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### 12.01 Introduction

Work experience may be necessary to enhance a Veteran's employability. It provides the Veteran the opportunity to acquire training and firsthand work experience simultaneously. An On-the-Job Training (OJT) or a Non-Paid Work Experience (NPWE) may be provided to a Veteran who has difficulty obtaining suitable employment due to lack of work experience.

These special programs provide eligible Veterans the opportunity to obtain training and practical job experience concurrently. The objective is to place Veterans who are generally qualified for employment, but may lack some specific training or work experience in an on-the-job training to acquire skills necessary in obtaining and maintaining suitable employment.

This chapter provides guidance in establishing and implementing an OJT and NPWE for participants of the Department of Veteran Affairs (VA) Vocational Rehabilitation and Employment (VR&E) program.

### 12.02 References and Resources

Laws:                    29 United States Code (U.S.C.) Chapter 4C  
                              38 U.S.C. 3110  
                              38 U.S.C. 3115

Regulations:        38 Code of Federal Regulations (CFR) 21.123  
                              38 CFR 21.290-21.296  
                              38 CFR 21.299

VA Forms (VAF):    VAF 28-1904, Agreement to Train on the Job Disabled Veterans  
                              VAF 28-1905c, Monthly Record of Training and Wages,  
                              VAF 28-1905m, Request For and Receipt of Supplies  
                              VAF 20-8206, VA Statement of Assurance of Compliance with Equal Opportunity Laws

### 12.03 Guidelines for OJT and NPWE

#### a. On-the-Job Training (OJT)

An OJT is a course in which the Veteran learns hands-on and associated instruction of a highly skilled employment. During this training, the Veteran receives instructions, observes practical demonstrations of the job requirements, and assists in the performance of the job. An OJT is considered as Paid OJT and is used synonymously with Apprenticeship. However, Apprenticeship differs from Paid OJT in that Apprenticeship typically includes academic work, while OJT does not.

b. Non-Paid Work Experience (NPWE)

Non-paid or nominally paid work experience generally supplements other training or experience. For example, academic instruction may be pursued before induction into or concurrently with the work experience as necessary to help the Veteran achieve his/her planned vocational goal. NPWE may also be referenced as Non-paid or Nominally Paid OJT.

c. Definitions

1. Local Government Agency

Local government agency is defined as an administrative subdivision of a government including a country, municipality, city, town, township, public authority, district, school district, or other such agency or instrumentality of a local government.

2. Federal Financial Assistance

Federal financial assistance is defined as the direct or indirect provision of funds by grant, loan, contract, or any other arrangement by the federal government to a state or local government agency.

d. Requirements for OJT and NPWE

1. Training Facility

(a) OJT

Paid OJT or Apprenticeship may be approved at a variety of locations as long as the employer meets the criteria specified in 38 CFR 21.290 through 21.296. This includes any employer such as private employers, non-profits, federal agencies, state agencies, or other local or public agencies.

(b) NPWE

NPWE or Non-paid or Nominally paid OJT may be approved at the facilities of any Federal agency or of any state or local government receiving federal financial assistance.

## 2. Training Plan

### (a) OJT

For Paid OJT, the work experience must be directly related to the approved VR&E vocational goal and requires a formal training plan by the employer.

### (b) NPWE

For NPWE, the work experience must be directly related to the approved VR&E vocational goal and may or may not include a training plan by the employer.

## 3. Subsistence Allowance and Wage

### (a) Paid OJT

For Paid OJT, the trainee receives a wage paid by the employer and a monthly subsistence allowance rate that is equivalent to the difference between the journeyman wage and the training wage. However, monthly subsistence allowance must not exceed the allowable Chapter 31 subsistence allowance OJT rate or post 9/11 subsistence allowance OJT rate.

### (b) NPWE and Non-Paid OJT

For NPWE and Non-paid OJT, the trainee does not receive a wage from the employer; however, he/she receives a monthly subsistence allowance at the institutional rate.

### (c) Nominal Paid OJT

For Nominally paid OJT, the trainee does not receive a wage but the employer may provide some type of compensation for items like commuting expenses. The trainee also receives a monthly subsistence allowance at the institutional rate.

## 4. Training Period

### (a) Paid OJT

For Paid OJT, the trainee must complete the program at a minimum of six months, but typically should not exceed 24 months. However, Apprenticeship can last up to four years.

(b) NPWE

For NPWE, the trainee must complete the program between two to 18 months.

(c) Non-paid/Nominally Paid OJT

For Non-paid and Nominally Paid OJT, the trainee must complete the program at a minimum of six months, but should not exceed 24 months.

5. Veteran's Employment Status and Rights

A Veteran pursuing NPWE, or non-paid or nominally paid OJT in a facility of the United States such as Federal, State, or local government agency, are considered an employee of the United States for the purposes of workers compensation benefits under Chapter 81, Title 5 U.S.C., but is not considered an employee of the United States for the purpose of laws administered by the Office of Personnel Management (OPM).

