**CHAPTER 1. ADMINISTRATIVE OPERATIONS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**612:1-1-3. Philosophy and Balanced Scorecard [AMENDED]**

(a) **Philosophy.** The Department of Rehabilitation Services (DRS) provides services to persons with disabilities who may have the ability to pursue employment, education to children who are deaf and/or blind, and those who, due to the severity of their disabilities, may benefit in terms of increased participation in the family or community. DRS also determines eligibility for Social Security Disability Assistance and Social Security Income through its Disability Determination ~~Division~~ Services. Services are arranged through resources available in the community, or provided through DRS resources. All services provided must be appropriate, timely, and provided in an economical and efficient manner within the framework of federal and state laws, the State Plan, and the administrative rules and procedures issued by the Department of Rehabilitation Services.

(b) **Balanced Scorecard.** The underlying philosophy for the Department of Rehabilitation Services rests upon a value-based decision plan developed through the consensus of all DRS personnel. This plan guides the development of administrative rules, management decisions, service delivery, and the organizational environment. The mission of DRS is to provide opportunities for individuals with disabilities to achieve productivity, independence, and an enriched quality of life. This mission will be carried forward through goals and objectives based upon established values. These will be achieved through a strategic planning process consistent with the Rehabilitation Act.

SUBCHAPTER 7. RELATIONSHIPS WITH DEPARTMENT ESTABLISHED BY LAW

**612:1-7-1. Relationships with elected state officials [REVOKED]**

~~(a)~~ **~~Governor.~~** ~~Under authority of Title 74, Section 166.1 et seq. of Oklahoma State Statutes, a three-member Commission for Rehabilitation Services governs the Department of Rehabilitation Services. One member of the Commission is appointed by the Governor for a three-year term. An annual report of the Department's activities is presented to the Governor. The Governor reviews budget requests and legislative proposals submitted by the Department, among other activities related to the work of the Department.~~

~~(b)~~ **~~Attorney General.~~** ~~The Attorney General approves bonds provided for in the Oklahoma Social Security Act. He or she renders opinions concerning provisions and effect of laws or acts, when requested by the Commission for Rehabilitation Services, its Chairperson, or the Director of Rehabilitation Services. The Attorney General also prosecutes for or defends the State in civil or criminal actions.~~

~~(c)~~ **~~State Treasurer.~~** ~~The State Treasurer is designated and made the official custodian of all monies, funds, rentals, penalties, costs, proceeds of sale of property, deeds, fines, forfeitures, and public charges of every kind that may be received by any State Officer, State Board, or Commission. All state agency warrants are issued and paid by the Treasurer. Vouchers issued by the Department for special purposes are drawn by the Department on Special Accounts in the State Treasury and are also paid by the Treasurer.~~

~~(d)~~ **~~State Auditor and Inspector.~~** ~~State officers, state agencies and all county governments are audited at least annually by the State Auditor and Inspector. In addition, whenever called upon by the Governor, the Auditor shall specially examine the books and accounts of any Officer of the State. In addition to his general responsibility to the State as a whole, the Auditor has the specific responsibility of annually auditing the Department's expenditure of State funds in those programs administered by the Department which are funded solely with State funds.~~

~~(e)~~ **~~Supreme Court.~~** ~~The Supreme Court is the final arbiter of most questions of state law.~~

~~(f)~~ **~~Secretary of State.~~** ~~Oaths of members of the Commission for Rehabilitation Services and their bonds are deposited with the Secretary of State, in accordance with provisions of Oklahoma Statutes. Rules of general applicability and future effect are adopted, amended, or revoked in accordance with the Administrative Procedures Act.~~

**612:1-7-2. Relationships with appointed state officials [REVOKED]**

~~(a)~~ **~~Division of Capital Assets Management.~~** ~~The Director of the Division of Capital Assets Management is responsible for the award of State contracts for supplies, materials, and equipment. The Division of Capital Assets Management is also the contracting body for leases covering State real property and is responsible for disposing of any real or personal property of the State which an agency determines is surplus to its needs.~~

~~(b)~~ **~~Oklahoma Employment Security Commission.~~** ~~The Oklahoma Employment Security Commission is charged with the responsibility of promoting employment security by increasing opportunities for job placement, through its operation of public employment offices and by paying compensation to eligible workers who become unemployed. In addition, the Employment Security Commission assists the Department in the verification of employment for applicants and recipients of Department services.~~

~~(c)~~ **~~Merit System of Personnel Administration.~~** ~~The Merit Act of 1959 established the Merit System of Personnel Administration and created and defined the structure and duties of the first administrative body of that system. Later, the Oklahoma Personnel Act abolished the State Personnel Board and created and transferred the powers, duties, and responsibilities to the Office of Personnel Management and the Ethics Commission and Merit Protection Commission.~~

~~(1)~~ **~~Office of Human Capital Management (HCM).~~** ~~The Office of Human Capital Management is responsible for: the development of an efficient and effective system of personnel administration that meets the management needs of the various state agencies; maintaining and revising a classified system of employment which protects state employees from arbitrary dismissal or unfair treatment; maintaining an equitable system for the classified service; helping recruit and select qualified people; conducting a management training program; and assuring equal employment opportunity.~~

~~(2)~~ **~~Ethics Commission and Merit Protection Commission.~~** ~~The Ethics Commission and Merit Protection Commission is responsible for assuring that the rights of employees and agencies under the Merit System of Personnel Administration are not abridged.~~

~~(d)~~ **~~The Director of Office of Management and Enterprise Services.~~** ~~The Director of Office of Management and Enterprise Services maintains in his office records showing the debits and credits of each separate fund or appropriation for each State agency. He or she also pre-audits the claims of the Department's general administrative funds and any special construction funds. An annual budget estimate is prepared by the Department and filed with the Director of the Office of Management and Enterprise Services, who serves as the senior budget officer of the State.~~

~~(e)~~ **~~State Fire Marshal.~~** ~~The State Fire Marshal is involved in reviewing fire protection and safety features of facilities operated and funded by the Department.~~

~~(f)~~ **~~Secretary of the State Election Board.~~** ~~Among other duties, the Secretary of the State Election Board is to promote and encourage voter registration and voter participation in elections. The State Department of Rehabilitation Services will cooperate with the Secretary of the State Election Board in compliance with the National Voter Registration Act of 1993.~~

**CHAPTER 3. MANAGEMENT SERVICES DIVISION**

**PART 1. GENERAL PROVISIONS [REVOKED]**

**612:3-5-1. Purpose [REVOKED]**

~~The purpose of this Chapter is to set forth the policies and procedures governing the operations of the Process Improvement Unit and its subsections, Program Standards, and Case Review of the Department of Rehabilitation Services.~~

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

**SUBCHAPTER 1. GENERAL PROVISIONS**

**612:10-1-1.1. Legal Authority [AMENDED]**

The administrative rules presented in this Chapter are based upon the Rehabilitation Act [29 USC 701 et seq.], and were promulgated by the Commission for Rehabilitation Services under the authority of 74 O.S., Section 166.1, et seq. and reauthorized under the Workforce Innovation and Opportunity Act (WIOA) (P.L. 113-128), signed into law on July 22, 2014. To the extent that any of these administrative rules are inconsistent with federal laws or accompanying regulations, the federal laws or regulations shall govern and supersede the applicable administrative rule.

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

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

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

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

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

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

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

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

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

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

**~~"Authorized Representative"~~** ~~means a client's or applicant's parent, guardian, advocate (i.e. Client Assistance Program) or other person designated by the client or applicant as the individual authorized to deal with the Department on behalf of the client or applicant, consistent with provisions of the Act. Authorized representative does not include an employee of the Department of Rehabilitation Services, another state agency, or vendor of the Department unless the person is actually the parent, guardian, or is serving in the capacity of guardian (for example: court appointed).~~

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

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

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

**~~"Clubhouse model"~~** ~~means a psychosocial and vocational approach to work adjustment for people with mental illness. The work-ordered day is a core element of the clubhouse, which focuses on strengths, talents and abilities. Work in the clubhouse helps members develop appropriate social skills and gain self-worth, purpose, and confidence. The clubhouse enables members to return to the workforce and achieve employment outcomes.~~

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

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

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

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

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

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

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

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

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

**"Disability Related Skills Training"** means disability-related augmentative skills training includes but is not limited to: orientation and mobility; rehabilitation teaching; training in the use of low vision aids; Braille; speech reading; sign language; and cognitive training/retraining. Cognitive training/retraining is important to individuals who have cognitive problems due to traumatic brain injury, specific learning disabilities or sensory deficits.

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

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

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

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

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

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

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

**"Extended employment"** means work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act ~~and any needed support services to an individual with a disability to enable the individual to continue to train or otherwise prepare for competitive integrated employment~~.

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

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

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

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

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

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

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

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

**"Individual with a disability"** means an individual who has a physical or mental impairment; whose impairment constitutes or results in a substantial impediment to employment; and who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services ~~having one or more physical or mental conditions which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's employment activities or vocational functioning~~.

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

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

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

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

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

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

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

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

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

**"Individual’s representative"** means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual’s representative. Individual’s representative does not include an employee of the Department of Rehabilitation Services, another state agency, or vendor of the Department unless the person is actually the parent, guardian, or is serving in the capacity of guardian (for example: court appointed).

**"Integrated setting"** means:

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

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

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

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

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

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

**"Maintenance"** ~~is a service provided to assist with the out-of-ordinary or extra expenses to the individual resulting from and needed to support the individual's participation in diagnostic, evaluative, or other substantial services in the IPE. Activities of Daily Living (ADL) expenses are not eligible for maintenance payments~~ means monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual’s participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual’s receipt of vocational rehabilitation services under an individualized plan for employment.

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

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

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

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

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

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

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

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

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

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

**"Physical or mental ~~disability~~ Impairment"** means ~~a physical or mental condition which, if not corrected, materially limits, contributes to limiting or will result in limiting an individual's activities or functioning~~ any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder such as intellectual disability organic brain syndrome, emotional or mental illness, and specific learning disabilities.

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

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

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

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

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

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

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

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

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

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

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

**"Student with a disability"** means, in general, an individual with a disability in a secondary, postsecondary, or other recognized education program who is not younger than the earliest age for the provision of transition services. 361.5(c)(51).

**"Substantial impediment to employment"** means that a physical or mental ~~disability~~ impairment (in the light of attendant ~~related~~ medical, psychological, vocational, educational, communication, and other related ~~cultural, social or environmental~~ factors) hinders ~~that impedes~~ an individual ~~individual's~~ from preparing for, entering into, engaging in, advancing in, or retaining employment consistent with the individual’s abilities and capabilities ~~occupational performance, by preventing his/her obtaining, retaining, or preparing for a gainful occupation consistent with his/her capacities and abilities~~.

**"Supported employment"** (SE) means competitive integrated employment, including customized employment, or employment in an integrated work settings in which an individual ~~individuals~~ with a most significant disability, including a youth with a most significant disability, is working on a short-term basis toward competitive integrated employment that is individualized, and customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual, including with ongoing support services for individuals with the most significant disabilities ~~are working on a short-term basis toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities who meet the eligibility criteria for supported employment as defined in 34 CFR 361.5(c)(53)~~. For purposes of this definition, “short-term basis” shall mean six months or up to 12 months in limited circumstances as described in ~~34 CFR~~ 361.5(c)(53).

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

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

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

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

(D) Following transition, as postemployment services that are unavailable from an extended services provided and that are necessary to maintain or regain the job placement or advance in employment. 361.5(c)(54)

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

**"Transportation"** ~~is a service provided to assist with the costs of travel, including instruction in the use of public transportation vehicles and systems, which result from and are needed to support the individual's participation in diagnostic, evaluative, or other substantial and necessary VR services~~ means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation services, including expenses for training in the use of public transportation vehicles and systems.

**"Vocational rehabilitation services"** If provided to an individual, means those services listed in § 361.48; and (ii) If provided for the benefit of groups of individuals, means those services listed in § 361.49. (361.5(c)(57)

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

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

**612:10-1-3. Basic philosophy of rehabilitation programs [AMENDED]**

(a) **Purpose.** The purpose of programs and services provided by the Division of Vocational Rehabilitation (DVR) and the Division of Services for the Blind and Visually Impaired (DSBVI) is to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society by operating statewide comprehensive coordinated, effective, efficient, and accountable ~~through comprehensive programs of~~ vocational rehabilitation program each of which is an integral part of a statewide workforce development system. Vocational rehabilitation programs are designed to assess, plan, develop and provide vocational rehabilitation services for individuals with disabilities, consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice, so that they may prepare for and engage in competitive integrated employment and achieve economic self-sufficiency ~~gainful employment (34 CFR~~ 361.1 (b)~~)~~.

(b) **Basic philosophy.** DVR and DSBVI vocational rehabilitation programs are carried out in accordance with the principles stated in Section 100 (3) of the Rehabilitation Act as amended by the Workforce Innovation and Opportunity Act (WIOA) (P.L. 113-128), signed into law on July 22, 2014, seeks to empower individuals with disabilities. ~~including,~~

(1) Individuals with disabilities, including individuals with the most significant disabilities, are generally presumed to be capable of engaging in ~~gainful~~ competitive integrated employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

(2) Individuals with disabilities must be provided the opportunities to obtain ~~gainful~~ competitive integrated employment performed on a full-time or part-time basis in integrated settings.

(3) Individuals with disabilities must have the opportunity to be active and full partners in their vocational rehabilitation process.

(4) Qualified vocational rehabilitation counselors and other qualified and specialized rehabilitation personnel are necessary to facilitate the accomplishment of the employment outcomes and objectives of an individual.

**612:10-1-3.1. Procedural exceptions [AMENDED]**

Procedures set forth in this Chapter are not intended to reflect every situation that might confront DVR or DSBVI staff or to replace the staff's use of good judgment. In individual cases an exception from basic procedures may be requested. Authority to approve certain deviations from standard procedure rests; as appropriate, with either the DVR or DSBVI Division Administrator’s ~~division administrator~~. Authority to approve certain procedural exceptions has been delegated to the Program Managers ~~program managers~~ and Area Field Coordinators ~~field coordinators~~. Only those procedural exceptions stated in a rule may be applied to that rule ~~rules~~.

**612:10-1-5. Confidentiality [AMENDED]**

(a) **General guidelines.** All client or applicant information acquired will remain the property of DRS. All casework materials are to be maintained in the appropriate ~~case~~ record of service in the electronic case management system to safeguard the confidentiality of all personal information, including photographs and lists of names. ~~The terms "release of information", "release of personal information", and similar terms refer to providing access to the record, or providing copies, summaries, descriptions, or other reproductions of the actual case record materials and not to the materials themselves. All applicants, clients, or client representatives will be informed of the Department's policies on confidentiality of personal information. This information will only be used and released for purposes directly related to the administration of the Vocational Rehabilitation and Services for the Blind and Visually Impaired programs. Information containing identifiable personal information will not be shared with advisory or other bodies who do not have official responsibility for the administration of these programs. In the administration of the program, the DVR and DSBVI units may obtain personal information from service providers and cooperating agencies under assurances the information will not be further divulged. Use and release of personal information will conform to applicable state and federal laws and regulations. Questions regarding release of information are to be directed to the Department's general counsel. Staff are to consult the general counsel before providing trial testimony, depositional testimony, or a sworn affidavit concerning consumer information. Moreover, if served with a subpoena for the release of client information, staff should notify the general counsel immediately. In a legal proceeding, client information can only be released without the client's consent in response to a court order. A subpoena by itself is not sufficient to authorize disclosure of client information.~~

(b) **Written release required.** Release of personal information must be by written consent of the individual or authorized individual's representative. If requested in writing by an applicant or eligible individual, DRS will make all requested information in that individual's record of services available to the individual in a timely manner except as provided in subsection (c). The Department's Authorization for Release of Information form may be used when the client requests that personal information be released by DRS to a third party and may also be used to request confidential information from other sources. Other release forms are acceptable, as long as they provide the required information. Written authorization for release of information must include:

(1) the nature of the information to be released;

(2) designation of the parties to whom the information is to be released;

(3) the specific purpose for which the released information may be used;

(4) designation of the agency or person authorized to disclose the information; and

(5) dates of initiation and termination of consent.

(A) The terms "release of information", release of personal information, and similar terms refer to providing access to the record, or providing copies, summaries, descriptions, or other reproductions of the actual record of service materials and not the materials themselves.

(c) **~~Release of information to the individual.~~** ~~The individual, or the individual's representative, will be given access to the relevant case record, or provided copies of requested information upon providing a written authorization for release of information, except as in (1) through (3) of this Subsection~~. **Applicants, recipients of services.** Includingas 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.

(1) ~~Psychological, psychiatric, mental health and substance abuse treatment records and information from psychological, psychiatric, mental health and substance abuse treatment practitioners may only be obtained provided the requirements of Section 1-109 of Title 43A of the Oklahoma Statues are met. Under these circumstances, refer the individual, or the individual's representative, to the treating health professional~~ This information will only be collected, used and released for purposes directly connected with the individual's rehabilitation program and/or administration of the Vocational Rehabilitation and Services for the Blind and Visually Impaired programs.

(2) ~~When a DRS professional staff person believes medical or other information not covered in (1) of this Subsection may be harmful to the individual, the information 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~~ Explanation of whether providing requested information to the State unit is mandatory or voluntary and the effects of not providing requested information.

(3) ~~Information obtained from another organization or agency may be released only through that agency, or under the conditions established by the outside agency, organization or providers. For example, information from the Veteran's Administration and Social Security Administration may not be released. Refer the individual requesting such information to the source from which the information was obtained~~ Identification of those situations in which the State unit requires or does not require informed written consent of the individual before information may be released.

(4) 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.

(5) Information containing identifiable personal information will not be shared with advisory or other bodies who do not have official responsibility for the administration of these programs. In the administration of the program, the DVR and DSBVI units may obtain personal information from service providers and cooperating agencies under assurances the information will not be further divulged. Use and release of personal information will conform to applicable state and federal laws and regulations.

(6) Questions regarding release of information are to be directed to the Department's general counsel. Staff are to consult the general counsel before providing trial testimony, depositional testimony, or a sworn affidavit concerning client information. Moreover, if served with a subpoena for the release of client information, staff should notify the general counsel immediately. In a legal proceeding, client information can only be released without the client's consent in response to a court order. A subpoena by itself is not sufficient to authorize disclosure of client information.

(d) **~~Request for information correction.~~** ~~An individual who believes that information in the individual's case record is inaccurate or misleading may request that the information be amended. Even if the information is not amended, the request for amendment must be documented in the case record~~ **Release of information to the individual.** The individual, or the individual's representative, will be given access to the relevant record of service, or provided copies of requested information upon providing a written authorization for release of information, may only be obtained provided the requirements of section 1-109 of Title 43A of the Oklahoma Statutes are met, in a timely manner; in accordance with the standards set forth in 361.38 (c)(1-4).

(e) **~~Release of information to other programs or authorities.~~** ~~Paragraphs (1) through (4) of this Subsection provide the rules governing release of personal information to other programs or authorities~~ **Release of information for audit, evaluation or research.** Personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research in accordance with the standards set forth in 361.38 (d)(1-5).

~~(1) Upon receiving the informed written consent of the individual, or the individual's representative, information may be released to another agency or organization. Only that information that would be released to the involved individual, or the individual's representative will be released, and only to the extent that the other program or organization demonstrates that the information requested is necessary for its program.~~

~~(2) Personal information will be released if required by Federal law or regulations.~~

~~(3) Personal information will be released 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.~~

~~(4) Personal information may be released 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.~~

~~(f)~~ **~~Release of information for audit, evaluation or research.~~** ~~Personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research, only:~~

~~(1) for the purposes directly connected with the administration of the DVR or DSBVI program;~~

~~(2) for purposes which would significantly improve the quality of life for persons with disabilities; and~~

~~(3) if the organization, agency or individual assures:~~

~~(A) The information will be used only for the purpose 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 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. [34CFR361.38]~~

(~~e~~f) **Release of information to other programs or authorities.** ~~Paragraphs (1) through (4) of this Subsection provide the rules governing release of personal information to other programs or authorities~~ Upon receiving the informed written consent of the individual, or the individual’s representative. DRS may release personal information to another agency or organization, in accordance with the standards set forth in 361.38 (e) (1.5).

~~(1) Upon receiving the informed written consent of the individual, or the individual's representative, information may be released to another agency or organization. Only that information that would be released to the involved individual, or the individual's representative will be released, and only to the extent that the other program or organization demonstrates that the information requested is necessary for its program.~~

~~(2) Personal information will be released if required by Federal law or regulations.~~

~~(3) Personal information will be released 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.~~

~~(4) Personal information may be released 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.~~

**612:10-1-6. Due process**

(a) **Notification of rights to due process.** Any applicant or client of DVR or DSBVI dissatisfied with a determination that affects the provision of vocational rehabilitation services may request a timely review of the determination. Each applicant or client, or as appropriate, the individual's authorized representative will be informed of:

(1) the right to get decisions regarding the individual's case reviewed by an impartial hearing officer;

(2) the right to pursue mediation on decisions regarding the individual's case;

(3) the names and addresses of individuals with whom requests for mediation or due process hearings may be filed;

(4) the manner in which a mediator or impartial hearing officer may be selected; and

(5) the availability of assistance from the client assistance program.

(b) **When notification of rights to due process is required.** The notifications specified in (a) shall be provided in writing, and in appropriate accessible format:

(1) at the time an individual applies for VR services;

(2) at the time an individual is assigned to the State's order of selection;

(3) at the time the Individualized Plan for Employment is developed; and

(4) upon reduction, suspension, or cessation of VR services for the individual.

(c) **Client Assistance Program (CAP).** The purpose of the Client Assistance Program (CAP) as described in this Section is to provide assistance with informing and advising clients and applicants of all available benefits under the Rehabilitation Act. When requested by clients and applicants, CAP will assist them in their relationships with projects, programs, and Community Rehabilitation Programs providing services to them under the Act.

(1) The Oklahoma CAP has the authority to pursue legal, administrative and other appropriate remedies to ensure the protection of the rights of individuals with disabilities who are receiving treatment, services or rehabilitation under the Act within the State.

(2) Vocational Rehabilitation agencies are required by Federal statute to advise all clients and applicants of the existence of CAP, the services provided by the program, and how to contact the program. A brochure is provided to each individual at the time of application and development of the IPE.

(3) Counselors must assure clients and applicants have access to CAP without fear of reprisal and are not pressured against or otherwise discouraged from using CAP services.

(4) The CAP staff members will provide the following services:

(A) Helping clients or applicants to understand rehabilitation service programs under the Act;

(B) Advising clients or applicants of benefits available to them through rehabilitation programs authorized under the Act and their rights and responsibilities in connection with those benefits;

(C) Otherwise assisting clients and applicants in their relationships with projects, programs, and Community Rehabilitation Programs providing rehabilitation services under the Act;

(D) Helping clients or applicants by pursuing or assisting them in pursuing legal, administrative, and other available remedies when necessary to ensure the protection of their rights under the Act;

(E) Advising State and other agencies of identified problem areas in the delivery of rehabilitation services to individuals with disabilities and suggesting methods and means of improving agency performance; and

(F) Providing information to the public concerning the CAP and Title I of the ADA.

(5) Clients may be referred to CAP by any one of the following:

(A) The client's counselor;

(B) Other DRS representative;

(C) Office of Disability Concerns' Hotline;

(D) Self;

(E) Any other interested party.

(6) Every client or applicant has the right to protection of information provided by him/her from unauthorized or indiscriminate disclosure. DVR and DSBVI will provide CAP officials information regarding an individual's case in accordance with 612:10-1-5 and applicable Federal law and regulations.

(7) The CAP staff will make periodic field visits to facilitate CAP's availability to clients or applicants who cannot travel to Oklahoma City.

(d) **Supervisory review.** DVR and DSBVI use a supervisory review process to resolve disagreements as close to the field service delivery level as possible. The objective of the supervisory review process is a timely resolution of disagreements, and is not to be used to delay or deny a fair hearing before a hearing officer or the services of an impartial mediator. The supervisory review of a counselor determination starts the 60 day time period established under (f)(5) of this Section. The request for a fair hearing is submitted at this time in accordance with (f)(2) of this Section.

(1) The supervisory review is usually conducted by the program manager. If the program manager was involved in the disputed determination, the field coordinator conducts the administrative review. If the field coordinator was involved in the disputed determination, the division administrator conducts the administrative review.

(2) The decision that results from the administrative review will be stated in a letter to the individual, or to the individual's representative, with copies to the case record, the program manager, and the hearings coordinator. The letter will identify the individual, case number, caseload, and office location. The body of the letter will state the reason for the administrative review and the decision resulting from that review. If the administrative review resolves the disagreement, the Withdrawal of Request for Hearing form must be submitted with the copy of the letter that is sent to the hearings coordinator.

(e) **Mediation.** Whenever a fair hearing is requested under this Section, mediation shall be offered as an option to resolve a disputed decision. DRS uses the voluntary mediation services of the Oklahoma Supreme Court. The supervisor will arrange for a mediator with the Early Settlement Center that is most convenient to the ~~consumer~~ client upon receipt of a request for mediation. DRS will bear the cost of the mediation. The mediation session will be scheduled in a timely manner. An agreement reached by the parties to the dispute in the mediation will be set forth in writing. Discussions that occur during the mediation process will be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. Should the dispute be resolved through mediation, a withdrawal of request for hearing must be submitted to the hearings coordinator. The parties to the mediation may be required to sign a confidentiality pledge prior to commencement of the process. Nothing in this Subsection shall be construed to preclude the parties from informally resolving the dispute. The Departmental representative attending the mediation must be the individual who has final decision making authority for the question in dispute. The mediation:

(1) must be entered into voluntarily by all parties;

(2) is not used to deny or delay the hearing or any other right; and

(3) Is conducted by a qualified and impartial mediator.

(f) **Fair hearing process.** The fair hearing process will be conducted in accordance with (1) through (10) of this Subsection.

(1) **Services under IPE to continue.** No services being provided under the IPE shall be stopped, delayed, or reduced by the Department pending a final resolution of a requested hearing unless so requested by the individual or individual's authorized representative; or the service was obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with disabilities.

(2) **Request for a fair hearing.** The individual has 30 calendar days following the date on the notice of the adverse decision to request a fair hearing. **1**

(A) The individual requesting a fair hearing, may submit it to the local office, or may send it directly to the hearings coordinator in State Office. DVR and DSBVI staff will assist the individual in completing this form and with preparation of evidence from the case record in conformance with 612:10-1-5, if so requested.

(B) DVR and DSBVI staff will immediately notify their supervisor of the request for a fair hearing so that the administrative review can be started by the appropriate staff person. The completed Hearing Summary form, a copy of the notice of the adverse decision, and all supporting materials to be used in the hearing must be sent to the hearings coordinator as soon as possible. If a request for a fair hearing is submitted to the local office, staff will immediately forward it with the other materials.

(C) Prior to the actual fair hearing, the hearings coordinator will provide copies of materials the agency will use in the fair hearing to the individual and/or the individual's representative in conformance with 612:10-1-5.

(3) **Withdrawal of request for a fair hearing.** The individual, or the individual's representative, may submit a withdrawal of request for hearing any time following the submission of a request for a fair hearing up to the time the hearing is actually held. If the issue is resolved prior to the fair hearing, the individual, or the individual's representative, must submit a Withdrawal of Request for Hearing to end the fair hearing process.

(4) **Selection of impartial hearing officer.** The hearings coordinator will select an impartial hearing officer from a list of qualified impartial hearing officers maintained and identified by the State unit. Once selected, the impartial hearing officer will assume responsibility for arranging and conducting the fair hearing with the assistance of agency staff as necessary. The hearings coordinator will be apprised of events in the hearing process, and will be provided copies of all correspondence.

