

Appeals Process (34 CFR 361.57)

Customers may appeal any service delivery decision made by IDVR personnel.

The VRC shall notify and provide written information to all applicants and eligible customers regarding:

- Their right to appeal determinations made by IDVR personnel, which affect the provision of rehabilitation services;
- Their right to request mediation;
- The names and addresses IDVR personnel to whom requests for mediation or appeals may be filed;
- The manner in which a mediator or hearing officer may be selected;
- Availability of assistance from the Client Assistance Program (CAP).
- If the Agency is following an Order of Selection, it shall inform all eligible customers of the priority they are in.

Timing of such notification shall be provided by the VRC:

- At the time a customer applies for rehabilitation services;
- At the time of the Individualized Plan for Employment (IPE) is developed;
- At the time the customer is assigned to a category in the State's Order of Selection, if applicable; and
- Upon reduction, suspension, or cessation of approved rehabilitation services for the customer.

Whenever possible, IDVR will attempt to resolve conflicts informally or through the Informal Review process. IDVR will not pay for a customer's legal services.

IDVR Policy

IDVR shall make disability related accommodations to assist customers in the conduct of the appeals process.

Pending a final determination of an Informal Review or Fair Hearing or participation in Mediation, IDVR may not suspend, reduce, or terminate approved services being provided under an IPE, unless the services were obtained through misrepresentation, fraud or collusion or the customer or authorized representative, requests suspension, reduction, or termination of services.

The CAP and supervisory review are encouraged to resolve dissatisfaction. These options are in keeping with the IDVR policy to resolve a customer's dissatisfaction at the earliest possible time.

Informal Review Process

An informal review process is an option available to the customer as a method to resolve disagreements or dissatisfaction with the provision of services. An individual may request an informal review. The request must be in writing to the Center Manager, describe the complaint, and be made within twenty-one (21) calendar days of the agency notice regarding the provision or denial of services that are in question. The Center Manager will function as the administrative review officer in the informal review process. At the customer's request another Center Manager may be substituted. The reviewer will be responsible for:

- *Advising the Customer.* Advising the customer of his right to have a representative present and encouraging the customer to use the services of the Client Assistance Program (CAP).
- *Conducting the Review.* Conducting the review within twenty-one (21) calendar days following receipt of a written request for such a review, unless both parties agree upon an extension.
- *Documenting Effort.* Extending the time allowed for conducting an information review accordingly when the customer makes a documented effort to utilize CAP or another advocate to resolve the dissatisfaction.

IDVR Policy

- *Reviewing Location.* Holding the review at a time and place convenient to the customer, generally at the local hub office.
- *Communication Method.* Provide communication using appropriate methods for those customers who have a sensory impairment. Providing an interpreter for those customers who cannot communicate in English.
- *Transportation.* Provide transportation to and from the review site, if needed.
- *Informal Review Decision.* The Center Manager will provide a written decision after conducting the informal review. The customer may request mediation or fair hearing within twenty-one (21) calendar days of the informal review written decision.

Mediation

Mediation is an alternate dispute resolution method available to applicants and eligible customers who have initiated the formal appeals process or when the informal review did not resolve the customer's concern.

- *Timeline.* A customer may request mediation. The request must be made within twenty-one (21) calendar days of the original decision or twenty-one (21) calendar days following the written decision from the informal review.
- *Written Request.* Requests for mediation must be made in writing to the Chief of Field Services and clearly state the reason for dissatisfaction with the decision or results of the informal review. The Chief of Field Services will represent the Division or assign a management level staff member who has not participated in the agency action that created the customer's dissatisfaction.
- *Participation.* Participation in the mediation process is voluntary for the customer and for the Division. Either party may reject mediation as an alternate dispute resolution method. Once mediation has been accepted as an alternate dispute resolution method, either party may terminate the mediation process.

IDVR Policy

- *Right to Fair Hearing.* Mediation may not be used to deny or delay the customer's right to pursue a fair hearing. Should the customer and/or designated representative select mediation in lieu of a fair hearing, the option for a fair hearing will be extended to allow the results of the mediation to be established. Once the final results of the mediation are determined, the customer retains the right to request a fair hearing.
- *Mediator.* All mediation is conducted by a qualified and impartial mediator who is selected randomly from a list maintained by the Division.
- *Confidentiality.* Mediation discussions are confidential and may not be used as evidence in a fair hearing. Both parties will sign a confidentiality agreement.
- *Mediation Agreement.* The mediator will develop a written mediation agreement if an agreement between the parties is reached. The agreement must be signed by all parties involved in the mediation.
- *Cost.* Cost of mediation is paid by the Division, except for customer representation.

Fair Hearing Process

Is an option available to any customer who is dissatisfied with any determination made by Division personnel that affects the provision of vocational rehabilitation services. A customer may request a fair hearing immediately without going through any other appeal steps. A customer or if appropriate their representative may request a timely review of the determination. Such requests must be made within twenty-one (21) calendar days of the Division's decision resulting in the initial disagreement, or within twenty-one (21) calendar days of the conclusion of the informal review or mediation process, whichever is later. The fair hearing will be conducted by a fair hearing officer.

- *Procedure.* A fair hearing is a procedure whereby a customer who is dissatisfied with any determination concerning the provision or denial of Division services or the findings of the informal review or mediation may seek a determination of agency action before a fair hearing officer.

IDVR Policy

- *Written Request.* Requests for a fair hearing must be sent in writing to the Chief of Field Services and clearly state the customer's dissatisfaction with the agency's decision.
- *Timeline.* The hearing will be conducted within sixty (60) calendar days of receipt of the individual's request for review, unless informal resolution is achieved prior to the 60th day, or both parties agree to a specific extension of time.
- *Fair Hearing Officers.* The Division Administrator, or designee, and the State Rehabilitation Council will jointly identify a list of fair hearing officers. The Administrator, or designee, and the customer will select the fair hearing officer from the list.
- *Written Report.* The fair hearing officer will issue a written report of the findings and decision of the hearing within thirty (30) calendar days of the completion of the hearing.
- *Decision.* The decision of the fair hearing officer will be considered final by the Division.
- *Dispute.* Any party who disagrees with the findings and decisions of a fair hearing officer will have the right to bring a civil action with respect to the matter in dispute. The action may be brought in any state court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy.