

Chapter 1
PROGRAM ESTABLISHMENT AND OFFICE REQUIREMENTS

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Chapter 1
PROGRAM ESTABLISHMENT AND OFFICE REQUIREMENTS

1.01 Introduction
(Change Date February 19, 2019)

This chapter provides information on requirements for Vocational Rehabilitation and Employment (VR&E) Program establishment and office operation at VR&E Divisions. The chapter discusses VR&E Division responsibilities for Chapter 31 and other programs, general VR&E management responsibilities and required personnel practices. The chapter also includes a discussion of protection of privacy and confidentiality issues, due process, and appeals of Veterans' cases. Program oversight, internal control components, and employee recognition are discussed in this chapter. The VR&E Division requirements for office space are presented including: counseling space; individual offices (including a discussion of hoteled office space); appropriate area for test administration and Job Lab resource access by Veterans.

1.02 References and Resources
(Change Date February 19, 2019)

Laws: 38 U.S.C. Chapter 18
 38 U.S.C. Chapter 31
 38 U.S.C. Chapter 35
 38 U.S.C. Chapter 36

Regulations: 5 Code of Federal Regulations (CFR) Part 2635
 5 CFR 430.201

VA Forms (VAF): VAF 20-0998, Your Rights to Seek Further Review of our
 Decision (Note - this form replaced all versions of VAF 4107
 effective February 19, 2019)

Resource: Department of Veterans Affairs (VA) Directive 5013
 Code of Professional Ethics for Rehabilitation Counselors -
 Section J: Technology and Distance Counseling

Websites: [http://vaww1.va.gov/ohrm/Directives-
Handbooks/Documents/5013.doc](http://vaww1.va.gov/ohrm/Directives-Handbooks/Documents/5013.doc)

1.03 VR&E Management Responsibilities

a. Responsibilities of VR&E Service and the VR&E Division

VR&E Service at Central Office (CO) in Washington, DC, provides policies and

procedures for the VR&E Program. The VR&E Division within each regional office (RO) establishes, maintains, and provides oversight for the program and implements the policies and procedures provided by VR&E Service at CO.

b. VR&E Division Oversight of Chapter 31 and Other Programs

The VR&E Division is responsible for providing and carrying out services and assistance for Chapter 31 and other programs. The VR&E Division is responsible for providing:

1. Assistance to Veterans and Servicemembers under 38 U.S.C. Chapter 31 including:

- Counseling and evaluation.
- Administration of training and rehabilitation.
- Independent living (IL) services.
- Rehabilitation and employment assistance and placement.

2. Assistance to Veterans and Servicemembers under 38 U.S.C. Chapter 36 including:

- Vocational educational counseling.
- Problem-solving and personal adjustment counseling.

See M28R.VII.A.1 for additional information on the provision of Chapter 36 services.

3. Assistance to dependents of Veterans under 38 U.S.C. Chapter 35 including:

- Vocational educational counseling.
- Problem-solving and personal adjustment counseling.
- Special Restorative Training (SRT).
- Specialized Vocational Training (SVT).
- Other applicable special assistance services.

See M28R.VII.A.2 for additional information on the provision of Chapter 35 services.

4. Assistance to dependents of Veterans under 38 U.S.C. Chapter 18 including:
 - Vocational counseling.
 - Evaluation.
 - Case management services.

This chapter authorizes benefits for certain Veterans' children with spina bifida and other covered birth defects delineated in the Veterans Benefits Act of 2003. See M28R.VII.A.3 for additional information on the provision of Chapter 18 services.

c. General VR&E Management Responsibilities

The following information details how VR&E management responsibilities are divided between leadership at VR&E Service, the RO and the VR&E division at the RO.

1. VR&E Officer

The VR&E Officer manages a VR&E division within an RO. The VR&E division consists of Vocational Rehabilitation Counselors (VRCs), Employment Coordinators (ECs), and technical and administrative support staff members.

2. Director, Regional Office

The RO Director provides general management for the RO including line authority over the VR&E Division. The RO Director ensures service wide policy and procedural changes are implemented and benefits and services are provided in a timely manner.

