



Notice of Rule Making Hearing

Notice is hereby given that the Nebraska Commission for the Blind and Visually Impaired (NCBVI) will hold a rule-making hearing pursuant to Neb. Rev. Stat. § 84-907 on the 13th day of September, 2018 at 2:00 p.m. CT, to be held at NCBVI Office, Lincoln District Conference Room, 4600 Valley Road, Lincoln, Nebraska.

The purpose of the hearing is to take testimony and evidence about amendment of Title 192, Chapter 1, entitled "Scope of Services and Cost Containment"; Title 192, Chapter 2, entitled "Review of Vocational Rehabilitation Determinations"; Title 192, Chapter 3, entitled "Blind Vendor Program"; and Title 192, Chapter 4, entitled "Workplace Policies".

Draft copies of the proposed rules are available at the offices of the Secretary of State, Regulations Division, Room 343, State Capitol, Lincoln, NE 68509. There is no expected fiscal impact from amending these regulations.

All interested persons are invited to attend and testify orally or by written submission at the hearing. Interested persons may also submit written comments prior to the hearing which will be made part of the hearing record at the time of hearing if received by NCBVI five (5) days before the hearing. If auxiliary aids or reasonable accommodations are needed to participate in the hearing, please call Kathy Stephens at 402-471-8101 no later than ten (10) days before the hearing.

DRAFT/FINAL FISCAL IMPACT STATEMENT

Agency: Nebraska Commission for the Blind and Visually Impaired	
Title: 192	Prepared by: Stacy Cervenka
Chapter: 1	Date prepared: July 11, 2018
Subject: Scope of Services for the Blind and Cost Containment	Telephone: (708) 359-3301

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & a Description of Impact:

State Agency: There is no expected fiscal impact.

Political

Subdivision: There is no expected fiscal impact.

Regulated

Public: There is no expected fiscal impact.

If indeterminable, explain why:

DRAFT/FINAL FISCAL IMPACT STATEMENT

Agency: Nebraska Commission for the Blind and Visually Impaired	
Title: 192	Prepared by: Stacy Cervenka
Chapter: 2	Date prepared: July 11, 2018
Subject: Procedures for Formal Review of Vocational Rehabilitation Determinations	Telephone: (708) 359-3301

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & a Description of Impact:

State Agency: There is no expected fiscal impact.

Political

Subdivision: There is no expected fiscal impact.

Regulated

Public: There is no expected fiscal impact.

If indeterminable, explain why:

DRAFT/FINAL FISCAL IMPACT STATEMENT

Agency: Nebraska Commission for the Blind and Visually Impaired	
Title: 192	Prepared by: Stacy Cervenka
Chapter: 3	Date prepared: July 11, 2018
Subject: Blind Vendor Program	Telephone: (708) 359-3301

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & a Description of Impact:

State Agency: There is no expected fiscal impact.

Political

Subdivision: There is no expected fiscal impact.

Regulated

Public: There is no expected fiscal impact.

If indeterminable, explain why:

DRAFT/FINAL FISCAL IMPACT STATEMENT

Agency: Nebraska Commission for the Blind and Visually Impaired	
Title: 192	Prepared by: Stacy Cervenka
Chapter: 4	Date prepared: July 19, 2018
Subject: Workplace Policies	Telephone: (708) 359-3301

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	()	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & a Description of Impact:

State Agency: There is no expected fiscal impact.

Political

Subdivision: There is no expected fiscal impact.

Regulated

Public: There is no expected fiscal impact.

If indeterminable, explain why:

**TITLE 192 – (NAC) NEBRASKA ADMINISTRATIVE CODE
NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
CHAPTER 1 – SCOPE OF SERVICES for the BLIND AND COST CONTAINMENT**

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Comparable Services and Benefits	§§ 71-8605, 71-8607, 71-8609, 71-8610	004
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APPENDICES

Fee Schedule	Appendix A
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**TITLE 192 (NAC) NEBRASKA ADMINISTRATIVE CODE
NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
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ALPHABETICAL TABLE OF CONTENTS

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Definitions	§§ 71-8603, 71-8604	002
General Information	§§ 71-8601 through 71-8616	001
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Maintenance	§§ 71-8605, 71-8607, 71-8610	006
Order of Selection	§ 71-8610	009
Procurement of Goods and Services	§§ 71-8605, 71-8607, 71-8610	005
Scope of Services	§§ 71-8602, 71-8605, 71-8606, 71-8608, 71-8609, 71-8610	003
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NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
CHAPTER 1 – SCOPE OF SERVICES for the BLIND AND COST CONTAINMENT**

