

Table of Contents

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.01 - General Administration

| | |
|------------------------------------|---|
| 000. Legal Authority. | 2 |
| 001. Title And Scope. | 2 |
| 002. Written Interpretations. | 2 |
| 003. Administrative Appeals. | 2 |
| 004. -- 009. (Reserved). | 2 |
| 010. Definitions. | 2 |
| 011. -- 099. (Reserved). | 3 |
| 100. Client Appeals. | 3 |
| 101. -- 999. (Reserved). | 4 |

**IDAPA 47
TITLE 01
Chapter 01**

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

47.01.01 - GENERAL ADMINISTRATION

000. LEGAL AUTHORITY.

Section 33-2301, Idaho Code and the 1998 Amendments of the Rehabilitation Act of 1973. (4-5-00)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 47.01.01, "General Administration". (4-5-00)

02. Scope. The chapter has the following scope: To streamline the existing rules and to implement program changes necessitated by the 1998 Amendments of the Rehabilitation Act of 1973. (4-5-00)

002. WRITTEN INTERPRETATIONS.

Written interpretations to these rules in the form of the explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules are available from the Idaho Division of Vocational Rehabilitation, 650 W. State Street, Boise, Idaho 83720. (4-5-00)

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the administrative requirements for agencies. (4-5-00)

004. -- 009. (RESERVED).

010. DEFINITIONS.

01. CFR. Code of Federal Regulations. (7-1-93)

02. Client. Any individual who has applied for Vocational Rehabilitation services. (4-5-00)

03. Designated State Unit. The Idaho Division of Vocational Rehabilitation. (7-1-93)

04. IDVR. The Idaho Division of Vocational Rehabilitation. (4-5-00)

05. IPE. Individualized Plan for Employment. (4-5-00)

06. Method Of Written Notification. The written notification of findings and conclusions arising from an Administrative Review, Mediation, Fair Hearing, or as a result of the designated person review of the Fair Hearing shall be served to the client via the U.S. Postal Service by means of certified mail. Durational requirements for appeals shall commence on the day received by the client as noted by the certified mail records. (4-5-00)

07. P.L. Public Law. (7-1-93)

08. RCR. Running Case Record. (7-1-93)

09. RSA. Rehabilitation Services Administration. (7-1-93)

10. State Administrator. The Chief Executive Officer of the Idaho Division of Vocational Rehabilitation. (4-5-00)

11. Impartial Hearing Officer. A due process hearing shall be conducted by an impartial hearing officer who shall issue a decision based on the provisions of the approved State Plan, the Rehabilitation Act, and State

regulations and policies. The Designated State Unit shall maintain a list of qualified impartial hearing officers who are knowledgeable in laws (including regulations) relating to the provision of vocational rehabilitation services. (4-5-00)

011. -- 099. (RESERVED).

100. CLIENT APPEALS.

01. Client Of Vocational Rehabilitation - Internal Appeals Procedure To Contest A Disputed Action, Failure To Act, Or Decision Of The Division. A client of Vocational Rehabilitation services may file a request for an Administrative Review, Mediation or Fair Hearing and a re-determination of any and all actions, or lack thereof, concerning determination of eligibility or the provision (or lack thereof) of services. (4-5-00)

02. Administrative Review. Within thirty (30) calendar days of notification of the contested action, lack of action or decision, the client may request that an Administrative Review be held. The request shall be made in writing to the Regional Manager who has direct supervisory authority over the involved Vocational Rehabilitation Counselor handling the client's case with the Division. The written request should state the reason for the requested review. (4-5-00)

a. The Regional Manager shall inform the client in writing as to the time, place, and date of the Administrative Review. The client may choose to represent himself/herself or may have a representative(s) speak on his/her behalf. The Regional Manager will insure complete familiarity of the case and will call for testimony from any and all parties to the case that he/she feels is relevant to the review. (4-5-00)

b. The Regional Manager will make a decision regarding the specifics of the Administrative Review. This decision will be in written form and it will be sent to the client. It will also be included in the pertinent case file. Since the Administrative Review is an informal problem resolution process, the form of the written decision may be in standard business letter format. (4-5-00)

