

INTRODUCTION TO APPEALS AND VACOLS VSR TRAINING HANDOUTS

**PREREQUISITE
TRAINING**

Prior to completing this lesson, you should have 24 months of Veteran Service Representative (VSR) experience.

**PURPOSE OF
LESSON**

The purpose of this lesson is to introduce the basic concepts and terms involved in the appeals process. This lesson will also provide a basic understanding of how to read the available information in the Veteran Appeals Control and Locator System (VACOLS) system.

Given the appropriate manual and regulatory resources, you will be able to:

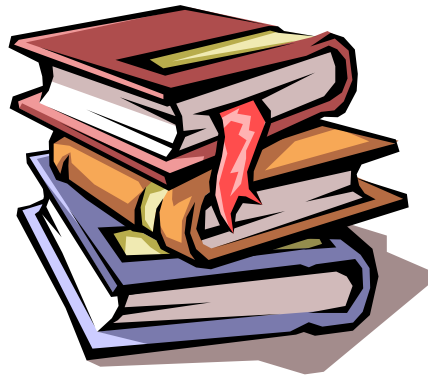
- Define important appeals terms
- Identify the steps in the appeals process
- Utilize VACOLS to obtain information on an appeal

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REFERENCES

- 38 CFR Part 20
- M21-1MR I.5
- M21-1MR I.4
- VACOLS User Guide
- Fast Letter 13-23
- 38 CFR 19.23
- 38 CFR 19.24
- Appeals Checklist for Transferring Certified Appeals to the Board of Veteran's Appeals (BVA)



DEFINITION OF AN APPEAL

What is an appeal and who can appeal?

What is BVA?

What are some VBA decisions that can be appealed? What can't be appealed?

What is a NOD?

Time limit to file a NOD:

Can an appeal be accepted over the telephone? YES or NO

DECISION REVIEW OFFICER (DRO) REVIEW VS TRADITIONAL REVIEW

What is an appeals process request letter (also called a De Novo election or DRO letter)?

DRO review

What is a DRO?

Time limit to elect a DRO review:

A *De Novo* review is a new and complete review of the appealed issue(s) with no deference given to the decision being appealed. This review can lead to a new decision, which may be a full grant, partial grant, CUE, or a continuation of the denial.

Traditional Review

What is a traditional review? How does it differ from a DRO review?

THE DECISION

Full Grant of Benefits

If the issue being appealed is entitlement to a benefit, and during the appeals process, we grant that entitlement, it is considered a full grant of benefits.

If the decision (either a rating or an administrative decision) is a full grant of benefits, the appeal is considered satisfied in full, closed out, and the claimant is notified of the decision.

Examples:

Partial Grant of Benefits

Sometimes, a review of the decision and evidence will allow for a partial grant of the issues being appealed.

We may issue a full grant of benefits on some issues, but not others, and therefore must continue our decision. For example, we may grant an increase to 100% on one issue, but only grant an increase to 30% on another. Because the full amount allowable by law on the second issue is 100%, it is considered only a partial grant.

This will require both an SOC to address the benefits that were not a full grant and a rating (or possibly a new administrative decision, if the issue is an authorization issue) to address the issues that were either a full grant or had a change in the evaluation. This means there may be times when an SOC and a rating decision are done on the same issue.

Examples:

Statement of the Case (SOC)

A Statement of the Case (*SOC*) is an explanation of the decision made on the appellant's case. The purpose of an SOC is to provide the appellant with a complete understanding of the decision so the appellant can prepare an effective substantive appeal with specific allegations of errors of fact or law.

If a review of the claim does not result in a complete grant of benefits, we will issue an SOC to the claimant and enclose a blank *VA Form 9, Appeal to Board of Veterans' Appeals*.

POST-LOCAL DECISION PROCESS

Substantive appeals

If an appellant receives his or her SOC and continues to disagree with our decision, he or she must file a substantive appeal in order to continue the appeal process. This will begin the process of preparing the claims file to be transferred to the Board of Veterans' Appeals (BVA) in Washington, DC, for further appellate review.

