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# On Your Own Behalf

*A Self Advocate's Guide to LRS Appeals*

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Published as a service of the Client Assistance Program (CAP) of the Advocacy Center

Remember when you were a kid? You asked your mom if you could spend the night with a friend. Mom said “no”. You went to your room and thought of all the reasons you could give her to change her mind. Then you went to her with your list...

You were appealing her decision - asking her to reconsider. You’ve probably been appealing different things all your life. Sometimes you’ve won. Sometimes you’ve lost. Regardless of how it came out, you got a better understanding of both sides of the situation.

“On Your Own Behalf” is a guide to the Louisiana Rehabilitation Service (LRS) appeals system. It was written to provide you with the skills and knowledge needed to challenge or appeal - a decision made by LRS.

“On Your Own Behalf” may be used as a guide through the process of preparing for and actually appealing an issue. You will find valuable information in each section.

After reading “On Your Own Behalf” you may want to handle your appeal on your own; or you may want to request assistance from the Client Assistance Program (CAP). Either way, you will be better equipped to appeal LRS decisions after you read this guide.

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# INTRODUCTION TO THE APPEALS PROCESS

If you are receiving or applying for Louisiana Rehabilitation Services (LRS) you have the right to appeal any LRS decision or action that affects your services. You can exercise this right by requesting an appeal. An appeal is a review and reconsideration of a decision, action or inaction.

The LRS appeals system is a step-by-step process that begins with the counselor. If the issue is not resolved at this level, you continue to appeal through each level of authority.

The steps in the appeals process are:

- Negotiation at the Counselor and Supervisor Level
- Administrative Review
- Mediation
- Fair Hearing
- Review of Fair Hearing Decision
- Civil Action

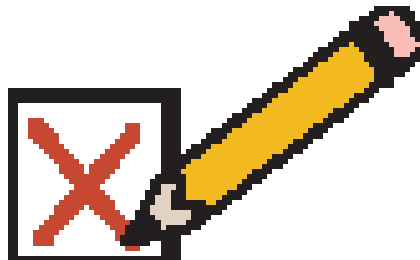
# I. Preparing For An Appeal

Preparing for an appeal involves gathering information and making some decisions. With appropriate and relevant information you can make an informed decision regarding whether you should appeal and how best to present your case. Preparation may include reviewing all or some of the following:

- A. LRS Reason for Denial
- B. LRS Policy and Procedure
- C. LRS Case Record
- D. Rehabilitation Needs and Goals

## A. LRS Reason For Denial

The most important part in preparing for an appeal is to understand the specific reason you were denied a service. The reason for denial will help you determine the chance of a successful appeal and assist you in developing an appropriate presentation of your rehabilitation needs.





## Action To Take On Your Own Behalf: Understanding Why LRS Denied Your Request

- \* Ask your LRS counselor for a written reason for denial. Why is LRS saying “no” to your request?
- \* Once you know why LRS made its decision, ask yourself if its reasons are valid or whether there has been a misunderstanding.
- \* Does LRS simply need further documentation or information? If so, get the information needed to support your request.
- \* Would LRS change its decision based on a full explanation of your special circumstances?



*For example, you would like to work as a mental health counselor. To do so, you will need a college degree. But, your counselor has denied your request to attend college. You ask and receive written notice that the reason for the denial is because you do not meet LRS guidelines for college training.*

## B. LRS Policy and Procedure

The LRS policy and technical assistance (or “procedure”) manuals are designed to ensure the delivery of services as outlined in the Rehabilitation Act. LRS policy explains the conditions and criteria for receiving services. The LRS technical assistance manual describes the steps necessary for the actual delivery of services.



### **Action To Take On Your Own Behalf: Reviewing LRS Policy and Procedure**

- \* Ask your counselor for a copy of all LRS policies and procedures that apply to your appeal request.
- \* Read the policies and procedures carefully. Make sure you understand how they relate to your case.
- \* Highlight important points.
- \* Make notes on how the policies and procedures apply to your case.

- \* Do you almost meet the policy requirements? Are you asking for only one exception? If so, prepare to request an exception or compromise during negotiation or at mediation. Consider offering a solution that would allow LRS to grant your request for services while enabling them to closely follow LRS policy.
- \* Do you have special or unusual circumstances that make the policy hard to meet? If so, prepare to explain your special situation at the appeal meeting.
- \* Do you believe you clearly meet the policy requirements? Was the denial based on a lack of information about your situation? If so, provide the necessary information at the appeal meeting.

