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**IDAPA 15
TITLE 02
Chapter 30**

IDAHO COMMISSION FOR THE BLIND

15.02.30 - BUSINESS ENTERPRISE PROGRAM

000. LEGAL AUTHORITY.

The Idaho Legislature has designated the Commission for the Blind as the sole licensing agency under the provisions of the Randolph-Sheppard vending stand act pursuant to Section 67-5411, Idaho Code, and has given to the Board of the Idaho Commission for the Blind the legislative power to promulgate rules by the provisions of Section 67-5407, Idaho Code. (3-1-93)

001. TITLE AND SCOPE.

These rules shall be known as Idaho Commission for the Blind Rules, IDAPA 15.02.30, "Business Enterprise Program". These rules specify the conditions and standards under which the Business Enterprise Program facilities shall be operated. (3-1-93)

002. -- 009. (RESERVED).

010. DEFINITIONS.

Unless otherwise indicated in this part, terms below are defined as follows: (3-1-93)

01. Administrator. The Administrator of the Idaho Commission for the Blind. (3-1-93)

02. Blind Person. Any person as defined in 34 CFR Part 395.1c. (3-1-93)

03. Certified. Having successfully completed the training program set forth by the Business Enterprise Program Supervisor as a requirement for licensing. (See 30.140) (3-1-93)

04. Commission. The Idaho Commission for the Blind which is the State Licensing Agency under Public Law 74-732, as amended by Public Law 83-565 and Public Law 93-616, 20 U.S.C., ch. 6a, Sec.107. (3-1-93)

05. Committee. Means Idaho Blind Merchants Committee. (3-1-93)

06. Facility. An enterprise as defined in: (7-1-93)

a. 34 CFR Part 395.1x; (3-1-93)

b. Section 67-6903, Idaho Code; and (3-1-93)

c. Any other type of business deemed appropriate by the Business Enterprise Program Supervisor. (3-1-93)

07. License. An authorization as defined in 34 CFR Part 395.1i. (3-1-93)

08. Licensee. A person as defined in 34 CFR Part 395.1b. (3-1-93)

09. Permit. As defined in 34 CFR Part 395.1o. (3-1-93)

10. Operator. A licensed blind citizen, assigned and operating a facility. (3-1-93)

11. Probation. A conditional status wherein an operator has a specified amount of time to work on site to correct identified problems before privileges may be terminated. (3-1-93)

12. Program. The Business Enterprise Program as defined in 34 CFR Part 395.1p and Idaho Code,

Section 67-6900. (3-1-93)

13. Property Manager. The person in charge of administering contracts or permits in state, federal or private buildings. (3-1-93)

14. Set Aside Funds. Funds as defined in 34 CFR Part 395.1s. (3-1-93)

15. Supervisor. The Business Enterprise Program Supervisor who administers the program. (3-1-93)

16. Suspension. Temporary termination of a license or agreement by the Supervisor during which time an operator may not continue to operate a facility. (3-1-93)

011. -- 019. (RESERVED).

020. PURPOSE.

01. Program. The purpose of the Program is to provide remunerative employment opportunities for blind individuals who have an interest in and aptitude for operating a facility. The Supervisor has responsibility for the supervision of this program and is immediately responsible to the Administrator. This program shall be coordinated with other vocational rehabilitation programs of the Commission. (3-1-93)

02. Commission. The purpose of the Commission is to provide: (3-1-93)

- a. Essential management and supervisory services to assure the success of each facility; and (3-1-93)
- b. For growth of the program in order to provide additional employment opportunities for blind individuals. (3-1-93)

021. -- 029. (RESERVED).

030. LICENSING.

01. Issuance Of Licenses. Licenses shall be issued for an indefinite period and shall be issued only to persons who are determined by the Commission to be: (3-1-93)

- a. Blind, as defined in Subsection 010.02. (3-1-93)
- b. Citizens of the United States. (3-1-93)
- c. Certified by the Commission as qualified and trained to operate a facility. (3-1-93)

02. Relicensing. (3-1-93)

- a. If after one (1) year a newly licensed operator is not assigned a facility he/she must be relicensed. (3-1-93)
- b. A qualified individual must repeat the certification requirements to be relicensed. A license can be reinstated by demonstration of competence in all required training areas. (3-1-93)

03. Preference. Preference shall be given to blind persons in need of employment. (3-1-93)

031. -- 039. (RESERVED).