A substantive appeal indicates a desire to continue the appeals process after an SOC has been issued. Substantive appeals should indicate a desire to continue the appeal regarding *all* of the appealed issues, or specifically identify the issues appealed.

What form is typically used to submit a substantive appeal?

Time limit to file a substantive appeal:

Supplemental Statements of the Case (SSOC)

When we receive new evidence for an issue that is *still on appeal* (i.e. the time limit to file a substantive appeal hasn't expired or a substantive appeal is in file) and we have already released an SOC, the new evidence will be thoroughly reviewed.

If the new evidence provides the information we need to grant the benefits, we will issue a decision.

If the new evidence does not permit us to grant the benefit, we will issue a Supplemental Statement of the Case (SSOC). An SSOC is similar to the SOC, but it addresses the new information or evidence submitted.

There is no limit on the number of SSOCs we can issue.

Will the file be sent to BVA if no response to the SSOC is received and there is a substantial appeal in file? YES or NO

Time limit to respond if a substantive appeal is in file: _____

Time limit to file a substantive appeal if a substantive appeal is not in file: _____

CERTIFICATION TO BVA

Before sending the appeal to BVA, we will route it to the claimant's designated and approved Power of Attorney (POA) for review and completion of a statement in support of the appeal. This is usually done on VA Form 646, *Statement of Accredited Representative in Appealed Case*.

The DRO or a designated Rating Specialist will thoroughly review the claims file and complete VA Form 8, *Certification of Appeal*. By completing this certification, the DRO or Rating Specialist is confirming that the record is complete, free from errors and ready for BVA review.

If any deficiencies are noted, they must be addressed and corrected prior to certification to BVA.

What are examples of things that the reviewer will be looking for?

Once the review is complete and the Veteran has been notified of the intent to transfer the file to BVA, the file is temporarily transferred to BVA.



APPEALS IN WASHINGTON

BVA Decisions

BVA may grant, deny or remand an appeal. It is possible that appeals with multiple issues could have all three.

The file is examined by a Board member and a staff attorney who will:

- check the file for completeness,
- review the evidence and arguments, and
- examine the transcript of hearings (if held).

After this review of the case, the Board will render a decision. At that time, the Board will notify the claimant of the decision, and route the claims file and a copy of the decision to the Regional Office for promulgation and/or development of the decision.

BVA Remands

Sometimes the Board will review an appeal and find that the case isn't ready for a final decision. In these cases, the appeal will be returned to the local VA office with instructions of the required actions needed. This action of sending a case back for additional development is called a **remand**. The remand is a step-by-step explanation of what the claimant and the RO need to do before the appeal is returned to BVA.

Just like in earlier phases of the appeal process, if we can grant entitlement, a decision (rating or administrative) will be prepared. If it is a full grant of benefits, the appeal is closed.

If we must continue the denial, we will issue an SSOC explaining the reason(s) to the claimant. The claimant is allowed 30 days from the SSOC and then the appeal can be recertified to BVA.

Appeals Management Center (station number 397)

The Appeals Management Center is located in Washington, DC and is responsible for processing the majority of Compensation and Pension (C&P) remanded appeals for the nation.

The AMC does not work the following remands:

- Remands involving income issues for pension and COWC requests
- Remands with private attorney representation
- Remands involving Spina Bifida (these cases are all worked in Denver)
- Remands involving personal hearing requests, whether for RO or BVA hearings
- Remands due to the record being incomplete prior to the RO transferring the case to the BVA.

United States Court of Appeals for Veterans Claims (CAVC)

If dissatisfied with the Board's decision, a claimant can appeal to the United States Court of Appeals for Veterans Claims (CAVC). The CAVC is an independent court and is not part of the Department of Veterans Affairs.

Time limit to file an appeal with a BVA decision: _____

HEARINGS

Hearings are another important aspect of the appeal process and there are a number of different types.

Hearings provide claimants with an opportunity to speak with VA representatives in person to provide testimony, bring witness(es) to speak on his or her behalf and to submit evidence to support his or her appeal.

