STATE OF NEW YORK COMMISSIONER OF EDUCATION

Petitioner

Against

ACCES-VR

Respondent

DECISION & ORDER

Impartial Hearing Officer:
Date of Hearing:

Received

By: left blank

INTRODUCTION

The office of Adult Career and Continuing Education Services- Vocational Rehabilitation of the State of NY State Department of Education appointed me to act as the impartial hearing officer in a case brought by the consumer under the Federal Rehabilitation Act of 1973. (29 U.S.C. 701 et seq.). The consumer requested a hearing by filing a due process complaint with Access-VR on (Arb. Exhibit (Ex.) B.) The hearing was conducted on at the District Office in New York. A list of all the exhibits introduced as evidence at the hearing are attached to this decision.

ISSUES

Did ACCES-VR act appropriately and lawfully under federal and state law in refusing to provide the consumer with an appropriate VR counselor? Did they act appropriately and lawfully under federal and state law in refusing to provide the consumer with a new employment placement provider? Did ACCES-VR act appropriately and lawfully under federal and state law in refusing to provide the consumer with an expert to help the consumer secure federal employment? Did ACCES-VR act appropriately and lawfully under federal and state law ... when they refused to handle the consumer's "Ticket to Work" to another agency for services?

CONSUMERS CASE

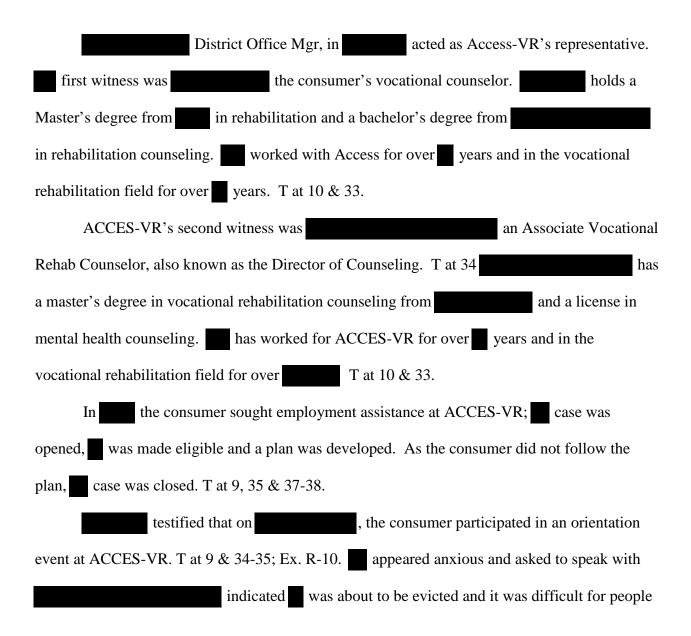
The Consumer failed to appear at an impartial hearing. The consumer was notified of the location, place and time of the impartial hearing by letter sent certified and regular mail to known address and subsequent communications between the parties. IHO Ex. A;

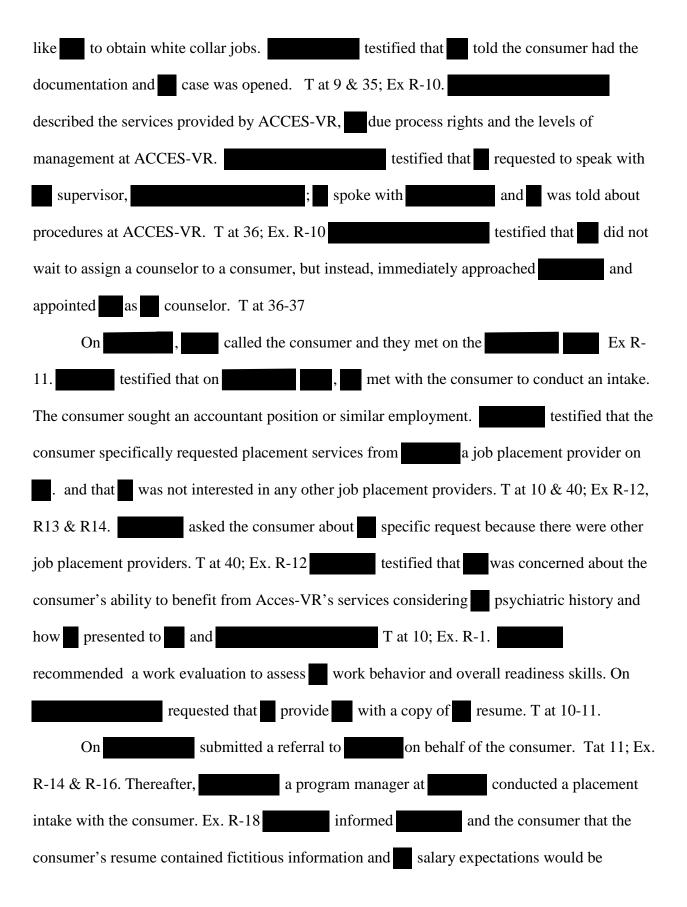
Transcript (T) at 4-5 & 51-52. On at the time of the hearing, the consumer did not contact the . T at 51-52.

