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AGENCY STRUCTURE

I. PURPOSE AND STRUCTURE

The Office of Rehabilitation Services is charged to provide a comprehensive program of rehabilitation, social and independent living services to all eligible Rhode Island residents who have a disability and apply for services.

Direct services are provided by an array of qualified personnel in the form of vocational rehabilitation counselors, social workers, rehabilitation teachers, peripatologists, vending facility supervisors, as well as clerical and fiscal support staff.

In addition to services provided by staff, the Agency also utilizes community input and resources to insure adequate, appropriate and timely services to consumers. Through various Advisory Councils, the Agency presents, modifies, recommends, develops and implements a variety of programs which will allow for quality and variety of necessary services. These Advisory Councils include the State Rehabilitation Council, the State Independent Living Council, the Governor's Advisory Council for the Blind and Visually Impaired, the State Committee for Blind Vendors, and the Rhode Island Council on Assistive Technology.

The Office of Rehabilitation Services affords Administrative, Fiscal, Human Resource Development and Consultant services to all units of the Agency. The Agency is comprised of three (3) distinct units – Disability Determination Services (DDS), Vocational Rehabilitation (VR), and Services for the Blind and Visually Impaired (SBVI).

II. AGENCY UNITS

A. Disability Determination Services (DDS)

The primary purpose of the DDS unit is to provide fair and expeditious action to people in Rhode Island who are eligible for monthly Social Security Disability and/or Supplemental Security Income benefits and to conduct face-to-face appeal hearings for those beneficiaries who disagree with the decision in the event that their impairments have improved and benefits should cease. Each individual who files a claim for disability benefits must submit sufficient medical evidence to support her/his claim for benefits. If the claimant is determined ineligible for benefits and disagrees with the decision, s/he is offered the opportunity to obtain further medical evidence. This documentation must be provided by sources who have treated or evaluated the individual for impairments to support her/his disagreement with the determination. If the evidence is sufficient, further objective consultative evaluations may be purchased at no expense to the claimant.

B. Vocational Rehabilitation Services (VR)

The purpose of vocational rehabilitation is for states to assess, plan, develop and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities and interests, and informed choice, so that they may prepare for and engage in gainful employment. The vocational rehabilitation program is a State/Federal program whose major function is to provide rehabilitation services to eligible individuals with physical and/or mental impairments. The types of services provided are designed to develop skills and abilities to enhance employment outcomes of individuals with disabilities. Services include, but are not limited to, counseling and guidance, medical, social, psychological and educational evaluations, physical restoration, medical services, personal adjustment, training, rehabilitation engineering services, job training, job finding, job placement, and post-employment services.

C. Services for the Blind and Visually Impaired (SBVI)

The purpose of SBVI is to provide necessary services to all Rhode Islanders with visual impairments in order to increase their ability to function at home, at work, and in the community. Individuals with a visual acuity of 20/60 or less or fields of 20° or less are eligible for services from SBVI.

HUMAN RESOURCE DEVELOPMENT

I. LEGAL AUTHORITY:

Section 101(a)(7) of the Rehabilitation Act, as amended; 34 CFR 361.18.

II. POLICY STATEMENT AND PURPOSE:

The goal of Human Resource Development is to create an environment whereby staff is afforded the opportunity to develop their personal and professional career potential in a supportive and rewarding atmosphere. All staff is expected to seek out training opportunities in order to maintain, develop, and enhance personal and professional status and competency.

Qualified Rehabilitation Counselor

Vocational rehabilitation counselors are required to possess Master's degree in Rehabilitation Counseling or a Master's degree in a closely-related field. If the Master's degree is in a closely-related field, the rehabilitation counselor must participate in an Individual Development Plan to attain the standard to be considered a qualified vocational rehabilitation counselor.

In order to improve performance through the continuous upgrading of knowledge and skills, the Office of Rehabilitation Service s offers a comprehensive staff development program for all classes of positions involved in the administration and operation of the State's Vocational Rehabilitation, Independent Living and Business Enterprises Programs.

The Human Resource Development Program will include, at the minimum:

1. A systematic determination of training needs to improve staff effectiveness and a system for evaluating the effectiveness of the training activities provided;

2. An orientation program for new staff; and

3. An operational plan for the provision of opportunities for all classes of positions consistent with the on-going determination of training needs and to ensure maximum staff competence in implementing the provisions of all relevant federal legislation, including ADA, IDEA, and Social Security work incentive programs, training to facilitate informed choice, and training to improve the provision of services to culturally diverse populations.

III. PROCEDURES

A. The Agency will establish and maintain standards to ensure that professional and paraprofessional personnel needed to carry out the functions of the Agency are appropriately and adequately trained.

1. Standards must be consistent with any national or state approved or recognized certification, licensing, or registration requirements, or in the absence of such requirements, comparable requirements that apply to the profession or discipline of that category of personnel providing vocational rehabilitation services.

2. Standards applicable to that profession or discipline means the highest entry level academic degree needed for any national or state approved or recognized certification, licensing, registration or other comparable requirement of that profession or discipline.

3. Profession or discipline means a specific occupational category including any paraprofessional occupational category that:

   a. Provides rehabilitation services to individuals with disabilities;

   b. Has been established or designated by the State; and

   c. Has a specified scope of responsibility.

B. The individual responsible for staff development shall provide for and coordinate an Orientation Training Program for all new staff.

C. The individual responsible for staff development shall coordinate all training activities on a continuing basis in order to meet the needs of existing Agency staff.

D. The training needs of staff shall be determined at least annually through the dissemination of an in-house needs assessment of all staff, individual career development plans, consumer satisfaction surveys, recommendations from advocacy and/or advisory groups, program evaluation results, supervisory recommendations and identified problem areas related to performance standards.

E. All staff participating in training will complete evaluation forms. Trainees will also be asked to summarize the impact of training on their performance as well as how they will use what has been learned to improve performance.

F. Agency approval and payment for training will be based on the relevance of course work to the requirements of the job as well as a need to provide to each staff member of the agency the opportunity to improve her/his ability to function in the job, prepare for positions of greater responsibility within the unit, and/or to correct deficiencies identified within the organization.

G. Any employee who has not as yet attained certification or a degree in a field related to the mission and purpose of the agency may be eligible for tuition sponsorship.

H. Agency payment may be available to cover the cost of tuition, fees, books, and supplies for any employee engaged in a course of study recommended by the administration for the purpose of meeting a particular agency need. In addition, the cost of tuition may be paid by the agency for courses and programs of study selected by employees that are related to their particular job duties or to the functions of the agency. If funds are not available, the Agency has the option either to pay a part or none of the cost of continuing education courses.

1. Course relevance will be the decision of the individual responsible for staff development as the delegated representative of the Administrator.

2. Participants in continuing education must receive passing grades acceptable to the Agency.

IV. APPLICATION PROCEDURE

A. Staff requesting agency funds for training must first submit a request, in writing (Form ORS-1001), to the individual responsible for Staff Development. The request must be signed by the immediate supervisor or designee.

B. A response indicating either approval or denial will be provided to staff by the individual responsible for staff development.

C. Copies of training requests will be maintained for future reference (for a minimum of five (5) years).

AFFIRMATIVE ACTION POLICY

I. LEGAL AUTHORITY:

Section 101 (a) (6) and 101(a)(7) of the Rehabilitation Act, as amended; CFR 361.15(b); 29 USC 721(a)(6), 721(a)(7); Americans with Disabilities Act of 1990; RIGL 28-5.1-7; Executive Order 93-01; Department of Human Services Policy.

II. POLICY STATEMENT AND PURPOSE:

It is the policy of the Office of Rehabilitation Services in accordance with Federal and State Law, Executive Orders and Departmental Policy, to provide, through a positive and continuing process, equal opportunity for all employees. The Agency is committed to fair and equitable treatment in recruitment, training, promotion, transfer and termination of its employees regardless of race, color, religion, national origin, sex, age, mental and physical disability, or sexual orientation. Employees or prospective employees will not be discriminated against as a result of arrests in which allegations or charges against them did not result in conviction. This non-discrimination policy extends to service delivery agencies and personnel utilized by the Office of Rehabilitation Services.

III. PROCEDURES:

Refer to the DHS Affirmative Action Plan for more specific policies, procedures, timetables, and enforcement guidelines.

CIVIL RIGHTS COMPLIANCE

I. LEGAL AUTHORITY:

The Civil Rights Act of 1964, Title VI (42 U.S.C. 2000d et seq.); the Rehabilitation Act of 1973, as amended, Section 504 (29 U.S.C. 794); the Education Amendments of 1972, Title IX (20 U.S.C. 1681 et seq.); 45 CFR Parts 80 and 84; and 34 CFR Parts 104 and 106; Americans with Disabilities Act of 1990 Title 42 U.S.C 12101 et seq.).

II. POLICY STATEMENT AND PURPOSE:

The Rhode Island Department of Human Services (DHS), Office of Rehabilitation Services (ORS) is committed to the impartial and equitable treatment of all individuals in the administration of its programs and in the provision of its services.

The following notice which is posted in all DHS offices, and reflects ORS' recognition of its responsibility to ensure that services are rendered to residents of the State in compliance with all applicable federal and state laws.

NONDISCRIMINATION NOTICE

In accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Americans with Disabilities Act of 1990 (42 U.S.C., 12101 et seq.), and Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the U.S. Department of Health and Human Services implementing regulations (45 CFR Parts 80 and 84), and the U.S. Department of Education implementing regulations (34 CFR Parts 104 and 106), the Rhode Island Department of Human Services (DHS), does not discriminate on the basis of race, color, national origin, disability or sex in acceptance for or provision of services, employment or treatment, in its educational and other programs and activities. Under other provisions of applicable law, DHS does not discriminate on the basis of age, religion, or sexual orientation.

For further information about these laws, regulations and DHS' grievance procedures for resolution of complaints of discrimination, contact DHS at 600 New London Avenue, Cranston, RI 02920, telephone number 462-2130 (TDD 464-3363). The Community Relations Liaison Officer is the coordinator for implementation of Title VI; and the ORS Administrator or his/her designee is the coordinator for implementation of Title IX, Section 504 and ADA. The Director of DHS or his/her designee has the overall responsibility for DHS' civil rights compliance.

Inquiries concerning the application of Title IX and 34 CFR Part 106 to DHS may also be made directly to the Assistant Secretary for Civil Rights, U.S. Department of Education, Washington, D.C. 20202 or the Office for Civil Rights, U.S. Department of Education, Region I, Boston, Massachusetts 02109.

III. PROCEDURES:

The Rhode Island Office of Rehabilitation Services (ORS) has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by (1) the U. S. Department of Health and Human Services regulations (45 CFR Part 80) or (2) the U. S. Department of Education regulations (34 CFR Part 106), or (3) the Department of Health and Human Services regulations (45 CFR Part 84) and the Department of Education regulations (34 CFR Part 104) Section 504.

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) states, in part, that "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies."

Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) states, in part, "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance..."

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) states, in part, that "no otherwise qualified handicapped individual ... shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance..."

The Americans with Disabilities Act of 1990 prohibits discrimination against persons with disabilities in the areas of employment, public accommodations, transportation, and communication.

A. Filing a Civil Rights Complaint

The grievance procedure, outlined below, must be utilized to receive and process complaints with DHS of alleged discriminatory activity. Pursuant to R.I. Executive Order No. 85-11, an individual may also file a complaint with the State Equal Opportunity Office and Commission on Human Rights.

1. A complaint should be in writing, contain the name and address of the person filing it, and briefly describe the action alleged to be prohibited by the laws and regulations.

2. A complaint alleging a violation of Title VI, Title IX, ADA, and/or Section 504 should be filed with the Office of the Community Relations Liaison Officer, 600 New London Avenue, Cranston, Rhode Island 02920 within ninety (90) days of the date the complainant becomes aware of the alleged act of discrimination.

3. The Title VI coordinator, Title IX coordinator, the Section 504 coordinator, or ADA coordinator shall conduct such an investigation of the complaint as may be appropriate to determine its validity. Such investigation shall include, but is not limited to, a hearing affording all interested persons and their representatives, if any, an opportunity to submit evidence or give testimony relevant to the complaint.

4. The DHS Director or his/her designee shall review the results of the investigation and issue a written decision determining the validity of the complaint no later than thirty (30) days after its filing. A copy of the decision shall be mailed to all interested parties.

5. A complainant aggrieved by the decision of the DHS Director may obtain judicial review of the decision by the Rhode Island Superior Court in accordance with Chapter 42-35 of the General Laws of Rhode Island entitled "Administrative Procedures Act."

6. The Community Relations Liaison Office shall maintain the files and records relating to complaints filed hereunder.

7. The rights of a person to prompt and equitable resolution of a complaint filed hereunder is not impaired by the person's pursuit of other remedies such as the filing of a Title VI, Title IX, or Section 504 complaint with the Office for Civil Rights of the U. S. Department of Health and Human Services or the U. S. Department of Education. ADA complaints are to be filed with the Equal Employment Opportunity Commission (EEOC) or the Governor's Commission on the Handicapped (employment-related issues); or the U.S. Department of Justice (all other issues). Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.

8. These rules shall be liberally construed to protect the substantial rights of interested persons, to meet appropriate due process standards and to assure DHS' compliance with Title VI, Title IX, Section 504, and ADA and their implementing regulations.

   The aforementioned laws and implementing regulations may be examined in the Office of the Community Relations Liaison Officer, 600 New London Avenue, Cranston, Rhode Island 02920. The Community Relations Liaison Officer is the coordinator for implementation of Title VI; and the ORS Administrator or his/her designee is the coordinator for implementation of Title IX, Section 504, and ADA. The Director of DHS or his/her designee has the overall responsibility for DHS civil rights compliance.

CONFIDENTIALITY

I. LEGAL AUTHORITY:

Sections 12(c) and 101(a)(6) of the Rehabilitation Act; 34 CFR 361.38; RIGL 40-6-12; RIGL 42-12-22; RIGL 5-37.3

II. POLICY AND PURPOSE:

The Office of Rehabilitation Services will safeguard the confidentiality of all personal information given or made available to the State agency, its representatives, or its employees in the course of the administration of the Vocational Rehabilitation Program, including lists of names and addresses, photographs, and case records, as permitted by law.

The use of such information and records will be limited to purposes directly connected with the administration of the Vocational Rehabilitation Program and may not be disclosed directly or indirectly, other than in the administration thereof, unless the written consent of the individual to such release has been obtained.

A. Specific safeguards which are outlined in Section III are in place to protect current and stored personal information.

B. Applicants are advised of the need to, and reasons for, collecting and maintaining personal information.

C. All applicants and eligible individuals, and, as appropriate, those individuals= representatives, service providers, cooperating agencies, and interested persons are informed through appropriate modes of communication of the confidentiality of personal information and the conditions for accessing and releasing this information.

III. PROCEDURES:

A. All applicants or their representatives are informed about the State agency's need to collect personal information and the policies governing its use, including:

1. Identification of the authority under which information is collected;

2. Explanation of the principal purposes for which the State agency intends to use or release the information;

3. Explanation of whether providing requested information to the State agency is mandatory or voluntary and the effects of not providing requested information;

4. Identification of those situations in which the State agency requires or does not require informed written consent of the individual before information may be released;

5. Identification of other agencies to which information is routinely released; and

6. Explanation of the agency's specific safeguards to protect current and stored personal information, including but not limited to:

   a. Staff training in Confidentiality;
   b. Secure handling of reports and case record materials;
   c. Secure location of case records;
   d. Private interviewing spaces; and
   e. Electronic security.

B. An explanation of State policies and procedures affecting personal information will be provided to each individual in that individual's native language or through the appropriate mode of communication; and

C. These policies and procedures provide no fewer protections for individuals than applicable State laws and regulations.

D. The State agency may establish reasonable fees to cover extraordinary costs of duplicating records or making extensive searches.

E. All personal information in the possession of the State agency must be used only for the purposes directly connected with the administration of the vocational rehabilitation program. Material containing identifiable personal information may not be shared with advisory or other bodies that do not have official responsibility for administration of the program. In the administration of the program, the State agency may obtain personal information from service providers and cooperating agencies under assurances that the information may not be further divulged except as allowed below under 1., 2., and 3. below.

1. Release to applicants and eligible individuals.

   a. If requested in writing by an applicant or eligible individual, the State agency must make all requested information in that individual's record of services accessible to and must release the information to the individual or the individual's representative in a timely manner unless the request is for:

      1) Medical, psychological, or other information that the State agency determines may be harmful to the individual, it may not be released directly to the individual, but must be provided to

the individual through a third party chosen by the individual, which may include, among others, an advocate, a family member, or a qualified medical or mental health professional, unless a representative has been appointed by a court to represent the individual, in which case the information must be released to the court-appointed representative.

2) Personal information obtained from another agency or organization, it may be released only by, or under the conditions established by, the other agency or organization.

2. An applicant or eligible individual who believes that information in the individual's record of services is inaccurate or misleading may request that the State agency amend the information. If the information is not amended, the request for an amendment must be documented in the record of services.

3. Release for audit, evaluation, and research. Personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research only for purposes directly connected with the administration of the vocational rehabilitation program or for purposes that would significantly improve the quality of life for applicants and eligible individuals and only if the organization, agency, or individual assures that:

a. The information will be used only for the purposes for which it is being provided;
b. The information will be released only to persons officially connected with the audit, evaluation, or research;
c. The information will not be released to the involved individual;
d. The information will be managed in a manner to safeguard confidentiality; and
e. The final product will not reveal any personal identifying information without the informed written consent of the involved individual or the individual's representative.

F. Release to other programs or authorities.

1. Upon receiving the informed written consent of the individual or, if appropriate, the individual's representative, the State agency may release personal information to another agency or organization for its program purposes only to the extent that the information may be released to the involved individual or the individual's representative and only to the extent that the other agency or organization demonstrates that the information requested is necessary for its program.

2. Medical or psychological information that the State agency determines may be harmful to the individual may be released if the other agency or organization assures the State agency that the information will be used only for the purpose for which it is being provided and will not be further released to the individual.

3. The State agency must release personal information if required by Federal law or regulations.

4. The State agency must release personal information in response to investigations in connection with law enforcement, fraud, or abuse, unless expressly prohibited by Federal or State laws or regulations, and in response to an order issued by a judge, magistrate, or other authorized judicial officer.

5. The State agency also may release personal information in order to protect the individual or others if the individual poses a threat to his or her safety or to the safety of others.

MOTOR VOTER ACT

I. LEGAL AUTHORITY:

National Voter Registration Act of 1993

II. POLICY STATEMENT AND PURPOSE:

The purpose of the National Voter Registration Act of 1993, also called the Motor Voter Act, is to ensure that more opportunities are available for all people to register to vote or update voter registration. The Act requires that applications to register to vote be provided at agencies that provide benefits under the Family Independence Program (FIP), Medical Assistance, and Food Stamp Program as well as agencies providing services to persons with disabilities. The Office of Rehabilitation Services will distribute voter registration forms, provide assistance in completing forms, and ensure that the completed forms reach the proper state election office for processing. These services are to be provided by every office where such programs are administered.

Individuals to be registered are applicants/recipients meeting all of the following criteria at application for benefits, at recertification, or if reporting a change of address. The individual must:

* Be 18 years old or over; AND

* Be present in the office at the time of the interview or when a change of address is reported; AND

* Not be registered to vote or not registered to vote at her/his current address.

Workers must provide the same level of assistance to individuals applying to register to vote as are provided for other applications for assistance. This includes, but is not limited to, assistance in completing the application to register to vote, unless the applicant/recipient refuses such assistance.

Workers are prohibited from trying to influence an applicant/recipient's political preference or party registration; displaying political preference/party allegiance; and making any statement or take any action that may leave the impression that a decision to register or not to register to vote will have any bearing on the availability of program services or benefits. The penalties for failure to comply with these prohibitions could result in a fine, imprisonment (not to exceed 5 years), or both.

Completion of the Voter Registration form is only an application to register to vote. The State Board of Elections makes the determination of approval or denial of the application and sends its own confirmation or denial notice to the applicant.

PROCESSING REFERRALS AND APPLICATIONS

I. LEGAL AUTHORITY:

Section 101(a) of the Rehabilitation Act, as amended; 34 CFR 361.37; 361.41.

II. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services (ORS) will process all referrals and requests for information in an equitable and timely manner.

III. PROCEDURES:

Referred individuals are encouraged to attend an Orientation session where Agency services, eligibility criteria, roles and responsibilities and future expectations will be discussed. Information is also available on the ORS web site (www.ors.ri.gov). Orientation sessions are located throughout the State. Following the session any willing participant may submit an application as well as any documentation relevant to making a speedy eligibility decision.

A. Every effort will be made to provide information in alternative formats and modes of communication for those individuals requiring such accommodations.

B. Direct intake is also possible for individuals unable to attend Orientation sessions for disability-related reasons, as well as for individuals referred through liaison agencies and Disability Determination services.

C. Following receipt of an application or direct referral, the assigned counselor will attempt to contact the applicant within ten (10) days. If the counselor's reasonable efforts to contact the individual are unsuccessful, or if the applicant fails to keep scheduled appointments, the case record may be closed.

AREAS OF RESPONSIBILITY AND REFERRAL BETWEEN GENERAL AND BLIND UNITS OF THE OFFICE OF REHABILITATION SERVICES

I. LEGAL AUTHORITY:

Section 101(a)(1)(A) of the Rehabilitation Act of 1973, as amended; 34 CFR 361.2(c) and 361.19(d).

II. POLICY STATEMENT AND PURPOSE:

It is the intent of the Office of Rehabilitation Services that individuals with visual impairments receive the highest quality services based on levels of expertise and experience of the service providers. Consequently, individuals diagnosed with visual impairments will be referred to Services for the Blind and Visually Impaired, a unit within ORS. The following definitions will be applied for determination of assignment:

A. Definitions

1. Definition of "legal blindness" -- "legal blindness is defined to mean any person whose visual acuity is no greater than 20/200 in the better eye, with best correction, or one whose field of vision is restricted to the extent that the widest diameter subtends an angle no greater than twenty degrees (20°)."

2. Definition of "visually impaired" -- "one whose visual acuity is better than 20/200 but not better than 20/60 in the best eye with best correction, or whose visual impairment is both progressive and permanent."

3. Definition of "deaf-blindness" -- The presence of both the following conditions:

   a. Deafness - a physiological chronic hearing impairment so severe that most speech cannot be understood through the ear with optimum amplification. The speech discrimination score should be forty percent (40%) or less.

   b. Blindness - Visual acuity does not exceed 20/200 in the better eye with correcting lenses, or visual acuity greater than 20/200, but the field of vision is constricted to twenty degrees (20°) or less.

   c. An exception to the foregoing definitions may be made for an individual with an auditory or visual condition that shows poor prognosis, or one whose ability to use hearing and/or vision is so limited, as a result of protracted, inadequate use of either or both of these senses, that the individual functions as a deaf/blind person.

4. All persons whose visual impairments conform to the definitions described above, whose visual acuity is either permanently deteriorating or constantly unstable, and have an additional disabling condition which in and of itself is a significant disability are to be referred to SBVI for vocational rehabilitation services.

III. PROCEDURES:

A. Transfer and transmittal of cases between Vocational Rehabilitation and Services for the Blind & Visually Impaired Units:

1. All persons whose visual impairments conform to the definitions described above, or whose visual acuity is progressive and permanent, whether or not an additional disabling condition exists, are to be referred to Services for the Blind and Visually Impaired.

2. All individuals receiving services under an existing IPE from either unit (Vocational Rehabilitation or Services for the Blind and Visually Impaired) will continue to be served by that unit through the completion of the planned program. However, such individuals, by request, may be granted a transfer to the other unit if it is deemed in the best interest of the individual by all parties involved.

3. If a condition such as visual impairment better than 20/60 in the better eye, monocular vision, diplopia, visual field loss less than twenty degrees (20°) to greater than twenty degrees (20°) exists which is not within the definitions of legally blind, visually impaired, or deaf-blind as listed above, a referral will be made to the Vocational Rehabilitation Unit to determine eligibility.

B. In the event that there is a difference of opinion as to the readiness, visual definition, or other associated matters relating to the transfer of a case between units, the matter shall be decided by the Administrator or her/his designee, in conjunction with written recommendations submitted by the Chief Ophthalmological Consultant and the Chief Medical Consultant of the Agency.

PROGRAM EVALUATION

I. LEGAL AUTHORITY:

Sections 101(a)(5)(A)(B), (6)(A)(B), (10)(A)(B), (15)(A)(B)(C), (18), (19), (34)(A) of the Rehabilitation Act, as amended; 34 CFR 361.17; 34 CFR 361.18(d).

II. POLICY STATEMENT AND PURPOSE:

To improve the effectiveness of its programs and to assure that programs meet the needs of eligible individuals, including those with the most significant disabilities, the Office of Rehabilitation Services will undertake an annual evaluation of its performance and conduct statewide studies to determine the needs of individuals with disabilities.

III. PROCEDURES:

A. The Agency will designate staff to conduct on-going internal studies of program effectiveness and compliance with applicable laws and regulations and to collect and/or conduct statewide studies of the needs of individuals with disabilities. Outside consultants and studies conducted by other agencies will also be utilized to meet program evaluation goals.

B. Results of program evaluation studies will be available to Agency staff, advisory councils and federal and state agencies or departments and the public, as appropriate.

C. Results of program evaluation and statewide studies will be utilized in Agency strategic and state plans and amendments as well as in on-going revisions and/or adjustments of Agency policy, operations and practices.

D. Program evaluation studies will include:

1. Client satisfaction measures and

   a. Satisfaction instruments will include a question dealing with customer satisfaction with vendor services. All future contracts and cooperative agreements will require vendor and partner agencies to assess customer satisfaction.

2. Analysis of existing and relevant data from state special education agencies.

   a. Such studies will examine a broad variety of means and methods to provide, expand and improve vocational rehabilitation services, review the capacity of community rehabilitation programs to meet identified needs, and reevaluate ineligibility decisions criteria to determine if

significant numbers of individuals with disabilities require an expansion of services.

SERVICES TO NON-ENGLISH SPEAKING PERSONS

I. LEGAL AUTHORITY:

Section 101(a) 7 of the Rehabilitation Act, as amended; 34 CFR 361.14(b).

II. POLICY STATEMENT AND PURPOSE:

In accordance with Federal Public Laws and the Policies and Procedures of the Department of Human Services, (See DHS Manual, Section 0124), the Office of Rehabilitation Services will provide sign and foreign language interpreters to those applicants and clients requiring such services for the purpose of affording equal access to Agency services.

III. PROCEDURES:

A. The Office of Rehabilitation Services will recruit appropriate and qualified interpreters from within the Agency or Department of Human Services. If appropriate and qualified interpreters do not exist within the Agency or Department, recruiting will take place from appropriate community resources.

1. Sign Language Interpreters

   a. Ocean State Center for Independent Living (OSCIL) Interpreter Referral Services.

2. Foreign Language Interpreters

   a. Those listed in the Master Price Agreement for the State of Rhode Island.

B. Written informational material and notices will be provided in various languages determined through periodic statewide demographic studies.

INFORMED CHOICE

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended; Section 12(e)(1), (2)(C) and (F); 101(a)(29); 29 U.S.C. 711(e) and 721(a)(29); 34 CFR 361.52.

II. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services (ORS) assures that all recipients of vocational rehabilitation services will be provided with information necessary to make informed choices regarding the selection of their long-term vocational goals, intermediate rehabilitation objectives, vocational rehabilitation services (including assessment services), and service providers.

The Agency ensures that each individual receives, through appropriate means of communication, information concerning the availability and scope of informed choice, the manner in which informed choice may be exercised, and the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice.

A. Definition

"Informed Choice" is a decision-making process whereby the individual with a disability analyzes relevant information and selects, with the assistance of the rehabilitation counselor or coordinator, a vocational goal, intermediate rehabilitation objectives, VR services, and VR service providers.

B. Conditions and Criteria

1. The Agency is required to inform individuals of their right to make informed choices and that this right may be exercised in a collaborative manner with the rehabilitation counselor.

2. It is the responsibility of all ORS staff to assure that each participant in the VR program acquires information needed for his/her decision making, is assisted in understanding the information, and if necessary, taught how to use the information.

3. Individuals may acquire, independently or with assistance, including, but not limited to that of ORS counselor, information about:

    a. The advantages and costs associated with: preparation for and pursuit of alternative career or job goals;

b. The cost, accessibility, and duration of potential service providers;

c. Consumer satisfaction with services or service providers;

d. The qualifications of service providers, and

e. The degree of integration available with each service option or site.

4. Participant decisions about their vocational rehabilitation will be based upon:

a. Information that is relevant to the decision to be made including related laws, rules, policies, or other factors that may affect the decision;

b. An understanding of the potential positive and negative consequences that may result from a decision; and

c. Individualized support from ORS staff and/or others that will enable the individual to make decisions leading to successful employment.

III. PROCEDURES:

A. The counselor will provide, or assist the individual in acquiring, information necessary to make an informed decision about specific services, including the providers of those services, that are needed for the individual to achieve his/her vocational goal. Such information may include, but is not limited to:

1. The purpose of vocational rehabilitation;

2. The rights, roles, and responsibilities of the applicant or recipient, rehabilitation counselor, and the ORS agency itself;

3. Results and implications of assessments related to strengths, interests, abilities, aptitudes, etc., for the purpose of career decision making and plan development;

4. Benefit incentives and disincentives;

5. National and state sources of labor market information and career decision-making tools;

6. State or regional lists of services and providers, including the cost, accessibility, and expected duration of said services;

7. Consumer satisfaction surveys and reports;

8. Referrals to other consumers or consumer groups or councils qualified to discuss services or providers; and

9. Accreditation, certification, or other information related to the qualifications of services providers.

B. ORS will provide, or arrange to provide, support services so that individuals who need such services may exercise informed choice.

1. In providing assistance to those individuals so that they may acquire or use the information to make informed choices, the vocational rehabilitation counselor may:

   a. Provide the information using the appropriate mode(s) of communication identified/preferred by the individual; and/or

   b. Relay the information to a representative of the individual who agrees to assist in the decision-making process.

ELIGIBILITY and INELIGIBILITY

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973 (PL 93-112), as amended through P.L. 105-220, the Workforce Investment Act of 1998; Sect. 102, CFR 34, Part 361.42, 361.43.

II. POLICY STATEMENT AND PURPOSE:

Qualified vocational rehabilitation counselors at the Office of Rehabilitation Services will (1) make eligibility determinations of applicants for services within sixty (60) days of application unless particular circumstances apply (see II., B.,2.); (2) utilize existing information provided by the individual and/or from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs; (3) presume individuals can benefit from vocational rehabilitation services in terms of an employment outcome unless clear and convincing evidence demonstrates otherwise; and (4) provide due process whenever an individual is aggrieved by an Agency decision.

An individual who has a disability or is blind pursuant to Title II (SSDI) or Title XVI (SSI) of the Social Security Act shall be considered to be an individual with a significant disability and presumed to be eligible for vocational rehabilitation services, providing that the individual intends to achieve an employment outcome, i.e., becoming employed or retaining or regaining employment.

A. Definitions:

1. Individual with a Disability

   The term "individual with a disability" means any individual who has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment and who can benefit in terms of an employment outcome from vocational rehabilitation services. It shall be presumed that the individual can benefit in terms of an employment outcome from VR Services unless clear and convincing evidence demonstrates otherwise.

2. Substantial Impediment to Employment

   The term "substantial impediment to employment" means that the physical or mental impairment (in light of attending medical, psychological, educational, or other related factors) prevents the individual from preparing for, entering,

engaging in or retaining gainful employment consistent with the individual's abilities and capabilities.

B. Eligibility

1. An individual is eligible for vocational rehabilitation services if all of the following apply:

   a. The individual has a disability that constitutes a significant impediment to employment; and

   b. The individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice unless ORS can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

2. To the extent possible, existing information will be used to make the determination of eligibility. Rehabilitation services, including rehabilitation technology in the evaluation process, must be provided as appropriate to determine eligibility.

3. It shall be presumed that the individual can benefit in terms of an employment outcome from vocational rehabilitation services unless clear and convincing evidence demonstrates otherwise.

4. The determination of eligibility will be made in sixty (60) or fewer calendar days following application unless:

   a. The agency and the individual agree that-exceptional and unforeseen circumstances beyond the control of the agency prevents determination within sixty (60) days; and

   b. The agency and individual agree to a specific time-limited extension; or

   c. The agency is exploring an individual's potential for employment through trial work.

