Idaho Division of Vocational Rehabilitation
Appeals Policy Document

Policy Name: Appeals Policy		
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1.0 POLICY STATEMENT

This policy outlines the scope of the appeals process and options available to individuals covered under this policy. In addition, the process provides information on the responsibilities of participants and the Idaho Division of Vocational Rehabilitation (IDVR) during the appeal process, appeal options, and timelines. The purpose of this policy is to provide uniform guidance to ensure equitable application of the appeals process.

2.0 LEGAL AUTHORITY

34 CFR 361.5(c)(43) 34 CFR §361.57
IDAPA 47.01.01

To the extent this policy conflicts with the federal and state laws referenced above, the above laws control.

3.0 SCOPE/APPLICABILITY

This policy applies to all IDVR applicants, participants, and recipients of IDVR services, as well as their legal guardians, authorized representatives, and legal advocates (in this policy, collectively called “participant”).

4.0 STANDARD

4.1 Participants have the right to appeal the following decisions made by IDVR personnel:

- Ineligibility determinations
- Disability priority category assignments
- Furnishing or denial of services after eligibility
- Decisions regarding the level of IDVR funding for a specific service
- Case closure decisions

4.1.1 Participants have the right to pursue an appeal through an informal review, mediation, or fair hearing process. IDVR will notify individuals in writing of their right to appeal, available appeal options, applicable timelines, and availability of the Client Assistance Program (CAP) at the following points:

4.1.2 At application

4.1.3 Upon ineligibility determination

4.1.4 At assignment to a disability priority category
4.1.5 At the time the Individualized Plan for Employment (IPE) is developed
4.1.6 When IDVR determines the need for Pre-Employment Transition Services (Pre-ETS) for potentially eligible students
4.1.7 At case closure

4.2 IDVR will provide written notification that includes:
4.2.1 The right to appeal determinations related to the provision of rehabilitation services;
4.2.2 The right to request mediation;
4.2.3 The names and addresses of IDVR personnel designated to receive appeal or mediation requests;
4.2.4 Information about how a mediator or hearing officer may be selected;
4.2.5 Information about CAP;
4.2.6 Notification about priority category assignment when IDVR is operating under an Order of Selection (OOS).

4.3 General Information:
4.3.1 IDVR will provide disability-related accommodations and foreign language interpreter services for purposes of participating in the appeals process.
4.3.2 Participants have the right to representation at any stage of the appeal process. IDVR does not pay for representation or legal services.
4.3.3 IDVR shall not suspend, reduce, or terminate vocational rehabilitation services during the appeals process unless by participant request, or if IDVR has evidence that the services were obtained through fraud, misrepresentation, collusion, or criminal conduct by the participant or their representative.

4.4 IDVR provides three options for appeal: informal review, mediation, and fair hearing. Upon request, IDVR will provide information on how to initiate an appeal.
4.4.1 Informal review is an early resolution appeal option that allows a participant to dispute an IDVR decision through an administrative review. Informal review requests must be in writing to the District Manager within twenty-one (21) calendar days of IDVR's notice regarding the decision in question. A District Manager will serve as the administrative review officer unless an alternate is requested. Alternate assignments are made by the Bureau Chief. The reviewer is responsible for:
4.4.1.1 Advising the participant of their right to have a representative present and encouraging the use of CAP;
4.4.1.2 Conducting the review within 21 calendar days following receipt of the written request, unless both parties agree to an extension or the participant has requested an alternate District Manager conduct the review;

4.4.1.3 Extending the time allowed for conducting an informal review, when the participant makes a documented effort to utilize CAP or another advocate;

4.4.1.4 Offering the participant the option to conduct the informal review in their local office or through a virtual meeting; and

4.4.1.5 Providing a written decision after conducting the informal review.

4.4.2 Mediation is an alternate dispute resolution method available to participants. Mediation may be requested at the initial time of the appeal or at any time during the appeals process.

