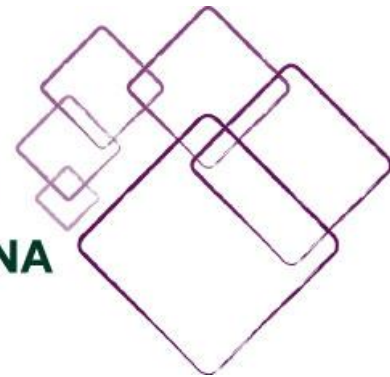


# Let's Get to Work

## NCAPSE Conference 2016

**DISABILITY RIGHTS**  
NORTH CAROLINA

*Champions for Equality and Justice*



# What is Disability Rights NC?

- Protection and Advocacy (P&A) system for people with disabilities in NC. We:
  - Investigate complaints of serious abuse or neglect
  - Advocate for legal rights
  - Tell people with disabilities about their rights and support self-advocacy

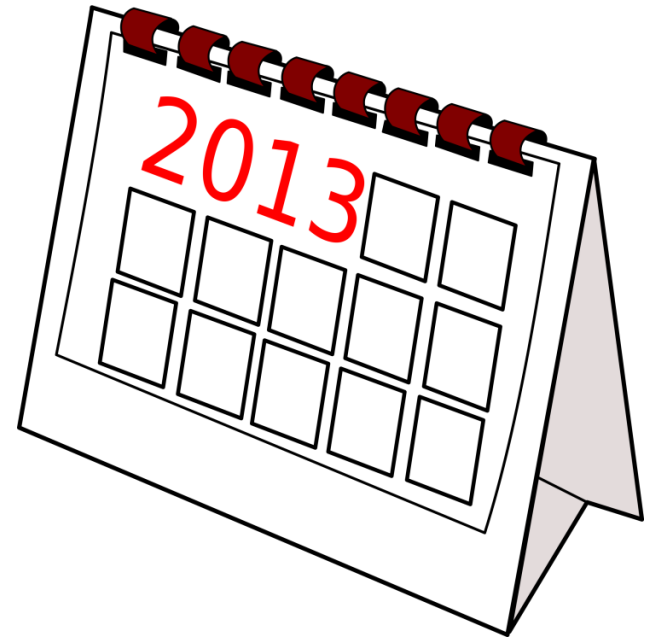


**All of our services are FREE for people with disabilities!**

# **MAXIMIZING VR SERVICES**

# Referral & Application Process

- First step is the referral – a request – for services.
  - individual may refer themselves
  - VR Application/Agreement of Understanding for a transition-aged student
  - individual does not have to wait for discharge from facility to begin process as long as they can attend appointments and evaluations



# Referral & Application Process

- Application process to begin within **21 days** of referral.
  - group orientations
- Once an application complete, VR has **60 days** to determine eligibility for services.
- SSI/SSDI presumptive eligibility.



Advocacy Tip: Calendar the date of referral, beginning of application process, etc. Follow up with VR if more than allotted time has elapsed.

# The Individual Plan for Employment (IPE)

- IPE must be completed within **90 days** of eligibility.
  - Can be extended **with client's permission**. Checking on progress  $\neq$  automatic permission for extension.
- The VR client has the right to select the employment goal (within limits)
  - VR counselor may **aid** – not take over – selecting employment goal



# Informed Choice

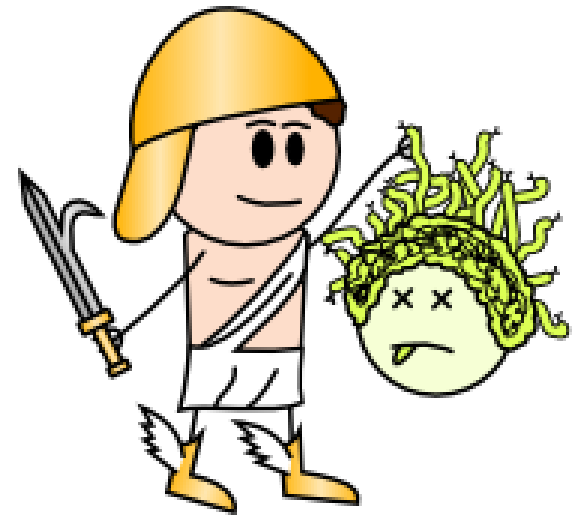
- VR clients have a right to make informed choices.
- Informed choice = knowledge of all options available and potential outcome if option selected
- VR must develop services and service provider options to provide choice.



Advocacy tip: If a counselor is providing only one option, request a list of all available services and providers, and request that additional services/providers be developed if insufficient to meet goals.

# Myth Busters

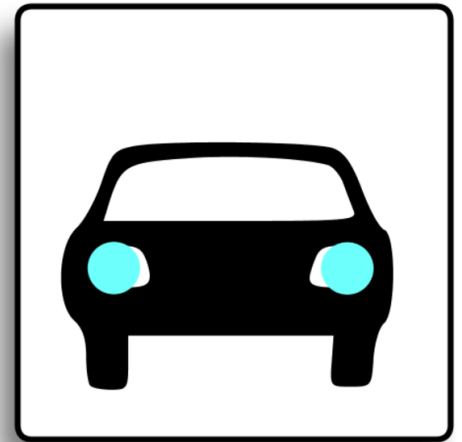
- “Students don’t meet with VR until their senior year.”
  - Any individual with a disability that may impair their ability to work may apply for VR services as early as age 14.
  - Students do not have to wait until the school refers them for VR services; any student, parent, or guardian may contact VR directly and request an application.





