

FORM OF ORDER AND TRANSMITTAL BY BOARD, COMMISSION, OR COUNCIL

State of Washington

WASHINGTON STATE COMMISSION FOR THE BLIND

(name of governing body)

(agency name, if applicable)

Resolution No. _____

Administrative Order No. 82-08

(1) Be it resolved by the Washington State Commission for the Blind acting at 921 Lakeridge Drive, Olympia Washington 98502 (place)

that it does adopt the annexed rules relating to:

Amend Chapter 67-20 WAC: 005, Definitions; 280, Vocational Rehabilitation Program -- Termination; 396, Vocational Rehabilitation Services-- Training--Sheltered Workshop; 446, Vocational Rehabilitation--Services to Groups; 550, Confidential Information--Disclosure.

Amend Chapter 67-32-310 Public Liability Insurance

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. 82-22-065 and 82-22-066 filed with the code reviser on November 2, 1982. These rules shall take effect: [X] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [] at a later date, such date being _____.

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

We, _____, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026¹ that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[] (a) This rule is promulgated pursuant to RCW _____ and is intended to administratively implement that statute.

[] (b) This rule is promulgated pursuant to RCW _____ which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

[X] (c) This rule is promulgated under the general rule-making authority of the Washington State Commission for the Blind

(agency)

as authorized in RCW 74-16-450

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this governing body, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED December 11, 19 82

DEC 17 1982

By Paul Dziejdzic Paul Dziejdzic

Director Title

CODE REVISER'S OFFICE WSR 83-01-080

AMENDATORY SECTION (Amending Order 82-05, filed 8/4/82)

WAC 67-20-005 DEFINITIONS. (1) "Accepted for services" shall mean that the commission has determined that the applicant has been certified as eligible to receive vocational rehabilitation services.

(2) "Act" means the Rehabilitation Act of 1973 (29 U.S.C. chapter 16).

(3) "Applicant" shall mean an individual who has submitted to the commission a letter or application requesting vocational rehabilitation services which:

(a) Has been signed by the individual, his parents or guardian or other representative; and

(b) Sets forth the name, address, age, sex, and nature of disability of the requesting individual and source of referral.

(4) "Blind or visually impaired" for purposes of this chapter is a physical disability defined as follows:

(a) Central visual acuity of 20/200 or less in the better eye with correcting lenses or a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance of no greater than 20°; or

(b) Vision so defective as to prevent the performance of ordinary activities for which eyesight is essential; or

(c) An eye condition of a progressive nature which may lead to blindness.

(5) "Client" shall mean any handicapped individual:

(a) Who has applied for services from the commission; and

(b) For whom services have not been denied or terminated by the commission.

(6) "Commission for the blind" shall mean the legal authority in its entirety:

(a) "Commission board" shall mean the five members appointed by the governor as the governing body.

(b) "Commission" shall mean the agency which carries out the operations of the Washington commission for the blind.

(7) "Director," except when the context indicates otherwise, means the director of the commission for the blind.

(8) "Eligible" or "eligibility," when used in relation to an individual's qualification for vocational rehabilitation services, refers to a certification that:

(a) The individual has blindness and may also have a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(b) Vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

(9) "Employability" refers to a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.

(10) "Evaluation of rehabilitation potential" means, as appropriate, in each case:

(a) A preliminary diagnostic study to determine:

(i) That an individual has blindness and may also have a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(ii) That vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability, and that the individual is eligible therefore for vocational rehabilitation services;

(b) A thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors, which bear on the individual's handicap to employment and rehabilitation potential, and an appraisal of the individual's work behavior and ability to develop work patterns suitable for successful job performance in order to determine which

vocational rehabilitation services may be of benefit to the individual in terms of employability;

(c) Any other goods or services provided for the purposes of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services in terms of employability;

(d) The provision of vocational rehabilitation services to an individual for a total period of extended evaluation not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual for whom a vocational goal is feasible, including the initiation and continuing development of an individual written rehabilitation program, and a periodic assessment of the results of the provision of such services to ascertain whether an individual is an eligible individual for whom a vocational goal is feasible.

(11) "Family member" or "member of the family" means:

(a) Any relative by blood or marriage of a handicapped individual; and

(b) Other individuals living in the same household with whom the handicapped individual has a close interpersonal relationship.

(12) "Handicapped individual" means an individual:

(a) Who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

(b) Who is expected to benefit in terms of employability from the provision of vocational rehabilitation services, or for whom an extended evaluation of rehabilitation potential is necessary for the purpose of determining whether he might benefit in terms of employability from the provision of vocational rehabilitation services.

(13) "Medical consultant" shall mean a ~~((doctor--of--medicine))~~ physician licensed pursuant to chapters 18.57 and 18.71 RCW employed by the commission to provide consultation to rehabilitation counselors and rehabilitation teachers concerning the medical aspects of rehabilitation, usually reviewing and discussing medical problems of individual clients.

