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~~and or other small business enterprise.~~

~~(ff) "State property" means any building owned or occupied by the state or by an county, city or joint powers board.~~

~~(gg) "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 obtaining, retaining, or preparing for employment consistent with the individual's capacities and abilities.~~

~~(hh) "Supported Employment" means:~~

~~(i) Competitive work in an integrated work setting with on-going support services for individuals with severe handicaps for whom competitive employment:~~

~~(A) has not traditionally occurred; or~~

~~(B) has been interrupted or intermittent as a result of severe handicaps.~~

~~(ii) Transitional employment for individuals with chronic mental illness.~~

~~(ii) "Transitional Employment for Individuals with Chronic Mental Illness" as used in the definition of "Supported Employment," means competitive work in an integrated work setting for individuals with chronic mental illness who may need support services (but not necessarily job skills training services) provided either at the work site or away from the work site to perform the work. The job placement need not be the permanent employment outcome for the individual.~~

~~(jj) "Vending machine" means a coin or currency operated machine which dispenses articles or services.~~

~~(kk) "Vending machine income" means money from vending machine operations on State property, after deducting the cost of goods or services sold, including reasonable service and maintenance costs, in accordance with customary business practices of commercial vending concerns or commissions paid by a commercial vending concern which operates, services, and maintains vending machines.~~

~~(ll) "Vending stands" means automatic vending machines, cafeterias, snack bars, cart service, or shelters, counters, and such other appropriate auxiliary equipment is necessary for the sale of newspapers, periodicals, confections, tobacco products, food beverages, and other articles or service dispensed automatically or manually and prepared on or off the State premises.~~

aree steps:

- Informal review
- Administrative review
- Formal review (Fair Hearing)

~~(c) The first step is that of informal review of client dissatisfaction by the counselor and the area manager. The second step is that of review of the decision by a previously uninvolved Vocational Rehabilitation administrative staff person. The applicant or client is encouraged to participate in the informal review and in the administrative review. The third step is that of formal review (Fair Hearing) by an impartial hearing officer (IHO). The Fair Hearing will be held within 45 days of receipt of the client's request. DVR will not use the administrative process as a means to delay a formal review (Fair Hearing), unless the parties jointly agree to a delay. Selection of an IHO will be in accordance with the requirements of Section 102 (d)(2) of the Rehabilitation Act of 1973, as amended.~~

~~(d) If the Division Administrator elects to review the decision of the IHO, in whole or in part, the individual with a disability will be notified within 20 days of the mailing of the IHO's decision. The individual will be provided the opportunity to submit additional evidence and information relevant to the appeal.~~

~~(e) The Division Administrator may not overturn or modify a decision of the IHO that supports the individual with a disability, unless it has been determined, based on clear and convincing evidence, that the decision of the IHO is clearly erroneous on the basis of being contrary to Federal or State law, including policy.~~

~~(f) The Division Administrator shall make a final decision in writing, including a full report of the findings and grounds for the decision, within 30 days of providing notice of intent to review. A copy of the decision shall be provided to the individual with a disability.~~

~~(g) The Division Administrator may not delegate responsibility to make any such final decision to any other employee of DVR.~~

~~(h) During the appeals process, DVR shall not suspend, reduce or terminate vocational rehabilitation services being provided to the individual, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual.~~

CHAPTER 1 GENERAL

Section 1. Appeals Procedures

(a) All applicants and clients shall be informed of the procedures for informal as well as formal resolution of disagreements, including the name and address of the

Administrator of the designated state unit (DSU) with whom appeals for an Administrative Review, Mediation and Formal Hearings are to be directed in writing. (Department of Workforce Services, Division of Vocational Rehabilitation, 1100 Herschler Building, Cheyenne, Wyoming 82002).

(b) Applicants and clients shall be given the name and address of the Client Assistance Program (C.A.P.) (638-7668 or 1-800-821-3091) and the description of services available from this source. Applicants and clients will be notified in writing of individual's rights and availability of assistance from C.A.P. at application, when the IPE is developed and when rehabilitation services are reduced or suspended.

(c) Any applicant for or recipient of vocational rehabilitation services who is dissatisfied with a determination made by personnel of the DSU that effect the provision of vocational rehabilitation services concerning the furnishing or denial of services may request a timely review of those determinations. Applicants who are found ineligible for services and previously eligible individuals who are determined to be no longer eligible for services are permitted to challenge the determination of ineligibility. The individual has the right to be represented by a person of their choice at all levels of appeals and they have the right to submit evidence. If informal resolution fails, a formal hearing will be conducted within 60 days of the written request. The CAP is available to assist the applicant or eligible individual during all levels of the appeals process.