001. GENERAL INFORMATION.

001.01. LAWS AND REGULATIONS. The Nebraska Commission for the Blind and Visually Impaired (NCBVI) operates pursuant to the Rehabilitation Act, found in the United States Code, Title 29, Chapter 16, Section 701 et. seq.; 34 CFR Part 80 and Parts 360 et. seq.; Revised Nebraska Statutes 71-8601 through 71-8616; and, NCBVI State Plan, filed and updated every four years as part of the Nebraska Combined State Plan with the United States Department of Education/Rehabilitation Services Administration. The Federal and State laws, regulations, and State Plan are incorporated by reference. Copies of all documents are available for viewing at the Lincoln Office of NCBVI.

001.02. ADMINISTRATION. In accordance with Nebraska Revised Statutes, 71-8605, NCBVI is administered under the general supervision and direction of the Director. The Director is employed by NCBVI's governing board, in accordance with established personnel standards and on the basis of the Director's education, training, experience, and demonstrated ability in the field of vocational rehabilitation for the blind. The Director shall, with the approval of the Board, establish and maintain appropriate subordinate administrative units within the program.

001.03. NCBVI POLICIES. Any policies, manuals, or procedures issued by the Director or approved by the Board relating to the internal operation of the Commission for the Blind and Visually Impaired shall apply to all activities performed by the program.

001.04. PURPOSES. The purpose of NCBVI is to operate a comprehensive and coordinated program designed to assist individuals who are blind to gain remunerative employment, enlarge economic opportunities for blind persons, increase the range and diversity of available occupations for blind persons, stimulate other efforts enabling blind persons to become self-supporting, and provide services promoting greater independence for blind persons at home and in the community (Nebraska Revised Statutes, 71-8602).

001.05. SERVICES. NCBVI will provide services with two major areas of emphasis:

001.05A. VOCATIONAL REHABILITATION SERVICES. The program will provide services reasonable and necessary to achieve an employment outcome to eligible individuals who are blind, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice (34 CFR 361.48).

001.05B. INDEPENDENT LIVING services to assist blind individuals whose visual impairment or other disabling condition makes competitive employment extremely difficult to obtain but for whom independent living goals are feasible or for otherwise eligible blind persons for whom competitive employment is not a goal.

001.06. STAFF RESPONSIBILITIES. NCBVI staff members are responsible for all decisions concerning the eligibility for services; the nature and scope of available services; the provision of services; the determination that a recipient has achieved an employment or independent living outcome consistent with his or her personal strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice; and, the allocation and ex-

penditure of NCBVI funds. These responsibilities may not be delegated to any other organization or individual.

001.07. INDIVIDUAL RESPONSIBILITIES. Individuals participating in the vocational rehabilitation or independent living program as either an applicant or a recipient have the following responsibilities:

001.07A. To maximize the prospect for a successful service outcome resulting from the provision of vocational rehabilitation or independent living services consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choices;

001.07B. To cooperate, which includes keeping scheduled appointments on time, following medical and other professional advice including advice provided by NCBVI staff, and completing all assignments and other tasks on time;

001.07C. To assume primary responsibility for identifying their employment outcomes, planning their vocational rehabilitation services, and carrying out their individualized plans for employment, or independent living;

001.07D. To help pay for the costs of services received by seeking out, applying for, and using any comparable services and benefits for which they are eligible;

001.07E. To maintain regular contact with NCBVI staff regarding case progression, including to promptly inform NCBVI staff of changes in their personal and financial circumstances, and of problems encountered with services or service providers.

001.08. FAILURE TO COMPLY WITH RESPONSIBILITIES. Failure of an applicant or recipient to comply with any of these responsibilities may result in the termination of vocational rehabilitation or independent living services.

001.09. CONFIDENTIALITY. Personal information relating to applicants and recipients will be kept confidential according to applicable federal law, state law, and related regulations.

002. DEFINITIONS.

002.01. APPLICANT shall mean an individual who has completed, signed, and submitted an application form to participate in services offered by NCBVI, , completed a common intake application form in a one-stop center requesting vocational rehabilitation services, or has otherwise requested services from NCBVI. Applications via email, telephone, letter, or other formats providing the required information are accepted. If appropriate, the applicant may have a parent, family member, guardian, advocate, or other authorized representative sign the application.

