



Ohio Administrative Code

Rule 3304-2-62 Vocational rehabilitation appeals.

Effective: November 1, 2020

(A) "Appellant" means an applicant, eligible individual, potentially eligible individual receiving pre-employment transition services, or former eligible individual.

(B) "Impartial hearing officer" means a person who is not an employee of a public agency other than as an administrative law judge or hearing examiner, and is not a member of the OOD Council; has not been involved in the vocational rehabilitation of the appellant; has knowledge of the delivery of vocational rehabilitation services, the state plan concerning vocational rehabilitation services, and the federal regulations and state law, administrative code, and OOD policies governing the provision of services; has received training with respect to the performance of official duties, and has no personal, professional, or financial interest that would conflict with objectivity.

(C) "Individual's representative" means any representative chosen by the appellant, including a parent, legal guardian, family member, or advocate. Any court appointed representative shall be the individual's representative.

(D) An appellant or the individual's representative may challenge an OOD determination in the following ways:

(1) Through the appeal procedures defined in paragraph (E) of this rule;

(2) Filing a complaint with the OOD equal employment opportunity office; and/or

(3) Filing a complaint with the office for civil rights, United States department of education.

(E) An appellant or the individual's representative may appeal an OOD action that affects the provision or denial of vocational rehabilitation services. The appellant shall submit an appeal in writing to the OOD executive director within thirty days of the notification of the provision or denial of services.



(1) Whenever an appellant or individual's representative submits an appeal in accordance with Ohio law and this rule, OOD shall offer the appellant an informal meeting unless previous efforts to resolve the issue have been exhausted prior to the filing of the appeal. OOD management shall conduct the informal meeting in person, by telephone, or through an OOD approved videoconference software. OOD management shall provide a written report of the informal meeting to the appellant and copy the OOD executive director or designee.

(2) The formal hearing shall be conducted pursuant to Chapter 119. of the Revised Code where such provisions do not conflict with the Rehabilitation Act of 1973, as amended, and the following requirements.

(a) The hearing shall be scheduled within sixty days of the appeal request. The hearing shall be conducted by an impartial hearing officer.

(b) The hearing shall be held in person at the OOD central office in Columbus, Ohio, or through an OOD approved videoconference software with the consent of the impartial hearing officer and the parties. Any person participating in a hearing may appear remotely through an OOD approved videoconference software. All remote participation in the hearing shall maintain confidentiality of the hearing. Any person participating remotely shall ensure compatibility and connectivity with the OOD approved videoconference software prior to the start of the hearing. Telephonic testimony shall not be permitted. Proposed exhibits shall be exchanged between the parties and the hearing officer prior to the start of the hearing. OOD shall have the hearing recorded in a manner that may be transcribed. Any party may request a transcript of the hearing at their own expense.

(c) The impartial hearing officer shall issue a written report and final decision within thirty days of the completion of the hearing. The report and final decision shall be based on the state plan, the Rehabilitation Act of 1973, as amended, federal vocational rehabilitation regulations, and state vocational rehabilitation laws and Administrative Code, and OOD policies. The impartial hearing officer shall send by certified mail the report and final decision to the appellant, or appellant's legal representative if applicable, and to OOD.

(d) The time limits established in paragraphs (E)(2)(a) and (E)(2)(c) of this rule may be extended by



mutual agreement of the parties, or for good cause shown at the request of either party made to the impartial hearing officer.

(e) The appellant shall be served with notice of the fair hearing in accordance with section 119.07 of the Revised Code, except that notice may also be served by electronic mail, with a delivery receipt and read receipt, after service by registered mail, then a certificate of mailing, and then personal service have failed.

(f) A civil action for review of the decision can be brought by either OOD or the appellant in any state court of competent jurisdiction or in a district court of the United States of competent jurisdiction. Any party filing an appeal shall also serve the notice of appeal on the opposite party.

(F) Either OOD or the appellant may request mediation. If mediation is agreed to by all parties, the mediation shall occur prior to a formal hearing.

(G) While an appeal is pending OOD shall not suspend, reduce, or terminate vocational rehabilitation services being provided to an appellant, including evaluation and assessment services, and IPE development absent consent of the appellant, an informal resolution, or final decision by an impartial hearing officer. A time-limited diagnostic service shall also continue to completion during the pendency of the appeal. An interruption or change in service dates shall not be considered to be a suspension, a modification, or a termination of services.

(1) A service may be modified suspended, or terminated if OOD has evidence the service was obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual or the individual's representative.

(2) A service may be suspended if OOD has evidence the service violates federal regulations or state vocational rehabilitation laws or Administrative Code.

(H) This rule is designed to implement the Workforce Innovation and Opportunity Act, 29 U.S.C. 32, and resulting regulations.