



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
DEPARTMENT ON DISABILITY SERVICES

POLICY	
Department on Disability Services	Subject: Due Process
Responsible Program or Office: Rehabilitation Services Administration	Policy Number: 2019-RSA-POL-008
Date of Approval by the Director: 2/26/2019	Number of Pages: 6
Effective Date: 2/26/2019	Expiration Date, if Any:
Supersedes Policy Dated: Section XIV of RSA Policies and Procedures (2010) – Due Process	
Cross References, Related Policies and Procedures, and Related Documents: the Rehabilitation Act of 1973, as amended by title IV of the Workforce Innovation and Opportunity Act (WIOA), 29 DCMR § 149, and 1 DCMR §§ 2800 <i>et seq.</i>	

### 1. PURPOSE

The purpose of this policy is to ensure that persons receiving a vocational rehabilitation (VR) service determination from the Department on Disability Services (DDS), Rehabilitation Services Administration (DCRSA or Agency) are informed of their rights and their options for resolving their disagreement with any determination concerning the provision or denial of VR services.

### 2. APPLICABILITY

This policy applies to VR Specialists, supervisors, administrators, applicants and people who are receiving, or have received services from the District of Columbia Rehabilitation Services Administration (DCRSA).

### 3. AUTHORITY

The authority for this policy is established in DDS as set forth in D.C. Law 16-264, the “Department on Disability Services Establishment Act of 2006,” effective March 14, 2007 (D.C. Official Code § 7-761.01, *et seq.*); and establishment of the Rehabilitation Services Program, D.C. Official Code § 32-331.

### 4. POLICY

It is the policy of DCRSA that an applicant or recipient of VR services, who is dissatisfied with any determination made by DCRSA personnel that affects the provision of VR services may request, or if appropriate, may request through the person’s representative, a timely review of the determination as provided in 34 C.F.R. § 361.57.



### **A. The Appeal Process**

The appeal process is initiated when an applicant or recipient of VR services, or his or her representative, requests an informal administrative review meeting with DCRSA, or requests mediation or an impartial due process hearing with the D.C. Office of Administrative Hearings (OAH).

### **B. Impact on Provision of Services**

Unless the person, or the person's representative, so requests, DCRSA shall not institute a suspension, reduction, or termination of services being provided for the person (including evaluation and assessment services and plan development) pending resolution through the appeal process. DCRSA may suspend, reduce, or terminate such services if they were obtained through misrepresentation, fraud, collusion or criminal conduct on the part of the person, or the person's representative.

### **C. Notification of Rights**

Each applicant or recipient of VR services shall be informed in writing, supplemented as necessary by other appropriate modes of communication, that he or she is entitled to each of the following:

1. The right to request an informal administrative review meeting, or impartial due process hearing, which may include mediation;
2. The availability of the Client Assistance Program ("CAP") to assist the applicant or consumer during the informal administrative review meeting, or impartial due process hearing which may include mediation;
3. The right to request a qualified interpreter, fluent in the primary language (including sign language) of the applicant/recipient or other methods of communication used by a person due to his or her disability;
4. The right to request auxiliary aids to ensure that communications with persons with hearing, vision, or speech impairments are as effective as communications with others. "Auxiliary aids" include, but are not limited to, such services or devices as qualified interpreters, screen readers, assistive listening devices, television captioning and decoders, telecommunications devices for deaf persons (TDD's), videotext displays, readers, taped texts, Braille materials, large print materials, and material in electronic format; and
5. The right of the person, or the person's representative, to review any material upon which the proposed summary action is based.



#### **D. Informal Administrative Review Meeting:**

An informal administrative review meeting is a non-binding and non-adversarial informal dispute resolution process pursuant to 34 C.F.R. § 361.57 (c). The informal administrative review meeting process provides an applicant or recipient of VR services an opportunity to meet with the DCRSA Deputy Director, or his or her designee, in an effort to expeditiously resolve a complaint he or she may have about any determination concerning the provision or denial of VR services. The informal administrative review meeting may involve fact gathering, interviews and negotiation. The informal administrative review meeting is optional and voluntary, and will not deny or delay an applicant or recipient of VR services from pursuing any other due process remedy guaranteed by the Rehabilitation Act of 1973, as amended by title IV of the Workforce Innovation and Opportunity Act.

#### **E. Due Process Hearing:**

##### **1. Right to a hearing.**

An applicant or recipient of VR services who is dissatisfied with any determination concerning the provision or denial of services shall be entitled to a hearing by OAH. Hearings are ordinarily held in an OAH courtroom and, consistent with 1 DCMR § 2821, provide parties the opportunity to testify and to have other witnesses testify for them; to cross-examine witnesses called by another party; to request that any prospective witness be excluded from the courtroom; to examine all exhibits offered into evidence by another party; to object to the admission of any testimony or other evidence; to subpoena witnesses; and, to appear with a representative.

