

Wounded Warrior Project  
4899 Belfort Road, Suite 300  
Jacksonville, Florida 32256  
☎ 904.296.7350  
✉ 904.296.7347



**WOUNDED WARRIOR PROJECT  
STATEMENT FOR THE RECORD**

**COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY  
U.S. HOUSE OF REPRESENTATIVES**

***“VETERAN READINESS AND EMPLOYMENT: IS VA SUCCEEDING?”***

**September 15, 2022**

Chairman Levin, Ranking Member Moore, and distinguished members of the House Committee on Veterans' Affairs Subcommittee on Economic Opportunity (EO) – thank you for inviting Wounded Warrior Project (WWP) to submit this written statement for the record of today's hearing on the Veteran Readiness and Employment (VR&E) program. Ensuring that Department of Veterans Affairs (VA) programs designed for wounded, ill, and injured veterans have the staff, resources, and vision to reach their full potential is a critical component of our mission to honor and empower wounded warriors and we are pleased to help inform the Subcommittee's exploration of this important employment and education program.

Wounded Warrior Project provides more than 20 life-changing programs and services to over 200,000 registered post-9/11 warriors and their family members. As part of our goal to connect, serve, and empower this community, we continually engage with those we serve to capture an informed assessment of current challenges and opportunities. Based on insights gathered in our most recent Annual Warrior Survey<sup>1</sup>, we can attest that many post-9/11 wounded veterans are facing significant financial challenges. Forty-two percent of responding warriors indicated not having enough money to make ends meet in the past 12 months. In addition, 13% of warriors reported being unemployed at the time of the survey (summer 2021), compared to 5% of the U.S. general population.

To address this challenge, WWP's Warriors to Work program provides warriors and their family members with the resources and assistance they need to be successful in the civilian workforce. Program participants learn the skills necessary to find meaningful employment, live financially resilient lives, and be empowered to reach their highest career ambitions. VA's VR&E program is a critical complementary offering that is helping reduce veteran unemployment and underemployment – a key focus of WWP's advocacy on behalf of those we serve. The VR&E program aids with job training, employment, resume development, and job-seeking skills coaching for veterans whose service-connected disabilities make it hard to prepare for, obtain, or maintain employment.

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## ***Increasing Utilization of the Veteran Readiness and Employment Program***

The VR&E program has proven to be an invaluable asset in VA’s employment and educational portfolio. Our 2021 Annual Warrior Survey showed that warriors utilized two primary VA benefits to pursue their educational goals: the Post-9/11 GI Bill and VR&E. While more than half of respondents reported using the Post-9/11 GI Bill, a meaningful number of warriors – one in five (20.2%) – indicated that they have used the VR&E program. Research into comparable public offerings suggests that VR&E participation can help individuals make significant financial progress and create wider social impact. Specifically, Vocational Rehabilitation Agencies for disabled Americans are present in the state governments throughout the United States and have proven to be an effective resource for those looking to resume gainful employment. The Social Security Administration notes that for every one dollar spent on these programs, ten dollars in tax revenue are generated from the re-employed.<sup>ii</sup> Similarly, a more widely utilized VR&E’s program can help create financial security for individual veterans and the wider community.

Despite these positive indicators of value, warriors are being denied access to VR&E due to arbitrary delimiting dates that do not consider a current disability’s effect on efforts to seek or maintain gainful employment. Under current regulations, a veteran is only eligible for VR&E for 12 years from the date of their military discharge or the date they received a compensable disability evaluation.<sup>iii</sup> The regulations do not consider whether a veteran’s condition deteriorates after the initial rating or whether additional service-connected conditions have been recognized. This issue was partially addressed by the enactment of the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020*,<sup>iv</sup> which removed this delimiting date for all veterans who were discharged after January 1, 2013. While WWP appreciates Congress eliminating this timeline for warriors discharged after 2013, we note that the current law does not extend help to any veteran discharged before 2010 whose delimiting date has already passed. WWP asks that the 12-year delimiting date be removed for all veterans. VA already has the authority to waive the 12-year rule on a case-by-case basis if the veteran is determined to have a “serious employment handicap.”<sup>v</sup> However, the standards used to make that determination are not clear and, without specific guidance to follow, a Vocational Rehabilitation Counselor (VRC) is ultimately left to make a subjective decision whether to grant the veteran eligibility to the program. Wider and more predictable participation should be the goal.

### ***Uniform Decision Making for Veteran Rehabilitation Counselors (VRC)***

Veterans would similarly benefit from additional clarity on eligibility requirements. Under current statute, ambiguously worded eligibility requirements such as “employment handicap” and “serious employment handicap” create an initial hurdle for those seeking entry to the program.