(d) The appeal procedures may begin at any level. The DVR appeals process consists of four levels:

(i) Level 1: Informal Review: If the client is dissatisfied with a decision made by his/her counselor and it can't be resolved by discussing the issue with the counselor, he/she can request that the area manager review the decision. The counselor will help schedule the managerial review.

(ii) Level 2: Administrative Review: Administrative review of the decision will be completed by a previously uninvolved Vocational Rehabilitation administrative staff person. The applicant or client is encouraged to participate in the informal review and in the administrative review. The decision will be provided to the client in written form along with a description of how client can access the next level in the appeals process.

(iii) Level 3: Mediation: The mediation process is voluntary on the part of all parties, is not used to deny or delay the right of the individual to a formal hearing or to deny any other right afforded to the individual under Title I of the Act, and is conducted by a qualified and impartial mediator who is trained in effective mediation techniques. A list of qualified mediators will be maintained by the state. The state will pay the cost of mediation and formal hearing. Mediation will be scheduled in a timely manner and in a convenient location for all the parties of the dispute. All discussions that occur during mediation will be kept confidential. If an agreement is reached, that agreement must be put in writing.

(iv) Level 4: Formal Review (Fair Hearing): Formal review (fair hearing) will be conducted by an Impartial Hearing Officer (IHO) from the Office of Administrative Hearings (OAH). Applicants and eligible individuals have the right to be represented during the mediation and formal review. The Fair Hearing will be held within 60 days of receipt of the client's request for review unless the parties jointly agree to a specific extension of the time. Selection of the IHO will be in accordance with the requirements of Section 102 (c)(5) of the Rehabilitation Act, as amended.

(e) The second, third and fourth levels of review must be requested in writing. Client will have 10 (ten) days to request each review. This request will be addressed to the DSU Administrator.

(f) The IHO will provide a full written report of the findings and the grounds for decision within 30 days of the completion of the hearing to the applicant or eligible individual or the individual's representative and the DSU.

(g) Either party may request a review of the decision of the IHO within 20 days of the decision. The chief official of the designated state agency (Department of Workforce Services) shall provide an opportunity to submit additional evidence and information relevant to the appeal.

(h) The chief official shall not overturn or modify a decision of the IHO that supports the individual with a disability, unless it has been determined, based on clear and convincing evidence, that the decision of the IHO is clearly erroneous on the basis of being contrary to Federal or State law, the approved State Plan, Federal regulations, or any State regulation or policy that is consistent with Federal requirements.

(i) The chief official shall make a final decision in writing, including a full report of the findings and grounds for the decision, within 30 days of providing notice of intent to review. A copy of the decision shall be provided to the individual or his/her designated representative.

(j) The chief official shall not delegate responsibility for making the final decision to any officer or employee of the Designated State Unit.

(k) During the appeals process, DVR shall not suspend, reduce or terminate vocational rehabilitation services, including evaluation and assessment services, being provided to the individual, unless the individual or the individual representative requests it, or unless such services have been obtained through misrepresentation, fraud, collusion, criminal conduct on the part of the individual or the individual's representative.

(l) The chief official shall use the following standards when determining whether to review a hearing officer's decision.

(i) Is the initial decision supported by substantial evidence?

(ii) In reaching the initial decision, has the Impartial Hearing Officer given appropriate and adequate interpretation to such factors as:

(A) The Federal statute and regulations as they apply to the specific issue;

(B) The State Plan as it applies to the specific issue in question;

(C) Approved Federal and State policy as it applies to the issue in question;

(D) State agency options in the delivery of services if such options are permissible by Federal statute or regulation;

(E) Restrictions in the Federal statutes or regulations with regard to such supportive services as maintenance and transportation;

(F) Key portions of conflicting testimony.

(m) At the request of one or both parties, reasonable time extensions for good cause are allowable, except for the 20-day limit for either party to request an impartial review of the IHO's decision. The IHO's decision will be sent to the RSA Regional Commissioner.

(n) Either party may file a civil action for review of the final decision issued by the IHO or the reviewing official.

Section 52. State Plan Requirements.

