## Section C. Protected Ratings

#### Overview

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| In This Section | This section contains the following topics: |

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| Topic | Topic Name |
| 1 | Twenty-Year Protection of Compensation Evaluations Under 38 CFR 3.951(b)  |
| 2 | Ten-Year Protected Service Connection (SC) Under 38 CFR 3.957 |
| 3 | Twenty-Year Protected Pension Ratings Under 38 CFR 3.951(b) |
| 4 | Protection and Rating Schedule Changes, 38 CFR 3.951(b) and 3.952 |
| 5 | Other Protection Issues |

#### 1. Twenty-Year Protection of Compensation Evaluations Under 38 CFR 3.951(b)

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| Introduction | This topic contains information about protected evaluations for compensation purposes, including* protected evaluations for compensation purposes under 38 CFR 3.951(b)
* determining whether 20-year protection applies under 38 CFR 3.951(b)
* protection at lower than the current evaluation
* evaluation continuously in effect regardless of recoupments and deductions
* protection in the absence of a monetary award
* when protection does not accrue
* protection of special monthly compensation (SMC) evaluations
* calculation of SMC on erroneous protected evaluations
* protection resulting from retroactive increases
* protected combined evaluations
* effect of a change in diagnostic code (DC)
* protection and break out of evaluations of conditions erroneously rated together
* protection of evaluation of disability eliminated by non-service-connected (NSC) amputation, and
* effect of return to active duty.
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| Change Date | April 22, 2015 |

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| a. Protected Evaluations for Compensation Purposes Under 38 CFR 3.951(b) | Preservation of disability evaluations (the ***protection*** of certain long-standing evaluations from reduction) derives from [38 U.S.C. 110](https://www.law.cornell.edu/uscode/text/38/110) and is implemented in [38 CFR 3.951(b)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=7f4878f787ebf9871a4b5ce51586fba5&ty=HTML&h=L&r=SECTION&n=se38.1.3_1951). The regulation provides that a disability compensation evaluation of any level that has been continuously in effect for 20 years or more will not be reduced to a lower evaluation except upon a showing that the higher evaluation was based upon fraud.***Example***:A Veteran files a claim for increase in his service-connected (SC) sinusitis, evaluated at 30 percent for over 20 years. The Department of Veterans Affairs (VA) exam on which the 30-percent evaluation was based showed that the Veteran did *not* have incapacitating episodes, but did suffer three *non-incapacitating* episodes per year. This warranted only a 10-percent evaluation but the VA exam was misread by the Rating Veterans Service Representative (RVSR) as involving three *incapacitating* episodes. The current VA exam still shows symptomatology warranting a 10-percent evaluation. However, the 30 percent cannot be reduced because it is protected. ***Reference***: For a definition of fraud, see [38 CFR 3.901](http://www.ecfr.gov/cgi-bin/text-idx?SID=0bbffb6f2635afc4ff83d99c26ca648e&node=se38.1.3_1901&rgn=div8)   |

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| b. Determining Whether 20-Year Protection Applies Under 38 CFR 3.951(b) | Use the following table to determine whether 20-year protection applies under [38 CFR 3.951(b)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=7f4878f787ebf9871a4b5ce51586fba5&ty=HTML&h=L&r=SECTION&n=se38.1.3_1951). |

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| If your purpose is to... | Then calculate the period of time by considering... |
| determine whether a compensation evaluation that was reduced to a lower level was protected  | * the starting date as the effective date of the higher evaluation that was reduced, and
* the ending date as the effective date of the lower evaluation subsequently assigned.

