

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #5

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1992 FEB 20 AM 9:44  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: Veterans Affairs TITLE NUMBER: 86

CITE AUTHORITY: 9A-2

RULE TYPE: PROCEDURAL  INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE \_\_\_\_\_  
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES \_\_\_\_\_, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: 3

TITLE OF RULE BEING ADOPTED: Procedural rules and regulations for  
operation of the Division of Veterans Affairs

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS March <sup>22</sup>, 1992



West Virginia  
**Division of Veterans Affairs**  
Charleston Human Resource Center  
1321 Plaza East, Suite 101  
Charleston, WV 25301-1400

February 14, 1992

Secretary of State's Office  
State Capitol Building  
Charleston, West Virginia 25305  
ATTN: Judy Cooper, Director  
Administrative Law Division

Dear Ms. Cooper:

Reference is made to the attached form #5 and procedural rules and regulations for the WV Division of Veterans Affairs.

Please be advised that a public hearing was scheduled for January 27, 1992 at 1:00 p.m. There were no attendees at this hearing; therefore, no comments were noted at this hearing or during the comment period.

The only change on the attached regulations is on the title page, change Series I to Series III.

If additional information is required, please feel free to contact me and thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "G. L. Harper".

G. L. HARPER  
Director

GLH:sk  
Attachments: 2  
as

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DEPARTMENT OF REVENUE  
REGISTRY DIVISION

FILED

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WEST VIRGINIA ADMINISTRATIVE REGULATIONS  
Division of Veterans Affairs

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Chapter 9-A  
Series III  
(1965)

(Amended December 1982 - February 1992)

By Authority of Section 1, Article 1, Chapter 9-A, Code of West Virginia, as amended by Chapter 146, Acts of Legislature of 1945, the Rules and Regulations of the West Virginia Division of Veterans Affairs are hereby promulgated by the Veterans Council.

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Section 1. General Policies (Legislative)

1.01. Scope - These regulations establish the general rules, regulations and procedures of the Division of Veterans Affairs and all its sub-elements.

1.02. Authority - These regulations are issued under authority of West Virginia Code, Chapter 9-A, Article 1, Section 10.

1.03. Filing Date - These regulations are promulgated on the day of \_\_\_\_\_ 1991, and filed on the \_\_\_\_\_ day of \_\_\_\_\_ 1991, in the Secretary of State's Office.

1.04. Effective Date - The regulations became effective on the \_\_\_\_\_ day of \_\_\_\_\_

1.05. All veterans who have served in the armed forces of the United States -- in the Army, Air Force, Navy, Marine Corps, or Coast Guard -- as defined by the United States, and whose separation therefrom has been other than dishonorable, and their widows, dependents or orphans who are, or have become, citizens and residents of this state, shall be entitled to and shall receive, the aid, assistance, counsel, and advice of this division with respect to their rights and interests under the laws of the United States, this state, or any other state, as provided by Chapter 9-A, 109, Code of West Virginia.

1.06. There shall not be any distinction between persons of any race, creed, color, sex, or political affiliation, in the administration of this law and these rules and regulations.

1.07. No member of this division shall engage in the practice of law in connection with any claim. The Director shall call upon the State Attorney General, or the respective County Prosecuting

Attorney, for such legal services as may be required to effect the purpose of this law.

1.08. The Director, the Veterans Affairs Chief, and such assistants as may be designated by the Director, who are full-time employees of this agency, shall have the right to be appointed by any veteran, spouse of veteran and survivors, as defined by Article 9A-1-1, to act as the claimants representative under the terms and conditions required by the laws of the United States, the rules of any federal agency, the laws of this state, or any other state, in connection with the claim, or claims filed by such persons.

Section 2. Duties of the Director (Legislative)

2.01. The Director shall be the Executive Secretary of the Veterans Council of the Division of Veterans Affairs, and, as such, shall arrange for all council meetings, recommending time and place, and shall be the custodian of all official records of the council.

2.02. The Veterans Council shall be the governing body of the Division of Veterans Affairs, and, as such, formulate and promulgate all policies of the division. The Director is responsible to the Council for carrying out all policies formulated by said Council.

2.03. The Director is charged with the administrative responsibility for all budget and fiscal matters of the division, and is required to furnish to the Veterans Council reports and recommendations as necessary which deal with appropriations and expenditures.

2.04. The Director will recommend to the Veterans Council for their consideration any changes in these rules and regulations deemed appropriate to the division and to the veterans it serves for approval prior to implementation.

2.05. It is the responsibility of the Director to see that all employees of the Division render service of the highest quality to the veterans, dependents or survivors of the State of West Virginia and that all personnel have the ability, knowledge and fitness to efficiently, impartially, and with understanding effectuate the purpose of this regulation. The Director shall be responsible for proper training of employees and shall hold refresher courses for such employees as deemed necessary.

Section 3. Employment Policies (Legislative)

3.01. All employees except the Director and Administrator of the Barboursville Veterans Home will be employed in accordance with State Division of Personnel rules and regulations.

3.02. No appointing authority shall influence or attempt to influence the employment or working conditions of his/her relatives. It shall be the responsibility of the appointing authority to administer the employment of relatives of any agency employee in a consistent and impartial manner. No employee shall directly supervise a relative. More specifically, no employee shall review or audit the work of a relative, take part in discussions concerning employment, assignment, compensation, discipline or related matters involving a relative. In the event that an individual, through marriage, adoption, etc. is placed in a prohibited business relationship with a relative, the situation must be resolved within thirty (30) calendar days. Resolution may be made by transfer, reassignment, resignation, dismissal, etc. of one of the involved employees.

Section 4. Personnel (Legislative)

4.01. In accordance with Article XVI of the Division of Personnel regulations, all employees of the Division of Veterans Affairs are prohibited from engaging in political activities.

4.02. No employee of this division shall hold any elective office in any veterans organization, however, an appointment to serve in a non-remunerative office, or appointment as a member of a non-remunerative committee of any veterans organization of which he is a member is permissible provided that such participation does not interfere with his/her official performance of this division and that any absence in conjunction with said appointment must be duly authorized from work and will be charged to annual leave. The Veterans Council believes that constant contact with veterans organizations by the personnel of this division will be beneficial to and will aid in maintaining a high degree of efficiency between said veterans organizations and this division. Before accepting an appointment to any non-remunerative office or committee, the individual employee must submit a written request, through channels, to the Director.

4.03. Dress Code

The public judges the Division of Veterans Affairs by its employees as well as its services. You as the first line of contact who the public sees should endeavor to be neatly groomed to

present a professional appearance. Veterans Affairs Officers will be required to dress in appropriate attire, coat (if attending a meeting), tie and dress trousers (no jeans). Mustache/beard, if worn, must be neatly trimmed. Clerks will be required to wear appropriate attire (no jeans). When out in public, coats/jackets will be worn as well as ties. (Exemption on coats during summer weather). This code, is not to harass, but to ensure you are a professional who takes pride in his work and himself.

#### 4.04. Office Etiquette

##### (a) Veterans Affairs Officers:

1. Courtesy: The only reason for your position existing within the division is to help that veteran, his widow/widower, or his orphan, with their respective problem regarding veterans benefits. You should, therefore, be extremely courteous to the people at all times. You may have a quantity of veterans problems, but to the person requesting your assistance, you have only one important problem, which is his/her problem.

