OFFICE OF THE SECRETARY OF STATE
TOBIAS READ
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MICHAEL KAPLAN
DEPUTY SECRETARY OF STATE

ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 582
DEPARTMENT OF HUMAN SERVICES
VOCATIONAL REHABILITATION SERVICES

FILED: 10/30/2026 11:14 AM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Vocational Rehabilitation OAR 582 Division 20 Dispute Resolution and Complaints processes update

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/31/2026 11:55 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

CONTACT:
Robin Brandt
503-507-5226
VR.Policy@odhsoha.oregon.gov
500 Summer Street NE
Salem, OR 97301

Filed By:
Robin Brandt
Rules Coordinator

HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/20/2026
TIME: 12:30 PM - 1:30 PM
OFFICER: Robin Brandt

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 1-669-254-5252
CONFERENCE ID: 1656799984
SPECIAL INSTRUCTIONS:
CART and ASL interpreter requested. For more details see Oregon Vocational Rehabilitation Rules and Regulations website <https://www.oregon.gov/odhs/rules-policy/Pages/vr-rules.aspx>

DATE: 12/15/2026
TIME: 11:30 AM - 12:30 PM
OFFICER: Robin Brandt

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 1-669-254-5252
CONFERENCE ID: 1657579142
SPECIAL INSTRUCTIONS:
CART and ASL interpreter requested. For more details see Oregon Vocational Rehabilitation Rules and Regulations website <https://www.oregon.gov/odhs/rules-policy/Pages/vr-rules.aspx>

NEED FOR THE RULE(S):

Oregon Vocational Rehabilitation is updating these rules to meet requirements for a review of OAR 582 Division 20 rules as required. Additionally, the rules are updated to clarify and describe the dispute resolution process and types of complaints that are made.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Workforce Innovation and Opportunity Act; <https://www.congress.gov/113/bills/hr803/BILLS-113hr803enr.pdf>
State Vocational Rehabilitation Services Program; State Supported Employment Services Program; Limitations on Use of Subminimum Wage; Final Rule <https://www.govinfo.gov/content/pkg/FR-2016-08-19/pdf/2016-15980.pdf>
The Rehabilitation Act of 1973, as amended by title IV of the Workforce Innovation and Opportunity Act (WIOA) <https://rsa.ed.gov/sites/default/files/downloads/rehabilitation-act-of-1973-amended-by-wioa.pdf>
34 CFR PART 361—State Vocational Rehabilitation Services Program <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-361>
34 CFR §370 Client Assistance Program <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-370>
OAR 582-150-0005(2) <https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=5079>
Oregon Vocational Rehabilitation - Rules and Regulations <https://www.oregon.gov/odhs/rules-policy/Pages/vrrules.aspx>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

Individuals attending the meeting were asked to consider the impact of the rules on racial equity. They were asked to consider the following questions before the meeting:

- What does the policy/ rule/ work aim to accomplish?
- Which specific communities are affected by the policy/ rule/ work initiative?
- Describe how the policy/ rule/ initiative meets the needs of consumers representing diverse backgrounds.
- What are the potential unintentional consequences or social, political, emotional, economic, and other impacts of the policy/ rule/ initiative on the groups identified? Does the policy/ rule/ initiative ignore or worsen existing disparities? How could adverse impacts be minimized?
- How does the policy, rule, or initiative reflect ODHS equity goals concerning diversity and inclusion and service equity?
- Given the potentially impacted populations you identified, will the policy or rule be available in other languages? If so, which languages? If not, describe your rationale not offering the policy/rule in different languages.
- Describe your plan for communicating the new, or modified policy, rule, or initiative to potentially impacted communities.
- Describe the data collection strategy for identifying and tracking impacts of the policy/ rule/ initiatives on consumers representing diverse backgrounds. What does success look like?

Comments related to racial or other equity

Several individuals commented how the process caused individuals to withdraw from the dispute resolution process.

- There are a small percentage of people -at least that [the service provider has met] that don't have, for whatever reason, any outside support. Whether it is natural support or paid. When it comes to trying to understand this [process] on their own or get through the whole process, a lot of times … they can give up or just not get through the process.
- Any process that has [multiple] steps [or requirements] or just understanding what is said [in the procedure]. The service provider tries to help as much as possible. [A small group is impacted by these factors.]
- No group has been identified as participating or not participating in dispute resolution or complaints. The numbers are very small, and the demographics are not reported about those involved in dispute resolution and complaints. In this situation the demographics are suppressed (not reported) as it might lend to identifying a person with those attributes. (See Oregon Vocational Rehabilitation hearing & mediation data (10/1/2024 – 9/30/2025.)

 It was recommended that demographic data be collected about individuals who pursue dispute resolution or making a complaint.

NOTE: The numbers of individuals that are formally involved in these processes ignore the number of disputes or complaints that are solved informally through the work of the Program staff, branch managers, the dispute resolution coordinator, and collaboration with other organizations, including Disability Rights Oregon, Client Advocacy Program staff each year.

FISCAL AND ECONOMIC IMPACT:

Individuals attending the rule advisory meetings were asked to consider the fiscal impact of the changes to Division 20 on small businesses with less than 50 employees.

- Dispute resolution takes time. That already occurs in the process of providing services to individuals. To ensure quality service, this is part of the process.
- The process of dealing with a complaint may take less time because the process is documented in the rules. Having a process helps the parties come to a resolution.

 The disadvantage is that dispute resolution and complaint processes "get resolved eventually." It does take time to work through the process.

- It was suggested that maybe just there isn't really a strict internal timeline. That lack of internal timeline "could hold them up and waste some of their time … waiting around while that internal complaint process" are completed.

 It was pointed out that there are deadlines for both the dispute resolution and the complaints processes in the rules.

This discussion was supplemented by a conversation with a small group of community service providers that represented organizations covering most of the state on Sept. 16, 202. This group was invited to discuss and provide feedback on the vendor, contractor, and service provider complaint process.

- The providers appreciated that the issue is initially addressed at the “front end” or between the VR participant and the service provider. Complaints are common and may just be a misunderstanding. Service providers should be prepared to deal with complaints.

 Encouraging the participant to engage with the service provider to discuss the complaint was appreciated.

 This is something that the providers practice with participants. (A great skill to have – advocating for one's self with an employer over an issue.)

 Resolving issues at a lower level involves fewer people, takes less time, and that reduces the overall cost of being engaged in conflict resolution.

 There was uncertainty how much time a complaint could be resolved following the timelines in the process. A little over two months was estimated if the maximum deadlines were met and it did not progress to management for review at

a higher level.

- The providers in attendance felt that the loss that they might encounter is when a participant engages with them, does not complete service because the fit may be inappropriate between organization and participant, and the participant goes to another service provider.
- Some providers felt that it is their responsibility to help the individual served to make complaints involving VR staff or other service providers and then support them through the resolution. They felt that this was a cost to them.

 Service providers are not responsible to assist Program participants to make complaints. Complaints of this type are to be referred to the dispute resolution coordinator.

Recommendations

- The process after the dispute resolution coordinator hands off vendor, contractor, and service provider complaint within the Program needs further explanation. The process steps and timelines are needed. Describe the process to advance a complaint beyond the dispute resolution coordinator.
- Ensure service providers are trained in this complaint process.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

Oregon Vocational Rehabilitation is impacted by the rules. It employs a full-time dispute resolution coordinator for the purpose of coordinating responses to dispute resolution requests and complaints. It works in cooperation with the ODHS Governor's Advocacy Office <https://www.oregon.gov/odhs/about/pages/gao.aspx> when appropriate, to meet the need of assisting individuals who have complaints related to Vocational Rehabilitation.

There have been no additional costs to state agencies or local governments by the changes in OAR 582 Division 20.

Efforts to make the rules more easily understood and detailed are anticipated to assure the public can access and understand how the dispute resolution and complaint processes "work." No impact on the public was identified. Only very small numbers of Vocational Rehabilitation participants make complaints or engage with dispute resolution (highest number was 13 requests for impartial hearings) compared to the total number of individuals served. The number of complaints, listed in Oregon Vocational Rehabilitation hearing & mediation data (10/1/2024 – 9/30/2025), are relatively small. Oregon's Program served about 11,834 individuals in 2024, the most recent year available. (See Rehabilitation Services Administration, Review of PY 2024 VR Program Performance, 12/15/2025.) The largest single number of resolutions were for impartial hearings related to the nature, contents, and scope of an individualized plan for employment.

(2) Effect on Small Businesses:

(a) Estimate the number and type of small businesses subject to the rule(s);

Vocational Rehabilitation has about 1,300 estimated vendors, contractors, or community service providers who might be involved in a complaint. Few are involved in formal complaints. There is no formal data about this. The rules regarding

vendor, contractor, or community service provider complaints are new with this iteration of rules.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

The participants in the rule advisory committee reported:
Dispute resolution takes time. That already occurs in the process of providing services to individuals. To ensure quality service, this is part of the process.

- The process of dealing with a complaint may take less time because the process is documented in the rules. Having a process helps the parties come to a resolution.

 The disadvantage is that dispute resolution and complaint processes "get resolved eventually." It does take time to work through the process.

- It was suggested that maybe just there isn't really a strict internal timeline. That lack of internal timeline "could hold them up and waste some of their time … waiting around while that internal complaint process" are completed.

 It was pointed out that there are deadlines for both the dispute resolution and the complaints processes in the rules.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The processes and costs of professional services, equipment supplies, labor and increased administration required to comply with the rule(s) are in place and are not anticipated to increase.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Vocational Rehabilitation (VR) provides a monthly newsletter to organizations and individuals who are paid to provide services to participants. Individuals may opt to sign up for this newsletter. In the newsletter for September 2026 it was announced that a small focus-like group was to be held and provided individual the opportunity to register for the vent. Fifteen individuals registered to attend the meeting. They were sent materials and questions that would be discussed. They could communicate with the rule coordinator via email and telephone before and after the meeting. Five individuals attended.

Vendors, contractors, and community service providers were also invited to be part of the rule advisory committee. Invitations were sent to the larger community of individuals who sign up for information about Vocational Rehabilitation, the vendor newsletter list, and general interested parties. Four individuals who are vendors, contractors, community service providers, or a representative of the group overall attended the rule advisory committee and provided comments on the rule and how small businesses might be impacted by the rules in Division 20.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
582-020-0005, 582-020-0010, 582-020-0015, 582-020-0020, 582-020-0025, 582-020-0030, 582-020-0035, 582-020-0040, 582-020-0045, 582-020-0050, 582-020-0055, 582-020-0060, 582-020-0065, 582-020-0070, 582-020-0075, 582-020-0080, 582-020-0085, 582-020-0090, 582-020-0095, 582-020-0130, 582-020-0135, 582-020-0140, 582-020-0145, 582-020-0150, 582-020-0155, 582-020-0160, 582-020-0165

AMEND: 582-020-0005

RULE SUMMARY: OAR 582-020-0005 Removes the general information and philosophy about resolving disputes with clients. Instead, there are definitions used in Division 20.

New definitions or changes are as follows.

- Client is added.
- The Client Assistance Program (CAP) definition has changed. The definition explains that CAP is part of the Disability Rights Oregon organization.
- Counseling and guidance are added.
- Due process is removed.
- Delay is added.
- Designated investigator is added.
- Final order is changed.
- Formal Administrative Review (FAR) is described more clearly.
- Impartial hearing officer is further defined with required qualifications.
- Problem solving has been removed.
- Qualified and impartial mediator now includes qualifications for the position.
- The use of the definition of representative is limited to this Division.

A definition of potentially eligible is defined in OAR 582 Division 150 Youth services. The reference to that definition is provided in each rule of Division 20. There is no need to define it in Division 20 as well.

CHANGES TO RULE:

582-020-0005
D~~ispute Resolution, General~~efinitions ¶

(1) ~~It is the~~ "Action" means a decision by the Program to deny, termin~~ent of the Program to resolve disputes between the Program and~~ate, suspend, or reduce a client's eligibility or services. Action may include the Program's delay in making a decision as defined in OAR 582-020-0005(5).¶
(2) "Client" means an applicant or eligible individual of the Program.¶
(3) "Client Assistance Program" (CAP) means a federally funded program authorized under 34 CFR §370 that is independent of the Program. ¶
(a) CAP's purpose ~~its clients quickly and fairly.~~to provide information, advocacy, and representation to individuals seeking Program services. ¶
(b) Disability Rights Oregon (DRO) is the protection and advocacy system for Oregon. It helps people with disabilities with their legal issues in Oregon. DRO is the parent organization for CAP. ¶
(~~2~~4) ~~Clients who are dissatisfied or disagree with a decision by Program personnel that affects the provision of vocational rehabilitation services to them shall have available a range of dispute resolution options, including problem solving, informal resolution, media~~"Counseling and guidance" means a vocational rehabilitation service provided by a Program counselor to a client. ¶
(a) This is an ongoing professional relationship that assists the individual to achieve an employment outcome consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.¶
(b) Counseling and guidance must be delivered through real-time communication, including in-person, telephone, or virtual interactions, that allow for direct, simultaneous exchange between the counselor and the individual.¶
(c) Counseling and guidance services include, but are not limited to:¶
(A) Assisting the individual to understand vocational rehabilitation needs, eligibility, and available services;¶
(B) Supporting the individual in making informed choices regarding employment goals, services, and service providers;¶
(C) Identifying and addressing barriers to employment, including disability-related and external factors;¶
(D) Assisting the individual with adjustment to a disability as it relates to achieving an employment outcome;¶
(E) Guiding the development, implementation, and modification of the individualized plan for employment (IPE); and¶
(F) Promoting self-advocacy, independence, and personal responsibility in pursuit of competitive integrated employment.¶
(d) Provision of counseling and guidance services is:¶

(A) Provided throughout all phases of the vocational rehabilitation process, including application, eligibility determination, plan development, service delivery, and case closure;¶
(B) Provided in a manner consistent with federal vocational rehabilitation regulations and state policy; and¶
(C) Delivered through real-time communication, including in-person, telephone, or virtual interactions, ~~impartial due process hearing, and formal administrative review.~~that allow for direct, simultaneous exchange between the counselor and the individual.¶
(e) Counseling and guidance must be provided by Program counselors or other Program staff consistent with applicable state and federal personnel standards as outlined in 34 CFR 361.18(c).¶
(5) "Delay" means the Program fails to issue a required decision within the timeframes established by applicable state or federal law or rule.¶
(a) A delay occurs only if the client shows that:¶
(A) The service or action is authorized and required under the individualized plan for employment (IPE) or applicable law;¶
(~~3~~B) The Program ~~shall inform clients about the range of dispute resolution options available and their right to seek the assistance of the Client Assistance Program~~failed to act within a required timeframe; and¶
(C) The failure to act was not caused by the client.¶
(b) When the Program is unable to proceed due to factors outside its control, this is not a delay. This includes but is not limited to:¶
(A) The client's failure to provide requested information or documentation;¶
(B) The need to coordinate or verify comparable benefits or services;¶
(C) The client's failure to respond or participate in required activities; or¶
(D) The time reasonably needed to complete the internal review or approval steps, including the time to develop or approve an individualized plan for employment (IPE). ¶
(6) "Designated investigator" means a Program staff, who based on the nature and complexity of the complaint:¶
(a) Is assigned to investigate and address issues raised through the complaint process. ¶
(b) Must have sufficient authority to evaluate and resolve the complaint; and¶
(c) May not have been directly involved in the matter that is the subject of the complaint.¶
(4~~7~~) ~~The dispute resolution process is framed by the approved State Plan, the Rehabilitation Act of 1973 as amended (29 U.S.C. 701 et seq.), federal vocational rehabilitation regulations, relevant~~ "Final order," means the final written decision of the Program or an impartial hearing officer that concludes the administrative process. A final order is binding, enforceable, and constitutes the final agency determination, subject to limited retained jurisdiction for reconsideration, clarification, or correction as authorized by rule or law.¶
(8) "Formal Administrative Review (FAR)" means an impartial review by a reviewing official of a final order issued by an impartial hearing officer.¶
(9) "Good cause" means unforeseen circumstances beyond a Party's reasonable control that could not have been reasonably anticipated or avoided. Good cause may include sudden illness, medical emergency, hospitalization, natural disaster, or serious family emergency. Good cause does not include forgetfulness, lack of planning, or routine scheduling conflicts.¶
(10) "Impartial hearing officer (IHO)" means an individual who:¶
(a) Has received training regarding the performance of official duties; ¶
(b) Has no personal, professional, or financial interest that could affect the individual's objectivity;¶
(c) Has knowledge of the delivery of vocational rehabilitation services, the vocational rehabilitation services portion of the State Plan, and the federal and state regulations governing the provision of services. ¶
(d) Is not an employee of a public agency, other than an administrat~~o~~ive law judge, hearing examiner, or employee of an insta~~i~~itute~~s, the Administrative Procedures Act, and the Program's administrative rules and policies. The Program has not adopted the Model Rules of Procedure for Contested Cases OAR 137-003-0000 to 137-003-0700~~ion of higher education;¶
(e) Is not a member of the State Rehabilitation Council;¶
(f) Has not been previously involved in the client's vocational rehabilitation plan; and ¶
(g) An individual is not considered to be an employee of the Program for purposes of this definition solely because the individual is paid by the Program to serve as a hearing officer.¶
(11) "Informal dispute resolution" means discussions with the Program about the resolution of a mediation or hearing request. Informal dispute resolution may occur at any time after a client files a request for mediation or hearing and before a final mediation agreement has been signed or an order has been issued by the impartial hearing officer (IHO).¶
(12) "Impartial due process hearing" or "hearing" means a contested case hearing conducted by an impartial hearing officer (IHO).¶
(13) "Mediation" means the act or process of using a qualified and impartial mediator to act as mediator, intermediary, or conciliator to assist individuals or parties in settling differences or disputes. ¶

