



# US DEPARTMENT OF VETERANS AFFAIRS OFFICE OF INSPECTOR GENERAL

Office of Audits and Evaluations

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## VETERANS BENEFITS ADMINISTRATION

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# Staff Did Not Limit the Use of Schools and Training Programs That Were Only Approved for the Veteran Readiness and Employment Program

Audit

22-02293-188

September 14, 2023

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## Executive Summary

The Veteran Readiness and Employment Service (VR&E) is a Veterans Benefits Administration (VBA) entitlement program providing job training and employment services to help veterans with service-connected disabilities achieve maximum independence in their daily lives. This program focuses on disabilities that cause an “employment handicap,” which substantially reduces a veteran’s ability to prepare for, find, or maintain suitable employment.<sup>1</sup>

When VR&E participants need job training, they must attend schools and training programs approved under the Montgomery and Post-9/11 GI Bills.<sup>2</sup> Nearly all VR&E participants attend approved GI Bill programs, but some participants have special or complex needs that cannot be met by an approved GI Bill program. VR&E can approve non-GI Bill, or Chapter 31-only, programs for use by these participants. In December 2016, Congress amended the law that allows use of Chapter 31-only programs to explicitly require that VR&E issue a veteran-specific waiver each time a participant needs to use a Chapter 31-only program.

The VA Office of Inspector General (OIG) conducted this audit to determine whether VR&E properly approved and monitored participants’ use of Chapter 31-only programs.

### What the Audit Found

The OIG found that VR&E did not properly implement the law because it did not understand that the law required individual waivers from the executive director each time a Chapter 31-only program was selected for a participant.<sup>3</sup> VR&E regional office staff told the audit team that, generally, Chapter 31-only programs were not needed because alternative GI Bill-approved programs were available. Based on a review of Chapter 31-only programs attended by a sample of 52 participants between March 1, 2021, and February 28, 2022, the team confirmed that these veterans generally could have attended GI Bill-approved programs instead. VR&E’s failures resulted in over \$13 million in technically improper payments to Chapter 31-only programs that

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<sup>1</sup> VA Manual 28C, “Evaluation Process,” chap. IV.B.1 in *Veteran Readiness and Employment Manual*, para. 1.04, updated August 15, 2013.

<sup>2</sup> 38 U.S.C. § 3104(b).

<sup>3</sup> 38 U.S.C. § 3104(b). For information on the scope and methodology of this report, see appendix A.

likely would not have received those funds if VR&E had followed the law and limited use of the Chapter 31–only programs.<sup>4</sup>

### **VR&E Failed to Issue Waivers for Chapter 31–Only Participants as Intended by Congress**

Although VR&E must issue a veteran-specific waiver each time a participant selects a Chapter 31–only program, VR&E did not provide waivers for any of the 52 participants the OIG reviewed. Had a waiver process been implemented, most of these veterans would not have been approved for Chapter 31–only programs because existing GI Bill programs would meet their needs. The Office of General Counsel confirmed that the law requires veteran-specific waivers. VR&E’s executive director agreed that the service had not issued waivers each time a participant attended a Chapter 31–only program, as intended by Congress. This occurred because VR&E’s procedures for researching legislative changes failed to determine the intent of the 2016 amendment.

### **VR&E Did Not Limit Use of Chapter 31–Only Programs to Veterans with Special and Complex Needs**

Chapter 31–only programs were intended to provide flexibility and options to veterans who have special or complex needs that are barriers to employment. However, the audit team found that VR&E did not limit the use of Chapter 31–only programs to these veterans. Although VR&E issued guidance, staff told the audit team that they did not receive training on the use of Chapter 31–only programs and were unaware of the limited intent of those programs. Despite not issuing waivers, VR&E could have limited the use of Chapter 31–only programs had it ensured that regional office staff were aware of the changes to the law.

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<sup>4</sup> Office of Management and Budget, “Reviewing the Necessity of Statute and Regulation for Technically Improper Payments,” sec. I.A.2.a in “Requirements for Payment Integrity Improvement,” app. C to OMB Circular A-123, March 5, 2021. Technically improper payments are those in which a payment was made to the correct recipient for the correct amount, but the payment process failed to adhere to all applicable statutes and regulations. Because VR&E operated under the inaccurate assumption of approving the program instead of issuing individual veteran waivers, these Chapter 31–only programs were the correct recipient. In such instances, there is no dollar amount that needs to be recovered. The team determined that the technically improper payments were questioned costs because at the time of the audit there was no documentation to support that waivers were obtained on a case-by-case basis as required by law. Inspector General (IG) Act of 1978, 5a U.S.C. § 405. The Inspector General Act defines questioned costs as a finding that, at the time of the audit, the cost is not supported by adequate documentation. See appendix B for more on monetary benefits.

## **VR&E Staff Did Not Complete Compliance Surveys for Chapter 31–Only Programs**

VR&E staff are not completing compliance surveys as required by law and the VR&E manual.<sup>5</sup> The audit team requested supporting documentation, including compliance surveys, for all Chapter 31–only programs used by the 52 participants in the sample, who used 17 different programs at 23 VBA regional offices. VR&E could not provide a compliance survey for any of these programs. VR&E staff reported that this occurred because, despite VR&E updating its manual to include the requirement for compliance surveys, they did not receive training on compliance surveys and were not aware the requirement was in the manual.

## **VR&E Did Not Implement Controls and Provide Oversight of Chapter 31–Only Programs to Limit Their Use**

The audit team determined VR&E did not implement required controls and monitoring activities that would have ensured use of Chapter 31–only programs was in compliance with updated guidance.<sup>6</sup> The only control activity in place is a requirement for VR&E’s quality assurance program to check, while conducting its site visits, for Chapter 31–only program information maintained by the regional offices in a centralized server folder. The team requested supporting documentation for the Chapter 31–only programs attended by the 52 participants in the sample, and VR&E was unable to provide the audit team with any of the requested documentation required in the centralized folders.

According to VR&E’s executive director, the incorrect interpretation of the law and the limited use of Chapter 31–only programs contributed to the lack of control and monitoring activities.<sup>7</sup> However, based on the audit results, the team determined that though the interpretation issues contributed to VR&E not fully understanding the potential risks associated with the use of Chapter 31–only programs, VR&E failed to develop and implement a functional system of internal controls that would have limited the use of these programs.

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<sup>5</sup> 38 U.S.C. § 3693; VA Manual 28C, “Chapter 31 Only Facilities and Training Programs or Courses,” chap. IV.C.1 in *Veteran Readiness and Employment Manual*, para. 1.12, updated September 7, 2018.

<sup>6</sup> Government Accountability Office, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014.

<sup>7</sup> Chapter 31–only programs account for about 3 percent of all programs used by VR&E participants.

## **VR&E Took Actions to Address Its Use of Chapter 31–Only Programs in Response to the OIG’s Findings**

After the OIG presented its findings, VR&E updated and issued guidance to staff on the use of Chapter 31–only programs.<sup>8</sup> According to the guidance, when vocational rehabilitation counselors develop new rehabilitation plans, they must use approved GI Bill programs to the maximum extent possible or obtain approval from the VR&E executive director to use a Chapter 31–only program for each participant attending the facility. In addition, VR&E started developing new procedures, such as requiring all documents be filed in a veteran’s case record and not a centralized file, reviewing Chapter 31–only documentation in monthly quality assurance case reviews, developing mandatory training on the approval and use of Chapter 31–only programs, and updating the VR&E manual to eliminate the term “special and complex needs” and replace it with a requirement that counselors must make determinations on a case-by-case basis and clearly explain the need for selecting a Chapter 31–only program.