Hearings are optional and it is important to note that any costs incurred by the claimant to attend a hearing are the claimant's responsibility.

Hearing Officer Hearings

Claimants can request a local hearing with a DRO at their regional offices.

These hearings are completely separate from BVA hearings. Claimants can ask for a local hearing at any time. To request a hearing, claimants must send in a request in writing to their local regional office. The RO will arrange a time and place for the hearing, provide space, assign someone to hear the evidence, and create a written record of the hearing (often called the transcript).

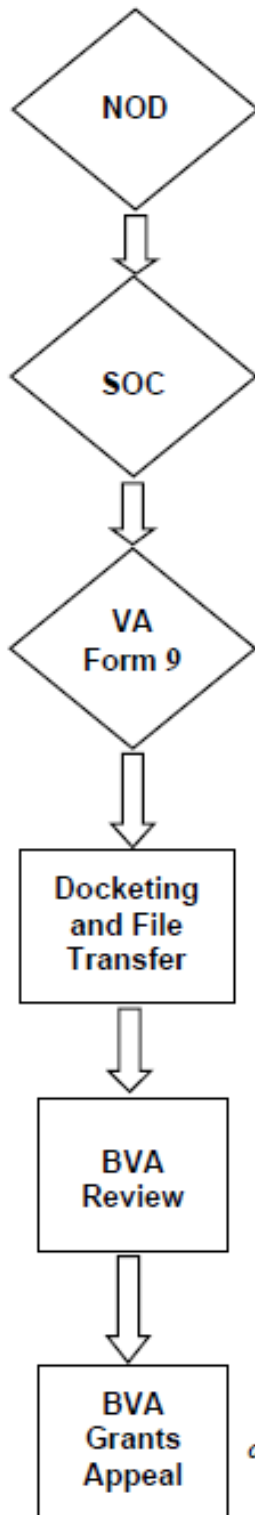
Board of Veterans' Appeals (BVA) Hearings

Claimants can only request a hearing with BVA after they have filed a substantive appeal.

On the *VA Form 9*, there is an option for a claimant to request a hearing; however, a request for a hearing can be made anytime after the *VA Form 9* is received. To request a hearing, a claimant must send his or her request to the regional office of jurisdiction.

What are the three types of BVA hearings?

APPEALS PROCESS FLOWCHART



Notice of Disagreement (NOD)

Not more than a year after the VA mails a notice of determination of a VA benefits claim, the local VA office receives a written notice that the claimant disagrees with the determination and wants to appeal.

Statement of the Case (SOC)

The local VA office develops and provides a summary of law, evidence, and reasons for the VA's denial of benefits.

Substantive Appeal

The Veteran files a VA Form 9 with the local VA office no later than 60 days from the date the SOC was mailed to the claimant, or 1 year from the date that office first mailed the notice of its determination, whichever is later. It is in this part of the process that a claimant can request a hearing.

Local VA Office

- Sends VA Form 646 to VSO
- Completes VA Form 8 to certify the appeal
- Adds appeal to BVA's docket
- Sends claims folder to the BVA

BVA

- Conducts hearing if requested
- Reviews your appeal
- Issues decision (grant/remand/deny)

BVA Remands Appeal

Appeal returned to local VA office for development, decision, and possible return to BVA.

BVA Denies Appeal

The claimant has 120 days to file appeal to Court of Appeals for Veterans Claims.

File reconsideration or CUE motion with BVA or reopening at local VA office possible.

VACOLS

VACOLS is an acronym for Veteran Appeals Control and Locator System.

VACOLS is a VA automated system to track Veterans' appeals from notice of disagreement (NOD) to final disposition.

