**CHAPTER 1. ADMINISTRATIVE OPERATIONS**

**SUBCHAPTER 15. DEPARTMENT MANUAL, RULES, AND DECLARATORY RULINGS**

**612:1-15-3. Petitions for rule changes and declaratory rulings [AMENDED]**

(a) **Petition for rule changes.** An interested person may petition the Department requesting the promulgation, amendment, or repeal of a rule. Any such petition must be submitted to the Director in writing, clearly stating the requested action. If the petition is for an amendment or repeal of a rule, it must specify the rule by the OAC designation. The petition must also state the reasons for the requested change, including any adverse impact such change or lack of change would have on individuals or organizations the rule affects.

(b) **Response to petition for rule changes.** Upon receipt of a petition as described in Subsection (a) of this Section, the Director will initiate study of the requested change through whatever means he or she deems appropriate. ~~If the Department formally acts upon the petition, the petitioner will be advised of the action in writing as specified by the Director.~~ In accordance with 75 O.S. 305, ~~if the Department does not initiate rulemaking proceedings within 30 calendar days of the petition's submission, the petition shall be deemed to have been denied.~~ within thirty (30) days after submission of the petition, either:

(1) the Department will initiate rulemaking proceedings, or

(2) the Director will provide the petitioner a written response and explain why such proceedings were not initiated.

(c) **Petition for declaratory ruling.** Any person, agency, or organization may ask for a declaratory ruling as to the applicability of a rule or group of rules, or of an order, made by the Department. Such a request is submitted to the Director of DRS in writing. The request will specify the rule(s) in question by OAC designation. A description of the circumstances, rule, policy, or procedure believed to be affected by the DRS rule(s) is given in enough detail to make a reasonable judgement as to the rule's effect and applicability. The request should also include a description of the effect or applicability of the DRS rule(s) as seen by the petitioner, if possible.

(d) **Response to a request for declaratory ruling.** Upon receipt of a petition as described in Subsection (c) of this Section, the Director will initiate study of the requested declaratory ruling through whatever means he or she deems appropriate. A response to the request, including a possible refusal to issue a declaratory ruling, will be prepared at the Director's order no later than 90 days after receipt of the request. The response will inform the petitioner of the right to a judicial review in the manner provided for in 75 O.S., Section 317 through 323.

**CHAPTER 10. VOCATIONAL REHABILITATION AND SERVICES FOR THE BLIND AND VISUALLY IMPAIRED**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**612:10-1-2. Definitions [AMENDED]**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**"Act"** means the Rehabilitation Act [29 USC 701 et seq.].

**"ADL"** Activities of Daily Living often refer to the routine activities carried out for personal hygiene and health (including bathing, dressing, feeding) and for operation of a household.

**"Applicant"** means an individual who has completed and signed an agency application form or has otherwise requested vocational rehabilitation services; who has provided information necessary to initiate an assessment to determine eligibility and priority for services; and who is available to complete the assessment process.

**"Appropriate modes of communication"** means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed captioned videos, specialized telecommunications services and audio recordings, Brailed and large print materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.

**"Assessment for determining eligibility and vocational rehabilitation needs"** means, as appropriate in each case a review of existing data to determine if an individual is eligible for vocational rehabilitation services; and to assign priority for an order of selection described in 34 CFR 361.36 in the States that use an order of selection; and to the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make the eligibility determination and assignment.

**"Assistive technology"** means technology designed to be utilized in an assistive technology device or service.

**"Assistive technology device"** means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

**"Assistive technology service"** means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.

**"Best correction"** refers to the use of standard eyeglasses or contact lenses and does not include the use of bioptic telescopic systems or specialized lenses which cannot be worn by the individual on a sustained basis.

**"Blind"** means persons who are blind within the meaning of the State Law relating to Vocational Rehabilitation. Legal blindness means a visual acuity of 20/200 or less in the better eye with best correction, or a visual field of 20 degrees or less.

**"Client"** means an individual found eligible and receiving services under the Act.

**"Community rehabilitation program"** (CRP) means a program that directly provides or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and provides singly or in combination, services for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement.

**"Comparable services and benefits"** means services that are provided or paid for in whole or in part by other Federal, state or local public agencies, health insurance or employee benefits, and are available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's individualized plan for employment in accordance with 34 CFR 361.53, and commensurate to the services that the individual would otherwise receive from the designated State vocational rehabilitation agency. For the purposes of this definition, comparable services and benefits do not include awards and scholarships based on merit.

**"Compensatory training"** means training required before the client can enter a formal training program or employment, such as pre-vocational or personal adjustment training.

**"Competitive integrated employment"** means full or part-time work that is compensated at or above minimum wage, offers an individual with a disability benefits and opportunities for advancement comparable to those offered to employees in similar positions, and is performed in a setting where the individual with a disability interacts with persons without disabilities to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons. Specific criteria defining competitive integrated employment are detailed in 34 CFR 361.5(c)(9).**"**

**"Consumer Independence Support Services" (CISS)** are defined as providing independent living assessment, intensive counseling, community integration, and housing modifications to further assist individuals with severe disabilities in achieving independence.

**"Continuity of Services"** means once an individual is selected for services in accordance with administrative rules, regardless of the priority category from which the individual was selected, the individual will receive the necessary purchased services, including post-employment services.

**"Counselor"** means the qualified vocational rehabilitation professional, who is an employee of the designated state unit, and who has primary responsibility for the management of an individual's rehabilitation services record of service, including determination of eligibility, service planning and management, counseling and guidance, and determination of successful or unsuccessful rehabilitation. Counselor is equivalent to such terms as VR/SBVI Specialist and VR/SBVI Coordinator.

**"Credential Attainment"** means the percentage of those clients enrolled in an education or training program (excluding those in OJT and customized training) who attained a recognized postsecondary credential or a secondary school diploma, or its recognized equivalent, during participation in or within one year after exit from the program. Under the WIOA, workforce agencies are required to report this percentage during participation in or within one year after closure of the case. This is based on the sub-regulatory guidance related to the implementation and operation of the performance accountability system under section 116 of WIOA and the implementing regulations in 34 CFR parts 361 subpart E.

**"Customized employment"** means competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the unique strengths, needs and interests of the individual; designed to meet the specific abilities of the individual and the business needs of the employer; and carried out using flexible strategies such as those detailed in 34 CFR 361.5(c) (11).

**"Department"** unless otherwise indicated in the text, means the Department of Rehabilitation Services as constituted in 74 O.S., Section 166.1 et seq.

**"DRS"** means the Department of Rehabilitation Services.

**"DVR"** means the Division of Vocational Rehabilitation.

**"DSBVI"** means the Division of Services for the Blind and Visually Impaired.

**"Electronic Case Management System"** means a "system of records" which is a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

**"Eligible individual"** means an applicant for vocational rehabilitation services who meets the eligibility requirements of 34 CFR 361.42(a).

**"Employment and Retention"** (E&R) means short-term job coach support for individuals with severe disabilities who require assistance preparing for, obtaining, and maintaining employment.

**"Employment outcome"** means, with respect to an eligible individual, entering, advancing in, or retaining full-time or part-time competitive integrated employment as defined in 34 CFR §361.5(c) (9) (including customized employment, self-employment, telecommuting, or business ownership), or supported employment as defined in 34 CFR §361.5(c) (53), that is consistent with an individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. (Note: As specified in federal rule, a designated State unit may continue services to individuals with uncompensated employment goals on their approved individualized plans for employment prior to the effective date of the final federal regulations until June 30, 2017, unless a longer period of time is required based on the needs of the individual with the disability, as documented in the individual's service record.)

**"Extended employment"** means work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act.

**"Extended period of time"** means, with respect to duration of vocational rehabilitation, services that are expected to extend at least 6 months from eligibility.

**"Extended services"** means ongoing support services provided to individuals with the most significant disabilities, including youth with the most significant disabilities, after the time-limited vocational rehabilitation services have been completed and job stabilization has been achieved. They consist of specific services, including natural supports, needed to maintain the supported employment placement. Extended services are paid from funding sources other than DRS and are specifically identified in the IPE, except that DRS may provide and pay for extended services for youth with the most significant disabilities for a period not to exceed 4 years or extend beyond the date when the youth reaches age 25.

**"Extreme medical risk"** means a risk of substantially increasing functional impairment or risk of death if medical services including mental health services, are not provided expeditiously.

**"Family member"** meansfor purposes of receiving vocational rehabilitation services in accordance with 34 CFR 361.48(b)(9), means an individual who either is a relative or guardian of an applicant or eligible individual; or lives in the same household as an applicant or eligible individual; who has a substantial interest in the well-being of that individual; and whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

**"Functional capacities"** means a client's assets, strengths, and resources which maintain or increase the individual's ability to work. Functional capacities include mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills.

**"Functional limitations"** means physical or mental conditions, emergent from a disability, which impair, interfere with, or impede one or more of an individual's functional capacities.

**"Higher education"** means universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

**"Highly challenged"** describes a client receiving supported employment services who, due to the nature of the disability, requires a greater level of support from the job coach to achieve and maintain employment.

**"IEP"** means Individualized Education Program as required by the Individuals with Disabilities Education Act.

**~~"Independent Living (IL) Core Services"~~** ~~is defined as information and referral services; independent living skills training; peer counseling; individual and systems advocacy; and services that facilitate the transition of individuals with significant disabilities from institutions to community-based residences, assist individuals at risk of entering institutions to remain living in the community, and assist the transition to postsecondary life for youth with significant disabilities who were eligible for special education and are no longer in school.~~

**~~"Independent Living Services"~~**  ~~as defined in the Rehabilitation Act, 29 USC Section 705 (17) and (18), include IL core services and counseling, housing procurement and modifications, personal assistance, mobility training, rehabilitation technology, life skills training, interpreters, readers, transportation, community integration, supported living, physical rehabilitation, aids and devices, social and recreational opportunities, and other services that are necessary and not inconsistent with the Act's provisions related to independent living.~~

**"Individual with a disability"** means an individual who has a physical or mental impairment; whose impairment constitutes or results in a substantial impediment to employment; and who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

**"Individual with a severe disability"** means with respect to eligibility for the state's Optional Program for Hiring Applicants with Disabilities, an individual who has a physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome.

**"Individual with a significant disability"** means an individual with a disability:

(A) who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(B) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(C) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, intellectual disability, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease or other disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

**"Individual with the most significant disability"** means an individual with a significant disability who meets the designated State unit's criteria for an individual with a most significant disability. These criteria must be consistent with the requirements in 34 CFR 361.36(d)(1) and (2):

(A) who has a severe physical or mental impairment that seriously limits three or more functional capacities in terms of an employment outcome;

(B) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(C) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, intellectual disability, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease or other disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

**"Individual's representative"** means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual's representative.

**"Integrated setting"** means:

(A) With respect to the provision of services, a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals.

(B) With respect to an employment outcome, means a setting typically found in the community where the employee with a disability interacts, for the purpose of performing the duties of the position, with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., customers and vendors) who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons.

**"Intercurrent (acute) conditions"** means an illness or injury occurring during the actual course of an individual's rehabilitation which, if not cared for, will complicate or delay achievement of the client's employment outcome as identified in the client's IPE.

**"IPE"** means the Individualized Plan for Employment.

**"Job Club"** is a structured learning experience for a client to build skills in self-assessment, resume development, job search and research strategies, and interview techniques to assist the person to enter a career of their choice.

**"Job Coach/Employment Training Specialist"** means a qualified individual providing support services to eligible individuals in supported employment and employment and retention programs. Services directly support the eligible individual's work activity including marketing and job development, applied behavioral analysis, job and work site assessment, training and worker assessment, job matching procedures, and teaching job skills.

**"Long-term treatment"** means medical or psychological treatment that is expected to last more than three months.

**"Maintenance"** means monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment.

**"Measurable Skill Gains (MSG)"** are a measure of the documented progress (academic, technical, occupational, or other) that a client makes in a training or education program toward obtaining a recognized postsecondary credential. This progress is reported throughout the life of the case. Examples of a valid skill gain would be the documented completion of a high school semester or a minimum of 12 college hours successfully completed over a one year period.

**"Milestones"** means a payment system that reimburses a vendor based on incentives and outcomes. The vendor is paid when the client completes pre-defined checkpoints on the way to a desired employment goal.

**"Multiple services"** means the counseling and guidance provided as a routine part of case management plus two or more VR services. Comparable benefits and/or services can count toward meeting the definition of multiple services. Services routinely provided as a package do not count as multiple services for the purpose of determining the presence of a significant disability, even if two or more services are included in the package.

**"Natural supports"** means any assistance, relationships or interactions that allow a person to maintain employment in ways that correspond to the typical work routines and social interactions of other employees. Natural supports may be developed through relationships with people or put into place by the adaptation of the work environment itself, depending on the support needs of the person and the environment.

**"Occupational license"** means any license, permit, or other written authority required by a state, city or other governmental unit to be obtained in order to enter an occupation.

**"OMES-DCAM"** means Office of Management & Enterprise Services-Division of Capital Assets Management, which sets thresholds for State Purchasing guidelines.

**"Ongoing support services"** means services specified in the IPE according to individual need, which support and maintain an individual with the most significant disabilities in supported employment. Sponsored ongoing support services are provided from the time of placement until the individual is stabilized on the job. Ongoing support services are provided by one or more extended services providers, or by natural supports, following transition throughout the individual's term of employment.

**"Other Qualified Rehabilitation Personnel"** means qualified rehabilitation personnel who, in addition to rehabilitation counselors, are necessary to facilitate the accomplishment of the employment outcomes and objectives of an individual (Section 100(a)(3)(E) of the Act.) Other qualified rehabilitation personnel include, but are not limited to, rehabilitation teachers of the blind who are certified at the national level.

**"Package of services"** means several services which are usually provided together for the same purpose. The services in a package are usually, but not always, from the same category of services (see definition of multiple services, this section). Examples include, but are not limited to: surgery, anesthesia, and hospitalization; or personal computer, software, and peripheral equipment.

**"Personal assistance services"** means a range of services including, among other things, training in managing, supervising, and directing personal assistance services, provided by one or more persons, that are designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability. The services are also designed to increase the individual's control in life and ability to perform everyday activities on or off the job; necessary to the achievement of an employment outcome; and provided only while the individual is receiving other vocational rehabilitation services.

**"Physical and mental restoration services"** means corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment.

**"Physical or mental impairment"** means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder such as intellectual disability organic brain syndrome, emotional or mental illness, and specific learning disabilities.

**"Post-employment services"** means one or more of the services identified in 34 CFR 361.48(b) that are provided subsequent to the achievement of an employment outcome and that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

**"Pre-employment transition services"** means the required activities and authorized activities specified in 34 CFR 361.48(a)(2) and (3).

**"Prior approval"** refers to the receipt of approval from the granting authority prior to issuing the authorization for the purchase of goods and services.

**"Record of Service"** means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, the individual's education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual.

**"Rehabilitation Act"** means the Rehabilitation Act [29 USC 701 et seq.].

**"Rehabilitation engineering"** means the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community.

**"Rehabilitation technology"** means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

**"SBVI"** means the Division of Services for the Blind and Visually Impaired, depending upon the context.

**"Section 504 Plan"** is a plan designed as a protection for students with disabilities who may not be considered eligible for special education under IDEA in compliance with Section 504 of the Rehabilitation Act of 1973 as amended.

**"Small business enterprises"** means a small business operated by blind or other individuals with severe disabilities under the management and supervision of the state DRS. Such businesses include only those selling, manufacturing, processing, servicing, agricultural, and other activities which are suitable and practical for the effective utilization of the skills and aptitudes of individuals who are blind or individuals who have severe disabilities. Small business enterprise provides substantial gainful employment or self-employment commensurate with the time devoted by the operators to the business, the cost of establishing the business and other factors of an economic nature.

**"Sole local agency"** means a unit or combination of units of general local government or one or more Indian tribes that has the sole responsibility under an agreement with, and the supervision of, the State agency to conduct a local or tribal vocational rehabilitation program, in accordance with the vocational rehabilitation services portion of the Unified or Combined State Plan.

**"Student with a disability"** means, in general, an individual with a disability in a secondary, postsecondary, or other recognized education program who meets the requirements set forth in 34 CFR 361.5(c)(51).

**"Substantial impediment to employment"** means that a physical or mental impairment (in the light of attendant medical, psychological, vocational, educational, communication, and other related factors) hinders an individual from preparing for, entering into, engaging in, advancing in, or retaining employment consistent with the individual's abilities and capabilities.

**"Supplemental Wage Record"** means wage information used to determine both employment status and wages within a reporting period. This information is required when wage information cannot be obtained through other means such as the Oklahoma Employment Security Commission. The requirement to make the effort to obtain this supplemental wage information is necessary to carry out the accountability requirements under Section 116 of the Workforce Innovation and Opportunity Act.

**"Support Service Providers "** (SSP) means a Support Service Provider, commonly referred to as an SSP, is a specially trained individual who provides access to the community for people who are deaf-blind. The SSP is responsible for human guide assistance and facilitation of communication for the deaf-blind person.

**"Supported employment"** (SE) means competitive integrated employment, including customized employment, or employment in an integrated work settings in which an individual with a most significant disability, including a youth with a most significant disability, is working on a short-term basis toward competitive integrated employment that is individualized, and customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual, including with ongoing support services for individuals with the most significant disabilities who meet the requirements set forth in 34 CFR 361.5(c)(53).

**"Supported employment services"** means ongoing support services, including customized employment, and other appropriate services needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment that are:

(A) Organized and made available, singly or in combination, in such a way as to assist an eligible individual to achieve competitive integrated employment;

(B) Based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment;

(C) Provided by the designated State unit for a period of time not to exceed 24 months, unless under special circumstances the eligible individual and the rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the individualized plan for employment; and

(D) Following transition, as postemployment services that are unavailable from an extended services provided and that are necessary to maintain or regain the job placement or advance in employment.

**"Transition services"** means, for a student or a youth with a disability, a coordinated set of activities designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, competitive integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation. Transition services (1) are based upon the individual student's or youth's needs, preferences and interests; (2) include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation; (3) promote or facilitate the achievement of the employment outcome identified in the student's or youth's individualized plan for employment; and (4) include outreach to and engagement of the parents, or, as appropriate, the representative of such a student or youth with a disability.

**"Transportation"** means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation services, including expenses for training in the use of public transportation vehicles and systems.

**"Vocational rehabilitation services"**,if provided to an individual, means those services listed in 34 CFR 361.48; and if provided for the benefit of groups of individuals, means those services listed in 34 CFR 361.49.

**"VR"** means the Division of Vocational Rehabilitation, or the more general term vocational rehabilitation services, depending upon the context.

**"Youth with a disability"** means an individual with a disability who is not younger than 14 years of age; or older than 24 years of age. Youth with disabilities means more than one youth with a disability.

**SUBCHAPTER 3. CLIENT PARTICIPATION IN COST OF SERVICES**

**612:10-3-3. Participation of individuals in cost of services based on financial need [AMENDED]**

(a) DRS has chosen to consider the financial need of eligible individuals or individuals who are receiving services through the trial work experiences under 34 CFR 361.42 (e) for purposes of determining the extent of their participation in the costs of vocational rehabilitation services, other than those services identified in paragraph (c) in this section according to the criteria set forth in 34 CFR 361.54 (b) (1-2).

(b) DVR and DSBVI requires the client to participate in the cost of some vocational rehabilitation services if the client and/or client's family income exceeds the established basic living requirement for the applicable family size.Any client whose available family income exceeds the applicable basic living requirements is required to apply the monthly surplus to the cost of services during each 30 day period services are provided.

(c) A basic living requirement has been established for different size family groups. A family member is an individual who is a relative or guardian of an applicant or eligible individual. Basis living requirements are based on 200% of the Federal poverty level adjusted annually for family size. The standard is intended to cover only the necessities of food, shelter, utilities, clothing, transportation, and incidentals to give the counselor some criteria by which to measure the financial need of a client. To qualify as independent from the family group, the client must meet on of the following criteria:

(1) Beneficiary of Titles II (federal old age, survivors, and disability insurance benefits) or XVI (SSI);

(2) At least 24 years of age and single;

(3) A ward of the court and in custody of DHS;

(4) Married and maintaining a separate household;

(5) Meets the criteria for temporary housing as described (7) of this section or;

(6) The counselor ~~verifies~~ has adequate documentation to verify the client has the financial resources to demonstrate self-sufficiency and ~~the client declares~~ that no family contributions are available.

(7) An eligible individual whose disability has resulted in the need to live with family or friend, and as appropriate the individual's spouse and dependent children, will be considered as a separate household regardless of living arrangements.

(A) Verification of family membership should be based upon whatever available information most accurately documents family membership according to the definition given in this administrative rule.

(B) Examples of acceptable verification include the latest Federal income tax return, payroll information, insurance policies, client report, and/or counselor observation.

(d) The client can be provided services not based on financial needs, the following services do not require a determination of financial need status:

(1) services provided to assess eligibility and priority for services (services which would require the individual's participation in cost under an IPE will also require the individual's participation in cost during an evaluation of the individual's ability to benefit from VR services);

(2) counseling and guidance including information and support services to assist an individual in exercising informed choice;

(3) referral and other services to secure needed services from other agencies, including other components of the statewide workforce development system;

(4) on-the-job training, work experience, internships and apprenticeships;

(5) personal or vocational adjustment training;

(6) personal assistance services;

(7) job-related services including job search and placement assistance, job retention services, follow-up services and follow-along services; under 34 CFR 361.48 (b) (12);

(8) compensatory training;

(9) Supported employment, employment and retention; or

(10) any auxiliary aid or service (e.g., interpreter services, reader services) that an individual with a disability require under Section 504 of the Act or the American with Disabilities Act (42 U.S.C. 12101, et seq.) or regulations implementing those laws, in order for the individual to participate in the VR program.

(e) Any client who does not have a surplus is not required to participate in the cost of services. Financial need does not exempt the client from required use of comparable benefits. If a payment is required of the client, it will be made to the vendor.

(f) The counselor will re-evaluate the client's financial situation at least annually and any time there is a change in the financial situation of the client or family. The amount of client participation in cost is based upon the most recent determination of client's financial needs at the time the IPE or amendment. If applicable, the extent of the individual's participation in paying for the cost of services is identified on the IPE service (e.g. Family monthly income surplus will be exhausted prior to agency financial contribution). **7**

(g) The client's financial needs must be verified when an IPE includes service which require client participation in costs of services. **6, 7**

(h) Determination of income and liabilities will be verified and documented by the counselor in the record of service when services in the IPE and amendments require client participation in cost. If the individual refuses to provide the requested information, DRS resources will not be used to purchase services which require client participation in cost of the services.

(1) Income.

(A) Income generated from salaried wages will be calculated by gross earnings minus federal taxes, state taxes and social security deductions. **4**

(B) Income generated from business or profession will be calculated by adjusted gross minus additional federal and state taxes divided by 12 to determine a monthly amount.

(C) Income received from unearned sources, such as pensions, public assistance, interest, dividends, royalties, trust fund, or money payments of any kind will be counted. Educational grants, stipends, or loans will not be included in the calculation. If a yearly income is available, it will be divided by 12 to calculate a monthly amount.

(2) Liabilities. When the client is making payments on any areas of liability listed below, payments will be itemized. If payments are not being made on a debt, an expense cannot be shown for this item. **5**

(A) Medical. Out-of-pocket medical payments not covered by insurance, including medication and supplies, can be used as a medical expense. Monthly premiums for health insurance can be included.

(B) Disability related expenses. Disability related expenses beyond the basic living requirements may be considered, if not funded by DRS.

(C) Other. Court order commitments, including child support, can be counted as a liability.

(D) Education expenses. Costs for any family member incurred only for tuition, books, and fees, toward post-secondary educational expenses, not included in the IPE or paid by grants, scholarships, fee waivers, etc., can be counted as a liability. Only the amount of the payments can be counted as a liability.

(i) Case recording requirements. A statement regarding the re-evaluation of financial needs must be included in the record of service. The financial review may be included in the IPE review if they occur at the same time.

**SUBCHAPTER 7. VOCATIONAL REHABILITATION AND SERVICES FOR THE BLIND AND VISUALLY IMPAIRED**

**PART 3. CASE PROCESSING REQUIREMENTS**

**612:10-7-22.1. Processing referrals and applications [AMENDED]**

(a) **Referrals.** DRS must establish and implement standards for the prompt and equitable handling of referrals of individuals for vocational rehabilitation services, including referrals of individuals made through the one-stop service delivery systems under section 121 of the Workforce Innovation and Opportunity Act. The standards must include timelines for making good faith efforts to inform these individuals of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services.