- “Employment handicap” means an impairment, resulting in substantial part from a disability described in [38 U.S.C. § 3102(a)(1)(A)], of a veteran’s ability to prepare for, obtain, or retain employment consistent with such veteran’s abilities, aptitudes, and interests.<sup>vi</sup>

- “Serious employment handicap” means a significant impairment, resulting in substantial part from a service-connected disability rated at 10 percent or more, of a veteran’s ability to prepare for, obtain, or retain employment consistent with such veteran’s abilities, aptitudes, and interests.<sup>vii</sup>

Once the initial eligibility requirements have been confirmed, an applicant completes a comprehensive evaluation with a VRC who will then determine if they are entitled to VR&E services. To be entitled to these services a veteran would need to have a service-connected disability rating of 20% or more and an employment handicap (EH) or a rating of 10% and a *serious* employment handicap (SEH).

Using the above cited definitions, the only difference<sup>1</sup> between an EH and an SEH is the word “significant” in the definition. Merriam-Webster defines the word “significant” as “having or likely to have influence or effect” and “of a noticeably measurable amount.”<sup>viii</sup> This distinction does not provide a roadmap to reaching quantifiable and consistent entitlement decisions. These ambiguously worded definitions leave discretion to VRCs to determine what is an “employment handicap” versus a “serious employment handicap” and possibly to deprive a veteran of much needed services in one case and allowing services to a veteran, in an identical situation, in another. In the case of a veteran with a 10% rating or a veteran who needs their eligibility extended, the word “significant,” and how it is defined, becomes critically important to whether they will be allowed benefits through VR&E. WWP benefits service officers have noted the inconsistency of some decisions when applying the employment handicap and serious employment handicap definitions. 38 C.F.R. § 21.52, lists nine factors used for determining if a significant vocational impairment exists. These include the number of disabling conditions, the severity of disabling conditions, the existence of neuropsychiatric conditions, and “other factors that relate to preparing for, obtaining, or keeping employment.” It does not however list whether most of those factors define a “significant” impairment or whether having any of those makes the impairment “significant.” It appears they are listed as factors to consider in development but not in decision making. Additionally, our benefits counselors note that warriors receive Adverse Decision Letters that do not state whether or how any of these factors were considered. In such instances, the VRC only indicates the absence of a SEH. WWP would like to see detailed data from VR&E of how many veterans are being denied from each track, the reason behind the denial, and if there were additional services offered to the veteran (addressed further in the topic below). In addition, discussions should be had to determine if there is a better definition for eligibility determinations that is less subjective but that does not make this program more exclusive.

### ***Informal Notification of Disallowance***

The discussion above is closely associated with the inconsistent and uninformative quality of many VR&E decision letters. According to VA’s M28C (the Veteran Readiness and Employment Manual), when a veteran’s VR&E application is denied, there is a specific process to notify the veteran and direct them to helpful follow-up resources. First, if the claimant is determined to be ineligible for VR&E services due to a finding of no employment handicap or

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<sup>1</sup> The service connection requirement of 10% is incorporated by reference to 38 U.S.C. § 3102 in the EH definition.

serious employment handicap, the claim is disallowed and discontinued in the system on the date of the decision. The claimant is subsequently notified of the decision by a Chapter 31 Adverse Decision Letter with VA Form (VAF) 20-0998 (“Your Right to Seek Further Review of Our Decision”).

When entitlement to VR&E services is denied, a VRC is required to explore alternative resources with the claimant, such as job placement assistance through the Disabled Veteran’s Outreach Program (DVOP) or Local Veterans’ Employment Representative (LVER) staff, educational assistance through other VA programs, educational assistance through grant and scholarship programs, and rehabilitation or related assistance through State agencies. The results of the exploration and referral must be documented. Nevertheless, warriors have attested to denials coming over the phone or in person without an additional letter or “hard copy” notice that a denial has occurred. Even when letters have been received, they do not consistently contain the information needed to explain why the veteran was denied and how to pursue an appeal.

It should be noted that we hear from our benefits counselors in the field that many, if not most, of the VRCs denials are justified and that they are reaching appropriate conclusions. However, far too often, we have heard of veterans coming to WWP and asking what can be done only to be told that they first must get a decision in writing so that they can start the appeals process. Congress can help alleviate this problem by ensuring that VA consistently adheres to its own policies on what information must be included in VR&E decision letters.

### ***VR&E Self-Employment Track***

The VR&E program’s mission is to provide job training and related services “to enable veterans with service-connected disabilities to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment.”<sup>ix</sup> In many cases, especially with veterans whose primary disabilities concern their mental health, self-employment is the most holistic approach to ensure that the veteran not only succeeds in their rehabilitation but thrives.

