

Adopt Ve-H 203, Ve-H 204, Ve-H 206, Ve-H 220, previously effective 7/21/07 (Document #8952 and expired 7/21/15, cited and to read as follows:

CHAPTER Ve-H 200 PROCEDURAL RULES

PART Ve-H 203 PROCEDURES FOR THE REVIEW OF DETERMINATIONS OF INELIGIBILITY FOR RESIDENCY

Ve-H 203.01 Request for Review of Determination of Ineligibility for Residency.

(a) An applicant for residency or an applicant's legal representative wishing to challenge the home's determination of ineligibility for residency shall request a review of the determination in a letter:

- (1) Addressed to the admissions coordinator; and
- (2) Mailed or delivered within 14 calendar days of receipt of the notice of ineligibility.

(b) Upon receipt of such a request for review, the admissions coordinator shall contact the applicant or the applicant's legal representative to:

- (1) Determine whether all the information relevant to eligibility has been provided to the home;
- (2) Clarify the applicant's or the legal representative's basis for seeking the review; and
- (3) If necessary, assist the applicant or the applicant's legal representative to obtain any additional information needed to review the application file and reconsider the determination of ineligibility.

(c) The admissions coordinator shall make a report to the commandant regarding eligibility for residency, including:

- (1) The admission coordinator's findings with regard to such eligibility; and
- (2) Any documentation necessary to support the findings.

(d) Thereafter the commandant shall:

- (1) Applying the rules in Ve-H 302, make the final administrative determination regarding eligibility for residency;
- (2) Issue the determination within 120 calendar days of receipt of the request for review in a letter sent by certified mail, return receipt requested; and
- (3) Include in any letter stating a determination of ineligibility the information that the applicant or the applicant's legal representative has the right to challenge that determination by:
 - a. Requesting an adjudicative proceeding held pursuant to Ve-H 205 through Ve-H 216; and

- b. Making the request by certified mail, return receipt requested, within 21 calendar days of receiving the commandant's letter.

PART Ve-H 204 COMPLAINT PROCEDURES

Ve-H 204.01 How to Submit Complaints.

- (a) A complaint against the home, its staff, or a resident may be submitted by any:
 - (1) Resident;
 - (2) Legal representative of a resident; or
 - (3) Applicant for residency or such applicant's legal representative.
- (b) Complaints shall be addressed to the commandant in a letter containing the following information:
 - (1) The name and address of the complainant;
 - (2) The name and address of the complainant's legal representative, if any;
 - (3) A concise statement of the facts complained of;
 - (4) The identification of any statutes, rules, orders, or other authority which the complainant alleges have been violated, if known by the complainant; and
 - (5) The signature of the complainant.

Ve-H 204.02 Review of Complaints; Dismissal of Complaints.

- (a) Upon receiving a complaint not complete or clear enough for the commandant to determine whether the complaint has merit, the commandant shall request:
 - (1) Additional information from the complainant or the complainant's legal representative; or
 - (2) A clarification of the complaint.
- (b) The commandant shall dismiss the complaint if:
 - (1) The complainant or the complainant's legal representative fails to:
 - a. Include in the letter of complaint all of the information required by Ve-H 204.01(b);
 - b. Respond to the commandant's request for additional information within 60 calendar days;

c. Participate in any investigation related to the complaint which is ordered by the commandant; or

d. Participate in any hearing related to the complaint which is ordered by the commandant; or

(2) The complaint is without merit, as further set forth in (c) below.

(c) The commandant shall dismiss the complaint if it does not relate to:

(1) Admission;

(2) Discharge;

(3) One or more residents' rights;

(4) One or more residents' health or safety; or

(5) One or more residents' quality of life.

(d) If a complaint is dismissed pursuant to (b) or (c) above, the commandant shall issue written notice to the complainant or to the complainant's legal representative of the dismissal and the reasons for it.

Ve-H 204.03 Complaint Investigations.

(a) If a complaint is not dismissed pursuant to Ve-H 204.03(b), the commandant shall:

(1) Transfer the complaint to the residents' council pursuant to (b) below; or

(2) Promptly initiate an investigation in accordance with (c) below.

(b) The commandant shall transfer to the residents' council complaints which are reasonably interpreted as suggestions for improvements in the quality of the home's services and not as complaints relating to the matters listed in Ve-H 204.02 (c)(1) through (c)(4 5). **Change from 4 to 5**

(c) The commandant's investigation shall:

(1) Be carried out by a member of the home's staff or any person, entity, or governmental agency designated by the commandant on the basis of expertise on the topic of the complaint;

(2) Result in a written investigation report that is:

a. Completed within 14 calendar days of receipt of the complaint; and

b. Includes all the facts required for the commandant to take action in accordance with (d) below.

(d) Upon receiving the written investigation report the commandant shall:

(1) Convene a meeting for the purpose of resolving the complaint informally, including in the meeting, as appropriate:

- a. The complainant;
- b. The complainant's legal representative, if any;
- c. Such persons as the written investigation report shows to be involved in the matter complained about; and
- d. Such persons as have applicable expertise; or

(2) Schedule an adjudicative proceeding.

(e) At any time, if the complainant or the complainant's representative asks the commandant to do so, the commandant shall:

- (1) Dismiss the complaint;
- (2) Convene a meeting pursuant to (d)(1) above; or
- (3) Schedule an adjudicative proceeding.

(f) If the complaint is resolved informally, the commandant shall issue written notice of the terms of the informal resolution to the complainant or the complainant's legal representative.

PART Ve-H 206 SETTLEMENTS

Ve-H 206.01 Settlement of Some or All Issues in a Dispute.

(a) After the commencement of adjudicative proceedings in accordance with Ve-H 207.01, the person(s) disputing the commandant's decision shall have the opportunity at any time, including during the hearing, to reach an agreement to settle some or all of the issues, provided that there is no longer a dispute about the material facts.

(b) To be effective, an agreement to settle shall:

- (1) Be written;
- (2) Include the terms of the agreement;
- (3) Be signed by the person(s) originally disputing the commandant's decision and the commandant; and
- (4) Finalized as an order issued by the board.

(c) The signing of an agreement to settle shall constitute a waiver of the right to a hearing of the issues resolved by the agreement.

(d) The board shall:

- (1) Retain the original of the order of settlement described in (b) above; and
- (2) Issue copies to all parties, including the commandant.

PART Ve-H 220 EXPLANATION OF ADOPTED RULES

Ve-H 220.01 Requests for Explanation of Adopted Rules. Any interested person may, within 30 calendar days of the final adoption of a rule, request a written explanation of that rule by making a written request to the board including:

- (a) The name and address of the person making the request; or
- (b) If the request is that of an organization or other entity, the name and address of such organization or entity and the name and address of the representative authorized by the organization or entity to make the request.

Ve-H 220.02 Contents of Explanation. The board shall, within 90 calendar days of receiving a request in accordance with Ve-H 220.01, provide a written response which:

- (a) Concisely states the meaning of the rule adopted;
- (b) Concisely states the principal reasons for and against the adoption of the rule in its final form; and
- (c) States, if the board did so, why the board overruled any arguments and considerations presented against the rule.

APPENDIX

RULE	STATUTE
Ve-H 203	RSA 119:9
Ve-H 204	RSA 119:5
Ve-H 206	RSA 541-A:38
Ve-H 220	RSA 541-A:11, VII