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

SUBCHAPTER 1. GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

accountability system under section 116 of WIOA and the implementing regulations in 34 CFR parts 361 subpart E.

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

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

"DRS" means the Department of Rehabilitation Services.

"DVR" means the Division of Vocational Rehabilitation.

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

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

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

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

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

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

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

"Extended services" means ongoing support services provided to individuals with the most significant disabilities, including youth with the most significant disabilities, after the time-limited vocational rehabilitation services have been completed and job stabilization has been achieved. They consist of specific services, including natural supports, needed to maintain the supported employment placement. Extended services

are paid from funding sources other than DRS and are specifically identified in the IPE, except that DRS may provide and pay for extended services for youth with the most significant disabilities for a period not to exceed 4 years or extend beyond the date when the youth reaches age 25.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Integrated setting" means:

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

(B) With respect to an employment outcome, means a setting typically found in the community where the employee with a disability interacts, for the purpose of performing the duties of the position, with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., customers and vendors) who are not individuals with

disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons.

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

"IPE" means the Individualized Plan for Employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Transition services" means, for a student or a youth with a disability, a coordinated set of activities designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, competitive integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation. Transition services (1) are based upon the individual student's or youth's needs, preferences and interests; (2) include instruction, community experiences, the

development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation; (3) promote or facilitate the achievement of the employment outcome identified in the student's or youth's individualized plan for employment; and (4) include outreach to and engagement of the parents, or, as appropriate, the representative of such a student or youth with a disability.

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

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

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

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

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.

(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) 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) 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) 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.

(2) The vendor will not be used for further rehabilitation services until agreement to discontinue the objectionable practice is reached.

(e) Since the Department is a state-federal agency, it does not pay sales, excise, or transportation taxes.

(f) 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) The individual is liable for services he/she arranged which were not planned and initiated under the auspices of DRS.

(h) 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) 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.

(i) 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) 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~~ agency administrative rules. 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 administrative rules, a fiscal audit of the entire caseload will be requested to determine the appropriate action to take. 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.

(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.

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 vocational rehabilitation services, except those services listed under 34 CFR 361.53 (b), to an eligible individual or to members of the individual's family, the VR or SBVI counselor must determine whether comparable services and benefits, as defined in 34 CFR 361.5 (c) (8) are available to the individual unless such a determination would interrupt or delay services according to 34 CFR 361.53 (a-c).

(b) **Exempt services.** The vocational rehabilitation services described in 34 CFR 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 34 CFR 361.53 (b) (1-6). 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.**

(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.

(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.

(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) **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 ~~enity~~ 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 34 CFR 361.53 (d) (1-3).

(e) **~~Resonsibilites~~ Responsibilities 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 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 34 CFR 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 34 CFR 361.53 (e) (1-2).

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

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

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

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

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

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

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

(4) Married and maintaining a separate household;

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

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

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

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

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

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

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

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

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

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

(5) personal or vocational adjustment training;

(6) personal assistance services;

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

(8) compensatory training;

(9) Supported employment, employment and retention; or

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

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

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

(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.

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) work experiences, internships, and apprenticeships;

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

(21) specific post-employment services necessary to assist an individual with a disability to maintain~~, 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.

612:10-7-3. 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~~ 13) 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 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 maintain passing grades, if your IPE includes these services.

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

(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 need, 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 employment outcomes as services are being completed.

(13) Following the achievement of a suitable employment outcome, if contacted, assist your counselor by providing any requested employment earnings information to verify that you are still working. These follow up requests, when necessary, may occur up to one year after your case is closed.