5. When eligibility cannot be determined within sixty (60) days, the individual is so advised in writing.

C. Ineligibility

1. An individual is ineligible for services if one of the following is applicable:

   a. The individual does not have an impairment which constitutes a substantial impediment to employment, or

   b. The individual cannot, on the basis of clear and convincing evidence using trial work, benefit from vocational rehabilitation services, or

   c. The individual does not need vocational rehabilitation services to become employed.

2. Prior to a determination that an individual is ineligible (either before or after services are initiated), the individual (or his/her parent, legal guardian, or other representative, as appropriate) will be included in the decision-making process.

3. If an individual is found to be ineligible, the individual shall receive notification in writing or by other appropriate modes of communication in accordance with the individual's informed choice, of the reason, his/her rights and remedies, and the availability of services provided by the Client Assistance Program.

4. Refer individual to other Agency or other disability services or training related program, as appropriate to address needs.

INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE)

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973 as amended in Title IV of the Workforce Investment Act (P.L. 105-200), Title IV, Section 102(b), 34 CFR 361.45, and 34 CFR 361.46, and 29 USC 705(2)(b), 721(a)(8), 721(a)(9), 721(b)(1), 722(b)(2),722(b)(3), 722(c), 723(a)(1), 795(k).

II. POLICY STATEMENT AND PURPOSE:

ORS will offer eligible individuals a choice in options for the development and content of a plan of action toward an employment outcome, to assist them to achieve their vocational goal. An IPE will be developed and implemented in a timely manner for each individual found eligible for vocational rehabilitation services. The IPE must be designed to achieve the specific employment outcome that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

A. Definition

The Individualized Plan for Employment (IPE) is that part of the case record which explicitly outlines the vocational goal and service plan for the individual. It serves as a written document between the eligible individual with a disability, or as appropriate, that individual's parent, guardian, or other representative, and the VR counselor regarding mutual expectations in the rehabilitation process.

B. Conditions and Criteria

The Agency will, in a timely manner, assist each eligible individual who meets the Order of Selection (OOS) criteria (when ORS is under an OOS) to develop and implement an IPE. As a standard, the IPE should be developed within 90 days of determining that the individual is eligible and meets the agency's OOS criteria. There may be circumstances where the period of time needed is significantly shorter or longer, depending upon the nature of the individual's situation. Staff should make every effort to develop plans in a timely manner, with good judgment and care. Implementation includes periodic review of individual plans and appropriate amendments as needed to support the achievement of the employment goal.

1. Initiation and Amendment of the Individualized Plan for Employment

The development of the IPE follows after certification of eligibility for services, order of selection category, and the required assessment of vocational rehabilitation needs. It is continuously developed in the sense that

if substantive changes are needed (i.e., in the employment outcome, or in the type or provider of services), it must be amended to reflect those changes.

2. The individual, or the individual's representative, may develop all or part of the IPE independently with assistance from a qualified rehabilitation counselor (A qualified rehabilitation counselor is required to possess a Master's degree in Rehabilitation Counseling or a Master's degree in a closely-related field. See Section 101.4.1. for a complete description of Qualified Rehabilitation Counselor.) or from another source selected by the individual.

3. Components of the IPE

   ORS must provide information in writing or in appropriate modes of communication to individuals about the various options for developing an IPE, such as the availability of assistance from a qualified rehabilitation counselor and/or technical assistance from other sources.

   The IPE:

   a. Must be developed on ORS forms;

   b. Explains relevant agency guidelines, conditions, and criteria for agency approval of the plan;

   c. Must be designed to achieve a specific vocational outcome that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice so that such individual may prepare for and engage in gainful employment;

   d. Identifies the employment outcome (vocational goal) and time frame for its achievement;

   e. Outlines the specific vocational rehabilitation services and the service provider(s) (when known) needed to achieve the goal; the projected time frames for the initiation and duration of each rehabilitation service and the expected funding source(s); and objective criteria for measuring progress toward achievement of the goal;

   f. It contains, as appropriate, a statement of the projected need for post-employment services;

   g. Contains the views of the individual toward the goal, services, providers, methods to secure services, and the individual's involvement in making such choices;

h. Agreed to and signed by the eligible individual or, as appropriate, his/her representative, and approved and signed by a qualified vocational rehabilitation counselor employed by ORS;

i. Is amended only with the individual's participation to reflect changes in goal, services, and/or service provider(s), and it reflects all services planned;

j. Is prepared consistent with relevant elements of the Individualized Education Program (IEP) when the individual is also eligible for special education services;

k. When a supported employment outcome has been identified, it describes the time-limited on-going supports provided by ORS, as well as those extended services provided by other State, Federal, or private programs or the basis for determining that such continuing support is available;

l. Must be reviewed at least annually by the individual and a qualified vocational rehabilitation counselor employed at ORS or may be reviewed at any time upon the request of the consumer;

m. Contains assurances that the individual was provided explanations, using appropriate modes of communication, regarding the following:

1) The plan and the terms and conditions for the provision of services;

2) The individual's rights and responsibilities;

3) The appeal process and a description of the Client Assistance Program;

4) The extent of the individual's participation in the cost of services;

5) The extent to which goods and services are provided in an integrated setting consistent with informed choice; and

6) The extent to which comparable benefits and services are available.

n. It assures that a copy of the plan and any amendments thereto were provided to the individual;

o. It includes the basis on which the individual has been determined to be rehabilitated;

p. When an individual has been found ineligible after the IPE has been initiated, the IPE is amended, and includes:

1) A rationale for the ineligibility decision; and

2) A notation regarding the individual's full participation in and views about the decision to close the case, including the individual's rights, remedies, including CAP assistance, and

q. When the basis of an ineligibility decision is a finding of inability to benefit from VR services leading to an employment outcome, procedures in Section 115.18 are followed.

HOMEMAKERS

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended, in Title IV of the Workforce Development Act of 1998: 34 CFR 361.1, 361.24D, 361.25, 361.28, 361.31, 361.38, 361.41, 361.42, 361.43, 361.45, 361.46, 361.47, 361.48, 361.5, 361.52, 361.53, 361.54, 361.56, 361.57.

II. POLICY STATEMENT AND PURPOSE:

This agency regards homemaker as a viable vocational goal and provides services and supports to those who choose to pursue homemaking as their objective. Homemaking is not restricted to those individuals who had previously functioned as homemakers, but also includes individuals whose change in goal to homemaking is determined to be the most suitable outcome based on their interests and informed choice.

A. Definitions

1. Homemaker - any individual who performs the majority of the following tasks central to maintaining a home for oneself and/or others. These activities include cooking, cleaning, Laundry, child or adult care, budgeting and bill paying, shopping and communication.

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

III. PROCEDURES:

Eligibility determination is outlined in Section 115.2, *Eligibility and Ineligibility.* Further clarification is provided below.

A. Eligibility

1. Impairments and Functional Limitations
All physical, sensory and mental impairments which an individual may experience must be assessed to determine what, if any, effect they have on functional capacity for primary activities (e.g. work skills, self-direction, mobility, self-care, work tolerance, communications, inter-personal skills). Although individuals may present to the agency with a request for services related to one impairment, the VR counselor must view the individual holistically. Other impairments can have a profound effect upon the

rehabilitation plan, on the outcome, and on the classification of the individual as severely disabled.

2. Substantial Impediment to Employment
An applicant must demonstrate why s/he is unable to perform effectively as a homemaker. The counselor along with the individual with a disability will utilize the Agency's Homemaker Checklist to help identify and document employment barriers. The counselor must carefully analyze each situation. It is critical for the counselor to consider the individual and his/her circumstances and weigh both the number and the type or importance of the homemaking tasks which are compromised as a result of the disabling condition.
Another measure the counselor can use in determining whether an employment barrier is substantial is the level of direct impact it has on the relationship between the functional limitation and the employment barrier.

B. Identification of Services

The identification of needed services for successful homemaking depends on the thoroughness of the evaluations. Counselors can make good use of other specialists such as occupational therapists, ophthalmologists, low vision specialists, rehabilitation teachers, mobility instructors and audiologists to identify what services and devices would enhance the individual's capacity to perform homemaker tasks. Successful rehabilitation may entail a number of services over an extended period, especially for the individual with multiple impediments.

All services (other than evaluation) provided to the individual must be included in the employment plan. During service delivery, counselors periodically assess improvement in functioning, in accordance with the schedule on the IPE. In this way, counselors can identify any need for additional service and plan modifications.

C. Closure

All homemaker case closures must meet the criteria outlined in Section 115.18 *Criteria for Case Closure*.

For successful rehabilitation to have occurred, VR services must have been provided within a guidance and counseling relationship and have contributed in an identifiably positive way to the individual's functioning as a homemaker as indicated on the Homemaker Checklist. The person must be performing homemaking activities. It is not necessary to demonstrate that VR services have freed another family member to go to work in order to justify a homemaker rehabilitation but it is necessary to demonstrate that the client is performing substantial homemaker duties.

To document this, counselors must ensure that the case record includes the following information:

1. All planned services have been provided and the ways in which those services led to improved homemaking and/or an explanation indicating why some have not been provided;
2. In any case where the client changes the vocational objective to homemaker, the client record should reflect that the client has made this choice and his/her reasons;
3. The individual is satisfied with services and demonstrates the ability to function as a homemaker and no other VR services are currently needed;
4. For a minimum of 90 days, the individual reports continued homemaker capability; and
5. The individual has been made aware of the availability of post-employment services.

COMPARABLE SERVICES AND BENEFITS

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended, in Title IV of the Workforce Development Act of 1998; Sec. 12(c) and 101(a)(8); Sec. 103(a)(1)-(12); Sec. 504; Sec. 705(a)(3); 29 U.S.C. 711(c) and 721(a)(8); 34 CFR 104.44(d); 104.51; 104.52(d)(1); 361.5(b)(10);- 361.53; 365.15(a); Title IV of the Higher Education Act of 1965, as amended; Sec. 484(a)(3).

II. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services must determine whether comparable services and benefits, as defined in § 361.5(b)(10), exist under any other program and whether those services and benefits are available to the individual.

A. Definitions

1. Comparable services and benefits are services and benefits which are:

   a. Provided or paid for in whole or in part by other Federal, State, or local public agencies, by health insurance or by employee benefits;

   b. Available to the individual at the time needed to achieve the intermediate rehabilitation objectives listed in the IPE; and

   c. Commensurate with the services that the individual would otherwise receive from the vocational rehabilitation agency.

B. Conditions and Criteria

1. The determination of comparable services and benefits shall be required unless:

   a. Comparable services and benefits exist under another program but are not available to the individual at the time needed to satisfy the rehabilitation objective in the IPE. The Agency shall provide those services until comparable services and benefits become available; or

   b. The determination would interrupt or delay the provision of services to any individual at extreme medical risk (extreme medical risk means the substantial increase of functional impairment or risk of death if medical services are not provided expeditiously) based on medical evidence provided by an appropriate qualified medical professional; or

c. The determination would interrupt or delay the loss of an immediate job placement.

C. Services not Subject to the Comparable Benefits Requirements

1. Assessment for determining eligibility and vocational rehabilitation needs**;**

2. Counseling and guidance, including information and support services, to assist an individual in exercising informed choice;

3. Referrals to secure needed services from other agencies, including other components of the statewide workforce investment system

4. Job-related services, including job search and placement assistance, job retention services, follow-up services and follow-along services;

5**.** Vocational and other training services, which are not provided in institutions of higher education, including personal and vocational adjustment, books (including alternative format books, accessible by computer and taped books), tools and other training materials;

6. Rehabilitation Technology devices and services including telecommunications, sensory and other technological aid and devices; and

7. Post-Employment Services consisting of the previously listed exceptions.

VOCATIONAL REHABILITATION SERVICES

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; 34 CFR 361.48; 361.5; 361.53; and 361.54.

II. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services provides services which are appropriate to the vocational rehabilitation needs of each eligible individual**,** when available. The ORS will provide services in a timely manner without any undue delays or interruption.

Vocational rehabilitation services are any goods or services necessary to assist a person with a disability in preparing for, securing, or retaining an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. "Vocational rehabilitation services are those services, which, provided in the context of the counseling relationship, collectively and significantly contribute to the achievement of an employment outcome consistent with the informed choice of the individual. Additionally, there needs to be documentation that demonstrates that services provided under the individual's IPE contributed to the achievement of the employment outcome.

They include, but are not limited to:

1. Assessment for determining eligibility and priority of services (Section 115.2);

2. Assessment for determining vocational rehabilitation needs, including, if appropriate, an assessment by personnel skilled in rehabilitation technology in accordance with the Individualized Plan for Employment (IPE) (Section 115.3);

3. Counseling and guidance, including personal adjustment counseling and information and support services to assist an individual in exercising informed choice;

4. Referral and other services necessary to help applicants and eligible individuals secure needed services from other agencies, including components of the Statewide Workforce Investment System, and to advise those individuals about the client assistance program;

5. Physical and mental restoration services (Section 115.35);

6. Vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, except that no training or training services

in institutions of higher education may be reimbursed by ORS unless maximum efforts have been made by the state Vocational Rehabilitation agency to secure grant assistance in whole or in part from other sources (Section 115.28);

7. Maintenance for those living expenses, such as food, shelter, clothing, and other subsistence items that are in excess of the normal subsistence expenses necessary for the individual's participation in a vocational rehabilitation program (Section 115.36);

8. Transportation in connection with the provision of any vocational rehabilitation services. Transportation services may be authorized on a temporary basis while other planned services are occurring. As a supportive service, transportation cannot be used to transport an individual for employment purposes on a permanent basis. Services may be authorized during an initial adjustment period while other arrangements for transportation are being made (Section 115.21);

9. Vocational rehabilitation services to family members of an applicant or eligible individual if necessary to that individual's employment outcome;

10. Interpreter services including sign language and oral interpretation services for individuals who are deaf or hard of hearing, and tactile interpreting services for individuals who are deaf/blind provided by qualified personnel;

11. Reader services, rehabilitation teaching services, and orientation and mobility services for individuals who are blind;

12. Technical assistance and other consultation services for those who are pursuing self-employment as an employment outcome;

13. Job search and placement assistance and job retention services;

14. Supported employment services (Section 115.14);

15. Personal assistance services, in connection with the provision of any vocational rehabilitation services, including training in managing, supervising, and directing personal assistants (Section 115.31);

16. Post-employment services necessary to maintain, regain, or advance in employment consistent with the individual's abilities, capabilities, and interests (Section 115.15);

17. Occupational licenses, tools, equipment, initial stock, and supplies (Section 115.20);

18. Rehabilitation technology, telecommunication, sensory, and other technological aids, devices, and services (Section 115.16);

19. Transition services (Section 115.38); and

20. Other goods and services determined necessary to the achievement of an employment outcome.

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INDEPENDENT LIVING SERVICES

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973 (Public Law 93-112), as amended; 34 CFR 361.42(a)(15).

II. POLICY STATEMENT AND PURPOSE:

A. This section reflects the agency's policy and procedure governing the provision of Independent Living Rehabilitation Services (ILS) for clients of the Vocational Rehabilitation Program.

B. DEFINITION OF INDEPENDENT LIVING SERVICES

1. Independent Living Services are any services that will improve the ability of an individual with a significant disability to function, continue to function, or move toward functioning independently.

III. SCOPE OF INDEPENDENT LIVING SERVICES:

Assessments include general independent living assessment, comprehensive independent living/PA assessment, and assessment of equipment or adaptive housing needs. Medical self-care skills training includes bowel or urinary management and skin care training. Other skills training consists of personal assistant management, time management, sexuality, transportation utilization, assertiveness, and financial management. Provision of consumer-directed personal assistance services is also included in the scope of this service (see Section 115.31).

IV. CRITERIA FOR PROVIDING INDEPENDENT LIVING SERVICES:

Individuals must be evaluated utilizing a comprehensive Independent Living Assessment, provided by an Independent Living Center established under Title VII, Part C showing the client's need for specific independent living services in order to achieve an employment outcome in the competitive labor market. The independent living services must be part of the IPE.

V. PROCEDURES:

A. Once a client has met VR eligibility criteria or is in extended evaluation, and specific independent living services have been assessed and are required, and the IPE has been

developed, the counselor will authorize payment in accordance with existing agency fee schedule.

B. The only exception will be in the case of consumer-directed personal assistance services (see Section 115.31).

GUIDELINES FOR DETERMINATION OF ECONOMIC NEED

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended, in Title IV of the Workforce Development Act of 1998; and Code of Federal Regulations, Title 34, Part 361.54.

II. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services will consider the financial need of individuals with a disability for the purpose of determining the extent of their participation in the cost of vocational rehabilitation services. The Agency will determine the extent an individual with a disability and/or his/her family will contribute to the cost of vocational rehabilitation services, once similar benefits if available have been applied to the cost of such services.

These policies will be applied uniformly so that equitable treatment is accorded all individuals with disabilities in similar circumstances.

This section does not apply to maintenance, academic and/or vocational training. See Section 115.28 (Training) of this Manual for academic and vocational training. See 115.36 for Maintenance.

A. CRITERIA FOR APPLICATION OF NEEDS TEST

1. A financial needs test will be applied as a condition for furnishing all vocational rehabilitation services except the following:

    a. Counseling and guidance;

    b. Referral;

    c. Job search, placement assistance, and job retention;

    d. Assessment services to determine eligibility and priority of services, rehabilitative potential including vocational evaluations in community rehabilitation programs approved by the agency;

    e. Work adjustment services provided by community rehabilitation programs approved by the agency;

    f. Supported employment services by approved providers;

    g. Interpreter services and reader services;

h. Rehabilitation engineering evaluation/assessment; and;

i. Personal Assistance Services (i.e. orientation, mobility, and rehabilitation teaching services).

2. Individuals determined eligible for Social Security benefits under Titles II or XVI of the Social Security Act are exempt from a needs test and financial participation in the provision of vocational rehabilitation services.

3. While an individual with a disability continues to receive a service for which a needs assessment must be applied, a re-determination of that person's ability to participate financially must be made at least annually or when it becomes known that circumstances have changed.

B. CONSIDERATIONS IN DETERMINING ECONOMIC NEED

1. Legitimate on-going medical expenses and the cost of other rehabilitation services being paid by the individual with a disability or family unit should be computed on a weekly basis and deducted from the weekly gross income in cases where gross income exceeds the Agency's allowable weekly amount. Rehabilitation services, for purposes of this section, are defined as any and all services deemed necessary by the agency and the individual with as disability to accomplish the vocational goal designated on the Individualized Plan for Employment (IPE) (not including the cost of health insurance).

2. Equity in real or personal property is not taken into consideration in determining financial eligibility.

3. Rental income less all essential related expenses must be taken into account and included in the weekly gross income. A minus figure should be reported as zero.

4. The total savings of a household which may include cash, bonds, or other liquid assets must not exceed the amount of $10,000 as set by the Agency. This standard is used for VR services requiring a measurement of financial need except maintenance payments as described in #5 below.

5. In computing a person's eligibility for a direct bi-weekly maintenance payment, no cash, bonds, or other liquid assets may be retained. (See Policy section 115.45.)

6. When the individual with a disability is under the age of eighteen (18), the parents' income will be considered in determining the economic need. When

the individual with a disability is over the age of eighteen (18), the parents' income will not be considered.

7. Spouse's income will be considered in all cases of financial need.

8. Computations regarding Economic Need Determination will be completed on the Agency form ORS-60. The allowable weekly income scale of the ORS-60 will be updated by the Agency bi-annually. (The allowable income figure is based on the sum of the average wage (calculated annually by Department of Employment and Training) plus one (1) IRS Personal Exemption; this is then divided by fifty-two (52) to get the average weekly wage for each person supported beyond one.)

9. If, upon completion of the ORS-60, it is determined there is an excess of income, the counselor will determine the percentage of that excess over the allowable gross weekly income and that percentage will be applied to the total cost of the services. This amount will represent the individual's contribution toward the purchase of the service.

RECRUITMENT AND TRAINING FOR PUBLIC SERVICE EMPLOYMENT

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended by P.L. 99-506; Section 103(a)(7), CFR 361.42(11).

II. POLICY STATEMENT AND PURPOSE:

In order to insure that individuals with disabilities have every opportunity to engage in meaningful, gainful employment, the Office of Rehabilitation Services will explore and/or create new opportunities in public service employment while complying with existing state personnel policies and procedures and union contracts.

III. PROCEDURES:

A. Counselors will be informed of and utilize all available opportunities including, but not limited to, the following:

1. Special list for eligible individuals with disabilities:

   a. Discuss eligibility list with supervisor;

   b. Prepare memo justifying how functional limitations will not allow individual with disability to compete in civil service examinations even with reasonable accommodations;

   c. Describe how the individual qualifies for the job;

   d. Prepare copies of all medical and diagnostic reports, attach resume, work history, school grades and test results when appropriate; and

   e. Submit the entire package to the assistant administrator for review and final approval.

2. Form a special relationship with the Agency's placement unit for:

   a. Exploring and providing technical assistance for accessing civil service examinations;

b. Explore Federal job service - Schedule A/ Schedule B opportunities;

c. Explore available opportunities within the state:

(1) Non-competitive jobs;

(2) Unclassified positions;

(3) Entry level positions.

3. People in Partnership;

4. Research available educational opportunities within the public sector;

5. Provide technical assistance in reasonable accommodations to federal, state and municipal branches of government;

6. Utilize marketing strategies with public service employees;

7. Federal non-paid work experience slots for individuals with "targeted" disabilities:

a. Veterans Administration;

b. Internal Revenue Service; and

c. Small Business Administration.

8. Cooperative agreement with Post Office including specialized vocational evaluations for selected post-office jobs.

EMPLOYMENT

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; Sections 7(11), 12(C), 100(a)(2),102(b)(3)(A) of the Act; 29 U.S.C. 705(11), 720(a)(2), 722(b)(3)(A); 34 CFR 361.5(b)(6), (11), (16), and (33); 34 CFR 361.56; 34 CFR 363.6; and 34 CFR 361.48(1).

II. POLICY STATEMENT AND PURPOSE:

Employment is the successful result of the vocational rehabilitation process and services. Employment outcome means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market, supported employment, or any other type of employment in an integrated setting, including self employment, telecommuting, or business ownership that is consistent with the individual's strengths, resources, priorities, concerns, abilities capabilities, interests and informed choice.

A. Definitions

1. Competitive employment means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

2. Integrated employment means a setting typically found in the community in which individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services, to the same extent that non-disabled individuals in comparable positions interact with other persons.

3. Job-related services, including job search and placement assistance, job retention services and other follow-up services are those services that assist clients in obtaining and retaining appropriate competitive employment.

4. Supported employment means competitive employment in an integrated setting, or employment in integrated work settings, in which individuals are working toward competitive employment consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, with on-going support services for individuals with the most significant disabilities (definition included in Section 115.14, Supported Employment). Supported employment may be determined appropriate for individuals:

a. For whom competitive employment has not traditionally occurred, or for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

b. Who, because of the nature and severity of their disabilities, need intensive supported employment services from the agency and extended services after transition from support provided by the vocational rehabilitation program to support provided by another state agency, non-profit organization, employer or any other appropriate resource with funds other than received by the state agency.

c. Who enter into transitional employment which is a series of temporary job placements in competitive work in integrated settings with on-going support services for individuals with the most significant disabilities due to mental illness. On-going support services must include continuing sequential job placements until job permanency is achieved.

III. PROCEDURES:

A. Assessment to Determine Eligibility and Vocational Rehabilitation Needs Related to Achieving an Employment Outcome

1. The counselor and individual will gather and review information pertaining to the functional limitations relating to the individual's medical condition, rehabilitation technology needs, benefits information, education and work history, stated interests and career goals, and labor market information in order to assist the individual to establish an employment strategy.

2. The counselor and individual will determine whether there is need for additional evaluation to assist the individual to establish an employment goal and services.

B. Employment Planning Process

1. Counselor will facilitate, through the provision of support and information, the individual's informed choice related to identification of an employment goal, and the steps and services necessary to achieve the goal through the provision of support and information.

2. Counseling and guidance services are provided throughout the employment planning process. Discussions relating to the following subjects may be included:

a. Career decision-making and vocational goal setting.

b. Impact of employment on benefits (SSI, SSDI, etc.) of individual with a disability;

c. Labor market information;

d. Employer or business expectations;

e. Motivation and continued movement toward the employment goal;

f. Benefits of employment;

g. Assessment for rehabilitation technology and accommodation needs (see Section 115.16);

h. Information about available resources (including One Stop Career Centers (netWORKri), School to Career programs, the Small Business Administration, the R.I. Secretary of State First-Stop Business Center, Work Opportunity Tax Credit, various internship programs, etc.), to achieve suitable employment;

i. When the goal is supported employment, information about the provision of appropriate services through community rehabilitation programs.

3. Job-related services, including job search and placement assistance, job retention services and other follow-up services are those services that assist clients in obtaining appropriate competitive employment.

a. Job-related services begin at referral and culminate in achievement of the individual's vocational goal as established in the Individualized Plan for Employment (IPE).

4. The following Vocational Rehabilitation services may be included in the IPE.

a. Acquisition of job skills required for employment in the chosen occupation -- the ability to perform expected job tasks, utilizing equipment and assistive technology devices, as appropriate;

b. Identification of the means to travel to and from work site;

c. Planning for child care, as appropriate;

d. Job seeking skills, including resume assistance and interviewing skills;

e. Job development and placement services, including purchase from a vendor, as appropriate.

f. Employer consultation, job analysis, identification of reasonable accommodations, and technical assistance to employers related to employing individuals with disabilities.

C. Additional Employment Planning Specific to Self-Employment/Small Business Enterprises

1. Counselor and individual assess the individual's business readiness to engage in business ownership utilizing the Small Business Administration (SBA) checklist, the individual's credit history, experience in chosen occupation, and skills or deficiencies, and ability to obtain appropriate occupational license(s).

2. Counselor and individual conduct an initial assessment of the market, including competition, for product or service of the planned business.

3. Individual explores chosen goal through informational interviews with like businesses, using assistance from the SBA/Small Business Development Center (SBDC).

4. Counselor and individual identify necessary legal requirements of such a business, such as licenses, compliance with zoning laws, etc.

5. Individual identifies assistive technology and training needs.

6. Individual develops a business plan, utilizing the Small Business Administration format and including a budget and projection of expenses and anticipated income for a year beyond the initial start-up, legal requirements of the business, management and marketing plans.

   a. Individual is encouraged to utilize SBA/Small Business Development Center, or community or other college classes to learn how to develop a business plan.

   b. Equipment needs, other than assistive technology, should be identified as part of the overall budget, but materials may not ordered until the business plan is approved. See Section 115.20.

7. The business plan is approved by the Supervisor and qualified vocational rehabilitation counselor after consultation with in-house technical assistance resources.

8. The individual's initial or amended IPE will include the approved business plan as an attachment. The following steps and services may be included in the initial or amended IPE:

   a. Identification and provision of initial stock, licenses, equipment, and marketing costs to be purchased to start the business, following state purchasing rules. See Section 115.20.

   b. Identification of how communication will occur between individual and ORS during start-up, including reporting of progress on plan.

   c. Identifying how consultation through SBA will be utilized.

   d. Identifying the criteria to be used when and how a successful self-employment outcome has occurred.

D. Recording Employment Outcomes for All Categories of Employment

For a minimum of ninety (90) days following initial hire of an individual with a disability in an appropriate job, counselor will maintain contact with that individual and the employer (with the individual's consent) to monitor progress and job satisfaction. The case record must contain the following documentation:

1. The date client began the job, the job title, and the employer, wages, hours worked;

2. The client and counselor agree that the job outcome is satisfactory and that the individual is performing well in employment.

3. Confirmation that the salary/wage is consistent with the salary/wage earned by non-disabled persons performing the same work; and

4. A description of the anticipated need for post-employment services to retain, maintain the employment or for career advancement.

5. When the outcome is achieving a self-employment goal, the criteria for success are:

   a. Achievement of the first six (6) month objectives written into the business plan.

6. See Section 115.14 for outcomes under Supported Employment.

COUNSELING AND GUIDANCE

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended, in Title IV of the Workforce Development Act of 1998; CFR 361.48(c).

II. POLICY STATEMENT AND PURPOSE:

A. Counseling and guidance are integral parts of the entire rehabilitation process beginning at the intake interview and continuing throughout. Counseling is a cooperative individual process in which the rehabilitation counselor and the individual with a disability arrive at mutually acceptable decisions based on informed choice consistent with the individual's abilities and capabilities. When counseling services are provided, the process must begin at the individual's current point of focus and progress toward making changes in attitudes and behaviors which may be adversely affecting rehabilitation goals. The goals of counseling and guidance are to assist persons with disabilities to reach maximum levels of independence by moving through the rehabilitation process toward a suitable and rewarding employment goal.

Counseling and guidance services include but are not limited to the following:

1. Providing personal adjustment counseling (exclusive of therapeutic intervention);

2. Making referrals necessary to help individuals with disabilities receive needed services from other appropriate agencies and/or resources;

3. Advising individuals with disabilities about available vocational rehabilitation services including the Client Assistance Program (CAP);

4. Referring individuals as appropriate for Independent Living services;

5. Assisting persons with disabilities in obtaining an optimum job-person match;

6. Assisting individuals with disabilities in coping with any environmental barriers affecting the rehabilitation process (i.e., family relationships, societal attitudes, employment conditions, etc.);

7. Encouraging and/or motivating individuals to develop skills necessary to regain control of their lives, to make informed decisions, and to initiate activities to resolve problems;

8. Providing follow-up services, including follow-up relationships with employers as necessary to insure successful vocational outcomes; and

9. Providing services to family members whenever necessary to aid the individual with a disability in progressing successfully through the rehabilitation process.

B. Counseling and guidance may be particularly appropriate when individuals with disabilities are moving from one stage of development to another.

Examples:

1. High school to college

2. High school to work

3. College to employment

4. Family living to independent living, etc.

APPEALS/IMPARTIAL DUE PROCESS (HEARING AND MEDIATION)

I. LEGAL AUTHORITY:

The Workforce Investment Act of 1998, Section 102(a), (d); 29 USC 722(c) and 34 CFR 361.57; Rhode Island General Laws 42-35 entitled Administrative Procedures; Rhode Island General Section 42-12-8 through 42-12-16.

II. POLICY STATEMENT AND PURPOSE:

Applicants and eligible individuals, or as appropriate, the individual's parent, guardian, or representative, hereinafter referred to as individual with a disability, will be advised of her/his rights related to review of determinations made by ORS personnel that affect the provision of vocational rehabilitation services to the applicant or individual with a disability.

This review, or appeal, process shall provide an opportunity for the applicant, or individual with a disability to submit evidence and information to support the position of the applicant or individual with a disability.

Any applicant or eligible individual must be advised of his/her appeal rights:

* When s/he applies for vocational rehabilitation services;

* At the time her/his Individualized Plan for Employment (IPE) is developed; and

* Upon reduction, suspension, or cessation of vocational rehabilitation services for the individual.

Any communication with the applicant or individual with a disability is provided in writing or in appropriate modes of communication in accordance with the individual's informed choice.

Information is provided to each applicant/individual with a disability that s/he has the right to pursue any or all of the following options:

Supervisory or Customer Service Conference;

Mediation;

Impartial due process hearing;

The applicant/individual with a disability must be also informed of the availability of assistance from the Client Assistance Program and his/her right to submit evidence and be represented by an individual of his/her choice at all levels of due process.

III. PROCEDURES:

A. NOTIFICATION REQUIREMENTS:

The rehabilitation counselor or ORS representative must notify an applicant or individual with a disability when:

1. S/He is determined to be ineligible for rehabilitation services. (See Section 115.18.)

2. There is a denial of vocational rehabilitation services (See Section 115.6)

3. There is a reduction, suspension, or discontinuance of vocational rehabilitation services for that individual (due to a substantial change which may include a subsequent ineligibility decision) after eligibility has been determined and those for whom an IPE has been developed, approved, and initiated. This includes services for individuals that require amendment to the IPE as well as closures. (See Section 115.18.)

4. In order to facilitate due process procedures, the following forms are utilized:

   Denial of services decision

   Case closure decision

   "Applicant or Individual with Disability's Request for Mediation and Due Process Hearing"

   "Hearing Appointment" and "Information about Hearings for Applicants and Recipients" (provided through DHS Hearing Office)

   Cancellation of Impartial Due Process Hearing

B. STEPS OF THE APPEALS PROCESS (All steps may be requested at the same time or separately. Grievance or dispute may be resolved at any level within the process):

1. Supervisory or Customer Service Conference (optional);

2. Mediation;

3. Due Process Hearing;

4. Director's Option to Review Hearing Decision (optional); and

5. Judicial Review.

C. PROCESS FOR RESOLVING DISPUTES

1. An individual (or her/his representative) requests Mediation and/or a Due Process Hearing in writing (using the "Request for Mediation and Due Process Hearing" form if desired) within thirty (30) days of the date of the notice of the decision by ORS. Mediation may be requested at the same time as the request for a Due Process Hearing, and in addition to the hearing, or may be requested by itself as the mechanism to resolve the dispute.