040. TERMINATION OF LICENSES.

01. Grounds For Termination. Licenses shall be subject to termination after a fifteen (15) day notice if the Commission finds: (3-1-93)

a. The facility is not being operated in accordance with Commission rules, the terms and conditions governing the facility permit, or the Operator's Agreement, (see Section 140); (3-1-93)

b. Improvement of vision so that the operator no longer meets the definition of blindness as defined by law (Section 67-5402, Idaho Code); (3-1-93)

c. Extended illness with medically documented diagnosis of prolonged incapacity of the operator to operate the facility; (3-1-93)

d. Withdrawal of the operator from the program upon operator's written notification to the Commission, with up to one (1) year to remain in the program without having to relicense. (3-1-93)

e. Unauthorized use of retirement account funds. (3-1-93)

02. Notice Of Termination. Following the completion of the fifteen (15) day notice or upon the request of the evidentiary hearing, the operator's license may be suspended and the operator's agreement may be terminated pending completion of the full evidentiary hearing process, the convening of any ad hoc arbitration panel and court review. Following termination of the operator's agreement the Commission will operate the facility until completion of the evidentiary hearing. The net profit from the operation of the facility during this time will be paid to the operator by averaging the eight (8) weeks net income prior to notice of termination. (3-1-93)

03. Role Of The Supervisor. The Supervisor has the authority at any time to place on probation or suspend the license of the operator whose conduct is detrimental to the permit or the Program, or who is failing to meet the terms of the Operating Agreement. (3-1-93)

a. The Supervisor shall notify the operator in writing of the specific remedies and the time allowed for corrective action. If no resolution has been made at the end of the time frame, the Supervisor shall notify the operator in writing of his/her rights to an evidentiary hearing. (3-1-93)

b. If the Supervisor and operator who has been placed on probation or whose license has been suspended cannot informally decide who arranges for and who pays a temporary replacement operator, the procedures as outlined in Section 180, Administrative Review, shall be followed to resolve the matter. (3-1-93)

c. If the Supervisor receives a set aside report that indicates no profit has been realized during two (2) consecutive months or three (3) months in a fiscal year the Supervisor may review the situation and with the operator devise an improvement plan with measurable objectives and timetables. Should the facility not show a reasonable profit during the three (3) subsequent months: (3-1-93)

i. The operator's license may be suspended; or (3-1-93)

ii. The facility may be contracted or closed. (3-1-93)

d. If evidence of a condition or action, that has previously been grieved occurs, the operator's license and agreement shall be immediately terminated. The Commission will manage this facility until all grievance procedures are completed. (3-1-93)

041. -- 049. (RESERVED).

050. SELECTION OF OPERATORS.

01. Notification Of Opening. The Supervisor shall notify in writing any and all openings to all current and prospective operators, all commissioners and counselors of the Commission, and all known organizations of the blind in Idaho. The notification shall state the facility location, the application procedure, and the deadline for applying. Interested parties may receive specific information about the openings upon request. (3-1-93)

02. Qualification Of Bidders. A bidder shall be: (3-1-93)

- a. Citizen of the United States; (3-1-93)
- b. Blind as defined in Subsection 010.02; (3-1-93)
- c. Licensed by the Commission; (3-1-93)
- d. Current with program payments, including monthly set asides and any other money due the program; and (3-1-93)
- e. In good standing and shall not have been placed on probation or had his license suspended within the last year. (3-1-93)

03. No Qualified Bidders. If no qualified bidder is interested in the opening, a review panel (see Subsection 050.05) shall choose a candidate most qualified to be trained for the facility. Assignment of the facility shall be granted only when all minimum qualifications are met. (3-1-93)

04. Application Process. All interested parties must submit a written letter of application to the Supervisor by the deadline stated in the notification. The letter of application must include a statement of qualifications and all pertinent experience. (3-1-93)