(A) Selections will be made randomly; or by agreement between the director of the designated State unit and the applicant or eligible individual or, as appropriate, the individual's representative; from the list of available impartial hearing officers. The hearings coordinator will forward all relevant materials to the assigned impartial hearing officer.

(B) The impartial hearing officer will send written notice of the fair hearing to all parties involved. The written notice of the fair hearing will include the name, address, and a brief vita of the impartial hearing officer.

(C) The individual may request a different impartial hearing officer based upon presented evidence that a conflict of interest exists consistent with Section 7 (16) of the Rehabilitation Act and 34 CFR 361.5(b)(25). A request for a different impartial hearing officer must be made within five days of receiving the fair hearing notice.

(5) **Scheduling of the fair hearing.** The fair hearing must be held within 60 calendar days from the date the request for a fair hearing is received, unless the issue is resolved prior to the 60th day or the parties agree to a specific extension of time. The administrative review must be conducted and concluded within the same 60 days. Delays or continuances will not be given for the purpose of extending the provision of services. Any agreement to an extension of time must be formalized in writing.

(6) **~~Consumer's~~ Client’s participation in hearing.** At a fair hearing, the individual, or the individual's representative, is afforded the opportunity to:

(A) present additional evidence, information, and witnesses to the impartial hearing officer;

(B) be represented by counsel or other advocate selected by the applicant or eligible individual; and

(C) examine all witnesses and other relevant sources of information and evidence.

(7) **Agency staff attendance.** Professional staff involved in the disputed determination will appear at the hearing to provide appropriate information and evidence and testimony. Other staff will appear as directed.

(8) **Order of proceedings in the fair hearing.** The Impartial Hearing Officer will conduct the fair hearing in accordance with State laws regarding conduct of individual proceedings before an agency, and applicable Federal laws and regulations. Although the order of proceedings is at the discretion of the Hearing Officer, generally, the fair hearing follows this order of proceedings:

(A) presentation, arguments, and disposition of all preliminary motions and matters;

(B) opening statements;

(C) information and evidence presented by the agency;

(D) evidence presented by the grievant;

(E) rebuttal by either or both sides;

(F) closing statements by the grievant;

(G) closing statements by the agency; and

(H) rebuttal by grievant.

(9) **Decision.** The hearing officer makes a decision based on the provisions of the approved State Plan, the Act, Federal vocational rehabilitation regulations, and State regulations and policies that are consistent with Federal requirements and on whether or not the counselor properly applied administrative rules. The hearing officer does not have the authority to rule upon the legality of DRS administrative rules that are consistent with Federal requirements. A decision made after a fair hearing shall be final, unless a party to the fair hearing requests a review under Paragraph (10) of this Subsection. The hearing officer provides the individual, or the individual's representative, and the hearings coordinator a full written report of the findings and grounds for the decision within 30 days of the completion of the hearing. The hearings coordinator will immediately forward the decision to the Director of DRS. The impartial hearing officer may make one of several decisions, which include, but are not limited to:

(A) finding in favor of the grievant;

(B) upholding the determination or action of the agency;

(C) accepting a withdrawal of the appeal confirmed in writing signed by the grievant, or the grievant's representative; or

(D) accepting a settlement of the issues agreed to by the grievant and the agency which must include a written withdrawal of request for a hearing.

(10) **Review of impartial hearing officer's decision.** Any party involved in a fair hearing may request an impartial review of the impartial hearing officer's decision within 20 calendar days of that decision. This review will be conducted by the Governor or the Governor's designee to whom DRS is assigned. The review will be conducted in accordance with the standards in (A) through (E) of this paragraph:

(A) The Governor or the Governor's designee will not delegate responsibility for this review to any officer or employee of DRS.

(B) The Governor or the Governor's designee will provide an opportunity for the submission of additional evidence and information relevant to a final decision concerning the matter under review.

(C) The Governor or the Governor's designee will make a final decision within 30 days of the request for administrative review. The decision will be provided to all parties, and/or to the parties' authorized representatives, in writing. The written decision will include a full report of the findings, and the grounds for the decision.

(D) The Governor or the Governor's designee cannot overturn or modify a decision, or part of a decision, made by an impartial hearing officer that supports the position of the individual unless the Governor or the Governor's designee concludes, based upon clear and convincing evidence, that the decision of the hearing officer is clearly erroneous on the basis of being contrary to the approved State plan, the Act, Federal vocational rehabilitation regulations, or State regulations and policies that are consistent with Federal requirements. The Governor or the Governor's designee will apply the standards presented in (i) through (iii) of this Subparagraph when conducting the review of the hearing officer's decision.

(i) The hearing officer's decision shall not be arbitrary, capricious, an abuse of discretion, or otherwise unreasonable.

(ii) The hearing officer's decision shall be supported by substantial findings of fact.

(iii) In reaching the initial decision, the impartial hearing officer shall correctly apply Federal and State law, regulation, agency ~~policy~~, administrative rules and the approved State Plan as they pertain to the specific issue in question.

(E) A decision made under this Paragraph shall be final unless a party involved in the hearing brings a civil action.

(g) **Civil proceedings.** Any party aggrieved by a final decision of an impartial hearing officer, or by the Governor or the Governor's designee, may bring a civil action for review of the decision. The action may be brought in any State court of competent jurisdiction or in a district court of the United States of competent jurisdiction without regard to the amount in controversy. If a party brings a civil action, the final decision of the impartial hearing officer, or of the Governor or the Governor's designee, shall be implemented pending review by the court. In any action brought under this Subsection, the court:

(1) shall receive the records relating to the hearing, and the records relating to any review conducted under (f)(10), if applicable;

(2) shall hear additional evidence at the request of a party to the action; and

(3) basing the decision of the court on the preponderance of the evidence, shall grant such relief as the court determines to be appropriate. [29 USC 722]

(h) **Standards for impartial hearing officers.** In addition to qualifications required in a contract with the Department, an impartial hearing officer must meet the standards set forth in (1) through (6) of this Subsection:

(1) cannot be an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher learning);

(2) cannot be a member of the Oklahoma Rehabilitation Council;

(3) has not been involved previously in the vocational rehabilitation of the applicant or eligible individual;

(4) must have knowledge of the delivery of vocational rehabilitation services, the State plan required under Section 101 of the Act, and the Federal and State administrative rules governing the provision of such services and training with respect to the performance of official duties;

(5) must have no personal, professional or financial interest that would be in conflict with the objectivity of the impartial hearing officer; and

(6) must have successfully completed impartial hearing officer training presented by DRS.

(i) **Standards for impartial mediators.** In addition to qualifications required in a contract with the Department, an impartial mediator:

(1) will be trained and certified or licensed in effective mediation techniques;

(2) will not be an employee of a public agency (other than an Administrative Law Judge, hearing examiner, employee of a State Office of Mediators, or employee of an institution of higher education);

(3) will not be a member of the Oklahoma Rehabilitation Council;

(4) must be knowledgeable in laws and regulations relating to the provision of VR services;

(5) has not been involved previously in the vocational rehabilitation of the applicant or eligible individual; and

(6) must have no personal, professional or financial interest that would be in conflict with the impartiality of the mediator.

**612:10-1-7. Purchase of services and goods for individuals with disabilities [AMENDED]**

(a) All Department authorizations are made in compliance with the state purchasing policy under legal authority of the Director or by an employee to whom the Director has delegated such authority. Services, other than diagnosis and pre-employment transition services for students with disabilities regardless of whether the student has applied or been determined eligible for vocational rehabilitation services, must be in an approved Individualized Plan for Employment prior to authorization. ~~All authorizations are to be issued prior to or simultaneously with the provision of the services. Verbal authorizations may be made when needed to ensure effective delivery of services. Verbal authorization must be followed immediately by the actual authorization. Separate authorizations for each fiscal year are required when a planned service extends beyond a single fiscal year. Rehabilitation professionals may not authorize fees for services in excess of those established by the Department unless approved by the Division Administrator. A prior written purchasing agreement is required before authorization can be made to any medical vendor or post-secondary school. Other nonmedical vendors will not require a prior written purchasing agreement unless stated otherwise in the DRS policy manual section(s) for that service. When a vendor has a prior written purchasing agreement with the Department, and required approvals have been obtained, authorization may be issued for consumer services directly to that vendor. All other consumer services will be purchased pursuant to the rules in (g) and (h) of this Section. However, a requisition may be submitted to the DRS Purchasing Section if, in the judgment of the responsible rehabilitation professional, the best interests of the consumer and/or the agency would be served by having the Purchasing Section handle the procurement. In either case, once items have been received and checked against the authorization, the appropriate DVR or DSBVI staff, in accordance with (g) and (h) of this Section, approves the claim, then forwards it to the DRS Financial Services Division. When a vendor does not abide by the authorization or written purchasing agreement or bills and accepts fees from the client in addition to those agreed upon, the rehabilitation professional will bring this to the immediate attention of the supervisor for action by the administration. The vendor will not be used for further rehabilitation services until agreement to discontinue the objectionable practice is reached.~~

(1) All authorizations are to be issued prior to or simultaneously with the provision of the services.

(2) Verbal authorizations may be made when needed to ensure effective delivery of services. Verbal authorization must be followed immediately by the actual authorization.

(3) Separate authorizations for each fiscal year are required when a planned service extends beyond a single fiscal year. Rehabilitation professionals may not authorize fees for services in excess of those established by the Department unless approved by the Division Administrator.

(b) ~~Since the Department is a state-federal agency, it does not pay sales, excise, or transportation taxes~~ A prior vendor contract is required before authorizations can be made to any post-secondary school.

(1) By state law, a vendor contract cannot be issued for more than 12 months. If this written purchase agreement should lapse, vendor’s claims will be denied by the Department.

(A) Training facility agreements. Training services are purchased from a specific vendor when a written agreement has been approved. Training facility are any type of facility that provides training such as colleges, real estate school, private trade schools, private vocational schools and career techs. A post-secondary school (private or public) must have a prior written vendor contract with DRS before services can be authorized to that vendor, unless the school is participating in a direct payment program.

(B) Out-of-state vendor contracts. Are required to have a prior written vendor contract with DRS before services can be authorized to that vendor. The client will be provided an opportunity to attend the training facility of choice provided the facility has a written agreement with the Department.

(2) When a vendor has this prior written purchasing agreement with the Department, and required approvals have been obtained, authorization may be issued for vocational rehabilitation services directly to that vendor.

(c) ~~All claims for medical and/or nonmedical client services must be filed on claim forms approved by the Department. When the provision of an authorization is fulfilled, payment for the authorized client services constitutes payment in full. The client will not have any financial liability other than the amount required of clients who must participate in the cost of the service provided. The individual is liable for services he/she arranged which were not planned and initiated under the auspices of DRS. When DVR and DSBVI funds are used to supplement third party medical resources, participation cannot exceed the difference between the third-party payment and the Department's established schedule.~~ Other nonmedical vendors will not require a prior written purchasing agreement unless stated otherwise in the DRS administrative rule manual section(s) for that service.

(d) ~~The client must transfer, assign, or authorize payments to the Department of any and all claims against Health Insurance or Liability Insurance companies or other third parties, to the full extent of all payments for medical services made by the Department.~~ All other vocational rehabilitation services will be purchased pursuant to the administrative rules in (j) and (m) of this Section. However, a requisition may be submitted to the DRS Purchasing Section if, in the judgment of the responsible rehabilitation professional, the best interests of the individual and/or the agency would be served by having the Purchasing Section handle the procurement. In either case, once items have been received and checked against the authorization, the appropriate DVR or DSBVI staff, in accordance with (j) and (m) of this Section, approves the claim, then forwards it to the DRS Finance Services Division.

(1) When a vendor does not abide by the authorization or written purchasing agreement or bills and accepts payment from the client in addition to those agreed upon, the rehabilitation professional will bring this to the immediate attention of the supervisor for action by the administration. The vendor will not be used for further rehabilitation services until agreement to discontinue the objectionable practice is reached.

~~(e) The Department retains right and title to any tools, equipment, durable medical equipment, or other goods costing $500 or more purchased with DVR and DSBVI funds, until and unless such goods are released to the client. Upon delivery of any such goods to the client, a Receipt for Equipment and Title Agreement must be completed and approved.~~ Since the Department is a state-federal agency, it does not pay sales, excise, or transportation taxes.

~~(1)~~ **~~Completion of Program:~~** ~~Any tools, equipment or durable medical goods purchased for training or occupational purposes remain with the client after completion of the program of services if they can be used in the client’s chosen vocation. If the client fails to complete the program of service, the counselor will make effort to reclaim the goods to transfer to another client.~~

~~(2)~~ **~~Disposition at closure:~~** ~~Case recording must reflect the disposition at the time of closure of tools, equipment, and goods provided the client. All occupational tools, equipment, and durable medical goods remain the property of the agency until released. If the client is not using the items, the counselor will pick them up if an economical savings to the agency will result, and if the transfer will not endanger the health or safety of the client.~~

~~(3)~~ **~~Title Release:~~** ~~Title on any tools, equipment or durable medical equipment purchased with DRS funds for training or occupational purposes will not be released to the client until the counselor has determined the client is using the items as planned.~~

(f) ~~When the rehabilitation professional determines an authorization or portion of an authorization will not be utilized, procedures to cancel the remaining services will be completed. Before the case is closed, all unliquidated authorizations must be canceled or accounted for to determine if a claim will be made against any outstanding authorization.~~ All claims for medical and/or nonmedical client services must be filed on claim forms approved by the Department. When the provision of an authorization is fulfilled, payment for the authorized client services constitutes payment in full. The client will not have any financial liability other than the amount required of clients who must participate in the cost of the service provided.

(g) ~~Purchasing consumer goods or services, other than direct client payments, when there is no prior written purchasing agreement is basically a three step process. These steps include specifying the requirements for the goods or services, authorizing for the purchase, and receiving delivery of the goods or services. For audit purposes, no one person can perform more than one of these steps. A different person is required for:~~ The individual is liable for services he/she arranged which were not planned and initiated under the auspices of DRS.

~~(1) identifying the requirement for the purchase;~~

~~(2) placing the order; and~~

~~(3) accepting the material or service.~~

(h) ~~When a prior written purchasing agreement for consumer goods or services, other than direct client payments, is not required, and the service or package of services to be obtained will cost the amount of the DCAM authority order limit or less, the rehabilitation professional and client will jointly choose an appropriate vendor. The rehabilitation professional will then authorize for the planned services to the chosen vendor. When a prior written purchasing agreement for consumer services, other than direct client payments, is not required, and the service or package of services will cost more than the DCAM authority order limit, the rehabilitation professional will follow rules in (1) through (7) of this Subsection.~~ The Department retains right and title to any tools, equipment, durable medical equipment, or other goods costing $500 or more purchased with DVR and DSBVI funds, until and unless such goods are released to the client. Upon delivery of any such goods to the client, a Receipt for Equipment and Title Agreement must be completed and approved.

(1) ~~The rehabilitation professional will obtain specialist recommendations for purchase requirements and approvals in accordance with agency policy.~~ Completion of Program: Any tools, equipment or durable medical goods purchased for training or occupational purposes remain with the client after completion of the program of services if they can be used in the client’s chosen vocation. If the client fails to complete the program of service, the counselor will make effort to reclaim the goods to transfer to another client.

(2) ~~The participation of the client, or the client's authorized representative, will be obtained in deciding upon at least three vendors to be contacted by the rehabilitation professional to obtain bids for the goods or services. The rehabilitation professional will review available vendor information with the client, or client's authorized representative, to jointly determine which vendor(s) can best meet the needs of the client in terms of product and service function, quality, and vendor accessibility~~. Disposition at closure: Case recording must reflect the disposition at the time of closure of tools, equipment, and goods provided the client. All occupational tools, equipment, and durable medical goods remain the property of the agency until released. If the client is not using the items, the counselor will pick them up if an economical savings to the agency will result, and if the transfer will not endanger the health or safety of the client.

(3) ~~At least three vendors offering the goods or services will be contacted to obtain bids. To expedite planning and service delivery, bids may be obtained verbally. Upon request, contacted vendors will be afforded at least 24 hours in which to prepare and submit the verbal bid. The rehabilitation professional will ensure that all bids are submitted in writing for the same or comparable items, and will document the bids received by using the Vendor Bid Documentation Form.~~ Title Release: Title on any tools, equipment or durable medical equipment purchased with DRS funds for training or occupational purposes will not be released to the client until the counselor has determined the client is using the items as planned.

~~(4) The rehabilitation professional will issue the appropriate authorization and claim to the vendor submitting the lowest and best bid. If the rehabilitation professional managing the case is also the recognized specialist who identified the purchase requirements, then the supervisor will issue the appropriate authorization. Authorization may be issued to a vendor not submitting the lowest bid only with strong documentation that the selected vendor can best meet the needs of the client. When the bid is in excess of $5,000.00 the successful bidder will sign a non-collusion statement (to be sent with the claim), which will be maintained in the case service record.~~

~~(5) In the case of a vehicle modification or housing modification, upon completion of the authorized services, the counselor will contact the AT Specialist to schedule inspection of the work in accordance with 612:10-7-220. The AT Specialist will complete the "Assistive Technology Inspection Report" verifying the modification conforms to acceptable standards and the work is satisfactory.~~

~~(6) Upon delivery of the goods or services in accordance with the IPE and authorization, a rehabilitation staff person other than the specialist who specified the purchase requirements and the rehabilitation professional who authorized the purchase will accept delivery, verify that goods received match the vendor invoice, sign the appropriate claim form, sign and attach the invoice and forward them to the DRS Financial Services Division.~~

~~(7) Upon delivery of any goods costing $500 or more to the client, a Receipt for Equipment and Title Agreement must be completed and approved.~~

~~(8) Itemized documentation will be in the case record on all orders costing less than $500 and the client will acknowledge their receipt. (For example, signing and dating the packaging slip, vendor's invoice, or typed list of goods.)~~

~~(9) Returned or repossessed items must be documented on for "Receipt for Equipment and Title Agreement" and the final disposition noted in Case Narrative entry.~~

(i) ~~Program Managers will review case records when submitted for approvals to ensure that purchases are being awarded in a manner that ensures competition and client participation within the scope of DRS and applicable fiscal rules. At least once each fiscal year a random selection of case records will be reviewed by the DRS Central/Departmental Services Unit to monitor compliance with DRS and applicable fiscal rules. If a Program Manager has reason to believe that a rehabilitation professional is not making a good faith effort to award purchases in a competitive manner and in accordance with agency policy, a fiscal audit of the entire caseload will be requested to determine the appropriate action to take.~~ When the rehabilitation professional determines an authorization or portion of an authorization will not be utilized, procedures to cancel the remaining services will be completed. Before the case is closed, all unliquidated authorizations must be canceled or accounted for to determine if a claim will be made against any outstanding authorization.

(j) ~~Pursuant to 74 O.S. 85.44A, any goods or services required under a court order shall be purchased in accordance with DRS fiscal rules.~~Purchasing vocational rehabilitation goods or services, other than direct client payments, when there is no prior written purchasing agreement is basically a three step process. These steps include specifying the requirements for the goods or services, authorizing for the purchase, and receiving delivery of the goods or services. For audit purposes, no one person can perform more than one of these steps. A different person is required for:

(1) identifying the requirement for the purchase;

(2) placing the order; and

(3) accepting the material or service.

(k) When a prior written purchasing agreement for vocational rehabilitation goods or services, other than direct client payments, is not required, and the service or package of services to be obtained will cost the amount of the OMES-DCAM authority order limit or less, the rehabilitation professional and client will jointly choose an appropriate vendor. The rehabilitation professional will then authorize for the planned services to the chosen vendor. When a prior written purchasing agreement for vocational rehabilitation services, other than direct client payments, is not required, and the service or package of services will cost more than the OMES-DCAM authority order limit, the rehabilitation professional will follow administrative rules in (1) through (7) of this Subsection.

(1) The rehabilitation professional will obtain specialist recommendations for purchase requirements and approvals in accordance with agency administrative rules.

(2) The participation of the client, or the client's authorized representative, will be obtained in deciding upon at least three vendors to be contacted by the rehabilitation professional to obtain bids for the goods or services. The rehabilitation professional will review available vendor information with the client, or client's authorized representative, to jointly determine which vendor(s) can best meet the needs of the client in terms of product and service function, quality, and vendor accessibility.

(3) At least three vendors offering the goods or services will be contacted to obtain bids. To expedite planning and service delivery, bids may be obtained verbally. Upon request, contacted vendors will be afforded at least 24 hours in which to prepare and submit the verbal bid. The rehabilitation professional will ensure that all bids are submitted in writing for the same or comparable items, and will document the bids received by using the Vendor Bid Documentation Form.

(4) The rehabilitation professional will issue the appropriate authorization and claim to the vendor submitting the lowest and best bid. If the rehabilitation professional managing the case is also the recognized specialist who identified the purchase requirements, then the supervisor will issue the appropriate authorization. Authorization may be issued to a vendor not submitting the lowest bid only with strong documentation that the selected vendor can best meet the needs of the client. When the bid is in excess of $5,000.00 the successful bidder will sign a non-collusion statement (to be sent with the claim), which will be maintained in the case service record.

(5) In the case of a vehicle modification or housing modification, upon completion of the authorized services, the counselor will contact the AT Specialist to schedule inspection of the work in accordance with 612:10-7-220. The AT Specialist will complete the "Assistive Technology Inspection Report" verifying the modification conforms to acceptable standards and the work is satisfactory.

(6) Upon delivery of the goods or services in accordance with the IPE and authorization, a rehabilitation staff person other than the specialist who specified the purchase requirements and the rehabilitation professional who authorized the purchase will accept delivery, verify that goods received match the vendor invoice, sign the appropriate claim form, sign and attach the invoice and forward them to the DRS Finance Services Division.

(7) Upon delivery of any goods costing $500 or more to the client, a Receipt for Equipment and Title Agreement must be completed and approved.

(8) Itemized documentation will be in the case record on all orders costing less than $500 and the client will acknowledge their receipt. (For example, signing and dating the packaging slip, vendor's invoice, or typed list of goods.)

(9) Returned or repossessed items must be documented on for "Receipt for Equipment and Title Agreement" and the final disposition noted in Case Narrative entry.

(l) Program Managers will review record of services when submitted for approvals to ensure that purchases are being awarded in a manner that ensures competition and client participation within the scope of DRS and applicable fiscal rules. At least once each fiscal year a random selection of record of services will be reviewed by the DRS Central/Departmental Services Unit to monitor compliance with DRS and applicable fiscal rules. If a Program Manager has reason to believe that a rehabilitation professional is not making a good faith effort to award purchases in a competitive manner and in accordance with agency ~~policy~~ administrative rules, a fiscal audit of the entire caseload will be requested to determine the appropriate action to take.

(1) Prior to the initiation of the Individualized Plan for Employment (IPE), the counselor must determine if:

(A) a vendor agreement is needed;

(B) there is an established rate or fee schedule; and

(C) client's participation in cost of services is required.

(m) Pursuant to 74 O.S. 85.44A, any goods or services required under a court order shall be purchased in accordance with DRS fiscal rules.

**612:10-1-8. Vendor contracts [REVOKED]**

~~(a)~~ **~~Nonmedical vendor contracts.~~** ~~A post-secondary school (private or public) must have a prior written purchasing agreement with DRS before services can be authorized to that vendor, unless the school is participating in a direct payment program. Other nonmedical services to be purchased from a vendor will not require a prior written purchasing agreement unless stated otherwise in the DRS manual section(s) for that service, or in accordance with 612:10-1-7. Services requiring a prior written agreement cannot be authorized until a prior written agreement has been completed. Prior to the initiation of the Individualized Plan for Employment (IPE), the counselor must determine if:~~

~~(1) a vendor agreement is needed;~~

~~(2) there is an established rate or fee schedule; and~~

~~(3) client's participation in cost of services is required.~~

~~(b)~~ **~~Training facility agreements.~~** ~~Training services are purchased from a specific vendor when an active agreement has been approved by the Department of Central Services and placed on file in the Office of Management and Enterprise Services.~~

~~(c)~~ **~~Out-of-state vendor agreements.~~** ~~By state law, an agreement cannot be issued for more than 12 months. If an agreement should lapse, vendor's claims for clients' training will be denied by the Department under state law. The client will be provided an opportunity to attend the training facility of choice provided the facility has an active agreement with the Department.~~

~~(d)~~ **~~Medical vendor agreements.~~** ~~Medical services or supplies may be purchased only from medical vendors having active purchasing agreements with the Department.~~

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

**612:10-3-2. Consideration of comparable services and benefits [AMENDED]**

(a) **Determination of availability.** Prior to providing an accommodation or auxiliary aid or service or any ~~VR service~~ vocational rehabilitation services, except those services listed under 361.53 (b), to an eligible individual or to members of the individual's family, ~~except those services specified in Paragraph (1),~~ the VR or SBVI counselor must ~~will~~ determine whether comparable services and benefits, as defined in 361.5 (c) (8) are available to the individual unless such a determination would interrupt or delay services according to 361.53 (a-c). ~~under any other program unless any of the conditions in Paragraph (2) apply to the individual~~.

~~(1) The VR services listed in (A) through (F) are to be provided without first determining the availability of comparable services and benefits. However, comparable services and benefits may be used for these VR services if the comparable services and benefits are readily available at the time the VR services are needed. VR services exempt from a required search for comparable services and benefits are:~~

~~(A) information and referral services to eligible individuals not in an open priority group under the order of selection;~~

~~(B) assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;~~

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

~~(D) referral and other services to secure needed services from other agencies through cooperative agreements;~~

~~(E) job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services; and~~

~~(F) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.~~

~~(2) Determining whether comparable benefits and services are available will not be required prior to providing any VR services if that determination would interrupt or delay:~~

~~(A) the progress of the individual toward achieving the employment outcome identified in the IPE;~~

~~(B) an immediate job placement; or~~

~~(C) the provision of such services to any individual at extreme medical risk.~~

(b) **Exempt services.** The vocational rehabilitation services described in 361.48(b) are exempt from a determination of the availability of comparable services and benefits under paragraph (a) of this section as identified in 361.53 (b) (1-6). ~~Counselors will advise clients of available benefits, help in completing the application for such benefits when needed, and refer clients to the appropriate contact person. Each client is required to apply for such benefits. DVR and DSBVI will not participate in the cost of services for any client who fails to apply for and accept available comparable benefits.~~

(1) However, comparable services and benefits may be used for these VR services if the comparable services and benefits are readily available at the time the VR services are needed.

(c) **Provision of services.** ~~Whether or not the client must participate in the cost of VR services has absolutely no effect upon the required search for, or use of, available comparable benefits. Available comparable benefits cannot be used in place of client resources when the client is required to participate in the cost of VR services.~~

(1) If comparable services or benefits exist under any other program and are available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual’s individualized plan for employment, DRS must use those comparable services or benefits to meet, in whole or part, the costs of the vocational rehabilitation services. 361.53 (c) (1)

(2) If comparable services or benefits exist under any other program, but are not available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome specified in the individualized plan for employment, DRS must provide vocational rehabilitation services until those comparable services and benefits become available. 361.53 (c) (2)

(3) Each eligible individual is required to apply for such benefits. DVR and DSBVI will not participate in the cost of services for any client who fails to apply for and accept available comparable benefits.

(4) Whether or not the client must participate in the cost of VR services has absolutely no effect upon the required search for, or use of, available comparable benefits. Available comparable benefits cannot be used in place of client resources when the client is required to participate in the cost of VR services.

(5) A student loan is not a comparable benefit. Failure to apply for a student loan which must be repaid will not be cause to withhold participation by DVR or DSBVI. Clients who have defaulted on a student loan will not be assisted with post-secondary training until the client has cleared the default or has made arrangement with the lender on the terms of payment.

(6) Clients will be informed of and are expected to provide the counselor a copy of the award letter(s) or other written notice of comparable benefits received from other sources.