### **What the OIG Recommended**

The OIG recommended that the under secretary for benefits ensure VR&E understands the current laws and regulations that govern Chapter 31–only programs and that VBA trains all appropriate VR&E regional office staff to complete annual compliance surveys and obtain waivers for each veteran before approval to attend a Chapter 31–only program. Regarding the VR&E manual, the OIG recommended VBA review the manual’s existing waiver and compliance survey requirements for Chapter 31–only programs to ensure the manual reflects current law or update the manual as needed. Finally, VR&E should develop processes to monitor the use of Chapter 31–only programs.

### **VA Management Comments and OIG Response**

The under secretary for benefits concurred with all recommendations and provided acceptable action plans on implementation. The OIG concurs with VBA’s request for closure of two recommendations—those concerning understanding changes to laws and regulations and updating the manual on waiver requirements—based on the documentation provided. The OIG will monitor VBA’s implementation of the other three recommendations and will close them when it receives sufficient evidence demonstrating progress in addressing the recommendations. VBA also provided one technical comment, a request to delete a sentence that explained the appropriate use of a Chapter 31–only program; however, the OIG kept the sentence as an example of the guidance concerning Chapter 31–only programs available to VR&E staff. The full text of the under secretary’s comments is in appendix C.

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<sup>8</sup> VR&E released interim procedures to staff on December 14, 2022, and further updated those procedures in an email to staff on February 2, 2023.



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## Abbreviations

|        |  |
|--------|--|
| CWINRS | Corporate Waco-Indianapolis-Newark-Roanoke-Seattle |
| OGC    | Office of General Counsel                          |
| OIG    | Office of Inspector General                        |
| VBA    | Veterans Benefits Administration                   |
| VR&E   | Veteran Readiness and Employment Service           |
| VRC    | vocational rehabilitation counselor                |
| WEAMS  | Web Enabled Approval Management System             |



## Introduction

The Veteran Readiness and Employment Service (VR&E) is a Veterans Benefits Administration (VBA) entitlement program that provides job training and other employment services to veterans whose service-connected disabilities resulted in an “employment handicap,” or an impairment that substantially reduces a veteran’s ability to find employment consistent with the person’s abilities, strengths, and interests.<sup>9</sup> The goal of the VR&E program is to enable these veterans to achieve maximum independence in daily living and, to the extent possible, become employable, find a suitable job, and remain employed.

There are two scenarios under which a veteran is eligible to receive benefits through the VR&E program. One scenario is the veteran must have an employment handicap and a service-connected disability evaluated as 20 percent disabling or greater. The second scenario is the veteran must have a service-connected disability evaluated at 10 percent with a “serious” employment handicap.<sup>10</sup> To determine whether a veteran has a serious employment handicap, a vocational rehabilitation counselor (VRC) considers factors such as the severity of disabling conditions, a pattern of reliance on government support programs, and the existence of neuropsychiatric conditions.<sup>11</sup>

After determining a veteran’s entitlement to the program, a VRC helps the veteran identify a suitable employment goal and determine what services are necessary to achieve it. Almost all participating veterans receive education or training to achieve employment goals. This instruction typically includes college, non-college-degree training, on-the-job training, or an apprenticeship program. VR&E funds the cost of all tuition, books, fees, and necessary supplies, as well as a monthly subsistence allowance during schooling or training.

The Montgomery GI Bill (Chapter 30) and the Post 9/11 GI Bill (Chapter 33)—referred to collectively as the GI Bill—provide educational assistance benefits to eligible individuals enrolled in approved education and training programs. Nearly all VR&E participants attend approved GI Bill programs. These GI Bill–approved programs must meet specific standards and undergo annual monitoring to ensure compliance with requirements. This process helps ensure these programs provide quality education or training and that veterans and the taxpayer dollars that fund these benefits are protected from unscrupulous actors.

In December 2016, Congress amended the United States Code to explicitly limit the use of non-GI Bill programs by requiring VR&E to issue a veteran-specific waiver each time a

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<sup>9</sup> VA Manual 28C, “Evaluation Process,” chap. IV.B.1 in *Veteran Readiness and Employment Manual*, para. 1.04, updated August 15, 2013.

<sup>10</sup> 38 U.S.C. § 3102(a).

<sup>11</sup> VA Manual 28C, “Evaluation Process,” chap. IV.B.1 in *Veteran Readiness and Employment Manual*, para. 1.05, updated January 6, 2020.

participant used a school or training program that is not approved for GI Bill benefits. If waived, VR&E participants may attend schools and training programs approved only for VR&E participants (Chapter 31–only programs). The VA Office of Inspector General (OIG) conducted this audit to determine whether VR&E properly approved and monitored participants’ use of Chapter 31–only programs.

## Chapter 31–Only Programs

According to the VR&E manual, there are instances when Chapter 31–only programs are necessary for VR&E participants to use. Approval for these schools and training programs “is critical to provide individualized vocational rehabilitation services to veterans in the program with special and complex needs.”<sup>12</sup> For example, a veteran who requires a specialized, non-college-degree training selects a vocational goal and finds an appropriate training facility located near the veteran’s home—generally with a VRC’s assistance. However, when the facility is not approved for use by the GI Bill, the program must be approved as Chapter 31–only. VR&E has also explained the appropriate use of a Chapter 31–only program would be a reading program for a veteran who lost the ability to read due to a traumatic brain injury.<sup>13</sup>

For a school or training program to be approved as Chapter 31–only, a VRC must complete a

- site visit to the physical location of the facility,
- site visit report,
- checklist for approval of a program of training or courses,
- designation of certifying official(s) form,
- statement of assurance of compliance with equal opportunity laws,
- conflicting interests for proprietary schools form, and
- approval request for Chapter 31–only program of training or courses.

Once the VRC completes those steps, a VR&E officer and VA regional office director must approve the program, as well as the VR&E executive director.

Approved Chapter 31–only programs require an annual compliance survey.<sup>14</sup> This includes a site visit to ensure continued compliance with course and facility requirements and completing a compliance survey report. According to the VR&E manual, a VR&E officer must review and

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<sup>12</sup> VA Manual 28C, “Chapter 31 Only Facilities and Training Programs or Courses,” chap. IV.C.1 in *Veteran Readiness and Employment Manual*, para. 1.02a, updated March 15, 2019.

<sup>13</sup> Procedural Advisory 18-02, “Approval of Chapter 31 Only Facilities,” November 21, 2017.

<sup>14</sup> 38 U.S.C. § 3693; VA Manual 28C, “Chapter 31 Only Facilities and Training Programs or Courses,” chap. IV.C.1 in *Veteran Readiness and Employment Manual*, para. 1.12, updated September 7, 2018.

sign the surveys.<sup>15</sup> If the facility is used continuously for Chapter 31–only and nothing changes in the curriculum, the VRC may refer to the previous site visit report for the annual compliance report in lieu of completing a new site visit. If the Chapter 31–only program has not been used for more than one year, a new site visit is required. The surveys are meant to ensure that (1) VA payments to each program and student enrollments are based on proper and correct information and (2) school and training officials, as well as students, understand and comply with applicable legal requirements. These actions are in place to prevent deficiencies and violations, as well as to identify and correct them when they occur.<sup>16</sup>

## **VR&E Organizational Structure**

The VR&E organizational structure has two components: a division connected to each VBA regional office and a VR&E executive director. Each of VBA’s 58 regional offices includes a program division that implements the VR&E policies and procedures and establishes, maintains, and provides oversight.