2. Interviews: Take time to ascertain what your claimant desires. Explain to that person what he may expect from your office. Make very sure, he understands we are the State Division of Veterans Affairs and that you are not in the employ of the federal agency, US Department of Veterans Affairs. Make doubly sure that the claimant understands that you personally, or the division in general, do not grant monetary benefits or make the decisions granting VA compensation or pension. Take time to explain your role as an accredited representative. Always remember, you have a Veterans Affairs Chief who will assist you with any problem you need assistance with, and if he personally does not have an answer for you, he will obtain the information you need. Never guess at an answer, if you are not sure, be truthful, then take time to look up the answer. If you impart wrong information, it could possible cost the claimant hundreds of dollars in benefits, as well as it may reflect on you, and become a subject of embarrassment later.

3. Office and Itinerant Hours: Maintain your office hours as posted. Keep your itinerant hours as scheduled. In case of an emergency that requires cancellation make sure that both the itinerant point and the administrative office are advised. Be on time at your scheduled itinerant, if you have car trouble which will make you arrive late, be sure and telephone your itinerant contact and let them know.

4. Public Relations: Become known in your area. Become acquainted, not only with the various veterans service organizations in the communities you serve, but to other civic, fraternal and state and county service organizations, such as Employment Security, Welfare, and the local medical profession. These contacts will make your job much easier.

(b) Clerks:

Answer your telephone by saying State Division of Veterans Affairs, "Good Morning" or "Good Afternoon", whatever the case might be and add "May I help you?". Always be very courteous both in your telephone conversations and in your personal office contacts. Usually, you will make the first impression, and your personality will generally reflect the personality of your office. When your "Boss" is out of the office on business, know where he is and when he may be expected to return.

4.05. Attendance and Leave

(a) Attendance and leave of all employees of this division shall be applied in accordance with Appendix A of these regulations.

(b) All employees will have their annual leave request approved by their immediate supervisor in advance of the desired absence.

Section 5. Office Procedures (Procedural)

5.01. In order to comply with administrative regulations of the State of West Virginia and to expedite the handling of veterans claims in a manner consistent with the responsibility with which we are charged, all personnel will comply with the uniform procedures as set forth in Division Office Procedures.

Future changes in office procedures necessary to adjust to constantly changing procedures of federal and state government will not constitute a change in these Division Regulations.

SERIES III  
DIVISION REGULATIONS

POLICIES AND PROCEDURES  
FOR  
DIVISION OF VETERANS AFFAIRS

PREFACE:

In addition to the rules and regulations of the Division of Personnel, FLSA, Division of Labor and Workers Compensation the following policies, upon approval, will become the operating procedures for internal controls within this division.

PURPOSE:

To provide guidance to the Director and staff in implementing the provisions of WV Code 9A-1 and other Laws of West Virginia having an impact upon veterans.

AUTHORITY:

In accordance with the provision as outlined in WV Code 9A-1-4 these rules and regulations are hereby promulgated.

DEFINITIONS:

For the purpose of these rules and regulations the following definitions shall be used:

Accrue: To increase or accumulate periodically or by increment.

Appointing Authority: The executive or administrative head of a division who is authorized by statute to appoint employees in the classified or classified exempt service. By written notification to the Director of Personnel, the appointing authority may delegate specific power authorized by these rules.

Appointment: The art of hiring an applicant for employment.

Carry Forward Hours: The maximum number of carry forward hours of annual leave which can be credited for use as of the first day of January, depending on an employee's years of tenure.

Covered Classified Employee: Those positions which meet the requirements of the Division of Personnel and the Department of Labor Fair Labor Standards Act.

Covered Classified Exempt Employee: Those employees that are covered under the provisions of the Division of Personnel but exempt from the overtime provision of the Fair Labor Standards Act.

Day: Unless otherwise specified, the use of day means a calendar day.

Demotion: A change for cause in the status of an employee from a position in one class to a position in a lower rank. Additional provisions are outlined in the Division of Personnel's rules and regulations.

Director: The official head of the Division of Veterans Affairs who shall be the appointing authority for the division.

Discretionary: Open to individuals choice or judgement.

Dismissal: The separation from employment of an employee by an appointing authority.

Effective Date: The established date the action takes place.

Emergency Appointments: An appointment, for not more than 30 calendar days in any twelve month period, necessitated by a state of emergency.

Employee: Any person who lawfully occupies a position in a division/agency and who is paid a wage or salary.

Full-time Employee: One who works the full work schedule established for the division.

Flex time:

Grievance: Any claim by one or more Division of Veterans Affairs employee's alleging unfair treatment in the application of a law, regulation or policy, under which the employee works.

Handicapped: A person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has had a record of such impairment as is regarded as having such an impairment.

Immediate Family: Consists of father, mother, son, daughter, brother, sister, husband, wife, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandfather, grandmother, granddaughter, grandson, stepfather, stepmother and stepchildren.

Incumbent: A person occupying a position.

Layoff: A reduction in the number of employees caused by a reduced work load or curtailment of funds.

Leave: A fringe benefit earned by employees for time off from work.

Local Field Office: A sub unit of this division which provides services to a specified section of the state and the employees report to locations other than the Veterans Affairs central office.

Longevity: The length of employment; seniority.

Meritorious Service: Quality of work performance judged to deserve honor, or reward.

Month: Any of the twelve parts into which the calendar year is divided.

Ninety Day Exempt Temporary: Personnel employed for less than ninety (90) working days in a year.

Original Appointment: Initial employment of an individual into the classified services as a result of selection from a certification of names from a register.

Part-Time Employees: One who works less than the full-time work schedules established for the division.

Permanent Employee: An employee who was hired from a register and who has completed the probationary period prescribed for the job class.

Position Description: The document prepared by the division and approved by the appointing authority, which describes the officially assigned duties and other pertinent information relative to a position in the division.

Probationary Period: A specified trial period designed to test the fitness of an employee selected from a competitive list of eligibles for the position for which an original appointment was made.

Promotion: A change in status of an employee in one position to a vacant position in a higher class.

Regular Part-Time Employment: Work hours which are symmetrical from week to week, but are less than the full-time work schedule established for the division.

Resignation: The voluntary separation from employment made at the request of the employee.

Suspension: Disciplinary action taken by the division to temporarily relieve an employee of duties and place the employee on leave without pay.

Termination: Separation from employment by the appointing authority as a result of limited term employment.

Vacancy: An unfilled budgetary position or new unfilled position created by reorganization to be filled by original appointment, promotion, demotion, lateral class change, transfer or reinstatement.

Veteran: Any person who shall have served in the armed forces of the United States as defined in Section One (89A-1-1) of the West Virginia Code.

Veterans Council: The governing body of the Division of Veterans Affairs.

War Orphan: As defined in 18-19-1 means children of deceased soldiers; does not apply to stepchildren and children in this article mean legitimate children of such veteran.

War Orphan Education Program: A program designed to waive tuition and registration fees for War Orphans who meet the entitlement requirements and are attending a state operated college or university.

Work Schedule: Designation of the periods of time during which work is performed.

Year: Twelve (12) consecutive month period, unless otherwise specified.

## Section DVA 5000. Attendance and Leave

In compliance with Chapter 21, Article 5C; Chapter 2, Article 2; and Chapter 29, Article 6, Section 10, of the Code of West Virginia, as amended, the following regulations shall apply to classified employees.