~~(d) Awards and scholarships based upon merit will not be counted as comparable benefits.~~

~~(e) A student loan is not a comparable benefit. Failure to apply for a student loan which must be repaid will not be cause to withhold participation by DVR or DSBVI. Clients who have defaulted on a student loan will not be assisted with post-secondary training until the client has cleared the default or has made arrangement with the lender on the terms of payment. Documentation of the arrangement made must be in the case record before post-secondary training services are provided when it is known a client has defaulted on a loan. The counselor will inform such clients of organizations which can help resolve debt problems, such as credit counseling services and legal aid.~~

~~(f) Clients are expected to provide the counselor a copy of the award letter(s) or other written notice of comparable benefits received from other sources, and it is expected the comparable services and benefits available to the client will be used to defray all or part of the cost of the individual's IPE.~~

~~(g) The client's IPE will be reviewed and amended by the client and VR counselor whenever comparable services or benefits that were not accounted for in the original plan become available to the client.~~

(~~h~~d) **Interagency coordination.** The vocational rehabilitation services portion of the Unified or Combined State Plan must assure that the Governor, in consultation with DRS and other appropriate agencies, will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between DRS and any appropriate public entity, including the State entity responsible for administering the State Medicaid program, a public institution of higher education, and a component of the statewide workforce development system, to ensure the provision of vocational rehabilitation services, and if appropriate, accommodations or auxiliary aids and services, (other than those services listed in paragraph (b) of this section) that are included in the individualized plan for employment of an eligible individual, including the provision of those vocational rehabilitation services (including, if appropriate, accommodations or auxiliary aids and services) during the pendency of any interagency, dispute in accordance with the provisions of paragraph (d) (3) (iii) of 361.53 (d) (1-3). ~~Cooperative agreements between DRS and other service providers may affect how comparable services and benefits available from such service providers will be applied in an IPE. Cooperative agreements entered into by DRS with other service providers will include:~~

~~(1) provisions for determining and stating the financial responsibility of each agency in providing services;~~

~~(2) conditions, terms, and procedures for DRS to be reimbursed by other agencies for providing covered services;~~

~~(3) procedures for resolving interagency disputes under the agreement; and~~

~~(4) coordination of agency procedures for timely VR services delivery.~~

(e) **Resonsibilities under other law.** If a public entity other than DRS is obligated under Federal law (such as the Americans with Disability Act, Section 504 of the Act, or section 188 of the Workforce Innovation and Opportunity Act) or State law, or assigned responsibility under State ~~policy~~ administrative rules or an interagency agreement established under this section, to provide or pay for any services considered to be vocational rehabilitation services (e.g., interpreter services under 361.48(j)), and, if appropriate, accommodations or auxiliary aids and services other than those services listed in paragraph (b) of this section, the public entity must fulfill that obligation or responsibility according to the terms in 361.53 (e) (1-2).

**612:10-3-3. ~~Client participation in services cost and financial status determination~~ Participation of individuals in cost of services based on financial need [Amended]**

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

(~~a~~b) DVR and DSBVI ~~require~~ requires the client to participate in the cost of some vocational rehabilitation services if the client and/or client’s family income exceeds the established basic living requirement for the applicable family size. Any client whose available family income exceeds the applicable basic living requirements is required to apply the monthly surplus to the cost of services during each 30 day period services are provided ~~who has been determined eligible for Social Security benefits under Title II or XVI of the Social Security Act is exempt from client participation in service costs~~.

~~(b) Before an individual can be provided services other than those listed in DRS policy, the counselor must evaluate the client's financial situation to determine if the client must participate in the cost of services, and if so, the amount of such participation. Any client whose available family income exceeds the applicable basic living requirements is required to apply the monthly surplus to the cost of services during each 30 day period services are provided. DVR and DSBVI funds will not be used to purchase services based on client's financial status when there is any refusal on client's behalf to participate in the cost of services. However, the client can be provided services not based on financial status. Any client who does not have a surplus is not required to participate in the cost of services. Financial status does not exempt the client from required use of comparable benefits. If a payment is required of the client, it will be made to the vendor.~~

(c) ~~The counselor will re-evaluate the client’s financial situation at least annually and any time there is a change in the financial situation of the client or family. The amount of client participation in cost is based upon the most recent determination of client's financial status at the time the IPE or amendment is written, and is stated in the IPE or amendment.~~ A basic living requirement has been established for different size family groups. A family member is an individual who is a relative or guardian of an applicant or eligible individual. Basis living requirements are based on 200% of the Federal poverty level adjusted annually for family size. The standard is intended to cover only the necessities of food, shelter, utilities, clothing, transportation, and incidentals to give the counselor some criteria by which to measure the financial status of a client. To qualify as independent from the family group, the client must meet on of the following criteria:

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

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

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

(4) Married and maintaining a separate household;

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

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

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

(A) Verification of family membership should be based upon whatever available information most accurately documents family membership according to the definition given in this administrative rule. Examples of acceptable verification include the latest Federal income tax return, payroll information, insurance policies, client report, and/or counselor observation.

(d) ~~The client's financial status must be verified when an IPE includes services which require client participation in cost of services. Information used to verify the client's financial status includes such documents as income tax returns, bank statements, pay stubs, canceled checks, payment receipts, and/or payroll documents. It is the client's responsibility to provide the documents needed for verification of financial status information for the family. If the client refuses to provide the requested verification, DVR and DSBVI resources will not be used to defray the cost of services which require client participation in cost of services.~~ However, the client can be provided services not based on financial needs, the following services do not require a determination of financial need status:

(1) "services provided to assess eligibility and priority for services under 361.48 (b) (1) by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology, except those non-assessment services that are provided to an individual with a significant disability during either an exploration of the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experience under 361.42 (e)" (services which would require the individual's participation in cost under an IPE will also require the individual's participation in cost during an evaluation of the individual’s ability to benefit from VR services);

(2) "counseling, guidance under 361.48 (b) (3), including information and support services to assist an individual in exercising informed choice in accordance with 361.52," and other services provided directly by DVR and DSBVI staff;

(3) "Referral and other services under 361.48 (b) (4) necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce development system, in accordance with 361.23, 361.24, and 361.37, and to advise those individuals about client assistance programs established under 34 CFR part 370";

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

(5) personal or vocational adjustment training;

(6) "reader services; under 361.48 (b) (11) rehabilitation teaching services, and orientation and mobility services for individuals who are blind. May also include individuals unable to read because of serious neurological disorders, specific learning disabilities, or other physical or mental impairments";

(7) "interpreter services; including sign language and oral interpreter services, for individuals who are deaf or hard of hearing and tactile interpreting services for individuals who are deafblind provided by qualified personnel. Interpreter services also include real-time captioning services for persons who are deaf or hard of hearing under 361.48 (b) (10)";

(8) "personal assistance services; under 361.48 (b) (14); means a range of services, including, among other things, training in managing, supervising, and directing personal assistance services, provided by one or more persons 361.5 (c) (39)";

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

(10) Disability Related Skills Training;

(11) "Supported employment services in accordance with the definition of that term in 361.5 (c) (54)," employment and retention; or

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

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

(f) The counselor will re-evaluate the client's financial needs at least annually and any time there is a change in the financial situation of the client or family. The amount of client participation in cost is based upon the most recent determination of client's financial needs at the time the IPE or amendment is written, and is stated in the IPE or amendment.

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

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

(1) Income.

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

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

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

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

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

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

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

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

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

**612:10-3-4. Services exempt from client participation in service costs [REVOKED]**

~~(a) DVR and DVS clients who have income and assets above the basic living requirements will be required to apply surplus resources to the cost of rehabilitation services except for the following services which do not require a determination of financial status:~~

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

~~(2) counseling, guidance, referral, and other services provided directly by DVR and DVS staff;~~

~~(3) on-the-job training, work experiences, internships and apprenticeships;~~

~~(4) personal or work-adjustment training;~~

~~(5) reader services;~~

~~(6) interpreter services;~~

~~(7) personal assistance services;~~

~~(8) job-related services including job search and placement, job retention services, follow-up services and follow-along services;~~

~~(9) compensatory training;~~

~~(10) job coaching services (i.e., supported employment, employment and retention, transitional employment); or~~

~~(11) any auxiliary aid or service that an individual with a disability require under Section 504 of the Rehabilitation Act or the Americans with Disabilities Act, or regulations implementing those laws, in order for the individual to participate in the VR program; and~~

~~(12) library services.~~

~~(b) Recipients of Social Security benefits under Titles II (federal old age, survivors, and disability insurance benefits) or XVI (SSI) of the Social Security Act do not have to participate financially in the cost of their rehabilitation program.~~

**612:10-3-5. Basic living requirements [REVOKED]**

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

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

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

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

~~(4) Married and maintaining a separate household;~~

~~(5) Meets the criteria for temporary housing as described in 612:10-3-5(c) or;~~

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

~~(b) Verification of family membership should be based upon whatever available information most accurately documents family membership according to the definition given in this rule. Examples of acceptable verification include the latest Federal income tax return, payroll information, insurance policies, client report, and/or counselor observation.~~

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

**612:10-3-6. Income and Liabilities [REVOKED]**

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

~~(1)~~ **~~Income.~~**

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

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

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

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

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

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

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

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

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

**PART 1. SCOPE OF VOCATIONAL REHABILITATION AND SERVICES FOR THE BLIND AND VISUALLY IMPAIRED**

**612:10-7-1. Overview of Vocational Rehabilitation and Services for the Blind and Visually Impaired [AMENDED]**

(a) Vocational rehabilitation services are provided by the Division of Vocational Rehabilitation and the Division of Services for the Blind and Visually Impaired to help eligible individuals achieve employment outcomes that are consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of each eligible individual. VR services for individuals are meant to result in competitive employment in an integrated setting. Vocational rehabilitation services include services for individuals and services to groups of individuals.

(b) Vocational rehabilitation services for an individual are prescribed in an Individualized Plan for Employment (IPE) that is based on an assessment of the individual's rehabilitation needs, guidance provided by a qualified vocational rehabilitation professional and the individual’s informed choice with regard to employment goal, services and service providers. Services may include but are not limited to:

(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

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

(3) referral and other services to secure needed services from other agencies through cooperative agreements if such services are not available from DVR or DSBVI;

(4) job-related services, including job search and placement assistance, customized employment services, services leading to self-employment, job retention services, ongoing services, and extended services;

(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials;

(6) to the extent that financial support is not readily available from a source (such as health insurance or comparable services and benefits) other than DVR or DSBVI, diagnosis and treatment of physical and mental impairments;

(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an Individualized Plan for Employment;

(8) transportation, including training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to participate in rehabilitation services or to achieve an employment outcome;

(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind;

(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

(12) occupational licenses, tools, equipment, and initial stocks and supplies;

(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(14) rehabilitation technology, including rehabilitation engineering, assistive technology devices and assistive technology services;

(15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the Individualized Plan for Employment, and pre-employment transition services as described in 34 CFR 361.48(a) and 29 USC 733;

(16) supported employment services for individuals with the most significant disabilities that need ongoing support services from a job coach to obtain and maintain employment;

(17) employment and retention services for individuals with significant disabilities who require short term job coach support to obtain and maintain a successful employment outcome;

(18) ~~transitional employment services for individuals with the most significant disabilities due to mental illness who have little or no successful work history and need work adjustment/trial work experience;~~

(~~19~~18) work experiences, internships, and apprenticeships;

(~~20~~19) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and

(~~21~~20) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

(c) Vocational rehabilitation services for groups of individuals with disabilities are described in 34 CFR 361.49 and include:

(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by DVR or DSBVI, the provision of such services and supervision, along or together with the acquisition by DVR or DSBVI of vending facilities or other equipment and initial stocks and supplies.

(2) Equipment for clients who are going into self-employment requires prior approval from RSA.

(3) Transition services to youth and students with disabilities who may not have applied or been determined eligible for vocational rehabilitation services, that involve collaboration of a vocational rehabilitation counselor with education agencies, programs serving individuals with developmental disabilities, businesses, workforce programs, independent living centers, housing and transportation authorities and related entities. Such services are to benefit a group of youth or students with disabilities and may not be individualized services related to an individual plan for employment. Services may include group tours of training programs and businesses, career fairs, interview practice, resume writing, and other group activities that support future employability.

(4) High school students who have a disability and are not clients of the DRS, but are going to a conference or camp to provide them with the necessary tools and education for employment requires prior approval from RSA.

(5) The use of telecommunications systems (including telephone, television, video description services, tactile-vibratory devices, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities;

(6) Special services to provide access to information for individuals who are blind, visually impaired, deaf, hard of hearing or deaf-blind including:

(A) the use of telecommunications, Braille, sound recordings, or other appropriate media;

(B) captioned television, films, or video cassettes for individuals who are deaf or hard of hearing;

(C) tactile materials for individuals who are deaf-blind; and

(D) other special services that provide information through tactile, vibratory, auditory, and visual media.

(7) Technical assistance to businesses that are seeking to employ individuals with disabilities.

(8) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

(9) The establishment, development or improvement of assistive technology demonstration, loan, reutilization or financing programs in coordination with activities authorized under the Assistive Technology Act of 1998.

(10) The establishment, development or improvement of a community rehabilitation program that is used to provide vocational rehabilitation services that promote integration into the community and prepare individuals with disabilities for competitive integrated employment.

**612:10-7-2. Field staff responsibilities [AMENDED]**

(a) The counselor is responsible for contacting each referral within 30 days of receipt of the referral information. The counselor is responsible for completing a contact by telephone or in person. The counselor is responsible for providing interpreter services to applicants who are deaf or non-English speaking.

(b) The qualified vocational rehabilitation counselor is responsible for the determination of an individual's eligibility to receive services from DVR or DSBVI. In cases where the counselor has difficulty in making an eligibility determination, the counselor will consult with the supervisor. For further clarification, the case will be reviewed by the field coordinator for a decision. Individuals who are legally blind are to be referred to the appropriate rehabilitation teacher for determination of eligibility for the rehabilitation teaching program.

(c) The qualified vocational rehabilitation counselor's primary vocational rehabilitation service is counseling and guidance with job placement. Additional services must be justified as necessary to compensate for, correct or circumvent an impediment to employment. Every IPE must include a plan of counseling and guidance services. Regular documentation of counseling sessions will be included in every DVR and DSBVI case.

(d) The qualified vocational rehabilitation counselor is to ensure that the client is a full participant in the decisions that are made concerning his or her vocational rehabilitation. This responsibility is carried out by providing the individual with as much relevant information as is available so that the individual, and/or the individual's authorized representative, can exercise informed choice consistent with the Department's ~~policies~~ administrative rules. The minimum information concerning service choice to be supplied includes:

(1) service cost;

(2) available service providers;

(3) service accessibility;

(4) expected duration of services;

(5) ~~consumer~~ client satisfaction with the services in question, to the extent that such information is available;

(6) qualifications of potential service providers;

(7) the types of services offered by the potential service providers;

(8) the degree to which services are provided in integrated settings; and

(9) outcomes achieved by individuals working with the service provider, to the extent such information is available.

(e) The individual will be notified in writing of any adverse determination made by professional staff concerning that individual's case. This notification will be made in a timely manner, and in a manner that supports the individual's right to due process.

(f) The counselor will complete a financial status determination form prior to the provision of any service (other than exempt services listed in ~~612:10-3-4~~ 612:10-3-3) to determine if the client will be required to participate in the cost of services. Verification of financial needs is not required if all services on the IPE are "exempt services" or if the agency will not be contributing to the sponsorship of "non-exempt" services (s) on the IPE.

(g) The counselor will inform each individual of his or her rights and responsibilities as an applicant or client of DVR and DSBVI. ~~Cross reference 612:10-7-3~~

(h) The Department of Rehabilitation Services (DRS) has an obligation under state and federal law to provide services in a fair and impartial manner. State Ethics Commission Rules state that the proper operation of state government requires that the state employee be independent and impartial; that state employees not use state office to obtain private benefits; that a state employee must avoid action which creates the appearance of using state office to obtain a private or inappropriate benefit; and that state employees exercise their powers without prejudice or favoritism.

**612:10-7-2.1. Applications for employees or family member(s) of employees [REVOKED]**

~~In order to provide fair and equal access to vocational rehabilitation services, and to avoid the appearance of impropriety or conflict of interest, an applicant who is a DRS employee or an immediate family member of a DRS employee, shall adhere to the procedures below when such an individual wishes to apply for rehabilitation services. Immediate family members may include a spouse, children, or any other individual who might be considered immediate family.~~

~~The employee shall advise the Field Services Coordinator of the intent to apply for services. If the Field Services Coordinator, his/her immediate family member, his/her direct report, or an immediate family member of his/her direct report intends to apply for services, the employee shall advise the appropriate Division Administrator of the intent to apply for services.~~

~~The Field Services Coordinator or Division Administrator (when appropriate) will select a counselor to take the application. Whenever possible, the counselor will be located in an adjacent unit.~~

**612:10-7-2.2. Applications for friends or family member(s) of friends [REVOKED]**

~~In order to provide fair and equal access to vocational rehabilitation services, and to avoid the appearance of impropriety or conflict of interest, the following procedure will be followed. If an applicant is familiar to the point of friendship or an immediate family member of an individual who is familiar to the point of friendship, an application/referral will not be processed by the impacted DRS staff member. The relationship will be disclosed to the Supervisor in writing for proper case assignment.~~

**612:10-7-3. Client responsibilities [AMENDED]**

To make the rehabilitation effort a success, the individual and agency's staff must work together to reach chosen goals. This shared responsibility requires that the client or applicant for services accept the basic responsibilities in (1) through (12) of this Subsection. Other specific client responsibilities are stated in relevant manual sections. It is the counselor's responsibility to fully and appropriately inform the client of client responsibilities.

(1) Provide information and be available to complete the assessment process to find out if you are eligible for services.

(2) Be on time and keep appointments with DVR/DSBVI staff, doctors and others. Call in advance or as soon as possible, if you cannot come to an appointment.

(3) Follow the advice of doctors and other medical professionals to include compliance with all prescribed medications.

(4) Participate with your DVR/DSBVI qualified vocational rehabilitation counselor in developing the Individualized Plan for Employment, (IPE) including participating in assessments needed to determine your needs and strengths.

(5) Provide enrollment documents to your ~~home/supervisor~~ counselor before the college or university's designated "Drop and Add" deadline so an authorization can be issued, if your IPE includes educational and training services.

(6) Attend education or training classes on a regular basis and ~~make at least~~ maintain passing grades, if your IPE includes these services.

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

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

(7) Review your IPE with your qualified vocational rehabilitation counselor at least once a year and participate in making revisions to the plan when needed.

(8) Maintain satisfactory progress toward completing the IPE.

(9) Abstain from abuse of drugs and/or alcohol. Individuals who abuse drugs and/or alcohol while receiving services will be referred to the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) and/or other appropriate agencies for purposes of seeking treatment. All case services will be suspended. If the client refuses or fails to cooperate with seeking treatment, or is not available to pursue a DRS program, this will be considered as reasonable cause for case closure.

(10) Keep the appropriate professional informed of changes in the individual's address, financial status, or other program-related changes.

(11) Apply for and make appropriate use of any comparable benefits and services for which the client is eligible to defray in whole or in part the cost of services in the individual's IPE and provide verification of financial aid award status to counselor.

(12) Work with the counselor to obtain or keep suitable competitive integrated ~~gainful~~ employment ~~or appropriate independent living~~ outcomes as services are being completed.

**PART 3. CASE PROCESSING REQUIREMENTS**

**612:10-7-20. Case recording [AMENDED]**

~~A case record will be established and maintained on each individual who applies for and/or receives vocational rehabilitation services. Narrative recordings of activities are mandatory at application, at eligibility, the development of the plan, program/financial reviews, and case closure. An action in any case is not considered effective until all required approvals have been obtained in accordance with Department policy. Documentation must be factual and conform to ethical and professional standards.~~ The Department of Rehabilitation Services (DRS) "must maintain for each applicant and eligible individual a record of services that includes, to the extent pertinent, the following documentation" according to the requirements in 361.47 (a) (1-15).

**612:10-7-21.1 Processing incoming referrals [REVOKED]**

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

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

**612:10-7-21.2. Information and referral system [REVOKED]**

~~(a) DVR and DSBVI staff will ensure that individuals with disabilities, including eligible individuals who do not meet order of selection criteria when the agency is operating under an order of selection, are provided accurate vocational rehabilitation information and guidance, using appropriate modes of communication. This information and guidance will be used to assist the individual in preparing for, securing, retaining, or regaining employment.~~

~~(b) Staff will ensure that individuals with disabilities are appropriately referred to Federal and State programs, including other components of the workforce investment system. An appropriate referral shall:~~

~~(1) be to the Federal or State program(s) best suited to address the specific employment needs of the individual; and~~

~~(2) include, for each involved program, provision to the individual of:~~

~~(A) a notice of the referral from DVR or DSBVI to the agency responsible for the program;~~

~~(B) information identifying a specific point of contact within the agency responsible for the program; and~~

~~(C) information and advice regarding the most suitable services to assist the individual.~~

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

(a) **Referrals.** DRS "must establish and implement standards for the prompt and equitable handling of referrals of individuals for vocational rehabilitation services, including referrals of individuals made through the one-stop service delivery systems under section 121 of the Workforce Innovation and Opportunity Act. The standards must include timelines for making good faith efforts to inform these individuals of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services." 361.41 **~~Application for services.~~** ~~An individual is considered to have submitted an application when the individual, or the individual's authorized representative, as appropriate:~~

(1) Processing incoming referrals. All referrals to DVR and DSBVI will be contacted by the VR counselor and appropriate action taken within 30 days, after receipt of the referral information. The counselor is responsible for completing a contact by telephone or in person. The counselor is responsible for providing interpreter services to referrals who are deaf or non-English speaking. In situations where the individual cannot be personally contacted, correspondence will be mailed to the individual for informational purposes. ~~has completed and signed an application form or has otherwise requested services (includes, but is not limited to requests made verbally, by telephone, in writing, by facsimile, etc.);~~

(2) Referrals to rehabilitation teachers.All individuals who are legally blind, whether being served by a DVR counselor or a DSBVI counselor, will be referred to a rehabilitation teacher. Rehabilitation teachers may also receive counselor referrals and provide services for individuals who are not legally blind but have functional limitations due to vision loss and have potential to benefit from rehabilitation teaching services. ~~has submitted the application form, or other documentation meeting the requirements of paragraphs (a) & (b), to the receiving office where it will be date-stamped;~~

~~(3) has provided information necessary to initiate an assessment to determine eligibility and priority for services; and~~

~~(4) is available to complete the assessment process.~~

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

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

~~(2) reported disability;~~

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

(c) **~~General Health Checklist.~~** ~~The general health checklist (GHC) is a survey tool used to determine what diagnostic information will be needed to assess an applicant's eligibility or ineligibility. A general health checklist will be completed for each applicant. The counselor/teacher in consultation with the client will decide if purchasing a medical examination is necessary when the GHC indicates the presence of any condition. This decision will be based upon availability of existing medical records, and the reported degree of limitation to employment caused by the condition~~ **Social Security Administration (SSA) Beneficiaries' Verification.** During the initial interview, the VR counselor shall advise applicants for the VR program that individuals who are SSI/SSDI beneficiaries are generally presumed eligible for VR and that verification of the applicant’s benefit status is needed. Verification may include a copy of an award letter from SSA, or a Ticket-to-Work. 361.42 (a) (3) (i-ii).

(d) **~~Application Status.~~** ~~While the client is in this status, the counselor will secure sufficient information to make a determination of eligibility and priority group assignment, determine ineligibility for vocational rehabilitation services, or to make a decision to conduct a Trial Work Experience or an Extended Evaluation. The VR Professional will determine whether an individual is eligible for vocational rehabilitation services within a reasonable period of time, not to exceed 60 days from the date of application~~ **Conflict of Interest.** In order to provide fair and equal access to vocational rehabilitation services, and to avoid the appearance of impropriety or conflict of interest, an applicant who is a DRS employee or an immediate family member of a DRS employee, shall adhere to the procedures below when such an individual wishes to apply for rehabilitation services. Immediate family members may include a spouse, children, or any other individual who might be considered immediate family.

(1) The employee shall advise the Field Services Coordinator of the intent to apply for services. If the Field Services Coordinator, his/her immediate family member, his/her direct report, or an immediate family member of his/her direct report intends to apply for services, the employee shall advise the appropriate Division Administrator of the Intent to apply for services.

(2) The Fields Services Coordinator or Division Administrator (when appropriate) will select a counselor to take the application. Whenever possible, the counselor will be located in an adjacent unit.

(3) In order to provide fair and equal access to vocational rehabilitation services, and to avoid the appearance of impropriety or conflict of interest, the following procedure will be followed:

(i) If an applicant is familiar to the point of friendship or an immediate family member of an individual who is familiar to the point of friendship, an application/referral will not be processed by the impacted DRS staff member.

(ii) The relationship will be disclosed to the Supervisor in writing for proper case assignment.

(e) **~~Case recording requirements - initial interview.~~** ~~Pertinent information from the initial interview and applicant information forms is recorded in a narrative that is placed in the case file.~~ **Necessary information.** The minimum information necessary to initiate an assessment to determine eligibility and priority for services consists of:

(1) individual's name; ~~The record must document that the applicant or representative was provided an explanation of his/her rights and responsibilities and given a copy of the CAP handout and approved client handbook.~~

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

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

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

(5) availability of documentation of the reported disability.

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

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

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

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

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

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

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

**612:10-7-24.1. ~~Basic eligibility requirements for vocational rehabilitation services~~ Assessment for determining eligibility and priority for services [AMENDED]**

(a) ~~An individual is eligible for vocational rehabilitation services under the Rehabilitation Act through the State Department of Rehabilitation Services if the individual:~~ "In order to determine whether an individual is eligible for vocational rehabilitation services and the individual's priority under an order of selection for services (if the State is operating under an order of selection), designated State unit must conduct an assessment for determining eligibility and priority for services. The assessment must be conducted in the most integrated setting possible, consistent with the individual's needs and informed choice, and in accordance with the following provisions" as identified in 361.42 (a) (1-2), and within the timelines identified under 361.41 (b).

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

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

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

(b) ~~The agency presumes that an applicant with a physical or mental impairment that constitutes or results in a substantial impediment to employment can benefit from vocational rehabilitation services in terms of an employment outcome, unless the agency demonstrates, based on clear and convincing evidence, that the individual is incapable of benefiting from rehabilitation services due to the severity of the individual’s disability~~ Presumption of eligibility for Social Security recipients and beneficiaries. "Any applicant who has been determined eligible for Social Security benefits under title II or title XVI of the Social Security Act, is presumed eligible" in accordance with the criteria under 361.42 (a) (3) (i-ii) & (4-5).

(1) DRS "must base its presumption under paragraph (b) of this section that an applicant who has been determined eligible for Social Security benefits under title II or title XVI of the Social Security Act satisfies each of the basic eligibility requirements in paragraph (a) of this section on determination made by the Social Security Administration." 361.42 (d) (2)

(c) ~~An individual who has a disability or is blind as determined pursuant to Titles II (federal old age, survivors, and disability insurance benefits) or XVI (SSI) shall be:~~ "The vocational rehabilitation services portion of the Unified or Combined State Plan must assure that State unit will not impose, as part of determining eligibility under this section, a duration of residence requirement that excludes from services any applicant who is present in the State. The designated State unit may not require the applicant to demonstrate a presence in the State through the production of any documentation that under State or local law, or practical circumstances, results in a de facto duration of residence requirement." 361.42 (c)

(1) ~~considered to have a significant disability under the order of selection; and~~ "In making a determination of eligibility under this section, the designated State unit must ensure that no applicant or group of applicants is excluded or found ineligible solely on the basis of the type of disability; and the eligibility requirements are applied without regard" to the criteria set forth in 361.42 (c) (1-2) (i-ii) (A-F).

