

Minutes – May 5, 2016

SRC Policy and Procedure Committee

| SRC Policy and Procedure Committee | | |
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| Thursday, May 5, 2016 | 9:30 am – 11:30 am | VABVI, 60 Kimball Avenue, South Burlington, VT 05403 |
| Meeting called by | Sam Liss, Chair at 9:40 a.m. | |
| Members Present | Leslie Walker Mitchell | |
| Members Absent | Spencer Lemons and Michele Hubert | |
| SRC Liaison | James Smith, DVR Budget and Policy Manager | |
| SRC Coordinator | Rebekah M. Stephens | |
| Interpreters | n/a | |
| Speakers/Presenters | n/a | |
| Guests | Karen Blake-Orne, VR Field Services Manager, Sherrie Brunelle and Nancy Breiden | |
| 1. Today's Agenda | | |
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| Discussion | James Smith suggested the Committee review Chapter 105 first today because it has substantial recommended changes. Committee agrees. A quorum not reached today. | |
| Conclusions | Chapter 105: Appeals Process to be reviewed first today. | |
| Action Items | Person Responsible | Deadline |
| None | n/a | n/a |
| 2. Approval of Minutes – March 3, 2016 Committee Meeting | | |
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| Discussion | A quorum not reached today. | |
| Conclusions | A vote to approve minutes to be conducted via email. An email vote was conducted on May 9, 2016. March 3, 2016 Committee meeting minutes approved by majority vote. | |
| Action Items | Person Responsible | Deadline |
| Email Committee members for vote of approval on March 3, 2016 P&P Committee meeting minutes | Rebekah Stephens | 5/11/2016 |
| Upload approved minutes to www.VTSRC.org | Rebekah Stephens | 5/13/2016 |
| 3. Review - Chapter 105: Appeals Process | | |
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| Discussion | Nancy Breiden had provided suggested changes to this chapter to the Committee members prior to today's meeting. Nancy explained that she made these suggestions with the intention of further discussion by the Committee. She expressed that this chapter was difficult to get through and much of the language she has recommended removing may be better suited for a separate guidance section in the chapter. James Smith explained that the P&P Manual is meant for VR staff. The Committee discussed providing the guidance through training instead of the Manual as a potential idea going forward. Sam Liss shared that this chapter is too verbose. The Committee reviewed the suggested changes and made several additional recommendations. Committee members had a brief discussion around time lines referenced in Section III. Administrative Review. James Smith wanted to make sure that the time lines are not too constrictive. The time lines are not set federally; they are left up to the State agency's discretion. Karen Blake-Orne shared that she is not aware of any time that the time lines have been missed by VR staff. It was agreed that time lines would not be changed at this time. James had a question about Section IV. Mediation, A. Requirements 2. He wanted to know if this sentence is redundant. Sherrie Brunelle and Nancy responded that it is important enough to mention again. Committee members agreed. Language will remain. | |
| Conclusions | Nancy Breiden will pull together all of the recommended changes from today's meeting. Put discussion of revised Chapter 105 on September 1, 2016 P&P agenda for final review. | |

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| Recommended changes are listed below under Action Items. | | |
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| Action Items | Person Responsible | Deadline |
| Page 2, Section I. General Policy 1 st paragraph will now read, "Effective communication between the individuals seeking DVR services and DVR staff is essential." | Nancy Breiden | 8/15/2016 |
| <p>Page 2, Section I. General Policy 2nd paragraph will now read, "Although most problems may be resolved through communication with the Rehabilitation Counselor and/or Regional Manager, the following options are available for those situations when resolution is not achieved;</p> <ol style="list-style-type: none"> 1. Administrative review by Vocational Rehabilitation Regional Manager; 2. Mediation (must be agreed to by the individual and DVR); 3. Fair Hearing before the Agency of Human Services Board; 4. Civil court action. <p>Any level of appeal may be skipped in favor of a higher level of appeal.</p> <p>An individual may seek assistance from the Client Assistance Program (CAP) at any level of the appeals process. (This sentence to be bolded for emphasis.)</p> <p>Guidance: The Client Assistance Program (CAP) is an independent entity authorized under Title I, Section 112 of the Rehabilitation Act. CAP's purpose is to inform and advise all applicants and eligible individuals of available benefits under the Act and, upon request, to assist and advocate for them in their relationships with projects, programs and facilities providing services to them under the Act. Vermont's CAP is part of Vermont Legal Aid, Inc.</p> <p>Guidance – Appeals and CAP Participation: It is good practice for the counselor to strongly encourage the person to contact CAP if they have not already done so. CAP may be able to help resolve the issue without using the appeals process or may be helpful to the person in choosing the most appropriate mediator for the issue at hand. It is often in both the counselor's and the consumer's interest to have CAP involved early in the process."</p> | Nancy Breiden | 8/15/2016 |
| Page 2, Section I. General Policy 3 rd paragraph will be removed in its entirety. | Nancy Breiden | 8/15/2016 |