(14) "Ophthalmological consultant" shall mean a ~~((doctor-of-medicine))~~ physician licensed pursuant to chapters 18.57 and 18.71 RCW specializing in diseases of the eye employed by the commission to provide consultation to rehabilitation counselors and rehabilitation teachers regarding procedures and prognosis relating to eye conditions.

(15) "Physical and mental restoration services" means those services which are necessary to correct or substantially modify within a reasonable period of time a physical or mental condition which is stable or slowly progressive.

(16) "Physical or mental disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's activities or functioning. The term "physical disability" includes blindness and/or visual impairment.

(17) "Public safety officer" means a person serving the United States or a state or unit of general local government, with or without compensation, in any activity pertaining to:

(a) The enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the national guard or the armed forces;

(b) A correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees;

(c) A court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees;

(d) Firefighting, fire prevention, or emergency rescue missions.

(18) "Referral" is defined as any individual who applied or has been referred to a commission office by letter, telephone, direct contact or by any other means for whom the minimum information has been furnished:

- (a) Name and address;
- (b) Disability;
- (c) Age and sex;
- (d) Date of referral; and
- (e) Source of referral.

(19) "Rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals and which provides one or more of the following services for handicapped individuals:

- (a) Vocational rehabilitation services which shall include under one management, medical, psychological, social, and vocational services;
- (b) Testing, fitting, or training in the use of prosthetic and orthoptic devices;
- (c) Prevocational conditioning or recreational therapy;
- (d) Physical and occupational therapy;
- (e) Speech and hearing therapy;
- (f) Psychological and social services;
- (g) Evaluation of rehabilitation potential;
- (h) Personal and work adjustment;
- (i) Orientation and mobility training and other adjustment services;
- (j) Braille instruction;
- (k) Evaluation or control of specific disabilities;
- (l) Transitional or extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market provided that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the state.

(20) "Rehabilitation teacher" (RT) shall refer to an employee of the commission who has responsibility to determine eligibility, and to develop and implement individual written rehabilitation programs leading to a vocational outcome of homemaker. The full range of vocational rehabilitation services may be provided or purchased as determined by the needs of the individual written rehabilitation program.

(21) "Substantial handicap to employment" means that a physical or mental disability (in light of attendant medical, psychological, vocational, educational, and other related factors) impedes an individual's occupational performance, by preventing his obtaining, retaining, or preparing for employment consistent with his capacities and abilities.

(22) "Vocational rehabilitation counselor" (VRC) shall refer to an employee of the commission who has direct responsibility for providing, or supervising the provision of all vocational rehabilitation services to a client of the commission.

(23) "Vocational rehabilitation services," shall mean any of the following:

- (a) Any goods or services provided to a client that is likely to enable him to enter or retain employment consistent with his capacities and abilities in the competitive labor market.
- (b) Any goods or services provided to a client for the purpose of extended evaluation to determine his rehabilitation potential.
- (c) The establishment, construction, development, operation, and maintenance of workshops and rehabilitation facilities.
- (d) The provision of any facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the rehabilitation program.

(24) "Workshop" means a rehabilitation facility, or that part of a rehabilitation facility, engaged in a production or service operation and which is operated for the primary purpose of providing gainful employment or professional services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist.

AMENDATORY SECTION (Amending Order 82-05, filed 8/4/82)

WAC 67-20-280 VOCATIONAL REHABILITATION PROGRAM--TERMINATION. When the services are terminated under a written program on the basis of a determination that a vocational goal cannot be achieved and the client is then no longer eligible, the following conditions and procedures will be made and carried out:

(1) Such decision shall be made only with full participation of such individuals or as appropriate, his parent, guardian, or other representative.

(2) The views of the individual or his representative concerning the decision shall be recorded in the individualized written program.

(3) The rationale for such decision must be thoroughly documented and included as a part or amendment to the written rehabilitation program.

(4) The client will be informed that his case will be reviewed within twelve months, offering the individual clear opportunity for full consultation and reconsideration of such decision of ineligibility. Subsequent reviews may be made only upon his request.

(5) If through physical restoration an individual's vision is restored so as to allow that individual to perform ordinary activities, further services will be limited to those included at the time in the client's individual written rehabilitation program.

(6) Consultation or annual review would not be scheduled if:

(a) There is a recorded statement by the individual indicating that he does not want to have further consideration;

(b) Individual is uncooperative and shows lack of interest;

(c) Individual is no longer in the state;

(d) Individual's whereabouts are unknown;

(e) Individual's medical condition is rapidly progressive or terminal;

(f) There are other compelling reasons that would make an annual review impractical.

AMENDATORY SECTION (Amending Order 82-05, filed 8/4/82)

WAC 67-20-396 VOCATIONAL REHABILITATION SERVICES--TRAINING--SHELTERED WORKSHOP. (1) The commission may provide work adjustment services (employability training) to clients in a sheltered workshop environment. Work adjustment is appropriate where the client's disability is such as to limit his ability to participate in and take advantage of employment training facilities in the competitive labor market, and shall follow a vocational evaluation which will at the least include a measurement of productivity, behavior in interpersonal situations, work characteristics, and manipulative skills.