3. Director, VR&E Service

The Director of VR&E Service does not have line authority over VR&E staff at the RO, but supports the success of the VR&E division of the RO in a number of other ways. These include developing policy, formulating budgets, developing workload systems, supporting RO staff development with development of training programs, and developing requirements for RO staff. Oversight and guidance of the VR&E division is also provided to

the RO systematically by the Director of VR&E Service through Quality Assurance (QA) staff site surveys and file reviews, as well as on an individual basis when requested. The Director of VR&E Service sets and enables the mission, vision, strategic direction, and enterprise thinking for all VR&E program services. The Director of VR&E Service also serves as the chief point of contact for Congress and all Federal agencies on any matters related to the VR&E program.

1.04 Required Personnel Practices and Program Components

a. VR&E Officer Responsibilities

The VR&E Officer is responsible for personnel practices that promote effective implementation of the VR&E Program. The following practices are regarded as crucial elements in accomplishment of the program's goals. Compliance in the following areas is required:

1. Classification and Position Management

Each employee must be provided a current position description and, if applicable, national performance standards that reflect the work actually performed, and levels of performance in measurable terms. For positions without national performance standards, standards will be developed locally.

For more information, see 5 CFR 430.201 and VA Directive 5013, which is located at: <http://vaww1.va.gov/ohrm/Directives-Handbooks/Documents/5013.doc>

2. The Equal Employment Opportunity (EEO) Program

VR&E Officers must take responsibility to familiarize themselves with VA's EEO Program. The VR&E Officer must also adhere to and implement the RO's EEO plan ensuring equal employment opportunities and upward mobility for all VR&E division employees. The VR&E Officer is required to assist any VR&E employee with an EEO complaint by contacting VA's EEO staff for assistance regarding grievance procedures.

3. Standards of Ethical Conduct and Related Responsibilities

The VR&E Officer is responsible for following the Code of Professional Ethics for Rehabilitation Counselors and to ensure counselors on staff also follow this code of ethics. The VR&E Officer and staff must also follow VA's specific guidance on ethics in 5 CFR Part 2635 – Standards of Ethical Conduct for Employees of the Executive Branch. The VR&E Officer is

responsible to ensure he/she and the staff receives all required annual ethics training. The VR&E Division is encouraged to utilize the Office of Regional Counsel as a resource to train staff on any particular ethics problems as needed.

4. Outside Teaching by VR&E Staff

Outside employment is an area of particular concern to the VR&E Division since many of the professional staff have opportunities to engage in such activity. VR&E staff members may teach courses on their own time at non-profit institutions as long as they rely on their generic expertise and do not get paid for discussing specifically what they do at VA. In other words, they may teach counseling, psychology, psychometrics, and so forth, but not how VA performs evaluation and planning. However, teaching any subject at a for-profit facility where Veterans are approved to attend is prohibited.

b. Protection of Privacy and Confidentiality

Although the Health Insurance Portability and Accountability Act of 1996 (HIPAA) does not apply to VR&E services, staff is still responsible for protecting the privacy of Chapter 31 Veterans, safeguarding records and ensuring that information is not disclosed to individuals who have no "need to know." The Privacy Act of 1974 does apply to VR&E personnel, which permits important uses of an individual's records while protecting his/her privacy. The VR&E Officer must ensure all employees handling Veterans' and dependents' Personally Identifiable Information (PII) receives and documents VA's required annual privacy training. VR&E staff must take the following measures to ensure confidentiality and privacy in situations emerging from developing technology:

- VR&E staff should not use their personal social media sites to communicate with Veterans, Servicemembers, and/or families regarding any VA-related discussions involving confidential or restricted information. See M28R.III.B.1 for complete procedural guidance on the use of social media.
- Tele-counseling technology and media may only be used if VR&E staff can ensure both counselor and Veteran have a secure private setting for the counseling session. Tele-counseling is anticipated to often discuss personal issues of a sensitive nature and might also include PII. VR&E staff must take the same care to protect the privacy of tele-counseling conversations as is given to protect regular counseling sessions.
- VR&E counselors planning to utilize tele-counseling with Veterans should

review and adhere to guidance available in the Code of Professional Ethics for Rehabilitation Counselors at Section J: Technology and Distance Counseling.