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| <p>Page 2 & 3, Section I. General Policy 4th paragraph (4th paragraph from page 2 carries over to page 3 as a list a.-e.) will now read, “Written notice of appeal rights shall be provided to any applicant, or eligible individual, or that individual’s guardian or representative:</p> <ol style="list-style-type: none"> 1. At the time of application for VR services; 2. When a person is determined ineligible for VR services; 3. At the time when the IPE is being developed; 4. At the time of placement on an order of selection; 5. Whenever VR services are reduced, suspended or terminated; 6. Whenever an applicant or eligible individual is dissatisfied with any determination made by VR that affects the provision of VR services; 7. Whenever a disagreement between the individual and the counselor cannot be resolved to the individual’s satisfaction; 8. When a person with an IPE is no longer available for services.” | Nancy Breiden | 8/15/2016 |
| <p>Obtain confirmation that language recommended for Page 2 & 3 Section I. General Policy 4th paragraph is taken directly from the Federal Regulations and/or RSA guidance.</p> | Nancy Breiden and Sherrie Brunelle | 8/15/2016 |
| <p>Page 3, Section I. General Policy 1st, 2nd and 3rd paragraph will remain the same.</p> | n/a | n/a |
| <p>Page 3, Section I. General Policy 4th paragraph will be removed in its entirety.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 3, Section I. General Policy additional sentence to be added after 3rd paragraph to read, “A detailed description of each appeals option is outlined in Sections II, III, IV and V.”</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 3, Section I. General Policy Guidance section moved in its entirety to be included under Page 2, Section I. General Policy 2nd paragraph.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 4, Section II. Summary of Appeals Process to be removed in its entirety.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 5, <u>Section III</u>. Administrative Review will now become <u>Section II</u>.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 5, Section III. Administrative Review, A. General Description 1st paragraph will now read, “An administrative review is an informal hearing conducted by a DVR Regional Manager designated by the DVR Director. The review officer should not have had any prior involvement in the case or issue unless the consumer agrees to the designation.”</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 5, Section III. Administrative Review, A. General Description 2nd and 3rd paragraphs will remain the same.</p> | n/a | n/a |

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| <p>Page 5, Section III. Administrative Review, A. General Description 4th paragraph will now read, “The review shall involve:</p> <ul style="list-style-type: none"> • the person; • the counselor; • the Regional Manager and/or Field Services Manager. <p>The review also may include:</p> <ul style="list-style-type: none"> • any other individual the person desires including: <ul style="list-style-type: none"> ○ their representative or advocate; • any other DVR personnel who may have been involved in the decision or action in dispute; • anyone the review officer wishes to be present for informational or facilitative purposes. <p>If the person is a minor or under a guardianship the review must also include the presence of the legal guardian. Either the Regional Manager or Field Services Manager shall have the authority to settle the issue in dispute.”</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 5, Section III. Administrative Review, A. General Description 5th paragraph will remain the same.</p> | n/a | n/a |
| <p>Page 6, Section III. Administrative Review, A. General Description 1st, 2nd, and 3rd paragraphs will remain the same.</p> | n/a | n/a |
| <p>Page 6, Section III. Administrative Review, B. Role of Administrative Review Officer 1st paragraph and numbers 1, 2, 3, 4 & 5 will remain the same except the “s/he” and “his/her” references will be changed to “<u>they</u>” and “<u>their</u>”, respectively.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 7, <u>Section IV</u>. Mediation will now become <u>Section III</u>.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 7, Section IV. Mediation 1st paragraph will now read, “Mediation is a process using an impartial third party (a mediator) to help the two parties in a dispute, reach a mutually-acceptable agreement. Mediators help define the problem, evaluate possible solutions, and form agreements. Mediators do not decide who is right or wrong but guide people toward productive communication in informal and confidential settings.”</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 7, Section IV. Mediation, A. Requirements 1. will now read, “Mediation can be used only when the individual and DVR agree to participate.”</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 7, Section IV. Mediation, A. Requirements 2. will be replaced with a new 2 and become 3. Language will remain the same.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 7, Section IV. Mediation, A. Requirements <u>New 2</u> will read, “If DVR refuses to participate in mediation and the individual has not yet used the administrative review option, the dispute will automatically be referred for an administrative review. DVR must provide written notice to the person that mediation is being refused. The written notification must describe the remaining appeals options available to the individual.</p> <p>If the individual does not wish to participate in the administrative review, the individual must notify DVR of their refusal to participate in the administrative review within 5 working days of receiving written notice of DVR’s refusal to participate in mediation.”</p> | Nancy Breiden | 8/15/2016 |