05. Selection Process. (3-1-93)

a. The Supervisor shall convene a panel to review all applications. The time and date of the review shall be determined by the Supervisor. The panel shall consist of the Supervisor who shall serve as chairperson, a representative of the Committee selected by the chairman of the Committee, and one person from the department of Field Operations selected by the Rehabilitation Services Chief. The panel shall review all written applications and interview at least the top five (5) candidates. A weighted evaluation form shall be used by each panel member. Selection criteria must be consistent with the job requirements of that facility. Points shall be given by each interviewer to each candidate in the various categories assessed. A composite score shall be tabulated for each candidate. The two (2) persons with the highest total points shall be recommended to the Supervisor. If the person with the highest score is not selected, the Supervisor must show cause in writing to the highest scoring candidate. (3-1-93)

b. If no licensed operators are interested in the opening, a review panel shall choose a candidate most qualified to be trained for the facility. Assignment of the facility shall be granted upon the candidate's receipt of a license. (3-1-93)

06. Notification Of Decision. The Supervisor shall notify all applicants in writing of the final decision. (3-1-93)

07. Records. The Supervisor shall maintain a record of all proceedings. (3-1-93)

08. Transfer And Promotion. The procedure for transfer and promotion shall be the same as for original selection of operators. (3-1-93)

051. -- 059. (RESERVED).

060. ACCESS TO PROGRAM AND FINANCIAL INFORMATION.

Each operator under this program shall be provided access to all financial data of the Commission relevant to the operation of the Program, including semi-annual financial reports, provided that such disclosure does not violate applicable Federal or State laws pertaining to the disclosure of confidential information. Insofar as practicable such data shall be made available in braille or recorded tape. At the request of an operator, qualified staff of the Commission shall arrange a convenient time to assist in the interpretation of such financial data. (3-1-93)

061. -- 069. (RESERVED).

070. EQUIPMENT, INITIAL STOCK AND BUSINESS EXPENSES.

01. Commission Responsibility. The Commission assumes full responsibility for providing each facility established under the Program with adequate equipment and initial stock of merchandise. (3-1-93)

02. Initial Stock Of Merchandise. Initial stock of merchandise shall be assigned to each facility by the Supervisor. The Supervisor shall determine the amount of initial stock which shall be enough for at least one (1) full week of operation, but the operator is accountable for that initial stock and must have the equivalent dollar amount on hand upon vacating the facility. The Commission shall either bill or pay the operator for any difference. (3-1-93)

03. Vending Machine Contracts. The Commission shall negotiate contracts with vending companies for installation or the locating of vending machines in or to be assigned to facilities. Operators may negotiate contracts for additional sites with approval of the Commission. (3-1-93)

04. Vocational Rehabilitation Funds. Vocational rehabilitation funds (State and/or Federal) may be used in the purchase of program facility equipment and adequate initial stocks of merchandise. (3-1-93)

05. Business Insurances. The Commission shall pay a maximum of the first six (6) months premium for general liability, product liability, and workmen's compensation. This shall be provided for in the individualized written rehabilitation plan, if applicable. These initial business insurances may be paid under the authority of the Program when no individualized written rehabilitation plan exists. This provision shall apply only when an operator is moving to a newly opened site. All operators not covered by the above authorities shall be responsible for their own business insurance(s). Following this initial period, the operator shall be responsible to pay for this coverage on an annual basis. Proof of insurance must be sent to the Supervisor immediately upon renewals of policies. (3-1-93)

071. -- 079. (RESERVED).

080. MAINTENANCE AND REPLACEMENT OF EQUIPMENT.

01. Maintenance/Commission. The Commission shall maintain or cause to be maintained all equipment in a safe and satisfactory working condition. Replacement in lieu of repair shall be a decision of the Supervisor. It is the operator's responsibility to report any incident resulting in damage, breakage, theft, defacement, or malfunction of equipment or fixtures as soon as possible. Authorization numbers are assigned to each facility by the staff for repairs and/or replacement of small equipment. Repair shall be deemed unauthorized when such repair is attributable to negligent actions by the operator or when the equipment or fixtures are not the maintenance responsibility of the program. (3-1-93)

02. Maintenance/Operator. Any equipment purchased by the operator for the facility must be approved in advance by the Supervisor in writing. If approval was not granted, the equipment shall not be purchased from the operator at the time he/she leaves a location. (3-1-93)

081. -- 089. (RESERVED).

090. OPERATOR OWNERSHIP OF VENDING FACILITIES.

The Commission does not vest title to equipment and stock in an operator. (3-1-93)

091. -- 099. (RESERVED).