2. An individual request may request assistance from ORS in completing the "Request for Mediation and Due Process Hearing", if necessary.

3. The written request for Mediation and/or Due Process Hearing is returned to the appropriate ORS Counselor who then completes Section II and forwards the original immediately to the DHS Hearing Office and a copy to the Deputy Administrator, ORS.

4. If the situation is resolved through Mediation or other means, cancellation of any scheduled due process hearing is made in writing or using ORS forms by the individual.

D. TIME LINES

1. A Supervisory Conference or Customer Relations Conference, if requested, must take place within fifteen (15) days of the request. The decision is rendered orally at the Conference.

2. If Mediation and/or Due Process Hearing is requested after the Supervisory/Customer Relations decision is rendered, the written request or "Request for Mediation and Due Process Hearing" form is completed by the individual with a disability requesting either Mediation, Due Process Hearing, or both. If Mediation is requested, the request is forwarded to the Deputy Administrator or her/his designee. If a Due Process Hearing, or both Mediation and Due Process Hearing are requested, the Due Process Hearing request is forwarded to be scheduled within forty-five (45) days of the request.

3. The Mediation session(s), resulting in a written agreement or lack of agreement, must be held within fifteen (15) days of the request. If the

situation is resolved through Mediation, the Due Process Hearing can be canceled through a written request for cancellation.

4. If the dispute is not resolved by Mediation:

   a. If the individual has requested a Due Process Hearing, the hearing is conducted.

   b. If the individual has not requested a Due Process Hearing, s/he may request a Hearing in writing or using the "Request for Mediation and Due Process Hearing" form if it is within thirty (30) days of the date of the notice of the decision by ORS.

E. MEDIATION PROCESS

Mediation is a process where a neutral third person, called a Mediator, acts to encourage and facilitate the resolution of a dispute between an applicant or individual with a disability and a representative(s) of ORS. Mediation is a problem-solving process that is voluntary, confidential, unbiased, and mutually agreed upon.

Mediation provides an opportunity for the applicant, or individual with a disability, to submit at the mediation session(s) evidence and information to support her or his position and be represented by an individual of his/her choice; it also allows for the agency representative to present his/her position.

1. Mediation must be voluntary on the part of both of the parties. It must not be used as a means to deny or delay a Hearing before an Impartial Hearing Officer. Mediation is conducted by a qualified and impartial Mediator who is trained in effective mediation techniques.

2. Qualified impartial Mediators are trained in effective mediation techniques and are knowledgeable in laws and regulations governing the provision of Title I, Vocation Rehabilitation Services. Selection of qualified Mediators will be on a rotating basis from a list maintained by the ORS.

3. Mediation is conducted in a manner which will accommodate the applicant or the individual with a disability. At the conclusion of the mediation, the applicant or individual with a disability will be advised of the next step in the appeals process and when the agreement, if any, will be provided should the individual later desire to take such action. Either party may terminate mediation at any time in the process.

4. Discussions that occur and materials generated for or presented in the mediation process shall be confidential and may NOT be used as evidence in any subsequent due process hearing or civil proceedings.

5. A written statement of the agreement achieved by the mediation is prepared by the Mediator. The agreement will be sent to the applicant, or individual with a disability, or, if appropriate, the individual's parent guardian or other representative, Rehabilitation Counselor, Supervisor, and Deputy Administrator or designated appeals coordinator. The statement shall set forth the issue and the basis for the agreement. If the applicant or individual with a disability finds the results to be unsatisfactory, an Impartial Due Process Hearing may be requested as described in D., 5. above.

6. Mediation is considered completed upon signing of the written settlement agreement by both parties, or by termination of the mediation. In the absence of signed agreement or formal termination, mediation shall be considered complete on the date of the last mediation session concerning the issue under dispute.

F. IMPARTIAL DUE PROCESS HEARING

An Impartial Due Process Hearing is a full evidentiary hearing conducted by a Department of Human Services Hearing Officer in accordance with applicable laws.

1. Upon written request or "Request for Mediation and Due Process Hearing," the Hearing before an Impartial Hearing Officer (IHO) will be scheduled within forty-five (45) days of the request.

2. When Mediation has also been requested, the Mediation process may take place prior to the Hearing date (within thirty (30) days).

   In situations where Mediation has also been requested the Hearing date will be scheduled as close as possible to the forty-fifth day to allow time for dispute resolution through the Mediation process.

3. One or more of the following represents the agency at the Due Process Hearing: Rehabilitation Counselor, Supervisor, and other appropriate representative(s) of the agency.

4. The Hearing is to be held at the Agency or a site convenient to the applicant or individual with a disability to reasonably accommodate his or her special needs.

5. The applicant or individual with a disability or, if appropriate, the individual's parent or guardian or other representative, will be notified in writing on a DHS-121B of the date, the location, and the time of the hearing. In addition, a copy of the hearing procedure and other relevant information necessary to prepare the applicant's or individual's case will be provided.

6. The Hearing Officer will endeavor to bring out all relevant facts and maintain order through the hearing.

7. The applicant or individual with a disability may be represented by counsel, or other representative at her/his choice and expense.

8. All documents and records to be introduced at the hearing may be examined by the applicant or individual with a disability at a reasonable time prior to, as well as during, the hearing.

9. Only information bearing directly on the issue under review may be introduced from the individual with a disability's record, and the Hearing Officer will not review any information not made available to the applicant or individual with a disability.

10. If the Hearing Officer considers additional information is necessary, particularly medical information, it will be obtained at Agency expense from a source other than the examining physician, medical consultant, or any person involved in the original decision.

11. When the evidence and documentation have been received by the Hearing Officer, a decision will be rendered.

12. The Impartial Hearing Officer will make a decision based on the provisions of the approved State Plan and the Rehabilitation Act and will provide to the applicant or individual with a disability and to the Administrator of the designated State unit, a written decision, including the findings of fact and the grounds for the decision within thirty (30) days of the completion of the Hearing.

G. DIRECTOR'S OPTION TO REVIEW IHO DECISION

Either party may request a review of the decision of the Hearing Officer within twenty (20) days after the decision. If neither party requests this review, the decision of the hearing officer becomes the final decision of the agency on the 21st day after the decision is issued.

1. The impartial review of the IHO's decision when requested shall be conducted by the Director of the Department of Human Services.

2. The following standard of review shall apply in reaching a final decision on the issue under review:

a. Each party will be given an opportunity for the submission of additional evidence and information relevant to the issue;

b. The reviewing official shall not overturn or modify the decision of the IHO, or part of the decision that supports the position of the applicant or eligible individual, unless the reviewing official concludes, based on clear and convincing evidence, that the decision of the IHO is clearly erroneous on the basis that it is contrary to:

(i) the approved State Plan;
(ii) the Rehabilitation Act of 1973, as amended including regulations implementing the Act; or
(iii) any applicable State regulation or policy that is consistent with the Federal Rehabilitation Act.

3. The reviewing official shall render a final decision within thirty (30) days of the initial request to review.

4. The reviewing official shall provide a written decision to both parties, i.e., the applicant or individual with a disability or individual's representative and to the Office of Rehabilitation Services.

H. IMPLEMENTATION OF HEARING DECISION

If a party brings a civil action under section (I) below to challenge a final decision of an impartial hearing officer or to challenge a final decision of the reviewing official under section (G) above, the final decision involved shall be implemented pending review by the court.

I. JUDICIAL REVIEW

Any individual aggrieved by the final Agency decision may 1) bring a civil action for review of such decision in a district court of the United States of competent jurisdiction without regard to the amount in controversy, or 2) file for a Judicial Review in accordance with Rhode Island General Law 42-35-15 by filing a complaint in the Superior Court of Providence County within thirty (30) days of the date of the decision.

J. ABANDONMENT OF THE HEARING REQUEST

A hearing request may be denied or dismissed when it is determined that it has been abandoned. Abandonment may occur when, without good cause, an applicant or individual with a disability fails to appear at a hearing.

A hearing may not be considered abandoned as long as the individual has notified the Agency, up to the time of the hearing, that s/he is unable due to good cause to keep the appointment and that s/he still wishes a hearing.

If the individual does not appear and has not notified the Agency up to the time of the hearing that s/he is unable to appear for good cause, the Hearing Officer notifies the individual, in writing, that the hearing request will be considered abandoned. The Hearing Officer advises the applicant or individual with a disability to contact the Hearing Office within ten (10) days if s/he wishes to continue the hearing and can demonstrate good cause for failing to keep the appointment.

Good cause is established on the basis of the following factors:

1) Death in family;

2) Personal injury or illness which reasonably prohibits the individual from attending the hearing;

3) Sudden and unexpected emergency.

If the Hearing Officer determines that good cause exists, s/he reschedules the hearing and notifies all parties.

EQUAL ACCESS TO JUSTICE

I. LEGAL AUTHORITY:

42-92-1 of the General Laws of Rhode Island, 1993.

II. POLICY STATEMENT OF PURPOSE:

It is the official policy of the Rhode Island DHS Office of Rehabilitation Services that individuals and small businesses should be encouraged to contest unjust administrative actions in order to further the public interest. Such parties should be entitled to state reimbursement of reasonable litigation expenses when they prevail in contesting an agency action which is, in fact, without substantial justification.

A. DEFINITIONS

1. "Adjudicative Officer" means the presiding officer or deciding official of any adversary adjudicatory proceeding of the DHS, without regard to whether the official is designated as an administrative law judge, hearing officer, examiner, or otherwise.

2. "Adversary Adjudicatory Proceeding" means any proceeding conducted by or on behalf of the DHS, whether administratively or quasi-judicially, which may result in the loss of benefits, the imposition of a fine, the suspension or revocation of a license or permit, or which may result in the compulsion or restrictions of the activities of a party.

3. "Agency" means Office of Rehabilitation Services as a subsidiary of Department of Human Services, including any board, commission, or officer of the Department.

4. "Party" means any individual whose net worth is less than two hundred and fifty thousand dollars ($250,000) at the time the adversary adjudicatory proceeding was first initiated; and any individual, partnership, corporation, association, or private organization doing business and located in the state, which is independently owned and operated, not dominant in its field, and which employs one hundred (100) or fewer persons at the time the adversary adjudicatory proceeding was initiated.

5. "Reasonable Litigation Expenses" means those expenses which were reasonably incurred by a party in adversary adjudicatory proceedings, including but not limited to, attorney's fees, witness fees of all necessary witnesses, and other such costs and expenses as were reasonably incurred.

a. Exceptions:

1) The award of attorney's fees may not exceed seventy-five dollars ($75) per hour.

2) No expert witness may be compensated at a rate in excess of the highest rate or compensation for experts paid by this state.

6. "Substantial Justification" means that the initial position of the agency, as well as the agency's position in the proceeding, has a reasonable basis in law and fact.

III. PROCEDURES:

A. Application for awards of litigation expenses

1. All claims for an award of reasonable litigation expenses shall be made on an application form to be supplied by the Department and shall be filed with the hearing office within thirty (30) days of the date of the conclusion of the adjudicatory proceeding which gives rise to the right to recover such an award. The proceeding shall be deemed to be concluded when the agency or adjudicative officer renders a ruling or decision.

2. The adjudicative officer may, at his or her discretion, permit a party to file a claim out of time upon a showing of proof and finding by such administrative officer that good and sufficient cause exists for allowing a claim to be so filed.

3. All claims are filed on Form 121-D which is obtained from the hearing office. All claims must be postmarked or delivered to the hearing office no later than thirty (30) days from the date of the conclusion of the adjudicatory proceeding. These claims must contain:

a. A summary of the legal and factual basis for filing the claim;

b. A list of witnesses, if any, that the claimant expects to be called to substantiate the claim if a separate hearing on said claim is conducted by the agency;

c. A detailed breakdown of the reasonable litigation expenses incurred by the party in the adjudicatory proceedings, including copies of invoices, bills, affidavits, or other documents, all of which may be supplemented or modified at any time prior to the issuance of a final decision on the claim by the adjudicative officer;

d. A notarized statement swearing to the accuracy and truthfulness of the statements and information contained in the claim, and/or filed in support thereof. In this statement the claimant must also certify that legal fee time amounts were contemporaneously kept and that attempts were made to minimize the time spent.

B. Allowance of Awards

1. Whenever a party which has provided the agency with timely notice of the intention to seek an award of litigation expenses as provided in these rules, prevails in contesting an agency action, then the adjudicative officer shall award reasonable litigation expenses if the officer finds that the agency was not substantially justified in:

   a. the actions leading to the proceeding; and

   b. in the proceeding itself, an award shall be made of reasonable litigation expenses actually incurred.

2. The decision of the adjudicative officer to make an award shall be made a part of the record, shall include written findings and conclusions with respect to the award, and shall be sent to the claimant, unless the same is represented by an attorney, in which case the decision shall be sent to the attorney of record.

C. Disallowance of Awards

1. No award of fees or expenses may be made if the adjudicative officer finds that the agency was substantially justified in the actions leading to the proceeding and in the proceeding itself.

2. There should be disallowance of fees or expenses if the party is not actually the prevailing party; for example, the party may be successful on one or two points but not the major issue.

3. The adjudicative officer may, at his/her discretion, deny fees or expenses if special circumstances make an award unjust.

4. The adjudicative officer may deny, in whole or in part, any application for award of fees and expenses where justice so requires or which is considered to be excessive.

5. Whenever substantially justified, the adjudicative officer may recalculate the amount to be awarded to the prevailing party, without regard to the amount claimed to be due on the application, for an award.

6. Notice of the decision disallowing an application for an award of fees and expenses shall be sent to the party by the agency via regular mail provided however, that if the party is represented by an attorney, said notice shall be sent by regular mail to the attorney of record.

D. APPEALS AND SEVERABILITY

1. Any party aggrieved by the decision to award reasonable litigation expenses may bring an appeal to the Superior Court in the manner provided by the Administrative Procedures Act, Rhode Island General Laws, Section 42-35-1, et seq.

2. If any provision of these rules and regulations, or the application thereof, to any person or circumstances are held invalid, such invalidity shall not affect the provisions of application of the rules and regulations which can be given effect, and to this end the provisions of these rules and regulations are declared to be severable.

BUSINESS ENTERPRISES PROGRAM

I. LEGAL AUTHORITY:

Section 103(b)(1) of the Rehabilitation Act as amended; the Randolph-Sheppard Act (Public Law 74-732 as amended by Public Law 83-565 and 93-516, 20 U.S.C., Chapter 6A Section 107); 34 CFR 395.1-395.38; 34 CFR 361; Title 42 Chapter 35 Section 14-15; Title 40 Chapter 9, Section 11.0 through 11.6 of the RI General Laws.

II. POLICY STATEMENT AND PURPOSE:

As the designated state unit, the Office of Rehabilitation Services/Services for the Blind and Visually Impaired has the authority to act as the "State Licensing Agency" or "S.L.A." for the purpose of establishing vending facilities in order to carry out its full responsibilities under the Randolph-Sheppard Act to provide employment to qualified persons who are blind.

The agency has established its Business Enterprises Program to provide management and supervision including inspection, quality control, consultation, accounting, regulating, in-service training, construction, maintenance, inventory control, and related services to ensure that a high-quality, statewide vending facility program is maintained.

These regulations are designed to assure that priority is given to blind persons in the operation of vending facilities on State and Federal property, and wherever feasible, one or more vending facilities are established on State and Federal property.

The Business Enterprises Program works together with the agency's Vocational Rehabilitation Program in certifying applicants as qualified to operate a vending facility. The goal of operating vending facilities on State and Federal property by licensed persons is to provide individuals who are blind with remunerative employment and to increase their economic opportunities so they may experience economic self-support.

III. PROCEDURES: ISSUANCE OF LICENSE

A. Issuance of a license to a qualified applicant shall be conditioned upon the following requirements:

1. The applicant must be legally blind. "Legally blind" means visual acuity found to be 20/200 or less in the individual's better eye with best correction, or visual acuity of better than 20/200 if the widest diameter of the field of vision subtends an angle no greater than twenty degrees (20°). Blindness shall be determined by a physician skilled in the diseases of the eye and certification thereof shall be made by the ophthalmological consultant at the Services for the Blind and Visually Impaired.

2. The applicant must be a citizen of the United States.

3. The applicant must be certified by the Vocational Rehabilitation Program of the S.L.A. as qualified to operate a vending facility.

4. An applicant must be in need of employment.

B. Qualified applicants referred to the Business Enterprises Program by Vocational Rehabilitation must meet the following additional requirements:

1. Possess skills or have the potential capacity to travel independently.

2. Possess sufficient capacity to learn and/or perform basic mathematic operations and other management/business skills.

3. Give evidence of stable personality traits to enable proper interaction with the public.

4. Be willing to exercise due care in daily personal cleanliness and grooming.

C. Business Enterprises Program (BEP) Trainee Application Process:

1. The Vocational Rehabilitation Supervisor will submit a written application form completed by the assigned Vocational Rehabilitation Counselor which contains pertinent information about the client to the Chief Supervisor of the Business Enterprises Program Supervisor.

2. The Chief BEP Supervisor and the Training Coordinator will review each application and schedule an informational interview.

3. An interview and on-site pre-evaluation will be conducted.

a. The Training Coordinator or Chief BEP Supervisor will coordinate an informational interview with the client, the client's counselor, and, when appropriate, the Vocational Rehabilitation Supervisor.

b. The interview is held for the purpose of evaluating a client's degree of interest and motivation, as well as capacity and potential for success as a future vendor, and in accordance with the basic entry requirements of trainee applicants. All applicants must pass a standard mathematics test to be administered during the interview.

c. An on-site, five (5) day pre-evaluation will be scheduled with a pre-designated vending facility for each applicant. During this pre-evaluation, applicants will be evaluated to ensure that they meet the requirements listed in III., B., 1-4. This shall include an evaluation for

the need for adjustment training, mobility orientation/ instruction, rehabilitation teaching, and/or other support services.

d. Based upon information obtained from the interview and on the on-site pre-evaluation, the Chief BEP Supervisor in consultation with the Training Coordinator will decide whether to accept or reject the client for BEP training.

4. If the client is accepted into the BEP training program, the Training Coordinator will notify the counselor and client of the start date, and shall provide a written list of necessary training supplies, uniform requirements, and any other equipment or supplies to the counselor. The Vocational Rehabilitation Counselor will make a referral to the mobility unit immediately following notification of client acceptance and will assist the client in obtaining necessary training supplies prior to the work experience assignment. The Chief BEP Supervisor will sign the application and return it to the counselor.

5. If the client is not accepted into the training program, the Chief BEP Supervisor will state the reasons in writing and submit them along with the client's application to the Vocational Rehabilitation Supervisor or counselor. The client may appeal this decision in accordance with the appeals process outlined in Section 115.12 of this Manual.

D. Effective immediately, the applicant must have successfully completed the vending facility training program as described below, including a minimum of five (5) weeks of work experience and a six-month probationary period, in order to be issued a license by the S.L.A.

The S.L.A. shall provide for the training of blind individuals in accordance with the requirements of 34 CFR 395.11, and for the development thereunder, with the active participation of the Rhode Island State Committee of Blind Vendors (RISCOBV), of training and re-training programs. The basic component requirements of such programs include:

1. Personal and vocational adjustment training, including books, tools and other training materials and related expenses as provided under the Vocational Rehabilitation program of the S.L.A..

2. Work experience and practice in the trial and actual operation of a vending facility, including specialized training preparatory to the conduct and maintenance of financial data, purchasing and fiscal procedures and financial status reports.

3. The training program will be a minimum of sixteen (16) weeks as follows:

a. Five (5) weeks of classroom training including testing and graduation; and

b. Five (5) weeks of work experience in a pre-designated vending facility or facilities; and

c. Six (6) weeks of food safety certification training; and

d. If the trainee is absent from training, make-up of days absent and completion of assignments will be required; and

e. If it is determined by the Chief BEP Supervisor and Training Coordinator that further training is required, the trainee and counselor will be notified. If additional training is required, the candidate will graduate with the following class; and

f. If a trainee is placed in less than a year, the trainee must participate in a one week orientation to the location and a review of all relevant aspects of the facility's operations; and

g. If the trainee is not placed in one year, the trainee may be required to participate in a review by the Chief BEP Supervisor and Training Coordinator. Failure to participate in mandated training will result in removal from the graduated candidate list.

h. Inactive graduates will be removed from the transfer seniority list after three (3) years.

4. Community-based training facilities and resources will be used to augment the vending facility training program. Examples include the Genesis Center, the National Restaurant Association, and the RI Hospitality Association. Trainees may be required to participate in management and other training from such local resources.

   Licensees and vendors are encouraged to participate in training from various local resources, such as CCRI, URI, Adult Education classes, seminars, S.L.A.-sponsored training, etc. Training may also include course work in management, marketing, sales, customer relations, and advertising.

5. Upward mobility, or continued training for the advancement, or re-training of vendors, including, as necessary, provision of post-employment services to assist vendors in their adjustment to their work assignment and assure the application of their maximum vocational potential as vending facility

managers, and re-training under a Corrective Action Plan. (See Section V. below)

a. BEP supervisors are available to provide on-site evaluation and training to improve vendor skills and profitability of the vending facility. This on-the-job training may include public relations, facility layout and atmosphere, merchandising, purchasing, cooking, pricing, equipment maintenance, and bookkeeping.

b. The S.L.A. will provide direct or indirect mandatory periodic training on matters the S.L.A. deems necessary or beneficial. This training is intended for the improvement of specific individuals and/or the BEP in general.

E. General Standards for selection of Licensed Vendor:

To be eligible for appointment as a Licensed Vendor, the following basic requirements must be met:

1. An applicant must have successfully completed the specialized training program for Blind Vendors as provided by the S.L.A. or a training program of equal scope and requirements.

2. An applicant must have acquired sufficient knowledge and skills necessary to the successful performance of all the tasks or processes which enable the proper operation of a vending facility.

3. Subsequent to the successful completion of a six (6) month probationary period at an assigned vending facility, the graduate will receive a vendor's license. Monthly evaluations will be conducted during said probationary period. During the probationary period the individual is considered to be a Probationary Graduate.

IV. PROCEDURES: SELECTION, TRANSFER, AND PROMOTION OF VENDORS

The S.L.A., with the active participation of the State Committee of Blind Vendors, hereby establishes a selection, transfer, and promotion system for vendors which will be uniformly applied to all vendor vacancies that develop or occur in the vending facilities program.

A. Definitions:

1. Blind Vendor - is a Probationary Graduate who has been licensed to operate a vending facility by the State Licensing Agency and is actually operating a vending facility, pursuant to a written agreement to operating a vending facility.

2. Normal Working Hours - Hours that the Blind Vendor or Probationary Graduate is required to be on site or performing tasks directly related to the business. This is an eight (8) hour work period between the approximate hours of 6:00 am to 6:00 pm, Monday through Friday, or the hours specified as normal working hours in a particular permit. Normal working hours consist of a minimum of forty (40) hours a week for a minimum of forty-eight (48) weeks a year.

3. Semi-annual Review - Formal management evaluation of vendor=s operation which assesses the individual=s skills and knowledge in management, marketing, menu/food pricing, and health and food safety.

4. Performance Standards - The results of the semi-annual reviews conducted at each licensed vendor's facility. A passing score, as determined by the S.L.A., is necessary to attain transfer seniority. Failure to achieve a passing score requires the initiation of a Corrective Action Plan.

5. Probationary Graduate - An individual who has successfully completed the sixteen (16) week training program but is not actually operating a licensed vending facility.

6. Active Probationary Graduate - An individual who has successfully completed the sixteen (16) week training program and is operating a vending facility during the six (6) month probationary period pursuant to a written agreement to operate a vending facility. Active Probationary Graduates accrue seniority and other rights and responsibilities of a Blind Vendor.

7. Promotion - is the advancement of an Active Probationary Graduate to the status of Blind Vendor.

8. Transfer - as used in these regulations, transfer shall mean the moving of a person who is or was a Blind Vendor to a vacant facility. Transfer shall not include the move of an existing vending facility to a new location if the population to be served at the new location is substantially the same. (E.g., if a store in which a vending stand is located moves to a new location, this would not be a transfer. If the store moves into a mall and the vending facility services the same store plus a substantially different population, then this would be a transfer.)

9. Vending Facility - includes facilities operated by the State Licensing Agency as well as facilities operated by a Blind Vendor. See Vending Facilities Standards below.

10. Coffee Plus - The S.L.A. and the RI State Committee of Blind Vendors (RISCOBV) have adopted this trade name which is to be used to describe and market vending facilities at all locations.

B. General Standards for the Promotion of Probationary Graduates and Transfer of Blind Vendors and Active Probationary Graduates

1. In order to ensure the continuous and orderly coverage of all vending facilities, the following requirements shall be basic to the eligibility for transfer and promotion:

   a. The Blind Vendor or Active Probationary Graduate must have demonstrated his or her ability to successfully operate and manage a vending facility.

   b. The Blind Vendor or Active Probationary Graduate must have adhered to these rules and regulations and operating rules of the Vending Facilities Program during the immediate past assignment(s).

   c. The Blind Vendor or Active Probationary Graduate must have adhered to a payment schedule for at least sixty (60) days to repay any debts incurred during previous assignment(s)if applicable.

   d. The Blind Vendor, Active Probationary Graduate and Probationary Graduate must consider, and be prepared to assume certain obligations which may occur, such as: relocation of residence, transportation to and from a facility and assumption of duties and responsibilities which may or may not vary from the previous assignment(s).

   e. The Blind Vendor, Active Probationary Graduate and Probationary Graduate must be prepared to accept specialized or advanced training prior to or after transfer or promotion.

C. Transfer of Blind Vendors and Active Probationary Graduates

1. In accordance with the standards outlined in B. above, the transfer of Blind Vendors to a Vending facility shall be made on the basis of transfer seniority and a passing grade on the last semi-annual review. Transfer seniority is defined as the length of time that a Blind Vendor has actually operated a vending facility located in Rhode Island pursuant to a written Agreement for Operation of a Vending Facility.

   a. Transfer Seniority shall not accrue to an employee (i.e., an individual for whom a W-2 is prepared) of a Vending Facility or the State

Licensing Agency unless said employee is a Blind Vendor operating a S.L.A. Facility pursuant to a written agreement.

b. Transfer Seniority shall not accrue for time that an individual was a Probationary Graduate.

2. The State Licensing Agency and the State Committee of Blind Vendors shall review all Profit and Loss Statements and establish a permanent Transfer Seniority List.

   Transfers will also be based on performance standards related to the vendor's and/or Active Probationary Graduate's education and experience in operating a successful business. Factors that will be considered include but are not limited to:

   a. A passing score on the last semi-annual review;
   b. Creative marketing;
   c. Appropriate use of employees;
   d. Inventory management;
   e. Quality of customer service;
   f. Willingness to learn;
   g. Ability to handle increased responsibility; and
   h. Payment of all set aside and other known payables due by the closing date of the bid.

3. Whenever there shall be a vacancy due to a transfer, or an opening due to the establishment of a new vending facility, the State Licensing Agency shall provide written notice to each and every blind vendor, except those individuals who have previously withdrawn from the program and those currently participating in a Corrective Action Plan (CAP) as outlined below in V., A. or those individuals who have been terminated. Said notice shall be given as soon as possible, but not to exceed thirty (30) business days of the date of said vacancy unless otherwise determined by the S.L.A.

4. Upon request, the S.L.A. shall provide to the blind vendors the last two (2) redacted Profit and Loss Statements to assist the vendor in her/his decision to transfer.

5. The S.L.A. shall maintain a Transfer Seniority List including the dates of active service of each Blind Vendor and Active Probationary Graduate. Separate accompanying Profit and Loss Statements will also be held by the S.L.A.

6. Upon selection for transfer, the blind vendor shall have a maximum of ten (10) business days to sign a written agreement to operate the vending facility

on which the Blind Vendor or Probationary Graduate has bid. During this trial period the Blind Vendor shall be paid the minimum wage. In the event the Blind Vendor or Probationary Graduate decides not to accept the transfer within the ten (10) business days, the Blind Vendor shall return to her/his previous facility with no loss of transfer seniority.

7. If no Blind Vendor or Probationary Graduate bids or accepts the transfer, the facility shall be offered to the most senior Probationary Graduate, as outlined in Promotion of Probationary Graduate below.

8. In the event that no blind vendor, Active Probationary Graduate accepts the transfer, the S.L.A. then has the right to take over the operation of the vending facility.

D. Promotion of Probationary Graduates to Active Probationary Graduate and to Blind Vendor

1. The S.L.A. shall notify all Probationary Graduates of vacancies and the opportunity for promotion in accordance with C. above.

2. Promotion will be based on Promotional Seniority and other factors. Promotional Seniority is defined as the length of time that an Probationary Graduate who has successfully completed the sixteen (16) week S.L.A. training program and is ready to operate a vending facility and who has never operated a vending facility in the State of Rhode Island.

3. Notice of a vacancy shall be given in accordance with C., 3., above. The S.L.A. shall maintain a Promotional Seniority List containing the name and graduation date on which an individual received his/her Probationary Graduate status.

a. In the event that more than one individual receives Probationary Graduate status on the same day, the name of each individual will be drawn on her or his behalf from a box or other such container by a person other than the one who recorded and/or placed the names in the box. Each successive name drawn will then be ranked on the Promotional List in the order in which it is drawn and recorded on the Probationary Graduate list as the rank in seniority.

V. PROCEDURES: CORRECTIVE ACTION PLAN (CAP) AND SUSPENSION

If it is determined by the S.L.A. that re-training or other intervention is necessary due to a vendor's performance problem, a Corrective Action Plan (CAP) may be completed.

A. Corrective Action Plan means a written plan developed with the cooperation of the vendor identifying the problems leading to the determination that retraining or other intervention, is necessary and contains the necessary actions/activities to address and resolve the identified issues/deficits. A CAP is established for a reasonable time period and must contain a start and completion date.

Suspension means a temporary discontinuation (usually thirty (30) calendar days) of the Operating Agreement resulting in the vendor's relinquishing control of the vending facility and leaving and/or remaining away/absent from the facility (or off-site) for the period of suspension. The Operating Agreement will be reinstated when the reason for the suspension has been remedied. If the reason(s) for suspension cannot be remedied, the operating agreement will be revoked, after a full evidentiary hearing.

B. Performance problems resulting in the determination that re-training or other intervention is necessary and development of a Corrective Action Plan include, but are not limited to:

1. Incidence of unprofessional behavior, e.g., use of profanity or loud, abusive language or behavior, poor customer service, inappropriate dress; and/or

2. Cleanliness problems, inappropriate hygiene, failure to adhere to safe food handling requirements; and/or

3. Book-keeping issues, such as failure to file weekly reports to the S.L.A. in a timely manner, non-payment of set-aside, failure to obtain current worker's compensation insurance for employees, failure to make required tax deposits and payments, failure to file required local, state or federal tax forms; and/or

4. General management issues including inappropriate use of labor, low inventory levels, failure to use cash register, improper recording of receipts, inappropriate use of the telephone, cable, or lottery equipment, and other problems related to operating the facility in a business-like manner; and/or

5. Failure to adhere to normal working hours; and/or

6. Failure to comply with local, state, and federal laws; and/or

7. Personal issues, e.g., substance abuse, excessive tardiness, and excessive absences as determined by the S.L.A.; and/or

8. Failure to pass the Semi-Annual Review.

C. Determination of Need for Intervention and/or Corrective Action Plan

1. The S.L.A. may become aware of performance problems through the results of the semi-annual reviews, regular supervisory visits, building managers, Department of Health personnel or similar agency reports, or any other valid source of information. Verbal reports will be accepted but written reports of misconduct are preferred and will be requested of the complainant(s).

2. Upon S.L.A.'s notification of a performance problem, the Chief BEP Supervisor will meet with the reporting party (ies)(if applicable and/or possible) and the vendor to determine the validity of the complaint and, if valid, determine if a Corrective Action Plan should be developed and implemented to correct the problem(s).

3. Within two (2) weeks of a determination that a CAP is needed, the S.L.A. will inform the vendor in writing stating the reason(s) for a CAP and schedule a meeting with Chief BEP Supervisor to initiate a formal CAP document.

D. A Corrective Action Plan is developed with the cooperation of the vendor and identifies the problems leading to the determination that re-training or other intervention is necessary, and contains the actions/activities required to address and resolve the identified issues/deficits. A Corrective Action Plan is established for a reasonable time period and must contain a start and completion date.