5001. Official Holidays

In accordance with Chapter 2, Article 2, of the West Virginia Code, as amended, official holidays are New Year's Day, first day of January; Martin Luther King's Birthday, third Monday of January; Lincoln's Birthday, twelfth day of February; Washington's Birthday, third Monday of February; Memorial Day, last Monday in May; West Virginia Day, twentieth day of June; Independence Day, fourth day of July; Labor Day, first Monday of September; Columbus Day, second Monday of October; Veterans Day, eleventh day of November; Thanksgiving Day, fourth Thursday of November; Christmas Day, twenty-fifth day of December; any day in which an election (Primary or General) is held throughout the state, and such other days as the President, Governor or other duly constituted authority shall proclaim to be legal holidays.

When a holiday falls on a Sunday, the following Monday shall be observed as the official holiday. When a holiday falls on a Saturday, the previous Friday shall be observed. When Christmas or New Year's Day occurs on Tuesday, Wednesday, Thursday or Friday, the last half of the scheduled work day immediately preceding the holiday will be given as time off. It is recommended that some agencies modify holiday schedules to accommodate around-the-clock shifts or other special needs. Each agency should notify employees in advance of altered holiday work schedules and should schedule altered holidays on days as close as possible to the normal holidays.

Agencies shall make reasonable accommodation to an employee's religious holidays as required by law.

5002. Agency Work Schedules - Each appointing authority shall establish the work schedule for the employees of his agency. The work schedule shall specify the number of hours of actual attendance on duty for full-time employees during a workweek, the day and time that the workweek begins and ends, and the time that each work shift begins and ends. Such work schedules and changes thereto must be submitted to the Director within fifteen (15) calendar days after employees commence work under the schedule.

5003. Annual Leave

(a) Amount, Accrual - Except as otherwise noted in these

## Section DVA 5000. Attendance and Leave (Cont)

rules, each employee shall be entitled to annual leave with pay and benefits. The table below lists rates of accrual according to the employee's length of service category and the number of hours of annual leave that may be carried forward from one calendar year to another. Annual leave cannot be accrued for hours worked beyond the normal work week.

<u>Length of Service Category</u>	<u>Accrual Rate</u>	<u>Carry-forward hours</u>
Less than 5 years of regular employment	.05769 hour per hour paid	240 hours
5 years but less than 10 years of regular employment	.06923 hour per hour paid	240 hours
10 years but less than 15 years of regular employment	.08077 hour per hour paid	280 hours
15 years or more	.09231 hour per hour paid	320 hours

(b) Service to Qualify

1. Qualifying service for length of service category (Section 3.1) is based on state employment in an agency covered by Division of Personnel.

2. Credit may also be given for state employment not in a covered Division of Personnel agency if requested in writing by the appointing authority of the covered agency and the executive or administrative head who is the lawfully delegated authority in the non-Division of Personnel agency and approved by the Director of Personnel.

(c) Requesting, Granting - Accrued annual leave shall be granted at such times as will not materially affect the agency's efficient operation. The employee shall request annual leave in advance of taking such leave except as noted elsewhere in this Section. Annual leave may not be granted in advance of the employee's accrual of such leave. Agencies are encouraged to grant of annual leave when hazardous conditions make going to and from work difficult.

(d) Coverage

1. Annual leave shall not be accorded temporary, 30-day emergency, per diem, or 90-day exempt employees.

2. Annual leave shall be accorded provisional, intermittent, irregular part-time and temporary (appointed from the register) employees. Such leave must be taken prior to the expiration of the

Section DVA 5000. Attendance and Leave (Cont)

period of appointment, unless immediately followed by an appointment from the register or be forfeited.

3. Annual leave accorded part-time employees shall be computed in proportion to hours worked based on the proper length of service category.

(e) Minimum Charge - The minimum charge against annual leave may be one half ( $\frac{1}{2}$ ) hour. Additional leave may be in multiples of a half hour.

(f) Separation From Employment - An employee who separates from employment for any reason shall be paid for all accrued and unused annual leave. Annual leave does not accrue, salary adjustments shall not be given, and payment shall not be made for holiday which occur after the effective date of separation or last day worked during the notice period. Such payment shall be made according to one of the following methods:

1. An employee may elect to be paid in bi-monthly installments as if employment were continuing until the pay period during which the accrued annual leave is exhausted. If the last day for which separation leave payment is due falls before the day on which the pay period ends, separation leave payment for those days within that pay period shall be calculated using the daily rate for the month in which the last day on payroll occurs. Employees in positions allocated to job classes assigned to an hourly pay schedule or per diem pay schedule approved by the Board shall be paid according to those standard procedures.

2. Any eligible employee as defined in §5-5-1 of the West Virginia Code as amended, who is separated from employment by resignation, layoff, dismissal, retirement, death, or termination, may be paid in lump sum, at their option, for accrued and unused annual leave. Separation leave payment for an employee who selects a lump sum payment shall be calculated using the daily rate of pay for the month(s) or portion of the month which the accrued and unused annual leave covers. Employees in positions allocated to job classes assigned to an hourly pay schedule or per diem pay schedule approved by the Board shall be paid according to those standard procedures. The lump sum payment shall be made by the time of what would have been the employees' next regular pay day had his employment continued. No deductions may be made for contributions toward retirement from the lump sum payment.

3. An employee who retires may elect not to receive payment for any or all accrued annual leave and may apply the balance towards extended insurance coverage under guidelines established by

Section DVA 5000. Attendance and Leave (Cont.)

the Public Employees Insurance Board or to acquire additional credited service in the retirement system.

(g) Transfer of Annual Leave

1. When a covered employee transfers from one agency to another, all seniority rights and accrued annual leave shall be transferred. The previous employer must provide written documentation of the employee's annual leave balance to the other agency within thirty (30) calendar days after the employee commences work.

2. At the discretion of the appointing authority, annual leave accrued while in employment as defined in Section 16.03(b)2 may be transferable to covered agency employment.

(h) Sick Leave Exhausted - For illness of an employee, when the employee's sick leave and compensatory time are exhausted, or for illness in an employee's immediate family when the sick leave allowance of 40 hours per calendar year is exhausted, an employee who requests utilization of annual leave under this section must be granted any or all accumulated annual leave, provided the employee's illness or the reasons necessitating the presence of the employee with his/her immediate family are verified by a physician's statement in cases in which the leave extends beyond three working days. The immediate family shall be understood to include only the employee's father, mother, son, daughter, brother, sister, husband, wife, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandfather, grandmother, grandchildren, stepmother, stepfather and stepchildren.

5004. Sick Leave

(a) Accrual - Except as otherwise provided in this section, each employee shall receive accrued sick leave with pay and benefits. Sick leave is computed on the basis of .06923 hour leave per hour paid not to exceed the normal work week. There shall be unlimited accumulation of sick leave.

(b) Coverage

1. Sick leave shall not be accorded temporary, 30-day emergency, 90-day exempt, or per diem employees.

2. Provisional, temporary (appointed from the register), irregular part-time and intermittent employees shall accrue sick leave. Such leave expires at the termination of the period of employment unless immediately followed by an appointment from the

Section DVA 5000. Attendance and Leave (Cont)

register.

3. Part-time, probationary, and permanent employees shall accrue sick leave with pay and benefits on the basis of .06923 hour leave per hour paid (not to exceed forty (40) hours paid per week).