002.02. BLIND PERSON shall mean-

002.02A. A person having sight that is so defective as to seriously limit his or her ability to engage in the ordinary vocations and activities of life (Nebraska Revised Statute 71-8603), or

002.02B. A person, to be eligible and licensed as a blind vending facility operator (Nebraska Revised Statutes, Section 71-8611):

002.02B1. Having no greater than 20/200 central visual acuity in the better eye after correction, or

002.02B2. Having an equally disabling loss of the visual field in which the widest diameter subtends an angle no greater than 20 degrees.

002.03. BOARD shall mean the governing board of NCBVI, to be appointed by the Governor of Nebraska pursuant to (Nebraska Revised Statute 71- 8604).

002.04. COMPARABLE SERVICES AND BENEFITS shall mean services and benefits, including accommodations and auxiliary aids and services, that are:

002.04A. Provided or paid for, in whole or in part, by other federal, state, or local public agencies, by health insurance, or by employee benefits;

002.04B. Available to the recipient at the time needed to ensure progress of the individual toward achieving the employment outcome in his or her individualized plan for employment; and

002.04C. Commensurate to the services that the individual would otherwise receive from NCBVI.

002.04D. For the purposes of this definition, comparable services and benefits do not include awards and scholarships based on merit.

002.05. COMPETITIVE INTEGRATED EMPLOYMENT shall mean work that is performed on a full-time or part-time basis (including self-employment)-

002.05A. For which an individual is:

002.05A1. Compensated at a rate that:

002.05A1a. Shall be not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the rate specified in the applicable state or local minimum wage law; and

002.05A1b. Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities, and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or

002.05A2. In the case of an individual who is self-employed, yields an income that is comparable to the income received by individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills;

002.05B. Is eligible for the level of benefits provided to other employees;

002.05C. That is at a location where the employee interact with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employees) to the same extent that individuals who are

not individuals with disabilities and who are in comparable positions that interact with other persons; and

002.05D. That presents opportunities for advancement that are similar for those of other employees who are not individuals with disabilities and who have similar positions.

002.06. CUSTOMIZED EMPLOYMENT shall mean competitive integrated employment for an individual with a significant disability, that is based on an individualized determination of the strengths, needs, and interests of the individual with a significant disability, is designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer, and is carried out through flexible strategies, such as:

002.06A. Job exploration by the individual,

002.06B. Working with an employer to facilitate placement, including-

002.06B1. Customizing a job description based on current employer needs or on previously unidentified and unmet employer needs,

002.06B2. Developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location.

002.06B3. Representation by a professional chosen by the individual, or self-representation of the individual, in working with an employer to facilitate placement, and

002.06B4. Providing services and supports at the job location.

002.07. DIRECTOR shall mean the Executive Director of NCBVI.

002.08. ELIGIBILITY shall mean the quality or state of being an individual with a visual disability who meets the requirements to participate in services offered by NCBVI. Such requirements are that:

002.08A. The individual has sight which is so defective as to seriously limit his or her ability to engage in the ordinary vocations and activities of life based on medical records for recipients of vocational rehabilitation services and based on counselor observations for recipients of independent living services, and

002.08B. The individual requires-

002.08B1. VOCATIONAL REHABILITATION services to prepare or, secure, retain, or regain employment; or

002.08B2. INDEPENDENT LIVING services to function, continue functioning, or move toward functioning independently in the family or community.

002.09. EMPLOYMENT OUTCOME shall mean with respect to an individual entering, advancing in, or retaining full-time or, if appropriate, part-time competitive integrated employment, as defined in 002.045 (including customized employment, self-employment, telecommuting, or business ownership), or supported employment as defined in 002.20 that is consistent with an individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

002.10. INDEPENDENT LIVING SERVICES shall mean those services enabling Blind persons to function, continue functioning, or move toward functioning independently in the family or community.

002.11. AN INDIVIDUAL with a disability shall mean:

002.11A. Any individual:

002.11A1. Who has a physical or mental impairment including blindness whose impairment constitutes or results in a substantial impediment to employment and

002.11A2. Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services; or

002.11B. ANY INDIVIDUAL:

002.11B1. Who has a physical or mental impairment including blindness that substantially limits one or more major life activities;

002.11B2. Who has a record of such an impairment; and

002.11B3. Who is regarded as having such an impairment.

002.12. INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE) shall mean the written document prepared on forms provided by the vocational rehabilitation services program, containing descriptions of a specific employment outcome, the nature and scope of needed services and the entities to provide them, the criteria to evaluate progress toward achievement of outcome, and the responsibilities of the program and the recipient (34 CFR 361.45) and (34CFR 361.46).

002.12A. Before a recipient may begin program services, the plan must be agreed to and signed by the recipient or, if appropriate, a parent, a family member, a guardian, an advocate, or an authorized representative, and approved and signed by an NCBVI counselor.

002.12B. Before approving a recipient's individualized plan for employment, program staff must consider:

002.12B1. The availability of employment opportunities in the specific employment outcome in the recipient's local labor market to which the recipient has indicated his or her willingness to relocate;

002.12B2. The consistency between employer requirements for educational level, type of preparation and relevant work experience in the specific employment outcome and the recipient's educational level, type of preparation, and work experience;

002.12B3. The consistency between employer wages and benefits in the specific employment outcome and the recipient's needs to meet necessary costs of living, rehabilitation technology, impairment related work expenses, and health care and disability treatment;

002.12B4. The consistency between the typical work environment in the specific employment outcome and the recipient's work interests, values, and needs;

002.12B5. The consistency between the essential functions typically performed in the specific employment outcome and the recipient's functional abilities.

002.12B6. The recipient's ability to benefit from the specific vocational rehabilitation services included in the plan to the degree necessary to resolve all inconsistencies in Section 002.11B2 through 002.11B5.

002.12C. NCBVI staff may approve a recipient's individualized plan for employment if, after considering the factors in Section 002.11B, they determine that-

002.12C1. The specific employment outcome will be available to the recipient in the local labor market, or a labor market to which the individual is willing to relocate;

002.12C2. The specific employment outcome available to the recipient will provide the earnings and benefits necessary to meet the criteria for an employment outcome in Section 002.09;

002.12C3. The plan includes the vocational rehabilitation services necessary to resolve all inconsistencies between employer requirements and occupational characteristics associated with the specific employment outcome and the recipient's unique strengths, resources, priorities, concerns, abilities, capabilities, and interests and informed choice; and,

002.12C4. There is a service provider available (including program staff) for each of the necessary vocational rehabilitation services in the recipient's community or a community to which the individual is willing to relocate to receive services.

002.13. INDIVIDUALIZED PLAN FOR INDEPENDENT LIVING shall mean the written document prepared on forms provided by NCBVI describing required services enabling blind persons to function independently in the family or community.

002.14. INFORMED CHOICE shall mean the principle by which applicants and recipients, with support services as necessary, are provided a meaningful opportunity to participate in decisions with regard to the selection of an employment outcome, program services (including assessment services), and service providers, through the provision of, or assistance in the acquisition of, information relating to:

002.14A. The availability of employment opportunities;

002.14B. The availability and flexibility to provide potential services (including accessibility, duration, cost, and financial participation requirements, service provider past performance in achieving results or employment outcomes and the quality of those results or outcomes, and recipient satisfaction);

002.14C. The qualifications of potential service providers;

002.14D. The types of services offered by that provider; and

- 002.14E. The degree to which services are provided in integrated settings.
- 002.15. NCBVI shall mean Nebraska Commission for the Blind and Visually Impaired.
- 002.16 ORDER OF SELECTION shall mean the process whereby applicants are identified and categorized into priority groups based on the significance of their disabilities and served accordingly, when there are insufficient resources to provide vocational rehabilitation services to all individuals who apply for services. Implementation of order of selection shall be predicated on the demand for services exceeding the ability of the program to provide those services, as detailed in Section 009.
- 002.17. PHYSICAL OR MENTAL IMPAIRMENT shall mean:
- 002.17A. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body functions: neurological, muscular-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or
- 002.17B. Any mental or psychological disorder such as intellectual disorder, organic brain syndrome, emotional or mental illness, or specific learning disabilities.
- 002.18. RECIPIENT shall mean an applicant who has met the eligibility requirements, is qualified for services, and is currently participating in active services. If Order of Selection is implemented, qualification will be pursuant to the categories defined within the order of selection.
- 002.19. SIGNIFICANT DISABILITY MEANS a severe physical, mental, cognitive, or sensory impairment that substantially limits an individual's ability to function independently in the family or community or to obtain, maintain, or advance in employment.
- 002.20. SUPPORTED EMPLOYMENT shall mean competitive integrated employment, including customized employment or employment in an integrated work setting in which an individual with a most significant disability is working on a short-term basis toward competitive integrated employment that is individualized, and customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual including with ongoing support services for individuals with the most significant disabilities and
- 002.20A. For whom competitive integrated employment has not historically occurred, or for whom competitive integrated employment has been interrupted or intermittent as a result of a disability; and
- 002.20B. Who because of the nature and severity of their disabilities, need intensive supported employment services and extended services after the transition from support provided by NCBVI in order to perform this work.
- 002.21. VOCATIONAL REHABILITATION SERVICES shall pursuant to Nebraska Revised Statutes 71-8609 and 71-8610 mean the determination that an individually planned and coordinated program of specific services is required for an individual to prepare for, secure, retain, or regain employment. In making this determination, considerations include:

