

A GUIDE TO DISABILITY RIGHTS

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1. HOW TO USE THIS GUIDE

The Pennsylvania Client Assistance Program developed this guide as a resource for people with disabilities, their families, and their advocates. The guide describes some of the programs, rules, methods, and standards for seeking vocational rehabilitation and how to obtain these services. This information is provided solely as informal guidance, and is neither a determination of your legal rights nor your responsibilities under the Rehabilitation Act of 1973 or the vocational rehabilitation program administered by the Office of Vocational Rehabilitation (OVR). For advice regarding your rights and responsibilities, contact the Client Assistance Program (CAP) or an attorney.

For Information on what The Client Assistance Program Does, see Chapter 2.

If you need to learn about or improve your Self-Advocacy Skills, see Chapter 3.

If you want to understand How the Vocational Rehabilitation Programs Work, see Chapters 4 and 5.

If you have a problem or disagreement with a decision that has been made by a state vocational rehabilitation agency and you would like to know about the Appeals Process, see Chapter 6.

Understanding the Rehabilitation Process is the KEY to Obtaining the Services that YOU Need to Get and Keep a Job.

2. THE CLIENT ASSISTANCE PROGRAM

WHAT IS THE CLIENT ASSISTANCE PROGRAM (CAP)?

The purpose of the Client Assistance Program (CAP) is to:

- Advise and inform persons with disabilities seeking or receiving vocational rehabilitation services of the benefits available to them.
- Advocate for persons with disabilities seeking or receiving vocational rehabilitation services.

- Inform persons with disabilities in Pennsylvania of the services and benefits available to them under the Rehabilitation Act (Act) and Title 1 of the Americans With Disabilities Act (ADA).

If you have a question about the vocational rehabilitation process in Pennsylvania, or need help with a program providing services to you, CAP CAN HELP!

HOW IS CAP ADMINISTERED IN PENNSYLVANIA?

CAP is not a part of the Office of Vocational Rehabilitation (OVR). CAP is a federally funded program that is administered by the Center for Disability Law and Policy.

The Center for disability Law & Policy was established in 1976 as the Southeastern Pennsylvania . and in this capacity, administers the Client Assistance Program

Stephen S. Pennington, Esquire, is the Executive Director of the law center. Attorney Jamie Ray-Leonetti is the assistant director and manages the CAP advocacy. She is assisted by Senior Advocate, Margaret McKenna, and Advocate Lee Lippi.

WHO IS ELIGIBLE FOR CAP SERVICES?

Information is available to anyone with a disability. This includes information about services and benefits available to you from OVR and under the employment section of the ADA.

Help is available to anyone seeking or receiving services from OVR or a program, project or facility funded under the Rehabilitation Act. The help that CAP can provide is described below under the heading "What Can CAP Do For You"?

We encourage you to contact CAP if you have a question about vocational rehabilitation in Pennsylvania or need help.

WITH WHAT PROGRAMS CAN CAP ASSIST YOU?

CAP can assist you with programs, projects or facilities that receive funds from the federal government to provide VR services. These programs include but are not limited to:

- State Vocational Rehabilitation Agencies
- Supported Employment Programs
- Centers for Independent Living
- Projects With Industry
- Special Recreational Programs
- Community Rehabilitation Programs

CAP does not cover every type of program that provides services to people with disabilities. Some of the programs that CAP does not cover are Medicaid, Medicare,

Social Security, Special Education, and Fair Housing. CAP may be able to tell you where you can get help if you have a problem that CAP does not cover.

WHAT CAN CAP DO FOR YOU?

CAP CAN:

- Advise and inform you of services and benefits available to you through programs authorized under the Rehabilitation Act.
- Advise and inform you of your rights and responsibilities in connection with these services and benefits.
- Inform you of the services and benefits available to you under Title I of the ADA.
- Assist and advocate on your behalf in your dealings with OVR and other projects, programs, and community rehabilitation programs that provide services under the Act.
- Protect your rights under the Act.
- Facilitate access to services, especially if you are making the transition from public school programs to services funded under the Act.
- Provide information to the general public about CAP.
- Assist and advocate on your behalf to facilitate your employment.

HOW CAN I GET CAP HELP?