Currently, there are five tracks through VR&E that an applicant would be assigned to based on the veteran’s objective and services needed. Those tracks include:

- Reemployment Track, for veterans who wish to return to work with their previous employers
- Rapid Access to Employment Track, for veterans who already have the skills necessary to compete in the job market in suitable occupations
- Independent Living Services Track, for veterans who may not be able to work immediately and need additional rehabilitation services to enable them to live more independently
- Employment through Long-Term Services Track, that prepares veterans for suitable employment through classroom courses, on-the-job training, apprenticeships, internships, or other workplace preparation programs
- Self-Employment Track, for veterans with the most severe service-connected disabilities, as determined by VA, and may be eligible for training and assistance to

become self-employed. VA provides management training, license fees, equipment, supplies, materials, and other vocational services to such veterans if VA determines that they have viable business plans

In our most recent Annual Warrior Survey, a majority of respondents (55.4%) who reported using VR&E were enrolled in the Employment through Long-Term Services Track. In contrast, the least frequently cited option was the Self-Employment Track (8.4%). Additional data also reveals that the Self-Employment Track appears to be an extremely under-utilized program particularly for veterans who are looking for a secure and stable work environment. The VR&E Longitudinal Studies for Fiscal Years (FY) 2018, 2019, and 2020 show that 0% of the enrollees from all three cohorts were in the self-employment track.<sup>x</sup> Among the veterans across all tracks who successfully completed employment rehabilitation plans in FY 2020, 0.1% reported being self-employed and the numbers given to us by VR&E in our request for information show that currently 208 veterans are enrolled in this track. WWP believes that this is a track that could be used to help build not only the service-disabled veteran presence in the small business community but also to increase the pool of applicants willing to contract for the government as a Service-Disabled Veteran Owned Small Business (SDVOSB). In July 2022, the Biden-Harris Administration announced its goal of increasing the share of federal procurement dollars to socially disadvantaged businesses by 50% by 2025 and increasing the number of contracts for these firms that include SDVOSBs.<sup>xi</sup> This leaves a pool of \$25 billion dollars, or 4.41 percent of all federal contracting dollars, set aside for SDVOSBs.

To further bolster this point, WWP warriors have expressed a desire to use their skills and expertise to become entrepreneurs. Our 2018 Annual Warrior Survey revealed that, among all warriors, 38 percent had a desire to own their own business. We believe that these warriors are not connecting with the Self-Employment track for two reasons. First, many veterans are likely unaware of this track. To address this, we believe that VRCs should be trained on how best to direct veterans who have expressed a desire for entrepreneurship to this program and on how to help the veteran apply for the Small Business Administration's (SBA) Mentor-Protégé Program. This program helps assist with financial assistance, education on strategic planning, and other services.

Second, this track is only available to "veterans with the most severe service-connected disabilities who require homebound training or self-employment" [38 U.S.C. §3104 (a)(12)]. We believe one solution would be to expand the eligibility criteria for the Self-Employment Track to include all VR&E eligible veterans. To this end, we thank Chairman Levin for introducing the *Veteran Eligibility for Necessities to Undertake Rewarding Entrepreneurship Act* or the *VENTURE Act* (H.R. 7369). This bill would expand eligibility criteria for this track to include not just the most severely disabled but any eligible veteran who would be better suited working for themselves due to their service-connected conditions. For example, if a veteran who is better suited working solitarily due to a mental health condition or has mobility issues that make it difficult to commute and would like to start a business that contracts IT solutions from the comfort of their own specially adapted home, VR&E should make every effort to ensure that the warrior has the opportunity to succeed. This bill would help more veterans do just that. The Congressional Budget Office has estimated that this legislation would not significantly affect direct spending over the next ten years, and we urge Congress to move this bill forward.

## *Conclusion*

Wounded Warrior Project once again extends our thanks to the Subcommittee for their continued dedication to our nation's veterans. We are honored to contribute our voice to this important conversation and look forward to finding ways to ensure that those who served this country are provided with the best service and support when pursuing the benefits they have earned. As your partner in advocating for these and other critical issues, we stand ready to assist and look forward to our continued collaboration.

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<sup>i</sup> The 2021 Annual Warrior Survey and additional research materials are available for review and download at <https://www.woundedwarriorproject.org/mission/annual-warrior-survey>.

<sup>ii</sup> Schimmel Hyde, Jody and Paul O'Leary. 2018. "Social Security Administration Payments to State Vocational Rehabilitation Agencies for Disability Program Beneficiaries Who Work: Evidence from Linked Administrative Data." *Social Security Bulletin* 78(4) (available at <https://www.ssa.gov/policy/docs/ssb/v78n4/v78n4p29.html>).

<sup>iii</sup> 38 CFR § 21.41

<sup>iv</sup> See Pub. L. No. 116-315, § 1025 (2021).

<sup>v</sup> 38 U.S.C. § 3103(c)

<sup>vi</sup> 38 U.S.C. § 3101(1)

<sup>vii</sup> 38 U.S.C. § 3101(7)

<sup>viii</sup> "Significant." Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/significant>. Accessed 6 Sep. 2022.

<sup>ix</sup> 38 U.S.C. § 3100

<sup>x</sup> All Veteran Readiness and Employment Longitudinal Study reports are available for review and download at <https://www.benefits.va.gov/VOCREHAB/VRELongitudinalStudy.asp>.

<sup>xi</sup> Press Release, The White House, FACT SHEET: Biden-Harris Administration Advances Equity and Economic Opportunity Through Federal Procurement and State and Local Infrastructure Contracting (July 26, 2022) (available at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/07/26/fact-sheet-biden-harris-administration-advances-equity-and-economic-opportunity-through-federal-procurement-and-state-and-local-infrastructure-contracting/>).