002.21A. The individual's intent to maximize employment by achieving an employment outcome consistent with his or her unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice,

002.21B. The individual's need for specialized services, supported or accommodations, not typically used by the general public, and,

002.21C. The need for planning and coordination of multiple or complex services over a long duration to enable the individual to secure, retain, or regain employment.

003. SCOPE OF SERVICES.

003.01. PROGRAM PURPOSE. NCBVI operates statewide programs that provide:

003.01A. VOCATIONAL REHABILITATION services which are-

003.01A1. An integral part of a statewide workforce development system; and

003.01A2. Designed to assess, plan, develop, and provide high-quality employment outcomes for individuals with disabilities, consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice enabling them to prepare for and engage in competitive integrated employment and achieve economic self-sufficiency (34 CFR 367.1); and:

003.01B. INDEPENDENT LIVING SERVICES that will:

003.01B1. Enable blind and visually impaired persons to function, continue functioning, or move toward functioning independently in the family or community,

003.01B2. Conduct activities that will improve or expand services for blind people; and

003.01B3. Conduct activities to help improve public understanding of the challenges of blind people (34 CFR 367.1).

003.02. FEE SCHEDULES. NCBVI's fee schedule in Appendix A is designed to identify a reasonable cost to NCBVI for each vocational rehabilitation or independent living service purchased by NCBVI. The fee schedule applies to all services. If the recipient chooses an out-of-state or non-tax supported service, NCBVI is not responsible for those costs in excess of the costs of the in-state or tax-supported service.

003.03. EXCEPTIONS TO FEE SCHEDULES. The Commission's Deputy Director has the authority and discretion to make reasonable exceptions to the fee schedule based on individual circumstances. Exceptions may be granted if the Deputy Director determines there is no alternative to addressing a recipient's need for a vocational rehabilitation or independent living service necessary to complete an assessment for determining eligibility and need for services, or to achieve the goals on the recipient's approved individualized plan for employment or independent living.

003.04. FINANCIAL ASSISTANCE EXCLUSIONS. NCBVI will not provide financial assistance for fines, penalties, damages, and other settlements resulting from recipient violations

(or alleged violations) of, or failure of the recipient to comply with, federal, state, local, or Indian tribal laws and regulations. NCBVI also will not provide financial assistance toward the recipient's outstanding financial obligations or judgments resulting from civil or criminal legal proceedings, or for the costs of any travel outside the United States.

003.05. TREATMENT OF PHYSICAL AND MENTAL IMPAIRMENTS. NCBVI will provide financial assistance for the recipients of NCBVI services for the diagnosis and treatment of physical and mental impairments that constitute a substantial impediment to employment, to the extent that financial support is not readily available from a source other than the program (such as through health insurance of the individual or comparable services and benefits). The purpose of diagnosis and treatment of physical and mental impairments is to eliminate or substantially reduce, within a reasonable period of time, the impediment to employment caused by a stable or slowly progressive disabling condition.

003.06. CONDITIONS AND CRITERIA for providing financial assistance for the diagnosis and treatment of physical and mental impairments. Conditions and criteria are that:

003.06A. The physical or mental impairment must be stable or slowly progressive and constitute a substantial impediment to employment or threat placing the individual in a position of greater dependency on others;

003.06B. The necessary corrective surgery, therapeutic treatment, or other diagnosis and treatment of physical and mental impairments must reasonably be expected to eliminate or substantially reduce the impediment to employment or dependency on others within a reasonable length of time;

003.06C. Comparable services and benefits must be sought to pay for the costs of any diagnosis and treatment of impairments determined to be necessary as defined above (34 CFR 361.53[c]) and 34 CFR 367.3[b]).