(c) Minimum Charge - The minimum charge against sick leave may be one half ( $\frac{1}{2}$ ) hour. Additional leave may be charged in multiples of one half ( $\frac{1}{2}$ ) hour.

(d) Maximum Charge - The maximum charge against sick leave will be one work year per substantially continuous absence after which time the employee should consider disability retirement. The appointing authority may at his discretion grant additional accrued sick leave.

(e) Separation From Service - Sick leave does not accrue, salary adjustments shall not be given, and payment shall not be made for holidays which occur after the effective date of separation or last day worked during the notice period.

1. Retirement - Unused sick leave may be used to purchase extended insurance coverage upon retirement under guidelines established by the Public Employees Insurance Board or to acquire additional credited service in the retirement system.

2. All Other Separations - All accumulated sick leave shall be canceled as of the effective date of separation of employment or last day worked during the notice period. If the employee returns to work within twelve (12) calendar months all lost sick leave shall be restored. However, if the employee returns to work after more than twelve (12) calendar months from the effective date of separation of employment, no more than thirty (30) days of lost sick leave shall be restored. If an employee is recalled from a layoff all lost sick leave shall be restored.

(f) Granting - Accrued sick leave shall be granted to employees for the following reasons:

1. Illness - Sick leave may be granted in the event of an illness of, or injury to, an employee who incapacitates him from performance of his duties. An employee who elects not to utilize sick leave under this section must apply for a medical leave of absence without pay under Section 16.08 (b).

2. Death in the immediate family of the employee - This provision shall be understood to include three (3) days; and the

Section DVA 5000. Attendance and Leave (Cont)

immediate family shall be understood to include only the father, mother, son, daughter, brother, sister, husband or wife, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, granddaughter, grandson, stepmother, stepfather, and stepchildren.

3. Exposure to Contagious Disease - Exposure to contagious disease when a physician determines and states in writing that the employee's presence on duty may jeopardize the health of others.

4. Pregnancy - An incapacity due to pregnancy shall be charged to sick leave under the same conditions applying to any illness.

5. Routine Medical Appointments - Employee - Routine dental and medical appointments for treatment or examination of the employee may be charged to sick leave.

6. Illness and/or Routine Dental and Medical Appointments - Immediate Family - Absence for illness or routine dental or medical appointments in an employee's immediate family may be charged to accrued sick leave, not to exceed 40 hours per calendar year.

(g) Physician's Statement

1. Immediately upon return to work, an employee shall furnish a written statement from the attending physician for all consecutive days of sick leave granted beyond three working days. The physician's statement shall specify the period of incapacity and state that the employee was unable to perform his job. In the absence of the physician's statement, annual leave shall be charged for the entire period. For extended periods of sick leave, a physician's statement confirming the necessity for continued leave must be submitted every thirty (30) calendar days. The necessity for absence because of exposure to contagious disease must be verified regardless of the length of absence.

2. The Director shall prescribe a physician's statement form to be supplied by all agencies to its employees. Use of this form is discretionary with the agency.

(h) Transfer of Sick Leave

1. When a covered employee transfers from one agency to another, all accrued sick leave shall be transferred. The previous employer must provide written documentation of the sick leave balance to the other agency within thirty (30) calendar days after the employee commences work.

Section 5000. Attendance and Leave (Cont)

2. At the discretion of the appointing authority, sick leave accrued while in employment as defined in Section 16.03(b)2 of this rule may be transferable to covered agency employment.

(i) Illness While on Annual Leave - An employee who becomes ill and who is admitted to a hospital or has medical services performed in an emergency room while on previously approved annual leave may request that all or part of the time spent in a hospital or emergency room be charged to sick leave. The employee must request such action immediately upon return to work and must provide a physician's statement or hospital statement listing the specific dates of hospitalization or emergency room services. Sick leave will be charged only for the period of time the employee is hospitalized or in the emergency room. The remainder of the time must be charged to annual leave.

5005. Suspected Leave Abuse - When an employee appears to have a pattern of leave abuse, the appointing authority may request appropriate substantiation of the employee's claim for leave, for example, verification of illness of less than three days.

5006. Unauthorized Leave - When an employee is absent from work without authorization for sick or annual leave, the appointing authority may dock the employee's pay for an equal amount of time paid during which no work was performed. The appointing authority must notify the employee in writing that such action is being taken. Unauthorized leave shall be used only when the employee fails to notify the appointing authority, according to agency policy of the reason for absence. Such action must be transmitted to the Director of Personnel.

5007. Overtime Work and Holiday Work - An appointing authority or his designated representative may require an employee to work in excess of the prescribed working hours or on holidays when such work is deemed necessary in the public interest. Compensation shall be made in accordance with the Fair Labor Standards Act of 1986.

5008. Leave of Absence Without Pay

(a) Personal Leave - Upon application in writing to and written approval of the appointing authority, a permanent, probationary, or provisional employee may be granted a leave of absence without pay for a specific period of time which normally should not exceed one year. A leave of absence without pay may exceed the normal one year limitation and may be granted at the discretion of the appointing authority based on the department's personnel needs. Time spent by probationary employees for leaves

Section DVA 5000. Attendance and Leave (Cont)

of absence shall not be construed as time served in the section and shall not be construed as to extend the provisional period limitation.

Written approval of the appointing authority is required in all cases. Approval of personal leave is discretionary with the appointing authority except an employee shall be entitled to a total of twelve weeks of unpaid leave during any twelve month period because of the birth of a son or daughter of the employee, or the placement of a son or daughter with the employee for adoption; or to care for the employee's son, daughter, spouse, parent or dependent who has a serious health condition.

In the case of a son, daughter, spouse, parent or dependent who has a serious health condition, such family leave may be taken intermittently when medically necessary. An employee may take family leave on a part-time basis and on a part-time leave schedule, but the period during which the number of work weeks of leave may be taken may not exceed twelve consecutive months, and such leave shall be scheduled so as not to disrupt unduly the operations of the employer.

If a leave because of birth or adoption is foreseeable, the employee shall provide the employer with two weeks written notice of such expected birth or adoption. If a leave under this section is foreseeable because of planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee's son, daughter, parent or dependent; and shall provide the employer with two weeks written notice of the treatment or supervision.

The employer may require the employee to provide certification by a health care provider that the child, dependent, parent or employee has a serious health condition and the date the condition commenced and its probable duration, and other pertinent medical facts regarding the serious health condition.

(b) Medical Leave; Notice to Employee

1. An injured or ill permanent employee upon written application to the appointing authority shall be granted a medical leave of absence without pay not to exceed six (6) months within a twelve month period provided:

a. The employee makes application, (1) no later than fifteen (15) calendar days following the expiration of all sick leave and

## Section DVA 5000. Attendance and Leave (Cont)

compensatory time or (2) no later than fifteen (15) calendar days following the date on which the employee filed a claim for Workmen's Compensation or (3) within fifteen (15) calendar days after the employee is injured or ill; and,

b. The employee's absence is due to an illness or injury which is verified by a physician's written statement that the employee is unable to perform his or her duties and giving a tentative date for the employee's return to work; and,

c. A physician's statement is submitted every thirty (30) calendar days to confirm the necessity for continued leave; and,

d. The disability as verified by a physician is not of such nature as to render the employee permanently unable to perform his duties.

2. The appointing authority shall, at least 15 days prior to, if possible, but no later than five (5) days following the expiration of the employee's sick leave, mail to the employee a written notice of the employee's right to a medical leave of absence without pay and that the leave be granted if the employee fails to apply within the above time limits.