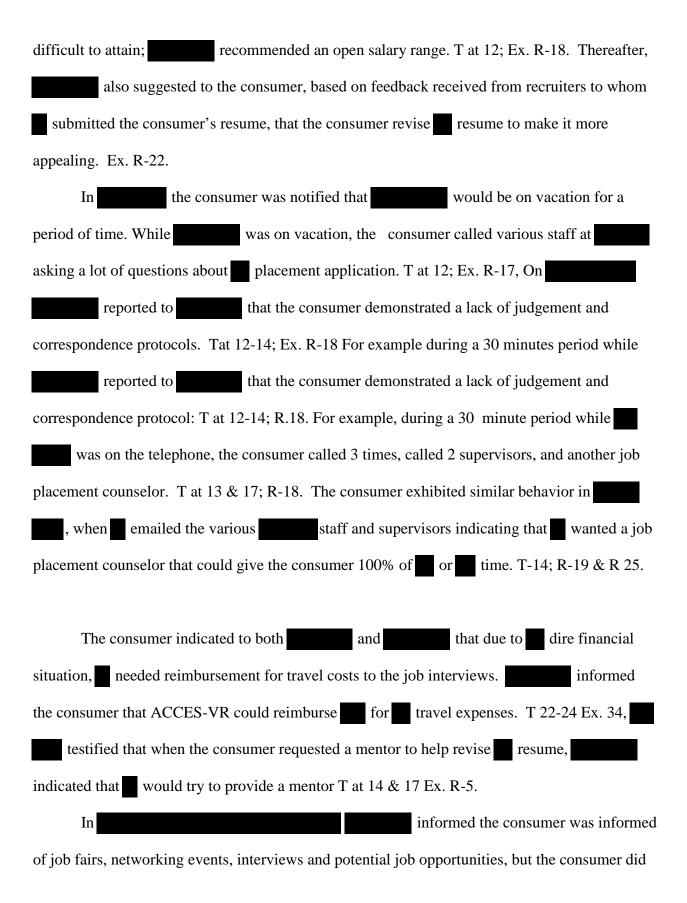
The consumer has the burden of proof to establish that ACCES VR's actions were improper. As the consumer failed to appear at the hearing and thus offered no evidence to substantiate claims, has failed to sustain burden.

