

Chapter 1.7. - VOTER REGISTRATION

1. Voter Registration

A. Designated Voter Registration Agency

[REVISED: 9/8/14]

DARS is (per Code of Virginia 24.2-411.2) a state-designated voter registration agency for federal and state elections.

B. Annual NVRA Training

[REVISED: 7/1/15]

1. Within DARS, NVRA compliance shall apply to staff of Wilson Workforce and Rehabilitation Center (WWRC) Admissions Office and DRS Vocational Rehabilitation (VR) Program and Community Rehabilitation Case Management Services (CRCMS) Program who take in-person applications or client address and name changes.
2. Staff shall (per P.L. 103-31 National Voter Registration Act of 1993) participate in annual voter registration training sponsored by the Virginia Department of Elections.
3. The Agency NVRA Liaison shall keep the list of trained staff.

C. Offering Voter Registration at Application and Change of Address or Name

[REVISED: 3/16/23]

1. Prohibitions.
Staff shall not (per P.L. 103-31 National Voter Registration Act of 1993) attempt to influence political preference or party affiliation, display material indicating political or candidate or party preference, discourage the client from registering to vote or pressure the client to register to vote, or lead the client to believe that the decision to register or not to register will affect the availability of agency services, or use information regarding voter registration decision for any purpose other than voter registration.
2. Who to ask and when.
Each VR, CRCMS, or WWRC client shall (per P.L. 103-31 National Voter Registration Act of 1993) be asked at application intake and again with each notice of client address or name change if the client wishes to register to vote or update registered voter address or name. This is regardless of whether the intake meeting is in the agency office, applicant home, or other place (per Code of Virginia 24.2-411.2).
 - a. This only includes a client under age 18 if the client will be age 18 by the next General Election date, but does not require staff to ask a client who turns age 18 later in the life of the case.
 - b. This includes homeless persons who provide a physical address and mailing address in Virginia so the voter registrar can determine the polling place and mail the Voter Card.

- c. This includes college students living in Virginia.
 - d. This includes a person with a cognitive disability or a legal guardian, unless the incapacity document removed the right to vote (courts provide the list to the Department of Elections so staff in doubt should provide voter registration).
 - e. This includes convicted felons whose voting rights have been restored. (Staff in doubt should provide voter registration and may refer the client to Restoration of Rights Division toll-free at 1-855-575-9177, or <https://www.restore.virginia.gov>).
 - f. Staff shall not attempt to determine client eligibility to vote, however, staff shall not be required to ask non- US citizens, non-Virginia residents, anyone still serving a felony sentence or probation or parole, or anyone accompanying the applicant or client.
3. Document compliance at Intake.
- a. DRS VR staff shall document the client decision to register to vote or not to register on the VR Application and Disclosure (RS-5) form and in the voter registration field in AWARE Intake screen. This legally substitutes for the agency certification form as your proof of compliance. It will be kept until AWARE is purged.
 - b. CRCMS staff shall (per P.L. 103-31 National Voter Registration Act of 1993) document the client decision to register to vote or not to register on the Voter Registration Agency Certification form (SBE-032-03-945) in the Forms Cabinet, ensure the client name is on it, and keep it in the place designated by the supervisor for at least (per 42 USC § 1974 and Civil Rights Act of 1960 P. L. 86-449, title III, §301, May 6, 1960, 74 Stat. 88) 22 months after case closure. This is your proof of compliance.
 - c. WWRC Admissions staff shall (per P.L. 103-31 National Voter Registration Act of 1993) document the client decision to register to vote or not to register on the Voter Registration Agency Certification form (SBE-032-03-945) in the Forms Cabinet, ensure the client name is on it, and keep it in the place designated by the supervisor for at least (per 42 USC § 1974 and Civil Rights Act of 1960 P. L. 86-449, title III, §301, May 6, 1960, 74 Stat. 88) 22 months after case closure. This is your proof of compliance.
4. Document compliance at address or name change.
- a. DRS VR staff shall (per P.L. 103-31 National Voter Registration Act of 1993) document the client decision to register to vote or not to register on the Voter Registration Agency Certification form (SBE-032-03-945) in the Forms Cabinet, ensure the client name is on it, and keep it in the place designated by the supervisor for at least (per 42 USC § 1974 and Civil Rights Act of 1960 P. L. 86-449, title III, §301, May 6, 1960, 74 Stat. 88) 22 months after case closure. VR staff shall also write a case note in AWARE stating that voter registration was offered and location of the Voter Registration Agency Certification form for the client. The agency certification form must be used because an AWARE field for voter registration compliance is not available for VR cases after Application status. This is your proof of compliance.

- b. CRCMS staff shall (per P.L. 103-31 National Voter Registration Act of 1993) document the client decision to register to vote or not to register on the Voter Registration Agency Certification form (SBE-032-03-945) in the Forms Cabinet, ensure the client name is on it, and keep it in the place designated by the supervisor for at least (per 42 USC § 1974 and Civil Rights Act of 1960 P. L. 86-449, title III, §301, May 6, 1960, 74 Stat. 88) 22 months after case closure. This is your proof of compliance.
- c. WWRC Admissions staff shall (per P.L. 103-31 National Voter Registration Act of 1993) document the client decision to register to vote or not to register on the Voter Registration Agency Certification form (SBE-032-03-945) in the Forms Cabinet, ensure the client name is on it, and keep it in the place designated by the supervisor for at least (per 42 USC § 1974 and Civil Rights Act of 1960 P. L. 86-449, title III, §301, May 6, 1960, 74 Stat. 88) 22 months after case closure. This is your proof of compliance.

D. Assisting Client with Voter Registration Application

[REVISED: 3/16/23]

- 1. Assist with Voter Registration Application.
 - a. If the client who is offered voter registration wants to register to vote or update the registered voter address or name, staff shall (per P.L. 103-31 National Voter Registration Act of 1993), provide the Virginia Voter Registration Application form. Staff may use the newest form in the Forms Cabinet, use up the supply of old forms on hand, or allow the client to use an agency computer typically available for client use (such as Employment Resource Center computer) to register online at the Virginia Department of Elections Web site.
 - b. The Virginia Voter Registration Application is available online at <https://www.elections.virginia.gov/registration/how-to-register>.
 - c. The client may complete the Voter Registration Application in the office or take it home.
 - d. Staff shall (per P.L. 103-31 National Voter Registration Act of 1993 and Code of Virginia 24.2-411.2) provide the same degree of assistance in completing the Voter Registration Application as you provide in completing agency forms, unless the individual refuses assistance. This includes bilingual assistance for clients with limited English proficiency.
 - e. The section For Office Use Only on the back of the form is for the local voter registrar use, not DARS use.
 - f. Staff may notify the client if required fields on the Voter Registration Application are incomplete, but staff shall not make any changes on the form because it is a legal document. The voter registrar will not process incomplete forms and notifies the applicant.