(1) Processing incoming referrals. All referrals to DVR and DSBVI will be contacted by the VR counselor and appropriate action taken within 30 days, after receipt of the referral information. The counselor is responsible for completing a contact by telephone or in person. The counselor is responsible for providing interpreter services to referrals who are deaf or non-English speaking. In situations where the individual cannot be personally contacted, correspondence will be mailed to the individual for informational purposes.

(2) Referrals to rehabilitation teachers.All individuals who are legally blind, whether being served by a DVR counselor or a DSBVI counselor, will be referred to a rehabilitation teacher. Rehabilitation teachers may also receive counselor referrals and provide services for individuals who are not legally blind but have functional limitations due to vision loss and have potential to benefit from rehabilitation teaching services.

(b) **Application.** Once an individual has submitted an application for vocational rehabilitation services, including applications made through common intake procedures in one-stop centers under section 121 of the Workforce Innovation and Opportunity Act (WIOA), an eligibility determination must be made within 60 days, unless exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and counselor and the individual agree to a specific extension of time; or meets the other criteria under 34 CFR 361.41 (b) (1) (i-ii).

(1) In those instances of exceptional and unforeseen circumstance beyond the control of DRS, where the eligibility determination is unable to be completed within the time frame identified in (b) of this section. The QVRC, utilizing the electronic case management system, will complete the Extension of Eligibility form documenting the date the eligibility form was completed, the date of expected eligibility determination; along with documentation of the date of when the client and counselor agreed to the extension; unless a decision was made to conduct a Trial Work Experience.

(c) **Social Security Administration (SSA) Beneficiaries' Verification.** During the initial interview, the VR counselor shall advise applicants for the VR program that individuals who are SSI/SSDI beneficiaries are generally presumed eligible for VR and that verification of the applicant's benefit status is needed. Verification may include a copy of an award letter from SSA, or a Ticket-to-Work as found in 34 CFR 361.42 (a) (3) (i-ii).

(d) **Application Status.** While the client is in this status, the counselor will secure sufficient information to make a determination of eligibility and priority group assignment, determine ineligibility for vocational rehabilitation services, or to make a decision to conduct a Trial Work Experience ~~or an Extended Evaluation~~. The ~~VR Professional~~ Qualified Vocational Rehabilitation Counselor will determine whether an individual is eligible for vocational rehabilitation services within a reasonable period of time, not to exceed 60 days from the date of application.

(e) **Necessary information.** The minimum information necessary to initiate an assessment to determine eligibility and priority for services consists of:

(1) individual's name;

(2) reported disability;

(3) individual's address, with finding directions when needed;

(4) individual's social security number, if available; and

(5) availability of documentation of the reported disability.

(f) **General Health Checklist.** The general health checklist (GHC) is a survey tool used to determine what diagnostic information will be needed to assess an applicant's eligibility or ineligibility. A general health checklist will be completed for each applicant. The counselor/teacher in consultation with the client will decide if purchasing a medical examination is necessary when the GHC indicates the presence of any condition. This decision will be based upon availability of existing medical records, and the reported degree of limitation to employment caused by the condition.

(g) **Informed Choice.** VR and DSBVI staff must assure that applicants or, as appropriate, their representatives are provided information and support services to assist applicants and recipients of services in exercising informed choice throughout the rehabilitation process in accordance with 34 CFR 361.52.

(1) Informed choice and the provision of vocational rehabilitation services require that communications with persons with disabilities are effective.

(2) DVR staff informs each applicant and recipient of services through appropriate modes of communication about the availability of and opportunities to exercise informed choice. Individuals with cognitive or other disabilities who require assistance in exercising informed choice will be notified that support services are available.

(h) **Case recording requirements.** Pertinent information from the initial interview and applicant information forms is recorded in a narrative that is placed in the record of service.

(1) Documentation of the process of providing informed choice information and use of appropriate modes of communication is included in the record of service.

(2) The record must document that the applicant or representative was provided an explanation of their due process rights, their rights and responsibilities as an applicant, and given a copy of the CAP handout and approved client handbook.

(3) The record must document that the applicant was given the opportunity to register to vote or change registration when applying for or receiving services, in accordance with the requirements of the National Voter Registration Act of 1993.

**612:10-7-24.1. Basic eligibility requirements for vocational rehabilitation services [AMENDED]**

(a) An individual is eligible for vocational rehabilitation services under the Rehabilitation Act through the State Department of Rehabilitation Services if the individual:

(1) has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment;

(2) is determined by a qualified vocational rehabilitation counselor to require vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment; and

(3) can benefit in terms of an employment outcome from vocational rehabilitation services.

(b) The agency presumes that an applicant with a physical or mental impairment that constitutes or results in a substantial impediment to employment can benefit from vocational rehabilitation services in terms of an employment outcome, unless the agency demonstrates, based on clear and convincing evidence, that the individual is incapable of benefiting from rehabilitation services due to the severity of the individual's disability. **3**

(c) An individual who has a disability or is blind as determined pursuant to Titles II (federal old age, survivors, and disability insurance benefits) or XVI (SSI) shall be:

(1) considered to have a significant disability under the order of selection; and

(2) presumed to be eligible for vocational rehabilitation services, **4** (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless clear and convincing evidence demonstrates that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the individual's disability.

(d) Eligibility requirements shall be applied without regard to:

(1) duration of residence in the state,

(2) type of disability,

(3) age, except that in serving eligible individuals below working age, the client must be expected to reach working age by the time the IPE is completed, and DRS will not provide services that are the responsibility of the public school system.

(4) gender, race, color or national origin,

(5) type of expected employment outcome,

(6) source of referral, or

(7) the particular service needs or anticipated cost of services required by an applicant or applicant's family.

(e) **Disabled veterans.**  Disabled veterans are eligible for vocational rehabilitation services on the same basis as other individuals with disabilities subject to the following restrictions:

(1) Disabled veterans are not provided services which can be secured from the Veterans Administration (VA), unless use of VA services will cause a substantial delay of services.

(2) Veterans receiving additional benefits under the G. I. Bill or the War Orphan Act may be provided services if such services do not duplicate those being received from the VA.

(f) **Applicants who are employed.** Employed persons who meet basic eligibility requirements may be provided vocational rehabilitation services to advance in or retain employment, or when the employment is not consistent with the individual's strengths, resources, priorities, concerns, abilities, interests and capabilities.

(g) **Citizenship.** Participation in the VR program is available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees and parolees, and other immigrants authorized to work in the United States.

(h) **Criteria.** Some conditions have unique criteria that must be considered when determining eligibility.

(1) **Alcoholism/Drugs.** Individuals may be eligible for vocational rehabilitation services based on a substance abuse diagnosis that may be made by a qualified professional. **5** Clients must be willing to undergo random alcohol/drug screening. DRS does not pay for detoxification or replacement drug treatment. Documentation from qualified Drug and Alcohol treatment professionals indicating that the client is presently substance-free, maintaining sobriety, and actively participating in a treatment or maintenance program if recommended by the treating professional must be filed in the case record upon IPE development.

(2) **Allergies/Asthma.** Allergies/asthmatic conditions that require continuous or intermittent medical intervention and result in a substantial impediment to employment will be considered eligible for services. **6**

(3) **Deafness and Hearing Loss.** The rehabilitation professional will base eligibility determination upon one of the measurement methods listed below, as performed by a ~~qualified audiologist or other qualified professional~~ licensed audiologist as determined by the Department. The case record must document the method chosen provides the most accurate evaluation of functional hearing level for the individual. The licensed audiologist will do a Comprehensive Hearing Evaluation (CHE) with written recommendations for treatment. The CHE will include the type of hearing aids needed with a treatment plan to maintain the maximum rehabilitation for the hearing loss.

(4) A CHE or recommendation for hearing aids and treatment from a Hearing Instrument Specialist (HIS) is not acceptable and should not be considered by the rehabilitation professional in addressing the rehabilitation needs.

(A) **Eligibility criteria.** Eligibility criteria for each method of measurement are listed in (i) through (iv) of this Subsection. An individual will also be considered to have a qualifying disability when documentation indicates the hearing loss is progressive and the progression is substantial enough to result in an impediment to employment.

(i) **Average hearing loss.** Average hearing loss, which is determined by computing average of the pure tone thresholds for each ear at 1000Hz, 2000Hz, 3000Hz and 4000Hz. An individual is considered to have a qualifying disability based upon average hearing loss when:

(I) The hearing loss in one ear is profound (91 dB or greater) and the hearing loss in the better ear is at least 15 dB; or

(II) The hearing loss in the better ear is 30 dB or greater.

(ii) **Speech recognition threshold (SRT).** An individual is considered to have a qualifying disability when:

(I) the speech reception threshold in one ear is 91 dB or greater and is at least 15 dB in the better ear; or

(II) the speech reception threshold in the better ear is 30 dB or greater.

(iii) **Speech discrimination or word recognition score.** An individual is considered to have a qualifying disability when the speech discrimination or word recognition score is 70% or less.

(iv) **Articulation index.** An individual is considered to have a qualifying disability when the articulation index is 70% or less.

(v) **Only a licensed audiologist can determine the speech discrimination or word recognition and articulation index score.** The Vocational Rehabilitation Counselor will utilize these scores in determining eligibility and identification of the functional barriers to employment.

(I) A Consultation by the Rehabilitation Counselor for the Deaf (RCD) that the applicant has hearing loss that constitutes a physical or mental impairment and the physical or mental impairment constitutes or results in a substantial impediment to employment; and

(II) A Consultation by a Rehabilitation Counselor for the Deaf (RCD) that the applicant requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individuals unique strengths, resources, priorities, concerns, abilities, capabilities, interest and informed choice.

(B) **Severity of Hearing Loss.** All individuals who qualify as having a severe hearing loss or, who are culturally Deaf and/or use Manual Communication, will be referred to a Rehabilitation Counselor for the Deaf and Hard of Hearing ~~(RCD)~~ (RCD for a consultation on severity of loss and functional limitations) The RCD then will determine whether the case needs to be assigned to an RCD. Relevant information provided will include copies of the initial interview narrative recording, medical information, eligibility data entry form, Individualized Plan for Employment, pertinent copies of case narratives and DRS application form. ~~On receipt of a referral, the RCD will contact the client and make a determination of potential for Deaf and Hard of Hearing services. The referring counselor will be informed in writing of the RCD's findings.~~

(i) **Severe Hearing Loss.**  Average hearing loss, as calculated above, is considered severe when:

(I) The hearing loss in one ear is profound (91 dB or greater) and the hearing loss in the better ear is at least 31 dB; or

(II) The hearing loss in each ear is 55 dB or greater.

(ii) **Severe Speech Recognition Threshold (SRT).** An individual is considered to have severe disability when;

(I) The SRT in one ear is 91 dB or greater and the SRT in the better ear is at least 31 dB; or

(II) The SRT in each ear is 55 dB or greater.

(iii) **Severe Speech Discrimination or word recognition score.** An individual is considered to have a severe disability when the speech discrimination or word recognition score is 59% or less.

(4) **Diabetes:** The individual must require prescribed medication to control the condition. Those persons whose diabetes is controlled by diet and exercise alone or whose condition does not result in a substantial impediment to employment will not be considered eligible. Eligible clients will be required to undergo a visual exam by a licensed ophthalmologist at least once a year. Diabetes management training will be incorporated into the IPE unless the client shows that he/she has previously completed diabetes management training. When recommended by a physician, diabetes management training will be incorporated into the IPE regardless of past diabetes education received by the individual. **7,8**

(5) **Facial and Disfigurement Conditions.** When these conditions result in an impediment to employment an individual may be eligible for VR services.

(6) **Learning Disabilities.** Learning disabilities is a general term that refers to a group of disorders manifested by significant difficulties in the attainment and use of listening, speaking, reading, writing, reasoning, or mathematical abilities. Learning disabilities are identified when there are difficulties learning and using academic skills, as indicated by at least one of the following occurring even with interventions: Inaccurate or slow reading, difficulty understanding the meaning of what is read, difficulties with spelling, difficulties with written expression, difficulties mastering numbers sense, facts or calculation, and difficulties with mathematical reasoning. Also, academic skills are significantly below those expected for the student's chronological age and causes issues with academic and occupational performance. Academic areas include, impairment in reading, impairment in written expression, and impairment in mathematics. **9**

(7) **Mental Disorders.** Individuals may be eligible for vocational rehabilitation services based on a mental health diagnosis made by a qualified professional (612:10-7-98 (17)(A)(1-5)). Documentation must be filed from a qualified professional indicating the client is participating in a treatment plan and in compliance with all medication as prescribed. Treatment must be incorporated as a service in the IPE for individuals with a mental disorder.

(8) **Intellectual Disability.** To be eligible, individuals having an I.Q. of 69 or below and substantially limited adaptive functioning, as measured by an individual intelligence test, will be considered to have a substantial disability. Individuals eligible under IDEA with an I.Q. level higher than 69 may be considered to have a substantial impairment provided the documentation used by the school in determining eligibility under IDEA, in the counselor's judgment, confirms the individual is functioning in the intellectual disability range of ability. Individuals not enrolled in public school special education classes with an I.Q. higher than 69 may be considered to have a substantial impairment provided appropriate documentation confirms the individual is functioning in the intellectual disability range of ability.

(9) **Height.** To be eligible, a person's stature must constitute or result in a substantial impediment to employment.

(10) **Obesity.** To be eligible, a person must be considered obese according to a recognized medical classification protocol **10** and the impairment must constitute or result in a substantial impediment to employment. Some type of weight loss plan or treatment for obesity must be included as a service in the IPE.

(11) **Visual.** Any of the following conditions may provide a basis for eligibility due to visual disability:

(A) **Blindness.** A central visual acuity of 20/200 or less in the better eye with best correction, or a limitation in the field of vision in the better eye so that the widest diameter of the visual field subtends an angle of 20 degrees or less. "Best correction" refers to the use of standard eyeglasses or contact lenses, and does not include use of bioptic telescopic systems or any specialized lenses which cannot be worn by the individual on a sustained basis.

(B) **Visual impairment.** A central visual acuity of 20/60 or less in the better eye with best correction, or other visual condition which, for the individual, results in functional limitations and constitutes a barrier to employment. Other visual conditions which may result in functional limitations include, but are not limited to, limited peripheral vision, extreme light sensitivity, loss of depth perception, loss of stereopsis, diplopia (double vision), aphakia, total absence of color discrimination or red-green deficiency, blurred vision, eye muscle and movement conditions, and cortical visual impairment.

(C) **Progressive eye disease.** Diagnosis of a progressive sight threatening disease or condition that has resulted in functional limitations for the individual or is expected to progress rapidly. Progressive eye diseases which may result in significant vision loss include, but are not limited to, retinitis pigmentosa, diabetic retinopathy, glaucoma and macular degeneration.

(12) **Re-evaluation.** Individuals with chronic disabilities that can be removed with little or no residual limitations will not be eligible for purchase of services other than those related to the required treatment.

**612:10-7-24.2. Assessment for determining eligibility [AMENDED]**

(a) To determine whether an individual is eligible for vocational rehabilitation services:

(1) the counselor will use to the maximum extent possible and appropriate existing data including counselor observations, education records, information provided by the individual or the individual's family, and determinations made by officials of other agencies; and

(2) to the extent necessary provide appropriate assessments, including provision of goods and services during the assessment, to obtain additional documentation necessary to make the determination of eligibility and priority group assignment. The counselor will carefully evaluate the need to provide assistive technology devices and services or worksite assessments.

(b) The ~~counselor~~ Qualified Vocational Rehabilitation Counselor (QVRC) will determine whether an individual is eligible for vocational rehabilitation services within a reasonable period of time, not to exceed 60 days after the individual has submitted an application for services. This time period may be extended only when unforeseen and exceptional circumstances beyond the control of the Department preclude completing the determination of eligibility within the 60 days and the individual agrees a specific extension of time is warranted as documented on the Need for Extension of Time to Determine Eligibility form; or a trial work period ~~or an extended evaluation~~ is needed to determine the individual's ability to benefit from VR services.

(c) Documentation that the individual has a disability which constitutes or results in an impediment to employment must come from qualified professionals.

(d) Eligibility determinations will be expedited for applicants who have been determined eligible for vocational rehabilitation services by an American Indian Vocational Rehabilitation Services (AIVRS) Program. Counselors will work cooperatively with the applicable American Indian VR Program to obtain pertinent diagnostic and other documentation, and utilize such documentation, as appropriate, in making eligibility decisions that are prompt or, whenever feasible, immediate.

(e) A qualified rehabilitation professional may proceed with a determination of eligibility if there is an obvious and/or observable disability that results in an impediment to employment. The VR specialist will document observations pertaining to the applicant's disability. After making the determination of eligibility the VR specialist may authorize any assessments and services necessary to further document eligibility, establish priority group placement and determine rehabilitation needs for development of the Individualized Plan for Employment.

(f) Diagnosis and evaluation are to be provided only for determination of eligibility for VR services, priority group placement, and determination of VR service needs. DVR and DSBVI funds are not to be used to assist an individual in establishing eligibility for other programs.

(g) When necessary, diagnostic evaluations may be purchased at any time during the life of the case.

(h) If an individual is determined eligible, the VR counselor will notify the individual in writing. If the individual is determined to be ineligible, the counselor will notify the applicant and provide information on further options in accordance with DRS policy on ineligibility decisions.

(i) **Eligibility for supported employment.** The counselor may not find an individual ineligible for supported employment services because a resource for providing extended services cannot be identified. In this instance, the counselor will:

(1) accept the individual as eligible for VR services;

(2) plan VR services as appropriate, including the expected availability of extended services; and

(3) seek out and/or help in developing the needed extended services resource.

**PART 5. CASE STATUS AND CLASSIFICATION SYSTEM**

**612:10-7-51. Individualized Plan for Employment [AMENDED]**

(a) **Options for developing the Individualized Plan for Employment (IPE).** The VR counselor will provide the eligible individual, or the individual's authorized representative, in writing and in appropriate mode of communication, with information on the individual's options for developing the IPE.

(1) The required information will include the following:

(A) information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, or authorized representative, from a qualified VR counselor in developing all or part of the IPE, and the availability of technical assistance for this purpose;

(B) a description of the required content of the IPE;

(C) as appropriate:

(i) an explanation of agency requirements for client participation in cost of services;

(ii) additional information requested by the individual or authorized representative;

(iii) information on the availability of assistance in completing DVR/DSBVI forms required in developing the IPE;

(iv) For cases involving Diabetes, Mental Disorders, and Obesity, treatment must be incorporated as a service in the IPE, in accordance with DRS ~~policy~~ rules.

(D) a copy of a DRS publication addressing client's rights and responsibilities.

(2) For cases in an open priority group, the IPE must be completed and signed as soon as possible, consistent with the needs of the individual, but not more than 90 calendar days following the eligibility determination, unless the individual or the authorized representative and the VR or SBVI counselor jointly agree to an extension of time of a specific duration. The 90-day time frame for development of the IPE will be applied from the date a closed priority group is reopened.

(b) **Vocational objective.** The primary purpose in providing vocational rehabilitation services is to assist an eligible individual obtain appropriate competitive employment in an integrated setting consistent with the individual's informed choice. The choice of a vocational objective for an individual receiving vocational rehabilitation services must be based primarily upon the individual's strengths, resources, priorities, concerns, abilities, interests and capabilities, consistent with the general goal of competitive integrated employment.

(1) **Informed choice.** The vocational objective is to be chosen with the full participation of the client. The client's interests and informed choice determine his or her vocational goal to the extent these factors are consistent with the client's strengths, resources, priorities, concerns, abilities, interests and capabilities.

(2) **External conditions.** Factors such as the local labor market or local economy must also be taken into consideration. However, in most cases these factors cannot be used as the only basis upon which to determine whether a vocational objective is appropriate.

(c) **General requirements for the Individualized Plan for Employment.**

(1) The IPE documents the client's chosen employment goal, and the planning of vocational rehabilitation services which are necessary to achieve a successful employment outcome. The client will be a full participant in the development of the IPE or any amendments consistent with Federal and State regulations, laws, and statutes. The eligible individual must be given the opportunity to exercise informed choice in selecting an employment outcome, the specific VR services to be provided under the plan, the service providers, and the methods for service delivery. For cases in an open priority group, the IPE must be agreed to and signed by the eligible individual or authorized representative, approved by a VR counselor and, as appropriate, other administrators employed by DVR or DSBVI within 90 days of determination of eligibility, unless the individual or the authorized representative of the individual and the VR or SBVI counselor jointly agree to an extension of time of a specific duration. To the maximum extent possible, the IPE is to be provided in the native language or mode of communication of the individual or, as appropriate, of a parent, family member, guardian, advocate, or authorized representative. It is also required the client receive a copy of the plan and any subsequent amendments.

(2) The IPE is subject to continuous development and change. Substantial changes to the IPE are documented as amendments. A substantial change is broadly defined as any change in the employment objective, or in service needs or available resources not accounted for in the original IPE or existing amendment(s). The amount of any client participation in the cost of a service will be based upon the determination of client's financial status completed at the time the relevant IPE or amendment is written, and is to be stated in the IPE or amendment. If services based upon financial status are included in the original IPE and/or in the amendment, a new Financial Status Determination form will be completed when the IPE is amended. A copy of any Amendment to an Individualized Plan for Employment will be given to the client, or client's authorized representative, as appropriate.

(3) Diagnosis related to eligibility or the IPE can be provided at any time it is necessary during the life of the case.

(4) An IPE is not considered in effect until all required approvals have been obtained in accordance with Department policy.

(5) Plan reviews are comprehensive reviews of the entire IPE. A plan review can be done at any time, but must be done at least annually. The client must be given the opportunity to review the plan and, if necessary, participate in its redevelopment and agree to its terms. A financial status determination will be completed at the time of plan review when the IPE includes services based upon client's financial status.

(d) **Content of the Individualized Plan for Employment.** The Individualized Plan for Employment must include:

(1) a description of the specific employment outcome that is chosen by the client consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice consistent with the general goal of competitive integrated employment (except that in the case of a student or a youth with a disability, the description may be a description of the individual's projected post-school employment outcome), and the estimated timeframe for the achievement of the employment outcome;

(2) a description of the specific VR services that are:

(A) needed to achieve the employment outcome including as appropriate, the provision of assistive technology services and devices, and personal assistance services, including training in the management of such services;

(B) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the client; and

(C) timelines for the achievement of the employment outcome and for the initiation of services.

(3) a description of the service provider chosen by the client or authorized representative, and the methods of services delivery;

(4) a description of the criteria that will be used to evaluate progress toward achieving the employment outcome;

(5) the terms and conditions of the IPE including as appropriate:

(A) the responsibilities of DVR or DSBVI;

(B) the responsibilities of the client, including:

(i) the client's responsibilities for the employment outcome;

(ii) the client's participation in paying the cost of VR services; and

(iii) the client's responsibility to apply for, accept, and use comparable services and benefits to defray in whole or in part the cost of VR services.

(6) for an IPE that includes supported employment services, information identifying:

(A) the extended services needed by the client; and

(B) the source of the extended services, including natural supports, or an explanation concluding there is a reasonable expectation a source will become available; and

(C) the weekly work goal.

(7) if it appears they will be necessary, a statement of needed post-employment services.

**612:10-7-57 Services interrupted, Service-I [NEW]**

(a) Circumstances may arise that prevent a client from participating in the established IPE. These circumstances may therefore require a temporary interruption of services. A case is placed in Service-I when the client is unable to participate in the IPE because of circumstances beyond their control or the participant has not fulfilled requirements identified by the VR agency. Service-I may be used when planned services will be interrupted and there is an assumption that services may resume within a reasonable period of time. Cases should not remain in interrupted status for more than 9 months.

(b) The Rehabilitation Counselor will perform the following actions to a case placed in Service-I status:

(1) Contact client at least every 30 days to determine status of interruption.

(2) Review circumstances periodically with Supervisor to determine whether the record of services should remain open or be closed, as appropriate to the individual case.

(3) Change status when appropriate.