Once VACOLS is started, the login screen will appear:



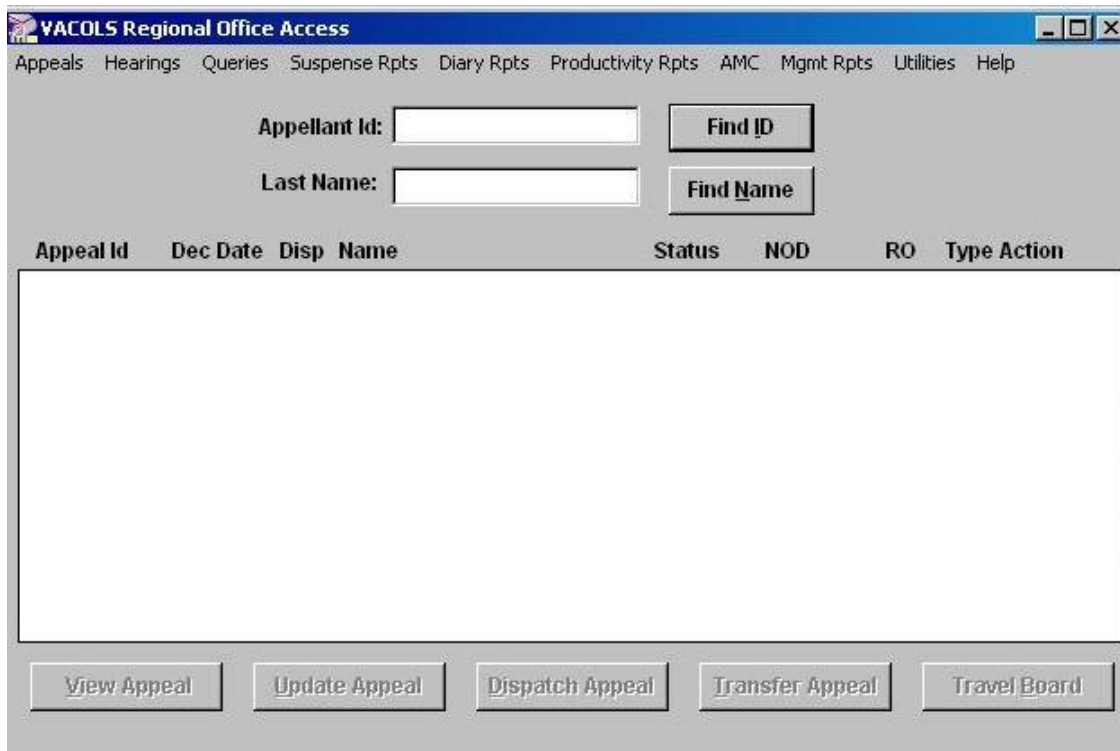
Board of Veterans' Appeals
VACOLS Ver. 7.4.0

Logon ID:

Password:

Logon Exit

In the "Logon ID" field, key in "RO" and the last two digits of your regional office station number. Tab to the "Password" field. Type in your station's password. Click on the "Logon" button. The inquiry screen then appears:



VACOLS Regional Office Access

Appeals Hearings Queries Suspense Rpts Diary Rpts Productivity Rpts AMC Mgmt Rpts Utilities Help

Appellant Id: Find ID

Last Name: Find Name

Appeal Id	Dec Date	Disp Name	Status	NOD	RO	Type Action
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View Appeal Update Appeal Dispatch Appeal Transfer Appeal Travel Board

ACCESSING AN APPEAL RECORD

To access an appeal, you must enter a file number into the “Appellant ID” field and select “Find ID.”

*NOTE: If a file number exists, a Social Security number will not access the record.

Appeal Id	Dec Date	Disp Name	Status	NOD	RO	Type Action
NUMBER		Claimant's Name	ADV (Cert)	10/02/2007	RO20	1 - Original

Records can also be accessed using the appellant’s name by entering their last name in the “Last Name” field and selecting “Find Name.”

<h3>NOTES</h3>

SELECTING AN APPEAL RECORD

One individual may have multiple appeal records.

To view details about a listed appeal, users must highlight the record and select “View Appeal” on the bottom of the window, or double click on the appeal record itself.