(2) ~~presumed to be eligible for vocational rehabilitation services, (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless clear and convincing evidence demonstrates that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the individual's disability~~ When serving eligible individuals below working age, the client will be expected to reach working age by the time the IPE is completed, and DRS will not provide services which are the responsibility of the public school system.

(d) ~~Eligibility requirements shall be applied without regard to:~~ Review and assessment of data for eligibility determination, "except as provided in paragraph (e) of this section, the designated State unit must base its determination of each of the basic eligibility requirements in paragraph (a) of this section" on information as described in 361.42 (d) (1) (i-ii) & 361.5 (c) (5).

(1) DRS "must base its presumption under paragraph (b) that an applicant who has been determined eligible for Social Security benefits under title II or title XVI of the Social Security Act satisfies each of the basic eligibility requirements in paragraph (a) of this section on determinations made by the Social Security Administration." 361.42 (d) (2) ~~duration of residence in the state,~~

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

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

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

~~(5) type of expected employment outcome,~~

~~(6) source of referral, or~~

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

(A) Counselor determinations of impairment based on direct observation shall be limited to those physical disabilities which are readily apparent; e.g. the various plegias, amputations, deformities, and similar conditions. Cognitive and emotional impairments, of course, are not directly observable.

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

(e)  **~~Disabled veterans.~~**  ~~Disabled veterans are eligible for vocational rehabilitation services on the same basis as other individuals with disabilities subject to the following restrictions:~~Trial work experiences for individual with significant disabilities**.** "Prior to any determination that an individual with a disability is unable to benefit from vocational rehabilitation services in terms of an employment outcome because of the severity of that individual's disability or that the individual is ineligible for vocational rehabilitation services, the designated State unit must conduct an exploration of the individual’s abilities, capabilities, and capacity to perform in realistic work situations." 361.42 (e).

(1) ~~Disabled veterans are not provided services which can be secured from the Veterans Administration (VA), unless use of VA services will cause a substantial delay of services~~ "A written plan must be developed to assess periodically the individual’s abilities, capabilities, and capacity to perform in competitive integrated work situations through the use of trial work experiences, which must be provided in competitive integrated employment settings to the maximum extent possible, consistent with the informed choice and rehabilitation needs of the individual" in accordance with 361.42 (e) (2).

(A) Services related to the trial work experience will be planned by the counselor and individual, or the individual's authorized representative. The trial work experience plan will describe the services necessary to obtain clear and convincing evidence concerning the presumption of benefit. 361.42 (e) (2) (ii) (iv).

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

(f) Ability to serve all eligible individuals; order of selection for services**. ~~Applicants who are employed.~~** ~~Employed persons who meet basic eligibility requirements may be provided vocational rehabilitation services to advance in or retain employment, or when the employment is not consistent with the individual’s strengths, resources, priorities, concerns, abilities, interests and capabilities.~~

(1) DRS "either must be able to provide the full range of services listed in section 103(a) of the Act and 361.48, as appropriate, to all eligible individuals or, in the event that vocational rehabilitation services cannot be provided to all eligible individuals in the State who apply for the services, include in the vocational rehabilitation services portion of the Unified or Combined State Plan the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services." 361.36 (a) (1)

(2) The ability of DRS "to provide the full range of vocational rehabilitation services to all eligible individuals must be supported by a determination that satisfies the requirements of 361.36 (b) or (c) a determination that, on the basis of DRS's projected fiscal and personnel resources and its assessment of the rehabilitation needs of individuals with significant disabilities within the State" in accordance with 361.36 (a-f).

(g) Notification of Priority Group Placement**.** Upon placement into a priority category, the client shall receive written notification of his or her priority classification and information regarding the policies and procedures governing availability of vocational rehabilitation services, including notification of placement on a wait list, when applicable and a referral to other programs that are part of the one-stop service delivery system under the WIOA that can address the individual’s training or employment related needs. This written notification includes information about Due Process rights and the Client Assistance Program (CAP). The electronic case management system will contain a copy of the written notification **~~Citizenship.~~** ~~Participation in the VR program is available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees and parolees, and other immigrants authorized to work in the United States~~.

(1) When a client is reclassified into a different priority category, he or she will be notified, in writing, of the new priority category and provided written information as to how the change will affect the availability of vocational rehabilitation services. The written notification will include information about Due Process rights and the Client Assistance Program.

(2) An applicant who has been determined eligible for vocational rehabilitation will be placed in Eligibility Status, for completion of a comprehensive assessment to determine employment goal and rehabilitation needs and for development of the Individualized Plan for Employment (IPE). An individual who is placed in an order of selection priority group that is not currently being served will be placed on a waiting list and held there pending further directives from the Director concerning opening or closing of priority groups.

(3) If an applicant is determined to be ineligible, the counselor will notify the applicant and provide information on further options in accordance with DRS administrative rules on ineligibility decisions. 361.57 (b) (2) (ii or iv).

(h) **~~Criteria.~~** ~~Some conditions have unique criteria that must be considered when determining eligibility~~ Informed Choice. DRS will assure that applicants and recipients of services or, if appropriate, their representatives are provided information and support services to assist them in exercising informed choice throughout the rehabilitation process. The counselor will inform each applicant and recipient of services through appropriate modes of communication about the availability of and opportunities to exercise informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice in decisions related to the assessment process. Applicants will be given information, or assistance in acquiring the information, to make an informed choice of vendors who provide assessment services needed to establish eligibility for VR services. 361.52.

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

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

~~(3)~~ **~~Deafness and Hearing Loss.~~** ~~The rehabilitation professional will base eligibility determination upon one of the measurement methods listed below, as performed by a qualified audiologist or other qualified professional as determined by the Department. The case record must document the method chosen provides the most accurate evaluation of functional hearing level for the individual.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i)Case Recording Requirements.DRS "must maintain for each applicant and eligible individual a record of services that includes, to the extent pertinent, the following documentation:"

(1) "If an applicant has been determined to be an eligible individual, documentation supporting that determination in accordance" with the requirements under 361.42.

(2) "If an individual has been determined to be an individual with a significant disability or an individual with a most significant disability, documentation supporting that determination." 361.47 (a) (4)

(3) "Documentation that describes the justification for closing an applicant's or eligible individual's record of services if that closure is based on reasons other than ineligibility, including, as appropriate, documentation indicating that" DRS has satisfied the requirements in 361.44.

(4) "If an individual with a significant disability requires an exploration of abilities, capabilities, and capacity to perform in realistic work situations through the use of trial work experiences to determine whether the individual is an eligible individual, documentation supporting the need for, and the plan relating to, that exploration and documentation regarding the periodic assessments carried out during the trial work experiences" in accordance with the requirements under 361.47 (a) (5) & 361.42(e) (2) (iii) (A-B).

(5) The assessment summary narrative of the assessments conducted during the Trial Work Experiences (TWE) will be recorded in the case file.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**612:10-7-24.3. Trial Work Experience [REVOKED]**

~~(a)~~ **~~Use of trial work experience.~~** ~~It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services unless clear and convincing evidence demonstrates that the individual is incapable of benefiting in terms of an employment outcome due to the severity of the individual's disability. In making such demonstration, the VR Counselor will explore the individual's capabilities to perform in realistic work settings through the use of trial work experiences with appropriate supports including, but not limited to, assistive technology devices and services and personal assistance services, to accommodate the rehabilitation needs of the individual during the trial work experiences.~~

~~(b)~~ **~~Trial work.~~** ~~The trial work experiences shall be provided in competitive integrated employment settings to the maximum extent possible, consistent with the individual's informed choice and rehabilitation needs, and shall be of sufficient variety and duration to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting from VR services in terms of an employment outcome.~~ ~~Cases may not remain in this status more than 18 months. An assessment of the individual's progress is required as frequently as necessary but at least once every 90 days. The assessment will include periodic reports from the institution, facility or person providing the services to determine the results of the provision of such services and to ascertain whether the individual may be determined to be eligible or ineligible. The assessment summary narrative will be recorded in the case file.~~

~~(c)~~ **~~Case recording requirements.~~** ~~The counselor will document the case record according to the criteria and recording standards in (1) - (5) of this Subsection.~~

~~(1)~~ **~~Justification that a trial work experience is required.~~** ~~It is presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services unless clear and convincing evidence demonstrates otherwise. The use of trial work experiences is to be limited solely to those extraordinary situations in which the preponderance of evidence obtained in the normal manner is sufficient to challenge the presumption of benefit due to the severity of the disability. Documentation and case recording must clearly support the determination that this preponderance of evidence exists, and that trial work experience is necessary to make the eligibility determination.~~

~~(2)~~ **~~Written plan for trial work experiences.~~** ~~Services related to the trial work experience will be planned by the counselor and individual, or the individual's authorized representative. The trial work experience plan will describe the services necessary to obtain clear and convincing evidence concerning the presumption of benefit.~~

~~(3)~~ **~~Termination of trial work experience evaluation - eligible.~~** ~~When an individual is determined to be eligible for services, the case is processed in accordance with DRS policy.~~

~~(4)~~ **~~Termination of trial work experience - ineligible.~~** ~~If the trial work experience provides clear and convincing evidence that the individual cannot benefit from vocational rehabilitation services in terms of an employment outcome due to the severity of the disability, the case may be closed as ineligible in accordance with DRS policy. In addition to explaining the individual's right to a review of the determination and the availability of the Client Assistance Program, the counselor will make referrals to other agencies, facilities, or programs as may be appropriate.~~

~~(5)~~ **~~Amendments.~~** ~~An amendment to the plan is made stating all new decisions, facts, and planned services not already covered in the original trial work experience plan.~~

**612:10-7-24.4 Ineligibility procedures [AMENDED]**

(a) ~~If the VR Counselor determines that an applicant is not eligible for VR services, or that an eligible individual receiving services under an IPE is no longer eligible for VR services:~~ Unsuccessful Closure: Closure without eligibility determination. "The designated State unit may not close an applicant's record of services prior to making an eligibility determination unless the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority for services, and the State unit has made a reasonable number of attempts to contact the applicant or, if appropriate, the applicant's representative to encourage the applicant's participation." 361.44

(1) ~~the individual, or individual's authorized representative, will be given an opportunity for full consultation before the ineligibility determination is made; and~~ Social Security Disability Income (SSDI) recipient or individual currently receiving Supplemental Security Income (SSI) for a disability is to be presumed eligible for vocational rehabilitation services, such cases cannot be closed ineligible unless there is clear and convincing evidence that the individual cannot benefit from services after a period of trial work experiences.

~~(2) the individual, or individual's authorized representative, will be informed in writing, and in appropriate accessible format if needed, of the ineligibility determination, including:~~

~~(A) the reasons for the determination;~~

~~(B) a description of how to ask for mediation, or an impartial review of the determination; and~~

~~(C) a description of the services available from the Client Assistance Program and information on how to contact that program.~~

(b) ~~Any ineligibility determination that is based upon a finding that the individual is incapable of benefiting in terms of an employment outcome will be reviewed within 12 months of the determination and annually thereafter if requested by the individual or the individual’s authorized representative~~ Procedures for all ineligibility determinations**.** If DRS "determines that an applicant is ineligible for vocational rehabilitation services or determines that an individual receiving services under an individualized plan for employment is no longer eligible for services, the State unit must" follow the procedures set forth in 361.43 (a-d) (1 & 2) (e).

(c) Case recording requirements. Personal contacts are made with individual, or authorized representative, and documentation will show how an opportunity to participate fully in the closure decision was given. The rationale for the ineligibility decision is documented in the record of service. Documentation should be factual and conform to ethical and professional standards. Documentation will show how the individual; exited as an applicant, prior to eligibility determination or trial work experiences, during or after a trial work experience, after eligibility, but from an order of selection waiting list, before or after IPE.

(1) "If an applicant or eligible individual receiving services under an individualized plan for employment has been determined to be ineligible, documentation supporting that determination in accordance with the requirements under 361.43."

(2) "Documentation that describes the justification for closing an applicant's or eligible individual's record of services if that closure is based on reasons other than ineligibility, including, as appropriate, documentation indicating that the State unit has satisfied the requirements in 361.44."

(3) Explanation in documentation of extenuating circumstances that might not be included in the closure letter.

**612:10-7-25.1. ~~Order of selection~~ Ability to serve all eligible individuals; order of selection for services [AMENDED]**

(a) **~~Need for order of selection.~~** ~~The Department, in consultation with the Oklahoma Rehabilitation Council, has determined, due to budgetary constraints or other reasoned limitations, that it cannot serve all individuals who are determined eligible for DVR and DSBVI services. The Department consults with the Oklahoma Rehabilitation Council regarding the:~~ General provisions**.** DRS "either must be able to provide the full range of services listed in section 103 (a) of the Act and 361.48, as appropriate, to all eligible individuals or, in the event that vocational rehabilitation services cannot be provided to all eligible individuals in the State who apply for the services, include in the vocational rehabilitation services portion of the Unified or Combined State Plan the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services."

(1) ~~need to establish an order of selection, including any re-evaluation of the need;~~ "The ability of the designated State unit to provide the full range of vocational rehabilitation services to all eligible individuals must be supported by a determination that satisfies the requirements of paragraph (b) or (c) of this section and a determination that, on the basis of the designated State unit's projected fiscal and personnel resources and its assessment of the rehabilitation needs of individuals with significant disabilities within the State, it can" follow the guidance according to 361.36 (a).

(2) ~~priority categories of the particular order of selection;~~ Prior to the start of each fiscal quarter, or when circumstances require, the DRS Director will determine in which priority groups new Individualized Plans for Employment will be written and initiated. The Director may restrict the writing and initiation of new Individualized Plans for Employment within a priority group to cases having eligibility dates falling on or before a specified date providing that all individual's in higher priority groups are being served. Considerations in making this determination will include, but not be limited to, the projected outcomes, service goals, expenditures, and resources available for each priority group. Projected costs and resources for each priority group will be based upon costs of current Individualized Plans for Employment, anticipated referrals, availability of financial resources, and adequacy of staffing levels. The Director will implement actions under the order of selection through written notice to DVR and DSBVI staff.

~~(3) criteria for determining individuals with the most significant disabilities; and~~

~~(4) administration of the order of selection.~~

(b) **~~Priority groups.~~** ~~It is the policy of DRS to provide vocational rehabilitation services to eligible individuals under an order of selection. Under the order of selection, the Department has established three priority groups on the basis of serving first those with the most significant disabilities. Every individual determined to be eligible for DVR and DSBVI services is placed in the appropriate priority group based upon the documentation used to determine eligibility and/or vocational rehabilitation needs. Selection and placement in a priority group is based solely upon the significance of the eligible individual's disability, and is not based upon the type of disability, geographical area in which the individual lives, projected type of vocational outcome, age, sex, race, color, creed, religion, or national origin of the individual. The priority groups are:~~ "Basis for assurance that services can be provided to all eligible individuals**.** For the State agency that determined, for the current fiscal year and the preceding fiscal year, that it is able to provide the full range of services, as appropriate, to all eligible individuals, the State unit, during the current fiscal and preceding fiscal year, must have in fact followed" the criteria in 361.36 (b) (1-2).

~~(1)~~ **~~Priority Group 1.~~** ~~Eligible individuals with a most significant disability are individuals with the most significant barriers to employment. A most significant barrier is one that includes a severe mental or physical impairment resulting in serious limitations in three or more functional capacities and which can be expected to require multiple vocational rehabilitation services over an extended period of time.~~

~~(2)~~ **~~Priority Group 2.~~** ~~Eligible individuals with a significant disability are individuals with significant barriers to employment. A significant barrier is one that includes a severe physical or mental impairment resulting in serious limitations in at least one, but not more than, two, functional capacities and which can be expected to require multiple vocational rehabilitation services over an extended period of time.~~

~~(3)~~ **~~Priority Group 3.~~** ~~Eligible individuals with disabilities not meeting the definition of individual with a significant or most significant barrier to employment.~~

(c) **~~Implementation.~~** ~~Prior to the start of each fiscal quarter, or when circumstances require, the DRS Director will determine in which priority groups new Individualized Plans for Employment will be written and initiated. The Director may restrict the writing and initiation of new Individualized Plans for Employment within a priority group to cases having eligibility dates falling on or before a specified date providing that all consumers in higher priority groups are being served. Considerations in making this determination will include, but not be limited to, the projected outcomes, service goals, expenditures, and resources available for each priority group. Projected costs and resources for each priority group will be based upon costs of current Individualized Plans for Employment, anticipated referrals, availability of financial resources, and adequacy of staffing levels. The Director will implement actions under the order of selection through written notice to DVR and DSBVI staff. The written notice will specify the implementation date of the action and direct DVR and DSBVI staff on how to handle cases by priority group and application date. DVR and DSBVI staff will inform each eligible individual on their caseloads:~~"Determining need for establishing and implementing an order of selection**.** The State agency must determine, prior to the beginning of each fiscal year, whether to establish and implement an order of selection." 361.36 (c) (1-3)

~~(1) of the priority groups in the order of selection;~~

~~(2) of the individual's assignment to a priority group; and~~

~~(3) of the individual's right to appeal that assignment.~~

(d) **~~Closing and opening priority groups.~~** ~~When all or part of a priority group is closed, designated cases within that priority group without a written IPE will be placed on a waiting list after the individual has been determined to be eligible. No IPE will be written for cases on the waiting list. Staff will continue to take applications, diagnose and evaluate all applicants to determine eligibility and vocational rehabilitation needs, find the individual eligible when documentation supports such a decision, then place each eligible individual's case in the appropriate priority group. If an eligible individual is placed in a closed priority group, his or her case will go on the waiting list and no IPE will be written or initiated. The DRS Director will notify DVR and DSBVI staff in writing when all or part of a closed priority group is opened. When this directive includes new applicants who are found eligible, individuals already on the waiting list within that same priority group will be given priority over new applicants. When all or part of closed priority groups are opened, staff will contact individuals on the waiting list to develop and implement their Individualized Plans for Employment using the priorities in Paragraphs (1) - (3) of this Subsection:~~ Need for order of selection**.** The Department, in consultation with the Oklahoma Rehabilitation Council, has determined, due to budgetary constraints or other reasoned limitations, that it cannot serve all individuals who are determined eligible for DVR and DSBVI services. The Department consults with the Oklahoma Rehabilitation Council (ORC) regarding the:

(1) ~~contact individuals within the highest open priority group first, Most Significant being the highest of all priority groups;~~ need to establish an order of selection, including any re-evaluation of the need;

(2) ~~within each opened priority group, staff will contact individuals on the waiting list in order of application date, earliest application date first; then~~ priority categories of the particular order of selection;

(3) ~~staff will contact individuals whose cases will remain on the waiting list to explain how their cases will be handled.~~ criteria for determining individuals with the most significant disabilities; and

(4) administration of the order of selection.

(e) ~~Continuity~~ **~~of services.~~** ~~Any individual with an IPE that existed prior to the date all or part of that individual's priority group was closed will continue to receive services as planned. Such an IPE may be amended if the changes are necessary for the individual to continue progress toward achieving an appropriate employment outcome, or are otherwise necessary within~~ policy~~. Persons requiring post employment services will also be provided the necessary services regardless of priority group assignment.~~ Establishing an order of selection. "Basis for order of selection. An order of selection must be based on a refinement of the three criteria in the definition of individual with a significant disability in section 7 (21) (A) of the Act and 361.5 (c) (30)."

(1) "Factors that cannot be used in determining order of selection of eligible individuals. An order of selection may not be based on any other factors, including requirements" identified in 361.36 (d) (2) (i-vii).

(2) It is the administrative rules of DRS to provide vocational rehabilitation services to eligible individuals under an order of selection. Under the order of selection, the Department has established three priority groups on the basis of serving first those with the most significant disabilities. Every individual determined to be eligible for DVR and DSBVI services is placed in the appropriate priority group based upon the documentation used to determine eligibility and/or vocational rehabilitation needs. Selection and placement in a priority group is based solely upon the significance of the eligible individual's disability, and is not based upon the type of disability, geographical area in which the individual lives, projected type of vocational outcome, age, sex, race, color, creed, religion, or national origin of the individual. The priority groups are:

(A) Priority Group 1**.** Eligible individuals with a most significant disability are individuals with the most significant barriers to employment. A most significant barrier is one that includes a severe mental or physical impairment resulting in serious limitations in three or more functional capacities and which can be expected to require multiple vocational rehabilitation services over an extended period of time.

(B) Priority Group 2**.** Eligible individuals with a significant disability are individuals with significant barriers to employment. A significant barrier is one that includes a severe physical or mental impairment resulting in serious limitations in at least one, but not more than two, functional capacities and which can be expected to require multiple vocational rehabilitation services over an extended period of time.

(C) Priority Group 3**.** Eligible individuals with disabilities not meeting the definition of individual with a significant or most significant barrier to employment.

(e) **~~Continuity of services.~~** ~~Any individual with an IPE that existed prior to the date all or part of that individual's priority group was closed will continue to receive services as planned. Such an IPE may be amended if the changes are necessary for the individual to continue progress toward achieving an appropriate employment outcome, or are otherwise necessary within policy. Persons requiring post employment services will also be provided the necessary services regardless of priority group assignment~~ Administrative requirements. "In administering the order of selection, the State agency must implement the order of selection on a statewide basis," according to 361.36 (e) (1-3) (i-ii).

(1) Notification of Priority Group Placement:Upon placement into a priority category, the client shall receive written notification of his or her priority classification and information regarding the policies and procedures governing availability of vocational rehabilitation services, including notification of placement on a wait list, when applicable and a referral to other programs that are part of the one-stop service delivery system under the WIOA that can address the individual's training or employment related needs. 361.43 (d) (1-2) the written notification shall include information about Due Process rights and the Client Assistance Program. The electronic case management system will contain a copy of the written notification.

(A) When a client is reclassified into a different priority category, he or she shall be notified, in writing, of the new priority category and provided written information as to how the change will affect the availability of vocational rehabilitation services. The written notification shall include information about Due Process rights and the Client Assistance Program.

(B) An applicant who has been determined eligible for vocational rehabilitation will be placed in Eligibility Status, for completion of a comprehensive assessment to determine employment goal and rehabilitation needs and for development of the Individualized Plan for Employment (IPE). An individual who is placed in an order of selection priority group that is not currently being served will be placed on a waiting list and held there pending further directives from the Director concerning opening or closing of priority groups.

(C) If an applicant is determined to be ineligible, the counselor will notify the applicant and provide information on further options in accordance with DRS policy on ineligibility procedures. 361.57 (b) (2) (ii or iv).

~~(f)~~ **~~Information and referral services.~~** ~~Information and referral services will remain available to eligible individuals who are not in an open priority group. These individuals will be given information and guidance, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining or regaining employment, and will be appropriately referred to Federal and State programs (other than the vocational rehabilitation program) including other components of the statewide workforce investment system in the state. No IPE will be written to provide such services to these individuals.~~

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

**612:10-7-45. Electronic Case Management System Progression ~~Case statuses and case flow~~ [AMENDED]**

(a) The electronic case management system is comprised of a logical flow ~~from one status to another~~ as ~~a~~ an individual ~~customer~~ progresses through the vocational rehabilitation process. This electronic case management system covers the life cycle of a case from referral and application through eligibility, plan, employment, closure, and ~~post employment~~ post-employment services. ~~Statuses are:~~

~~(1) Application~~

~~(2) Trial Work Experience~~

~~(3) Closed ineligible from application status~~

~~(4) Eligibility: accepted for services; plan development phase~~

~~(5) IPE developed~~

~~(6) Services completed and ready for employment~~

~~(7) Employed~~

~~(8) Closed, rehabilitated, Successful employment for at least 90 consecutive days~~

~~(9) Closed, not rehabilitated after IPE initiation~~

~~(10) Closed, not rehabilitated before IPE initiation~~

~~(11) Post employment services~~

~~(12) Post employment services completed~~

(b) No case action is effective until all required approvals have been obtained in accordance with ~~policy~~ administrative rules. The effective date of any case action, including closures, is the date the last required approval is obtained in accordance with ~~policy~~ administrative rules.

**612:10-7-50. Eligibility Status [REVOKED]**

~~(a)~~ **~~Use of Eligibility Status.~~** ~~An active case is defined as one which has been accepted as meeting the basic eligibility requirements. An applicant who has been determined eligible for vocational rehabilitation will be placed in Eligibility Status for completion of a comprehensive assessment to determine employment goal and rehabilitation needs and for development of the Individualized Plan for Employment (IPE). An individual who is placed in an order of selection priority group that is not currently being served will be placed on a waiting list and held there pending further directives from the Director concerning opening or closing of priority groups.~~

~~(b)~~ **~~Case recording requirements.~~** ~~The counselor records activities during this period by individual entry or by summary recording at regular intervals in case narratives. Copies of pertinent case information will be shared with all DVR or DSBVI professionals involved in the case. During eligibility status and throughout the life of the case, DSBVI counselors and rehabilitation teachers will share pertinent information related to a case they jointly serve. Pertinent case information will also be shared with contracted vendors, when appropriate, with a release signed by the client. If an IPE cannot be developed during this period, the client's case is closed with a full explanation to the client and documentation as to the reason for closing the case. This documentation will be completed on a closure letter and a copy given to the client.~~

**612:10-7-50.1 ~~Assessment for determining rehabilitation needs~~ Development of the individualized plan for employment [AMENDED]**

(a) ~~DRS will conduct an assessment for determining rehabilitation needs, if appropriate, for each eligible individual or, if the agency is operating under an order of selection, for each eligible individual to whom the agency is able to provide vocational rehabilitation services. The purpose of this comprehensive assessment is to assist the client in selecting an employment goal and to determine the nature and scope of vocational rehabilitation services to be included in the Individualized Plan for Employment (IPE)~~ **General Requirements.** "An Individualized Plan for Employment (IPE) meeting the requirements of this section the content of the IPE is developed and implemented in a timely manner for each individual determined to be eligible for vocational rehabilitation services or, if the State unit is operating under an order of selection for each eligible individual to whom the State unit is able to provide services." 361.45 (a) (1-2) 361.46, 361.36

(b) **~~Comprehensive assessment.~~** ~~Existing information obtained from the assessment to determine eligibility and priority group assignment, including information supplied by the individual or the individual’s authorized representative, is to be used for the comprehensive assessment to the maximum extent possible. Additional assessments may be obtained to the extent additional information is necessary to determine the vocational rehabilitation needs of the individual and to develop the IPE. Rehabilitation technology will be used in the comprehensive assessment when necessary to assess and/or develop the capacities of the individual to perform in a work environment.~~ **Purpose.** DRS "must conduct an assessment for determining vocational rehabilitation needs, if appropriate, for each eligible individual or, if the agency is operating under an order of selection, for each eligible individual to whom the agency is able to provide vocational rehabilitation services. The purpose of this comprehensive assessment is to assist the client in selecting an employment outcome and the nature and scope of vocational rehabilitation services to be included in the individualized plan for employment (IPE)." 361.45 (b) (1-2) & 361.5 (c) (5)

(c) **~~Case recording requirements.~~** ~~The results of the comprehensive assessment and the counselor’s analysis of them will be recorded in a case narrative. The narrative will contain reasonable justification of the employment goal and services that will be provided in the IPE, considering the unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice of the individual.~~ **Required Information.** DRS "must provide the following information to each eligible individual or, as appropriate, the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or the individual's representative, options for developing an individualized plan for employment. Information on the available options for developing the individualized plan for employment, including the option that an eligible individual or, as appropriate, the individual's representative may develop all or part of the individualized plan for employment will be provided" in accordance with 361.45 (c) (1-3).

(1) "Additional information to assist the eligible individual or, as appropriate, the individual's representative in developing the individualized plan for employment," including the criteria listed in 361.45 (c) (2) (i-iv).

(2) "For individuals entitled to benefits under title II or XVI of the Social Security Act on the basis of a disability or blindness, the State unit must provide to the individual general information on additional supports and assistance for individuals with disabilities desiring to enter the workforce, including assistance with benefits planning." 361.45 (c) (3).

