# Vocational Rehabilitation Services Manual A-200: Customer Rights and Legal Issues

Revised June 29, 2020

## Introduction

Texas Workforce Commission (TWC) staff members may experience a variety of requests for customer information for which various protocols are appropriate. Generally, the table of contents directs individuals on the protocols to follow.

When contacting the TWC Office of General Counsel (OGC), individuals can first review the information and instructions in this chapter that seem most directly related to their question, and then call, email, or open a ticket in the self-service portal to submit the question. Calling is always fastest, but if it would be easier to explain in writing, individuals can use email or the OGC portal. Subpoenas, court orders, letters from attorneys, and out-of-the-ordinary customer releases will almost always need to be emailed. Individuals can call or email either the Open Records Department or the attorney designated to support their division. If individuals do not know which attorney is designated to support their division, they can ask the OGC receptionists or legal assistants. If the designated attorney is not available, then speaking with any other attorney is acceptable.

For more information on how to access OGC, refer to D- 503: Office of General Counsel.

The Open Records Department can answer most ordinary questions. Telephone calls may be placed through the OGC receptionist at (512) 463-3300 or directly to the main number (512) 463-2422. The OGC portal to submit subpoenas and customer releases is located at [TWC-OGC portal](https://twcgov.service-now.com/ogc). E-mail may be sent to [open.records@twc.state.tx.us](mailto:open.records@twc.state.tx.us) or faxes may be sent to (512) 463-2990.

## A-201: Legal Authorization

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## A-202: Basic Customer Rights

VR customers are afforded certain basic rights, which include the right to:

* informed choice;
* be informed in writing of their rights;
* services that are nondiscriminatory;
* protection of personal information contained in the division's records, and
* appeal decisions regarding their planned services or their eligibility for such services.

Applicant and customer rights applicable to each VR program are summarized in a brochure titled [Vocational Rehabilitation Appeal Procedures - Can We Talk? (PDF)](https://twc.texas.gov/files/jobseekers/vocational-rehabilitation-appeal-process-twc.pdf). A copy of the brochure is to be provided to the customer, at a minimum:

* at application;
* at the time of initial plan development or IPE amendment;
* when services are being denied, reduced, suspended, or terminated; and
* upon applicant/customer request.

A case note must be entered in RHW documenting the date and method the brochure was given to the customer.

For a detailed description of the appeals process, see [VRSM A-204: Appeals and Hearings](https://twc.texas.gov/vr-services-manual/vrsm-a-200#a204) in this chapter.

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### A-202-3: Allegations of Abuse, Neglect, or Exploitation

[Texas Family Code §261.101](http://www.statutes.legis.state.tx.us/SOTWDocs/FA/htm/FA.261.htm#261.101) requires an individual who believes that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any individual to immediately (within 48 hours) report the suspected abuse.

[Texas Human Resources Code §48.051](http://www.statutes.legis.state.tx.us/SOTWDocs/HR/htm/HR.48.htm#48.051) requires a person to make a report if there is cause to believe that a person age 65 or older or a person with a disability is being abused, neglected, or exploited.

To report allegations of abuse, neglect, or exploitation, the person who believes that abuse, neglect, or exploitation has occurred must immediately:

* contact law enforcement if the incident is a threat to health or safety;
* notifiy their supervisor, manager, or the appropriate contract manager of the allegation; and
* report the incident to the appropriate investigatory agency, as listed in the table below.

When a supervisor, manager, or appropriate contract manager receives a report of suspected abuse, neglect, or exploitation, they must do the following:

* consult with TWC Regulatory Integrity Division and/or Human Resources for next steps;
* consult with TWC Office of General Counsel (OGC), as appropriate; and
* fill out an RSM-3120, Security Incident Report, on the same day, but no later than 48 hours after the date the allegation was made, and email the report to Incident Reports – RSM, and to his or her supervisor or manager

If a person believes that the suspected abuse, neglect, or expoitation presents a threat to the health and safety of the person being abused, negected, or exploited, law enforcement should be notified immediately.

Additionally, when a person believes that suspected abuse, neglect, or expliotaiton has occurred, they must report it to to the appropriate investigatory agency.

Suicide and suicide attempts should immediately be reported to law enforcement and the person’s supervisor and/or manager.

If the alleged abuse, neglect, exploitation, suicide, or suicide attempt occurs in the locations outlined in the left column below, the reporting process for each location is provided in the right column:

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| **Incident Location** | **Report Incident to:** |
|  |  |
| Texas Workforce Solutions office | The TWC staff member who believes abuse, neglect, exploitation, suicide, or suicide attempt has occurred reports the information to local police and/or dials 9-1-1. |
| * a Texas Department of Family and Protective Services–licensed child care operation, including a residential child care operation; * a state-licensed facility or community center that provides services for mental health, intellectual disabilities, or related conditions; * an adult foster home (with three or fewer customers, which is not licensed by the Texas Health and Human Services Commission (HHSC)); * an unlicensed room-and-board facility; * a school; or * an individual's own home. | Texas Department of Family and Protective Services Statewide Intake P.O. Box 149030 Austin, Texas 78714-9030 Voice 1-800-252-5400 Fax 512-832-2090  [Texas Abuse Hotline](http://www.txabusehotline.org/) |
| an HHSC-licensed entity, including:   * assisted-living care facility; * nursing home; * adult day care; * private intermediate care facility for individuals with intellectual disability; or * adult foster care. | [Texas Abuse Hotline](http://www.txabusehotline.org/) |
| a Texas Department of State Health Services licensed substance-abuse facility or program | Texas Department of State Health Services Substance Abuse Compliance Group Investigations 1100 W. 49th St. Austin, Texas 78756 Mail Code 2823 1-800-832-9623 |
| a Texas Department of State Health Service–licensed hospital | Texas Department of State Health Services Facility Licensing Group 1100 W. 49th St. Austin, Texas 78756 Complaint Hotline 1-888- 973-0022 |

