

## § 21.4003

by either an adjudicative activity or an insurance 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.

[31 FR 6774, May 6, 1966, as amended at 48 FR 37976, Aug. 22, 1983]

### § 21.4003 Revision of decisions.

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

(a) Clear and unmistakable error, § 3.105(a) of this chapter;

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

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

(d) Severance of service connection, § 3.105(d) of this chapter;

(e) Veteran no longer totally and permanently disabled, § 21.4135(o).

### § 21.4005 Conflicting interests.

For the purposes of this section, a person will be considered to be an "officer" of the State approving agency or VA when he or she has authority to exercise supervisory authority, and "educational institution" includes an organization or entity offering licensing or certification tests.

(Authority: 38 U.S.C. 3683, 3689)

(a) *A conflict of interest can cause the dismissal of a VA or State approving agency officer or employee and other adverse consequences.* (1) An officer or employee of VA will be immediately dismissed from his or her office or employment, if while such an officer or employee he or she has owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from any educational institution operated for profit—

(i) In which a veteran or eligible person was pursuing a course of education under 10 U.S.C. chapter 1606 or 38 U.S.C. chapter 30, 32, 33, 35, or 36; or

(ii) Offering a licensing or certification test that is approved for payment of educational assistance under 10 U.S.C. chapter 1606, or 38 U.S.C. chapter 30, 32, 33, or 35 to veterans, reservists, or eligible individuals who take that test.

## 38 CFR Ch. I (7–1–11 Edition)

(2) Except as provided in paragraph (a)(3) or (c) of this section, VA will discontinue payments under § 21.4153 to a State approving agency when the Secretary finds that any individual who is an officer or employee of a State approving agency has, while he or she was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from any educational institution operated for profit—

(i) In which a veteran or eligible person was pursuing a course of education or training under 10 U.S.C. chapter 1606 or 38 U.S.C. chapter 30, 32, 33, 35, or 36; or

(ii) Offering a licensing or certification test that is approved for payment of educational assistance under 10 U.S.C. chapter 1606, or 38 U.S.C. chapter 30, 32, 33, or 35 to veterans, reservists, or eligible individuals who take that test.

(3) VA will not discontinue payments to a State approving agency under paragraph (a)(2) of this section if the State approving agency, after learning that it has any officer or employee described in that paragraph, acts without delay to end the employment of that individual.

(4) If VA discontinues payments to a State approving agency pursuant to paragraph (a)(2) of this section, VA will not resume these payments while such an individual is an officer or employee of the:

(i) State approving agency;

(ii) State Department of Veterans Affairs; or

(iii) State Department of Education.

(5) A State approving agency will not approve any course offered by an educational institution operated for profit and, if any such course has been approved, will disapprove each such course, if it finds that any officer or employee of the Department of Veterans Affairs, or the State approving agency owns an interest in, or receives any wages, salary, dividends, profits, gratuities, or service from, such educational institution.

(6) If a State approving agency finds that any officer or employee of VA or of the State approving agency owns an interest in, or receives wages, salary,