**612:10-7-58. Closed Rehabilitated [AMENDED]**

(a) **Use of Closed Rehabilitated status**. A case is closed as rehabilitated because the client has achieved an employment outcome as a result of vocational rehabilitation services. Cases closed as rehabilitated must as a minimum meet the requirements in (1) through (5) of this Subsection:

(1) the provision of services under the individual's IPE has contributed to the achievement of the employment outcome;

(2) the employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;

(3) the employment outcome is in an integrated setting, consistent with the individual's informed choice;

(4) the individual has maintained the employment outcome for a period of at least 90 days; and

(5) at the end of the appropriate period under Paragraph (4) of this Section, the individual and the VR Counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

(b) **Out of state.** Clients who move out of state after services have been completed are closed in rehabilitated status if the requirements in Subsection (a) of this Section can be met. If those requirements cannot be met the case will be closed, not rehabilitated.

(c) **Successful closure prior to completion of IPE**. If employment is secured before completion of the IPE, a counselor must document the conditions of substantial services and suitable employment were met. If planned services are interrupted prior to achieving the originally planned vocational goal, and services provided have directly contributed to the employment outcome for the individual or to job retention, an IPE amendment is not needed to revise the vocational goal prior to closure. A plan amendment is required when there is a substantial deviation from the original employment goal.

(d) **Cases closed from supported employment.** An individual with the most significant disabilities who is receiving supported employment services is considered to be successfully rehabilitated if the individual maintains a supported employment placement for a minimum of 90 days beyond stabilization. In addition to the criteria for "suitably employed", the counselor must document that the individual has met or has made substantial progress toward meeting the weekly work goal defined in the IPE, the client is satisfied with the job, the employer is satisfied with the client's job performance, extended services are in place, all supported employment requirements have been met, and the case is ready for closure. The closure documentation will address any significant differences in the ultimate work week achieved as compared with the predicted goal.

(e) **Cases closed from employment and retention.** An individual with severe disabilities who is receiving employment and retention services is considered to be successfully rehabilitated when the client maintains employment for a minimum of 90 days after placement, or for a minimum of 4 weeks plus 90 days if the individual required the "4 Weeks Job Support" Milestone.

(f) **Case recording requirements**. The client, or the client's authorized representative as appropriate, will be a full participant in the decision to close the case. The last discussion of the closure decision with the client, or the client's authorized representative, will be held ~~within 30~~ at the end of the required 90 days of the closure, and will be documented in a case narrative. The client will be notified in writing of the closure and advised of the availability of Post-Employment Services. **3**

(g) **Documentation at Successful Closure.** Prior to closure, a copy of the current pay stub identifying the individual's competitive hourly wage and hours to determine weekly earnings. If the current pay stub is not available, then the following is acceptable:

(1) An individual's written report of employment information and required wage information documented on an authorized DRS form (DRS-C-065) with their dated signature; or

(2) A detailed case note identifying the individual's employment information including the current competitive hourly wage and work hours in a typical week that is based on the counselor's conversation with the actual employer. Prior to calling an employer, the individual shall be informed that information provided and gathered is limited to what is necessary to document and verify employment. This provides the individual the opportunity to discuss preferences and options for obtaining required documentation. A signed Release of Information should be in the case file.

(3) If verification as stated above is not forthcoming and all efforts to obtain acceptable verification are documented, then the following is acceptable: a detailed case note identifying the individual's employment information including the current competitive hourly wage and work hours in a typical week, the date the final employment verification was received with justification for the individual not providing formal documentation.

(4) Individuals who are self-employed are required to provide wage documentation of competitive integrated self-employment.

**612:10-7-62. Post-Employment services [AMENDED]**

(a) **Use of Post-Employment services.** Post-employment services may be provided to assist rehabilitated clients to retain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

(1) The need for post-employment services will be assessed at initiation of the IPE. Ongoing assessment continues during case services, is documented as needed, and is reassessed just prior to case closure.

(2) Post-employment services may also be provided for needs that were not anticipated in the original IPE or prior to case closure. Post-employment services can be provided to individuals who receive Supported Employment Services if such services are needed to maintain the supported employment placement and those services are not available from an extended services provider.

(3) Post-employment services are not to be used in instances of underemployment when extensive retraining is needed.

(4) Cases reopened on a post-employment basis do not require re-establishment of eligibility. New diagnosis is needed only if there has been a change in the client's physical or mental condition. Any vocational rehabilitation service or combination of services necessary to assist the individual retain, regain, or advance in employment may be provided if the service(s) does not involve a complex or comprehensive effort. If comprehensive services are indicated, a new application is taken.

(5) Federal regulations forbid the setting of arbitrary time limits on the provision of post-employment services. If the client has been employed for a long period of time, the counselor must carefully review the client's situation before making the decision to provide post-employment services as opposed to opening a new case.

(b) **Other considerations.** Other considerations in determining a client's eligibility for post-employment services are:

(1) **Financial Needs.** A new financial need determination must be made if services requiring consideration of client participation in the cost of services are to be provided.

(2) **Emergency conditions.** Treatment of an emergency condition will not be considered as a post-employment service.

(3) **Upgrading.** Post-employment services are provided to help the individual advance in employment only when the nature of the individual's impediment to employment makes advancement the most appropriate post-employment outcome consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(c) **Transfer of cases.** Clients needing post-employment services who have moved to another area of the state will have their cases transferred. When a rehabilitant who has moved out of state requests post-employment services, the counselor will refer the individual to the rehabilitation program in the state where the individual resides. Upon receipt of a release signed by the client, copies of the requested information from the closed record of service will be forwarded to the receiving state agency. If an individual who was a rehabilitant in another state requests post-employment services from our state, information must be requested from the state where services were previously provided. All requests must include a specific release of confidential information signed by the applicant. The case will be processed as a new referral, but will be served and documented as a post-employment case.

(d) **Criteria for terminating post-employment services.** Decisions to terminate post-employment services must be made on an individual basis in consultation with the client.

(e) **Case recording requirements.** The same principles of client involvement are required in the IPE for Post-Employment Services as are required under any other IPE. Case recording will be made at significant times during the process, including assessment of progress, the decision to conclude services and the results achieved at the completion or termination of services.

~~(f)~~ **~~Use of Post-Employment services completed.~~** ~~The case can be closed as soon as the services in the Post-Employment Services amendment have been completed insofar as possible and the client has been consulted regarding the closure decision.~~

~~(g)~~ **~~Case recording requirements.~~** ~~Closure from post-employment status is documented in the case record and in a closure letter given to the client.~~

**PART 11. PHYSICAL AND MENTAL RESTORATION SERVICES**

**612:10-7-98. General guidelines for physical and mental restoration services [AMENDED]**

(a) To the extent that assistance is not readily available from a source other than DVR or DSBVI, diagnosis and treatment of physical and mental impairments may be provided to assist the individual with a disability in preparing for, securing, retaining or regaining employment. Physical or mental restoration services are provided only when the condition is stable, or slowly progressive. A slowly progressive condition is one in which the client's functional capacity is not expected to diminish so rapidly as to prevent successful completion of vocational rehabilitation services, and/or employment for a reasonable period of time. The individual is liable for services he or she arranged which were not planned and initiated under the auspices of DVR and DSBVI. DVR and DSBVI will not pay for hospitalization or treatment occurring prior to initiation of an Individualized Plan for Employment (IPE). DVR and DSBVI will not pay for emergency hospitalization or treatment needed at the time of referral. However, diagnostic examinations or information may be paid from DVR and DSBVI funds for use in eligibility determination, priority group placement, or determination of vocational rehabilitation needs. Physical and/or mental restoration services will be purchased only from licensed or board certified health professionals unless otherwise specified in DRS policy. Payment will be made in accordance with the established fee schedule of the Department.

(b) Temporary conditions with sudden onset do not fall within the definition of impairment for eligibility purposes. Emergency treatment of remediable conditions will not be purchased by DVR and DSBVI except under intercurrent illness policy. When the staff is in doubt as to the effect of such a condition upon the outcome of the IPE objectives, a medical consultation may be requested.

(c) DVR and DSBVI do not provide long-term or ongoing physical or psychological treatment. DVR and DSBVI funds cannot be used to initiate treatment that is reasonably anticipated to last more than three months unless supervisory approval has been obtained for a three month extension. Additional three month extensions may be approved if the client maintains reasonable progress toward achieving the vocational goal. Persons needing long-term or ongoing treatment are to be referred to other medical assistance sources if available.

(d) Payment from DVR and DSBVI funds may be planned and authorized only after applicable third party pay sources provide verification of the expense they will cover, and not cover, associated with the physical or mental restoration services in question. When DVR and DSBVI funds are used to supplement a third party pay source, planned services and the authorization will be limited to those expenses that fall within the scope of the program and that do not exceed the difference between what the third party pay source will pay and the Department's established payment schedule.

(e) Individuals with chronic disabilities that can be removed with little or no residual limitations will not be eligible for purchase of services other than those related to the required treatment.

(f) Physical and mental restoration services may include but are not limited to:

(1) Braces and orthotic devices.

(2) Chiropractic services. A chiropractor providing treatment must be duly licensed to practice his profession in Oklahoma, have a current provider/vendor agreement with DRS, and following evaluation of the client's needs, must provide a treatment plan with goals, time frames and the estimated number of treatments required to meet the goals. Treatment may not be extended beyond three months unless progress toward treatment goals can be determined.

(3) Dental services. Dental services may be provided to treat or correct dental conditions that constitute an impediment to employment or participation in the rehabilitation process, produce health problems or aggravate an existing disability. Dental services with a projected cost over $5,000.00 require review by the DRS dental consultant and supervisory approval.

(4) Dialysis and treatment for end-stage-renal-disease. DVR and DSBVI may assist with the cost of Medicare deductible, co-insurance, and services not covered by Medicare if documentation states other resources are not available and the client is actively participating in an IPE with treatment as part of the plan. Requests for kidney transplants must be approved by the medical consultant.

(5) Prescription drugs and prescribed medical supplies. Prescription drugs and/or prescribed medical supplies may be purchased when required for proper diagnosis, for post-operative treatment, or to stabilize a documented disability. The need for the drugs and/or medical supplies must be documented in a physician's report. Payment will be made for generic type drugs unless the physician specifically requests a brand name drug.

(6) Hearing aids and audiological services.

(7) Hospitalization when recommended by a physician and the client is to receive medical treatment or surgery. Hospitalization may also be authorized for diagnostic services upon recommendation of a physician.

(8) Treatment for intercurrent illness. Intercurrent illness is an illness or injury which occurs during the course of an individual's vocational rehabilitation and, if not treated, will complicate or significantly delay achievement of the client's employment outcome. DVR and DSBVI will purchase treatment for intercurrent illness or injuries if the client is not covered by health insurance or eligible for comparable services and benefits, or when the provision of services through comparable services and benefits would significantly interrupt or delay treatment for an individual at extreme medical risk, jeopardize a job placement or impair the individual's progress in achieving the planned employment outcome.

(9) Laboratory work and x-rays if required by the physician to complete his examination or in conjunction with diagnosis or treatment.

(10) Low vision services.

(11) Medical examinations, when necessary to determine eligibility, achieve a goal in the IPE or when related to an intercurrent illness.

(12) Nursing services can be provided for a client who is convalescing from physical restoration services if recommended by the doctor of treatment. Either Registered Nurses or Licensed Practical Nurses may be used to provide this service when a current medical vendor agreement is on file with the Department. Volunteers may be used if less technical care is needed and if approved by the client's physician.

(13) Physical and occupational therapy may be provided on either an in-hospital or outpatient basis if recommended by the attending physician.

(14) Post-operative care of cataract patients.

(15) Prosthetic eyes, glasses and other optical aids.

(A) Glasses and other visual aids and services may be prescribed or provided by either an ophthalmologist or an optometrist. Other optical aids recommended by optical aid clinics are purchased upon the recommendation of the specialist(s) in one or more such clinics. Prosthetic eyes are provided, upon the recommendation of an ophthalmologist.

(B) Lenses and frames for glasses purchased by DRS will be authorized at fee schedule prices. The vendor may add a service charge not to exceed the established fee. An additional code and fee may be added for tinting if it has been prescribed by the physician or optometrist that performed the eye examination with written medical/vocational justification.

(C) The fee that has been established for frames will only cover the cost of plain sturdy frames. Clients do not have the option of selecting more expensive frames and paying the difference between the vendor's price and the amount authorized. If the vendor accepts payment from the client or a representative of the client and also files a claim with the Department for the same services, a violation of the Provider Agreement has occurred and the vendor would be subject to sanctions.

(D) If a client selects special frames and has sufficient resources to purchase them, the frames should not be included on the authorization and the client would be responsible for the entire cost of the frames.

(16) Prosthetic limbs.

(A) Prosthetic limbs may be provided if the prosthesis is recommended by a physician. The client who has successfully worn a prosthesis will not be required to see an orthopedist or physiatrist, or attend an amputee clinic unless some other disorder is apparent.

(B) An individual who has never worn a prosthesis must be seen by a physician before the prosthesis is provided. The client must agree to training in its use. Gait training is considered Personal Adjustment Training and does not require client participation in cost. However, physical therapists providing the training are recognized as medical vendors and require authorizations completed on a Medical Service Authorization.

(C) Persons with multiple amputations must have the special examination and training.

(D) The counselor may authorize for a prescribed standard prosthesis without further review. The choice of prosthesis must be closely related to its intended use in a work setting, or in relation to reasonable independent living goals. Non-standard prostheses (i.e., myoelectric) will not be purchased with DRS funds unless medically justified and/or required for a specific employment, or independent living, outcome. When a prosthesis other than a standard prosthesis is prescribed the counselor will request a consultation from the appropriate medical consultant. Justification for the non-standard prosthesis must be documented in the case record.

(17) Psychiatric and psychological treatment.

(A) Psychotherapy may be provided for emotional conditions which may be expected to respond within a reasonable period of time. Psychotherapy can be provided only by the sources in (1) - (5) of this Subsection.

(i) Psychiatrists certified by the American Board of Psychiatry and Neurology or completed the required training and are "Board Qualified", or who have spent a major portion of their time in a particular specialty for at least two years and are recognized as specialists in the local community (same criteria as applied to other medical specialists).

(ii) Licensed Doctors of Medicine or Doctors of Osteopathy who have received specific training for and are experienced in performing mental health therapeutic, diagnostic, or counseling functions.

(iii) Psychologists with a doctorate in clinical or counseling psychology who hold a valid license to practice psychology.

(iv) Psychologists with a doctorate in clinical or counseling psychology who are employed by governmental agencies exempt from the licensing law.

(v) Other licensed clinicians or those employed by governmental agencies who have received administrative approval to provide this treatment service.

(B) Upon receipt of a written report from the therapist, the supervisor may approve additional three-month periods of therapy. Clients needing long-term or ongoing psychiatric or psychological treatment will be referred to the appropriate community mental health center.

(C) Personal Adjustment Counseling may be provided for those persons with emotional conditions who may benefit from counseling to bring about a more adequate social adjustment, alleviate superficial anxiety, and to create more effective interpersonal relationships. Personal Adjustment Counseling may be provided by: those individuals listed in (17) (A) of this Subsection.

(18) Speech therapy/training as recommended in a speech evaluation. Speech therapy, although provided by recognized speech-language pathologists (SLP) ~~therapists~~, is considered Personal Adjustment training and is not based on financial status. The providers of speech therapy are classified as medical vendors.

(19) Surgery and medical treatment.

(A) Surgery and complex or unusual medical treatment may be provided when recommended by a specialist. Medical consultant approval will be obtained prior to planning and authorizing a diagnostic procedure which could lead to immediate surgical treatment. The medical consultant will give conditional approval for the possible surgery if deemed necessary. Normal post-operative care is an integral part of the surgery; therefore, no post-operative charges are to be paid above the approved surgical fee.

(B) Specified outpatient surgical services are approved for payment when provided in qualified outpatient surgical facilities. Qualified facilities include Medicare certified free standing ambulatory surgical centers, Medicare certified hospitals offering outpatient surgical services, and hospitals which have an agreement with DRS.

(C) The counselor will advise the client he/she may be liable for any balance due when payment by private insurance exceeds the Department allowable rate.

(20) Weight loss treatment. A weight loss plan or treatment are included as a service in the IPE for individuals who are eligible on the basis of obesity. A licensed dietician or a physician skilled in weight reduction must monitor any treatment program authorized by the agency. Surgery for weight loss is not provided unless medically recommended as treatment for morbid obesity, a second confirming medical opinion is obtained, the surgery is approved by the DRS medical consultant and supervisory approval is obtained. Before approving DRS provision of surgery for treatment of morbid obesity, the supervisor shall consider the individual's past experience with standard weight loss protocols, and medical and behavioral factors that may impact the individual's ability to obtain long-term benefit from the surgery.

(21) Wheelchairs and other durable medical equipment when prescribed by a physician or recommended by an occupational therapist, physical therapist, assistive technology specialist or person with equivalent qualifications. Power mobility devices may be purchased for individuals when necessary to assist the client in achieving IPE goals.

(A) The client, and/or client's authorized representative, will participate in choosing from which vendor the wheelchair or durable medical equipment will be purchased. Wheelchairs and other durable medical equipment will be authorized at the agency approved fee.

(B) The client, or client's family or authorized representative as appropriate, is responsible for maintaining wheelchairs or other durable medical equipment in good working order. DVR and DSBVI will pay for repairs to wheelchairs or other durable medical equipment during the life of the case unless there is clear evidence the equipment has been damaged due to client abuse or neglect. An agency-purchased wheelchair will be returned to the agency if the client becomes unable to use it.

(C) Wheelchair rental may be authorized for a period not to exceed six months when necessary to assist the client with mobility. An exception can be made if it is documented that rental is more cost effective than purchase.

**PART 13. SUPPORTIVE SERVICES**

**612:10-7-130. Maintenance [AMENDED]**

(a) **General guidelines.** Maintenance means monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment.

(1) Maintenance is a supportive service provided to assist with the out-of-ordinary or extra expenses to the individual resulting from and needed to support the individual's participation in diagnostic, evaluative, or other substantial services in the IPE. The provision of maintenance as a supportive service is not synonymous with general assistance payments. It is not intended to pay for those living costs that exist irrespective of the individual's status as a DVR and DSBVI client.

(2) Maintenance, including payments, may not exceed the cost of documented expenses to the individual resulting from service provision. Authorizations for maintenance will not be issued to pay the cost, or part of the cost, for any other service or expense.

(b) **Provision of maintenance.** To receive maintenance, an individual must be either an eligible DVR or DSBVI client or an applicant for vocational rehabilitation services undergoing diagnostic evaluation and testing. For an accepted client, maintenance must be a supportive service and will be provided in combination, with another VR service listed in the Individualized Plan for Employment. The costs of the maintenance may not exceed the amount of increased expenses that the IPE causes for the individual or his/her family. Maintenance cannot substitute for or supplement income assistance payments.

(1) **Maintenance for diagnostic and evaluation services.** Maintenance payments for individuals receiving diagnostic or evaluation services may be authorized for overnight care, short-term lodging and/or meals.

(2) **Maintenance for physical restoration services.** Maintenance for physical restoration services is paid to the client until he/she is able to work. The client must be in his/her own home and the covered period of convalescence is to be 60 days or less. For convalescent periods in excess of 60 days, the counselor will refer the client to other sources for assistance (public assistance, SSI). In no instance will medical maintenance be paid while the client is hospitalized.

(3) **Maintenance for training.** Maintenance can be authorized for full time vocational school students or college students. Maintenance can be authorized for a client granted an exception to the full-time attendance requirement under 612:10-7-150(a). DRS will not pay for assistance with room and board expenses if there is a state funded vocational school, college or university within 40 miles of the client's official residence. In addition, DRS will only sponsor room and board expenses related to on-campus housing options with the lowest cost. DRS will only sponsor hotel costs associated with pre-vocational or personal and work adjustment training if the total cost of the hotel stay and per diem is less than the total cost of transportation to and from the hotel. Exceptions to this administrative rule~~s~~ may be granted due to issues such as disability requirements. All exceptions must be approved by the Programs Manager and thorough justification must be documented in the case.If DRS is to assist with summer room and board costs or rental assistance for summer semester at any level, there will be a requirement to participate in a minimum of 6 hours.

(4) **Maintenance for job search services.** Maintenance for job search services requires an IPE with major services directed toward the goal of employment.

(5) **Maintenance for job relocation.** Maintenance may be paid to a client for assistance in relocating to a new job site. Maintenance services for this purpose must be identified on the IPE.

(c) **Clothing expenses.** Clothing and/or uniforms can be purchased when needed to begin training or enter employment. Everyday clothing needs of the client are considered as part of the basic living requirements. Any clothing purchased for the client must be:

(1) required by the training facility;

(2) necessary to participate in job search or begin employment; or

(3) necessary to begin a training program that requires clothing standards beyond the client's means.

(d) **Day care expenses.** Day care expenses will be paid for from DVR and DSBVI funds only when necessary to participate in the IPE, and it is fully documented that no other resources are available for this service, including family members and friends.

(e) **Case Recording.**

(1) Maintenance payments will be provided and carefully tied to the achievement of specific VR outcomes which must be stated and documented in the case record and the IPE to justify such payments.

(2) Documentation as appropriate that justifies room and board expenses off campus related to on-campus housing options with the lowest cost.

(3) Documentation that other resources are not available to assist in day care expense, including family and friends.

**PART 15. TRAINING**

**612:10-7-142. General guidelines for training services [AMENDED]**

(a) **Types of training.** Training provided by DVR and DSBVI may include:

(1) **Vocational.** ~~Vocational and other training services, including personal and vocational adjustment training, advanced training in, but not limited to, a field of science, technology, engineering, mathematics (including computer science), medicine, law, or business); books, tools, and other training materials, except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing or any other postsecondary education institution) may be paid for with funds under this part unless maximum efforts have been made by the State unit and the individual to secure grant assistance in whole or in part from other sources to pay for that training~~ Vocational training provides the knowledge and skills necessary for performing the tasks involved in an occupation. Such knowledge and skills may be acquired through training from an institution, on-the-job, by tutors or through a combination of these methods. Vocational training may be provided for any occupation.

~~(A) For the first 60 credit hours or during the completion of an Associate's degree, DRS will only sponsor up to the cost of tuition and fees charged by the local state funded community college or state university within 40 miles of the client's official place of residence. If the client chooses to attend a different training site, DRS will only sponsor an amount equivalent to the amount that would be sponsored if attending the local college/university. Additional transportation or maintenance costs related to attending another training site will not be sponsored by DRS.~~

~~(B) For the completion of a Bachelor's degree, DRS will only sponsor up to the cost of tuition and fees charged by the state funded college or university closest to the client's official place of residence that offers a program to reach the vocational objective. Additional transportation or maintenance costs related to attending another training site will not be sponsored by DRS.~~

~~(C) Exceptions to the policies for college/university training must be approved by the Programs Manager through justification and must be documented in the record of service. Possible exceptions include but are not limited to:~~

~~(i) The need to attend a school outside of the 40 mile limit is due to disability related factors such as the need for accessible on-campus housing.~~

~~(ii) The degree major approved by the DRS Counselor for the client is not available at the local college or university.~~

~~(D) Training is provided in those colleges and universities which are accredited by the appropriate accrediting agency, whose credits will be given full recognition by other accredited colleges and universities, and which are under contract. Private and denominational colleges and universities may be used for the training of DRS clients, provided they are accredited and under contract.~~

~~(i) The Department will sponsor only the number of semester hours or remaining hours required for a specific degree. Exceptions may be approved by the counselor.~~

~~(ii) Previously completed credit hours which are applicable to the degree requirements will be incorporated in the development of the IPE. When a client changes majors, DVR and DSBVI funding will be limited to the number of credit hours needed for the new major minus the number of DVR and DSBVI funded credit hours lost due to the change in majors, unless the change in majors results from circumstances beyond the client's control.~~

(2) **Prevocational.** Prevocational training includes any form of academic or basic training provided for the preparatory skills needed for entrance into a vocational training program or employment. Prevocational training is initiated to enhance occupational knowledge or skills or to remove an educational deficiency interfering with employment.

(3) **Personal or work adjustment.** Personal or work adjustment training includes any training given for one or a combination of the reasons given in (A) - (D) of this paragraph.

(A) ~~For the first 60 credit hours or during the completion of an Associate's degree, DRS will only sponsor up to the cost of tuition and fees charged by the local state funded community college or state university within 40 miles of the client's official place of residence. If the client chooses to attend a different training site, DRS will only sponsor an amount equivalent to the amount that would be sponsored if attending the local college/university. Additional transportation or maintenance costs related to attending another training site will not be sponsored by DRS~~ To assist the individual in developing personal habits, attitudes, and skills enabling the individual to function effectively in spite of disability.