2. Transmit the Voter Registration Application.
 - a. If the client wants staff to transmit the completed paper Voter Registration Application to the voter registrar, staff shall fill out the tear-off Virginia Voter Registration Application Receipt located on the back of the form and give it to the client. This is the client proof that DARS is transmitting the form. The receipt is not used if the client takes the Voter Registration Application home, or electronically signs and submits the on-line version directly to the Department of Elections, or registers in person at the local voter registrar office.
 - b. Staff shall (per Code of Virginia 24.2-411.2) transmit the original Voter Registration Applications to the local voter registrar or Virginia Department of Elections within five business days, or daily when directed by the Virginia Department of Elections. The local voter registrar and Virginia Department of Elections do not (per P.L. 103-31 National Voter Registration Act of 1993) accept photocopies, faxes, and other reproductions of the completed form.
 - c. The Voter Registration Application must be received by either the local voter registrar or Virginia Department of Elections at least 22 days before the general election or party primary, or 14 days before a special election.
 - d. Staff shall use the official transmittal envelop with "C" in the upper left corner. To order additional envelopes, contact the NVRA Coordinator at the Virginia Department of Elections, and include request for "C" envelopes, quantity, and your office mailing address.
 - e. The local voter registrar reviews the Voter Registration Application, cross-checks the name against known ineligible voter lists, determines eligibility to vote, and within 30 days mails a Voter Card (or written notification if determined ineligible to vote).

2. Voting

A. Voter Identification

[REVISED: 3/16/23]

Virginia law requires all voters to provide either an acceptable form of ID or sign an ID Confirmation Statement at the polls. Voters arriving at the polls without an acceptable form of ID will be required to either sign an ID Confirmation Statement or vote a provisional ballot. A detailed list of acceptable forms of identification is located in § [24.2-643](#) Code of Virginia. The following are a few examples of acceptable forms of identification (for a complete list please see § [24.2-643](#) Code of Virginia): voter confirmation documents, a valid Virginia driver's license, a valid United States passport, and certain government documents containing the name and address of the voter.

Staff with a client who does not have acceptable ID may refer the client to the local voter registrar for a free Voter Photo Identification Card.

B. Absentee Ballot

[REVISED: 9/8/14]

A registered voter with a disability may apply annually to vote by absentee ballot. Forms and information are available from the local registrar and the Virginia Department of Elections Web site.

C. Accessible Voting

[REVISED: 9/8/14]

If a client inquires about, or has a complaint regarding, voting place or voting equipment or ballot accessibility, staff should refer the client to the Virginia Board for People with Disabilities.

Chapter 4.01. - ELIGIBILITY

2. Procedure for Eligibility Determination Assessment and Documentation

A. Requirements for Eligibility Determination Assessment

A10. Alcohol and Substance Abuse Assessment Information

[REVISED: 3/16/23]

Guidance 5: If the individual has remained clean and sober for an extended period prior to application and has no other disabling conditions, a review of the intake questions and the subsequent vocational implications of this disability may assist the counselor in determining whether an individual has a substantial impediment to employment and requires vocational rehabilitation services. Consider how long the individual had remained clean and sober, current functional limitations, employment history, if the individual is currently employed or underemployed and for how long, does the previous alcohol or substance abuse history continue to impact the individual's ability to obtain and retain suitable employment, and other factors. If the counselor determines that a substantial impediment to employment does exist, document how and why the client has not been able to make a satisfactory adjustment or obtain/retain employment due to the substance use disorder.

Chapter 5. - PLAN (Individualized Plan for Employment)

2. IPE Content Requirements

A. IPE Contents

[REVISED: 3/16/23]

2. At a minimum, the IPE shall (per 2016 [Federal Regulation 34 CFR § 361.46](#)) contain:

I. For alcohol or substance abuse cases,

i. The individual must agree, as part of the IPE, to voluntarily participate in a treatment program or a support group. Participation in an Individualized Placement and Support (IPS) program satisfies this requirement. Due to limited DRS resources, DRS shall not (per [Chapter 2.1, APPLICATION, Policy 1, Section A11](#)) pay for treatment.

Guidance 1: All issues pertaining to the individual's other responsibilities (e.g., transportation, VR counseling sessions, etc.) should be listed in the IPE.

Guidance 2: Vocational rehabilitation and other employment services provided pursuant to an Individualized Placement and Support (IPS) program are not considered DRS payment for alcohol or substance abuse treatment as prohibited by this section.

ii. The individual must agree to a progress measure to maintain abstinence from alcohol/substances and agree that no fee-based services shall be authorized until the individual has demonstrated, to the counselor's satisfaction, abstinence for a period of time specified in the IPE (per agency mandate). If the individual is participating in an Individualized Placement and Supports (IPS) program, incremental abstinence progress measures may be established as an alternative.

iii. If the individual has a relapse, the counselor shall initiate an evaluation at DRS expense. Continuation of services on the IPE may be contingent upon the individual's participation in the evaluation and recommended treatment, and abstinence from alcohol or substances. DRS shall not pay for any recommended treatment and the counselor shall refer the individual to other community resources for treatment.

Guidance 1: The recommended period of time for abstinence before authorizing fee-based services is at least 90 consecutive days. The 90 days may be counted from a date before the IPE is signed (e.g., from the date of application or date of certification of eligibility if the individual has not used alcohol or substances since that time). For clients participating in an Individualized Placement and Support (IPS) program, complete abstinence may not be required. Alternative progress measures may be established.

Guidance 2: If the individual has a relapse and refuses to abstain, even after counseling and guidance and referral to community resources, the counselor may close the case.

Guidance 3: More than one relapse within a six (6) month period, even when the individual agrees to abstain, may be an indication that the individual cannot benefit from

vocational rehabilitation services in terms of an employment outcome due to the severity of the disability.