The VR&E officer manages a division within the regional office. The VR&E division comprises VRCs, employment coordinators, and technical and administrative support staff.

- VRCs manage cases for assigned disabled veterans. They coordinate rehabilitation and employment services, document progress and adjustment, and maintain case records. They determine entitlement to the VR&E program and authorize financial assistance such as reimbursing service providers and paying for books, supplies, and tuition and fees.
- Employment coordinators assist ready-to-work disabled veterans by providing job development and placement services, which include on-the-job training, job-seeking skills, resume development, interviewing skills, and direct placement.
- Technical and administrative support staff receive veterans and other visitors to the regional office who are inquiring about the VR&E program. These staff also respond to telephone inquiries. They assist VRCs with VR&E enrollments.

The regional office director provides general management for the VA regional office, including direct authority over the VR&E division. The regional office director ensures all policy and procedural changes are implemented and benefits are provided in a timely manner.

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<sup>15</sup> VA Manual 28C, “Chapter 31 Only Facilities and Training Programs or Courses,” chap. IV.C.1 in *Veteran Readiness and Employment Manual*, para. 1.05c, updated November 21, 2017.

<sup>16</sup> VA Manual 22-4 (untitled), “Introduction,” chap. 1 in part 10, “Compliance Survey,” para. 1.01, updated January 27, 2017.

The VR&E executive director does not have direct authority over VR&E staff at the regional office; however, the executive director supports the success of the VR&E divisions by

- developing policy and procedures;
- formulating budgets for the program;
- developing workload systems;
- supporting regional office VR&E staff development through training programs;
- developing requirements for regional office VR&E staff;
- providing oversight and guidance of the VR&E division through quality assurance staff site surveys and file reviews;
- establishing and enabling the mission, vision, and strategic direction for all VR&E program services; and
- serving as the chief point of contact for Congress and all federal agencies on anything concerning the VR&E program.

## Results and Recommendations

### Finding: VR&E Misused Chapter 31–Only Programs and Did Not Implement Controls to Limit Their Use

VR&E did not issue waivers for its participants to use Chapter 31–only programs on a case-by-case basis, restrict the use of these programs to veterans with special needs, and complete required annual compliance surveys for Chapter 31–only programs. VR&E leaders did not properly implement the law as amended because they did not understand that it required individual waivers from the executive director each time a Chapter 31–only program was selected for a participant. Prior to the law change, VR&E operated under an inaccurate assumption that once a Chapter 31–only program was approved, all VR&E participants could use it without any additional approval or waiver. VR&E believed the amendments were in line with that practice. According to the VR&E executive director, this incorrect interpretation also contributed to the lack of oversight or monitoring activities to ensure Chapter 31–only programs were used as intended. However, the audit team determined that although the interpretation issues contributed to the problems identified, VR&E also neglected to develop and implement a functional system of internal controls over the use of Chapter 31–only programs consistent with federal requirements.<sup>17</sup>

From March 1, 2021, to February 28, 2022, VR&E sent over 1,600 VR&E participants to Chapter 31–only programs without proper approvals, at a total cost of over \$13 million. The more than \$13 million would be considered technically improper payments because the amounts paid to Chapter 31–only programs likely would have been paid to a GI Bill program had the law been followed.<sup>18</sup> The team determined that the technically improper payments were questioned costs because at the time of the audit there was no documentation to support that waivers were obtained on a case-by-case basis as required by law.<sup>19</sup> If VR&E had interpreted and applied the law correctly, ensured VR&E staff followed guidance, and monitored program activities, most VR&E participants identified in this audit would have been placed in approved GI Bill programs.

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<sup>17</sup> Government Accountability Office, *Standards for Internal Control in the Federal Government*, GAO-14-704G, September 2014; for more information on internal controls, see appendix A.

<sup>18</sup> Office of Management and Budget, “Reviewing the Necessity of Statute and Regulation for Technically Improper Payments,” sec. I.A.2.a in “Requirements for Payment Integrity Improvement,” app. C to OMB Circular A-123, March 5, 2021. Technically improper payments are those in which a payment was made to the correct recipient for the correct amount, but the payment process failed to adhere to all applicable statutes and regulations. Because VR&E operated under the inaccurate assumption of approving the program instead of issuing individual veteran waivers, these Chapter 31–only programs were the correct recipient. In such instances, there is no dollar amount that needs to be recovered.

<sup>19</sup> Inspector General (IG) Act of 1978, 5a U.S.C. § 405. The IG Act defines questioned costs as a finding that, at the time of the audit, the cost is not supported by adequate documentation.

This finding is based on the following determinations:

- VR&E failed to issue waivers for Chapter 31–only participants as intended by Congress.
- VR&E did not limit use of Chapter 31–only programs to veterans with special and complex needs.
- VR&E staff did not complete compliance surveys for Chapter 31–only programs.
- VR&E did not implement controls and provide oversight of Chapter 31–only programs to limit their use.
- VR&E’s failure to correctly implement the law and provide proper oversight resulted in technically improper payments.

## What the OIG Did

The audit team reviewed 52 randomly selected VR&E participants from the 1,635 VR&E participants that attended a Chapter 31–only program between March 1, 2021, and February 28, 2022. The team also conducted a virtual site visit to the Seattle regional office to interview VR&E staff and conducted interviews with VR&E officers and/or VRCs from nine other regional offices. The team interviewed current and former executive directors of VR&E, the deputy chief counsel for the Office of General Counsel (OGC), and various other VR&E staff and leaders.

## VR&E Failed to Issue Waivers for Chapter 31–Only Participants as Intended by Congress

The law allows VR&E to enroll veterans in Chapter 31–only programs with a veteran-specific waiver for a VR&E participant.<sup>20</sup> In December 2016, Congress amended the law to state that

to the maximum extent practicable, a course of education or training may be *pursued by a veteran* as part of a rehabilitation program under this Chapter only if the course is approved for purposes of Chapter 30 [Montgomery GI Bill] or 33 [Post 9/11 GI Bill] of this title. The Secretary may *wave* the requirement under the preceding sentence to the extent the Secretary determines appropriate. (Italics added.)

This interpretation was confirmed by VA’s OGC: the law that allows VR&E to enroll veterans in Chapter 31–only programs requires a veteran-specific waiver each time this option is selected for

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<sup>20</sup> 38 U.S.C. § 3104(b).

a VR&E participant.<sup>21</sup> VR&E was unable to provide a waiver for any of the 52 sampled participants the OIG reviewed. The VR&E executive director agreed that they had not issued waivers each time a VR&E participant attended a Chapter 31–only program.

## **VR&E Incorrectly Approved Chapter 31–Only Programs for Use by All VR&E Participants**

Prior to the 2016 amendments, the law stated that “a rehabilitation program (including individual courses) to be pursued by a veteran shall be subject to the approval of the Secretary.”<sup>22</sup> The audit team determined that prior to the amendments, the law required a veteran-specific approval each time a participant used a program not approved under the GI Bill program. This was determined based on the law stating “pursued by a veteran” that indicates approval is veteran specific and not program specific. However, VR&E’s practice at the time focused on program or facility approvals instead of veteran-specific approvals. As a result, VR&E participants could use any approved programs or “facilities” without a veteran-specific approval or any additional oversight from VR&E.<sup>23</sup>

In 2015, the House Committee on Veterans’ Affairs presented the proposed amendment language to VA, which clarified the original intent of the law. According to the then deputy under secretary for economic opportunity, VA did not oppose the amended language “because it was essentially in line with [VA’s] current practice.” In other words, VR&E interpreted that the amendments to the law would not require any changes to the existing practice of approving facilities for use and did not include approval of individual veterans. A former VR&E senior policy analyst and email communications between VR&E and OGC confirmed this was VA’s understanding at the time.

