CHAPTER 3

STUDY PLAN

HOW TO USE TITLE 38, U.S. CODE (U.S.C.), 38 CODE OF FEDERAL REGULATIONS (C.F.R.), AND OTHER SOURCES OF VA LAW

OBJECTIVE

To learn how to use and reference federal statutes, regulations, and other relevant sources of law regarding veterans benefits.

REFERENCES

- Title 38, U.S. Code
- 38 Code of Federal Regulations
- VA Fast Letters
- Office of General Counsel Opinions
- Court of Appeals for Veterans Claims decisions
- Court of Appeals for the Federal Circuit decisions
- Veterans Benefits Manual, § 17.16

SOURCES OF LAW

STATUTES

Title 38 of the United States Code (U.S.C.) relates to veterans benefits law exclusively. Statutes are laws passed by Congress and signed into law by the President to govern the Department of Veterans Affairs (VA). The Legal Information Institute website, www.law.cornell.edu, is a good place to locate statutes.
REGULATIONS
Title 38 of the Code of Federal Regulations (C.F.R.) contains the rules and regulations of the VA. Regulations are enacted by administrative agencies such as VA to provide more detailed guidance on day-to-day operations than Congress can provide. To enact regulations, federal agencies are required to publish proposed rules, take comments from the public, and respond to the public’s comments. Agencies are not required to make changes to proposed rules based on the public’s comments, however. Once a regulation is enacted, it has all the force of law.

38 C.F.R. Part 3, Adjudication, and 38 C.F.R. Part 4, Schedule for Rating Disabilities, represent a core component of the C.F.R. that is utilized on a daily basis as a Veterans Service Representative (VSR).


LIVE MANUAL M21-1MR AND M21-1
These manuals contain the rules and procedures that the VAROs must follow in developing and deciding claims. When the VA fails to follow these rules in a given case, the veteran has a solid basis for appeal; however, the manuals are neither statutory nor regulatory, so they do not carry the force of law. The Manual M21-1MR can be found at www.benefits.va.gov/warms/M21_1MR1.asp and the M21-1 can be found at www.benefits.va.gov/warms/M21_1.asp.

OFFICE OF GENERAL COUNSEL (OGC) OPINIONS
OGC Opinions are written legal opinions having precedential effect in adjudications and appeals involving veterans’ benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation, Court decision, or a superseding written legal opinion of the General Counsel. VA provides these opinions in order to give the public notice of those interpretations of the General Counsel that must be followed in future benefit matters and to assist veterans' benefit claimants and their
representatives in the prosecution of benefit claim. They are available online at [www.va.gov/ogc/precedentopinions.asp](http://www.va.gov/ogc/precedentopinions.asp).

**U.S. COURT OF APPEALS FOR VETERANS CLAIMS (CAVC) DECISIONS**

The United States Court of Appeals for Veterans Claims is a national court of record, established under Article I of the Constitution of the United States. The Court has exclusive jurisdiction to provide judicial review of final decisions by the Board of Veterans' Appeals, an entity within the Department of Veterans Affairs. CAVC cases can be searched at [www.uscourts.cavc.gov](http://www.uscourts.cavc.gov). Veterans may appeal decisions of CAVC to the Court of Appeals for the Federal Circuit. Like CAVC, the Circuit Court issues both precedential and non-precedential decisions.

**FAST LETTERS AND TRAINING LETTERS**

VA publishes Fast Letters and Training Letters to provide guidance to rating adjudicators. They often advise raters of changes in procedures, and can be a good way for VSRs to keep abreast of changes. Fast Letters and Training Letters may be found on the VA Stakeholder Enterprise Portal (SEP), or at [www.vfwilserviceoffice.com](http://www.vfwilserviceoffice.com).
TITLE 38 UNITED STATES CODE – VETERANS’ BENEFITS

Part I – General Provisions (§§ 101 – 905)
Part II – General Benefits (§§ 1101 – 2413)
Part III – Readjustment and Related Benefits (§§ 3001 – 4335)
Part IV – General Administrative Provisions (§§ 5100 – 6308)
Part V – Boards, Administrations, and Services (§§ 7101 – 7907)
Part VI – Acquisition and Disposition of Property (§§ 8101 – 8528)

PART I – GENERAL PROVISIONS

- Chapter 1 – General (§§ 101 – 118)
- Chapter 3 – Department of Veterans Affairs (§§ 301 – 322)
- Chapter 5 – Authority and Duties of the Secretary (§§ 501 – 546)
- Chapter 7 – Employees (§§ 701 – 712)
- Chapter 9 – Security and Law Enforcement Under the Jurisdiction of the Department (§§ 901 – 905)