(14) "Notice of Proposed Action (NOPA)" means a formal written document informing the individual of a Program decision to deny, terminate, suspend, or reduce a client's eligibility or services.¶
(15) ~~In~~"Party" means, for purposes of the dispute resolution process~~ clients must:¶~~
~~(a) Cooperate with scheduled meeting~~, the Program, the client, or both separately.¶
(16) "Qualified and impartial mediator" means an individual who:¶
(a) Has been trained in effective mediation techniques consistent with any state-approved or recognized certification, licensing, registration, or other requirements; ¶
(b) Is knowledgeable of the vocational rehabilitation program and the applicable federal and state laws, regulations, and policies governing the provision of vocational rehabilitation services; ¶
(~~b~~c) ~~Attend scheduled meetings and hearing related proceedings;¶~~
~~(c) Submit paperwork in a timely manner; and~~Has no personal, professional, or financial interest that could affect the individual's objectivity during the mediation proceedings;¶
(d) Is not an employee of a public agency, other than an administrative law judge, hearing examiner, employee of a state office of mediators, or employee of an institution of higher education;¶
(e) Is not a member of the State Rehabilitation Council; and¶
(f) Has not been involved previously in the vocational rehabilitation plan of the client.¶
(g) An individual is not considered to be an employee of the Program for the purposes of this definition solely because the individual is paid by the Program to serve as a mediator.¶
(17) "Representative" means an individual designated to represent the client or the Program during informal resolution, mediation, or an impartial hearing under this division. This definition applies only to the dispute resolution procedures in this division.¶
(a) The client may be represented by an attorney licensed by the Oregon State Bar or any other representative authorized by law, including but not limited to the Client Assistance Program.¶
(~~d~~b) ~~Reasonably provide relevant information as requested~~The Program may be represented by the Attorney General's office or by a Program lay representative.¶
(18) "Reviewing official" means the individual who conducts the formal administrative review of the impartial hearing officer's (IHO) decision if a party is dissatisfied with that decision. The reviewing official shall be the director or designee of the Oregon Department of Human Services. The designee may not be an employee of the Program, or an individual previously involved in the client's vocational rehabilitation, or an individual with a personal or financial conflict of interest.¶
(19) "Unable to locate or contact the individual" means the Program made a good faith effort to reach the individual using different appropriate modes of communication over a reasonable period and has not been able to locate or contact the individual.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.530, 344.550, 344.590

AMEND: 582-020-0010

RULE SUMMARY: This section replaces the section previously named “Definitions” and provides new information.

- Regulations that govern or do not govern the dispute resolution process and complaints resolution are provided.
- The Program has not adopted the Model Rules of Procedure for Contested Cases OAR 137-003-0000 to 137-003-0700
- The rights of potentially eligible students are provided.

CHANGES TO RULE:

582-020-0010
~~Defini~~Governing Regulations ¶

(1) ~~"Action" means a decision by the Program to deny, terminate, suspend, or reduce a client's eligibility or services. Action may include the Program's delay in making a decision to deny, terminate, suspend, or reduce a client's eligibility or services. ¶~~
~~(2) "Client" means an applicant or eligible individual of the Program. ¶~~
~~(3) "Delay" means: ¶~~
~~(a) The Program failed to make a decision regarding an action within the timeframes specified in state or federal law; or¶~~
~~(b) If state or federal law does not impose a time limit, the client has made a dated, written request for a decision regarding a Program action and the Program has unreasonably delayed in making that decision. ¶~~
~~(4) "Due Process" means the process by which Program applicants or participants who are dissatisfied or disagree with a decision that affects the provision of vocational rehabilitation services may pursue a review.¶~~
~~(5) "Final Order" means the written final Program action. Final order does not include any tentative or preliminary Program declaration or statement that precede~~The dispute resolution process is framed by the approved State Plan, the Rehabilitation Act of 1973 as amended (29 U.S.C. 701 et seq.), federal vocational rehabilitation regulations, relevant state statutes, the ~~final Program action. ¶~~
~~(6) "Formal Administrative Review (FAR)" means an impartial review by a reviewing official of the Impartial Hearing Officer's decision issued after the hearing. ¶~~
~~(7) "Good Cause" means due to unforeseen circumstances beyond the party's control.¶~~
~~(8) "Impartial Hearing Officer (IHO)" means an individual who: ¶~~
~~(a) Is not an employee of a public agency, other than an administrative law judge, hearing examiner, or employee of an institution of higher educations;¶~~
~~(b) Is not a member of the State Rehabilitation Council; ¶~~
~~(c) Has not been previously involved in the client's vocational rehabilitation plan; ¶~~
~~(d) Has knowledge of the delivery of vocational rehabilitation services, the vocational rehabilitation services portion of the State Plan, and the Federal and State regulations governing the provision of services;¶~~
~~(e) Has received training with respect to the performance of official duties; and¶~~
~~(f) Has no personal, professional, or financial interest that could affect the individual's objectivity.~~ Administrative Procedures Act, and the Program's administrative rules and policies. The Program has not adopted the Model Rules of Procedure for Contested Cases OAR 137-003-0000 to 137-003-0700.¶
(~~g~~a) A~~n individual is not considered to be an employee of a public agency for purposes of this definition because the individual is paid by the agency to serve as a hearing officer. ¶~~
~~(9) "Informal Dispute Resolution" means discussions with the Program about the resolution of a mediation or hearing request. Informal dispute resolution may occur at any time after a client files a request for mediation or hearing and, before a final mediation agreement has been signed or an order has been issued by the Impartial Hearing Officer (IHO). ¶~~
~~(10) "Impartial due process hearing or hearing" means a contested case hearing conducted by an Impartial Hearing Officer (IHO) to review the Program's proposed action. ¶~~
~~(11) "Mediation" means the act or process of using a qualified and impartial third party to act as mediator, intermediary, or conciliator to assist individuals or parties in settling differences or disputes. ¶~~
~~(12) "Notice of Proposed Action (NOPA)" means a formal written document informing the individual of a decision by the Program to deny, terminate, suspend, or reduce a client's eligibility or services. ¶~~
~~(13) "Party" means, for purposes of the dispute resolution process, the Program and the client. ¶~~
~~(14) "Problem-solving" means an informal process where the client discusses dissatisfaction with an action with the client's counselor, the counselor's supervisor, or other assigned Program employee. Problem-solving occurs before the client requests informal dispute resolution, mediation or a hearing. The client must request mediation or a~~

~~hearing in order to preserve the client's appeal rights. ¶~~
~~(15) "Qualified and impartial mediator" means an individual who: ¶~~
~~(a) Is not an employee of a public agency, oth~~ potentially eligible (OAR 582-150-0005(2)) student may request dispute resolution only for decisions regarding the student's receipt of the five required Pre-Employment Transition Services described in 34 CFR 361.48.¶
(b) A potentially eligible student may not request dispute resolution regarding vocational rehabilitation services, supports, or benefits that are available only after ~~th~~an a~~n administrative law judge, hearing examiner, employee of a State office of mediators, or employee of an institution of higher education; ¶~~
~~(b) Is not a member of the State Rehabilitation Council; ¶~~
~~(c) Has not been involved previously in the vocational rehabilitation plan of the client; ¶~~
~~(d) Is knowledgeable of the vocational rehabilitation program and the applicable Federal and State laws, regulations, and policies governing the provision of vocational rehabilitation services; ¶~~
~~(e) Has been trained in effective mediation techniques consistent with any State-approved or recognized certification, licensing, registration, or other r~~pplication for vocational rehabilitation services and a determination of eligibility. These services include, but are not limited to, transportation, maintenance, equi~~re~~pment~~s; and¶~~
~~(f) Has no personal, professional, or financial interest that could affect~~ , tools, and other individual~~'s objectivity during the mediation proceedings. ¶~~
~~(g) An individual is not considered to be an employee of the Program for the purposes of this definition solely because the individual is paid by the Program to serve as a mediator. ¶~~
~~(16) "Representative" means an individual who represents the client or the Program in an impartial fair hearing. The client may be represented by an attorney licensed by the Oregon State Bar or any other representative authorized by law, including but not limited to the Client Assistance Program. The Program may be represented by the Attorney General's office or by a Program lay representative. ¶~~
~~(17) "Reviewing Official" means the individual who conducts the impartial administrative review of the Impartial Hearing Officer's (IHO) decision if a party is dissatisfied with that decision. The reviewing official shall be the Director, or designee, of the Department of Human Services. The designee may not be an employee of the Program, or an individual previously involved in the vocational rehabilitation of the client, or an individual with a personal or financial conflict of interest. ¶~~
~~(18) "Unable to locate or contact the individual" means the Program has made a good faith effort to reach the individual using different appropriate modes of communication over a reasonable period and has not been able to locate or contact the individual~~ized vocational rehabilitation services.¶
(2) The Program shall inform clients and potentially eligible students about the range of dispute resolution options available and their right to seek assistance from the Client Assistance Program.
Statutory/Other Authority: ORS 344.530(2), 344.590
Statutes/Other Implemented: ORS 183.310 - 183.550, 344.511 - 344.690, 344.710 - 344.730

AMEND: 582-020-0015

RULE SUMMARY: This rule provides new information.

- Informal problem solving is the first step in resolving complaints or disputes for an individual. It involves working directly with the person responsible for the decision or connected to the dispute.

The Program dispute resolution and complaint processes are two distinct procedures to address concerns, based on the nature of the issue raised.

- The complaint processes are described separately from the dispute resolution process.

The intent of both the dispute resolution and complaint processes is to ensure that:

- Concerns are addressed in a fair, timely, and transparent manner
- Processes are in accordance with applicable federal regulations, state rules, and Program policies and procedures.

Complaints include:

- The customer service complaint process -- addresses customer service issues, including but not limited to concerns regarding staff conduct, timeliness of services, or communication.
- The disability discrimination complaint process applies to concerns regarding discrimination based on disability
- The confidentiality complaint process applies to concerns regarding a breach of confidentiality
- The vendor, contractor, or community service provider complaint process applies to concerns about vendor, contractor, or community service providers. This formalizes the process used to solve these issues.

The dispute resolution process:

- Applies when a client disputes a Program decision that directly affects the provision of services (eligibility, provision or denial of services, goal selection, individualized plan for employment development or IPE, or changes to the IPE.
- These matters are addressed through applicable appeal rights, which may include mediation and hearing procedures.
- A potentially eligible student may pursue dispute resolution only regarding decisions related to the student's receipt of the five required pre-employment transition services (see 34 CFR 361.48).

CHANGES TO RULE:

582-020-0015
~~Problem Solving~~Range of dispute resolution options ¶

(1) ~~A client may request that their Program counselor engage in problem-solving~~Informal problem solving. The first step in resolving complaints or disputes is for an individual to work directly with the ~~client to resolve a dispute regarding the client's~~person responsible for the decision. Individuals receiving vocational rehabilitation services~~. A Notice of Proposed Action is not required for the client to request problem-solving. For purposes~~ may first work with their Vocational Rehabilitation Counselor or the counselor's manager. A potentially eligible (OAR 582-150-0005(2)) student may first work with the individual providing the Pre-Employment Transition Service o~~f~~r th~~is rule, a dispute does not necessarily involve a Program action that entitles the client to mediation or hearing right~~e Transition Services Manager.¶
(2) The Program dispute resolution and complaint process provides two distinct procedures for addressing concerns, based on the nature of the issue raised. First are the complaint processes. The second is the dispute resolution process.~~.~~¶
(~~2~~3) ~~The Program may include a supervisor or other assigned Program employee in the meeting to resolve the issue. The client may have a representative or support person present during the discussions.~~ Both the complaint process and dispute resolution processes are intended to ensure that concerns are addressed in a fair, timely, and transparent manner in accordance with applicable federal regulations, state rules, and Program policies and procedures. ¶
(a) Complaints¶
(A) The customer service complaint process (OAR 582-020-0035 Customer service complaint process) applies to concerns about customer service, including but not limited to concerns regarding staff conduct, timeliness of services, or communication.¶
(~~3~~B) ~~Both parties must agree to participate in problem-solving. The Program may decline to participate in problem-~~

~~solving if the client refuses to cooperate in scheduling or to participate in a meeting to discuss the dispute, or the same dispute has been resolved by the dispute resolution process and no further appeal rights are available, or prior attempts to resolve the dispute have been unproductive.¶~~
~~(4) Problem-solving may occur at any time prior to the client requesting a hearing or mediation. A client's request to engage in problem-solving does not exempt~~The disability discrimination complaint process applies to concerns regarding discrimination based on disability (OAR 582-020-0040 Disability discrimination complaints). ¶
(C) The confidentiality complaint process applies to concerns regarding a breach of confidentiality (OAR 582-020-0045 Confidentiality complaints).¶
(D) The vendor, contractor, or community service provider complaint process applies to concerns about vendor, contractor, or community service providers. (OAR 582-020-0050 Vendor, contractor or community service provider complaints).¶
(b) Dispute resolution ¶
(A) The dispute resolution process applies when a client disputes a Program decision that directly affects the provision of services. This includes, but is not limited to determinations regarding eligibility, provision or denial of services, goal selection, individualized plan for employment (IPE) development, or changes to the IPE. These matters are addressed through applicable appeal rights, which may include mediation and hearing procedures.¶
(B) A potentially eligible student may pursue dispute resolution only regarding decisions related to the ~~client from complying with applicable legal timeframes to request a hearing or mediation~~student's receipt of the five required pre-employment transition services described in 34 CFR 361.48.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.530, 344.550, 344.590

AMEND: 582-020-0020

RULE SUMMARY: This rule contains expectations for clients involved in the complaint and dispute resolution procress.

- Client responsibilities in the complaint and dispute resolution process are broadly defined.