Though VR&E sought legal assistance from OGC regarding the amendments, VR&E did not ask OGC about the language contained in the amendment regarding a veteran-specific waiver. According to a former VR&E senior policy analyst, the policy analyst reporting to her at the time would have been responsible for comparing the language of the law before and after the amendments.<sup>24</sup> Instead, the veteran-specific-waiver language was missed and VR&E asked OGC

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<sup>21</sup> In an opinion dated September 1, 2022, OGC stated, “Based on the statutory context and the legislative history, we do not believe that VR&E’s interpretation of either the waiver provision or the underlying requirement that a course be approved in accordance with Chapter 30/33 [the Montgomery and Post-9/11 GI Bills] is consistent with congressional intent.” OGC further stated in the opinion summary, “If the Secretary waives the approval requirement for such a course for a particular veteran, such waiver does not apply to other veterans.”

<sup>22</sup> 38 U.S.C. § 3104(c).

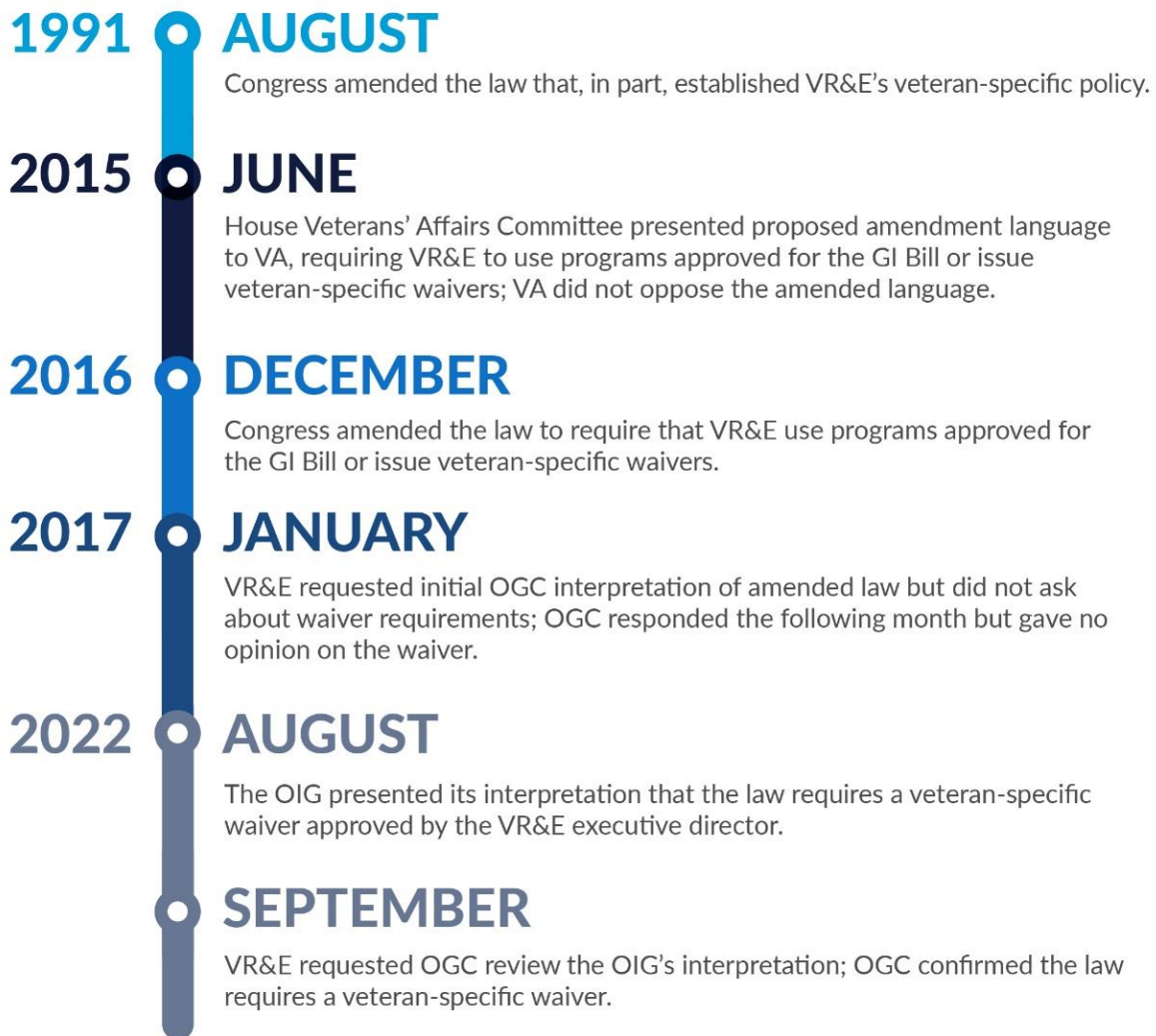
<sup>23</sup> VA Manual 28R, “Facilities,” chap. V.B.2 in *Veteran Readiness and Employment Manual*, para 2.03, updated September 7, 2018. A facility, as defined in the VR&E manual, is an educational institution, training establishment, or rehabilitation facility that provides an approved program of education or training.

<sup>24</sup> The audit team was not able to interview the policy analyst in place at the time the law changed because she had passed away before the audit began.



to confirm the practice already in place: that VR&E has “the authority to approve courses for use under Chapter 31 that are not approved for use under Chapter 30 [Montgomery GI Bill] and 33 [Post 9/11 GI Bill]?” In its response, OGC agreed that VR&E had that authority. According to an OGC attorney, OGC responds to specific questions asked, and VR&E never requested OGC interpretation of the amendment with the waiver requirement or VR&E’s process of approving facilities. In 2022, when VR&E requested OGC review the OIG’s interpretation, OGC confirmed the law requires a veteran-specific waiver.

Despite multiple opportunities to identify the changes in the law, VR&E’s procedures for researching amendments failed to determine the intent of the new language. Figure 1 presents a timeline of key events involving the amended law.



**Figure 1.** Chapter 31–only waiver policy timeline.  
Source: VA OIG analysis.

## **VR&E Did Not Limit Use of Chapter 31–Only Programs to Veterans with Special and Complex Needs**

According to the two former executive directors of VR&E who held the position between December 2013 and August 2020, the intent of Chapter 31–only programs was to provide flexibility and options to overcome employment obstacles for veterans who might have special and complex needs. Despite this, the audit team found that VR&E did not clearly define in its guidance or provide training on the meaning of “special and complex needs.” Additionally, the audit team was unable to find documentation justifying the need for each participant to attend a Chapter 31–only program instead of a GI Bill–approved program, which prevented the team from assessing VR&E regional office staff’s decisions. As previously noted, VR&E staff believed that all VR&E participants could attend any approved Chapter 31–only program.

### **VR&E Issued Guidance Stating Chapter 31–Only Programs Were Intended for Unique Situations**

VR&E could have limited the use of Chapter 31–only programs; however, it failed to ensure that regional office staff were aware of the changes despite opportunities to highlight them in a 2017 procedural advisory and an update to the manual in 2018.

