(2) A disapproval under paragraph (d) of this section of all further enrollments or reenrollments of individuals seeking VA educational assistance for pursuit of the course (except for enrollments and reenrollments of servicemembers seeking to be paid tuition assistance top-up benefits to meet all or a portion of an educational institution’s charges for education or training that the military department concerned has not covered under tuition assistance); and

(3) A suspension under paragraph (d) of this section of payments of educational assistance to all veterans, servicemembers, or eligible persons who may take a licensing or certification test after a date that the Director has determined.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241, 3323(a), 3690)

(h) Withdrawal of referral to Committee on Educational Allowances. (1) If, following a suspension of payments and/or approval of enrollments or reenrollments, the Director of the VA Regional Processing Office of jurisdiction determines that the conditions which justified the suspension have been corrected, and the State approving agency has not withdrawn or suspended approval of the course(s) or test(s), the Director may resume payments to and/or approval of enrollments or reenrollments of the affected veterans, servicemembers, reservists, or eligible persons. If the case has already been referred to the Committee on Educational Allowances under paragraph (g) of this section at the time such action is taken, the Director will advise the Committee that the original referral is withdrawn.

(2) If, following a referral to the Committee on Educational Allowances, the Director finds that the State approving agency will suspend or withdraw approval, the Director may, if otherwise appropriate, advise the Committee that the original referral is withdrawn.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241(a), 3323(a), 3690)

(i) This section does not apply to disapproval of courses based on conflicts of interests. VA will disapprove courses when required by §21.4005(d) without applying the provisions of paragraphs (a) through (h) of this section.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3241, 3323(a), 3690)

§21.4211

Composition, jurisdiction, and duties of Committee on Educational Allowances.

(a) Authority. (1) 38 U.S.C. 3690 authorizes VA to discontinue educational benefits to veterans, servicemembers, reservists, or eligible persons when VA finds that:

(i) The program of education or course in which such individuals are enrolled fails to meet a requirement of 38 U.S.C. chapter 30, 32, 33, 35, or 36, or 10 U.S.C. chapter 1606, or the regulations in this part; or

(ii) An educational institution has violated any such statute or regulation.

(2) This authority does not extend to enrollments and reenrollments of individuals seeking to be paid tuition assistance top-up benefits to meet all or a portion of an educational institution’s charges for education or training that the military department concerned has not covered under tuition assistance.

(3) 38 U.S.C. 3689 and 3690 further authorize VA to deny payment to servicemembers, reservists, or eligible persons for licensing or certification tests when VA finds that either the test or the organization or entity offering the test fails to meet a requirement of 38 U.S.C. 3689 or the applicable regulations of this part.

(4) Sections 21.4210 through 21.4216 implement the authority discussed in paragraphs (a)(1) and (a)(3) of this section.

(5) Each VA Regional Processing Office shall have a Committee on Educational Allowances. For the purposes of this section, the Manila Regional Office is considered the VA Regional Processing Office of jurisdiction for educational institutions located in the Philippines. The Committee’s findings of fact and recommendations will be provided to the Director of the VA Regional Processing Office.
(6) The Secretary of Veterans Affairs delegates to each Director of a VA Regional Processing Office the authority to suspend or discontinue payment of educational benefits, to disapprove enrollments or reenrollments, or to deny payment of benefits for tests.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 512(a), 3034(a), 3323(a), 3241(a), 3689(d), 3690)

(b) **Purpose.** (1) The Committee on Educational Allowances is established to assist the Director of the VA Regional Processing Office of jurisdiction in deciding in a specific case whether—

(i) Educational assistance should be discontinued to all individuals enrolled in any course or courses an educational institution offers; and

(ii) If appropriate, whether approval of all further enrollments or reenrollments in the course or courses an educational institution offers should be denied to veterans, servicemembers, reservists, or other eligible persons pursuing those courses under programs VA administers; or

(iii) Payment should be denied to all servicemembers and veterans for taking a specific licensing or certification test.

(2) A Director’s decision described in paragraph (b)(1) of this section must be based on a finding that the educational institution is not meeting, or has violated, a requirement of 38 U.S.C. chapter 30, 32, 33, 35, or 36, or 10 U.S.C. chapter 1606, or the regulations in this part.

