
Rules of
Department of Elementary and
Secondary Education
Division 90—Vocational Rehabilitation
Chapter 4—General Administrative Policies

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**Title 5—DEPARTMENT OF
ELEMENTARY AND
SECONDARY EDUCATION**
Division 90—Vocational Rehabilitation
**Chapter 4—General Administrative
Policies**

5 CSR 90-4.010 Client Appeals
(Rescinded November 15, 1982)

AUTHORITY: section 178.430, RSMo 1978. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Rescinded: Filed July 23, 1982, effective Nov. 15, 1982.

5 CSR 90-4.020 Standards for Dentists
(Rescinded November 15, 1982)

AUTHORITY: section 178.430, RSMo 1978. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Rescinded: Filed July 23, 1982, effective Nov. 15, 1982.

5 CSR 90-4.021 Dental Fee Schedule
(Rescinded November 15, 1982)

AUTHORITY: section 178.430, RSMo 1978. Original rule filed Aug. 2, 1978, effective Nov. 13, 1978. Rescinded: Filed July 23, 1982, effective Nov. 15, 1982.

5 CSR 90-4.030 Financial Inventory
(Rescinded November 17, 1980)

AUTHORITY: section 178.430 RSMo 1978. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Rescinded: Filed June 27, 1980, effective Nov. 17, 1980.

5 CSR 90-4.040 Hospitals
(Rescinded November 15, 1982)

AUTHORITY: section 178.430, RSMo 1978. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Rescinded: Filed July 23, 1982, effective Nov. 15, 1982.

5 CSR 90-4.050 Medical Services Policy
(Rescinded March 1, 1977)

AUTHORITY: section 178.430 RSMo 1969. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Rescinded: Filed Oct. 22, 1976, effective March 1, 1977.

5 CSR 90-4.051 Medical Services Policy
(Rescinded November 15, 1982)

AUTHORITY: section 178.430, RSMo 1978. Original rule filed Oct. 22, 1976, effective March 1, 1977. Rescinded: Filed July 23, 1982, effective Nov. 15, 1982.

**5 CSR 90-4.052 Payment Schedule for
Medical Services**
(Rescinded November 15, 1982)

AUTHORITY: section 178.430, RSMo 1978. Original rule filed Oct. 22, 1976, effective March 1, 1977. Rescinded: Filed July 23, 1982, effective Nov. 15, 1982.

5 CSR 90-4.060 Standards for Physicians
(Rescinded November 15, 1982)

AUTHORITY: section 178.430, RSMo 1978. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Rescinded: Filed July 23, 1982, effective Nov. 15, 1982.

**5 CSR 90-4.070 Standards for Psychologi-
cal Services**
(Rescinded November 17, 1980)

AUTHORITY: section 178.430, RSMo 1978. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Rescinded: Filed June 30, 1980, effective Nov. 17, 1980.

5 CSR 90-4.080 Rehabilitation Facilities
(Rescinded November 15, 1982)

AUTHORITY: section 178.430, RSMo 1978. Original rule filed Dec. 24, 1975, effective Jan. 3, 1976. Rescinded: Filed July 23, 1982, effective Nov. 15, 1982.

5 CSR 90-4.100 Definitions

PURPOSE: This rule establishes definitions for the State Board of Education through the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education for the standards and procedures to provide vocational rehabilitation services for applicants and eligible individuals with disabilities pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.

(1) Comparable Services. Services available under any other program (other than a program carried out under this title) which con-

tributes to the achievement of the individual's rehabilitation goal.

(2) Statewide government agency for order of selection. A governmental agency/program which benefits individuals in terms of their rehabilitation goals and whose mission is compatible with the federal act and/or applicable regulations and is available to persons throughout the state; i.e., a person from any part of the state may be referred to and referred from the governmental agency/program. The governmental agency/program may not be locally operated for the benefit of only local residents.

(3) Disability related expenses. Medication, therapy, medical treatment, prosthetic appliances, repairs to equipment, etc., not covered by insurance, Medicare, Medicaid or other third party payees, which directly relates to an individual's disability.