In November 2017, VR&E issued a procedural advisory to all VR&E staff to address the changes to the law regarding Chapter 31–only programs.<sup>25</sup> The advisory stated that flexibility is needed to cover the special needs of VR&E participants. As an example of an appropriate use of a Chapter 31–only program, the advisory suggested a reading program for a veteran who lost the ability to read due to a traumatic brain injury. The procedural advisory required that VRCs document if alternate GI Bill–approved programs were considered and why those programs were not suitable to meet the veterans’ needs.

In September 2018, VR&E updated its manual to address the changes to the law. The updated manual states that approving Chapter 31–only programs “is critical to provide individualized vocational rehabilitation services” for veterans “with special and complex needs.” No further guidance was provided on what constituted a special and complex need.

However, both the procedural advisory and updated manual did not include the requirement for a veteran-specific waiver each time a participant used a program not approved under the GI Bill.

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<sup>25</sup> Procedural Advisory 18-02, “Approval of Chapter 31 Only Facilities.”

## Most VR&E Regional Office Staff Did Not Receive Training on Chapter 31–Only Programs

The audit team determined that even though VR&E issued guidance, VR&E regional office staff were unaware of the limited intent of Chapter 31–only programs. The audit team interviewed six VR&E officers and 14 VRCs at 10 regional offices. These staff reported that they were not provided training on the use of Chapter 31–only programs. According to VR&E’s executive director, VRC training for new counselors does not include training on approval and use of Chapter 31–only programs. However, VA’s talent management system offers self-study training that covers Chapter 31–only facilities and training programs or courses from the manual. The VR&E deputy director confirmed that this training is not mandatory.

Some VR&E staff interviewed were unaware of Chapter 31–only programs. All VR&E staff the team interviewed reported that when selecting a program for a VR&E participant, they verify that the school or training program was approved in VBA’s system.<sup>26</sup> If approved, staff believed all VR&E participants could use the facility without any additional waivers or approvals. The team found no evidence in the sampled participants’ files that the VRCs determined the veterans had special or complex needs; the files also did not show that VRCs documented whether GI Bill–approved programs were considered and, if so, why those programs were not suitable to meet the participants’ needs.

The following examples show how VR&E staff were selecting these programs for participants who did not have clearly documented special and complex needs or failed to document that GI Bill–approved programs were considered.

### Example 1

*A veteran with a combined 100 percent service-connected disability rating for multiple conditions (flat foot, limitation of arm motion, limitation of knee flexion, tinnitus) was approved to attend a Chapter 31–only law school. The VRC noted that the functional limitations from his service-connected disabilities did not pose any significant restrictions on the veteran’s ability to prepare for suitable employment, and the VRC did not document the existence of special and complex needs that would have required the use of a Chapter 31–only program. The VRC also did not document whether GI Bill–approved programs were considered but not usable. The veteran had recently used GI Bill benefits to attend a GI Bill–approved school for his undergraduate prelaw degree.*

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<sup>26</sup> VBA’s Web Enabled Approval Management System (WEAMS) is used to store VA approval information for organizations offering training to veterans. VA central office personnel, education liaison representatives, and state approving agencies enter the approval information, which is viewed by VBA personnel (VRCs and veterans claims examiners) and public users.

## Example 2

*A veteran with a combined 20 percent service-connected disability rating for multiple conditions (foot pain, ankle strain, tinnitus) was approved to attend a Chapter 31–only program to obtain IT certificates. The VRC noted that although the veteran was 10 percent service-connected for tinnitus, the veteran did not report tinnitus as an impairment to employment. The VRC did not document the existence of special and complex needs that would have required the use of a Chapter 31–only program. The VRC also did not document whether GI Bill–approved programs were considered but not usable. The veteran graduated from Arizona State University (a GI Bill school) with a bachelor of science degree in computer information systems prior to approval for the Chapter 31–only program to obtain the IT certificates.*

## VR&E Staff Did Not Complete Compliance Surveys for Chapter 31–Only Programs

VR&E staff are not completing compliance surveys as required by law, which is also detailed in the VR&E manual.<sup>27</sup> In September 2018, VR&E updated its manual to require that VR&E regional office staff complete compliance surveys for all Chapter 31–only programs.<sup>28</sup> A VRC must visit all approved Chapter 31–only programs annually to ensure each facility’s continued compliance with the course and facility approval provisions outlined under federal regulations.<sup>29</sup> The manual states VR&E officers are responsible for reviewing and approving compliance surveys, which, once completed, should be documented in the VR&E program division’s centralized folder on a server at the regional office.

The audit team requested supporting documentation, including compliance surveys, for each of the Chapter 31–only programs used by the 52 participants in the sample, which included 17 different programs across 23 regional offices. VR&E could not provide compliance surveys for any of these schools or programs.

The audit team interviewed six VR&E officers and 14 VRCs at 10 regional offices; all the VR&E officers, who are responsible for reviewing and approving compliance surveys according to the manual, were unaware of the compliance survey requirement, as were all the VRCs.

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<sup>27</sup> 38 U.S.C. § 3693; VA Manual 28C, “Chapter 31 Only Facilities and Training Programs or Courses,” chap. IV.C.1 in *Veteran Readiness and Employment Manual*, para. 1.12.

<sup>28</sup> According to 38 U.S.C. § 3693, VBA is only required to complete compliance surveys for educational institutions for programs with 20 or more veterans attending. However, the VR&E manual (M28C, Part IV) requires compliance surveys for all approved Chapter 31–only programs.

<sup>29</sup> 38 C.F.R. §§ 21.290–21.299; VA Manual 28C, “Chapter 31 Only Facilities and Training Programs or Courses,” chap. IV.C.1 in *Veteran Readiness and Employment Manual*, para. 1.12.

VR&E staff reported that they did not receive training on compliance surveys and were not aware the requirement was in the manual.

## **VR&E Did Not Implement Controls and Provide Oversight of Chapter 31–Only Programs to Limit Their Use**

According to the VR&E executive director, the incorrect interpretation of the law and the relatively limited use of Chapter 31–only programs (as compared to GI Bill use) contributed to the lack of control and monitoring activities for the program.<sup>30</sup> However, based upon the audit results, the team determined that while the interpretation issues contributed to VR&E not fully understanding the potential risks associated with the use of Chapter 31–only programs, VR&E also failed to develop and implement a functional system of internal controls that would have limited the use of Chapter 31–only programs even further.<sup>31</sup>

The only control activity in place is a requirement for VR&E’s quality assurance program, while conducting its site visits, to check for Chapter 31–only facility information maintained by the regional offices. VR&E quality assurance site visits are an oversight function conducted in the VR&E division of each regional office to ensure services provided are consistent with laws, regulations, manuals, and other directives. According to VR&E quality assurance, this activity consists of staff verifying the existence of a centralized server folder where all documentation on Chapter 31–only programs is required to be stored. According to the manual, the folder must contain all documentation used to assign a facility code for Chapter 31–only programs, including requests for approval, completed checklists, site visit reports, and annual compliance survey reports.<sup>32</sup>

VR&E quality assurance reported that during fiscal years 2021 and 2022, 41 percent of the 22 regional offices visited did not have a centralized folder for Chapter 31–only programs, but 59 percent of those offices did. However, when the team requested supporting documentation for the Chapter 31–only programs attended by the 52 participants in its sample, VR&E was unable to provide the audit team with any of the requested documentation that is required to be maintained in the centralized folders. According to VR&E leaders and some VR&E officers that the audit team interviewed, the documentation was not available because all Chapter 31–only programs used by VR&E participants in the sample were approved prior to the law change and subsequent manual updates. However, between September 2018 to February 2022, annual compliance survey reports for these Chapter 31–only programs were required per the manual and therefore should have been completed. As previously discussed, compliance surveys were not

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<sup>30</sup> Chapter 31–only programs account for about 3 percent of all programs used by VR&E participants.