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| <p>Page 8, Section IV. Mediation, A. Requirements <u>3</u> will become <u>4</u> and will now read, “Mediation shall be conducted by a qualified and impartial mediator. This person must be trained in effective mediation techniques and be familiar with the laws and regulations relating to the provision of vocational rehabilitation services. DVR shall maintain a statewide list of such mediators and shall furnish the list to individuals seeking mediation and to CAP. Mediator will be selected by mutual agreement between DVR and the person or, as appropriate, the person’s representative. The mediator is to be selected within ten (10) working days of the agreement to pursue mediation. <u>Committee members would like to see this section bulleted.</u></p> <p>Followed by:</p> <p>Guidance: Preference may be given to mediators who are familiar not only with laws relating to vocational rehabilitation, but also with disability issues. The list shall include information about CAP – not as a provider of mediation but as a reference for assistance in resolving the dispute, in understanding mediation, choosing a mediator, etc.”</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 8, Section IV. Mediation, A. Requirements <u>4</u> will become <u>5</u> and <u>5</u> will become <u>6</u>. Language to remain the same.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 8, Section IV. Mediation A. Requirements Guidance section moved in its entirety to be included under the new 4.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 8, Section IV. Mediation B. Process 1 to remain the same.</p> | n/a | n/a |
| <p>Page 8, Section IV. Mediation B. Process 2 will now read, “Within 10 working days of the receipt of the request for mediation, the Regional Manager must notify the person of DVR’s decision to pursue or not pursue mediation. The Regional Manager, in consultation with the counselor and Division Director (or designee), shall determine if mediation may assist in resolving the dispute.”</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 9, Section IV. Mediation B. Process Guidance section to be moved in its entirety to be included under Section I. General Policy 2nd paragraph Guidance section.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 9, Section IV. Mediation B. Process 3 and 4 will remain the same.</p> | n/a | n/a |
| <p>Page 9, Section IV. Mediation B. Process 5 to be removed in its entirety.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 9, Section IV. Mediation B. Process <u>6</u> to become <u>5</u>. Language to remain the same.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 9, Section IV. Mediation B. Process Guidance (after 6) to be removed in its entirety.</p> | Nancy Breiden | 8/15/2016 |
| <p>Page 9. Section IV. Mediation B. Process remaining language beginning “The individual’s case service record...” and continuing through “a. – d.” and ending with “documented in the case record” will remain the same.</p> | n/a | n/a |
| <p>Page 10, <u>Section V</u>. Fair Hearing will now become <u>Section IV</u>.</p> | Nancy Breiden | 8/15/2016 |

