



**Representation &  
Intent to File  
VA Forms 21-22 and 21-0966**

**PSO Training  
January 2022**

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# WHO IS ELIGIBLE FOR BENEFITS?

**(38 C.F.R. §3.12)**



Veteran status...

Who can we assist and what can we assist them with?

<b>Honorable</b>	<b>Although eligibility to VA benefits may be affected by the type of discharge, the VFW represents all veterans except those who have received a dishonorable discharge.</b>
<b>General, General under Honorable</b>	
<b>Other than Honorable</b>	
<b>Uncharacterized/Entry Level Separation</b>	
<b>Bad Conduct</b>	
<b>Dishonorable</b>	<b>Not unless discharge is upgraded</b>

- **§14.631** Powers of attorney; disclosure of claimant information.
- **VA Form 21-22**, February 2019\*
  - Required for representation
  - Authorizes VA disclosure of information to VFW
  - Requires signature of the claimant and the VFW
  - If an outdated form is used or of record VA will **restrict our access to the file** and send a current version to the veteran to fill out and return – this will not affect the outcome of the claim

## § 14.632 Standards of conduct for persons providing representation before the Department

- Faithfully execute duties
- Understand the issues of fact and law relevant to the claim
- Will NOT Violate standards, rules of conduct

- Withdrawal of representation **§20.6**
  - Prior to Certification to the Board follow NVS policy and procedure, more to follow...
  - After Certification to the Board – must show good cause
- Change in representation **§20.1304 & 20.1305**
  - 90 days following appeal to the Board

# VFW POLICY – ACCEPTING REPRESENTATION



- Claimant must **NOT** be represented by an attorney on any issue before the VA (CAVC representation does not count)
- Claimant must **NOT** restrict access to any records (See VA Form 21-22, Block 19)
- Claimant **CANNOT** have a pending appeal at the Board of Veterans Appeals (VA Form 9 or VA Form 10182)
- **EXCEPTION TO BVA RULE:** Must have compelling circumstances AND advance approval by NVS Director or designee to accept a POA after an appeal to the BVA is filed.

# ONCE ACCEPTED:



- VA must officially acknowledge the 21-22 before the VFW can provide representation
- Information concerning a claimant **CANNOT** be released to non-accredited personnel in a VFW Post, County Council, District or Department without a VA form 21-0845.
  - This includes Post and District Service Officers

# VFW POLICY – REVOKING REPRESENTATION



VFW representation can only be revoked once authorization is given by the DSO or Office Supervisor (or if the claimant revokes POA by selecting a new representative or notifying VA)

The DSO or Office Supervisor must inform both the veteran AND the VA of the decision in writing.

You do not need authorization from NVS to revoke representation, but once the decision has been made to revoke representation, notify NVS



## **Some reasons to revoke representation:**

- Abusive verbal or physical behavior towards a VFW representative or staff by a client or prospective client
- Client's repeated and persistent failure to cooperate with a VFW representative

**What are some other reasons you would request to revoke VFW representation?**

- Repeated changes of powers of attorney where the claim is without apparent merit.
- Fraud or attempted fraud
- Dishonorable discharge

**Why else would you refuse a POA?**

# HOW CAN A VETERAN FIND OUT IF THEY HAVE A REPRESENTATIVE?



- Log into E-Benefits – Click on Representation
- Inquire with VA
- Ask a VSO to check SHARE

# HOW TO COMPLETE THE 21-22 (February 2019 version)



## ➤ Section I

- Key notes: Only fill out block 3 (VA File number) and block 5 (veteran's service number) if you have that information, otherwise leave them blank

## ➤ Section II

- Key notes: Only fill out this section if someone other than the veteran is requesting representation (Surviving spouse, child)

## ➤ Section III

- Key notes: Put your name and title in blocks 16A and B. Do not put "any accredited representative". Use your office's general mailbox for block 17

# HOW TO COMPLETE THE 21-22



## ➤ Section IV

- Block 19 **MUST** be checked to allow access to medical records
- Block 20 **CANNOT** be checked
- Block 21 to allow address change is optional but we recommend checking it