PART 3. CASE PROCESSING REQUIREMENTS

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

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

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

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

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

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

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

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

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

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

(1) duration of residence in the state,

(2) type of disability,

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

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

(5) type of expected employment outcome,

(6) source of referral, or

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

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

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

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

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

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

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

(1) **Alcoholism/Drugs.** Individuals may be eligible for vocational rehabilitation services based on a substance abuse diagnosis that may be made by a qualified professional. 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 licensed audiologist as determined by the Department. The case record must document the method chosen provides the most accurate evaluation of functional hearing level for the individual. The licensed audiologist will do a Comprehensive Hearing Evaluation (CHE) with written recommendations for treatment. The CHE will include the type of hearing aids needed with a treatment plan to maintain the maximum rehabilitation for the hearing loss~~ In most cases, for the purpose of vocational rehabilitation, the majority of cases served will be in the moderate range to profound range, barring any other significant functional limitations as determined by a rehabilitation counselor for the Deaf (RCD). Degree of hearing loss from normal to profound are based on the hearing loss ranges as follows:

(i) Normal (-10-15)

(ii) Slight (6-25)

(iii) Mild (26-40)

(iv) Moderate (41-55)

(v) Moderately severe (56-70)

(vi) Severe (71-90)

(vii) Profound (91+)

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

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

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

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

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

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

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

(I) ~~the speech reception threshold in one ear is 91 dB or greater and is at least 15 dB in the better ear; or~~ Consultation with a Qualified Rehabilitation Counselor for the Deaf (RCD) and upon Review of the RCD based on the Speech reception threshold.

~~(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, upon review by a RCD.

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

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

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

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

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

(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,

209 and does not include use of bioptic telescopic systems or any specialized
210 lenses which cannot be worn by the individual on a sustained basis.

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

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

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

PART 5. CASE STATUS AND CLASSIFICATION SYSTEM

612:10-7-45. Electronic Case Management System Progression [AMENDED]

(a) The electronic case management system is comprised of a logical flow an individual 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, post-employment services, and closure~~, and post-employment services~~.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) **Use of Post-Employment services.** Post-employment services may be provided to assist ~~rehabilitated~~ employed clients to maintain ~~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, and those services are provided prior to case closure.

(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~~. Post-employment services are to be provided under an amended individualized plan for employment; thus, a re-determination of eligibility is not required. ~~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 to maintain ~~retain, regain, or advance in~~ employment may be provided if the service(s) does not involve a complex or comprehensive effort. ~~If comprehensive services are indicated, a new application is taken.~~

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

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

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

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

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

~~(c) **Transfer of cases.** Clients needing post-employment services who have moved to another area of the state will have their cases transferred. When a rehabilitant who has~~

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

(~~d~~ c) **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~~ d) **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.

612:10-7-63. Post-Employment services completed [AMENDED]

(a) ~~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.

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

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.

(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.

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

(C) To develop work habits and to orient the individual to the world of work.

(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.

(b) Training may be provided for clients who:

(1) are mentally, physically and/or emotionally capable of pursuing a course of training to completion;

(2) require training to achieve an employment outcome or other goals established in the Individual Plan for Employment (IPE); and

(3) are determined to have a reasonable opportunity for obtaining employment in the chosen vocation.

(c) Decisions related to training are based on the individual needs and informed choices of the client as identified in the IPE.

(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.

(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.

(f) Training costs will not be authorized ~~beyond the first~~ by DVR and DSBVI ~~sponsored enrollment~~ until proof of the availability of comparable benefits is received by the counselor.

(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.

(h) All types of institutional, technical, personal adjustment or employment training are purchased by an authorization issued by the counselor.

PART 17. SUPPORTED EMPLOYMENT SERVICES

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. Services are purchased from a qualified vendor under contract with the Department. 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;

(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.~~

(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.

612:10-7-185.1. Customized Employment [NEW]

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

(b) **Provision of customized employment services.**

(1) Customized Employment (CE) services are provided by DRS for a 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 to achieve the rehabilitation objective identified in the IPE.

(2) Customized employment services are not subject to financial status determination. Services are purchased from a qualified vendor under contract with the Department.

(3) Customized Employment (CE) is for individuals in Priority Group 1 with the most significant disabilities who need intensive support to prepare for, obtain and maintain successful, competitive integrated employment. Those who may benefit from CE services include but are not limited to:

(A) Individuals with little or no work experience in a competitive integrated setting;

(B) Individuals who require multiple services over an extended period of time;

(C) Individuals who may benefit from specialized job development, job negotiations, and nontraditional jobs that meet an employer's needs;

(D) Individuals who are not able to perform all the essential functions of existing job descriptions;

(E) Individuals who require substantial assistance with preparing for employment and completing the job search process;

(F) Individuals who require significant job site support to learn job tasks, gain work adjustment skills and stabilize in employment; and

(G) Individuals who require long-term support to retain employment.