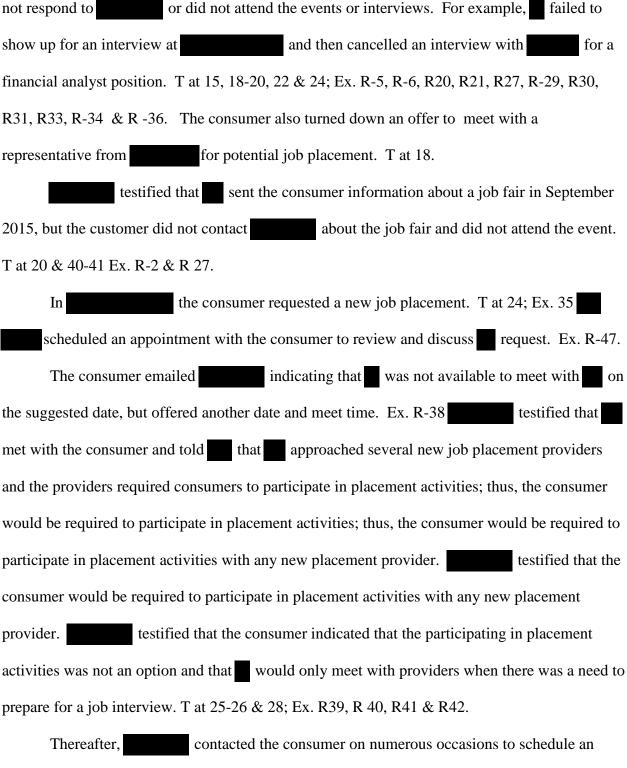
In any event, upon review of the evidence presented, to determine if it provided the consumer with vocational services, I find that ACCES-VR acted appropriately and lawfully under state and federal law.

ACCES-VR's Case









appointment for further placement and the consumer failed to show up or cancelled the

appointment. when the consumer failed to respond to a letter wrote to requesting a meeting, closed case. T at 25 & 28-30; R-43.

Based on the consumer's complaint that ACCES-VR was not assisting with job placement services, in case was reopened. T at 30; Ex. R-26 testified that on sent a certified letter to the consumer scheduling and appointment with on testified that on the consumer sent email indicating that would not attend the appointment. T at 31 & 42-43; Ex. R-8 & R9.

Thereafter, was notified that the consumer filed a due process complaint; the case was reverted back to closed. T at 31.

LAW AND FINDINGS

ACCES-VR is the New York State agency authorized to administer federal funds under the Rehabilitation Act. Of 1973 (the Act), which is codified at 29 U.S.C. 701 et seq. Access-VR administers a federal program under Title 1 of the Act to assist eligible individuals in achieving their employment goals. The purpose of the Act is to develop comprehensive programs that will maximize the employment of disabled individuals and their integration into society. (2 (b)) of the Act). However, despite its broad reach, the Act specifically provides that it is not intended to confer any entitlement to vocational rehabilitation services. (102 (a)(3) (B) of the Act).

After reviewing the evidence in the case, I conclude that Access-VR acted appropriately.

I give substantial weight to and testimony which I found credible. I also give credit to the documents provided by Access-VR.

I find that upon request, ACCES-VR immediately opened the consumer's case. I find that was promptly assigned as counselor and that quickly set up a meeting with to discuss employment concerns. T at 9 & 35-37; Ex.. R-10; & R-11 I also find that.

promptly contacted the job placement provider the consumer specifically requested, despite concerns about its location and overall concern about the consumer's ability to benefit from ACCES-VR services. T at 10 & 40; Ex. R-1, R-12, R13 & R-14.

I find that maintained regular contact with the consumer and the consumer's contact at I find that there is ample evidence in the record of attempts to assist the consumer in obtaining interviews and employment. Over several months, and provided the consumer with information on several job fairs, set up interviews between the consumer and potential employers and offered the consumer concrete advice and support regarding how to obtain employment. However, I find that the record is also replete with consistent examples of the consumer's failure to attend the recommended job fairs or interviews scheduled for T at 15, 18-20, 22, 24, & 40-41; Ex. R-2, R-5, R-6, R-20, R-21, R-27, R-29, R-30, R-31, R-33 R-34, & R-36

In sum, I find that although the consumer, at times, maintained contact with and the provider and appeared to diligently research employment opportunities, the evidence also indicates the consumer was repeatedly unwilling to fully take part in the services offered to and to take the steps necessary to gain and secure employment.

DECISION

It is my decision that ACCES-VR acted promptly and lawfully and provided the consumer with appropriate vocational services and an appropriate counselor, access to new employment placement providers. I find that the consumer's requests for a federal employment expert and that "Ticket to Work" be provided to another agency for services are wholly without merit.

RIGHT TO APPEAL

This decision will become final and ACCES-VR will begin to implement the decision within 20 days of its execution. A party who disagrees with this decision may seek final judicial review of the decision in either New York State Supreme Court or the United States District Court.

The decision rendered:	
	Impartial Hearing Officer