***Example 1***: Reduction from 50 percent to 30 percent* 50 percent effective 1/1/1996
* 30 percent effective 1/1/2015

The 50-percent evaluation was in effect for 19 years on effective date of reduction to the lower evaluation and, as such, was not protected.***Example 2***: Reduction from 50 percent to 30 percent* 50 percent effective 1/1/1994
* 30 percent effective 1/1/2015

The 50-percent evaluation was in effect for 21 years on the date of reduction to the lower evaluation. The 50-percent evaluation was protected. Reduction from 50 percent to 30 percent was not permitted.  |
| determine whether it is possible to finalize reduction before a disability evaluation becomes protected  | * the starting date as the effective date of the current evaluation, and
* the ending date as the earliest date that a reduction *could become effective*.

***Important***: Where a disability evaluation has been in effect for close to 20 years the application of [38 CFR 3.344](http://www.ecfr.gov/cgi-bin/text-idx?SID=da52ba26513f0f932d2ad2b234fbcd29&node=se38.1.3_1344&rgn=div8) and [38 CFR 3.105](http://www.ecfr.gov/cgi-bin/text-idx?SID=da52ba26513f0f932d2ad2b234fbcd29&node=se38.1.3_1105&rgn=div8) may make it impossible to finalize a reduction before protection applies. |

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| c. Protection at Lower Than the Current Evaluation | In some cases the current evaluation may not have been in effect for 20 years but the evaluation has been at a lower level for the requisite 20-year period. In such cases, the current evaluation is not the protected evaluation but the lower evaluation is protected. A reduction can be accomplished but not below the protected evaluation. ***Example***: Reduction of the evaluation of a knee strain ([38 CFR 4.71a, diagnostic code (DC) 5260](http://www.ecfr.gov/cgi-bin/text-idx?SID=706482b8b0fb668731917663ac9c59ef&mc=true&node=se38.1.4_171a&rgn=div8)) can be accomplished by 2/1/15. Evidence supports 10-percent disability. Assume compliance with [38 CFR 3.105](http://www.ecfr.gov/cgi-bin/text-idx?SID=da52ba26513f0f932d2ad2b234fbcd29&node=se38.1.3_1105&rgn=div8) and [38 CFR 3.344](http://www.ecfr.gov/cgi-bin/text-idx?SID=da52ba26513f0f932d2ad2b234fbcd29&node=se38.1.3_1344&rgn=div8). The codesheet shows the following evaluation history:* 0 percent, effective 3/5/1987
* 10 percent, effective 1/1/1990
* 20 percent, effective 5/1/1993
* 30 percent, effective 2/1/1997

On the earliest potential date of reduction (2/1/15) the 30-percent evaluation will have been in effect for only 18 years. Therefore, it is not and will not be protected for the purpose of the proposed reduction. Some reduction is possible. However, an evaluation of at least 20 percent will have been in effect for more than 20 years. Therefore, even though the facts support only a 10-percent evaluation, the maximum reduction possible is to 20 percent.  |

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| d. Evaluation Continuously in Effect Regardless of Recoupments and Deductions | For purposes of determining whether an evaluation has been continuously in effect for 20 years, include periods during which recoupment or deduction applied to an award. |

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| e. Protection in the Absence of a Monetary Award  | The protective provisions of [38 U.S.C. 110](http://www.law.cornell.edu/uscode/text/38/110) and [38 CFR 3.951 (b)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=7f4878f787ebf9871a4b5ce51586fba5&ty=HTML&h=L&r=SECTION&n=se38.1.3_1951) do not require a concurrent award of monetary benefits.***Example***: Even though a beneficiary has elected not to receive compensation for an evaluation which has been in effect for more than 20 years, the evaluation is protected. ***Reference***: For more information on protection in the absence of a monetary award, see [*Salgado v. Brown*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bms), 4.Vet.App. 316 (1993).  |