(4) Independent individual for financial needs purposes. Any individual who meets any one (1) of the following criteria: is twenty-three (23) years old; a veteran of the U.S. Armed Forces; a ward of the court; both parents are deceased; has legal dependents other than spouse; married and not claimed as an income tax exemption during the current tax year; unmarried and not claimed as an income tax exemption during the past two (2) years and has not lived for more than twelve (12) weeks in the home of the parent(s)/guardian during each of the past two (2) tax years.

(5) Dependent. An individual not meeting any of the criteria as an independent. When the client is a dependent, Division of Vocational Rehabilitation's (DVR's) Financial Application must be completed by the parent(s)/guardian and their income will determine the individual's eligibility for services based on financial need.

*AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. * Original rule filed Dec. 17, 1999, effective Aug. 30, 2000.*

**Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

**5 CSR 90-4.110 Confidentiality and
Release of Information**

PURPOSE: This rule establishes the procedures for release of information and confidentiality of applicants and/or eligible individuals for the State Board of Education

through the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.

(1) Information about an applicant or eligible individual will not be released without the individual's written permission except in the following situations when it directly relates to the applicant or eligible individual's rehabilitation program and is necessary to provide services:

(A) Name, addresses, Social Security number, phone numbers, educational/work histories and income information to other state agencies that the Division of Vocational Rehabilitation (DVR) has a cooperative agreement with including but not limited to Departments of Economic Development, Elementary and Secondary Education, Higher Education, Labor and Industrial Relations, Mental Health, Social Services and Workforce Development; and/or

(B) Information about an applicant or eligible individual to Community Rehabilitation Programs; and/or

(C) Information about an applicant or eligible individual to medical care service providers; and/or

(D) As authorized in the federal act and/or applicable regulations.

(2) An applicant or eligible individual's refusal to release information may affect eligibility or result in denial of services.

(3) Information from an individual's file must be requested in writing. Upon the determination that information is harmful to the individual, information will not be released to the individual, but will be released to court appointed representatives or a third party chosen by the individual including an advocate, individual's adult family member, qualified medical or mental health professional.

(4) An applicant or eligible individual who believes that information in the individual's record of services is inaccurate or misleading may request in writing that DVR amend the information. If the information is not amended, the request for the amendment must be documented in the record of services.

AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994.* Original rule filed Dec. 17, 1999, effective Aug. 30, 2000.

*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

5 CSR 90-4.120 Minimum Standards for Service Providers

PURPOSE: This rule establishes the minimum standards for service providers for the State Board of Education through the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education to provide vocational rehabilitation services for applicants and eligible individuals with disabilities pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.

(1) A service provider is an individual or organization which provides services to applicants or eligible individuals.

(A) A vocational service provider may provide one (1) or more of the following client interventions: personal and work adjustment training; job readiness training; supported employment; work stations in industry; and vocational evaluation.

1. The vocational service provider must demonstrate the ability to deliver appropriate case management services including counseling, psychological services, and vocational assessment services, and shall maintain service delivery personnel who possess substantial academic credentials appropriate to the proposed service.

2. Accreditation must be obtained from recognized professional accreditation organizations who have developed commonly accepted processes for accreditation of the specific service. This would include but is not limited to the Commission on Accreditation of Rehabilitation Facilities (CARF) and the Joint Commission of Accreditation of Hospitals (JCAH).

(B) An educational service provider must comply with the provisions found in 5 CSR 60-900.050.

(2) The service provider must be properly accredited, certified, or licensed in Missouri or another state as approved by the Division of Vocational Rehabilitation (DVR), in accordance with applicable state law and/or regulation. Qualified personnel must have a valid, unencumbered, unrestricted, and undisciplined license, certification, or accreditation.

AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 2000.* Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed Dec. 7, 2000, effective July 30, 2001.

*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

5 CSR 90-4.200 Eligibility

PURPOSE: This rule establishes the eligibility requirements for applicants for the State Board of Education through the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.