(d) **~~Comprehensive assessment for supported employment.~~ Mandatory procedures**. DRS "must ensure that the procedures and requirements are met during the development of the IPE" that are set forth in 361.45 (d) (1-9).

(1) ~~In supported employment cases, the record must document the counselor's determination that the client is an individual:~~ "The individualized plan for employment is reviewed at least annually by a qualified vocational rehabilitation counselor and the eligible individual or, as appropriate, the individual's representative to assess the eligible individual's progress in achieving the identified employment outcome; 361.45 (d) (5);"

~~(A) for whom competitive employment has not traditionally occurred; or~~

~~(B) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and~~

~~(C) who, because of the nature and severity of the disability, needs intensive supported employment services, and extended services after the transition from intensive supported employment services, in order to perform such work.~~

(2) ~~The counselor refers the client to a supported employment provider to gather the information necessary to complete the comprehensive assessment, and authorizes the "Assessment and Career Planning" milestone. The provider will conduct situational assessments in community settings based on client choice and negotiations with the counselor, and in accordance with their contract requirements. Results of the assessments will assist the client and counselor in establishing a vocational goal.~~"The individualized plan for employment is amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the State unit or a qualified vocational rehabilitation counselor (to the extent determined to be appropriate by the individual), if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the providers of the vocational rehabilitation services." 361.45. (d) (6)

(e) **Standards for developing the individualized plan for employment**. "The individualized plan for employment must be developed as soon as possible, but not later than 90 days after the date of determination of eligibility, unless the counselor and the eligible individual agree to the extension of that deadline to a specific date by which the individualized plan for employment must be completed." 361.45 (e)

(f) **Data for preparing the individualized plan for employment:** **Preparation without comprehensive assessment**. "To the extent possible, the employment outcome and the nature and scope of rehabilitation services to be included in the individual's individualized plan for employment must be determined based on the data used for the assessment of eligibility and priority for services under 361.42 (a) (1) (i)."

(g) **Preparation based on comprehensive assessment.** "If additional data are necessary to determine the employment outcome and the nature and scope of services to be included in the individualized plan for employment of an eligible individual, the State unit must conduct a comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment services, of the eligible individual, in the most integrated setting possible, consistent with the informed choice of the individual in accordance with the provisions of 361.5 (c) (5) (ii), 363.1 (b) (1-2)."

(1) "In preparing the comprehensive assessment, the State unit must use, to the maximum extent possible and appropriate and in accordance with confidentiality requirements, existing information that is current as of the date of the development of the individualized plan for employment," including information identified in 361.45 (f) (2) (i-ii) (A-C).

(2) Services documented on the IPE should relate to the limitations and attendant factors identified on the Eligibility form or through the assessment to determine rehabilitation needs. Conversely, all significantly limited areas of functional capacity noted on the Eligibility form should be addressed through services on the plan. Services that contribute to the rehabilitation of the individual should be included on the plan whether or not DRS is providing or paying for the service.

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

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

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

**612:10-7-51. ~~Individualized Plan for Employment~~ Content of the individualized plan for employment [AMENDED]**

(a) **~~Options for developing the Individualized Plan for Employment (IPE).~~** ~~The VR counselor will provide the eligible individual, or the individual's authorized representative, in writing and in appropriate mode of communication, with information on the individual's options for developing the IPE.~~ **Mandatory components**. "Regardless of the approach that an eligible individual selects for purposes of developing the individualized plan for employment, each individualized plan for employment, as found in 361.45(c) (1), must":

(1) ~~The required information will include the following:~~ "Include a description of the specific employment outcome, that is chosen by the eligible individual and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice consistent with the general goal of competitive integrated employment (except that in the case of an eligible individual who is a student or a youth with a disability, the description may be a description of the individual's projected post-school employment outcome)" according to the requirements in 361.46 (a) (1-7) & 361.5(c) (15).

(2) ~~For cases in an open priority group, the IPE must be completed and signed as soon as possible, consistent with the needs of the individual, but not more than 90 calendar days following the eligibility determination, unless the individual or the authorized representative and the VR or SBVI counselor jointly agree to an extension of time of a specific duration. The 90-day time frame for development of the IPE will be applied from the date a closed priority group is reopened.~~ "Include a description of these specific rehabilitation services needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices, assistive technology services, and personal assistance services, including training in the management of those services." 361.46 (2) (i-ii) and 361.48

(A) ~~information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, or authorized representative, from a qualified VR counselor in developing all or part of the IPE, and the availability of technical assistance for this purpose;~~ For an individual determined eligible based on a substance abuse diagnosis, a treatment program is included as a line of service.

(B) ~~a description of the required content of the IPE;~~ For an individual determined eligible based on a diabetes diagnosis, a visual exam by a licensed ophthalmologist annually is included as a line of service. Including when recommended by a physician diabetes management training is also incorporated into the IPE.

(C) ~~as appropriate:~~ For an individual determined eligible based on a mental disorder, treatment will be incorporated as a line of service.

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

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

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

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

(D) ~~a copy of a DRS publication addressing client’s rights and responsibilities.~~ For a student or youth with a disability, the specific transition services and supports needed to achieve the employment outcome or projected post-school employment outcome.

(3) A statement as appropriate, concerning the amount of client participation will be stated on the IPE. This will be based upon the most recent financial needs test at time of IPE or Amendment development.

(4) Each line of service on the IPE or any Amendment will include specific timelines for the achievement of the employment goal and for the initiation of services.361.46 (2) (4)

(b) **~~Vocational objective.~~** ~~The primary purpose in providing vocational rehabilitation services is to assist an eligible individual obtain appropriate competitive employment in an integrated setting consistent with the individual's informed choice. The choice of a vocational objective for an individual receiving vocational rehabilitation services must be based primarily upon the individual's strengths, resources, priorities, concerns, abilities, interests and capabilities, consistent with the general goal of competitive integrated employment.~~ **Supported employment requirements**. An individualized plan for employment for an individual with a most significant disability for whom an employment outcome in a supported employment setting has been determined to be appropriate must specify the requirements under 361.46 (b) (1-7).

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

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

(c) **~~General requirements for the Individualized Plan for Employment.~~** **Post-employment services.** "The individualized plan for employment for each individual must contain, as determined to be necessary, statements concerning the expected need, description of the terms and conditions and if appropriate how post-employment services will be provided or arranged through other entities." 361.46 (c) (1-3).

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

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

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

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

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

(d) **~~Content of the Individualized Plan for Employment.~~** ~~The Individualized Plan for Employment must include:~~ **Coordination of services for students with disabilities.** "The individualized plan for employment for a student with a disability must be coordinated with the individualized education program or 504 services, as applicable, for that individual in terms of the goals, objectives, and services identified in the education program." 361.46 (d) and 361.22 (a) (2)

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

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

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

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

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

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

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

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

~~(A) the responsibilities of DVR or DSBVI;~~

~~(B) the responsibilities of the client, including:~~

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

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

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

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

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

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

~~(C) the weekly work goal.~~

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

**612:10-7-52. ~~Provision of Services~~ Scope of vocational rehabilitation services for individuals with disabilities [AMENDED]**

**~~Overview of service provision.~~** ~~Vocational rehabilitation services are provided as specified in the approved IPE. Services are to be provided using the service delivery methods, and within the time frames, specified in the IPE. Authorizations may be issued only for those services for which DRS is specified as the responsible pay source in the approved IPE. New service needs must be included in an approved IPE amendment before they are authorized. All authorizations for payment of services will be made in accordance with applicable DRS purchasing policies.~~

(a) **Pre-employment transition services.** DRS, "in collaboration with the local educational agencies involved, provide, or arrange for the provision of, pre-employment transition services for all students with disabilities, as defined in 361.5(c) (51), in need of such services, without regard to the type of disability, from Federal funds reserved in accordance with 361.65, and any funds made available from State, local, or private funding sources. Funds reserved and made available may be used for the required, authorized, and pre-employment transition coordination activities under paragraphs (2), (3) and (4) of this section." 361.48 (a)

(1) "Availability of services. Pre-employment transition services must be made available Statewide to all students with disabilities, regardless of whether the student has applied or been determined eligible for vocational rehabilitation services."

(2) Required activities. DRS "must provide the following pre-employment transition services:" 361.48 (a) (2) (i-v).

(3) "Authorized activities. Funds available and remaining after the provision of the required activities described in paragraph (a)(2) of this section may be used to improve the transition of students with disabilities from school to postsecondary education or an employment outcome by" implementing effective strategies set forth in 361.48 (a) (3) (i-ix).

(4) Pre-employment transition coordination. Each local office of VR and DSBVI "must carry out responsibilities consisting of" the activities set forth in 361.48 (b) (4) (i-iv).

(b) **Services for individuals who have applied for or been determined eligible for vocational rehabilitation services.** "As appropriate to the vocational rehabilitation needs of each individual and consistent with each individual's individualized plan for employment, the designated State unit must ensure that the following vocational rehabilitation services are available to assist the individual with a disability in preparing for, securing, retaining, advancing in or regaining an employment outcome that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice." 361.48 (b) (1-21)

(c) **Scope of vocational rehabilitation services for groups of individuals with disabilities.**

(1) DRS "may provide for the following vocational rehabilitation services for the benefit of groups of individuals with disabilities" as listed in 361.49 (a) (1-9).

**612:10-7-56. Employment [AMENDED]**

(a) **Use of Employment status.** A case is placed in this status when the client begins employment. The client must be followed in employment for a minimum of 90 days prior to being closed to ensure the adequacy of the employment in relation to the needs and limitations of the client.

(b) **Supported employment.** Cases are placed into employment status after the requirements have been met for completion of the "Stabilization" Milestone, and the client is ready to begin the final milestone, "Successful Rehabilitation". During this milestone, the provider must continue ongoing supports for a minimum of 90 days before the case can be closed.

(c) **Employment and Retention.** Cases are placed into employment status when the individual has completed the fifth day of work ("Job Placement" Milestone), or after completion of "Four Weeks Job Support" Milestone if short term job coach training or support is needed. The client must be followed in employment for a minimum of 90 days prior to being closed.

(d) **Case recording requirements.** After the client has entered employment, it is the client's responsibility to provide the counselor with employment and salary information. When an individual is placed in employed status, case recording will document:

(1) Beginning date of employment;

(2) Name and address of the employer;

(3) ~~Client's wages or salary~~ Job title which describes the position held by the individual;

(4) ~~Suitability of the employment; and~~ Client's hourly wages and hours worked per week to determine weekly earnings;

(5) ~~How the job was obtained. If the information is obtained from a source other than the client, the source of the information will be identified.~~ Suitability of the employment; and

(6) How the job was obtained. If the information is obtained from a source other than the client, the source of the information will be identified.

~~(e)~~ **~~Documentation at Placement.~~** ~~A copy of the pay stub identifying the individual’s start date, hours worked per week, and competitive hourly wage. If the pay stub is not available, then the following is acceptable:~~

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

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

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

(~~f~~e) **Contact.** When a client is placed in employed status, contact is maintained through the end of the required 90 days and documented until it is determined the employment is satisfactory and the case can be closed. This determination that the employment outcome is satisfactory will be made with the full participation of the client.

(f) **Case recording.**

(1) Documentation of all contacts with the client during the 90 days, to address any employment related issues, including satisfaction with the employment.

(2) Documentation in a case note of the start date of employment, type of employment (i.e. cook, housekeeper, lawyer) employer name address, hourly/weekly wages and benefits.

(3) When applicable, and information is not obtainable from the client, the counselor will document the employment, type of employment (i.e. cook, housekeeper, lawyer) employer name and address, hourly/weekly wages and benefits including by what means the employment was discovered and the date of the discovery of employment.

(4) Attempts to obtain verification of employment earnings will be documented in a case note including the reason as to why this verification was not forthcoming.

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

(a) **Use of Closed Rehabilitated status**. ~~A case is closed as rehabilitated because the client has achieved an employment outcome as a result of vocational rehabilitation services. Cases closed as rehabilitated must as a minimum meet the requirements in (1) through (5) of this Subsection:~~ "The record of services of an individual who has achieved an employment outcome may be closed only if all of the following requirements are met" in 361.56 (a-d).

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

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

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

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

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

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

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

(d) **~~Cases closed from supported employment.~~** ~~An individual with the most significant disabilities who is receiving supported employment services is considered to be successfully rehabilitated if the individual maintains a supported employment placement for a minimum of 90 days beyond stabilization. In addition to the criteria for "suitably employed", the counselor must document that the individual has met or has made substantial progress toward meeting the weekly work goal defined in the IPE, the client is satisfied with the job, the employer is satisfied with the client’s job performance, extended services are in place, all supported employment requirements have been met, and the case is ready for closure. The closure documentation will address any significant differences in the ultimate work week achieved as compared with the predicted goal.~~ **Substantive changes in the employment outcome.** "The individualized plan for employment is amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the State agency or a qualified vocational rehabilitation counselor (to the extent determined to be appropriate by the individual), if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the providers of the vocational rehabilitation services." 361.54 (d) (6)

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

(1) An individual will be considered to have achieved an employment outcome in supported employment when:

(A) The individual with a most significant disability, including a youth with a most significant disability, who is employed in competitive integrated employment or who is employed in an integrated setting working on a short-term basis to achieve competitive integrated employment will be considered to have achieved an employment outcome, including customized employment, in supported employment when the individual meets the criteria set forth in 363.54 (a-d).

(2) The service record of an individual who has achieved an employment outcome in supported employment can be closed when:

(A) The individual with a most significant disability, including a youth with a most significant disability, who has achieved an employment outcome in supported employment in competitive integrated employment will be closed concurrently with the achievement of the employment outcome in supported employment when the individual meets the provisions as appropriate to the individual under 361.56 and 363.55 (a) (1-2).

(f) **~~Case recording requirements~~**~~. The client, or the client's authorized representative as appropriate, will be a full participant in the decision to close the case. The last discussion of the closure decision with the client, or the client's authorized representative, will be held within 30 days of the closure, and will be documented in a case narrative. The client will be notified in writing of the closure and advised of the availability of Post-Employment Services.~~ **Cases closed from employment and retention.** An individual with severe disabilities who is receiving employment and retention services is considered to be successfully rehabilitated when the client maintains employment for a minimum of 90 days after placement, or for a minimum of 4 weeks plus 90 days if the individual required the "4 Weeks Job Support" Milestone.

(g) **~~Documentation at Successful Closure.~~** ~~Prior to closure, a copy of the current pay stub identifying the individual’s competitive hourly wage and hours to determine weekly earnings. If the current pay stub is not available, then the following is acceptable:~~ **Case recording requirements**. The client, or the client's authorized representative as appropriate, will be a full participant in the decision to close the case. The last discussion of the closure decision with the client, or the client's authorized representative, will be held at the end of the required 90 days, and will be documented in a case narrative that meets the criteria in section (a). The client will be notified in writing of the closure and advised of the availability of Post-Employment Services.

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

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

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

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

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

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

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

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

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

**612:10-7-59. Closed not rehabilitated, after IPE initiation [REVOKED]**

~~(a)~~ **~~Use of Closed not rehabilitated status.~~** ~~Cases closed in this status have progressed to service status and for some reason the IPE could not be completed. The decision to close the case in this status is made only after the client is given the opportunity to fully participate in the decision and after all factors have been considered. Clients who choose to remain in extended employment as a goal, without pursuing competitive employment in an integrated setting through supported employment or other programs, will not be considered as having achieved an employment outcome. A case is closed in this status due to ineligibility only with full participation of the client, client's parent, guardian, or other representative unless the individual has refused to participate, the individual is no longer a resident of Oklahoma, the individual's whereabouts are unknown, or the individual's condition is rapidly progressive or terminal. The rationale for the ineligibility decision is documented in the case record, and in a letter written to the client, including the views of the client or appropriate representative. A copy of the letter is given to the client or appropriate representative with a detailed explanation of the services available from CAP. Procedures for annual review of ineligibility are to be explained to the client or appropriate representative in an understandable form. When appropriate, a referral is made to other agencies.~~

~~(b)~~ **~~Case recording requirements.~~** ~~The client, or authorized representative, must be given an opportunity to participate fully in the closure decision. A copy of the closure notification letter will be given to the client. The recording on the case will summarize the services provided, explain why the IPE could not be completed, referral to any other appropriate programs, and contain the client's views of the closure decision, when appropriate.~~

**612:10-7-60. Closed not rehabilitated, before IPE initiation [REVOKED]**

~~(a)~~ **~~Use of Closed not rehabilitated, before IPE initiation status.~~** ~~Cases closed in this status are those which, although accepted for vocational rehabilitation services, did not progress to the point where services were actually initiated.~~ **~~1~~**

~~(b)~~ **~~Case recording requirements.~~** ~~When a case is closed under these circumstances, the closure is documented in the case record and on a closure notification letter to the client and the client will be given the opportunity to fully participate, and to express his/her views of the decision. A copy of the closure letter will be given to the client, or as appropriate, the client's representative.~~

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

(a) **Use of Post-Employment services.** ~~Post-employment services may be provided to assist rehabilitated clients to retain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. The need for post-employment services will be assessed at initiation of the IPE. Ongoing assessment continues during case services, is documented as needed, and is reassessed just prior to case closure. Post-employment services may also be provided for needs that were not anticipated in the original IPE or prior to case closure. Post employment services can be provided to individuals who receive Supported Employment Services if such services are needed to maintain the supported employment placement and those services are not available from an extended services provider. Post employment services are not to be used in instances of underemployment when extensive retraining is needed. Cases reopened on a post-employment basis do not require re-establishment of eligibility. New diagnosis is needed only if there has been a change in the client's physical or mental condition. Any vocational rehabilitation service or combination of services necessary to assist the individual retain, regain, or advance in employment may be provided if the service(s) does not involve a complex or comprehensive effort. If comprehensive services are indicated, a new application is taken. Federal regulations forbid the setting of arbitrary time limits on the provision of post-employment services. If the client has been employed for a long period of time, the counselor must carefully review the client's situation before making the decision to provide post-employment services as opposed to opening a new case.~~ Post-employment services may be provided to assist rehabilitated clients to retain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**PART 9. ACTIONS REQUIRING REVIEW AND APPROVAL**

**612:10-7-87. Actions requiring supervisor's approval [AMENDED]**

(a) Actions requiring supervisory approval include:

(1) All actions of a newly employed counselor/teacher.

(2) All IPE's or amendments when the total of the planned DVR and DSBVI expenditures for the entire case exceed $25,000.

(3) All case closures in which an IPE was developed and the case was placed into service status or beyond.

(4) Transfer of cases from one counselor/teacher caseload to another outside the sending supervisor's unit (signed by the supervisor of the sending counselor or teacher).

(5) All IPE's which include purchase of physical or mental restoration services, prescription drugs or prescribed medical supplies lasting more than three months.

(6) Small Business plans with a cost to the agency in excess of $10,000.00.

(7) Vehicle or home modifications over the ~~DCAM~~ OMES-DCAM authority order limit and housing modifications involving structural modifications.

(8) Vehicle repairs that exceed $1,000.00 for the life of a case.

(9) Dental services with a projected cost over $5,000.00.

(b) Case Recording. Documentation in a case note of when verbal approval may be given.

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

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

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

(1) The individual is liable for services he or she arranged which were not planned and initiated under the auspices of DVR and DSBVI. DVR and DSBVI will not pay for hospitalization or treatment occurring prior to initiation of an Individualized Plan for Employment (IPE).

(2) DVR and DSBVI will not pay for emergency hospitalization or treatment needed at the time of referral. However, diagnostic examinations or information may be paid from DVR and DSBVI funds for use in eligibility determination, priority group placement, or determination of vocational rehabilitation needs.

(3) Physical and/or mental restoration services will be purchased only from licensed or board certified health professionals unless otherwise specified in DRS administrative rules. Payment will be made in accordance with the established fee schedule of the Department.

(4) Some disabilities require a specific line of service to address the disability related limitations (i.e. substance abuse diagnosis, a treatment program is included as a line of service.

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

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

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

(1) The client must transfer, assign, or authorize payments to the Department of any and all claims against Health Insurance or Liability Insurance companies or other third parties, to the full extent of all payments for medical services made by the Department.

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

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

(1) Braces and orthotic devices. Orthotic devices (commonly referred to as braces) are externally applied devices that are used to modify the structural and functional characteristics of the neuromuscular and skeletal system. This may be to support paralyzed extremities, enhance function of joints, or correct the physical alignment of an extremity, joint, or skeletal component.

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

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

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

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

(6) Hearing aids and audiological services. VR or SBVI counselor can authorize the purchase of rehabilitation technology, such as hearing aids, related accessories, and other forms of rehabilitation technology, only when it is vocationally necessary and is expected to improve the individual's ability to participate in services that are required to obtain, maintain, advance in, or regain employment as defined in the individual's individualized plan for employment (IPE).

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

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

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

(10) Low vision services. For low vision services, individual will have had an eye exam within the past year from an ophthalmologist or optometrist, if one is not available SBVI will provide an eye exam to assist in a determination of eligibility. Low vision services are the exams and services that SBVI procures from low vision specialists. Visually impaired people see the same so the low vision assessment, whether it be by SBVI rehabilitation teachers or a low vision doctor (specialist) is basically to determine what devices, magnifiers, optical aids work best to aid that person in maximizing their visual efficiency.

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

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

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

(14) Post-operative care of cataract patients.

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

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

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

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

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

(16) Prosthetic limbs.

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

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

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

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

(17) Psychiatric and psychological treatment.

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

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

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

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

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

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

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

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

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

(19) Surgery and medical treatment.

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

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

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

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

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

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

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

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

(g) Case Recording.

(1) Case note concerning wheelchair rental is more cost effective than a purchase of a wheelchair.

(2) Documentation showing the individual was informed of DRS administrative rule concerning the individual being liable for any balance due when payment by private insurance exceeds the Department allowable rate.

**PART 13. SUPPORTIVE SERVICES**

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

(a) **General guidelines.** ~~Maintenance is a supportive service provided to assist with the out-of-ordinary or extra expenses to the individual resulting from and needed to support the individual's participation in diagnostic, evaluative, or other substantial services in the IPE. Maintenance, including payments, may not exceed the cost of documented expenses to the individual resulting from service provision. Authorizations for maintenance will not be issued to pay the cost, or part of the cost, for any other service or expense.~~ "Maintenance means monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment." 361.5 (c) (34)

(1) Maintenance is a supportive service provided to assist with the out-of-ordinary or extra expenses to the individual resulting from and needed to support the individual's participation in diagnostic, evaluative, or other substantial services in the IPE. The provision of maintenance as a supportive service is not synonymous with general assistance payments.

(2) Maintenance, including payments, may not exceed the cost of documented expenses to the individual resulting from service provision.

(A) Authorizations for maintenance will not be issued to pay the cost, or part of the cost, for any other service or expense.

(b) **Provision of maintenance.** To receive maintenance, an individual must be either an eligible DVR or DSBVI client or an applicant for vocational rehabilitation services undergoing diagnostic evaluation and testing. For an accepted client, maintenance must be a supportive service ~~related to outcomes~~ and will be provided in combination, with another VR service listed in the Individualized Plan for Employment. The costs of the maintenance may not exceed the amount of increased expenses that the IPE causes for the individual or his/her family. ~~The provision of maintenance as a supportive service is not synonymous with general assistance payments. It is not intended to pay for those living costs that exist irrespective of the individual's status as a DVR and DSBVI client. Maintenance payments must be carefully tied to the achievement of specific VR outcomes which must be stated and documented in the case record and the IPE to justify such payments.~~ Maintenance cannot substitute for or supplement income assistance payments.

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

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

(3) **Maintenance for training.** Maintenance can be authorized for full time vocational school students or college students. Maintenance can be authorized for a client granted an exception to the full-time attendance requirement. DRS will not pay for assistance with room and board expenses if there is a state funded vocational school, college or university within 40 miles of the client’s official residence. In addition, DRS will only sponsor room and board expenses related to on-campus housing options with the lowest cost. Exceptions to this ~~policy~~ administrative rules may be granted due to issues such as disability requirements. All exceptions must be approved by the Programs Manager and thorough justification must be documented in the case.

(A) If DRS is to assist with summer room and board costs or rental assistance for summer semester at any level, there will be a requirement to participate in a minimum of 6 hours.

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

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

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

(1) required by the training facility;

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

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

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

(e) **Case Recording.**

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

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

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

**612:10-7-131. Transportation [AMENDED]**

~~Transportation, including adequate training in the use of public transportation vehicles and systems, may be provided for a client as a service to enable the client to receive diagnosis, evaluation or other rehabilitation services. Authorizations for transportation will not be issued to pay the cost, or part of the cost, for any other service.~~

(a) **Transportation.** "Transportation means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation vehicles and systems." 361.5 (c) (54) Authorizations for transportation will not be issued to pay the cost, or part of the cost, for any other service. For an accepted client, transportation is a supportive service that must be related to outcomes and will be provided in combination, with another VR service.

(1) **Public transportation.** The authorization is made directly to the vendor or client for actual cost.

(2) **Private transportation.** Mileage for use of a private vehicle is paid at 50% of the rate allowed by the State Travel Reimbursement Act and is authorized directly to the client. In these instances, mileage will be restricted to the most direct route and to the least possible number of trips. ~~Case narrative documentation is required explaining how the amount was determined.~~

(3) **Vehicle Repairs.** Vehicle repairs will only be provided if there is a clearly defined need to enable the client to participate in vocational rehabilitation. Maintaining and repairing a private vehicle is primarily the responsibility of the owner. Assistance with vehicle repair is intended for emergency situations where services have been initiated under the IPE and participation in the IPE cannot continue without the repair. The cost of vehicle repairs will not exceed $1,000.00 for the life of the case unless approved by the appropriate program manager.

(4) **Out-of-state/air transportation.** Transportation by airplane or out of state travel may be provided to allow a client to receive services not available in the state. Transportation may also be provided for a client to seek employment out of state provided the counselor has written documentation that the significance of the disability, or the nature of the ~~vocational objective~~ employment outcome, makes in-state placement unusually difficult.

(5) **Transportation for an attendant.** Transportation may also include the cost of travel for an attendant of an individual with a significant disability. Subsistence will be paid at the rates established by the State and described in OAC 340:2-1. The counselor will have an agreement with the client regarding allowable expenses before the trip is made.

(6) **Training for use of public transportation.** When expertise is not available within the agency or community to provide effective training in use of public transit, the service may be purchased, with authorization made directly to the vendor or client for actual cost.

(b) Case Recording.

(1) Case narrative documentation is required explaining how the amount was determined.

(2) Documentation as appropriate that the significance of the disability, or the nature of the employment outcome, makes in-state job placement unusually difficult.

(3) Documentation of the agreement made between the counselor and the client regarding the cost of travel for an attendant and allowable expenses before the trip is made.

(4) The justification for providing transportation, the amount of transportation to be provided and time span will be documented in the record of service.

**612:10-7-132. Services to family members [AMENDED]**

(a) ~~Services to family members of an individual with a disability may be provided when such services are necessary to enable the applicant or client to achieve an employment outcome.~~ "Family member, for purposes of receiving vocational rehabilitation services means an individual who is either" one or more of the following criteria in: 361.5 (c) (22) & 361.48(b) (9).

(b) ~~Services provided family members will consist of counseling, guidance, training on how to help the individual with adjustment to limitations, and referral to sources where needed services may be obtained.~~ "Vocational rehabilitation services necessary to enable the applicant or eligible individual to achieve an employment outcome." 361.48 (b) (9)

(c) Services provided to family members must be provided in combination with another vocational rehabilitation service on the approved IPE.