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| f. When Protection Does Not Accrue | Under [38 U.S.C. 110](http://www.law.cornell.edu/uscode/text/38/110) and [38 CFR 3.951(b)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=7f4878f787ebf9871a4b5ce51586fba5&ty=HTML&h=L&r=SECTION&n=se38.1.3_1951), protection does not accrue for * a Veteran who renounces entitlement to disability benefits, or
* ratings for other than compensation purposes, such as ancillary benefits.
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| g. Protection of SMC evaluations | Protection under [38 U.S.C. 110](http://www.law.cornell.edu/uscode/text/38/110) and [38 CFR 3.951(b)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=7f4878f787ebf9871a4b5ce51586fba5&ty=HTML&h=L&r=SECTION&n=se38.1.3_1951) applies to grants of special monthly compensation (SMC). Although SMC is an ancillary benefit, it is compensation and the legislative intent of *Public Law (PL) 102-86* amendments to [38 U.S.C. 110](http://www.law.cornell.edu/uscode/text/38/110) was to extend the 20-year protection principle to SMC evaluations.  |

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| h. Calculation of SMC on Erroneous Protected Evaluations | When a compensation disability percentage is protected but erroneous, assess entitlement to SMC as if the protected disability evaluation was correct.***Example***: Where a 100-percent evaluation was just granted for arteriosclerosis and a 60 percent evaluation for another SC disability has been in effect for 20 years, SMC(s) (statutory housebound SMC) must be granted even if the 60-percent evaluation was erroneous. ***Reference***: For more information on SMC and erroneous, but protected, evaluations, see [VAOPGCPREC 16-1989](http://www.va.gov/ogc/docs/1989/PREC_16-89.doc). |

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| i. Protection Resulting From Retroactive Increases | If a retroactive increase under [38 CFR 3.105(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=6b0059bc8da29016564102089c2e1227&node=se38.1.3_1105&rgn=div8) results in a Veteran having been rated for 20 years or longer at a certain level, the evaluation is protected under [38 CFR 3.951(b)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=7f4878f787ebf9871a4b5ce51586fba5&ty=HTML&h=L&r=SECTION&n=se38.1.3_1951) and may *not* be reduced in the absence of a showing of fraud.***Reference***: For more information, see [VAOPGCPREC 68-1991](http://www.va.gov/ogc/docs/1991/PREC_68-91.doc). |

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| j. Protected Combined Evaluations | Do *not* reduce benefits when a combined evaluation has been in effect for 20 years or more *except* in the case of fraud. Both the individual evaluations and the combined evaluation are protected under [38 CFR 3.951(b)](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=7f4878f787ebf9871a4b5ce51586fba5&ty=HTML&h=L&r=SECTION&n=se38.1.3_1951), even if erroneously assigned.***Example***: No rating action is warranted to reduce the erroneous 50-percent combined evaluation to the proper 40-percent combined evaluation in a case where* two compensable SC disabilities have been evaluated at 30-percent and 20-percent disabling, respectively, and
* an improperly assigned combined degree of 50 percent has been in effect for 20 or more years.
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| k. Effect of Change in DC | When manifestations of a disability have been evaluated at a particular level for 20 years or more, exercise caution when assigning a new DC for symptoms of that disability. Decisionmakers should consider whether* the new DC includes the symptoms protected under the current evaluation, or
* the new DC considers separate and distinct symptoms.