003.07. MEDICAL SERVICES EXCLUDED. NCBVI will not provide financial resources for any medical services for injuries or acute illnesses which are unrelated to the recipients' disabling condition or which are not an impediment to his or her ability to achieve competitive integrated employment or greater personal independence, and/or could be covered by any comparable benefits.

004. COMPARABLE SERVICES AND BENEFITS.

004.01. NCBVI services and funds may supplement, but not supplant, those services and benefits available to a recipient and his or her family from any outside agency or entity. If comparable services and benefits are currently available and ready for immediate use, they must be used to meet, in whole or part, the cost of NCBVI services (34 CFR 361.53[c]).

004.02. If any public entity other than NCBVI is obligated under Federal or State law, or assigned responsibility under State policy, to provide or pay for any services that are also considered to be vocational rehabilitation services, then NCBVI funds cannot be used to provide or pay for such services. If NCBVI provides or pays for services that a responsible public entity fails to provide or pay for, NCBVI may claim reimbursement for the services from the public entity that failed to provide or pay for the services (34 CFR 361.53[e]).

004.03. Applicants for and recipients of NCBVI must apply for and accept any existing comparable service or benefit. NCBVI funds cannot be used to replace comparable services and benefits a recipient is eligible for, but refuses to apply for or accept.

004.04. The requirement to determine the availability of comparable services and benefits does not apply if this would interrupt or delay (34 CFR 361.53[a]):

004.04A. The provision of NCBVI services to any recipient who is at "extreme medical risk." Extreme medical risk is a probability of substantially increasing functional impairment or death if medical services are not provided expeditiously. The determination of extreme medical risk is based upon medical evidence provided by an appropriate licensed medical professional;

004.04B. An immediate job placement; or,

004.04C. The progress of recipient toward achieving the employment outcome on the recipient's approved individualized plan for employment or independent living.

005. PROCUREMENT OF GOODS AND SERVICES.

005.01. SELECTION CRITERIA. Facilities, programs, and providers, whether public or private, are selected on the basis of:

005.01A. The ability to render the specific service or product required for the lowest cost;

005.01B. The qualifications of a professional and technical provider;

005.01C. The availability of adequate facilities, equipment, and services to meet the recipient's needs;

005.01D. Their past performance in achieving results or employment outcomes and the quality of results or employment outcomes achieved; and,

005.01E. The informed choice of the recipient.

005.02. LEAST EXPENSIVE ALTERNATIVE. Considering all available alternatives, including those services that can be provided directly by NCBVI staff without additional cost to NCBVI, NCBVI will procure the least expensive, comparable goods and services that meet the recipient's needs. Consistent with the principle of informed choice, recipients may choose those goods and services, service providers, or procurement methods which, in their judgment, best meet their needs. However, if their choice exceeds the least expensive alternative or applicable cost containment provisions, the recipient must take the responsibility to pay for the excess costs incurred.

005.03. PRICE QUOTATIONS FOR GOODS. Price quotations are required for the purchase of goods costing over \$2,000. Price quotations may be obtained from websites, catalogs, advertisements, by telephone, or in writing from qualified vendors. Price quotes shall be obtained from a minimum of two (2) providers, unless there is only one qualified provider available or it is unreasonable to obtain quotations from more than one (1) provider. If there is only one (1) qualified provider available, a single quote may be used. NCBVI staff will in-

involve clients in identifying price quotations for all goods purchased, regardless of price, to the extent feasible. NCBVI staff has responsibility for assuring accuracy of such quotes.

005.04. PRICE QUOTES. The following will be considered in choosing which providers present the least expensive price quote:

005.04A. Provider qualifications;

005.04B. Cost;

005.04C. Quality of goods or services;

005.04D. Specific individual needs, including access to repairs or services;

005.04E. Individual preferences and informed choices regarding the provider; and,

005.04F. The past performance of the provider in achieving results or employment outcomes and the quality of results or employment outcomes achieved.

005.05. IN-STATE PROVIDERS. Preference will be given to comparable goods and services that can be procured from Nebraska service providers and businesses, with first preference given to those comparable services that can be provided directly by NCBVI staff without additional cost to the program. Use of out-of-state vendors is limited to situations in which an out-of-state vendor is geographically closer to the recipient, the good or service is not available in-state, or the total cost to NCBVI for the good or service is substantially less considering the actual cost of the good or service and the related costs associated with procuring the goods or participating in the service.