*For example, you request a copy of all LRS policies and procedures regarding college attendance. You meet all of the criteria except one - you cannot maintain a 12-hour course load each semester.*

*You make notes about your special circumstances - your disability significantly limits your physical stamina. A 12-hour course load requires attending classes every day from 9:00 a.m. until 6 p.m.*

*You prepare a "brief" for your appeal, which explains your limitations. You also obtain a letter from your doctor documenting your physical limitations.*





## C. LRS Case Record

An LRS case record contains all information, evaluations, counselor notes and correspondence gathered by the agency. Every communication -- from application until case closure -- is contained in a case file. LRS has policies and procedures regarding the confidentiality of case records. Your counselor can provide you with a copy of any laws, policies and procedures that pertain to confidentiality.

Your counselor will allow you to review all parts of the case record that are not covered by the confidentiality criteria. The entire case record can be reviewed by your chosen representative (family, friend or advocate) if you sign a release form giving them access to your case file.



### **Action To Take On Your Own Behalf: Reviewing Your LRS Case Record**

Schedule an appointment with your counselor to review your case record, including evaluations, reports and case notes made by LRS staff.

\* Take notes about information that will help you prepare for your appeal.

- \* Does your file contain positive information regarding your involvement with LRS? For example, does your counselor agree with your vocational goal? Are evaluations favorable?
- \* Is there negative information regarding your appeal issue? If so, make notes and prepare an answer or explanation.
- \* Do you have important information about your vocational rehabilitation that is not included in the case file? If so, make a list of information you need to obtain from doctors or other professionals.



*For example, you have reviewed your case file and made notes about the positive information that will support your request to attend college – your evaluations show that you have an above average ability for college training and your vocational goal is appropriate and easily achievable. But, there is no medical information explaining why you cannot take a 12-hour course load. You ask your doctor to write a letter explaining your inability to attend school full-time.*

## D. Rehabilitation Needs and Goals

The final step in preparing an appeal is examining your rehabilitation needs and goals.



### **Action To Take On Your Own Behalf: Clarifying Your Rehabilitation Needs and Goals**

- \* Talk to your LRS counselor, supervisor and others. Do they clearly understand your request? Are they willing to give full or partial support in your appeal? If so, be sure they plan to attend the appeal meeting.
- \* Review the information gathered. What questions would you ask?
- \* Discuss your appeal with a family member or someone who can be objective. What are their questions?
- \* Make notes about your current barriers to employment. List ideas regarding the services that may help you overcome these barriers.
- \* Does LRS misunderstand or disagree with your rehabilitation goals? What information can you provide that may better communicate your needs and goals?

- \* If you are requesting a specific service, find out who provides the service. How much does it cost? What are the eligibility requirements? How long will it take to receive and complete the service? How do you think this service will help you reach your employment goal?
- \* If you have been denied a service because LRS believes you are financially able to pay for the service without LRS assistance, what additional financial information can you provide? Do you have expenses LRS doesn't know about? Do you have high disability-related expenses? Is the financial information in your case file correct and up-to-date?



*For example, you know that one question LRS will ask you is: "If you can't go to school full time now, how will you be able to work full time as a counselor?" Your response includes research regarding the many opportunities available in your career that allow flexible work schedules. You also point out that during college you must not only attend classes but put in large blocks of time at the library, preparing papers, doing research and various other activities that will not be required as part of your employment.*

## E. Readiness Checklist

The following checklist and advocacy tips will help you organize the information you have gathered and make final preparations for your appeal. Have you:

- \_\_\_\_\_ Prepared a brief statement about what you are requesting?
- \_\_\_\_\_ Obtained a copy of your denial in writing?
- \_\_\_\_\_ Reviewed copies of the relevant policies and determined how they affect your case?
- \_\_\_\_\_ Made an outline explaining why LRS should provide the service you want? Can you explain how this service will make you more employable?
- \_\_\_\_\_ Made notes from the review of your LRS case file that highlight both positive and negative information?
- \_\_\_\_\_ Decided how you will answer questions or comment on any unfavorable information about your case?
- \_\_\_\_\_ Compiled a list of other important points LRS should know about your case?
- \_\_\_\_\_ If required, obtained written documentation from knowledgeable persons or sources supporting your position?
- \_\_\_\_\_ Discussed your case and strategy with a friend or family member and considered his/her suggestions?
- \_\_\_\_\_ Made copies of your financial records or other written information that is relevant to the appeal?



