



*California's Protection & Advocacy System  
Toll-Free (800) 776-5746*

# California Department of Rehabilitation Appeals Options & Process Fact Sheet

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## **1. What can I do if I am having problems with my DOR counselor?**

Your first step should be to try to resolve the issue with your DOR counselor. If you are not able to resolve the issue with your counselor, ask for a meeting with the counselor's supervisor. The Rehabilitation Supervisor may be able to help you work out any problems. If you are unhappy with DOR's actions, you have the right to appeal.

## **2. What are my options for appeal?**

There are several options for appeal; you can request an Administrative Review, Mediation, or a Fair Hearing. These different options will be explained in greater detail below.

## **3. How do I ask for an Administrative Review?**

The Administrative Review is the lowest level of review. If your concerns are not resolved through your DOR counselor or the Rehabilitation Supervisor at the local level, you can request an Administrative Review by the District Administrator. You must ask for an Administrative Review within one year of the decision with which you disagree. Your request must include:

- the reason why you think the decision should be changed; and
- what action you propose be taken by DOR.

Title 9 CCR §7353(a)(3)(A)-(B).

#### **4. What will happen at an Administrative Review?**

When a District Administrator receives a request for an Administrative Review, they may decide to hold an Administrative Review meeting, where you will meet with the District Administrator, who will look at your issue. At this meeting, you will have an opportunity to explain why you think DOR's decision was improper. You can bring documents and other evidence that supports your position. Your DOR counselor or the Rehabilitation Supervisor may appear at the Administrative Review to explain DOR's decision.

In certain cases the District Administrator may decide to do an "on the record" review and decision. District Administrator will look at your request, your case file, and any documents that you submit. The District Administrator will make their decision based on these records.

The District Administrator will decide whether DOR's action was appropriate and send you a written decision within 15 days of the request for an Administrative Review.

#### **5. What if I am unhappy with the Administrative Review Decision?**

If you are not satisfied with the Administrative Review decision, you may request Mediation and/or a Fair Hearing. You must make this request ***within 30 days*** of the Administrative Review decision. Title 9 CCR §7353(f).

#### **6. Is the Administrative Review mandatory?**

No. The Administrative Review process is optional. You can skip the Administrative Review and ask immediately for a Fair Hearing and/or Mediation. Title 9 CCR §7351(c). However, it may be helpful to work through DOR's Administrative Review process before requesting a Mediation or Fair Hearing. Many problems can be resolved locally, informally, and more quickly through the Administrative Review process.

## **7. How do I request Mediation?**

You must request Mediation within one year of the action with which you disagree. If you have received an Administrative Review decision, you must request Mediation within 30 days of the Administrative Review decision. Requests for Mediation should be submitted on the DR 107 form. You can also find this form online at:

<http://www.dor.ca.gov/Appeals/FairHearForms.html#DR107>.

If both parties agree to Mediation, Mediation will be held at a convenient time and location for all of the parties within 25 calendar days from when the request is received by the Mediation coordinator. Title 9 CCR §7353.6(b)-(c); 34 C.F.R. §361.57(d).

## **8. Is Mediation mandatory?**

No. Mediation is also optional. 34 C.F.R. §361.57(d)(2)(i). You can decide to skip Mediation and go directly to a Fair Hearing. Also, DOR is not required to participate in Mediation; DOR can decide that they do not want to take part in the Mediation process. Like the Administrative Review process, Mediations do not delay the right to a Fair Hearing. Title 9 CCR §7353.6(b).

## **9. What happens at Mediation?**

At Mediation, you will meet with an impartial mediator and a representative from DOR. The mediator will try to help you and DOR resolve your dispute and come to an agreement. If you filed for Mediation and Fair Hearing at the same time and you are able to settle all issues raised in your dispute at Mediation, the Fair Hearing will be withdrawn.

Mediation is a confidential process. That means that any information that is shared at Mediation cannot be discussed later at a Fair Hearing or in a court case.

## **10. How do I request a Fair Hearing?**

You can also request a Fair Hearing regarding your DOR issue instead of, or in addition to, Mediation. You must make your request for a Fair Hearing within one year of the date you receive written notice of the action or decision with which you disagree. Title 9 CCR §7354(a)(1). As noted above, if you go to an Administrative Review, you must request Fair Hearing within 30 days of the Administrative Review decision.

A Fair Hearing must be held within 60 days of your written request unless you agree to a delay. Title 9 CCR §7354(b).

Requests for Fair Hearing should be submitted on the DR 107 form. You can find this form online at:

<http://www.dor.ca.gov/Appeals/FairHearForms.html#DR107>.

## **11. What will happen at a Fair Hearing?**

At a Fair Hearing, you have the opportunity to present and prove your claims before an Administrative Law Judge (ALJ). You can bring documents, witnesses, or other evidence to present to the ALJ. Appeals for Fair Hearings requested by DOR applicants or clients will be heard by an impartial hearing officer who is on a list of ALJs with the Department of General Services, Office of Administrative Hearings (OAH). The ALJ will issue a decision within 30 days after the Fair Hearing. Title 9 CCR §7358.

## **12. Can DOR cut services that I am receiving until there is a decision?**

No. Until the Administrative Review process is completed or until the Office of Administrative Hearings has given a decision, DOR is not supposed to suspend, reduce, or terminate any services that are already being provided under an IPE. Two exceptions are if the individual asks that the service be ended or DOR determines there has been fraud or other criminal conduct by the individual. Title 9 CCR §7351(e).

### **13. What if I am unhappy with a Fair Hearing decision?**

If you are not satisfied with a decision issued after Fair Hearing, you have the right to file a petition for writ of mandate within six months in the California Superior Court.

### **14. Can I ask a family member to represent me at a Mediation or Fair Hearing?**

You can appoint someone to be your Authorized Representative and represent you at Mediation or a Fair Hearing. You can ask a family member, friend, or other advocate to be your Authorized Representative. Authorized Representatives should complete DR 108 form before they can represent you. This form is available at the following link:

<http://www.rehab.cahwnet.gov/Appeals/FairHearForms.html#DR107>.

### **15. What if I can't read English or have a hearing or visual impairment?**

You can request to have notices and decisions sent to you in your primary language or your preferred mode of communication. Once you make a specific request, DOR is supposed to provide you with notices and decisions in your primary language or mode of communication. Cal. Welf. & Inst. Code §19013.5(a)-(b); Title 9 CCR §7352(a). If you also want to receive notices and decisions in a language other than English, large-type, or Braille, make sure to ask for the specific language or format you need as soon as possible. You can ask to receive notices in different languages and/or formats when you make your request for an Administrative Review, Mediation, or Fair Hearing.

### **16. Can I get an interpreter or a reader or other accommodations at an Administrative Review, Mediation, or Fair Hearing?**

Yes. If you are non-English-speaking, deaf, hearing impaired, speech impaired, blind, or visually impaired, interpreter and reader services or assistive listening devices must be provided to you. It is up to you to request these services. Title 9 CCR §§ 7353(c), 7353.6(c), 7354(d)(3). If

possible, ask for any accommodations you need in advance. You can ask for accommodations when you make your request for an Administrative Review, Mediation, or Fair Hearing.

### **17. Can I request transportation to and from an Administrative Review, Mediation, or Fair Hearing?**

You can request DOR to provide transportation to an Administrative Review or Mediation. Title 9 CCR §7353(d), 7353.6(d). Although the regulations do not specifically address it, you may want to ask DOR if they would provide you with transportation to attend a Fair Hearing if you need it.

Please contact your CAP advocate for assistance at 800-776-5746. The CAP advocate may be able to help you resolve your issues with DOR.

*Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.*