

**Guide to Statement of the Case (SOC)  
Supplemental Statement of the Case (SSOC)  
Laws and Regulations Citations**

*This guide has been prepared for training purpose only*

**Purpose:** This guide is intended for use by DRO's and RVSR's assigned to the Appeals Team or working appeal issues within their respective team. The list is not all inclusive, therefore the laws and regulations cited herein are those found to be consistently required when preparing an SOC/SSOC.

<b>BASIC LAWS AND REGULATIONS</b>	
<b>To be included in all SOCs . Do not need to repeat in the SSOC if included in the SOC. If law was not on SOC then it needs to be included on the SSOC.</b>	
<b>Title 38 CFR</b>	
<a href="#">38 USC 5107(a)</a>	Claimant Responsibility
<a href="#">38 USC 5107(b)</a>	Benefit of Doubt
<a href="#">38 CFR 3.102</a>	Reasonable Doubt (if evidence equipoise)
<a href="#">38 CFR 3.103</a>	Procedural Due Process and Appellate Rights
<a href="#">CFR 3.104(a)</a>	Finality of Decisions
<a href="#">38 CFR 3.159</a>	Department of Veteran Affairs Assistance in Developing Claims
<a href="#">38 CFR 19.32</a>	Closing of Appeal for failure to Respond to SOC
<a href="#">38 CFR 20.302</a>	Time Limit for Filing NOD, Substantive Appeal, and Response to SSOC
<a href="#">38 CFR 20.201</a>	Requirements for Valid and complete NODs
<a href="#">38 CFR 19.23</a>	Definition of complete NOD
<a href="#">38 CFR 19.24</a>	Definition of NOD
<a href="#">38 CFR 20.501</a>	If Contested Claim
<a href="#">38 CFR 3.1</a> and <a href="#">38 CFR 3.6</a>	If Reserves/National Guard

<b>Service Connection</b>	
<a href="#">TITLE 38 USC 1110 (Wartime)</a>	Basic Entitlement
<a href="#">TITLE 38 USC 1131 (Peacetime)</a>	Basic Entitlement
<a href="#">TITLE 38 USC 1153</a> <a href="#">38 CFR 3.306</a> <a href="#">38 CFR 3.322 (a)</a> <a href="#">38 CFR 3.322 (b)</a>	<b>Aggravation</b> ❖ Aggravation of <i>Pre-service</i> Disability ❖ Aggravation of <i>Service-Connected</i> Disability
<a href="#">TITLE 38 USC 1154(b)</a>	Consideration to be accorded time, place and circumstances of service (combat)
<a href="#">38 CFR 3.303</a>	Principles Relating to Service Connection Direct (All)
<a href="#">38 CFR 3.304</a>	Direct Service Connection; Wartime &

	Peacetime (All)
38 CFR 3.304(f)	❖ Post Traumatic Stress Disorder due to Combat or Sexual Trauma

<b>Presumptive (Service Connection)</b>	
38 CFR 3.307	Presumptive (chronic, tropical or prisoner-of-war related disease, or disease associated with exposure to certain herbicide agents; wartime and service on or after January 1, 1947)
38 CFR 3.309(a)	Presumptive Chronic
38 CFR 3.309(b)	Tropical Diseases
38 CFR 3.309(c)	POW Status (interned/detained not less than 30 days)
38 CFR 3.309(d) 38 CFR 3.311	Diseases specific to radiation-exposed veterans ❖ Exposure to Ionizing Radiation
38 CFR 3.309(e)	Disease associated with exposure to certain Herbicide Agents
38 CFR 3.313	Claims Based on Service in Vietnam
38 CFR 3.316	Claims Based on Chronic Effects of Exposure to Mustard Gas
38 CFR 3.317	Undiagnosed Illness (Gulf War)
38 CFR 3.318	Amyotrophic Lateral Sclerosis (ALS)