Guidance 4: In coordination with the individual's recovery plan and support activities, a period of vocational rehabilitation guidance and counseling under an IPE may be initiated to resolve disability adjustment issues, plan or refine services and strategies that will support recovery and will lead to employment. The following guidance should be considered:

- Services connected to an IPE can be initiated when the individual is actively engaged in his or her recovery. Due to limited DRS resources, DRS shall not (per Chapter 2.1, APPLICATION, Policy 1, Section A11) pay for treatment.
- When considering the recovery needs of the individual, the counselor should remain flexible regarding abstinence prior to the initiation of vocational rehabilitation services.
- The counselor should realize that relapse is considered a natural course of the disease; therefore, it is incumbent upon the counselor to remain actively engaged with the individual to assist he or she in his or her recovery should relapse occur.
- Schedule regular contacts with the individual early and throughout his/her VR case to provide guidance and counseling, to include ongoing recovery, aftercare activities and strategies to prepare for engaging in employment
- Temporary/episodic setbacks or relapses should be evaluated on an individualized basis in terms of the continuing rehabilitation plan. If the counselor determines the individual has relapsed from substances after eligibility, assist the individual to reengage with his or her treatment or aftercare program.
- Assist the individual to develop strengths-based strategies to help him or her succeed with their current IPE.

iv. Sample progress measures (or written as client responsibilities) may be:

Progress Measure: Individual will abstain from alcohol or drugs or any substances not currently prescribed by a physician familiar with the individual's alcohol/substance abuse diagnosis. No services subject to consumer financial participation will be authorized until the individual has demonstrated abstinence for at least (enter appropriate time period). This will be measured through the treatment records or consulting with the case manager on an ongoing basis [use if individual is involved in treatment] and counselor observations of arrival time for appointments [add other behaviors consistent with abstinence].

Progress Measure: Individual agrees to voluntarily participate in a treatment program or support group (but DRS shall not pay for treatment). This will be measured through attendance.

Progress Measure: Individual agrees to meet with the counselor at least twice a month for the first (enter appropriate time period) consecutive days of this IPE. This will be measured through attendance at scheduled counseling sessions

Progress Measure (Participating in an Individual Placement and Support Program): Work is an important part of my recovery. In order to make meaningful progress towards recovery, I will participate in an IPS Supported Employment Program connected with my treatment team. I will meet with my treatment team, IPS Employment Specialist and VR Counselor at least monthly, utilize agreed upon supports and follow through with responsibilities listed in my Job Support Plan in order to successfully obtain and maintain employment. This will be evidenced by self-report, confirmation during treatment team meetings/case staffing and continued employment.

Progress Measure (Participating in an Individual Placement and Support Program): Through participation in IPS Supported Employment and working with my treatment team, I will work towards recovery. I will review with my treatment team, IPS Employment Specialist and VR Counselor when substance use is interfering with my job. This will be measured through self-report, treatment team report, supervisor report IPS Employment Specialist report.

Chapter 8.03. - VR COUNSELING AND GUIDANCE

1. VR Counseling and Guidance

A. VR Counseling and Guidance

[REVISED: 3/16/23]

16. During IPE Planning and Service statuses.

f. All Individualized Plans for Employment shall (per 2016 [Federal Regulation 34 CFR § 361.46](#)(a)(5)) include criteria used to evaluate progress towards achieving the employment goal. When VR counseling and guidance is the primary IPE service needed, progress measures

shall include specific counseling issues that remove or substantially reduce the impediments to employment and the expected changes.

Examples of VR Counseling and Guidance Progress Measures (measurable, attainable, SFL-related, specific):

Example 1 - SFL: self-care, Progress measure: Learn effective job interview skills measured in mock interviews by demonstrating appropriate eye contact and responses to common interview questions.

Example 2 - SFL: self-care, Progress measure: Improve personal hygiene and appearance at job interviews. This will be measured through client self-report, counselor observation, and feedback to counselor from employer interviewers and job placement counselor.

Example 3 - SFL: interpersonal skills, Progress measure: Acquire understanding and acceptance of functional limitations of disability, know what accommodations are needed and why, become an effective self-advocate. This will be measured through client self-report, counselor observations, and feedback to counselor from service provider regarding demonstrated positive attitude about abilities.

Example 4 - SFL: interpersonal skills, Progress measure: Interact appropriately with service providers, supervisor, and co-workers in one-on-one and group situations. This will be measured through feedback to counselor from job coach and employer.

Example 5 - SFL: self-direction, Progress measure: Learn how to use checklists, alarm watch, and other compensatory strategies to assist in satisfactory completion of job-related duties. This will be measured through vendor reporting to counselor on completion of required job tasks within an acceptable time frame.

Example 6 - SFL: self-direction,
Progress Measure: Abstain from alcohol or drugs or any substances not currently prescribed by a physician familiar with the alcohol/substance abuse diagnosis. No services subject to consumer financial participation will be authorized until client has demonstrated abstinence for at least [enter appropriate time period]. This will be measured through the treatment records or consulting with the case manager on an ongoing basis [use if individual is involved in treatment] and counselor observations of arrival time for appointments [add other behaviors consistent with abstinence].

Progress measure: Client agrees to voluntarily participate in a treatment program or support group (however, DRS shall not pay for treatment). This will be measured through attendance.
Progress measure: Client agrees to meet with the counselor at least twice a month for VR counseling sessions during the first [enter appropriate time period] consecutive days of this IPE. This will be measured through attendance at scheduled VR counseling sessions.

Progress Measure (Participating in an Individual Placement and Support Program): I will work with my treatment team and IPS Employment Specialist to develop a plan to be sober at work. I will utilize this plan and follow recommendations of my treatment team, utilize healthy coping strategies to manage triggers and cravings. I will be open and honest with my team about progress and make changes to my plan as needed to improve success/progress. This will be measured through self-report, treatment team report, IPS Employment Specialist report, case staffing and continued employment.

Progress Measure (Participating in an Individual Placement and Support Program): I will work with my case manager, VR Counselor and/or Benefits Counselor to develop and utilize a plan to manage extra income once I start working to reduce temptation for drug use/alcohol consumption. This will be evidenced by self-report, review of budget/plan and treatment team report.

Chapter 8.24. - TRANSITION SERVICES

1. Transition Services

B . Project SEARCH

[REVISED: 3/16/23]

1. Project SEARCH High School Transition Program is a unique, business led, one year school -to-work program that takes place at the workplace. It provides real-life work experience with a combination of classroom instruction, career exploration, and hands-on training through worksite rotations to help youth with significant disabilities make successful transitions from school to adult life. This combination of services is provided as a result of an agreement between DARS, the Department of Education, the employer, and the Employment Services Organization.