(3) The function of the Committee on Educational Allowances is to develop facts and recommend action to be taken on the basis of the facts found. A hearing before the Committee is not in the nature of a trial in a court of law. Instead, it is an administrative inquiry designed to create a full and complete record upon which a recommendation can be made as to whether the Director should discontinue payment of educational benefits and/or deny approval of new enrollments or reenrollments. Both the interested educational institution and VA Regional Counsel, or designee, representing VA, will be afforded the opportunity to present to the Committee any evidence, argument, or other material considered pertinent.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3323(a), 3241(a), 3689(d), 3690)

(c) **Jurisdiction.** The Committee on Educational Allowances will consider only those cases which are referred in accordance with §§21.4210(g) and 21.4212.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3323(a), 3241(a), 3689(d), 3690)

(d) **Committee members.** The Committee on Educational Allowances will consist of three employees of the VA Regional Processing Office of jurisdiction, at least one of whom is familiar with the adjudication of claims for benefits administered by the Veterans Benefits Administration. The Director of the VA Regional Processing Office of jurisdiction will designate a Chairperson. In the event that any member becomes unable to serve for any reason, the Director may appoint a replacement member. Before the Committee resumes its proceedings, the new member will be given an opportunity to apprise himself or herself of the actions and testimony already taken by the Committee.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3323(a), 3241(a), 3689(d), 3690)

(e) **Duties and responsibilities of the Committee.** (1) The function of the Committee on Educational Allowances is to make recommendations to the Director of the VA Regional Processing Office of jurisdiction in connection with specific cases referred for consideration as provided in §§21.4210(g) and 21.4212.

(2) The performance of this function will include:

(i) Hearing testimony or argument from witnesses or representatives of educational institutions and VA, as appropriate, when such persons appear personally before the Committee;

(ii) Receiving and reviewing all the evidence, testimony, briefs, statements, and records included in each case; and

(iii) Furnishing the Director of the VA Regional Processing Office of jurisdiction a written statement setting forth specifically the question or questions considered, a summation of the
essential facts of record, recommendations as to issues referred for consideration by the Committee, and the basis therefor. In any case where there is not unanimity, both the majority and the minority views and recommendations will be furnished.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3211(a), 3680(d), 3690)

§ 21.4212 Referral to Committee on Educational Allowances.

(a) Form and content of referral to Committee. When the Director of the VA Regional Processing Office of jurisdiction refers a case to the Committee on Educational Allowances, as provided in § 21.4210(g), the referral will be in writing and will—

(1) State the approval, reporting, recordkeeping, or other criteria of statute or regulation which the Director has cause to believe the educational institution has violated;

(2) Describe the substantial pattern of veterans, servicemembers, reservists, or eligible persons receiving educational assistance to which they are not entitled which the Director has cause to believe exists, if applicable;

(3) Outline the nature of the evidence relied on by the Director in reaching the conclusions of paragraphs (a)(1) and (a)(2) of this section;

(4) Describe the Director’s efforts to obtain corrective action and the results of those efforts; and

(5) Ask the Committee on Educational Allowances to perform the functions described in §§ 21.4211, 21.4213, and 21.4214 and to recommend to the Director whether educational assistance payable to individuals pursuing the courses in question should be discontinued; approval of new enrollments should be denied; and/or payment to individuals for licensing or certification tests should be denied, as appropriate.

(b) Notice of the referral. (1) At the time of referral the Director will—

(i) Send notice of the referral, including a copy of the referral document, by certified mail to the educational institution. The notice will include statements that the Committee on Educational Allowances will conduct a hearing; that the educational institution has the right to appear before the Committee and be represented at the hearing to be scheduled; and that, if the educational institution intends to appear at the hearing, it must notify the Committee within 60 days of the date of mailing of the notice;

(ii) Provide an information copy of the notice and referral document to the State approving agency of jurisdiction; and

(iii) Place a copy of the notice and referral document on display at the VA Regional Processing Office of jurisdiction for review by any interested party or parties.

(2) The Director will provide a copy of the notice and referral document to the VA Regional Counsel, or designee, of jurisdiction, who will represent VA before the Committee on Educational Allowances.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3034(a), 3211(a), 3680(d), 3690)

§ 21.4213 Notice of hearing by Committee on Educational Allowances.

(a) Content of hearing notice. In any case referred to the Committee on Educational Allowances for consideration, a hearing will be held. If, as provided in § 21.4212(b), the educational institution has timely notified the Committee of its intent to participate in the hearing, the educational institution will be notified by certified letter from the Chairperson of the date when the hearing will be held. This hearing notification will inform the educational institution of—

(1) The time and place of the hearing;

(2) The matters to be considered;

(3) The right of the educational institution to appear at the hearing with representation by counsel, to present witnesses, to offer testimony, to present arguments, and/or to submit a written statement or brief; and

(4) The complete hearing rules and procedures.

(b) Expenses connected with hearing. The notice will also inform the educational institution that VA will not