In Pennsylvania you can get CAP help in Pennsylvania from the Philadelphia office by calling 1-888-745-CDLP, **or (215) 557-7112 (voice/TTY)**, or by writing to The Client Assistance Program, 1617 JFK Blvd., Suite 800, Philadelphia, PA 19103. You can also reach CAP by e-mail at **info@equalemployment.org**.

Once you have contacted CAP the advocate must obtain your authorization to contact OVR or other VR program. This authorization will be sent to you along with information about CAP. Once the authorization is returned we will work with you and OVR to resolve your concerns. CAP must use alternative methods of dispute resolution before pursuing administrative or legal remedies.

All activities of CAP are conducted without regard to race, color, religion, sex, age, national origin, disability, or sexual orientation.

3. SELF-ADVOCACY SKILLS

STEPS TO DEVELOPING ADVOCACY SKILLS

- Define what you need.
- Know your rights.
- Know your responsibilities.
- Know the "system" and the procedures
- Keep records.

DEFINE WHAT YOU NEED

The purpose of vocational rehabilitation is to help you get and keep a job. If you want vocational rehabilitation services, you have the right to select a vocational goal and choose the services necessary to achieve that goal.

Selecting a vocational goal is the same as picking a job that you want to do. You are not limited to an entry-level job. You can choose a job which is consistent with your abilities, capabilities, strengths, resources, priorities, concerns, interests and informed choice.

KNOW YOUR RIGHTS

You have the right:

- to apply for services
- to have an eligibility determination made in a timely manner.
- to see your file and to get a copy of your file.
- to have your records kept confidential.
- to be informed of the basis of your counselor's decisions.
- to appeal any determination with which you do not agree.
- to ask CAP for help.

When you are a client of OVR, you also have the right:

- to choose what job is best for you.
- to ask for a new counselor.
- to choose the services you need.
- to get the help you need to get the job you want.

KNOW YOUR RESPONSIBILITIES

Along with the rights listed above you have certain responsibilities. These include:

- to provide your OVR counselor with the information that is necessary to make a decision regarding the services you need.
- to understand the process.
- to keep your OVR counselor informed of your decisions about your employment goals which are consistent with your abilities, capabilities, and interests.
- to be an active participant in your vocational process.

Once you and your counselor have agreed on an individual plan of employment, you should follow-up with your counselor to make sure that all the parts of your plan are being met. Make routine requests for the status of your plan. You may call CAP if you need information or help.

KNOW THE "SYSTEM" AND THE PROCEDURES

You should know the OVR system and procedures. These are set forth in Part 5 of

this guide.

KEEP RECORDS

Keep track of information. This will help ensure that you receive the services OVR has agreed to provide. You should maintain a record of your case which includes: a summary of your contacts with OVR, a copy of any records you have provided to the agency, and a summary of what you and the OVR counselor have agreed upon.

WHAT RECORDS SHOULD BE KEPT?

- **Phone Calls** - Write down the date, the phone number, and the name of the person with whom you talked. Write down what the call was about. Keep a written record of any agreements.
- **Letters** - Keep all letters from OVR. Keep copies of every letter you send to OVR.
- **Meetings** - When you meet with your OVR counselor write down the date and what you and the counselor decided.
- **Personal** - Keep a copy of all medical and psychological reports, work evaluations, and transcripts. Maintain your own records of work history, skills, and education so you are ready to tell employers about yourself.

Keep these records together in the same place. To keep them in order, a notebook or file folder can be helpful.

4. WHAT IS VOCATIONAL REHABILITATION?

VOCATIONAL REHABILITATION

Vocational rehabilitation services help people with disabilities prepare for, secure, retain or regain gainful employment. Vocational rehabilitation services help you reach a vocational goal which is consistent with your strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

THE GOALS OF REHABILITATION

The Rehabilitation Act of 1973 is the federal law that requires each state to establish vocational rehabilitation programs. The Rehabilitation Services Administration (RSA) is the federal agency that oversees the state VR programs. Under the law, the goals of vocational rehabilitation are:

1. **Independence** - you make your own decisions.
2. **Self-management** - you decide what help you need.
3. **Self-advocacy** - you speak up for yourself.
4. **Employment** - doing valued work for pay.