2. The following Project SEARCH program activities are cost services purchased by DARS and provided by an Employment Services Organization (ESO):

- a. Program Enrollment which includes but is not limited to intake and orientation activities.
- b. Internships which includes up to three separate internships within the Project SEARCH host business or at another site approved by DARS. Internship activities include, but are not limited to internship site development, internship skills training, and natural job support development.
- c. Job placement and training supports including, but not limited to, job development, placement and employment training.
 - (i) Job development and placement in competitive integrated employment must occur within twelve (12) months of the Project SEARCH graduation date. After this period of time, if competitive integrated employment is not obtained, the

Project SEARCH program activities shall end. After Project SEARCH program activities have ended, any subsequent cost services for the purposes of job development and placement shall be subject to financial participation policy and Client Financial Statement (RS-13) results (see Chapter 14.3, FINANCIAL PARTICIPATION).

- (ii) Employment training occurs in job placements resulting from Project SEARCH job development and placement program activities as approved by the participant's Vocational Rehabilitation Counselor. Employment training occurs until the client has reached stability and is able to move into extended (follow-along) services (see Chapter 8.16, SUPPORTED EMPLOYMENT).

3. Project SEARCH program activities are planned services (see Chapter 5, PLAN Individualized Plan for Employment) and a Project SEARCH program participant's progress shall be reviewed and evaluated periodically by their Vocational Rehabilitation Counselor.

4. Project SEARCH program activities are exempt from financial participation (see Chapter 14.3, FINANCIAL, Policy 1). Any additional cost services that are not described within the aforementioned Project SEARCH program activities shall (per 2016 Federal Regulation 34 CFR § 361.54) be subject to financial participation policy and Client Financial Statement (RS-13) results.

Chapter 12. - FORMS INSTRUCTIONS

RS-13. Client Financial Statement

FORM REVISION DATE: 3/23

Use:

- PART 1 documents client exemption from consumer financial participation. PART 2 is used for all other clients to determine consumer financial participation in fee-based services.
- If the RS-13 consumer financial participation is 0% to 99%, school training Cost Of Attendance (COA) is subject to RS-25 form, including for clients exempt from consumer financial participation see Chapter 7, SCHOOL, Policy 1, Section D3.
- For Self Employment Enterprises cost, SEE funding policy and RS-13 applies, including for clients exempt from consumer financial participation. See Chapter 8.17, SEE, Policy 3.

PART 1. "Short Form"

Use PART 1 to document client exemption from consumer financial participation. Counselor completes PART 1 only if:

- client or client family receives General Relief,
- client or client family receives Temporary Assistance For Needy Families (TANF),

- client receives Supplemental Security Income (SSI) cash benefit, even if client or family receives other income, or
- client receives Social Security Disability Insurance (SSDI) cash benefit as the disabled worker Claimant, even if client or family receives other income, or
- client is at least age 18 and receives cash benefit under SSDI Adult Child Disability Benefits, even if client or family receives other income.
- Do not complete PART 1 if client receives Survivor Benefits, SSDI Family Benefits (including for children under age 18), or OASI SSA retirement. However, use PART 1 if the client has proof of receiving SSDI cash benefit as the disabled worker Claimant and at retirement age SSA converted the client SSDI cash benefit to OASI retirement cash benefit (SSA has determined these clients eligible for SSDI as the disabled worker Claimant).
- Do not complete PART 1 if the SSI or SSDI does not include a cash benefit.

PART 1, Section B.

At Application status:

- Obtain proof of GR and amount, TANF and amount, SSI and cash benefit amount, SSDI as disabled worker Claimant and amount, or SSDI Adult Child (at least age 18) Disability benefits and amount. Proof of SSI or SSDI is an official document showing type of aid and amount, such as SSA award letter, SSA-1099 form, financial institution direct deposit receipt/statement, or Benefit Planning Query (PBQY).
- Check the Proof Of Aid box.
- Enter the type of aid and cash amount in AWARE and keep proof of type and amount in the client record. If the cash amount is \$0, do not check the AWARE box for SSI or SSDI.

PART 1, Section C.

- Enter date the VR client actually provides annual proof of GR, TANF, SSI or SSDI status. Keep the documentation in the client file. Do not need to annually document cash amount.

Save PART 1 electronically.

PART 2. "Long Form"

Use:

- Counselor completes PART 2 only if PART 1 does not apply to the client. PART 2 may be completed at Application status, but is not needed until a fee-based service will be provided.
- DRS uses the financial resources and expenses from the past calendar year to determine the consumer financial participation in fee-based services for the current year. For

adjustment when the past year financial situation differs significantly up or down from the current year, see [Chapter 14.3, FINANCIAL, Policy 1](#).

- When the RS-13 PART 2 is required by policy, the Excel spreadsheet must be used. Completing the RS-13 by hand is permitted only if Line 3a is \$0.
- Use a new RS-13 PART 2 form for each annual update.
- See policy for funding SEEs or school training.

Obtain proof of family size and income.

- Use the tax return for the most recent federal income tax period (last calendar year period usually filed by April 15 of the current calendar year). If the client does not provide a copy, the client may receive no-cost services and is 100% responsible for fee-based services (see [Chapter 14.3, FINANCIAL, Policy 1](#)). If the client is not listed on any tax return, see line by line instructions below.
- DRS accepts an amended tax return. DRS shall not accept a consumer promise to file an amended tax return or to not include the client on the next tax return.

1. Primary Financial Support.

- Check the box that best describes the main source of financial support the client receives.

2. # People Dependent on Family Income.

- Enter the total number of all persons listed on the same federal income tax return as the VR client, regardless of where the client lives.
- A client who is not required to file a tax return is a family size of one, regardless of living arrangements or financial support received from other people.

3a. Total Income.

- On the federal income tax return IRS-1040, this is called TOTAL INCOME on Line 9. However, if Line 9 includes the taxable portion of SSDI, subtract the SSDI amount.
- Document the income and attach it to the RS-13. Include wages, salaries, tips, etc.; unemployment compensation; alimony received; taxable interest income; dividend income; taxable refunds of state and local income taxes; business income (or loss) from Schedule C, C-EZ, or F; capital gain (or loss); other gains from I.R.S. Form 4797; taxable portion of Individual Retirement Account distributions; taxable portion of pensions and annuities; taxable portions of housing allowance (which is already included in Line 9 on IRS 1040 form); income from rents, royalties, partnerships, estates, trusts, etc.; farm income (or loss) from Schedule F; prizes, awards, and winnings; foster care income; and other taxable income. However, do not include the taxable portion of Social Security Disability Insurance.

