

**STATE OF NEW YORK  
DEPARTMENT OF EDUCATION  
Adult Career and Continuing Education Services  
Vocational Rehabilitation  
(ACCES-VR)**

**RECEIVED**  
[REDACTED]

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**In the Matter of [REDACTED]  
Petitioner,**

**Against**

**Adult Career and Continuing Education Services  
Vocational Rehabilitation ACCESS  
Respondent**

**Before: [REDACTED] Impartial Hearing Officer**

**The undersigned was designated by the State Education Department/Adult Career and Continuing Education Services. Vocational Rehabilitation (ACCES-VR) to serve as the Impartial Hearing Officer in the matter above.**

**Due to notice thereof having been given, a hearing was conducted on [REDACTED]  
[REDACTED] at the ACCES-VR [REDACTED] the [REDACTED]  
[REDACTED] Present at the hearing:**

**For petitioner: [REDACTED] Petitioner**

**For ACCES-VR: [REDACTED] Director of Counseling, [REDACTED] ACCES- VR  
[REDACTED] Senior Rehabilitation Counselor  
[REDACTED] Vocational Rehabilitation Counselor**

**The Issue**

**Whether ACCES-VR properly denied petitioner's request for self/employment/small business sponsorship, to open [REDACTED] own Pre-K program for children with special needs in the [REDACTED] and be the Educational Program Administrator.**

## Testimony

### Consumer's position

██████████ position is that ACCES-VR denied ██████████ vocational services by not allowing ██████████ to open ██████████ own Pre-K for ██████████ children with special needs and become self-employed as ██████████. In ██████████ testimony, ██████████ acknowledged that ██████████ was treated with respect and good manners by ██████████ ACCES-VR Vocational Counselor. ██████████ position was that ██████████ was not provided the support services and funding to open a Pre-K program and become self-employed as an ██████████ as stated in ██████████ IPE. ██████████ further stated that ██████████ was not successful in opening ██████████ pre-k program due to inadequate consultants hired by ACCES-VR that evaluated ██████████ skills and readiness for successfully establishing a small business and self-employment; but did not have business knowledge in day care programs. ██████████ alleged that the consultants hired did not take into account ██████████ education and experience when making their determination. (See Consumer Exhibits N and T). ██████████ presented evidence that shows ██████████ is a well-respected professional who has a long history of ██████████ (See Consumer Exhibits A, E, F, M, Q & R). During testimony, ██████████ made it clear ██████████ was unable to get a job outside ██████████ home and that required traveling due to physical pain. (Transcript Pg 17 lines 16-25). ██████████ also argued that ██████████ will be able to certify, develop, and operate the day care from home and ██████████ rejected employment placement services to gain regular employment in a day care suggested by the VR counselor.

█████ argued that the placement services should only focus on helping █████ set up █████ own day care and obtain self-employment. █████ presented the fact that █████ did not have any money and did not secure any bank loans due to █████ lack of financial resources. █████ disclosed another important fact, that █████ doesn't have NYS Department of Education application approval since

█ does not have a current license. The facility █ presented as a future space- █ costs █ month and █ needs █ down payment, that █ doesn't have. In addition, the building inspector documented there are violations that must be cleared in order to make the space safe for children. █ submitted a new program start up budget for █ however, █ original budget was for a total yearly budget of █ █ alleged that █ will charge yearly tuition of █ per child to cover expenses. Even after receiving business consultant's financial breakdown demonstrating that the budget was not feasible, █ insists on moving forward with opening the daycare for children with special needs in the █

### **ACCES-VR'S POSITION**

ACCES-VR'S POSITION █ regarding █ case is that the agency denied █ self-employment small business sponsorship to open a pre- K program based on █ inability to present a realistic business plan, adherence to ACCES-VR'S policies (See ACCES - VR Exhibits #3, #5, #10, #8), █ insistence in operating the Pre-K program for █ special needs children from █ home, and results from █ evaluations from consultants. █ underwent a DVE and the report recommended the consumer attend █ for further training and employment preparation. Evidence was presented that █ rejected the recommendations due to severe, painful medical condition that prohibits █ from traveling or performing activities.

█ of █ the business consultant, performed a business evaluation. █ concluded that █ did not have the business skills, access

to funding, [REDACTED] or state and city certifications to realistically open and operate the Pre-K program for children with special needs.