CHANGES TO RULE:

582-020-0020
~~Notice of Dispute Resolution Right~~Client responsibilities ¶

(1) ~~The Program shall provide a written Notice of Vocational Rehabilitation D~~In the complaint and dispute ~~R~~resolution ~~Rights (DHS 2872) to the client or, if appropriate, the client's representative: ¶~~
~~(a) At the time the client applies for vocational rehabilitation service~~process, the client's responsibilities include:¶
(a) Cooperating and participating in scheduling meetings;~~-~~¶
(b) ~~At the time the client is assigned to a category during an order of selection; ¶~~
~~(c) At the time the individualized plan for employment (IPE) is developed; and¶~~
~~(d) Whenever vocational rehabilitation services are denied, terminated, suspended, or reduced. ¶~~
~~(2) The Notice of Vocational Rehabilitation Dispute Resolution Rights shall include the following information: ¶~~
~~(a) Statement about the continuum of dispute resolution processes available to the client, including problem-solving, informal dispu~~Participating in person, by phone, or via video conference at all scheduled meetings and dispute related proceedings prior to hearing;¶
(c) Submitting requested paperwork and documents in a timely manner; meaning within the required timeframes; ¶
(d) Providing information and submissions that are relevant, accurate, res~~olution, mediation and an impartial due process hearing; ¶~~
~~(b) Where and how to file the request, including the names and addresses of individuals with whom requests may be filed, and relevant timeframes; ¶~~
~~(c) The procedures for the assignment of mediators and Impartial Hearing Officers (IHO) to a case;~~ ponsive, concise and directly related to the disputed issue or complaint; and ¶
(e) Do not submit duplicative, repetitive, cumulative, or unnecessarily large files or documents.¶
(~~d~~2) The ~~availability of the Client Assistance Program to assist the client with mediation or a hearing, including contact information; ¶~~
~~(e) That interpreters and materials in alternative formats are available, if needed~~Program may decline to accept, or may return for revision, any submission that does not comply with the guidelines, timeframes, or requirements established by this rule.
Statutory/Other Authority: ORS 344.530(2), 344.590
Statutes/Other Implemented: ORS 183.310 - 183.550, 344.511 - 344.690, 344.710 - 344.730

AMEND: 582-020-0025

RULE SUMMARY: The information in this rule was not previously stated.

- Program staff responsibilities are defined in these processes.

CHANGES TO RULE:

582-020-0025
~~Notice of Action and Notice of Procedural Rights~~Program responsibilities
~~The Notice of Proposed Action must include the following:¶~~
~~(1) The date the Notice of Proposed Action is mailed;¶~~
~~(2) A short and plain statement about the ac~~(1) The Program counselor, in collaboration with appropriate Program staff, holds responsibility and authority for making all determinations and decisions related to an individual's participation in the Program~~ intends to take, including citations to the regulations, rules, statutes or policies involved;¶~~
~~(3) State.~~ ¶
(a) This includes, but is not limited to, determinations of eligibility, provision or denial of services, approval of employment outcomes, development of the individualized plan for employment, a~~bout the reason for the act~~nd case closure decision~~;~~s.¶
(4b) ~~Statement indicating whether and under what circumstances an order by default may be entered;¶~~
~~(5) A description of the procedure and time to request a hearing~~In making these determinations and decisions, the Program counselor and staff shall apply all applicable federal and state laws, regulations, policies, and procedures, and ensure decisions are supported by all the information available, including documented records, formal and informal assessments, and all relevant interactions with the individual.¶
(~~6~~2) ~~Statement of the authority of the Program; and,¶~~
~~(7) The information provided in the Vocational Rehabilitation Dispute Resolution Righ~~In the complaint and dispute resolution process, the Program provides only procedural guidance.¶
(a) Staff do not prepare, draft, or advise on the content of complaints, mediation requests, or hearing requests. ¶
(b) Individuals are responsible for preparing and submitting their own complaints, mediation, or hearing requests.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

AMEND: 582-020-0030

RULE SUMMARY: This rule describes who and how deadlines are determined.

CHANGES TO RULE:

582-020-0030
~~Informal Dispute Resolution~~Deadlines and acceptance dates ¶

~~(1) When the client submits a request for mediation or a hearing, the parties may also request informal dispute resolution before the mediation or the hearing proceeds. A client does not need to request informal dispute resolution in order to request mediation or a hearing.~~ For purposes of OAR 582 Division 20 rules:¶
(~~2~~1) ~~The client may have a representative in the informal dispute resolution process.~~ ¶
~~(3) The Program retains the right to appoint representation~~When a rule describes ~~as~~ de~~emed appropriate.~~ ¶
~~(4) The Program may decline to participate in informal dispute resolution if the client refuses to cooperate in scheduling or participating in a meeting to discuss the action, the same action has been resolved by the dispute resolution process and no further appeal rights are available, or prior attempts to resolve the disputed action have been unsuccessful.~~¶
~~(5) If the subject of the mediation or hearing request is resolved through the informal dispute resolution process, the resolution shall be confirmed in writing by the parties, and:~~ ¶
~~(a) The client shall withdraw the request for mediation or a hearing; or~~¶
~~(b) If the client fails to withdraw the request for hearing, the Program, if the matter has not yet been assigned to an Impartial Hearing Officer, or the Impartial Hearing~~adline in calendar days and the last calendar day of a specified time-period falls on a Saturday, Sunday, a legal holiday, or a day when the Program's Central Administrative Office~~r, if the matter has already been assigned, shall issue an order dismissing the client's hearing request~~ is closed, the deadline shall be extended until the next business day.¶
(~~6~~2) ~~If the client or the Program is represented in the informal dispute resolution process, all settlement offers must be communicated to the party's representative.~~ ¶
~~(7) A client's request to engage in informal dispute resolution process does not extend the applicable legal timeframes to hold the hearing or to resolve the mediation, unless the parties agree to an extension for specific period~~The official acceptance date is the day the Program's dispute resolution coordinator receives the request with required information or other related documents.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS : 344.511 - 344.690

AMEND: 582-020-0035

RULE SUMMARY: This rule describes the process and deadlines that occur when a customer service complaint is made regarding the interactions with Program staff, including communication, professionalism, responsiveness, and other customer service matters.

CHANGES TO RULE:

582-020-0035
~~Mediation and Hearing Requ~~Customer/service/complaint proces~~t~~s
(1) ~~A client who is dissatisfied with a Program action may reque~~The cust-ome~~diation, a hearing, or both. The client may also simultaneously request informal dispute resolution. ¶~~
~~(2) The client shall use the Program-approved Mediation and Hearing Request form to request mediation, a he~~r service complaint process provides a method to raise concerns regarding~~, or both. ¶~~
~~(3) To be timely a mediation, hearing or both requests shall: ¶~~
~~(a) Be received by~~ the interactions with the Program~~'s Dispute Resolution Coordinator within 60 calendar days following the date of the Program's written Notice of Proposed Action or alleged Program delay in making a decision, except as otherwise provided in this rule.~~ staff, including communication, professionalism, responsiveness, and other customer service matters.¶
(~~b~~2) C~~lients who are notified that the Program is unable to locate or contact the individual must submit the request within 30 calendar days following the date of the Program's written Notice of Proposed Action.¶~~
~~(c) The Program shall withdraw the Notice of Proposed Action if it successfully contacts the client during the 30-day Notice of Proposed Action period, if the only justification for file closure is "unable to locate or contact the individual."~~ustomer service complaints do not include disputes regarding eligibility determinations, vocational rehabilitation services, service denials, case closures, or any other actions subject to mediation or hearing rights.¶
(~~d~~3) ~~The c~~Client~~'s hearing request is also considered timely if the Program's Dispute Resolution Coordinator:¶~~
~~(A) Receives a timely request for mediation under section (3)(a-b) of this rule; and¶~~
~~(B) Receives a completed request for hear~~with a customer service-related complaint may first attempt to resolve that complain~~gt~~ with~~in 60 calendar days following the date of the Program's written Notice of Proposed Action declining to participate in or ending mediation under OAR 582-020-0045, or¶~~
~~(C) Receives a completed request for hearing within 60 calendar days following the date of the Program's written Notice of Proposed Action declining to participate in or ending mediation under OAR 582-020-0045, unless the underlying basis of the Notice of Proposed Action is that the office is unable to locate or contact the individual, or~~ their assigned Program counselor.¶
(a) If the client is unable to resolve this conflict with their assigned Program counselor, the client may pursue this matter with the Program counselor's branch manager. ¶
(~~D~~b) ~~Receives a completed request for hearing within 30 calendar days following the date of the Program's written Notice of Proposed Action declining to participat~~Clients who contact the dispute resolution coordinator are in-~~for ending mediation under OAR 582-020-0045, and the underlying basis of the Notice of Proposed Action is that the office is unable to locate or contact the individual.¶~~
~~(4) Process for handling untimely mediation or hearing request: ¶~~
~~(a) If the request for mediation or hearing is not timely under section (3) of this rule, the Program may issue an order dismissing the request accordingly.~~ med of the appropriate process and, when suitable, are referred to their Program counselor or branch manager when those steps have not yet been completed.¶
(~~b~~4) ~~If the client believes that the~~Clients who are dis-~~good cause for failure to timely request mediation or hearing, the client may send a written request to the Program's Dispute Resolution Coordinator requesting that~~satisfied with the outcome of discussions with their Program coun~~sider the client's untimely request. The client's request shall be supported with a written statement explaining why the request was late and why this qualifies as good cause. The Program shall review this information and determine whether the client demonstrated that they had good cause for the untimely request. ¶~~
~~(A) The Program may conduct further inquiry, including requesting supporting documentation from the client. The client must cooperate with this inquiry and within the timeframes set by~~elor and the branch manager regarding their customer service complaint may file a written customer service complaint with the Program.~~¶~~
(~~B~~a) ~~If the Program finds that the client has good cause f~~Customer service complaints filed more th~~e untimely request, the Program m~~an 30 calendar days ~~accept the request as timely and proceed as if the request was timely. ¶~~
~~(5) If there is a factual dispute about whether there is good cause for an untimely filing, the Program shall refer the matter to the Impartial Hearing Officer for a hearing to determine whether: ¶~~
~~(a) The hearing request was received timely; ¶~~

~~(b) The client received the Notice of Proposed Action; and¶~~
~~(c) The information included in the clie~~fter the date of the event cannot be processed unless good cause is provided to explain why the complaint is late. ¶
(b) Completed, written customer service complaint's ~~statement demonstrates good cause.¶~~
~~(6) The following are non-hearable issues: ¶~~
~~(a) A client does not have a right to mediation or a hearing if the client fails to allege that they are dissatisfied by a Program action, as that term is defined in OAR 582-020-0010(1) or the same action has already been resolved through the dispute resolution process and no further appeal rights are available under these rules.¶~~
~~(b) If the Program determines that the client's mediation or hearing request does not identify a Program action that gives the client the right to mediation or a hearing, the Program shall contact the client or client's representative in writing to identify the deficiencies in the request and to give the client the opportunity to provide a corrected mediation or hearing request within 14 calendar days.¶~~
~~(c) In order for the corrected mediation or hearing request under subsection (b) of this rule to be considered timely,~~must be submitted using the customer service complaint form available on the Program website. Complaints may be submitted online through the complaint form portal, submitted to the Program's Resolution email address, by postal mail, or in person at any Program branch office.¶
(5) Customer service complaints are considered filed on the day the written complaint is received by the ~~D~~ddispute ~~R~~resolution ~~C~~coordinator ~~shall receive a complete request identifying a hearable issue within: ¶~~
~~(A) The original deadl~~.¶
(6) The Program screens the complaine~~t~~ to ~~request mediation or a hearing as described in section (3) of this rule; or¶~~
~~(B) 14 calendar day~~determine whether the allegations f~~o~~all~~o~~ wi~~ng the date the Program notified the client or client's representative of the deficiencies in the Notice of Proposed Action.~~ thin the customer service complaint process.¶
(~~d~~a) If the c~~lient submits a corrected request identifying a hearable issue within the timeframes described in section (5)(c), the Program shall use the date of the corrected request, not the original request, for purposes of calculating the 60-day deadline to hold the mediation or hearing as described in section (10) of this rule~~omplaint is not appropriate for review under the customer service complaint process, the Program assists the client to identify the appropriate process.¶
(~~e~~b) If the ~~client does not submit a corrected request identifying a hearable issue that gives the client the right to mediation or a hearing under these rules, the Program may: ¶~~
~~(A) Decline to participate in mediation; ¶~~
~~(B) Enter an order to that effect; or¶~~
~~(C) Refer the matter to an Impartial Hearing Officer for a hearing o~~information provided is insufficient for the Program to determine whether the allegations fall within the ~~question of whether the client has a right to an impartial due process hearing. ¶~~
~~(7) When the Program has issued a Notice of Proposed Action and the client fails to request mediation or a hearing within required timeframes, the Program's Notice of Proposed Action is final, and the Program shall issue no further order. The Program file, including all materials submitted by a party, shall be considered the record of the matter, and the record shall constitute a prima facie case supporting the Program's action. The only exception is if the client demonstrates that there was good cause, under section (4) of this rule, for the untimely request. ¶~~
~~(8) After the client requests a hearing, the Program or the Impartial Hearing Officer shall dismiss the request for hearing, and the Program's Notice of Proposed Action becomes the final order in the case, as if the client never requested a hearing, if: ¶~~
~~(a) The client withdraws the request for hearing; ¶~~
~~(b) The client abandons the request for hearing by failing to respond to the Program's or Impartial Hearing Officer's attempts to schedule a prehearing conference~~customer service complaint process, the client is notified of the deficiency and provided 14 calendar days to submit additional information.¶
(c) If the client fails to provide the requested information within 14 calendar days, the complaint is closed by the Program.¶
(7) If the complaint is appropriate for the customer service complaint process, the~~aring or other hearing-related proceeding; or¶~~
~~(c) The client was notified about the scheduled prehearing conference, hearing, or other hearing related proceeding and: ¶~~
~~(A) The client fails to appear at the prehearing conference, hearing or other hearing-related proceeding without good cause;~~ Program determines the level of investigation necessary to address the issue. ¶
(~~B~~8) The ~~client informs the Program or Impartial Hearing Officer that the client will not appear at the prehearing conference, hearing or other hearing-related proceeding. ¶~~
~~(9) If the client fails to appear at the scheduled prehearing confe~~Program provides the client with a written

response within 30 calendar days of re~~n~~ce~~, hearing or other hearing-related proceeding or appears to abandon the hearing request and before dismissing the request for hearing, the Impartial Hearing Officer finds that the client had good cause, the Impartial Hearing Officer may not dismiss the request for hearing under section (8) of this rule. In this case, the Impartial Hearing Officer shall schedule a new prehearing conference, hearing or other hearing-related proceeding. If the reasons for the client's failure to appear are in dispute, the Impartial Hearing Officer shall schedule a hearing on the reasons for the client's failure to appear~~iving the complaint that describes the outcome of the customer service complaint, in a manner that complies with applicable confidentiality and privacy requirements. ¶

(~~10~~a) The~~ client may withdraw a request for hearing at any time before the Impartial Hearing Officer issues an order. ¶~~

~~(a) If the request for hearing is withdrawn before the case is assigned to an Impartial Hearing Officer, the Program shall issue the order dismissing the request for hearing. ¶~~

~~(b) After the case is assigned to an Impartial Hearing Officer, the Impartial Hearing Officer shall issue the order dismissing the request for hearing. ¶~~

~~(11) The hearing or mediation shall be held within 60 calendar days from the date the Program's Dispute Resolution Coordinator received the client's timely request for hearing or mediation, unless: ¶~~

~~(a) Informal dispute resolution successfully resolves the matter within the 60-day deadline; ¶~~

~~(b) A final mediation agreement is agreed to and signed by the parties within the 60-day deadline; ¶~~

~~(c) The hearing request was made pursuant to section (3)(b) of this rule, and the hearing occurs within 60 days following the date of the hearing request; or¶~~

~~(d) The parties agree to an extension of the deadline for a specific period. Extensions of the timeline shall be documented in writing.¶~~

~~(12) For purposes of these rules when a rule describes: ¶~~

~~(a) A deadline in calendar days and the last calendar day of a specified time period falls on a Saturday, Sunday, a legal holiday or the Program's Central Administrative Office is closed~~is response concludes the Program's customer service complaint process. The complaint is closed. ¶

(b) Additional complaints regarding the same allegations previously addressed through the customer service complaint process are not accepted or processed. This applies to complaints that are substantially the same in nature, facts, and requested resolution. ¶

(c) This determination does not affect the client's right to pursue other available remedies, including, but not limited to, mediation, or a hearing, ~~t~~whe~~ deadline shall be extended until the next working day.~~re applicable.¶

(~~b~~9) ~~All requests or other documents must be sent to the Program's Dispute Resolution Coordinator at the Program's Central Administrative Office in Salem. ¶~~

~~(13) The Program shall offer assistance to help clients request mediation or a hearing and shall inform them that they may also request the assistance of the Client Assistance Program in making these reques~~The Program documents and maintains records of the complaint in accordance with applicable confidentiality and retention requirements.