(B) ~~For the completion of a Bachelor's degree, DRS will only sponsor up to the cost of tuition and fees charged by the state funded college or university closest to the client's official place of residence that offers a program to reach the vocational objective. Additional transportation or maintenance costs related to attending another training site will not be sponsored by DRS~~ To develop or increase work tolerance prior to engaging in prevocational or vocational training or in employment.

(C) ~~Exceptions to the policies for college/university training must be approved by the Programs Manager through justification and must be documented in the record of service. Possible exceptions include but are not limited to:~~ To develop work habits and to orient the individual to the world of work.

~~(i) The need to attend a school outside of the 40 mile limit is due to disability related factors such as the need for accessible on-campus housing.~~

~~(ii) The degree major approved by the DRS Counselor for the client is not available at the local college or university.~~

(D) ~~Training is provided in those colleges and universities which are accredited by the appropriate accrediting agency, whose credits will be given full recognition by other accredited colleges and universities, and which are under contract. Private and denominational colleges and universities may be used for the training of DRS clients, provided they are accredited and under contract~~ To provide skills or techniques enabling the individual to compensate for a disability such as the loss of a body part or the loss of a sensory function.

~~(i) The Department will sponsor only the number of semester hours or remaining hours required for a specific degree. Exceptions may be approved by the counselor.~~

~~(ii) Previously completed credit hours which are applicable to the degree requirements will be incorporated in the development of the IPE. When a client changes majors, DVR and DSBVI funding will be limited to the number of credit hours needed for the new major minus the number of DVR and DSBVI funded credit hours lost due to the change in majors, unless the change in majors results from circumstances beyond the client's control.~~

(b) **~~Continued eligibility for college or university training.~~** Training may be provided for clients who:

(1) ~~DVR or DSBVI clients in college or university training will be expected to attend classes regularly and make continuous progress toward graduation; and~~ are mentally, physically and/or emotionally capable of pursuing a course of training to completion;

(2) ~~Maintain an overall 2.0 grade-point average (GPA), based on a four point (4.0) scale; and~~ require training to achieve an employment outcome or other goals established in the Individual Plan for Employment (IPE); and

(3) ~~Carry the minimum number of semester hours determined to be full time at the school attended. Exceptions may be granted by the counselor, based on severity of disability, scheduling problems, or other valid reasons~~ are determined to have a reasonable opportunity for obtaining employment in the chosen vocation.

~~(4) Full-time requirement for DRS graduate sponsorship would equal the required minimum of hours per semester. (I.e. 9 hours during the regular semester and 4 hours in the summer).~~

(c) **~~Continued eligibility.~~** ~~A client in training at a vocational school will be based on the client's performance in respect to grades, progress and attendance. The minimum standards used by the training facility for satisfactory progress in respect to grades and attendance will be utilized by DVR and DSBVI staff in determining the progress of the client. Clients attending vocational technical schools who withdraw or fail course work will be required to pay for a like number of credit or clock hours during the following enrollment period.~~ Decisions related to training are based on the individual needs and informed choices of the client as identified in the IPE.

(d) **~~Withdrawals and failures~~**~~. Clients who withdraw or fail college or university courses paid by DVR and DSBVI will be required to pay for a like number of hours during the following enrollment period subject to the guidelines in (b) section. When a client fails to meet the requirements for continued sponsorship the guidelines in (A-C) of this Subsection are to be followed: A client failing to meet the grade point requirement may continue to receive services not based on financial need.~~ DVR and DSBVI will only pay tuition and fees for courses which count toward requirements consistent with the vocational goal of the IPE. Training of DVR and DSBVI clients is provided by colleges, universities, private business and trade schools, state supported vocational schools, employers in the form of on-the-job training, sheltered workshops, and other approved training facilities with valid contracts. **2**

~~(1) Payment of training services based on client's financial need will not be provided if the client's grades fall below 1.8 overall GPA.~~

~~(2) Training services may be paid for a client having an overall GPA between 1.8 and 1.9 for the first semester that grades fall below 2.0 overall GPA. Subsequent enrollments can only be paid if the student's overall GPA shows progress.~~

~~(3) A client failing to meet grade point requirements may be approved by the counselor if there are extenuating circumstances beyond the client's control.~~

(e) **~~Public institutions of higher learning~~**~~. Tuition and fees for DVR and DSBVI clients attending public colleges and universities will be paid at the rate set for resident students by the Oklahoma Regents for Higher Education and within limits prescribed by the Legislature. DVR and DSBVI will pay those fees charged to all students and special fees associated with required courses in the student's major field of study.~~ Federal regulations require a search for comparable services and benefits with the results documented before payment can be made for training in the following institutions: colleges, universities, community/junior colleges, public or private vocational/technical schools, or hospital schools of nursing. PELL grants and other available Federal/State student aid (excluding merit awards) must be applied to tuition, fees and all other educational expenses as a first dollar source prior to consideration of the expenditure of DRS funds.

(f) **~~Private institutions of higher learning~~**~~. Tuition and fees for students in attendance at accredited private or denominational schools will be paid at the same rate as that paid at state-supported colleges or universities of equal rank. Advanced standing test for college students: DRS can pay the fee for advanced standing tests. Proof of a passing grade is required prior to payment~~ Training costs will not be authorized beyond the first DVR and DSBVI sponsored enrollment until proof of the availability of comparable benefits is received by the counselor.

(g) **~~Public or private vocational schools.~~** ~~Schools that have a valid purchasing agreement with DRS, those training costs may be purchased, after use of available comparable benefits such as PELL grants and other federal/state student aid (excluding merit awards)~~ Once training has begun, the client is expected to progress toward the vocational objective at a steady rate. This requires the client to attend training on a regular basis, and maintain a full-time load unless an exception is granted by the counselor due to severity of disability, scheduling problems or other valid reasons. Training progress reports or other methods of reporting (i.e., grade reports, transcripts) are utilized to document training progress. Sporadic attendance and reduced training loads causing a delay in the completion of training must be reviewed by the counselor. The client is responsible for advising the counselor of problems encountered during the training program.

(h) **~~Out-of-state training.~~** ~~Out of state training may be approved when one or more of the following applies, and the case record documents the basis for this determination:~~ All types of institutional, technical, personal adjustment or employment training are purchased by an authorization issued by the counselor.

~~(1) The course of training is not available within the state;~~

~~(2) The out of state training program is no more expensive than in-state training; or~~

~~(3) There are specific considerations based on severity of the disability which preclude the use of in-state facilities.~~

~~(A) Tuition for a student who attends an out-of-state college or university will be paid at the same rate paid at Oklahoma colleges or universities of equal rank. Payment for textbooks and training tools and supplies can be provided for clients in out-of-state training, in accordance with DRS administrative rules.~~

~~(B) Prior to client's enrollment at a facility located in another state, an approved Justification for Out-of-State Training form must be submitted to the DRS State Office.~~

~~(C) The DRS Contracts Unit must complete renewal of contracts no less than two months prior to present contract expiration date to ensure continuation of services. When a contract lapses because renewal was not completed within time frames, the Department cannot pay the institution's claim.~~

~~(i)~~ **~~Training for individuals in custody of the Department of Corrections~~**~~. DVR and DSBVI funds are not used to defray the cost of training for individuals in the custody of the Department of Corrections. This does not apply to individuals who meet the criteria set forth within a joint memorandum of understanding between DRS and the Department of Corrections.~~

~~(j)~~ **~~Distance Education.~~** ~~Distance education may include but is not limited to internet training, correspondence training and talkback TV.~~

~~(1) Distance education may be provided if the client needs training which may be obtained most practically by distance education.~~

~~(2) Tuition for college and/or vocational distance education cannot exceed the State rate for comparable training.~~

~~(3) Distance educational programs will only be approved if institution has recognized accreditation.~~

~~(k)~~ **~~Tutorial training.~~** ~~Tutorial training may be provided for clients with significant disabilities who cannot receive training by another method or who may need assistance to complete a formal training course satisfactorily. Persons chosen to provide tutorial training for clients must have the necessary skills to provide assistance to the client and be willing to provide the training at a time and place suitable to the client. Examples of proof of necessary skills are the following:~~

~~(1) Letter of recommendation from college or university~~

~~(2) Teaching certificate~~

~~(3) Transcripts~~

~~(4) Other documentation of knowledge, skills or ability to instruct in the designated subject.~~

~~(l)~~ **~~Personal or vocational adjustment~~**~~. Personal or vocational adjustment training includes any training given for one or a combination of the reasons given in (1) - (3) of this paragraph.~~

~~(1) Training includes but is not limited to conditioning activities for developing work tolerance, work therapy, occupational therapy, speech training and speech correction, auditory training, gait training, diabetes management courses, driver's training, and mobility training. It may also include development of personal habits, attitudes, and work habits necessary to orient the individual to the world of work.~~

~~(2) To develop or increase work tolerance prior to engaging in prevocational or vocational training or in employment.~~

~~(A) Vocational training provides the knowledge and skills necessary for performing the tasks involved in an occupation. Such knowledge and skills may be acquired through training from an institution, on-the-job, by tutors or through a combination of these methods. Vocational training may be provided for any occupation.~~

~~(B) Prevocational training includes any form of academic or basic training provided for the preparatory skills needed for entrance into a vocational training program or employment. Prevocational training is initiated to enhance occupational knowledge or skills or to remove an educational deficiency interfering with employment.~~

~~(3) To provide skills or techniques enabling the individual to compensate for a disability such as the loss of a body part or the loss of a sensory function. High school students eligible for this service must be at least 16 years of age and may not participate for more than 18 months unless client and counselor determine additional time is needed.~~

~~(m)~~ **~~Federal/State student aid.~~** ~~Federal regulations mandate a search for comparable services and benefits with the results documented before payment can be made for training in the following institutions: colleges, universities, community/junior colleges, public or private vocational/technical schools, or hospital schools of nursing. PELL grants and other available Federal/State student aid (excluding merit awards) must be applied to tuition, fees and all other educational expenses as a first dollar source prior to consideration of the expenditure of DRS funds, regardless of whether the student is attending a vocational, trade, public or private institution of higher education.~~

~~(n)~~ **~~Payment of training costs.~~** ~~DVR and DSBVI will only pay tuition and fees for courses which count toward requirements consistent with the vocational goal of the IPE. Training of DVR and DSBVI clients is provided by colleges, universities, private business and trade schools, state supported vocational schools, employers in the form of on-the-job training, and other approved training facilities with valid contracts.~~

~~(1) Training costs will not be authorized until proof of the availability of comparable benefits is received by the counselor.~~

~~(2) After the completion of the first semester, a grade report, proof of enrollment, and an itemized invoice are required documentation to support the authorization for tuition and fees. It is the responsibility of the client to provide this support documentation. The client may provide this documentation electronically or as a printed document in the standard format used by the school.~~

~~(3) Each client is responsible for providing the counselor a copy of the college or university's current semester costs before the designated "Drop and Add" date.~~

~~(o)~~ **~~Case Recording Requirements~~**~~.~~

~~(1) The record of service will contain testing and/or supportive data to substantiate the reasonable expectation for successful completion of a training program.~~

~~(2) Clients approved for college or university training will exhibit the ability to do college work. The counselor will have evidence in the record of service indicating the client's ability to do college work before a program is developed calling for training at the college or university level.~~

~~(3) Training progress reports or other methods of reporting (i.e., grade reports, transcripts) are utilized to document training progress.~~

~~(4) Documentation will state why the particular out-of-state provider is being used in terms of specific clients, and address the issues of, selection of vocational objective, projected starting and completion dates, breakdown of costs; and extent of comparable services and benefits.~~

~~(5) Case notes are necessary when an authorization is completed to include a description of services being provided (i.e. tuition and fees) and the date of service on all direct authorizations. Include number of hours enrolled, what semester, date of service.~~

**612:10-7-150. Continued eligibility for college or university training [AMENDED]**

(a) **Requirements for continued eligibility.** DVR or DSBVI clients in college or university training will be expected to attend classes regularly and make continuous progress toward graduation.

(b) **To continue assistance with college or university training**, the client must maintain a cumulative 2.0 grade-point average (GPA), based on a four point (4.0) scale.

(c) **The client must maintain at a minimum the cumulative GPA** **required by the Institution for the client's major field of study.** If the client is unable to consistently maintain the minimum cumulative GPA for their chosen field of study, the Counselor will reassess the justification for continued training and whether a change in vocational goal is necessary.

(d) **The client must carry the minimum number of semester hours determined to be full time at the school attended.** Exceptions may be granted by the counselor, based on severity of disability, scheduling problems, or other valid reasons.

(e) **When a client fails to meet the requirements for continued sponsorship the guidelines in (1) – (5) of this Subsection are to be followed:**

(1) Payment of training services based on client's financial status will not be provided if the client's grades fall below 1.5 cumulative GPA.

(2) Training services may be paid for a client having a cumulative GPA between 1.5 and 1.9 for the first semester that grades fall below 2.0 cumulative GPA. Subsequent enrollments can only be paid if the student's cumulative GPA shows progress.

(3) A client failing to meet the grade point requirement may continue to receive services not based on financial status.

(4) A client failing to meet grade point requirements may be approved by the counselor if there are extenuating circumstances beyond the client's control.

(5) A client failing to meet grade point requirements will be contacted as soon as appropriate to complete a program review to determine if a change in services, vocational goal, or objectives is needed. A client failing to meet chosen goals will not have his/her case closed until the counselor has provided counseling and guidance and determined that a change in the IPE is inappropriate. The counselor should investigate the need for further vocational and/or educational evaluation to explore alternative employment goals.

(f) **Withdrawals and failures.** Clients who withdraw or fail courses paid by DVR and DSBVI will be required to pay for a like number of hours during the following enrollment period subject to the guidelines in (a) of this Section.

(g) **Changes in training program**. Client will be required to sponsor a like amount when there is a change in the planned training, and coursework previously sponsored by DRS cannot be applied to the new training program. This will not be applied when the change is required due to the disability.

**612:10-7-164. Personal and work adjustment training [AMENDED]**

(a) Personal and/or work adjustment training is provided by facilities and schools having valid contracts with the Department.

(b) Personal or work adjustment training is the provision of skills or techniques for the purpose of enabling the individual to compensate for a disability such as the loss of a member of the body or the loss of sensory function.

(1) ~~Personal or work~~ Work adjustment training includes but is not limited to:

(A) conditioning activities for developing work tolerance,

(B) work therapy,

(C) occupational therapy,

(D) lip reading,

(E) speech ~~training and speech correction~~ therapy,

(F) auditory training,

(G) gait training,

(H) diabetes ~~management courses~~ education training,

(I) driver's training, and

(J) mobility training.

(2) ~~It~~ Personal adjustment training may also include:

(A) development of personal habits,

(B) attitudes, and

(C) work habits necessary to orient the individual to the world of work.

(3) This service does not require client participation in cost of services. High school students eligible for this service must be at least 16 years of age and may not participate for more than 18 months unless client and counselor determine additional time is needed.

**612:10-7-171 Credential Attainment and Measurable Skill Gains for Post-Secondary Training Programs [NEW]**

(a) Recognized Postsecondary Credentials: A Recognized Postsecondary Credential is defined as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the State involved or Federal Government, or an associate or baccalaureate degree, as well as graduate degrees for purposes of the VR program as required by section 103(a)(5) of the Rehabilitation Act of 1973, as amended by Title IV of WIOA. A recognized postsecondary credential is awarded in recognition of an individual's attainment of measurable technical or industry/occupational skills necessary to obtain employment or advance within an industry/occupation. These technical or industry/occupational skills generally are based on standards developed or endorsed by employers or industry associations.

(b) Credential Attainment: Under the WIOA, workforce agencies are required to report the percentage of those participants enrolled in an education or training program (excluding those in OJT and customized training) who attained a recognized postsecondary credential during participation in or within one year after closure of the case. This is based on the sub-regulatory guidance related to the implementation and operation of the performance accountability system under section 116 of WIOA and the implementing regulations in 34 CFR parts 361 subpart E.

(c) In addition, agencies are expected to report documented progress (academic, technical, occupational, or other) that a participant makes in a training or education program toward obtaining a recognized postsecondary credential. This progress is reported throughout the life of the case and are referred to as Measurable Skill Gains (MSG).

(d) Reporting credential attainment and Measurable Skill Gains: The goal to achieve a credential through a recognized education or training program must be included on the IPE in order to properly report Credential Attainments and MSGs. No Credentials or MSG's are reported on cases that have not reached Service status or higher. It is expected that Participants assist with obtaining the required documentation and staff are to use DRS electronic case management system to record credential attainments and MSGs, as soon as documented proof has been obtained. Credential attainment can be reported up to one year after case closure. Measurable Skill Gains are only reported prior to case closure.

**PART 19. SPECIAL SERVICES FOR INDIVIDUALS WHO ARE BLIND, DEAF, OR HAVE OTHER SIGNIFICANT DISABILITIES**

**612:10-7-196. Interpreter services [AMENDED]**

~~(a)~~ **Interpreter services.** Interpreter services are sign language or oral interpretation services for individuals who are deaf or hard of hearing and tactile interpretation services for individuals who are deaf-blind. Specially trained individuals perform sign language or oral interpretation. Interpreter services also include real-time captioning services for persons who are deaf or hard of hearing as found in 34 CFR 361.5 (c) (10) and 361.48 (b) (10). **1, 2**

(1) Does not include spoken language interpretation.

(2) Interpreter services do not require client participation in cost of services.

(3) The interpreter will submit a claim at the end of each specified time period.

~~(b)~~ **~~Deaf-Blindness Specialist.~~** ~~To promote and coordinate appropriate services for persons with dual losses of vision and hearing, the Division of Services for the Blind and Visually Impaired employs a Deaf-Blindness Specialist. This specialist works with counselors, rehabilitation teachers and others who provide services directly to clients who are deaf-blind. A major role served by this specialist is coordinating services and ensuring dialogue among schools, programs, agencies and organizations serving the deaf and blind.~~

~~(1) Due to the overwhelming impact upon the individual with a combination disability of deafness and blindness, a multiple disciplinary approach is needed to adequately serve these individuals. Unique problems in mobility and communication can cause severe social, recreational, academic deprivation and long term prevocational training may be necessary.~~

~~(2) Persons who are deaf-blind are capable of competitive employment and the counselor will carefully evaluate expected employment outcomes.~~

~~(c)~~ **~~Case Recording.~~** ~~In training situations, the counselor must document that interpreter services are not available through the training facility or other sources before interpreter services are provided.~~

**612:10-7-205. Services to persons who are deaf-blind [AMENDED]**

(a) **Overview of services.** Because of the overwhelming impact upon the individual with a combination disability of deafness and blindness, a multiple disciplinary approach is needed to adequately serve these individuals. Unique problems in mobility and communication can cause severe social, recreational, academic deprivation and long term prevocational training may be necessary. Persons who are deaf-blind are capable of competitive employment and the counselor will carefully evaluate expected employment outcomes.

(b) **Deaf-Blindness Specialist.** To promote and coordinate appropriate services for persons with dual losses of vision and hearing, the Division of Services for the Blind and Visually Impaired employs a Deaf-Blindness Specialist. This specialist works with counselors, rehabilitation teachers and others who provide services directly to clients who are deaf-blind. A major role served by this specialist is coordinating services and ensuring dialogue among schools, programs, agencies and organizations serving the deaf and blind.

(c ) **Support Service Providers.** Support Service Providers (SSPs) promote independence by providing deaf-blind individuals with visual and auditory access to the environment. SSPs facilitate interpersonal communication and provide environmental information and sighted guide services to deaf-blind individuals during assessment for eligibility determination and IPE-related activities as requested by DRS. IPE related activities may include, but not be limited to, all contacts with the DRS, IPE related activities may include, contacts with DRS staff including meetings; job interviews, job site orientation, non-emergency medical appointments (scheduled or authorized by DRS) and community events pertaining to the client's vocational goal, such as job fairs, networking events, community-based training, filling out job applications or other paperwork. Services may include driving client to the IPE related activity and home again, reading client's mail and transmitting it in a mode that is accessible to the client. DRS should not be involved in payment for SSP services that are arranged without agency knowledge, or are used for purposes not directly connected with the client's DRS case including assessment for eligibility determination, IPE-connected services or job readiness or placement activities.

**PART 21. PURCHASE OF EQUIPMENT, OCCUPATIONAL LICENSES AND CERTIFICATES**

**612:10-7-216. Tools, occupational equipment, initial stocks and supplies [AMENDED]**

(a) Tools, occupational equipment and supplies will be provided to eligible clients to the extent necessary to achieve their vocational goal providing the client has adequate resources available for the proper maintenance and upkeep of such tools and equipment. The client, or client's family or authorized representative as appropriate, is responsible for maintaining tools, occupational equipment, initial stocks, and supplies in good working order. DVR and DSBVI will not pay for repairs to tools, occupational equipment, initial stocks and supplies purchased with DVR and DSBVI funds once title has been released to the client. DVR and DSBVI will not pay for repairs before title is released when there is clear evidence that the damage resulted from abuse or neglect.

(b) The client will retain possession and control of articles while engaging in the job or occupation for which articles were provided, or when title is released to client. Occupational tools, occupational equipment, and initial stocks and supplies are defined as follows:

(1) Occupational tools are considered to be those minimum tools required for a designated trade, necessary to the employment of the individual, and not furnished by the employer. DRS will NOT purchase operable firearms even if required for employment. Counselor will assist the individual in finding resources to help in this purchase if necessary.

(2) Occupational equipment is equipment required to meet the minimum needs of an individual in starting and conducting a business of his or her own.

(3) Initial stocks and supplies are those materials and merchandise necessary for the client to become operational in a business.

(c) Purchase of occupational tools, equipment and initial stocks and supplies will be made in accordance with current DRS purchasing rules. If the client is required to participate in cost of services, the payment will be made to the nonmedical vendor. When the equipment is received and/or installed, the appropriate rehabilitation professional completes the Receipt for Equipment and Title Agreement. If the purchase total is $5,000 or more, the rehabilitation professional then signs the vendor's invoice and routes it to DRS state office.

(d) Used tools or equipment may be purchased when it is evident considerable savings may be affected. Used equipment or tools are to be appraised piece-by-piece by at least three shop owners or managers in the same type of work, and who are not acquainted with the vendor.

(e) If the counselor, after a thorough check of the tools or equipment, finds they are not being used for the purpose for which they were purchased, the counselor is to repossess the tools or equipment by executing the Release or Receipt of Equipment form.

~~(f) Occupational licenses are those licenses required by law to obtain and practice a particular profession or trade. Fees for such licenses and teacher certification tests may be provided for DRS clients. The training facility may arrange for necessary certification and it may be included as a separate item on the training authorization. If training is not involved, the license fee is authorized upon evidence of a skill. Clients will be responsible for renewal of licenses purchased by DRS.~~

**612:10-7-220. Vehicle modification services [AMENDED]**

(a) Vehicle modification services may be provided as needed to enable a Vocational Rehabilitation client to prepare for, enter or retain employment. Vehicle modifications include the range of modifications and special equipment needed by a person with an impairment to drive or be a passenger in a vehicle. Vehicle modifications above the State Capitalization rate are subject to the Prior Approval from RSA in accordance with 2 CFR 200.439.

(b) Vehicle modification services provided to an individual in the Vocational Rehabilitation program may include:

(1) purchase and installation of adaptations or devices in a vehicle;

(2) assistance with payment of the portion of the cost attributable to modifications pre-installed in a new or used vehicle purchased from a dealer;

(3) evaluation of an individual's ability to operate a motor vehicle;

(4) ~~prescription of required devices specific to both the individual's needs and the vehicle; and~~ required devices recommended by AT Specialist specific to both the individual needs and the vehicle. The AT report must not be older than six months at a time of purchase of recommended devices.

(5) training in the operation of the vehicle.

(c) Vehicle modifications which are projected to cost the amount of the ~~DCAM~~ OMES authority order limit or less will be made in accordance with 612:10-1-7. Vehicle modifications projected to cost more than the ~~DCAM~~ OMES authority order limit will require additional processing by DRS Central/Departmental Services after the process is completed by the counselor as outlined in Categories A through C below. Clients purchasing new vehicles shall apply for any mobility equipment rebate available from the vehicle manufacturer and the amount of any such rebate shall be assigned to DRS.

(1) Category A: New or used vehicle with structural modifications: In this process, the vehicle will be purchased by client choice and not obtained through a bid process. The client will be responsible for the purchase of the vehicle and DRS will be responsible for the costs attributable to the structural modifications.