Appeal Id	Dec Date	Disp Name	Status	NOD	RO	Type	Action
I2C	12/04/2007	4 BO	HIS	04/11/2000	R052	7 - Court Remand	
I2C	09/08/2007	M BO	HIS	04/18/2007	R052	1 - Original	
I2C	07/03/2007	3 BO	HIS	04/11/2000	R052	7 - Court Remand	
I2C	07/18/2006	3 BO	HIS	04/11/2000	R052	7 - Court Remand	
I2C	06/20/2005	D BO	HIS	04/11/2000	R052	8 - Designation of	
I2C	03/14/2005	4 BO	HIS	04/11/2000	R052	7 - Court Remand	
I2C	12/19/2003	3 BO	HIS	04/11/2000	R052	7 - Court Remand	
I2C	01/23/2003	1 BO	HIS	04/11/2000	R052	7 - Court Remand	
I2C	06/19/2001	D BO	HIS	04/11/2000	R052	8 - Designation of	
I2C	05/04/2001	4 BO	HIS	04/11/2000	R052	1 - Original	
I2C	03/11/1997	D BO	HIS	05/10/1994	R052	8 - Designation of	
I2C	10/29/1996	4 BO	HIS	05/10/1994	R052	1 - Original	

The information on this screen will help you select the proper record.

Status could be any of the following:

- **ADV** – Advanced (NOD Appeal Filed and/or on Docket—Case in RO)
- **ACT** – Active (case at BVA)
- **REM** – Remand (case has been Remanded to VBA)
- **CAV** – CAVC (U.S. Court of Appeals for Veterans Claims Action pending -case in transit to BVA)
- **HIS** – History (BVA action is complete and/or appeal is closed)

The NOD column will show the date the NOD was received.

Introduction to Appeals and VACOLS Handout
INTERPRETING VACOLS SCREENS

Docket Tab

When an appeal is selected, the 12-tabbed Docket Screen appears. This is where the appeal information can be accessed.

VACOLS Appeal

File Processes Utilities Help

Appeal Id: File Number or SSN Name: Claimant's Name RO: R020 Status: ADV

Heardings Rem Reasons Mail(0) Atty Fee Oth Docs CAVC Motion

Docket Dispatch Issues(1) Address Prior Locs Attachments Diaries (1)

Date Received BVA: [] Status: **ADV**

Docket Number [] Date [] Regional Office: **Nashville, TN**

Service Org: **H - VFW**

Insurance/Loan Nr: [] Date To Service Org: []

Medical Facility: []

Type Action: **1 - Original**

Hearing Request: **2 - Travel Board**

Travel Board Ready Video Outbased

Req Date: **01/17/2008**

DRO Elected: **11/19/2007** Id: []

Ready to Rate: Informal Formal

Location: **77 Advance** **10/26/2007**

Dates

Notification: **07/18/2007** HOD: **10/02/2007**

SOC: **12/28/2007** Denial

SSOCs: 1) [] 4) []
2) [] 5) []
3) []