Statutory/Other Authority: ORS 344.530, 344.590

Statutes/Other Implemented: ORS 344.511 - 344.690

AMEND: 582-020-0040

RULE SUMMARY: The rule has been changed to describe the process and deadlines that occur when a disability discrimination complaint is made.

CHANGES TO RULE:

582-020-0040
~~Cont~~Disability discrimin~~u~~ation ~~of Services~~complaints
~~The Program may not deny, terminate, suspend, or reduce vocational rehabilitation services being provided to a client, including evaluation and assessment services and individualized plan for employment (IPE) development, pending a resolution through mediation, pending a decision by the Impartial Hearing Officer or Reviewing Official, or pending informal dispute resolution, unless:~~(1) Clients may use the disability discrimination complaint process to allege unfair treatment while receiving vocational rehabilitation services.¶
(a) Disability discrimination complaints do not include complaints based on color, national origin, religion, sex, sexual orientation, gender identity, age, limited English proficiency, or marital status.¶
(b) Complaints alleging discrimination based on a protected class other than disability are referred to the Governor's Advocacy Office (GAO) or other appropriate entity for review.¶
(2) Disability discrimination complaints filed more than 180 calendar days after the date of the event cannot be processed.¶
(a) Completed, written disability discrimination complaints must be submitted using the approved Program's complaint form available on the Program website. Complaints may be submitted online through the complaint form portal, submitted to the Program's Resolution email address, by postal mail, or in person at any Program branch office.¶
(b) Disability discrimination complaints are considered filed on the day the written complaint is received by the dispute resolution coordinator.¶
(3) The Program evaluates the complaint to determine whether the allegations fall within the disability discrimination complaint process. ¶
(a) If the complaint is not appropriate for review under the disability discrimination complaint process, the Program assists the client to access the appropriate process.¶
(b) If the information provided is insufficient for the Program to determine whether the allegations fall within the disability discrimination complaint process, the client is notified of the missing information and provided 14 calendar days to submit additional information.¶
(c) If the client fails to provide the requested information within 14 calendar days, the complaint is closed by the Program.¶
(~~1~~4) ~~The client or client's representative requests suspension, reduction, or termination of services pending the outcome of dispute resolution process; or~~If the complaint is appropriate for the disability discrimination complaint process, the Program determines the level of investigation necessary to address the issue and assigns a designated investigator based on the nature and complexity of the complaint.¶
(5) The designated investigator investigates the discrimination claim based on rules and regulations applicable to the Program. ¶
(a) A disability discrimination complaint is considered abandoned if the client refuses to cooperate with scheduling or participating in the investigation. ¶
(b) In such cases, the individual is informed that the Program has closed the complaint.¶
(6) The Program provides the client with a written letter of determination within 60 calendar days describing the outcome of the investigation in a manner that complies with applicable confidentiality and privacy requirements. The letter of determination concludes the Program's disability discrimination process. The complaint is closed. ¶
(7) Executive review. After the letter of determination is issued, the client may submit a written request for an executive review.¶
(~~2~~a) ~~The Program has evidence that the services have been obtained through misrepresentation, fraud, collusion or criminal conduct on the part of the client or the client's representative~~An executive review is not a continuation of the investigation. The Program decides whether to grant the request.¶
(b) The client's written request describes any important factual mistakes or significant concerns about the disability discrimination review process. ¶
(c) A request for executive review must be received within 30 calendar days of the date of the letter of determination and must identify the basis for the request.¶
(d) If the Program grants the request, the executive review is conducted by an impartial member of the Program's executive staff. The member reviews the complaint record and issues a written response affirming, modifying, or reversing the letter of determination.¶

(e) The Program's written response to the client concludes the executive review disability discrimination process. The complaint is closed.¶
(8) Any complaint that resubmits the same allegations already resolved through the discrimination resolution process shall be dismissed unless:¶
(a) The complaint includes new and relevant information that was not previously reviewed, and the client demonstrates good cause for not submitting this information during the previous review process; or¶
(b) The complaint alleges subsequent acts that were not previously reviewed.¶
(9) The Program documents the assignment of the designated investigator and maintains records of the complaint and findings in accordance with applicable confidentiality and records retention requirements.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.530, ORS 344.540 & 344.590

AMEND: 582-020-0045

RULE SUMMARY: This rule provides new information about the process and deadlines that occur when a breach of confidentiality involving personally identifiable information maintained by the Program occurs.

CHANGES TO RULE:

582-020-0045
~~Mediation~~/Confidentiality complaints
~~(1) Participation in the mediation process is voluntary. If the Program declines to participate following a request for mediation under OAR 582- 020-0035, the Program shall provide written Notice of Proposed Action to the client that mediation is declined and the client shall be advis~~Confidentiality of client information and release of information is outlined in OAR 582 Division 30.¶
(1) The confidentiality complaint process provides clients with a method to raise concerns regarding a breach of confidentiality involving personally identifiable information maintained by the Program, including but not limited to:¶
(a)/Accessing client information without proper authorization from the Program or other legally designated authorities;¶
(b)/Disclosing information without informed written consent, when/required, o~~f their right to request a hear~~r without other legal authority;¶
(c)/Using~~, if a request for a hearing is not already pending.¶~~
~~(2) Selection of mediator: ¶~~
~~(a) The Program shall select mediators who are listed on the Oregon State Appropriate Dispute Resolution (ADR) Provider Roster~~nformation for purposes unrelated to service delivery, program administration, or other lawful agency functions; or¶
(d)/Storing, transmitting, or disposing of information in a manner inconsistent with state or federal confidentiality requirements.¶
(2) A confidentiality complaint must/be filed within/30 calendar days of the ~~St~~date of ~~Oregon Department of Justice, who have indicated an interest or expertise in disability-related issues, and who meet the requirements of a qualified and impartial mediator.¶~~
~~(b) Upon receipt of a timely request for mediation from the client, the Program shall contact, on a rotating basis, a mediator who is geographically near the~~the alleged breach. Confidentiality complaints filed more than 30 calendar days after the date of the event cannot be processed.¶
(a) Completed, written confidentiality complaints must be/submitted/using the approved customer service complaint form available on the Program website. Complaints may be submitted online through the complaint form portal, submitted to the Program dispute resolution email address, by postal mail, or in person at any Program ~~office of the client. If that mediator is not available within two weeks, the Program shall contact other mediators us~~branch office.¶
(b) Confidentiality complaints are considered filed on the day the written complaint is received by the/dispute resolution coordinator.¶
(3) The Program screens the complaint to determine whether the allegations fall withi~~n~~ th~~is same identification process until one is identified who can provide timely services. If no mediator is mutually selected from the pool of mediators geographically near~~e confidentiality complaint process.¶
(a) If the complaint is not appropriate for review under the confidentiality complaint process, the Program ~~office of~~assists the client~~,~~ in accessing the ~~Program shall contact, on a rotating basis, mediators from a wider geographic range. ¶~~
~~(c) Each party shall be given the opportunity to agree to or reject an identified mediator prior to the beginning of mediation services. ¶~~
~~(3) Agreement to mediate: ¶~~
~~(a) Prior to the beginning of the first mediation session, the parties shall sign the Program-approved "Agreement to Med~~appropriate process.¶
(b) If the information provided is insufficient for the Program to determine whether the allegations fall within the confidentiality complaint process, the client is notified of the missing information and provided 14 calendar days to submit additional information.¶
(c) If the client fails to provide the requested information within 14 calendar days, the complaint is closed by the Program.¶
(4) If the complaint is appropriate~~"~~ for~~m. ¶~~
~~(b) The mediation shall occur between the Program counselor or assigned Program employee and the client. The parties may have a representative assist them in the mediation. The inclusion or participation of any other~~

~~individuals for either side shall be at the discretion of the mediator, unless otherwise prohibited by law.~~ the confidentiality complaint process, the Program determines the level of investigation necessary to address the issue and assigns a designated investigator based on the nature and complexity of the complaint.¶
(5) The designated investigator investigates the breach of confidentiality claim based on rules and regulations applicable to the Program.¶
(~~4~~a) ~~Conclusion of mediation: ¶~~
~~(a) At any point during the mediation process, either party or the mediator may elect to terminate the medi~~A confidentiality complaint is abandoned if the client refuses to cooperate with scheduling or participating in the investigation.~~-~~¶
(b) ~~A~~In suc~~cessful mediation shall be concluded with a final written mediation agreement prepared by the mediator. The parties must agree to and sign the agreement for it to be effective in resolving the case. The parties shall be given a copy of the signed agreement. ¶~~
~~(A) The final agreement shall become part of the case file record, unless otherwise agreed. ¶~~
~~(B) If the agreement includes any changes to the Individualized Plan for Employment (IPE), a revision to the IPE or amended IPE that incorporates the changes shall be in writing and signed by the Program and the clien~~h cases, the individual is informed that the complaint is closed by the Program.¶
(6) The Program provides the client with a written letter of determination within 30 calendar days describing the outcome of the investigation in a manner that complies with applicable confidentiality and privacy requirements. This response concludes the Program's confidentiality complaint process. The complaint is closed.¶
(7) Following the issuance of the letter of determination, a client may submit a written request for an executive review if the client believes there is an important factual mistake or a significant concern about the process. an executive review is not a continuation of the investigation. The Program decides whether to grant the request.¶
(a) A request for executive review must be received within 30 calendar days of the date of the letter of determination and must identify the basis for the request.~~-~~¶
(~~c~~b) If ~~an agreement is not reached, the Program shall provide the client with~~the Program grants the request, the Program staff. The team reviews the complaint record and issues a written ~~Notice of Proposed Action that the mediation process has ended and advise~~response affirming, modifying, or reversing the decision in the letter of determination.¶
(c) The Program's written response to the client ~~of their right to request an impartial due hear~~concludes the executive review confidentiality complaint process~~ within the timeframes specified in OAR 582-020-0035, if a hearing request is not already pending.¶~~
~~(5) Confidentiality of mediation: ¶~~
~~(a) All mediation communications, including discussions, memorandum, work product, draft mediation agreements, or any other documents prepared for, submitted, or made~~ . The complaint is closed.¶
(8) Any complaint that resubmits the same allegations already resolved through the discrimination resolution process shall be dismissed unless:¶
(a) The complaint includes new and relevant information that was not previously reviewed, and the client demonstrates good cause for not submitting th~~e course of mediation, shall be confidential and may not be used as evidence~~ is information during the previous review process; or¶
(b) The complaint a~~ny~~lleges subsequent ~~impartial due process hearing or other civil proceeding, unless otherwise required by law~~acts that were not previously reviewed.¶
(~~b~~9) ~~A written mediation agreement that arises out of mediation, including any term or condition of the agreement, is not confidential and may be used as evidence in any subsequent impartial due hearing process o~~If the first review shows that the issue involves sensitive personal or medical information, or could harm the person affected, it must be sent to the Department's Privacy and Security Office (or other assigned authority) to be reviewed and complete the planned response to information security incidents as required by applicable under ~~o~~the~~r legal proceeding. ¶~~
~~(c) Notwithst~~ applicable laws, policies, and in~~g any other provision of these rules, the mediator, the Program, and the client may retain any mediation documentation to the extent it is necessary for administrative or payment purposes, or to comply with applicable laws, including but not limited to the Public Records law~~cident-response procedures.¶
(10) The Program documents the assignment of the designated investigator and maintains records of the confidentiality complaint and findings in accordance with applicable confidentiality and records retention requirements.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.530, 344.540, 344.590

AMEND: 582-020-0050

RULE SUMMARY: This rule describes the process and deadlines that occur when clients raise concerns regarding vendor, contractor, or community service providers customer service.

CHANGES TO RULE:

582-020-0050
~~Impartial Due Process Hearing~~Vendor, contractor or community service provider complaints ¶

(1) The ~~Program shall provide a written Notice of Procedural Rights to the client, or, the client's representative, prior to the commencement of the hearing. ¶~~
~~(a) The Notice of Procedural Rights shall include the information set forth in ORS 183.413, except to the extent that the information was already provided to the client in the Notice of Proposed Action.¶~~
~~(b) The Program's failure to give Notice of Proposed Action of any of the items in ORS 183.413, unless Notice of Proposed A~~vendor, contractor, or community service provider complaint process provides clients with a method to raise concerns regarding vendor, contractor, or community service providers customer service concerns. This may include interactions with vendors, contractors, or community service provider staff, communication, professionalism, responsiveness, and other customer service matters.¶
(a) Vendor, contractor, or community service provider service complaints do not include disputes regarding eligibility determinations, vocational rehabilitation services, service denials, case closures, or any other actions subject to mediation or hearing rights.¶
(b) Program vendors, contractors, or community service provider complaints usually do not meet Program criteria to be hearable under the Program's dispute program. These complaints are forwarded to the appropriate Program staff as necessary.¶
(c) The Program refers complaints concerning vendor action~~ofs~~ that ~~item is also required by ano~~are outside the scope of the Program to the~~r~~ app~~licable state or federal law, does not invalidate any determination or order of t~~ropriate investigating authority. The Program does not investigate allegations related to potentially illegal or inappropriate conduct as part of our dispute process. The Program ~~u~~onl~~ess upon an appeal from or review of the determination or order, a court f~~y processes complaints related to services provided under contract by the Program, complaind~~t~~s ~~that the failure affects the substantial rights of the complainant. In the event of such finding, the court shall remand the matter to the Program for a reopening of the hearing and shall direct the Program as to what steps it shall take to remedy the prejudice to the rights of~~related to customer service provisions, or complaints directly related to the services outlined in the complainant's individualized plan for employment (IPE).¶
(2) Clients with a vendor, contractor or community service provider related complaint may first attempt to resolve that complaint with vendor, contractor or community service provider.¶
(a) If the client is unable to resolve the~~is~~ co~~mplainant.¶~~
~~(2) The Program shall refer a completed and timely hearing~~nflict with the vendor, contractor, or community service provider, they may request~~,~~ as ~~described in OAR 582-020-0035, to an Impartial Hearing Officer. ¶~~
~~(3) The hearing shall be held at a time consistent with OAR 582-020-0035 and designated by the Impartial Hearing Officer.~~sistance from their assigned Program counselor or appropriate staff member. If the Program staff member is unable to resolve the conflict, this issue may be raised with their manager; or ¶
(~~4~~b) ~~The hearing shall be held in a location that is convenient and accessible, as agreed to by the client and the Program~~If the client is unable to resolve this conflict with the vendor, contractor, or community service provider, the client may pursue this matter with the Program contract staff. ¶
(~~5~~c) ~~Hearings shall be conducted in person, or by telephone or videocon~~Clients who contact the dispute resolution coordinator are informed of the appropriate process and are refer~~r~~e~~nce. ¶~~
~~(6) The parties shall have the opportun~~d to Program contract staff when those steps have not yet been completed.¶
(3) Clients who are dissatisfied wit~~y~~h t~~o submit documentary evidence, to testify, and to call and cross-exam~~he outcome of discussions with the vendor, contractor, or community service provider complaint may file a written vendor, contractor or community service provider complain~~e~~t wit~~nesses.~~ h the Program.¶
(~~7~~a) ~~Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.~~ Vendor, contractor, or community service provider service complaints filed more than 30 calendar days after the date of the event cannot be processed.¶
(~~8~~b) ~~Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, and privileges afforded by Oregon law shall be recognized by the Impartial Hearing Officer.¶~~
~~(9) Transmittal of questions to Program: At the request of one of the parties or their representatives, or on the Impartial Hearing Officer's own moti~~Completed, written vendor, contractor, or community service provider