(1) Diagnosis of disability as defined in the Rehabilitation Act of 1973 as amended and the applicable rules must be by a qualified person, licensed or certified in Missouri or another state as approved by the Division of Vocational Rehabilitation (DVR), in accordance with applicable state law and/or regulation. Qualified personnel must have a valid, unencumbered, unrestricted, and undisciplined license or certification.

(2) Eligibility shall be determined pursuant to the federal act and/or applicable regulations and the following qualifications:

(A) Individuals with conditions diagnosed or related to alcohol and/or drug dependence, must be participating in or have successfully completed an inpatient/outpatient drug and/or alcohol treatment program, prior to receiving services from DVR. The treatment program must be certified by the Missouri Department of Mental Health, Division of Alcohol and Drug Abuse or the Joint Commission on Accreditation of Hospitals (JCAH);

(B) All referrals, applicants and eligible individuals with a visual disability will be referred to the Missouri Rehabilitation Services for the Blind (RSB) when the individual meets the visual disability requirements set forth in RSB rules; and

(C) Eligibility for individuals with hearing loss must be diagnosed by a Missouri certified audiologist or a Missouri physician skilled in diseases of the ear. Eligibility for individuals with a hearing loss is based upon standards developed by the American Speech and Hearing Association (ASHA).

1. The following standards may be considered when determining eligibility:

A. Pure tone average, speech receptions, and speech discrimination factors in determining the existence of functional limitations;

B. Pure tone average is determined by computing the decibel loss at 500 Hz, 1000 Hz, and 2000 Hz;

C. An individual with a forty-one (41) decibel loss in the better ear would be considered as having a disability with functional limitations;

D. An individual with a thirty-four to forty (34-40) decibel loss in the better ear may be considered as having a disability with functional limitations if the loss in the other ear is ninety (90) decibels or more; or

E. Other factors, including speech reception, speech discrimination, and decibel loss at frequencies above 2000 Hz may cause functional limitations.

AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000.*

**Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.*

5 CSR 90-4.300 Order of Selection for Services

PURPOSE: This rule establishes the order of selection for vocational rehabilitation services if the State Board of Education through the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education cannot provide services to all eligible individuals with disabilities in the State of Missouri.

(1) The following definitions apply to these regulations:

(A) Individual with the Most Significant Disability. An individual with a significant disability as defined in this rule, and the following:

1. Who is seriously limited in three (3) or more of the following functional areas:

- A. Self-care;
- B. Communication;
- C. Mobility;
- D. Self-direction;
- E. Work tolerance;
- F. Work skills; and/or
- G. Interpersonal skills;

(B) Individual with a Significant Disability. An individual with a disability, as defined in this rule and the following:

1. Who has a severe physical or mental impairment that seriously limits one (1) or more functional capacities (such as mobility; communication; self-care; self-direction; interpersonal skills; work tolerance; and/or work skills) in terms of an employment outcome;

2. Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

3. Who has one (1) or more physical or mental disabilities resulting from amputation;

arthritis; autism; blindness; burn injury; cancer; cerebral palsy; cystic fibrosis; deafness; head injury; heart disease; hemiplegia; hemophilia; respiratory or pulmonary dysfunction; mental retardation; mental illness; multiple sclerosis; muscular dystrophy; musculo-skeletal disorders; neurological disorders (including stroke or epilepsy); spinal cord conditions (including paraplegia or quadriplegia); sickle cell anemia; specific learning disability; end-stage renal disease; or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation; or

(C) Individual with a Disability. Any individual as defined in this rule and the following:

1. Who has a physical or mental impairment;

2. Whose impairment constitutes or results in a substantial impediment to employment; and

3. Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation service.

(2) In the event vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the state of Missouri, the Division of Vocational Rehabilitation (DVR) will implement a statewide order of selection. In accordance to the following priority categories, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services. Services shall be provided based upon the eligible individual's placement in one (1) of the following category priorities:

(A) Priority Category I—An individual with the most significant disabilities as defined above;

(B) Priority Category II—An individual with a significant disability as defined above; or

(C) Priority Category III—An individual with a disability as defined above.

