Appeals to VRS

What if I disagree with a VRS decision?

Vocational Rehabilitation Services (VRS) has an appeal process if you are unhappy with a decision they made about your case. If you are an applicant or already a client, you have a right to:

1. ask for mediation. This means a neutral third person works with you and VRS to come to an agreement.

   and/or

2. present evidence, information and witnesses to an impartial hearing officer. The hearing officer then makes a decision in your case.



Notice of Appeal Rights

You have to get a notice of your appeal rights from VRS.

- The notice must be in writing
- The notice must be in your preferred mode of communication (foreign language, Braille, etc.)
- The notice must tell you about the Client Assistance Project (CAP) and how CAP may be able to help you with the appeal

You must get a notice of your appeal rights when:

- you apply for VRS services
- your Employment Plan (EP) is developed
- VRS plans to suspend, reduce or stop your services

If you appeal because VRS suspends, reduces, or stops your services, they must keep giving you the services during the appeal process. Make sure you ask to keep your services when you ask for the review. The services continue until a final decision is made through the informal review, mediation or formal hearing process. But your services won't continue if you got them through fraud, false misrepresentation or some other criminal conduct.

Different Types of Appeals

If you are unhappy with a decision made by VRS, there are different ways to solve the problem. These different ways are divided into 3 basic types:

1. informal supervisory review
2. mediation
3. impartial due process hearing

You don't have to do these in any order. For example, you don't have to use the informal supervisory review or mediation processes before asking for an impartial due process hearing.

Informal Supervisory Review

If you are unhappy with a decision your rehabilitation counselor made in your case, you can ask the counselor's supervisor to review it. Ask for the review in writing, in person or by phone/TTY at any time.

If you don't know the name or address of the supervisor, call the main VRS Administrative office in St. Paul. Someone will give you this information.

In the metro area, call 651-259-7366
in Greater Minnesota, call 1-800-328-9095

You can also email the main VRS Administrative Office at: VRS.customerservice@state.mn.us

The supervisor reviews your case and decides if VRS policy and rules have been correctly applied. The supervisor also decides if there is any compromise or solution that can fix the problem.

Mediation



Mediation is a way to settle a dispute that:

- can help you and VRS staff solve disagreements about your needs and services
- uses a trained, neutral mediator to guide you to a solution everyone agrees to

VRS must pay for any mediator fees or other expenses. The mediators used for vocational rehabilitation mediation are found by the Vocational Rehabilitation Mediation Program Coordinator. The mediators are experienced in mediation and have some knowledge about vocational rehabilitation. They are not VRS employees.

Either you or VRS can ask for mediation. Mediation is voluntary. This means everyone must agree to it for it to happen. If both you and VRS agree to it, you and VRS sign a *Request for Mediation* form and send it to the Mediation Office. You can get a form from your rehabilitation counselor or from the Client Assistance Project (CAP). For more about CAP, go to the last page of this fact sheet.

A session is scheduled, and a mediator assigned. Most mediation sessions can be scheduled within 2 weeks, and last about 4 hours.



You can bring an advocate or representative with you to the mediation. VRS must bring someone who has the authority to make decisions. Either party can also bring persons who know what you need or who have specialized knowledge of the issues in your case. The parties must agree, however, on who can be at the mediation.

The mediation usually starts with an introduction. Then there is a chance for both parties to talk about the issues from their point of view. Next, there is a discussion of options for a solution. If you and VRS come to an agreement, the mediator helps you write it down and everyone gets a copy.

If you don't come to an agreement at mediation you may want to try one of the other types of appeals.

Impartial Due Process Hearing

If you are unhappy with a decision made by VRS on your case, you can ask for an impartial due process hearing. This is like a judicial hearing, but it is not a court trial. The hearing is handled by an administrative law judge.

Ask for an impartial due process hearing in writing, **within 120 days** of the date you were notified in writing of a counselor's decision. Your letter should be sent to:

Policy Coordinator
Vocational Rehabilitation Services, Admin Office
180 5th St. E., Suite 1200
St. Paul, MN 55101-1664

The hearing must be held **within 60 days from when you ask** for it. You have the right to be represented by an advocate. A lawyer from the Attorney General's office represents VRS at the hearing.

You can bring any information or witnesses that you think can help your case.

After the hearing, the administrative law judge issues a written decision.

Commissioner's Review of ALJ's decision

Within 20 days after the written decision, either party can ask for a Commissioner of the Minnesota Department of Employment and Economic Development to review the decision. You can submit more information at this stage if you think it might help your case.

The Commissioner can't overturn the administrative law judge's decision unless there is "clear and convincing evidence" that the decision is "clearly erroneous (wrong)." The Commissioner makes a final decision within 30 days of the request for review. The decision must be in writing and must include a full report of the findings and grounds for the decision.



Judicial Review

Either party can bring a civil action in state or federal court for review of the commissioner's decision. Civil lawsuits must be filed **within 30 days** of the final decision.

It is best to get legal help for this kind of case as soon as possible. Time deadlines are very strict in these kinds of cases.

The final decision of the Commissioner is still in place during judicial review. This means that you or VRS can't file a civil lawsuit to keep a decision on your case from going into effect.

Client Assistance Project (CAP)

If you are a client or an applicant of VRS or SSB, you can call the Client Assistance Project (CAP) for help if you have questions, concerns, or complaints about your vocational rehabilitation services. CAP **does not** provide direct vocational rehabilitation services, like education, training or equipment. See our fact sheet *Client Assistance Project (CAP)*.



CAP is part of the MN Disability Law Center (MDLC). For more information about CAP or to apply for CAP services, call:

- New client intake: 1-877-696-6529
- Toll Free: 1-800-292-4150

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.
Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

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