(4) Customized Employment referrals to contractors must include copies of the following documents:

(A) DRS-C-301 Employment Services Referral,

(B) DRS-C-21 Eligibility Determination Form,

(C) DRS-C-29 Individualized Plan for Employment (IPE),

(D) DRS Personal Information report (printed from AWARE).

(5) Customized employment services may include:

(A) **CE Discovery** includes activities that utilize a person-centered approach to describe who the individual is, and their vocational themes, and guides the planning process to develop a customized job.

(B) **Team Meeting** will be conducted with the individual, DRS Counselor, Contractor, and all other team members identified by the individual and DRS Counselor. The individual, or with the support of a designee identified by the individual, will lead the meeting to review the results of the discovery findings and develop a plan for job development.

(C) **Visual Resume** is a print and/or digital tool to aid in highlighting the individual's skills and interests to be used in job development with employers.

(D) **Job Development** involves negotiating a successful job match that meets the individual's interests, abilities, resources, priorities, and the employer's unmet needs. The job must meet the definition of competitive integrated employment.

(E) **Job Coaching** is provided by an Employment Consultant who uses structured intervention techniques to help the individual learn job tasks, interpersonal and other skills necessary to maintain successful employment.

(F) **CE Maintenance** is achieved when the individual is satisfied with the job and the supervisor/employer is satisfied with the worker's performance, work behaviors, and socialization. Extended Services, if needed, have been identified and initiated.

(G) **CE Employment Outcome** results in the individual being employed in a permanent competitive integrated job, all appropriate training and support services were provided, the weekly work goal has been met, the individual is satisfied with the job and the employer is satisfied with the individual's job performance for the required ninety (90) calendar days.

PART 21. PURCHASE OF EQUIPMENT, OCCUPATIONAL LICENSES AND CERTIFICATIONS

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

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

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

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

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

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

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

(5) training in the operation of the vehicle.

(c) Vehicle modifications which are projected to cost the amount of the ~~OMES~~ OMES-DCAM authority order limit or less will be made in accordance with ~~612:10-1-7~~ agency administrative rules. Vehicle modifications projected to cost more than the ~~OMES~~ 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.

(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 ~~OMES~~ 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~~ agency administrative rules.

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

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

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

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

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

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

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

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

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

(9) DRS will not provide comprehensive structural modifications to include vertical, butterfly, or gull-wing doors for any vehicle types.

(10) Certain types of vehicle modification equipment are considered "transferable" by design: i.e., hand controls, left foot accelerator, and hitch lift systems for

wheelchairs/scooters. DRS may assist with the cost of transferring this type of equipment to meet the IPE goals. These modifications are categorized as non-structural modifications.

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

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

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

(a) Modification of a residence may include installation of ramps, widening of doors, installation of grab bars and other accessibility modifications when such modifications are necessary to support the client in achievement of an employment outcome. DRS will not provide major structural modifications such as elevators, room additions or major wall removal. Housing modifications that will cost more than the ~~OMES~~ 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 provide proof of ownership, sign a written release form, and be current on mortgage payments. DRS will not provide permanent modification to rental properties but may assist with portable/removable modifications. The renter/client is responsible for obtaining prior written permission from the owner for any portable/removable modifications. The counselor must make a referral to the Assistive Technology (AT) Specialist who will then evaluate the residence recommending modifications needed to make the residence accessible for the client. After modifications have been completed the counselor will contact the AT Specialist for inspection of the home, to ensure the modifications conform to prescribed standards and meet the client's accessibility needs. The AT Specialist will provide a report to the counselor that will contain pictures of the completed work and a signed statement of satisfaction from the client.

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

PART 3. CERTIFICATION OF INTERPRETERS

612:10-13-16. Evaluation [AMENDED]

(a) **Evaluation components and conditions.** To be certified as an interpreter, an individual must pass a skill based performance evaluation. The process for certification consists of a written examination and a performance evaluation. The written examination and performance interview may include items from the ~~Oklahoma QAST Ethical Standards~~ NAD-RID Code of Professional Conduct and the ~~Limitations of Levels~~ Certification Levels limitations. Interpreters who hold Level III certification in either Interpreting or Transliterating are required to take the IV/V performance evaluation, which is in compliance with the Ethical Standards.