(3) An eligible individual will be placed in the appropriate priority category and receive written notification of the assigned priority category. The eligible individual's date of application will be used to determine the order of services within a priority category.

(4) An eligible individual will be notified of their right to appeal their category assignment.

(5) All funding arrangements for providing services, including any third-party arrange-

ments and awards by DVR shall be consistent with the order of selection. If any funding arrangements are inconsistent with the order of selection, DVR shall renegotiate these funding arrangements so that they are consistent with the order of selection.

(6) Eligible individuals who are in a priority category that is not open, shall be provided accurate vocational rehabilitation information and guidance (including counseling and referral for job placement) using appropriate modes of communication to assist them in preparing for, securing, retaining, or regaining employment. These individuals will also be referred to other appropriate federal and state programs, including the statewide workforce investment career centers.

(7) Individuals being referred to appropriate programs, as mentioned above, shall be provided the following:

(A) A notice of the referral to the agency carrying out the program;

(B) Information identifying a specific point of contact within the agency to which the individual is being referred; and

(C) Information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain or regain employment.

(8) An eligible individual's placement in a priority category may be changed under justifiable circumstances.

(9) Rationale for placement will appear in the individual's case file.

(10) The order of selection shall in no way affect the provision or authorization of diagnostic and evaluation services needed to determine eligibility.

(11) Services authorized or provided to any eligible individual shall not be disrupted as a result of an order of selection or the closing of a priority category.

(12) Order of selection priority categories do not apply to post-employment services.

(13) The order of selection shall in no way affect eligible individual's access to services provided through DVR's information and referral system.

AUTHORITY: sections 161.092, RSMo Supp 2002 and 178.600, 178.610 and 178.620, RSMo 2000. Original rule filed Dec. 17, 1999, effective Aug. 30, 2000. Amended: Filed Aug. 13, 2002, effective March 30, 2003.*



*Original authority: 161.092, RSMo 1963, amended 1973, 2002; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

5 CSR 90-4.400 Appeals

PURPOSE: This rule establishes the procedures for appeal by an applicant or eligible individual dissatisfied with a determination made regarding the provision of services by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.

(1) When an applicant or eligible individual signs an application, is determined ineligible for services, the Individualized Plan for Employment (IPE) is developed or executed, or upon reduction, suspension, or cessation of vocational rehabilitation services, the applicant or eligible client will be apprised of their rights to a due process hearing and/or mediation.

(2) When an applicant or eligible individual is dissatisfied with any determination made by the Division of Vocational Rehabilitation (DVR) regarding the provision of services, the applicant or eligible individual may request under the rules promulgated by the State Board of Education, informal review, a due process hearing or mediation.

(3) When an applicant or eligible individual is dissatisfied with any determination made by DVR regarding the provision of services, the applicant or eligible individual will be given information about the Client Assistance Program.

(4) Division of Vocational Rehabilitation will not suspend, reduce, or terminate services provided to an eligible client under an existing IPE pending a decision from informal review, due process hearing or written mediation agreement, unless the eligible individual or their representative requests in writing that services be suspended, reduced or terminated.

AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994.* Original rule filed Dec. 17, 1999, effective Aug. 30, 2000.

*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

5 CSR 90-4.410 Informal Review

PURPOSE: This rule establishes the procedures for informal review of a decision made by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.

(1) The applicant or eligible individual may request informal review in writing to the supervisor of the district office.

(2) The district supervisor or regional manager will conduct an informal review within twenty (20) working days from receipt of the applicant's or eligible individual's request.

(3) An applicant or eligible individual may request a due process hearing or mediation without informal review.

(4) If the informal review is not successful, a formal due process hearing will be conducted within forty-five (45) days from the applicant or eligible individual's written request for informal review unless both parties agree to a specified time extension.

(5) The applicant or eligible individual will be informed of the results of their informal review in writing and the right to a due process hearing or mediation.

AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994.* Original rule filed Dec. 17, 1999, effective Aug. 30, 2000.