1. After the Corrective Action Plan is developed, the CAP is signed by both the vendor and the Chief BEP Supervisor. Copies are provided to both parties.

2. The vendor must show a good faith effort in cooperating and participating in the activities outlined in the CAP until the end date stated in the CAP.

E. Non-cooperation with Corrective Action Plan (CAP)

Any vendor who does not participate in the development and implementation of a Corrective Action Plan (CAP) will cause her/his Operating Agreement to be suspended for thirty (30) days. Moreover, if the S.L.A. determines that the vendor is not making a good faith effort to participate in the CAP, or upon conclusion of the CAP end date, if no real remedy to the original problem(s) is exhibited, the vendor will be subject to suspension as described below.

1. Such suspension shall result in the vendor's relinquishing control of the vending facility and leaving and/or remaining away/absent from the facility for the period of suspension.

   a. The vendor will not be allowed to bid on any other facility (see IV., C., 3. above) until the problems/deficits are resolved through a CAP.

b. The vendor's license to operate a vending facility may be (either suspended or) terminated.

2. Any recurrence of the problem(s) identified in a CAP within a one (1) year period shall be cause for immediate suspension from the program for thirty(30) days. Any further infraction may result in termination.

F. Suspension Process

Suspension means a temporary discontinuation (usually thirty (30) calendar days) of the Operating Agreement resulting in the vendor's relinquishing control of the vending facility and leaving and/or remaining away/absent from the facility for the period of suspension. The Operating Agreement will be restored when the reason for the suspension has been remedied. If the reason(s) for suspension cannot be remedied, the operating agreement will be revoked, after a full evidentiary hearing.

1. Immediate suspension

Grounds for immediate suspension of a license shall exist when any activity, policy or conduct of a Blind Vendor presents a serious or imminent hazard to the health, safety, civil rights, and well being of the public.

2. Suspension for cause:

A vendor is subject to suspension for the following reasons, including, but not limited to:

a. The Blind Vendor is in violation of the regulations and/or laws of a governmental agency; or

b. The Blind Vendor demonstrates total unfitness or inability to operate a business enterprise in compliance with any of the requirements of these regulations and any applicable Federal and State law, including:

1) Willfully defrauding a private vendor or any agency of government of any taxes or other money due;

2) Jeopardizing the S.L.A.'s permit for the facility as a result of building management complaint and request for removal; or

c. Abandonment of the business enterprise; or

d. Indictment for or conviction of, a crime.

3. The Blind Vendor shall be notified of the reason(s) for any suspension in writing on the effective day of the suspension, if not earlier. The suspension becomes effective on the date and at the time specified in said notice. The notice must offer the operator an opportunity to show compliance with all lawful requirements for retaining her or his license. In addition, the vendor has appeal rights as outlined in Section 115.12 of this Manual. The vendor is entitled to all grievance procedures afforded by state and federal law, including an Administrative Hearing.

G. Any license issued to an individual vendor for the operation of a vending facility on Federal or other property shall be suspended for the following reason:

1. Extended illness with a medically documented diagnosis resulting in prolonged incapacity of the vendor to operate a vending facility in a manner consistent with the needs of the location.

a. If the illness causes the vendor to be continuously absent from her/his assigned vending facility for a period in excess of three (3) consecutive calendar months for medical reasons, the S.L.A. may suspend her/his agreement for up to twelve (12) months. During this time the S.L.A. may take over operation of the vending facility.

b. If the vendor is absent from her/his assigned vending facility for medical reasons in excess of the twelve (12) calendar months, the suspension shall cease and the S.L.A. will terminate the agreement. The Blind Vendor will then be placed on an inactive vendor list according to seniority. The Blind Vendor's or Probationary Graduate's seniority will be frozen until the individual is able to return to the program.

VI. PROCEDURES: TERMINATION OF LICENSES

A. Any license given to an individual Blind Vendor for the operation of a vending facility on Federal or other property shall be terminated for any of the following reasons:

1. No longer eligible under the criteria in III., A. and III., E., for example, improvement of vision so that the vendor no longer meets the definition of blindness.

2. Withdrawal of the vendor from the program with or without his or her written notification to the S.L.A.

If the Blind Vendor is absent from/vacates the vending facility for thirty (30) days or more, such absence shall be deemed to be a withdrawal from the

program. The S.L.A. will inform the vendor of the termination in writing. Seniority will be retained if the vendor alerts the S.L.A. in writing at least two (2) weeks prior to leaving the facility for good cause (i.e., trial of new position, relocation, etc.). All seniority will be lost if the Blind Vendor does not provide a two (2) week notice to the S.L.A.

3. Blind Vendors who do not agree to participate in the development and successful implementation of their Corrective Action Plan (CAP) as described in V. above.

B. All licenses shall be issued for an indefinite period of time but are subject to termination (or suspension for a thirty (30) day time period or) if, after affording the Blind Vendor an opportunity for a full evidentiary hearing, the S.L.A. finds that the vending facility to which that Blind Vendor is assigned is not being operated in accordance with the rules and regulations set forth herein, the terms and conditions of the permit, or the terms and conditions of the written agreement between the S.L.A. and the Blind Vendor.

VII. LEAVE OF ABSENCE

A. Short-Term

1. When a Blind Vendor or Active Probationary Graduate in good standing wishes a short-term leave of absence not to exceed twenty (20) business days a year for any reason other than medical, the Blind Vendor or Active Probationary Graduate must request such leave at least two (2) weeks prior to the beginning of the time period. The Blind Vendor or Active Probationary Graduate must provide the S.L.A. the name, address, and telephone number of the replacement vendor. The vendor is responsible for finding and paying the replacement employee.

B. Long-Term

1. Blind Vendors and Active Probationary Graduates working under an agreement must be on site during normal working hours as defined in IV., A., above. No long-term absences are allowed except as stated in V., G., 1., a., above. Vacating the Vending facility beyond the twenty (20) working days' limit above is cause for suspension or termination of license.

VIII. VENDING FACILITIES STANDARDS

A. Definitions

1. "Blind person" means a person who is legally blind as defined in III., A., 1., above.

2. "Licensed vendor" means a blind person who has received a license from the Services for the Blind and Visually Impaired which entitles the person to operate a vending facility, receive the profits therefrom, and take responsibility for the continuous maintenance of the facility to which s/he is assigned. The license which an operator receives shall be issued pursuant to the rules and regulations of the Business Enterprises Program.

3. "State property" means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality wholly owned by the State, unless, with respect to any building, land, or other real property leased or rented by the State, the lease or rental agreement shall prohibit the establishment of such vending facilities.

4. "Vending facility" includes but is not limited to cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment necessary for the sale of newspapers, periodicals, tobacco products, foods, beverages, and other articles or services dispensed manually and prepared on or off the premises in accordance with all applicable health laws, as determined by ORS/SBVI, and including the vending or exchange of chances for any lottery which may be located on public or private property.

5. "Automatic vending machine" means any machine which automatically dispenses for money, goods, such as, but not limited to, soda, cigarettes, newspapers, food, videotapes, coffee, etc.

6. "Acceptable vending company" means a company who provides automatic vending machine services and who agrees to send to the ORS/SBVI proceeds from the operation of any automatic vending machine on State property as determined and agreed upon pursuant to a contract awarded by the Division of Purchases.

7. "Proceeds" means the vending machine income generated from the operation from an automatic vending machine on State property.

B. Vending facilities other than automatic vending machines.

1. Vending facilities other than automatic vending machines may be located on public or private property and shall be operated by a licensed blind vendor pursuant to the rules and regulations of the ORS/SBVI Business Enterprises Program.

2. Whenever feasible, one or more vending facilities should be established on all State property. Every State department, agency, or instrumentality shall

explore the possibility of locating a vending facility on State property under its control.

3. Whenever any department, agency, or instrumentality of the state shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building, such department, agency, or instrumentality shall make all reasonable attempts to assure that such building includes a satisfactory site(s) for the location and operation of a vending facility by a blind person pursuant to the rules and regulations of the Business Enterprises Program. Each department, agency, or instrumentality is encouraged to provide timely notice to DHS that the acquisition, construction, or renovation is planned in order to permit appropriate planning, selection of the site(s) by the RI ORS/SBVI.

4. Whenever any department, agency, or instrumentality of the state with an existing vending facility shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building, such department, agency, or instrumentality shall make all reasonable attempts to assure that such building includes a satisfactory site(s) for the location and operation of a vending facility pursuant to the rules and regulations of the Business Enterprises Program. The cost of relocating and constructing the vending facility at the new site is determined on a case by case basis by the S.L.A.

   a. A satisfactory site is defined as a site with a high traffic area with a sufficient customer base to support the facility in accordance with 34 CFR 395.31.

   b. When a decision is made to relocate or acquire a new location, the State department or agency shall, within ten (10) days, notify the Administrator of the Office of Rehabilitation Services/Services for the Blind and Visually Impaired in writing.

   c. Upon receipt of written notification, ORS/SBVI will determine, with the cooperation of the reporting department and appropriate advice and participation by the RISCOBV, the feasibility of locating a vending facility on the site.

   d. Accessibility, available space, anticipated volume, available funding, and other relevant factors as determined by the State Licensing Agency (S.L.A.) will be taken into account. After considering the position of the state agency or department, the RI State Committee of Blind Vendors, and all other relevant factors, the S.L.A. shall make the final decision to locate or not to locate a vending facility on the proposed site. A copy of the written decision shall be mailed to the

Director of Administration, the state agency or department, and the RI State Committee of Blind Vendors.

e. If any department or agency believes that placement or location of a vending facility on the proposed site would adversely affect the interests of the State, a written report justifying and explaining the nature of the adverse effects shall be forwarded to the Director of Administration. The justification shall be provided to the said Director of Administration within ten (10) business days of receipt of the S.L.A. decision to locate or not to locate a vending facility on the proposed site. Copies of the justification shall be provided within the same time frame to the S.L.A. and the RI State Committee of Blind Vendors.

f. The Director of Administration shall determine within thirty (30) days of receipt of the justification if the location or placement will adversely affect the interests of the State. This determination will be put in writing, provided immediately to the S.L.A., and will be binding upon all departments, agencies, or instrumentalities of the State affected by the decision.

g. Copies of the all notifications and decisions made pursuant to this section shall be provided to the RI State Committee of Blind Vendors by the S.L.A. for advice as appropriate.

C. Automatic Vending Machines

1. In accordance with the rules and regulations of the Business Enterprises Program, vending machine income obtained from the operation of all automatic vending machines on state property shall accrue to:

   a. The Licensed Operator operating the vending facility, and

   b. In the event that there is no Licensed Operator operating a vending facility on the property, to the S.L.A. for use in the support of the administration of the Business Enterprises Program.

2. All departments, agencies, or instrumentalities of the state, unless exempt, are required to forward the proceeds of automatic vending machines to Services for the Blind and Visually Impaired. In the event that, after reasonable notice, a department, agency, or instrumentality of the State does not forward the proceeds, the S.L.A. shall notify, in writing, the Director of Administration. The Director of Administration shall instruct the state department, agency, or instrumentality to forward said proceeds immediately to SBVI.

3. Identification of automatic vending machines on existing state property.

   a. The Bureau of Audits shall include in each audit conducted an identification of the location of all vending machines on state property and ascertain where, if anywhere, the proceeds from said automatic vending machines are being sent.

   b. Upon completion of the audit, the Bureau of Audits shall forward a copy of all sections of the auditor's report that pertain to vending machines to the Department of Administration and to the Director of the Department of Human Services.

      1) The failure to forward automatic vending machine proceeds to the S.L.A. shall be identified in the auditor's report as being out of compliance with state law and the report shall direct that action be taken to correct the deficiency.

4. Installation of vending machines on state property

   a. Before the installation of any automatic vending machine on state property, all state departments, unless exempt, must submit a request for the installation of a vending machine to the Department of Administration, Office of Purchases. The request must be in writing and clearly indicate the type of vending machine the department or agency desires.

   b. The Office of Purchases, on receipt of a request, will ask for bids from acceptable vending companies. DHS ORS/SBVI shall assist the Office of Purchases in developing the terms of the proposal requesting bids.

   c. A contract will be awarded to the bidder who offers the state the highest profit. The contract shall require the successful bidder to forward the vending machine proceeds to the S.L.A. for deposit in a restricted receipt account. The proceeds shall be forwarded no less than quarterly.

5. Location

   a. Whenever any department, agency, or instrumentality of the state shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building, such department, agency, or instrumentality shall make all reasonable attempts to assure that such building includes a site or sites for the location and operation of automatic vending machines.

6. Exemptions

a. Any department, agency, or instrumentality that believes that the income from an automatic vending machine should also be exempt shall set forth, in writing, how the interests of the state would be adversely affected. They shall justify fully why said vending machine should be exempt. The justification shall be provided to the Director of Administration within ten (10) days of its identification or the state agency's decision to locate an automatic vending machine on either existing state property or newly acquired state property. Copies of the justification shall, within the same time frame, be provided to the S.L.A. and the RISCOBV. The Director of Administration shall, within thirty (30) days of receipt determine if an exemption should be granted. The decision shall be binding once it is filed with the S.L.A. and all exemptions presently in effect will expire on September 30, 1997. Beginning October 1, 1997, all exemptions issued will be reviewed on an annual basis at the end of each fiscal year. Funds will revert to the S.L.A. if:

1) Accurate accounting of the use of such funds is not provided to the Department of Administration and the S.L.A. on an annual basis; or

2) If justification for using the funds received does not cover the full amount of such funds; or

3) If no annual justification for an exemption is received.

IX. VENDING FACILITY EQUIPMENT AND INITIAL STOCK

A. The S.L.A. is responsible for furnishing each vending facility with adequate initial stocks of merchandise, suitable equipment, and petty cash if necessary for the establishment and operation of such facility.

B. The right, title to, and interest in the equipment, stock, and petty cash of each vending facility will be vested in the S.L.A. in accordance with the laws of the State of Rhode Island, and, the S.L.A., as the duly authorized agency to administer the Vending Facilities Program, shall safeguard all such equipment, stock, and petty cash, using same for program purposes only.

C. Expenditures for the purchase of vending facility equipment and initial stock, petty cash, and expenditures for major repairs to vending facility equipment, shall be made in accordance with purchasing and disbursement procedures of the State of Rhode Island.

1. S.L.A. officials, in conjunction with the RI State Committee of Blind Vendors (RISCOBV), shall meet with officials of the Department of Administration/Office of Purchases on an as needed basis for purposes of deciding the following:

   a. A method(s) for the expedient acquisition of new and replacement equipment and initial stock.

   b. A method(s) for procurement of certain stock and inventory on a bulk-purchasing basis or utilizing any other purchasing procedure which is suitable and economically advantageous to a majority of vendors.

   c. Recommendations to establish appropriate expenditure accounts, namely, checking or Imprest Cash Accounts, to expedite the purchase of small equipment, stock and inventory.

D. Disposition of Equipment, Merchandise, and Petty Cash

1. Upon termination of a vending facility assignment by a vendor, the Blind Vendor shall be permitted to engage in an inventory of all equipment, merchandise, and petty cash, but the S.L.A. shall be responsible to take the inventory as soon as practicable following such termination. The S.L.A. shall, within a reasonable period of time, submit a Profit and Loss Statement to the vendor or his or her heirs, and either pay any remaining profits to him, her or them, or, make demand upon him, her, or them in the event of debt(s) outstanding at such facility.

2. All equipment and merchandise shall remain at the subject vending facility, excepting perishables and petty cash, until the final inventory is completed.

3. The petty cash will be returned to the S.L.A. upon termination of assignment and added to the value of final inventory.

4. Equipment and stock shall be appraised at current fair market value, then sold for such value, or retained for the continued operation of that facility by another vendor, or stored for future use.

5. Proceeds from the sale of any and all equipment and merchandise, shall be deposited in and credited to the accounts from which they were drawn and apportioned in accordance with the matching ratio in effect at the time of their purchase.

E. All equipment and permanent stock as purchased by the S.L.A. shall be labeled with a numerical sticker which is clearly marked to reflect its ownership by the State of Rhode Island.

1. A complete inventory of all such goods shall be maintained by the S.L.A..

2. Equipment and permanent stock which is not the property of the State of Rhode Island may be inventoried at the discretion of the S.L.A. for the purpose of determining worth/value in the event of unexpected loss, i.e., theft, fire, etc.

X. MAINTENANCE AND REPLACEMENT OF EQUIPMENT

A. The S.L.A. shall maintain, or cause to be maintained, all vending facility equipment in good repair and in attractive condition, and the S.L.A. shall replace or cause to be replaced, worn out, or obsolete equipment as required to assure the continued successful operation of the facility.

B. If there is equipment present at any vending facility the full title of which is not vested in the S.L.A., the latter hereby declares no responsibility or obligation for its maintenance, repair, and replacement.

C. Vending facility equipment in need of repair or replacement shall be reported to the S.L.A. without delay. Subsequent to such report, the S.L.A. will determine the costs of repair/replacement. These costs must be verified by written documentation from an appropriate licensed repair person.

D. Each vendor shall take reasonable care of the equipment assigned to his or her facility, and perform routine, day-to-day cleaning and maintenance procedures.

XI. SETTING ASIDE OF FUNDS

A. The S.L.A. will set aside, or cause to be set aside, the net proceeds of the operation of all vending facilities under the program and assigned vending machine income, a sum of money which will be based upon a fixed percentage, which shall apply equally to each vending facility without regard to any vending facility or vending machine. Such method of assessment as outlined below.

1. The method by which the S.L.A. shall cause funds to be set aside from the net proceeds of all vending facilities and locations is as follows:

   Following each inventory period, or at least twice each year, the net proceeds of each vendor and the retained income from vending machines shall be multiplied by ten percent (10%), or less depending upon the annual capital

requirements of the Vending Facilities Program; and such resultant sums shall be deposited in conjunction with the payment of costs as outlined in this subsection B., 1.

2. Set aside rate

   a. The set aside rate will be considered on an annual basis depending on the program's projected expenses as determined by the S.L.A. and RISCOBV Executive Board until gradual elimination of the set aside collection is achieved. (See also A. of this subsection.)

B. The S.L.A. shall provide for the establishment, with the active participation of the State Committee of Blind Vendors, of a set aside schedule covering each of the purposes for which set aside funds are to be used. Moreover, the S.L.A. shall provide for establishment of the method of determining the charge for each of the intended purposes, as outlined below.

1. The charges to be applied for purposes of providing maintenance and replacement of equipment, the purchase of new equipment, and management services shall be based upon the level of such charges made in the fiscal year prior to the year in which such charges are applied, or at the rate of thirty percent (30%), plus a reasonable increase for all such purposes as is necessary to the growth of the vending facilities program.

2. The charge for assuring a fair minimum return to vendors shall be applied at the rate of thirty percent (30%) of the total of all funds set aside in any fiscal year, and the amount and method of disbursement of such minimum return shall be in the form of an annual reimbursement equal to the State Minimum Wage Scale multiplied by the average number of hours during which the vendor is normally employed. In no instance shall the reimbursement for guaranteed fair minimum return be calculated at less than the Federal fair minimum wage. Holidays and the cost of substitute labor will be deducted from payments for guaranteed fair minimum wage. At locations where there has been no significant change in building populations and the facility was previously operated at or above the minimum wage, no guaranteed fair minimum wage will be paid. If the building population declines and a guaranteed fair minimum payment is required, an annual determination will be made as to whether to close the facility or keep it open for another year by the S.L.A. and RISCOBV Executive Board. (See 1. above.)

3. Participating vendors must forward payments for health insurance and dental insurance to the S.L.A. on a monthly basis by the twentieth (20th) of each month. The S.L.A. will continue to be responsible for administering such health and dental plans. Private plans may also be retained by vendors within the program.

4. Retirement or pension plans will be provided directly by each operator at his or her own election.

5. Set Aside Schedule

   Funds will be set aside only for the purposes of:

   a. Maintenance and replacement of equipment;

   b. Purchase of new equipment;

   c. Management services;

   d. Assuring a fair minimum return to vendors; and

   e. The establishment and maintenance of retirement or pension funds, health insurance contributions, and provisions for paid sick leave and vacation time as it is so determined by a majority vote of blind vendors licensed by the S.L.A., after such agency provides to each such vendor information on all matters relevant to such proposed purposes.

C. The S.L.A. shall provide for the maintenance of adequate records to support the reasonableness of the charge for each purpose, and the S.L.A. shall submit any change in the set aside schedule to the Commissioner of Rehabilitation Services Administration (RSA) for approval prior to such change being put into effect.

XII. DISTRIBUTION AND USE OF INCOME VENDING MACHINES ON FEDERAL PROPERTY

A. Vending machine income from vending machines on Federal property which has been disbursed to the State Licensing Agency by a property managing department, agency, or instrumentality of the United States under the vending machine income sharing provisions in 34 CFR 395.8 shall accrue to each blind vendor operating a vending facility on such Federal property in an amount not to exceed the average net income of the total number of blind vendors within such State, as determined each fiscal year on the basis of each prior year's operation, except that vending machine income shall not accrue to any blind vendor in any amount exceeding the average net income of the total number of blind vendors in the United States.

B. No blind vendor shall receive less vending machine income than he was receiving during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this ceiling.

C. No limitation shall be imposed on income vending machines, combined to create a vending facility, when such facility is maintained, serviced, or operated by a blind vendor.

D. The S.L.A. will retain vending machine income disbursed by the property managing department, agency or instrumentality of the United States in excess of the amounts eligible to accrue to blind vendors. The S.L.A. will also retain all income covered in Part XI until a vote of the RISOBV is taken to distribute such income. The remaining retained funds, if any, shall be used as outlined in XII., F., below.

E. The S.L.A. will disburse such vending machine income to blind vendors on at least a quarterly basis.

F. Any vending machine income not necessary for such purposes shall be used for one or more of the following:

1. Maintenance and replacement of equipment; purchase of new equipment; management services, and assuring a fair minimum return to vendors.

2. Any assessment charged to blind vendors shall be reduced pro-rata in an amount equal to the total of such remaining vending machine income.

XIII. <u>OPERATING AGREEMENTS BETWEEN STATE LICENSING AGENCY AND BLIND VENDOR, AND, BETWEEN STATE LICENSING AGENCY AND BLIND VENDOR/BLIND OPERATORS</u>

A. The S.L.A. hereby adopts, with modifications and additions made by it and the State Committee of Blind Vendors, that guide-line entitled, Agreement For Operation of a Vending Facility Under Randolph-Sheppard Act Between the State Licensing Agency and _____, a Licensed Blind Vendor, as transmitted by RSA-PI-78-14, filed herewith as Attachment XI-A.

B. The S.L.A. hereby adopts in their entirety, the Instructions and Permit Form as transmitted by RSA-PI-78-9 and entitled, Instructions for the Application..., and, Application and Permit for The Establishment of a Vending Facility on Federal Property..., respectively, and such procedures shall apply to the establishment of all facilities by the S.L.A..

XIV. <u>ELECTION, ORGANIZATION, AND FUNCTIONS OF STATE COMMITTEE OF BLIND VENDORS</u>

A. The S.L.A. shall provide for the biennial election of a State Committee of Blind Vendors, the functions of which are:

1. Actively participate with the State licensing agency in major administrative decisions and policy and program development decisions affecting the overall administration of the State's vending facility program;

2. Receive and transmit to the State licensing agency grievances at the request of blind vendors and serve as advocates for such vendors in connection with such grievances;

3. Actively participate with the State licensing agency in the development and administration of a State system for the transfer and promotion of blind vendors;

4. Actively participate with the State licensing agency in the development of training and re-training programs for blind vendors; and

5. Sponsor, with the assistance of the State licensing agency, meetings and instructional conferences for blind vendors within the State.

B. The S.L.A., in order to assure opportunity for effective and constructive active participation by the Committee, shall provide for a communications procedure under which the Committee is provided notice of matters within its purview that are being considered for decision, and under which appropriate sub-committees or individual members will receive notices of and invitations to attend important discussion and decision-making meetings in areas of the sub-committee's interest. In addition, the committee, in its role of active participant in decision making and administration consistent with 34 CFR 395.3, 395.14 and 395.7(c), shall have the opportunity to initiate matters for consideration by it and the S.L.A., and make meaningful contributions to the State's vending facilities program with its views and positions taken into careful and serious account by the S.L.A.. The S.L.A. has the ultimate responsibility for the administration of the State vending facilities program and if the agency does not adopt the views and positions of the State Committee of Blind Vendors, it will notify the committee in writing of the decision reached or the action taken and the reasons for the decision/action taken.

XV. ADMINISTRATIVE REVIEW, EVIDENTIARY HEARINGS AND ARBITRATION OF VENDOR COMPLAINTS

A. The S.L.A. hereby adopts, with certain modifications, and incorporates herein, the procedures set forth in RSA-PI-77-27 entitled, Procedures for Administrative Review and a Full Evidentiary Hearing Under the Randolph-Sheppard Act.

B. The S.L.A. hereby incorporates the policies and procedures, as set forth in their entirety in RSA-PI-78-17, entitled Revised Interim Policies and Procedures for Convening and Conducting an Arbitration Pursuant to Sections 5(b) and 6 of the Randolph-Sheppard Act as Amended.

XVI. ACCESS TO PROGRAM AND FINANCIAL INFORMATION

A. The S.L.A. shall, upon request, within a reasonable period of time, provide to each blind vendor access to all program and financial data of the S.L.A. relevant to the operation of the vending facility program, including quarterly and annual financial reports, provided that such disclosure does not violate applicable federal or state laws pertaining to the disclosure of confidential information.

1. Insofar as practicable, such data shall be made available in Braille, large print and/or on recorded tape, upon request.

2. At the request of the vendor the S.L.A. will arrange a time convenient to both parties during normal work hours to assist in the interpretation of such data.

B. The S.L.A. shall review with the RISCOBV Chairperson or his/her designee revenue and expenditures involving the use of funds to be set aside from the operation of vending facilities or caused to be set aside from unassigned vending machines on a monthly basis.

1. The Chairperson will share this information with the State Committee or its Executive Committee as deemed appropriate.

2. Quarterly reports concerning this fund will be provided to all members of RISCOBV Executive Committee by the S.L.A..

XVII. EXPLANATION OF RIGHTS AND RESPONSIBILITIES OF AND TO VENDORS

A. The S.L.A. shall furnish to each vendor copies of documents relevant to the operation of an assigned vending facility including the following:

1. The Agreement for Operation and Vending Facility Permit covering the operation of an assigned facility.

2. A copy of these Program Rules and Regulations.

3. A written description of the arrangements for providing services.

B. Each vendor to be licensed and assigned in the future, and each vendor undergoing upward mobility training, shall receive as part of her/his training, preparatory to her/his licensing or advancement, full information as to the provisions contained in these Rules and Regulations.

AGREEMENT FOR OPERATION OF A VENDING FACILITY
UNDER THE RANDOLPH SHEPPARD ACT AND R.I.G.L. § 40-9 *ET SEQ.*

This Agreement is Hereby Terminated as of:

Month/Day/Year

(S.L.A.) (Vendor)

(Witness) (Witness)

AGREEMENT FOR OPERATION OF A VENDING FACILITY
UNDER THE RANDOLPH-SHEPPARD ACT AND R.I.G.L. § 40-9 *ET SEQ.*
BETWEEN:

The Rhode Island Office of Rehabilitation Services (RIORS)/Services for the Blind and Visually Impaired/STATE LICENSING AGENCY and _____, a LICENSED BLIND VENDOR.

THIS AGREEMENT entered into this _____ day of _____ by and between the RIORS/Services for the Blind and Visually Impaired State/Licensing Agency (hereinafter, S.L.A), and _____, licensed as a blind Vendor under The Randolph-Sheppard Act and/or R.I.G.L. § 40-9 *et seq.* (hereinafter, Vendor) by the S.L.A., WITNESSETH:

WHEREAS, the S.L.A. has been granted a Permit by the _____ for the operation of a vending facility by a Vendor under the Randolph-Sheppard Act and/or R.I.G.L. § 40-9 *et seq.* (hereinafter, Permit) on the (Federal property) (non-Federal property) located at _____, a copy of which Permit is attached hereto and made a part of hereof; and,

WHEREAS, the S.L.A. has offered the Vendor the opportunity to operate the vending facility under the terms and conditions hereinafter set forth; and

WHEREAS, the Vendor has agreed to undertake the operation of the vending facility under the terms and conditions hereinafter set forth; and

WHEREAS, the parties do not intend to deviate in any way from responsibilities and rights imposed and granted by applicable Federal, State, or local laws or regulations by this agreement;

NOW, THEREFORE, in consideration of these premises, it is mutually agreed as follows:

A. THE S.L.A.

1. The S.L.A. will equip the vending facility for carrying out the business authorized by the Permit.

2. The S.L.A. will furnish initial stocks of merchandise and petty cash sufficient to enable the Vendor to commence operating the business authorized by the Permit. The S.L.A. will also furnish the Vendor with a complete inventory of all equipment, initial stocks, and petty cash provided.

3. The S.L.A. will maintain the equipment at the vending facility in good repair, and will replace obsolete and worn out equipment as necessary and as defined in the Permit, Attachment G.

4. When a Vendor in good standing wishes a short-term leave of absence not to exceed twenty (20) business days a year for any reason other than medical, the Vendor must request such leave from the S.L.A. at least two weeks prior to the beginning of the time period. The Vendor is responsible for finding and paying an acceptable substitute to operate the facility during any approved short-term leave (see Para. B.3. below).
The Vendor must provide the S.L.A. the name, address, and telephone number of the substitute Vendor.

Vendors working under an agreement must be on-site during normal working hours as defined in the Permit. No long-term absences are allowed except as stated below. Vacating the Vending facility beyond the twenty (20) working days' limit above, is cause for suspension or termination of license.

5. The Vendor shall immediately notify the S.L.A. of any unplanned absence from the vending facility due to medical reasons. If medical reasons present the Vendor from operating the vending facility as required in the Permit, s/he shall secure an acceptable substitute pursuant to paragraph B.3. below. If a Vendor is or anticipates being absent from his/her assigned vending facility for a period in excess of three (3) consecutive calendar months for medical reasons, s/he shall immediately notify the S.L.A. which may suspend the Operating Agreement and assume responsibility for operation of the facility for a period not to exceed twelve (12) months from the date of the suspension. Vendor shall provide written medical documentation substantiating the need of any extended medical absence from the vending facility. The documentation shall include a physician's opinion as to the length of time that the Vendor is anticipated to be absent from his/her vending facility. A letter will be sent to the Vendor notifying him/her of the suspension. At any time during the twelve (12) month suspension period that the Vendor is able to resume operation of the facility, he/she may do so with the approval of the S.L.A. upon written notification by the Vendor substantiating his/her ability to resume operation. The suspension of the Operating Agreement will cease and the Agreement shall be reinstated by the S.L.A. The S.L.A. will be responsible for taking and providing the Vendor a copy of the inventory on the date of suspension and on the date of reinstatement.

The Blind Vendor will not accrue seniority during the period of suspension.

6. The vendor shall provide medical documentation in writing substantiating the need of the vendor's extended medical absence from the vending facility. The documentation shall include a physician's opinion as to the length of time that the vendor is anticipated to be absent from his/her vending facility.

7. If a Blind Vendor is continuously absent from his/her vending facility for three consecutive calendar months or less for medical reasons, it will be his/her responsibility to obtain a substitute worker for that period.

8. If a Blind Vendor is continuously absent from his/her assigned vending facility for a period in excess of three consecutive calendar months, for medical reasons, the S.L.A. may suspend the Agreement to Operate the Facility and assume responsibility for operation of the facility for a period not to exceed twelve months from the date of the suspension. A letter will be sent to the vendor notifying him/her of the suspension. At any time during the twelve month suspension period that the vendor is able to resume operation of the facility, he/she may do so with the approval of the S.L.A. upon written notification by the vendor substantiating his/her ability to resume operation. The suspension of the S.L.A./Operator Agreement will cease and the Agreement shall be reinstated by the S.L.A. The S.L.A. will be responsible for taking and providing the vendor a copy of the inventory on the date of suspension and on the date of reinstatement.

The Blind Vendor will not accrue seniority during the period of suspension.

9. If a Blind Vendor is or anticipates being absent from his/her assigned vending facility in excess of the twelve calendar months suspension, the suspension shall cease, the S.L.A. will terminate the S.L.A./Vendor Operating Agreement and a new Vendor will be assigned as provided in the S.L.A.'s Policy and Procedures Manual. A letter will be sent to the vendor notifying him/her of the termination.

10. The S.L.A. will provide, or will arrange for, supervisory and management services necessary for the efficient operation of the vending facility.