<sup>31</sup> Government Accountability Office, *Standards for Internal Control in the Federal Government*.

<sup>32</sup> A facility code is a unique code that identifies facilities approved for payment of education or training under all VA education benefits, including Chapter 31. Approval information is stored in WEAMS.

being completed and VR&E staff were not aware they were required. The audit team reviewed 18 site visit reports VR&E quality assurance completed, and the team found no mention of missing compliance surveys. Had VR&E properly implemented this control, VR&E quality assurance likely would have found that compliance surveys were not being completed and could have taken corrective action. The audit team concluded that VR&E quality assurance did not review the contents of the centralized folders during site visits.

Additionally, the audit team requested and received documentation for eight Chapter 31–only programs approved after the manual updates. VR&E was unable to provide documentation for five of the Chapter 31–only programs, and the documentation provided for the remaining three was incomplete and did not meet the manual requirements. For example, the missing or incomplete required documentation included requests for approval, site visit reports, and a statement of assurance of compliance with equal opportunity laws. As a result, the audit team determined that the very limited monitoring established by VR&E was ineffective to ensure regional offices established the required folders and would not provide reasonable assurance that GI Bill–approved programs are used to the maximum extent possible.

### **VR&E’s Failure to Correctly Implement the Law and Provide Proper Oversight Resulted in Technically Improper Payments**

VR&E regional office staff told the audit team that, generally, Chapter 31–only programs were not needed because alternative GI Bill–approved programs were available. Yet, from March 2021 through February 2022, VR&E sent over 1,600 VR&E participants, at a total cost of over \$13 million, to Chapter 31–only programs without waivers or documentation justifying the need for each participant to attend. The audit team determined that during this one-year period, regional office staff use of Chapter 31–only programs varied significantly from sending zero to 122 participants to these types of programs. In addition, the team identified examples of GI Bill–approved programs that could have been used instead of Chapter 31–only programs. Therefore, the team determined that despite the misinterpretation of the law and the lack of internal controls, regional offices could have placed participants in GI Bill–approved programs.

Had the law or VR&E’s own guidance been properly implemented, the use of Chapter 31–only programs would have been limited to only participants with special and complex needs that could not be met by an approved GI Bill program. VR&E’s failures resulted in more than

\$13 million in technically improper payments to Chapter 31–only programs that likely would not have received those funds had the law been followed.<sup>33</sup>

## **VR&E Took Actions to Address Its Use of Chapter 31–Only Programs in Response to the OIG’s Findings**

After the OIG presented its findings, VR&E updated and issued guidance to staff on the use of Chapter 31–only programs.<sup>34</sup> The updated guidance stated that VRCs must use approved GI Bill programs to the maximum extent possible and approval for use of a Chapter 31–only program must be requested for each participant attending the facility. New rehabilitation plans must not be developed using a Chapter 31–only program unless the request for approval has been submitted and approved by the VR&E executive director.

In addition, VR&E started developing new procedures for approving Chapter 31–only programs for individual veterans. Other changes being developed include

- ensuring that all required documents are filed in each veteran’s case record and not a centralized file,
- reviewing Chapter 31–only documentation in monthly quality assurance case reviews conducted by the quality assurance compliance team once clarification is added to the VR&E manual,
- developing additional interim guidance for release along with updated appendixes for use when seeking approval for a Chapter 31–only program,
- developing a mandatory training course on the approval and use of Chapter 31–only programs, and
- revising the VR&E manual to eliminate the term “special and complex needs” and replacing it with requirements that VRCs make determinations on a case-by-case basis that clearly explain the necessity for selecting a Chapter 31–only program as it relates to the veteran’s rehabilitation needs or disability condition(s).

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<sup>33</sup> Office of Management and Budget, “Reviewing the Necessity of Statute and Regulation for Technically Improper Payments,” sec. I.A.2.a in app. C to OMB Circular A-123. Technically improper payments are those in which a payment was made to the correct recipient for the correct amount, but the payment process failed to adhere to all applicable statutes and regulations. Because VR&E operated under the inaccurate assumption of approving the program instead of issuing individual veteran waivers, these Chapter 31–only programs were the correct recipient. In such instances, there is no dollar amount that needs to be recovered.

<sup>34</sup> VR&E released interim procedures to staff on December 14, 2022. Those interim procedures were further updated in an email sent to staff on February 2, 2023.

## Conclusion

If VR&E properly implements the waiver process outlined in the law and improves oversight activities, it would ensure that VRCs use GI Bill–approved programs to the maximum extent possible. The waiver would significantly reduce the number of VR&E participants attending Chapter 31–only programs and provide VR&E reasonable assurance that VRCs are only sending veterans to these programs when the unique needs of the veteran cannot be met by a GI Bill–approved program.

## Recommendations 1–5

The OIG made the following recommendations to the under secretary for benefits:

1. Develop and implement procedures to ensure the Veteran Readiness and Employment Service has properly researched and clearly understands changes to the laws and regulations that govern Chapter 31–only schools and training programs.
2. Review the existing manual requirements for waivers and coordinate with appropriate officials to ensure amendments to 38 United States Code § 3104(b) have been properly implemented and included in the manual.
3. Train all appropriate Veteran Readiness and Employment Service regional office staff to ensure waivers are obtained for each veteran with the required documentation in accordance with the manual before approval to attend a Chapter 31–only school or training program.
4. Coordinate with appropriate officials to determine whether the existing manual guidance for compliance surveys meets the requirements of 38 United States Code § 3693 as it applies to Chapter 31–only schools and training programs, and if necessary, update the manual and train appropriate Veteran Readiness and Employment Service regional office staff accordingly.
5. Develop and implement monitoring processes—to include veteran waivers, compliance surveys, and completeness of electronic folders—to provide Veteran Readiness and Employment Service reasonable assurance that Chapter 31–only schools and training programs are used as intended by law and regulations.

## Management Comments

The under secretary for benefits concurred with and provided action plans for all recommendations. See appendix C for the full text of the under secretary’s comments.

For recommendation 1, VR&E developed and implemented standard operating procedures in May 2023 for researching laws and changes to laws and regulations. VBA requested closure of this recommendation.



VR&E responded to recommendation 2 by reviewing manual requirements for waivers and coordinating with OGC regarding the legal interpretation of 38 United States Code § 3104(b). VR&E revised its manual in February 2023 in accordance with OGC's guidance. VBA requested closure of this recommendation.

To address recommendation 3, VR&E provided training to staff and will develop special training for applicable staff to ensure waivers are obtained for each veteran to attend Chapter 31-only schools and training programs in accordance with the manual. The target completion date for these planned actions is December 31, 2023.

For recommendation 4, VR&E sought and obtained guidance from OGC regarding the existing manual requirements for compliance surveys. VR&E believes that the manual requirements that require annual compliance surveys meets the requirements of 38 United States Code § 3693. VR&E will conduct training with staff on compliance surveys. The target completion date for this planned action is December 31, 2023.

In response to recommendation 5, VR&E expanded reviews of the program's use by regional offices, discussed ensuring training for VR&E staff, created a review tool to assist in site visits, and adjusted protocols to ensure electronic folders are complete and include waivers and compliance surveys. In June 2023, VBA implemented a monitoring process to ensure that field offices issue individual veterans waivers to attend Chapter 31-only programs and that the VR&E director approves the waivers. As noted in the response to recommendation 5, the waivers will be monitored. Further, VR&E and VBA's Education Service plan to deactivate Chapter 31-only program codes from the Web Enabled Approval Management System. VBA requested closure of this recommendation.

