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Chapter 5 DELEGATION OF AUTHORITY

5.01 Introduction

The Vocational Rehabilitation and Employment (VR&E) Division is responsible for providing comprehensive vocational services to a Veteran with service-connected disabilities and their eligible dependents and an eligible Servicemember. This chapter covers the authority given to the VR&E Division and Veterans Benefits Administration (VBA) Service Centers by the Secretary of the Department of Veterans Affairs (VA) to make findings and decisions under 38 United States Code (U.S.C.) Chapters 31, 34, 35 and 36 regarding entitlement to vocational rehabilitation benefits.

5.02 References and Resources

Law: 38 U.S.C. 31

Regulations: 38 Code of Federal Regulations (CFR) 2.6
38 CFR 2.76
38 CFR 2.77
38 CFR 2.78
38 CFR 2.82
38 CFR 2.87
38 CFR 3.12
38 CFR 3.451
38 CFR 3.458
38 CFR 3.50 through 3.59
38 CFR 3.6
38 CFR 21.328
38 CFR 21.330
38 CFR 21.410

VA Form: VAF 28-1900, Disabled Veterans Application for Vocational Rehabilitation

5.03 Secretary's Delegation of Authority to Certain Officials

a. The Under Secretary for Benefits

The Secretary delegates authority to the Under Secretary for Benefits to make findings and decisions under 38 U.S.C. Chapter 31 and regulations, precedents and instructions that affect vocational rehabilitation services for a Veteran with disabilities (38 CFR 21.410). The Under Secretary for

Benefits may further delegate this authority to supervisory and non-supervisory VR&E and Veteran Service Center (VSC) adjudicative staff to determine entitlement to vocational rehabilitation and employment services for a Veteran with service-connected disabilities, their eligible dependents and an eligible Servicemember (38 CFR 2.6).

b. Director of VR&E Service

The Director of VR&E Service or designee is delegated authority to oversee and ensure that all VR&E Service program activities are implemented according to established laws, regulations and policies. This includes all programs of vocational rehabilitation, education or special restorative training under 38 U.S.C. Chapters 31, 34, 35 and 36.

c. Regional Office Directors

Regional Office (RO) Directors are delegated authority to oversee the divisions that carry out the functions of VBA. These include VR&E, VSC and Finance divisions.

d. Director of the Department of Veteran Affairs' Regional Office (VARO) Manila, Philippines

The Director of VARO Manila, Philippines is delegated authority to exercise the same authorities delegated to directors of ROs in the United States, which are appropriate to the administration in the Republic of the Philippines of the laws administered by the VA (38 CFR 2.6 (9)(b)(2)).

5.04 Veteran Service Center (VSC) Adjudicative Personnel Responsibilities

a. Evidence

The VSC develops the evidence necessary to establish or deny basic eligibility for Chapter 31 benefits.

b. Outreach

As part of the process, the VSC notifies a Veteran of an initial award of compensation or an increase in the evaluation of a service-connected condition. VSC adjudicative personnel must ensure that material concerning Chapter 31, including VAF 28-1900, Disabled Veterans Application for Vocational Rehabilitation, is attached to the compensation award letter.

c. Service Determinations

The VSC determines the character and duration of the Veteran's military service based on all the following items:

- Periods of active duty in the military, naval, air or other qualifying service (38 CFR 3.6)
- Character of discharge (38 CFR 3.12)
- Line of duty, to include establishing whether willful misconduct or vicious habits caused the disability

d. Dependency

The VSC establishes dependency for payment of the correct rate of subsistence allowance and determines the correct rate of any apportionment of subsistence allowance granted (38 CFR 3.451, 3.458, 3.50 through 3.59, 21.328 and 21.330).

e. Rating Actions

The VSC adjudicates rating decisions regarding basic eligibility for Chapter 31 benefits.

5.05 VR&E Division Responsibilities

The VR&E Division has the overall responsibility to ensure the successful implementation of the VR&E program, including the following activities:

a. Outreach

The VR&E Division conducts outreach activities with sustained efforts to encourage a potentially eligible Veteran to apply for and enter the VR&E program.

b. Generated Eligibility Determination (GED)/Master Record

The VR&E Division processes the GED upon receipt of application and establishes the Veteran's Benefits Delivery Network (BDN) Chapter 31 Master Record.

c. Evaluation

The VR&E Division provides a comprehensive evaluation of each claimant's abilities, disabilities, interests, skills and personal and work history to determine entitlement to Chapter 31 benefits. As part of this evaluation, VR&E will perform the following actions:

1. Determine whether an employment handicap exists.
2. If an employment handicap exists, determine whether the employment handicap is serious.

d. Period of Eligibility

The VR&E Division confirms the basic 12-year period of eligibility established by the VSC in the Chapter 31 Master Record and authorizes any necessary adjustments to the period.

e. Feasibility

The VR&E Division determines the current, reasonable feasibility of achievement of a vocational goal for each program participant.

f. Independence in Daily Living

The VR&E Division evaluates the ability of the program participant to function independently in his/her family and community.

g. Employment Services

The VR&E Division determines the Veteran's eligibility for employment services.

h. Assistance to an Ineligible Veteran

VR&E staff has a duty to assist a Veteran found not entitled to Chapter 31 benefits with finding alternative vocational, educational and other programs to which he/she may be entitled.

i. Rehabilitation Plan

The VR&E Division develops a rehabilitation plan with the eligible program participant that details the steps necessary to reach the rehabilitation goal and monitors his/her progress toward the goal.

j. Authorization of Awards and Master Record Changes

The VR&E Division prepares and/or authorizes awards, suspensions and terminations of subsistence allowance, as well as the preparation and adjustment of record-purpose awards, other changes to the Chapter 31 payment system and any changes to the BDN Chapter 31 Master Record.

5.06 Delegation to Sign Correspondence for the VR&E Officer

The VR&E Officer (VREO) may delegate authority to sign his/her name to any correspondence relating to the processing of vocational rehabilitation claims.

5.07 Delegation to Prepare and Authorize Awards and Other Authorizations

a. Single-Signature Actions

The VREO, at his/her discretion, may designate specific fully-trained employees for processing Chapter 31 actions. The designated staff's signature will be the only one required for approval except as described below.

b. Actions Requiring Two Signatures

The preparer of an award or authorization must always sign it. The following actions require additional signatures of approval:

1. Apportioned Awards

A senior adjudicator or a higher-level employee must review and sign all apportioned awards.

2. Award Actions for Veteran-Employees

A division chief or a higher-level employee must review and sign all award actions for Veteran-Employees, including work-study students.

3. Administrative Decisions

A division chief or a higher-level employee must review and sign administrative decisions when required by regulation or publication.

4. Trainees

While a staff member is still in initial training, he/she may not be granted single-signature authority for Chapter 31 awards or other authorizations.

A journeyman-level staff member or a higher-level employee must review and sign all Chapter 31 actions prepared by a trainee.