- If the client (or family) is not legally required to file a federal income tax return, use I.R.S. Form 1099-G for unemployment compensation or copy of monthly benefit check, W-2 form or copy of a pay stub from employer, or copy of bank statements/receipt showing direct deposit of income.
- If using monthly income, remember to convert it to an annual amount.
- For a Trust, distributions (withdrawals) will be included on Line 10 of the tax return. If the client is not on a tax return, include the total Trust distributions for the last calendar year on the Taxable Income Line.

3b. Exclusion For Annual Taxes, Health Insurance, and Retirement.

- The exclusion is for estimated cost of taxes and health insurance premium, and amount of income saved for retirement, based on a sliding scale published in state regulation.
- Enter the percentage from the table below based on the amount in Line 3a. The Excel spreadsheet does this for you:

15% if amount on Line 3a is under \$10,000;
 20% if amount on Line 3a is \$10,000 - \$14,999;
 25% if amount on Line 3a is \$15,000 - 24,999;
 30% if amount on Line 3a is \$25,000 - \$34,999; and
 35% if amount on Line 3a is \$35,000 or more.

3c. Adjusted Annual Taxable Income (DRS term, not IRS).

- Multiply Line 3a by Line 3b. Subtract the product from Line 3a. Enter the difference in Line 3c. The Excel spreadsheet does this for you.

4. Annual Non-Taxable Income (DRS term, not IRS).

- On the federal income tax return, use: tax-exempt interest income; non-taxable portion of Individual Retirement Account distributions; non-taxable portion of pensions and annuities.
- Even though these sources of non-taxable income are not on the 1040, include amounts received January 1 through December 31 of last calendar year for: military allowances except for housing, Special Needs Adoption Subsidy, Child Support, Workers' Compensation, and Veterans Disability Benefits.
- Do not include SSI or non-taxable portion of SSDI, even if received by a client or family member.
- Do not include non-taxable housing allowance for military or clergy.

5. Total Adjusted Annual Income (DRS term, not IRS).

- Add Line 3c and Line 4. Enter the sum on Line 5. The Excel spreadsheet does this for you.

6a. Total Cash Assets.

- Enter the total amount of cash assets owned by the VR client (or family) as of December 31 of the last calendar year.
- If IRS 1040 form Lines 2a and 3a are blank, DRS assumes there are no cash assets over \$5,000 and \$0 may be entered on Line 6a. If IRS 1040 form Lines 2a and 3a are not blank, use IRS 1040 Schedule B (attached to the 1040) to identify the cash assets and require the VR client to provide year end account statements and keep a copy in the client record.
- If the client is not on any tax return, use the year-end account statements listing the client as the sole owner (other than another person who is power of attorney POA).
- Cash Assets means funds in: checking accounts; savings accounts; money market accounts; savings certificates of deposit maturing within six months; stocks; bonds maturing within six months; life insurance net cash value; mutual funds, Educational/Coverdell IRA; 529 college plan, client Uniform Gift to Minors Act UGMA account only if client is age 18 or older. Do not include Retirement IRA, Keogh accounts, or self-employed SEP accounts.
- For a Trust, if the client can only receive a monthly allowance from the Trust, or the full Trust amount cannot be accessed at any time, do NOT enter the Trust balance on the Cash Asset line. If the client can access the full Trust amount at any time, enter the Trust amount as of December 31 of the last calendar year.

6b. \$5,000 allowance for Cash Assets.

- This is pre-printed on the RS-13 Excel spreadsheet.

6c. Net Cash Assets.

- Subtract \$5,000 from line 6a. Enter the difference on Line 6c. If Line 6a is less than \$5,000, enter \$0 on Line 6c. The Excel spreadsheet does this for you.

7. Adjusted Annual Income and Net Cash Assets.

- Add Line 5 and Line 6c. Enter the sum on Line 7. The Excel spreadsheet does this for you.

8. Annual Living Expenses Exclusion Based on Family Size (DRS term, not IRS).

- Use the family size entered on Line 2 to find the living expense exclusion amount in the Family Size Table below. Enter the exclusion amount on Line 8. The Excel spreadsheet does this for you.
- The formula for the DRS living expense exclusion is established in state regulation. For a family of one, DRS uses the federal Health and Human Services (HHS) Poverty Level for a family of four in the 48 contiguous states, which is published annually in the Federal

Register. For each additional family member, DRS uses the federal allowance for each additional dependent. The DARS Central Office decides the date on which the Table update becomes effective.

Family Size Table		
Effective as January 12, 2023 until further notice		
Family Size	Exclusion	
1	\$30,000	
2	\$35,140	
3	\$40,280	
4	\$45,420	
5	\$50,560	
6	\$55,700	
7	\$60,840	
8	\$65,980	
For each additional dependent, add	\$5,150	

Chapter 14.1. - PURCHASING

1. Procedures to Authorize VR Services for Consumers

[REVISED: 3/16/23]

7. Fee schedule.

DRS established, as is our option under federal regulation (per 2016 Federal Regulation 34 CFR § 361.50), a fee schedule designed to ensure reasonable costs to the Vocational Rehabilitation program for each purchased service or goods. The fees are published in the DARS Services Reference Manual and the DRS Training and Facilities Manual and updated as needed. If the service has a Service/Item (S/I) code and a fee amount, the counselor can authorize for that amount, subject to policies for consumer financial participation, comparable benefit, school training funding, and self-employment enterprise funding. Contact the DRS Field Rehabilitative Services Director if a client is effectually being denied a necessary service because the fee is so low that no vendor will accept it.

Chapter 14.3. - FINANCIAL PARTICIPATION

1. Consumer Financial Participation

[REVISED: 3/16/23]

5. Consumer financial participation and exceptions.

The VR client and family shall share in the annual cost of all VR services provided - unless the service or client is exempt. The consumer financial participation amount is subject to the Client Financial Statement (RS-13) (see subsection B1 of this policy) as well as the other DRS funding policies (i.e., comparable benefits, fee schedule and maximum allowances, lowest cost alternative that meets the client VR needs, self-employment enterprise, Expected Family Contribution for school training that participates in federal financial aid program, etc.). For documentation requirements to support the RS-13, see [Chapter 12, FORMS, RS-13](#).