12.04 Procedures for Establishing OJT and NPWE

a. Identifying the On-Job Course

An on-job course is pursued toward a specified vocational objective that is provided by a training establishment. During the course of work performed under supervision, the trainee receives formal instruction, observes practical demonstration of work tasks, and assists in those tasks. The trainee's work progress is expected to gradually increase and gain more independence from formal instruction as the course advances.

b. Selecting a Training Establishment

A training establishment is any facility that provides apprenticeship or other training on-the-job to include private businesses, as well as facilities managed by a college or university, or any State department of education, or any state apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established in accordance with 29 U.S.C. Chapter 4C, or any agency of the Federal government authorized to supervise such training. The training

establishment must meet the same criteria for training facilities as outlined in 38 CFR 21.123, 21.292 through 21.299.

The case manager must take the following actions when selecting a training facility:

1. Visit the facility to determine the adequacy of equipment, tools, and educational resource materials, accessibility to individuals with handicap and necessity for workshop modifications.
2. Interview trainers, managers and other trainees to determine the quality of instruction and staff resources.
3. If the training establishment has not been approved by VA, the case manager must follow the procedures on assigning a facility code to the training facility as outlined in M28R.V.B.2.
4. Determine that the criteria for approval of training establishment and the conditions listed on section 12.04 of this chapter have been met before a Veteran enters a period of on-job training or work experience at a state or local government agency.
5. In addition to meeting all of the requirements of 38 CFR 21.294, the case manager must ensure that the training establishment selected for OJT must:
  - (a) Sign an agreement to provide on-job training to the Chapter 31 Veteran.
  - (b) Provide continuous training for each veteran without interruption, except for normal holidays and vacation periods.
  - (c) Provide daytime training for the Veteran except when he/she cannot obtain necessary on-job or related training during the working hours of the day.
  - (d) Modify the program when necessary to compensate for the limitations resulting from the Veteran's disability or needs.
  - (e) Organize training into definite steps or units which will result in progressive training.
  - (f) Encourage rapid progress of each Veteran rather than limit the progress of the individual to the progress of the group.

- (g) During the period of training, do not use the Veteran on production activities beyond the point of efficient training.
- (h) Agree to pay the Veteran during training (except of Non-paid or Nominally Paid Work Experience or OJT) a salary or wage rate that is consistent with each of the following:
  - Commensurate with the value of the Veteran's productive labor.
  - Not less than that prescribed by the Fair Labor Standards Act of 1938, as amended.
  - Not less than that customarily paid to non-Veteran-trainees in the same or similar training situation.
- (i) Agree to provide the Veteran with employment at the end of the training program, provided the Veteran's conduct and progress have been satisfactory.
- (j) Agree to furnish VA a statement in writing showing wages, compensation, and other income paid directly or indirectly to each Veteran in training under Chapter 31 during the month.

c. Developing a Training Plan

The case manager must review any existing training plan with similar objectives. He/she must develop a suitable training plan that includes the following:

1. Critical elements of the job.
2. Number of clock hours to be spent on each element.
3. Type and extent of required related instruction.
4. Any license, certification, or diploma that is required for entry-level employment.
5. For Paid OJT or Apprenticeship, review the following to identify training requirements for entry-level journeyman of the trade or occupation:
  - Existing Bureau of Apprenticeship training approvals
  - State Approving Agency (SAA) OJT approvals
  - Course outlines

- Other prior agency approvals

d. Authorizing Purchase of Supplies

The case manager must develop a list of required tools and equipment to be provided to the trainee based on the employer's submission. He/she must ensure that the employer and the Veteran complete and submit VAF 28-1905m, Request for and Receipt of Supplies (Chapter 31-Vocational Rehabilitation) for approval. Refer to Appendix O, VA Forms, for information on how to access this form, as well as all forms referenced in this chapter.

Refer to M28R.V.A.4 for guidelines on purchasing supplies for OJT and NPWE.

e. Completing Required Forms

The case manager must complete the required forms listed below, and ensure that the original copies are retained in the contract file in accordance with RCS VB-I, Part 1, Item No. 07-620.010:

- VAF 28-1904, Agreement to Train on the Job Disabled Veterans
- VAF 20-8206, VA Statement of Assurance of Compliance with Equal Opportunity Laws

In addition, the case manager must also complete any supplemental documents necessary to meet the requirements of the law, or as required by the employing agency.

f. Authorizing Subsistence Allowance and Other Expenses

1. Paid OJT or Apprenticeship Subsistence Allowance

The case manager must develop a suitable wage schedule that meets the following requirements:

- Commensurate with the value of the Veteran's productive work.
- No less than the wage prescribed by the Fair Labor Standards Act (FLSA) of 1938.
- No less than the wage paid routinely to non-Veteran trainee in the same or similar training position.

