

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Program Name: Vocational Rehabilitation (VR)

Policy Number: VR-15.1-v3

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CHAPTER 15: Appeals

Section 15.1: Overview of Appeals

I. Policy Statement

This policy provides an overview of the appeal rights and due process available to clients/applicants who wish to appeal decisions that affect 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, 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 appeal process.

IV. Standards

- A. VR staff must advise the applicant/client or their legal guardian of their rights to appeal any VR decision that affects the provision of VR services.
- B. An RSA Decision Letter with Appeal Rights (which includes the appeal options and Client Assistance Program (CAP) information) must be provided to an applicant/client when:
 1. The applicant/client applies for services,

2. VR makes an eligibility decision,
 3. VR determines placement into an Order of Selection category,
 4. An Individualized Plan for Employment (IPE) is developed or amended,
 5. VR decides or intends to reduce, suspend, or terminate current or planned services and/or goods, or
 6. VR notifies the applicant/client of the intent to close the case for any reason.
- C. VR staff must inform the applicant/client that the following appeal options are available:
1. Informal Review,
 2. Mediation, and/or
 3. Fair Hearing.
- D. In instances when a decision is disputed, the VR Counselor must inform the applicant/client, or their legal guardian that a formal written request for appeal must be submitted to VR within 15 calendar days of the date of the decision letter.
- E. The applicant/client must:
1. Submit a signed and dated request for appeal within 15 calendar days from the date of the VR decision letter, and
 2. Indicate one of the following appeal options on their request:
 - a) Informal Review,
 - b) Mediation, or
 - c) Fair Hearing.
- F. The request for appeal may be accepted in one of the following formats:
1. The RSA Request for Appeal form, or
 2. A written request, signed and dated by the applicant/client, which must explain the decision being disputed and the appeal option the applicant/client wishes to pursue. An email request can be submitted and must include:
 - a) Recipient name,
 - b) Sender name,
 - c) Date and time of when the email was received,
 - d) Applicant/client name,

- e) Legal guardian name, if applicable, and
 - f) A statement in the body of the email explaining the decision being disputed and the appeal option the applicant/client wishes to pursue.
- G. An applicant's/client's request for appeal can be submitted in the following methods:
- 1. At the local VR office,
 - 2. The office of the RSA Ombudsman,
 - 3. Mail carrier,
 - 4. Fax, or
 - 5. Email.
- H. The applicant/client has 15 calendar days to submit their request. VR must record the earliest date the request was received by:
- 1. The date the VR office receives the document in person, or
 - 2. 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.
- I. Upon receipt of an appeal request, the VR Counselor must:
- 1. Forward the request for appeal electronically to the RSA Ombudsman within 48 hours of receipt of the document, and
 - 2. Scan and upload the written request for appeal into the applicant's or client's electronic case file (ECF) within 48 hours of receipt.
- J. In instances when a request for appeal was not submitted by the applicant, client, or their legal guardian within the 15 calendar-day timeframe, the RSA Ombudsman must review and determine whether the delay in submission was due to:
- 1. VR error or misinformation, or
 - 2. A delay or other action of the U.S. Postal Service.
- K. When an applicant/client or their legal guardian requests assistance with a written appeal, the VR counselor, VR Program Supervisor, or the RSA Ombudsman may provide guidance with completing the RSA Request for Appeal form.
- L. The VR Counselor must work with the applicant/client or their legal guardian, and the RSA Ombudsman throughout the appeal process until a final resolution is determined.

- M. The RSA Ombudsman must request a fair hearing to be scheduled within seven (7) calendar days of receipt of a timely written request for appeal, regardless of the resolution option chosen.
- N. VR must ensure that a fair hearing is scheduled to occur within 30 business days of receipt of a timely written request for appeal.
- O. VR must not suspend, reduce, or terminate an established service, as listed on the client's approved IPE, that is pending the appeal process.
- P. The VR Counselor must ensure the continuation of all other VR services, as listed on the most recent and approved IPE, during the appeal process.
- Q. The appeals process must not be used to delay or deny the applicant's/client's right to a fair hearing or any other right afforded under laws regulating the VR program.

V. Procedure

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

VI. Documentation Requirements

- A. The applicant's/client's ECF must include all requests for appeal.