<b>Specific Issues</b>	
38 CFR 3.1000 38 U.S.C. 5121	Accrued (payment of certain accrued benefits upon death of a beneficiary)
38 CFR 3.808	Automobiles or other conveyances; certification
38 CFR 3.807	Chapter 35
38 CFR 3.12	Character of Discharge
38 CFR 4.9	Congenital or developmental defects
38 CFR 3.358 & 38 CFR 3.800	Claims under 38 USC 1151
38 CFR 3.361	Benefits under 38 U.S.C. 1151(a) for additional disability or death due to hospital care, medical or surgical treatment, examination, training and rehabilitation services, or compensated work therapy program
38 CFR 4.25	Combined Rating Tables
38 CFR 3.6	Duty Periods
38 CFR 3.114	Change of law or Department of Veterans Affairs issue.
38 CFR 3.109	Effective Dates
38 CFR 3.155	Effective Dates
38 CFR 3.400	Effective Dates
38 CFR 3.401	Effective Dates - Veteran

<a href="#">38 CFR 3.402</a>	Effective Dates – Surviving Spouse
<a href="#">38 CFR 3.403</a>	Effective Dates - Children
<a href="#">38 CFR 3.404</a>	Effective Dates – Parents
<a href="#">38 CFR 3.405</a>	Effective Dates – Filipino Veterans and Survivors
<a href="#">38 USC 5313</a>	Fugitive Felon
<a href="#">38 CFR 3.385</a>	Hearing Loss
<a href="#">38 CFR 3.356</a>	Helpless Child (Conditions which determine permanent incapacity for self-support)
<a href="#">38 CFR 4.127</a>	Mental retardation and personality disorders
<a href="#">38 CFR 3.31</a>	Omnibus (Commencement of the period of payment)
<a href="#">38 CFR 3.350</a>	Special Monthly Compensation Ratings
<a href="#">38 CFR 3.51(a-d)</a>	Special monthly dependency and indemnity compensation, death compensation, pension and spouse's compensation ratings
<a href="#">38 CFR 3.352(a)</a>	Basic criteria for regular aid and attendance and permanently bedridden
<a href="#">38 CFR 3.806</a>	Death gratuity; certification
<a href="#">38 CFR 3.809(a)</a>	Special Adapted Housing under 38 U.S.C. 2101(a)/Special Home Adaptation
<a href="#">38 CFR 3.310</a>	Secondary Conditions (Disabilities that are proximately due to, or aggravated by, service-connected disease or injury)
<a href="#">38 CFR 3.50</a>	Spouse and surviving spouse
<a href="#">38 CFR 3.1(n)</a> <a href="#">-3.301(c)(2)</a> <a href="#">-3.301(c)(3)</a>	Definitions- Willful Misconduct/LOD plus Alcoholism Drug Abuse
<a href="#">38 CFR 3.383</a>	Special Consideration for paired Organs and extremities
<a href="#">38 USC 1702</a>	Presumption of Soundness Related to Psychosis

<b>Increased Evaluation Denied</b>	
<a href="#">38 CFR 3.321(a)(b)(1)</a>	General Rating Considerations
<a href="#">38 CFR 3.655</a>	Failure to report for VAE
<a href="#">38 CFR 4.1</a>	Essentials of Evaluative Ratings
<a href="#">38 CFR 4.2</a> <i>(only if VAE was performed)</i>	Interpretation of Examination Reports
<a href="#">38 CFR 4.3</a>	Resolution of Reasonable Doubt
<a href="#">38 CFR 4.6</a>	Evaluation of Evidence
<a href="#">38 CFR 4.7</a>	Higher of Two Evaluations
<a href="#">38 CFR 4.10</a>	Functional Impairment
<a href="#">38 CFR 4.20</a>	Appropriate Diagnostic Code(s) 38 CFR Part 4 <i>Schedule for Rating Disabilities</i>

	Analogous Ratings
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**NOTE:** *Include all Applicable Diagnostic Codes*