B. THE VENDOR

1. The Vendor agrees not to represent himself/herself as the owner of said business. The title to the business and all equipment belongs to the S.L.A. and that the Vendor shall act in all matters with due regard to rights and obligations of the S.L.A., and, in addition, shall immediately refer all matters involving policy to the S.L.A.

2. The Vendor will be responsible for having the vending facility open for business on the days and during the hours specified in the Permit. The Vendor must be on-site at least forty (40) hours per week, notwithstanding excusable absences, such as emergencies. The Vendor must obtain approval from the S.L.A. and the host facility for any absences from the vending facility and/or any changes in the hours of operation.

3. The Vendor will operate the vending facility business on a cash basis and will not extend credit to any customers unless approved by the S.L.A., and the Vendor will, insofar as possible, pay all bills on a C.O.D. basis.

4. The Vendor will be accountable to the S.L.A. for the proceeds of the business of the vending facility, and will handle the proceeds, including payments to suppliers and deposits of funds, in accordance with instructions from the S.L.A. The Vendor will submit at the close of each business week a report of cash receipts and payments accompanied by actual receipts for all expenditures.

5. The Vendor will carry on the business of the vending facility in compliance with applicable health laws and regulations.

6. The Vendor and all employees and/or agents will maintain a neat, business-like appearance while working at the vending facility, and will conduct the facility in an orderly, business-like manner. Vendor agrees to comply with all requests by the S.L.A. that s/he undergo additional training. The Vendor and all employees and/or agents shall be required to undergo a criminal background check and comply with all policies and procedures in the S.L.A. Policy and Procedures Manual.

7. The Vendor agrees that he/she will not purchase any equipment and stock for use in the vending facility, without the permission of the S.L.A., and that upon termination of the Operating Agreement and/or the Permit, all equipment and stock remains the property of, and must be turned over to, the S.L.A. Vendor further agrees that if and when s/he is required to surrender to the S.L.A. said equipment, stock and cash it will all be in good order and condition, except for reasonable deterioration or depreciation. Vendor is responsible to return to the S.L.A. total assets equal to those which he/she received at the commencement of operation.

8. The Vendor will take proper care of the equipment of the vending facility, and will not make any major alterations or changes thereto without the written approval of the S.L.A and the host facility.

9. It will be the primary responsibility of the Blind Vendor to provide for an acceptable substitute to operate the vending facility due to the Vendor's absence. In the event that the Blind Vendor is unable to secure an acceptable substitute approved by the S.L.A. and in consultation with the host facility, the S.L.A. will make every effort possible to provide an acceptable substitute. All substitute Vendors shall be bound by the same terms and conditions contained in the applicable Operating Agreement and Permit.

The salary of the person who substitutes for the Vendor, or that of other emergency help, shall be charged to the vending facility where the service is performed, except to the extent that it is otherwise covered by the vacation and sick leave plan provided by the S.L.A.

10. The Vendor will notify the S.L.A. within a reasonable time, in accordance with the S.L.A.'s Policy and Procedures Manual, in advance of taking any voluntary leave from the vending facility, and as soon as possible with respect to any involuntary leave.

11. The Vendor will keep such records and make such reports, as the S.L.A. shall require.

C. GENERAL

1. The operation of the vending facility will be limited to that specified and authorized in the Permit.

2. The right, title, and interest in and to the equipment of the vending facility, the stock in trade, and funds on hand are vested in the S.L.A., and will be left at the vending facility or turned over to the S.L.A. on the termination of this agreement for any reason by either of the parties. In such an event the fair market value of the Vendor's interest will be determined by the S.L.A. and paid to the Vendor or to the Vendor's heirs or assignees.

3. The monthly income of the Vendor shall be the net profits of the business of the vending facility for the period in question, less the funds which must be set aside, as established in writing by the S.L.A. pursuant to 34 CFR Part 395.9 and the applicable provisions in the S.L.A.'s Policy and Procedures Manual. If one of the purposes of the funds set aside is assuring a fair minimum return to Vendors, the net profits will be augmented by the amount necessary to bring the monthly income up to the fair minimum return.

4. Rebates, commissions, or bonuses received by the Vendor from suppliers are, and must be accounted for, as income of the vending facility. Under no circumstances are such funds to be treated as the separate, personal funds of the Vendor.

5. Only upon written authorization may merchandise be taken from the stock in trade of the vending facility by the Vendor for his own use and such taking shall be accounted for by the Vendor and paid for at cost prices.

6. The business and premises of the vending facility shall be covered by public liability insurance, fire and theft insurance, and any such other insurance as will protect the Vendor, any one employed by the Vendor, and the S.L.A. against losses and claims arising out of the conduct of the business of the vending facility. The cost of such insurance shall be a cost of operating the vending facility and taken into account as such in determining the net proceeds of the business.

7. This agreement may be terminated at any time, and for good cause, by either Vendor or S.L.A. This agreement shall be automatically terminated upon the revocation or termination of the Permit or the Vendor's License to participate in the program. In addition, it may be terminated by the S.L.A. if the business of the vending facility is not conducted in accordance with this agreement, the Permit, or with applicable Federal, State, or local laws and regulations.

8. When operating on state property any claims arising against the host facility shall be brought in state court and governed by state law. This limitation in no way prevents a Vendor, who is dissatisfied with any S.L.A. action arising from the operation or administration of the vending facility program, from taking action against S.L.A. pursuant to the Federal Randolph-Sheppard Act and the S.L.A.'s Policies and Procedures.

9. Upon termination of this agreement, the parties shall sign and date the NOTICE OF TERMINATION statement as recorded at the top of Page One (1) of this Agreement.

10. The S.L.A. shall issue in accord with this agreement a certificate in the attached format authorizing the Vendor to operate the facility at this location.

By:

_____ _____
Date State Licensing Agency (S.L.A.)

By:

_____ _____
Date Vendor

By:

_____ _____
Date Witness

VENDING FACILITY APPLICATION AND PERMIT

APPLICATION AND PERMIT FOR THE ESTABLISHMENT OF A VENDING FACILITY ON FEDERAL, STATE, OR PRIVATE PROPERTY AS AUTHORIZED BY 20 U.S.C. SECTION 107 ET SEQ., 34 CFR 395 ET SEQ., THE FEDERAL RANDOLPH-SHEPPARD ACT, AND RHODE ISLAND GENERAL LAWS, TITLE 40, CHAPTER 9 ET. SEQ, AND THE OFFICE OF REHABILITATION SERVICES ("ORS") POLICY AND PROCEDURES MANUAL.

The Services for the Blind and Visually Impaired of the State of Rhode Island requests approval of the_____, State Agency to place a vending facility #_____ on the property located at: _____.

SATISFACTORY SITE: It has been determined that this location meets the criteria of a satisfactory site as defined in 34 CFR 395.1 (q) revised July 1, 1993 and the ORS Policy and Procedures Manual (Any exceptions to this definition are to be noted in Attachment A).

TYPE, LOCATION AND SIZE OF FACILITY: Type of facility: _____ Facility location on the_____. Facility size_____, Attachment B. The types of articles to be sold and services to be offered are enumerated in Attachment C. The fixtures and equipment for this facility, including the responsibility for the provision thereof, are set forth in Attachment D. The location, type and number of vending

machines, which constitute all, or a part of this facility are noted in Attachment E. The facility will operate _____days a week from _____ to _____, commencing on _____.

This permit shall be issued for the time period contained in Attachment G. The type and location of each vending machine located on this property and the specific income sharing provisions in 34 CFR 395-32 revised July 1, 1993 or the ORS Policy Manual applicable to each such machine will be indicated in Attachment F. Vending machines located within the _____will be the sole responsibility of the Vendor on site with income accruing to the same.

OTHER TERMS AND CONDITIONS: Any specific and additional terms and conditions applicable to this location are included in Attachment G. This permit is subject to suspension or termination on the basis of non-compliance by either party with any of the agreed upon terms and conditions of the permit. By mutual agreement, the State Licensing Agency and the Property Agency/Owner may terminate the permit after providing notice of intended termination, including reason therefore and supporting documentation to the other party. Both parties shall comply with all regulations issued in Title VI or the Civil Rights Act of 1964 and the Rhode Island Services for the Blind and Visually Impaired and the Department of Human Services Non-discrimination Notice (Attachment H). Reason for denial of the application shall be set forth in writing to the State Licensing Agency.

_____	_____
Approving On-Site Property Official	***Approving State Licensing Agency Official***
_____	_____
Title	***Title:***
_____	_____
Date	***Date***

STATE OF RHODE ISLAND

SERVICES FOR THE BLIND AND VISUALLY IMPAIRED

VENDING FACILITY APPLICATION AND PERMIT

VF #____ – _____

ATTACHMENT A

EXCEPTIONS

STATE OF RHODE ISLAND

SERVICES FOR THE BLIND AND VISUALLY IMPAIRED

VENDING FACILITY APPLICATION AND PERMIT

VF #____ – _____

ATTACHMENT B

FLOOR PLAN AND/OR DESCRIPTION

STATE OF RHODE ISLAND

SERVICES FOR THE BLIND AND VISUALLY IMPAIRED

VENDING FACILITY APPLICATION AND PERMIT

VF #____ – _____

ATTACHMENT C

ARTICLES SOLD AND SERVICES OFFERED

STATE OF RHODE ISLAND

SERVICES FOR THE BLIND AND VISUALLY IMPAIRED

VENDING FACILITY APPLICATION AND PERMIT

VF #____ – _____

ATTACHMENT D

FIXTURES AND EQUIPMENT

STATE OF RHODE ISLAND

SERVICES FOR THE BLIND AND VISUALLY IMPAIRED

VENDING FACILITY APPLICATION AND PERMIT

VF #____ – _____

ATTACHMENT E

LOCATION, TYPE AND NUMBER OF VENDING MACHINES

STATE OF RHODE ISLAND

SERVICES FOR THE BLIND AND VISUALLY IMPAIRED

VENDING FACILITY APPLICATION AND PERMIT

VF #____ – _____

ATTACHMENT F

PROVISIONS ASSOCIATED WITH VENDING MACHINES

STATE OF RHODE ISLAND

SERVICES FOR THE BLIND AND VISUALLY IMPAIRED

VENDING FACILITY APPLICATION AND PERMIT

VF #____ – _____

ATTACHMENT G

SITE SPECIFIC TERMS AND CONDITIONS

STATE OF RHODE ISLAND

SERVICES FOR THE BLIND AND VISUALLY IMPAIRED

VENDING FACILITY APPLICATION AND PERMIT

VF #____ – _____

ATTACHMENT H

DEPARTMENT OF HUMAN SERVICES
NON-DISCRIMINATION NOTICE

In accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 200d et seq.), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the US Department of Health and Human Services implementing regulations (45 C.F.R. Parts 80 and 84) and the US Department of Education implementing regulations (34 C.F.R. parts 104 and 106), the Rhode Island Services for the Blind and Visually Impaired (RISBVI), Department of Human Services (DH), does not discriminate on the basis of race, color, national origin, handicap or sex in acceptance for or provision or services, employment or treatment, in its educational and other programs and activities. Under other provisions of applicable law, RISBVI does not discriminate on the basis of age, creed or political belief.

For further information about these laws, regulations, and RISBVI's grievance procedures for resolution of complaints of discrimination, contact DHS at 600 New London Avenue, Cranston, Rhode Island 02920, telephone number (401) 462-2130. The Community Relations Liaison Officer is the coordinator for implementation of Title VI; and the Vocational Rehabilitation Placement Supervisor is the coordinator for implementation of Title IX and Section 504. The Director of DHS or designee has the overall responsibility for RISBVI's civil rights compliance.

Inquiries concerning the application of Title IX and 34 C.F.R. Part 106 to RISBVI may also be made directly to the Assistant Secretary for Civil Rights, US Department of Education, Washington, DC 20202 or the Office of Civil Rights, US Department of Education, Region I, Boston, Massachusetts, 02109.

SUPPORTED EMPLOYMENT SERVICES

I. LEGAL AUTHORITY:

The Rehabilitation Act of 1973, 29 U.S.C. 701, as amended; 29 U.S.C. 711(c); Section 7(34) and 12(c) of the Act; 29 U.S.C. 706(34); 29 U.S.C. 795j-q, Title VI Part C, Public Law 99-506, as amended; 34 CFR 77.1, 34 CFR 361.5(46),(50); 34 CFR 363.

II. POLICY STATEMENT AND PURPOSE:

The State Supported Employment Services Program is authorized to assist individuals with the most significant disabilities (as defined in Section 115.22) for whom competitive employment in an integrated setting would have been unlikely without on-going support and other appropriate services. The Program assists these individuals in acquiring the skills and experience needed to enter or retain competitive employment by organizing and making available services based on a determination of the individual's needs as specified in the Individualized Plan for Employment (IPE). This section will define who qualifies for the services, the services to be provided, time limits of the services, IPE development, and case closure.

A. Definitions

1. Supported Employment means:

   a. Competitive employment in an integrated setting with on-going support services for individuals with the most significant disabilities-

      1) For whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and

      2) Who, because of the nature and severity of their disabilities, need intensive supported employment services from the designated State unit and extended services after transition in order to perform this work; or

   b. Transitional employment for individuals with the most significant disabilities due to mental illness.

   c. As used in the definition of "Supported employment"-

      1) Competitive employment means work--

a) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

b) For which an individual is compensated at or above the minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled.

2) Integrated setting means a setting typically found in the community in which an individual with the most significant disabilities interacts with non-disabled individuals, other than non-disabled individuals who are providing services to that individual, to the same extent that non-disabled individuals in comparable positions interact with other persons.

2. Transitional Employment

Transitional Employment means a series of temporary job placements in competitive work in integrated work settings with on-going support services for individuals with the most significant disabilities due to mental illness. In transitional employment, the provision of on-going support services must include continuing sequential job placements until job permanency is achieved.

3. On-going Support Services

Supported Employment Services are defined as:

a. On-going support services and other services needed to support and maintain an individual with a most significant disability in supported employment that:

1) assist an individual in entering or maintaining competitive employment; and

2) are provided by the state agency for a time-limited period of eighteen (18) months, unless under special circumstances, the individual and the VR counselor jointly establish in the IPE an agreement to extend the time required to achieve job stabilization before transfer to extended services.

3) Post-employment services following transition to extended services.

4. On-going Support Services

   a. Are services which are required by individuals with the most significant disabilities based on a determination of the individual's needs as specified in the IPE; and

   b. Are based on a determination by the state agency of the individual's needs as specified in the IPE; and

   c. Are provided by the state agency from the time of job placement until transition to extended services, except when post-employment services are included in the IPE; and

   d. Following transition, are furnished by one or more extended services providers throughout the individual's term of employment in a particular job placement or multiple placements if those placements are being provided under a program of transitional employment.

   e. Include, at a minimum, twice monthly monitoring at the work site of each individual in supported employment to assess employment stability; or

   f. In special circumstances, at the request of the individual, the IPE provides for off-site monitoring and the coordination or provision of specific services at or away from the work site to maintain job stability.

5. Types of On-going Support Services include:

   a. a particularized assessment which is needed to supplement the comprehensive assessment of rehabilitation needs;

   b. the provision of skilled job trainers who accompany the individual for intensive training at the work site;

   c. job development and placement;

   d. social skills training;

   e. regular observation or supervision of the individual;

   f. follow-up services such as regular contact with the employer, the individual, parents, family members, guardians, advocates, or authorized representatives of the individual, and other suitable

professional and informed advisors in order to reinforce and stabilize the job placement;

g. the facilitation of natural supports at the worksite; and

h. other appropriate services as needed, such as transportation and personal assistance services.

6. Time-Limited Services

a. Funding by the state agency for on-going support services may not exceed 18 months unless:

* a longer period required to achieve the rehabilitation objectives has been jointly agreed upon by both the individual and the counselor and has been justified in the IPE <u>before</u> an individual with significant disabilities makes the transition to extended services; or

* as post-employment services (see Section 115.15) following transition to extended services (see II., B., 3., c.)

7. Extended Services

a. After the 18-month limit has been reached, on-going support services (see definition in 6. above) may be provided by a state agency, a private non-profit organization, or any other appropriate resource with funds other than those furnished by ORS.

B. Supported Employment-Authorized Activities

1. Any further assessment needed to supplement the comprehensive assessment of rehabilitation needs and which is provided subsequent to the development of the IPE.

Such a supplementary assessment may be provided when:

a. Additional information is needed to determine the most suitable supported employment placement for an individual or to determine what on-going support services are needed including the need for rehabilitation technology; or

b. A reassessment of the suitability of placement is warranted; or

c. There is a change in the individual's medical condition.

2. Job development and placement for individuals with the most significant disabilities.

3. Provision of time-limited services that are needed to support individuals with the most significant disabilities.

   a. Intensive on-the-job skills training provided by qualified job trainers, co-workers and other proficient individuals, and other services required by the individual to achieve and maintain job stability.

   b. Follow-up services including regular contact with employers, trainees with the most significant disabilities, parents, guardians, or other representatives of trainees and other suitable professional and informed advisors in order to reinforce and stabilize the job placement.

   c. Post-employment services (see Section 115.15) following transition to extended supports that are unavailable from the extended service provider(s) which are necessary to maintain the job placement. (E.g., replacement of prosthetic and orthotic devices, or rehabilitation technology consultation.)

III. PROCEDURES

A. Considerations for Supported Employment Services

1. The individual must first be determined eligible for Vocational Rehabilitation Services, be classified as an individual with the most significant disabilities, and participate in the development of an IPE which identifies supported employment as the appropriate rehabilitation goal.

   a. In the determination of eligibility of an individual with the most significant disabilities, supported employment services must be considered in the evaluation.

   b. Individuals who are considered for supported employment services are those with the most significant disabilities whose comprehensive assessment of rehabilitation needs (including evaluation of rehabilitation, career, and job needs), identifies supported employment as the appropriate rehabilitation objective.

2. The unavailability of community resources for supported employment services provision can not be a reason for determining an individual with the most significant disabilities to be ineligible for vocational rehabilitation services. If the individual with the most significant disabilities is determined

to be potentially employable through the provision of supported employment services, s/he must be found eligible for the Vocational Rehabilitation Program even if a key resource(s) needed to provide those services is currently unavailable. In these situations the Vocational Rehabilitation agency has the lead responsibility in the development of resources and agreements for extended services. The counselor:

a. Certifies the individual is eligible for the VR program; and

b. Informs the individual that supported employment services cannot be initiated until an extended resource is obtained; and

c. Seeks out the resource(s) for the needed extended services.

d. May initiate VR services with a strong likelihood of a source of extended services, including natural supports. The IPE must include a statement describing the basis for the supposition of the availability of such resources.

3. The individual with the most significant disabilities who receives supported employment services either has not worked competitively or has a history of interrupted competitive employment as a result of the disability and requires the provision of on-going support to perform competitive work.

4. An assessment must be made that determines that on-going support services are necessary to perform competitive work.

a. The counselor may utilize a variety of assessment tools including: vocational evaluations, work adjustment recommendations, and pre-placement assessment information.

b. The evaluation activities in a supported employment on-site work evaluation specifically identify the types of supports required by the individual to be added to the IPE if necessary, including job skills, training, on- or off-site monitoring, rehabilitation technology services or any other on-going support needs of the individual to maintain employment.

B. IPE Development

1. The IPE must be jointly developed with full participation of the individual with the most significant disabilities or relative, etc. in the choice of goals, objectives, and services which include supported employment services.

2. The IPE which includes supported employment services is written before supported employment services are initiated.

    a. The IPE may contain a supplemental evaluation to help develop, finalize, or reassess a supported employment plan of services.

    b. The IPE may require amendments to include the specific support plans defined by a supplemental evaluation.

3. The IPE must include: the expected individualized hourly work goal per week (which is compatible with the individual's employment potential) and the extended on-going support services to be provided after the transition from ORS sponsorship. The specific requirements for extended on-going support services are defined as, at a minimum of twice monthly:

    a. an overall assessment regarding the employment situation is made at the job site; or

    b. if the supported employee and the counselor determine that off-site supports are more appropriate, the two face-to-face meetings with the individual and one with the employer are made to ensure that the provision or coordination of supports as defined in the IPE is assisting the individual to maintain employment.

4. The IPE may also be written or amended when the on-going support needs are defined by the on-site supported employment work evaluation.

5. The IPE identifies the state, federal, or private programs or other resources which will provide the extended services as well as the basis for determining that extended services are available.

6. The IPE specifies a plan providing for periodic monitoring to ensure satisfactory progress towards meeting the weekly work requirement established in the IPE by the time transition to extended services occurs.

7. The IPE includes a description of post-employment services to be provided after case closure.

8. The IPE contains documentation for individual situations such as:

    a. Determination that monitoring and assessment of employment stability is determined by both counselor and employee to be more appropriate away from the job site.

b. Determination that more than 18 months of on-going support through the state agency is necessary for the individual to achieve job stability.

9. ORS-sponsored on-going support services in the IPE are furnished from time of job placement until transition to extended services except when provided in post-employment services (see II., B., 3., c.) and one or more extended service providers throughout the individual's term of employment in a particular placement or in multiple placements <u>if</u> those placements are provided by a program of transitional employment.

a. Extended on-going support services may be provided by a state agency, a private non-profit organization, or any other appropriate resource with funds other than those furnished by ORS, and must include at least two face to face visits per month with the employee at the job site to assess job stability; or,

b. If the individual and counselor have determined that off-site monitoring is appropriate and the IPE provides for a provision or coordination of specific services at or away from the work site necessary to maintain employment stability.

C. Title VI-Part C funds can be used for all supported employment authorized activities in the IPE which occur after eligibility for vocational rehabilitation services has been determined.

D. Transition to Extended Supports

The transition to extended support provision is individually determined. The requirements for transition to extended supports are:

1. The individual must be stabilized in the placement.

2. The individual must have substantially met the goal for hours of employment established in the IPE.

3. The extended services must be immediately available to preclude any interruption in the provision of the on-going support required.

4. In transitional employment, the case can be closed in 26 if the individual is working in a temporary placement. However, the counselor is responsible for documenting how the provision of extended services will achieve job permanency for a person closed in a temporary placement through the transitional employment program.

E. Criteria for Closure to Supported Employment

1. The individual must maintain employment for at least ninety (90) days after transition to extended services before case closure.

2. The individual must be stabilized in her/his employment at a rate of pay equal to or above minimum wage and the supported employee and the ORS counselor agree that the job represents suitable employment.

3. The support services required by the individual must be continued through an identified, alternative long term funding source.

F. Post-Employment Services

1. Post-employment services can be utilized for an individual in supported employment if such services are needed by the individual to maintain employment and the services are not available from an extended service provider.

2. Post-employment services should not be used in situations of underemployment or extensive retraining. In these situations the individual may reapply for services. Supported employment services may be provided for a new period of up to eighteen (18) months as determined by the IPE.

G. Supported employment services for students with the most significant disabilities who are transitioning from school to work.

1. Collaborative transition plans and IPEs must be developed which involve supported employment services and utilize available information from school programs in the plan.

2. The state agency may provide services to evaluate rehabilitation potential and define on-going support needs for IPE/IEP's.

   a. Evaluation must take place with a supported employment vendor which is approved for ORS sponsorship in accordance with the standards outlined in Section 115.25.

3. A sequence of supported employment services and funding sources must be developed to avoid gaps in service delivery.

4. Although the school department is the primary funding source for programs while the student is in school, services will be provided consistent with Individuals with Disabilities Education Act and the 1992 Amendments of the Rehabilitation Act. Counselors and school personnel will refer to the

Cooperative Agreement (Section 125.3) to guide them in the determination of primary responsibility in the delivery of chosen services.

5. Provision of on-going support services through the state agency would take place after graduation and continue as determined by the individual employee and counselor to stabilization and transition to extended services

POST-EMPLOYMENT SERVICES

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; (Public Law 93-112) Sections 101(a)(8) and 103(a)(2); 34 CFR 361.5(b)(42), 361.46(c), 361.48(a)(16), 361.48(o), and 29USC 723(a)(18), 722(b)(3)(G).

II. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services will provide post-employment services to enable a rehabilitant, if necessary, to maintain, regain or advance in employment recognizing the informed choice of an individual.

A. Post-employment services should be limited in scope and duration (90 days or less*), and should not entail a complex or comprehensive rehabilitation effort unrelated to the employment plan at closure. If comprehensive services are indicated, a new evaluation and determination of eligibility should be made.

B. Post-employment services do not include transportation (except in support of another service which the individual requires in order to maintain, regain or advance in employment) or medical services for acute conditions.

C. Criteria for Terminating Post-Employment Services

Decisions to terminate post-employment services should be made on an individual basis in consultation with the individual and recorded in the amended Individualized Plan for Employment (IPE).

* An individual may request a waiver by contacting their counselor. The Administrator or Administrator's designee, may grant a waiver to this limitation under extenuating circumstances.

REHABILITATION TECHNOLOGY

I. LEGAL AUTHORITY:

Workforce Investment Act (WIA) of 1998 (P.L. 105-220); 34 CFR 361.5(b)(45); 34 CFR 361.5(b)(7); and 34 CFR 361.5(b)(8).

II. POLICY STATEMENT AND PURPOSE:

Rehabilitation technology must be considered for all applicants or individuals with a disability as a means of ensuring informed choice, enhancing assessment of rehabilitation potential, Individual Plan for Employment (IPE) development, placement in employment, and job accommodations. Therefore, language pertaining to the provision of assistive technology services and/or devices is included in the specific policy sections dealing with those topics and/or processes.

An assessment of the need for assistive technology must be performed by skilled personnel. The assessment must establish how assistive technology devices and services can increase or supplement functional capacity and/or modify environments to accommodate the individual's abilities to work. The provision of assistive technology services should be considered during the evaluation process.

A. Terminology

1. Rehabilitation technology is defined as “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.” (34 CFR 361.5(b)(45), 34 CFR 361.5(b)(8); 34 CFR 361.5(b)(7))

    a. Assistive technology service means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive device including: the evaluation of the individual’s needs including functional evaluation in her/his customary environment; purchasing, leasing, or otherwise providing for the acquisition of an assistive technology device; selection, designing, fitting, customizing, adapting, applying, maintaining, repairing, replacing assistive technology devices; training or technical assistance for individuals, and, when appropriate, for family members, guardians, advocates, or authorized representatives of the individual and other individuals (service providers and employers), who are involved in the life functioning of the individual; coordinating and using other therapies,

interventions, or services with assistive technology devices in the rehabilitation planning process.

b. Assistive technology device means any item, piece of equipment, or product system acquired commercially off the shelf, modified, or customized, and used to increase, maintain, or improve the functional capabilities of an individual with a disability.

Assistive technology devices and services include, but are not limited to, augmentative communication devices, environmental control devices, telecommunication devices for the deaf, sensory and technological aids for individuals with sensory impairments, durable medical equipment, vehicle modifications, as well as computer and other adaptations or customization of equipment.

B. Consideration of Rehabilitation Technology in All Stages of the Rehabilitation Process

An assistive technology device may be required to communicate with an individual in order for the client to make an informed choice about services and service providers throughout the VR process. Even in the initial application process, the client's need to communicate effectively and to exercise informed choice must begin. Examples of appropriate modes of communication include but are not limited to the application of devices as well as services: captioned videos and audio recordings for clients with deficits in receptive communication, and augmentative communication devices (ACDs).

C. Stages

1. During applicant status, Rehabilitation Technology, including consultation with Rehabilitation Technology Consultants, can be used to gain information to assist the counselor in the determination of the rehabilitation potential of the individual.

2. The decision to provide assistive technology services and/or devices is made on a case by case basis and reviewed at each stage of the rehabilitation process as follows:

a. The preliminary assessment will include, if appropriate, evaluation by qualified personnel of the possible benefit of assistive technology services and/or devices; and

b. The comprehensive assessment will always include an assessment of the necessity for assistive technology services and/or devices to reach the individual's vocational goal/employment outcome.

3. Determination of comparable benefits is not required prior to the provision of assistive technology services and/or devices. Counselors are, however, encouraged to use other resources if readily available (e.g., Medicaid benefits for provision of devices considered medically necessary) pursuant to the individual's informed choice.

4. Evaluation for assistive technology services and/or devices is not subject to an economic means test. The provision, however, of recommended services, i.e., equipment, aids, devices, training, etc., is subject to an economic needs test. See Section 115.8.

5. The development of the IPE of the individual shall be completed as follows, and the plan shall contain the following:

   a. The assistive technology devices and services necessary to participate in vocational rehabilitation services or to achieve an employment outcome;

   b. When appropriate, a statement regarding the need for post-employment services including, if applicable, assistive technology services and/or devices; and

   c. An assessment of the need for post-employment services prior to case closure including, where applicable, assistive technology services and/or devices.

   d. The IPE must be reviewed at least on an annual basis to allow the client and/or her/his representative the opportunity to review and, if indicated, amend the IPE to encompass all necessary services to reach the vocational rehabilitation goal, including assistive technology services and/or devices.

6. If a case is closed:

   Rehabilitated-achieved employment outcome, and the individual requires post-employment services, including the provision of assistive technology services and/or devices to determine eligibility, see Section 115.15.

III. <u>PROCEDURES</u>:

A. Assistive Technology Services and Devices Throughout the Rehabilitation Process

1. The counselor must consider assistive technology as early as possible in the rehabilitation assessment to determine vocational potential.

2. This consideration generally requires that the counselor make a referral to the Rehabilitation Technology Consultant(s) for review and recommendation.

   a. The counselor shall specify the referral questions and present the strengths and limitations of the individual with a disability related to her/his vocational plan. If the individual with a disability is entering employment or is already employed, the counselor provides a job analysis or profile of the situation requiring adaptation. This information must be noted in the case narrative.

   b. The counselor must attend the initial assistive technology consultation/evaluation and provide necessary input whenever appropriate.

   c. The counselor shall review the assistive technology reports with the individual using appropriate modes of communication to ensure that the recommendations are suited to the individual's needs. Every effort should be made to ensure that the individual, and/or her/his guardian or advocate, understands and accepts the recommendations. A copy of the assistive technology report shall be provided to the individual and a notation regarding the review must be noted in the case narrative.

   d. The counselor must establish that the recommendations of a Rehabilitation Technology Consultant are directly relevant to achieving an employment outcome when including them in the IPE.

   e. For optimal benefit in the use of recommended equipment, the counselor and the individual with a disability must determine the need for training in the use of the equipment and the source of appropriate training in its use. Any recommendations which are not directly related to the employment goal and services included in the IPE are the individual’s responsibility.

   f. The Rehabilitation Technology Consultant will assist the counselor and the individual with a disability in the purchasing process, as appropriate, and in assessing the compatibility of accessories to existing equipment used by the individual.

3. In those cases where generic, simple, low-tech, devices (i.e., Aids to Daily Living (ADL) such as reachers, plate guards, etc.) can meet the needs of an individual with a disability, the counselor need not request a assistive technology evaluation. However, the counselor must still substantiate the need for, and value of, such equipment.

4. The purchase of assistive technology devices will be provided through the Individualized Plan for Employment in a timely manner. However, in those cases where such devices are necessary or critical to the evaluation process, determination of eligibility, or achievement of the vocational goal (i.e., without such devices, the client could not participate and succeed in a vocational rehabilitation program), consideration for rental or purchase will be made upon consultation with the supervisor.

5. In order for the individual with a disability to make an informed choice about the final purchase of equipment, the counselor advises the individual that any assistive technology device provided solely by the ORS or jointly by ORS and the individual will become the property of the individual upon satisfactory achievement of the goal as established in the IPE.

   a. If the AT device is jointly purchased by an employer (or other entity) and ORS, the IPE must specify which party owns the equipment or device.

   b. Where ORS has purchased an AT device that is considered by the state controller to be a 'fixed asset' (e.g., computer, printer) the state agency retains title to the equipment and affixes a state identification sticker to the device.

      (i) It retains title to the equipment until the individual successfully completes the IPE by achieving an employment outcome;

      (ii) Title is transferred to the individual when the case is closed.

6. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices is the responsibility of the agency when part of a current Employment Plan.

7. When equipment is no longer useful to the individual with a disability, yet is still functional, the agency will refer the individual to an appropriate recycling agency for transfer of the equipment and use by another individual with a disability.

CRITERIA FOR CASE CLOSURE

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended through 1998; 34 CFR 361.

II. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services provides vocational rehabilitation services on a time-limited basis to eligible individuals to assist them in attaining their employment goals. Cases will be closed when an individual has successfully achieved her or his employment goal and satisfactorily maintained her/his work status, or when other circumstances require that the case be closed without successful achievement of a vocational goal. Case closure will occur in consultation with the applicant or client, unless unfeasible. The agency will observe all applicable statutes and regulations when initiating case closure.