(b) **Written examination.** The written examination consists of questions designed to measure knowledge of interpreting and situational ethics. Applicants must make a passing score, as established by the program, before being allowed to take the performance evaluation. If the written test is failed, retesting may be taken again in 30 calendar days.

(c) **Performance Evaluation.** The Interpreter Certification and Resource Center (ICRC) administers two performance evaluations, certification levels for category I-III and certification levels for category IV/V. The performance evaluation consists of ethical situational questions, which is called an interview, and a skill based proficiency test, which will test the candidate's ability to interpret and transliterate interactive settings. Individuals may request testing for category levels I-III or category levels IV/V. A candidate is eligible to apply in the same performance category, I-III or IV-V, in four months from prior testing date. A performance application can be submitted before four months and will be placed on the next available evaluation date after the four months waiting period. If an interpreter obtains a level III in either transliterating or interpreting, he/she is immediately eligible to apply for the IV/V performance. Certification will be granted to an individual whose total score falls within the acceptable range for that level.

(d) **Conflict of interest.** Interpreter certification program staff who select, manage or coordinate the certification process or select evaluators are not eligible to test for Oklahoma interpreter certification through this process.

612:10-13-18. Fees [AMENDED]

A fee will be charged to each applicant who applies for the ~~l~~written test and performance evaluation for state certification of an interpreter for the deaf. A yearly certification ~~maintenance~~ renewal fee will also be charged. Individuals failing to timely pay the ~~maintenance~~ renewal fee must submit a reinstatement fee and the annual certification ~~maintenance~~ renewal fee along with the application for reinstatement. The fee structure will be based on the cost of the evaluations, materials and certificate maintenance program.

The fee for the written test is $50.00. The fee for performance evaluation is $125.00. The yearly certification ~~maintenance~~ renewal fee is $50.00. The certification reinstatement fee is $100. Out of state residents may take the written/performance test for double the fee.

612:10-13-20. Certification maintenance [AMENDED]

(a) **General provisions for certification maintenance.** QAST certification in Interpreting and Transliterating, for levels I-V, are valid for a term of two years at which time the certification will expire unless the interpreter ~~re-test~~ retests. The exception for re-testing applies to those that achieve a certification level in Transliterating: V and Interpreting: V; those are the only levels that will not ~~expire~~ be required to retest providing the annual CEUs and the ~~maintenance~~ annual renewal fee is satisfied.

(1) Level V certification: An interpreter holding a certification level V in either Transliterating or Interpreting, but not both, will be required to ~~re-test~~ retests. Testing will include the ethical situation interview and the performance section the interpreter does not hold a level V in. The interpreter must pass the ethical situation interview with 80% before a level is granted. If a level V is not obtained, the interpreter will be required to ~~re-test~~ test until a V/V is achieved.

(2) Level I-IV certification: An interpreter with levels I, II, III, IV are required to take the ethical situation interview, Interpreting and Transliterating. The interpreter must pass the ethical situation interview with at least an 80% before a level is granted.

~~(3) Any combination of levels other than a V/V obtained during testing will expire 2 years from the test date. Interpreters are required and permitted to re-test before their certification expires.~~

(~~4~~ 3) Certification will remain valid for an interpreter who has applied for ~~re-evaluation~~ evaluation and cannot be scheduled for testing prior to his/her certificate's expiration date, provided the application is received no later than 90 calendar days before the expiration date. However, any certification will lapse if the ~~maintenance~~ annual renewal fee is not paid and/or continuing education requirements are not met by stipulated due dates, and/or if the ~~performance~~ application is not submitted 90 days before levels expire. Individuals who have allowed certification to lapse due to non-compliance with requirements must take and pass the ICRC/QAST written portion before they are eligible for the performance evaluation.

