

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Program Name: Vocational Rehabilitation (VR)

Policy Number: VR-15.3-v1

Effective Date: July 1, 2008

Last Revision: March 31, 2021

CHAPTER 15: Appeals

Section 15.3: Mediation

I. Policy Statement

This policy provides guidance for the mediation process when this option is chosen by an applicant/client to dispute a decision that affects the provision of VR services.

II. Authority

Authority for policies contained in this document includes the following:

- Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. § 3101 et seq.
- Title IV Amendments to the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq.
- State Vocational Rehabilitation Services Program, 34 C.F.R. § Review of determination made by designated State unit personnel 361.57 (d)
- A.R.S. §§ 23-502 and 503

III. Applicability

This applies to circumstances when an applicant or client wishes to pursue the mediation process must:

- A. Submit a signed and dated Request for Appeal form indicating the mediation option within 15 calendar days from the date that the RSA decision letter was mailed.
- B. Pursue one of the following options in instances when the mediation does not result in an agreement:
 1. Discontinue the dispute resolution process, or
 2. Proceed with a fair hearing.

- C. Submit a new Request for Appeal form within 15 calendar days of the mediation outcome indicating their disagreement with the decision and choice to pursue a fair hearing.

IV. Standards

- A. The written request for any appeal from the client must be received within 15 days from the date of the decision letter to be considered timely and must be:
 - 1. Date stamped the date received,
 - 2. Scanned in the applicant or client's ECF, and
 - 3. Forwarded to the RSA Ombudsman within 48 hours.
- B. The RSA Ombudsman:
 - 1. Has seven (7) calendar days to request a fair hearing upon receipt of the written request for any appeal.
 - 2. Must ensure the fair hearing to occur within 30 calendar days of the date of receipt of the written request for appeal from the client.
 - 3. Inform the Division of Civil Rights Conflict Resolutions Coordinator for the need of a mediator.
- C. The RSA Ombudsman must coordinate with the Conflict Resolutions Coordinator to schedule a date that works best for all required and involved parties (RSA Ombudsman, Attorney General, VR Counselor, VR Program Supervisor, appellant and their representative) to participate in the mediation proceedings.
- D. The mediation process must not be used to delay or deny the appellant's right to a fair hearing or any other right afforded under laws regulating the VR program.
- E. VR staff involved in the decision making must agree to participate in the mediation process regardless of whether they are not able to change or mediate the decision made by a higher authority or superseding law.
- F. The VR Program Supervisor and RSA Ombudsman must be present at all mediation proceedings.
- G. The authority to approve the outcome of the medication proceeding is delegated to the Assistant Program Manager or Regional Program Manager when such decisions are outside the scope of the Program Supervisor.
- H. Discussions that occur during the mediation process must be confidential and must not be used as evidence in any subsequent due process hearing or civil proceeding.
- I. In the event an agreement is made:

1. The mediator must prepare a mediation agreement document and send it to the RSA Ombudsman for review.
2. The RSA Ombudsman must review the mediation agreement to ensure the mediation agreement is consistent with laws and policy and the agreement can be implemented.
3. All parties must sign the mediation agreement indicating the next steps.

V. Procedure

- A. Refer to IV. B-D, and J above.
- B. Refer to Standard Work (if available)

VI. Documentation Requirements

- A. The applicant/client's electronic case file must include the following documentation:
 1. Appeal Request, and
 2. Mediation Agreement, if applicable.