005.06. STANDARDS. Facilities used and providers of vocational rehabilitation services must meet the minimum standards in Appendix B.

005.07. REAL ESTATE. NCBVI funds cannot be used, either directly or indirectly, for the purchase of any land, or for the purchase or erection of any building.

005.08. EQUIPMENT OWNERSHIP. A recipient of services will have ownership of equipment purchased pursuant to a client's individualized plan for employment or independent living.

006. MAINTENANCE.

006.01. Maintenance is a limited tool for program use when the circumstances of participating in a vocational rehabilitation or independent living service cause additional costs to the recipient for food, shelter, clothing, or other subsistence items.

006.02. Maintenance may be provided when participation in an assessment of eligibility and rehabilitation needs or while receiving a planned program service results in a cost to the recipient for food, clothing, shelter, or other subsistence items that exceeds his or her current subsistence expenses, including the costs of uniforms or other suitable clothing required for a recipient's training, job seeking, or job placement activities. Maintenance must be tied to other services being provided, and is intended to cover only the added costs of participating in rehabilitation, not everyday living expenses. Maintenance is a payment for additional liv-

ing expenses a recipient incurs while participating in programs or services coordinated by NCBVI.

006.03. Maintenance may be provided for room and board expenses while in training (including dormitory fees), and for subsistence expenses incurred during relocation, including required initial one-time costs, such as a security deposit or utility initiation charges.

007. VOCATIONAL TRAINING SUPPORT

007.01. PURPOSE. Academic, vocational and other training services enable individuals with disabilities to acquire the qualifications required for employment in their employment goals. Such training is an appropriate service when it will enable the recipient to acquire necessary qualifications to enter employment in the trade, occupation, or profession that is the employment goal, and when it (alone or in combination with other vocational rehabilitation services) will resolve the recipient's impediments to employment. Employment qualifications include those academic requirements necessary to meet state or local registration, certification, or licensing requirements to practice the trade, occupation, or profession. Qualifications for employment or hire in the specific employment outcome in the recipient's approved individualized plan for employment determine the type and level of post-secondary training required.

007.02. VOCATIONAL TRAINING DEFINED. As used in this section, vocational training includes, but is not limited to, post-secondary training in institutions of higher education for which Federal student financial aid is available, including universities, colleges, community colleges, vocational schools, technical institutes, or hospital schools of nursing. Post-secondary training results in the award of a certificate, diploma, or an associate, bachelors, masters, or doctoral degree.

007.03. SCOPE. The scope of vocational training services includes, as appropriate to the recipient and the specific employment outcome in the recipient's approved individualized plan for employment, the provision of training services and related supports to prepare for and take licensing or certification examinations required for the practice of the trade, occupation, or profession and remedy deficiencies in prerequisite course requirements necessary for acceptance into post-secondary training programs.

007.04. EXPECTATION OF COMPLETION. The need for vocational training services must be established, based on an analysis of hiring qualification requirements for the employment goal in the local labor market or a labor market to which the recipient is willing to relocate, and the recipient's current level of vocational qualifications and functioning. In addition, there must be a reasonable expectation of successfully completing training, based on an analysis of indicators of training success such as past academic achievement or test results relating to the relevant field or skills area, or demonstrated motivation and commitment to accomplish the employment goal.

007.05. ADMISSION REQUIREMENTS. Recipients must meet academic and other established requirements for admission into a post-secondary training program.

007.06. GRADUATE TRAINING REQUIREMENTS. Before post-secondary training beyond the bachelor's level will be provided, recipients must apply for admission to both the school and the graduate program. Recipients who have been denied admission to the school

and/or the graduate program will not be eligible for program financial assistance, unless it is specific to courses necessary to qualify for the graduate degree program.

007.07. COMPARABLE SERVICES. There must be a full search for and use of comparable services and benefits. If training will be provided in an institution of higher education, there must be maximum efforts by NCBVI and the recipient to secure grant assistance in whole or in part from other sources. This requirement does not apply if it would cause interruptions or delays pursuant to Section 004.04. However, NCBVI's Deputy Director will have the authority and discretion to grant exceptions to individual situations with appropriate extenuating circumstances.