**PART 15. TRAINING**

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

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

(1) Vocational. ~~Vocational training provides the knowledge and skills necessary for performing the tasks involved in an occupation. Such knowledge and skills may be acquired through training from an institution, on-the-job, by tutors or through a combination of these methods. Vocational training may be provided for any occupation.~~ "Vocational and other training services, including personal and vocational adjustment training, advanced training in, but not limited to, a field of science, technology, engineering, mathematics (including computer science), medicine, law, or business); books, tools, and other training materials, except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing or any other postsecondary education institution) may be paid for with funds under this part unless maximum efforts have been made by the State unit and the individual to secure grant assistance in whole or in part from other sources to pay for that training." 361.48 (b) (6)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) ~~Decisions related to training are based on the individual needs and informed choices of the client as identified in the IPE.~~ **Continued eligibility.** A client in training at a vocational school will be based on the client's performance in respect to grades, progress and attendance. The minimum standards used by the training facility for satisfactory progress in respect to grades and attendance will be utilized by DVR and DSBVI staff in determining the progress of the client.

(1) Clients attending vocational technical schools who withdraw or fail course work will be required to pay for like credit or clock hours during the following enrollment period.

(d) ~~DVR and DSBVI will only pay tuition and fees for courses which count toward requirements consistent with the vocational goal of the IPE. Training of DVR and DSBVI clients is provided by colleges, universities, private business and trade schools, state supported vocational schools, employers in the form of on-the-job training, sheltered workshops, and other approved training facilities with valid contracts.~~ **Withdrawals and failures**. Clients who withdraw or fail courses paid by DVR and DSBVI will be required to pay for a like number of hours during the following enrollment period subject to the guidelines in (b) section.

(1) When a client fails to meet the requirements for continued sponsorship the guidelines in (A-C) of this Subsection are to be followed: A client failing to meet the grade point requirement may continue to receive services not based on financial status.

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

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

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

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

(f) ~~Training costs will not be authorized beyond the first DVR and DSBVI sponsored enrollment until proof of the availability of comparable benefits is received by the counselor.~~ **Private institutions of higher learning**. Tuition and fees for students in attendance at accredited private or denominational schools will be paid at the same rate as that paid at state-supported colleges or universities of equal rank.

(1) Advanced standing test for college students: DRS can pay the fee for advanced standing tests. Proof of a passing grade is required prior to payment.

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

(h) ~~All types of institutional, technical, personal adjustment or employment training are purchased by an authorization issued by the counselor.~~ **Out-of-state training.** The DRS clients is approved when one or more of the following applies, and the record of service is to document the basis for this determination:

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

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

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

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

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

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

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

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

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

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

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

(k) **Tutorial training.** Tutorial training may be provided for clients with significant disabilities who cannot receive training by another method or who may need assistance to complete a formal training course satisfactorily.

(1) Persons chosen to provide tutorial training for clients must have the necessary skills to provide assistance to the client and be willing to provide the training at a time and place suitable to the client. Examples of proof of necessary skills are the following:

(A) Letter of recommendation from college or university

(B) Teaching certificate

(C) Transcripts

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

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

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

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

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

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

(3) To provide skills or techniques enabling the individual to compensate for a disability such as the loss of a body part or the loss of a sensory function.

(A) High school students eligible for this service must be at least 16 years of age and may not participate for more than 18 months unless client and counselor determine additional time is needed.

(m) **Federal/State student aid.** Federal regulations mandate a search for comparable services and benefits with the results documented before payment can be made for training in the following institutions: colleges, universities, community/junior colleges, public or private vocational/technical schools, or hospital schools of nursing. PELL grants and other available Federal/State student aid (excluding merit awards) must be applied to tuition, fees and all other educational expenses as a first dollar source prior to consideration of the expenditure of DRS funds, regardless of whether the student is attending a vocational, trade, public or private institution of higher education. 361.53

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

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

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

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

(o) **Case Recording Requirements**.

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

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

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

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

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

**612:10-7-162. Textbooks, supplies, training tools and equipment [AMENDED]**

(a) For clients attending training, an allowance may be provided to cover the actual cost of required books, supplies, training tools and equipment, after available comparable benefits have been applied. When an allowance is provided, the client will be required to furnish documentation of the costs of required books, supplies, tools or equipment. The counselor will work with the client in obtaining and utilizing comparable benefits including the PELL grant and planning for the use of other resources to help meet this expense. The textbook allowance will be adjusted the following semester for clients who fail or withdraw from courses paid by DVR or DSBVI. Only textbooks for the current semester’s enrollment will be provided.

(b) Training tools and equipment costing more than $500 will be purchased directly from the ~~vendor~~ provider in accordance with DRS ~~policy~~ administrative rules.

(c) The client, or client's family or authorized representative as appropriate, is responsible for maintaining supplies and training tools in good working order. DVR and DSBVI will pay for repairs to supplies and training tools purchased with DVR and DSBVI funds during the life of the case unless there is clear evidence the supplies or training tools have been damaged due to client abuse or neglect.

(d) Gun "kits", but not operable firearms, used as training tools may be purchased for students in gun-smithing school only.

(e) The Department retains title to any tools costing $500 or more purchased for training purposes until title is released by an authorized agent of the Department. The counselor will complete the Receipt for Equipment and Title Agreement, and obtain necessary signatures, before releasing such tools to the client. Any tools purchased for training purposes remain with the client while he/she is in training and after the completion of the training if they can be used in the client's chosen vocation. If the client drops out of training, DRS at its discretion may take steps to repossess the tools to transfer to another client.

(f) Case recording must reflect the disposition of tools and materials provided the client before the case is closed.

(g) Computers and related high tech equipment necessary for the client to participate in a training program or required by the training entity may be purchased as a client service in accordance with agency ~~policy~~ administrative rule(s), or participation in the rehabilitation process, or is essential to the client's achievement of his or her employment outcome. The cost of computers and related equipment will not be included in an allowance for textbooks and supplies.

**612:10-7-163. On-the-job training [AMENDED]**

(a) When on-the-job training (OJT) will best suit the client's needs, this type of training can be considered. In order for the client to gain work experience and obtain employment, this type of training focuses on specific job skills by a prospective employer, and OJT can be provided in conjunction with any other DRS ~~service~~ services. This service does not require client participation in cost of services.

(b) In selecting on-the-job training sites, the counselor must assure the items in (1) - (6) of this Subsection are met:

(1) The business or individual must have enough work to provide the client sufficient training.

(2) The business or individual must be able to provide proper equipment.

(3) The individual who actually does the training must be the employer or an employee of the business and have the knowledge, skill, and ability to train the client.

(4) Time must be devoted daily to the training of the client.

(5) It is expected the client will ~~be employable after a reasonable period of training~~ remain in the same or similar job upon successful completion.

(6) The employer must be willing to consider the client for any open position, full or part time, after the initial training period.

(c) There is no specific length of time for on-the-job training, as the length of time needed for training will vary with the complexity of the job being learned.

(d) Individuals and businesses which provide on-the-job training are expected to compensate OJT participants according to applicable minimum wage and hour regulations under the Fair Labor Standards Act. The employer must pay the client at least the applicable minimum wage unless the counselor issues a sub-minimum wage certificate. This permits the employer to pay less than the minimum wage for a specified period of time if the client has a severe disability.

(e) On-the-job training payments are reimbursement for wages and benefits paid by the employer. Reimbursement is paid to the employer who pays the client just like his or her own employees. It is not permissible for the employer to endorse the reimbursement check and give it to the client in lieu of wages.

(f) Reimbursement for on-the-job training is paid on a monthly basis.

(g) "On-the-job training, using realistic integrated work settings may be used during a Trial work experiences." 361.42 (e) (2) (ii)

(h) Case Recording.

(1) Direct contact with an employed individual to provide support with issues arising from employment, such as on-the-job performance, or with addressing employment barriers, such as absenteeism or tardiness, that could jeopardize employment will be documented in a case note.

(2) Progress narratives on a monthly basis that assess the individual's progress toward employment goal and OJT outcome.

**612:10-7-167. ~~Compensatory training~~ Disability Related Skills Training [AMENDED]**

~~Compensatory training is defined as training required so that the client can benefit from a formal training program or enter or retain employment. Compensatory training is important to individuals who have cognitive problems due to traumatic brain injury, specific learning disabilities or sensory deficits~~ Disability-related augmentative skills training includes but is not limited to: orientation and mobility; rehabilitation teaching; training in the use of low vision aids; Braille; speech reading; sign language; and cognitive training/retraining. Cognitive training/retraining is important to individuals who have cognitive problems due to traumatic brain injury, specific learning disabilities or sensory deficits.

(1) **Orientation and Mobility (O & M).** DVR and SBVI clients who are legally blind can receive direct instruction from O & M specialists employed by the Department. O & M specialists assist these clients to adjust to their surroundings. Instruction begins with an assessment of the individual’s travel needs, motivation, and visual and physical abilities. Based upon this assessment, a training program is developed with the goal of maximizing independence. Or, for the more experienced traveler, training may focus on providing orientation to a new environment, such as a college campus, work location, new residence, etc. In addition to the long white cane, O&M specialist provide a support cane for assistance in detecting inclines and obstacles in pathways.

(2) **Rehabilitation teaching services.** Rehabilitation teachers provide counseling and instruction to aid clients in adjusting to blindness and severe visual impairment. All clients who are legally blind, severely visually impaired or have a rapidly progressive eye condition are to be referred to a rehabilitation teacher. Exceptions are allowed in instances where rehabilitation teaching services have been provided and the client appears to be functioning independently, or when physical restoration services are planned which will likely restore the client's functioning to a level which would remove the need for rehabilitation teaching. Rehabilitation teachers employed by the Division of Services for the Blind and Visually Impaired may serve clients who are legally blind jointly with the DRS counselor.

(3) **Training in the use of low vision aids.** For individuals with severe visual impairment or have a rapidly progressive eye condition a low vision evaluation and services to assist in learning techniques to reduce glare, for using color contrasts, and using low vision aids.

(4) **Braille**. Braille is a system of raised dots that can be read with the fingers by individuals who are blind or who have low vision. Teachers, parents, and others who are not visually impaired ordinarily read braille with their eyes. Braille is not a language. Rather, it is a code by which many languages such as English, Spanish, Arabic, Chinese, and dozens of others may be written and read. Braille is used by thousands of people with disabilities all over the world in their native languages, and provides a means of literacy for all.

(5) **Speech reading**. Speech reading is often used synonymously with the term lip reading. Speech reading is using what you see on the speaker's lips as well as facial expressions and gestures to understand conversation. Learning to speech read is not a quick and simple cure. It is best taught with other communication strategies such as manipulating the environment and learning effective conversation repair skills. Family and close friends who are frequent communication partners of a person with hearing loss can also benefit from training in ways to make their speech more easily understood. It takes time and effort to become proficient.

(6) **Sign language.** Sign language means any means of communication through bodily movements, especially of the hands and arms, used when spoken communication is impossible or not desirable. The practice is probably older than speech. Sign language may be as coarsely expressed as mere grimaces, shrugs, or pointings; or it may employ a delicately nuanced combination of coded manual signals reinforced by facial expression and perhaps augmented by words spelled out in a manual alphabet. Wherever vocal communication is impossible, as between speakers of mutually unintelligible languages or when one or more would-be communicators is deaf, sign language can be used to bridge the gap.

(7) **Cognitive training/retraining.** Cognitive training and cognitive rehabilitation are specific forms of non-pharmacological intervention to address cognitive and non-cognitive outcomes. That focuses on guided practice on tasks that target specific cognitive functions, such as memory, attention, or problem-solving. A form of cognitive training is to help individuals improve their skills in prospective memory (remembering to do things), attention, learning/memory, and executive functioning (problem-solving, planning, organization, and cognitive flexibility). By improving these abilities it will help individuals with cognitive symptoms or impairments perform better in their everyday activities and reach their goals pertaining to school, work, social functioning, and independent living.

**PART 17. SUPPORTED EMPLOYMENT SERVICES**

**612:10-7-179. Overview of Supported Employment Services [AMENDED]**

~~Supported employment services are provided to individuals with the most severe disabilities who need supports on and off the job to obtain and maintain employment.~~ "Under the State supported employment services program, the Secretary provides grants to assist States in developing and implementing collaborative programs with appropriate entities to provide programs of supported employment services for individuals with the most significant disabilities, including youth with the most significant disabilities, to enable them to achieve an employment outcome of supported employment in competitive integrated employment. Grants made under the State supported employment services program supplement a State's vocational rehabilitation program grants under 363.1 (a)."

(1) "Supported employment means competitive integrated employment, including customized employment, or employment in an integrated work setting in which an individual with a most significant disability, including a youth with a most significant disability, is working on a short-term basis toward competitive integrated employment, that is individualized and customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual, including with ongoing support services for individuals with the most significant disabilities." 361.1 (b)

(A) "Short-term basis for purposes of this part, an individual with a most significant disability, whose supported employment in an integrated setting does not satisfy the criteria of competitive integrated employment, is considered to be working on a short-term basis toward competitive integrated employment so long as the individual can reasonably anticipate achieving competitive integrated employment." 361.1 (c) (1-2), 361.5(c) (9)

(2) "Competitive integrated employment means work that is performed on a full-time or part-time basis (including self-employment) and for which an individual is compensated at a rate that" in accordance with 361.5 (c) (9).

(3) "Customized employment means competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the unique strengths, needs, and interests of the individual with a significant disability," in accordance with 361.5 (c) (11).

(4) "Integrated setting means with respect to the provision of services, a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals" in accordance with 361.5 (c) (32) (i) (A-B).

(5) "Extended services means ongoing support services and other appropriate services that are:"

(A) Needed to support and maintain an individual with a most significant disability including a youth with a most significant disability, in supported employment;

(B) Organized or made available, singly or in combination, in such a way as to assist an eligible individual in maintaining supported employment;

(C) Based on the needs of an eligible individual, as specified in an individualized plan for employment" according to 361.5 (c) (19) (i-iv).

(6) "Ongoing support services, as used in the definition of supported employment, means services that"

(A) Are needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment;

(B) Are identified based on a determination by DRS of the individual's need as specified in an individualized plan for employment" according to 361.5 (c) (37) (i) (A-I).

(i) Individuals in supported employment also need ongoing support services of an extended nature to maintain competitive employment in a particular job. These on-going support services are referred to as "extended services".

(7) Case Recording Requirements.

(A) Documentation is required when the counselor and individual have considered extending the provision of supported employment services beyond 24 months.

**612:10-7-180. Eligibility for the Supported Employment Program [AMENDED]**

~~An individual shall be eligible for supported employment services if:~~

(a) DRS "may provide services under this part to any individual, including a youth with a disability, if the individual has been determined to be:

(1) ~~The individual is determined to be eligible for vocational rehabilitation services;~~ Eligible for vocational rehabilitation services; and

(2) ~~The individual is determined to be an individual with the most severe disabilities; and~~ An individual with a most significant disability." 361.42

~~(3) A comprehensive assessment of rehabilitation needs of the individual, including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate rehabilitation objective for the individual.~~

(b) "For purposes of provision of extended services, the individual is a youth with a disability, as defined in who satisfies the requirements of this section 361.5 (c) (19), 363.4(a)(2), & 361.5(c) (58)."

(c) "Supported employment has been identified as the appropriate employment outcome for the individual on the basis of a comprehensive assessment of rehabilitation needs, including an evaluation of rehabilitation, career, and job needs." 361.5(c) (5), 363.3 (a-c)

(1) "For whom competitive integrated employment has not historically occurred, or for whom competitive integrated 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 and extended services after the transition from support provided by the State agency in order to perform this work." 361.5 (c) (53)

(d) Case Recording Requirements.

(1) The results of the comprehensive assessment and the counselor's analysis of them will be recorded in a case narrative. The narrative will contain reasonable justification of the employment goal and services that will be provided in the IPE, considering the unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice of the individual, including as appropriate, the need for Supported Employment services.

**612:10-7-181. Integrated settings [REVOKED]**

~~Jobs will be viewed on a case by case basis if there is question of integration. A determination of whether an individual's employment within a Community Rehabilitation Program meets the "integrated setting" requirement for an "employment outcome" shall be based on an individual determination that:~~

~~(1) The individual is employed in a type of job available and open to the general public.~~

~~(2) The individual is employed under the same working conditions as others without a disability in similar positions.~~

~~(3) The individual has ongoing interaction with other workers, supervisors and the general public to the same degree as workers without disabilities in the same or comparable occupations.~~

~~(4) The general working conditions reflect integration with other workers rather than separation/segregation.~~

**612:10-7-182. Competitive employment for supported employment clients [REVOKED]**

~~Competitive employment for supported employment clients is performed on a full-time or part-time basis in an integrated setting, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual. The individual is compensated at or above 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. Wages must be paid by the employer, not the vendor.~~

**612:10-7-183. Ongoing support services [REVOKED]**

~~The individual will be provided needed and appropriate ongoing support services such as job site training, transportation, service to family members, or any service necessary to achieve and maintain the supported employment placement throughout the term of employment. DVR and DSBVI sponsored support services are provided from the time of placement until the individual is stabilized on the job (completion of "Stabilization Milestone") by the service provider.~~

**612:10-7-184. Extended services [REVOKED]**

~~Extended services are a continuation of ongoing support services provided to individuals in Supported Employment at completion of stabilization, during the "Successful Rehabilitation" Milestone and beyond case closure. Such services consist of the provision of specific services, including natural supports, needed to maintain the supported employment placement. Extended services are specifically identified in the IPE. Except as provided by federal law with regard to youth with the most significant disabilities, extended services are paid from funding sources other than DVR and DSBVI. An individual may not be found ineligible for supported employment services because the resource for providing extended services cannot be identified.~~

**612:10-7-185. Provision of supported employment services [AMENDED]**

(a) Supported employment (SE) services are provided by DRS for a period of time not to exceed the period specified in federal law, unless under special circumstances the eligible individual and the rehabilitation counselor jointly agree to extend the time in order to achieve the rehabilitation objective identified in the IPE.

(b) Supported employment services are not subject to financial status determination.

(1) Services are purchased from a qualified vendor under contract with the Department.

(2) Payment rates are established by the Commission for Rehabilitation Services and are based on a system of service milestones.

(c) Supported employment services may include:

(1) Situational assessments to help develop, finalize or reassess a supported employment plan of services;

(2) Job development and job placement; 361.48 (b) (12)

(3) Time-limited job coach services to provide intensive on-the-job skills training and additional training and support services needed to achieve and maintain job stability, including follow-up services with employers and others for the purpose of supporting and stabilizing the job placement; and

(4) Post-employment services following an individual’s transition to extended services, when such services are not available from an extended service provider and are necessary to maintain or regain the job placement or advance in employment. Services may include job coaching, job station redesign, repair and maintenance of assistive technology and repair and replacement of orthotic and prosthetic devices. 361.5 (c) (54) (iv)

(d) DRS must utilize re-placement services for individuals who lose a job within two years of achieving a successful rehabilitation outcome if the counselor determines extended services are not adequate to cover re-placement and DRS assistance is necessary. Re-placement services include Vocational Preparation/Job Club, Four (4) Weeks Job Support, Job Stabilization and Successful Rehabilitation.

(e) ~~Transitional employment services are available for individuals with serious mental illness. Transitional employment is designed to assist individuals who have not had significant, successful or recent work experience to build work adjustment skills and ego strength/self-esteem, develop a positive work history, learn adjustment skills in a real work environment or clarify their strengths and interests. Transitional employment prepares individuals to make future employment and career decisions.~~ DRS "may use funds allotted under this part to; provide supported employment services, provide extended services, to youth with the most significant disabilities, for a period of time not to exceed four years, or until such time that a youth reaches the age of 25 and no longer meets the definition of a youth with a disability or whichever occurs first with funds reserved, in accordance with the provision of supported employment services to youth with the most significant disabilities, leverage other public and private funds to increase resources for extended services and expand supported employment opportunities." 363.22, 361.5(c) (54); 361.5(c) (19), 363.11(f), 361.5(c) (58)

(1) "Except as provided in paragraph (e) of this section, a State agency may not use funds under this part to provide extended services to individuals with the most significant disabilities." 363.4 (b-d), 363.50(a-b), 363.1 (b)

(f) "A State agency must enter into one or more written collaborative agreements, memoranda of understanding, or other appropriate mechanisms with other public agencies, private nonprofit organizations, and other available funding sources, including employers and other natural supports, as appropriate, to assist with the provision of supported employment services and extended services to individuals with the most significant disabilities in the State, including youth with the most significant disabilities, to enable them to achieve an employment outcome of supported employment in competitive integrated employment." 363.50 (a-b)

(g) For the transition of an individual to extended services, DRS "must provide for the transition of an individual with a most significant disability, including a youth with a most significant disability, to extended services, no later than 24 months after the individual enters supported employment, unless a longer period is established in the individualized plan for employment." 363.53 (a-b), 361.5(c) (19)

(h) "An individual with a most significant disability, including a youth with a most significant disability, who is employed in competitive integrated employment or who is employed in an integrated setting working on a short-term basis to achieve competitive integrated employment will be considered to have achieved an employment outcome, including customized employment, in supported employment when, the individual has completed supported employment services, except for any other vocational rehabilitation services listed on the individualized plan for employment provided to individuals who are working on a short-term basis toward the achievement of competitive integrated employment in supported employment. An individual has completed supported employment services" when the requirements found in 363.54 (a-d), 363.4(a) (2), 363.22 are satisfied.

(i) "The service record of an individual with a most significant disability, including a youth with a most significant disability, who has achieved an employment outcome in supported employment in competitive integrated employment will be closed concurrently with the achievement of the employment outcome in supported employment when the individual satisfies requirements" found in 363.55 (a-c), 363.1(c), 361.56, 361.5(c)(58).

(j) Case Recording Requirements.

(1) Documentation of a discussion of the need for extension of time for services based upon the client’s needs.

(2) Case narratives of the progress of the individual during each S&E milestone.

(3) Documentation of the steps including both a joint decision made by the counselor and the individual that the individual needs no further supported employment service.

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

**612:10-7-195. Personal assistance services [AMENDED]**

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

(1) Designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability;

(2) Designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

(3) Necessary to the achievement of an employment outcome and may be provided only while the individual is receiving other vocational rehabilitation services.

(4) Services may include training in managing, supervising, and directing personal assistance services. 361.5 (c) (38)

(b) Fees for these services are negotiable at or above minimum wage by the counselor. This service does not require consideration of client participation in cost.

(c) Case Recording.

(1) The justification for providing the services must be documented in the record of service.

(2) Documentation of the negotiated amount of monthly payment that is agreed to by both counselor and client.

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

~~An individual who is deaf or has a hearing impairment may require interpreter services to communicate effectively. This service is especially important when information concerning the individual's rights and access to services is being presented. Interpreter services do not require client participation in cost of services. In training situations, the counselor must document that interpreter services are not available through the training facility or other sources before interpreter services are provided. Interpreter services are authorized directly to the individual who will provide the service. The authorization will include the number of hours to be provided and the period of time over which the service is to be provided in addition to the per hour fee. The interpreter will submit a claim at the end of each specified time period.~~

(a) "Interpreter services are sign language or oral interpretation services for individuals who are deaf or hard of hearing and tactile interpretation services for individuals who are deaf-blind. Specially trained individuals perform sign language or oral interpretation. Interpreter services also include real-time captioning services for persons who are deaf or hard of hearing." 361.5 (c) (10) 361.48 (b) (10)

(1) Does not include language interpretation.

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

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

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

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

(c) Case Recording.

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

**612:10-7-199. Reader/recording services [AMENDED]**

(a) Reader services ~~may be purchased for individuals who are blind, visually impaired or have difficulty reading standard print books/materials due to any other disability. Reader services may be provided for those consumers who are involved in educational or vocational training, employment search or entry into employment. Clients will be expected to utilize any comparable services, including available assistive technology devices and services prior to authorization of reader services~~ are for individuals who cannot read print because of blindness or other disabilities. Reader services include, in addition to reading aloud, transcription of printed information into Braille or sound recordings if the individual requests such transcription. Reader services are generally for individuals who are blind or deaf-blind, but may also include individuals unable to read because of serious neurological disorders, specific learning disabilities, or other physical or mental impairments." 361.48 (b) (11).

(1) Clients will be expected to utilize any comparable services, including available assistive technology devices and services prior to authorization of reader services.

(2) DRS will pay up to five (5) hours of reader service per month. Additional hours of reader service may be approved by the Programs Manager with justification.

(3) Payment for reader services will be based on the Federal Minimum Wage. However, the counselor may authorize up to $2.00/hour above minimum wage with consideration being given to factors such as the significance of the event and the likelihood of technical/foreign language being used. Reader services may not be paid in advance.

~~(b) Reader services are exempt from client participation in cost of service. DRS will pay up to five (5) hours of reader service per month. Additional hours of reader service may be approved by the Programs Manager with justification.~~

~~(c) Payment for reader services will be based on the Federal Minimum Wage. However, the counselor may authorize up to $2.00/hour above minimum wage with consideration being given to factors such as the significance of the event and the likelihood of technical/foreign language being used. Reader services may not be paid in advance. Payment is authorized directly to the client in the same manner as maintenance or transportation and may be included on the same authorization with either or both of these other services.~~

~~(d) The individual receiving the service shall maintain a record of the reading time he/she has been provided. The record must be signed and dated by the reader and the individual, and returned to the counselor at the end of each month. The record shall include:~~

~~(1) Individual’s name;~~

~~(2) Reader’s name and address;~~

~~(3) Date service started and ended~~

~~(4) Subjects read and time devoted to each~~

(~~e~~b) Individuals who have difficulty reading or using standard print materials will be referred to existing resources for recorded, large print, Braille and digital books and materials. Any required fee or materials cost for a recorded/digital textbook service, reading or scanner app may be paid through DVR and DSBVI funds and is not based on financial status determination.

(c) Case Recording.

(1) Documentation in record of service of the approved additional hours by the Programs Manager.

**612:10-7-203. Orientation and Mobility (O & M) [REVOKED]**

 ~~DVR and DVS DSBVI clients who are legally blind can receive direct instruction from O & M specialists employed by the Department. O & M specialists assist these clients to adjust to their surroundings.~~

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

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

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

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

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

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

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

(c) Purchase of occupational tools, equipment and initial stocks and supplies will be made in accordance with ~~612:10-1-7~~ current DRS purchasing rules. If the client is required to participate in cost of services, the payment will be made to the nonmedical ~~vendor~~ provider. When the equipment is received and/or installed, the appropriate rehabilitation professional completes the Receipt for Equipment and Title Agreement. If the purchase total is $5,000 or more, the rehabilitation professional then signs the ~~vendor's~~ provider's invoice and routes it to DRS state office.

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

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

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

(1) Clients will be responsible for renewal of licenses purchased by DRS.

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

(a) It is the DRS ~~policy~~ administrative rule not to purchase motor vehicles either for an individual or group of individuals. DRS may assist with the cost attributable to accessibility modifications on a new or used vehicle.

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

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

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

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

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

(4) prescription of required devices specific to both the individual’s needs and the vehicle; and

(5) training in the operation of the vehicle.

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

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

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

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

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

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

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

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

(4) The client must maintain both collision and comprehensive insurance on the vehicle, including the equipment.

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

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

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

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

(9) Certain types of vehicle modification equipment are considered "transferable" by design: i.e., hand controls, left foot accelerator, and hitch lift systems for wheelchairs/scooters. DRS may assist with the cost of transferring this type of equipment to meet the IPE goals. These modifications are categorized as non-structural modifications.

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

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

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

(b) In all situations where housing modification is to be done, the owner of the house must sign a written release form. In those situations where the ~~consumer~~ individual is a renter, the ~~renter/consumer~~ renter/individual is responsible for obtaining the written release from the owner. The counselor must make a referral to the Assistive Technology (AT) Specialist who will make the evaluation of the residence and recommend the modifications needed to make the residence accessible and usable for the ~~consumer~~ individual. After modifications have been completed the counselor will contact the AT Specialist for inspection of the home, to ensure the modifications conform to prescribed standards and meet the ~~consumers~~ individual's accessibility needs. The AT Specialist will provide a report to the counselor and the counselor must get a statement of satisfaction from the ~~consumer~~ individual.