1. **Exception 6:** The following VR services are exempt from consumer financial participation (per 2016 [Federal Regulation 34 CFR § 361.54](#) and [State Regulation 22 VAC 30-20-160](#)).
 - a. Eligibility determination assessment to determine eligibility and VR needs assessment (and assign priority category if DRS is on Order Of Selection). However non-assessment services provided under a Trial Work Experiences Plan, Employment Plan, or Post Employment Services Plan are subject to consumer financial participation (per 2016 [Federal Regulation 34 CFR § 361.54](#)).

Cross-reference: For consumer financial participation requirements during trial work, see [Chapter 4.02, TRIAL WORK, Policy 1, Section B](#).

Cross-reference: For diagnostic, assessment, and evaluation services, see [Chapter 6, DIAGNOSTIC, Policy 1](#).

- b. Vocational rehabilitation counseling, guidance, and referral provided by DRS staff (per 2016 [Federal Regulation 34 CFR § 361.54](#)).
- c. Personal assistance services (PAS) necessary for the VR client to participate in the VR program (per 2016 [Federal Regulation 34 CFR § 361.54](#)). This includes the PAS needs assessment.
- d. Job-related services, including job search, job placement, 90-day follow-up services, and follow along services (per 2016 [Federal Regulation 34 CFR § 361.54](#)).
- e. On-the-job training (per [State Regulation 22 VAC 30-20-160](#)).
- f. Auxiliary aids, interpreter for the deaf services or other reasonable communication accommodations that is required under Section 504 of the Rehabilitation Act of 1973, as amended and Americans with Disabilities Act of 1990 (P.L. 101-336) for the consumer to participate in the vocational rehabilitation program (per 2016 [Federal Regulation 34 CFR § 361.54](#)). However, hearing aids, telecommunication systems, assistive listening devices, alerting devices, and other goods are subject to consumer financial participation. "Auxiliary aid" means taped texts, Braille or large print materials, etc. that make visually delivered materials accessible to the consumer; qualified interpreters for the deaf, note takers, readers, written materials, assistive listening systems (e.g., room loop, individual loop), etc. that make aurally delivered materials accessible to the consumer (per Americans with Disabilities Act of 1990).
- g. Support services such as transportation, dependent day care, and maintenance, necessary for the VR client to access diagnostic and evaluation services (per 2016 [Federal Regulation 34 CFR § 361.54](#)).
- h. Project SEARCH services which include only the cost of Program Enrollment; Internships; and Placement and Training Supports (see [Chapter 8.24, TRANSITION SERVICES, Policy 1](#)). Other cost services that Project SEARCH students may require are subject to financial participation.
- i. Pre-employment Transition Services (see Chapter 8.24, Transition Services, Policy 2) Other cost services under an IPE for students with a disability are subject to financial participation policy and Client Financial Statement (RS-13).

Chapter 15. - APPEALS

9. Hearing

C. Hearing Process

[REVISED: 3/16/23]

1. Hearing Officer Selection.

The VR appeals coordinator shall provide the randomly (per 2014 P.L. 113-128, Section 413 (c) (5) (C) (i) and 2016 Federal Regulation 34 CFR § 361.57) selected hearing officer with the Hearing request, acknowledgment letter, Hearing deadline and location, and client or non-VR client recipient of VR services .and DRS designated representative contact information.

2. Hearing Officer Disqualification.

The client or non-VR client recipient of VR services or DRS designated representative may ask the hearing officer to disqualify him- or herself from a case. The hearing officer must disqualify him- or herself when the hearing officer believes he or she cannot conduct an impartial Hearing. The VR appeals coordinator shall then randomly select another hearing officer and the Hearing process shall begin anew.

3. Representation During Hearing.

The hearing officer shall (per 2014 P.L. 113-128, Section 413 (c) (3) (B) and 2016 Federal Regulation 34 CFR § 361.57) allow the client or non-VR client recipient of VR services and DRS to be represented by counsel or other advocate during the Hearing process and the client or non-VR client recipient of VR services to apply for Client Assistance Program (CAP) assistance (see Policy 5 of this chapter). The client or non-VR client recipient of VR services shall be responsible for any costs associated with client representation.

4. Transportation Costs For Hearings.

Subject to DRS Transportation and PAS policies, the counselor may reimburse the client or non-VR client recipient of VR services, but not others, for transportation costs to and from the Hearing.

5. Hearing Officer Costs.

DARS shall (per 2016 Federal Regulation 34 CFR § 361.57) pay the hearing officer costs. The hearing officer is hired on agency contract and the VR appeals coordinator processes the hearing officer invoice for payment using Central Office funds.

6. ADA Costs for Hearing.

The client or non-VR client recipient of VR services has the right to request and receive reasonable accommodations regarding accessibility under P.L. 101-336 Americans with Disabilities Act of 1990 paid by DRS.

7. Communicating With Hearing Officer.

Substantive issues shall not be discussed with the hearing officer off the record, or outside the Hearing, or without the other party being present. All communication to and from the hearing officer must (per agency mandate) be in writing and the hearing officer shall ensure the other party receives a copy. Scheduling pre-Hearing conferences and Hearings is not a substantive issue.

8. Hearing Held at DRS office or WWRC.

The Hearing shall (per agency mandate) be held at the DRS (or WWRC) office serving the client or non-VR client recipient of VR services, and the DRS designated representative shall ensure space is reserved for the Hearing. The hearing officer may change the location for good cause upon request by the client or non-VR client recipient of VR services or DRS designated representative.

9. Written Notice of Scheduled Hearing.

Within 10 calendar days (per agency mandate) after accepting the case, the hearing officer shall notify the client or non-VR client recipient of VR services and DRS designated representative in writing of the Hearing date, time, place, and rights, with a copy to the VR appeals coordinator. The client or non-VR client recipient of VR services and DARS have the right (per 2016 Federal Regulation 34 CFR § 361.57 and State Regulation 22 VAC 30-20-181) to be present at the Hearing.