service complaints must be submitted using the approved vendor, contractor or community service provider service complaint form available on the Program website. Complaints may be submitted online through the complaint form portal, submitted to the Program's Resolution email address, by postal mail, or in person at any Program branch office.¶
(4) Vendor, contractor, or community service provider complaints are considered filed on~~,~~ the ~~Impartial Hearing Officer may transmit a question to t~~day the written complaint is received by the dispute resolution coordinator.¶
(5) The Program ~~to requ~~evaluat~~est~~ the ~~Program's interpretation of its rules and applicable statutes, or which rules or statutes apply to a~~complaint to determine whether the allegations fall within the vendor, contractor, or community service provider service complaint proce~~edings~~ss.¶
(a) ~~T~~If the ~~Impartial Hearing Officer shall submit any transmitted question in writing to~~complaint is not appropriate for review under the vendor, contractor, or community service provider complaint process, the Program~~. The submission shall include a summary of the mat~~ assists the client to access the appropriate process.¶
(b) If the information provided is insufficient for the Program to de ter-mine wh~~ich the question arises and shall be served on the parties. ¶~~
~~(b) The Program may ask for clarification in order to respond to the transmitted ques~~ether the allegations fall within the vendor, contractor, or community service provider complaint process, the client is notified of the missing information and provided 14 calendar days to submit additional informa tion.~~-~~¶
(c) ~~Unless prohibited by statute or administrative rules governing the timing of hearings,~~If the client fails to provide the requested information within 14 calendar days, the complaint is closed by the Program.¶
(6) If the ~~Impartial Hearing Officer may continue the hearing or delay issuing a decision in order to get a response from the Program~~complaint is appropriate for the vendor, contractor, or community service provider's complaint process, the Program determines the level of investigation necessary to address the issue. ¶
(~~d~~7) The Program ~~shall respond in w~~provides the client with a written response within 30 calendar days descr~~i~~t~~b~~ing t~~o the transmitted question within a reasonable time. The Program's response shall be signed by an individual with authority to answer the questi~~he outcome of the vendor, contractor, or community service provider complaint in a manner that complies with applicable confidentiality and privacy requirements. ¶
(a) This response concluded the Program's vendor, contractor, or community service provider complaint process. The complaint is closed. ¶
(b) Additional complaints regarding the same allegations previously addressed through the vendor, con tra~~nsmitted. ¶~~
~~(c) The Program's response shall be made a part of the hearing record. The Program's response may be to decline to answer the transmitted question. The Program shall provide its response to the parties and Impartial Hearing Officer. The parties may reply to the Program's response no less than seven calendar days, unless ordered by the Impartial Hearing Offi~~ctor, or community service provider complaint process are not accepted or processed. This applies to complaints that are substantially the same in nature, facts, and requested resolution. ¶
(c) This determination does not affect the client's right to pursue other available remedies where applicable.¶
(8) The Program documents and maintains records of the complaint in accordance with applicable confidentiality and records retention requirements. The dispute resolution coordinator logs and tracks all vendors, contractors, or community service provider complaints for quality assuranc~~r~~ and ~~agreed to by the Program~~data reporting purposes.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

AMEND: 582-020-0055

RULE SUMMARY: This rule describes the options for a client who is dissatisfied with a Program personnel action affecting the vocational rehabilitation services provided.

Generally, this means:

- Problem-solving may occur at any time prior to a range of dispute resolution options available. These include informal dispute resolution, hearing, or mediation, impartial due process hearing, and formal administrative review (FAR).

The client must have an open case. Generally, these determinations may be disputed:

- Eligibility determinations for Program services;
- Eligibility priority category determination;
- Disagreement of a vocational goal selection;
- Services included in the individualized plan for employment (IPE);
- A denial, reduction, suspension, or termination of a service; or
- A delay in services provision within required timelines.

A potentially eligible student may pursue dispute resolution only regarding decisions related to the student's receipt of the five required pre-employment transition services.

Issues that may not be disputed include:

- General program administration, including internal operations and decisions. This includes, but is not limited to, case assignment and reassignments, workload considerations, and internal approval or supervisory review processes.
- Disagreements over administrative calculations or formula applications identified in Oregon Administrative Rules used to determine financial participation, comparable benefits, or allowable costs.
- Disagreements regarding the method of delivery of counseling and guidance.
- Challenges to whether a law, federal regulation, or Oregon Administrative Rule is valid or needs to be changed.
- Issues that are the same as or substantially like issues previously submitted or decided through the hearing process or waiting for a decision in the dispute resolution process.
- Requests that do not identify a specific Program action affecting eligibility, the individualized plan for employment (IPE), or Program services, following reasonable efforts to clarify the request.

A potentially eligible student may not request:

- Dispute resolution regarding vocational rehabilitation services, supports, or benefits that are available only after an application for vocational rehabilitation services and a determination of eligibility.
- These services include, but are not limited to, transportation, maintenance, equipment, tools, and other individualized vocational rehabilitation services.

CHANGES TO RULE:

582-020-0055
~~Selection of Impartial Hearing Officer~~Dispute resolution and contested case proceedings
(1) I~~mpartial Hearing Officers (IHOs) are assigned from a pool of qualified individuals who meet th~~t is the intent of the Program to resolve disputes between the Program and its clients quickly and fairly.¶
(2) Clients who are dissatisfied with a Program personnel action that affects the vocational rehabilitation services provided to them have a range of dispute resolution options available. These include informal dispute resolution, mediation, impartial due process hearing, and formal administrative review (FAR).¶
(a) All dispute resolution options under this rule are~~quirements of OAR 582-020-0010(7) and who have been~~

available only while the client has an open case file with the Program. ¶
(A) When a NOPA has been issued to a client, the case file remains open for the duration of time specified in the notice. Services identified ~~jointly by th~~in the client's plan continue to be ~~P~~program and the State Rehabilitation ~~Counci~~vided pending the outcome of the NOPA or hearing if requested by the individual. ¶
(~~2~~B) Impa~~rtial Hearing Officers are assigned on a rotational basis unless the parties agree in advance to the assignment of a specific Impartial H~~ct on provision of services. 32 CFR 34 361.57(b)(4) states the Program may not institute a suspension, reduction, or termination of vocational rehabilitation services being provided to an applicant or recipient, including evaluation and assessment services and individualized plan for employment development, pending a resolution through mediation, pending a decision by a hearing ~~O~~officer ~~from the pool outside of the rotation.~~ or reviewing official, or pending informal resolution under this section unless;¶
(~~3~~i) ~~Either party may request that the assigned Impartial Hearing Officer remove~~The individual or, in appropriate cases, the individual's representative requests a suspension, reduction, or termination of services; or¶
(ii) The State agency has evidence that the~~m~~ se~~lves because of a potenti~~rvices have been obtained through misrepresentation, fraud, collusion, or crimina~~fli~~duct o~~f interest or disqualification. Request~~n the part of the individual or the individual's representative.¶
(b) Once a client's ~~b~~case~~d on conflict of in~~ file is closed, the client is ineligible to start dispute rest~~shall be reviewed under the standards of Rule 3.10 of the Oregon Code of Judicial Conduct (disqualification) and 34 CFR 361.5(c)(24)(i)(F) (an individual has no personal, profes~~olution under this rule.¶
(c) A potentially eligible (OAR 582-150-0005(2)) student may pursue dispute resolution only regarding decisions related to the student's receipt of the five required Pre-Employment Transition Services described in 34 CFR 361.48.¶
(3) For purposes of these rules, "affects the provision of vocational rehabilitation services" refers to a determination that includes, but is not limited to:¶
(a) Eligibility determinations for Program services;¶
(b) Eligibility priority category determination;¶
(c) Disagreement of a vocational goal selection;¶
(d) Services included in the individualized plan for employment (IPE);¶
(e) A denial, reduction, suspension~~al~~, or ~~financial interest that would be i~~termination of a service; or¶
(f) A delay, as defined in OAR 582-020-0005(5), in providing services within required timelines. ¶
(g) A potentially eligible student may request dispute resolution ~~con~~flict with the objectivity of the individual). If the Impartial Hearing Officer removes themselves or is removed under section (5) of this rule, a new Impartial Hearing Officer shall be chosen by rotation from the pool unless the parties agree to a specific Impartial Hearing Officer from the pool outside of the rotation.~~ly for decisions regarding the student's receipt of the five required Pre-Employment Transition Services described in 34 CFR 361.48.¶
(4) Issues that do not constitute a Program action affecting the provision of services includes, but are not limited to:¶
(a) General program administration, including internal operations and decisions. This includes, but is not limited to, case assignment and reassignments, workload considerations, and internal approval or supervisory review processes.¶
(b) Disagreements over administrative calculations or formula applications identified in Oregon Administrative Rules used to determine financial participation, comparable benefits, or allowable costs.¶
(c) Disagreements regarding the method of delivery of counseling and guidance. ¶
(A) For purposes of this rule, all counseling and guidance provided by the Program must be delivered in real time as described in OAR 582-020-0005(4).¶
(B) A client is not eligible to request mediation or a hearing for a disagreement based solely on their preference for a method of communication that is not real time. Methods such as email-only are not considered reasonable modifications because they fundamentally change the delivery of counseling and guidance.¶
(~~4~~d) ~~If the Impartial Hearing Officer denies a request to withdraw under section (3) of this rule, the Impartial Hearing Officer shall advise the parties in writing of the nature of the alleged conflict and the rationale for the decision not to remove themselves.~~ Challenges to whether a law, federal regulation, or Oregon Administrative Rule is valid or needs to be changed. These issues are not eligible for mediation or hearing.¶
(e) Issues that are the same as or substantially similar to issues previously submitted or decided through the hearing process. This includes issues that:¶
(A) Are currently pending a decision by an Impartial Hearing Officer; or¶
(B) Have been decided through a final order of the Impartial Hearing Officer (IHO) or Program.¶
(f) Requests that do not identify a specific Program action affecting eligibility, the individualized plan for employment (IPE), or Program services, following reasonable efforts to clarify the request.¶
(~~5~~g) ~~The Impartial Hearing Officer's decision not to remove themself may be appealed immediately to the Program Director whose decision is final~~A potentially eligible student may not request dispute resolution regarding

vocational rehabilitation services, supports, or benefits that are available only after an application for vocational rehabilitation services and a determination of eligibility. These services include, but are not limited to, transportation, maintenance, equipment, tools, and other individualized vocational rehabilitation services.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

AMEND: 582-020-0060

RULE SUMMARY: This rule describes when the Program must provide a written Notice of Vocational Rehabilitation Dispute Resolution Rights to:

- The client or, if appropriate, the client's representative, or
- A potentially eligible student.

CHANGES TO RULE:

582-020-0060
~~Prehearing Conferences~~Dispute resolution rights notification ¶

(1) ~~Prior to hearing, the Impartial Hearing Officer shall conduct at least one prehearing conference to facilitate the conduct and r~~The Program shall provide a written statement of Vocational Rehabilitation Dispute Resolution ~~of the case. Unless both parties agree that no conference is desired, the parties must attend and participate in at least one scheduled prehearing conference.~~ Rights to the client or, if appropriate, the client's representative at the time:¶
(a) The client applies for vocational rehabilitation services;¶
(~~2~~b) The ~~purposes of a prehearing conference may include, but are not limited to the following:~~ client is assigned to a priority category during an order of selection;¶
(~~a~~c) T~~o facilitate discovery and resolve disagreements about discovery;~~ he individualized plan for employment (IPE) is developed; and¶
(~~b~~d) ~~To identify, simplify, and clarify issues directly related to the disputed Program action identified in the hearing request;~~ A Notice of Proposed Action (NOPA) is issued to deny, reduce, suspend or terminate services.¶
(~~c~~e) ~~To eliminate irrelevant or non-hearable issues; ¶~~
~~(d) To obtain stipulations of fact and admit documents into evidence; ¶~~
~~(e) To authenticate documents; ¶~~
~~(f) Provide a writte~~Potentially eligible (OAR 582-150-0005(2)) students: The potentially eligible student receives Vocational Rehabilitation ~~I~~Dis~~t of all supporting documents to be used during the hearing process and a list of the names of all witnesses expected to testify;¶~~
~~(g) To decide the order of proof and other procedural matters pertaining to the conduct~~pute Resolution Rights form only when decisions related to the student's receipt of the five required pre-employment transition services described in 34 CFR 361.48 are denied, reduced, suspended, ~~of~~r ~~the hearing;~~erminated.¶
(~~h~~2) T~~o discuss the use of a collaborative d~~he Vocational Rehabilitation Dispute ~~r~~Resolution ~~process in lieu of or preliminary to holding the contested case hearing;~~ Rights form shall include the following information:¶
(~~i~~a) ~~To schedule the date, time and location of the hearing or for any other matters connected with the hearing, including motion hearings, dates for pre-filed tes~~A statement about the continuum of dispute resolution processes available to the client, including informal dispute resolut~~im~~on~~y and exhibits and exchange of exhibits and witness lists; and¶~~
~~(j) To discuss settlement or o~~, mediation, and an impartial due process hearing;¶
(b) Where and how to file th~~e~~r re~~solution or partial resolution of the case. ¶~~
~~(3) The prehearing conference~~quest, including the names and addresses of individuals with whom requests may be ~~conducted in person or by telephone or videoconference.~~ filed, and relevant timeframes;¶
(4c) The ~~Impartial Hearing Officer shall make a written record of any stipulations, rulings and agreements. Stipulations to facts and to the authenticity of documents and agreements to narrow issues shall be binding upon the parties to the stipulation unless good cause is shown for rescinding a stipulation or~~procedures for the assignment of mediators and impartial hearing officers (IHO) to a particular case;¶
(d) The availability of the Client Assistance Program to assist the client with mediation or a hearing, including contact information; and¶
(e) That interpreters and materials in alternative formats a~~gre~~~~ement~~ available, if needed.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

AMEND: 582-020-0065

RULE SUMMARY: The rule has been amended. It describes when a notice of proposed action is issued, how it is served, and what information it contains.

- A NOPA is not required when the client has expressed acceptance or understanding with the Program's decision. Lack of a NOPA does not invalidate the Program decision.
- The final decision made regarding a NOPA may not be re-opened, re-litigated, or revived through subsequent or repeated requests.
- The Program is not required to reissue or restate those the Vocational Rehabilitation Dispute Resolution Rights form each time a client accepts a Program decision.

