



October 21, 2016

Irene Baerwalde  
Administrative Correspondent Assistant, Ombudsman  
Office of Executive Policy and Programs  
The South Carolina Department of Administration  
1200 Senate Street, Suite 104  
Columbia, SC 29201

RE: Request for Administrative Review of Hearing Officer's Decision -  
Lawrencia Smalls, SCVRD client

Dear Ms. Baerwalde:

This letter is to inform you of our receipt of your email dated October 18, 2016. The letter attached to the email includes a request from Ms. Alvenia Smalls, mother of SCVRD client Lawrencia Smalls, for a review of the decision rendered by Dr. Michael Walsh, the Impartial Hearing Officer (IHO), selected to conduct the impartial due process hearing. As discussed in more detail below, this impartial hearing was held in accordance with federal regulations governing the State Vocational Rehabilitation Services Program (SCVRD – the designated State unit) as authorized by Title I of the Rehabilitation Act of 1973. The hearing in these cases is held pursuant to that law and implementing regulations to ensure that an applicant or eligible individual who is dissatisfied with any determination made by personnel of the designated State unit that affects the provision of vocational rehabilitation services may request, or, if appropriate, may request through the individual's representative, a timely review of that determination.

Ms. Alvenia Smalls requested an impartial hearing for her daughter and it was scheduled for August 23, 2016, in the SCVRD office in Moncks Corner. Ms. Smalls was notified by certified mail on August 11, 2016, of the date and location of the hearing. To ensure she received the hearing notification, letters were sent to both addresses she provided, since she had indicated she was in the process of moving. The letters were a follow-up to phone calls to Ms. Smalls on July 28, 2016, August 3, 2016, and August 5, 2016. Voice mails were left after each call.

Unfortunately, we were notified shortly before the meeting was scheduled to begin that neither Lawrencia Smalls nor her mother would attend. Since the IHO had prepared for the meeting by thoroughly reviewing Lawrencia's file and since the Smalls had ample advance notice of the hearing, the hearing proceeded in their absence. In addition to Dr. Walsh, the SCVRD Legal Counsel and SCVRD Ombudsman traveled from Columbia to attend the 10:00 a.m. hearing in Moncks Corner. Four members of the local area office staff were also in attendance. The reason for the Smalls' failing to attend is not clear, since they were notified well in advance and did not indicate that they wished to cancel the meeting.

As you are aware, Section 102(c)(1) of the Rehabilitation Act of 1973 (and 34 CFR Section 361.57) requires that designated State vocational rehabilitation agencies, i.e., SCVRD, establish procedures for mediation or hearing and review through an impartial due process hearing in order for

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Neal Getsinger, Commissioner

**The South Carolina Vocational Rehabilitation Department prepares and assists  
eligible South Carolinians with disabilities to achieve and maintain competitive employment**

*Legal, Safety & Risk Management* ■ (803) 896-6630 ■ (803) 896-6655 (Fax)  
1410 Boston Avenue ■ P.O. Box 15 ■ West Columbia, South Carolina 29171-0015  
(800) 832-7526 (Toll free) ■ (803) 896-6667 (TDD) ■ [info@scvrd.state.sc.us](mailto:info@scvrd.state.sc.us)

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disputes regarding determinations made by agency personnel to be resolved. Section 102(c)(8)(B)(i) further addresses the standards of review to be used by the reviewing official when reviewing IHO decisions.

For your convenience, I have included the following attachments:

1. Client Services Policy, Section 45 Review of Applicant and Client Complaints;
2. 34 CFR Part 361 State Vocational Rehabilitation Services Program; Final Rule; and
3. Impartial Hearing Officer Decision

Please be advised that the hearing was conducted in strict accordance with 34 CFR Part 361, Section § 361.57 *Review of determinations made by designated State unit personnel*. Ms. Alvenia Smalls has taken full advantage of her daughter's due process rights throughout her case. In the past, Ms. Smalls has scheduled meetings with the SCVRD Ombudsman and the Client Assistance program director, and, on at least three occasions, failed to attend the meetings.

As an agency dedicated to assisting individuals with disabilities to obtain gainful competitive employment, we remain committed to working with Lawrencia Smalls. Unfortunately, obtaining access to her to provide vocational rehabilitation and job placement services has been met with resistance by her mother, Ms. Alvenia Smalls. I would reiterate our contention at the hearing level that SCVRD has been diligent in our efforts to assist Lawrencia Smalls in becoming competitively employed, but her mother has, in fact, prevented our ability to engage in providing meaningful services to Lawrencia.

SCVRD presented witnesses, documentation and argument during the hearing held on August 23, 2016. Our position presented during that hearing is referenced herein and is made a part of this response to Lawrencia Smalls' appeal to the Governor. The SCVRD submits that the hearing officer's decision fully delineates the issues and summarizes the documents and testimony and conclusions of fact and law. SCVRD further submits that the decision and order constitute a just and proper resolution of the issues presented and that the impartial decision of Dr. Michael Walsh should be upheld.

If you determine that SCVRD can provide any additional information, please do not hesitate to contact me.

Sincerely,



John E. Batten, IV  
General Counsel

#### Attachments

Cc: Neal Getsinger, SCVRD Commissioner  
Clifford Brooks, SCVRD Ombudsman  
Field Operations Manager  
Assistant Commissioner for Client Services