*Original authority: 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

5 CSR 90-4.420 Due Process Hearing

PURPOSE: This rule establishes the procedures for due process hearings for applicants or eligible individuals dissatisfied with a determination made regarding the provision of services by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.

(1) An applicant or eligible individual may request a due process hearing without informal review or mediation.

(2) An applicant or eligible individual may request a due process hearing in writing or by

personally contacting a coordinator, Division of Vocational Rehabilitation (DVR).

(3) The assistant commissioner of DVR will set a hearing and assign a hearing officer selected pursuant to the federal regulations and/or applicable regulations.

(4) A hearing will be held within forty-five (45) days of the request unless a party requests a specified time extension.

(5) A hearing will be conducted as a contested case pursuant to the provisions of Chapter 536, RSMo.

(6) The applicant or eligible individual, or if appropriate, the individual's parent, guardian or other representative, will be allowed an opportunity to present additional evidence, information and witnesses during the due process hearing.

(7) Copies of all correspondence, reports of contact and written decisions rendered by the hearing officer shall be placed in the applicant's or eligible individual's case file.

(8) The hearing officer will make a decision based upon the provisions of the approved state plan, the federal act and/or applicable regulations, and appropriate state law and/or regulations. A written report of the findings of fact and conclusions of law will be submitted to the applicant or eligible client or, if appropriate the individual's parent, guardian or other representative and to the assistant commissioner within thirty (30) days of completion of the due process hearing.

(9) Within twenty (20) days of the hearing officer's written decision, either party may request in writing, review of the written decision to the commissioner of the Department of Elementary and Secondary Education or his/her designee.

(10) The commissioner or designee shall provide an opportunity for submission of additional evidence and information relevant to a final decision.

(11) The commissioner or designee shall not overturn or modify the hearing officer's decision, or part of the decision supporting the position of the applicant or eligible individual, unless the reviewing official determines based upon clear and convincing evidence that the decision of the hearing officer is clearly erroneous on the basis of being contrary to the approved state plan, the federal act and/or applicable regulations, or the appropriate state law and/or regulations.

(12) The commissioner or designee shall provide a written final findings of fact and conclusions of law to the applicant or eligible individual, or, if appropriate, the applicant's representative, and DVR in a timely manner.

AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. * Original rule filed Dec. 17, 1999, effective Aug. 30, 2000.

**Original authority:* 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

(7) Mediation will not be used to deny or delay an individual's due process hearing.

AUTHORITY: sections 161.092, 178.600, 178.610 and 178.620, RSMo 1994. * Original rule filed Dec. 17, 1999, effective Aug. 30, 2000.

**Original authority:* 161.092, RSMo 1963, amended 1973; 178.600, RSMo 1963; 178.610, RSMo 1963; and 178.620, RSMo 1963.

5 CSR 90-4.430 Mediation

PURPOSE: This rule establishes the procedures for mediation for applicants or eligible individuals dissatisfied with a determination made regarding the provision of services by the Division of Vocational Rehabilitation, Department of Elementary and Secondary Education pursuant to the Rehabilitation Act of 1973 as amended and the Code of Federal Regulations.

(1) The applicant or eligible individual may request mediation regarding disputes involving any determination by the Division of Vocational Rehabilitation (DVR) that affects the provision of services. This request may be made in writing or by personally contacting a coordinator of DVR.

(2) The assistant commissioner of DVR will assign a mediator selected pursuant to the federal act and/or applicable regulations and agreed to by both the DVR and the applicant or eligible individual.

(3) An agreement reached by the parties shall be set forth in writing.

(4) A written mediation agreement shall be provided to the applicant or eligible individual, or if appropriate, the individual's parent, guardian or other representative and to the assistant commissioner within thirty (30) days of completion of the mediation process.

(5) All discussions occurring during the mediation process shall be confidential and not used as evidence in any subsequent due process hearing or civil proceeding. Parties may be required to sign a confidentiality pledge prior to the commencement of mediation.

(6) An applicant or eligible individual may request mediation without informal review or a due process hearing. Mediation is voluntary on the part of both parties.