

## § 21.7801

she may pursue, as provided in § 21.7540 (b)(2) and (b)(3):

- (1) A correspondence course;
- (2) A cooperative course;
- (3) An apprenticeship or other on-job training program;
- (4) A nursing course offered by an autonomous school of nursing;
- (5) A medical or dental specialty course not offered by an institution of higher learning;
- (6) A refresher, remedial, or deficiency course; or
- (7) A course or combination of courses consisting solely of independent study.

(Authority: 10 U.S.C. 2131(c), 2136(b), 16131(c)(1), 16136(b); 38 U.S.C. 3670 through 3676; sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; sec. 642, Pub. L. 101-189, 103 Stat. 1456-1458)

[61 FR 29310, June 10, 1996]

### ADMINISTRATIVE

#### § 21.7801 Delegation of authority.

(a) *General delegation of authority.* Except as otherwise provided, authority is delegated to the Under Secretary for Benefits of VA, and to supervisory or adjudication personnel within the jurisdiction of the Education Service of VA designated by the Under Secretary for Benefits to make findings and decisions under 10 U.S.C. chapter 1606 and the applicable regulations, precedents and instructions concerning the program authorized by that chapter to the extent that the program is administered by VA.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 512(a); Pub. L. 98-525)

(b) *Other delegations of authority.* In administering benefits payable under 10 U.S.C. chapter 1606, VA shall apply § 21.4001(b), (c)(1), (2), and (3) (in part), and (f) in the same manner as those paragraphs are applied in the administration of 38 U.S.C. chapter 34.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 512(a); 3696; Pub. L. 98-525)

[53 FR 34740, Sept. 8, 1988, as amended at 61 FR 20729, May 8, 1996; 61 FR 29483, June 11, 1996]

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

#### § 21.7802 Finality of decisions.

(a) *Agency decisions generally are binding.* The decision of the VA facility of original jurisdiction on which an action is based—

- (1) Will be final,
- (2) Will be binding upon all facilities of VA as to conclusions based on evidence on file at that time, and
- (3) Will not be subject to revision on the same factual grounds except by duly constituted appellate authorities or except as provided in § 21.7803. (See §§ 19.192 and 19.193 of this chapter).

(Authority: 38 U.S.C. 511)

(b) *Decisions of an Activity within the VA.* Current determinations of pertinent elements of eligibility for a program of education made by a VA adjudicative activity by application of the same criteria and based on the same facts are binding one upon the other in the absence of clear and unmistakable error.

(Authority: 38 U.S.C. 511)

(c) *Determinations of satisfactory participation.* A determination made by a competent military or naval authority or by the Coast Guard as to whether or not an individual is participating satisfactorily in required training as a member of the Selected Reserve is binding upon VA.

(Authority: 10 U.S.C. 16134; Pub. L. 98-525)

[53 FR 34740, Sept. 8, 1988, as amended at 61 FR 29483, June 11, 1996]

#### § 21.7803 Revision of decisions.

The revision of a decision on which an action was predicated is subject to the following sections:

- (a) Clear and unmistakable error, § 3.105(a) of this chapter; and
- (b) Difference of opinion, § 3.105(b) of this chapter.

(Authority: 38 U.S.C. 511)

#### § 21.7805 Conflicting interests.

In administering benefits payable under 10 U.S.C. chapter 1606, VA will apply the provisions of § 21.4005 in the same manner as they are applied in the

Department of Veterans Affairs

§21.8010

administration of 38 U.S.C. chapters 34 and 36.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3683; Pub. L. 98-525)

[53 FR 34740, Sept. 8, 1988, as amended at 61 FR 20729, May 8, 1996; 61 FR 29483, June 11, 1996]

§21.7807 Examination of records.

In administering benefits payable under 10 U.S.C. chapter 1606, VA will apply the provisions of §21.4209 in the same manner as they are applied in the administration of 38 U.S.C. chapters 34 and 36.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3690; Pub. L. 98-525)

[53 FR 34740, Sept. 8, 1988, as amended at 61 FR 20729, May 8, 1996]

Subpart M—Vocational Training and Rehabilitation for Certain Children of Vietnam Veterans—Spina Bifida and Covered Birth Defects

AUTHORITY: 38 U.S.C. 101, 501, 512, 1151 note, 1802, 1804-1805, 1811, 1811 note, 1812, 1814, 1816, 1821-1824, 5112, unless otherwise noted.

SOURCE: 67 FR 72565, Dec. 6, 2002, unless otherwise noted.

GENERAL

§21.8010 Definitions and abbreviations.

(a) Program-specific definitions and abbreviations. For the purposes of this subpart:

Covered birth defect means the same as defined at §3.815(c)(3) of this title.

Eligible child means, as appropriate, either an individual as defined at §3.814(c)(2) of this title who suffers from spina bifida, or an individual as defined at §3.815(c)(2) of this title who has a covered birth defect other than a birth defect described in §3.815(a)(2).

Employment assistance means employment counseling, placement and post-placement services, and personal and work adjustment training.

Institution of higher education has the same meaning that §21.4200 provides for the term institution of higher learning.

Program of employment services means the services an eligible child may receive if the child's entire program consists only of employment assistance.

Program participant means an eligible child who, following an evaluation in which VA finds the child's achievement of a vocational goal is reasonably feasible, elects to participate in a vocational training program under this subpart.

Spina bifida means the same as defined at §3.814(c)(3) of this title.

Vietnam veteran means, in the case of a child suffering from spina bifida, the same as defined at §3.814(c)(1) or §3.815(c)(1) of this title and, in the case of a child with a covered birth defect, the same as defined at §3.815(c)(1) of this title.

Vocational training program means the vocationally oriented training services, and assistance, including placement and post-placement services, and personal and work-adjustment training that VA finds necessary to enable an eligible child to prepare for and participate in vocational training or employment. A vocational training program may include a program of education offered by an institution of higher education only if the program is predominantly vocational in content.

VR&E refers to the Vocational Rehabilitation and Employment activity (usually a division) in a Veterans Benefits Administration regional office, the staff members of that activity in the regional office or in outbased locations, and the services that activity provides.

(Authority: 38 U.S.C. 101, 1802, 1804, 1811-1812, 1814, 1821)

(b) Other terms and abbreviations. The following terms and abbreviations have the same meaning or explanation that §21.35 provides:

- (1) CP (Counseling psychologist);
(2) Program of education;
(3) Rehabilitation facility;
(4) School, educational institution, or institution;
(5) Training establishment;
(6) Vocational goal;
(7) VRC (Vocational rehabilitation counselor); and
(8) Workshop.

(Authority: 38 U.S.C. 1804, 1811, 1814, 1821)