<b>Other Laws &amp; Regulations Specific to Issues of Evaluation</b>	
<a href="#">38 CFR 3.321(a)(b)(1)</a>	Extra Scheduler Evaluation
<a href="#">38 CFR 3.324</a>	Multiple Non-compensable SC Disabilities
<a href="#">38 CFR 4.14</a>	Avoidance of Pyramiding
<a href="#">38 CFR 4.20</a>	Analogous Ratings
<a href="#">38 CFR 4.31</a>	A No-percent Rating
<a href="#">38 CFR 4.68</a>	Amputation Rule
<p><b>NOTE:</b> Cite all applicable diagnostic codes (DCs) that apply to a particular disability. A single DC used in a rating will not always be the only pertinent DC to use when preparing an SOC. You must provide other related codes as needed for clarity.</p> <p><b>NOTE:</b> If maximum evaluation is assigned, include all potential DC that allow for a higher evaluation.</p> <p><b>NOTE:</b> When a change in law revises 38 CFR Part 4, <i>Schedule for Rating Disabilities</i>, provide both old and new rating schedule criteria.</p>	

<b>Additional Regulations When Evaluating a Joint</b>	
<a href="#">38 CFR 4.40</a>	Functional Loss (Deluca)
<a href="#">38 CFR 4.45</a>	The Joints (Deluca)
<a href="#">38 CFR 4.59</a>	Painful Motion

<b>Additional Regulations When Evaluating a Mental Condition</b>	
<a href="#">38 CFR 4.126</a>	Evaluation of Disability from Mental Disorders
<a href="#">38 CFR 4.130</a>	Schedule of Ratings-Mental Disorders

<b>Additional Regulations When Evaluating Hearing Loss</b>	
<a href="#">38 CFR 3.383 (a)(3)</a>	Special Consideration for paired Organs and extremities
<a href="#">38 CFR 4.85</a>	Evaluation of Hearing Impairment
<a href="#">38 CFR 4.86</a> <ul style="list-style-type: none"> <li>❖ Tables VI</li> <li>❖ VIA</li> <li>❖ VII</li> </ul>	<p><b>Evaluation Tables</b></p> <p>Hearing impairment based on puretone threshold average &amp; speech discrimination</p> <p>Hearing impairment based only on puretone threshold average</p> <p>Percentage evaluation for hearing impairment (diagnostic code <b>6100</b>)</p>
<p><b>Note:</b> Mandated use of <a href="#">Hearing Loss Calculator (User Guide)</a></p> <p>Review <a href="#">TL 10-02</a> Adjudicating Claims for Hearing Loss and/or Tinnitus; <a href="#">TL 09-05</a> Adjudicating Claims for Hearing Loss and/or Tinnitus</p>	

<b>Additional Regulations When Evaluating Scars</b>	
<a href="#">38 CFR 4.118</a>	Schedule of ratings-skin
DC 7800	Burn scar(s) of the head, face, or neck; scar(s) of the head, face, or neck due to other causes; or other disfigurement of the head, face, or neck
DC 7801	Burn scar(s) or scar(s) due to <b>other causes</b> , not of the head, face, or neck, that are <u>deep</u> and <u>nonlinear</u>
DC 7802	Burn scar(s) or scar(s) due to <b>other causes</b> , not of the head, face, or neck, that are <u>superficial</u> and <u>nonlinear</u>
DC 7804	Scar(s), unstable or painful:
DC 7805	Evaluate any disabling effect(s) not considered in a rating provided under diagnostic codes 7800-04 under an appropriate diagnostic code.
Review <a href="#">FL 08-44</a> Final Rule: Schedule for Rating Disabilities; Evaluation of Scars	