***Important***: The change in DC does not affect the protected status under [38 CFR 3.951](http://www.ecfr.gov/cgi-bin/text-idx?SID=aaf0db75837c80ac0c8f4b8580ed9588&node=se38.1.3_1951&rgn=div8). When progression of a disability warrants a different DC than originally assigned, close out the original DC and establish a new DC representing the progression of the disability. The effective date of the new DC should be the same as the end date of the original DC. The diagnosis text of the new DC should include the disability name and DC of the original condition. Decision makers remain responsible for reviewing the entire record and applying [38 CFR 3.951](http://www.ecfr.gov/cgi-bin/text-idx?SID=aaf0db75837c80ac0c8f4b8580ed9588&node=se38.1.3_1951&rgn=div8) based on the total history of the disability. ***Examples***:* A change to [38 CFR 4.71a, DC 5270](http://www.ecfr.gov/cgi-bin/text-idx?SID=e1a316f048ea52ddab47bf2602e876da&node=se38.1.4_171a&rgn=div8) ankylosis of the left ankle (previously rated as left ankle limitation of motion, ([38 CFR 4.71a, DC 5271](http://www.ecfr.gov/cgi-bin/text-idx?SID=706482b8b0fb668731917663ac9c59ef&mc=true&node=se38.1.4_171a&rgn=div8)).
* A Vietnam Veteran has been SC for a through-and-through gunshot wound (GSW) to the right leg (Muscle Group (MG) XI) evaluated at 10 percent under [38 CFR 4.73, DC 5311](http://www.ecfr.gov/cgi-bin/text-idx?SID=e1a316f048ea52ddab47bf2602e876da&node=se38.1.4_173&rgn=div8) effective November 21, 1968. The service treatment records (STRs) specifically indicate that the nerves were not affected. Over 40 years later, the Veteran is granted service connection (SC) for type II diabetes mellitus. The GSW to the right leg has remained static; however, the medical records indicate that he has diabetic neuropathy with right foot drop. Since both the GSW and the peripheral nerve paralysis (foot drop) affect propulsion of the right lower extremity, separate ratings cannot be granted without pyramiding. However, a single 40-percent evaluation may be granted under [38 CFR 4.124a, DC 8521](http://www.ecfr.gov/cgi-bin/text-idx?SID=71b9229567155eefc8d5def801ee244b&node=se38.1.4_1124a&rgn=div8), which would consider both the symptoms of the GSW as well as the new diabetic neuropathy with foot drop.

If the new DC addresses different and distinct disability manifestations that would warrant a separate evaluation, then the prior DC must be retained and the new DC established as a separate disability and evaluation. ***Example***: [38 CFR 4.71a, DC 5260](http://www.ecfr.gov/cgi-bin/text-idx?SID=706482b8b0fb668731917663ac9c59ef&mc=true&node=se38.1.4_171a&rgn=div8) limitation of flexion of the knee, painful motion, (protected under [38 CFR 3.957](http://www.ecfr.gov/cgi-bin/text-idx?SID=aaf0db75837c80ac0c8f4b8580ed9588&node=se38.1.3_1957&rgn=div8)); and [38 CFR 4.71a, DC 5257](http://www.ecfr.gov/cgi-bin/text-idx?SID=706482b8b0fb668731917663ac9c59ef&mc=true&node=se38.1.4_171a&rgn=div8) impairment of the knee, moderate instability.***References***: For more information on* protection of evaluations and DC codes, see [*Murray v. Shinseki*](http://vbaw.vba.va.gov/bl/21/Advisory/CAVCDAD.htm#bmm), 24 Vet. App. 420 (2011)
* pyramiding, see
* [38 CFR 4.14](http://www.ecfr.gov/cgi-bin/text-idx?SID=aaf0db75837c80ac0c8f4b8580ed9588&node=se38.1.4_114&rgn=div8), and
* [*Esteban v. Brown*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bme), 6 Vet.App. 259 (1994), and
* entering historical and current rating information in the Veterans Benefits Management System (VBMS) see the [VBMS-Rating (VBMS-R) User Guides page](http://vbaw.vba.va.gov/VBMS/Resources_Technical_Information.asp).
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| l. Protection and Breaking out Evaluations of Conditions Erroneously Rated Together | Where two conditions have been erroneously rated as one disability for more than 20 years it is not a violation of protection to rerate them as separate disabilities *as long as** the combination of the separate evaluations equals or exceeds the prior single evaluation, and
* separate evaluations are made effective to the date of the prior single evaluation. This will ensure that the separate evaluations are properly recognized as protected.