100. SETTING ASIDE OF FUNDS.

01. Set Aside. Maintenance and Purchase of New Equipment. The Commission may set aside, or cause to be set aside, from the net profit of the operation of facilities, funds for the purposes of: (3-1-93)

- a. Maintenance and replacement of equipment; (3-1-93)
- b. Purchase of new equipment. (3-1-93)

02. Other Purposes Allowed By The Randolph-Sheppard Act. The Commission reserves the right to use set aside funds for other purposes as permitted in accordance with the provisions of the Randolph-Sheppard Act and Federal Rules and Regulations. (3-1-93)

03. Approval By The United States Department Of Education. The funds set aside for those specified purposes shall not exceed the amount determined reasonable by the Rehabilitation Services Administration Commissioner, U.S. Department of Education. (3-1-93)

04. Record Of Expenditures. The charge for each of the program purposes cited shall be determined on the basis of records of expenditures made for each of these purposes over a reasonable period of time with allowances for improving services, fluctuations in costs and program expansion. Adequate records shall be maintained to support the charges for each of the purposes cited. (3-1-93)

05. Increases. At no time shall the set aside charges be increased without prior consultation with the Committee. (3-1-93)

06. Review Of Schedule Of Funds. The schedule of funds to be set aside shall be reviewed periodically by the Supervisor and the Committee. After reviewing the accounting records and other criteria pertinent to the administration of the Program, it may be necessary to revise the set aside payment schedule. (3-1-93)

07. Income With No Program Operator. Vending machine income received from Federal sites where there is no licensed Program operator shall be used for those purposes designated by the Committee in accordance with Title 34, Part 395.8, of the Code of Federal Regulations. (3-1-93)

101. -- 109. (RESERVED).

110. DISTRIBUTION AND USE OF INCOME FROM VENDING MACHINES ON FEDERAL PROPERTY.

01. Limitations. No limitation shall be imposed on income from vending machines combined to create a program facility when such facility is maintained, serviced or operated by a program operator. (3-1-93)

02. Vending Machine Income. The Commission shall retain vending machine income disbursed by a property managing department, agency or instrumentality of the United States as defined in the CFR, Title 34, Part 395.8. (3-1-93)

111. -- 119. (RESERVED).

120. OPERATOR BENEFITS.

01. Eligibility. There shall be a ninety (90) day waiting period before any benefits are provided to a new operator. Benefits paid are those allowed under the Randolph-Sheppard Act and may include medical insurance, life insurance, and a retirement plan. Benefits shall be paid only after the appropriate documentation is submitted to the Commission. Costs of all benefits may be paid from Income Sharing funds. The remainder of these funds not spent may be dedicated to repair and replacement of equipment, and management services. (3-1-93)

02. Medical Insurance. Reimbursement to operators for medical coverage shall be allowed following a ninety (90) day waiting period. Reimbursement to operators (family not included) for medical coverage shall be allowed following a ninety (90) day waiting period. The operator shall be responsible for acquiring his/her own policy. The Commission shall reimburse the operator in an amount agreed to by the Committee and the Commission. The operator must file an invoice or statement to document such coverage with the Commission annually or as adjustments occur. (3-1-93)

03. Retirement Accounts. Following the ninety (90) day waiting period, a monthly retirement contribution will be sent to an account in the operator's name. The retirement account funds shall be income sharing monies, and are strictly intended for deposit in a retirement account. Funds used prior to retirement from the Program violates the explicit purpose of the funds and shall be cause for termination of an operator's license. (See Subsection

040.01.e.) (3-1-93)

04. Life Insurance. Life insurance premiums shall be paid by the Commission for assigned operators following the ninety (90) day waiting period. The amount to be paid shall be mutually agreed to by the Committee and the Commission. The only insurance allowed shall be that insurance from which the operator will realize a cash benefit. The operator's pension value may differ from one operator to the next due to insurance qualifications per individual. (3-1-93)

121. -- 129. (RESERVED).