CHANGES TO RULE:

582-020-0065
~~Impartial Hearing Officer Responsibility to Maintain a Hearing Record~~Notice of/Proposed/Action
(1) The ~~Impartial Hearing Officer (IHO) shall maintain an audio record of all prehearing conference events, whether by telephone, videoconference, or in person.~~ Program shall provide a client with a written Notice of Proposed Action (NOPA) when the Program takes action to deny, terminate, suspend, or reduce the client's eligibility or services and the client expresses disagreement with the action.¶
(2) The NOPA may be served personally, by electronic mail, or by mail in accordance with the client's preferred method of communication as documented in the case record.¶
(3) The NOPA must include the following:¶
(a) The date the notice is mailed;¶
(b) A statement of the client's right to a hearing, with a description of the procedure and time to request a hearing;¶
(~~2~~c) ~~The Impartial Hearing Officer shall maintain a written record of all hearing ev~~A statement of the authority and jurisdiction under which the hearing is held;¶
(d) A short, plain language statement about the action the Program intends to take, the effective action date, and citations to the regulations, rules, statues, or policies involved;¶
(e) A short, plain language statement of the reason for the action; and¶
(f) A statement~~s,~~ in~~cluding, but not limited to, all pleadings,~~dicating whether and under what circumstances an order by default may be entered.¶
(g) A potentially eligible (582-150-0005(2)) student receives a Notice~~s~~ of Proposed Action~~, email correspondence, exhibits submitt~~ only when decisions related to the student's receipt of the five required Pre-Employment Transition Services described in 34 CFR 361.48 are denied, reduced, suspended, or terminated.¶
(4) A NOPA is not required~~, witness lists, stipulations, agreements, rulings, orders, and decisions. ¶~~
~~(3) The Impartial Hearing Officer does not have the authority to order a court reporter or other resource to create or maintain the written or audio record at the Program's expense. Any additional resources requested and to be paid by the Program shall be agreed to by the Program~~hen the client has expressed acceptance or understanding with the Program's decision. The failure of a client to receive a NOPA does not, in itself, render the Program's decision invalid.¶
(a) When a client accepts or understands a Program decision, the documented acceptance or understanding in the case record shall constitute the Program's final decision for purposes of dispute resolution. The date of the documented acceptance or understanding shall serve as the date of notice for calculating any applicable timelines to request mediation or a hearing.¶
(b) If a client later disagrees with a Program decision and fails to timely file a request for mediation or a hearing, as determined by the date of documented acceptance or understanding under subsection (a), the decision becomes final, and the mediation, hearing, or both requests may be dismissed as untimely unless good cause exists.¶
(5) Once the final decision is made it may not be re-opened, re-litigated, or revived through subsequent or repeated requests.¶
(6) The absence of a Notice of Proposed Action does not extend or create a new right to challenge a decision that was accepted by the client.¶
(7) The written statement of Vocational Rehabilitation Dispute Resolution Rights form provided under OAR 582-020-0060 constitutes sufficient notice of the client's dispute resolution rights. The Program is not required to reissue or restate those rights each time a client accepts a Program decision.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

AMEND: 582-020-0070

RULE SUMMARY: • This rule now includes potentially eligible students.

• Informal dispute resolution may include in person, phone, or virtual meetings with Program staff to discuss the issue.

CHANGES TO RULE:

582-020-0070
~~Discovery~~Informal dispute resolution ¶

(1) ~~Before the hearing, the parties shall provide to the IHO and the other party a list of witnesses the party intends to call to testify at the hearing, and any documents that the parties intend to offer as evidence. The IHO may set a deadline to exchange witness lists and exhibits. The IHO may exclude witnesses or evidence that was not provided by this deadline unless the party offers a satisfactory reason for having failed to do so, or unless ex~~When a client or potentially eligible (582-150-0005(2)) student submits a request for mediation or a hearing, the parties may also participate in informal dispute resolution before the mediation or hearing proceeds. Participation in informal dispute resolution is not required to proceed with mediation, or a hearing. Informal dispute resolution may includ~~ing the evidence would violate the duty to conduct a full and fair inquiry of the issue.¶~~
~~(2) Any discovery request shall be reasonably likely to produce information that is generally relevant and necessary to the case, or is likely to facilita~~e in person, phone or virtual meetings with Program staff to discuss the issue.¶
(2) The client or potentially eligible student and the Program may have a representative in the informal dispute resolution ~~of the case~~process.¶
(3) The ~~client may review the Program case file. However, materials protected under 34 CFR 361.38(c)(2) because~~Program may decline to participate in informal dispute resolution if:¶
(a) The client ~~o~~fr potential ~~harm to the client may be withheld from cli~~ly eligible stud~~e~~nt~~s~~ re~~presenting themselves if these materials are not offered into evidence at the hearing.~~fuses to cooperate in scheduling or attend a meeting to discuss the action;¶
(~~4~~b) The ~~Program, an attorney representing one of the parties, or the IHO may issue subpoenas for the attendance of witnesses or the production of documents~~issue has already been settled through the dispute process, and no more appeals are allowed; or ¶
(c) Prior attempts to resolve the disputed action have been unsuccessful.¶
(~~5~~4) ~~Depositions may not be taken without the Program's express authorization.¶~~
~~(a) A party seeking to take~~If the dispute that led to a mediation or hearing request is resolved through informal dispute resolution, the ~~t~~resolut~~imon~~y ~~of a material~~ must be confirmed in writ~~ness by deposition shall file a written request with the Program, with a copy to the IHO. The request shall include the name and address of the witness, a showing of materiality of the testimony of the witness, an explanation of why a deposition rather than informal, or other means of discovery, is necessary, and a~~ing by the parties and:¶
(a) The client or potentially eligible student shall withdraw the mediation or hearing request; ¶
(b) If the client or potentially eligible student does not withdraw the hearing request, and the dispute has not been assigned to an impartial hearing officer (IHO), the Program shall issue an order dismissing the request; or¶
(c) If the client or potentially eligible student does not withdraw the hearing request ~~for the purpose of recording testimony.¶~~
~~(b) The Program shall consider the petition and~~, and the dispute has been assigned to an impartial hearing officer (IHO), the IHO shall issue a ~~written~~ order ~~either granting or denying the deposition. If the Program grants the deposition, the deposition shall be taken on the terms the Program may order, including, but not limited to, location, manner of recording, time of day, individuals permitted to be present, and duration. The Program shall not pay for any deposition taken by the client~~dismissing the request.¶
(5) A client's or potentially eligible student's request to engage in informal dispute resolution process does not extend the applicable legal timeframes to hold the hearing or to resolve through mediation, unless the parties agree, in writing, to an extension for a specific period.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

AMEND: 582-020-0075

RULE SUMMARY: This rule now:

- Includes potentially eligible students.
- More completely describes the process for making these requests and defines the timelines.
- Provides that the client or potentially eligible student is notified if the issue is not hearable and provides for correcting and resubmitting a request.

CHANGES TO RULE:

582-020-0075
~~Program Representation during Impartial Hearing~~/Mediation and hearing requests
(1) ~~The Program may be represented by an Assistant Attorney General~~A client or potentially eligible (OAR 582-150-0005(2)) student who is dissatisfied with a Program action may request mediation, a hearing, or both. After a request, the client or potentially eligible student may also simultaneously engage in informal dispute resolution pursuant to OAR 582-020-0070.¶
(a) A potentially eligible student may request dispute resolution only for decisions regarding the student's receipt of the five required Pre-Employment Transition Services described in 34 CFR 361.48.¶
(~~2~~b) ~~Subject to the approval of the Attorney General, an employee of the Program is authorized to appear as the lay representative in hearings governed by OAR chapter 582, division 020~~A potentially eligible student may not request dispute resolution regarding vocational rehabilitation services, supports, or benefits that are available only after an application for vocational rehabilitation services and a determination of eligibility. These services include, but are not limited to, transportation, maintenance, equipment, tools, and other individualized vocational rehabilitation services.¶
(2) The client or potentially eligible student must use the Program-approved Mediation and Hearing Request form to request mediation, a hearing, or both.¶
(3) A mediation or hearing request is considered timely if it meets the following conditions:¶
(a) Is received by the Program's dispute resolution coordinator within 30 calendar days of the date on the written Notice of Proposed Action (NOPA), the date of documented acceptance or understanding in the case record, or the date of an alleged delay in a Program action.¶
(b) The Program shall withdraw the NOPA if contact is established within the 30 calendar-day period and "unable to locate or contact the individual" is the sole basis for file closure.¶
(~~3~~c) ~~A Program representative may not make legal argument.¶~~
~~(a) Legal argument includes arguments on:~~If a timely request for mediation is declined by the Program, or if mediation is terminated before the parties participate in mediation, the request for mediation does not extend the deadline for requesting a hearing under OAR 582-020-0075(3) of this rule. The client or potentially eligible student must submit any hearing request within the applicable time period established by this rule.¶
(~~A~~d) ~~The jurisdiction of the agency to hear the contested case;~~If the parties participate in mediation and the matter is not resolved, the client or potentially eligible student may request an impartial due process hearing within 30 calendar days after the mediation process ends. ¶
(~~B~~4) ~~The constitutionality of a statute or rule or the application of a constitutional requirement to the agency; and~~Process for handling untimely mediation or hearing requests¶
(a) If a request for mediation or a hearing is not timely under OAR 582-020-0075(3) of this rule, the Program issues an order finding the request untimely.¶
(b) A client or potentially eligible student who disagrees with an order issued under subsection OAR 582-020-0075(4)(a) may request reconsideration. The Program notifies the client or potentially eligible student or their representative in writing of the untimely determination and the right to seek reconsideration.¶
(A) To request reconsideration, the client or potentially eligible student must submit a written statement to the Program's dispute resolution coordinator that includes:¶
(~~C~~i) ~~The application of court precedent to the facts of the particular contested case proceeding~~An explanation of why the request for hearing or mediation was not submitted on time; and¶
(ii) An explanation of why those circumstances constitutes good cause.¶
(B) The written statement must be submitted within 14 calendar days as indicated within the Program's notification.¶
(C) If there is a factual dispute regarding timeliness or good cause, the matter is referred to a Program committee for determination. The Program committee consists of individuals from administration who have not been involved in the decision-making of the case. The committee determines whether the client's or potentially eligible student's explanation demonstrates good cause.¶

(bD) Legal argument does not include presentation of evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:The Program may conduct additional inquiry, including requesting supporting documentation. The client or potentially eligible student must cooperate and respond within the timeframes established by the Program.¶
(E) If the Program determines that good cause exists, it may treat the request as timely and proceed accordingly. This determination date would constitute the Program's acceptance date for the request for hearing or mediation.¶
(F) If the Program determines that good cause does not exist, the order dismissing the untimely request for mediation, hearing, or both remain in effect.¶
(5) Clarifying the alleged program action¶
(a) A client or potentially eligible student is not entitled to mediation or a hearing unless the request alleges dissatisfaction with a Program action, as defined in OAR 582-020-0005(1).¶
(Ab) The application of the facts to the statutes or rules directly applicableIf a request for mediation or hearing, in whole or in part, does not identify a Program action providing a right to mediation or hearing, the Program notifies the client or potentially eligible student or their representative in writing, identifying the non-hearable issues and advising of the opportunity to submit a corrected request.¶
(A) To correct the deficiency, the client or potentially eligible student must submit a new request for hearing or mediation utilizing the Program-approved mediation and hearing request form. This correction must be submitted to the dissues in the contested case;pute resolution coordinator identifying a hearable issue.¶
(B) The corrected request must be received by whichever deadline is later:¶
(Bi) Comparison of prior actions of the Program in handling similar situations;¶
(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and¶
(D) The admissibility of evidence or the correctness of procedures being followed.The original deadline to request mediation or a hearing under OAR 582-020-0075(3); or¶
(ii) A 14-calendar-day period beginning on the date the Program provides notice of the deficiency. ¶
(iii) If no corrected request is received within the required deadline, the Program issues a written order dismissing the request for mediation or hearing.¶
(C) If the corrected request does not identify a hearable issue, the Program issues a written order dismissing the request for mediation or hearing, notifying the client or the client's representative of their right to seek reconsideration.¶
(i) To request reconsideration, the client must submit a written statement to the Program's dispute resolution coordinator that includes an explanation of why the issue is hearable under federal regulation and state rule.¶
(ii) The written statement must be submitted within 14 calendar days as indicated within the Program's notification.¶
(D) If a client or potentially eligible student requests reconsideration of the dismissal for non-hearable issues, the matter is referred to a Program Committee for final determination. The Program Committee consists of individuals from administration who have not been involved in the decision-making of the case. ¶
(4E) WThen a lay representative repres Committee determines whether the request identifies a Program action that gives the client or potentially eligible students the Program, the IHO shall advise the representative of the manner in which objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objection. Where such objectright to mediation or a hearing.¶
(F) The Program may conduct additional inquiry, including requesting supporting documentation. The client or potentially eligible student must cooperate and respond within the timeframes established by the Program.¶
(G) If the Program Committee determines that the corrected request identifies a hearable issue, the date of the corrected request shall be used as the filing date for purposes of calculating applicable deadlines, including the deadline to hold a mediation or a hearing under this rule. ¶
(H) If the Program Committee determines that the corrected request does not identify a hearable issue, the Program's original order dismissing the request for mediation or a hearing remains in effect and no further appeal rights are available.¶
(6) When the Program has issued a Notice of Proposed Action or has documented acceptance or understanding in the case record, and the client or potentially eligible student fails to request mediation or a hearing within required timeframes, the Program's decision is finvolve legal argument, the IHO shall provide reasonable opportunity for the Program employee to consult legal counsel and permit legal counsel to file written legal argument within a reasonable time after conclusion of the hearing or to represent the Program ial, and the Program shall issue no further order. The Program file, including all materials submitted by a party, shall be considered the record of the matter, and the record shall constitute a prima facie case supporting the Program's action. ¶
(7) After a request for hearing is filed, the request may be dismissed if the client or potentially eligible student:¶
(a) Withdraws the request at any time before the issuance of a final order;¶

(b) Fails to respond to attempts by the Program or Impartial Hearing Officer to schedule or proceed with a prehearing conference, hearing, or other hearing-related proceeding; or¶
(c) Fails to appear at a scheduled prehearing conference, hearing, or other hearing-related proceeding without good cause; or¶
(d) Notifies the Program or Impartial Hearing Officer that they will not appear.¶
(8) A request for a hearing may be withdrawn at any time before the issuance of a final order. If withdrawn before assignment to an Impartial Hearing Officer, the Program issues the dismissal order. If withdrawn after assignment, the Impartial Hearing Officer issues the dismissal order.¶
(9) The hearing or mediation shall be held within 60 calendar days from the date the Program's dispute resolution coordinator receives the client's or potentially eligible student's timely request for hearing or mediation, unless:¶
(a) Informal dispute resolution successfully resolves the matter within the 60-day deadline;¶
(b) A final mediation agreement is agreed to and signed by the parties within the 60-day deadline; or¶
(c) The parties agree to an extension of the ~~h~~dea~~ring is continued~~dline for a specific period of time. Extensions of the timeline shall be documented in writing.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

AMEND: 582-020-0080

RULE SUMMARY: This rule now:

- Includes potentially eligible students.
- Clarifies that the provision applies only to services already in place.

CHANGES TO RULE:

582-020-0080
~~Impartial Hearing Officer's Decision~~Continuation of services ¶

(1) The ~~Impartial Hearing Officer's (IHO) decision shall be based on the approved State Plan, the federal Rehabilitation Act, federal vocational rehabilitation regulations, relevant state statutes, and the Program's administrative rules and policies.¶~~
~~(2) The IHO shall~~Program may not suspend, reduce, or terminate vocational rehabilitation services currently being provide~~d a full written report of the findings and grounds for his or her decision to the parties within 30 calendar days the date the hearing was completed, unless the parties agree to an extension for a specific period of time. The written report shall include any findings from pre-hearing conferences, motion hearings or any other formal hearing events, unless the IHO has already issued a separate order with these findings~~d to a client, including evaluation and assessment services and individualized plan for employment (IPE) development, that are being delivered toward an agreed-upon employment outcome, pending a resolution through informal dispute resolution, mediation, a decision by an impartial hearing officer (IHO) or reviewing official.¶
(~~3~~2) A p~~arty who is dissatisfied with the IHO's decision may request a Formal Administrative Review of that decision within 20 days following the date of mailing of the IHO's decision. The date of mailing shall be the date identified on the certificate of mailing attached to the decision; if there is no certificate, the date of mailing shall be the date of the postmark; if there is no certificate or postmark, the date of mailing shall be the date of the decision.¶~~
~~(4) The IHO's decision is final, unless either party timely requests a Formal Administrative Review of the decision. If a FAR is requested, the IHO's order shall be automatically stayed and the decision may not be implemented while the FAR is pending.¶~~
~~(5) If nei~~otentially eligible (OAR 582-150-0005(2)) student may continue to receive only the Pre-Employment Transition Services described in 34 CFR 361.48.¶
(3) This provision applies only to services already in place. The Program is not required to provide additional evaluation or assessment services that have not been agreed to or as written in the individualized plan for employment (IPE) or otherwise authorized by the Program unless:¶
(a) The client or potentially eligible student or their ~~party timely requests a FAR, the IHO's decision becomes the Program's final order and shall be implemented 21 days from the date of mailing of the IHO's decision. If both parties agree in writing that they will not appeal the IHO's decision, the decision may become the Program's final order and implemented earlier than 21 days after~~representative requests suspension, reduction, or termination of services pending the outcome of dispute resolution process; or¶
(b) The Program has evidence that the services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the ~~mailing date~~client o~~f~~r the ~~IHO's decision~~client's representative.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690, 344.710 - 344.730

AMEND: 582-020-0085

RULE SUMMARY: This rule:

- Now includes potentially eligible students.
- Has been changed to provide more detail about the steps in the mediation process.