c. Notification and Support of the Administrative Review and Appeals Process
(Change Date February 19, 2019)

Veterans receiving or requesting benefits under the Chapter 31 Program are entitled to request an administrative review and/or an appeal of any VR&E decision with which they disagree. The VR&E Officer must ensure procedures are in place to support the administrative review and appeal process. To inform a Veteran of his or her right to this process, and be responsive to Veteran requests, VA Form 20-0998: Your Rights to Seek Further Review of Our Decision, must be provided to the Veteran when an adverse action is taken. See Appendix O, VA Forms, for information on how to access this form.

For more information on the Veteran's right to a local review and/or an appeal at the Board of Veteran's Appeals, see M28R.III.C.3.

d. Program Oversight and Internal Control Components

The following procedures must be utilized to assess and improve the quality of services provided to Veterans in the Chapter 31 Program. Casework is evaluated on a national and local level. The elements listed below are the components of program oversight and internal control:

- Quality Assurance (QA)
- Field Surveys
- Performance Management
- Systematic Analysis Operations (SAO)
- Management Reports

e. Employee Awards and Recognition Program

A nationwide VR&E Awards Program may be issued at the discretion of the Director of VR&E Service. VR&E Officers are also responsible for recognizing employees for special contributions and outstanding performance. RO Directors are responsible for distributing award funds to Division managers. VR&E Officers may also provide recognition with non-monetary awards, such

as time-off awards or other tokens of appreciation.

1.05 VR&E Division Office/Site Requirements

a. Requirements for Office Space

VR&E Division office space must meet the requirements listed below:

- The office must be readily accessible to individuals with disabilities.
- The office location must be clearly identified on building and floor directories.
- A reception area must be provided. It must be of adequate size and have reasonably comfortable furnishings for visitors.

Exception: In those offices where a separate reception area cannot be provided, staff should make arrangements to use the facilities of other RO elements, such as the Veterans Service Center (VSC).

b. Requirements for Counseling Space

The counseling environment must be arranged to allow the Veteran a clear sense of the privacy and confidentiality of conversations with his/her Counselor. This can be achieved by only providing counseling in an environment that offers auditory and visual privacy, where the conversation between the Counselor and the Veteran is not open to public observation, and where there are no unannounced interruptions or other distractions. A properly planned counseling space encourages the Veteran to discuss sensitive matters of personal concern relevant to his/her vocational planning and program participation.

c. Requirements for Individual or Hoteled Offices

Each case manager must have access to a private office, with floor-to-ceiling walls and doors for conducting counseling sessions. ROs with limited office space can meet this requirement by "hoteling" the counseling room or rooms. In such an arrangement counselors perform administrative work and duties other than counseling in a common area or an open counseling room. If hoteling, counseling sessions should be scheduled in advance and given priority over administrative work or other duties in the counseling room.

d. Requirements for Suitable Space for Administering Tests

The VR&E Officer must ensure the establishment of suitable space for the

administration of psychological and vocational assessment tests. Testing must be conducted under conditions that ensure privacy and freedom from noise and distraction, and fully comply with established testing standards, including accessibility of testing material and the testing area as well as adequate lighting, ventilation, seating facilities, and working space for Veterans. Testing materials must be properly secured when not in use in a locked room or cabinet.

For more information on tests and test supplies, see M28R.II.A.2.

e. Access to Job Lab Resources

VR&E field stations must provide job lab resources for use by all Veterans, not just those receiving Chapter 31 benefits. The intent of the job lab is to help Veterans obtain state-of-the-art employment services, including labor market information, resume development, interviewing skills training, and access to direct job leads via Internet job boards. The resources must include at a minimum, ample access to computers with Internet capabilities. To the maximum extent possible, a separate area for Veterans seeking jobs will be established and staff will be made available to assist.

In stations that do not have a job lab, it is acceptable to ensure required computer and Internet access is available for Veterans by utilizing resources at a Department of Labor One-Stop or public library.