##### **2. Mediation**

Mediation is available to an applicant or recipient of VR services through a request to OAH. Mediation is a process of assisted, informal negotiation which uses a neutral third party, the mediator, to aid the parties in exploring the possibility of settlement. No party may be compelled to accept a settlement or other resolution of the dispute in mediation.

#### **5. RESPONSIBILITY**

The responsibility for this policy is vested in the DDS Director. Implementation of this policy is the responsibility of the Deputy Director of RSA.



## 6. STANDARDS

### A. Notice and right to due process remedies.

At a minimum, an applicant or a recipient of VR services, or his or her authorized representative, shall receive written notification of his or her right to obtain a review of DCRSA determinations that affect the provision of VR services, at the following times:

1. During the application process;
2. Upon assignment to an order of selection category;
3. At the time the IPE is developed; or
4. Upon reduction, suspension, and/or termination (including case closure) of any VR service.

### B. Request for an informal administrative review meeting/timeliness.

1. A request for an informal administrative review meeting must be submitted in writing, within ten (10) business days of the determination that affected the provision of VR services. The time limits in this section may be extended by the Deputy Director of DCRSA, or his/her designee, when good cause is shown by one party or at the request of both parties. This request must be addressed to:

Quality Assurance and Performance Management Administration  
Attention: Deputy Director  
Department on Disability Services  
250 E Street, SW, 6th Floor  
Washington, D.C. 20024  
dds@dc.gov

2. Within five (5) business days after the request is received, the Grievance Specialist will:
  - a. Forward the request to the DCRSA Deputy Director, or his or her designee; and

Send a written notification to the applicant/client stating the date, time and location of the informal administrative review meeting. Notification shall be in an Americans with Disabilities Act (ADA) compliant format, using the mode of the applicant or recipient's choice, including large print, Braille, tape,



disk; and shall be provided via e-mail and/or U.S. First Class Mail.

3. Within five (5) business days of receiving the request the DCRSA Deputy Director, or his or her designee, will personally meet with the applicant, recipient, and his or her authorized representative, unless such meeting is inconvenient for both parties and both parties record this inconvenience in writing. If both parties are unable to meet in person, they will participate in a telephonic conference not later than five (5) business days after receipt of the request from the Grievance Specialist; and
4. The DCRSA Deputy Director, or his or her designee, will provide a written report of the outcome of the informal administrative review to the Grievance Specialist and the applicant/recipient and his or her representative no later than five (5) business days following the conclusion of the meeting.
  - a. If the applicant, recipient, or his or her authorized representative and the DCRSA Deputy Director, or his or her designee, successfully resolve the issue(s) addressed during the informal administrative review meeting, the Grievance Specialist will place a written note in the applicant or recipient's file and provide written notice to the person, and as appropriate, the person's representative, stating that the VR specialist will implement the agreed upon resolution within ten (10) business days, absent any unforeseen circumstances outside of the VR specialist's immediate control.
  - b. If the applicant, recipient, or his or her authorized representative and the DCRSA Deputy Director, or his or her designee, are unable to resolve the issue(s) addressed during the informal administrative review meeting, the Grievance Specialist shall notify the applicant or recipient in writing of his/ or her right to request an impartial due process hearing (which may include mediation) in accordance with 34 C.F.R. § 361.57, within five (5) business days of receiving notification of the outcome from the DCRSA Deputy Director, or his or her designee. Notification shall be in an Americans with Disabilities Act (ADA) compliant format, using the mode of the applicant or recipient's choice, including large print, Braille, tape, disk; and shall be provided via e-mail and/or U.S. First Class Mail.

C. Notice of right to a hearing.

Each applicant or recipient of VR services and his or her designated representative, if any, at the time of the initial application and at the time of any action affecting the applicant's or client's claim for services, shall be informed in writing, supplemented as necessary by other appropriate modes of communication consistent with the needs of the person, of the following:



1. The right to request a hearing;
2. The method by which a hearing may be obtained as set out in 29 DCMR § 149;
3. The right to be represented by legal counsel, relative, friend, or other spokesperson, at the applicant's or client's own expense; and
4. The right to a qualified interpreter, if the party or the party's witness is deaf, or because of a hearing impairment cannot readily understand or communicate the English language; or
5. The right to a reader, if the applicant or client or the applicant's or client's witness is severely visually impaired.

D. Request for a hearing/timeliness.

1. A request for a hearing must be submitted to OAH in accordance with the OAH Rules of Practice and Procedure, located at 1 DCMR §§ 2800 *et seq.*
2. Each applicant or recipient of VR services shall request a hearing within fifteen (15) business days after an adverse decision based on an informal administrative review or, in the absence of an informal administrative review, within thirty (30) business days of the occurrence of the action upon which the complaint is based.

  
Darryl Evans  
Deputy Director, DCRSA

2/25/19  
Date

  
Andrew P. Reese, Director

2/26/19  
Date