**612:10-7-222. Rehabilitation technology, assistive technology devices and assistive technology services [AMENDED]**

(a) "Rehabilitation ~~technology is 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 which include education, rehabilitation, employment, transportation, independent living and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services~~ engineering means the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community." 361.5 (c) (44)

(~~a~~b) "Rehabilitation technology is 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 which include education, rehabilitation, employment, transportation, independent living and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services." 361.5 (c) (45)

(1) Home and vehicular modification, telecommunications, sensory, and other technological aids and devices, other assistive devices including, but not limited to hearing aids, low vision aids and wheelchairs. This includes the hardware portion of neuroprosthetic devices, such as cochlear implants, visual prosthetics, and motor prosthetic devices.

(2) Does not include medical and surgical procedures required for implantation of neuroprosthetic devices.

~~(b) Rehabilitation technology services may be provided to any individual under the provisions of an Individualized Plan for Employment (IPE). Rehabilitation technology services such as assessment or consultation are not based on financial status; however equipment, appliances, and aids will be based on available financial resources of the client~~ .

(c) ~~Rehabilitation technology services, including prescribed adaptive aids and devices, must be provided by qualified persons. Prescriptions/recommendations for nonmedical adaptive technology may be accepted from individuals listed in 74 O.S. 85.7(12) including physicians, rehabilitation engineers, qualified rehabilitation technicians or sensory aids specialists and from qualified assistive technology specialists and assistive technology professionals~~ Assistive technology terms—~~(i)~~ Assistive technology has the meaning given such term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

(1) Assistive technology device has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that the reference in such section to the term individuals with disabilities will be deemed to mean more than one individual with a disability as defined in paragraph (20)(A) of the Act.

(2) Assistive technology service has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that the reference in such section to the term—

(d) ~~Assistive technology devices, including prescribed adaptive aids and devices, may be purchased commercially or designed and manufactured by a rehabilitation engineer, assistive technology or sensory aids specialist depending on individual need~~ Under ADA title II, 35 CFR 104 Definitions, "auxiliary aids and services" includes; Qualified interpreters on-site or through video remote interpreting (VRI) services; note takers; real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning; voice, text, and video-based telecommunications products and systems, including text telephones (TTYs), videophones, and captioned telephones, or equally effective telecommunications devices; videotext displays; accessible electronic and information technology; or other effective methods of making aurally delivered information available to individuals who are deaf or hard of hearing.

(e) Assistive Technology Devices are any items, piece of equipment, or product system, whether acquired commercially off the shelf, modified or customized, that is used to increase, maintain, or improve the functional capabilities of a VR customer.

(f) Assistive Technology Services are any services that directly assist an individual with a disability in the selection, acquisition, or use of an assistive technology device. Services may include:

(1) the evaluation of the needs of an individual, including a functional evaluation of the individual in his/her customary environment;

(2) purchasing, leasing, or otherwise providing for the acquisition by an individual of an assistive technology device;

(3) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(4) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(5) training or providing technical assistance for an individual or, if appropriate, the family members, guardians, advocates, or authorized representatives of the individual; and

(6) training or providing technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or others who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome. 361.5(c) (6)

(g) Rehabilitation technology services such as assessment or consultation are not based on financial status; however equipment, appliances, and aids will be based on available financial resources of the client.

(h) Rehabilitation technology services, including prescribed adaptive aids and devices, must be provided by qualified persons. Prescriptions/recommendations for nonmedical adaptive technology may be accepted from individuals listed in 74 O.S. 85.7(12) including physicians, rehabilitation engineers, qualified rehabilitation technicians or sensory aids specialists and from qualified assistive technology specialists and assistive technology professionals.

(i) Assistive technology devices, including prescribed adaptive aids and devices, may be purchased commercially or designed and manufactured by a rehabilitation engineer, assistive technology or sensory aids specialist depending on individual need.

(j) Counselors and rehabilitation teachers may refer clients with visual disabilities to the Division of Services for the Blind and Visually Impaired assistive technology laboratory for blindness and low vision which may provide or procure:

(1) assistive technology evaluations;

(2) recommendation of assistive technology devices and services to meet individual needs;

(3) training in use of technology and devices, referral to training sources and information on training options;

(4) information on technologies and devices to meet specific individual needs;

(5) technical assistance for installation and operation of select applications and devices; and

(6) demonstration and loan of adaptive aids, devices, electronic and computer technologies and other assistive technology products.

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

**612:10-7-240. Overview of transition from school to work services [AMENDED]**

(a) Transition services is a coordinated set of activities for a student with a disability that promotes movement from the public schools to post-school activities. ~~The Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act use the same language to describe transition services and their purpose. No break in required rehabilitation services will occur for eligible students exiting the secondary school when a case has been opened while in high school.~~ Transition services represent the next set of services on the continuum of VR services available to eligible individuals. Transition services, for eligible students with disabilities, provide for further development and pursuit of career interests with postsecondary education, vocational training, job search, job placement, job retention, job follow-up, and job follow along. The transition process is outcome based, leading to post-secondary education, vocational training, competitive integrated employment (including supported employment), continuing and adult education, adult services, independent living, and/or community participation consistent with the informed choice of the individual. ~~The goal of the Transition from School to Work Program is to help eligible individuals with disabilities make the transition from school to work in order to function as a productive member of society.~~ 361.5 (c) (54) (i)

(b) The Transition from School to Work Program is implemented through a cooperative agreement between DRS and each participating local secondary school district, private school, charter school, home school organization and Career and Technology Education Center, through an MOU with the State Department of Education. The Transition Coordinator in DRS State Office acts as the liaison with the State Department of Education, and provides statewide coordination and technical assistance for the Transition from School to Work Program.

(c) Transition services must be based on the individual student's needs, taking into account the student's preferences and interests. Transition planning will include, to the extent needed, services in the areas of:

(1) instruction;

(2) community ~~services~~ experiences;

(3) development of employment and other post-school adult living objectives, including job skill training available through vocational-technical schools;

(4) if appropriate, acquisition of daily living skills and a functional vocational evaluation;

(5) ~~supported employment services can be initiated during the final graduating semester of high school~~ that promotes or facilitates the achievement of the employment outcome identified in the student's or youth's individualized plan for employment; and

(6) that includes outreach to and engagement of the parents, or, as appropriate, the representative of such a student or youth with a disability or other needs specific to the individual.

(7) supported employment services can be initiated during the final graduating semester of high school. 361.5 (c) (54) (iii-v)

(d) The Transition from School to Work Program is based upon effective and cooperative working relationships between the Special Education Section of the State Department of Education, the Department of Rehabilitation Services, and the Local Educational Agency. Each agency retains responsibility for providing or purchasing any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency ~~[34 CFR 300.520]~~.

**612:10-7-242. Pre-Employment Transition Services [AMENDED]**

(a) **Students with a Disability.** Vocational Rehabilitation (VR) must collaborate with local educational agencies (LEAs) to provide, or arrange for the provision of, Pre-employment Transition Services (Pre-ETS) for all students with a disability in need of such services.

(1) A "Student with a Disability" as defined in Oklahoma is ages 16 through 21 and eligible for and receiving special education or related services under an Individualized Education Program (IEP); or an individual with a disability for purposes of Section 504 (individual does not need to have a 504 plan to meet the definition requirements).

(2) An individual as young as 14 years old may be considered a "Student with a Disability" if Pre-ETS is determined necessary by the IEP team.

(3) The definition of "Student with a Disability" applies to all students enrolled in educational programs, including postsecondary education programs or other recognized education programs, so long as they satisfy the age requirements. The definition is inclusive of secondary students who are homeschooled, as well as students in other non-traditional secondary educational programs.

(4) A student with a disability receiving pre-employment transition services is a client for whom goods and services may be procured in the same manner as for clients with an approved Individualized Plan for Employment ~~pursuant to OAC 612:10-1-7~~.

(5) Students with disabilities do not need to apply and be determined eligible for the VR program to receive pre-employment transition services. However, these students may not receive any VR services other than pre-employment transition services until they apply, and are determined eligible, for VR services, and have an approved IPE.

(6) Eligible students with disabilities, that is, those students who have applied and been determined eligible for the VR program, are able to receive any VR services, including pre-employment transition services, necessary to assist them in achieving their employment outcome, so long as those services are identified on their IPEs.

(b) **Required Activities.** Services may be provided to students, or groups of students, with disabilities who are eligible or potentially eligible for VR services in the following areas. The following pre-employment transition services represent the earliest set of services available for students with disabilities under the VR program. These are short-term services designed to help students identify career interests:

(1) Job exploration counseling.

(2) Work-based learning experiences, which may include in-school or after school opportunities or experience outside the traditional school setting, including internships, that is provided in an integrated environment to the maximum extent possible.

(3) Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education.

(4) Workplace readiness training to develop social skills and independent living.

(5) Instruction in self-advocacy, including instruction in person-centered planning, which may include peer mentoring, including peer mentoring from individuals with disabilities working in competitive integrated employment.

(6) Auxiliary aids or services. Any "student with a disability" with a sensory or communicative disorder who needs auxiliary aids or services to access pre-employment transition services, regardless of whether the student has applied or been determined eligible for the VR program.

(A) The provision of pre-employment transition services to pay for auxiliary aids and services for students with disabilities with sensory and communicative disorders who need such aids and services in order to access or participate in pre-employment transition services.

(B) DRS must pay for such costs if no other public entity is required to provide such aids or services.

(C) DRS need not conduct a search for comparable services and benefits when providing auxiliary aids and services to either eligible or potentially eligible students with disabilities to the extent that these aids and services constitute "rehabilitation technology" and are necessary for the student with a disability to participate in pre-employment transition services. 361.5(c) (45),

(c) **Delivery of Services.** Pre-ETS may be delivered in collaboration with school districts/LEAs via any combination of:

(1) Vocational rehabilitation counselors

(2) The vocational rehabilitation counselor will coordinate Pre-ETS with other entities who maybe delivering these services.

(3) Other entities contracted with VR such as:

(A) Community Rehabilitation Programs

(B) Independent Living Centers

(d) **Considerations under 00S.** VR must continue to provide Pre-ETS to students with disabilities who were receiving such services prior to being determined eligible for SBVI and are placed in a closed category.

(e) **Pre-Employment Transition Coordination.**

(1) District office staff will be responsible for attending IEP meetings for students with disabilities when invited; using conference calls and video conferences, when necessary;

(2) working with local workforce development boards, job centers and employers to develop work opportunities for students with disabilities, including apprenticeships, internships, summer employment and other employment opportunities available throughout the school year;

(3) working with schools to coordinate and ensure the provision of Pre-ETS; and

(4) attending person-centered planning meetings for individuals with developmental disabilities receiving SSI-D/Medicaid when invited.

(g) TITLE Eligible students with disabilities are able to access any other VR services needed to participate in pre-employment transition services or other VR services that are unrelated to pre-employment transition services, none of which would be available to them without approved IPEs, these eligible students with disabilities may need certain VR services to fully benefit from pre-employment transition services. By receiving other VR services and supports, along with the pre-employment transition services, enables eligible students with a disability to develop the skills to experience competitive, integrated employment as they leave school and enter the workforce.

**612:10-7-248. Coordination of Individualized Education Program and Individualized Plan for Employment [AMENDED]**

~~The Local Educational Agency and DRS must document coordination of objectives and services planned in an individual's IEP/Section 504 Plan and IPE. Both documents, as well as other case documentation, must reflect the effective interaction of the two agencies in providing the services necessary for a smooth transition from school to work. While it is understood that it is not possible for a VR counselor to attend all formal IEP/Section 504 Plan meetings in assigned schools, the counselor will collaborate in transitional planning in the most effective manner possible.~~

(a) The individualized plan for employment for a student with a disability must be coordinated with the individualized education program or 504 services, as applicable, for that individual in terms of the goals, objectives, and services identified in the education program. 361.46 (d)

(b) The development and approval of an individualized plan for employment as early as possible during the transition planning process and not later than the time a student with a disability determined to be eligible for vocational rehabilitation services leaves the school setting or, if the State agency is operating under an order of selection, before each eligible student with a disability able to be served under the order leaves the school setting. 361.22 (a) (2)

(1) No break in required rehabilitation services will occur for eligible students exiting the secondary school when a case has been opened while in high school.

(c) Case recording.

(1) The Local Educational Agency and DRS must document coordination of objectives and services planned in an individual's IEP/Section 504 Plan and IPE. Both documents, as well as other case documentation, must reflect the effective interaction of the two agencies in providing the services necessary for a smooth transition from school to work.

(2) Documentation of attended IEP meetings and results of those meetings.

**CHAPTER 15. OKLAHOMA LIBRARY FOR THE BLIND AND PHYSICALLY HANDICAPPED**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**612:15-1-3. Library functions and legal basis [AMENDED]**

(a) The Oklahoma Library for the Blind and Physically Handicapped (OLBPH), operated by the Division of ~~Visual~~ Services for the Blind and Visually Impaired within the Department of Rehabilitation Services, is the regional library for Oklahoma as part of the national network of libraries of the Library of Congress National Library Service (NLS) for the Blind and Physically Handicapped.

(b) On March 3, 1931, the Pratt-Smoot bill authorized the Library of Congress to arrange with other libraries to serve as local or regional centers to circulate books to blind or visually-impaired users. By the end of fiscal 1966, Congress passed Public Law 89-522 extending the service to library users who could not read standard print because of physical disability, which can include certain reading disabilities. State law (7 O.S. Section 8 and 74 O.S. 166.4(B)(3)(b) and 166.5) establish that the Section of Services to the Blind (~~Visual~~ Services for the Blind and Visually Impaired) of the Commission for Rehabilitation Services has the authority and duty to provide special library services to blind and visually impaired citizens.

(c) Functions of the Library include but are not limited to:

(1) Loan of books and periodicals in accessible formats for eligible adults and children with visual, physical or learning disabilities that prevent effective use of standard print materials;

(2) Production of recorded and Braille materials on request and on a limited basis, subject to availability of resources. Fees may be established to cover the cost of production. Services provided by OLBPH as part of the National Library Service will be given priority over requests for production of reading materials in alternate formats;

(3) Acquisition, housing and circulation of Braille textbooks and other accessible instructional materials for students with print disabilities in grades pre-K through 12;

(4) Improving access to print information for Oklahomans with print disabilities by providing, through contract or directly, services that supply audio or electronic access to newspapers, books, works by Oklahoma authors, educational programming, local and state activities, and information on resources.

(5) Recruitment and training of volunteers to support library functions.

**CHAPTER 20. SPECIAL SCHOOLS**

**SUBCHAPTER 2. CONTRACTED INSTRUCTIONAL PERSONNEL**

**612:20-2-7. Employee benefits [AMENDED]**

(a) **Personal leave.** Contracted instructional staff will receive five days each academic year. Such leave shall vest at the beginning of each academic year and may be taken with the approval of the school superintendent. Personal leave may not be charged to sick leave and~~, and any unused personal leave~~ will not be cumulative. Unused personal leave ~~and~~ will ~~not~~ be paid to the employee at the rate of $75 for each full day of unused leave after the end of each academic year ~~upon separation from the Department~~.

(b) Sick leave. Contracted instructional staff will receive ten days sick leave per academic year. Such leave shall vest at the beginning of each academic year and unused sick leave shall be cumulative up to a total of sixty working days. Such leave is to be used when the employee is required to be absent from duty due to personal injury, illness or pregnancy, or injury or illness of an immediate family member requiring the employee's care. In instances where a contracted instructional staff person has exhausted all accrued sick leave and continues to be absent due to personal injury, illness, or pregnancy, that employee is entitled to an additional twenty days at full salary less the amount actually paid to employ a substitute to temporarily assume the absent employee's position; as long as the total leave does not exceed the total number of days in the contract period. Sick days may be accrued as credit toward retirement. Otherwise, all accumulated sick leave will be canceled upon separation from the Department.

(c) Family and medical leave. Family and medical leave will be granted in accordance with the Family Medical Leave Act.

(d) Educational leave. A teacher may apply for up to 80 hours per academic year for educational leave. Such leave must be pre-approved by the immediate supervisor and Superintendent.

(e) Jury duty. Contracted instructional personnel will be granted leave for jury service in a criminal, civil, or juvenile proceeding and will receive the full, current contract salary during such service; provided that the Department may deduct any compensation received for serving as a juror from the employee's salary during such service.

(f) Armed forces leave. Contracted instructional personnel who are members of the Reserve Forces of the Army, the Navy, the Marine Corps, the Coast Guard, the Air Force, or any other component of the Armed Forces of the United States, including members of the Air or Army National Guard, shall, when ordered by the proper authority to active duty or service, be entitled to a leave of absence from employment with the Department for the period of such service without loss of status or efficiency rating.

(g) Shared leave. The state leave sharing program permits state employees to donate leave to a fellow state employee who is suffering or has a relative who is suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused, or is likely to cause, the employee to take leave without pay or terminate employment. Contracted instructional personnel may contribute sick leave under this program. The shared leave will be credited on a dollar for dollar basis.

(h) Other leave. Any leave not defined in this Section shall be treated as personal leave.

**CHAPTER 25. BUSINESS ENTERPRISE PROGRAM**

**SUBCHAPTER 2. GENERAL PROVISIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**"Emergency Satellite"** means a business enterprise that has been vacated on short notice by a licensed manager due to an unforeseen circumstance that calls for an immediate temporary assignment.

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

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

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

**"Existing Manager"** means a licensed manager that is not a recent graduate of the BEP training program and has been operating a primary facility.

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

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

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

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

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

**"Gross receipts"** means the total amounts received from all ~~revenue~~ sources from a business enterprise, ~~including sales tax~~ during an account period.

**"Gross Sales"** means the grand total of all sales transactions reported in a period without any deductions included in the figure.

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

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

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

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

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

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

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

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

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

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

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

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

**"Merchandise Loan"** means the total dollar value of the initial stocks of suitable merchandise provided to a licensed manager that will be repaid in monthly installments of no less than two percent of gross sales and not to exceed 12 consecutive payments to pay loan balance in full.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**"Teaming Partner Agreement"** means an arrangement between two or more companies either as a partner or joint venture to perform a specific federal government contract.

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

**"Third Party Vendor"** means a separate individual or organization that operates and/or manages a BEP business enterprise facility in lieu of the licensed manager and pays a fee or commission to licensed manager for the opportunity to operate said facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

**SUBCHAPTER 4. THE STATE LICENSING AGENCY**

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

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

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

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

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

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

**PART 3. BUSINESS ENTERPRISE PROGRAM TRAINING**

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

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

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

(1) current eye examination, documenting blindness;

(2) documentation for United States citizenship;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The licensed manager may make additions, deletions or modifications to the business enterprise and its operation, in the form of equipment, fixtures or facilities, by obtaining written authorization from the BEP.

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

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

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

(1) The amount of the loan will be determined by the SLA in consultation with the licensed manager and based on an assessment of merchandise necessary to initiate sales. Loan amounts are also dependent upon available BEP funds.

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

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

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

(5) A merchandise loan must be repaid to the SLA by a licensed manager ~~in monthly installments equaling two percent (2%) of monthly gross sales~~ in monthly installments of no less than two percent of gross sales and not to exceed 12 consecutive payments to pay loan balance in full. A licensed manager shall not allow the facility inventory level to fall below that of the balance of the merchandise loan and are subject to disciplinary action should this occur. Licensed managers with outstanding merchandise loans are not eligible for transfer or assignment to another business enterprise. Managers receiving loans will sign a merchandise security agreement that will be retained on file by DRS and released to the manager when loan repayment is complete along with a letter from the BEP Operations Coordinator officially notifying the licensed manager of their full repayment of the loan.

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

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

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

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

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

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

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

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

(d) **Second merchandise loan.**

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

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

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

(e) It is the incoming manager’s choice to ~~procure any~~ accept or reject any and or all merchandise from the out-going manager. ~~If this condition occurs, the outgoing manager must be given a one-week notice prior to the facility turnover to the new manager.~~ The incoming manager must notify the business consultant and the outgoing manager of his/her intent of purchasing outgoing manager’s inventory one week prior to the facility turnover.

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

(g) In order to expedite the processing of merchandise loans, the outgoing manager must provide a merchandise price list to the business consultant on or before the day of the inventory count.

**PART 9. ASSIGNMENT OF LICENSED MANAGERS**

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

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

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

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

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

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

(c) Experience requirements for each classification are:

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

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

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

(4) Classification D. No experience required.

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

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

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

(2) The applicant is not current with their merchandise loan payments or has an outstanding merchandise loan balance owed to another Licensed Manager.

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

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

(5) ~~Conditions 1-4 will not apply to new BEP training graduates~~ Applicants who have not operated their current primary facility for twelve or more consecutive months.

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

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

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

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

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

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

(a) The BEP will conduct an annual evaluation of each licensed manager at the end of each calendar year. Performance evaluations will be conducted when a manager applies for a facility or when a probationary period ends. All evaluations will be based on data collected from the manager's primary assigned facility and will consist of the previous twelve (12) working ~~months~~ month's information. The Licensed Manager will be advised of the results of any evaluation in writing. The manager will be evaluated in the following areas:

(1) Tasks/responsibilities

(A) Timely submission and accuracy of all required monthly reports and payments (set-aside and merchandise loan payments, if applicable).

(B) Accurately calculated gross profit percentage reported on monthly reports.

(C) Accurately calculated net profit percentage reported on monthly reports.

(D) Maintenance of an acceptable level of merchandise inventory (including preventing the merchandise levels from falling below any outstanding merchandise loan balance).

(E) Attendance at Agency and other certified training.

(F) Attendance at Quarterly ECM Meetings.

(2) Work Habits

(A) Provides preventive maintenance and appropriate cleaning/sanitation.

(B) Merchandise displayed, rotated and stocked sufficiently.

(C) Maintains required insurances.

(D) Maintains agreed upon hours of operation.

(E) Maintains professional relationships with customers and grantors.

(b) When a Licensed Manager applies for a facility a performance evaluation will be conducted to determine their eligibility to apply. To be eligible the manager must score at least 80 of the available 100 points. Any score above 80 will accrue to the benefit of the licensed manager in that selection process by adding it to their total score. If there is a second interview conducted, these points will not be added to the total points of the second interview.

**612:25-4-59. Interview, Selection Process and Scoring [AMENDED]**

(a) All eligible applicants will be referred by the SLA to the Selection Committee for a personal interview.

(b) All personal information made available to the Selection committee and all information discussed in the course of a selection is held confidential. Information will not be released to any other individual, agency, or organization by Selection Committee members, unless they are advised in writing by the SLA's legal counsel to release information.

(c) An applicant not present at the appointed time for their interview will have his/her name removed from consideration for this location unless due to reasonable extenuating circumstances make them unable to appear and a majority vote of the selection committee agrees to allow a change of the interview time.

(d) Following every interview, each Selection Committee member will complete a score sheet on the applicant. Members of the Selection committee must complete their own score sheets before assisting another member. After each interview, the scores from all score sheets on the applicant will be totaled. Selection Committee members may not change their scores for an applicant after scores for the applicant have been tabulated. The total scores for all applicants will then be ranked.

(e) Any candidate not scoring a minimum of ~~50~~ 70 percent of the available points, not including seniority, performance evaluation, or displaced manager points, will be deemed not qualified to manage the facility being considered.

(f) The score of the Chairperson of the Selection Committee's score will not be added into the ranking unless it is a tie.

(g) Any agreement made to the Selection Committee by a selected candidate will be transferred to an addendum in the manager's agreement by the BEP Operations Coordinator.

(h) After all applicants' scores from the initial interview have been tabulated; a second interview will be given to the top scorer and any applicant whose total score is within 5 points of the top score. The SLA will have the responsibility of convening the same Selection Committee and notifying all eligible applicants of the time and place of the second interview. The second interview will be governed by the same process rules as the initial interview described above.

(i) To determine the final rankings of the applicants, combine the personal interview points from the second interview to the combined point total of the first interview.

(j) The initial interview scoring shall be based on the following factors:

(1) Personal interview;

(2) Business Plan;

(3) Performance evaluation points accrued over 80;

(4) Seniority; and

(5) Displaced manager points, if applicable. .A displaced licensed manager will have 15 points added in the selection process for the first comparable business enterprise announced, including type and gross sales, for one year from the date of displacement.

(k) Once a selection is made, all individual applicants who received a personal interview will be immediately notified of their result. This notification will be in writing with an attempt to be contacted by phone.

**612:25-4-61. Satellite business enterprise locations [AMENDED]**

(a) A business enterprise facility will be considered a satellite and may be assigned to a licensed manager on a temporary basis when:

(1) the regular selection process does not produce a permanent licensed manager,

(2) a licensed manager has been removed by the SLA, ~~or~~

(3) when a business enterprise is vacated on short notice by a licensed manager,

(4) when a new business enterprise is vacated by the existing private vendor on short notice, or

(5) when a new business enterprise requests immediate services which do not allow time for the normal solicitation process.

(b) The BEP Operations Coordinator, in consultation with the Chairperson of the Elected Committee of Licensed Managers, may assign a licensed manager to a satellite business enterprise. The length of the agreement for a temporary assignment will be until the regular selection process can generate a permanent licensed manager, but not less than 180 days, unless a shorter period is agreed upon by the satellite manager. In order to achieve an equitable distribution of satellite business enterprises, a licensee that currently operates a satellite location will not be eligible for an additional satellite unless there are no other qualified licensed managers interested. Licensed Managers who only qualify for lower facility classifications than the satellite under consideration may be assigned when it is deemed appropriate by the BEP Operations Coordinator, in consultation with the ECM Chairperson.

(c) Satellite locations will be reviewed by the SLA, in consultation with the ECM board through consultation with the ECM chair person, every 180 days for possible advertisement of permanent assignment, adding in whole or in part to another business enterprise facility, continue the satellite assignment, or ~~closure~~ issuing Grantor a temporary variance. The satellite manager will be kept informed when this will occur and the result of the review.

(d) The licensed manager may resign the satellite agreement with 30 days written notice.

(e) The satellite business enterprise will be managed as a separate business location for all purposes except for insurance and the tax permit. It is the licensed manager's responsibility to notify the Oklahoma Tax Commission and his or her insurance carrier of the addition and when the satellite manager agreement has ended.

(f) If a satellite is to be continued by the current licensed manager after review, the manager must:

(1) Score at least an 80 on the satellite performance evaluation.

(2) Be current with all BEP monthly reports and payments.

(3) Be in good standing with the OTC.

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

**PART 11. BUSINESS ENTERPRISE PROGRAM AUDITING AND DUE PROCESS**

**612:25-4-73. Due process [AMENDED]**

(a) **Due process overview.** The SLA provides procedures for fair hearings of licensed managers' grievances. These procedures provide each licensed manager the opportunity to seek remediation of dissatisfaction with any SLA action arising from the operation of the BEP.

(b) **Informal administrative review.** It is the policy of the SLA to resolve complaints in an expeditious and facilitative manner. These resolutions shall be accomplished through the informal administrative review process whenever possible. A licensed manager has the right to request a full evidentiary hearing at any time within established due process time lines. These timelines are identified later in this policy.

(1) Informal administrative reviews are conducted by the SLA staff person closest to the problem who was not involved in the action resulting in the complaint, and who can resolve the complaint in the most expeditious manner.

(2) The informal administrative review is to be completed within 30 calendar days of receipt of the complaint to the appropriate SLA staff person.

(3) The results of the informal administrative review are to be reported in writing within 15 calendar days to the BEP Operations Coordinator, with a copy going to the licensed manager affected, in accessible format.

(c) **Full evidentiary hearings.** Licensed managers have the right to a full evidentiary hearing to resolve dissatisfaction with any SLA action arising from the operation or administration of the Business Enterprise Program.