***Reference***: For more information, see [VAOPGCPREC 4-1996](http://www.va.gov/ogc/docs/1996/Prc04-96.doc).  |

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| m. Protection of Evaluation of a Disability Eliminated by NSC Amputation | Where a non-service-connected (NSC) cause necessitates amputation of an extremity – eliminating a SC disability distal to the site of the amputation that had been in effect for more than 20 years – the evaluation of the eliminated disability is protected.***Reference***: For more information on protection due to amputation see, M21-1 Part III, Subpart iv, 8.C.2.e. |

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| n. Effect of Return to Active Duty | The statute prohibits payment of compensation for a period in which an individual receives active service pay. Therefore, where compensation is discontinued following reentry into active service* continuity of the rating is interrupted for the purposes of achieving the protection offered by [38 U.S.C. 110](http://www.law.cornell.edu/uscode/text/38/110), and
* the disability cannot be considered to have been continuously rated during the period in which compensation is discontinued.

***Reference***: For more information on the effects of reentry in active duty on disability evaluations, see [VAOPGCPREC 5-1995](http://www.va.gov/ogc/docs/1995/PRC05-95.DOC). |

#### 2. Ten-Year Protected SC Under 38 CFR 3.957

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| Introduction | This topic contains information about the protection of SC under 38 CFR 3.957, including* protection under 38 CFR 3.957
* determining the ten-year period
* protection of SC for death
* DC change or correction of site of disability and protection of SC
* protection of SC for disability eliminated by NSC amputation, and
* protection inapplicable for benefits under 38 U.S.C. 1151.
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| Change Date | February 3, 2016 |

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| a. Protection Under 38 CFR 3.957 | Protection from severance of SC is based on [38 U.S.C. 1159](https://www.law.cornell.edu/uscode/text/38/1159), implemented by [38 CFR 3.957](http://www.ecfr.gov/cgi-bin/text-idx?SID=478ab01484da17bb54b7528574e54d80&node=se38.1.3_1957&rgn=div8).If SC for disability or cause of death has been in effect 10 or more years, propose severance only if* the original grant was based on fraud, or
* it is clearly shown that the person concerned did not have the requisite service or character of discharge.

***Important***: Protection against severance does not only require continuation of SC status. VA must continue to pay compensation at the appropriate evaluation for the protected condition as if SC was not erroneous, except in cases of willful misconduct or alcohol or drug abuse. ***Notes***:* The evaluation of the erroneously-SC-but-protected disability can be increased when supported by the facts.
* SC can be established for a condition secondary to erroneously-SC-but-protected disability when supported by the facts.

***Reference***: For more information on * severance of SC, see
* [38 CFR 3.105(d)](http://www.ecfr.gov/cgi-bin/text-idx?SID=866401ba6ef6e4eb690671001dc629fb&node=se38.1.3_1105&rgn=div8)
* M21-1, Part III, Subpart iv, 8.E.2
* M21-1, Part III, Subpart iv. 8.E.3.a
* M21-1, Part III, Subpart iv, 2.B.4
* M21-1, Part III, Subpart v, 1.D.4.a, and
* [VAOPGCPREC 6-2002](http://www.va.gov/ogc/docs/2002/PREC_6-2002.doc), and
* willful misconduct based on alcohol and drug abuse, see
* [38 CFR 3.301](http://www.ecfr.gov/cgi-bin/text-idx?SID=b5d41c779470bc764c968e0e1a05d79d&mc=true&node=se38.1.3_1301&rgn=div8)
* M21-1, Part III, Subpart v, 1.D
* M21-1, Part IV, Subpart ii, 2.K, and
* M21-1, Part III, Subpart iv, 4.I.2.h, and
* [VAOPGCPREC 2- 1998](http://www.va.gov/ogc/docs/1998/prc02-98.doc).
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| b. Determining the 10-Year Period | Measure the 10-year period * from the effective date of SC, *not* the date of the rating,
* to the effective date of the actual or prospective severance.