The Office of Vocational Rehabilitation (OVR) provides vocational rehabilitation services in Pennsylvania. This is discussed in Chapter 5.

5. VOCATIONAL REHABILITATION SERVICES

THE STATE VOCATIONAL REHABILITATION (VR) AGENCY

Vocational rehabilitation services are provided to clients and client applicants by the Office of Vocational Rehabilitation (OVR).

HOW THE VR PROCESS WORKS

The purpose of OVR is to help you get and keep a job that matches your abilities, capabilities, interests, priorities, strengths, resources, concerns and informed choice. The services of OVR include counseling and guidance, training, and placement, as well as a wide variety of other services which might assist a person in getting and keeping a job.

You are eligible for vocational rehabilitation services if you have a disability that creates a substantial impediment to employment and you require vocational rehabilitation services to prepare for, secure, retain or regain employment.

Each person who receives vocational rehabilitation services must have an employment plan. This plan is called an Individualized Plan for Employment (IPE). It is designed to help you reach your vocational goal of employment.

Many vocational rehabilitation services are free; however, a sliding fee schedule is applied to some services. Depending on your income and resources, you may be asked to share in the cost of some services. Evaluation, counseling and guidance, and placement are vocational rehabilitation services that are always provided free of charge.

What follows is a summary of how the process should work for these rehabilitation programs. In the rest of this section, we will explain each step of the process for working with OVR.

A ROAD MAP OF THE REHABILITATION PROCESS

APPLICATION - All persons wishing to receive services from OVR must apply at the correct office of OVR. You can find out which office serves your area by going to the local Career Link (Job Center).

ASSESSMENTS - All persons must be assessed in order to determine whether or not they are eligible for services. These assessments are made by qualified professionals of your choice at the time scheduled by you.

EVALUATIONS - These are the means by which professionals verify your need for OVR services. These will be particular to your disability.

ELIGIBILITY / INELIGIBILITY - This is an official determination of degree of disability which qualifies you to receive services. Sometimes it is difficult to tell if you can benefit

from OVR services or if you are disabled enough to meet the legal requirements of Pennsylvania. If there is a question of eligibility, trial work opportunities with all of the necessary supports will be offered to assist in determining if you are able to benefit from vocational rehabilitation services. Additional assessments may be requested.

INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE) - This identifies the vocational goal which you have chosen and the services which you will need to attain this goal. It also contains a listing of your responsibilities in relation to each step in the process.

SERVICES - These are the resources provided to you to assist you in achieving your vocational goal. They are specific to your plan and may be related to basic or complex needs. You may choose the provider of the services you need.

EMPLOYMENT - Once you have become prepared for your chosen vocational goal you will be ready to make application for employment in your career field. Payment for work is employment.

POST-EMPLOYMENT SERVICES - Sometimes some services must be provided while you get used to the world of work. These services will help you transition into and maintain your employment. These are time limited and designed to fade as you become more capable on the job.

CASE CLOSURE - Once you have been employed in your chosen vocation for 90 days your counselor can close your case. This does not mean that your ability to access OVR will be ended should your situation change. You may re-apply for services at any time.

STEP BY STEP GUIDE THROUGH THE VR SYSTEM

APPLYING FOR SERVICES

Any person with a disability can apply for OVR services. The first step is to call or go to the local office and request an application.

When you have completed the application an appointment will be scheduled for you to meet with a counselor for an intake interview. The counselor will explain the process and must inform you about your rights and responsibilities. The counselor must also inform you about CAP. The counselor will ask you for information about yourself. The counselor will use the information to decide your eligibility. If you disagree with your counselor's decisions you can call CAP. All of the information you give is confidential. When you go to meet with your counselor it will help to bring the following information about yourself:

- Social Security Number
- Names and addresses of doctors you have seen recently
- Names and addresses of schools you have attended
- Information about medical insurance
- A list of places you have worked, types of jobs, dates, salary, reasons for leaving

- Any other records or information which you feel may help the counselor understand your disability

ASSESSMENTS

Every person who completes an application must be evaluated for eligibility. Your counselor will want to learn more about you and how your disability creates a substantial impediment to employment. If you have recently had a medical examination or if your disability has been documented by another agency, let the counselor see the report. If the counselor is unable to establish the nature and extent of your disability through the information you provide, he or she may make an appointment for you to see a doctor. The counselor also may arrange for other types of vocational testing, such as: psychological, aptitude, IQ, or achievement tests. You will not have to pay for these evaluations. It is very important that you go to the appointments. If you do not keep an appointment or if you refuse to take a test, your counselor might decide you are not cooperating and close your case.