<b>Entitlement To Total Compensation On Account of IU</b>	
<a href="#">38 CFR 3.321(b)(1)</a>	Extra Scheduler Consideration (Compensation)
<a href="#">38 CFR 3.340</a>	Total and Permanent Total Ratings and Unemployables
<a href="#">38 CFR 4.15</a>	Total Disability Ratings
<a href="#">38 CFR 4.16</a>	Total Disability Ratings Based on IU
<a href="#">38 CFR 4.18</a>	Unemployability
<a href="#">38 CFR 4.19</a>	Age in service-connected claims
NOTE: Review <a href="#">Rice v. Shinseki Decision (06-1445)</a> regarding TDIU Claims and, <a href="#">TL 10-07 'Adjudication of Claims for TDIU, September 2010'</a>	

<b>Permanent and Total for Pension Purpose</b>	
<a href="#">38 CFR 3.321</a>	General rating considerations
<a href="#">38 CFR 3.321(b)(2)</a>	Extra-Schedular Consideration
<a href="#">38 CFR 3.327</a>	Reexaminations
<a href="#">38 CFR 3.340</a>	Total and Permanent Ratings and IU
<a href="#">38 CFR 3.342</a>	Permanent and Total Disability Ratings for Pension Purposes
<a href="#">38 CFR 4.15</a>	Total Disability Ratings
<a href="#">38 CFR 4.17</a>	Total Disability Ratings for Pension Based on IU and age of Individual
Diagnostic Code(s) for Disability(ies)	38 CFR Part 4, Schedule for Rating Evaluated Disabilities

<b>Pension Income</b>	
<a href="#">38 CFR 3.3</a>	Pension
<a href="#">38 CFR 3.23</a>	Improved pension rates-Veterans and surviving spouses.
<a href="#">38 CFR 3.24</a>	Improved pension rates-surviving children.
<a href="#">38 CFR 3.29</a>	Rounding
<a href="#">38 CFR 3.260</a> and <a href="#">38 CFR 3.271</a>	Computation of Income
<a href="#">38 CFR 3.262</a>	Evaluation of income
<a href="#">38 CFR 3.272</a>	Exclusions from income
<a href="#">38 CFR 3.273</a>	Rate Computation
<a href="#">38 CFR 3.275</a>	Criteria for evaluating net worth
<a href="#">38 CFR 3.277</a> <a href="#">38 CFR 3.256</a>	Eligibility reporting requirements

<b>Claims Based on New and Material Evidence</b>	
<a href="#">38 CFR 3.105</a>	Revision of Decision
<a href="#">38 CFR 3.156</a>	New and Material Evidence
<a href="#">38 CFR 20.1100</a> & <a href="#">38 CFR 20.1104</a> (only if denial previously upheld by BVA)	Finality of Decisions of the Board and Finality of Determination of the Agency of Original Jurisdiction Affirmed on Appeal

<b>Service Connection for Cause of Death Denied</b>	
<a href="#">38 CFR 3.303</a>	Principles Relating to SC
<a href="#">38 CFR 3.304</a> ❖ <a href="#">38 CFR 3.304(f)</a>	Direct SC Post Traumatic Stress Disorder
<a href="#">38 CFR 3.312</a>	Cause of Death
<a href="#">38 CFR 3.307</a> & <a href="#">38 CFR 3.309</a> ( <i>delete parts of regulation not applicable</i> )	Presumptive Conditions (chronic, AO, POW, etc)
<b>Veterans Rated Total at Time of Death (10 Years, 5 Years, or 1 Year)</b>	
<a href="#">38 CFR 3.22</a>	DIC Benefits for Survivors of Certain Veterans Rated Totally Disabled at Time of Death

## OTHER RATING ISSUES

### Competency

38 CFR 3.353

Determination of Incompetency/Competency

### Paragraph 29

38 CFR 4.29

Ratings for service-connected disabilities requiring hospital treatment or observation

### Paragraph 30

38 CFR 4.30

Convalescent Ratings

### Dental (Teeth Only)

38 CFR 3.381

SC of Dental Conditions for Treatment Purposes

### Revision of Decision

38 CFR 3.105(a)

38 CFR 3.105(b)

38 CFR 3.105(d)

38 CFR 3.2600

Clear & Unmistakable Error (CUE)