(2) Category B: New or used vehicle with structural modifications and accessibility modifications additions: In this process, the vehicle will be purchased by client choice and not obtained through a bid process. The client will be responsible for the purchase of the vehicle and DRS will be responsible for the costs attributable to the structural modifications and the accessibility modification additions. DRS will participate in this method only if the client obtains warranty from the mobility aids vendor. A copy of the warranty agreement will be obtained by the counselor and maintained in the case file.

(3) Category C: Any modifications to a new or used vehicle not purchased as part of the vehicle package with a cost greater than the ~~DCAM~~ OMES authority order limit will require additional processing by C/DS after the bid process is completed by the counselor in accordance with 612:10-1-7.

(d) The qualifications in (1) – (9) of this Subsection apply to all vehicle modifications.

(1) The client or individual providing the transportation must have a current, valid driver's license. If the client will be driving the vehicle and does not yet have a driver's license, he/she must be legally permitted to drive or participate as a driving student.

(2) The name of the client must appear on the title to the vehicle and current vehicle registration. The client may be listed as a co-owner on these documents.

(3) The client must agree to maintain the vehicle for the predictable life of the equipment and is responsible for maintaining special equipment in good working order. DRS may pay for repairs to such equipment during the life of the case unless there is clear evidence that the special equipment has been damaged due to client abuse or neglect as determined by the dealer, vendor or Assistive Technology Specialist.

(4) The client must maintain full vehicle coverage (both collision and comprehensive) ~~insurance on the vehicle, including the equipment~~ to include special equipment and any other vehicle modifications. All potential and/or additional drivers permitted to drive the vehicle must be insured and the appropriate insurance documentation provided to OKRS.

(5) The vehicle must be evaluated by an Assistive Technology Specialist or person with equivalent qualifications (Driver Rehabilitation Instructor, Occupational Therapist, Rehab Engineer, etc.) for identification of the appropriate adaptive equipment and assessment of the compatibility of the vehicle with recommended adaptive equipment.

(6) A used vehicle must be inspected by an ASE or manufacturer certified mechanic to assure it is mechanically and structurally sound before equipment can be installed. This inspection may be authorized by the counselor if necessary. If the ASE or manufacturer certified mechanic recommends it, a separate inspection related to structural soundness will be completed. This inspection may be authorized by the counselor.

(7) Existing modifications on a new or used vehicle shall be inspected for the appropriateness of the adaptive equipment for the ~~consumer's~~ client's needs by the Assistive Technology Specialist or other qualified person. DRS also requires documentation that existing modifications on a used vehicle have been inspected by the mobility equipment dealer/vendor to determine efficiency, quality and fair market value of the modification or adaptive equipment. This documentation may be obtained directly from the mobility equipment dealer/vendor or from the lender when such documentation has been required for loan approval.

(8) DRS will not pay the expense of replacing the equipment unless the equipment no longer meets the needs of the client as determined through review of current medical reports and assistive technology evaluation indicating replacement is required to meet the IPE goals.

(9) ~~Certain types of vehicle modification equipment are considered "transferable" by design: i.e., hand controls, left foot accelerator, and hitch lift systems for wheelchairs/scooters. DRS may assist with the cost of transferring this type of equipment to meet the IPE goals. These modifications are categorized as non-structural modifications~~ DRS will not provide comprehensive structural modifications to include vertical, butterfly, or gull-wing doors for any vehicle types.

(10) ~~When vehicle modifications are completed, installation is to be inspected by an Assistive Technology Specialist or person with equivalent qualifications, to determine if the authorized equipment conforms to prescribed standards, is properly installed and meets the functional needs of the client. The counselor must obtain a statement of satisfaction from the client~~ Certain types of vehicle modification equipment are considered "transferable" by design: i.e., hand controls, left foot accelerator, and hitch lift systems for wheelchairs/scooters. DRS may assist with the cost of transferring this type of equipment to meet the IPE goals. These modifications are categorized as non-structural modifications.

(11) When vehicle modifications are completed, installation is to be inspected by an Assistive Technology Specialist or person with equivalent qualifications, to determine if the authorized equipment conforms to prescribed standards, is properly installed and meets the functional needs of the client. The counselor must obtain a statement of satisfaction from the client.

(12)  Once a vehicle modification is complete, an Assistive Technology Specialist will conduct the inspection, and if required, a Driving Rehabilitation Instructor (DRI) to determine if the authorized equipment conforms to prescribed standards, is properly installed, and meets the functional needs of the client. The modified vehicle is not to be released to the client until after the inspection process is complete. This includes the Assistive Technology Specialist obtaining the following: valid driver's license, vehicle title, insurance verification, client's signed statement of satisfaction, and vehicle modification pictures. Counselor will not release final payment until are all items are received and reviewed.

**612:10-7-221. Housing Modification [AMENDED]**

(a) Modification of a residence may include installation of ramps, widening of doors, installation of grab bars and other accessibility modifications when such modifications are necessary to support the ~~consumer~~ client in achievement of an employment outcome. ~~Major~~ DRS will not provide major structural modifications such as elevators, room additions or major wall removal ~~will not be provided by DRS without supervisor approval~~. Housing modifications that will cost more than the ~~DCAM~~ OMES authority order limit require supervisor approval. All housing modifications are subject to the Prior Approval from RSA in accordance with 2 CFR 200.439.

(b) In all situations where housing modification is to be done, the owner of the house must provide proof of ownership, sign a written release form, and be current on mortgage payments. DRS will not provide permanent modification to rental properties but may assist with portable/removable modifications. ~~In those situations where the consumer is a renter, the~~ The renter/~~consumer~~ client is responsible for obtaining ~~the written release~~ prior written permission from the owner for any portable/removable modifications. The counselor must make a referral to the Assistive Technology (AT) Specialist who will then ~~make the evaluation of~~ evaluate the residence ~~and recommend the~~ recommending modifications needed to make the residence accessible ~~and usable~~ for the ~~consumer~~ client. After modifications have been completed the counselor will contact the AT Specialist for inspection of the home, to ensure the modifications conform to prescribed standards and meet the ~~consumers~~ client's accessibility needs. The AT Specialist will provide a report to the counselor that will contain pictures of the completed work and ~~the counselor must get~~ a signed statement of satisfaction from the ~~consumer~~ client.

**PART 23. SELF-EMPLOYMENT PROGRAMS AND OTHER SERVICES**

**612:10-7-230. Self-employment programs [AMENDED]**

(a) Self-employment is not a vocational goal itself but a method of achieving employment. Self-employment programs may be divided into Contract Labor and Self-Employment.

(1) Contract Labor. Employment is contract labor when the client has a contract or on-going business with a company or person to provide a specific product or service for a fee. The service or product is produced to meet the vendor's specifications and needs. The purchasing company often supervises the work.

(2) Self-Employment. In Self-Employment, the ~~consumer~~ client owns, manages and operates a business selling goods or services for the purpose of making a profit, ex: (Business Enterprise Program). Self-Employment ranges from sole proprietorships and independent contractors to multi-employee companies and independent franchise operations.

(A) The client must have the proper skills and managerial ability to succeed in the trade or occupation for which the services are provided; and

(B) The client must have adequate resources available for the proper maintenance and upkeep of the required tools, equipment, and stocks. The client is responsible for the maintenance and repair of any tools, equipment, and stocks.

(b) Agency Role. The role of the VR Agency is not to serve as the sole funding source for self-employment endeavors. Other funding resources must be research and utilized when available. DRS may participate in partially funding small business start-up or the retention of an existing client owned and operated business but does not have a capital or loan program for the establishment businesses. These investment resources must come from other sources. DRS will assist the client in making informed decisions, reduce or eliminate the barriers created by the disability(ies), training regarding small business development/self-employment, and assisting the individual in identifying possible funding resources.

(c) DRS will not assist with services to maintain or expand an existing self-employment business. However, services can be offered which might address changes brought on by a disabling condition that limits or interferes with a person's ability to continue to operate their business independently. These services might include but are not limited to such things as AT assessment for changes in worksite or job tasks; recommendations for purchase of adaptive equipment; worksite or vehicle modifications that are needed for a person to continue operating their business; or training in the use of required adaptive equipment or techniques. Before consideration will be given to assisting with an existing business the client must provide copies of the most recent two years of profit and loss statements and/or tax returns showing business profitability. DRS will not support businesses that have failed to demonstrate profit sufficient to support the individual financially.

(d) When to Consider Self-employment. The counselor may consider self-employment when all of the following guidelines have been met.

(1) The income derived from a self-employment plan is to be the primary source of support.

(2) Is the client's informed choice consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities and interests.

(3) When a client expresses interest in self-employment, the individual will be required to participate in a vocational assessment with focus on self-employment potential. The assessment will include a self-evaluation completed by the client.

(4) The counselor will document, as appropriate, in the comprehensive assessment that the client has the academic, communication and managerial skills to manage their own business and the resources to demonstrate a likelihood of success.

(e) Once it has been determined by DRS that self-employment is a feasible goal, an IPE will be written to further assist the self-employment concept and the client is sent to training for developing a business plan.

(f) Certain individuals may require on-going supports or services for a business plan to be successful. The counselor will assist the individual in identifying and securing these support services. DRS cannot be responsible for funding these supports following successful employment outcomes.

(g) Clients who are receiving SSI/SSDI will be referred to a DRS Benefits Planner to review how profits from self-employment will affect their benefits prior to the completion of an Individualized Plan for Employment.

(h) The agency may provide some financial assistance toward self-employment plans that have met the requirements as specified in policy. The counselor will determine the client's financial status and any required financial participation by the client. The client's contribution may come from personal resources, property, loans, PASS plan funds or small business start-up grants from other assistance programs. A client who is receiving SSI/SSDI must submit a Plan to Achieve Self-sufficiency to SSA for review and consideration before any DRS funds can be expended toward a self-employment start up business.

(i) Any required client financial participation is applied to the cost of planned services.

(j) The agency's contribution to a self-employment plan will not exceed $5,000 without supervisory approval.

(k) The Agency will consider three-tiers of support for self-employment.

(1) Tier 1 is for self-employment plans that are considered low cost, simple and considered low risk. These cases will be limited to DRS financial contribution up to $5,000. DRS will cover 100% of costs minus any required client financial contributions. In Tier 1 cases the client is required to provide the following:

(A) Basic Business Plan which includes the following items:

(i) Business feasibility study.

(ii) Monthly personal and living expenses worksheet.

(iii) Business start-up expenses worksheet.

(iv) Projected monthly case flow worksheet showing business profits versus cost of operations.

(2) Tier 2 is for self-employment businesses with anticipated costs from $5,000 up to $10,000. In these cases the client is responsible for providing 25% of the anticipated costs. Client contribution can come in many forms including the use of existing equipment or home/office space which the client owns: bank loans; PASS Plans, or any other Agency approved financial contribution. All IPE's included in Tier 2 with planned expenses over $5,000 must be reviewed and approved by the Programs Manager. In Tier 2 self-employment cases the client is required to provide the following:

(B) Comprehensive Business Plan that includes:

(i) Detailed description of the proposed business.

(ii) Market research.

(iii) Sales Plan.

(iv) Management Plan.

(v) Business License and City Zoning regulations.

(vi) Supporting documents will include:

(I) List of identified vendors.

(II) Items requested to be paid by DRS.

(III) Items and resources provided by client.

(IV) Credit Report.

(V) Copy of the client's last two years of tax returns if they were required to file.

(VI) A 100 form completed and signed by the client to be submitted to the Oklahoma Tax Commission for disclosure of tax information.

(3) Tier 3 self-employment cases are those with an anticipated cost which exceeds $10,000. Tier 3 cases will require the same supporting documentation as Tier 2. In Tier 3 the client will be required to contribute a minimum of 5o% of the anticipated costs exceeding $10,000. All Tier 3 self-employment cases require review and approval by the Field Coordinator.

(4) Tier 2 and Tier 3 self-employment proposals will be required to have their Business Plan reviewed and approved by Agency designated staff and/or Review Panels.

(l) Items that the agency will not approve for funding include:

(1) Construction or purchase of real estate.

(2) Businesses that are speculative in nature such as stocks, bonds or other investments or considered speculative by the Better Business Bureau.

(3) Businesses that are organized as not for profit.

(4) Businesses organized as hobbies.

(5) Purchase of vehicles including farming, ranching and construction vehicles.

(6) Refinancing of existing debt.

(7) Business plans that are not developed as the primary source of support.

(8) A business endeavor that does not have an agency approved business plan.

(9) Any business activity related to the Marijuana business including the production, distribution and/or sale of marijuana products.

(10) DRS will not assist with the purchase of a franchise business or any type of pyramid business arrangement.

(11) The purchase of domestic animals or livestock.

(m) Purchases and support services. All Agency purchases for a plan with a goal of self-employment will be in accordance with established purchasing policy regarding the competitive bid process and referrals to the State Office Purchasing Unit. Any requests for assistance with maintenance or transportation will be required to meet established policy guidelines for these support services.

(n) The counselor will continue to be available for technical assistance upon completion of approved purchases. Counselor will review with client every 3 months the progress of the business. This will include copies of the businesses profit and loss statements and record of business performed. The purpose of these reviews is to determine if the involvement in self-employment is allowing the client to substantially increase his/her earnings to achieve self-employment success and be able to meet on-going financial obligations of the business. Should the business not be showing an increase in the income of the client, the counselor will review, with the client, the client's business plans to try to increase the business income. If necessary, the client may be referred to the small business development center or similar program for technical assistance in making changes in business operation to achieve a business profit.

(o) As stated in the IPE, this case would be agreed upon as a successful closure if the business is stable after 90 days and has met the specified level of performance. At the time of case closure, title for all goods purchased by the agency will be released to the client.

(p) As stated on the IPE the Counselor will discuss with the client at time of successful case closure that the client will be expected to furnish the Agency with income verification for the first year after successful case closure for reporting purposes as required under WIOA. This income verification can come in the form of self-employment worksheets signed and attested to by program participants or other approved Agency forms of verification.

**612:10-7-230.2. Self-Employment Guidelines [REVOKED]**

~~(a)~~ **~~Agency Role.~~** ~~The role of the VR Agency is not to become the funding source for self-employment endeavors. DRS may participate in partially funding small business start-up or the retention of an existing consumer owned and operated business, but does not have a capital or loan program for the establishment or retention of businesses. These investment resources must come from other sources. DRS will assist the consumer in making informed decisions, reduce or eliminate the barriers created by the disability(ies), training regarding small business development/self-employment, and assisting the individual in identifying possible funding resources.~~

~~(b)~~ **~~When to Consider Self-employment.~~** ~~The counselor may consider self-employment as an employment goal when all of the following guidelines have been met.~~

~~(1) The income derived from a self-employment plan is to be the primary source of support.~~

~~(2) It is the consumer's informed choice consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities and interests.~~

~~(3) When a consumer expresses interest in self-employment, the individual will be required to participate in a vocational assessment with focus on self-employment potential. The assessment will include a self-evaluation completed by the client.~~

~~(4) The counselor will document, as appropriate, in the comprehensive assessment that the client has the academic, communication and managerial skills to manage their own business and the resources to demonstrate a likelihood of success.~~

~~(c) Once it has been determined that self-employment is a feasible goal, an IPE will be written to further assist the self-employment concept and the client is sent to training for developing a business plan.~~

**612:10-7-230.3. Self-Employment/Business Plans [REVOKED]**

~~(a) Each individual, requesting Agency assistance with self-employment, is required to complete and submit a business plan that details at a minimum the following:~~

~~(1) Complete description of the proposed business.~~

~~(2) Business objectives.~~

~~(3) Ownership.~~

~~(4) Market Analysis.~~

~~(5) Marketing Plan.~~

~~(6) Financial Management Plan including personal finance sheets, projected expenses and income for at least 2 years.~~

~~(7) Specific listing of needed start-up costs and equipment, not including assistive technology devices.~~

~~(8) Specific listing of the type and amount of assistance the consumer is requesting from the State VR Program.~~

~~(9) Information regarding cost and coverage of insurance policies to cover liability, inventory, and equipment.~~

~~(b) Counselors will refer individuals to the local Small Business Development Center for assistance in developing a business plan. As appropriate the counselor may utilize other technical assistance services to aid the consumer in developing the business plan. After the plan is completed, the business plan will be reviewed by the appropriate DRS personnel.~~ **~~1~~**

~~(c) If the individual has submitted a viable business plan and the cost of the business plan to the agency, is $10,000.00 or less the counselor may approve the request. If the agency's cost will exceed $10,000 the counselor will refer the request to their immediate supervisor for approval.~~

~~(d) Certain individuals may require on-going supports or services for a business plan to be successful. The counselor will assist the individual in identifying and securing these support services. DRS cannot be responsible for funding these supports following successful employment outcomes.~~

**612:10-7-230.4. Agency financial contribution to self-employment/purchasing [REVOKED]**

~~(a) The agency may provide some financial assistance toward self-employment plans that have met the requirements as specified in policy. The counselor will determine the client's financial status and any required financial participation by the client. The client's contribution may come from personal resources, property, loans, PASS plan funds or small business start-up grants from other assistance programs.~~

~~(b) Any required client financial participation is applied to the cost of planned services~~

~~(c) The agency's contribution to a self-employment plan will not exceed $10,000.00 without supervisory approval.~~

~~(d) Items that the agency will not approve for funding include:~~

~~(1) Construction or purchase of real estate.~~

~~(2) Businesses that are speculative in nature such as stocks, bonds or other investments or considered speculative by the Better Business Bureau.~~

~~(3) Businesses that are organized as not for profit.~~

~~(4) Businesses organized as hobbies~~

~~(5) Purchase of vehicles~~

~~(6) Refinancing of existing debt.~~

~~(7) Business plans that are not developed as the primary source of support.~~

~~(8) A business endeavor that does not have an agency approved business plan.~~

~~(e)~~ **~~Purchases and support services.~~** ~~All Agency purchases for a plan with a goal of self-employment will be in accordance with established purchasing policy regarding the competitive bid process and referrals to the State Office Purchasing Unit. Any requests for assistance with maintenance or transportation will be required to meet established policy guidelines for these support services.~~

**612:10-7-230.5. DRS Monitoring [REVOKED]**

~~(a) The counselor will continue to be available for technical assistance upon completion of approved purchases. Counselor will review with consumer every 3 months the progress of the business. This will include copies of the businesses profit and loss statements and record of business performed. The purpose of these reviews is to determine if the involvement in self-employment is allowing the consumer to substantially increase his/her earnings to achieve self-employment success and be able to meet on-going financial obligations of the business. Should the business not be showing an increase in the income of the consumer, the counselor will review, with the consumer, the consumer's business plans to try to increase the business income. If necessary, the consumer may be referred to the small business development center or similar program for technical assistance in making changes in business operation to achieve a business profit.~~

~~(b) Stated in the IPE, this case would be agreed upon as a successful closure if the business is stable after 90 days and has met the specified level of performance. At the time of case closure, title for all goods purchased by the agency will be released to the consumer.~~

**PART 25. TRANSITION FROM SCHOOL TO WORK PROGRAM**

**612:10-7-245. Definitions [AMENDED]**

The following words and terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

**"FLSA"** means the Fair Labor Standards Act which sets forth labor standards and protections as enforced by the U.S. Department of Labor.

**"IDEA"** means the Individuals with Disabilities Education Act, P.L. 101-476 which ensures the rights and protections of children with disabilities and their parents being served by public education agencies through special education services and on an individualized education program (IEP).

**"IEP"** means Individualized Education Program. This is an educational document developed on an annual basis that documents the educational and transition goals students are working toward each year in grades PK-12.

**"LEA"** means Local Educational Agency, or local school district.

**"SDE"** means State Department of Education.

**"SECTION 504 Plan"** is a plan designed as a protection for students with disabilities who may not be considered eligible for special education under the IDEA in compliance with Section 504 of the Rehabilitation Act of 1973 as amended.

**"Teacher coordinator"** means a teacher employed by a school who is released as part of her work day and responsible for working with DVR/SBVI counselors and students eligible for the Transition from School to Work Program.

**"Work Adjustment Training (WAT)"** is provided on a work site, in a school, or in an approved Community Rehabilitation Program having valid contracts with DRS. WAT may also include (but is not limited to) activities aimed toward work tolerance, development of personal habits, attitudes, and work habits necessary to orient the individual to the world of work. High school students eligible for this service must be at least 16 years of age and may not participate for more than 18 months unless determined necessary by the counselor and client.

**"School Work Study (SWS)"** allows students with disabilities to work on the school campus. The students are supervised or closely monitored by school personnel, and the school pays the students a stipend with DRS making reimbursement to the school for that payment. The stipend is not a wage/salary. The school maintains liability for the students while working on campus.

**"Trial Work~~/Extended Evaluation~~"** has the meaning given these terms in DRS policy and federal law/rules.

**"Work Site Learning (WSL)"** allows students with disabilities to work in the community. The students are supervised or closely monitored by school personnel, and the school pays the students a stipend with DRS making reimbursement to the school for that payment. The stipend is not a wage/salary. The school maintains liability for the students while working off campus.

**"Employer Work Study (EWS)"** allows students with disabilities employment experience in part-time jobs in the community with the employers paying the wages/salary(ies). In this instance, the students are employees of the community employers, and DRS does not reimburse the employers for the wages/salary(ies).

**612:10-7-249 Reporting Credential Attainment and Skill Gains for High School Transition Students [NEW]**

(a) Under the WIOA, workforce agencies are required to report the percentage of those participants enrolled in secondary education who attained a recognized credential during participation in or within one year after closure of the case. This is based on the sub-regulatory guidance related to the implementation and operation of the performance accountability system under section 116 of WIOA and the implementing regulations in 34 CFR parts 361 subpart E.

(b) For reportable high school students, the recognized Secondary Credential is the achievement of a High School Diploma, recognized by the State of Oklahoma. Progress toward completing requirements for a diploma is reported as a Measurable Skill Gain (MSG).

(c) In order to properly report credentials and skill gains, the high school education goal must be included on the IPE for any Student With Disability (SWD) for whom a plan is developed while still enrolled in high school. It is expected that staff will use the DRS electronic case management system to record enrollments (educational goals), and document credential attainments and skill gains. Supporting documents proving the credential or skill gain must be entered into the system as well. Timely reporting of these attainments and skill gains is critical. The Participant is expected to assist with obtaining the required documentation. Credential attainment can be reported up to one year after case closure. MSG's are only reported prior to case closure.

**SUBCHAPTER 9. REHABILITATION TEACHING SERVICES**

**PART 5. Services**

**612:10-9-34.3. Other adaptive skills [REVOKED]**

~~Consumers who lose vision need to learn adapted techniques which will allow them to participate in a variety of leisure activities. The teacher can provide instruction in the following:~~

~~(1)~~ ~~Special reading services~~

~~(2)~~  ~~Arts and crafts activities~~

~~(3)~~  ~~Parlor games~~

**SUBCHAPTER 13. SPECIAL SERVICES FOR THE DEAF AND HARD OF HEARING**

**PART 3. CERTIFICATION OF INTERPRETERS**

**612:10-13-22. Grievance procedures [AMENDED]**

(a) Individuals who are dissatisfied with certification testing procedures or performance of a certified interpreter may file a written complaint with the designated Oklahoma interpreter certification program official, Department of Rehabilitation Services, within thirty (30) days of the grieved incident.

(b) The Department will accept jurisdiction only for those incidents directly related to the evaluation and certification of interpreters for the deaf in Oklahoma and those incidents involving the performance of State Certified Interpreters that allege a specific violation of interpreting standards or ethical behavior.

(c) ~~Each~~ A complaint must be in writing and must ~~set forth~~ provide:

(1) The date of the incident;

(2) The ~~names~~ name(s) of the person(s) involved;

(3) The location of the incident;

(4) A description of the specific action or actions in question; and

(5) The specific policy or procedure or the Code of Professional Conduct ethical tenet(s) and/or Federal law in ~~question~~ possible violation.

(d) Upon receipt of a properly executed complaint, the Department will review the complaint and within thirty (30) days notify the ~~respondent~~ parties that a complaint has been filed. The respondent will have thirty (30) days from the date ~~he or she~~ they ~~receives~~ receive the grievance notification to respond in written form.

(e) Upon the receipt of a written response, the designated Oklahoma interpreter certification program official and Department will review the information presented and make an initial decision regarding the merit of the complaint based on facts presented. The designated Oklahoma interpreter certification program official has thirty (30) days from the ~~submittal~~ submission of the grievance to ~~make the~~ provide a decision. All parties concerned will be notified of the decision in writing.

