

Chapter1
OVERVIEW OF RIGHTS AND RESPONSIBILITIES

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Chapter1
OVERVIEW OF RIGHTS AND RESPONSIBILITIES

1.01 Introduction
(Change Date March 8, 2013)

The scope of this section includes a description of the roles and responsibilities of the Director of the Department of Veterans Affairs (VA) Vocational Rehabilitation and Employment (VR&E) Service, VR&E Officer (VREO), case managers and Veterans, and information on how to communicate Veteran's rights. This chapter also contains the statutory and regulatory provisions covering a Veteran's rights and responsibilities.

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

Laws: 38 United States Code (U.S.C.) 503 38 U.S.C. 3107

Regulations: 38 Code of Federal Regulations (CFR) 3.103
38 CFR 21.416
38 CFR 21.420

VA Forms (VAF): VAF 10182, Decision Review Request: Board Appeal (Notice of Disagreement (Note - this form replaced all versions of VAF 9 effective February 19, 2019)
VAF 3288, Request for and Consent to Release of Information from Claimant's Records
VAF 20-0995, Decision Review Request: Supplement Claim
VAF 20-0996, Decision Review Request: Higher-Level Review
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)
VAF 28-8739a, Protection of Privacy Information Statement
VAF 21-4138, Statement in Support of Claim
VAF 21-4142, Authorization and Consent to Release Information to the Department of Veterans Affairs (VA)
VAF 28-0800, Vocational Rehabilitation and Employment (VR&E) Program Orientation
VAF 28-1902b, Counseling Record-Narrative Report VAF 28-1902n, Counseling Record-Narrative Report (Supplemental Sheet)
VAF 28-1905d, Special Report of Training VAF 28-1905h, Trainee Request for Leave

1.03 Roles and Responsibilities

a. Director of VR&E Service

- 1. Reviews Requests for Equitable Relief
(Change Date March 8, 2013)**

Relief may be provided to the Veteran, surviving spouse, child of Veteran or other person who is suffering a loss as a consequence of reliance upon a determination by the Department of Veterans Affairs (VA) of eligibility or entitlement to benefits on the part of the federal government or any of its employees (see 38 U.S.C. 503).

- 2. Provides Advisory Opinions
(Change Date March 8, 2013)**

An advisory opinion is initiated prior to a formal decision being made. It is designed to resolve doubt as to the correct application of law, regulations, policies or procedures.

- 3. Conducts Administrative Reviews of Entitlement Decisions
(Change Date February 19, 2019)**

An Administrative Review (AR) upholds or overturns a decision already made. ARs focus on the questions of policy and procedures or the possible misapplication of regulations. Note, this is only an option for decisions made prior to February 19, 2019.

For more information on equitable relief, advisory opinions and ARs, see M28R.III.C.3.

b. VR&E Officer (VREO)

The VREO reviews and approves the following items:

- 1. Statement of the Case (SOC)
(Change Date February 19, 2019)**

An SOC is a formal response by a Regional Office (RO) to a Veteran's Notice of Disagreement (NOD). The RO issues the SOC after reviewing its unfavorable decision and finding no grounds for reversing it only for decisions made before February 19, 2019. The SOC summarizes the chronology of significant events leading up to the RO decision, lists all the evidence used to reach the decision, explains the reasons and bases for

the decision and cites all applicable law.

2. Administrative Review
(Change Date February 19, 2019)

The VREO will conduct an administrative review (AR) when the request for an AR involves a decision related to the development of a rehabilitation plan or involves an adverse action. He/she will forward the AR on entitlement decisions to the RO Director for submission to VA Central Office. Please note, this option is only available for decisions made prior to February 19, 2019.

c. Vocational Rehabilitation Counselor (VRC)
(Change Date February 19, 2019)

The VRC completes the following tasks related to Veterans' rights and responsibilities:

