

3304-2-62 Consumer appeals.

(A) An applicant, ~~a consumer~~an eligible individual, a former ~~consumer~~eligible individual, or ~~the consumer's~~their legal guardian (that is the parent of a minor or a court-appointed guardian) or authorized representative who believes that the ~~consumer's~~applicant or eligible individual's civil rights have been violated may file an appeal(s) in the following ways:

- (1) Through the procedures defined in paragraphs (B) to (D) of this rule;
- (2) With the RSCOOD equal employment opportunity office; and/or
- (3) With the office for civil rights, United States department of education.

(B) An applicant, ~~a consumer~~an eligible individual, a former ~~consumer~~eligible individual, or ~~the consumer's~~their legal guardian (that is the parent of a minor or a court-appointed guardian) or authorized representative may appeal an RSCOOD action about the provision or denial of services. The consumer shall appeal in writing to the RSCOOD executive director within thirty days of learning about the action.

(1) The executive director or designee shall notify the area management of the appeal request. Area management shall contact the consumer appellant after notice of the appeal to schedule an informal meeting, either in person or by telephone, to resolve the issue unless documented meaningful contact regarding the subject of the appeal was made prior to the actual filing of the appeal and no resolution could be reached. Area management shall record the outcome of the contact and provide a copy to the consumer appellant and to the RSCOOD 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 conducted within sixty days of the appeal request. The hearing shall be conducted by an impartial hearing officer who has not previously participated in making any decisions about the ~~consumer's~~appellant's case. "Impartial hearing officer" means a person who: (i) is not an employee of a public agency, (ii) has not been involved in previous decisions about the consumer appellant, (iii) has knowledge of the delivery of VR services, the state plan, and the federal and state regulations governing the provision of services, (iv) has received training with respect to the performance of official duties, and (v) has no personal, professional, or financial interest that would conflict with objectivity.

(b) The hearing shall be held at the RSCOOD central office in Columbus, Ohio, unless written medical documentation supporting the need for an alternative site is provided by the consumer appellant.

(c) A stenographic record of the hearing shall be provided only upon the consumer's individual's written request.

(d) Within thirty days of completion of the hearing, the hearing officer shall issue a written report and decision. The report shall contain the findings and the grounds for the decision, which shall be based on the approved VR state plan and the Rehabilitation Act of 1973, as amended. The hearing officer shall send by certified mail, the report and decision to the consumer appellant or as appropriate, his or her representative, and to RSGOOD.

(e) The time limits established in paragraphs (B)(2)(a) and (B)(2)(d) of this rule may be extended by mutual agreement of the parties, or for good cause shown at the request of either party.

(3) A civil action for review of the decision can be brought by either RSGOOD or the consumer appellant in any state court of competent jurisdiction or in a district court of the United States of competent jurisdiction.

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

(D) ~~If the consumer appeals a decision, RSG~~ While an appeal is pending, OOD shall continue to provide vocational rehabilitation services including evaluation, assessment, IPE development, and VR services listed on the IPE until the formal hearing decision is made or until the appeal is resolved informally, except when the evaluation or assessment service is a time-limited diagnostic service. In such a case, when the time-limited diagnostic service is completed as authorized, there shall be no continuance of this service but other VR services shall be continued, if applicable. A service may be modified, suspended, or terminated without a formal hearing if the service was obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the consumer appellant. An interruption or change in dates shall not be considered to be a suspension, a modification, or a termination of services.

(E) This rule is designed to implement "Title IV of the Workforce Investment Act," which contains the 1998 amendments to "The Rehabilitation Act of 1973," and resulting regulations.