130. OPERATING AGREEMENT.

A written agreement shall be entered into by the Commission and the operator. The agreement shall specify rights and responsibilities of the Commission and the operator as they relate to the operation of a facility. (3-1-93)

01. Commission Responsibilities. The Commission shall: (7-1-93)

- a. Equip the facility for carrying out the business authorized by the permit; (3-1-93)
- b. Furnish initial stocks of merchandise sufficient to enable the operator to commence operating the business. The Commission shall also furnish the operator with inventory of all equipment and initial stock; (3-1-93)
- c. Provide for the maintenance of the equipment at the facility and replace obsolete and worn out equipment as necessary; (3-1-93)
- d. Provide, or shall provide for, as deemed by the Supervisor, supervisory and management services necessary for the efficient operation of the facility. (3-1-93)
- e. Periodically audit, or cause to be audited, the operator's records and financial data to verify the accuracy of the set aside report. (3-1-93)
- f. Provide information or make available data in braille or recorded tape at the operator's request when possible. (3-1-93)
- g. Notify the operator when the Program staff will be on vacation or extended leave. (3-1-93)

02. Operator Responsibilities. The operator shall: (7-1-93)

- a. Be responsible for having the facility open for business as specified in the permit. Exceptions may be approved by the Supervisor; (3-1-93)
- b. Operate the facility on a cash basis. The Commission shall not be responsible for bills incurred by the operator. The operator is responsible for notifying his/her purveyors that he alone is responsible, and the operator shall verify that notification by use of the purveyor letter supplied by the Commission. (3-1-93)
- c. Be accountable to the Commission for the income of the facility; (3-1-93)
- d. Provide for substitute operation of the facility as may be necessitated by the operator's absence because of illness, vacation, or other absences. The salary of the person who substitutes for the operator, or that of other emergency help, shall be paid for by the operator. The operator shall notify the Commission a reasonable time in advance of taking any voluntary leave from the facility, and as soon as possible with respect to any involuntary leave; (3-1-93)
- e. Carry on the business of the facility in compliance with the permit and applicable health laws and regulations and make available to the Commission copies of inspection reports; (3-1-93)
- f. Maintain a neat, business-like appearance while working at the facility, and shall conduct the facility in an orderly, business-like manner; (3-1-93)

g. Take proper care of the equipment of the facility and shall not make substantial structural alterations or changes to the facility without written approval of the Commission; (3-1-93)

h. Keep appropriate records and send a monthly report and set aside payment to the Commission by the fifteenth day of the following month as required. Late reports and/or payments will be resolved in the manner set forth in Subsection 040.03 (Termination of Licenses); (3-1-93)

i. Be working in the facility the majority of the operation's open hours as is appropriate to each specific location. A "majority of the time" shall be determined by the supervisor and operator. (3-1-93)

03. General Rights And Responsibilities. (3-1-93)

a. The business to be carried on at the facility shall be limited to that specified and authorized in the permit, or contract between property managing agency and the Commission. (3-1-93)

b. The right, title to, and interest in the equipment and initial inventories of the facility are vested in the Commission and shall be left at the facility or returned to the Commission upon termination of the agreement for any reason(s) by either party. At termination the fair market value of the operator's interest shall be determined by the Commission and the operator or the operator's heirs or assignees. The heirs or assignees shall be provided the beginning and closing inventories. The Commission shall either bill or pay the operator or the operator's heirs or assignees for any difference. In case of disagreement over a fair market value of merchandise, a wholesale representative shall be selected by the heirs or assignees and the Supervisor to verify prices. (3-1-93)

c. The monthly income of the operator shall be the net profit of the facility for the period in question; the expenses shall be in accordance with the monthly set aside report as developed by the Commission and the Committee. Penalties for late reports and/or set aside payments will be established by the Committee and the Commission. (3-1-93)

d. Rebates, commissions, or bonuses received by the operator from suppliers are, and must be, accounted for as income of the facility. Such incomes are not to be treated as the separate, personal incomes of the operator. (3-1-93)

e. Merchandise taken from the stock in trade of the facility by the operator for his/her own use shall be paid for at cost prices. (3-1-93)

f. The business and premises of the facility shall be covered by adequate public and product liability insurance, and any such other insurance(s) as will protect the operator and anyone employed by the operator against losses and claims arising out of the conduct of the business of the facility. The dollar amount of insurance shall be mutually agreed to by the Commission and the Committee using industry standards and State requirements as guidelines to assure up-to-date coverage. The cost of such insurance shall be a cost of operating the business of the facility and taken into account as such in determining the net proceeds of the business. (3-1-93)

g. The agreement may be terminated at anytime by the operator with at least thirty (30) days notice to the Commission. (3-1-93)

h. The agreement may be terminated by the Commission if, after affording the operator the opportunity to correct the problem, the business of the facility is not conducted in accordance with the agreement, Commission rules, or with applicable Federal, State, or local laws and regulations. The Commission may provide for management of the facility out of the income of the facility until the administrative review has been completed and a final determination has been made. If the decision rendered is in favor of the operator, the operator will receive the weekly net income averaging the eight (8) weeks prior to termination. (3-1-93)

i. The operator shall hire legally blind persons when feasible. (3-1-93)

j. The operator shall report promptly to the Supervisor any unresolved complaints of the property manager. (3-1-93)

