

# Q & A

## Questions and Answers

### About the Impartial Hearing Process

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**Can I change the date of my fair hearing?**

A

Yes, it is possible to change the date of your hearing, but you must have a valid reason. You must contact ACCES-VR by phone at 1-800-222-5627, or by email at: [accesadm@nysed.gov](mailto:accesadm@nysed.gov) and [patricia.mazzariello@nysed.gov](mailto:patricia.mazzariello@nysed.gov) to request an adjournment. A good reason can be due to an illness, or that you need additional time to obtain information, or retain a lawyer. You will need to explain – your reason for requesting that the hearing be rescheduled. The information will be conveyed to the Impartial Hearing Officer (IHO). It is up to the IHO to determine if an adjournment will be granted.

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**What happens if I don't show up for my scheduled hearing?**

A

If you fail to appear at your scheduled hearing, you may be found in default and a default judgment may be rendered. If you cannot document good cause for your failure to appear, you will not be provided with an opportunity to appeal this issue. You must contact ACCES-VR as soon as possible by phone at 1-800-222-5627, or by email at: [accesadm@nysed.gov](mailto:accesadm@nysed.gov) and [patricia.mazzariello@nysed.gov](mailto:patricia.mazzariello@nysed.gov) to explain why you did not show up for your hearing.

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**How can I prepare for my hearing?**

A

Prepare for your hearing by knowing your rights, gathering evidence and being organized.

**EVIDENCE** is everything that supports your story. Make sure you bring copies of your evidence to the hearing. Keep the originals for your own records. Examples of evidence may be: doctor's letters, correspondence from your counselor, and/or additional correspondence or records that support your case.

**ORGANIZATION** can be a very important factor in winning your hearing. Plan what you want to say at your hearing to make sure you cover everything you want to present. Write down:

- what you want to say;
- which papers you want to show the hearing officer; and
- questions to ask ACCES-VR.

It is very easy to get distracted at the hearing and lose focus from your thoughts. Make sure you have a plan and follow it.



## **Q What should I do when I get to my hearing?**

**A** Check in with the receptionist. When the hearing officer is ready to hear your case, you will be called to the hearing room. The hearing room is not a courtroom. It is usually an office conference room with tables and chairs.

## **Q Who will be at the hearing?**

**A** The IHO, the ACCES-VR District Office Manager (or designee), and your Vocational Rehabilitation Counselor will be at the hearing. You may bring an advocate such as a Client Assistance Program “CAP” representative, a friend, family member or an attorney. Please note that you must tell ACCES-VR if you are bringing an advocate. This is especially important if you have an attorney representing you, so that ACCES-VR can make arrangements to bring their own attorney. There will also be a court reporter present at the hearing to take an official transcript of the hearing proceedings. The court reporter will record everything that is said at the hearing and provide all parties with a copy of the official transcript a week or so after the hearing.

## **Q What does the Hearing Officer do at the hearing?**

**A** The Impartial Hearing Officer (IHO) runs the hearing and will explain the reason for the hearing. Tell the IHO if you asked for a hearing for a different reason. The IHO swears-in all participants on the record. Everything recorded at the hearing and all evidence given to the IHO is on the record.

## **Q What happens after the hearing?**

**A** After your hearing, you will receive a copy of the official transcript in the mail from the transcription agency. You should read the transcript for accuracy and contact the ACCES-VR if you find any errors. You will receive the hearing decision in the mail within 21 days after receiving a copy of the transcript. The Hearing Officer’s decision is final and all parties must adhere to the decision. Your ACCES-VR counselor will begin to do what the Hearing Officer decided within 20 days of receiving the hearing decision.

## **Q What if I lose my hearing?**

**A** If you disagree with your impartial hearing decision, you may file for a civil action in federal court or the New York State Supreme Court (Article 78 Proceeding). Please note that there are applicable deadlines for filing an action in civil court which are dictated by the State or Federal Rules of Civil Procedure. It is best to get help from an attorney when filing your civil action. The Client Assistance Program may also help you with your legal appeal and provide additional information regarding the statute of limitations related to the civil action.