### A-202-4: Allegations of Fraud or Employee Misconduct

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## A-204: Appeals and Hearings

An appeal, also known as a due-process hearing, provides the opportunity to:

* resolve disputes about decisions concerning furnishing or denying services; and
* submit additional evidence and information to an impartial hearing officer (IHO), who decides on the issues in dispute.

VR fairly and impartially addresses a customer's complaints about furnishing or denying services. To avoid an interruption of services, VR handles complaints promptly and at the lowest possible management level.

It is TWC's policy to explore all options in VR policy to resolve the complaint. This requires VR staff to address any complaint through an informal resolution process. However, if the VR counselor or his or her VR Supervisor or VR Manager cannot resolve the complaint, the customer must be given the right to appeal.

This policy applies to customer appeals involving VR and Independent Living Services for Older Individuals Who Are Blind.

Refer to Office of [General Counsel-Due Process Hearing](https://intra.twc.texas.gov/intranet/gc/html/vr-appeals.html) for additional information.

### A-204-1: Notifying the Customer of the Appeals Process

VR provides a customer (or as appropriate, the customer's representative) written notice of:

* the right to a review of VR determinations that affect the provision of services to the customer through an impartial due-process hearing as described in this chapter;
* the right to pursue mediation with respect to VR determinations that affect the customer's VR services;
* the address of OGC, with whom the customer may file a request for mediation or a due-process hearing;
* the way a mediator or IHO may be selected consistent with the requirements of this chapter; and
* the availability of the [CAP](https://www.disabilityrightstx.org/en/handout/vocational-rehabilitation-system-in-texas-2/) to help the customer during a mediation session or due-process hearing.

A case note must be entered in RHW documenting the date and method the information was given to the customer.

Decisions subject to review by appeal include:

* denial, reduction, suspension, or termination of services;
* the nature or content of the customer's IPE; or
* the delivery or quality of vocational counseling services or other services provided by VR.

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### A-204-7: Client Assistance Program

In addition to providing information about the availability of a CAP during the IPE process, VR must provide this information in any determination provided to the customer and document in a case note the date and method the information was provided. Information specific to the hearings process is also provided by the hearings coordinator. The required information for the appellant must include the [CAP](https://www.disabilityrightstx.org/en/handout/vocational-rehabilitation-system-in-texas-2/) office intake number, which is 800-252-9108.

Other free legal services and referrals may be available through [Texas Legal Services Center](http://www.tlsc.org/), [Texas Lawyers for Texas Veterans](http://www.texasbar.com/AM/Template.cfm?Section=Texas_Lawyers_for_Texas_Veterans), or, depending on the customer's location:

* [Legal Aid of Northwest Texas](https://internet.lanwt.org/home), which serves the Dallas/Fort Worth area and Northwest Texas;
* [Lone Star Legal Aid](http://www.lonestarlegal.org/), which serves the Houston area and East Texas; or
* [Texas Rio Grande Legal Aid](http://www.trla.org/), which serves the Austin/San Antonio area, El Paso area, and South Texas

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## A-208: Release of Customer Records and Information

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### A-208-5: Educational and Noneducational Records

TWC discloses records to a juvenile service provider (JSP) to prevent the duplication of services and to improve the quality of services for certain juvenile customers. "Juvenile service provider" means a governmental entity that provides juvenile justice or prevention, medical, educational, or other support services to a juvenile. (Texas Family Code §58.0051(2))

#### Educational Records

VR has the authority to obtain educational records from an independent school district or a charter school for a student who has been taken into custody or referred to a juvenile court. VR is required to certify in writing that the information will be disclosed only to another JSP to verify the identity of the student and to provide delinquency or treatment services. VR is required to provide a [VR5060, Permission to Collect Information](http://intra.twc.state.tx.us/intranet/gl/html/vocational_rehab_forms.html) to a JSP when requesting educational records.

#### Noneducational Records

VR is required to disclose to a JSP a multisystem youth's personal health information or history of governmental services for the purposes of identifying the youth and to coordinate, monitor, and improve the quality of juvenile services.

Personal health information or a history of governmental services include the multisystem youth's:

* identity;
* medical records;
* assessment results;
* special needs;
* program placement; and
* psychological diagnoses.

TWC may charge a fee or may be required to pay a fee for records in accordance with the Texas Public Information Act unless an agreement with the JSP:

* prohibits the payment of a fee;
* provides for the waiver of a fee; or
* provides an alternate method of assessing a fee.

For more information, refer to D-503-2: Texas Public Information Act.

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