The under secretary for benefits also provided one technical comment, which the OIG addressed below. This VBA comment is also found in appendix C.

## **OIG Response**

The corrective action plans are responsive to the intent of the recommendations. The OIG concurs with VBA's request for closure of recommendations 1 and 2 based on the documentation provided. For recommendation 5, however, the OIG will need additional documentation and clarification of the monitoring process implemented in June 2023. The OIG will monitor VBA's implementation of recommendations 3, 4, and 5 and will close them when it receives sufficient evidence demonstrating progress in addressing the recommendations.

The audit team did not make the change that VBA requested in its technical comment. VBA requested that OIG delete this sentence: "VR&E has also explained the appropriate use of a Chapter 31-only program would be a reading program for a veteran who lost the ability to read due to a traumatic brain injury." VBA stated that "reading programs are considered specialized services under 38 U.S.C. [United States Code] 3104(a)(14) to assist in overcoming the effects of

a disability.” These types of programs are different from Chapter 31–only programs that are used to provide training and education.

The sentence VBA requested be removed was found in Procedural Advisory 18-02, “Approval of Chapter 31 Only Facilities,” dated November 21, 2017. This procedural advisory was written by VR&E and issued to all VR&E staff to address the changes to the law regarding Chapter 31–only programs. The advisory stated that flexibility is needed to cover the special needs of VR&E participants and provided this sentence as an example, which is the only example VR&E gave to explain the use of Chapter 31–only programs to staff. The OIG kept this sentence in the report because the procedural advisory example was VR&E’s interpretation of Chapter 31–only programs at the time of the law change, and it was still the only example of an applicable need provided to staff.

## Appendix A: Scope and Methodology

### Scope

The audit team conducted its work from August 2022 through July 2023. The team focused on a universe of 1,635 Veteran Readiness and Employment (VR&E) participants in Chapter 31–only programs from March 1, 2021, to February 28, 2022.

### Methodology

To accomplish the review objectives, the audit team evaluated laws and regulations specific to the use of Chapter 31–only programs. The team conducted a virtual site visit at the Seattle regional office to evaluate processing of VR&E schools and training programs. The team also conducted interviews with VR&E officers and vocational rehabilitation counselors (VRCs) at nine additional regional offices.

The team selected a random sample of 80 VR&E participants enrolled in Chapter 31–only programs. While reviewing the sample, the team determined that 28 of the 80 VR&E participants were out-of-scope. The Chapter 31–only programs associated with these participants were not schools or training programs and instead were vendors such as bookstores and on-the-job training providers that had been provided Chapter 31–only facility codes. For reporting purposes, the team removed all participants associated with Chapter 31–only programs identified as out-of-scope from the sample universe.

The team used records from Corporate Waco-Indianapolis-Newark-Roanoke-Seattle (CWINRS), the Veterans Benefits Management System, and the Web Enabled Approval Management System (WEAMS) to review sampled VR&E participants to assess whether VRCs approved Chapter 31–only programs in accordance with applicable laws, regulations, manuals, policies, procedures, and guidelines.<sup>35</sup> The team reviewed records to determine whether the use of Montgomery and Post 9/11 GI Bill schools were considered. The team also determined whether the approval process for Chapter 31–only programs was followed, including whether VR&E issued veteran-specific waivers and there was evidence of a special and complex need. Finally, the team evaluated whether compliance surveys of Chapter 31–only programs were completed as required by law and the VR&E manual.

### Internal Controls

The VA Office of Inspector General (OIG) team determined that internal controls were significant to the audit objective and assessed those that were relevant. This included an assessment of the five internal control components: control environment, risk assessment, control

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<sup>35</sup> The CWINRS system is the electronic case application VR&E uses to manage caseloads and program costs.

activities, information and communication, and monitoring.<sup>36</sup> The team identified the following three components and their associated principles as significant to the audit objective and identified internal control weaknesses and proposed recommendations to address the causes of the findings.<sup>37</sup>

- Component 1: Control Environment
  - Principle 2: The oversight body should oversee the entity’s internal control system.
  - Principle 3: Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity’s objective.
  - Principle 5: Management should evaluate performance and hold individuals accountable for their internal control responsibilities.
  
- Component 3: Control Activities
  - Principle 10: Management should design control activities to achieve objectives and respond to risks.
  - Principle 11: Management should design the entity’s information system and related control activities to achieve objectives and respond to risks.
  - Principle 12: Management should implement control activities through polices.
  
- Component 5: Monitoring Activities
  - Principle 16: Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.
  - Principle 17: Management should remediate identified internal control deficiencies on a timely basis.

## **Fraud Assessment**

The audit team assessed the risk that fraud and noncompliance with provisions of laws and regulations, significant within the context of the audit objectives, could occur during this audit. The team exercised due diligence in staying alert to any fraud indicators by

- completing the fraud indicators and assessment checklist,
- soliciting OIG’s Office of Investigations for indicators, and
- reviewing OIG’s hotline for reports of fraud in the audit area.

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<sup>36</sup> Government Accountability Office, *Standards for Internal Control in the Federal Government*.

<sup>37</sup> Since this audit was limited to the internal control components and underlying principles identified, it may not have disclosed all internal control deficiencies that may have existed at the time of the audit.

OIG did not identify any instances of fraud during this audit.

## **Data Reliability**

The team obtained computer-processed data from CWINRS, the Invoice Payment and Processing System, and WEAMS. To test for reliability, the team searched information from key fields in the data and verified the information in the various source systems, such as educational institution name, address, and amount paid. Testing of the data disclosed that it was sufficiently reliable for the audit objective.

## **Government Standards**

The OIG conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that the OIG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on audit objectives. The OIG believes the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

## Appendix B: Monetary Benefits in Accordance with Inspector General Act Amendments

| Recommendation | Explanation of Benefits  | Better Use of Funds | Questioned Costs <sup>38</sup> |
|----------------|--|---------------------|--------------------------------|
| 1-5            | Payments made to Chapter 31-only programs without waivers or documentation over one year if action is not taken to ensure VR&E is limiting the use of these programs |                     | \$13,000,000 <sup>39</sup>     |
|                | <b>Total</b>   |                     | <b>\$13,000,000</b>            |

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<sup>38</sup> The OIG questions costs when VA action or inaction (such as spending or failure to fully compensate eligible beneficiaries) is determined by the OIG to violate a provision of law, regulation, contract, grant, cooperative agreement, or other agreement; are not supported by adequate documentation; or are expended for purposes that are unnecessary or unreasonable under governing authorities. Within questioned costs, the OIG must, as required by section 405 of the Inspector General Act, report unsupported costs. Unsupported costs are those determined by the OIG to lack adequate documentation at the time of the audit. Of the more than \$13 million in questioned costs, \$13 million were unsupported costs.

<sup>39</sup> Office of Management and Budget, “Reviewing the Necessity of Statute and Regulation for Technically Improper Payments,” sec. I.A.2.a in app. C to OMB Circular A-123. The more than \$13 million would be considered technically improper payments because the amounts paid to Chapter 31-only programs likely would have been paid to a GI Bill program had the laws been followed. Technically improper payments are those in which a payment was made to the correct recipient for the correct amount, but the payment process failed to adhere to all applicable statutes and regulations. Because VR&E operated under the inaccurate assumption of approving the program instead of issuing individual veteran waivers, these Chapter 31-only programs were the correct recipient. In such instances, there is no dollar amount that needs to be recovered.

