

Chapter 6  
VETERAN'S CONDUCT AND COOPERATION

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## Chapter 6 VETERAN'S CONDUCT AND COOPERATION

### 6.01 Introduction

The rehabilitation process requires teamwork. This means that the Veteran and his/her case manager are active and essential participants in the rehabilitation process. The Veteran is responsible for satisfactory conduct and cooperation while requesting or receiving benefits and/or services under Chapter 31. This chapter contains the statutory and regulatory provisions covering the Veteran's conduct and cooperation while participating in a Chapter 31 rehabilitation plan.

### 6.02 Resources and References (Change Date February 19, 2019)

Regulations:           38 Code of Federal Regulations (CFR) 21.58  
                              38 CFR 21.362  
                              38 CFR 21.364  
                              38 CFR 21.420

VA Forms (VAF):      VAF 119, Report of Contact  
                              VAF 28-1902b, Counseling Record Narrative Report  
                              VAF 1905d, Special Report of Training  
                              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)

### 6.03 Satisfactory Conduct and Cooperation Responsibilities

#### a. Veteran's Responsibilities

The Veteran is responsible for the following actions:

- Cooperate with the case manager throughout the rehabilitation process.
- Plan ahead to allow time to pursue his/her rehabilitation program.
- Seek assistance as needed from Vocational Rehabilitation and Employment (VR&E) staff to resolve problems that may impede his/her ability to pursue the rehabilitation program.
- Abide by rules and regulations to ensure successful rehabilitation.

- Inform his/her case manager when enrolling in or dropping out of a course.
- Inform his/her case manager of change of a rate of pursuit.
- Inform his/her case manager if there is a need for a leave of absence.
- Inform his/her case manager if there is a need for equipment or supplies to complete the rehabilitation program.
- Inform his/her case manager if there is a need for medical care and/or treatment.

**b. VR&E Staff Responsibilities**

The case manager must perform the following responsibilities:

- Inform the Veteran about his/her benefits and services under the program he/she is pursuing.
- Discuss the Veteran's responsibilities regarding conduct and cooperation before each phase of the program.
- Assist the Veteran in maintaining satisfactory conduct and cooperation in his/her rehabilitation program.
- Take timely and corrective action to ensure successful completion of the Veteran's rehabilitation program goals and objectives.

**c. Monitoring Conduct and Cooperation**

Early problem identification provides the best opportunity to avoid unnecessary interruptions in a Veteran's rehabilitation program. The case manager must develop cooperative arrangements with the Veteran, facilities, community resources, the Veterans Administration Medical Center (VAMC) and other service providers to ensure that reasonable effort is made to resolve problems and take preventive measures as needed.

**d. Documenting Conduct and Cooperation**

The case manager must document all contacts with, or on the behalf of, the Veteran. This includes the Veteran's conduct and cooperation, ongoing assessment of the Veteran's ability to meet the prescribed program criteria, notification to the Veteran concerning problems and the consequences of

failure to cooperate. It is the case manager's responsibility to seek conflict resolution and assist the Veteran in achieving his/her rehabilitation goals. These records must detail the main facts of the situation and provide a basis for later communication with the Veteran or to take subsequent actions.

e. Filing Documentation

The case manager must file documentation in the Veteran's VR&E record using either of the following forms:

- VAF 1902b, Counseling Record Narrative Report
- VAF 1905d, Special Report of Training

The case manager must also document all contacts with the Veteran in the Corporate WINRS (CWINRS) case management system. CWINRS notes do not need to be printed for the VR&E record.

The case manager must ensure that the Veteran's VR&E record contains dated copies of all notification letters and other correspondence as documentation of compliance with due process provisions as prescribed in 38 CFR 21.420.

See Appendix O, VA Forms, for information on how to access these, as well as all, forms referenced in this chapter.

6.04 Failure to Maintain Satisfactory Conduct and/or Cooperation

The case manager is required to help a Veteran in maintaining satisfactory conduct and cooperation throughout his/her rehabilitation program (38 CFR 21.362 and 21.364). When these efforts are unsuccessful, the case manager must ensure the Veteran understands the case manager's assessment of the situation and must work with the Veteran to develop a plan of action or steps needed to remedy the situation.

a. Problem Identification

Failure of the Veteran to meet any one of the following requirements may result in a determination of failure to maintain satisfactory conduct and cooperation:

- Cooperating with VR&E staff throughout the rehabilitation process.
- Informing the case manager and seeking assistance as needed to resolve

problems that may impede his/her ability to pursue the rehabilitation program.

- Abiding by rules and regulations set in his/her rehabilitation plan, including compliance with prescribed medical treatment.
- Conforming to the rules and regulations of the training or rehabilitation facility.

b. Corrective Actions and Follow-up

As soon as a problem or a potential problem is identified, the case manager must take the following actions:

- Meet with the Veteran to discuss the problem.
- Coordinate services and assistance to resolve the problem.
- Amend the rehabilitation plan, if necessary, to include any additional services and assistance.
- Monitor progress frequently and in a timely manner to determine if the problem is resolved.
- Document interactions with the Veteran using CWINRS notes or VAF 28-1905d.

If the Veteran's situation improves adequately, the Veteran's program may continue without interruption.

c. Actions Following Findings of Unsatisfactory Conduct and/or Cooperation

If there is insufficient evidence of substantial improvement following counseling and other corrective actions, the case manager must notify the Veteran in writing of a proposed adverse action. The case manager must take the following steps after he/she identifies unsatisfactory conduct and cooperation by the Veteran.