4.4.2.1 Mediation requests must be made in writing within 21 calendar days of the original decision.

4.4.2.2 Requests for mediation must be made in writing to the IDVR Bureau Chief at the following address: 650 W. State Street, Rm. 150, Boise, Idaho, 83720. The written request must clearly state the IDVR decision for which mediation is being requested. The Bureau Chief will represent IDVR or assign a management level staff member who was not involved in the action that prompted the appeal.

4.4.2.3 Participation in mediation is voluntary for both the participant and IDVR. Either party may reject mediation as an alternate dispute resolution method or may terminate the mediation process after initiation by providing written notice to the other party and the mediator. The mediation will conclude on the date the written notice is received unless otherwise agreed upon by the parties. Termination of mediation does not affect the participant's right to request or proceed with a fair hearing.

4.4.2.4 Mediation may not prevent or delay a fair hearing. The participant retains the right to request a fair hearing after the notification of the mediation outcome.

4.4.2.5 All mediation is conducted by a qualified and impartial mediator as defined in 34 CFR § 361.5(c)(43) who is selected randomly from a list maintained by IDVR.

4.4.2.6 Mediation discussions are confidential and may not be used as evidence in a fair hearing. Both parties will sign a confidentiality agreement.

4.4.2.7 If mediation results in a resolution, the mediator will develop a written mediation agreement that documents the issues resolved, actions taken by each party, any agreed upon service provisions or case status changes, associated timelines, and next steps. The agreement must be signed by all parties.

4.4.2.8 The cost of mediation is paid by IDVR, except for participant representation.

4.4.3 A fair hearing process is available to any participant dissatisfied with an applicable determination made by IDVR personnel. A participant may request a fair hearing at any time without first completing other appeal steps. A participant may request a timely review of the determination. Such requests must be made within 21 calendar days of IDVR's decision resulting in the initial disagreement, or within 21 calendar days of the conclusion of the informal review or mediation process, whichever is later. The fair hearing will be conducted by an impartial fair hearing officer selected from a list provided by the State of Idaho Office of Administrative Hearings (OAH). The fair hearing officer shall be impartial and may not be an employee of a public agency providing VR services or education services.

4.4.3.1 Requests for a fair hearing must be sent in writing to the IDVR Bureau Chief at the following address: 650 W. State Street, Rm. 150, Boise, Idaho, 83720. The written request must clearly state the IDVR decision for which the fair hearing is being requested.

4.4.3.2 Fair hearings will be conducted at a neutral and accessible location designated by OAH, generally near the participant's geographic area of residence when practicable. OAH is responsible for arranging the hearing location. Requests for a change of venue or hearing location must be submitted to OAH and will be handled in accordance with OAH requirements.

4.4.3.3 Procedures related to failure to appear, hearing continuances, dismissals, and other hearing administration matters shall be governed by OAH rules and procedures.

4.4.3.4 The hearing will be conducted within sixty (60) calendar days of receipt of the request, unless informal resolution is achieved prior to the 60th day, or both parties agree to a specific extension of time.

4.4.3.5 The IDVR Administrator or designee and the participant will select an impartial fair hearing officer from the list provided by OAH, or jointly with the State Rehabilitation Council. The fair hearing officer will be chosen either at random or by agreement between the IDVR Administrator or designee and the participant.

4.4.3.6 The fair hearing officer will issue a written decision within thirty (30) calendar days following the completion of the hearing. Distribution of the written decision, including the method of delivery and parties entitled to receive the decision, will be completed in accordance with OAH rules and procedures.

4.4.3.7 The decision of the fair hearing officer is final for purposes of IDVR administrative review.

4.4.3.8 Any party who disagrees with the decisions of a fair hearing officer may seek judicial review by filing a civil action as authorized by applicable federal and state law. The procedures and timelines for filing such actions shall be governed by applicable laws in effect at the time the action is filed.