(a) The State Plan, required and approved by the Federal Government, provides for financial participation by the State of Wyoming and the Federal Government, and is in effect in all political subdivisions of the State. The State Plan provides a description of Wyoming's Vocational Rehabilitation program and is amended or reaffirmed every year after public participation and input is obtained. The ~~Department of Employment~~ Department of Workforce Services is the sole State Agency in Wyoming designated to supervise administration of the State Plan. The Division of Vocational Rehabilitation is responsible to administer the State Agency's Vocational Rehabilitation program which includes the determination of eligibility and the determination of the nature, scope, and provision of vocational rehabilitation services under the State plan. This responsibility may not be delegated to another agency or individual.

Section 63. General Policies.

(a) Eligibility for rehabilitation services is determined without regard to sex, race, creed, age, color, national origin, type of disability or duration of residence in Wyoming.

(b) A case file shall be kept for each applicant or client containing all required documentation. The rationale for any decision to provide, alter or deny services shall be documented in the case record.

(c) All services consistent with the individual's capacities and abilities, necessary to achievement of the Client's vocational goal, shall be provided at the least possible cost to DVR.

(d) The Wyoming Division of Vocational Rehabilitation shall process referrals and applications, determine eligibility or ineligibility for services, and provide services in a timely and equitable manner.

(e) The Wyoming Division of Vocational Rehabilitation staff shall network actively with consumers, service providers, and organizations, and shall comply with the provisions of agreements and contracts between DVR and other agencies, facilities and organizations.

(f) Individuals with disabilities who are unable to communicate in English or who must rely on special modes of communication shall be provided reasonable accommodations such as interpreter services or technological aides and shall be informed of this availability at application.

(g) Division staff shall be responsible for the provision of client and financial data necessary for the operation of the DVR's Management Information System.

Section 74. Affirmative Action.

(a) The Wyoming Division of Vocational Rehabilitation actively seeks qualified individuals in hiring and promoting staff. DVR does not discriminate on the basis of race, color, creed, national origin, religion, political affiliation, sex, age or disability in its hiring practices or its programs. DVR will insure and take affirmative action with regard to the recruitment, employment, and promotion of qualified people with disabilities to conduct and administer its programs.

Section 8. Financial Policies.

(a) Applicable State of Wyoming purchasing statutes and procedures shall be followed when purchasing goods or services for clients.

(b) All services purchased for clients must have written authorization prior to or at the same time as the purchase of services. The purchase of service will be authorized only by a counselor or designated administrator.

(c) The counselor shall consider the client's financial participation for all services except:

- (i) evaluation of rehabilitation potential;
- (ii) counseling, guidance, and referral services;
- (iii) placement services;
- (iv) rehabilitation technology.

(d) The financial needs test includes these components:

(i) The Division's financial application must be completed, signed and dated by the client or legal guardian, and must be witnessed.

(ii) The Wyoming Division of Vocational Rehabilitation uses usual and customary fees in determining rates of payment. The providers of services may not charge or accept fees from the client for payment of authorized services unless approved and agreed to in advance by the counselor and client.

(iii) Out-of-state goods and services are not provided at a cost that exceeds the cost of similar services available in-state.

(iv) If training is available in-state, payment for all out-of-state tuition and other educational expenses will be calculated at the same rate available at public in-state institutions.

Section 9~~5~~. Definitions.

(a) As used in these rules the terms or phrase:

~~(a) "Applicant" means an individual who has applied for services through the Division of Vocational Rehabilitation (DVR) but has not yet been certified as eligible for DVR services.~~

~~(b) "Appraisal of Current Health Status" refers to information that covers the client's medical history and a complete physical examination, if one is needed.~~

~~(c) "Assessment for Determining Eligibility and Rehabilitation Needs" means:~~

~~(i) (A) a review of existing data:~~

~~(1) to determine if an individual is eligible for vocational rehabilitation services; and~~

~~(2) to assign the priority for an order of selection, if one is used; and~~

~~(B) to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during the assessment);~~

~~(ii) to the extent additional data is necessary, a comprehensive assessment (including the administration of the assessment) of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment —~~

~~(A) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program of the individual;~~

~~(B) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements —~~

~~(1) existing information; and~~

~~(2) such information as can be provided by the individual and, where appropriate, by the family of the individual;~~

~~(C) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, education, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and~~

~~(D) may include an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and~~

~~(iii) (A) referral;~~

~~(B) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and~~

~~(C)~~

~~(1) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited purpose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and~~

~~(2) an assessment at least once in every 90-day period, during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (i) may be made.~~