A recent erroneous award of SC made effective 10 years in the past is the equivalent of a past rating that has been in effect 10 or more years. See [VAOPGCPREC 6-2002](http://www.va.gov/ogc/docs/2002/PREC_6-2002.doc). |

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| c. Protection of SC for Death | [38 CFR 3.957](http://www.ecfr.gov/cgi-bin/text-idx?SID=f565ce462226031b5963adcf03d33683&node=se38.1.3_1957&rgn=div8) provides protection against severance of SC for the cause of death, dependency and indemnity compensation (DIC) and death compensation. Protection for SC for cause of death does not apply to an erroneous grant of DIC when a rating decision determined that death was not SC. See [VAOPGCPREC 8-1993](http://www.va.gov/ogc/docs/1993/PRC08-93.DOC).  |

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| d. DC Change or Correction of Site of Disability and Protection of SC | SC for a disability is not severed simply because the site of a disability, or DC associated with it, is corrected to more accurately describe the correct disability. ***Examples***: * A disability evaluation for degenerative arthritis under [38 CFR 4.71a, DC 5003](http://www.ecfr.gov/cgi-bin/text-idx?SID=706482b8b0fb668731917663ac9c59ef&mc=true&node=se38.1.4_171a&rgn=div8) that has been in place for over 10 years can be recharacterized as traumatic arthritis under [38 CFR 4.71a, DC 5010](http://www.ecfr.gov/cgi-bin/text-idx?SID=706482b8b0fb668731917663ac9c59ef&mc=true&node=se38.1.4_171a&rgn=div8).
* SC for a scar of the left iliac crest that has been in effect for more than 10 years may be redesignated as SC for scar of the right iliac crest if the scar incurred in service was, in fact, on the right iliac crest.

***Reference***: For more information on DC change or correction, see* [*Read v. Shinseki*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmr), 651 F. 3d 1296 (2011)
* [*Gifford v. Brown*](http://vbaw.vba.va.gov/bl/21/advisory/CAVCDAD.htm#bmg), 6 Vet.App. 269 (1994)
* [VAOPGCPREC 50-1991](http://www.va.gov/ogc/docs/1991/PREC_50-91.doc), and
* [VAOPGCPREC 13-1992](http://www.va.gov/ogc/docs/1992/PREC_13-92.doc).
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| e. Protection of SC for Disability Eliminated by NSC Amputation | Where a NSC cause necessitates amputation of an extremity, eliminating a SC disability distal to the site of the amputation that had been in effect for more than 10 years, SC of the eliminated disability is protected. ***Reference***: For more information on protection due to amputation see, M21-1 Part III, Subpart iv, 8.C.1.m. |

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| f. Protection Inapplicable for Benefits Under 38 U.S.C. 1151.  | [VAOPGCPREC 13-1996](https://www.va.gov/ogc/docs/1996/Prc13-96.doc) held that* the protection of SC under [38 U.S.C. 1159](https://www.law.cornell.edu/uscode/text/38/1159) is not applicable to disabilities compensated under [38 U.S.C. 1151](https://www.law.cornell.edu/uscode/text/38/1151), and
* such termination is not subject to the requirements of [38 CFR 3.105(d)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d78943d45588589ac156467adfbb7e02&node=se38.1.3_1105&rgn=div8) regarding severance of SC, but is subject to similar requirements for due process and appellate rights [(38 CFR 3.103)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d78943d45588589ac156467adfbb7e02&node=se38.1.3_1103&rgn=div8) and revision of erroneous decisions ([38 CFR 3.105 (a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d78943d45588589ac156467adfbb7e02&node=se38.1.3_1105&rgn=div8)).