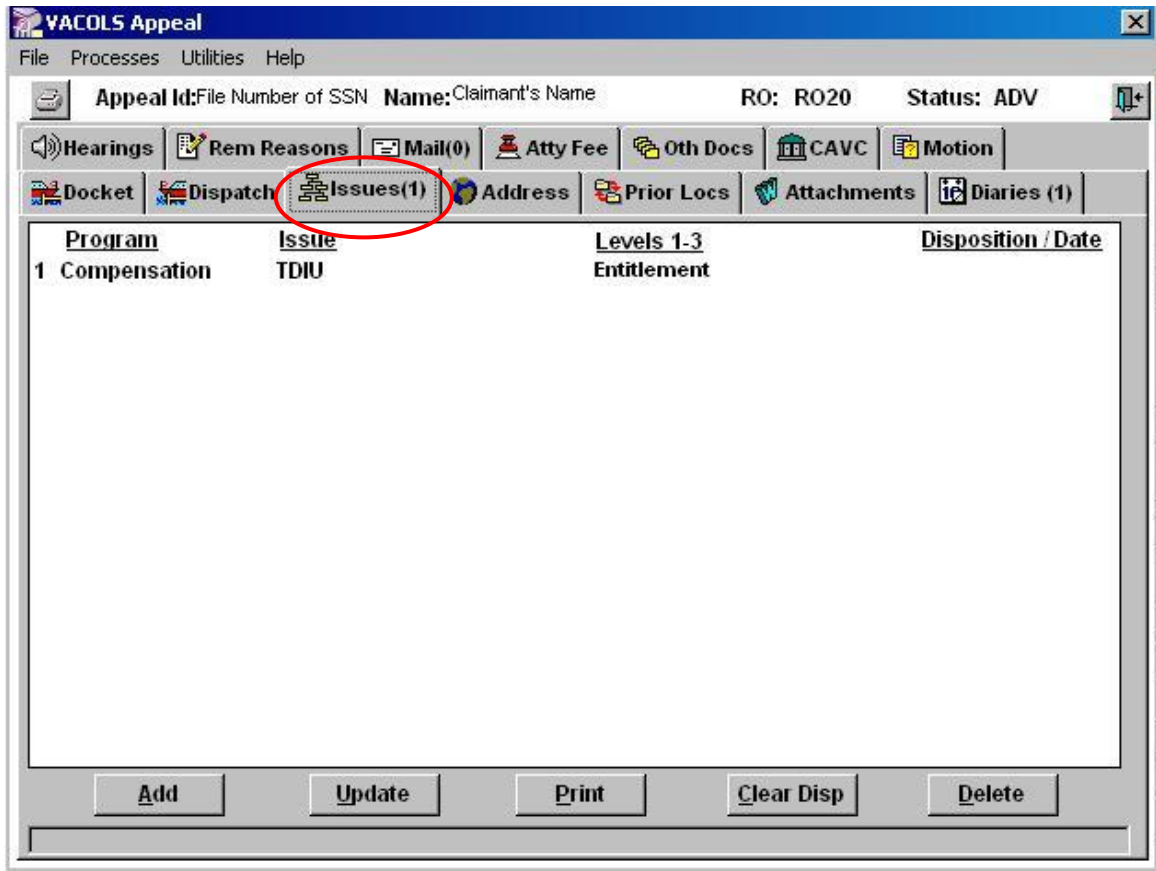
Form 9: **01/17/2008** BVA Cert: **10/15/2008**

Thurber: [] Prior Dec: []

NOTES

Issues Tab

The Issues tab displays the exact issues on appeal and their status.



<h2>NOTES</h2>

Diaries Tab

The Diaries tab displays all suspense items for a particular appeal. It shows the description of the diary, to whom it is assigned, the date assigned, the due date for completion, the status of the diary and whether the diary was added at the RO or at the BVA. The number within the parenthesis indicates the number of diary items.

VACOLS Appeal
 File Processes Utilities Help

Appeal Id: File Number or SSN Name: Veteran, Joe RO: R020 Status: ADV

Hearings Rem Reasons Mail(0) Atty Fee Oth Docs CAVC Motion

Docket Dispatch Issues(1) Address Prior Locs Attachments **Diaries (1)**

Diary Code	Assigned To / On	Days To Complete	Due Date	Closed	Status	BVA/RO
HEARING REQ TB AJ	TVBD 10/24/2008	180	04/22/2009		Pending	RO
DE NOVO - LETTER AJ	VET 10/26/2007	60	12/25/2007	12/21/2007	Closed	RO
NOD RECEIVED AJ	DRO CAB 12/21/2007	60	02/19/2008	12/28/2007	Closed	RO
646 REQ	VFW 02/08/2008	15	02/23/2008	02/22/2008	Closed	RO
646 REQ certify	RON 02/22/2008	21	03/14/2008	02/28/2008	Closed	RO

Add View Update Close Delete

NOTES

VACOLS CODES

Status Codes

VACOLS CODE	STATUS
ACT	ACTIVE (Case at BVA)
ADV	ADVANCE (NOD Appeal Filed and/or on Docket—Case in RO)
CAV	CAVC (U.S. Court of Appeals for Veterans Claims Action pending -case in transit to BVA)
REM	REMAND (Case has been Remanded to VBA)
HIS	HISTORY (BVA action is complete)
MOT	MOTION (A motion for reconsideration under § 20.1000 has been filed pursuant to a prior BVA decision)