(c) End of Leave - At the expiration of leave of absence without pay, the employee shall be reinstated to his or her former position, or one of comparable pay and duties, without loss of rights, unless the position is no longer available due to a reduction in force caused by curtailment of funds. If the leave of absence without pay was granted for illness, the employee must furnish from the attending physician a certificate indicating the ability of the employee to return to work. The appointing authority may permit an employee to return to work at or before the expiration of the leave of absence at less than full duty, but the terms of return shall be written and are subject to review and renewal every thirty (30) calendar days. Such review may include the requirement of additional certification by a physician. Failure of the employee to report promptly at the expiration of a leave of absence without pay, except for satisfactory reasons submitted in advance to the appointing authority, shall be cause for dismissal.

(d) Reporting Procedures - The appointing authority must report a leave of absence without pay to the Director of Personnel. The appropriate forms must include the last date on the payroll and the specific anticipated date for return to duty. An extension of a leave of absence must also be reported.

## Section DVA 5000. Attendance and Leave (Cont)

5009. Injury on the Job - In the event an employee is injured in the course of and resulting from covered employment, such employee may elect to receive either temporary total disability benefits from the Worker's Compensation Fund or sick leave benefits, but not both. Employees may collect sick leave benefits until receiving temporary total disability benefits. Upon receipt of such temporary total disability benefits the employee shall pay or assign to his or her employer the temporary total disability benefits received. Employees shall be restored sick leave time on a day for day basis which corresponds to the temporary total disability benefits paid to the employer. If the employee fails to pay or assign to the employer the temporary total disability benefits received or an amount equal to the temporary total disability benefits received, then the employer shall deduct from the employee's subsequent wage payments an amount equal to the temporary total disability benefits received. Upon payment of this amount the employer shall restore any sick leave time taken by the employee as a result of the compensable injury.

5010. Military Leave

(a) all employees who are members of the National Guard or any of the Reserve Components of the Armed Forces of the Federal Government shall be entitled to leave of absence from duty without loss of pay, status, or efficiency rating, on all days during which they shall be engaged in drills or parades during business hours ordered by proper authority, or for field training or active service for a maximum period of thirty calendar days in any one calendar year ordered or authorized by proper authority. The term "without loss of pay" shall mean that the employee shall continue to receive his normal salary or compensation, notwithstanding the fact that such employee may have received other compensation during the same period. An employee need not exhaust all annual leave, sick leave, or compensatory time. Furthermore such leave of absence shall be considered as time worked for the agency in computing seniority, eligibility for increase and experience with the agency. The terms of this paragraph shall not apply under the provisions of any Selective Training and Service act, or other such act whereby the President may order into active duty the National Guard and the Reserve Components of the Armed Forces of the Federal Government. An employee shall be required to submit an official order from the appropriate military officer in support of the request for military leave above referred to.

(b) Any employee entering the US armed services in time of war, national emergency or under compulsory provisions of law of the US in time of peace must be granted a leave of absence from his

## Section DVA 5000. Attendance and Leave (Cont)

service with the agency. Upon completion of and discharge from any such armed services and within the applicable time period described by federal statute, rule, or regulation regarding return to employment, the employee shall have the right to reassume his service with the agency without any prejudice whatsoever to his status, merit rating or standing by reason of such absence, in accordance with Section 13.07(b) of the Division of Personnel rules and regulations. Employees shall be credited with all annual leave, sick leave, and compensatory time not used at the commencement of his military leave in accordance with Section 13.07(c) of the Civil Service Rules and Regulations. This paragraph shall not be construed:

5011. Court, Jury and Hearing Leave

(a) Upon application in writing, an employee shall be granted leave with pay when, in obedience to a subpoena or direction by proper authority, he serves upon a jury or appears as a witness before any court or judge, any legislative committee, or any officer, board, or body authorized by law to conduct any hearing or inquiry.

(b) The employee shall furnish such written confirmation of absence as is required by the appointing authority. The employee shall be entitled to a leave of absence with pay for the period of absence required to perform such duty. Annual leave will not be charged during the time the employee is on court, jury, or hearing leave.

5012. Education Leave - Not granted by division, any request for education leave shall be in accordance with Section 5008(a).

5013. Service Ratings - The Director of Personnel, after consultation with the appointing authorities, and with the approval of the Board, shall establish and make effective a system of service ratings designed to give a fair evaluation of the quality and quantity of work performed. Insofar as practicable the system of service ratings in the classified service shall be uniform. Such ratings shall be prepared and recorded for all permanent and provisional employees at regular intervals not to exceed twelve months. Service ratings shall be considered in determining salary advancements and in making promotions, demotions, and dismissals. An employee shall be notified of his service rating in writing by the Personnel Officer of the appropriate agency.

## Section DVA 6000. Political Activities

6001. Prohibition of Political Activities

(a) No person shall be appointed or promoted to or demoted or dismissed from any position in the classified service or in any way favored or discriminated against with respect to such employment because of his political or religious opinions or affiliations or race; but nothing herein shall be construed as precluding the dismissal of any employee who may be engaged in subversive activities or found disloyal to the nation.

(b) No person shall seek or attempt to use any political endorsement in connection with any appointment in the classified service.

(c) No person shall use or promise to use, directly or indirectly any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration.

(d) No employee in the classified service or member of the Board or the Director shall, directly or indirectly, solicit or receive any assessment, subscription or contribution, or perform any service for a political party, committee or candidate for compensation other than for expenses actually incurred, or in any manner take part in soliciting any such assessment, subscription, contribution or service of any employee in the classified service.

(e) Notwithstanding any other provision of this code, no employee in the classified service shall:

1. Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.

2. Directly or indirectly coerce, attempt to coerce, command or advise a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes; or,

3. Be a candidate for any national or state paid public office or court of record; or hold any paid public office; or be a candidate or delegate to any state or national political convention, a member of any national, state or local committee of a political party, or a financial agent or treasurer within the meaning of the provisions of section three, four or five, article

Section DVA 6000. Political Activities

eight, chapter three of the Code of West Virginia as amended. Other types of partisan or nonpartisan political campaigning and management not inconsistent with the provisions of this subdivision and with the provisions of subsection (d) of this section, shall be permitted.

(e) Political participation pertaining to constitutional amendments, referendums, approval of municipal ordinances or activities shall not be deemed to be prohibited by the foregoing provisions of this section.

(f) Any classified employee who becomes a candidate for any paid public office as permitted by this section shall be placed on a leave of absence without pay for the period of such candidacy, commencing upon the filing of the certificate of candidacy. If elected, such employee shall resign the position in the classified service to be effective no later than the date of assuming the elective office.

DVA 7000.

Section 7000. Other Employment

No employee shall hold other public office or have conflicting employment while in the classified service. Determination of such conflict shall be made by the appointing authority and Board.

Section 8000. Grievance Procedure

(a) An employee may file a grievance with the Education and State Employees Grievance Board as provided for in Chapter 29, 6A of the Code of West Virginia, as amended (See State Employees Grievance Handbook).

(b) It is to be understood that the four hours preparation time for grievances shall not be used to extend annual leave or other time off from the employee's duty station.

(c) Grievance preparation time shall be documented and recorded as used and monitored by the employee's supervisor.