(1) If there has not been sufficient information provided, from either party, the Oklahoma Interpreter Cerrtification program official can request more information, in writing, to make a determination.

(f) ~~If it is determined that a violation of either rules governing interpreter evaluations or standards and ethical behavior for interpreters may have occurred, the complaint will be referred to the grievance board~~ The Department can seek the assistance from a merit panel to determine if there is a direct violation against (c)(5).

(1) The function of the merit panel is to assist the Department in determining if there is founded merit to the claimed violation (s) set forth in (c)(5). The names of the parties will be anonymous when presented to the merit panel. The panel can recommend a course of action.

(A) Possible course of action(s) are set forth as defined in 612:10-13-23 in (1) through (8) of that subsection.

(g) If it is determined that no violation of rules related to evaluation and certification ~~of Interpreters for the deaf~~ or violation of interpreting standards and ethical behavior has occurred, the involved parties will be notified, and the complaint will be dismissed. If the complaint is dismissed, the complainant or respondent may appeal and request a formal hearing. The appeal must be in written form and submitted within thirty (30) days of receiving the notification. The request for formal hearing must be ~~in writing and~~ addressed to the designated Oklahoma interpreter certification program official at the Department of Rehabilitation Services.

**612:10-13-23. Formal hearing [AMENDED]**

(a) A formal hearing may be requested by the complainant or respondent by contacting the designated Oklahoma interpreter certification program official by written form. The hearing will be scheduled at a time and place convenient to all parties concerned. All parties will receive two weeks' notice of the hearing date.

(b) The complainant and/or respondent may invite a representative ~~(including legal)~~ to ~~assist~~ attend during the proceedings. Either party may present witnesses~~, affidavits~~ or other written documentation related to any relevant aspect of the charge or defense. Parties must provide name of witnesses and other written documentation two weeks prior to the scheduled hearing date to the designated Oklahoma interpreter certification program official.

(c) The hearing will be conducted by a grievance ~~board~~ panel selected by the Oklahoma interpreter certification program ~~Advisory Committee~~ and the Department. With effort, At least one member must be deaf or hard of hearing; ~~and~~ must be ~~either~~ a former or current Oklahoma interpreter certification test evaluator and/or acknowledgeable and adhering to a form of Code of Ethics; with effort, one member must be an interpreter holding national or Oklahoma State Level V/V certification; with effort, one member will be selected at the discretion of ~~DRS~~ Department and may be from a profession other than interpreting for the deaf, but must be knowledgeable of ~~interpreter skills~~ Code adhering to a form of Ethics. The ~~grievance board~~ panel will review information presented and make a determination based on ~~of the~~ facts. Based upon this determination, the ~~grievance board~~ panel ~~will~~ can make ~~recommend~~ recommendations ~~the~~ for a course of appropriate action to the Oklahoma interpreter certification program ~~should take~~ official. Possible actions are set forth in (1) through (8) of this Subsection.

(1) The complaint be dismissed;

(2) A written warning be issued;

(3) A written reprimand be issued indicating unsatisfactory performance;

(4) Probation a trial period for a specific length of time during which the interpreter is required to fulfill a set of conditions to improve work performance or work behavior;

(5) ~~Supervision~~ Suspension - removal of the individual from the list of certified interpreters for a specified period of time, not to exceed six (6) months;

(6) Revocation - removal of the individual from the list of certified interpreters for an extended period or permanently;

(A) It must be determined and proven there was a severe violation against Code of Professional Conduct tenets, and/or ICRC Level of Limitations, and/or a malicious intent of harm, and/or disregarding or violation of any governing State or Federal Laws before a certification can be revoked.

(7) The complainant may be retested using a different evaluation team at no cost to the individual; and

(8) A recommended change in policy or procedures in the interpreter evaluation process.

(d) The decision and recommended course of action, C 1-8, that is submitted by the Grievance Panel, will be reviewed by the Designed Oklahoma Interpreter Certification Program Officials. The officials will review and determine if the recommended course of action supports policy, if so, the ICRC Program Specialist ~~of the Oklahoma interpreter certification program grievance board will be reviewed by the designated interpreter certification program official who~~ will notify ~~all~~ both parties, ~~involved~~ in writing, ~~of~~ the decision and course of action within thirty (30) days after the formal hearing. ~~If a party is dissatisfied with the outcome of a formal hearing, an appeal may be made to the Director of the Department of Rehabilitation Services. The Director shall have forty-five (45) days to render a decision. The Director's decision shall be final.~~

(d) The ~~decision~~ recommended course of action ~~of the Oklahoma interpreter certification program grievance board~~ submitted by the selected panel will be reviewed by the designated interpreter certification program official ~~who~~ will notify ~~all~~ parties involved in writing of the decision within thirty (30) days. ~~If a party is dissatisfied with the outcome of a formal hearing, an appeal may be made to the Director of the Department of Rehabilitation Services. The Director shall have forty-five (45) days to render a decision. The Director's decision shall be final.~~

(e) If a party is dissatisfied with the outcome of a formal hearing, an appeal may be made to the Director of the Department of Rehabilitation Services, within fifteen (15) days of receiving the recommended decision. The Director shall have forty-five (45) days to render a decision. The Director's decision shall be final.

**TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES**

**CHAPTER 25. BUSINESS ENTERPRISE PROGRAM**

**SUBCHAPTER 2. GENERAL PROVISIONS**

**612:25-2-5. Definitions [AMENDED]**

The following words or terms, when used in this Manual, shall have the following meaning unless the context clearly indicates otherwise:

**"Act"** means the Randolph-Sheppard Vending Facility Act (Public Law 74-732), as Amended by Public Law 83-565 and Pub Law 93-516, 20 U.S.C., Ch. 6A, Sec. 107.

**"Active participation"** means a process of good faith negotiations involving the Elected Committee of Licensed Managers and the State Licensing Agency. The Committee must be given the opportunity to have meaningful input into the decision-making process in the formulation of program policies which govern the duties, supervision, transfer, promotion and financial participation of licensed managers. The SLA is charged with the ultimate responsibility for the administration and operation of all aspects of the Business Enterprise Program.

**"Annual Evaluation"** means an evaluation conducted on a yearly basis of a manager. This evaluation will be performed at the end of each calendar year.

**"BEP"** means the Business Enterprise Program of the State Licensing Agency which provides self-employment opportunities for qualified persons who are blind.

**"BEP Operations Coordinator"** means the person who has responsibility for the operation of the Business Enterprise Program in the State.

**"Blind person"** means a person who, after examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the person shall select, has been determined to have (1) not more than 20/200 central visual acuity in the better eye with correcting lenses, or (2) an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

**"Board" or "Commission"** means the governing body for the State Licensing Agency.

**"Business Consultant (BC)"** means an individual who provides consultative and management services to those business enterprises and licensed managers of the State to which the consultant is assigned.

**"Business Enterprise"** means an approved business administered by the State Licensing Agency. See definition of "Vending Facility."

**"Business Enterprise Program (BEP)"** means the Business Enterprise Program services available to establish business enterprises for persons who are blind.

**"Cafeteria facility"** means a food dispensing business enterprise capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where customers serve themselves from displayed selections. A cafeteria may be fully automatic or provide limited waiter or waitress service. Table and/or booth seating facilities are always provided.

**"Client or Consumer"** means any person who has made application for the State Licensing Agency's services and has been determined by the State Licensing Agency to be eligible for services.

**"Commissioner"** means the Commissioner of the Rehabilitation Services Administration (RSA) who exercises approval authority for the Federal government under the Randolph-Sheppard Act.

**"Committee"** means the Elected Committee of Licensed Managers.

**"Contract"** means a written agreement between the State Licensing Agency and officials in control of Federal or other property to establish a business enterprise in cafeterias.

**"Contract labor"** means a person or company that performs duties or services not a part of the regular duties of the business enterprise.

**"Counselor"** means Division of Vocational Rehabilitation or Division of Visual Services counselors assigned to the State Licensing Agency's program of vocational rehabilitation.

**"Director"** or **"Executive Director"** means the chief administrator of the State Licensing Agency.

**"Displaced licensed manager"** means a licensed manager who has been displaced from his or her business enterprise through no fault of his or her own.

**"Dry/Wet facility"** means any business enterprises providing manual dispensing of prepackaged articles, refreshments, and services.

**"Elected Committee of Licensed Managers (ECM)"** means the committee elected biennially by licensed managers in accordance with 34 CFR 395.14.

**"Emergency"** means ~~an unforeseen~~ a serious, unexpected and/or dangerous circumstance that calls for immediate action. ~~When a piece of equipment is out of order it is not normally considered an emergency unless it will harm/destroy lives, other equipment or property.~~

**"Employee"** means an individual who receives compensation for services rendered to a licensed manager.

**"Equipment, expendable"** means items having a relatively small cost per item and having a relatively short life expectancy.

**"Equipment, non-expendable"** means all necessary equipment which requires a relatively high capital outlay and has a normal life expectancy of several years.

**"Extenuating Circumstances"** means circumstances which are sudden, unexpected, significantly disruptive and beyond control.

**"Federal property"** means any building, land or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States.

**"Federal regulations"** means the regulations issued pursuant to the Randolph-Sheppard Act.

**"Grantor"** means a Federal, State, County, Parish, city government, private corporation, company, partnership or individual, who grants a permit or enters into an agreement with the State Licensing Agency to operate a business enterprise on its/their property.

**"Grantor's agreement"** means a written document between a Grantor and the State Licensing Agency which sets forth the terms, conditions and responsibilities of all parties to the agreement for the operation of a business enterprise on private and/or public property.

**"Gross Sales"** means the grand total of all sales transactions reported in a period without any deductions included in the figure, not including sales tax.

**"Inactive Licensee"** means a licensed individual who is not currently working in the Business Enterprise Program.

**"Initial stock and supplies"** means those resalable items or supplies necessary for the opening and operation of a specific type of business enterprise.

**"License"** means a written instrument issued by the State Licensing Agency to a person who is blind, authorizing such person to manage a business enterprise.

**"Licensed employee"** means a licensed individual who is currently working for a licensed manager.

**"Licensed Manager (LM)"** means a licensed individual who has signed an agreement with the State Licensing Agency to manage a Randolph-Sheppard business enterprise under the supervision of the State Licensing Agency.

**"Licensee"** means a person who is blind and holds a valid BEP license.

**"Licensing agency"** means the State Licensing Agency (SLA), which has been designated by the Commissioner, pursuant to the Act, to issue licenses to persons who are blind for the management of business enterprises.

**"Management"** means the personal supervision of the day-to-day operation of the assigned business enterprise facility by the assigned manager.

**"Management services"** means inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve business enterprises operated by licensed managers. Management services does not include those services or costs which pertain to the on-going operation of an individual facility after the initial establishment period.

**"Manager's agreement"** means an agreement between a licensed manager and the State Licensing Agency, establishing basic terms and conditions for management of a business enterprise.

**"Mail"** is a method of distributing information that includes, but is not limited to, the U.S. Postal System, email, fax, or Federal Express.

**"Merchandise Loan"** means the total dollar value of the initial stocks of suitable merchandise provided to a licensed manager that will be repaid in monthly installments of no less than two percent of gross sales to pay loan balance in full.

**"Net earnings" or** **"Net profits"** means gross profit after deducting operating expenses and set-aside collected.

**"Net proceeds"** means the amount remaining from the sale of articles or services of business enterprises and any vending machine income or other income accruing to licensed managers after deducting the cost of such sales and other authorized expenses excluding set-aside charges required to be paid by the licensed managers.

**"Net sales"** means the sum total of sales, excluding sales tax.

**"Nominee"** means a nonprofit agency or organization designated by the State Licensing Agency through a written agreement to act as its agent in the provision of services to licensed managers under the State's Business Enterprise Program.

**"Other income"** means money received by a licensed manager from sources other than over the counter and machine sales.

**"Other property"** means property which is not Federal property and on which business enterprises are established or operated by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on any Federal property.

**"Performance Evaluation"** means an evaluation conducted to determine if a manager is eligible to apply for a facility or to be awarded a permanent BEP license.

**~~"Permanent BEP License"~~** ~~means a license issued on a permanent basis to a BEP manager who has successfully completed all probationary requirements.~~

**"Permit"** means the official approval given a State Licensing Agency by a department, agency, or instrumentality in control of the maintenance, operation and protection of Federal property or person in control of other property where the State Licensing Agency is authorized to establish a business enterprise.

**~~"Probationary BEP License"~~** ~~means a license issued to an individual on their first day as manager of an Oklahoma BEP facility.~~

**~~"Probationary Licensee"~~** ~~means a person who has received a certificate of completion of the Business Enterprise Program training and has not completed their six (6) month probationary period.~~

**"Purveyor"** means an approved source of supply for food, beverages, supplies, or services.

**"Randolph-Sheppard Act"** means Public Law 74-732 as amended by Public Law 83-565, Public Law 93-516, and Public Law 95-602, 20 U.S.C. Chapter 6A, Section 107.

**"Retained vending machine income"** means vending machine income disbursed by a property managing department, agency or instrumentality of the United States, or received from vending machines on State or other property in excess of the amounts eligible to accrue to licensed managers.

**"Routine preventive maintenance"** means the regular care, upkeep, and cleaning of equipment used in a business enterprise.

**"Rules and regulations"** means the instrument written by the State Licensing Agency and approved by the Secretary of Education setting forth the conduct and operation of the Business Enterprise Program. A copy of the document granting approval of the rules and regulations from RSA, will be mailed to each licensed manager.

**"Saleable stock/merchandise"** means products comprising the merchandise available for sale to the public and determined by the SLA to be from an approved source in the original container, in date, consistent with the needs of the customers for a particular business enterprise.

**"Satellite business enterprise"** means a business enterprise assigned to a licensed manager on a temporary basis.

**"Satellite Manager"** means a licensed manager appointed to manage a business enterprise on a temporary basis.

**"Satellite Performance Evaluation"** means an evaluation conducted to determine a manager's eligibility to continue operating a satellite to be performed at the 180 day satellite review.

**"Satisfactory site"** means an area determined by the BEP Operations Coordinator to have sufficient space, electrical and plumbing outlets, and other such accommodations as prescribed by the Act, for the location and operation of a business enterprise in accordance with applicable health laws and building codes.

**"Secretary"** means the United States Secretary of Education.

**"Set-aside funds"** means funds which accrue to a State Licensing Agency from an assessment against the net proceeds of each business enterprise in the State's business enterprise Program and any income from vending machines on Federal property which accrues to the SLA.

**"Snack bar business enterprise"** means a business enterprise engaged in selling limited lines of refreshment and prepared food items necessary for a light meal service.

**"State Licensing Agency (SLA)"** means the State agency that issues licenses to persons who are blind for the operation of business enterprises on public and/or private property.

**"State property"** means lands, buildings, and/or equipment owned, leased, or otherwise controlled by the State.

**"Statewide average manager earnings"** means the average annual manager earnings (after set-aside) as calculated each year for the RSA-15 Report.

**"Teaming Partner Agreement"** means an arrangement between a Licensed Manager and a company as a contractual relationship or joint venture to perform a specific federal, state, county or other contract with the exclusion of automated vending machines. Such agreements are intended for large complex operations such as food services on a military base.

**"Temporary Variance"** means an instrument used to allow a business enterprise to install alternate vending operations on a temporary basis when a determination has been made by the SLA that a blind operated vending facility is not viable at time of survey.

**"Third Party Vendor"** means a separate individual or organization, other than a Teaming Partner, that operates and/or manages a BEP business enterprise facility and pays a fee or commission to the licensed manager.

**"Timely submission"** means the receipt of an accurate monthly report and correct payment, if applicable, on or before the due date in the BEP office.

**"Trainee"** means a qualified client of the Division of Visual Services, who when referred to the Business Enterprise Program, is placed in training to prepare for licensing under the rules and regulations of the State Licensing Agency.

**"Training program"** means the program of study and/or on-the-job training provided to prospective and/or experienced licensed managers.

**"Vending facility"** means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by licensed managers and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws and including the vending or exchange of chances for any lottery authorized by State Law and conducted by an agency of a State within such State. [CFR 34, Part 395.1(X)]

**"Vending machine"** means any machine, operated using currency or other medium of exchange, which dispenses articles or services, except any machine operated by the United States Postal Service for the sale of postage stamps or other postal products and services. Machines providing services of a recreational nature and telephones shall not be considered to be vending machines.

**"Vending machine facility"** means an automated business enterprise which dispenses a variety of food and refreshment items and services from vending machines. Included in this category would be interstate highway locations and vending machine routes.

**"Vocational Rehabilitation Services"** means those services as defined in the Rehabilitation Act. [29 USC 701 et seq.]

**"Volunteer"** means an individual who works in a business enterprise and receives no compensation.

**612:25-2-7. State and Federal Assurances Policy of non-discrimination [AMENDED]**

(a) The SLA will assure compliance with all State and Federal Rules and Regulations applicable to the Randolph Sheppard Act.

(b) The State Licensing Agency assures that it shall not exclude from participation, deny the benefits of the program, or otherwise subject any person to discrimination because of the person's gender, age, physical or mental impairment, religion, race, creed, national origin, or political affiliation in accordance with the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, ~~and~~ the Americans with Disabilities Act of 1990 and any other federal and state non-discrimination statutes.

(c) Every licensed manager of a business enterprise shall operate the business enterprise in such a manner that no person shall be subject to discrimination under any federal or state statute because of the person's gender, age, physical or mental impairment, religion, race, creed, national origin, or political affiliation whether that person is a present or prospective purveyor, customer, employee or other individual who might come into contact with the business enterprise.

(d) Confidentiality and requests for information. Policies on confidentiality of client records in the BEP will apply also to licensed managers in the BEP and to those who apply for training. Such information will be limited to purposes directly connected with the administration of the BEP and may not be released either directly or indirectly for any other purpose without the consent of the licensed manager/applicant or his/her legal representative. While the SLA complies with the Freedom of Information Act, protection of confidential information takes precedence. When information is requested that is not clearly of a public nature, the information will be treated as confidential unless and until ruled otherwise by the general counsel for the SLA. The SLA may charge reasonable fees for copies of information.

**612:25-2-8. Accessibility of written materials [AMENDED]**

Upon advance request, all written materials will be provided to each licensed manager, licensed employee, or licensee in a format accessible to that licensed manager, licensed employee, or Licensee ~~to the extent practicable~~. It is the responsibility of the licensed manager, licensed employee, or licensee to inform the SLA of the accessible format needed.

**SUBCHAPTER 4. THE STATE LICENSING AGENCY**

**PART 1. ORGANIZATION AND GENERAL OPERATION STANDARDS**

**612:25-4-1. Organization of the State Licensing Agency [AMENDED]**

(a) **Governing board.** The Oklahoma Department of Rehabilitation Services (DRS) is the designated State Licensing Agency (SLA) for administration of Oklahoma's vending facility program for the blind under the Randolph-Sheppard Act. The governing board of the SLA is the Oklahoma Commission for Rehabilitation Services. The Director of DRS reports directly to the Commission.

(b) **Business Enterprise Program administration.** The Business Enterprise Program (BEP) is located in the Division of ~~Vocational Rehabilitation~~ Services for the Blind & Visually Impaired of DRS, and is administered by the Business Enterprise Program Operations Coordinator who reports to the ~~Visual Rehabilitation~~ Services for the Blind & Visually Impaired Division Administrator.

(c) **BEP staff.** The SLA, with consultation from the Elected Committee of Licensed Managers, determines staffing requirements for administration of the BEP and provision of services to achieve the mission, goals and objectives of the Program.

(d) **Licensed managers.** The individual enterprises established by the Business Enterprise Program are managed by licensed managers. Licensed managers are subject to the policies and procedures of the Business Enterprise Program, but are not employees of the program, the SLA, or the State of Oklahoma. They do, however, have a contractual relationship with the SLA and are required to manage the business enterprise in accordance with established rules and regulations.

**PART 3. BUSINESS ENTERPRISE PROGRAM TRAINING**

**612:25-4-14. Training for new or potential licensed managers [AMENDED]**

(a) **Overview of Licensed Manager Training.** The Business Enterprise Program (BEP) provides individuals who are blind with training that leads to potential employment as a Licensed Manager of a vending facility or related business in the Business Enterprise Program. The training program includes but is not limited to training in laws and regulations affecting the Business Enterprise Program, state and federal tax reporting, food service operations, sanitation, inventory control, money management, staffing of personnel, safety procedures, business management principles and techniques, and preparation of reports required by the State Licensing Agency. The licensed manager training program will be based on a curriculum developed and periodically reviewed through consultation with appropriate business representatives, trainers, BEP experts, and the Elected Committee of Licensed Managers. Additional training required by the licensed manager trainee to adjust to blindness, learn assistive technology skills or improve the trainee's opportunity to succeed as a licensed manager may be arranged through coordination with the DRS Division of Visual Services and DRS Division of Vocational Rehabilitation.

(b) **Application process.** Applications for BEP training shall include the following information which shall be obtained from the individual's counselor:

(1) current eye examination, documenting blindness;

(2) documentation for United States citizenship;

(3) documentation the client is at least 18 years of age; and

(4) completion of any rehabilitation training prerequisites established by the BEP in consultation with the ECM to better optimize the successful employment outcome;

(c) **Acceptance for training.** Applicant qualifications will be reviewed by BEP staff who will report any training-related recommendations to the individual's DVS/DVR counselor and BEP operations coordinator. An individual's application must be approved by the BEP operations coordinator prior to acceptance into the training program.

(d) **Notice regarding criminal background record and Oklahoma sales tax background check.** Before entering training, BEP applicants will be informed that a criminal background investigation and an Oklahoma sales tax background check will be performed and may prevent their being licensed to manage some BEP facilities.

(e) **Duration of training.** To be eligible for licensure as a BEP facility manager an individual must complete the full BEP manager training program, unless the BEP operations coordinator, in consultation with the Chair of the Elected Committee of Licensed Managers, determines an exception is justifiable.

(f) **Completion of training.** Each trainee who completes the BEP manager training program is issued a certificate certifying that the trainee has met all the training criteria to be a licensed manager in the Business Enterprise Program. Upon assuming management of their first facility, a certified graduate shall be issued a ~~temporary~~ BEP license ~~and begin a six (6) month probationary period. During this period, the probationary manager will receive benefits afforded all other managers, along with accruing seniority. Upon completion of their probationary period, the BEP Operations Coordinator, in consultation with the ECM Chair, will review their progress and if determined appropriate will issue their permanent BEP Manager License~~.

(g) **Failure to complete training.** If it appears that a trainee will not be able to successfully complete training, the BEP operations coordinator, in consultation with the ECM Chair, will review the individual's training record before making a decision to terminate training. The BEP operations coordinator will notify the trainee and their DVS or DVR counselor of any BEP decision to terminate training.

(h) **Post-training interview.** Upon completion of a new manager's ~~probationary period~~ training, they will be interviewed by a representative of the Elected Committee of Licensed Managers, normally the chairperson, to evaluate the effectiveness of the training program. The interviewer formulates recommendations and comments regarding the training program and provides them to the BEP Operations Coordinator.

(i) **Acceptance of out-of-state licenses.** The BEP Operations Coordinator will evaluate the skills and knowledge of BEP applicants who were licensed managers in other states. Training will be provided to correct any noted deficiencies and acquaint the applicant with Oklahoma's program. After qualifications are met, the applicant is issued a training completion certificate.

(j) **Seniority.** Seniority in the Oklahoma Business Enterprise Program will only accrue when managing an Oklahoma BEP facility.

(k) **Licensed Manager Benefits.**  Benefits such as insurance will begin the same date the Licensed Manager signed the manager's agreement.

**PART 5. STATE LICENSING AGENCY RESPONSIBILITY FOR BUSINESS ENTERPRISE OPERATIONS**

**612:25-4-25. Management of BEP equipment and fixtures [AMENDED]**

(a) The SLA will provide each business enterprise with fixtures and equipment in such quantity and quality so as to give reasonable assurance of successful operation by the licensed manager. The SLA retains the right, title, and interest to all BEP equipment and fixtures. The SLA has the authority to direct, control, transfer and dispose of such equipment as it deems necessary. All capital equipment is purchased, inventoried, and disposed of in accordance with Department of Rehabilitation Services policy.

(b) Equipment for new locations will be determined by the BEP Operations Coordinator and staff ~~in consultation with an Elected Committee of Licensed Managers (ECM) member specified by the ECM Chairperson~~ pursuant to 612:25-6-16 Criteria to establish a business enterprise.