Representation Codes

VACOLS CODE	REPRESENTATIVE	VACOLS Display
A	The American Legion	American Legion
B	AMVETS	AmVets
C	American Red Cross	ARC
D	Disabled American Veterans	DAV
E	Jewish War Veterans	JWV
F	Military Order of the Purple Heart	MOPH
G	Paralyzed Veterans of America	PVA
H	Veterans of Foreign Wars	VFW
I	State Service Organization(s)	State Svc Org
J	Maryland Department of Veterans Affairs	Maryland Dept. of Veterans
K	Virginia Department of Veterans Affairs	Virginia Dept of Veteran
L	No Representative	None
M	Navy Mutual Aid Association	Navy Mut Aid
N	Non-Commissioned Officers Association	NCOA
O	Other Service Organization	Other
P	Armed Forces Services Corporation	Armed Forces Svc. Corp
Q	Catholic War Veterans	Catholic War Vets
R	Fleet Reserve Association	Fleet Reserve
S	Marine Corp League	Marine Corps League
T	Attorney	Attorney
U	Agent	Agent
V	Vietnam Veterans of America	VVA
W	One Time Representative	One Time Rep
X	American Ex-Prisoners of War	EXPOW
Y	Blinded Veterans Association	Blinded Vet Assoc
1	National Veterans Organization	NVO

Type Action Codes

VACOLS CODE	TYPE ACTION
1	Original
2	Supplemental
3	Post Remand
4	Reconsideration
5	Vacate
6	De Novo
7	Court Remand
8	Designation of Record
9	Clear and Unmistakable Error

Hearing Request Codes

VACOLS CODE	DESCRIPTION
1	Central Office
2	Travel Board
5	None

Hearing Action Codes

VACOLS CODE	HEARING ACTION
1	Central Office
2	Travel Board
3	Field (hearing officer)
4	Informal Hearing (VSO brief, only)
5	None
6	Video Hearing

Diary Codes

Field uses only.

VACOLS CODE	DIARY INDICATOR	PURPOSE
EVID FM VET	Evidence From Veteran	For ADV or REM records – Indicates developmental need for evidence.
MED OPINION	Medical Opinion	For ADV or REM records – Indicates developmental need for a VA medical opinion.
PRIV MED	Private Medical Records	For ADV or REM records – Indicates developmental need for private medical records.
VA EXAM	Self-explanatory	FOR ADV or REM records – Indicates purpose of action.
VA HR	VA Hospital in Roanoke, VA	For ADV or REM records – Indicates temp. transfer to VA hospital in Roanoke, VA
VA OPT	VA Outpatient Treatment Records	For ADV or REM records – Indicates developmental need for outpatient treatment records.
646 REQ	VAF 646 REQUIRED	For ADV or REM records – Indicates need for Veterans service organization to present arguments on behalf of appellant.
SSOC SENT	Self-explanatory	For ADV or REM records – Indicates abeyance period for response to Supplemental Statement of the Case.