04. Termination Of An Operator's Agreement Without Affecting Licensure. An operator's agreement to operate a specific facility shall be terminated without affecting licensure when the facility ceases to be a vending facility by revocation of the permit or contract by the Commission or the property management. (3-1-93)

131. -- 139. (RESERVED).

140. SUSPENSION AND TERMINATION OF OPERATING AGREEMENT.

01. Grounds For Termination. Operating Agreements shall be suspended or terminated if the Commission finds: (3-1-93)

- a. That the operator is not operating the facility on a cash basis; (3-1-93)
- b. The health and safety of the operator, the employees, or the customers are jeopardized; (3-1-93)
- c. That the monthly report and set aside payment is not being sent to the Commission in a timely manner; (Subsection 130.03.c.) (3-1-93)
- d. That the set aside report indicates no profit for two (2) consecutive months or three (3) months in a fiscal year; (3-1-93)
- e. That the operator jeopardizes the state's investment in the facility by violating the terms of the permit/contract or by operating the facility in such a manner as to place the facility in danger of being closed; (3-1-93)
- f. That the business and premises of the facility are not covered by adequate public and product liability insurance and/or workmen compensation. (3-1-93)
- g. If the business of the facility is not conducted in accordance with the agreement, Commission rules, or with applicable Federal, State, or local laws and regulations; (3-1-93)

02. Other Causes For Termination. (3-1-93)

- a. The agreement may be terminated at anytime by the operator with at least thirty (30) days notice to the Commission. (3-1-93)
- b. If the building manager requests, and documents in writing, the removal of the operator and if the Commission determines that it is in the best interest of the state to temporarily remove the operator from the facility while a thorough investigation of the allegations is being conducted. (3-1-93)

03. Notice Of Suspension. If the Supervisor and the operator cannot satisfactorily resolve the violations and devise and implement an improvement plan the operating agreement may immediately be suspended or terminated. The notice of suspension will be delivered to the operator in writing. Suspension may last up to sixty (60) days or until such time as the Administrative Review and/or evidentiary hearing has been completed. During this time the operator will receive remuneration in the amount derived by averaging the net proceeds of the last eight (8) weeks prior to suspension. If the decision/action of the supervisor is upheld, the agreement/license is immediately terminated. (3-1-93)

141. -- 149. (RESERVED).

150. TRAINING PROGRAM.

01. Certification. Prior to certification an applicant shall satisfactorily complete the training program as established by the Commission and any on-the-job training as prescribed by the Supervisor. The training program shall have certain basic requirements but shall also be varied to meet the needs of each individual applicant. All similar benefits for this program shall be used when appropriate. This program shall include, but not be limited to:

(3-1-93)

- a. Fundamentals of purchasing, inventory control, pricing, record keeping and other accounting systems; (3-1-93)
- b. Display and arrangement of merchandise and equipment; (3-1-93)
- c. Public relations and promotion. (3-1-93)

02. Upward Mobility. The Commission shall provide each operator with regular and systematic assistance and in-service training in order to assure: (3-1-93)

- a. Maximum returns to the operator; (3-1-93)
- b. Maximum service to the clientele; (3-1-93)
- c. Maintenance of a clean and attractive place of business and the utilization of sound business practices; (3-1-93)
- d. Adherence to the Commission's rules, regulations and policies, and building management requirements; and (3-1-93)
- e. Maximum upward mobility. (3-1-93)

03. Post-Employment Services. These services may be provided to eligible program operators when necessary to assure that they maintain suitable employment within the agency's Business Enterprise Program. Each individual's eligibility for post-employment services must be determined individually. The plan for provision of post-employment services for an operator will be developed jointly by the client, counselor and a representative from the program. These post-employment services may include the following: (3-1-93)

