

Department of Veterans Affairs

§ 19.31

or her representative, if any, or to his or her fiduciary, if any, as appropriate.

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0674)

(Authority: 38 U.S.C. 501; 38 U.S.C. 7105, 7105A (2016))

[71 FR 56871, Sept. 28, 2006, as amended at 84 FR 178, Jan. 18, 2019]

§ 19.27 [Reserved]

§ 19.28 Determination that a Notice of Disagreement is inadequate protested by claimant or representative.

Whether a Notice of Disagreement is adequate is an appealable issue. If the claimant or his or her representative protests an adverse determination made by the agency of original jurisdiction with respect to the adequacy of a Notice of Disagreement, the claimant will be furnished a Statement of the Case.

(Authority: 38 U.S.C. 7105 (2016))

[57 FR 4104, Feb. 3, 1992, as amended at 84 FR 178, Jan. 18, 2019]

§ 19.29 Statement of the Case.

The Statement of the Case must be complete enough to allow the appellant to present written and/or oral arguments before the Board of Veterans' Appeals. It must contain:

(a) A summary of the evidence in the case relating to the issue or issues with which the appellant or representative has expressed disagreement;

(b) A summary of the applicable laws and regulations, with appropriate citations, and a discussion of how such laws and regulations affect the determination; and

(c) The determination of the agency of original jurisdiction on each issue and the reasons for each such determination with respect to which disagreement has been expressed.

(Authority: 38 U.S.C. 7105(d)(1) (2016))

[57 FR 4104, Feb. 3, 1992, as amended at 84 FR 178, Jan. 18, 2019]

§ 19.30 Furnishing the Statement of the Case and instructions for filing a Substantive Appeal.

(a) *To whom the Statement of the Case is furnished.* The Statement of the Case will be forwarded to the appellant at the latest address of record and a separate copy provided to his or her representative (if any).

(b) *Information furnished with the Statement of the Case.* With the Statement of the Case, the appellant and the representative will be furnished information on the right to file, and time limit for filing, a substantive appeal; information on hearing and representation rights; and a VA Form 9, "Appeal to Board of Veterans' Appeals", and a statement describing the available review options if the appellant elects review of the issue or issues on appeal in the modernized review system.

(Authority: Sec. 2, Pub. L. 115-55; 131 Stat. 1105; 38 U.S.C. 7105 (2016))

[57 FR 4104, Feb. 3, 1992, as amended at 61 FR 20449, May 7, 1996; 84 FR 178, Jan. 18, 2019]

§ 19.31 Supplemental statement of the case.

(a) *Purpose and limitations.* A "Supplemental Statement of the Case," so identified, is a document prepared by the agency of original jurisdiction to inform the appellant of any material changes in, or additions to, the information included in the Statement of the Case or any prior Supplemental Statement of the Case. The information furnished with the Supplemental Statement of the Case shall include a statement describing the available review options if the appellant elects review of the issue or issues on appeal in the modernized system. In no case will a Supplemental Statement of the Case be used to announce decisions by the agency of original jurisdiction on issues not previously addressed in the Statement of the Case, or to respond to a notice of disagreement on newly appealed issues that were not addressed in the Statement of the Case. The agency of original jurisdiction will respond to notices of disagreement on newly appealed issues not addressed in the Statement of the Case using the procedures in §§19.29 and 19.30 of this