SERIES III  
PROCEDURAL RULES

WEST VIRGINIA DIVISION OF VETERANS AFFAIRS

PROCEDURAL RULES  
(Revised July 1991)

FORWARD. . .

Correlation of activities of Field Offices with the Administrative and Claims Offices to insure that our responsibility to claimants is properly discharged with a minimum of delay and maximum of efficiency requires that all Division personnel conform with uniform practices and instructions as set forth herein.

These procedures will be kept readily available for reference by all personnel. DEVIATIONS ARE NOT PERMISSIBLE WITHOUT THE EXPRESS APPROVAL, IN WRITING, BY THE DIRECTOR.  
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SECTION 1 - FILES; MAINTENANCE AND PROCEDURES (PROCEDURAL)

(a) A separate section will be maintained in the file cabinet for all pending (active) cases.

(b) When an application for benefits is filed, check inactive files for folder. If present, reactivate. If not, set up new file folder.

(c) Benefit claims will be submitted PROMPTLY to the Claims Office. They will NOT be held pending receipt of supporting evidence, i.e., discharge, marriage certificate, etc. In such case, make note on transmittal that supporting documents will be forwarded upon receipt. If claimant has been requested to furnish additional evidence and has not responded within 30 days, write a follow-up request. If no response in additional 30 days, transfer to inactive with appropriate notation.

(d) Veterans Affairs Officer will review pending cases NOT LESS THAN ONCE EACH MONTH, MORE OFTEN IF FEASIBLE, and make necessary follow-up as indicated. Follow-ups on pending claims or requests for information IS THE RESPONSIBILITY OF FIELD OFFICE. Claims Office has no means of diarying such action.

(e) File folders will be stripped of all duplications and unnecessary material before transferring to inactive.

ALL inactive files will be filed in alphabetical order under one system.

ORIGINAL separation documents shall be handled by the claimant concerned and under no circumstances retained in field office file folders.

All claim folders shall contain a DVA Form 1, completed at the time the application for benefits is taken, and retained in the file for future reference. (Refer to Exhibit #1).

SECTION 2 - REPORTS (PROCEDURAL)

(a) DAILY CONTACT REPORT - DVA FORM 3 - This form will be maintained daily on each consultation both office and itinerant points, listing name of person, town of residence and purpose of consultation. (See Exhibit #2).

Daily Reports will be filed in folders, in chronological order, and maintained as office record subject to the following disposal schedule: Reports shall be retained only for the fiscal year immediately preceding the current fiscal year, then disposed of.

(b) If claim is filed in another Veterans Affairs Officer's jurisdiction, provide that VAO a copy of transmittal and DVA Form 1.

(c) MONTHLY REPORT - DVA FORM 5 - The Veterans Affairs Officer in each field office shall submit to the administrative office at the end of each month a report of the activities of his office. (Refer to Exhibit #3).

Statistics necessary to complete the report shall be kept current daily on Monthly Report Work Sheet, Form 4. (Refer to Exhibit #4). The Work Sheet is devised to permit field office personnel to more quickly and accurately prepare and submit their monthly report. Use of the Work Sheet is essential and is to be MAINTAINED DAILY.

1. The OFFICE COPY, reflects the results of contacts at the field office location.

2. The FIELD COPY, maintained by the Veterans Affairs Officer, reflects results of contacts at itinerant points.

OFFICE and FIELD reports will be consolidated at end of month to provide figures for complete monthly report.

To insure accuracy and uniformity in consolidating field reports into division monthly and annual reports, it is essential that standard procedures be maintained in compiling and reporting the statistics. If Work Sheet, Form 4, is maintained on a daily basis, there will be no difficulty in submitting report promptly on the first day of each month.

Following are definitions and instructions on what to include in each item of the monthly report:

Item 1. CONSULTATIONS/CASES (Office and Field) - the actual number of persons or group of persons, coming into your office, itinerant points, or whom you contact on a requested home visit, WHERE, as a result of that contact, you have assisted, advised or counseled that person on some matter pertaining to veterans benefits. Attendance at meetings or conferences of veterans organizations or other groups does not constitute consultations. This activity will be reflected under MEETINGS ATTENDED. It is very important, from a public relations standpoint, that this, as well as every item on the report, be accurately reported.

Item 2. TELEPHONE CALLS (Incoming and Outgoing) - The number of phone calls you receive and make, both in the office and on itinerant service, which pertain to the business your office is conducting -- VETERANS AFFAIRS. DO NOT include telephone calls as a "CONSULTATION" in computing your daily or monthly report.

Item 3. CORRESPONDENCE - The number of OUTGOING ORIGINAL letters, memos, or cover letters directed from your office. Carbon copies are NOT recorded as such.

Item 4. ORIGINAL CLAIMS FILED - The total number of new claims filed in behalf of veterans, widows, survivors, etc.

Item 5. REOPENED CLAIMS - The total number of claims the field office has reopened that has been in a closed status previously.

Item 6. CONFIRMED AND CONTINUED - The total number of EVR's completed.

ITINERARY REPORT - An accurate account of the number of persons you have contacted at each scheduled itinerant point for the purpose described in Item 1, Consultations.

ATTENDANCE REPORT - An accurate account of all annual and sick leave used during the month reported in accordance with Regulation 4.04.

MEETINGS ATTENDED - A report of the activities of the Veterans Affairs Officer as directed by Regulation 4.03.

THE COMPLETE MONTHLY REPORT WILL BE APPROVED BY THE VETERANS AFFAIRS OFFICER AND SIGNED BY HIM BEFORE SUBMITTING TO THE ADMINISTRATIVE OFFICE ON THE FIRST DAY OF EACH MONTH.

AWARDS - Monetary benefits are compiled and reported by the field office and forwarded to the administrative office on DVA Form #27 at the end of each month. (Exhibit #5).

OUT OF STATE AWARDS - (An award received from any VA office other than those within our jurisdiction). Out of State Awards will be figured by the individual field office and reported to the administrative office in the same manner as other monetary awards.

The total monetary recovery to be reported is computed as follows: Multiply the amount of the running award in effect the date of the award letter by twelve and add the retroactive pay up to the end of the month the award was made.

INSURANCE AWARDS - (In State and Out of State) - Will be computed and reported in the same manner, HOWEVER, they will be reported in the amount of the face value of the policy AT THE TIME INSURANCE CLAIM IS FILED.

SECTION 3 - INVENTORY CONTROL PROCEDURES: (PROCEDURAL)

All offices shall maintain a complete inventory of all equipment. "Equipment" shall be construed as all articles of office equipment, i.e., furniture, mechanical, electrical, technical, etc. There shall not be incorporated into the inventory report such items as bin supplies, stationery stock, or any other usually accepted expendables. Such items as qualify under to-be-inventoried class, having a value of \$50.00 or less, should be grouped and valued collectively. Included herein are pencil sharpeners, marginal punches, letter baskets, small card index boxes, etc.

The printed inventory form entitled, "Inventory List - State of West Virginia", shall be completed upon request from the Division Property Officer and submitted to the administrative office usually by no later than June 15 of each year, or as often as required by the Director.

All offices shall complete the form in question in the following manner:

1. The line on top that reads "Office" should be completed by inserting the name of your field office.
2. You should list only one unit per line in column entitled "Items" and should include "Brand Name" of the property in question.