~~(d) "Client Assistance Program (CAP)" is a federal program initiated under the Rehabilitation Act of 1973 available to clients, applicants and former clients of the Wyoming Division of Vocational Rehabilitation to identify, explain and resolve any problems a client may be having with their rehabilitation program, or an applicant may be having with the application process.~~

~~(e) "Client or Eligible Client" means an individual certified by DVR who:~~

~~(i) has a physical or mental impairment, which constitutes or results in a substantial impediment to employment; and~~

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

~~(f) "Comparable Services and Benefits" are defined as those services and benefits which are similar and available to the client through both DVR and any other program.~~

~~(g) "Competitive Work" as used in the definition of "supported employment" means work that at the time of transition is performed weekly on a full time basis or on a part time basis, as determined in each individual written rehabilitation program, and for which an individual is compensated consistent with the wage standards provided for in the Fair Labor Standards Act.~~

~~(h) "Contract bid preference" means a ten point preference given to eligible DVR clients who submit a bid proposal to manage a Business Enterprise Program (BEP) small business on state owned public property or other property.~~

~~(i) "Department" means the Department of Employment.~~

~~(j) "Direct Competition" means the presence and operation of a vending machine in the same building as a Business Enterprise Program (BEP) small business.~~

~~(k) "Discrete Post-Employment Services" (as used in the Supported Employment Program) are services following transition that are unavailable from an extended services provider and that are necessary to maintain the job placement, such as job station redesign, repair and maintenance of assistive technology devices, and replacement of prosthetic and orthotic devices.~~

~~(l) "Eligibility" (for Supported Employment Services) means an individual who:~~

- ~~(i) _____ has been determined eligible for vocational rehabilitation services;~~
- ~~(ii) _____ has been determined to be an individual with the most severe disabilities; and a comprehensive assessment of rehabilitation needs of the individual including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate rehabilitation objective for the individual.~~

~~(m) "Employment Outcome" means entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market, the practice of a profession, self-employment, homemaking, farm or family work (including work for which payment is in kind rather than cash), extended employment in a community rehabilitation program, supported employment, or other gainful work.~~

~~(n) "Equipment" means all the fixed assets, other than land and buildings, of a vending stand or other Business Enterprise Program small business, including all implements used in the operation of the small business.~~

~~(o) "Extended Services" means on-going support services and other appropriate services, provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, after an individual with the most severe disabilities has made the transition from State vocational rehabilitation agency support.~~

~~(p) "Extreme medical risk" means a determination by a licensed medical doctor that there is risk of substantially increasing functional impairment or risk of death if medical services are not provided expeditiously.~~

~~(q) "Individual with a Disability" means any individual who has a physical or mental impairment which for that individual constitutes or results in a substantial impediment to employment and who can be benefit in terms of an employment outcome from vocational rehabilitation services provided under the Rehabilitation Act.~~

~~(r) "Individual with a Severe Disability" means an individual with a disability:~~

- ~~(i) who has a severe 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;~~
 - ~~(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and~~
 - ~~(iii) 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, mental illness, mental retardation, muscular dystrophy, multiple sclerosis, musculo-skeletal disorders, neurological disorders (including epilepsy and stroke), paraplegia, quadriplegia and other spinal cord conditions, respiratory or pulmonary dysfunction, sickle cell anemia, specific learning disabilities, end state renal disease, or another disability or combination of disabilities determined to cause comparable substantial functional limitation.~~
- ~~(s) "Individual with the Most Severe Disability" means an individual:~~
- ~~(i) who meets the definition of "severely disabled" and~~
 - ~~(ii) who, based on the results of a comprehensive assessment for determining eligibility and rehabilitation needs, will require supported employment services because of an inability to independently maintain substantial gainful employment for the completion of his/her IWRP.~~
- ~~(t) "Individual with a Significant Disability" as used in the Independent Living Program means an individual with a severe physical or mental impairment whose ability to function independently in the family or community, or whose ability to obtain, maintain or advance in employment is substantially limited, and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community, or to continue in employment.~~
- ~~(u) "Individualized Written Rehabilitation Program (IWRP)" or "Rehabilitation Plan" means a program mutually developed by DVR and the eligible client, or as appropriate, the eligible client's parent, guardian, or other representative, which defines the client's vocational goal and outlines the vocational rehabilitation objectives and services necessary to achieve that goal.~~
- ~~(v) "Integrated Work Setting" as used in Supported Employment means job sites where either—~~
- ~~(i) most employees are not disabled; and~~