A. CONDITIONS AND CRITERIA:

1. Case Closed, Rehabilitated - occurs ninety (90) or more days following successful rehabilitation (when vocational rehabilitation services have contributed to appropriate employment).

   a. Cases Closed, Rehabilitated, must meet the following criteria:

      1) All earlier phases of the vocational rehabilitation process were properly completed, e.g., application signed, eligibility decision, etc., AND

      2) Evaluation of rehabilitation potential and counseling and guidance were provided as essential services; AND

      3) Substantial vocational rehabilitation services occurred and were listed on the IPE; AND

      4) Appropriate employment has been maintained for at least the last ninety (90) days prior to closure; AND

      5) The need for post-employment services was assessed with the individual; AND

      6) The rationale for closure was discussed with the individual and proper written notification with due process information was provided.

2. Case Closed, Not Rehabilitated - occurs at any point in the rehabilitation process where services were either not received or not completed.

   a. Cases Closed, Not Rehabilitated, must meet the following criteria:

      1) Case closed, not rehabilitated, pre-eligibility: the case of any individual who applied for service but did not complete the evaluation;

      2) Case closed, not rehabilitated, ineligible: the case of any individual who applied for service, completed evaluation, and was found to be ineligible for service at any point in the rehabilitation process;

      3) Case closed, not rehabilitated, post-eligibility, pre-service: the case of any individual who applied for service, was found eligible, no IPE written;

      4) Case closed, not rehabilitated, post-eligibility, pre-service: the case of any individual who applied for service, was found eligible, and with whom an IPE was written but no service was initiated prior to closure;

      5) Case closed, not rehabilitated, post-plan: the case of any individual with whom an IPE was written, services initiated but not completed, or achievement of the employment goal was unsuccessful.

III. PROCEDURES:

A. Closure of cases prior to eligibility decision

1. The counselor may close a case without determining eligibility when, for at least sixty (60) days, an applicant for services:

   a. Is unavailable to complete an evaluation of vocational rehabilitation potential and the counselor has made repeated efforts to contact and encourage the individual to participate;

   b. Fails to cooperate with ORS requirements for eligibility determination; or

   c. Refuses to continue her/his involvement in the process.

2. Notification requirements

   a. The written notice must contain the following:

      1) The Agency's decision;

      2) The basis for the decision;

      3) The effective date of the decision;

      4) The individual's due process rights and the names and addresses of individuals with whom appeals may be filed; and

      5) A statement of the availability of and how to contact the Client Assistance Program.

   b. As necessary, the applicant must be informed of the above information through appropriate modes of communication.

3. Documentation requirements

   The narrative entry in the case record must include:

   a. The reason for closure;

   b. The actions or lack thereof that contributed to the decision; and

   c. the individual's employment status.

B. Closure of cases which do not meet eligibility requirements

1. Certification of Ineligibility:

   a. Whenever the agency determines, on the basis of clear and convincing evidence, that an applicant does not meet the eligibility criteria (Section 115.2), there must be a certification of ineligibility signed and dated by a qualified vocational rehabilitation counselor.

   b. The certification of ineligibility must indicate the reasons for the ineligibility determination.

   c. In closures due to inability to benefit from VR services, the rationale, based on use of trial work experiences with appropriate supports, for the ineligibility decision must be documented in the case narrative.

1) The rationale must clearly document that the trial work experiences have demonstrated that the individual is not capable of achieving a vocational goal.

2) A certification of ineligibility is then completed.

2. Consultation

The ineligibility determination is made only after full consultation with the individual or, as appropriate, the individual's parent, guardian, or other representative, or after giving a clear opportunity for the consultation.

3. Notification

An applicant or recipient determined to be ineligible for vocational rehabilitation services must be notified in writing (supplemented as necessary by appropriate modes of communication consistent with the informed choice of the individual) of the action taken by the counselor.

a. The notification requirements consist of the following:

1) The Agency's decision;

2) The basis for the decision;

3) The effective date of the decision;

4) The individual's due process rights and the names and addresses of individuals with whom appeals may be filed; and

5) A statement of the availability of and how to contact the Client Assistance Program.

4. Documentation requirements

a. The case record must document and specify the reasons for the ineligibility determination.

b. In those cases where a ineligibility decision is based on the finding that an individual is incapable of achieving an employment outcome, a review must be completed not later than twelve (12) months after the determination was made and annually thereafter if requested if requested by the individual or individual's representative.

c. The documentation regarding the reason for closing the case must include the individual's employment status.

d. The narrative entry in the case record also notes any referrals to other agencies and programs.

5. Referral to other agencies

a. The counselor will refer the individual who is determined ineligible to other agencies, including, as appropriate, the State's Independent Living Program.

C. Closure of Case Records (Rehabilitated)

1. Certification of Eligibility

a. The eligibility certificate must be signed and dated by the qualified vocational rehabilitation counselor and placed in the case record.

2. Consultation Requirements:

a. The joint signatory requirement of the IPE encompasses both the development of the initial IPE and any subsequent amendments including the closure amendment of the IPE;

b. The plans for the provision of post-employment services after a suitable employment goal has been achieved and the basis on which those plans are developed. (See also 5., b. and 6., b.)

3. Notification Requirements:

a. A copy of the IPE closure amendment and plans for post-employment services must be provided to the individual, or, as appropriate, the individual and a parent, guardian, or other representative.

4. Review Requirements:

a. For an individual who has been placed in extended employment in a rehabilitation facility, or who is earning less than minimum wage, an annual review and re-evaluation in each of the next two (2) years is required to determine the feasibility of future employment of the individual in the competitive labor market. Review thereafter is at the request of the individual.

5. IPE Documentation:

a. The IPE must include, at a minimum, the basis on which the individual was determined to be rehabilitated.

b. The IPE must also include a statement of the need for the provision of post-employment services after an employment goal has been achieved and the basis of that need.

1) In the case of an individual with significant disabilities, as appropriate, the IPE must include a statement as to how these post-employment services will be provided or arranged through cooperative agreements with other service providers.

6. Case Record Documentation:

a. In addition to the data required for the Management Information System (MIS), the case record is to be documented as follows:

1) The reason for closing the case;

2) The individual's employment status;

3) The basis on which the employment was determined to be appropriate;

4) For competitive employment closures, verification that the individual is compensated at or above the minimum wage and the level of benefits is not less than that customarily paid by the employer for the same or similar work performed by non-disabled individuals; and

5) A description of the way in which services provided by ORS contributed to the individual's successful employment.

b. The case narrative must reflect a statement of need for post-employment services after the employment goal has been achieved, the basis of that need, and a description of the services provided and the outcomes achieved.

D. Closure of cases, not rehabilitated following initiation of IPE services

1. Documentation and review requirements:

a. The requirements previously outlined also pertain to closures for ineligibility decisions and closures for other reasons.

b. The rationale for the ineligibility decision is recorded as an amendment to the IPE.

2. Consultation requirements:

a. If services are to be terminated under an IPE because of a determination that the individual is not capable of achieving a vocational goal and is therefore no longer eligible, this determination is made only after providing an opportunity for full consultation with the individual, or as appropriate, the individual's representative.

3. Notification Requirements:

a. The individual must be notified in writing, or as necessary, in other modes of communication, of the following information.

1) The Agency's decision;

2) The basis for the decision;

3) The effective date of the decision;

4) The individual's appeal rights and the names and addresses of individuals with whom appeals may be filed; and

5) A statement of the availability of and how to contact the Client Assistance Program.

E. Closure of Cases Meeting Eligibility Requirements: IPE Developed, Services Not Initiated; IPE Not Developed

1. Certification of Eligibility

a. The eligibility certificate must be signed and dated by the qualified vocational rehabilitation counselor and placed in the case record.

2. Consultation

a. The decision to close is made only after full consultation with the individual or, as appropriate, the individual's parent, guardian, or other representative, or after giving a clear opportunity for the consultation, if possible.

b. The joint signatory requirement of the IPE encompasses both the development of the initial IPE and any subsequent amendments including the closure amendment of the IPE.

3. Notification Requirements:

a. The individual must be notified in writing, or as necessary, in other modes of communication, of the following information.

1) The Agency's decision;

2) The basis for the decision;

3) The effective date of the decision;

4) The individual's due process rights and the names and addresses of individuals with whom appeals may be filed; and

5) A statement of the availability of and how to contact the Client Assistance Program.

F. Cases closed from Post-Employment

1. Procedures for such closure are described in Section 115.15, III., E.

G. At time of closure, counselor will complete the appropriate section on the MIS. The MIS and the case record are then submitted to the supervisor for review and signature.

OCCUPATIONAL TOOLS, EQUIPMENT, LICENSES, INITIAL STOCK AND SUPPLIES

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; Section 103(a)(9); 34 CFR 361.48(p); RIGL 37-2-22; and 29USC 723(a)(12).

II. POLICY STATEMENT AND PURPOSE:

It is the policy of the Office of Rehabilitation Services (ORS) to provide individuals with disabilities with all necessary services and supplies to insure their reaching the goal of employment, including self-employment and small business enterprise. This section outlines the standards and procedures for the provision of occupational licenses, tools, equipment, and initial stock and supplies whenever necessary to enable a client to attain or maintain employment utilizing informed choice.

A. Definitions

1. Tools - Those tools not normally provided by the trainer or employer that are required to enable a person with a disability to participate in a training program or to obtain and maintain suitable employment, including specialized tools which will enable the individual with a disability to perform a particular work function.

2. Equipment - Apparatuses, machinery (including computers and all necessary attachments), and appliances normally found in places of business. Equipment usually includes those apparatuses, machinery, and appliances that are ordinarily of a stationary nature during the time of utilization and which effect a given result for a particular business, trade or profession.

    a. Equipment considered assistive technology to accommodate the individual with a disability and assist in her/his overall performance in the business or profession, may be provided, but as outlined under Section 115.16.

3. Occupational License - Any license, permit, or other written authority required by a state, city, or other governmental unit in order to enter an occupation or small business.

4. Initial Stock and Supplies

a. Stock - The initial inventory of merchandise or goods necessary for direct resale to consumers or for further preparation for direct resale by an individual with a disability who is self-employed. The Business Enterprises Program is not subject to this policy; see Section 115.13.

b. Supplies - Initial expendable items necessary to enable the individual with a disability to carry out the normal operations of a business, trade, or profession on the premises.

5. Clothing/Uniforms - Those items of clothing required or expected of an individual entering a career or occupation.

III. PROCEDURES:

A. If the employment goal approved by the counselor and supervisor is self-employment, an approved business plan is included as an attachment to the Individualized Plan for Employment (IPE) (See Employment, Section 115.10).

B. Conditions/Limitations

1. Comparable benefits must be considered (See Section 115.5).

2. A financial needs test must be conducted to determine the agency's financial participation in the provision of services and occupational licenses, tools, equipment, and initial stocks and supplies (See Section 115.8).

3. The counselor must document that the individual with a disability has a reasonable likelihood of qualifying for and securing the occupational license. The counselor must determine that:

a. The physical and intellectual demands of the occupation, with or without reasonable accommodations are within the capability of the individual with a disability; and

b. The determination is based on a rehabilitation engineering assessment; and

c. Any issues raised have been addressed wherever appropriate.

4. Responsibility for any necessary insurance for and maintenance of tools and equipment must be described in the IPE.

5. Equipment may be purchased, leased, or rented when necessary to enable an individual with a disability to carry out the requirements and efficient operation of a business, trade, or profession.

6. The agency may provide up to six (6) months of initial stock and supplies as required by the specific business, trade, or profession.

7. The individual with a disability is expected to replenish depleted initial stock and supplies thereafter.

8. The counselor may authorize up to a maximum of ten thousand dollars ($10,000) for the purchase of any necessary occupational licenses, tools, equipment (excluding assistive technology), or initial stocks and supplies.

    a. The Administrator has the authority to waive the maximum amount when individual exceptional circumstances warrant.

    b. The nature and scope of the individual exceptional circumstances must be documented and approved prior to authorization of purchases.

9. The Agency may provide tools, equipment, or occupational licenses when necessary for the individual with a disability to maintain employment. The Agency shall not provide initial stocks and supplies as post-employment services.

10. The Agency shall hold legal title and control of any tools, equipment, and initial stocks and supplies purchased for an individual with a disability as part of the IPE, in accordance with state laws and regulations. At the time such equipment is included in the individual's IPE, an ORS-20 shall be completed and signed, with original to the client, copy for the record, and copy to Fiscal.

    a. The Agency may require the return of such property if it is determined that the property is not being used for the purpose for which it was provided or in cases of fraud, waste, or abuse.

    b. All such property shall be returned to the Agency in good condition upon request. While title is held by the Agency, these goods cannot be attached, confiscated, or otherwise encumbered by creditors or other such entities.

    c. When the case is ready for closure, title to these goods shall be transferred to the client via the release of ownership on the ORS-20 form. Closure may occur when the individual with a disability is performing successfully in an occupation or self-employment for ninety (90) days, and, if in self-employment, meets outcome criteria for self-employment closure criteria.

1) The closure criteria for success in achieving a self-employment goal are:

a) Achievement of the first six (6) month objectives written into the business plan; and

b) Attainment of the criteria for an employment outcome (section II).

C. Purchasing Procedures

1. Any item costing five hundred dollars ($500) or less may be purchased directly by the agency.

2. Any item costing in excess of five hundred dollars ($500) but less than five thousand dollars ($5,000) may be purchased after the individual and counselor have secured three (3) competitive bids and have documented justification as to the final choice of vendor.

3. Any item costing in excess of two thousand five hundred dollars ($2,500), but less than five thousand dollars ($5,000) may be purchased by the agency only with the respective Deputy Administrative approval. Three (3) competitive bids must be secured and documented as to the final choice of vendor.

4. When purchasing items, the agency is required to first check all Master Price Agreements (MPA) to check if one is available covering the area of purchase. If so, then the agency is required to utilize the MPA. The agency must also utilize Correctional Industries products and services when they are available. Also, whenever possible, one of the three quotes secured in any of the scenarios mentioned above must be obtained from a Certified Minority or Woman-Owned Business Enterprise (MBE/WBE).

5. Items costing more than five thousand dollars ($5,000) may be obtained through the State Purchasing System's competitive bidding process.

D. Licenses

1. The individual with the assistance of the counselor, as necessary, shall contact the appropriate licensure authority to determine the specific requirements.

Examples include, but are not limited to:

a. Bonding requirements for the profession; and/or

b. Health and safety requirements for the trade.

2. License fees, and if necessary, funding for training and/or examinations required to obtain a license or certificate may be provided by the Agency.

3. License renewals will be the responsibility of the individual with a disability.

E. Tools

1. In assessing the need for tools, the counselor authorizes reimbursement for only those tools, such as a starter kit, necessary to meet the particular job requirements. Before any authorization, counselors shall explore whether the employer will provide those tools in the course of hiring an individual for that job.

2. Tools required in the course of postsecondary training are considered books and supplies. See Section 115.28.

F. Equipment

1. The counselor assists the individual with a disability to assess the equipment needs related to a particular profession, trade, or business, including obtaining a professional assessment, as necessary.

2. A rehabilitation technology assessment related to the occupational equipment may also be appropriate for certain individuals.

3. All equipment that is purchased by ORS must meet industry safety standards as described by OSHA or another similar regulatory agency. The counselor must ensure that the individual has been trained in the use of the equipment through a report from a qualified vendor stating that the individual is knowledgeable and proficient in its use.

G. Initial Stock and Supplies

1. The counselor assists the individual with a disability in determining what constitutes adequate initial stock and supplies through consultation with a similar business or appropriate entity.

2. ORS may provide for a period of six (6) months' initial stock and supplies as required and stipulated by place of business. Any exception to the six (6) month limit shall require administrative approval.

H. Legal Title

1. The individual with a disability must be informed about legal title and control and complete the top portion of the "Ownership of Materials Statement" form (ORS-20). One copy is given to the individual, one copy is forwarded to the fiscal office, and one copy is filed in the case folder.

2. Once an individual with a disability has been determined to be rehabilitated in self-employment or other occupation, the counselor shall complete the bottom portion of the "Ownership of Materials Statement" (ORS-20) form, thereby releasing the materials to the individual. One copy is given to the individual, one copy is sent to the fiscal office, and one copy is filed in the case folder.

    a. If the individual: 1) does not use the materials as intended; 2) does not succeed in training or employment prior to case closure; or 3) is convicted of fraud after closure, these materials may be retrieved and returned to the agency.

3. When the Agency is involved in partial purchase of equipment, stock, tools, or supplies, the Agency will retain that percentage of ownership as indicated in the Economic Need Form (ORS-60).

TRANSPORTATION

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; 29 USC 723(a)(8); 34 CFR 361.5(b)(57); and 34 CFR 361.48(h)**.**

II. POLICY STATEMENT AND PURPOSE:

Transportation services are support services provided to enable an individual with a disability to access primary rehabilitation services ***utilizing informed choice of the individual*** leading to employment and his/her employment goal.

III. PROCEDURES:

A. Assessment

The Agency will assess with the individual a variety of transportation options to determine effective and efficient options which will support the attainment of the individual's employment goal. Transportation services are always connected to a specific vocational rehabilitation service or attainment of the employment goal and are identified as such on the Individualized Plan for Employment (IPE).

Such assessment includes the individual's specific transportation needs including, but not limited to, her/his ability to access and use public transportation, para-transit services, or a privately owned vehicle for transportation to employment. Other considerations include transportation resources through a community rehabilitation program or payment to another vehicle owner.

Transportation services are not provided by the ORS on a permanent basis.

B. Types of Transportation Services may include:

1. Public transportation (including para-transit);

2. Travel reimbursement;

3. Travel training to access public transportation;

4. Driving evaluations and training when:

   a. Disability presents an impediment to driving; and

b. Driver evaluation indicates likelihood that obstacles can be overcome with training or accommodation.

5. Vehicle modifications to enable an eligible individual to use her/his vehicle to access work.

C. Methods of Payment for Transportation Services

1. Public Transportation

a. Reimburse individual directly;
b. Authorize a Community Rehabilitation Program or organization for reimbursement; or
c. Issue RI Public Transit Authority tickets (RIPTIKS).

2. Travel Reimbursement

a. Automobile Travel: Individual is reimbursed at the equivalent bus or commuter rail rate for the individual.
b. If comparable public transportation is not available, the individual may be reimbursed at the current mileage rate. Individual details number of miles traveled, dates of travel, destination on the Agency billing form (ORS-33).
c. Public/Private Transportation Vendor
Authorizations are provided directly to the vendor according to fees in the Agency fee schedule.

3. Travel Training

Payment is provided to an approved vendor.

4. Adaptive Driver Evaluation and Driver Training

Authorization is made directly to the vendor for evaluation and reimbursement upon receipt of evaluation report. See D. below for procedures.

D. Procedures for Adaptive Driver Evaluation and Training

1. Adaptive Driver Evaluation

The purpose of an adaptive driver evaluation is to identify the need for adaptive equipment to a vehicle and/or the need for specialized training to overcome obstacles to driving related to a disability. The evaluation is conducted at a facility with staff skilled in disability-related driver assessment. A basic evaluation consists of two (2) parts:

a. An evaluation with simulated driving equipment to measure the individual's basic capacity for independent driving (including cognitive ability, range of motion, reaction times, visual acuity, threat response, etc.), followed by:

b. An on-the-road evaluation with a driving instructor, skilled in disability-related driving issues, to assess the individual's driving potential behind the wheel (with the proper adaptive driving equipment, if necessary). Usually, this will be sufficient to identify the individual's ability to learn to drive independently. However, in some instances, it may be necessary to provide a supplemental on-the-road evaluation to determine whether or not the individual is likely to be able to learn to drive independently. In such cases up to five (5) additional on-the-road driver training sessions may be provided to resolve the issue.

c. If instruction to pass the learner's permit test is necessary, up to five (5) tutoring sessions may be provided at the agency's tutoring rate. In some instances this limit may be waived with a supervisory review of the report that justifies extending the tutoring period in order to successfully complete the permit test.

2. Adaptive Driver Training

A Rehabilitation Counselor is authorized to approve an Individualized Driving Assessment and up to twenty (20) hours of driving classes. Should an individual fail to pass the Division of Motor Vehicles' driving test after the initial twenty (20) hours of classes, a Supervisor will review the case before any additional classes are authorized. A learner's permit is required before initiating driver training.

a. Counselors must inform the client that there is a maximum of thirty-five (35) hours for on-the-road training and include the timeframe on the original or amended IPE.

b. When driving on the road with a learner's permit, benchmarks related to independent driving (e.g., driving in traffic, making left and right turns, driving through intersections with a traffic light, stopping at stop signs, recognizing and observing traffic signs, backing up straight without hitting the curb, pulling out into traffic, etc.) will be established. The vendor will forward a progress report to the counselor for each ten (10) session increment for review and renewal, as appropriate. By the completion of driver training, it is expected that the individual will have passed all written and on-the-road tests leading to a driver's license.

ORDER OF SELECTION

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973 (Public Law 93-112) as amended through 1998, Sect. 101(a)(5)(A)(B)(C)(C), (15)(B); 29 U.S.C. Sec. 721 (a)(5) and (a)(20), 705 (21); 34 CFR 361.63.

II. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services intends to evaluate all applicants without delay to determine eligibility for services and to provide services to all eligible persons until such time that a reduction in services must be imposed due to a shortage of resources (funds, community rehabilitation programs, staff, or other resources). In the event such a shortage should occur, it is required that ORS implement the Order of Selection for services.

The following Order of Selection for services will be utilized for all individuals across the state found eligible on and after the implementation date. A statewide waiting list will be maintained by category and by application date of all those eligible individuals who do not meet Order of Selection priorities. ORS will also provide to all individuals assigned to a waiting list access to Information and Referral Services as described below.

The purpose of this section is to describe the Order of Selection and the policy and procedures governing its implementation.

A. Categories of Order of Selection for Services

1. Individuals with the most significant disabilities.

2. Individuals with significant disabilities.

3. All other individuals with disabilities who cannot be classified in a higher category.

B. Definitions

1. Individual with a Disability

An "individual with a disability" means any individual:

a. Who has a physical or mental impairment which, for that individual, constitutes or results in a substantial impediment to employment; and

b. Who can benefit in terms of an employment outcome from vocational rehabilitation services.

2. Disability

The term "disability" means a physical or mental impairment that constitutes or results in a substantial impediment to employment.

3. Individual with a Significant Disability

The term "individual with significant disability" means an individual:

a. Who has a severe physical or mental impairment which seriously limits one or more functional capacities (e.g., mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

and

b. Whose vocational rehabilitation can be expected to require multiple VR 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 retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disabilities, end-stage renal disease or another disability or combination of disabilities based on an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

4. Individual with a Most Significant Disability

The term "individual with a most significant disability" means an individual:

a. Who has a severe physical or mental impairment which seriously limits three (3) or more functional capacities (e.g., mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

and

b. Whose vocational rehabilitation can be expected to require multiple VR 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 retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disabilities, end-stage renal disease or another disability or combination of disabilities based on an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

5. Multiple VR Services

The term "multiple VR services" means two (2) or more primary services (except assessment for determining eligibility and vocational rehabilitation needs and the customary guidance and counseling provided during the management of VR cases).

6. Extended Period of Time

The term "extended period of time" means, as a guideline, six (6) months or more.

7. Primary VR Services

The term "primary VR services" means those services which reduce the impact of functional limitations on employment outcome (physical and mental restoration services, vocational and other training services, placement services, interpreter and reader services, recruitment and training in public service, rehabilitation teaching, orientation and mobility services, occupational licenses, tools, equipment, and initial stocks and supplies, rehabilitation technology, telecommunication, sensory, and other technological aids and devices, referral services, and supported employment services) as opposed to supportive services which complement the provision of primary services (transportation, including van modification; maintenance; services to family members; personal assistance services (on or off the job) provided while an individual with a disability is receiving primary services.

8. Information and Referral Services

The term "information and referral services" means vocational rehabilitation information, advice, and guidance to assist individuals in achieving employment. It includes appropriately referring individuals to Federal, State, and other programs such as the one-stop career centers that are best suited to meet the individual's specific employment needs.

III. PROCEDURES:

A. The ORS Administrator or her/his designee will announce publicly the date, level, and rationale for the imposition of an Order of Selection for services.

B. Whenever the Order of Selection is imposed, all applicants for VR services will receive both an oral and written explanation about the Order of Selection as part of their explanation about Agency services and processes.

C. Upon a finding of eligibility and completion of the certification of eligibility, the VR counselor will determine the appropriate Order of Selection category for the eligible individual. If the priority category to which the individual is assigned is one which is currently being served by ORS, case status "10" is utilized on the MIS. If it is a category not currently being served, case status "04" is utilized in MIS.

The case record must include the rationale for the Order of Selection classification of the individual and relevant documentation. To support a determination of either significant or most significant disability, the counselor should clearly describe and quantify, as much as possible, the functional limitations caused by the individual's disability or disabilities, the condition(s) under which the limitations occur, and the employment-related consequences for the individual.

D. A letter of explanation including a notice of due process rights is sent to all individuals who are eligible but who do not meet Order of Selection priority categories currently being served. These individuals are placed on a waiting list for services. In addition, they are informed of the availability and scope of Information and Referral Services. Included with this letter is a referral, specific points of contact, and information about the most suitable services that will assist the individual to prepare, secure, retain, or regain employment. Copies of the letters are filed in the case record.

E. When information which is relevant to an Order of Selection classification is obtained about an individual subsequent to a classification decision, the VR counselor must promptly reassess all relevant data to the extent necessary to assure an accurate decision.

F. Requests for Post-Employment services are not subject to the Order of Selection.

MOTOR VEHICLE MODIFICATION

I. LEGAL AUTHORITY:

The Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; 34 CFR 361.5(b)(8) (44)(45); 34 CFR 361.5(b)(57); and 34 CFR 361.5 (11)

II. POLICY STATEMENT AND PURPOSE:

Vehicle Modification services are specific rehabilitation technology services that may be provided for individuals with disabilities to access services to attain an employment goal as identified in an Individualized Plan for Employment. Vehicle modification services are supportive services designed to remove transportation barriers to attaining an employment goal.

III. PROCEDURES:

A. Definitions

1. Motor Vehicle Modification Coordinator (MVMC): The MVMC is responsible for reviewing motor vehicle modifications with the counselor, all bids submitted by vehicle modification vendors, and determining that motor vehicle modification services are provided in accordance with the provisions of this Chapter.

2. Structural Modification: A major structural modification, usually to a van, based on specific knowledge of the individual's functional ability to drive. Information about functional ability is obtained through a driving evaluation that includes hospital-based occupational and physical therapy evaluations specifically related to the individual' ability to drive or be a passenger. Structural modifications are usually permanent modifications to the vehicle, which are not easily transferred to another vehicle and may require major overhauls of the driving compartment or booster systems to activate the brake, accelerator, and steering systems. Structural modifications may include wheelchair lifts, reduced effort steering systems, reduced-effort hand control systems.

3. Non-structural Modification: A non-structural modification is based on specific knowledge of the individual's functional ability to drive. Information about functional ability is obtained through a driving evaluation, including hospital-based occupational and physical therapy evaluations specifically related to the individual's ability to drive or be a passenger. Non-structural modifications are usually non-permanent modifications to a vehicle, and are easily transferable to another vehicle, and do not require overhauls of the driving compartment or booster systems to activate the brake, accelerator, and steering systems.

4. The Administrator or designee is responsible for the supervision of the Motor Vehicle Modification Coordinator (MVMC).

B. Scope of Services

1. Motor vehicle modification services are rehabilitation technology services that may be provided only when necessary to enable an eligible individual to achieve a vocational goal. Such services shall be provided only as part of an approved Individualized Plan for Employment (IPE). Structural modifications to a vehicle shall be provided only after an individual with a disability has developed an IPE with a vocational goal to achieve a competitive employment outcome (as defined in Section 115.10).

C. Evaluation of Need for Motor Vehicle Modification Services

1. Prior to initiating an evaluation for motor vehicle modifications, the counselor shall explore the availability of effective and efficient options to transport an individual for the intended purpose.

2. Individuals who request motor vehicle modification services to enable them to drive shall be required to undergo an evaluation authorized by the agency at a facility acceptable to the agency consistent with the individual's informed choice. The evaluation establishes the individual's functional ability to drive, the need for motor vehicle modifications, the type of vehicle which is appropriate, and the type and extent of modifications that are required.

3. Individuals who are planning to purchase a vehicle should be advised to wait until the required evaluation is completed before purchasing a vehicle. ORS reserves the right to limit by year, make, or model which vehicles it will consider for modification.

4. Individuals who request motor vehicle modification services to enable them to ride as a passenger shall also be required to undergo an evaluation authorized by the agency at a facility acceptable to the agency to determine the need for motor vehicle modification, the type of vehicle which is appropriate, and the type and extent of modifications required. The agency assumes the costs of such evaluation.

5. The counselor must inform the individual with a disability that proceeding with the evaluations is not a guarantee that the agency will participate, either in part or in whole, in the cost of vehicle modifications.

D. Limitations

1. The agency will not provide or purchase:

a. Modifications to a vehicle if the individual owns another vehicle which would meet transportation needs;

b. Modifications to vehicles which do not meet the requirements of state inspection under the R. I. Motor Vehicle Code;

c. Modifications to a vehicle for the purpose of enabling an individual to drive who, in the opinion of the agency after consultation with an agency consultant, is not capable of operating a motor vehicle with reasonable safety due to the individual's disability.

d. Structural modifications to a van, with or without existing modifications, if an automobile would satisfy the person's need for transportation. However, non-structural modifications such as hand controls, steering knobs, left-foot accelerator extensions, etc., may be considered if van transportation is preferred and no extensive structural modifications are required to make the van accessible to the person with a disability.

2. The agency will not provide structural modifications to a vehicle if the following conditions exist:

a. The vehicle is more than two (2) years old, or has more than thirty thousand (30,000) miles on the odometer. However, the Motor Vehicle Modification Coordinator (MVMC), with the concurrence of the Administrator or designee, may authorize the provision of modifications to such a vehicle subject to inspection and recommended approval by the ORS Vehicle Modification Consultant; or

b. When the agency has previously provided motor vehicle modification services to the same individual. The Motor Vehicle Modification Coordinator, with the concurrence of the Administrator or designee, may authorize provision of these services when there are exceptional circumstances related to the individual achieving an employment goal or maintaining employment; or

c. When the vehicle has previously been modified for another individual or has been modified by the client without the assistance of the agency. The MVMC, with the concurrence of the Administrator, may waive this limitation if the modification is deemed by the coordinator to be appropriate and in conformance with good vocational rehabilitation practice.

d. The above restrictions do not apply to automobile modifications that are non-structural in nature.

E. Determination of Financial Need (ORS-60 form) for Vehicle Modifications

1. In order to receive vehicle modification services as part of an IPE, an up-to-date financial need determination must be completed in accordance with Section 115.8

of this manual in order to determine the individual's ability or inability to purchase such services.

2. The 'Need Computation' section of the form allows for the deduction from gross weekly income of "on-going medical expenses or rehabilitation expenses." In cases where a van must be purchased for modification, a standard/average cost of two hundred dollars ($200.00) per month is assigned as a deduction from gross income as a rehabilitation expense. The two hundred dollars ($200.00) per month is the average difference between the cost of buying a van and purchasing an average mid-sized sedan.

F. Responsibilities of the Individual with a Disability

1. The agency will not assume responsibility for the regular or on-going maintenance or repair of vehicles for which it has provided modifications.

2. Insurance on Motor Vehicle Modification - The agency will not repair or replace motor vehicle modifications damaged by accident, vandalism, or fire. The counselor must emphasize to the individual receiving vehicle modification services that s/he must arrange for adequate insurance coverage.

G. Equipment

1. The agency will <u>not</u> provide standard equipment or customary optional equipment that is ordinarily available when an individual purchases a new vehicle. Such equipment includes, but is not limited to:

   a. Automatic transmission;

   b. Power steering;

   c. Power brakes;

   d. Automatic speed control;

   e. Air conditioning;

   f. Heavy duty alternators; or

   g. Power windows.

2. The agency will <u>not</u> purchase or pay for the installation of non-essential equipment, such as:

   a. Radios, AM or FM, or other entertainment equipment;

b. Burglar alarm systems; or

c. Insulation.

3. The agency may provide non-structural modifications to a vehicle. Such modifications include, but are not limited to:

a. VA approved hand controls;

b. Wheelchair carriers or trunk loaders;

c. Pedal blocks;

d. Left foot brake and accelerator pedals;

e. Extensions on turn signal and/or shift lever; and

f. Electric parking brake.