10. 60-Day Hearing Deadline and Postponement

While the Hearing is pending, the client or non-VR client recipient of VR services and district manager may try Mediation (see Policy 7: Section B of this chapter) or meet to resolve the issue, or the district manager may request a policy exception that would resolve the issue. The Hearing officer shall (per 2016 Federal Regulation 34 CFR § 361.57 and State Regulation 22 VAC 30-20-181) ensure a Hearing is conducted within 60 calendar days after the date any DRS office (or VR appeals coordinator directly) receives the signed written request unless: the client or non-VR client recipient of VR services withdraws the Hearing request in writing, the client or non-VR client recipient of VR services and DRS designated representative agree to a specific extension of time, or (per agency mandate) the hearing officer grants a postponement request that will clearly advance the fair presentation or resolution of the issues. Specific extension of time may be a date or number of days after an event.

11. Pre-Hearing Conference.

The hearing officer, client or non-VR client recipient of VR services, or DRS designated representative may request a pre-Hearing conference to clarify the issues to be addressed at the Hearing or take care of any procedural matters. Procedural matters include scheduling, moving or postponing the Hearing; Hearing On The Written Record; Hearing open to the public; witness and exhibit lists concerns; logistical considerations; and hearing officer disqualification. The hearing officer determines the means (face-to-face, conference call, etc.), schedules, and presides over the pre-Hearing conference. Both parties and their representative must be included. Within 10 calendar days, the hearing officer shall (per agency mandate) document the outcome of the pre-Hearing conference in writing to the participants with a copy to the VR appeals coordinator.

12. Pre-Hearing VR Case Record Review

Subject to Chapter 1.1, CONFIDENTIALITY, Policy 1, Section A, the hearing officer shall (per agency mandate) ensure the client or non-VR client recipient of VR services and DRS representative have an opportunity to review the VR service record before the

Hearing. The client or non-VR client recipient of VR services may ask the counselor for one (1) free copy of the VR service record.

13. Exhibit and Witness List.

Before the Hearing date, the hearing officer shall (per agency mandate) request a list of the proposed exhibits and witnesses from the DRS representative and client or non-VR client recipient of VR services, and rule on any concerns the client or non-VR client recipient of VR services or DRS representative raises. The lists should include all exhibits and witnesses (including the client or non-VR client recipient of VR services) relevant to the Hearing issue(s), even if listed by the other party because the other party may decide not to use them at the Hearing. The exhibit lists should identify specific documents and include author and date for reports, case notes, communications, etc.

14. Exhibits.

Exhibits may be submitted before or during (bring two copies) the Hearing. Post-Hearing submissions are accepted at hearing officer discretion. Exhibits may include, but are not limited to: VR forms, AWARE screens, purchase authorizations and cancelations and payment approvals, reports, communications including e-mails and letters, counseling and guidance and other case notes, policy, federal and state laws and regulations, federal policy guidance, etc. It is not necessary to submit the entire VR service record.

15. Witnesses.

The client or non-VR client recipient of VR services shall (per agency mandate) be responsible for any costs associated with his or her witnesses other than current DARS employees. Because the hearing officer cannot subpoena witnesses, the DRS representative shall arrange for the presence of all current staff who are on the DARS, or client or non-VR client recipient of VR services witness list, or requested to be present by the hearing officer.

16. Cancelling the Hearing Request.

The client or non-VR client recipient of VR services may cancel the Hearing by (per agency mandate) sending a written request to the hearing officer. The hearing officer dismissal shall (per agency mandate) be in writing to the client or non-VR client recipient of VR services and DRS representative with a copy to the VR appeals coordinator.

17. Closed Hearing.

All Hearings shall (per agency mandate) be closed to everyone other than the participants and witnesses unless the hearing officer grants a client or non-VR client recipient of VR services request for a Hearing open to members of the public. The hearing officer shall determine who from the public may be present.

18. Testimony and Evidence.

The hearing officer does not (per 2016 Federal Regulation 34 CFR § 361.57) have authority to settle cases. The hearing officer shall preside over the Hearing; ask if the client or non-VR client recipient of VR services wishes to precede or follow DRS in

presentation order; allow the client or non-VR client recipient of VR services and DRS to make brief opening and closing statements, (per 2014 P.L. 113-128, Section 413 (c) (3) (A)) examine and cross-examine witnesses, and submit and refute written evidence. All testimony shall be given under oath administered by the hearing officer. Hearsay evidence is admissible at the discretion of the hearing officer. The hearing officer may question witnesses; exclude irrelevant, immaterial, insubstantial, privileged, or repetitive evidence; and introduce any regulation, law, policy directive, or other material believed to be relevant not otherwise presented by the client or DARS staff. The client and DRS representative do not have the right to submit evidence after the Hearing is adjourned unless requested by the hearing officer. The hearing officer may re-open the Hearing to hear additional witness testimony and allow for examination or cross examination of the witness.

19. Verbatim Recording of Hearing.

The hearing officer shall (per agency mandate) ensure an accurate verbatim audio recording is made of the Hearing and provide it to the VR appeals coordinator after the Hearing decision is issued. The DRS representative shall (per agency mandate) provide staff to operate the recording equipment. The VR appeals coordinator shall maintain the verbatim record for 5 years (per DARS records retention schedule with the Library of Virginia). The client or non-VR client recipient of VR services may receive one (1) free copy of the verbatim recording to be provided in a format determined by DARS and ADA compliant.

20. No Show and Case Dismissal.

The hearing officer is empowered (per agency mandate) to dismiss the case if a party, including representative, fail to appear at the scheduled Hearing, the hearing officer sends a written notice to show cause, and the absent party does not show good cause that satisfies the hearing officer.

21. Hearing On The Written Record Format.

A Hearing On The Written Record is a review of the written evidence by the hearing officer without in-person testimony. The client, non-VR client recipient of VR services, or DRS representative may (per agency mandate) request a Hearing On The Written Record in writing or during the pre-Hearing conference. The hearing officer may grant the request when the hearing officer believes that it will not impede a full examination of the issue(s). The hearing officer shall provide at least a 10 working-day deadline for the party requesting the written record format to submit written evidence and 10 working-day deadline for the other party to submit a written rebuttal, and shall ensure the other party receives a copy of all submissions. To facilitate a fair presentation of the issues, the hearing officer may ask the parties to submit additional written evidence of a specified nature. If the Hearing On The Written Record process is not conducive to a full examination of the issue(s), the hearing officer may discontinue the review and schedule a Hearing.