~~(a) an individual with the most severe disabilities interacts on a regular basis in the performance of job duties, with employees who are not disabled; and~~

~~(b) if an individual with the most severe disabilities is part of a distinct work group of only individuals with disabilities, the work group consists of no more than eight individuals; or~~

~~(ii) if there are no other employees or the only other employees are individuals who are part of a work group as described above, an individual with the most severe disabilities interacts on a regular basis, in the performance of job duties, with individuals who are not disabled, including members of the general public. The interaction required by this definition may not be satisfied by contact between an individual with the most severe disabilities and individuals who provide on-going support services at the job site.~~

~~(w) "Maintenance" means basic living expenses such as food, shelter, clothing, and other subsistence necessities of an individual with a disability. Maintenance shall only be provided in conjunction with another DVR service.~~

~~(x) "Manager" as used in the BEP program, means an individual with a severe disability who is operating a BEP small business.~~

~~(y) "On-going Support Services" in supported employment means services that are—~~

~~(i) —needed to support and maintain an individual with the most severe disabilities in supported employment;~~

~~(ii) —based on a determination by DVR of the individual's needs as specified in an individualized written rehabilitation program; and~~

~~(iii) —furnished by DVR from the time of job placement until transition to extended services, and, following transition, by one or more extended services providers throughout the individual's term of employment in a particular job placement or multiple placements if those placements are being provided under a program of transitional employment. On-going support services must include, at a minimum, twice-monthly monitoring at the work site of each individual in supported employment to assess employment stability, unless under special circumstances, especially at the request of the individual, the individualized written rehabilitation program provides for off-site monitoring, and, based upon that assessment, the coordination or provision of specific services at or away from the work site, that are needed to maintain employment stability. If off-site monitoring is determined to be appropriate, it must, at a minimum, consist of two~~

~~meetings with the individual and one contact with the employer each month. On going support services consist of—~~

- ~~(A) any particularized assessment needed to supplement the comprehensive assessment of rehabilitation needs;~~
- ~~(B) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;~~
- ~~(C) job development and placement;~~
- ~~(D) social skills training;~~
- ~~(E) regular observation or supervision of the individual;~~
- ~~(F) follow up services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;~~
- ~~(G) facilitation of natural supports at the worksite;~~
- ~~(H) any other service identified in the scope of rehabilitation services; and~~
- ~~(I) any service similar to the foregoing services.~~

~~(z) "Other property" means property which is not owned, leased, rented, or otherwise controlled by the State of Wyoming.~~

~~(aa) "Personal Assistance Services" means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. The services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.~~

~~(bb) "Rehabilitated" means a client has been:~~

- ~~(i) ——— determined to be eligible;~~
- ~~(ii) ——— provided an assessment for determining eligibility and vocational rehabilitation needs and counseling and guidance as essential vocational rehabilitation services;~~

~~(iii) provided appropriate and substantial vocational rehabilitation services in accordance with the individualized written rehabilitation program;~~

~~(iv) determined to have achieved and maintained suitable employment for at least 60 days.~~

~~(cc) "Property Custodian" means any person, officer, employee, department, agency, board, commission, or business with the responsibility of care, custody, and control of the property.~~

~~(dd) "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.~~

~~(ee) "Set aside fees" means funds which accrue to BEP from an assessment against the proceeds of any BEP small business operating on state owned public property. Proceeds shall include net sales of the BEP small business plus direct competition vending machine commissions. Net sales means gross sales less sales tax.~~

~~(ff) "Small businesses" means those businesses established by DVR through the Business Enterprise Program to be operated on state owned public property and other property. Small businesses include but are not limited to, food services, small manufacturing, wholesaling, and retail sales.~~

~~(gg) "State owned public property" means any property, or part thereof, owned, leased, rented, or otherwise controlled or occupied by any state agency. It does not include property exempted under W.S. 36-8-1001-36-8-1002 the Wyoming Territorial Prison State Park and Historical Site; property exempted under W.S. 11-10-101-11-10-114, used to conduct the State Fair and the Wyoming Pioneer Museum; or the University of Wyoming or Wyoming Community Colleges.~~

~~(hh) "Substantial impediment to employment" means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, and other related factors) significantly restricts an individual's occupational performance, by preventing his preparing for, obtaining or retaining employment consistent with the individual's capacities and abilities.~~