# Myth Busters

- “VR doesn’t pay for transportation.”
  - available for assessment services and VR appointments regardless of financial need
  - must be provided to transition-age students if not otherwise provided by school
  - for adults, subject to financial need and comparable benefits, **but is available!**



# Complaints About VR Services

- Contact counselor, and if s/he not responsive, the unit manager
  - Be prepared with references to VR manual
- If the local staff does not resolve your complaint, you may pursue VR grievance procedures
- At any time, individual may contact the Client Assistance Program or Disability Rights NC for information about rights, and to request advocacy assistance

# ACCOMMODATIONS AT WORK



# Title I of the ADA

- Prohibits discrimination in all employment practices. **Discrimination includes the refusal to accommodate.**
- Applies to state and local governments, private employers, employment agencies, and labor unions with **15 or more employees.**
- Enforced by the Equal Employment Opportunity Commission (EEOC).



# Reasonable Accommodation

- A reasonable accommodation is any modification, adjustment, or change to the work environment that enables a *qualified* person with a disability to perform the job or to access the benefits available to similarly situated employees who do not have a disability.
- “Qualified” = able to perform the essential functions of the desired job or job currently held, with or without reasonable accommodation(s).

# Reasonable Accommodation

- Individuals must ask for accommodations; accommodations must be provided at the employer's expense.
- An employer may request medical documentation if the nature of the employee's limitations are not obvious.
- Defense: undue hardship



# To Disclose Or Not To Disclose?

- Disclosure and affirmative request for accommodation(s) required to receive accommodations during application procedures, interview, and employment.
- Request for accommodations can be made at any time. However, disclosure after a disciplinary action, termination, etc. does not require the employer to retroactively change decision based on new information.

# Disclosure: Pros & Cons

## PROS

- Employer is federal employer, contractor, or other business with an affirmative hiring policy
- Accommodations are needed, such as sign language interpreter or accessible interview location
- If being disciplined, may assist the employer to understand why conduct/improper event occurred

## CONS

- May be (illegally) screened out of applicant pool
- If being disciplined, disclosure may be too late to change the outcome



# Advocacy Tip

- Document request for accommodation(s) in writing
  - Set a deadline for employer to respond to request; follow up with employer if no response.
  - Identify accommodations that may work and emphasize willingness to discuss alternatives with employer.
  - Work with medical providers to obtain information needed (ghost-writing)



# Advocacy Tip

**Employees** (and employers) can contact the Job Accommodation Network ([askJAN.org](http://askJAN.org)) for help identifying and implementing accommodations



**Employers** can contact the Employer Assistance and Resource Network ([askEARN.org](http://askEARN.org)) for assistance identifying and implementing accommodations



**TAKING THE  
NEXT STEP...**

# Was That Discrimination?

- Refusal to provide accommodations
- Different terms and conditions of employment
  - Shorter breaks
  - Different rules
- There is a new manager and now the employee is getting fewer hours, having issues with accommodations, etc.



# Complaints Against Employer Under The ADA

A complaint must be filed within **180 days** of the discrimination with the Equal Employment Opportunity Commission (EEOC).

Website to find your local office:  
[www.eeoc.gov/field/index.cfm](http://www.eeoc.gov/field/index.cfm)  
Phone: 1-800-669-4000



# Complaints Against Employer Under The ADA

- Filing with the EEOC is an administrative remedy which **must** be exhausted before individual can file court action; may include mediation to resolve the complaint.
- If the EEOC does not find a violation, employee receives a “right to sue letter” and has 90 days to file lawsuit in court or forfeits claims.



# Complaint Against NC DHHS

- Very recently, the North Carolina Department of Health and Human Services (DHHS) implemented a grievance procedure that is available to anyone who has a complaint of disability discrimination against any program, service, or activity of DHHS and its divisions.
- Information about the procedure and a copy of the complaint form are available at <http://www.ncdhhs.gov/about/departments-initiatives/ada-grievance-procedure>.
- Complaints must be filed within 60 days of discrimination to be resolved through this procedure.

# Should We Call A Lawyer?

- Do you believe the individual has been discriminated against based on their disability?
- Do you believe the individual is being taken advantage of in some other way? (wage theft, harassment, abuse/neglect)
- Is the individual interested in competitive, integrated work but earning a subminimum wage?





# Provider Role (?)

- Empowering and encouraging individual to request accommodations
- Continuing your own education on employment rights and effective advocacy strategies
- Assisting individuals you support in standing up for rights by informing them of administrative processes available and participating in the process by providing testimony/evidence of any discrimination you witnessed

Agree or Disagree?

# If you move out of NC?

Find free legal help in your new State on the National Disability Rights Network website:



[www.ndrn.org/en/ndrn-member-agencies.html](http://www.ndrn.org/en/ndrn-member-agencies.html)



# Contact Information

Disability Rights North Carolina

3724 National Drive

Suite 100

Raleigh, NC 27610

919.856.2195

877.235.4210

888.268.5535 TTY

919.856.2244 fax

[www.disabilityrightsncc.org](http://www.disabilityrightsncc.org)