1. Notify the Veteran in Writing of Proposed Interruption of Service (Change Date February 19, 2019)

The case manager must send a letter to the Veteran proposing program interruption in 30 days, along with VAF 20-0998. The notification letter will inform the Veteran that VA will interrupt his/her case within 30 days and suspend payment of subsistence allowance, if any, as of the date of

interruption.

## 2. Interruption of Service

If problems are not resolved during the proposed period before interruption, the case manager will place the Veteran's case in interrupted status in CWINRS and send an interruption letter to the Veteran giving him/her a minimum of 30 days to either resolve the problem(s) or contact the counselor to request additional time and/or assistance to resolve the problem. In the letter, the case manager will advise the Veteran that if he/she does not contact him/her within the 30-day period, his/her case may be discontinued for failure to cooperate unless mitigating circumstances are found. The case manager will explain the consequences of discontinuance for future entitlement to benefits in the interruption letter.

## 3. Develop for Mitigating Circumstances

If the case manager determines that mitigating circumstances exist, the case manager must evaluate the Veteran's program and redevelop a new plan of services or place the Veteran back into his/her program as appropriate. Mitigating circumstances include, but are not limited to, any of the following:

- The effects of the Veteran's service and non-service-connected condition.
- Family or financial problems which have led the Veteran to unsatisfactory conduct or cooperation.
- Other circumstances beyond the Veteran's control.

## 4. Reestablish Service

If the problem is resolved during the period of interruption, the case manager must notify the Veteran in writing of the change in status and place the Veteran back into his/her program. The case manager must change the Veteran's status in CWINRS.

## 5. Discontinuation of Service (Change Date February 19, 2019)

If the case manager makes every reasonable effort to assist the Veteran and the problem is not resolved, the case manager will move the case to

Discontinued (DIS) status and notify the Veteran in writing of the adverse action. The letter must include a copy of VAF 20-0998. A copy of all notification letters and accompanying VA forms regarding proposed and final adverse actions are sent to the Veteran's designated representative as well.

d. Re-entrance Following Discontinuance

A Veteran may reenter the VR&E program after a re-determination of entitlement is made following discontinuance. However, the case manager must determine that the problem that led to the discontinuance is resolved and that the problem is not likely to recur, per 38 CFR 21.58(c).

6.05 When a Veteran's Behavior Poses a Threat

VR&E Regional Office and Central Office staff members may occasionally interact with Veterans whose behavior may pose a threat to the safety of VR&E employees. Usually it is in the form of telephone contact or personal contact with the Veteran.

a. Telephone Contact with the Veteran

The majority of telephone contacts with Veterans are non-confrontational. Occasionally, a VR&E staff member may be confronted with an angry, threatening, and/or abusive caller. The following procedure should be used by employees when confronted with angry, threatening, or abusive callers:

1. Remain calm and obtain as much information as possible.
2. Document relevant information by taking notes.
3. If confronted by abusive or foul language, do not respond in anger.
4. Acknowledge the Veteran's anger and attempt to redirect it.
5. Before disconnecting the call, let the caller know:
  - You want to help him/her.
  - You would like the individual to please stop using foul language.
  - If the caller refuses to stop using foul language you will tell the caller that she/he will disconnect the call, but the caller can call back when he/she is able to discuss the subject calmly; say good-bye and hang up.

- Once you hang up, document the call in CWINRS notes or on VAF 119, Report of Contact and send a copy of the document to your immediate supervisor.
- Notify the VBA Watch Officer at [vbaioc.vbaco@va.gov](mailto:vbaioc.vbaco@va.gov) or (202) 461-0270; Federal Protective Service (FPS) at (202) 708-1111; and the Office of the Inspector General (OIG) at (202) 530-9193 at the conclusion of the phone conversation.

b. Personal Contact with the Veteran

The majority of personal contacts with Veterans are positive; however, it is important to ensure the safety of VR&E employees when confronted with potential threatening behavior. VR&E staff can mitigate their risk by recognizing behavior that may pose a threat, documenting the occurrence, and communicating the occurrence to their supervisor.

It is essential that all VR&E staff and Veterans know that there is a clear policy of zero tolerance for workplace violence, verbal and nonverbal threats, and related actions. Criteria for identifying Veterans whose behavior may pose a threat to the safety of VR&E employees include:

1. Credible verbal threats of harm against specific individuals, staff or VA property.
  2. History of physical violence.
  3. Documented acts of repeated violence against others.
  4. History of repeated nuisance, disruptive, or larcenous behavior.
  5. History of sexual or physical harassment toward VA staff.
- c. Develop a Plan to Recognize and Respond to Threatening Behavior

Each VR&E office should develop a local plan to help staff recognize and respond to behaviors that may pose a threat to staff members' safety. Part of that plan should include steps to help reduce or eliminate risks and may include the following:

1. Ask another counselor or supervisor to see the Veteran with them.
2. Consider meeting in an open area.
3. Alert appropriate security personnel prior to meeting with the Veteran.



Security Officer should be posted outside the interview room.

4. A panic button must be accessible in all interview rooms. Know the location of the panic button and guidelines for its use.
5. Emphasize the importance of not responding in anger when confronted by verbal and nonverbal threats.
6. Immediately report the incident to a supervisor.
7. Document the incident in CWINRS notes or on VAF 119 and send a copy of the document to the immediate supervisor.
8. Notify the VBA Watch Officer, Federal Protective Service, and the Office of the Inspector General.