~~(ii) "Supervision" as used in the BEP program, means consultation, and training with BEP small business managers.~~

~~(jj) "Supported Employment" means competitive work in integrated work settings for individuals with the most severe disabilities:~~

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

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

~~(iii) — who, because of the nature and severity of their disability, need intensive supported employment services from DVR and extended services after transition in order to perform this work.~~

~~(kk) "Supported Employment Services" means on-going support services provided by DVR—~~

~~(i) — for a period not to exceed 18 months, unless under special circumstances a longer period to achieve job stabilization has been jointly agreed to by the individual and the rehabilitation counselor and established in the individualized written rehabilitation program, before an individual with the most severe disabilities makes the transition to extended services; and~~

~~(ii) — as discrete post-employment services following transition.~~

~~(ll) "Transition Services" means a coordinated set of activities for a student designed within an outcome-oriented process, that promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.~~

~~(mm) "Transitional Employment" as used in the Supported Employment Program, means a series of temporary job placements in competitive work in an integrated work setting with on-going support services for individuals with the most severe disabilities due to mental illness. In transitional employment, the provision of on-going support services must include continuing sequential job placements until job permanency is achieved.~~

~~(nn) "Vending machine" means a manual or automatic coin or currency operated machine which dispenses goods or services.~~

~~(oo) "Vending machine commission" means the percentage of each vending machine's gross revenue which shall be paid to BEP by the vendor.~~

~~(pp) "Vending machine sites" means those sites on state-owned public property where one or more manual or automatic coin and/or currency operated vending machines that dispense food, beverages, and other items or services are located. A vending machine site can consist of one or more buildings.~~

(i) "An Hour of Service" is defined as an hour of staff time spent on behalf of a supported employment client providing job placement, situational assessment, and/or job coaching services as defined. If a staff hour is simultaneously provided to more than one client (i.e.: a work crew), this hour will be prorated based upon each client's proportionate use (i.e.: Staff spends one hour in a work crew with 4 clients. Each client receives 15 minutes of this staff hour).

(ii) "American Indian" means an individual that is a member of an Indian tribe.

(iii) "Applicant" means an individual who submits a signed application for vocational rehabilitation services but has not yet been certified as eligible for DVR services.

(iv) "Appraisal of Current Health Status" refers to information that covers the client's medical history and a complete systems review, if one is needed.

(v) "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.

(vi) "Assistive Technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability

(vii) "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. This could include an evaluation of the individual with a disability.

(viii) "Automobile Dealership" means any organization selling vehicles that can be found in the yellow pages and/or that have a tax ID number and dealer plates.

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

(x) "Client Assistance Program (CAP)" is a federal program initiated under the Rehabilitation of 1973 available to clients, applicants and former clients of the Wyoming Division of Vocational Rehabilitation to identify, explain and resolve any problems a client may be having with their rehabilitation program, or an applicant may be having with the application process.

(xi) "Comparable Services and Benefits" means services and benefits that are provided or paid for in whole or part, by other Federal, State, or local public agencies, by

health insurance, or by employee benefits, and are available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome continues, and commensurate to the services that individual would otherwise receive from the DSU.

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

(xiii) "Designated State Agency" (DSA) means the Department of Workforce Services

(xiv) "Designated State Unit" (DSU) means the Division of Vocational Rehabilitation.

(xv) "Disability" means, for purposes of Title I services - physical or mental impairment that constitutes or results in a substantial impediment to employment.

(xvi) "Division" means the Division of Vocational Rehabilitation, Wyoming Department of Workforce Services

(xvii) "DVR" means the Division of Vocational Rehabilitation.

(xviii) "Eligible Individual" means an applicant for vocational rehabilitation services who meets the eligibility requirements.

(xix) "Employment Outcome" means entering or retaining full-time or, an appropriate, part-time competitive employment in the integrated labor market; supported employment; or any other type of employment, including self-employment, telecommuting, or business ownership that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

(xx) "Extreme medical risk" means a determination by a licensed medical doctor/psychologist that a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously.

(xxi) "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. This represents an interim step in the rehabilitation process rather than an end point of that process.

(xxii) "Extended Services" means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most

significant disability in supported employment and that are provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource.

(xxiii) "Family Member" for the purpose of receiving vocational rehabilitation services, means an individual who is a relative or guardian, lives in the same household, who has a substantial interest in the well being of eligible individual and whose receipt of vocational rehabilitation services is necessary to enable the individual to achieve an employment outcome.