4. The agency may provide equipment for an eligible individual that is designed to enable them to enter, exit, operate, or be transported in their modified vehicle. This equipment may include:

a. Wheelchair securement systems; raised roofs; lowered floors.

b. Restraint systems if the factory-installed system is inadequate or inappropriate;

c. Modification to the power brake system already purchased; switches or touch pads for secondary controls.

d. Wheelchair lift;

e. Dual battery system;

f. Outside rear-view mirrors;

g. Rear end sensors; and

h. Other equipment essential for safe entry, exit, and transit in the vehicle.

5. After completion of structural modifications to automobiles or installation of equipment in vans, the installed equipment belongs to the client.

6. If the motor vehicle under consideration is not owned by the individual with a disability and is owned by a family member, the counselor must obtain a

notarized statement from the owner giving permission to the individual to drive the motor vehicle for at least ten (10) years. The owner must also provide written permission to proceed with the proposed vehicle modification and provide proof of ownership (i.e., DMV registration form, title certificate, tax bill, copy of bank loan, etc.). If there is a lender or mortgagor, clearance from that party must also be obtained in writing. In addition, the owner and client must sign a statement that the client will continue to meet the registration, insurance, and inspection requirements in accordance with RIGL 31-3-2, 31-38-1, and 31-47-1 et seq.

H. Vendor Selection Process for Modifications under $2,500.00

1. The counselor is responsible for ensuring that the individual with a disability and anyone with a lien on the vehicle approve the final plans before submitting them to the MVMC.

2. All purchases of two hundred fifty dollars ($250) and over but less than two thousand five hundred dollars ($2,500) require a current driving evaluation report with recommendations for the adaptive driving equipment. The counselor and client will select appropriate vendors and obtain at least three (3) cost estimates for the adaptive equipment. In most cases, adaptive driving equipment costing less than two thousand five hundred dollars ($2,500) will be non-structural in nature and will not require the intervention of the Rehabilitation Technologist. In these cases, the counselor will treat the situation like any other assistive technology service and authorize the vendor directly after obtaining cost estimates and selecting the most suitable vendor considering cost, expertise, and user preference.

3. An on-the-road evaluation will be obtained when recommended by the driver evaluation facility or when deemed appropriate by the counselor.

4. If driver training with the adaptive driving equipment is recommended, such training will be provided to ensure the person with a disability is able to operate the vehicle within the boundaries of safety required by law.

I. Vendor Selection Process for Modification in Excess of $2,500.00

1. The counselor will submit to the MVMC:

a. The completed Motor Vehicle Modification Request;

b. All pertinent comprehensive evaluations concerning the individual's driving ability, as well as the need for modification;

c. All pertinent information from approved waivers accompanied by a written report from the individual's regular mechanic; and

d. A copy of the IPE (ORS-17) and Economic Need Determination form (ORS-60).

2. After an initial review by the MVMC, this information (excluding the ORS-17 (IPE) and ORS-60 (Economic Need Determination)) is forwarded to the agency's rehabilitation technology consultant to review the information and provide the agency with a bid request document.

3. The MVMC will furnish the counselor with a list of approved vendors. Three (3) vendors will receive the scope of work requested in order to receive three (3) bids after discussion between client and the counselor.

4. Upon receipt of the solicited bids, the counselor and the MVMC, with consultation from the Rehabilitation Technologist if appropriate, will review them for compliance with the bid request and notify the bidder of any discrepancies as soon as possible.

5. After the approved bids have been received and reviewed, the lowest bidder for the scope of work is selected to develop a contract to implement the approved plan. The contract must contain the following minimum requirements:

   a. The name and address of all parties to the contract;

   b. A complete itemized description of the work to be performed, including item prices. The work must be in accordance with recommendations on the Rehabilitation Technology Consultant's bidding form.

   c. The total cost of motor vehicle modification(s) and any relevant payment terms;

   d. The projected date of completion of the contract work;

   e. Specification of the warranties with respect to the workmanship and materials to be provided;

   f. An acknowledgment by the contracting parties that the State of Rhode Island, acting through the Office of Rehabilitation Services, is <u>not</u> party to the contract. The vendor acknowledges that the client’s obligation to pay is subject to the prior approval by the ORS of the completed work.

   g. A statement that the vendor meets any and all applicable State or municipal licensing and/or registration requirements to engage in motor vehicle modification, and is approved by the manufacturer to install said adaptive equipment and that the vendor agrees to provide the individual with a disability with any certification or documents in proof thereof if required.

h. Acknowledgment by the vendor accepting the amount of the ORS check for vehicle modification services as payment in full.

i. Documentation that the vendor has completed a site visit with the individual to assess for himself the individual's needs and to conduct any measurements needed to make a proper bid. Any changes proposed after this site visit must be cleared through the agency's Rehabilitation Technologist before it is incorporated into the bid.

6. The counselor and the MVMC shall review the proposed contract and notify the individual with a disability of any deficiencies in the document with respect to the minimum requirements. The counselor must also advise the individual not to sign the contract until after notification from the MVMC that the contract has been approved for motor vehicle modification.

7. Once the individual, with the assistance of the MVMC and the counselor, has submitted the final proposed contract document, the MVMC shall review and approve or reject the contract documents. If approved, the MVMC shall notify the counselor that the individual is eligible for a direct motor vehicle modification payment from the agency in order to complete the motor vehicle modification according to the approved contract document and specifications. The counselor then notifies the individual that the contract has been approved (or denied, if not approved).

8. The counselor completes a T-2 form in the customer’s name which shall specify the dollar amount of the motor vehicle modifications less any manufacturer's rebate and/or contribution by the individual and forward it to the Fiscal Unit.

J. Inspection and Payment Process

1. Before the approved vehicle modification has begun, the vendor will arrange with the MVMC for a midpoint inspection by the Rehabilitation Technologist to ensure compliance with the bid specifications.

2. Upon completion of the vehicle modification work, the vendor shall notify the Rehabilitation Technologist to arrange for a final inspection of the work.

3. Upon the individual’s receipt of the Rehabilitation Technologist's written approval of the vehicle modification work, the individual with a disability will bill the agency for the completed work and the counselor will process payment.

4. Upon receipt of the check, the counselor will schedule a meeting with the individual with a disability, the vendor, and the MVMC, at which time the individual and the counselor will ensure that the following documentation is provided to the MVMC:

a. A copy of the signed and dated motor vehicle modification contract; and

b. Written approval from the Rehabilitation Technologist that the work has been completed in accordance with the specifications of this contract.

5. The individual with a disability will then endorse the check and turn it over to the vendor as payment; the counselor will make a copy of both sides of the endorsed check and maintain the copy in the case file.

6. Payment of any cost to the individual with a disability for the motor vehicle modifications is due at the time of completion, when the work is completed and inspected simultaneously by the client and ORS.

7. In the event that a proposed motor vehicle modification contract requires up-front partial payment before the motor vehicle modification, the vendor may submit to the MVMC a request for partial payment prior to the completion of the contract. The vendor must provide justification for an up-front partial payment and an itemized list of materials and supplies to be purchased. If the request is approved, the MVMC may authorize the partial payment prior to the start of the work in an amount not to exceed the amount of materials and supplies required for the modifications.

8. If the MVMC approves the request for partial payment, the counselor shall authorize a partial payment in the customer's name for the amount specified above. The amount of the final payment of the contract shall be adjusted to reflect this authorized partial payment.

9. If modification rebates are available, they must be used toward the modification costs.

10. Upon receipt of the check, the counselor will meet with the vendor and the individual with a disability and make payment as in d. and e. above.

K. Training with Motor Vehicle Modifications

In all cases where motor vehicle modifications are provided by the agency to an individual with a disability who will also be the driver, the counselor will ensure that proper training is provided concurrently with the provision of motor vehicle modifications. The counselor will select a vendor licensed to provide driver training who is familiar with the motor vehicle technologies that enable the person with a disability to drive. The MVMC can assist the counselor in selecting the appropriate adaptive driving instructor. The only exception to this procedure is when replacement equipment is provided and the person with a disability is a licensed driver already using the provided adaptive driving equipment.

STANDARDS FOR COMMUNITY REHABILITATION PROGRAMS AND OTHER PROVIDERS OF SERVICES

THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM TITLE I AND STATE SUPPORTED EMPLOYMENT SERVICES PROGRAM - TITLE VI - PART C

THE STATE INDEPENDENT LIVING REHABILITATION SERVICES PROGRAM TITLE VII - PART B

I. LEGAL AUTHORITY:

Rehabilitation Act Amendments of 1992 (PL 102-569); Title I and Title VI - Part C: 34 CFR Part 80; 34 CFR Part 361, 361.1(c), 361.2(a), 361.21, 361.45, 361.51, 361.73, 361.76, 361.86

Title VII - Part B: 34 CFR Part 365; 34 CFR 365.1(c); 34 CFR 361.1(c); 34 CFR 365.40; 34 CFR 361.51; 34 CFR 365.41; CFR 361.51(e); 34 CFR Part 76; 34 CFR Part 80.

II. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services (ORS) establishes, maintains, and disseminates written standards for Community Rehabilitation Programs in the provision of rehabilitation services and independent living services. The standards assure that community rehabilitation programs and other providers of rehabilitation services have qualified personnel, a safe and accessible environment, have obtained applicable state and federal licenses, and provide quality services, including independent living services, designed to enable individuals with disabilities to have access to employment, career advancement opportunities and choices.

A. Definitions

1. Community Rehabilitation Program

Community Rehabilitation Program means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities and provides, singly or in combination, such services for such individual to enable her/him to maximize her/his opportunities for employment including career advancement, as follows:

a. Medical, psychiatric, psychological, social and vocational services that are provided under one management;

b. Testing, fitting, or training in the use of prosthetic and orthotic devices;

c. Recreational therapy;

d. Physical and occupational therapy;

e. Speech, language, and hearing therapy;

f. Psychiatric, psychological, and social services including positive behavior management;

g. Assessment for determining eligibility and vocational rehabilitation needs;

h. Rehabilitation technology;

i. Job development, placement, and retention services;

j. Evaluation or control of specific disabilities;

k. Orientation and mobility services for individuals who are blind;

l. Extended employment;

m. Psychosocial rehabilitation services;

n. Supported Employment services and extended services;

o. Services to family members when necessary to the vocational rehabilitation of the individual;

p. Personal assistance services; and/or

q. Services similar to the services described in a. through p.

2. Providers of Comprehensive Services for Independent Living

Providers of comprehensive services for independent living means providers of any appropriate combination of services to meet the independent living rehabilitation needs of individuals with significant disabilities which will enhance the ability of an individual with disabilities to live independently and function within the family and community and, if appropriate, secure and maintain appropriate employment (Sec. 702(b) of the Act).

3. Other Providers of Services

Other providers of services include vendors who provide other goods and services such as health care services, psychological services, etc.

III. STANDARDS:

It is expected that all Community Rehabilitation Programs and other providers of services including Comprehensive Services for Independent Living will comply with standards assuring safety, qualified staff, and adherence to applicable federal and state laws and licensing requirements in the provision of services to clients of the Office of Rehabilitation Services.

The Rhode Island Office of Rehabilitation Services encourages Community Rehabilitation Programs to obtain accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF) and utilizes written CARF standards as a guideline for Rhode Island standards. The Rhode Island Office of Rehabilitation Services also expects that applicable licenses be obtained from other state agencies such as Mental Health, Retardation, and Hospitals.

A. Programs and Services

Community Rehabilitation Programs and Providers of Comprehensive Independent Living Services must comply with the following:

1. Program staff must demonstrate that they have relevant education or experience to provide the service, or that another staff member with such qualifications supervises and trains the employee(s).

    a. Staff must be available to develop or update skills if required by the Office of Rehabilitation Services.

2. Programs must show evidence of client choice and involvement in planning for rehabilitation programs. In addition, client satisfaction must be assessed.

3. Programs which have a workshop component in the provision of rehabilitation services must meet minimum standards for health and working conditions.

4. Wages paid to individuals with disabilities who are employed through community rehabilitation programs must be established in accordance with the Fair Labor Standards Act.

5. Programs must have physical plants which meet health and safety standards and provide a safe environment for individuals receiving services including:

    a. Health and sanitation provisions in food handling;

    b. Adequately ventilated environment which is free of air pollutants and other toxic contaminants;

c. Emergency warning systems, emergency plans, and means of egress;

d. Fire protection;

e. Work equipment and tools in safe working order;

f. A designated individual responsible for safety and health;

g. Posted safety rules and practices; at least one individual certified in administering first aid, CPR, Heimlich procedure;

h. Liability insurance and worker's compensation to cover individuals working in the workshop; and

i. Assurance that medical and related health services provided in the facility are under the supervision of persons licensed to provide or supervise provision of these services in Rhode Island.

B. Accessibility of Facilities

Community Rehabilitation Programs, Comprehensive Services for Independent Living, and other providers of services must have physical plants which meet uniform federal and state accessibility standards. Any facility in which vocational rehabilitation services are provided must be accessible to individuals receiving services and must comply with the requirements of the Architectural Barriers Act of 1968, the Uniform Accessibility Standards and their implementing regulations in 41 CFR part 101, subpart 101-19.6, the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act.

C. Personnel Standards

Community Rehabilitation Programs, providers of Comprehensive Services for Independent Living, and other providers of services:

1. Must use qualified personnel, in accordance with any applicable national or State-approved or recognized certification, licensing, or registration requirements, or in the absence of these requirements, other comparable requirements including state personnel requirements, that apply to the profession or discipline in which that category of personnel is providing services.

2. Must include among their personnel, or obtain the services of, individuals able to communicate in the native languages of applicants and eligible individuals who have limited English speaking ability.

3. Must ensure that appropriate modes of communication are used for all applicants and eligible individuals.

D. Affirmative Action

Community Rehabilitation Programs, providers of Comprehensive Services for Independent Living, and other providers of services must have a written affirmative action plan which provides for specific action steps, timetables, and complaint and enforcement procedures in the hiring and advancement of qualified persons with disabilities.

E. Non-discrimination

Community Rehabilitation Programs, providers of Comprehensive Services for Independent Living, and other providers of services must comply with provision of Section 504 of the Rehabilitation Act of 1973 as amended and Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act (34 CFR 76.500), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

F. Fraud, Waste and Abuse

Community Rehabilitation Programs, providers of Comprehensive Services for Independent Living, and other providers of services must have adequate and appropriate policies and procedures to prevent fraud, waste, and abuse.

G. Client Assistance Program (CAP)

Community Rehabilitation Programs, providers of Comprehensive Services for Independent Living, and other providers of services must inform clients of the existence and availability of CAP.

IV. PROCEDURES:

A. The Standards are incorporated into the State Plan for Community Rehabilitation Programs.

B. The Standards are disseminated to all Community Rehabilitation Programs, providers of Comprehensive Services for Independent Living, and other service providers. Training relating to these standards will be provided upon request.

C. ORS will monitor community rehabilitation programs to ensure understanding of and adherence to standards. Training will be provided, if necessary, to insure compliance.

D. Those providers of Comprehensive Services for Independent Living who subcontract for services with other providers will ensure that there is an understanding of and agreement to comply with these standards.

E. Community Rehabilitation Programs and other providers of services must be approved by ORS to provide specific services.

F. Community Rehabilitation Programs and providers of Comprehensive Services for Independent Living which do not meet minimum federal and state accessibility standards must present a plan of action with timetables to comply. ORS will determine if provisional certification can be made.

ADAPTIVE HOUSING POLICY

I. LEGAL AUTHORITY:

The Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; 34 CFR 361.48(t), and 29USC 705(18)(B)(ii).

II. POLICY STATEMENT AND PURPOSE:

Adaptive Housing is a supportive service provided to an individual with a disability under an IPE to enable the individual to have access to the primary living quarters where s/he lives and/or to leave the house in order to work.

A. DEFINITIONS

1. Adaptive Housing Services - architectural changes (or related equipment installation) which render a client's home suitable for pursuit or maintenance of an employment outcome. It includes all construction work required to enable the applicant/individual with a disability to have access to the primary living quarters (e.g., bedroom, bathroom, kitchen, and living room areas) in the home where s/he lives, and the ability to attend to personal hygiene, home-making activities and other basic personal needs.

2. Adaptive Housing Coordinator - is responsible for reviewing architectural specifications with counselor, reviewing contract submissions by the applicant/individual with a disability for Adaptive Housing Services, approving architectural plans, and is responsible for determining that Adaptive Housing Services are provided in accordance with the requirements of this chapter.

III. PROCEDURES:

A. ORS determines that an eligible individual requires primary vocational rehabilitation services and that Adaptive Housing may be a necessary support service.

B. The counselor shall visit the (applicant/individual with a disability) client at the home site being considered for Adaptive Housing Services in order to assess the need for and scope of those services.

C. It is highly encouraged that the client and the counselor discuss the adaptive housing needs process and services with the Adaptive Housing Coordinator.

D. During the assessment, the counselor shall assist the client to make an informed

choice by considering rehabilitation technology needs of the individual and by advising her/him of other options, including exploration of more appropriate housing, e.g., Section 8 housing; the availability of modular or temporary ramps; and the limitations, including the cost and time constraints associated with those services. In addition, the counselor shall advise that proceeding further in the evaluation does not commit the agency to pay for any Adaptive Housing Services.

E. The economic needs test (ORS-60) determination form shall be completed to establish client's financial eligibility for Adaptive Housing Services.

F. The counselor may request the written recommendations of a licensed O.T. or other professional skilled in assessing adaptations to the home through an on-site assessment. The counselor provides the O.T. or other professional with a cover letter outlining the limitations and possible solutions discussed with the client. The Adaptive Housing Coordinator will maintain a current list of professionals for use as on-site consultants.

G. Architectural Evaluations

1. If the counselor feels the initial assessment is complete (including, where applicable, the on-site consultation by an appropriate professional), the counselor should discuss the matter with his/her supervisor prior to proceeding with an on-site architectural evaluation.

2. If the counselor, supervisor, and Adaptive Housing Coordinator concur on the need for an architectural evaluation, an architect, selected in accordance with Division of Purchasing regulations, shall be authorized by the Adaptive Housing Coordinator to prepare a plan sketch, written report, and cost estimate.

3. When the property under consideration is not owned by the client and the requirements in II., C.,1., f. are met, the counselor must obtain a notarized statement from the relative-owner which permits the client to reside on the premises for the required ten (10) year period. The owner must also provide written permission to proceed with the proposed adaptations, provide proof of ownership (copy of deed, etc.), and obtain clearance from a mortgagor, if applicable.

4. Once the architectural report is obtained, the counselor will complete the adaptive housing referral form and submit it to the Adaptive Housing Coordinator along with the architectural report and professional’s report, as appropriate.

5. The Adaptive Housing Coordinator is available to the counselor for consultation to review the proposed plan(s) and to attempt to resolve any

issues that may arise in the course of developing an approvable Adaptive Housing Plan.

6. The counselor is responsible for insuring that the client and the homeowner approve the final plans before submitting them to the Adaptive Housing Coordinator.

7. The Adaptive Housing Coordinator reviews the plan for the provision of housing adaptation services, either approves or denies such provision, and returns the housing referral from to the counselor.

8. If the plan is denied, the counselor shall send a denial of services letter (ORS-122).

9. If the plan is approved by the Adaptive Housing Coordinator, the counselor shall authorize the architect to prepare a working architectural blueprint of the approved plan.

10. The original blueprint must be approved and signed by the client; five (5) copies of the signed original plus the original blueprint are sent to the counselor who will then submit them to the Adaptive Housing Coordinator.

11. After the original blueprint has been approved, signed, and submitted by the client in accordance with III., G., 10., above. The approved plan for housing modification then goes out for bid in accordance with state purchasing regulations. The client is responsible for the selection of three (3) building contractors from whom bids are obtained. The client is also responsible for the submission to the counselor of a proposed written contract for the construction of the approved adaptive housing modification. The lowest qualified bidder shall be selected after the bids are reviewed by the Adaptive Housing Coordinator.

H. The contract to construct the adaptive housing modification must contain the following minimum requirements:

1. The name and address of the parties to the contract, including the owner of the property in the event that the property is not owned by the client.

2. A complete description of the work to be performed, which work must be in accordance with the approved final blueprints for the project.

   The blueprints must be included as an exhibit or addendum to the contract.

3. The total price of the contract and any relevant payment terms.

4. The date for completion of the contract work.

5. Specify the warranties, if any, with respect to the workmanship and materials to be provided.

6. An acknowledgment by the contracting parties that the State of Rhode Island, acting through ORS, is not a party to the contract.

7. A statement that the contractor meets any and all applicable state or municipal licensing and/or registration requirements to engage in the construction of home modifications, and the contractor agrees to provide the client with any certificates or documents in proof thereof.

   The counselor and supervisor shall review the proposed documents and notify the client of any deficiencies in the proposed documents with respect to the minimum contract requirements.

   The counselor will also advise the client that s/he should not sign the contract until s/he has been notified that the contract has been approved for Adaptive Housing Services (See III., H., 8., below).

8. Once the client has submitted final proposed contract documents in accordance with above, the Adaptive Housing Coordinator shall review and approve or reject the contract documents.

   The client will then be notified whether he or she qualifies for an adaptive housing modification in accordance with the approved contract specifications and documents. If the adaptive housing modification is approved, the client will be notified that:

   a. Payment will be processed upon completion of the work specified in the contract.

   b. In the event that a proposed adaptive housing modification contract requires partial payment of the contract price prior to commencement of the construction of the home modification, the client may submit to the agency a request for partial payment prior to the completion of the contract.

      If good cause is shown for the request for partial payment, the Adaptive Housing Coordinator may approve a partial payment prior to the start of construction in an amount not to exceed the amount of building materials and supplies required for the home modification. The client must provide substantiation of his/her good cause and must provide financial information to the agency showing that s/he is unable to make the partial payment of the contract requirements from his or

her own financial resources or income.

If the Adaptive Housing Coordinator approves the request for partial payment, the counselor shall authorize a partial payment as specified above.

The amount of the final payment of the contract shall be adjusted to reflect this authorized partial payment. The client shall also provide any and all documents and forms requested of this partial payment, including an itemized list of building materials and supplies to be purchased.

9. Upon completion of construction of the modification, the client shall notify the architect, and the architect shall make a final inspection and prepare the architect's certificate of completion.

   a. Payment for the Housing Modification will be made directly to the client after the following documentation has been provided to the agency by the client:

      1) A copy of the signed and dated construction contract;

      2) The architect's certificate that the work has been completed in accordance with the specifications of the contract and blueprints;

      3) A final invoice for the balance due on the contract is prepared and a copy of the invoice and documents in 1) and 2) above are made and retained in the record.

10. After receipt of documents above, the Adaptive Housing Coordinator approves authorization of final payment.

    The authorization form (Form T-2) shall be processed listing the client as payee and his/her social security number as the payee I.D.#.

    After the check is received by the ORS fiscal office, the counselor is notified. The counselor requests that the “checklist form” be completed by the Adaptive Housing Coordinator. The counselor then forwards the completed form to Fiscal for release of the check to the counselor.

    A meeting with the individual with a disability, the vendor, and the VR counselor is scheduled. The individual will then endorse the check and turn it over to the vendor as payment; the counselor will make a copy of both sides

of the endorsed check and maintain the copy in the case file. If a mechanics lien for the work performed and materials provided has been recorded, the contractor (and subcontractors, if any) will then sign a release of the mechanics lien; copies of any release are made, and a copy is retained in the case record.

I. SCOPE OF SERVICES

Adaptive Housing Services are supportive services to individuals with disabilities so that they may derive the full benefit of other Vocational Rehabilitation services; i.e., job placement, training, restoration, etc., which are or will be provided under an IPE. ORS may purchase adaptive housing services only if they are necessary to enable the individual to allow egress from or access to the home in order to work.

1. The agency shall not provide or purchase Adaptive Housing Services:

   a. If such services would significantly add to the resale value or assessed value of the property;*

   b. If such services would add a room to the home or add to living space;

   c. To a home under construction;

   d. Not necessitated by the functional limitations of the individual with a disability;

   e. When the agency has previously provided Adaptive Housing Services to the same individual;*

   f. When the individual resides in rental or leased property with the following exceptions: 1) self-help devices such as grab bars and railings or portable ramps or other mechanical or motorized devices may be provided with the written consent of the landlord; or 2) the owner is a relative, if the owner provides a notarized statement permitting the individual with a disability to reside on the premises for at least ten (10) years.

2. Adaptive Housing Services cannot be the only services provided under an IPE and must provided in conjunction with other primary vocational rehabilitation services such as counseling, physical restoration, training, etc.

3. Adaptive Housing Services that enable an individual to participate in evaluation services to determine vocational potential are limited to entrance and egress adaptations.

4. The agency reserves the right to suspend or terminate Adaptive Housing Services at any time in the event of fraud, waste, abuse, failure to meet standards and deadlines, or poor performance as a result of any party's actions.

D. Types of Adaptive Housing Services

Adaptive Housing Services may include, but are not limited to, the provision of ramps, desks, railings, modifications to doorways, lowering kitchen counter tops, making bathrooms accessible and barrier-free, or any type of lifting device, (e.g., wheelchair lift, stairway chair lift, etc.) As appropriate, the contractor must have the necessary State License through the Department of Labor and Training, Division of Professional Regulation, and must submit the proper application for a permit to install.

E. Maximum Payment for Adaptive Housing Services

1. Except for ramps and other mechanical and motorized devices to gain access and egress, the maximum payment which the agency will authorize for Adaptive Housing Services shall not exceed eight thousand five hundred dollars ($8,500)*.

*The Adaptive Housing Coordinator, with the concurrence of the Administrator or the Administrator's designee, may grant a waiver to this limitation under extenuating circumstances. An individual may request a waiver by contacting their counselor.

WORKERS' COMPENSATION

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; Rhode Island General Laws 28-33-11-1 et**.**

II. POLICY STATEMENT AND PURPOSE:

In order to maximize all resources available to an injured worker, the Office of Rehabilitation Services (ORS) will work with the injured worker, the Department of Labor and Training (DLT), Division of Workers' Compensation and the employer to develop and implement a rehabilitation plan designed to return the worker to employment, optimally to his/her previous position. If this is determined to be unfeasible, every effort will be made to secure an appropriate position. All services determined necessary may be coordinated and/or provided by the VR counselor in conjunction with DOL or a private rehabilitation facility.

POST-SECONDARY EDUCATION AND VOCATIONAL TRAINING SERVICES

I. LEGAL AUTHORITY

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; Rehabilitation Act of 1973, (P.L. 93-112) as amended by P.L. 93-516 and P.L. 95-602, 34CFR 361.5(b)(55), 34CFR 361.48(f), 29USC 705(37), 723(a)(5), 723(a)(15).

II. POLICY STATEMENT AND PURPOSE

The Office of Rehabilitation Services (ORS) will ensure that access to training services is available to assist individuals with a disability in preparing for, securing, retaining or regaining employment that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice, and appropriate to the needs of the individual. The ORS counselor may assist the individual to exercise informed choice when selecting appropriate training that will lead to the employment goal. Career information, counseling, career guidance and resources will be made available to the individual. If comparable services and benefits exist under any other program and are available to the individual, the VR agency must use those comparable services or benefits to meet in whole or in part the cost of the vocational rehabilitation services.

No training or training services in institutions of higher education 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 training.

III. PROCEDURES

Training is one means to assist an individual to reach his/her employment goal. ORS will assist the individual to choose training that has reasonable cost, can be completed in a reasonable time, and is necessary to achieve the employment goal chosen by the eligible individual as specified in the Individualized Plan for Employment.

The decision to pursue training should be the result of a comprehensive assessment of the individual's unique strengths, priorities, resources, concerns, abilities, capabilities, career interest, informed choice, experiences, aptitudes, and capacities. Work experience, transferable skills, an evaluation of the labor market, licensure and examination requirements (ex. BCI), consideration of rehabilitation technology and accommodation needs, and the specific vocational preparation required for the job(s) being considered should also be reviewed to assist the individual in selecting a training program.

Counselors should review the curriculum and/or the training plan to ensure its relevance to the vocational goal and meet the needs of the individuals. Throughout training, the counselor will closely monitor progress by obtaining the appropriate reports at specified intervals as

scheduled on the IPE. Areas to be monitored may include progress toward goals, passing grades, and attendance. For the counselor to ensure that the training facility, site or service meets the needs of the individual, the counselor must have a description of the program, course of study, or training.

The majority of individuals will undertake full-time training. Part-time academic and vocational training may be undertaken for a maximum of one year and only if such part-time study will lead to full-time student status or job placement. Further part-time study will be allowed only if disability or family related circumstances warrant it. ORS may establish a preference for in-state services, provided that the preference does not effectively deny an individual a necessary service. If the individual chooses an out-of-state service at a higher cost than at the in-state service, if either service would meet the individual's rehabilitation needs, the designated State agency is not responsible for those costs in excess of the cost of the in-state service.

A. Short-term Vocational Training Services

Short–term Vocational Training is defined as training provided by business**,** trade and technical schools, adult education, by community colleges, or universities that do not lead to a degree, do not qualify for federal financial aid and is completed in one year or less. Programs are highly specific, and prepare the individual for specific careers leading to immediate employment. Adult Education programs offer short courses useful in updating skills or knowledge. Examples of short-term vocational training programs are a copier repair course, or specialized computer training for blind individuals.

1. Counselors are encouraged to discuss cost comparisons of short-term vocational training with individuals in order to make informed, cost-effective choices.

2. Short-term training grants are subject to Agency Economic Need Policy 115.8. Individuals who meet the Economic Need standards will qualify for a short-term training grant.

3. Short term vocational training grants will not exceed actual cost of the training program or an amount equal to the current state university tuition and fees; whichever is lower. Shared costs will be adjusted in keeping with percentages identified under policy 115.8.

4. Subject to economic need, up to eight hundred dollars ($800) may be available for books, and supplies required by the training program.

B. Long-term vocational training (Training at community colleges, 4-year colleges or universities). Long-term vocational training is defined as training in excess of one year that leads to a degree or certificate.

It often is referred to as higher education and generally occurs after high school**.** It is provided by business, trade, technical schools, colleges and universities. All are characterized by standard offerings for a set of occupational categories.

In many instances training in technical school, community college, vocational programs or programs leading to the Bachelor's level will sufficiently prepare the individual to attain an employment outcome and/or enter employment in his/her career path. ORS will assist an individual to choose training that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, and is expected in the IPE. Training beyond a Bachelor's level may be considered when:

1. The entry level of the chosen employment requires training beyond a Bachelor's Degree; and/or

2. The person's disability requires her/him to make a change in the occupation for which s/he prepared in obtaining the Bachelor's Degree, and that change requires graduate level training.

C. The ORS provides assistance to students who have documented financial need. Students seeking financial assistance from VR Agency must follow these steps.

1. The individual must make available copies of previous school grade reports, GATB, or other relevant vocational appraisal data indicative of academic potential for the case record;

2. The individual must file a Free Application for Federal Student Aid (FAFSA) each year. To ensure eligibility for maximum financial aid, the FAFSA should be submitted by the March 1 deadline. The FAFSA annual award year begins on July 1 and ends June 30 of the next year. This form is available online at ***http://www.studentaid.ed.gov/***. The FAFSA is used to apply for federal & state grants, work-study, and loans.

   a. The FAFSA must be filed each year regardless of whether a program is Pell Grant certified or not. The application provides verification of income and the amount of the family contribution utilized in the determination of the Net Remaining Need.

   b. The individual must ensure that the Financial Aid Office (FAO) receives a copy of the Student Aid Report (SAR) and must consult the FAO to determine sources and amount of financial aid available.

   c. If special circumstances arise (e.g., a dramatic decrease in income from the previous year), the student must file an appeal with the Financial Aid Office (FAO) at the school the individual plans to

attend. The school will determine if any changes will be made.

d. The individual will provide a copy of the Student Aid Report (SAR) to the ORS for the case record.

e. If the SAR indicates that the individual may be in default of a federal student loan, the individual will be referred to the Office of Higher Education to make appropriate arrangements with that office. ORS is unable to provide financial aid when an individual is in default status. Prior to any disbursement of VR financial assistance, the counselor must have a letter from the Office of Higher Education indicating that maximum efforts to repay the student loan have been made, that a waiver has been granted or a deferment has been approved. (The Training Supervisor can sign off on the "Request for Deferment of Repayment-Stafford Student Loan Program and Supplemental Loans for Students").

f. The individual must complete and sign Part A of the ORS-28, which the counselor subsequently mails to the FAO in order to obtain the Net Remaining Need and financial aid figures. A revised ORS-28 is submitted whenever a change in circumstances occurs (i.e., change in income, change in course load, refusal of a loan or work-study); the counselor will complete the ORS-28 section regarding special needs. (Special needs might be tutors, assistive technology, accommodations or specific programs/courses to address disability related needs).

g. The Student Aid Report (SAR) and the completed ORS-28 must be completed and returned to the counselor by August 1 for the Fall semester, December 1 for the Spring semester, April 15 for the Summer session or 30 days prior to the start of any program which does not follow the traditional academic calendar. If a student cannot meet these deadlines because of extenuating circumstances, the Training Supervisor can waive these deadlines.

