

§ 21.4216

38 CFR Ch. I (7-1-08 Edition)

based upon all of the evidence of record.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3689(d), 3690)

(d) *Effective date.* If the decision of the Director of the VA Regional Processing Office of jurisdiction is adverse to the educational institution, the decision shall indicate specifically the effective date of each adverse action covered by the decision.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3689(d), 3690)

(e) *Notification of decision.* (1) The Director of the VA Regional Processing Office of jurisdiction shall send a copy of the decision to the educational institution by certified mail, return receipt requested. A copy of the decision also will be provided by regular mail to the institution's legal representative of record, if any. If the decision is adverse to the educational institution, the Director will enclose a notice of the educational institution's right to have the Director, Education Service review the decision.

(2) The Director of the VA Regional Processing Office of jurisdiction will also send a copy of the decision to:

- (i) The State approving agency; and
- (ii) VA Counsel.

(3) The Director of the VA Regional Processing Office of jurisdiction shall post a copy of the decision at the VA Regional Processing Office of jurisdiction. A copy of the decision shall be published in the FEDERAL REGISTER.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3689(d), 3690)

[63 FR 35836, July 1, 1998, as amended at 72 FR 16973, Apr. 5, 2007]

§ 21.4216 Review of decision of Director of VA Regional Processing Office of jurisdiction.

(a) *Decision is subject to review by the Director, Education Service.* At the request of the educational institution the Director, Education Service will review a decision of a Director of a VA Regional Processing Office of jurisdiction to discontinue payments; to disapprove new enrollments or reenrollments; or to deny payment of benefits for licensing or certification tests. This review

will be based on the evidence of record when the Director of the VA Regional Processing Office of jurisdiction made that decision. It will not be *de novo* in nature and no hearing on the issue will be held. When reviewing a decision to deny payment for licensing or certification tests, the Director, Education Service may seek the advice of the Professional Certification and Licensure Advisory Committee established under 38 U.S.C. 3689(e).

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3689(d), (e), 3690)

(b) *Authority of Director, Education Service.* The Director, Education Service has the authority to affirm, reverse, or remand the original decision. In the case of such a review, the reviewing official's decision, other than a remand, shall become the final Department decision on the issue presented.

(c) *Notice of decision of Director, Education Service is required.* Notice of the reviewing official's decision will be provided to the interested parties and published in the FEDERAL REGISTER, in the same manner as is provided in § 21.4215(e) for decisions of the Director of the VA Regional Processing Office of jurisdiction, for the information of all concerned.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3689(d), 3690)

[63 FR 35836, July 1, 1998, as amended at 72 FR 16973, Apr. 5, 2007]

PROGRAMS OF EDUCATION

§ 21.4232 Specialized vocational training—38 U.S.C. Chapter 35.

(a) *Eligibility requirements for specialized vocational training.* (1) The Department of Veterans Affairs may provide a program of a specialized course of vocational training to an eligible person who:

- (i) Is not in need of special restorative training, and
- (ii) Requires specialized vocational training because of a mental or physical handicap.

(2) The counseling psychologist will:

- (i) After consulting with the Vocational Rehabilitation Panel, determine whether such a course is in the best interest of the eligible person; and