(1) If the complaint cannot be resolved with an informal administrative review, or in the absence of an informal administrative review, the licensed manager may request a full evidentiary hearing. The request for a full evidentiary hearing must be made to the BEP Operations Coordinator in writing, in the licensed managers preferred format, within 30 calendar days from the date the licensed manager receives the notification of adverse action, or the written report of the informal administrative review. ~~The request for a full evidentiary hearing is to be sent by certified mail.~~ Upon receipt, the BEP Operations Coordinator will immediately forward the request to the ~~Visual~~ Services for the Blind and Visually Imparied Division Administrator. The Licensed Manager submitting the request for full evidentiary hearing will be notified of the date it was forwarded.

(2) The licensed manager may be represented in the evidentiary hearing by legal counsel, or other representation of the licensed manager's choice, and at the licensed manager's expense.

(3) Reasonable accommodations will be arranged by the SLA upon the request of the licensed manager.

(4) The hearing will be scheduled by the SLA for a time and place convenient and accessible to the licensed manager and the SLA staff involved in the hearing. The licensed manager will be notified, in their preferred format, of the place and time of the hearing and the right to be represented by legal or other counsel in writing.

(5) The hearing will be conducted by an impartial and qualified official with no involvement or vested interest in the SLA, action at issue, or with the operation of the affected business enterprise. The presiding officer will conduct the hearing in accordance with State and/or Federal laws and rules governing the conduct of such proceedings. In any case, the hearing will be conducted in a manner that avoids delay, maintains order, and provides for a full recording and reporting of the proceedings so that a full and true disclosure of the facts and issues occurs.

(6) The hearing officer's determination will be based upon the facts as presented by both parties and upon applicable law and the existing rules of the SLA. The hearing officer does not have the power to rule upon the legality or construction of the rules themselves. The officer's decision will determine the relevant issues and facts to be ruled upon.

(7) The hearing officer shall make a written report of the evidence presented, the laws and rules used in determining a resolution, and the resolution itself. This report shall be issued to the BEP Operations Coordinator and the licensed manager, or his/her authorized representative within 15 calendar days of the conclusion of the full evidentiary hearing.

(8) The hearing officer's report shall be issued to the Director of the SLA within 15 calendar days of the conclusion of the full evidentiary hearing. The SLA Director issues his or her final written decision to the BEP Operations Coordinator and the licensed manager, in accessible format, within 30 calendar days of the date on which he or she receives the hearing officer's report.

(9) If the licensed manager is dissatisfied with the decision, she or he may request that the Secretary (USDE) convene an arbitration panel.

**SUBCHAPTER 6. LICENSED MANAGERS AND BUSINESS ENTERPRISE OPERATION**

**612:25-6-1. Licensing requirements for managing a business enterprise [AMENDED]**

(a) **Issuance and conditions of a license.** A license shall be issued by the SLA in accordance with Federal regulations making the individual eligible to operate a business enterprise. This license will be issued upon successful completion of the SLA training program. ~~The~~ This license shall be prominently displayed in the licensed manager's business enterprise. Licensed Managers whose facility consists of only vending machines, must carry their BEP license with them. ~~The~~ This license remains effective for an indefinite length of time, unless terminated, or suspended~~, or revoked~~ by the SLA in accordance with State and Federal regulations. A license issued to a qualified individual is non-transferable.

(b) **Termination of agreement or removal from a business enterprise.** The SLA may terminate a manager's agreement and/or immediately remove the licensed manager from operation of a business enterprise for cause shown. Termination of a manager's agreement or removal from operation of a business enterprise does not necessarily mean that the manager's license will be suspended or terminated. The licensed manager has the right to a full evidentiary hearing when dissatisfied with any State Licensing Agency action in accordance with BEP, State, and Federal regulations.

(c) **Reinstatement of license.** Reinstatement of a BEP license for an individual can be accomplished by formally requesting the SLA reinstate the BEP License within a two year period. **3**

(d) **Termination of license.** A license automatically expires when the licensed manager is no longer a U.S. citizen, no longer meets the definition of legal blindness, surrenders his or her license, resigns, retires, or dies. A license may be terminated or suspended by the SLA, after affording the licensed manager an opportunity for a full evidentiary hearing in accordance with State and Federal regulations.

**612:25-6-2. Standards for licensed managers [AMENDED]**

(a) The licensed manager will agree to the terms of the licensed manager's agreement, rules and regulations governing the Business Enterprise Program, and the permit or contract governing the specific business enterprise.

(b) The licensed manager will operate the business enterprise in accordance with all applicable health laws and regulations, safety regulations and other federal, state, county, and municipality laws and regulations applicable to the business enterprise.

(c) The licensed manager will work cooperatively with authorized representatives of the SLA in connection with their official responsibilities. **1**

(d) The licensed manager will take proper care of the equipment and fixtures to minimize repair and replacement costs. The licensed manager will be responsible for repair or replacement costs when caused by the negligence of the licensed manager or his or her employees, when repair cost is below ~~$25.00,~~ $50.00 or when repairs are not authorized by the BEP. In the event of withdrawal from the business enterprise for any reason, the licensed manager will leave all SLA-owned equipment to the disposal of the SLA.

(e) The licensed manager will collect and pay sales tax as required.

(f) The licensed manager will be responsible for substitute operation.

(g) The licensed manager will not take action inconsistent with the paramount right, title, and interest of the SLA to business enterprise equipment.

(h) The licensed manager will accept the agreement and any modifications subject to the policies, rules, and regulations of the SLA as they exist or are modified.

(i) The licensed manager will keep daily records of gross sales, merchandise purchased, and other financial transactions for the business enterprise.

(j) The licensed manager will complete and submit all necessary Federal and State reports and payments as required for each individual business enterprise.

(k) The licensed manager will convey a positive public image.

(l) The licensed manager will maintain appropriate professional relationships with purveyors, customers, and building officials as in (1) through (3) of this Subsection.

(1) Relationships with purveyor. The licensed manager is free to choose the purveyor from whom he/she is to make purchases, provided, however, that such purveyor is established and reputable.

(2) Relationships with customers. To serve the best interest of the public, the licensed manager and his/her employees will provide prompt~~, cheerful~~ and courteous service to all customers.

(3) Relationships with building officials. The licensed manager will comply with all reasonable requests concerning the operation of a business enterprise that may be made by officials of the building in which the enterprise is located, provided that such requests do not conflict with the agreement and the rules and regulations issued by the SLA as contained herein. If differences should arise between the licensed manager and the grantor, the licensed manager shall bring the matter to the immediate attention of the BEP business consultant for appropriate action.

(m) The licensed manager will supervise employees in a manner that promotes quality customer service.

(n) The licensed manager will maintain and display current licenses and permits, including BEP license, in the business enterprise or in the case of a facility of only vending machines, carried with the Licensed Manager.

(o) The licensed manager will comply with all regulations and laws governing the possession and/or use of firearms, weapons, alcohol and other drugs.

(p) When a licensed manager starts or buys a similar business, the licensed manager must make assurances to the SLA that the two businesses will not intermingle in any manner and the merchandise of the two businesses will be in separate locations. At no time will state owned equipment be used in the private business.

**612:25-6-2.1. Probation [AMENDED]**

(a) **Scope.** A licensed manager who is not meeting all of the requirements or qualifications set forth in the BEP rules and regulations, or a licensed manager who is not managing the business enterprise in a proper manner, may be placed on probation. Intensive review/consultation will be provided during the probationary period. The period of the probation will be used to focus on specific problem areas and attempts will be made to improve the licensed manager's performance. This is the first step in the disciplinary process. If proper results are not achieved, suspension or termination of the BEP License ~~may~~ will be necessary.

(b) **Initiation of probation procedure.** The BEP Operations Coordinator will place licensed managers on probation through a probation letter. The business consultant will deliver, read and explain the letter of probation to the licensed manager. The business consultant and licensed manager will then sign the probation letter. The original is given to the licensed manager, one copy returned to the BEP Operations Coordinator, and one copy mailed to the Chairperson of the Elected Committee of Licensed Managers.

(c) **Probationary letter.** The probationary letter will specify the cause(s) for placing the manager on probation and rules that have been violated. It will clearly state the terms of the probation, including the length of the probationary period, the remedial action required and the consequences of failure to take remedial action. A statement will be included which indicates it has been read and understood by the licensed manager, followed by a space for the licensed manager's and business consultant's signature, and the date. This acknowledgement does not imply that the licensed manager agrees with the issues identified, but rather, that he/she understands the terms of his/her probation. Refusal to sign does not invalidate the letter.

(d) **Probationary periods.** Probationary periods are usually 30 to 90 days, at the discretion of the BEP Operations Coordinator, but may be longer ~~or shorter~~ as circumstances warrant. The exact period of probation will be specified in the probationary letter.

(e) **Consequences.** ~~The Licensed Manager or the business consultant may submit a request to the BEP Operations Coordinator that the licensed manager be taken off probation whenever the licensed manager's performance improves to a satisfactory level.~~ If remedial action does not result in improved performance within the time specified, the BEP Operations Coordinator ~~may~~ will recommend that:

(1) the SLA Director transfer the licensed manager to a more suitable business enterprise;

(2) the probationary period be extended; and/or

(3) the SLA Director terminate the Managers Agreement and suspend/terminate the licensed manager's BEP license.

**612:25-6-3. Grounds for suspension or termination of a license [AMENDED]**

(a) A BEP license may be suspended or terminated for the reasons set forth in (1) through (~~13~~15) of this Subsection.

(1) Failure to open the assigned business enterprise as stated in the permit/contract with the grantor agency, without prior proper approval from the SLA (abandonment of business enterprise).

(2) Defrauding any agency of the government (including the SLA) or any purveyor or failure to pay monies due including taxes, fees, or assessments to any governmental entity or purveyor and for failure to pay for merchandise purchased from another licensed manager.

(3) Failure to file required monthly reports with the SLA or failure to comply/cooperate with audits conducted by the SLA or other State or Federal agencies.

(4) Failure to maintain the required insurance coverage.

(5) The business enterprise is not being operated in accordance with the rules and regulations, terms and conditions of the permit with the grantor agency, or the terms and conditions of the business enterprise manager's agreement.

(6) Intentional abuse, neglect, unauthorized use or removal of the business enterprise equipment; or failure to properly maintain the equipment in a clean and operating manner within the scope of the licensed manager's level of maintenance authorization.

(7) Substance abuse (alcoholic beverages, illegal drugs, etc.) while operating the business enterprise; or other substance abuse that interferes with the operation of a business enterprise.

(8) Operation of a business enterprise in such a way that the SLA's interest in retaining the contract for the location is obviously endangered.

(9) Failure to comply with all Federal and State laws prohibiting discrimination and failure to provide services without regard to race, gender, color, national origin, religion, age, political affiliation, or disability.

(10) Determination by the SLA that the licensed manager no longer has the necessary skills and abilities for effectively managing a business enterprise.

(11) Use of the business enterprise to conduct unlawful activities.

(12) Failure to personally operate and manage the business enterprise in accordance with the manager's agreement. Management means the personal supervision of the day-to-day operation of the assigned BEP facility by the assigned manager.

(13) ~~Does not actively work as a licensed manager or licensed employee in the Business Enterprise Program for 2 years~~ Use of a third-party vendor to operate the assigned business enterprise facility.

(14) Does not actively work as a licensed manager or licensed employee in the Business Enterprise Program for 2 years.

(15) Intentionally representing one's self as the SLA or as an SLA official. The licensed manager is not allowed to negotiate or act on behalf of the SLA.

(b) When the BEP Operations Coordinator determines that a BEP license should be suspended or terminated, the BEP Operations Coordinator shall make a written recommendation to the Division Administrator. The Division Administrator shall then recommend to the SLA Director for action. The licensed manager shall be notified in writing if action is to be taken. The BEP license may only be suspended or terminated after affording the licensed manager an opportunity for a full evidentiary hearing in accordance with BEP Rule 612:25-4-73. The licensed manager may be immediately removed from the operation pursuant to BEP Rule 612:25-6-1(c) pending the outcome of the evidentiary hearing.

**612:25-6-4. Use of service animals [AMENDED]**

(a) A licensed manager, licensed employee, or trainee may house a service animal in designated areas other than food preparation and food serving areas. Each business enterprise will be surveyed and a service animal area designated as needed.

(b) The service animal, when not in use, will be kept in a suitable kennel provided by SLA and screened from customers' view to provide maximum security for the service animal.

(c) It is the service animal owner's responsibility to keep the service animal, kennel and kennel area neat, clean and odor free at all times.

(d) After leaving the kennel area, any licensed manager, licensed employee or trainee must immediately wash his/her hands before returning to work.

(e) This Section will not in any way prohibit customers with service animals from access to business enterprises.

**PART 3. BUSINESS ENTERPRISES**

**612:25-6-15. Setting aside of funds [AMENDED]**

(a) Set-aside charges paid by the licensed manager will be placed in a revolving account maintained by the SLA. Set-aside charges will be re-evaluated yearly by the SLA, ~~and~~ the Elected Committee of Licensed Managers and RSA. Adjustments will be made accordingly in the appropriate classification, with allowances for reasonable charges for improving services, fluctuation of costs, and for program expansion.

(b) Funds will be set aside only for the purpose of:

(1) maintenance and replacement of equipment;

(2) the purchase of new equipment;

(3) management services;

(4) assuring a fair minimum of return to licensed managers; or

(5) the establishment and maintenance of retirement or pension funds and health insurance contributions.

(c) The licensed manager's set-aside charges will be on a sliding scale of 0% to not more than 12% of the net proceeds of the business enterprise during any one month. The sliding scale will be in four classifications: Class A, B, C, and D (based on prior year's performance).

(1) Class A - 12% of net proceeds, $60,000 and above.

(2) Class B - 10% of net proceeds, $25,000 to $59,999.

(3) Class C - 6% of net proceeds, $10,000 to $24,999.

(4) Class D - 0% of net proceeds, $9,999 and below.

(d) A licensed manager will submit his/her set-aside payment to the BEP office on or before the 25th of the current calendar month. If the 25th falls on a weekend, the payment is due in the BEP office no later than the close of business on the last business day prior to the 25th. Set-aside payments may be mailed to the BEP office. To be considered on time, they must be postmarked by the 21st of the month for regular mail or the 22nd for overnight mail. If these dates fall on a day where the post office is closed, they must be postmarked the day before. If the set-aside payment is late the SLA shall notify the manager by phone on the next business day following the due date. If the accurate set-aside payment is not received in the BEP office ~~within five calendar days after~~ by the due date, the licensed manager will be placed on probation and assessed a $50 late charge. If the licensed manager’s overdue set aside payment is not received in the BEP office ~~within five calendar days after~~ by the due date in the succeeding month (i.e. is over one month ~~and five calendar days~~ late), the manager is assessed another $50 late fee. If the first and second payments are not received by the time the third report is due, the licensed manager’s agreement will be cancelled and the BEP licenses will be suspended, unless an alternate payment schedule has been approved in advance by the SLA. Failure to pay monthly set-aside in a timely manner three or more times within any twelve month period will result in formal disciplinary action.

(e) If a business enterprise should show a marked change in net proceeds, a request for reclassification may be made by the licensed manager or the SLA after 90 days. Each licensed manager will be notified of changes in set-aside charges, and the new percentage of net proceeds will be ~~effective at the beginning of the first business month~~ due at the time of the next monthly report due date, following the mailing of notice to the licensed manager. The licensed manager will start paying the higher or lower percentage of set-aside with the ~~second~~ next report due following notification.

(f) All new business enterprises will be placed in class C for 90 days, at which time the SLA will review the business enterprise for reclassification and notify the licensed manager of changes in set-aside charges and the new percentage of net proceeds shall be effective at the beginning of the first business month following the mailing of notice to the licensed manager.

**612:25-6-16. Criteria to establish a business enterprise [AMENDED]**

A decision to establish a business enterprise will be made by the State Licensing Agency (SLA) in consultation with the ECM board through consultation with ECM chair person based on the Business Enterprise Program (BEP) calculation of potential business profitability, estimated installation costs, available SLA resources and the BEP’s recommendation. Information used for calculation of business profitability will be obtained by BEP staff using a site survey that will include:

(1) building population;

(2) number of visitors;

(3) competition in the immediate area;

(4) building security;

(5) average salary of prospective customers;

(6) estimated installation cost to provide required services;

(7) stability of number of prospective customers;

(8) longevity of potential facility;

(9) geographic location; and

(10) additional information as determined necessary.

**612:25-6-17. Contracts and permits for business enterprise facilities [AMENDED]**

When it is determined that a business enterprise is feasible and when agreements are ready to be made with the grantor, one of four types of arrangements will be adopted with the grantor.

(1) **Private industry.** Agreements made with private industry are on a contract basis and sometimes require a percentage payment.

(2) **State and local government.** State and local government location agreements are made when Application for Authority to Establish a business enterprise in a State, County or Municipal Building is signed.

(3) **Federal property - business enterprise.** ~~The Department of Education form, Application and~~ A Permit for the Establishment of a business enterprise on Federal and other Property, is the instrument, or formal agreement governing the establishment of a business enterprise. Procedures and conditions pertaining to the permit are contained in the regulations [34 CFR 395.34].

(4) **Federal property - cafeteria facility.** Contracts may be required for the operation of a cafeteria on federal property. These contracts sometimes specify such things as costs of items, brand names, portion size and other conditions of agreement between the federal agency and the SLA.

**612:25-6-18. Establishing ~~new~~ licensed managers in business enterprises [AMENDED]**

Business Enterprise Program (BEP) staff will provide consultation and assistance to accomplish installation of licensed managers in business enterprises. Steps in the installation process will include the following:

(1) BEP staff will orient the new licensed manager to the business enterprise as needed.

(2) An inventory of the outgoing manager’s merchandise that will be transferred to the incoming manager will be performed by the outgoing and incoming licensed managers with ~~assistance~~ oversight ~~from~~ by the BEP. The outgoing licensed manager or designee, incoming licensed manager or designee, and a representative from the BEP must be present when merchandise is counted. The outgoing manager must provide a merchandise price list to the BEP on or before the day the merchandise is counted. The completed merchandise inventory is signed by both outgoing and incoming licensed managers, accepting the count of merchandise. All items not being transferred to the incoming manager must be removed from the facility prior to the incoming manager taking responsibility for the facility. The outgoing licensed manager or their designee and the incoming licensed manager or their designee must participate in counting of the merchandise. The outgoing manager or their designee is responsible for removing and counting all currency prior to the date of the merchandise inventory count. The BEP Operations Coordinator shall develop and implement equipment and merchandise inventory procedures. These procedures will read by the business consultant to the outgoing and incoming managers prior to the actual physical inventory to ensure that both the outgoing and incoming managers understand these procedures.

(3) The BEP will assist the incoming licensed manager in procuring initial merchandise for sale and will arrange for the licensed manager to obtain a merchandise loan as necessary and in accordance with agency policy.

(4) An equipment inventory is completed and the incoming licensed manager signs the inventory sheet and assumes responsibility for the equipment.

(5) The BEP will assist the incoming licensed manager in filling out any insurance or retirement enrollment or change forms as necessary.

(6) The BEP will verify that workers compensation and liability insurance on the business enterprise are in effect. The business enterprise will not be opened by the new licensed manager until this is verified.

(7) The BEP will provide the incoming licensed manager with a copy of the permit/contract in effect for the business enterprise.

(8) The BEP will provide the incoming licensed manager with a supply of the forms required by the SLA relative to the business enterprise operation.

(9) The incoming licensed manager must read and sign a licensed manager's agreement before assuming the operation of any business enterprise. If needed, BEP staff will read the agreement to the manager and/or provide the agreement in the accessible format required by the manager.

**612:25-6-19. Employees of the licensed manager [AMENDED]**

(a) The BEP has no direct responsibility over the employees of licensed managers. If a complaint is filed by a customer or grantor against an employee of a licensed manager, or an employee-related problem is brought to the attention of BEP staff, the business consultant will bring the complaint/problem to the attention of the licensed manager. A business consultant may make suggestions as to the action that needs to be taken, however the responsibility lies with the licensed manager as to disciplinary action toward the business enterprise employee.

(b) In the event the grantor requests an employee of a licensed manager be terminated/suspended, the information will be presented to the licensed manager immediately by personal contact or phone call followed by written memorandum indicating the reason for the requested suspension or termination.

~~(c) The business consultant will immediately notify the SLA state office by memorandum for insurance and retirement purposes when a licensee/licensed employee starts to work for another licensed manager or quits.~~

(~~d~~c) Licensed managers are to take affirmative action to employ and advance qualified individuals with disabilities in accordance with applicable federal and state laws.

(~~e~~d) Volunteer labor is permitted in a business enterprise; however the volunteer must be covered by insurance in the event of injury. This insurance coverage will be documented in the SLA state office prior to the individual's actual work in a business enterprise.

**612:25-6-20. Closing a business enterprise [AMENDED]**

(a) A business enterprise may be closed immediately by the SLA, the grantor, any government agency or the licensed manager when a life threatening situation, health or safety hazard exists. Notice of the closing should be made as soon as possible to the SLA and the grantor.

(b) The business enterprise will also be closed immediately for failure to have proper insurance verification for liability and workers' compensation insurance.

(c) The business enterprise may be closed for short periods of time with prior written approval from the SLA and the grantor.

(d) The SLA's policy is to operate business enterprises that have the potential to produce net profit returns for licensed managers which will enable them to live self sufficiently and with dignity within their communities. Additional consideration is given to the amount of return on investment as related to expenditures for capital outlay, management services overhead, and other expenses of operation. Anytime a licensed manager vacates a business enterprise, the business consultant will re-evaluate the business enterprise if it generates revenue below the program net profit objective. A business enterprise that lacks the potential to meet the SLA's net profit objective will be ~~closed~~ issued a temporary variance or added to another location.

**612:25-6-22. Monthly reports [AMENDED]**

(a) Content and when due. Licensed managers must submit monthly business enterprise financial reports to the SLA. Reports will contain data on gross sales, merchandise purchases, payroll expense, business expense and other information determined necessary to reflect business financial status and calculate licensed manager set-aside, retirement and/or merchandise loan payments. The monthly reports shall be for ~~one of the two~~ the following time ~~periods~~ period: 1) the sixteenth (16th) day of the previous calendar month to the fifteenth (15th) day of the current calendar month~~; or 2) the twenty-first (21st) day of the previous calendar month to the twentieth (20th) day of the current calendar month. The licensed manager may choose either period, but must notify the business consultant which option is chosen by September 30th of each year. The licensed manager shall use the same option throughout the federal fiscal year~~. Monthly reports and payments due, if required are due in the BEP office on or before the 25th of the current calendar month. If the 25th falls on a weekend, the monthly report is due in the BEP office no later than the close of business on the last business day prior to the 25th. Monthly reports may be mailed to the BEP office. To be considered on time, they must be postmarked by the 21st of the month for regular mail or the 22nd for overnight mail. If these dates fall on a day where the post office is closed, they must be postmarked the day before. The BEP shall notify the manager ~~by phone~~ on the first business day following the 25th if the report is not received. The BEP will review each monthly report for mathematical errors, correct loan payment, correct set-aside payment, approved business expenses, and other factors that will affect the accuracy of the report. The business consultant will sign the report indicating that the report is correct, correct payments are attached (if required), and all items in question have been discussed with the licensed manager.

(b) Failure to file in a timely manner. If the accurate monthly report and correct payment due, if applicable ~~is~~ are not received in the BEP office ~~within five days after~~ by the due date, the licensed manager will be placed on probation. If the 1st and second reports are not received by the time the 3rd report is due, the licensed manager’s agreement will be canceled and the BEP licenses will be suspended. Failure to file monthly reports in a timely manner three or more times within any twelve month period will result in formal disciplinary action.

(c) Fee for reports. The Agency maintains records for its use and may charge a reasonable fee to supply copies of records to individuals. The agency will supply copies of lost reports or other documents at 25 cents per page.

(d) **Timely submission.** Receipt of an accurate monthly report and correct payment, if applicable on or before the due date in the BEP office.

(e) **Returned Checks.** An insufficient fund check will be assessed a $50.00 fee.

**PART 5. THE ELECTED COMMITTEE OF LICENSED MANAGERS**

**612:25-6-32. The Elected Committee of Licensed Managers [AMENDED]**

(a) Authority for Establishing an Elected Committee of Licensed Managers (ECM) is found in Section 107-B1 of Chapter 6A of Title 20 U.S., commonly referred to as the Randolph-Sheppard Act.

(b) Paragraphs (1) and (2) of this Subsection provide guidance in approaching the degree of participation by the ECM.

(1) Active participation means a process of good faith negotiations involving the ECM and the SLA. The Committee must be given the opportunity to have meaningful input into the decision-making process in the formulation of program policies which affect licensed managers.

(2) The SLA is charged with the ultimate responsibility for the administration and operation of all aspects of the Business Enterprise Program.

(c) Functions of the Elected Committee of Licensed Managers include:

(1) Actively participate with the SLA in the major administrative, policy, and program development decisions affecting the overall administration of the Business Enterprise Program.

(2) To receive and transmit to the SLA grievances at the request of licensed managers and serve as advocates for such managers in connection with such grievances.

(3) To actively participate with the SLA in the development and administration of a State system for the transfer and promotion of licensed managers.

(4) To participate with the SLA in developing training and retraining programs for licensed managers.

(5) To sponsor, with the assistance of the SLA, meeting and instructional conferences for licensed managers.

(6) To participate in setting out the method of determining the charge for each of the purposes listed in (A) through (D) of this Paragraph.

(A) Maintenance and replacement of equipment;

(B) The purchase of new equipment;

(C) Management services;

(D) The establishment and maintenance of retirement or pension funds, health insurance contributions, or fair minimum return, if it is so determined by a majority vote of licensed managers, after the SLA provides to each licensed manager information on all matters relevant to such proposed purposes. [34 CFR 395.9(b) and (c)]

(d) The ECM will be composed of licensed ~~managers~~ blind vendors ~~and licensed employees~~. There will be an executive committee with their duties and terms of office specified in the bylaws of the ECM.

(e) The SLA shall provide for the election of an Elected Committee of Licensed Managers which shall be fully representative of all licensed managers in the BEP. [34 CFR 395.14]

**612:25-6-33. Organization and operation of the Elected Committee of Licensed Managers [AMENDED]**

(a) **Organization.** The ECM will be organized in accordance with its bylaws.

(b) **Nominations and elections.** The procedures set forth in (1) through (3) of this Subsection shall be used to nominate and elect members of the committee.

(1) The Chairperson of the Committee of Licensed Managers presides over the election of Committee members.

(2) The SLA presents a list of eligible voters and candidates. The Chairperson will call for nominations from the floor for ECM members. Nominees must give consent to be nominated.

(3) The SLA and the ECM are responsible for the collection and tallying of votes.

(c) **Operation.** The Elected Committee of Licensed Managers shall operate according to (1) through (3) of this Subsection.

(1) The Elected Committee of Licensed Managers will convene at least once each year at the licensed manager's training conference, the time and place of joint meetings to be scheduled by SLA staff and the Elected Committee of Licensed Managers. Requests for meetings by the ECM committee will be made in writing to the SLA for prior approval of financial assistance.

(2) The ECM members will be notified of matters within its purview that are being considered for decision. The ECM committee members will have the opportunity to initiate subjects for consideration by it and the SLA. Recommendations by the ECM members will be in writing and given serious consideration by the SLA.

(3) The SLA has the ultimate responsibility for the administration of the Business Enterprise Program. If the SLA does not adopt the views and positions of the Elected Committee of Licensed Managers it will notify the ECM Committee in writing of the decision reached or the action taken and the reasons therefore.

(d) **Materials.** The SLA will supply the necessary materials for the function of the Elected Committee of Licensed Managers upon written request to the SLA.

~~(e)~~ **~~Travel Expenses.~~** ~~ECM members on committee business will be reimbursed for travel expenses at the same rates and conditions as state employees.~~