PART II – GENERAL BENEFITS

- Chapter 11 – Compensation for Service-Connected Disability or Death (§§ 1101 – 1163)
- Chapter 13 – Dependency and Indemnity Compensation for Service-Connected Deaths (§§ 1301 – 1323)
- Chapter 15 – Pension for Non-Service Connected Disability or Death or for Service (§§ 1501 – 1562)
- Chapter 17 – Hospital, Nursing Home, Domiciliary, and Medical Care (§§ 1701 – 1786)
- Chapter 18 – Benefits for Children of Vietnam Veterans and Certain Other Veterans (§§ 1801 – 1834)
- Chapter 19 – Insurance (§§ 1901 – 1988)
- Chapter 20 – Benefits for Homeless Veterans (§§ 2001 – 2066)
- Chapter 21 – Specially Adapted Housing for Disabled Veterans (§§ 2101 – 2108)
- Chapter 23 – Burial Benefits (§§ 2301 – 2308)
- Chapter 24 – National Cemeteries and Memorials (§§ 2400 – 3000)

PART III – READJUSTMENT AND RELATED BENEFITS

- Chapter 30 – All-Volunteer Force Educational Assistance Program (§§ 3001 – 3036)
- Chapter 31 – Training and Rehabilitation for Veterans with Service-Connected Disabilities (§§ 3100 – 3122)
- Chapter 32 – Post-Vietnam Era Veterans Educational Assistance (§§ 3201 – 3243)
- Chapter 33 – Post-9/11 Educational Assistance (§§ 3301 – 3324)
- Chapter 34 – Veterans’ Educational Assistance (§§ 3451 – 3498)
- Chapter 35 – Survivors’ and Dependents’ Educational Assistance (§§ 3500 – 3568)
Chapter 36 – Administration of Educational Benefits (§§ 3670 – 3699)
Chapter 37 – Housing and Small Business Loans (§§ 3701 – 3775)
Chapter 39 – Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces (§§ 3901 – 3905)
Chapter 41 – Job Counseling, Training, and Placement Service for Veterans (§§ 4100 – 4168)
Chapter 42 – Employment and Training of Veterans (§§ 4201 – 4215)
Chapter 43 – Employment and Reemployment Rights of Members of the Uniformed Services (§§ 4301 – 5096)

PART IV – GENERAL ADMINISTRATIVE PROVISIONS
Chapter 51 – Claims, Effective Dates, and Payments (§§ 5100 – 5128)
Chapter 53 – Special Provisions Relating to Benefits (§§ 5301 – 5319)
Chapter 55 – Minors, Incompetents, and Other Wards (§§ 5501 – 5510)
Chapter 57 – Records and Investigations (§§ 5701 – 5728)
Chapter 59 – Agents and Attorneys (§§ 5901 – 5905)
Chapter 61 – Penal and Forfeiture Provisions (§§ 6101 – 6108)
Chapter 63 – Outreach Activities (§§ 6301 – 6308)

PART V – BOARDS, ADMINISTRATIONS, AND SERVICES
Chapter 71 – Board of Veterans Appeals (§§ 7101 – 7112)
Chapter 72 – United States Court of Appeals for Veterans Claims (§§ 7251 – 7299)
Chapter 73 – Veterans Health Administration – Organization and Functions (§§ 7301 – 7368)
Chapter 77 – Veterans Benefits Administration (§§ 7701 – 7734)

