The Veterans Health Services and Research Administration;
- (2) The Veterans Benefits Administration;
- (3) The Rehabilitation Services Administration and one from the National Institute for Handicapped Research of the Department of Education; and
- (4) The Assistant Secretary of Labor for Veterans' Employment of the Department of Labor.

(Authority: 38 U.S.C. 3121(a))

**§ 21.402 Responsibilities of the Veterans' Advisory Committee on Rehabilitation.**

(a) *Consultation with the Secretary.* The Secretary shall regularly, but not less than twice yearly, consult with and seek the advice of the committee with respect to the administration of veterans' rehabilitation programs authorized under Title 38, United States Code.

(b) *Submission of an annual report.* The committee shall:

- (1) Submit to the Secretary an annual report on the rehabilitation programs and activities of the VA; and
- (2) Submit such other reports and recommendations to the Secretary as the committee determines appropriate.

(c) *Contents of the committee's annual report.* The committee's annual report shall include:

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(1) An assessment of the rehabilitation needs of veterans; and

(2) A review of the programs and activities of VA designed to meet needs identified in paragraph (c)(1) of this section.

(d) *Secretary's annual report.* The findings of the committee shall be incorporated in the Secretary's annual report submitted to the Congress under 38 U.S.C. 529. In addition the Secretary shall submit, together with this annual report, a copy of all reports and recommendations of the committee submitted to the Secretary since the previous annual report was submitted to the Congress.

(Authority: 38 U.S.C. 3121(c))

### ADDITIONAL ADMINISTRATIVE CONSIDERATION

#### § 21.410 Delegation of authority.

The Secretary delegates authority to the Under Secretary for Benefits to make findings and decisions under 38 U.S.C. chapter 31 and regulations, precedents, and instructions that affect vocational rehabilitation services for disabled veterans. The Under Secretary for Benefits may further delegate this authority to supervisory and non-supervisory Vocational Rehabilitation and Employment staff members.

(Authority: 38 U.S.C. 512(a))

[62 FR 17710, Apr. 11, 1997]

#### § 21.412 Finality of decisions.

(a) *Facility of original jurisdiction.* The decision of a VA facility in a given veteran's case:

(1) Will be final and binding upon all field stations of VA as to conclusions based on evidence on file at that time; and

(2) Will not be subject to revision on the same factual basis except by duly constituted appellate authorities or except as provided in §§ 21.410 and 21.414. (See §§ 19.153, 19.154, and 19.155.)

(Authority: 38 U.S.C. 512(a), 7103)

(b) *Adjudicative determinations.* Current determinations of line of duty, character of discharge, relationship, and other pertinent elements affecting eligibility for training and rehabilitation services or payment of subsistence

allowance under Chapter 31, made by an adjudicative activity by application of the same criteria and based on the same facts, are binding upon all other adjudicative activities in the absence of clear and unmistakable error.

(Authority: 38 U.S.C. 512(a))

#### § 21.414 Revision of decision.

The revision of a decision on which an action is based is subject to the following regulations:

(a) Clear and unmistakable error, § 3.105(a);

(b) Difference of opinion, § 3.105(b);

(c) Character of discharge, § 3.105(c);

(d) Severance of service-connection, § 3.105(d);

(e) Reduction to less than compensable evaluation, § 3.105(e). (See §§ 21.48, 21.322, and 21.324)

(Authority: 38 U.S.C. 5112)

### INFORMING THE VETERAN

#### § 21.420 Informing the veteran.

(a) *General.* VA will inform a veteran in writing of findings affecting receipt of benefits and services under Chapter 31. This includes veterans:

(1) Requesting benefits and services; or

(2) In receipt of benefits and services.

(b) *Notification.* (1) Each notification should include the decision or finding, the reasons, including fact and law, for the decision, the effective date of the decision or finding; and

(2) The veteran's appeal rights, if any.

(c) *Adverse action.* An adverse action is one, other than an interim action such as a suspension of benefits pending development, which:

(1) Denies Chapter 31 benefits, when such benefits have been requested;

(2) Reduces or otherwise diminishes benefits being received by the veteran; or

(3) Terminates receipt of benefits for reasons other than scheduled interruptions which are a part of the veteran's plan.

(d) *Prior notification of adverse action.* VA shall give the veteran a period of at least 30 days to indicate his or her disagreement with an adverse action