- a. Purchase of initial or additional inventory when moving to a new or previously established location. (3-1-93)
- b. Provision of training to upgrade the operator's skills so that they will be able to move from a vending only to a snack bar or a snack bar to a cafeteria. (3-1-93)
- c. Provision of training to an operator whose net profit is marginal to help increase the income generated by the location. (3-1-93)
- d. Purchase of aids and appliances necessary for the operator to continue successful operation of a location as a result of a change in the severity of their disability. (3-1-93)
- e. Relocation expenses only when necessary to assume management of a location outside the current commuting area. (3-1-93)
- f. Provision of personal counseling or substance abuse treatment only if costs are not covered by another source and there is reasonable expectation that this service will result in the operator's ability to maintain employment. (3-1-93)

151. -- 159. (RESERVED).

160. IDAHO BLIND MERCHANT'S COMMITTEE.

01. Committee Name. The Commission shall provide for a state committee of blind vendors as outlined in Title 34, Part 395.14, of the Code of Federal Regulations. The name of this committee shall be Idaho Blind Merchants Committee. (3-1-93)

02. Purpose Of Committee. The purpose of this committee shall be to work with, provide input to, and be actively involved with those program decisions of the Commission as specified by the Randolph-Sheppard Act. (3-1-93)

03. Committee Members. The Committee consists of all operators assigned a facility and shall have a Chairperson, vice chairperson, secretary and two (2) regional representatives elected by the operators. The five (5) member board shall represent the committee between meetings. (3-1-93)

161. -- 169. (RESERVED).

170. SEMI-ANNUAL MEETING OF THE COMMITTEE.

01. Active Participation. The Commission, by Federal law, is required to have the active participation and involvement of operators. (3-1-93)

02. Commission Responsibilities. The Commission shall work with the Committee chairperson or designated representative to coordinate the semi annual meeting. The Commission shall: (3-1-93)

- a. Give financial and overview reports of the Business Enterprise Program and the Commission; (3-1-93)
- b. Review rules and regulations or policies; and (3-1-93)
- c. Receive input on recommended changes. A written explanation shall be provided to the Committee by the Commission when recommendations of the Committee regarding program decisions are not followed by the Commission. (3-1-93)

03. Expenses. Designated expenses of the semi-annual meeting may be paid out of the management services fund. The allowable expenses shall be for meeting room, lodging, food and transportation. The transportation arrangements shall be agreed on by the Committee chairperson and the Supervisor. (3-1-93)

04. Future Meeting. Location and time for the next meeting shall be set prior to adjournment. (3-1-93)

05. Minutes. Minutes shall be kept by the Committee and made available to the Supervisor. Minutes must be sent to each operator within ninety (90) days after conclusion of the meeting. The Commission shall pay all reasonable costs for this service. (3-1-93)

171. -- 179. (RESERVED).

180. ADMINISTRATIVE REVIEW.

01. Request For Review. An operator who is dissatisfied with any action arising from the operation or administration of the Program may ask for a review of the action by filing a written request with the Administrator or the operator may request a hearing pursuant to Section 190 of these rules. If the operator elects to have a review conducted by the Commission Administrator, the written request for such review, which may be filed by the operator or a chosen representative, must specify the action(s) to be reviewed and the reason(s) for the operator's dissatisfaction. An operator's license may not be terminated prior to the Commission affording the operator an opportunity for an administrative review and a full evidentiary hearing. (3-1-93)

02. Response. Upon receipt of a request for an administrative review, the Administrator shall notify the Supervisor, who shall have fifteen (15) calendar days to file a written response outlining the reason(s). In filing the response, the Supervisor may forward a copy to the operator or his representative, if requested. (3-1-93)

03. Filing Objections, Replies, And Decisions. Upon receipt of the response from the Supervisor, the operator or representative shall have fifteen (15) calendar days in which to file any objections or make reply, after which the Administrator shall, in good faith, evaluate the materials submitted and issue a written decision thereon. The decision shall be issued within fifteen (15) calendar days following the close of the period allowed for the

operator's reply. The operator or a representative may file an appeal in accordance with Subsection 190.01 if the decision issued by the Administrator fails to resolve the operator's dissatisfaction. (3-1-93)

181. -- 189. (RESERVED).