## Appendix C: VA Management Comments, Under Secretary for Benefits

Date: August 18, 2023

From: Under Secretary for Benefits (20)

Subj: Office of Inspector General (OIG) Draft Report - Staff Did Not Limit the Use of Schools and  
Training Programs That Were Only Approved for the Veteran Readiness and Employment Program  
[Project No. 2022-02293-AE-0099]

(VIEWS 10632057)

To: Assistant Inspector General for Audits and Evaluations (52)

1. Thank you for the opportunity to review and comment on the OIG draft report: Staff Did Not Limit the  
Use of Schools and Training Programs That Were Only Approved for the Veteran Readiness and  
Employment Program. The Veterans Benefits Administration (VBA) provides the attached response to the  
draft report.

*The OIG removed point of contact information prior to publication.*

[original signed by]

Joshua Jacobs

Attachments

**The Veterans Benefits Administration (VBA) concurs with OIG's findings and provides the following technical comment:**

**Page 2, paragraph 2, 5<sup>TH</sup> sentence:**

*“VR&E has also explained the appropriate use of a Chapter 31-only program would be a reading program for a veteran who lost the ability to read due to as traumatic brain injury.”*

**VBA Comment:** VBA requests OIG delete this sentence. Reading programs are considered specialized services under 38 U.S.C. 3104(a)(14) to assist in overcoming the effects of a disability. These types of programs are different therefore, that example has been removed from M28C.IV.C.1.04.a. In addition, these programs do not fall within the scope of a “course of education or training” for the purposes of chapter 30 and chapter 33 in accordance with 38 U.S.C. 3104(b).

**The following comments are submitted in response to the recommendations in the OIG draft report:**

**Recommendation 1: Develop and implement procedures to ensure the Veteran Readiness and Employment Service has properly researched and clearly understands changes to the laws and regulations that govern Chapter 31–only schools and training programs.**

**VBA Response:** Concur. VBA's Veteran Readiness and Employment (VR&E) Service developed and on May 1, 2023, implemented standard operating procedures (SOPs) for researching laws and changes to laws and regulations. All staff on the VR&E Policy Team have reviewed and become familiar with these operating procedures. The SOPs are attached (Attachments A and B). While the SOPs guide employees in identifying and understanding applicable laws and regulations, the Office of General Counsel (OGC) is responsible for interpreting statutes and regulations. See 38 C.F.R. §§ 14.500, 14.502. Consistent with those regulations, the SOP advises VR&E staff to seek OGC guidance when needed.

VBA requests closure of this recommendation.

**Recommendation 2: Review the existing manual requirements for waivers and coordinate with appropriate officials to ensure amendments to 38 United States Code § 3104(b) have been properly implemented and included in the manual.**

**VBA Response:** Concur. VR&E reviewed the existing manual requirements for waivers and coordinated with the Office of General Counsel regarding the legal interpretation of 38 U.S.C. § 3104(b). The OGC opinion is attached (Attachment C). VR&E revised its manual in accordance with OGC's guidance on February 15, 2023 (M28C.IV.C.1.04.a).

VBA requests closure of this recommendation.

**Recommendation 3: Train all appropriate Veteran Readiness and Employment Service regional office staff to ensure waivers are obtained for each veteran with the required documentation in accordance with the manual before approval to attend a Chapter 31–only school or training program.**

**VBA Response:** Concur. VR&E provided training to VR&E Officers on July 6, 2023, and to VR&E Counselors on July 10, 2023. VR&E will also develop special training for all appropriate staff to ensure waivers are obtained for each Veteran with the required documentation in accordance with the manual before approval to attend a Chapter 31-only school or training program. This training will be delivered by December 31, 2023.



**Target Completion Date:** December 31, 2023

**Recommendation 4:** Coordinate with appropriate officials to determine whether the existing manual guidance for compliance surveys meets the requirements of 38 United States Code § 3693 as it applies to Chapter 31–only school or training programs, and if necessary, update the manual and train Veteran Readiness and Employment Service regional office staff accordingly.

**VBA Response:** Concur. VR&E sought guidance from the Office of General Counsel (OGC) to determine if the requirement of compliance surveys meets the requirements of 38 U.S.C. 3693 as it applies to Chapter 31–only school or training programs. OGC opined that for educational institutions and training establishments offering one or more courses to 20 or more Veterans, VA would be required to conduct a compliance survey. OGC also opined that the absence of statutorily mandated compliance does not mean that VR&E does not or should not have any oversight obligations. The language in the procedure manual for the VR&E business line (M28C.IV.C.1, Courses of Education or Training and Facilities), which was added on September 7, 2018, requires that an annual compliance survey must be completed, regardless of the number of Veterans attending. VR&E therefore believes that the manual meets these requirements. The OGC opinion is attached (Attachment C). VR&E will conduct training with staff on compliance surveys by December 31, 2023.

**Target Completion Date:** December 31, 2023

**Recommendation 5:** Develop and implement monitoring processes—to include veteran waivers, compliance surveys, and completeness of electronic folders—to provide Veteran Readiness and Employment Service reasonable assurance that Chapter 31–only schools and training programs are used as intended by law and regulations.

**VBA Response:** Concur. The Rehabilitation Service Delivery Accuracy (RSDA) Quality Assurance (QA) review instrument examines whether concurrence was properly obtained for any Chapter 31-only program Veterans may attend. The review instrument currently assesses whether the services being provided are appropriate and meet Veteran needs (see Attachment D). The Fiscal Accuracy (FA) QA review instrument also examines whether Chapter 31-only courses were appropriately paid. This will also ensure proper concurrence was obtained, since concurrence is required before the facility can be paid. The QA review instruments have been updated (see Attachment E) and these changes will be reflected in QA Web during the September 2023 coordinated installation.

The VR&E Oversight Team has expanded the review of the Regional Offices' (RO) use of Chapter 31-only programs during site visits. VR&E completed an audit of the cases reviewed by OIG. The findings were consistent with those found by OIG. A Special Review Instrument (see Attachment F) was created and is now used in site visits when a Chapter 31-only program is being used by the RO. The Protocol for Site Visits (see Attachment G) indicates the Chapter 31-only programs will be reviewed. The Oversight Team discussed the requirements during a staff meeting to ensure all Oversight Specialists have consistent understanding of the requirements. During site visits, the VR&E Oversight Team will ensure the completeness of the electronic folders, including Veteran waivers and compliance surveys.

In June 2023, VBA developed and implemented a monitoring process for all Chapter 31-only schools and training programs. Field stations must provide an accounting of current students attending a Chapter 31-only school. Guidance states Veterans attending prior to December 14, 2022, may continue with the reasonable expectation the courses will be completed as soon as possible. Field stations must submit an individual waiver request prior to developing a formal individual rehabilitation plan for the Chapter 31-only school or training program. The waiver is reviewed and must be approved by the Executive Director of VR&E. The individual waiver is monitored and maintained in a centralized electronic

folder within VR&E and Education Service provides a training facility code for use by the individual Veteran. Meanwhile, VR&E and Education Service will deactivate all Chapter 31-only schools and programs codes from Web Enabled Approval Management System (WEAMS).

VBA requests closure of this recommendation.

*For accessibility, the original format of this appendix has been modified  
to comply with Section 508 of the Rehabilitation Act of 1973, as amended.*

## OIG Contact and Staff Acknowledgments

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| <b>Contact</b> | For more information about this report, please contact the Office of Inspector General at (202) 461-4720. |
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