ACCES-VR submitted into evidence [REDACTED] report indicating that [REDACTED] financial projections did not mathematically indicate a viable, realistic, profitable business. (See ACCES-VR Exhibit #17). [REDACTED] developed the [REDACTED] with the goal of [REDACTED] before [REDACTED] became [REDACTED] counselor. (See ACCES-VR Exhibit #12). ACCES-VR presented evidence that [REDACTED] failure to secure any funding to establish the day care business although [REDACTED] did get a loan of [REDACTED]. ACCES-VR presented many concerns regarding [REDACTED] goal of opening a Pre-K for children with special needs in the [REDACTED] [REDACTED] submitted evidence to [REDACTED] concern, that [REDACTED] plans to run the daycare remotely, (without leaving the home) and supervise [REDACTED] teachers, [REDACTED] teacher's assistants and a [REDACTED] is unrealistic. [REDACTED] expressed that data shows that running a business and supervising staff requires hands on work. ACCES-VR presented evidence from [REDACTED] that states [REDACTED] is unable to perform any work due to [REDACTED] medical condition. (See ACCES-VR Exhibit #13). Based on evaluations and evidence, ACCES-VR denied [REDACTED] sponsorship for self-employment.

### **FINDINGS OF FACTS AND DISCUSSION**

The main issue in this case is that ACCESS-VR denied consumer [REDACTED] self-employment sponsorship to open a pre- K program for children with special needs in the [REDACTED] (See ACCES-VR Exhibit #12), with the work goal of educational program administrator. During the hearing, [REDACTED] presented as a matured, eloquent individual with a legitimate desire to

receive the Access-VR services to provide [REDACTED] with funding to open a day care. The evidence shows ACCES-VR followed the vocational goal of self-employment. [REDACTED] IPE was developed and signed by all parties with clear goals and sponsorship parameters. Despite the aforementioned, [REDACTED] did not seem to understand [REDACTED] need to be able to implement the business plan, work with a realistic budget and physically be mostly present in the day to day operation of the business. (See ACCES-VR Exhibit #13). During the hearing, Access-VR presented evidence that [REDACTED] medical history and inability to supervise the operation in person is a barrier to [REDACTED] self-employment and running a business. It was clear [REDACTED] severe pain and low endurance for physical activities were significant issues that prevent [REDACTED] from starting up, operating, and sustain [REDACTED] slots for a pre- k program.

During the hearing, it was clearly established that [REDACTED] receive some vocational/placement services, however, the service providers and ACCES-VR counselors conclude [REDACTED] goal was not realistic. From testimony and evidence presented at the hearing [REDACTED] had a limited work history in education as a [REDACTED] for only [REDACTED] [REDACTED] was not able to establish a Pre K program for [REDACTED] children with special needs. [REDACTED] had no evidence of [REDACTED] capacity to start up, establish and sustain and make a profit running a pre- K daycare.

The agency provided evidence that [REDACTED] received vocational counseling and evaluations to help [REDACTED] meet [REDACTED] goal according to the IPE. In fact, it was clearly documented that [REDACTED] rejected any additional business courses to gain skills in this area. Most case notes admitted into evidence show that [REDACTED] received vocational counseling and support from ACCES-VR and counselor [REDACTED] Counselor presented [REDACTED] concerns and evidence that [REDACTED] was not able to operate a daycare business. It is clear from all the evidence presented in this case notes;

that a good supportive working relationship was established between ACCES-VR counselor [REDACTED]. However, [REDACTED] was firm about [REDACTED] professional decision not to sponsor [REDACTED] for self-employment. As a vocational counselor, [REDACTED] provided sufficient evidence to support [REDACTED] decision. Despite all the evidence presented that demonstrated [REDACTED] did not have the resources, physical ability, and business skills to open and operate a pre-k program, [REDACTED] continued to state opening the daycare as [REDACTED] only vocational goal.

Despite [REDACTED] education and work experience presented during the hearing, [REDACTED] continues to be passionate about opening a Pre-K program for [REDACTED] children with special needs with ACCES-VR sponsorship.