(4) An interpreter that holds only one QAST level V in either Interpreting or Transliterating, and holds a nationally recognized certification in good standing, CI and CT or NIC, can be exempted from the requirement of retesting for the mode they do not have a level V in. The exemption is only valid providing the interpreter satisfies the annual ICRC CEUs by due date, the annual renewal fee by due date, and provides a current copy of their national certification card. If any of the stated requirements are not satisfied, the exemption is voided, and the interpreter will be required to take QAST to meet the V/V certification requirements.

(b) **Continuing education requirements.** QAST certified interpreters are required to satisfy one (10 hours) Continuing Education Unit (CEU) annually, with .1 (1 hour) of this in the category of Ethics. It is the interpreter's responsibility to ensure all supportive CEU documentation is submitted to the Interpreter Certification Resource Center (ICRC) staff before or on December 31st, to avoid certification becoming invalid. If certification becomes invalid, the individual must ~~re-test~~ apply to test, and will be required to take and pass the written ICRC/QAST test before becoming eligible for the performance portion.

(c) **Certification ~~maintenance~~ renewal fee.** A certification ~~maintenance~~ renewal fee and ~~maintenance fee~~ renewal form ~~is~~ are due by January 31st each year. The renewal form must be postmarked on or before January 31st to avoid certification becoming suspended.

(d) **Certification suspension and reinstatement**. If the certification ~~maintenance~~ renewal fee and renewal form are submitted after January 31st, the interpreter will become suspended, but has an option to make application for reinstatement. The reinstatement application, a $100 reinstatement fee and payment of the annual certification ~~maintenance~~ renewal fee will be required for reinstatement. The reinstatement fee and certification ~~maintenance~~ renewal fee are due before or on February 28th to avoid certification becoming invalid. If certification becomes invalid, the individual must ~~re-test~~ apply to test, ~~and will be required to~~ must take and pass the written ICRC/QAST test before becoming eligible for the performance portion.

(e) **Expiration of certification.** If an interpreter does not submit an application for ~~re-testing~~ testing 90 days prior to the level(s) expiration date, the interpreter's level(s) will be considered invalid on the expiration date. If level(s) become invalid, the individual must ~~re-test~~ apply to test, ~~and will be required to~~ must take and pass the ICRC/QAST written test before becoming eligible for the performance portion. If an interpreter's certification becomes invalid twice in a four (4) year period due to non-compliance with either, the CEU or ~~maintenance~~ annual renewal fee requirements, the interpreter will not be allowed to take the written portion or the performance portion of the ICRC/QAST test until one (1) year from the date of the second documented non-compliance.

(f) **Modification of requirements**. Requirements for certification renewal of any level may be changed or modified by future amendments to this section or the rules of this subchapter.

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

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

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

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

(1) The date of the incident;

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

(3) The location of the incident;

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

(5) The specific policy or procedure ~~in question~~ or the NAD-RID Code of Professional Conduct ethical tenet(s) and/or the ICRC Certification of Levels, and/or governing State or Federal law in possible violation.

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

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

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

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

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

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

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

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

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

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

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

(1) The complaint be dismissed;

(2) A written warning be issued;

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

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

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

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

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

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

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

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

(e) ~~The recommended course of action submitted by the selected panel will be reviewed by the designated interpreter certification program official will notify parties involved in writing of the decision within thirty (30) days.~~

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

CHAPTER 25. BUSINESS ENTERPRISE PROGRAM

SUBCHAPTER 2. GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Committee" means the Elected Committee of Licensed Managers.

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

"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 for the Blind and Visually Impaired 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 circumstance that calls for immediate action. When a piece of equipment is out of order it is not normally considered an emergency unless it will harm/destroy lives, other equipment or property.

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

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

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

"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 all revenue from a business enterprise, including sales tax.

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

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

"Interim manager" means a licensed manager appointed to manage a business enterprise on a temporary basis.

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

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

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

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

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

"Management 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.

"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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"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.

"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.

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

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

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 ~~Visual~~ Services for the Blind and Visually Impaired of DRS, and is administered by the Business Enterprise Program Operations Coordinator who reports to the Visual Services for the Blind and 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~~ DVR/DSBVI 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 BEP 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~~ DSBVI or DVR counselor of any BEP decision to terminate training.

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

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

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

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