(xxiv) "Impartial Hearing Officer" means an individual:

(A) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

(B) who is not a member of the State Rehabilitation Council;

(C) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

(D) who has knowledge of the delivery of vocational rehabilitation services, the State Plan under Section 101, and the federal and state rules governing the provision of such services and training with respect to the performance of official duties;

(E) who has no personal or financial interest that would be in conflict with the objectivity of the individual; and

(F) an individual shall not be considered to be an employee of a public agency solely because the individual is paid by the agency to serve as a hearing officer.

(xxv) "Independent Living Core Services" means:

(A) information and referral services;

(B) independent living skills training;

(C) peer counseling (including cross-disability peer counseling); and

(D) individual and systems advocacy.

(xxvi) "Individual with a disability" means an individual:

(A) who has a physical or mental impairment;

(B) whose impairment constitutes or results in a substantial impediment to employment; and

(C) who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

(xxvii) "Individual with a Significant Disability" means an individual:

(A) who has a significant 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;

(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 retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle-cell anemia, specific learning disabilities, end-stage renal disease, or another 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.

(D) Additional and Substantial Functional Limitations Include:

(I) Inability to make use of public transportation unassisted or inability to travel independently in unfamiliar area;

(II) Inability to perform sustained work activity for six hours or more;

(III) Disfigurement or deformity so pronounced as to cause social rejection;

(IV) Speech or communication skills that are unintelligible to non-family members, or inability to understand normal speech with or without a hearing aid, or inability to interpret printed material as used in normal correspondence without use of adaptive aids;

(V) Inability to climb one flight of stairs or walk 100 yards on the level without pause;

(VI) Loss of manual dexterity or eye/hand coordination sufficient that he/she is unable to fasten buttons, wind a watch, or write intelligibly;

(VII) Emotionally incapable of tolerating the stress of normal competitive employment;

(VIII) Intellectually or physically limited to closely supervised, highly structured employment; and

(IX) Demonstrated marked restriction of daily activities, constriction of interests, deterioration in personal habits, and impaired ability to relate to other people.

(xxvii) "Individual with the Most Significant Disability" means an individual:

(A) The individual must have an impairment or impairments which, singly or in combination, are significant;

(B) The individual must be seriously limited from achieving an employment outcome due to significant functional loss in two or more of the functional capacities;

(C) The individual must need at least two core vocational rehabilitation services* to address the functional losses imposed by the significant impairment(s) in order to attain an employment outcome; and

(D) Whose vocational rehabilitation can be expected to require at least 18 months to complete.

*Core vocational rehabilitation services includes all vocational rehabilitation services other than supportive services (maintenance, transportation, services to family members, and personal assistance services); services secondary to core vocational rehabilitation services, such as training materials and supplies when training is being provided as a core vocational rehabilitation service; or, generalized counseling, guidance, and placement which are provided during the vocational rehabilitation process in connection with the provision of vocational rehabilitation services but are not identified as a needed vocational rehabilitation services on the IPE.

All clients that have an active Individualized Plan for Employment (IPE) will be served until that IPE is completed.

(xxviii) "Individual with a Significant Disability" as used in the Independent Living Program means an individual with a significant physical or mental impairment whose ability to function independently in the family or community, or whose ability to obtain, maintain or advance in employment is substantially limited, and for whom the

delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community, or to continue in employment.

(xxix) "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.

(xxx) "Individualized Plan for Employment (IPE)" or "Rehabilitation Plan" means a program mutually developed by a qualified Rehabilitation Counselor and an eligible client, or as appropriate, the eligible client's parent, guardian, or other representative, which defines the client's vocational goal and outlines the vocational rehabilitation objectives and services necessary to achieve that goal.

(xxxi) "Informed Choice" means the counselor, through vocational guidance and counseling, will provide pertinent information to the client so he/she can make appropriate decisions affecting his/her rehabilitation program.

(xxxii) "Integrated Work Setting:"

(A) With respect to the provision of services, means 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 eligible individuals;

(B) With respect to an employment outcome, means a setting typically found in the community in which the individual interacts with non-disabled individuals other than non-disabled individuals who are providing services to those eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

(xxxiii) "Job coaching" means services that are needed to support and maintain an individual on the job after employment is obtained, such as:

(A) intensive on-the-job skills training and other training provided by skilled job trainers, co-workers, and other qualified individuals;

(B) provision of follow-up services, including regular contact with employers, trainees with the most severe disabilities, parents, guardians or other representatives of trainees, and other suitable professional and informed advisors in order to reinforce and stabilize the job placement;

(C) regular observations or support of individuals with the most severe disabilities at the work site;

(D) contact with co-workers to develop on-the-job natural supports;
or

(E) other on-going support services as defined which are necessary to achieve job stabilization.