- Provides general notice of rights and responsibilities to the Veteran.
- Provides information on how current or future determinations may affect how a Veteran receives benefits and services.
- Ensures due process is provided as needed. Due process requires the VRC to explain and provide in writing the Veteran's rights and responsibilities.
- Informs the Veteran and designated representative of all decisions regarding services and benefits.
- Forwards a Veteran's request for review of his/her plan to the VREO.
- Forwards request for AR to VREO for entitlement decisions made prior to February 19, 2019.
- Prepares an SOC when a Veteran files an NOD on a decision made prior to February 19, 2019.
- Assists the Veteran in obtaining relevant evidence to support his/her claim.

d. Veteran
(Change Date February 19, 2019)

A Veteran may appeal decisions any decision made by VR&E staff to the

Board of Veterans Appeals (BVA); request a higher-level review of a decision made on his/her claim; or provide new evidence that may impact the decision, which is referred to as a supplemental claim. A Veteran who requests a review of the plan must submit a written statement on the appropriate form to the VRC that:

- Requests a review of the proposed, original or amended plan and
- Details his/her objections to the terms and conditions of the proposed, original or amended plan.

See M28R.III.C.3 for a more detailed account of this process.

1.04 Communicating a Veteran's Rights (Change Date February 19, 2019)

VR&E staff are responsible for communicating a Veteran's rights throughout the rehabilitation process. This includes, but is not limited to, the following components:

- Program orientation for new applicants.
- Written notification of adverse actions.
- The provision of due process.

An adverse action can be any of the following:

- Denial of Chapter 31 benefits when such benefits have been requested.
- Reduction or other diminishment of benefits being received by the Veteran.
- Termination of receipt of benefits.

Once the case manager decides to take adverse action against the Veteran, he/she will provide the Veteran with VAF 20-0998 (see Appendix O, VA Forms for information on how to access this form, as well as all other forms referenced in this chapter), which outlines the steps a Veteran needs to take in order to request a review and/or appeal the case manager's decision. For more information on informing the Veteran of findings affecting receipt of benefits and services, see 38 CFR 21.420.

1.05 Documentation (Change Date February 19, 2019)

The following table identifies VA forms/letters used for ensuring a Veteran's rights and responsibilities:

Document	Description
VAF 10182, Decision Review Request: Board Appeal (Notice of Disagreement (Note - this form replaced all versions of VAF 9 effective February 19, 2019)	Used to request an appeal to BVA.
VAF 3288, Request for and Consent to Release of Information from Claimant's Records	Gives permission to VA to release information from the claimant's records.
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)	Provides the Veteran with his/her appeal rights when an adverse decision is made on his/her claim.
VAF 28-8739a, Protection of Privacy Information Statement	Describes the need for and use of personal information by VA.
VAF 21-4138, Statement in Support of Claim	Provides additional information that supports the individual's claim
VAF 21-4142, Authorization and Consent to Release Information to the Department of Veterans Affairs (VA)	Enables VA to request records on behalf of the Veteran.
VAF 28-0800, Vocational Rehabilitation and Employment (VR&E) Program Orientation	Orients the Veteran to the VR&E program.
VAF 28-1902b, Counseling Record-Narrative Report; VAF 28-1902n, Counseling Record-Narrative Report (Supplemental Sheet) or CWINRS Notes	Documents and synthesizes all information pertinent to the Veteran's eligibility determination and development or redevelopment of the plan.
VAF 28-1905d, Special Report of Training or CWINRS Notes	Documents the Veteran's progress and problems in achieving the goals of their rehabilitation plan.
VAF 28-1905h, Trainee Request for Leave	Provides supporting information needed for approval of a leave of absence request.

Document	Description
CWINRS Case Notes	Documents the Veteran's progress and what actions VA is taking to assist him/her in achieving his/her rehabilitation goals.
VAF 20-0996, Decision Review Request: Higher-Level Review	Documents the Veteran's request to have a higher-level review completed at the regional office level on a decision made on or after February 19, 2019.
VAF 20-0995, Decision Review Request: Supplemental Claim	Documents the Veteran's request to have a supplemental claim completed at the regional office level on a decision made on or after February 19, 2019.