22. Hearing Decision.

The hearing officer shall have authority to render a written decision and (per 2014 P.L. 113-128, Section 413 (c) (5) (A) required action regarding the client vocational rehabilitation services. The hearing officer shall (per 2016 Federal Regulation 34 CFR § 361.57) issue and mail a written decision to the client or non-VR client recipient of VR services and DARS commissioner within 30 calendar days after the Hearing. For a Hearing On The Written Record, the hearing officer shall render and mail the written decision within 90 calendar days of the date the DRS local office (or VR appeals coordinator directly) received the written Hearing request. The decision shall (per 2016 Federal Regulation 34 CFR § 361.57) become part of the VR service record. The decision shall include the parties right within (per 2014 P.L. 113-128, Section 413 (c) (5) (E) and 2016 Federal Regulation 34 CFR § 361.57) 20 calendar days of the mailing of the hearing officers decision to request in writing an Administrative Review of a Hearing decision (See Policy 9 of this chapter.) A Hearing decision is final and DRS shall implement it within 30 calendar days after the decision date (per agency mandate), unless one or both parties requests an Administrative Review of a Hearing decision.

23. Distribution of Hearing Decision.

The VR appeals coordinator shall send a redacted copy of the decision to (per 2014 P.L. 113-128, Section 412 (a) (21) (A) (ii) (IV) (cc)) the State Rehabilitation Council, to (per 2016 Federal Regulation 34 CFR § 361.57 (k)) RSA attached to the RSA-722 annual appeals report, and to (per agency mandate) the other hearing officers.

10. Administrative Review of Hearing Decision

[REVISED: 3/16/23]

1. Request for Administrative Review of Hearing Decision

Within 20 calendar days of the mailing of the impartial hearing officer's decision (per 2014 P.L. 113-128, Section 413 (c) (5) (E) and 2016 Federal Regulation 34 CFR § 361.57), the client, non-VR client recipient of VR services, or DRS representative may request an Administrative Review of the Hearing decision. The review is a paper review by (per 2014 P.L. 113-128, Section 413 (c) (5) (D) (ii)) a designated official from the Office of the Governor. The request must (per agency mandate):

- a. Be written,
- b. State the specific decision(s) of the hearing officer to be reviewed and may include (per 2014 P.L. 113-128, Section 413 (c) (5) (F) (i)) additional information/evidence supporting the request. It is not necessary to submit the Hearing exhibits,
- c. Not include new issues, and
- d. Be submitted to the VR appeals coordinator who will forward it and notice of the rebuttal and decision deadline to the reviewing official and the other party, and provide the reviewing official a copy of the Hearing decision and exhibits.

2. Rebuttal.

The party not requesting the Administrative Review of a Hearing decision may submit a written rebuttal, which may (per 2014 P.L. 113-128, Section 413 (c) (5) (F) (i)) include additional information/evidence within (per agency mandate) ten (10) calendar days to the VR appeals coordinator to be forwarded to the reviewing official and other party.

3. Standards of Review for Administrative Review of a Hearing Decision.

- a. The reviewing official shall make an independent, final decision and shall not (per 2014 P.L. 113-128, Section 413 (c) (5) (F) (iv)) and 2016 Federal Regulation 34 CFR § 361.57) delegate the responsibility for making the decision to any DARS staff.
- b. The reviewing official shall (per 2014 P.L. 113-128, Section 413 (c) (5)) and 2016 Federal Regulation 34 CFR § 361.57) provide the client or non-VR client recipient of VR services and DARS an opportunity to submit additional written evidence and information relevant to the final decision.
- c. The reviewing official shall (per 2016 Federal Regulation 34 CFR § 361.57) review the entire Hearing record (decision and exhibits), and ensure that the Hearing decision complies with the approved DARS state plan, the Rehabilitation Act of 1973 as amended in 2014, federal vocational rehabilitation regulations, state law and regulations, and agency policies and procedures which are consistent with federal requirements, and the U.S. and Virginia Constitutions. The review will consider all relevant issues of fact, law and written procedures. If the review issue involves questions of federal or state law, regulation or procedures, the reviewing official may consult with appropriate federal officials and the Virginia Office of the Attorney General and consider their interpretations.
- d. Within 30 calendar days after receiving the request (per 2016 Federal Regulation 34 CFR § 361.57), the reviewing official shall send a written decision and the statutory, regulatory or policy grounds for the decision to the client and DARS commissioner, with a copy to the VR appeals coordinator to be forwarded to the DRS director, district manager, counselor, and supervisor for implementation. The decision shall become part of the VR service record.
- e. The reviewing official may affirm, modify or reverse the Hearing decision in whole or in part or refer/remand the case back to the hearing officer for further proceedings. The reviewing official shall not (per 2014 P.L. 113-128, Section 413 (c) (5) (F) (ii) and 2016 Federal Regulation 34 CFR § 361.57) overturn or modify a Hearing decision, or part of a Hearing decision, that supports the client or non-VR client recipient of VR services position, unless concluding, based on clear and convincing evidence, that the Hearing decision is clearly erroneous on the basis of being contrary to the approved DRS state plan, the Rehabilitation Act of 1973 as amended in 2014, federal vocational rehabilitation regulations, or state regulations or agency policies which are consistent with federal requirements. The reviewing official may reverse or remand it when finding the Hearing decision to be
 - i. In violation of constitutional, statutory, regulatory, or written policy provisions; or

- ii. In excess of the statutory authority of the agency; or
 - ii. Made upon unlawful procedures; or iv. Affected by other errors of law, regulation, or written policy; or v. Not reasonably supported by the evidence; or vi. Arbitrary, capricious, or characterized by abuse of, or clearly unwarranted, exercise of discretion.
4. Implementing Reviewing Official Decision.
Within 30 calendar days (unless the decision specified another time frame) after the reviewing official issues the Administrative Review decision, DARS shall (per 2014 P.L. 113-128, Section 413 (c) (5) (I)) implement the decision, regardless of whether the client or non-VR client recipient of VR services or DARS files a civil action.
5. Distribution of Reviewing Official Decision.
The VR appeals coordinator shall send a redacted copy of the reviewing official Administrative Review decision to the State Rehabilitation Council (per 2014 P.L. 113-128, Section 412 (a) (21) (A) (ii) (IV) (cc)), to RSA (per 2016 Federal Regulation 34 CFR § 361.57 (k)) attached to the RSA-722 annual appeals report, and to (per agency mandate) the other hearing officers for informational and training purposes.