## Action To Take On Your Own Behalf: Take Action

\* Call or write a letter to the appropriate LRS staff (counselor and/or supervisor) requesting a meeting.



*For example, you organize your notes and complete the readiness checklist. You then schedule a meeting with your counselor and the supervisor.*



## II. The Appeals Process: Levels of Appeal

### A. Negotiation at the Counselor and Supervisor Level

A meeting with your counselor and supervisor is the first step in seeking approval and reconsideration of a request. It can also be an opportunity to improve communication between you and LRS.



#### Action To Take On Your Own Behalf: Being a Good Negotiator

- \* Maintain an upbeat, positive and cooperative attitude. Encourage a “working together” relationship.
- \* Be assertive, not aggressive. Turn a complaint into a request. Instead of telling someone about what they didn’t do, think about what it is you need and ask directly for that.
- \* Generate a variety of possible solutions. Remain flexible and open to new ideas and solutions. Options and ideas are more likely to be persuasive than demands.

- \* Listen. Try to understand the LRS position so you can come up with creative solutions that work for you and LRS.
- \* Explain the advantages of your request. You and LRS benefit if you achieve your employment goal.
- \* Know what you will and will not accept.
- \* Be confident in stating your needs and requests.



*For example, you review and use self-advocacy techniques during the meeting. You respond to the counselor's and supervisor's concerns regarding your request. You and LRS develop a variety of options that are acceptable to LRS and meet your needs. A solution is negotiated and LRS grants you an exception to the full-time attendance criteria for two semesters. You decide you will all meet again after the two semesters to review your grades and physical situation.*



## **B. The Administrative Review**

If you are dissatisfied with the outcome of the negotiation with your counselor and supervisor, you may request an Administrative Review. You must request an Administrative Review by writing to the Regional Manager. The review is usually held in the Regional Manager's office. You may bring anyone with you, either to help you present the case or to provide support. The Regional Manager may ask that your counselor and supervisor attend.

The Regional Manager will lead the informal meeting and will begin by outlining how the review will proceed. When it is time for you to “present your case,” follow your notes and checklist to explain your request.

Provide specific written documentation as you address each point with the Regional Manager. Give the Regional Manager (and others at the Administrative Review) copies of your information and allow time for everyone to read the information.

Always complete the discussion on each issue before moving to the next issue. If the Regional Manager asks questions as you proceed, answer them and return to your point.

At the end of the Administrative Review ask for a moment to review your notes. Make sure you have covered everything. Be sure to review and write down anything you have promised to provide to LRS. Know the time frame for this. Find out when you can expect to receive a decision. If you are unclear about anything – ask!

The Regional Manager will rarely make a decision during your meeting. A final decision must be made within 15 calendar days of the receipt of your original request for an Administrative Review.

When you receive the results of your Administrative Review you will need to decide whether

you will accept this decision or continue to the next level of the appeal process.

If you are satisfied with the decision, you have completed your appeal. The denial of services may have been reversed or you may have reached a “compromise” decision. You may be satisfied even though you did not receive a favorable decision, since you now have a full understanding of why the request was denied under state and federal regulations.

If you are not satisfied with the outcome of your Administrative Review you may want to proceed to the next appeal level.



## **Action To Take On Your Own Behalf: The Administrative Review**

- \* Explain the issue you are appealing.
- \* State your understanding of LRS policy and the reason for denial.
- \* Explain any special circumstances that make LRS guidelines difficult to follow.
- \* State why you believe you should receive the services you are requesting.
- \* Describe any information in the case file that supports your request.
- \* Provide additional supportive information.