38 CODE OF FEDERAL REGULATIONS, TITLE 38 – PENSIONS, BONUSES AND VETERANS’ RELIEF

CHAPTER I – DEPARTMENT OF VETERANS AFFAIRS
Part 0 – Values, Standards of Ethical Conduct, and Related Responsibilities
Part 1 – General Provisions
Part 2 – Delegations of Authority
Part 3 – Adjudication
Part 4 – Schedule for Rating Disabilities
Part 6 – United States Government Life Insurance
Part 7 – Soldiers’ and Sailors’ Civil Relief
Part 8 – National Service Life Insurance
Part 8a – Veteran’s Mortgage Life Insurance
Part 9 – Servicemembers’ Group Life Insurance and Veterans’ Group Life Insurance
Part 10 – Adjusted Compensation
Part 12 – Disposition of Veteran’s Personal Funds and Effects
Part 13 – Veterans Benefits Administration, Fiduciary Activities
Part 14 – Legal Services, General Counsel, and Miscellaneous Claims
Part 15 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Veterans Affairs
Part 19 – Board of Veterans’ Appeals: Appeals Regulations
Part 20 – Board of Veterans’ Appeals: Rules of Practice
Part 21 – Vocational Rehabilitation and Education
Part 23
Part 36 – Loan Guaranty
Part 38 – National Cemeteries of the Department of Veterans Affairs
Part 39 – Aid to States for Establishment, Expansion, and Improvement of Veterans’ Cemeteries (Effective until 7-16-10)
Part 40 – Intergovernmental Review of Department of Veterans Affairs Program and Activities
Part 41 – Audits of States, Local Governments, and Non-Profit Organizations
Part 42 – Standards Implementing the Program Fraud Civil Remedies Act
Part 43 – Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
Part 45 –
Part 47 – Policy Regarding Reporting Healthcare Professional to State Licensing Boards
Part 48 – Government-wide Requirements for Drug-Free Workplace (Financial Assistance)
Part 49 – Uniform Administrative Requirements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
Part 51 – Per Diem for Nursing Home Care of Veterans in State Homes
Part 52 – Per Diem for Adult Day Healthcare of Veterans in State Homes
Part 53 – Payments to States for Program to Promote the Hiring andRetention of Nurses at State Veterans Homes
Part 59 – Grants to States for Construction or Acquisition of State Homes
Part 60 – Fisher Houses and Other Temporary Lodging
Part 61 – VA Homeless Providers Grant and Per Diem Program
Part 62 – Supportive Services for Veteran Families Program
Part 63 – Healthcare for Homeless Veterans (Hchv) Program
Part 64 – Grants for the Rural Veterans Coordination Pilot (Rvcp)
Part 70 – VHA Beneficiary Travel Under 38 U.S.C. 111
Part 71 – Caregivers Benefits and Certain Medical Benefits Offered to Family Members of Veterans
Part 74 – Veterans Small Business Regulations
38 CFR, PART 3 – ADJUDICATION

Subpart A – Pension, Compensation, and Dependency and Indemnity Compensation ($3.1 to §3.1009)
Subpart B – Burial Benefits ($3.1600 to §3.1612)
Subpart C – [Reserved]
Subpart D – Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title ($3.2100 to §3.2600)

38 CFR, PART 3, SUBPART A – PENSION, COMPENSATION, AND DEPENDENCY AND INDEMNITY COMPENSATION

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■ 3.2 – Periods of war.
■ 3.3 – Pension.
■ 3.4 – Compensation.
■ 3.5 – Dependency and indemnity compensation.
■ 3.6 – Duty periods.
■ 3.7 – Individuals and groups considered to have performed active military, naval, or air service.
■ 3.10 – Dependency and indemnity compensation rate for a surviving spouse.
■ 3.11 – Homicide.
■ 3.12 – Character of discharge.
■ 3.12a – Minimum active-duty service requirement.
■ 3.13 – Discharge to change status.
■ 3.14 – Validity of enlistments.
■ 3.15 – Computation of service.
■ 3.16 – Service pension.
■ 3.17 – Disability and death pension; Mexican border period and later war periods.
■ 3.20 – Surviving spouse’s benefit for month of veteran’s death.
■ 3.21 – Monetary rates.
■ 3.22 – DIC benefits for survivors of certain veterans rated totally disabled at time of death.
3.23 – Improved pension rates – Veterans and surviving spouses.
3.25 – Parent’s dependency and indemnity compensation (DIC) – Method of payment computation.
3.26 – Section 306 and old-law pension annual income limitations.
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3.261 – Character of income; exclusions and estates.
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3.374 – Effect of diagnosis of active tuberculosis.

3.375 – Determination of inactivity (complete arrest) in tuberculosis.

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3.378 – Changes from activity in pulmonary tuberculosis pension cases.

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38 CFR, PART 3, SUBPART B – BURIAL BENEFITS

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- 3.1701 Deceased veterans for whom VA may provide burial benefits.
- 3.1702 Persons who may receive burial benefits; priority of payments.
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38 CFR, Part 3, Subpart D – Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of this Title

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38 CFR, Part 4 – Schedule for Rating Disabilities

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Subpart B – Disability Ratings (§4.40 to §4.150)

38 CFR, Part 4, Subpart A – General Policy in Rating
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- 4.3 – Resolution of reasonable doubt.
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- 4.56 – Evaluation of muscle disabilities.
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- 4.88c – Ratings for inactive non-pulmonary tuberculosis initially entitled after August 19, 1968.

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- 4.111 – Post-gastrectomy syndromes.
- 4.112 – Weight loss.
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- 4.114 – Schedule of ratings – digestive system.

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