In addition, the trainee receives a monthly subsistence allowance rate that is equal to the difference between the journeyman wage and the training wage. The difference does not include overtime and should not be more than the allowable Chapter 31 Subsistence Allowance OJT rate. Refer to Appendix AO, Chapter 31 Subsistence Allowance Rate of Pay.

Refer to M28R.V.A.3 and M28R.V.B.8 for guidelines on authorizing and processing subsistence allowance for Paid OJT or Apprenticeship.

## 2. NPWE Subsistence Allowance

The trainee receives subsistence allowance at the institutional rate as authorized under the provision outlined in 38 CFR 21.260(b). Refer to Appendix AO, Chapter 31 Subsistence Allowance Rate of Pay.

Refer to M28R.V.A.3 and M28R.V.B.8 for guidelines on authorizing and processing the subsistence allowance for NPWE.

## 3. Post 9/11 Subsistence Allowance Rate of Payment

Refer to M28R.V.A.3 and M28R.V.B.8 for guidelines on authorizing subsistence allowance for Veterans who elected post 9/11 subsistence allowance rate of payment.

## g. Leave of Absence

It is feasible for a Veteran who is participating in Paid OJT or Apprenticeship, or NPWE to stop active participation for a short period of time, but have his/her rehabilitation case remain in an active status and continue to receive subsistence allowance during the leave as outlined in 38 U.S.C. 3110.

A request for a leave of absence must be made by the Veteran in advance of the leave. However, the case manager may excuse an unauthorized leave of absence when it was not possible for the Veteran to obtain advance approval for the leave of absence and the conditions for approval of a leave of absence would otherwise be met (e.g., sick days, family emergencies). Payment of subsistence allowance may continue when training facilities are temporarily closed for the weekend and legal holidays, unless the case manager and the Veteran jointly determine that such payment is not in the Veteran's best interest.

Further guidance on approving a leave of absence is outlined in M28R.V.A.6.

## h. Interregional Travel Expenses

Travel expenses may be paid for a Veteran who is reporting to an employer/trainer, with an established OJT program.

Refer to M28R.V.B.6 for authorizing travel expenses.

i. Employment Adjustment Allowance (EAA)

EAA may be paid at the full-time rate of subsistence allowance for Veterans participating in an OJT and NPWE program.

Refer to M28R.V.B.10 for guidelines in authorizing EAA.

j. Monitoring Training Progress

1. Case Manager Responsibilities

- The case manager must secure an agreement with the employer to provide timely and accurate information on Veteran's attendance, changes in training rate, and progress.
- The case manager must closely monitor the Veteran's progress and adjustment in training conducted wholly or in part, to ensure that the Veteran receives the training and rehabilitation services specified in his/her rehabilitation plan.
- The case manager must conduct case management appointments with the Veteran as specified in M28R.V.A.2.
- In planning for a Veteran's placement after the NPWE or OJT, the case manager must negotiate with appropriate training managers or employers. This negotiation will ensure that the Veteran can expect to be placed in the same or comparable position immediately upon satisfactory completion of his/her program.

2. Employer Responsibilities

- The employer must submit VAF 28-1905c, Monthly Record of Training and Wages, to certify the Veteran's attendance monthly.
- The employer must submit periodic documentation that verifies Veteran's progress and adjustment are in accordance with the program that has been jointly developed with the Veteran and employer. The documentation must be submitted no less than once every three months.

### 12.05 Prohibitions for NPWE, or Non-Paid or Nominally Paid OJT in State or Local Government Agencies

The case manager must ensure that the prohibitions listed below are carefully reviewed and considered when establishing an NPWE and OJT in a State or local government agency. The Veteran must not:

- a. Train for a position involving political or religious activity.
- b. Receive training that results in the displacement of currently employed workers.
- c. Train in a job, if one of the following conditions exists:
  - Another person was laid off within 90 days from a substantially equivalent job.
  - The training opening was created as a result of the employer having terminated the employment of any regular employee.
  - The employer reduced its workforce with the intention of using the opening for a Chapter 31 trainee.

### 12.06 Reasonable Accommodations

Federal agencies are required by law to provide reasonable accommodation to qualified employees with disabilities including Veterans pursuing OJT, unless it would result in undue hardship to the agency.

Reasonable accommodations apply to the duties of the job and/or where and how job tasks are performed. The accommodation should make it easier for the employee to successfully perform the duties of the position. Examples of reasonable accommodations include providing interpreters, readers, or other personal assistance; modifying job duties; restructuring work sites; providing flexible work schedules or work sites such as telework, and providing accessible technology or other workplace adaptive equipment. Requests are considered on a case-by-case basis.

The following are steps for requesting reasonable accommodations:

- Review the vacancy announcement.
- Work directly with the person arranging the interviews.
- Contact the agency's Selective Placement Program Coordinator.

- Contact the hiring manager to discuss the Veteran's needs and identify reasonable accommodations.
- Make an oral or written request; no special language is needed.