*For example, you were denied the purchase of expensive assistive technology you believe you need in order to reach your employment goal. You met with your counselor and supervisor but were not satisfied with the results of the meeting. You request an Administrative Review.*

*At the administrative review, you explain your request and why you think you are eligible for the assistive technology (AT). You point out how LRS guidelines support your position and how the equipment will help you reach your employment outcome. The Regional Manager explains although the agency believes that some AT will help you, your needs can also be met by similar but less expensive equipment. You are satisfied with this compromise and have completed your appeal.*



## **C. Mediation, Fair Hearing, Review of Fair Hearing Decision and Civil Action**

### **Mediation**

If you are not satisfied with an LRS Administrative Review decision you have the right to a Fair Hearing. After you request a Fair Hearing, LRS will contact you regarding the option of using “mediation”. Mediation is a voluntary process that allows an impartial mediator to assist you and the Regional Manager in trying to resolve appeal issues. You are not required to use this step in the appeal process. However, mediation is often a positive step if you are dissatisfied with the outcome of an Administrative Review.

### **Fair Hearing**

A Fair Hearing is a formal hearing before an Impartial Hearing Officer (IHO). You can present your case using the same information and outline used at the Administrative Review. The IHO will consider the following issues:

- \* Did LRS consider all relevant facts?
- \* Was the decision supported by federal and state regulations?
- \* Did the LRS decision consider all applicable federal laws and regulations, state policies and procedures or LRS options in the delivery of service?

To request a Fair Hearing you must make a written request and submit it to the LRS Regional Manager. You must meet the appeal request timelines stated in the written Administrative Review decision.

After hearing testimony from you, witnesses and the LRS representative, the IHO will issue a written decision. The IHO must make a decision within 30 calendar days of the date of the Fair Hearing.

### **Review of a Fair Hearing Decision**

If you do not agree with the decision of the IHO you can request an impartial review of the decision through the Louisiana Workforce Commission (LWC). LWC can also request such a review if they believe the IHO's decision does not meet federal, state or agency laws, policies or procedures.

To request a Review of a Fair Hearing Decision you must submit a written request to the LWC Director. You have 20 calendar days from the mail date of the IHO's decision to request a review. Include a copy of the IHO's decision as well as all evidence presented at the Fair Hearing.

The LWC Director will consider the information presented at the Fair Hearing and will also allow you to provide additional information if necessary. The Director will make a decision within 30 days of the written request for review.

## Civil Action

If you are dissatisfied with the outcome of a Fair Hearing or the Review of a Fair Hearing Decision you can ask the appropriate state or district court to review the case. The court will review all previous appeal records and evidence and hear additional arguments submitted by your lawyer and a lawyer for LRS. The court's decision will be based on the preponderance of evidence presented.

For additional information regarding Mediation, Fair Hearings, the Review of Fair Hearing Decisions and Civil Actions, contact the Client Assistance Program.



### III. GLOSSARY

**Appeal** – A request to a higher authority for reconsideration of a decision.

**Applicant (to LRS)** – A person who has applied for services from LRS but who has not yet been determined eligible for services.

**Consumer (or “Client”)** – A person who has been determined eligible for LRS services.

**District Supervisor** – Supervises several LRS counselors in a regional office. Supervisors are required to approve and sign service plans developed by counselors and consumers.

**Impartial Hearing Officer** – Conducts LRS Fair Hearings. Selected by agreement between LRS and the consumer or on a random basis.

**Louisiana Rehabilitation Services (LRS)** – The state agency that provides vocational rehabilitation services as mandated under the federal Rehabilitation Act.

**LRS State Office** – The administrative office for LRS. Regional Managers report directly to the State Office. The State Director has final authority for LRS decisions.

**Regional Manager** – Directs LRS regional offices and is the ultimate supervisor for all LRS staff in the region.

**Rehabilitation Act** – Congressional Act that establishes the federal Rehabilitation Services Agency (RSA) and broadly regulates the services provided by state agencies.

**Rehabilitation Counselor** – Works directly with consumers to assist in the development and provision of appropriate rehabilitation services.

**Rehabilitation Process** – The process of applying for and receiving services that result in an employment outcome. In Louisiana, these services are obtained from LRS.

**Self-Advocacy** – To represent and protect your individual rights, needs and interests – an ultimate goal for persons with disabilities.





**ADVOCACY CENTER**  
SERVING PEOPLE WITH DISABILITIES AND SENIOR CITIZENS

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