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**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 Rehabilitation Act of 1973 and all subsequent Amendments. (3-30-01)

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. INCORPORATION BY REFERENCE.

01. General. Unless provided otherwise, any reference in these rules to any document identified in Subsection 004 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (3-30-01)

02. Availability Of Reference Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (3-30-01)

a. Central Office, Idaho Division of Vocational Rehabilitation, 650 W. State Street, Room 150, Boise, Idaho 83720, (208) 334-3390. (3-30-01)

b. Regional Offices, Idaho Division of Vocational Rehabilitation, located at: (3-30-01)

i. 1010 Ironwood Drive, Suite 101, Coeur d'Alene, Idaho 83814, (208) 769-1441. (3-30-01)

ii. 1118 F. Street, P.O. Box 1368, Lewiston, Idaho 83501, (208) 799-5070. (3-30-01)

iii. 3350 Americana Terrace, Suite 210, Boise, Idaho 83706, (208) 334-3560. (3-30-01)

iv. 10200 W. Emerald Street, Suite 101, Boise, Idaho 83704, (208) 327-7411. (3-30-01)

v. 245 3rd Avenue North, Twin Falls, Idaho 83301, (208) 736-2156. (3-30-01)

vi. 1070 Hiline, Suite 200, Pocatello, Idaho 83201, (208) 236-6333. (3-30-01)

vii. 1825 Hoopes Avenue, Idaho Falls, Idaho 83404, (208) 525-7149. (3-30-01)

- viii. 3110 Cleveland Blvd. #A5, Caldwell, Idaho 83605, (208) 454-7606. (3-30-01)
- ix. This document is also available at website <http://www.state.id.us/idvr/idvrhome.htm>. (3-30-01)
- 03. Documents Incorporated By Reference.** The following documents are incorporated by reference into these rules: (3-30-01)
- a. All federal publications through the Rehabilitation Services Administration: (3-30-01)
- b. Idaho Division of Vocational Rehabilitation Field Services Manual, 2000. (3-30-01)
- c. State Plan for Vocational Rehabilitation 2001-2003. (3-30-01)
- d. Public Law 105-220. (3-30-01)
- e. Federal Register, Department of Education, 34 CFR Part 361. (3-30-01)
- f. The Rehabilitation Act, as amended 1998. (3-30-01)
- 005. -- 009. (RESERVED).**
- 010. DEFINITIONS.**
- 01. CFR.** Code of Federal Regulations. (7-1-93)
- 02. Client.** Any individual who has applied for or is eligible for Vocational Rehabilitation services. (3-30-01)
- 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, 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. (3-30-01)
- 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 for a re-determination of any and all actions, or lack thereof, concerning determination of eligibility or the provision (or lack thereof) of services. (3-30-01)

02. Administrative Review. Within ten (10) 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. The written request should state the reason for the requested review. (3-30-01)

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 deny or delay the right to a fair hearing. The request shall be made in writing to the Regional Manager. A written request should state the reason for the requested review. (3-30-01)

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

b. The cost of the mediation process is paid for by the Idaho Division of Vocational Rehabilitation. The division is not required to pay for any costs related to the representation of the client. (3-30-01)

c. The Mediation must take place within the forty-five (45) day requirement for a Fair Hearing. (3-30-01)

04. Fair Hearing. A Fair Hearing can be held without an Administrative Review or Mediation or if the client is dissatisfied with the result of the Administrative Review or Mediation. The Administrative Review or Mediation 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 or Mediation, 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 ten (10) calendar days subsequent to receipt of official notification of the Regional Manager's decision from the Administrative Review or the Mediation Agreement from Mediation. 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. (3-30-01)

a. 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. (3-30-01)

b. The hearing is a more formal proceeding than the Administrative Review or Mediation. 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 action. (3-30-01)

101. -- 999. (RESERVED).

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