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| Page 10, Section V. Fair Hearing A. will now read, “A fair hearing is a formal review conducted by the Agency of Human Services’ Human Services Board (HSB). If an administrative review has been held, a request for a fair hearing must be made within thirty (30) days of receipt of the administrative review decision. If an administrative review has not been held, a request for a fair hearing must be made within ninety (90) days of receiving notice of the decision being appealed.” | Nancy Breiden | 8/15/2016 |
| Page 10, Section V. Fair Hearing B. will be replaced with a New B. and will become C. | Nancy Breiden | 8/15/2016 |
| Page 10, Section V. Fair Hearing <u>New B.</u> will read, “Requests for fair hearing may be made to the DVR Director who must document the request in writing and forward it to the AHS Human Services Board, or directly to the Human Services Board.” | Nancy Breiden | 8/15/2016 |
| Page 10, Section V. Fair Hearing B. which will now be the <u>New C.</u> , will read, “The person (or person’s representative) shall have the opportunity, in accordance with the rules of the Human Services Board (HSB) to be represented by an advocate and to present evidence, information, and witnesses and to examine all witnesses and other relevant sources of information and evidence.” | Nancy Breiden | 8/15/2016 |
| Page 10, Section V. Fair Hearing C. will be removed in its entirety. | Nancy Breiden | 8/15/2016 |
| Page 10, Section V. Fair Hearing final paragraph will remain the same except for removal of “ <u>See Section III. Guidance</u> ” language. | Nancy Breiden | 8/15/2016 |
| Page 10, Section V. Fair Hearing will have additional language added after last paragraph to read, “Individuals dissatisfied with the decision of the Human Services Board may appeal to the Vermont Supreme Court.” | Nancy Breiden | 8/15/2016 |
| Page 10 & 11, <u>Section VI.</u> Civil Action will now become <u>Section V.</u> | Nancy Breiden | 8/15/2016 |
| Page 10 & 11, Section VI. Civil Action language in 1 st paragraph and a. – c. and last sentence will remain the same. | n/a | n/a |
| 4. Review – Chapter 102: Informed Choice | | |
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| Discussion | James Smith stated that this chapter is significantly out of date and needs to be entirely rewritten. However, AWARE is currently taking precedent and he is unsure when the rewrite could be accomplished. Karen Blake-Orne offered to handle the task of rewriting this chapter. She would like to get input from a small group of counselors. She can have a rough draft ready by September 1, 2016. | |
| Conclusions | Committee members agreed with VR rewriting entire chapter and having rough draft ready by September 1, 2016. | |
| Action Items | Person Responsible | Deadline |
| VR to rewrite Chapter 102: Informed Choice | Karen Blake-Orne | 9/1/2016 |
| Invite Karen Blake-Orne to P&P Committee meeting for this follow-up discussion | Rebekah Stephens | TBD |
| 5. Review – Chapter 103: Comparable Services and Benefits | | |
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| Discussion | Nancy Breiden suggested 3 additional language changes, in addition to the changes made during the March 3, 2016 P&P Committee meeting. Committee members reviewed the suggested | |

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| changes. No additional discussion. | | |
| Conclusions | Committee members agree with additional suggested language changes. A quorum was not met today for a vote. Vote on suggested language to take place at next P&P Committee meeting. | |
| Action Items | Person Responsible | Deadline |
| Page 2, Section I. Definitions A. last sentence will now read, “Comparable benefits do not include <u>student loans</u> or awards and scholarships based on merit.” | James Smith | TBD |
| Page 2, Section I. Definitions A. additional language to be added after last sentence to read, “Comparable services and benefits do not include services and benefits for which the person must pay.” | James Smith | TBD |
| Page 3, Section II. General Policy, B. Exemptions, Guidance 1 st paragraph will now read, “Although certain services may be exempt from determination of comparable services and benefits, a determination of possible comparable services and benefits may still be made if progress toward employment will not be <u>impeded or jeopardized</u> and if the person agrees.” | James Smith | TBD |
| Include “Vote of Approval on Proposed Language Changes – Chapter 103: Comparable Services and Benefits” on next P&P Committee meeting agenda | Rebekah Stephens | TBD |
| 6. Other Business | | |
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| Discussion | None. | |
| Conclusions | None. | |
| Action Items | Person Responsible | Deadline |
| None | n/a | n/a |
| 7. Adjournment | | |
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| Discussion | Leslie Walker Mitchell moved to adjourn. Sam Liss 2 nd . | |
| Conclusions | Adjourned at 11:33 a.m. | |
| Action Items | Person Responsible | Deadline |
| Submit draft minutes for approval by Committee | Rebekah Stephens | 6/3/2016 |
| Draft minutes uploaded to www.VTSRC.org | Rebekah Stephens | 6/3/2016 |
| Draft minutes emailed to Committee Members | Rebekah Stephens | 6/3/2016 |
| Minutes approved by Committee | Committee Members | 9/1/2016 |
| Approved minutes uploaded to www.VTSRC.org | Rebekah Stephens | 9/9/2016 |