If the Program declines mediation, it has been added that the notice to the individual includes information about:

- The right to request a hearing, provided the deadline for requesting a hearing has not expired and a hearing request is not already pending.

If both parties agree to participate in mediation and a hearing request is pending:

- The hearing timeline shall be suspended during mediation and shall resume upon termination of the mediation process, if a request for a hearing is not already pending

Mediators are chosen from a pool of qualified mediators.

The mediation shall occur between the Program staff and the client or potentially eligible student. Other individuals are no longer included.
"Revised" individualized plan for employment (IPE) are removed because these changes are amendments to the IPE.

If an agreement is not reached, the mediator shall inform the client or potentially eligible student and the Program that the mediation process has ended.
Despite the timeframes specified in OAR 582-020-0055, if a client or potentially eligible student who participates in mediation that does not result in a resolution may request an impartial due process hearing within 30 calendar days of the date the mediation process ends. The Program shall inform the client or potentially eligible student of this right.

CHANGES TO RULE:

582-020-0085
~~Program Appeals~~Mediation ¶

~~The Program Director or designee shall approve any decision by the Program to challenge a decision by an Impartial Hearing Officer, a reviewing official, or a court of~~(1) Participation in mediation is voluntary. If the Program declines a request for mediation under OAR 582-020-0055, the Program shall provide written notice to the client that mediation has been declined. ¶
(a) The notice shall also inform the client or potentially eligible (OAR 582-150-0005(2)) student of the right to request a hearing, provided the deadline for requesting a hearing has not expired and a hearing request is not already pending.¶
(b) If both parties agree to participate in mediation and a hearing request is pending, the hearing timeline shall be suspended during mediation and shall resume upon termination of the mediation process.¶
(2) Selection of mediator¶
(a) The Program shall select mediators from a pool of qualified individuals who meet the requirements of OAR 582-020-0005(16).¶
(b) Upon receipt of a timely client or potentially eligible student request for mediation, the Program shall contact, on a rotating basis, a mediator who is geographically near the Program office of the client or potentially eligible student. If that mediator is not available within two weeks, the Program shall contact other mediators using this same identification process until a mediator is identified who can provide timely services. If no mediator is mutually selected from the pool of mediators geographically near the Program office of the client or potentially eligible student, the Program shall contact, on a rotating basis, mediators from a wider geographic range.¶
(c) Each party shall be given the opportunity to agree to or reject an identified mediator prior to the beginning of mediation services.¶
(3) Agreement to mediate¶
(a) Prior to the beginning of the first mediation session, the parties shall sign the Program-approved "Agreement to

Mediate" form.¶
(b) The mediation shall occur between the Program staff and the client or potentially eligible student. The parties may have a representative to assist them in the mediation.¶
(4) Conclusion of mediation¶
(a) At any point during the mediation process, either party or the mediator may elect to terminate the mediation.¶
(b) A successful mediation shall be concluded with a final written mediation agreement prepared by the mediator. The parties must agree to and sign the agreement for it to be effective in resolving the case. The parties shall be given a copy of the signed agreement. ¶
(A) The final agreement shall become part of the case file record, unless otherwise agreed.¶
(B) If the final agreement includes any changes to the individualized plan for employment (IPE), an amended IPE that incorporates the changes shall be in writing and signed by the Program and the client. ¶
(c) If an agreement is not reached, the mediator shall inform the client or potentially eligible student and the Program that the mediation process has ended. Despite the timeframes specified in OAR 582-020-0075, a client or potentially eligible student who participates in mediation that does not result in a resolution may request an impartial due process hearing within 30 calendar days of the date the mediation process ends. The Program shall inform the client or potentially eligible student of this right.¶
(5) Confidentiality of mediation:¶
(a) All mediation communications, including discussions, memorandum, work product, draft mediation agreements, or any other documents prepared for, submitted, or made during mediation shall be confidential and may not be used as evidence in any subsequent impartial due process hearing or other civil proceeding, unless otherwise required by law.¶
(b) A written mediation agreement that results from mediation, including any term or condition of the agreement, is not confidential and may be used as evidence in any subsequent impartial due hearing process or other legal proceeding.¶
(c) Notwithstanding any other provision of these rules, the mediator, the Program, and the client or potentially eligible student may retain any mediation documentation to the extent it is necessary for administrative or payment purposes, or to comply with applicable laws, including but not limited to the Public Records law.
Statutory/Other Authority: ORS 344.530(2),, 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690, 344.710 - 344.730

AMEND: 582-020-0090

RULE SUMMARY: Additional information has been included.

Impartial hearing officers (IHOs) are generally assigned on a rotational basis. However, the Program may assign an IHO outside of the rotation when appropriate, including where the parties agree in advance to the assignment of a specific impartial hearing officer from the pool.

If the IHO removes themselves or is removed due to a conflict of interest, a new IHO shall be chosen by rotation from the pool. However, the parties may agree to a specific IHO from the pool outside of the rotation.

CHANGES TO RULE:

582-020-0090
~~Formal Administrative Review~~Selection of impartial hearing officer (IHO) ¶

(1) ~~A~~ Impart~~y who is dissatisfied with the IHO's decision may request a Formal Administrative Review (FAR) of the decision within 20 days from the mailing of the IHO's decision, as described in OAR 582-020-0080(3). The request shall be in writing and~~ ial hearing officers (IHOs) are assigned from a pool of qualified individuals who meet the requirements of OAR 582-020-0005(10) and who have been identifi~~l~~ed ~~with~~jointly by the Program ~~Dispute Resolution Coordinator at the Central Administrative Office in Salem.¶~~
~~(2) A party may not request a Formal Administrative Review before the hearing process has ended or before the Impartial Hearing Officer has issued a final decision.¶~~
~~(3) The FAR shall be conducted by a reviewing official.¶~~
~~(4) On receipt of a timely request for FAR, the Program Dispute Resolution Coordinator shall promptly notify the reviewing official and the parties.The Program Dispute Resolution Coordinator shall provide the entire hearing record to the reviewing official.¶~~
~~(5) The reviewing official shall provide bo~~and the State Rehabilitation Council.¶
(2) IHOs are generally assigned on a rotational basis. However, the Program may assign an IHO outside of the rotation when appropriate, including where the parties ~~with an opportunity to submit in writ~~agree in~~g~~ ad~~ditional evidence and information releva~~vance to the assignment ~~to~~of a ~~final decision concerning the action under review. Each party shall submit that information to the reviewing official and other party. If the reviewing official does not provide a schedule for submitting written materials, all written materials shall be received by the reviewing official no later than 20 days following the date the Program's Dispute Resolution Coordinator sent its notice of the pending request, as describ~~specific IHO from the pool.¶
(3) Either party may request that the assigned IHO remove themselves because of a potential conflict of interest or disqualification.¶
(a) Requests bas~~ed i~~on ~~section (3) of this rule.¶~~
~~(6) The reviewing official shall make an independent, final decision following review of entire hearing recor~~conflict of interest shall be reviewe~~d a~~und ~~provide the decision in writing, including a full report of the findings and the statutory, regulatory, or policy grounds for the decision to the client, the client's representative, and to the Program Dispute Resolution Coordinator within 30 days following the date of the request for a FAR.¶~~
~~(7) The reviewing official may not overturn or modify the IHO's decision, or any part of that decision, that supports the position of the client unl~~er the standards of Rule 3.10 of the Oregon Code of Judicial Conduct (disqualification) and 34 CFR 361.5(c)(24)(i)(F) (an individual has no personal, professional or financial interes~~s~~t the ~~reviewing official concludes, based on clear and convincing evidence, that~~at could affect conflict with the ~~decision of the IHO is clearly erroneous on the basis of being contrary to the approved State Plan, the federal Rehabilitation Act, federal vocational rehabilitation regulations, and Program administrative rules and policies that~~objectivity of the individual).¶
(b) If the IHO removes themselves or is removed, a new IHO shall be chosen by rotation from the pool unless the parties agre~~ consistent with federal requirements.¶~~
~~(8) The reviewing official's decision is a final order unless either party appeals~~e to a specific IHO from the pool outside of the rotation. ¶
(4) If the ~~decision to state court or brings a civil action under OAR 582-020-0095.¶~~
~~(9) If a party appeals or brings a civil action to challenge the reviewing official's final order, the order must be implemented pending review by the court, unless a stay is requested and granted by the Program or otherwise ordered by a court~~IHO denies a request to withdraw (see OAR 582-020-0090(3)), the IHO shall advise the parties

in writing of the nature of the alleged conflict and the rationale for the decision not to remove themselves.¶
(5) The IHO's decision not to remove themselves may be appealed immediately to the Program director, whose decision is final.
Statutory/Other Authority: ORS 344.530, 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

AMEND: 582-020-0095

RULE SUMMARY: The parties in the dispute must attend and participate in all scheduled prehearing conferences. This has changed from participating in "at least one" prehearing conference.

The rule has added or clarified processes for conducting the prehearing conference.

- The prehearing conference will examine if the issue is hearable under OAR 582-020-0055(5).
- Impartial hearing officer (IHO) duties:
- Establish the amount of time allotted to each party to present their case at the hearing.
- Unless otherwise ordered by the IHO for good cause shown, each party shall be allotted up to two (2) hours to present its case. This includes presentation of evidence, witness testimony, and cross-examination.
- If both parties agree and the independent hearing officer approves, the case may proceed as a written record proceeding instead of an in person or video hearing. A date must be set to submit and exchange:
- Written arguments, evidence, and any affidavits or declarations as part of the written record proceeding.
- Rebuttal materials shall be due two (2) weeks after the date of the opposing party's initial submission unless otherwise agreed upon.
- The impartial hearing officer may establish reasonable procedures necessary to conduct prehearing conference.
- The impartial hearing officer may take appropriate action to restore order if a party, representative, witness, or other participant engages in conduct that substantially disrupts the pre-hearing conference or interferes with the IHO's ability to conduct the prehearing conference. The actions that may be taken are listed.

The rule removes these activities during the prehearing conference:

- Admit documents into evidence.
- Authenticate documents.
- Provide a written list of all supporting documents to be used during the hearing process and a list of the names of all witnesses expected to testify.
- Decide the order of proof and other procedural matters pertaining to the conduct of the hearing.

CHANGES TO RULE:

582-020-0095
~~Civil Action~~Prehearing conferences/
~~Any party who disagrees with the reviewing official's final order may bring a civil action with respect to the disputed action. The action may be brought in any state court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount~~ (1) Prior to a hearing, the impartial hearing officer (IHO) shall conduct at least one prehearing conference to facilitate the conduct and resolution of the case. Unless both parties agree that no conference is desired, the parties must attend and participate in all scheduled prehearing conferences.¶
(2) The purposes of a prehearing conference may include, but are not limited to:¶
(a) Facilitate discovery and resolve disagreements about discovery;¶
(b) Identify, simplify, and clarify the issues directly related to the disputed Program action as set forth in the Notice of Proposed Action (NOPA), if issued, or, if no NOPA has been issued, as identified in the hearing request and subject to determination of whether the issue is hearable under OAR 582-020-0075(5);¶
(c) Eliminate irrelevant or non-hearable issues;¶
(d) Obtain stipulations of fact;¶
(e) Discuss the use of a collaborative dispute resolution process in lieu of or preliminary to holding the contested case hearing;¶
(f) Schedule the date, time, and location of the hearing or for any other matters connected with the hearing, including motion hearings, dates for pre-filed testimony and exhibits, and exchange of exhibits and witness lists;¶
(A) The IHO shall establish the amount of time allotted to each party to present their case at the hearing.¶
(B) Unless otherwise ordered by the IHO for good cause shown, each party shall be allotted up to two (2) hours to present its case. This includes presentation of evidence, witness testimony, and cross-examination.¶

(g) Discuss settlement or other resolution or partial resolution of the case; and¶
(h) Decide, if both parties agree and the independent hearing officer approves, whether the case proceeds as a written record proceeding (see OAR 582-020-0105(8)) instead of an in-person or video hearing. A date must be set to submit and exchange:¶
(A) Written arguments, evidence, and any affidavits or declarations as part of the written record proceeding. ¶
(B) Rebuttal materials shall be due two (2) weeks after the date of the opposing party's initial submission unless otherwise agreed upon. ¶
(3) All scheduled prehearing conferences shall be conducted either in person, by telephone, or via video conference, as designated by the IHO and agreed to by the Program.¶
(4) The IHO shall make a written record of any stipulations, rulings, and agreements. Stipulations to facts and to the authenticity of documents and agreements to narrow issues shall be binding upon the parties to the stipulation unless good cause is shown for rescinding a stipulation or agreement.¶
(5) The impartial hearing officer may establish reasonable procedures necessary to conduct the prehearing conference, including regulating the presentation of testimony and evidence and maintaining decorum.¶
(6) If a party, representative, witness, or other participant engages in conduct that substantially disrupts the pre-hearing conference or interferes with impartial hearing officer's ability to conduct the prehearing conference, the impartial hearing officer may take appropriate action to restore order, including:¶
(a) Issuing a warning;¶
(b) Directing the individual to cease the disruptive conduct;¶
(c) Recessing the prehearing conference;¶
(d) Removing a participant from the prehearing conference if the conduct continues after reasonable warning; or¶
(e) Terminating the pre-hearing conference if the conduct is so disruptive, threatening, abusive, or intimidating that the pre-hearing conference cannot be conducted in a fair, safe, and orderly manner.¶
(A) Before terminating the prehearing conference under OAR 582-020-0095(6)(e), the impartial hearing officer shall, when practicable, advise the parties that continued disruptive conduct may result in termination of the prehearing conference.¶
(B) If the prehearing conference is terminated under OAR 582-020-0095(6)(e), the impartial hearing officer shall make findings describing the conduct that resulted in termination and may issue a decision based upon the prehearing con~~troversy~~ference record and any evidence properly admitted prior to termination.
Statutory/Other Authority: ORS 344.530 & 344.590
Statutes/Other Implemented: ORS 344.530, ORS 344.540 & 344.590

ADOPT: 582-020-0130

RULE SUMMARY: • This rule now includes potentially eligible students.

- Deposition has been changed to deposition request.

CHANGES TO RULE:

582-020-0130
Discovery
(1) Before the hearing, the parties shall provide to the impartial hearing officer (IHO) and the other party a list of witnesses the party intends to call to testify at the hearing, and any documents that the parties intend to offer as evidence. The IHO may set a deadline to exchange witness lists and exhibits. The IHO may exclude witnesses or evidence that were not provided by this deadline unless the party offers a satisfactory reason for having failed to do so, or unless excluding the evidence violates the duty to conduct a full and fair inquiry into the issue.¶
(2) Any discovery request shall be reasonably likely to produce information that is generally relevant and necessary to the case or is likely to facilitate resolution of the case.¶
(3) The client may review the Program case file. However, materials protected under 34 CFR 361.38(c)(2) because of potential harm to the client or potentially eligible (OAR 582-150-0005(2)) student may be withheld from clients or potentially eligible students representing themselves if these materials are not offered into evidence at the hearing.¶
(4) The Program, an attorney representing one of the parties, or the IHO may issue subpoenas for the attendance of witnesses or the production of documents.¶
(5) Depositions may not be taken without the Program's express authorization.¶
(a) A party seeking to take the testimony of a material witness by deposition shall file a written request with the Program, with a copy to the IHO. The request shall include the name and address of the witness, a showing of materiality of the testimony of the witness, an explanation of why a deposition rather than informal, or other means of discovery, is necessary, and a request for the purpose of recording testimony. ¶
(b) The Program shall consider the petition and issue a written order either granting or denying the deposition request. If the Program grants the deposition request, the deposition shall be taken on the terms the Program may order, including, but not limited to, location, manner of recording, time of day, individuals permitted to be present, and duration. The Program shall not pay for any deposition taken by the client.
Statutory/Other Authority: ORS 344.530 & 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

ADOPT: 582-020-0135

RULE SUMMARY: This rule more fully explains the impartial due process hearing. It describes:

- How the meetings may be held and the choice of location.
- The process of events related to an impartial due process hearing.
- Irrelevant material is excluded.
- Written record documentation.
- How questions are transmitted to the Program and the Program replies.