3. The counselor will forward the signed ORS 28 to the FAO for completion of Part B for the FAO.

4. The counselor will take the following steps:

a. Upon receipt of the ORS-28, with Part B completed by the FAO, the counselor will determine the amount of Agency financial participation by using the following procedures and completing the Agency's Training Grant Worksheet (ORS-29).

(i) The amount of Agency participation can <u>never</u> exceed the Net Remaining Need cited by the FAO in Part B of the ORS-28.

The Agency may not meet one hundred percent of the Net Remaining Need for any student. Individuals are eligible for Agency financial participation based on an analysis of need, utilizing the direct school expenses and the financial aid package.

(ii) Direct school expenses are defined as those basic expenses necessary for post secondary education, such as tuition, fees, room & board (on campus or off campus when on campus housing is not available or suitable), books, supplies, and transportation, as well as any out of pocket special costs for services related to the individual's disability. Direct school expenses must be verified or documented in order to be paid by the Agency. Room and board will not be considered for students living in their own or family dwelling. Validation of the direct school expenses being claimed by the individual must be submitted to the counselor and included by the counselor as part of the Worksheet for Training Grants. The Agency will only pay for documented direct school expenses of financially eligible individuals. (Note that there is an eight hundred dollars ($800) maximum for the standard academic year (nine months) for books and supplies.) With regard to room and board, ORS will limit the amount allowed for room and board by using the institution's stated cost of on campus housing and board fees. If the institution does not provide room and board, ORS's participation will be based on the state's public university's average fee for room and board.

(iii) VR Agency financial participation is further limited by a maximum VR Agency grant (the tuition and fees of the State University, rounded to the nearest $100, plus eight hundred dollars ($800) for books), which is applied to the Unmet Need as cited on the Agency's Training Grant Worksheet. The total of all awards cannot exceed the net remaining need. *****

(iv) Federal Financial Aid such as Pell Grants are considered comparable benefits. Merit awards and merit scholarships are <u>not</u> considered to be comparable benefits and consequently will not be included as part of the Financial Aid deducted on the training grant worksheet (Form ORS 29). Student loans are considered if accepted as part of a financial aid package. The VR Counselor can substitute VR financial assistance for loans or work study not to exceed unmet need or net remaining need. (VR Counselor may substitute VR award assistance in place of

declined loans subject to unmet need. When a student declines a loan offer, evidence of this must be in case record.

(v) When training is for a continuous period longer than the traditional nine-month academic year, a proportionate amount of the Standard Grant for nine` months will be applied to the Unmet Need (formula: standard grant, divided by nine, times the length of the program in months). When training is for a continuous period shorter than the traditional nine-month academic year, the amount of the agency grant will be proportionally reduced based on the length of the program.

(vi) When training is part-time, summer, or between mid session training basis, all of the above steps are applicable to capture any Pell or institutional monies which may be available as comparable benefits.

b. The counselor will complete Part C of the ORS-28 and send a copy to the FAO.

c. If either the school changes its amount of financial assistance or the Agency changes its grant to the client during the grant period, that party must inform the other by forwarding a revised ORS-28 as soon as possible.

d. The ORS-28 is not sent to institutions that are not eligible for Pell Grant funds. If programs do not meet the definition of short-term training the counselor will use the following revised method to obtain a Net Remaining Need:

(i) The counselor will estimate a school budget by adding the figures for tuition, fees, books and supplies, and transportation to the current monthly SSI payment (the benefit rate can be obtained by calling the local SSA office) multiplied by twelve (12) (to approximate the cost of living);

(ii) Subtract from that sum the family contribution figure as cited on the SAR; and

(iii) Subtract any other sources of funding. The resulting figure is a Net Remaining Need for non-Pell Grant eligible schools only.

D. Tutorial

Intense instruction is provided individually or in small groups format to those who are failing a course or require individual instruction to successfully master a subject or

work related task**.** Tutorial services may be provided by an individual who has acceptable credentials in the specific area/subject.

(This policy applies to all new students and to those receiving standard grant prior to effective date. For those who are receiving funding beyond standard grant because of income below the poverty level on effective date of policy, an extension of previous policy provisions is granted for a period not to exceed three (3) years, as long as individual/family income continues to be lower than the poverty level. Effective March 2008, this policy applies to all individuals participating in VR agency funded training.)

*An individual may request a waiver by contacting their counselor. The Training Grant Coordinator, with the concurrence of the Administrator or Administrator's designee, may grant a waiver to limitations under extenuating circumstances.

DEPARTMENT OF HUMAN SERVICES
OFFICE OF REHABILITATION SERVICES

"Helping individuals with disabilities to choose, find and keep employment"

Name: _____

Year in School: _____

WORKSHEET -- TRAINING GRANTS

1. Training Period: from ____ to _____

2. Net Remaining Need (see ORS-28): $

3. Direct Training Expenses:

Tuition	$_____
Fees	$_____
Room & Board	$_____
Books & Supplies *($800 maximum for standard 9 month academic year)	$_____
Transportation (bus rate)	$_____
Total Direct Expenses	$ _____
4. Total Financial Aid (see ORS-28,B.4.)	$_____
5. Unmet Need (Equals Total Direct Expenses minus Total Financial Aid)	$_____
6. Vocational Rehabilitation Award (see reverse for instructions)	$_____

ORS-29
Rev. 09/2004

INSTRUCTIONS

1. **Training Period**: Note the training period to which this worksheet applies.

2. **Net Remaining Need**: Insert the Net Remaining Need figure from the ORS-28 (or from the counselor's calculations for those institutions which are not Pell grant eligible). VR financial support can never exceed this amount.

3. **Training Expenses:** Insert the actual costs of tuition, fees, room and board, books and supplies (up to the VR maximum unless the individual is an independent student whose income is below the poverty guidelines) and bus transportation. Add these figures for the total expenses.

4. **Financial Aid:** Insert the total financial aid amount from the ORS-28.

5. **Unmet Need:** Subtract the total financial aid (Item 4) from the total expenses (Item 3).

6. **Vocational Rehabilitation Award:**

   Authorize the Unmet Need up to the Standard Agency Grant or up to the balance of the cost as calculated on the worksheet; whichever is lower.

The Net Remaining Need cannot be exceeded under any conditions.

POVERTY INCOME GUIDELINES*

Size of Family	Poverty Guidelines
1	$9,800
2	13,200
3	16,600
4	20,000
5	23,400
6	26,800
7	30,200
8	33,600

For family units with more than 8 members, add $3,400 for each additional member.

*U.S. Department of Health and Human Services, Poverty Income Guidelines, published January 24, 2006, Federal Register / Vol. 71, No. 15.

POLICY AND PROCEDURES FOR SERVING DEAF AND HARD OF HEARING INDIVIDUALS, INCLUDING PURCHASE OF HEARING AIDS AND OTHER ASSISTIVE LEARNING DEVICES

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973 as amended, in Title IV of the Workforce Investment Act of 1998; 34 CFR 361.48(j); 34 CFR 361.49(a)(2).

II. POLICY STATEMENT AND PURPOSE:

The Agency will maintain state-wide specialized caseloads to meet the complex rehabilitation needs of Deaf and Hard of Hearing Individuals. Vocational considerations need to include not only communication but also cultural, educational and social dynamics. Rehabilitation counselor fluency in ASL and knowledge about communication strategies/technologies will be encouraged.

For the provision of ORS services, the Agency will arrange and pay for qualified interpreters except when a service provider is mandated by Section 504 of the Rehabilitation Act, by ADA, or by state law to make interpreters available. Care will be taken to ensure specialized interpreter skills (medical, legal, CDI) are utilized in vocationally relevant situations.

EXTENDED EMPLOYMENT CLIENT REVIEW

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; Rehabilitation Act 101(a)16(a)(i), as amended; 29 U.S.C. 721(a)(16); 34 CFR 361.55; Wagner O'Day Act.

II. POLICY STATEMENT AND PURPOSE:

The agency will conduct on an annual basis a review and re-evaluation of those individuals with disabilities who achieved an employment outcome through an extended employment situation in a Community Rehabilitation Program or other employment settings in which the individual is not compensated in accordance with Section 14(c) of the Fair Labor Standards Act. The purpose of the annual review is to determine the feasibility of obtaining employment or providing training which will result in future employment in the competitive labor market. Maximum effort will be made to place these individuals in competitive employment or training for competitive employment whenever feasible.

PARTICIPANT-DIRECTED PERSONAL ASSISTANT SERVICES

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973 (Public Law 93-112) as amended; 34 CFR 361.5(b)(39), 29USC 705(28), 722(b)(3)(B)(i)(I), and 723(a)(9) .

II. POLICY STATEMENT AND PURPOSE:

This section establishes standards and procedures for the provision of participant-directed personal assistant services to eligible clients. PA services are supportive services, which utilize the informed choice of an individual and are intended to give access to other services, such as training, restoration, etc. to persons with severe disabilities.

A. DEFINITION OF PARTICIPANT-DIRECTED PA SERVICES

Participant-directed personal assistant (PA) services consist of those services required by ORS-eligible clients to become physically independent. These services enable such individuals to enter and maintain employment in the competitive labor market, such as the practice of a profession, self-employment, supported employment, farm or family work, sheltered employment, homebound employment or other gainful work.

Such services include, but are not limited to, assistance with the following:

1. Routine bodily functions, such as bowel and bladder care;
2. Dressing;
3. Preparation and consumption of food;
4. Transferring and positioning;
5. Personal hygiene;
6. Ambulation;
7. Range of motion; and
8. Any other function of daily living as determined appropriate by Office of Rehabilitation Services.

III. PROCEDURES:

A. PROVISION OF PARTICIPANT-DIRECTED PA SERVICES

1. Office of Rehabilitation Services shall provide participant-directed PA services, subject to appropriation, to all clients determined eligible. Such services shall be provided only to those clients who are in financial need, as determined by Section 115.8 of the ORS Policy and Procedures Manual.

2. In the event sufficient funds are unavailable, a waiting list (compiled on a first-come, first-served basis) of eligible PA program applicants shall be established.

B. ELIGIBILITY FOR PARTICIPANT-DIRECTED PA SERVICES

Participant-directed personal assistant services may be provided to an individual who:

1. Is receiving services under an IPE (Status 06 or 12);

2. Has a severe disability which severely restricts functioning and is in need of a consistent amount of PA services in order to live independently allowing the person to attain their vocational goal;

3. Has the ability to successfully complete an independent living skills training program and is capable of directing his/her personal care;

4. Office of Rehabilitation Services will sponsor not less than 14 hours nor more than 35 hours per week of documented PA services, excluding night attendant services. If there is a need for hours over the maximum of 35, the client must assure these additional hours are covered, and

5) Meets ORS economic need criteria.

C. PA EVALUATION

Each client requesting PA services must have a Comprehensive Independent Living Assessment to determine the number of hours required. The evaluation must be completed by the approved PA vendor.

The evaluation team must include a registered nurse, a registered occupational therapist, and a case manager.

D. SIMILAR BENEFITS

When the rehabilitation counselor has identified a need and established eligibility for PA services, s/he should explore other sources of PA funding (similar benefits) through the approved PA vendor.

E. PROCEDURES

The counselor, upon receiving the Comprehensive Independent Living Assessment Report, must discuss service needs with the client. The counselor will then make a preliminary determination whether the client meets the criteria set forth in subsection V. Once eligibility for PA has been determined, an entry on the R-11 must be developed to coincide with the current service plan (IPE). The authorization should show weekly hours, hourly rate, and number of weeks in the PA service period. Night attendant should show number of nights per week, nightly rate, and weeks in PA service period.

F. ELEMENTS OF AN IPE PA SERVICE ENTRY

The PA service entry shall include, but is not limited to the following:

1. Maximum hours per week of PA services to be provided to the client;

2. Identification of the need for a night attendant, if necessary;

3. A start and end date for PA services; and

4. Dates for the completion of the re-evaluation.

G. RESPONSIBILITIES OF CLIENTS RECEIVING PA SERVICES

Clients receiving PA services shall have the following responsibilities:

1. Selecting, hiring, training, and supervising their own personal assistant;

2. Preparation, review, and submission of time sheets to the approved vendor every two weeks. These must include the signatures of both the client and the attendant.

3. Paying their PA;

4. Maintaining any financial records required by law;

5. Prompt notification to rehabilitation counselor and vendor of any change in their need for PA services;

6. Prompt notification to the rehabilitation counselor of any change in their financial circumstances; and

7. Prompt notification to the rehabilitation counselor of any problems related to the use of PA services.

H. PAYMENT OF PA SERVICES

The VR counselor will authorize payment to the approved PA vendor for a six-month period with a re-evaluation required prior to continued authorization. The vendor will submit biweekly invoices which include client's name, authorization period, billing period covered, and services rendered.

I. FEE FOR IN-STATE PA SERVICES

Office of Rehabilitation Service shall provide funds, allowable by the ORS fee schedule, for in-state PA services, night attendant, administrative fees, and evaluation/re-evaluation*.

J. RE-EVALUATIONS

1. A re-evaluation of each eligible client receiving PA services shall be completed semi-annually. The rehabilitation counselor will authorize a PA assessment for this purpose.

2. A Comprehensive Independent Living Assessment will be authorized on an annual basis.

3. Re-evaluations shall include, but are not limited to:

   a. Documentation of the continuing need for PA services;

   b. Documentation of the extent of that need; and

   c. Annual re-determination of financial need in accordance with Section 115.8 of this manual.

4. A re-evaluation may also be requested by the client when a substantial change occurs in his/her disability, medical status, environment, or need for PA.

   Until such re-evaluation is completed, no PA services shall be authorized for any period following the date set forth in the IPE for re-evaluation.

K. OUT OF STATE PA SERVICES

1. If a PA eligible client is out of state in conjunction with an appropriate IPE service and is in need of PA services, those services will be paid in accordance with the prevailing rate approved by that state's VR agency*****.

2. The following procedures must be utilized:

a. Client must have been previously determined PA eligible in accordance with Section B of this policy.

b. A determination that out-of-state PA services are necessary and appropriate to his/her vocational goal has been made.

c. The rehabilitation counselor must contact the state VR agency to determine the approved prevailing rate for evaluation and PA services. If the consumer chooses not to use the approved Rhode Island PA vendor, the rehabilitation counselor will also confirm eligibility of PA vendors in that state.

d. The IPE will be amended to identify the objective and services with appropriate case entry and justification;

e. Authorization of PA is processed in accordance with Section 115.8 of this manual.

* An individual may request a waiver by contacting their counselor. The Administrator or Administrator's designee may grant a waiver to limitations under extenuating circumstances.

SERVICES FOR GROUPS OF INDIVIDUALS WITH DISABILITIES

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; Section 103(b)(1)(2)(3)(4)(5); 34 CFR 361.49.

II. POLICY STATEMENT AND PURPOSE:

Vocational Rehabilitation services may be provided to benefit groups of individuals with disabilities when such services are expected to contribute substantially to the vocational rehabilitation outcome of a group of individuals. The services need not be related to the Individualized Plan for Employment (IPE) of any individual with a disability.

III. DESCRIPTION OF SERVICES:

Services may include:

1) Management or supervision services, initial supplies, equipment, or vending facilities, in support of small businesses operated by individuals with the most significant disabilities;

2) The establishment, development, or improvement of community rehabilitation programs including, under special circumstances, the construction of a facility which promises to contribute substantially to competitive employment outcomes in integrated settings for individuals with disabilities.

3) The use of existing telecommunications systems which have the potential to substantially improve service delivery methods and programs which meet the employment related needs of groups of individuals with disabilities.

4) Telecommunication systems that increase access for individuals with sensory impairments.

5) Technical assistance and support services to businesses that are not subject to Title I of the Americans with Disabilities Act when such businesses seek to employ individuals with disabilities.

REFERRAL TO A REHABILITATION CENTER

I. LEGAL AUTHORITY:

34 CFR 361.42(a)(3); 34 CFR 361.44.

II. POLICY STATEMENT AND PURPOSE:

Some individuals with significant disabilities such as spinal cord injuries or traumatic brain injuries frequently require definitive treatment at a rehabilitation center. Accordingly, the Rhode Island Office of Rehabilitation Services will provide to clients who are significantly disabled, either in Extended Evaluation or as part of the Individualized Plan for Employment (IPE), sponsorship to accredited rehabilitation facilities. Out of state referral will be made only to the extent that such comprehensive rehabilitation services are unavailable in Rhode Island. Referral will be made when it will assist the individual to achieve an employment outcome and/or determine the ability to benefit from vocational rehabilitation services.

III. PROCEDURES:

The following procedures must be utilized when it becomes clear that there will be a requirement for evaluation/physical restoration at a rehabilitation center.

A. Relevant medical summaries must be obtained from the acute hospital, attending physicians, the individual, or the family in order to meet eligibility requirements or the need for extended evaluation.

B. In general, a physical medicine evaluation by a physiatrist should be obtained prior to referral to a rehabilitation center. If the acute hospital does not have a department of physical medicine and rehabilitation, the counselor is obligated to make arrangement and authorization to a physiatrist in the community for evaluation.

C. Medical summaries and the physical medicine evaluation, if available, will be jointly reviewed by the medical consultant and the counselor before a letter of authorization is sent to the rehabilitation center.

D. After authorization to a rehabilitation center is made, it is the responsibility of the counselor to monitor the progress at the rehabilitation center and to participate fully in discharge planning.

PHYSICAL AND MENTAL RESTORATION SERVICES

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; RSM 1513-1523, 34 CFR 361.5(b)(40), 361.48(e), 361.5(b)(10), 361.46, 361.50, 361.5(b)(6), and 361.42(f) .

II. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services provides physical and mental restoration services which are likely, within a reasonable time period, to enable individuals with disabilities to eliminate, reduce, or modify functional limitations which present barriers to employment. Such services must be needed to achieve an employment outcome or for extended evaluation to determine employability. These services are provided to the extent that financial support is not readily available at the time needed from other sources (such as other federal, state or local public agencies, health insurance or employee benefits.) The services may be provided upon the recommendations of the appropriate clinical consultant.

All physical and mental restoration services are contingent upon availability of funds.

A. Definitions

1. Physical Restoration – diagnostic and corrective or therapeutic services prescribed and provided by qualified personnel in accordance with state licensing laws, in which service is likely to correct or substantially modify the limitations arising from a stable or slowly progressive physical disability to enable the individual to achieve an employment outcome. Physical restoration may include**,** but is not limited to, the following: physical therapy, occupational therapy, pain treatment, corrective surgery, speech therapy, cognitive therapy, prosthetics or orthotics, dental work, visual services, renal, other medical or medically related rehabilitation services, or necessary treatment arising from the provision of physical restoration services.

2. Mental Restoration – diagnosis and treatment for emotional or mental disorders prescribed and provided by qualified personnel in accordance with state law (psychiatrist, psychotherapist, certified mental health counselor, licensed social worker) to enable an individual to achieve an employment outcome. Examples of Mental Restoration services include but are not limited to the following: counseling, psychotropic medications, behavioral modifications, etc.

3. Durable Medical Equipment - equipment prescribed by a physician with a shelf life of more than a year designed to overcome the functional limitations imposed by a disability. Examples are: manual and power wheelchairs, orthotics, prosthetics, electric scooters, hearing aids, etc.

MAINTENANCE

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; Section 103 (a)(7) of the Rehabilitation Act, as amended; 34 CFR 361.5(b)(35); and 29USC 709(c), 723(a)(7).

II. POLICY STATEMENT AND PURPOSE:

ORS will provide monetary support for expenses such as food, shelter, and clothing when such expenses are reasonable and in excess of normal expenses and are necessary for participation in an assessment for determining eligibility and vocational rehabilitation needs or participation in a vocational rehabilitation program supported by the Office of Rehabilitation Services. Such monetary support will be provided utilizing the informed choice of an individual when the individual does not have other resources available and for a specific period of time. Monetary support should not be construed as an automatic allowance.

REVERSION TO DONOR PROHIBITION

I. LEGAL AUTHORITY:

Code of Federal Regulations: 34 CFR 361.60(b)(3)(iii).

II. POLICY STATEMENT AND PURPOSE:

In order to safeguard against funds being channeled back to the original donor with the added benefit of matching funds, the DHS Financial Management Unit shall not accept a private donation from a donor that has placed conditions or restrictions, expressed or implied, on the expenditure of the donation, requiring that the funds be used in a manner that would benefit the donor, an individual with whom the donor has a close personal relationship, or shares a financial interest. Federal financial participation is not available in expenditures that revert to the donor's use or facility.

A reversion to donor occurs if it can be established that the donor of a private donation placed conditions or restrictions, expressed or implied, on the expenditure of the donation, requiring that the funds can be used in a manner that would benefit the donor, an individual with whom the donor has a close personal relationship, or shares a financial interest.

The purpose of this prohibition is to prevent funds from simply being channeled back to the original donor with the added benefit of federal matching funds.

In order for a reversion to donor problem to exist, there must be evidence, that such a return was intended.

Accordingly, if a donor is subsequently awarded a contract or subgrant by the State vocational rehabilitation agency under a fair and competitive process, with no evidence that the award was influenced by the donor's donation, a reversion to donor problem will not exist.

TRANSITION SERVICES

I. LEGAL AUTHORITY:

Workforce Investment Act (P.L. 105-200), Title IV, Section 7 (37), Section 101 (10) (D) (i), (ii), (iii), (iv), 29USC Section 721 (a)(11)(D)(i), (ii),(iii),(iv) and 34CFR Section 361.22.

II. DEFINITION:

The term "transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

III. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services (ORS) provides transition planning and services for students with disabilities who have been determined eligible for Vocational Rehabilitation services. Students are provided opportunities for career exploration to enhance their ability to choose appropriate careers.

ORS actively collaborates with RI Department of Education and with Local Education Agencies responsible for the education of students with disabilities, coordinating transition planning and services. A formal interagency agreement and Memorandum of Understanding between DHS/ORS and the RI Department of Education defines the roles and responsibilities of each agency.

ORS has designated VR Counselors as liaisons to each school district to provide consultation and technical assistance to assist educators in planning for the transition of students with disabilities from school to employment. ORS counselors are also available to consult with private schools and middle schools. Best practice suggests students begin working with the ORS counselor two years prior to graduation or earlier if student is at risk for dropping out of school. ORS counselors are available to provide consultation regarding VR services to school personnel, students and families. Counselors are available to participate on IEP planning teams and work with the teams to coordinate the goals and objectives of the IEP and the IPE. Every effort will be made to assist the student to develop an IPE early in the transition process and prior to the student's graduation. (See

ORS Policy Section 115.3 for detailed information on IPE development). Through collaboration with the school districts, the Regional Transition Centers and community rehabilitation programs, opportunities are developed for career exploration, job shadowing, and work-based learning experiences to assist students in transition planning and career development. ORS can also provide consultation and technical assistance regarding vocational guidance and counseling, information about related services, employment pathways, labor market information, and consideration of accommodations or Assistive Technology to maximize rehabilitation potential. (See ORS Policy sections 115.6, 115.11, and 115.14 for a description of VR services).

ORS works with officials at the RI Department of Education to identify students with disabilities, using the student special education census.

ORS and RIDE work collaboratively in developing new patterns of services, focusing on career development and assessment utilizing work-based learning experiences, and providing job placement services for students about to graduate.

ORS and the State university and colleges have entered into a Memorandum of Understanding (MOU) in order to ensure that students with disabilities transitioning into higher education, or are already matriculated in a course of study, will have the accommodations necessary to enable them to fully participate in an academic curriculum, and other college-related activities.

The MOU with the Institutions of Higher Education (IHE) describes the collaboration between the IHE's and the ORS regarding the provision and purchase of such services as, but not limited to, reader services, note takers, assistive technology, other auxiliary aids, relocation of classrooms, and accessible residential facilities. (See Memorandum of Understanding for detailed information.)

IV. REFERRAL TO ORS:

In addition to the referral process described in ORS Policy Section 110.1, students may be referred to ORS by school district personnel, with the written permission of the student if he/she is at least eighteen years of age, or parent or guardian. ORS forms (Referral Guidelines and School Referral Form) are utilized to ensure that all individuals receive accurate and consistent information about the VR process, and that ORS counselors receive documentation necessary to ensure prompt determination of eligibility for vocational rehabilitation services.

V. TRANSITION ACADEMY:

ORS counselors may authorize specific transition services for students determined eligible for VR to be provided through Transition Academies that are associated with each of the Regional Transition Centers within the Regional Educational Collaboratives. Services may

include Work Prep (#6096), job development, job placement, or job retention (See ORS Fee Schedule).

If it is determined that the student will require long-term job supports, the process for Supported Employment shall be followed. (See ORS Policy Section 115.14).

SERVICES FOR THE BLIND AND VISUALLY IMPAIRED
SOCIAL SERVICES/INDEPENDENT LIVING UNITS

I. LEGAL AUTHORITY

Chapter 9 R.I. Public Law 40-9-1 through 40-9-9.

II. POLICY STATEMENT AND PURPOSE

Due to the nature of blindness as a unique disability, specialized casework services are available for those persons who are blind or visually impaired. These services are designed to enable individuals, families, and groups to understand and adjust to the problems encountered by those with visual impairments. Social workers coordinate a comprehensive range of services which enable individuals to maintain their independence and self-sufficiency in the community.

A. Eligibility

1. Any individual who is blind or visually impaired, as defined in the ORS Policy and Procedures Manual Section 110.2, and has no immediate potential for an employment outcome should be referred to this unit.

B. Types of Services Provided without Regard to Financial Need:

1. Evaluation, diagnostic and related services;

2. Referrals to rehabilitation teachers and mobility instructors for evaluation and instruction;

3. Adjustment counseling and guidance for individuals and their families;

4. Referrals to appropriate state and community agencies;

5. Assistance in obtaining financial aid, medical coverage, housing, Independent Living and other support services;

6. Property and income tax exemptions for legally blind individuals;

7. Coordination with regional library services for the individuals who are blind and/or visually impaired;

8. Educational planning for children.

C. Types of Services Provided Which Require Application of Financial Need Criteria (See Section 115.8) and contingent upon available funding:

1. Purchased items such as visual aids, and adaptive equipment;

2. Telecommunications, sensory, and other technological aids and devices; and

3. Other support services as deemed necessary and appropriate.

III. PROCEDURES

A. When a new or reactivated case is assigned to a social worker within the social services or independent living unit, the worker will contact the individual within fifteen (15) working days of the date of assignment and schedule a home visit. At the initial interview, the worker will inform the individual of her/his right to appeal agency actions and/or decisions.

B. An eligibility determination will be made by the worker through:

1. An intake interview;

2. Collection of ophthalmological and other medical documentation; and

3. Review and discussion of material with the ophthalmological or other appropriate consultant.

C. Once eligibility has been established, the worker will develop a case plan which includes but is not limited to the following:

1. Identification of presenting problem(s);

2. Goals and objectives as developed by the worker and the individual, including criteria for meeting objectives;

3. Tasks and needed services to achieve these objectives; and

4. Planned contacts to follow up on tasks.

D. Deactivation

1. Criteria for Deactivation

a. A case may be deactivated for the following reasons because:

1) The goals and objectives in the individual's case plan have been achieved;

2) The individual's case has been referred to SBVI/VR Unit;

3) Funding for needed services is not available; or

4) The individual's inability to benefit from services.

2. Procedure for Deactivation

a. A case file will be deactivated through the mutual consent of client and worker with the understanding that the situation may be reassessed and the case reactivated for additional services at any time at the client's request.

E. Case Closure

1. Criteria for Case Closure

a. A case may be closed due to the individual's:

1) Death;

2) Moving out of state;

3) Refusal of services;

4) Status is no longer legally blind or visually impaired; OR

5) Location unknown.

2. Procedure for Case Closure

a. An entry in the case record will indicate the date of the action and reason for closure.

b. The individual must be notified by the worker using the appropriate mode(s) of communication identified/preferred by the individual and by sending a Notice of Agency Action ten (10) days before the date of closure unless the reason for closure is death.

c. The client has the right to request a fair hearing within thirty (30) days of the date the notice is sent.

d. If the request for hearing is made within ten (10) days of the notice, services must continue until the hearing decision is rendered.

SERVICES FOR THE BLIND AND VISUALLY IMPAIRED
CHILDREN'S VISION SCREENING PROGRAM

I. LEGAL AUTHORITY:

Public Law Chapter 213-2000-H 7838-A.

II. POLICY STATEMENT AND PURPOSE:

Rhode Island Department of Human Services, Office of Rehabilitation Services, Services for the Blind and Visually Impaired, in conjunction with Saving Sight Rhode Island and the Rhode Island Lions Sight Foundation, will establish a program to screen children's vision for blindness and other visual disorders.

III. PROCEDURES:

1. Utilizing photoscreening devices, Saving Sight Rhode Island will target all preschool children throughout the state for vision screening.

    a. DHS/ORS/Services for the Blind and Visually Impaired will reimburse Saving Sight Rhode Island for each child screened. The additional expenses will be funded by the Rhode Island Lions Sight Foundation and Saving Sight Rhode Island.

    b. ORS/Services for the Blind and Visually Impaired will bill Medicaid/Rite Care for those children who are eligible.

    c. Screening will be conducted in day care centers, nursery schools, Head Start, Early Intervention Programs, Child Outreach Programs, private day care homes and in community locations for those children not involved in any day care or formal program.

    d. School-age children may be screened if they have been deemed as unscreenable by the local education authority's standard vision screening methods, such as children who are non-verbal.

    e. Ophthalmologic residents at Brown Medical School will be used for photo interpretation.

    f. Screeners will be fully trained and certified in the use of the photoscreening device by Prevent Blindness America and the Vanderbilt Hospital.

    g. If a problem is detected by the photo interpretation, the family will be given a list of R. I. optometrists and ophthalmologists who have agreed to participate in the program

and provide reports of examination results. Information on obtaining eye examinations free of charge for those without medical coverage will be provided.

h. If a family is determined needy by an application process at Saving Sight Rhode Island, and eyeglasses are recommended but not covered by medical insurance, they will be provided by the Rhode Island Lions Sight Foundation, Saving Sight Rhode Island, or Vision USA.

2. Saving Sight Rhode Island will utilize the Vanderbilt Data Base and Tracking System to insure proper reporting and documentation of follow-up and results. A comprehensive report of statistics and results of this project will be written at the completion of the state fiscal year in order to determine the continuing effectiveness of the project, and to make future programmatic recommendations.

NEWSLINE

I. LEGAL AUTHORITY:

RI General Laws Chapter 504-2004-H8527 AS AMENDED, enacted 7/7/04
AN ACT RELATING TO PUBLIC UTILITIES AND CARRIERS:
ADAPTIVE TELEPHONE EQUIPMENT LOAN PROGRAM COMMITTEE

II. POLICY STATEMENT AND PURPOSE:

The Office of Rehabilitation Services (ORS) Services for the Blind and Visually Impaired (SBVI) shall administer and promote a program to provide telephone access to the text of newspaper programs to residents who are blind, deaf/blind, visually impaired or reading impaired with a single party telephone line.

III. PROCEDURES:

A. Telephone access to the text of newspaper programs shall be provided through a contract with the National Federation of the Blind's NEWSLINE.

B. NEWSLINE shall be promoted to individuals who are blind, visually impaired, deaf/blind or reading impaired through individual contact with agency consumers, public service announcements, and community outreach activities.

C. Applications for NEWSLINE will be processed by the agency, which will determine eligibility for this program. Individuals registered for the service utilize a telephone line to access the toll-free telephone number.

D. Individuals eligible are:

1. Persons whose visual acuity, as determined by competent authority, is 20/60 or worse in the better eye with corrective lenses, or whose widest diameter of visual field is not greater than 20 degrees or
2. Persons certified by a competent authority as having a reading disability resulting from an organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner.
3. Persons who live in the state of Rhode Island.

DICTATION FORMAT AND CASE RECORDING

I. LEGAL AUTHORITY:

Rehabilitation Act of 1973, as amended in Title IV of the Workforce Investment Act of 1998; 34 CFR 361.47.

II. POLICY STATEMENT AND PURPOSE

A. In order to provide timely and appropriate services to vocational rehabilitation applicants and clients, the Rhode Island Office of Rehabilitation Services assures that the ORS will maintain a record of service for each applicant/recipient of, vocational rehabilitation services that includes documentation and narrative support for all actions and decisions regarding application (eligibility, order of selection, IPE, and closures).