## ➤ Section V

- Both you and the veteran/claimant must sign

# QUESTIONS ON REPRESENTATION?



- Effective March 24, 2015
  - No More Informal Claims - **38 CFR §3.155**
  - Must Use Specific Form- VA form 21-0966

**Why is it important to know when this program went into effect?**

# INTENT TO FILE- WHAT IS IT?



- VA Form 21-0966
- Alerts VA that you are going to file a claim within 1 year of submission of the ITF
- Protects date of claim
- Allows time to gather information

**Why is protecting the date of claim important?**



# INTENT TO FILE- WHAT IS NEEDED



- Personal Information
- What benefit is being sought (Compensation, Pension, Survivors Benefits)
- Signature

**38 CFR §3.155(2)**

# INTENT TO FILE- HOW TO FILE?



- Representative can initiate electronically using SEP or by submitting VA form 21-0966 through any approved method  
(D2D, Direct Upload, Fax, Mail, Public contact)
- Veteran can initiate electronically using eBenefits, VA.gov, over the phone (800-827-1000), or by submitting VA form 21-0966

- Must file the claim within 1 year of ITF – this timeline cannot be extended by submitting an additional 21-0966
  - Pre-discharge claims/BDD
  - Survivor benefits (DIC)
  - For these programs, if ITF is filed within the one-year timeframe, it preserves the effective date as if the claim was filed within the original year.
- You cannot have more than one active ITF per benefit at a time
- ITF is no longer active once you submit a completed claim
- Once the ITF is no longer active (used or expired) another ITF can be submitted but if a 2<sup>nd</sup> ITF is submitted while the first is still active, the 2<sup>nd</sup> ITF will not be recognized

# INTENT TO FILE – SUPPLEMENTAL CLAIMS



- If a veteran was previously denied a benefit, VA will not accept an ITF for that specific issue
- If an ITF is submitted for a previously denied issue VA will notify the veteran that they did not accept the ITF and the effective date will not be preserved
- Instead, the veteran must submit a Supplemental Claim (VA form 20-0995) with new and relevant evidence (This will be explained in the Appeals class)
- The veteran can still submit an ITF for other issues
- This policy was addressed by the Fed. Circuit in July 2021 – The Court decided that ITF regulations apply to Supplemental Claims; we are still waiting for clarification on how VA will implement this change

# HOW TO COMPLETE THE 21-0966

## ➤ Section I

- Block 1 – Use the claimant’s name, usually this is the veteran but may be a dependent
- Block 3 – Only complete if you have it otherwise leave blank
- Block 5 – Do not use if the veteran is the claimant
- Block 10 – Ask – if claimant is unsure check yes

## ➤ Section II

- Key notes: select which benefit(s) the veteran or claimant will file for

## ➤ Section III

- Key notes: You can only sign for the veteran if it is not their original claim; remember to put Veterans of Foreign Wars in block 15

# **When should you file an ITF?**

In your packet there is a completed 21-22, ITF, and an instruction sheet for Thomas Patton. Review each form and determine if they are filled out completely.

# POA & ITF ISSUE SPOTTING EXERCISE



Mr. Thomas Patton is an Army veteran in your VFW Post today asking for assistance with the VA. He knows he wants to file for something but is unsure of what disabilities he wants to claim. A friend told him to file for compensation, but he feels he might be better suited for pension and wants some time to think it over. He has requested his records from the national archives, and in an effort to be proactive has already filled out the 21-22 and 21-0966. Review the forms Mr. Patton brought in and determine if there are any corrections needed prior to submitting them to the VFW DSO.

His information is as follows:

Name: Thomas B. Patton

SSN: 000-12-3456

DOB: 02/14/1961

Address: 2002 Army Drive

Boise, ID 12345

Phone: 555-555-8788

Email: Armyisgreat@army.com

Once you have reviewed the forms write down any issues, if any, that you discovered.



# SUBMITTING POA and ITF



Once you complete the POA and ITF with the Veteran or Family Member:

- Fax to the DSO at 803-647-2313 and return forms to client
- Return Documents to client and they can mail them to the DSO at:

Veteran of Foreign Wars  
ATTN: John Johnson,  
6437 Garners Ferry Rd, Suite 1124  
Columbia, SC 29209