These assessments are the basis for deciding whether rehabilitation services will help you get or keep a job. If your counselor does not get enough information about your situation, he or she may not know about your abilities, skills and interests or understand what the agency can do to help you.

This part of the rehabilitation process can be a roadblock if your counselor does not get the information he or she needs to make an eligibility determination. Follow up after each appointment to make sure the written report is sent to the counselor as soon as possible.

The assessment process is required to take no more than 60 days. At the end of that time your counselor should give you a decision about your eligibility for VR services. If an eligibility determination cannot be made within sixty days, you may be asked to sign a waiver.

YOU ARE NOT REQUIRED TO SIGN A WAIVER OF THE 60 DAY ELIGIBILITY REQUIREMENT AT THE TIME YOU APPLY FOR SERVICES UNLESS YOU AGREE THAT THE DETERMINATION OF ELIGIBILITY MAY TAKE MORE THAN 60 DAYS.

Sometimes your counselor needs more time and more information to determine if you are eligible. If the question arises as to whether you can benefit from vocational rehabilitation services, your counselor should place you in one or more trial work situations consistent with your interests and abilities.

Assessments help define the services or equipment you will need to get and keep a job. During the assessment process you should think about the types of services and equipment that will help you reach your vocational goal. One of the assessments to which you are entitled is rehabilitation technology. Rehabilitation technology includes assistive devices and services that may help with communication, mobility, learning,

and working. Evaluations that may help you decide about equipment and services can be done by occupational therapists, physical therapists, or speech and language pathologists. You and your counselor should consider assistive technology as part of the assessment to determine eligibility.

All of the information from the assessments can help you establish realistic vocational goals. Use this opportunity to your advantage. As you are developing your plan, you can use the results of the assessments to be sure you have a comprehensive plan.

ELIGIBILITY - ORDER OF SELECTION

INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE)

Once you are determined eligible to receive OVR services, you must develop an Individualized Plan for Employment (IPE). An IPE must contain:

1. A description of the specific employment outcome that you choose which is consistent with your unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
2. A description of the specific VR services that you need to achieve your employment outcome including, as appropriate, the provision of assistive technology devices, assistive technology services, and personal assistance services provided in the most integrated setting consistent with your informed choice.
3. A description of the provider you choose and the method through which you will receive your services.
4. A description of the evaluation process to measure your achievement towards your employment goal.
5. All the responsibilities of all parties involved must be listed.
6. All comparable benefits must be listed.
7. All extended services anticipated must be listed.
8. Any projected post employment services must be included.

You should not sign the IPE if you do not agree with it. You should not sign a blank or incomplete IPE. If you have any questions or concerns about your plan talk with your counselor or call CAP. Be sure to get a copy of the completed IPE. If your needs change you can amend our IPE with your counselor.

VOCATIONAL REHABILITATION SERVICES

Vocational rehabilitation services are those services that an eligible person may need to achieve an employment outcome. These include but are not limited to:

- an assessment for determining eligibility and vocational rehabilitation needs;
- vocational counseling, guidance, and referral services;
- physical and mental restoration services;
- vocational and other training, including on-the-job training;
- maintenance for additional costs incurred while the individual is receiving certain VR services;

- transportation related to other VR services;
- interpreter services for individuals who are deaf;
- reader services for individuals who are blind;
- services to assist students with disabilities to transition from school to work;
- personal assistance services while an individual is receiving VR services;
- rehabilitation technology services;
- job placement services;

COST OF SERVICES - FINANCIAL CONTRIBUTION

Based on your ability, OVR can require an eligible individual to help pay for services. However, the following services are available to all eligible individuals regardless of their financial resources without charge:

- assessments to determine eligibility and vocational rehabilitation needs;
- vocational counseling, guidance and referral services;
- job search and placement services;

You cannot be required to get student loans.