(2) The purpose of work adjustment services in sheltered workshops shall be to:

(a) Assist clients in understanding the meaning, value, and demands of work;

(b) Modify or develop attitudes, personal characteristics, and work behaviors;

(c) To develop functional capacities as required in order to assist clients toward their optimum level of vocational adjustment.

(3) Vocational adjustment in a sheltered workshop shall meet the following criteria:

(a) There shall be an individualized written program establishing immediate and long-range goals and objectives developed and monitored by a qualified staff person.

(b) The program will be in direct response to those problems defined in the evaluation process.

(c) Methods used to correct client problems and to develop acceptable work behaviors will be defined in writing and monitored and reported on at least monthly.

(d) All programs will be developed with the full knowledge and agreement of the vocational rehabilitation counselor or rehabilitation teacher and the client.

(e) Work adjustment services will always aim toward the eventual placement of the client into competitive employment.

(f) After September 30, 1984, work adjustment services will be undertaken only in state certificated rehabilitation facilities ((as of January 4, 1983)).

AMENDATORY SECTION (Amending Order 82-05, filed 8/4/82)

WAC 67-20-446 VOCATIONAL REHABILITATION--SERVICES TO GROUPS.

(1) Services to groups of handicapped persons may be provided when such services will result in a benefit to the individual members' vocational rehabilitation.

(2) Members of such groups must be eligible for vocational rehabilitation services.

(3) Special services to groups may include but are not limited to the production of brailled and recorded materials.

(4) These services ((shall not)) may include removal of architectural barriers.

AMENDATORY SECTION (Amending Order 82-05, filed 8/4/82)

WAC 67-20-550 CONFIDENTIAL INFORMATION--DISCLOSURE. (1) The term "confidential information" shall mean all information and records as to personal facts regarding any past or present clients of the commission, given or made available to the commission, its representatives, or its agents in the course of the administration of the vocational rehabilitation program, including, but not limited to, lists of clients' names and addresses, information with respect to clients' financial resources, records of the commission's evaluations of factual information regarding a client, and all other information about a client, whether recorded or not recorded.

(2) The commission shall disclose confidential information, whether directly or indirectly, only under the following circumstances:

(a) Where necessary to and directly connected with the administration of the vocational rehabilitation program; or

(b) Where required by order of a court of competent jurisdiction; or

(c) Where the client has given his informed consent in writing to such disclosure; or

(d) Where necessary for purposes of audit to determine compliance with standards and regulations.

(3) The commission shall refuse to disclose confidential information even when disclosure has been expressly or impliedly requested by the client if the information in question has been provided to the commission on the basis that it will not be disclosed to the client. Information so withheld shall be briefly identified and listed, and said list shall be provided to the client or his authorized representative. Such confidential information shall be provided to the client only under the following circumstances:

(a) Where the person or agency which provided the information has given the commission express written authorization to release the information to the client; or

(b) Where, during the course of a fair hearing, the hearing officer has made a determination that the information in question is relevant and material to the issue under appeal and has ordered that said information be made available to the client.

(4) Confidential information may be disclosed or released to an employer in connection with the placement of a client. The commission shall release to an employer only such confidential information regarding a client as is essential to his successful placement.

(5) Confidential information may be disclosed or released to welfare agencies or programs from which the client has requested services if:

(a) The client has requested services under circumstances from which his consent may be presumed;

(b) The welfare agencies or programs involved have adopted regulations which will assure that the confidential information disclosed will continue to be held confidential; and

(c) The welfare agency or program involved can assure that the confidential information disclosed shall be used only in connection with application for and receipt of services from such agency or program.

(6) Confidential information may be disclosed or released to organizations or individuals engaged in research if:

(a) The research is directly connected with the administration of the vocational rehabilitation program;

(b) The organization or individual has furnished satisfactory assurance that the confidential information will be used only in connection with the research purposes for which it is provided;

(c) The organization or individual furnishes satisfactory assurance that the final product of the research shall not reveal any information that might serve to identify any person about whom information has been obtained from the commission without the written consent of the person involved and of the commission.

(7) Upon written request, information shall be released to the client, or, as appropriate, his parent, guardian, or other representative in connection with any proceeding or action for benefits or damages, including any proceeding or action against any public agency: PROVIDED,

(a) That only such information as is relevant to the needs of the client shall be released; and

(b) In the case of medical or psychological information, the knowledge of which may be harmful to the client, such information will be released to the parent, guardian, or other representative of the client by the commission, or to the client by a physician or by a licensed or certified psychologist.

AMENDATORY SECTION (Amending Order 81-06, filed 3/5/81)

WAC 67-32-310 PUBLIC LIABILITY INSURANCE. The vendor shall obtain and maintain continuously public liability insurance with limits of liability not less than:

(~~(\$100,000.00)~~) \$500,000.00 each person personal injury,
 (~~(\$300,000.00)~~) \$500,000.00 each occurrence personal injury,
 and
 (~~(\$25,000.00)~~) \$500,000.00 each occurrence property damage;
 or
 insurance coverage specified in the permit or contract,
 which ever is greater.