

THE STATE OF NEW YORK  
COMMISSIONER OF EDUCATION

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[REDACTED]

Participant

Against

Adult Career and Continuing Education Series (ACCES-VR), Respondent

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DECISION

Hearing Officer: [REDACTED] Esq.

Hearing Date: [REDACTED] 2017

[REDACTED]

[REDACTED] NY [REDACTED]

Appearances [REDACTED] 2017

[REDACTED] Senior Vocational Rehabilitation Counselor

[REDACTED] Associate Vocational Rehabilitation Counselor

[REDACTED] Vocational Counselor

Exhibits entered for Impartial Hearing Officer: *I. to II.*

*I.* Notice of Hearing, [REDACTED] 2 pp.

*II.* Due Process Request, [REDACTED] 1 p.

On [REDACTED] 2017, I was appointed as the impartial hearing officer (hereinafter “IHO”) by the Office of Adult Career and Continuing Education Services-Vocational Rehabilitation (hereinafter “ACCES-VR”) in the matter of [REDACTED] the participant (hereinafter “the Participant”) (IHO Exh. I.). The Participant requested the due process hearing by letter dated [REDACTED] 2017 (IHO Exh.II.) Under Regulations of the Commissioner (See 8 NYCRR Part 247.4[a] the request for an impartial hearing shall be no later than 90 days after the individual is informed of the agency’s decision or action which the individual seeks to review. The hearing was conducted on [REDACTED] 2017 at the ACCES-VR [REDACTED] Office at [REDACTED] [REDACTED] New York.

The decision for this due process hearing was due 21 days after the receipt of the transcript. The transcript was received on [REDACTED] 2017. The transcript of the hearing shall be available to a party upon request. (See 8 NYCRR Part 247.4[m]) Appended to the record are lists of persons in attendance and of documents submitted into evidence.

#### ISSUE

The issue is whether ACCES-VR acted properly in refusing to fund education and whether ACCES-VR acted properly in refusing to change the Vocational Rehabilitation Counselor.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

Testimony adduced at the hearing established the efforts made by the Associate Vocational Rehabilitation Counselor, [REDACTED] [REDACTED] to search the building for the Participant from 10:00 a.m. until 10:42 a.m. (Tr. at 6:10). The Senior Vocational Counselor, [REDACTED] testified that [REDACTED] went to the reception area and at 10:15 a.m., [REDACTED] checked the

voicemail on [REDACTED] telephone and there were no messages from the Participant and at 10:30 a.m., [REDACTED] searched the reception area again. (Tr.8) I contacted Anne Sternbach, Senior Vocational Rehabilitation Counselor, the person who scheduled this hearing as indicated on the Notice of Hearing (Exh. IHO I.) and she told me that the participant did not contact her. (Tr. at 10) Testimony adduced at the hearing established that ACCES-VR did change the Vocational Rehabilitation Counselor as requested by the Participant. (Tr. 11)

I find evidence of the Notice of Hearing was not rebutted. I find the staff at ACCES-VR and I waited from 10:00 a.m. until 11:07 a. m. for the Participant to appear for the hearing and the Participant did not appear and no reason was given for Participant's absence. Accordingly, I default the Participant. Therefore, the matter is dismissed.

Dated: [REDACTED] 2017

[REDACTED] Esq.

Impartial Hearing Officer

Please take notice

This is a final decision of the Impartial Hearing Officer and ACCES-VR will begin to implement the decision within 20 (twenty) days. If either party to the Impartial Hearing Officer disagrees with my decision, he/she may seek judicial review of the decision through an action in either a New York State or United States District Court of competent jurisdiction.