

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

Program Name: Vocational Rehabilitation (VR)

Policy Number: VR-15.4-v1

Effective Date: July 1, 2008

Last Revision: March 31, 2021

CHAPTER 15: Appeals

Section 15.4: Fair Hearing

I. Policy Statement

This policy provides guidance for the fair hearing appeal process when this option is chosen by an applicant/client to dispute a decision that affects 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 C.F.R. § Review of determination made by designated State unit personnel 361.57 (d)
- A.R.S. §§ 23-502 and 503

III. Applicability

This applies to circumstances when an applicant or client wishes to pursue the fair hearing process must:

- A. Submit a signed and dated Request for Appeal form indicating the fair hearing option within 15 calendar days from the date that the RSA decision letter was mailed.
- B. Notify the RSA Ombudsman in writing of their option to withdraw their fair hearing request in instances when a resolution is obtained informally prior to the date of the hearing.
- C. Provide a request an extension in writing when they need to postpone the fair hearing an additional 30 days from the date on the original request.

IV. Standards

- A. The written request for fair hearing from the client must be received within 15 days from the date of the decision letter to be considered timely and must be:
 - 1. Date stamped the date received,
 - 2. Scanned in the applicant or client's ECF, and
 - 3. Forwarded to the RSA Ombudsman within 48 hours.
- B. The RSA Ombudsman:
 - 1. Has seven (7) calendar days to request a fair hearing upon receipt of the written request for the fair hearing.
 - 2. Must notify the DES Office of Appeals to schedule the fair hearing to occur within 30 calendar days of the date of receipt of the written request for appeal from the client.
- C. 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 prior to the fair hearing.
- D. VR must agree to extend the 30-calendar day timeframe for the provision of a fair hearing in instances when the appellant or their representative requests an extension in writing from the date on the original written request for appeal.
- E. VR must attempt to resolve the dispute prior to the hearing via the informal review or mediation process when requested by the appellant and or their representative.
- F. Upon receipt of a written request to voluntarily withdraw their request for a fair hearing and the matter in dispute has been resolved, the hearing will be vacated.
- G. VR staff members who were involved in making the decision in dispute 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.
- H. Upon receipt of the Administrative Law Judge's (ALJ) written decision, the RSA Ombudsman must review the findings and staff the case with the RSA Administrator and Policy Manager as needed.
- I. The RSA Ombudsman must inform all involved parties of the outcome of the hearing and will facilitate any additional steps if they are required.

V. Procedure

- A. Refer to IV. C, D, J, and K above.

- B. Refer to Standard Work (if applicable).

VI. Documentation Requirements

The applicant/client's electronic case file must include the following documentation:

- A. Appeal Request, and
- B. Fair Hearing Decision, if applicable