(c) The licensed manager may make additions, deletions or modifications to the business enterprise and its operation, in the form of equipment, fixtures or facilities, by obtaining written authorization from the BEP. The licensed manager may not remove any state-owned equipment from the facility.

**612:25-4-27. Initial inventory and supplies [AMENDED]**

(a) **Initial inventory.** A licensed manager may acquire initial merchandise for resale by purchasing it with his/her own funds, utilizing ~~self-employment assistance~~ start-up assistance/client services that may be available from DRS or other public and private sources, or use of a merchandise loan provided by the State Licensing Agency (SLA). When the SLA provides the manager a merchandise loan for initial merchandise, the manager is not allowed to utilize DRS start-up assistance for same purpose.

(b) **Merchandise loan.** When necessary to enable a licensed manager to acquire initial merchandise inventory, the SLA may extend a merchandise loan subject to the following terms:

(1) The amount of the loan will be determined by the SLA in consultation with the licensed manager and based on an assessment of merchandise necessary to initiate sales and the availability of funds.

(2) The total amount of the loan will not exceed the average of the prior year's inventories without approval from the BEP operations coordinator. This means the prior year's inventories will be summed and then divided by twelve to obtain the average.

(3) All merchandise purchased and placed on a merchandise loan must have prior approval by the SLA. The SLA will not make multiple purchases from any purveyor.

(4) The incoming licensed manager, BEP business consultant and BEP operations coordinator will determine what may be purchased from the existing stock of the outgoing facility manager. Only salable merchandise may be purchased. ~~The BEP business consultant and Operations Coordinator will also assist the out-going manager in selling any remaining salable merchandise and its interim storage.~~

(5) A merchandise loan must be repaid to the SLA by a licensed manager in monthly installments ~~equaling two percent (2%) of monthly gross sales~~ of no less than two percent of gross sales to pay loan balance in full. A licensed manager shall not allow the facility inventory level to fall below that of the balance of the merchandise loan and are subject to disciplinary action should this occur. Managers receiving loans will sign a merchandise security agreement that will be retained on file by DRS and released to the manager when loan repayment is complete along with a letter from the BEP Operations Coordinator officially notifying the licensed manager of their full repayment of the loan.

(6) When a merchandise loan is secured by stock, a licensed manager may not permit the ownership of the stock to vest in any person or organization other than the SLA.

(7) When a licensed manager leaves a business enterprise, any remaining merchandise loan balance (and other unmet obligations to the SLA) will be subtracted from the ending inventory to determine the manager's equity in the ending stock.

(8) Merchandise loans are not allowed for satellite facilities unless extenuating circumstances prevail and only after approval of BEP Operations Coordinator in consultation with the ECM chair person.

(9) Merchandise loans for existing managers currently operating an "A" or "B" classified facility as their primary may be granted at the discretion of the BEP Operations Coordinator in consultation with the ECM chair person.

(c) **Failure of licensed manager to repay loan.**

(1) If a licensed manager's merchandise loan payment is not received in the BEP office within five days after the due date, the licensed manager will be placed on probation and is not eligible to make application into the selection process. Merchandise loan payments are due at the time monthly reports and set-aside payments are due. (612:25-6-22)

(2) If a licensed manager's merchandise loan payment remains delinquent through the succeeding month and is not received in the BEP office within five days after the succeeding month's due date, the BEP operations coordinator will recommend suspension or termination of the operator's agreement by the SLA director unless an alternate repayment schedule has been approved by the SLA. The SLA will initiate action to collect a remaining merchandise loan balance when a loan payment is two months overdue.

(3) When a licensed manager leaves the program for any reason, the merchandise loan is due in full unless arrangements are made with the SLA to divide the balance into twelve (12) equal payments that will be due on the first day of each month.

(d) **Second merchandise loan.**

(1) Under documented extreme circumstances, a licensed manager who has paid off his/her previous merchandise loan may receive a second merchandise loan for the same facility when it has been determined that the loan is necessary to allow the licensed manager to remain in his/her facility.

(2) If a licensed manager requires a second merchandise loan while the first loan is still outstanding, other than for the expansion of his/her facility, he/she will be placed on probation until one of the loans is paid in full.

(3) Second merchandise loans for the purpose of facility expansion will be limited to 50% of the cost of additional salable merchandise needed.

(e) It is the incoming ~~manager's~~ Licensed Manager's choice to ~~procure any~~ accept or reject any and or all merchandise or personal property from the out-going ~~manager~~ Licensed Manager, however, a merchandise loan cannot be used to purchase property. ~~If this condition occurs, the outgoing manager must be given a one-week notice prior to the facility turnover to the new manager.~~ The incoming Licensed Manager must notify the Business Consultant and the outgoing Licensed Manager of his/her intent of purchasing outgoing manager's inventory seven (7) days prior to the day of the inventory count.

(f) If the incoming manager rejects all of the outgoing manager's merchandise, the outgoing manager may be allowed two weeks to reduce his/her inventory, before transfer of facility. This two week period must be approved by the BEP Operations Coordinator in consultation with the ECM chair.

(g) In order to expedite the processing of merchandise loans, the outgoing manager must provide a merchandise price list to the business consultant and incoming manager seven (7) days before the day of the inventory count.

**PART 9. ASSIGNMENT OF LICENSED MANAGERS**

**612:25-4-53. Assignment and transfer [AMENDED]**

(a) **Assignment.** The State Licensing Agency (SLA) administers a competitive selection process to accomplish the assignment of primary facilities to qualified individuals. The selection process established by the SLA provides that the Elected Committee of Licensed Managers (ECM) is an active participant in the selection of facility managers.

(b) **Transfer.** The SLA, in consultation with the ECM board, may transfer a qualified licensed manager to a different location of similar complexity and income potential when it appears to be in the best interest of the licensed manager and/or the BEP. The SLA notifies the licensed manager and the ECM ~~Chair~~ board, in writing, by registered or certified mail of the transfer and the grounds for the transfer. The transfer policy cannot be used to circumvent the competitive selection process.

(c) **Displaced Licensed Manager.**

(1) A Displaced Licensed manager will have up to one (1) year to make application for a BEP facility that is comparable to his or her displaced facility.

(2) A Displaced Licensed Manager will be given 15 bonus points in the next interview selection for a permanent placement in a BEP facility that is relatively comparable in complexity, financially and if possible, geographically.

(3) A Displaced Licensed Manager could accept a satellite assigned facility that is not comparable to their recent displaced facility without surrendering their displaced bonus points and status.

(4) Should the Displaced Licensed Manager elect to accept the assigned satellite as his or her primary placement facility, then that Displaced Licensed Manager would surrender the displacement status with the agreement from the SLA and ECM.

(5) The SLA will consult with the ECM Chair to determine beginning and expiration date of eligibility of the Displaced Licensed Manager and provide notice in the Licensed Managers preferred format.

**612:25-4-55. Qualifications [AMENDED]**

(a) In order to apply for manager placement ~~in a Classification "A" or "B" facility in the Business Enterprise Program (BEP),~~ an individual must hold a ~~permanent~~ license issued by the State Licensing Agency (SLA). In addition, the SLA requires experience in the program before an individual will be considered eligible to apply for "A" or "B" classification business enterprises with the exception of (b) of this section. Certified graduates of the BEP Training Program are only eligible to apply for Classification "C" or "D" facilities with the exception of (b) of this section. A location new to the BEP program is to be classified "C" for the initial 90 days of operation. The BEP Operations Coordinator, in consultation with the ECM Chairperson, will determine the need for any experience requirements.

(b) Applicants who qualify for the next lower classification will be considered for interview when no qualified applicants apply for a classification "A" or "B" facility announcement when it is deemed appropriate to do so by the BEP Operations Coordinator in consultation with the ECM Chairperson.

(c) Experience requirements for each classification are:

(1) Classification A. Applicants will be restricted to individuals who have a minimum of three (3) years total experience in an Oklahoma Business Enterprise including a minimum of one (1) year of management experience.

(2) Classification B. Applicants will be restricted to individuals who have a minimum of two (2) years total experience in an Oklahoma Business Enterprise, including a minimum of six (6) months of management experience.

(3) Classification C. No experience required, except on new locations as deemed appropriate by the BEP Operations Coordinator in consultation with the ECM Chairperson.

(4) Classification D. No experience required.

(d) The BEP Operations Coordinator, in consultation with the ECM Chairperson, may require additional BEP experience on applications for any facility. Verified BEP experience from another state may be considered.

(e) Applicants will not be eligible to apply for a business enterprise facility if any of the following conditions exist:

(1) The ~~licensed manager's~~ applicant's cumulative total days of ~~is on~~ probation is sixty (60) or more days in the most recent twelve (12) months or the SLA has initiated suspension/termination proceedings against the licensed manager.

(2) The applicant is not current with their merchandise loan payments.

(3) The applicant is not current with his/her set-aside owed to the SLA.

(4) Applicants ~~who have a permanent license~~ have not scored at least an 80 on their performance evaluation.

(5) Conditions 1-~~5~~4 will not apply to new BEP training graduates.

(f) Applicants must be eligible to obtain an Oklahoma Tax Permit and be in good standing with the Oklahoma Tax Commission (OTC) for assigned, transferred or satellite business enterprises. Along with each application, the applicant is to provide a signed OTC form A 100 to determine their standing in relation to Sales Tax and Employee Withholding. The OTC form A 100 will be used on a one-time basis for a tax inquiry in relation to that announcement application only.

**612:25-4-57. Applicant Selection Committee [AMENDED]**

**Selection Committee.** The Selection Committee shall be established and convened by the SLA. The Selection Committee will consider applicants for assignment. The Selection Committee shall make recommendation(s) to the BEP Operations Coordinator or designee.

The BEP selection committee is chaired by the BEP Operations Coordinator or designee. Members include two members of the SLA staff, the area member of the ECM or alternate and the chairperson of the ECM or alternate (vice-chair or secretary or another member of the ECM, in order). If no member of the ECM can serve in either capacity the BEP Operations Coordinator shall poll ~~from the ECM chairs outside of State of Oklahoma~~ the licensed managers to complete the committee. No person can serve on the selection committee who has a conflict of interest or is related to an applicant.

**612:25-4-58. Annual and Performance Evaluations [AMENDED]**

(a) The BEP will conduct an annual evaluation of each licensed manager at the end of each calendar year. Performance evaluations will be conducted when a manager applies for a facility or when a probationary period ends. All evaluations will be based on data collected from the manager's primary assigned facility and will consist of the previous twelve (12) working ~~months~~ month's information. If a Licensed Manager does not have a primary facility, the satellite facility will be used (in accordance with BEP 612:25-4-53(c)(1-5). The Licensed Manager will be advised of the results of any evaluation in writing. The manager will be evaluated in the following areas:

(1) Tasks/responsibilities

(A) Timely submission and accuracy of all required monthly reports and payments (set-aside and merchandise loan payments, if applicable).

(B) Accurately calculated gross profit percentage reported on monthly reports.

(C) Accurately calculated net profit percentage reported on monthly reports.

(D) Maintenance of an acceptable level of merchandise inventory (including preventing the merchandise levels from falling below any outstanding merchandise loan balance).

(E) Attendance at Agency and other certified training.

(F) Attendance at Quarterly ECM Meetings.

(2) Work Habits

(A) Provides preventive maintenance and appropriate cleaning/sanitation.

(B) Merchandise displayed, rotated and stocked sufficiently.

(C) Maintains required insurances.

(D) Maintains agreed upon hours of operation.

(E) Maintains professional relationships with customers and grantors.

(b) When a Licensed Manager applies for a facility a performance evaluation will be conducted to determine their eligibility to apply. To be eligible the manager must score at least 80 of the available 100 points. Any score above 80 will accrue to the benefit of the licensed manager in that selection process by adding it to their total score. If there is a second interview conducted, these points will not be added to the total points of the second interview.

**612:25-4-59. Interview, Selection Process and Scoring [AMENDED]**

(a) All eligible applicants will be referred by the SLA to the Selection Committee for a personal interview.

(b) All personal information made available to the Selection committee and all information discussed in the course of a selection is held confidential. Information will not be released to any other individual, agency, or organization by Selection Committee members, unless they are advised in writing by the SLA's legal counsel to release information.

(c) An applicant not present at the appointed time for their interview will have his/her name removed from consideration for this location unless due to reasonable extenuating circumstances make them unable to appear and a majority vote of the selection committee agrees to allow a change of the interview time.

(d) Following every interview, each Selection Committee member will complete a score sheet on the applicant. Members of the Selection committee must complete their own score sheets before assisting another member. After each interview, the scores from all score sheets on the applicant will be totaled. Selection Committee members may not change their scores for an applicant after scores for the applicant have been tabulated. The total scores for all applicants will then be ranked.

(e) Any candidate not scoring a minimum of 50 percent of the available points, not including seniority, performance evaluation, or displaced manager points, will be deemed not qualified to manage the facility being considered.

(f) The score of the Chairperson of the Selection Committee's score will not be added into the ranking unless it is a tie.

(g) Any agreement made to the Selection Committee by a selected candidate will be transferred to an addendum in the manager's agreement by the BEP Operations Coordinator.

(h) After all applicants' scores from the initial interview have been tabulated; a second interview will be given to the top scorer and any applicant whose total score is within 5 points of the top score. The SLA will have the responsibility of convening the same Selection Committee and notifying all eligible applicants of the time and place of the second interview. The second interview will be governed by the same process rules as the initial interview described above.

(i) To determine the final rankings of the applicants, combine the personal interview points from the second interview to the combined point total of the first interview.

(j) The initial interview scoring shall be based on the following factors:

(1) Personal interview;

(2) Business Plan;

(3) Performance evaluation points accrued over 80;

(4) Seniority; and

(5) Displaced ~~manager~~ Licensed Manager points~~, if applicable~~. ~~A displaced licensed manager will have 15 points added in the selection process for the first comparable business enterprise announced, including type and gross sales, for one year from the date of displacement~~.

(k) Once a selection is made, all individual applicants who received a personal interview will be immediately notified of their result. This notification will be in writing with an attempt to be contacted by phone.

**612:25-4-61. Satellite business enterprise locations [AMENDED]**

(a) A business enterprise facility will be considered a satellite and may be assigned to a licensed manager on a temporary basis when:

(1) the regular selection process does not produce a permanent licensed manager,

(2) a licensed manager has been removed by the SLA, or

(3) when a business enterprise is vacated ~~on short notice~~ by a ~~licensed manager~~ Licensed Manager without giving the SLA at least 30 days notice.

(4) when notification of a new business enterprise is received by the SLA from a federal, state, county or private entity with less than a 30 day notice.

(b) The BEP Operations Coordinator, in consultation with the Chairperson of the Elected Committee of Licensed Managers, may assign a licensed manager to a satellite business enterprise. The length of the agreement for a temporary assignment will be until the regular selection process can generate a permanent licensed manager, but not less than 180 days, unless a shorter period is agreed upon by the satellite manager. In order to achieve an equitable distribution of satellite business enterprises, a licensee that currently operates a satellite location will not be eligible for an additional satellite unless there are no other qualified licensed managers interested. Licensed Managers who only qualify for lower facility classifications than the satellite under consideration may be assigned when it is deemed appropriate by the BEP Operations Coordinator, in consultation with the ECM Chairperson.

(c) Satellite locations will be reviewed by the SLA, in consultation with the ECM board through consultation with the ECM chair person, every ~~180 days~~ 10 months for possible advertisement of permanent assignment, adding in whole or in part to another business enterprise facility, continue the satellite assignment, or ~~closure~~ issuing Grantor a temporary variance. The satellite manager will be kept informed when this will occur and the result of the review.

(d) The licensed manager may resign the satellite agreement with 30 days written notice.

(e) The satellite business enterprise will be managed as a separate business location for all purposes except for insurance and the tax permit. It is the licensed manager's responsibility to notify the Oklahoma Tax Commission and his or her insurance carrier of the addition and when the satellite manager agreement has ended.

(f) If a satellite is to be continued by the current licensed manager after review, the manager must:

(1) Score at least an 80 on the satellite performance evaluation.

(2) Be current with all BEP monthly reports and payments.

(g) Merchandise loans are not allowed for satellite facilities unless extenuating circumstances prevail and only after approval of BEP Operations Coordinator in consultation with the ECM chair person.

**PART 11. BUSINESS ENTERPRISE PROGRAM AUDITING AND DUE PROCESS**

**612:25-4-73. Due process [AMENDED]**

(a) **Due process overview.** The SLA provides procedures for fair hearings of licensed managers' grievances. These procedures provide each licensed manager the opportunity to seek remediation of dissatisfaction with any SLA action arising from the operation of the BEP.

(b) **Informal administrative review.** It is the policy of the SLA to resolve complaints in an expeditious and facilitative manner. These resolutions shall be accomplished through the informal administrative review process whenever possible. A licensed manager has the right to request a full evidentiary hearing at any time within established due process time lines. These timelines are identified later in this policy.

(1) Informal administrative reviews are conducted by the SLA staff person closest to the problem who was not involved in the action resulting in the complaint, and who can resolve the complaint in the most expeditious manner.

(2) The informal administrative review is to be completed within 30 calendar days of receipt of the complaint to the appropriate SLA staff person.

(3) The results of the informal administrative review are to be reported in writing within 15 calendar days to the BEP Operations Coordinator, with a copy going to the licensed manager affected, in accessible format.

(c) **Full evidentiary hearings.** Licensed managers have the right to a full evidentiary hearing to resolve dissatisfaction with any SLA action arising from the operation or administration of the Business Enterprise Program.

(1) If the complaint cannot be resolved with an informal administrative review, or in the absence of an informal administrative review, the licensed manager may request a full evidentiary hearing. The request for a full evidentiary hearing must be made to the BEP Operations Coordinator ~~in writing~~, in the licensed managers preferred format, within 30 calendar days from the date the licensed manager receives the notification of adverse action, or the written report of the informal administrative review. ~~The request for a full evidentiary hearing is to be sent by certified mail.~~ Upon receipt, the BEP Operations Coordinator will immediately forward the request to the ~~Visual~~ Services for the Blind and Visually Imparied Division Administrator. The Licensed Manager submitting the request for full evidentiary hearing will be notified of the date it was forwarded.

(2) The licensed manager may be represented in the evidentiary hearing by legal counsel, or other representation of the licensed manager's choice, and at the licensed manager's expense.

(3) Reasonable accommodations will be arranged by the SLA upon the request of the licensed manager.

(4) The hearing will be scheduled by the SLA for a time and place convenient and accessible to the licensed manager and the SLA staff involved in the hearing. The licensed manager will be notified, in their preferred format, of the place and time of the hearing and the right to be represented by legal or other counsel in writing.

(5) The hearing will be conducted by an impartial and qualified official with no involvement or vested interest in the SLA, action at issue, or with the operation of the affected business enterprise. The presiding officer will conduct the hearing in accordance with State and/or Federal laws and rules governing the conduct of such proceedings. In any case, the hearing will be conducted in a manner that avoids delay, maintains order, and provides for a full recording and reporting of the proceedings so that a full and true disclosure of the facts and issues occurs.

(6) The hearing officer's determination will be based upon the facts as presented by both parties and upon applicable law and the existing rules of the SLA. The hearing officer does not have the power to rule upon the legality or construction of the rules themselves. The officer's decision will determine the relevant issues and facts to be ruled upon.

(7) The hearing officer shall make a written report of the evidence presented, the laws and rules used in determining a resolution, and the resolution itself. This report shall be issued to the BEP Operations Coordinator and the licensed manager, or his/her authorized representative within 15 calendar days of the conclusion of the full evidentiary hearing.

(8) The hearing officer's report shall be issued to the Director of the SLA within 15 calendar days of the conclusion of the full evidentiary hearing. The SLA Director issues his or her final written decision to the BEP Operations Coordinator and the licensed manager, in accessible format, within 30 calendar days of the date on which he or she receives the hearing officer's report.

(9) If the licensed manager is dissatisfied with the decision, she or he may request that the Secretary (USDEd) convene an arbitration panel.

**612:25-4-75. Arbitration of complaints after the evidentiary hearing [AMENDED]**

(a) The licensed manager has the right to file a request for arbitration with the Secretary (USDEd) if dissatisfied with the outcome of the evidentiary hearing. By filing a complaint with the Secretary, the licensed manager consents to the release of information necessary for the conduct of an ad hoc arbitration panel.

(b) The complaint must be filed in writing and must contain:

(1) a statement of the grievance;

(2) the date and place of the full evidentiary hearing;

(3) a copy of the decision and what actions have been taken because of the decision;

(4) the part of the decision which is causing the dissatisfaction and reason for the dissatisfaction; and

(5) a statement as to what is required to remedy the situation.

(c) The Secretary (USDEd) will convene an arbitration panel after receiving a complaint which meets the requirements in (b) of this Section. The decision of the panel will be final, except as provided for in 20 U.S.C. 107d-2. The Secretary will pay the reasonable costs for the arbitration. ~~An abstract of the arbitration decision will be published in the Federal Register.~~ Notification of the decision will be published in the Federal Register and the full decision will be published on the RSA website. The panel will be convened by the Secretary in accordance with (1) through (4) of this Subsection.

(1) The SLA shall designate one member of the panel.

(2) The licensed manager shall designate one member of the panel.

(3) The designees of the SLA and the licensed manager shall together designate the third panel member who shall not be an employee of the SLA. This member shall be the chairperson of the panel.

(4) If the SLA or licensed manager does not select a member for the panel, the Secretary will designate such a member on the applicable party's behalf.

**612:25-4-76. Arbitration of SLA complaints against federal agencies [AMENDED]**

The SLA is to resolve problems related to the operation of a business enterprise with the full participation of the licensed manager and the appropriate property manager. The SLA may file a complaint with the Secretary (USDEd) if it determines that an agency controlling Federal property is not complying with the provisions of the Randolph-Sheppard Act or U.S. Department of Education regulations. After the complaint is received, the Secretary will convene an arbitration panel. If the panel finds that the Federal agency is in violation of the Act or USDEd regulations, that Federal agency will be notified that it is expected to correct the violation according to 20 U.S.C. 107d-2. The Secretary pays the reasonable costs of this arbitration. Notification of the ~~The~~ decision resulting from the arbitration will be published in the Federal Register and the full decision will be published on the RSA website. The arbitration panel will be convened by the Secretary in accordance with (1) through (4) of this Subsection.

(1) The SLA will designate one member of the panel.

(2) The agency controlling the Federal property over which the dispute arose will designate one member of the panel.

(3) The designees of the SLA and the agency controlling the property will designate a third member who is not an employee of the agency controlling the Federal property. This member will chair the panel.

(4) If either the SLA or the head of the Federal department, agency, or instrumentality fails to designate a member of an arbitration panel, the Secretary shall designate such member on behalf of such party.

Section History

7-1-97 PT Memo #97-9

Permanent, new Section

**SUBCHAPTER 6. LICENSED MANAGERS AND BUSINESS ENTERPRISE OPERATION**

**PART 1. LICENSED MANAGERS**

**612:25-6-1. Licensing requirements for managing a business enterprise [AMENDED]**

(a) **Issuance and conditions of a license.** A license shall be issued by the SLA in accordance with Federal regulations making the individual eligible to operate a business enterprise. This license will be issued upon successful completion of the SLA training program. ~~The~~ This license shall be prominently displayed in the licensed manager's business enterprise. Licensed Managers whose facility consists of only vending machines, must carry their BEP license with them. ~~The~~ This license remains effective for an indefinite length of time, unless terminated, or suspended~~, or revoked~~ by the SLA in accordance with State and Federal regulations. A license issued to a qualified individual is non-transferable.

(b) **Termination of agreement or removal from a business enterprise.** The SLA may terminate a manager's agreement and/or immediately remove the licensed manager from operation of a business enterprise for cause shown. Termination of a manager's agreement or removal from operation of a business enterprise does not necessarily mean that the manager's license will be suspended or terminated. The licensed manager has the right to a full evidentiary hearing when dissatisfied with any State Licensing Agency action in accordance with BEP, State, and Federal regulations.

(c) **Reinstatement of suspended or terminated license.** Reinstatement of a BEP license for an individual can be accomplished by formally requesting the SLA reinstate the BEP License within a two year period.

(d) **Termination of license.** A license automatically expires when the licensed manager is no longer a U.S. citizen, no longer meets the definition of legal blindness, surrenders his or her license, resigns, retires, or dies. A license may be terminated or suspended by the SLA, after affording the licensed manager an opportunity for a full evidentiary hearing in accordance with State and Federal regulations in accordance with BEP Rule 612:25-6-3.