3. The next column is entitled "Serial No." and should include the Model and/or Serial Number of the property.
4. Under column which reads "Condition", should be listed the actual working condition of the equipment.
5. Under "Inventory No." list the assigned Departmental Inventory Number. Every non-expendable item assigned and carried on your inventory should be plainly marked with its proper number.

All inventoriable items should be carried on office inventory unless ordered removed therefrom by the Director.

SECTION 4 - REQUISITIONS FOR SUPPLIES: (PROCEDURAL)

(a) - The standard West Virginia Purchases requisition forms will be used by all offices in ordering equipment or supplies of any nature from the administrative office. Requisition forms are to be submitted in duplicate to the Fiscal Officer of this division. When the order is filled, one copy will be returned to the field office with notations regarding any items not shipped.

(b) - Requisition for supplies will be submitted once each thirty days between the 20th and 25th of each month. Any requisitions received after the 25th will be held over and filled with the following month's order, except in cases of extreme emergency.

The account for supplies is budgeted for each quarter of the fiscal year individually. Filling orders for a six months or a year's need for certain supplies runs the account short before the end of a given quarter. You will order only such quantities of supplies as you estimate will be necessary to fill your needs for the thirty-day period until your next monthly order.

(c) In some instances, in the case of petty purchases, it may be more economical to purchase the item locally than to purchase and ship from the administrative office. In such cases, the fiscal officer will authorize the field office to proceed with the purchase locally. NO PURCHASE OF ANY NATURE CHARGEABLE TO THIS DIVISION SHALL BE MADE WITHOUT PRIOR AUTHORIZATION FROM THE FISCAL OFFICER.

(d) Veterans Administration forms must be secured from the VA through the Huntington Claims Office of this division -- not the administrative office. Needs should be anticipated at least thirty

days in advance and ordered by the fifth day of each month.

SECTION 5 - ITINERARY TRAVEL AND EXPENSE (LEGISLATIVE)

(a) ITINERANT VISITS - THE ADMINISTRATIVE OFFICE MUST KNOW WHERE YOU ARE EACH WORKING DAY OF THE MONTH. Veterans Affairs Officers will comply with the following itinerant practices:

1. Leaving Itinerant Point prior to Schedule - When it is necessary for the Veterans Affairs Officer to leave an itinerant point prior to the time shown on his schedule, he will leave information at that itinerant point where he may be contacted. If there is no one at the itinerant point to leave this information with, the VAO will telephone the administrative office.

NOTE: It is also essential on your scheduled days at your office that your secretary know where to contact you when it is necessary for you to be out during office hours.

2. Cancellation of Itinerant Visit - When it is necessary to cancel an itinerant visit due to a holiday, annual leave, illness or some other emergency, the itinerant point shall be notified as soon as possible of the inability of the Veterans Affairs Officer to keep his appointment. In the event of emergency cancellation, the administrative office shall be notified by phone, by either the secretary or the Veterans Affairs Officer.

3. Change of Itinerary - Contact points should be diligently developed and carefully handled. From time to time, the Veterans Affairs Officer may find it to the best interest of overall service to his territory to adjust his itinerant schedule. Changes are to be made at the discretion of the Veterans Affairs Chief only. In each instance the Veterans Affairs Officer who finds it necessary to adjust his itinerant schedule shall forward his recommendation for a change in schedule to the Veterans Affairs Chief. NO CHANGES IN ITINERANT SERVICE WILL BE MADE WITHOUT PRIOR AUTHORIZATION FROM THE ADMINISTRATIVE OFFICE.

(b) - TRAVEL AUTHORIZATION - In order to be reimbursed for travel outside the territory assigned any employee of this division or in territory other than scheduled itinerary, it is necessary for that person to obtain PRIOR authorization in writing. A copy of this written authorization MUST accompany the expense account form submitted for reimbursement.

(c) - EXPENSE ACCOUNTS - State of West Virginia Standard Traveling Expense Account Forms are to be used by all employees in submitting expense accounts. Expense accounts must be typed; they must be submitted in triplicate with the original and both copies signed by the individual submitting the account. Expense accounts must be submitted in strict accordance with these instructions and, in addition, the purpose of the trips must be typed on the front of each copy of the expense account. Omission of any of these items will result in your expense account being returned for correction.

Expense accounts must be submitted semi-monthly or monthly, at the discretion of the employee. Expense accounts shall be submitted in strict accordance with "TRAVEL REGULATIONS - STATE EMPLOYEES" issued by the State of West Virginia, a copy of which is attached to these regulations.

#### SECTION 6 - LEASES AND OFFICE RENT (PROCEDURAL)

When a change in office location becomes necessary or advisable, the Veterans Affairs Officer shall notify the Director at least SIXTY DAYS IN ADVANCE of proposed change in order that the Department of Finance and Administration may negotiate for new quarters in accordance with existing state regulations.

#### SECTION 7 - REEMPLOYMENT RIGHTS (LEGISLATIVE)

All Veterans Affairs Officers of this division are Reemployment Rights Committeemen appointed by the US Department of Labor to assist veterans in this state with reemployment problems. All inquiries and cases involving reemployment rights coming to the attention of the Veterans Affairs Officer shall be forwarded directly to Bureau of Reemployment Rights, Department of Labor, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

#### SECTION 8 - POWER OF ATTORNEY (PROCEDURAL)

This division is now the accredited representative of West Virginia Division of Veterans Affairs, The American Legion, the Veterans of World War I, Veterans of Foreign Wars, Military Order of the Purple Heart, AMVETS, Vietnam Veterans of America, Non-Commissioned Officers Association and the American Red Cross. When discussing with a veteran his right to representation before the US Department of Veterans Affairs, the above organizations, together with the Disabled American Veterans should be suggested as an organization to which he or she may give his power of attorney.

ALL CLAIMS, except those having POA vested in another organization which we are not the accredited representative, shall be submitted to the Claims Office of this Division. In those cases where we are not the accredited representative, the claim will be referred to the representative of the proper organization.

All personnel of this division will cooperate to the fullest extent with representatives of all other organizations in obtaining benefits for the veteran population which we serve. As a routine part of itinerant service, Veterans Affairs Officers will contact service officers or other representatives of The American Legion, VFW, DAV, and other veterans organizations, and the Employment Service. These contacts may be in person or by phone.

#### SECTION 9 - CLAIMS PROCEDURES (PROCEDURAL)

Claims Offices are maintained at Huntington, West Virginia and Pittsburgh, Pennsylvania, and are under direct supervision of the Veterans Affairs Chief. Each office has a Claims Manager who is responsible for the operation of the office.

The following procedures will be observed by all division personnel in the processing of claims for benefits under the jurisdiction of the US Department of Veterans Affairs.

(a) - CLAIMS - ALL claims for pension, compensation and death benefits will be filed through this division's claims offices. DO NOT submit such claims or make follow-up inquiries direct to the US Department of Veterans Affairs.

(b) - INQUIRIES - When a claim has been filed, the field office should not make inquiry as to status until the end of ninety days. Ninety days follow-up will also be made on reopened claims.

The above ninety day follow-up rules do not apply with regard to appeals, administrative reviews and cases involving audiology and NP exams, which required unlimited time.

(c) - APPEALS - An appeal should be used only as a means of last resort. A field office will NOT file an appeal except at the specific request of the veteran. The CLAIMS OFFICE will make recommendations for all other appeals and will execute the proper form.

When a claimant insists on filing an appeal against the recommendation of the Claims Manager, he shall be requested to execute a Waiver of Responsibility Form and that form shall be made

a part of his field office folder.