***Reference***: For more information on benefits under 38 U.S.C. 1151, see M21-1, Part IV, Subpart ii, 2.G.  |

#### 3. Twenty-Year Protected Pension Ratings Under 38 CFR 3.951(b)

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| Introduction | This topic contains information about protected pension entitlement, including* protection under 38 CFR 3.951(b), and
* limits of protection.
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| Change Date | December 13, 2005 |

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| a. Protection Under 38 CFR 3.951(b) | Under [38 CFR 3.951(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d83f8f8bdc58e0ad94863d5f18611d1a&node=se38.1.3_1951&rgn=div8), do not discontinue a rating of permanent total disability for pension purposes which has been in force for 20 or more years *except* in the case of fraud. |

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| b. Limits of Protection | The protection of pension entitlement under [38 CFR 3.951(b)](http://www.ecfr.gov/cgi-bin/text-idx?SID=d83f8f8bdc58e0ad94863d5f18611d1a&node=se38.1.3_1951&rgn=div8) does not extend to Special Monthly Pension (SMP). |

#### 4. Protection and Rating Schedule Changes

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| Introduction | This topic includes information about protection and rating schedule changes including* protection against rating schedule changes under 38 CFR 3.951(a)
* protection against rating scheduled changes under 38 CFR 3.952, and
* reviewing evaluations after a rating schedule change.
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| Change Date | April 22, 2015 |

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| a. Protection Against Rating Schedule Changes Under 38 CFR 3.951(a) | *PL 102-86* states that a rating evaluation cannot be reduced solely because of a change to the rating schedule subsequent to August 13, 1991. [38 CFR 3.951(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=47aec02f1bb828870eb38485248da7a2&node=se38.1.3_1951&rgn=div8) provides that a readjustment to the Schedule for Rating Disabilities shall not be grounds for reduction of a disability rating in effect on the date of the readjustment unless medical evidence establishes that the disability to be evaluated has actually improved.***Reference***: For more information on the preservation of disability evaluations after rating schedule changes, see* [38 CFR 3.951(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=47aec02f1bb828870eb38485248da7a2&node=se38.1.3_1951&rgn=div8), and
* [38 U.S.C. 1155](http://www.law.cornell.edu/uscode/text/38/1155).
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| b. Protection Against Rating Schedule Changes Under 38 CFR 3.952 | [38 CFR 3.952](http://www.ecfr.gov/cgi-bin/text-idx?SID=47aec02f1bb828870eb38485248da7a2&node=se38.1.3_1952&rgn=div8) protects rating evaluations under the 1925 rating schedule that were the basis of compensation on April 1, 1946.***Note***: Evaluations in effect when previous changes to the 1945 rating schedule occurred are *not* protected by *PL 102-86*. Therefore, evaluations assigned prior to August 13, 1991, could be reduced solely based on a change to the rating schedule, as provided by [38 CFR 3.952](http://www.ecfr.gov/cgi-bin/text-idx?SID=47aec02f1bb828870eb38485248da7a2&node=se38.1.3_1952&rgn=div8) unless they had been in existence for 20 years or more.  |

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| c. Reviewing Evaluations After a Rating Schedule Change | When reviewing a disability evaluation after a change in the rating schedule, determine whether the current evaluation would be continued or decreased under the prior schedule.***Note***: The disability evaluation cannot be reduced unless you can show the Veteran’s condition improved enough to have warranted reduction under the prior schedule. |

#### 5. Other Protection Issues

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| Change Date | April 22, 2015 |

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| a. Inapplicability of Protection to Hospital Rate Reductions Under 38 CFR 3.552 | Protection under the provisions of either [38 CFR 3.951](http://www.ecfr.gov/cgi-bin/text-idx?SID=47aec02f1bb828870eb38485248da7a2&node=se38.1.3_1951&rgn=div8) or [38 CFR 3.952](http://www.ecfr.gov/cgi-bin/text-idx?SID=47aec02f1bb828870eb38485248da7a2&node=se38.1.3_1952&rgn=div8) of a total rating disability evaluation does not preclude reduction to a hospital rate under [38 CFR 3.552](http://www.ecfr.gov/cgi-bin/text-idx?SID=622bad9b84a956b9bca7bbeefe28a1c1&node=se38.1.3_1552&rgn=div8). |