03. Mediation. The client will be informed of the availability of mediation and the process for such to settle disputes. Mediation is voluntary and is not intended to replace a request for a fair hearing. (4-5-00)

a. The division will make available a list of qualified mediators from which the client may choose. (4-5-00)

b. The division will be responsible for any costs associated with the mediation process. (4-5-00)

c. Reference: (4-5-00)

i. 34 CFR Part 361 et al. (4-5-00)

ii. P.L. 105-220. (4-5-00)

iii. State Plans for Vocational Rehabilitation. (4-5-00)

iv. Section 33-2301, Idaho Code. (4-5-00)

04. Fair Hearing. If the client is dissatisfied with the result of the Administrative Review, he/she may ask for a Fair Hearing. The Administrative Review process may not be used as a means to delay a more formal hearing before an Impartial Hearing Officer unless the parties jointly agree to a delay. The Fair Hearing will deal with the issues involved in the original Administrative Review, if one took place. The request for a Fair Hearing will be made in writing to the Administrator of the Division. It must be made within thirty (30) calendar days subsequent to receipt of official notification of the Regional Manager's decision from the Administrative Review. A fair hearing can be held without an Administrative Review but must occur within thirty (30) calendar days from the disputed action, lack of action, or a decision of the Division. The hearing by an impartial Hearing Officer must be held within forty-five (45) days of a request by the client unless both parties agree to a specified delay. (4-5-00)

- a. An Impartial Hearing Officer will be selected to hear a particular case, on the following basis: (4-5-00)
- i. By agreement between the administrator and the individual with a disability; (4-5-00)
 - ii. In an appropriate case the administrator and the individuals representative; (4-5-00)
 - iii. The Impartial Hearing Officer shall be selected from a pool of qualified persons identified jointly by the Division and members of the State Rehabilitation Council. The impartial Hearing Officer shall inform all relevant parties, in writing, as to the time, date, and place of the fair hearing. The client may represent himself/herself or may choose to be represented by any person(s) of his/her choice. (4-5-00)
- b. The hearing is a more formal proceeding than the Administrative Review. Upon its completion, the Impartial Hearing Officer shall make a decision. This decision shall be rendered into writing and provided to all parties involved in the Fair Hearing. The decision shall be the final internal action, unless the State Administrator of the Division decides to review such decision in whole or in part. Within twenty (20) calendar days of the mailing of the decision to the client (or in appropriate cases, such individual's parent or guardian), a person identified by the division shall notify such individual of the intent to review the decision. (4-5-00)
- i. If the designated person(s) decides to review the decision, the client shall be provided an opportunity for the submission of additional evidence and information relevant to a final decision. The designated person(s) may not delegate responsibility to make such final decision to any other officer or employee of the designated state unit. (4-5-00)
 - ii. A final decision shall be made in writing by the designated person(s) and shall include a full report of the findings and the grounds for such decision. (4-5-00)
 - iii. Upon making a final decision, the designated person(s) shall provide a copy of such decision to all parties involved in the Fair Hearing. (4-5-00)
- c. The designated person(s) may not overturn or modify a decision of an Impartial Hearing Officer or part of such a decision that supports the position of the individual unless the designated person(s) concludes, based on clear and convincing evidence, that the decision of the Impartial Hearing Officer is clearly erroneous on the basis of being contrary to federal or state law, including policy. (4-5-00)

101. -- 999. (RESERVED).

Subject Index

A

Administrative Review 3

C

CFR 2

Client 2

Client Appeals 3

Client Of Vocational Rehabilitation -
Internal Appeals Procedure To
Contest A Disputed Action, Failure
To Act, Or Decision Of The
Division 3

D

Definitions 2

Designated State Unit 2

F

Fair Hearing 3

I

IDVR 2

Impartial Hearing Officer 2

IPE 2

M

Mediation, Client Will Be Informed Of
The Availability Of Mediation 3

Method Of Written Notification 2

P

P.L. 2

R

RCR 2

RSA 2

S

State Administrator 2