(e) **Continuation of Benefits.** If a Licensed Manager has not worked in the program for 1 year the Licensed Manager has the option of paying for his or her own benefits to continue coverage and not DRS.

**612:25-6-2. Standards for licensed managers [AMENDED]**

(a) The licensed manager will agree to the terms of the licensed manager's agreement, rules and regulations governing the Business Enterprise Program, and the permit or contract governing the specific business enterprise.

(b) The licensed manager will operate the business enterprise in accordance with all applicable health laws and regulations, safety regulations and other federal, state, county, and municipality laws and regulations applicable to the business enterprise.

(c) The licensed manager will work cooperatively with authorized representatives of the SLA in connection with their official responsibilities.

(d) The licensed manager will take proper care of the equipment and fixtures to minimize repair and replacement costs. The licensed manager will be responsible for repair or replacement costs when caused by the negligence of the licensed manager or his or her employees, when repair cost is below $25.00 or when repairs are not authorized by the BEP. In the event of withdrawal from the business enterprise for any reason, the licensed manager will leave all SLA-owned equipment to the disposal of the SLA.

(e) The licensed manager will collect and pay sales tax as required.

(f) The licensed manager will be responsible for substitute operation.

(g) The licensed manager will not take action inconsistent with the paramount right, title, and interest of the SLA to business enterprise equipment.

(h) The licensed manager will accept the agreement and any modifications subject to the policies, rules, and regulations of the SLA as they exist or are modified.

(i) The licensed manager will keep ~~daily~~ records of gross sales, merchandise purchased, and other financial transactions for the business enterprise.

(j) The licensed manager will complete and submit all necessary Federal and State reports and payments as required for each individual business enterprise.

(k) The licensed manager will convey a positive public image.

(l) The licensed manager will maintain appropriate professional relationships with purveyors, customers, and building officials as in (1) through (3) of this Subsection.

(1) **Relationships with purveyor.** The licensed manager is free to choose the purveyor from whom he/she is to make purchases, provided, however, that such purveyor is established and reputable.

(2) **Relationships with customers.** To serve the best interest of the public, the licensed manager and his/her employees will provide prompt~~, cheerful~~ and courteous service to all customers.

(3) **Relationships with building officials.** The licensed manager will comply with all reasonable requests concerning the operation of a business enterprise that may be made by officials of the building in which the enterprise is located, provided that such requests do not conflict with the agreement and the rules and regulations issued by the SLA as contained herein. If differences should arise between the licensed manager and the grantor, the licensed manager shall bring the matter to the immediate attention of the BEP business consultant for appropriate action.

(m) The licensed manager will supervise employees in a manner that promotes quality customer service.

(n) The licensed manager will maintain and display current licenses and permits, including BEP license, in the business enterprise or in the case of a facility of only vending machines, carried with the Licensed Manager.

(o) The licensed manager will comply with all regulations and laws governing the possession and/or use of firearms, weapons, alcohol and other drugs.

(p) When a licensed manager starts or buys a similar business, the licensed manager must make assurances to the SLA that the two businesses will not intermingle in any manner and the merchandise of the two businesses will be in separate locations. At no time will state owned equipment be used in the private business.

**612:25-6-2.1. Probation [AMENDED]**

(a) **Scope.** A licensed manager who is not meeting all of the requirements or qualifications set forth in the BEP rules and regulations, or a licensed manager who is not managing the business enterprise in a proper manner, may be placed on probation by the BEP Coordinator along with notification to the ECM Chair. Intensive review/consultation will be provided during the probationary period. The period of the probation will be used to focus on specific problem areas and attempts will be made to improve the licensed manager's performance. This is the first step in the disciplinary process. If proper results are not achieved, suspension or termination of the BEP License ~~may~~ will be necessary.

(b) **Initiation of probation procedure.** The BEP Operations Coordinator will place licensed managers on probation through a probation letter. The business consultant will deliver, read and explain the letter of probation to the licensed manager. The business consultant and licensed manager will then sign the probation letter. The original is given to the licensed manager, in his or her preferred format, one copy returned to the BEP Operations Coordinator, and one copy mailed to the Chairperson of the Elected Committee of Licensed Managers.

(c) **Probationary letter.** The probationary letter will specify the cause(s) for placing the manager on probation and rules that have been violated. It will clearly state the terms of the probation, including the length of the probationary period, the remedial action required and the consequences of failure to take remedial action. A statement will be included which indicates it has been read and understood by the licensed manager, followed by a space for the licensed manager's and business consultant's signature, and the date. This acknowledgement does not imply that the licensed manager agrees with the issues identified, but rather, that he/she understands the terms of his/her probation. Refusal to sign does not invalidate the letter.

(d) **Probationary periods.** Probationary periods are usually 30 to 90 days, at the discretion of the BEP Operations Coordinator, but may be longer or shorter as circumstances warrant. The exact period of probation will be specified in the probationary letter.

(e) **Consequences.** The Licensed Manager or the business consultant may submit a request to the BEP Operations Coordinator that the licensed manager be taken off probation whenever the licensed manager's performance improves to a satisfactory level. If remedial action does not result in improved performance within the time specified, the BEP Operations Coordinator, will notify the ECM Chair, and may recommend that:

(1) the SLA Director transfer the licensed manager to a more suitable business enterprise;

(2) the probationary period be extended; and/or

(3) the SLA Director terminate the Managers Agreement and suspend/terminate the licensed manager's BEP license.

**612:25-6-3. Grounds for suspension or termination of a license [AMENDED]**

(a) A BEP license may be suspended or terminated for the reasons set forth in (1) through (~~13~~15) of this Subsection.

(1) Failure to open the assigned business enterprise as stated in the permit/contract with the grantor agency, without prior proper approval from the SLA (abandonment of business enterprise).

(2) Defrauding any agency of the government (including the SLA) or any purveyor or failure to pay monies due including taxes, fees, or assessments to any governmental entity or purveyor.

(3) Failure to file required monthly reports with the SLA or failure to comply/cooperate with audits conducted by the SLA or other State or Federal agencies.

(4) Failure to maintain the required insurance coverage.

(5) The business enterprise is not being operated in accordance with the rules and regulations, terms and conditions of the permit with the grantor agency, or the terms and conditions of the business enterprise manager's agreement.

(6) Intentional abuse, neglect, unauthorized use or removal of the business enterprise equipment; or failure to properly maintain the equipment in a clean and operating manner within the scope of the licensed manager's level of maintenance authorization.

(7) Substance abuse (alcoholic beverages, illegal drugs, etc.) while operating the business enterprise; or other substance abuse that interferes with the operation of a business enterprise.

(8) Operation of a business enterprise in such a way that the SLA's interest in retaining the contract for the location is obviously endangered.

(9) Failure to comply with all Federal and State laws prohibiting discrimination and failure to provide services without regard to race, gender, color, national origin, religion, age, political affiliation, or disability.

(10) Determination by the SLA that the licensed manager no longer has the necessary skills and abilities for effectively managing a business enterprise.

(11) Use of the business enterprise to conduct unlawful activities.

(12) Failure to personally operate and manage the business enterprise in accordance with the manager's agreement. Management means the personal supervision of the day-to-day operation of the assigned BEP facility by the assigned manager.

(13) ~~Does not actively work as a licensed manager or licensed employee in the Business Enterprise Program for 2 years~~ Use of a third-party vendor to operate the assigned business enterprise facility.

(14) Operating a motor vehicle. Under federal law, only individuals who meet the legal definition of blindness may be licensed to participate in the vending facility program under the Randolph-Sheppard Act [20 USC 107a(b) and 107e(1)]. Under Oklahoma driver licensing rules established by the Oklahoma Department of Public Safety, individuals who are blind are not eligible to be licensed to operate motor vehicles.

(15) Intentionally representing one's self as an agent of the SLA or as an SLA official. The licensed manager is not allowed to negotiate or act on behalf of the SLA.

(b) When the BEP Operations Coordinator determines that a BEP license should be suspended or terminated, the BEP Operations Coordinator will notify the ECM Chair and shall make a written recommendation to the Division Administrator. The Division Administrator shall then recommend to the SLA Director for action. The licensed manager shall be notified in ~~writing~~ his or her preferred format if action is to be taken. The BEP license may only be suspended or terminated after affording the licensed manager an opportunity for a full evidentiary hearing in accordance with BEP Rule 612:25-4-73. The licensed manager may be immediately removed from the operation pursuant to BEP Rule 612:25-6-1(c) pending the outcome of the evidentiary hearing.

**612:25-6-4. Use of service animals [AMENDED]**

Service Animal and/or Guide Dog Teams will comply with all regulatory Laws and Ordinances that govern the use of a Service Animal and/or Guide Dog.

~~(a) A licensed manager, licensed employee, or trainee may house a service animal in designated areas other than food preparation and food serving areas. Each business enterprise will be surveyed and a service animal area designated as needed.~~

~~(b) The service animal will be kept in a suitable kennel provided by SLA and screened from customers' view to provide maximum security for the service animal.~~

~~(c) It is the service animal owner's responsibility to keep the service animal, kennel and kennel area neat, clean and odor free at all times.~~

~~(d) After leaving the kennel area, any licensed manager, licensed employee or trainee must immediately wash his/her hands before returning to work.~~

~~(e) This Section will not in any way prohibit customers with service animals from access to business enterprises.~~

**612:25-6-5. Motor vehicle operation [REVOKED]**

~~No individual who obtains or possesses a valid driver’s license or who lawfully or unlawfully operates a motor vehicle on any public street or highway shall be eligible to participate in the Business Enterprise Program as a licensed manager, licensed employee or trainee. If it is determined that a licensed manager, licensed employee or trainee of a business enterprise has violated this provision, his/her licensed manager’s agreement and/or BEP license will be subject to suspension or termination.~~

**PART 3. BUSINESS ENTERPRISES**

**612:25-6-15. Setting aside of funds [AMENDED]**

(a) Set-aside charges paid by the licensed manager will be placed in a revolving account maintained by the SLA. Set-aside charges will be re-evaluated yearly by the SLA, and the Elected Committee of Licensed Managers and RSA. Adjustments will be made accordingly in the appropriate classification, with allowances for reasonable charges for improving services, fluctuation of costs, and for program expansion.

(b) Funds will be set aside only for the purpose of:

(1) maintenance and replacement of equipment;

(2) the purchase of new equipment;

(3) management services;

(4) assuring a fair minimum of return to licensed managers; or

(5) the establishment and maintenance of retirement or pension funds and health insurance contributions.

(c) The licensed manager's set-aside charges will be on a sliding scale of 0% to not more than 12% of the net proceeds of the business enterprise during any one month. The sliding scale will be in four classifications: Class A, B, C, and D (based on prior year's performance).

(1) Class A - 12% of net proceeds, $60,000 and above.

(2) Class B - 10% of net proceeds, $25,000 to $59,999.

(3) Class C - 6% of net proceeds, $10,000 to $24,999.

(4) Class D - 0% of net proceeds, $9,999 and below.

(d) A licensed manager will submit his/her set-aside payment to the BEP office on or before the 25th of the current calendar month. If the 25th falls on a weekend, the payment is due in the BEP office no later than the close of business on the last business day prior to the 25th. Set-aside payments may be mailed to the BEP office. To be considered on time, they must be postmarked by the 21st of the month for regular mail or the 22nd for overnight mail. If these dates fall on a day where the post office is closed, they must be postmarked the day before. If the set-aside payment is late the SLA shall notify the manager by phone on the next business day following the due date. If the accurate set-aside payment is not received in the BEP office ~~within five calendar days after~~ by the due date, the licensed manager will be placed on probation and assessed a $50 late charge. If the licensed manager's overdue set aside payment is not received in the BEP office ~~within five calendar days after~~ by the due date in the succeeding month (i.e. is over one month ~~and five calendar days~~ late), the manager is assessed another $50 late fee. If the first and second payments are not received by the time the third report is due, the licensed manager's agreement will be cancelled and the BEP licenses will be suspended, unless an alternate payment schedule has been approved in advance by the SLA. Failure to pay monthly set-aside in a timely manner three or more times within any twelve month period will result in formal disciplinary action.

(e) If a business enterprise should show a marked change in net proceeds, a request for reclassification may be made by the licensed manager or the SLA after 90 days. Each licensed manager will be notified of changes in set-aside charges, and the new percentage of net proceeds will be ~~effective at the beginning of the first business month~~ due at the time of the next monthly report due date, following the mailing of notice to the licensed manager. The licensed manager will start paying the higher or lower percentage of set-aside with the ~~second~~ next report due following notification.

(f) All new business enterprises will be placed in class C for 90 days, at which time the SLA will review the business enterprise for reclassification and notify the licensed manager of changes in set-aside charges and the new percentage of net proceeds shall be effective at the beginning of the first business month following the mailing of notice to the licensed manager.

**612:25-6-16. Criteria to establish a business enterprise [AMENDED]**

A decision to establish a business enterprise will be made by the State Licensing Agency (SLA) in consultation with the ECM board through consultation with ECM chair person based on the Business Enterprise Program (BEP) calculation of potential business profitability, estimated installation costs, available SLA resources and the BEP's recommendation. Information used for calculation of business profitability will be obtained by BEP staff using a site survey that will include:

(1) building population;

(2) number of visitors;

(3) competition in the immediate area;

(4) building security;

(5) average salary of prospective customers;

(6) estimated installation cost to provide required services;

(7) stability of number of prospective customers;

(8) longevity of potential facility;

(9) geographic location; and

(10) additional information as determined necessary.

**612:25-6-18. Establishing ~~new~~ licensed managers in business enterprises [AMENDED]**

Business Enterprise Program (BEP) staff will provide consultation and assistance to accomplish installation of licensed managers in business enterprises. Steps in the installation process will include the following:

(1) BEP staff will orient the new licensed manager to the business enterprise as needed.

(2) An inventory of the outgoing ~~manager's~~ Licensed Manager's merchandise that will be ~~transferred to~~ acquired by the incoming ~~manager~~ Licensed Manager will be performed by the outgoing and incoming licensed managers with ~~assistance~~ oversight ~~from~~ by the BEP. The outgoing licensed manager or designee, incoming licensed manager or designee, and a representative from the BEP must be present when merchandise is counted. The outgoing Licensed Manager must provide a merchandise price list to the BEP and incoming Licensed Manager or their designee (7) seven days before the day the merchandise is counted. The completed merchandise inventory is signed by both outgoing and incoming licensed managers, accepting the count of merchandise. All items not being ~~transferred to~~ acquired by the incoming Licensed Manager ~~manager~~ must be removed from the facility prior to the incoming Licensed Manager ~~manager~~ taking responsibility for the facility. The outgoing licensed manager or their designee and the incoming licensed manager or their designee is responsible for removing and counting all currency prior to the date of the merchandise inventory count. The BEP Operations Coordinator shall develop and implement equipment and merchandise inventory procedures. These procedures will be read by the business consultant to the outgoing and incoming managers prior to the actual physical inventory to ensure that both the outgoing and incoming managers understand these procedures.

(3) The BEP will assist the incoming licensed manager in procuring initial merchandise for sale and will arrange for the licensed manager to obtain a merchandise loan as necessary and in accordance with agency policy.

(4) An equipment inventory is completed and the incoming licensed manager signs the inventory sheet and assumes responsibility for the equipment.

(5) The BEP will assist the incoming licensed manager in filling out any insurance or retirement enrollment or change forms as necessary.

(6) The BEP will verify that workers compensation and liability insurance on the business enterprise are in effect. The business enterprise will not be opened by the new licensed manager until this is verified.

(7) The BEP will provide the incoming licensed manager with a copy of the permit/contract in effect for the business enterprise.

(8) The BEP will provide the incoming licensed manager with a supply of the forms required by the SLA relative to the business enterprise operation.

(9) The incoming licensed manager must read and sign a licensed manager's agreement before assuming the operation of any business enterprise. If needed, BEP staff will read the agreement to the manager and/or provide the agreement in the accessible format required by the manager.

**612:25-6-19. Employees of the licensed manager [AMENDED]**

(a) The BEP has no direct responsibility over the employees of licensed managers. If a complaint is filed by a customer or grantor against an employee of a licensed manager, or an employee-related problem is brought to the attention of BEP staff, the business consultant will bring the complaint/problem to the attention of the licensed manager. A business consultant may make suggestions as to the action that needs to be taken, however the responsibility lies with the licensed manager as to disciplinary action toward the business enterprise employee.

(b) In the event the grantor requests an employee of a licensed manager be terminated/suspended, the information will be presented to the licensed manager immediately by personal contact or phone call followed by written memorandum indicating the reason for the requested suspension or termination.

(c) The business consultant will immediately notify the SLA state office by memorandum for insurance and retirement purposes when a licensee~~/licensed employee~~ starts to work for another licensed manager or quits.

(d) Licensed managers are to take affirmative action to employ and advance qualified individuals with disabilities in accordance with applicable federal and state laws.

(e) Volunteer labor is permitted in a business enterprise; however the volunteer must be covered by insurance in the event of injury. This insurance coverage will be documented in the SLA state office prior to the individual's actual work in a business enterprise.

**612:25-6-20. Closing a business enterprise [AMENDED]**

(a) A business enterprise may be closed immediately by the SLA, the grantor, any government agency or the licensed manager when an emergency situation occurs such as: a life threatening situation, health or safety hazard exists. Notice of the closing should be made as soon as possible to the SLA and the grantor.

(b) The business enterprise will also be closed immediately for failure to have proper insurance verification for liability and workers' compensation insurance.

(c) The business enterprise may be closed for short periods of time with prior written approval from the SLA and the grantor.

(d) The SLA's policy is to operate business enterprises that have the potential to produce net profit returns for licensed managers which will enable them to live self sufficiently and with dignity within their communities. Additional consideration is given to the amount of return on investment as related to expenditures for capital outlay, management services overhead, and other expenses of operation. Anytime a licensed manager vacates a business enterprise, the business consultant will re-evaluate the business enterprise if it generates revenue below the program net profit objective. A business enterprise that lacks the potential to meet the SLA's net profit objective will be ~~closed~~ issued a temporary variance or added to another location.

**612:25-6-22. Monthly reports [AMENDED]**

(a) **Content and when due.** Licensed managers must submit monthly business enterprise financial reports to the SLA. Reports will contain data on gross sales, merchandise purchases, payroll expense, business expense and other information determined necessary to reflect business financial status and calculate licensed manager set-aside, retirement and/or merchandise loan payments. The monthly reports shall be for ~~one of the two~~ the following time ~~periods~~ period: ~~1)~~ the sixteenth (16th) day of the previous calendar month to the fifteenth (15th) day of the current calendar month~~; or 2) the twenty-first (21st) day of the previous calendar month to the twentieth (20th) day of the current calendar month. The licensed manager may choose either period, but must notify the business consultant which option is chosen by September 30th of each year. The licensed manager shall use the same option throughout the federal fiscal year~~. Monthly reports and payments due, if required, are due in the BEP office on or before the 25th of the current calendar month. If the 25th falls on a weekend, the monthly report is due in the BEP office no later than the close of business on the last business day prior to the 25th. Monthly reports may be mailed to the BEP office. To be considered on time, they must be postmarked by the 21st of the month for regular mail or the 22nd for overnight mail. If these dates fall on a day where the post office is closed, they must be postmarked the day before. The BEP shall notify the manager ~~by phone~~ on the first business day following the 25th if the report is not received. The BEP will review each monthly report for mathematical errors, correct loan payment, correct set-aside payment, approved business expenses, and other factors that will affect the accuracy of the report. The business consultant will sign the report indicating that the report is correct, correct payments are attached (if required), and all items in question have been discussed with the licensed manager.

(b**) Failure to file in a timely manner.** If the accurate monthly report and correct payment due, if applicable, ~~is~~ are not received in the BEP office ~~within five days after~~ by the due date, the licensed manager will be placed on probation. If the 1st and second reports are not received by the time the 3rd report is due, the licensed manager's agreement will be canceled and the BEP licenses will be suspended. Failure to file monthly reports in a timely manner three or more times within any twelve month period will result in formal disciplinary action.

(c) **Fee for reports.** The Agency maintains records for its use and may charge a reasonable fee to supply copies of records to individuals. The agency will supply copies of lost reports or other documents at 25 cents per page.

(d) **Timely submission.** Receipt of an accurate monthly report and correct payment, if applicable, on or before the due date in the BEP office.

(e) **Returned Checks.** An insufficient fund check will be assessed a $50.00 fee.

**PART 5. THE ELECTED COMMITTEE OF LICENSED MANAGERS**

**612:25-6-32. The Elected Committee of Licensed Managers [AMENDED]**

(a) Authority for Establishing an Elected Committee of Licensed Managers (ECM) is found in Section 107-B1 of Chapter 6A of Title 20 U.S., commonly referred to as the Randolph-Sheppard Act.

(b) Paragraphs (1) and (2) of this Subsection provide guidance in approaching the degree of participation by the ECM.

(1) Active participation means a process of good faith negotiations involving the ECM and the SLA. The Committee must be given the opportunity to have meaningful input into the decision-making process in the formulation of program policies which affect licensed managers.

(2) The SLA is charged with the ultimate responsibility for the administration and operation of all aspects of the Business Enterprise Program.

(c) Functions of the Elected Committee of Licensed Managers include:

(1) Actively participate with the SLA in the major administrative, policy, and program development decisions affecting the overall administration of the Business Enterprise Program.

(2) To receive and transmit to the SLA grievances at the request of licensed managers and serve as advocates for such managers in connection with such grievances.

(3) To actively participate with the SLA in the development and administration of a State system for the transfer and promotion of licensed managers.

(4) To participate with the SLA in developing training and retraining programs for licensed managers.

(5) To sponsor, with the assistance of the SLA, meeting and instructional conferences for licensed managers.

(6) To participate in setting out the method of determining the charge for each of the purposes listed in (A) through (D) of this Paragraph.

(A) Maintenance and replacement of equipment;

(B) The purchase of new equipment;

(C) Management services;

(D) ~~The establishment and maintenance of retirement or pension funds, health insurance contributions, if it is so determined by a majority vote of licensed managers, after the SLA provides to each licensed manager information on all matters relevant to such proposed purposes. [34 CFR 395.9(b) and (c)]~~ Assuring a fair minimum of return to vendors;

(E) The establishment and maintenance of retirement or pension funds, health insurance contributions, if it is so determined by a majority vote of licensed managers, after the SLA provides to each licensed manager information on all matters relevant to such proposed purposes. [34 CFR 395.9(b) and (c)]

(d) The ECM will be composed of licensed ~~managers~~ blind vendors ~~and licensed employees~~. There will be an executive committee with their duties and terms of office specified in the bylaws of the ECM.

(e) The SLA shall provide for the election of an Elected Committee of Licensed Managers which shall be fully representative of all licensed managers in the BEP. [34 CFR 395.14]

**612:25-6-33. Organization and operation of the Elected Committee of Licensed Managers [AMENDED]**

(a) **Organization.** The ECM will be organized in accordance with its bylaws.

(b) **Nominations and elections.** The procedures set forth in (1) through (3) of this Subsection shall be used to nominate and elect members of the committee.

(1) The Chairperson of the Committee of Licensed Managers presides over the election of Committee members.

(2) The SLA presents a list of eligible voters and candidates. The Chairperson will call for nominations from the floor for ECM members. Nominees must give consent to be nominated.

(3) The SLA or designee and the ECM or designee are responsible for the collection and tallying of votes.

(c) **Operation.** The Elected Committee of Licensed Managers shall operate according to (1) through (3) of this Subsection.

(1) The Elected Committee of Licensed Managers will convene at least once each year at the licensed manager's training conference, the time and place of joint meetings to be scheduled by SLA staff and the Elected Committee of Licensed Managers. Requests for meetings by the ECM committee will be made in writing to the SLA for prior approval of financial assistance.

(2) The ECM members will be notified of matters within its purview that are being considered for decision. The ECM committee members will have the opportunity to initiate subjects for consideration by it and the SLA. Recommendations by the ECM members will be in writing and given serious consideration by the SLA.

(3) The SLA has the ultimate responsibility for the administration of the Business Enterprise Program. If the SLA does not adopt the views and positions of the Elected Committee of Licensed Managers it will notify the ECM Committee in writing of the decision reached or the action taken and the reasons therefore.

(d) **Materials.** The SLA will supply the necessary materials for the function of the Elected Committee of Licensed Managers upon written request to the SLA.

~~(e)~~ **~~Travel Expenses.~~** ~~ECM members on committee business will be reimbursed for travel expenses at the same rates and conditions as state employees.~~