

10A NCAC 63F .0605 SCHEDULING AND NOTICE OF ADMINISTRATIVE REVIEW AND MEDIATION

(a) Administrative Review

- (1) If an administrative review is to be conducted, the area rehabilitation supervisor or his designee shall:
 - (A) set a date, time and place for the administrative review;
 - (B) send written notification by certified mail to the applicant or consumer and the individual's parent or guardian if the individual is a minor, or his or her representative if one has been designated, with a statement of the date, time and place for the administrative review;
 - (C) advise the applicant or consumer in a written notice that the hearing officer will be appointed by the Director to conduct a hearing if the matter is not resolved in the administrative review (or mediation, if requested) and that the applicant or consumer will also receive a written notice from the hearing officer regarding the impartial due process hearing which will be held after the administrative review; and
 - (D) notify the Director of the Client Assistance Program (CAP) and the parties to be involved in the administrative review of the request and the date, time and place for the administrative review. This notification may be by phone or in writing.
- (2) Prior to the administrative review, the area rehabilitation supervisor or his designee shall review all previous decisions and casework related to the applicant or consumer and seek whatever consultation, explanation, documentation, or other information that is deemed necessary, utilizing the CAP Director if deemed necessary.

(b) Mediation

- (1) Upon receipt of the applicant's or the consumer's request for mediation from the area rehabilitation supervisor, the Director shall arrange for the appointment of a qualified and impartial mediator who is mutually agreed upon by the Director and the individual or individual's representative. The appointment shall come from an Agency-maintained pool of qualified mediators who are:
 - (A) certified by the North Carolina Resolution Dispute Commission or approved by the Mediation Network of North Carolina, and
 - (B) knowledgeable of Federal and State law and policies governing vocational rehabilitation and independent living rehabilitation programs.
- (2) The mediator shall arrange a mediation session at a date, time and location that is convenient for the applicant or consumer and the individual's representative, if one has been designated, and the agency representative, and to the impartial due process hearing. The mediation process shall not be used to deny or delay a due process hearing.
- (3) The mediator shall provide the applicant or consumer and the individual's representative, the Division, and the Client Assistance Program written notice of the mediation session. The written notice shall:
 - (A) Identify the agreed date, time and place for the mediation session.
 - (B) Advise the applicant or consumer that the hearing officer will be appointed by the Director to conduct an impartial due process hearing if the matter is not resolved in mediation (or in an administrative review, if conducted) and that the applicant or consumer will receive a written notice from the hearing officer regarding the impartial due process hearing, which will be after the mediation session (and administrative review, if applicable).

History Note: Authority G.S. 143B-157; 150B-(e)(5); 150B-2; 150B-23; 34 C.F.R. 361.57; Eff. December 1, 1990; Temporary Amendment Eff. August 1, 2001; Amended Eff. August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015.