(F) These services are based on an assessment by the DVR counselor of the individual's needs.

(xxxiv) "Job Development/Placement" are services that are needed to identify the most suitable employment outcome for significantly and most significantly disabled individuals, and to help determine necessary on the job supports, such as:

(A) meeting with the client, parent, and significant others to discuss issues such as job preferences, job aptitudes, past work experiences, and to develop a plan for job development;

(B) contact with employers regarding job possibilities for a specific client, completion of job site surveys, or job analysis regarding the appropriateness of employment sites;

(C) accompanying a client on an employer visit for the purpose of job exploration or a job interview;

(D) staffing regarding an individual client in the job development process;

(E) providing services such as job clubs, job shadowing, or career counseling which support the development of an appropriate vocational goal; and

(F) other on-going support services as defined which are necessary to achieve job placement.

(G) These services are based upon an assessment by the DVR counselor of the individual's needs.

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

(xxxvi) "Ongoing Support Services" means services:

(A) needed to support and maintain individuals with the most significant disabilities in supported employment;

(B) provided at least twice monthly:

(I) to make an assessment, regarding the employment situation, at the worksite of each individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

(II) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

(C) consisting of:

(I) particular assessment supplementary to the comprehensive assessment;

(II) the provision of skilled job trainers who accompany the individual for intensive job skill training at the worksite;

(III) job development and placement;

(IV) social skills training;

(V) regular observation or supervision of the individual;

(VII) follow-up services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates; or

(VIII) representatives of the individuals, and other suitable authorized professional and informed advisors, in order to reinforce and stabilize the job placement; and

(IX) facilitation of natural supports at the worksite.

(xxxvii) "Other agency or organization" means any individual, group of individuals, private or public entity that provides information to Vocational Rehabilitation requiring a release of information.

(xxxviii) "Personal Assistance Services" means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control of their life and ability to perform everyday activities on or off the job.

(xxxix) "Physical and Mental Restoration" 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.

(xl) "Qualified Counselor" means an individual who meets the criteria to be able to sit for the Certified Rehabilitation Counselor (CRC) examination.

(xli) "Rehabilitated" means a client has been:

(A) determined to be eligible;

(B) provided an assessment for determining eligibility and vocational rehabilitation needs and counseling and guidance as essential vocational rehabilitation services;

(C) provided appropriate and substantial vocational rehabilitation in accordance with the individualized plan for employment (IPE); and

(D) determined to have achieved and maintained suitable employment for at least 90 days.

(xlii) "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. This term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(xliii) "Significant Contact" with clients occurs when information pertinent to the vocational rehabilitation process is shared between the client and the VR representative in face to face, written or verbal form.

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

(xlv) "Supported Employment" means competitive work in integrated work settings or employment in integrated work settings in which individuals are working toward competitive work consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals with the most significant disabilities:

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

(B) who, because of the nature and severity of their disability, need intensive supported employment services.

(xlvii) "Supported Employment Services" means on-going support services and other appropriate services needed to support and maintain an individual with most significant disability in supported employment that are:

(A) For a period of time not to exceed 18 months unless under special circumstances the eligible individual and the VR counselor agree to extend the time to achieve an employment outcome and; if wages are paid to the client the wages must be paid through another party so DVR isn't the employer. Paid work experiences should be short term at a low wage.

(B) Following transition, as post employment services that are unavailable from an extended services provider and are necessary to maintain or regain the job placement or advancement in employment.

(xlviii) "Trial Work Experiences" means work experiences including supported employment, on the job training and other experiences using realistic work settings. Work experience arrangements do not have an expectation of employment like an OJT.

(xlix) "Transition Services" means a coordinated set of activities for a student, designed within an outcome-oriented process that promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(l) "Transitional Employment" as used in the Supported Employment Program, means a series of temporary job placements in competitive work in an integrated work setting with on-going support services for individuals with the most significant disabilities due to mental illness. In transitional employment, the provision of on-going support services must include continuing sequential job placements until job permanency is achieved.

(m) "Transportation" means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service.