

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Program Name: Vocational Rehabilitation (VR)

Policy Number: VR-15.4-v2

Effective Date: July 1, 2008

Last Revision: October 25, 2024

CHAPTER 15: Appeals

Section 15.4: Fair Hearing

I. Policy Statement

This policy provides guidance for the fair hearing process when an applicant/client chooses this option to dispute a decision affecting 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 CFR § 361.57 (e-f), Review of determination made by designated State unit personnel.
- Arizona Revised Statutes:
 - § 23-502, and
 - § 23-503.
- Arizona Administrative Code, Title 6, Chapter 4 R6-4-404, Administrative review and fair hearing.

III. Applicability

This policy applies when an applicant/client wishes to pursue the fair hearing process.

IV. Standards

A. The applicant/client must:

1. Submit a signed and dated Request for Appeal form indicating their selection of a fair hearing option within 15 calendar days from the date that

the Rehabilitation Services Administration (RSA) Decision Letter was mailed,

2. Notify the RSA Ombudsman in writing of their decision to withdraw their fair hearing request in instances when a resolution is obtained informally before the date of the hearing, and
 3. Provide a request for an extension in writing when they need to postpone the fair hearing an additional 30 business days from the date on the original request.
- B. The written request for a fair hearing from the client must be received within 15 calendar days from the date of the decision letter to be considered timely and must be:
1. Date stamped on the date it is received,
 - a) The date the VR office receives the document in person, or
 - b) In instances when the VR office or staff receives the document via email, fax, or by a mail carrier courier, the date stamped is the date of receipt.
 2. Scanned in the applicant's/client's electronic case file (ECF), and
 3. Forwarded to the RSA Ombudsman within two (2) business days of the date it is received.
- C. The RSA Ombudsman must:
1. Request a fair hearing within seven (7) calendar days of receiving a written request for the fair hearing from the applicant/client, and
 2. Notify the DES Office of Appeals to schedule the fair hearing within 30 calendar days of the receipt date of the written request for appeal from the applicant/client.
- D. All involved parties must prepare and forward a summary of events and may be asked to participate in a pre-hearing meeting at least ten (10) days before the fair hearing.
- E. VR must agree to extend the 30 calendar day timeframe for the provision of a fair hearing in instances when the applicant, client, or their legal guardian requests an extension in writing from the date on the original written request for appeal.
- F. VR must attempt to resolve the dispute, before the fair hearing, via the informal review or mediation process when requested by the applicant, client, or their legal guardian.

- G. The hearing will be vacated upon receipt of a written request to voluntarily withdraw their request for a fair hearing and the matter in dispute has been resolved.
- H. VR staff members involved in the disputed decision must participate in the fair hearing process and attend the fair hearing as requested by the RSA Ombudsman or by an official of the Administrative Law office and/or Arizona Attorney General.
- I. Upon receipt of the Administrative Law Judge's (ALJ) written decision, the RSA Ombudsman will review the findings and staff the case with the RSA Administrator and Policy Manager as needed.
- J. The RSA Ombudsman must inform all involved parties of the outcome of the hearing and will facilitate any additional steps if required.

V. Procedure

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

VI. Documentation Requirements

- A. The applicant's/client's ECF must include the following documentation:
 - 1. Appeal Request, and
 - 2. Fair Hearing Decision, if applicable.