190. FULL EVIDENTIARY HEARING.

01. Request. The Commission shall provide the operator an opportunity to seek remedy for any dissatisfaction with the action arising from the administration of the Program through a full evidentiary hearing. The operator or representative, shall request a full evidentiary hearing in writing within thirty (30) calendar days of the Commission's action from which the grievance arises, or within fifteen (15) calendar days following the operator's receipt of a decision issued by the Administrator pursuant to Subsection 180.03 of these rules. (3-1-93)

02. Suspension. Although an operator's license may not be terminated prior to the Commission affording the operator an opportunity for an administrative review and a full evidentiary hearing, if the conduct of the operator places the location or satellite in jeopardy of losing the location, contract or permit, the supervisor may suspend or terminate the operator's agreement pending the decision of the full evidentiary hearing. (3-1-93)

03. Full Evidentiary Hearing. A request for a full evidentiary hearing, filed by the operator, or a representative, shall be sent to the Administrator with a copy to the chairperson of the Committee. (3-1-93)

04. Location. A full evidentiary hearing shall be held in the Commission headquarters at a time convenient to the operator. (3-1-93)

05. Time Limit. The hearing procedure shall be limited to ninety (90) calendar days, beginning on the date the request for hearing is filed by the operator. The time limit may be extended due to illness of the operator or delay in obtaining evidence because of circumstances beyond the control of the operator or the Commission. (3-1-93)

06. Hearing Officer. The Commission shall request a hearing officer assigned by the Idaho Personnel Commission. (3-1-93)

07. Hearing Notice. A notice of the hearing date shall be provided to the operator at least twenty-one (21) calendar days prior to the date set for the hearing. (3-1-93)

08. Legal Counsel. The operator may arrange to have legal counsel or other representation. Such counsel shall be at the expense of the operator. (3-1-93)

09. Evidence. The hearing officer shall make every reasonable effort to obtain the most credible evidence of fact in the case, and technical rules of evidence shall not apply. (3-1-93)

10. Defense. Each party shall be given every opportunity to present its case, examine and cross-examine witnesses, present argument, and rebut evidence. (3-1-93)

11. Transcripts. A transcript of the proceedings shall be made available to the parties upon request. The Commission shall pay all transcript costs associated with the conduct of the hearing. (3-1-93)

12. Report Of Facts, Findings, Conclusion, And Decision. The hearing officer shall submit to the Administrator a report within twenty-one (21) calendar days after the hearing. This report shall include: the issues and relevant facts adduced at the hearing; applicable provisions of law, regulations, and Commission policy; findings of fact and conclusions with respect to issues; and the reasons and basis thereof. The report shall also set forth any action(s) necessary to resolve the issue and the decision being recommended to the Administrator. (3-1-93)

13. Written Comments, Arguments, And Exceptions. Parties to the hearing may, within fifteen (15) calendar days of the date the report was received in the Administrator's office file written comments, arguments, and exceptions to the report. These shall be attached to the report when submitted to the Administrator for a decision. (3-1-93)

14. Exclusive Record For Decision. The transcript of testimony, exhibits, and all papers and documents filed shall constitute an exclusive record for decision. (3-1-93)

15. Decision. The decision of the Administrator shall be mailed within fifteen (15) days to the operator and maintained in the Commission's record of hearing. (3-1-93)

191. -- 199. (RESERVED).

200. ARBITRATION.

If an operator is dissatisfied with the decision rendered after a full evidentiary hearing, he/she may request that an arbitration panel be convened by filing a complaint with the Secretary of the U.S. Department of Education in accordance with Title 34, Part 395.13, of the Code of Federal Regulations, within twenty-one (21) calendar days of his/her receipt of the decision of the Administrator. (3-1-93)

201. -- 209. (RESERVED).

210. EXPLANATION TO OPERATORS OF HIS/HER RIGHTS AND RESPONSIBILITIES.

The Commission shall furnish to each operator copies of documents relevant to the operation of the facility, including rules and regulations, a written description of the arrangements for providing services, the agreement and permit covering the operation of the facility, and shall provide interpretation of these documents upon request by the operator. (3-1-93)

211. -- 219. (RESERVED).

220. DISCRIMINATION.

The Commission shall not discriminate against any operator on the basis of sex, race, age, creed, color, religion, physical or mental handicap, sexual orientation, or national origin. (3-1-93)

221. -- 999. (RESERVED).

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