Difference of Opinion

Severance

Review of Benefit Claims Decision

### Reductions in Evaluation

38 CFR 3.105(e)

Reduction in Evaluation (Comp)

38 CFR 3.343

Continuance of Total Disability Ratings (If Reduced from Total, including IU)

38 CFR 3.344

Stabilization of Disability Evaluations

38 CFR 3.951

Preservation of Disability Ratings

38 CFR 3.957

Service Connection

<b>Entitlement to an Earlier Effective Date</b>	
<a href="#">38 CFR 3.155</a>	Informal Claim
<a href="#">38 CFR 3.400</a>	General Regulation on Effective Dates
<a href="#">38 CFR 3.400(b)(2)</a> <a href="#">38 CFR 3.400(c)</a> <a href="#">38 CFR 3.400(o)</a> <a href="#">38 CFR 3.400(q)</a> <a href="#">38 CFR 3.400(r)</a> <a href="#">38 CFR 3.400(x)</a>	<ul style="list-style-type: none"> <li>❖ Service Connection (Direct/Presumptive)</li> <li>❖ Death Benefits</li> <li>❖ Increased Evaluation</li> <li>❖ New and Material Evidence</li> <li>❖ Reopened Claims</li> <li>❖ Determination of Incompetency</li> </ul>
<a href="#">38 CFR 3.400</a>	Effective Dates
<a href="#">38 CFR 3.401</a>	Effective Dates - Veteran
<a href="#">38 CFR 3.402</a>	Effective Dates – Surviving Spouse
<a href="#">38 CFR 3.403</a>	Effective Dates - Children
<a href="#">38 CFR 3.404</a>	Effective Dates - Parents
<a href="#">38 CFR 3.405</a>	Effective Dates – Filipino Veterans and Survivors

<b>Timeliness of Appeal</b>	
<a href="#">38 CFR 3.109</a>	Time Limit
<a href="#">38 CFR 3.156</a>	New and Material Evidence
<a href="#">38 CFR 3.160(d)</a>	Status of Claims-Finally Adjudicated Claim
<a href="#">38 CFR 20.303</a>	Extension of time for filing Substantive Appeal and response to Supplemental Statement of the Case.
<a href="#">38 CFR 20.305</a>	Computation of time limit for filing.
<a href="#">38 CFR 20.1103</a>	Finality of determinations- appeal not perfected
<a href="#">38 CFR 20.1104</a>	Finality of determinations-affirmed on appeal

<b>Other Appealable Issues</b>	
<b>Burial</b>	
<a href="#">38 CFR 3.954</a>	Burial allowance
<a href="#">38 CFR 3.1607</a>	Cost of flags
<a href="#">38 CFR 3.1608</a>	Non-allowable expenses
<a href="#">38 CFR 3.1612</a>	Monetary allowance in lieu of a Government-furnished headstone or marker



## QUICK LINKS

<a href="#">Fenderson v. West</a> , January 29, 1999, No. 96-947	Evaluating disability levels; Application of 38 CFR §§ 4.40 and 4.45; “Staged” ratings
<a href="#">Tatum v. Shinseki</a> , September 28, 2009, No. 07-2728	Applying Various Regulations to Rating Schedule
<a href="#">Hensley v. Brown</a> , May 18, 1993, No. 91-1179	Reasons or bases, 38 CFR § 3.385, benefit-of-the-doubt rule
<a href="#">McLendon v. Nicholson</a> , June 5, 2006, No. 04-0185	Duty to Assist - Examinations.
<a href="#">Nieves-Rodriguez v. Peake</a> , December 1, 2008, No. 06-0312	Medical Opinions
<a href="#">Rice v. Shinseki</a> , May 6, 2009, No. 06-1445	TDIU Claims