#### LAWS REGULATIONS AND POLICIES

It was apparent from all the evidence presented by both sides during the hearing that [REDACTED] [REDACTED] was determined eligible for vocational rehabilitation services under Policy (202.00). [REDACTED] was determine eligible for vocational rehabilitation services under Policy (202.00). Eligibility for Services and developed an IPE dated [REDACTED] (See ACCES-VR Exhibit 12). The development of the IPE was based on adherence to ACCES-VR **Policy (206.00) Individualized Plan for Employment**. According to evidence presented, the IPE has the goal of: Educational Administrator, with the possibility of self-employment sponsorship pending vocational evaluations. According to **Self-Employment Policy (1301.00)**, the outcome of establishing a self-employment venture relies on the partnership between ACCES-VR and the consumer. In this case, the ultimate goal of self-employment venture is for [REDACTED] to receive the services under the IPE, establish [REDACTED] day care program, and become financially independent. **Policy (1301.00)** requires that ACCES-VR/consumer partnership create a self-employment venture that includes: a significant commitment of time and resources, a realistic first-year business plan,

evaluation of plan by an outside expert, and understanding by ACCES-VR of the potential need for extended time to implement the self-employment rehabilitation.

ACCES-VR provided testimonies and documentation showing the ACCES-VR fully adhered to the policies and procedures in providing [REDACTED] adequate VR counseling/ placement services to successfully gain employment as per [REDACTED] IPE (See ACCES-VR Exhibit #7, #8, #11, #14).

### **Decision**

After listening to all testimonies during hearing, and carefully reviewing all the facts, evidence, policies, and regulations, and laws relating to this case, I as the Hearing Officer have decided the following:

ACCES- VR's denial of [REDACTED] request for self-employment/small business operatorship to open a Pre- K for children with special needs in the [REDACTED] was Proper. [REDACTED] did not provide any evidence [REDACTED] had a solid realistic business plan with financial assets, business knowledge, certifications, and resources for the daycare business. It must be noted that ACCES -VR has policy adherence for self- employment and small business start-up. [REDACTED] business plan did not meet the policy criteria and exceeded ACCES-VR's policy contribution ability. [REDACTED] does not possess any state or local government license or certifications to operate a Pre- k program and particularly for children with special needs. [REDACTED] did not demonstrate a realistic, profitable, sustainable plan to fulfill [REDACTED] wish and receive ACCES-VR's sponsorship to open and operate a Pre-K program for children with special needs in the [REDACTED]

[REDACTED]  
Impartial Hearing Officer  
[REDACTED]

## **APPEAL NOTICE**

**PLEASE TAKE NOTICE:** This decision is final. If you disagree with this decision, you may seek a judicial review through an action in a court of competent jurisdiction.



## EXHIBITS

[REDACTED]	
A	LETTER OF SUPPORT
B	NEW PROJECTED BUDGET [REDACTED]
C	BUSINESS PLAN FOR SPECIAL ED CHILDREN-[REDACTED]
D	2 YEAR BUDGET BUSINESS PLAN
E	E-MAIL LETTER OF REFERENCE FROM [REDACTED]
F	CONSULTANCY LETTER FROM [REDACTED]
G	E-MAIL COMMUNICATION WITH [REDACTED]
H	[REDACTED] PROPOSAL & E-MAIL TO [REDACTED]
I	BLANK PRE-SCHOOL APPLICATION - [REDACTED]
J	EVALUATION CRITERIA INITIAL APPLICATION
K	[REDACTED]
L	LETTER FROM [REDACTED]
M	LETTER FROM [REDACTED]
N	[REDACTED]
O	[REDACTED] BROCHURE
P	[REDACTED] VOLUNTEER AGREEMENT
Q	LETTER OF RECOMMENDATION-[REDACTED]
R	LETTER OF RECOMMENDATION [REDACTED]
S	CONSULTING AGREEMENT
T	CV-[REDACTED]
U	SITE VIABILITY REPORT-[REDACTED]
V	[REDACTED]
W	E-MAIL [REDACTED]
X	E-MAIL TO [REDACTED]
Y	UNIVERSAL PRE-KINDERGARTEN SERVICES PROPOSAL FORM

## ACCES-VR'S EXHIBITS

1	ELIGIBILITY DETERMINATION
2	[REDACTED]
3	ELIGIBILITY POLICY
4	CASE NOTE-[REDACTED]
5	CONSUMER INVOLVEMENT POLICY
6	CASE NOTE-[REDACTED]
7	CASE NOTE-[REDACTED]
8	CASE NOTE-[REDACTED]
9	DIAGNOSTIC VOCATIONAL EVALUATION
10	ASSESSMENT POLICY
11	CASE NOTE-[REDACTED]
12	IPE
13	DR'S LETTER & CASE NOTE
14	CASENOTES [REDACTED]
15	REFERRAL TO BUSINESS CONSULTATION
16	[REDACTED]
17	BUSINESS PLAN EVALUATION
18	SELF-EMPLOYMENT POLICY
19	CASE NOTES-[REDACTED]
[REDACTED]	[REDACTED]