The impartial hearing officer (IHO) is responsible for maintaining order and conducting the hearing in a fair, orderly, and respectful manner.

- The impartial hearing officer may establish reasonable procedures necessary to conduct the hearing. This may mean changing how testimony and evidence are presented to the hearing is conducted in a fair, orderly, and respectful way
- If a party disrupts or interferes with the hearing proceedings, the impartial hearing officer may restore order in several different ways. These methods are listed.

CHANGES TO RULE:

582-020-0135
/Impartial due process hearing
(1) The Program shall provide the Notice of Hearing Rights and Procedures to the client or potentially eligible (OAR 582-150-0005(2)) student or their representative prior to the hearing.¶
(a) The Notice of Hearing Rights and Procedures shall include the information set forth in ORS 183.413, except to the extent that the information was already provided to the client in the Notice of Proposed Action.¶
(b) If the Program fails to provide any information required in the Notice of Hearing Rights and Procedures (ORS 183.413), that alone does not invalidate a determination or order. The determination or order is only affected if a court, during an appeal or review, finds that the missing information impacts the client's or potentially eligible student's hearing rights. If the court makes this finding, it sends the case back to the Program and instructs it on the steps needed to address the problem and protect the client's or potentially eligible student's rights.¶
(2) The Program shall refer a completed and timely hearing request, as described in this rule, to an impartial hearing officer (IHO).¶
(3) The hearing shall be held at a time consistent with these rules as outlined in OAR 582-020-0075(9) and as designated by the IHO.¶
(4) All scheduled hearing proceedings shall be conducted either in person or via video conference, as designated by the IHO and agreed to by the Program.¶
(a) If in person, the hearing shall be held in a location that is convenient and accessible, as agreed to by the Program and the client or potentially eligible student.¶
(b) Notwithstanding OAR 582-020-0085(4), if the parties agree, and the IHO approves, that the matter proceeds as a written record proceeding pursuant to OAR 582-020-0135(8), the hearing shall be conducted on the written record without an in-person or video hearing.¶
(5) The parties shall have the opportunity to submit documentary evidence, to testify, and to call, and cross-examine witnesses.¶
(6) Evidence is admissible if it is the type that reasonably prudent persons commonly rely on in conducting serious affairs.¶
(7) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, and privileges afforded by Oregon law shall be recognized by the IHO. ¶
(8) Written record proceeding. In lieu of an in-person or video hearing, the parties may agree to submit the matter on a written record, subject to approval by the IHO at the prehearing conference.¶
(a) Each party shall submit a written submission, which may include argument, supporting evidence, and any affidavits or declarations; ¶
(b) The IHO shall set timelines for the submission and exchange of materials. Unless otherwise ordered, each party shall have 14 calendar days from receipt of the opposing party's initial submission to file a written rebuttal.¶
(c) By proceeding on the written record, the parties waive the right to present live testimony and oral argument.¶
(d) The IHO shall issue a decision based solely on the written record.¶
(e) The record is closed when the final permitted filing is submitted. ¶
(9) Transmittal of questions to Program: At the request of one of the parties or their representatives, or on the

IHO's own motion, the IHO may transmit a question to the Program to request the Program's interpretation of its rules and applicable statutes, or which rules or statutes apply to a proceeding.¶
(a) The IHO shall submit any transmitted question in writing to the Program. The submission shall include a summary of the matter in which the question arises and shall be served on the parties.¶
(b) The Program may ask for clarification to respond to the transmitted question.¶
(c) Unless prohibited by statute or administrative rules governing the timing of hearings, the IHO may continue the hearing or delay issuing a decision to get a response from the Program.¶
(d) The Program shall respond in writing to the transmitted question within a reasonable time. The Program's response shall be signed by an individual with authority to answer the question transmitted.¶
(e) The Program's response shall be made as part of the hearing record. The Program may decline to answer the transmitted question. The Program shall provide its response to the parties and IHO. The parties may reply to the Program's response within seven calendar days, unless ordered otherwise by the IHO and agreed to by the Program.¶
(10) The impartial hearing officer is responsible for maintaining order and ensuring that the hearing is conducted in a fair, orderly, and respectful manner.¶
(11) The impartial hearing officer may establish reasonable procedures necessary to conduct the hearing, including regulating the presentation of testimony and evidence and maintaining decorum.¶
(12) If a party, representative, witness, or other participant engages in conduct that substantially disrupts the hearing or interferes with impartial hearing officer's ability to conduct the hearing, the impartial hearing officer may take appropriate action to restore order, including:¶
(a) Issuing a warning;¶
(b) Directing the individual to cease the disruptive conduct;¶
(c) Recessing the hearing;¶
(d) Removing a participant from the hearing if the conduct continues after reasonable warning; or¶
(e) Terminating the hearing if the conduct is so disruptive, threatening, abusive, or intimidating that the hearing cannot be conducted in a fair, safe, and orderly manner.¶
(A) Before terminating the hearing under OAR 582-020-0135 (12)(e), the impartial hearing officer shall, when practicable, advise the parties that continued disruptive conduct may result in termination of the hearing¶
(B) If the hearing is terminated under OAR 582-020-0135 (12)(e), the impartial hearing officer shall make findings describing the conduct that resulted in termination and may issue a decision based upon the hearing record and any evidence properly admitted prior to termination.
Statutory/Other Authority: ORS 344.530 & 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690, 344.710 - 344.730

ADOPT: 582-020-0140

RULE SUMMARY: The number of the rule has been changed from 582-020-0065 to the new number to assure the correct flow of information.

CHANGES TO RULE:

582-020-0140
/Impartial hearing officer responsibility to/maintain a hearing record/
(1) The impartial hearing officer (IHO) shall maintain an audio record of all prehearing conference events, whether by telephone, videoconference, or in person.¶
(2) The IHO shall maintain a written record of all hearing events, including, but not limited to all pleadings, Notices of Proposed Action, email correspondence, exhibits submitted, witness lists, stipulations, agreements, rulings, orders, and decisions.¶
(3) The IHO does not have the authority to order a court reporter or other resource to create or maintain the written or audio record at the Program's expense. Any additional resources requested to be paid by the Program shall be agreed to by the Program.
Statutory/Other Authority: ORS 344.530 & 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

ADOPT: 582-020-0145

RULE SUMMARY: This rule was OAR 582-020-0075 and was changed to maintain the flow of information. The information is the same.

CHANGES TO RULE:

582-020-0145
/Program representation during impartial hearings
(1) The Program may be represented by an Assistant Attorney General.¶
(2) Subject to the approval of the Attorney General, an employee of the Program is authorized to appear as the lay representative in hearings governed by OAR chapter 582, division 20.¶
(3) A Program representative may not make legal argument.¶
(a) Legal argument includes arguments on:¶
(A) The jurisdiction of the agency to hear the contested case;¶
(B) The constitutionality of a statute or rule or the application of a constitutional requirement to the agency; and¶
(C) The application of court precedent to the facts of the contested case proceeding.¶
(b) Legal argument does not include presentation of evidence, examination and cross-examination of witnesses, or presentation of factual arguments or arguments on:¶
(A) The application of the facts to the statutes or rules directly applicable to the issues in the contested case;¶
(B) Comparison of prior actions of the Program in handling similar situations;¶
(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case; and¶
(D) The admissibility of evidence or the correctness of procedures being followed.¶
(4) When a lay representative represents the Program, the IHO shall advise the representative of how objections may be made and matters preserved for appeal. Such advice is of a procedural nature and does not change applicable law on waivers or the duty to make timely objections. Where such objections involve legal argument, the IHO shall provide reasonable opportunity for the Program employee to consult legal counsel and permit legal counsel to file written legal argument within a reasonable time after conclusion of the hearing or to represent the Program if the hearing is continued.
Statutory/Other Authority: ORS 344.530 & 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

ADOPT: 582-020-0150

RULE SUMMARY: This rule is currently 582-020-0080 Impartial Hearing Officer's Decision. The changes to the rule include:

- (3) A party who is dissatisfied with the IHO's decision may request a Formal Administrative Review (FAR) of that decision within 20 calendar days following the date of mailing of the IHO's decision. This is changed to note that it is 20 calendar days.
- The following requirement has been removed: The IHO's decision is final, unless either party timely requests a Formal Administrative Review of the decision. If a FAR is requested, the IHO's order shall be automatically stayed, and the decision may not be implemented while the FAR is pending.
- The new (4) specifies: If neither party timely requests timely requests a FAR, the IHO's decision becomes the Program's final order and shall be implemented 21 calendar days from the date of mailing of the IHO's decision. The information is updated to specify that it is calendar days.

CHANGES TO RULE:

582-020-0150
/Impartial hearing officer's decision
(1) The impartial hearing officer's (IHO) decision shall be based on the approved State Plan, the federal Rehabilitation Act, federal vocational rehabilitation regulations, relevant state statutes, and the Program's administrative rules and policies.¶
(2) The IHO shall provide a full written report of the findings and grounds for their decision to the parties within 30 calendar days from the date the hearing was completed, unless the parties agree to an extension for a specific period of time. The written report shall include any findings from pre-hearing conferences, motion hearings, or any other formal hearing events, unless the IHO has already issued a separate order with these findings.¶
(3) A party who is dissatisfied with the IHO's decision may request a Formal Administrative Review (FAR) of that decision within 20 calendar days following the date of mailing of the IHO's decision. The date of mailing shall be the date identified on the certificate of mailing attached to the decision. If there is no certificate, the date of mailing shall be the date of the postmark. If there is no certificate or postmark, the date of mailing shall be the date of the decision.¶
(4) If neither party timely requests a FAR, the IHO's decision becomes the Program's final order and shall be implemented 21 calendar days from the date of mailing of the IHO's decision. If both parties agree in writing that they are not appealing the IHO's decision, the decision may become the Program's final order and be implemented earlier than 21 calendar days after the mailing date of the IHO's decision.
Statutory/Other Authority: ORS 344.530 & 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690, 344.710 - 344.730

ADOPT: 582-020-0155

RULE SUMMARY: This rule is 582-020-0085 Program Appeals. The number was changed to maintain the flow of information. There were no changes to the information.

CHANGES TO RULE:

582-020-0155
Program appeals
The Program director or designee shall approve any decision by the Program to challenge a decision by an impartial hearing officer, a reviewing official, or a court of law.
Statutory/Other Authority: ORS 344.530(2), & 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690, 344.710 - 344.730

ADOPT: 582-020-0160

RULE SUMMARY: This is current rule 582-020-0090 Formal Administrative Review.

- It is specified that: A party who is dissatisfied with the impartial hearing officer (IHO's) decision may request a Formal Administrative Review (FAR) of the decision within 20 calendar days from the mailing of the IHO's decision. The period is calendar days.
- The written argument that may be presented to the reviewing official to explain why parties explain why the final order was correct or incorrect has been changed.
  - o Specific information from the hearing must be cited to support the argument.
  - o Additional evidence or information may be submitted only if directly relevant to a final decision and necessary to address the identified disagreement.
  - o Duplicative or cumulative information is not relevant.
- Written arguments may not exceed 10 pages unless the reviewing official and other party authorize additional pages.
- The hearing record includes the evidence and arguments the reviewing official considers.
- The dispute resolution shares this information with all parties.
- All parties have 10 days after the Program dispute resolution coordinator assigns the FAR if the reviewing official fails to provide a date for submittal of written materials. Written materials are submitted to the Program dispute resolution coordinator.
- The reviewing official makes a final decision from all the material and submits a written decision to the Program dispute resolution coordinator. The written report is due within 30 calendar days following the date of the assignment of a formal administrative review (FAR).
- The Program dispute resolution coordinator forwards the final decision to all appropriate parties.
- The rule includes potentially eligible students
- References to definitions for terms are updated.

CHANGES TO RULE:

582-020-0160
Formal administrative review
(1) A party who is dissatisfied with the impartial hearing officer (IHO's) decision may request a Formal Administrative Review (FAR) of the decision within 20 calendar days from the mailing of the IHO's decision, as described in OAR 582-020-0150(3). The request shall be in writing and filed with the Program dispute resolution coordinator.¶
(2) A party may not request a FAR before the hearing process has ended or before the impartial hearing officer has issued a final decision.¶
(3) The FAR shall be conducted by a reviewing official as defined in OAR 582-020-0005(8).¶
(4) On receipt of/a timely/request for a FAR, the Program dispute resolution coordinator shall promptly assign the FAR to the reviewing official and notify the/parties of the assignment. The/Program dispute resolution coordinator shall provide the entire hearing record to the reviewing official.¶
(5) The reviewing official shall give both parties an opportunity to submit written arguments explaining why they believe the Impartial Hearing Officer's (IHO) final order was correct or incorrect. The parties must identify and cite the specific evidence in the hearing record supporting its argument. Additional evidence or information may be submitted only if it is directly relevant and necessary to address the identified disagreement. Duplicative or cumulative information is not relevant to the FAR. Written arguments may not exceed 10 pages unless the reviewing official authorizes additional pages. The hearing record includes the evidence and arguments considered by the IHO in making the decision.¶
(a) Each party must provide its written arguments and any additional information or evidence to the dispute resolution coordinator, who forwards the materials to all parties.¶
(b) If the reviewing official does not establish a schedule for submitting written materials, all written materials must be received by the Program dispute resolution coordinator no later than 10 calendar days after the Program dispute resolution coordinator assigns the FAR as described in OAR 582-020-0160(4).¶
(6) The reviewing official shall make an independent final decision following review of the entire hearing record and the additional evidence submitted by each party. The decision is provided in writing to the Program dispute

resolution coordinator within 30 calendar days following the date of the assignment of a FAR. It includes a full report on the findings and the statutory, regulatory, or policy grounds for the decision./ The Program dispute resolution coordinator forwards the final decision to all appropriate parties.¶
(7) The reviewing official may not overturn or modify the IHO's decision, or any part of that decision, that supports the position of the client or potentially eligible student unless the reviewing official concludes, based on clear and convincing evidence, that the decision of the IHO is clearly erroneous on the basis of being contrary to the approved State Plan, the federal Rehabilitation Act, federal vocational rehabilitation regulations, and program administrative rules and policies that are consistent with federal requirements.¶
(8) The reviewing official's decision is a final order unless either party appeals the decision to the state court or brings a civil action under OAR 582-020-0165.¶
(9) If a party appeals or brings a civil action to challenge the reviewing official's final order, the order must be implemented pending review by the court, unless a stay is requested and granted by the Program or otherwise ordered by a court.
Statutory/Other Authority: ORS 344.530 & 344.590
Statutes/Other Implemented: ORS 344.511 - 344.690

ADOPT: 582-020-0165

RULE SUMMARY: This is rule 582-020-0095. It has been renumbered to maintain the flow of information. The information remains the same.

CHANGES TO RULE:

582-020-0165
Civil action
Any party who disagrees with the reviewing official's final order may bring a civil action with respect to the disputed action. The action may be brought in any state court of competent/jurisdiction/or in a district court of the United States of competent/jurisdiction/without regard to the amount in controversy.
Statutory/Other Authority: ORS 344.530 & 344.590
Statutes/Other Implemented: ORS 344.530, ORS 344.540, 344.590