



Resolving Problems with Vocational Rehabilitation Services: Due Process Hearing

If you disagree with a decision made by Vocational Rehabilitation Services (VR), you can try to resolve the disagreement using a procedure called a **Due Process Hearing**. For simplicity, this fact sheet will simply use the term “hearing”; due process refers to the practices to ensure that you are treated fairly.

What is a hearing?

A hearing is a formal review process. A VR applicant or participant can request a hearing if they disagree with one or more VR decisions. During the hearing, an administrative law judge (ALJ) reviews the disputed decision(s). Later, the ALJ issues a written decision stating whether VR’s decision(s) violated any rights. During a hearing, both you and your VR counselor will have the opportunity to explain your position, question witnesses, and introduce evidence.

Can I ask for a hearing any time I disagree with my VR counselor?

No, only VR actions can be appealed. For more information, see [Resolving Problems with Vocational Rehabilitation Services: An Introduction](#).

How do I ask for a hearing?

You must ask for a hearing in writing within no more than 20 days from the date: (1) VR tells you of the decision or (2) VR’s decision becomes effective. Generally, the earlier date will be your deadline. VR has a form for participants to request a hearing and/or mediation. You can ask your VR counselor for a copy. You should also let your VR counselor know if you need reasonable accommodations to complete it.

What happens to my VR case after I request a hearing?

VR cannot reduce or stop your services until the ALJ issues a decision. Until then, VR must continue providing the services in your Individualized Plan for Employment.

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What happens after I request a hearing?

You will receive notice of a prehearing conference (PHC). The notice will share the date, time, and place of the PHC. During the PHC, you and/or your representative and your VR counselor and/or their representatives will discuss the disputed issue(s) with the ALJ. Participants will also agree on deadlines for exchanging exhibits and a list of witnesses, as well as a date, time, and place (or phone number) for the hearing. If you or VR do not participate in the PHC, the ALJ may dismiss the case and/or rule in the other side's favor.

You will also need to work with your representative(s), if any, on preparing for the hearing. For example, you likely want to request a copy of your VR file, as well as other relevant documents from people like your doctor or job coach. If you have witnesses, you will need to contact them to make sure they are available during the hearing. A list of witnesses and marked exhibits must be exchanged with VR before the hearing, as described during the PHC.

Hearings sound intense and complicated. Can I get help?

You have the right to be represented during a VR hearing. Representation can be informal, like support from a family member or friend. It can also be formal; you can request assistance from organizations like IDR or a center for independent living.

Can I get reasonable accommodations to participate in the hearing?

Yes, you can request reasonable accommodations from your VR Area Supervisor or the ALJ. These requests must be made **at least five days before the hearing**. Examples of reasonable accommodations that may be needed during a hearing are American Sign Language interpreters, regular breaks, and large print documents.

What happens during the hearing?

The ALJ will begin by describing your rights and the procedures that will be used during the hearing. The ALJ will then place you, your VR counselor, and any witnesses under oath (meaning that you promise to tell the truth). Next, the ALJ may allow the parties to give an opening statement, or an overview of the issues in dispute. Then, the ALJ will direct either you or VR to present your respective case.

When a party presents its case, it discusses the evidence and questions its witnesses. After a party questions one of its witnesses, the other party get to ask that witness questions, too. This is called cross-examination. Once the first party has presented its case, the other party gets to present its case. Again, cross-examination is allowed. Once the second party has finished, the ALJ may allow closing statements, which are a final opportunity to briefly explain why your view of the dispute is correct.



How does the ALJ remember what the witnesses say?

The ALJ makes an audio recording of the hearing. If necessary, the recording can be sent to a transcriptionist to create a written record of the hearing. Usually, a written record is only produced if a party appeals the ALJ's decision in state or federal court.

When will the ALJ issue a decision?

For VR hearings, an ALJ must generally issue their decision within **30 days from the date of the hearing**.

What if I am unhappy with the ALJ's decision?

The ALJ's decision will include facts and laws relevant to the disputed issue(s), as well as conclusions about whether VR's action violated any rights. If you disagree with the ALJ's understanding of the facts, but agree with their conclusion, it is best to accept the decision in your favor. If, instead, you disagree with the ALJ's conclusions, you can ask for administrative review. This request must be made, in writing, **within 20 days of the ALJ's decision** being issued. During administrative review, the Director of the Division of Disability and Rehabilitative Services will review the record and determine whether the ALJ's decision is correct. The Director will then issue a new decision.

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