CLOSURE

You will have achieved your employment outcome if the provision of services under your IPE has contributed to the achievement of your employment outcome; if you have obtained your employment outcome; and, if you have maintained your employment for at least 90 days. You may go back to OVR if your situation changes and you need help keeping your job. You may be eligible for "post-employment" services to keep your job or find another one. If you need many services, you may be asked to reapply for services.

APPEALS

At any stage in the process, you have the right to appeal any decision made by the OVR counselor with which you do not agree. You may call CAP, ask for a new counselor, or file a formal appeal. *If you file a formal appeal for an Impartial Hearing, the services written in your IPE must be provided until the appeals process is completed.*

The appeals process is discussed in Chapter 6.

OTHER VR PROGRAMS

OVR has several programs that provide other services. Here are brief descriptions of some of those programs. For complete information about these programs or about other programs of VR you should talk directly with someone at OVR.

Supported Employment Program - Supported employment is an OVR program of follow-along services that support individuals with severe disabilities in competitive employment. Job coaching is one of the primary services that is available to persons

with disabilities who are in supported employment. If you need services after you reach your IPE goal, another agency must be identified to provide the help.

VR Centers for Independent Living - These programs provide services to people with severe disabilities and have the goal of improving skills that increase the individual's level of independence. The primary difference between CIL services and "regular" vocational rehabilitation services is that the purpose of the CIL is to increase independence. CIL services include such things as rehabilitation engineering, home modifications, independent living skills training, and personal assistance services.

Business Enterprise Program - This VR program helps persons with disabilities start business ventures. Management assistance helps the individual achieve success in businesses, such as food service.

Projects With Industry (PWI) - Projects With Industry is a privately-operated job placement service funded under the Rehabilitation Act. It provides training and helps with funding jobs. To become eligible for PWI, you must meet the same rules as for other vocational rehabilitation services. You must have a physical or mental disability that makes it hard for you to obtain or maintain employment.

6. APPEALS PROCESS

You have the right to appeal any OVR counselor determination with which you disagree. CAP can help you file an appeal.

Step 1 REQUEST FOR HEARING

To file an appeal, you must write a letter to the Director of the Bureau of Vocational Rehabilitation Services. You must explain why you disagree with your counselor's determination and the services that you want from OVR. Your letter should also include your counselor's name and the location of the counselor's office.

You will receive acknowledgment of your appeal request from OVR and you will be given a choice of either an Informal Administrative Review or an Impartial Hearing. If you choose an Informal Administrative Review, the District Administrator of your local OVR office will listen to both sides and make a decision. At your IAR, you will be given an opportunity to state your concerns and the services you need to achieve your vocational goal.

Step 2 MEDIATION OPTION

You may request mediation by an impartial, unrelated third party at any time before you attend your formal Impartial Hearing. Mediation does not deny or delay your right to a Hearing.

Step 3 IMPARTIAL HEARING

An Impartial Hearing Officer (IHO) will be selected at random from a pool of Hearing Officers. This officer is someone outside the agency who will listen to both sides of your case. The Impartial Hearing must be held within 60 days after your appeal request is received.

An Impartial Hearing is like a court trial, and a record will be kept of it. You may have a representative or attorney with you. CAP can help you prepare and may be able to represent you. If you want CAP's assistance, you should get the program involved as soon as possible, since it takes time to prepare for an Impartial Hearing. After the Impartial Hearing Officer has listened to everyone, he or she has 30 days to render a decision in writing.

Step 4 REVIEW OF IMPARTIAL HEARING DECISION

A. State Official Review

After you are notified of the hearing decision, either you or OVR can request a review of the decision made by the Impartial Hearing Officer within 20 days of that decision. The reviewing official can be the chief official of the designated State agency or an official from the Governor's office. The reviewing official must give you the chance to present additional information and present your side of the story. The reviewing official cannot change the Hearing Officer's decision if it was favorable to you unless the Hearing Officer's decision was not consistent with state or federal law, the Rehabilitation Act itself, or state regulation or policy. The Reviewing Official's decision must be in writing and this decision is final unless you go to court.

B. Filing a Civil Action

After the Impartial hearing Officer renders his/her decision, you can also file a civil action in state or federal court. The court will review the IHO's decision and may permit you to provide additional evidence and testimony. You may contact CAP to find out if we will represent you in a civil action.