Under present appeal procedures, the initial informal appeal or disagreement may be filed either by letter or by Form 4138, signed by the claimant.

Formal appeal may not be filed until the claimant has been furnished with a "Statement of the Case" by the VA. Formal appeal is then filed on 1-9, setting forth in detail the specific exceptions taken to statements set forth, by the VA in the Statement of the Case.

(d) - ADMINISTRATIVE REVIEWS - All administrative reviews will be handled by the claims office.

(e) - MEDICAL STATEMENTS - All offices will use DVA Form 9, Medical Statement, except where a detailed report or statement on a specific condition is preferable on service connected disabilities.

(f) - PERSONAL APPEARANCES - The claims office may recommend a personal appearance by the veteran in certain cases. If the Veterans Affairs Officer in a field office feels that a personal appearance is warranted, he must clear the matter with the claims office first. In all such cases, the veteran must be advised that the appearance is at his own expense.

(g) - PROTECTION OF VETERAN - It must be remembered that hasty action may cost the veteran a part or all of his benefits. Where there is the slightest doubt as to the advisability of reopening a claim, an inquiry shall be made to the claims office asking the present status and whether or not further action should be taken.

All requests for review of claims folders must be specific as to the information needed and detailed as to the particular disability or disabilities involved, or other alleged rating errors.

(h) - RELEASE OF PERSONAL AND CONFIDENTIAL INFORMATION - Definition: Personal and confidential information is that dealing with such matters as misconduct diseases, illegal marriages, illegitimate births, dishonorable discharges, fatal and progressive diseases, claimant address, etc.

We must always exercise extreme care in releasing information in regard to a veteran or other persons. Release of personal and confidential information to unauthorized persons may result in loss of accreditation by the Veterans Affairs Officer.

The following rules MUST be observed:

1. Personal and confidential information from a veteran's records may be released only to a person who is accredited by the US Veterans Affairs.

2. Follow-up letters to service officers, friends, relatives or other interested persons must be maintained but they must NOT contain restricted information. Such persons can be advised as to the progress of the claim but must not be given confidential information.

3. In no event will letters or memorandums from the Claims Offices be copied and sent to the veteran or interested persons.

4. We must use extreme care in discussing a veteran's case with him, or with others. The records may show a fatal disease of which the veteran is unaware. In no event should the veteran be shown any correspondence from the Claims Office (such as DVA-7's) relating to his case. He may be told the general nature of the contents, but DO NOT let him read the correspondence.

5. Final Action on Claims - With regard to correspondence between field office and claimant, when notice of final action by the VA on a claim is received, either by memo from the claims office or copy of official notification from the VA to the claimant, it is NOT necessary for the field office to write the claimant. If the claimant has any question when he receives the notice, he will be contacting you anyway.

EXCEPTION: In the case of a denial notice, when Claims Office has made recommendations as to further development, you, of course, will want to contact the claimant to explore the possibilities of carrying out their suggestions.

Date: \_\_\_\_\_ Office: \_\_\_\_\_

Name: \_\_\_\_\_ C- \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_ Ins. No. \_\_\_\_\_

Entered Service: \_\_\_\_\_ At: \_\_\_\_\_

Discharged: \_\_\_\_\_ At: \_\_\_\_\_

Rank and Organization: \_\_\_\_\_ Service No. \_\_\_\_\_

Discharge on Record At: \_\_\_\_\_

Original Claim Filed \_\_\_\_\_ At: \_\_\_\_\_

Nature of Disability \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Is Disability Service-Connected? \_\_\_\_\_ Amount of Pension \_\_\_\_\_

Power of Attorney in force with: \_\_\_\_\_

Treatment received in service: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Treatment since Discharge: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Employment Status: \_\_\_\_\_

Insurance Status: \_\_\_\_\_

Date of Birth \_\_\_\_\_ Place of Birth \_\_\_\_\_

Married or Single: \_\_\_\_\_ Name of Spouse: \_\_\_\_\_

Date and Place of Marriage: \_\_\_\_\_

Has marriage certificate and birth certificate of children been filed with V. A.? \_\_\_\_\_

Date and Place-Dissolution of Marriage \_\_\_\_\_

Minor Children: \_\_\_\_\_ Born: \_\_\_\_\_

\_\_\_\_\_

Father: \_\_\_\_\_

Mother: \_\_\_\_\_

REMARKS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date \_\_\_\_\_ 19

### DAILY REPORT OF CONTACTS

\_\_\_\_\_  
Name

\_\_\_\_\_  
OFFICE

\_\_\_\_\_  
Place

Name & Address	Remarks
1.	
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WEST VIRGINIA DEPARTMENT OF VETERANS AFFAIRS

<u>(OFFICE)</u>	<u>(MONTH)</u>	<u>(YEAR)</u>
1. CASES (Office and Field)		
2. TELEPHONE CALLS (Incoming and Outgoing)		
3. CORRESPONDENCE (Outgoing Only)		
4. ORIGINAL CLAIMS FILED		
5. REOPENED CLAIMS FILED		
6. CONFIRMED AND CONTINUED (EVR's Completed)		

ITINERARY REPORT

<u>COMMUNITY</u>	<u>CASES</u>

ATTENDANCE REPORT

<u>NAME OF EMPLOYEE</u>	<u>ANNUAL LEAVE</u>	<u>SICK LEAVE</u>	<u>TOTAL</u>

NOTE: If more than two days leave is taken, please give dates.

MEETINGS ATTENDED

<u>ORGANIZATION</u>	<u>TOWN</u>	<u>DATE</u>



MONTHLY JOURNAL REPORT  
WEST VIRGINIA DEPARTMENT OF VETERANS' AFFAIRS

Office	Month	Year
1. Consultations		
2. Total Number of Awards in State		
3. Total Number of Awards Out of State		
4. Total Number of Hospital Referrals		
5. Insurance (Monetary)		
6. Compensation - Retroactive		
7. Pension - Retroactive		
8. DIC - Retroactive		
9. Death Pension - Retroactive		
10. VR&E - Retroactive		
11. Burial Allowance		
12. Monetary Recovery In State (line 6-11)		
13. Monetary Recovery Out of State		
14. EVR's (Monetary) C&C and all other Annual Award		
15. Total Monetary Recovery (Line 12 - 14)		
16. American Legion Power of Attorney		
17. Veterans of Foreign Wars Power of Attorney		
18. Military Order of the Purple Heart Power of Attorney		
19. American Veterans Power of Attorney		
20. Veterans of World War I Power of Attorney		
21. WV Dept. of Veterans Affairs Power of Attorney		
22. Vietnam Veterans of America Power of Attorney		



KEN HECHLER  
Secretary of State

WILLIAM H. HARRINGTON  
Chief of Staff

MARY P. RATLIFF  
Deputy Secretary of State

JUDY COOPER  
Director, Administrative Law

A. RENEE COE  
Deputy Secretary of State

DONALD R. WILKES  
Director, Corporations

CATHERINE FREROTTE  
Executive Assistant

(Plus all the volunteer  
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

Telephone: (304) 558-6000  
Corporations: (304) 558-8000

TO: Gail Harper

AGENCY: Division of Veterans Affairs

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: October 15, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 3 TITLE: 86 Division of Veterans Affairs

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Gail Harper

TITLE OF PERSON SIGNING: Director

DATE: October 19, 1992

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.