Introduction to Appeals and VACOLS Handout

SMR'S REQ	Service Medical Records Requested	For ADV or REM records – Indicates developmental need for service medical records.
SSA MED	Social Security Administration Medical Records	For ADV or REM records – Indicates developmental need for Social Security Administration medical records.
CONGR LTR	Congressional Letter	For ADV or REM records – Indicates RO need for a Congressional response.
GW DEV	Gulf War Development	For ADV or REM records – Indicates specialized developmental need for Gulf War claims.
GW EXAM	Gulf War Exam	For ADV or REM records – Indicates medical developmental need for Gulf War claims.
HEARING REQ HO	RO Hearing Request with Hearing Officer	For ADV or REM records – Indicates case with Hearing Officer for confirmation of RO hearing request.
HEARING REQ TB	TB Hearing Request with Hearing Office	For ADV or REM records – Indicates case with Hearing Officer for confirmation of TB hearing request.
TB LETR TO VET	TB Letter to Veteran	For ADV or REM records – Indicates TB notification letter dispatched to appellant
DRO	Decision Review Officer	For ADV or REM records – Indicates case with Decision Review Officer.
USASCRUR	United States Armed Services Center for Research Unit Records	For ADV or REM records – Indicates developmental need for documentation from United States Armed Services Center for Research Unit Records.
PTSD LTR TO VET	Self-explanatory	For ADV or REM records – Indicates RO developmental need to solicit evidence from appellant on PTSD claim review.
PTSD DEV SVC DEPT	PTSD Development Service Department	For ADV or REM records – Indicates developmental need on PTSD claim review.
DTNA RAD DEV	Defense Nuclear Agency	For ADV or REM records – Indicates developmental need for radiation claims
COWC	Committee on Waivers and Compensation	For ADV or REM records – Indicates temp. transfer to VACO COWC office for waiver of comp. claims
LG APPEAL	Loan Guaranty Appeal	For ADV or REM records – Indicates developmental need on loan guaranty claims
VAMC APPEAL	VA Medical Center Appeal	For ADV or REM records – Indicates developmental need for claims appealed from VAMC
VR&E APPEAL	Vocational Rehabilitation & Education Appeal	For ADV or REM records – Indicates developmental need for VR&E Appeals
ATTY FEES	Attorney Fees	For ADV or REM records – Indicates RO development on attorney fees
FOLDER AT BVA	Self-explanatory	For ADV or REM records – Indicates case has been temp. transferred to BVA
OTHER	Self-explanatory	For ADV or REM records – Indicator for diary not otherwise categorized.
NOD RECEIVED	Self-explanatory	For ADV or REM records – Indicates Notice of Disagreement received in VA facility.
SENT TO AUTHORIZATION	Self-explanatory	For ADV or REM records – Indicates benefit sought has been allowed – authorization for comp. payment requires authorization.
VACO EXTRA SCHEDULAR	VA Central Office Extra-schedular	For ADV or REM records – Indicates temp. transfer to VACO for extra-schedular claim review.
VACO RADIATION	VA Central Office Radiation	For ADV or REM records – Indicates temp. transfer to VACO for radiation claim review.
NOT WELL GROUNDED	Self-explanatory	Self-explanatory.
REACTIVATE APPEAL	Self-explanatory	For ACT records erroneously activated.
DE NOVO – LETTER	Self-explanatory	For ADV records where new letter is needed

Disposition Codes

VACOLS CODE	DISPOSITION	DISPOSITION TYPE
1	Allowed	BVA Disposition
3	Remanded	BVA Disposition
4	Denied	BVA Disposition
5	Vacated	BVA Disposition
6	Dismissed, Other	BVA Disposition
8	Dismissed, Death	BVA Disposition
A	Advance Allowed in Field	Field Disposition (ADV)
B	Benefits Granted by AOJ	Field Disposition (REM)
C	Court Reversal	BVA Disposition
D	Designation of Record	BVA Disposition
E	Advance Withdrawn Death of Veteran	Field Disposition (ADV)
F	Advance Withdrawn by Appellant/Rep	Field Disposition (ADV)
G	Advance Failure to Respond	Field Disposition (ADV)
M	Merged Appeal	BVA Disposition
R	Reconsideration by Letter	BVA Disposition
V	Deferred/Pending Issues	BVA (Internal) Disposition
W	Withdrawn from Remand	Field Disposition (REM)
X	Failure To Respond-Remand	Field Disposition (REM)

PRACTICAL EXERCISE

Using the file numbers provided by your instructor(s), answer the following questions for each. Use additional sheets of paper as required.

1. What is the appellant's name?

2. What is the appellant's phone number?

3. What is the notification date for this appeal?

4. Has an SOC been issued?

5. Has a Form 9 been received, and if so, on what date?

6. What are the issues on appeal?

7. Has this appellant requested a DRO Review?

8. Are there any diaries currently open? When are they due?