

## **ARIZONA DEPARTMENT OF ECONOMIC SECURITY**

**Program Name:** Vocational Rehabilitation (VR)

**Policy Number:** VR-15.3-v2

**Effective Date:** July 1, 2008

**Last Revision:** October 25, 2024

**CHAPTER 15:** Appeals

**Section 15.3:** Mediation

### **I. Policy Statement**

This policy provides guidance for the mediation process when an applicant/client chooses this option to dispute a decision affecting the provision of Vocational Rehabilitation (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 (d), Review of determination made by designated State unit personnel.
- Arizona Revised Statutes:
  - § 23-502, and
  - § 23-503.

### **III. Applicability**

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

### **IV. Standards**

- A. The applicant/client must submit a signed and dated Rehabilitation Services Administration (RSA) Request for Appeal form indicating the mediation option within 15 calendar days from the date the RSA Decision with Appeal Rights Letter was mailed.

- B. The written request for any appeal from the applicant/client must be received within 15 calendar days of the RSA Decision with Appeal Rights letter date 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 48 hours of the date it is received.
- C. The RSA Ombudsman must:
1. Request a mediation within seven (7) calendar days of receiving a written request for any appeal from the applicant/client,
  2. Inform the Division of Civil Rights Conflict Resolutions Coordinator of the need for a mediator, and
  3. The RSA Ombudsman must ensure that the Division of Civil Rights Resolutions Coordinator is informed of the 30-day calendar timeframe requirement to hold a mediation.
- D. The RSA Ombudsman must coordinate with the Conflict Resolutions Coordinator to schedule a date that works best for all required and involved parties to participate in the mediation proceedings.
- E. VR staff involved in the decision-making must agree to participate in the mediation process regardless of whether they can 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 not used as evidence in any subsequent due process hearing or civil proceeding.
- I. The mediation 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.

- J. 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 that the agreement can be implemented, and
  - 3. All parties must sign the mediation agreement indicating the next steps.
- K. When the mediation does not result in an agreement, the applicant/client can pursue one of the following options:
  - 1. Discontinue the dispute resolution process, or
  - 2. Proceed with a fair hearing.
- L. A client must express their request for a fair hearing within 5 calendar days of the mediation when mediation does not result in agreement, the request can be made verbally or in writing, including via email. The RSA Ombudsman will initiate the written request to the DES Office of Appeals upon the client's request for a fair hearing.

**V. Procedure**

- A. Refer to IV. C, D, I, 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. Mediation Agreement, if applicable.