007.07A. The Pell Grant is a federal source of support for college students, which is considered to be a comparable benefit, therefore, all undergraduate post-secondary students must apply for the Pell Grant every year, with no exceptions, in order to receive academic support from NCBVI (34 CFR 361.53[c]).

007.07B. The letter of determination regarding the acceptance or denial of a Pell Grant application must be entered into the recipient's case file.

007.08. TIMELINES. To receive consideration for NCBVI financial assistance, recipients must have their individualized plans for employment containing post-secondary training services approved, and have submitted all financial aid application forms required by the institution they will attend at least sixty (60) days before the date on which they will begin the post-secondary training. Recipients who do not meet the sixty (60) day deadline will not receive NCBVI financial assistance until the next post-secondary training term. NCBVI's Deputy Director will have the authority and discretion to grant exceptions to individual situations with appropriate extenuating circumstances.

007.09. BASIC ACADEMIC EXPENSES AND OTHER NON-ACADEMIC EXPENSES. The program will provide academic expenses, maintenance, childcare, and transportation expenses exceeding what would be normal living expenses if the recipient were not pursuing vocational training, within the framework of Title 192, Chapter 1, as follows:

007.09A. The following services are considered as part of basic academic support extended to all clients receiving assistance from NCBVI for vocational training when applicable and otherwise not covered by comparable benefits: tuition, fees, textbooks, occupational tools and equipment (if required for participation in vocational training), registration, fees for reading services producing materials in alternative accessible formats, low vision aids and devices, assistive technology, and reader services (34 CFR 361.48[f]) and (34 CFR 361.53[a]);

007.09B. NCBVI will provide assistance with expenses that exceed the client's ability to pay and which prevent or threaten the initiation or continuation of vocational training. These are not typically regarded as part of basic academic support. These expenses may include but are not limited to: training related maintenance expenses (clothing, rent, food, etc.), childcare, and transportation.

007.10. REASONABLE PROGRESS. Recipients in vocational training programs must maintain reasonable progress, according to progress criteria stated in their individualized plans for employment.

007.10A. The following minimum progress criteria must be included as part of the recipient's individualized plan for employment:

007.10B. Complete at least:

007.10B1. Twenty-four (24) semester hours of credit during the academic year in a university or college that operates on a two semester and summer school system; or,

007.10B2. Thirty-six (36) hours of credit during the academic year in a university or college that operates on a trimester system; or,

007.10B3. Forty-eight (48) quarter hours of credit during the academic year in a technical school or community college that operates on a 4 quarter system; and,

007.10C. Maintain an overall cumulative minimum grade point average (GPA) equivalent to "C" (2.0) or better. At the graduate level, maintain an overall cumulative minimum GPA as required by the individual graduate program. The recipient must provide NCBVI with a copy of grades earned at the end of each term.

007.10D. If the recipient requires a reduced course load because of the disability or need to maintain employment or a comparable benefit, the number of hours to be completed each academic year must be stated in the progress criteria on the individualized plan for employment.

007.10E. If the recipient fails to maintain reasonable progress in a vocational training program, appropriate corrective actions should be taken, in cooperation with the training provider, to remedy the problem. Financial assistance with the cost of training may be continued for three months (or one academic term or semester for post-secondary training) to determine whether the recipient is able to make reasonable progress with the corrective actions. If reasonable progress is not achieved at the end of that period, financial assistance will be discontinued and the individualized plan for employment should be reviewed and revised to determine a more suitable vocational goal.

007.10F. If the recipient drops a course or courses, creating less than a full load during a semester or quarter, NCBVI will continue support as long as the required overall cumulative minimum grade point average is maintained (Section 007.10C). However, the cost of tuition and fees for the number of hours dropped will be subtracted from support for the tuition and fees in the subsequent semester.

007.11. FINANCIAL AID INFORMATION. Before the amount of vocational rehabilitation financial assistance can be determined and authorized, an award letter completed by the school's financial office must be available.

007.12. POST-SECONDARY TRAINING FINANCIAL ASSISTANCE RATES. Program financial assistance for training costs that include tuition, fees, textbooks and supplies (i.e. uniforms and specifically required supplies) shall be available at rates currently charged for residents in the Nebraska state system of post-secondary education (i.e. University of Nebraska-Lincoln). Financial assistance from NCBVI will fully cover rates for tuition and fees that are above the in-state level, if the degree program is not available within the state of Nebraska.

007.13. MAXIMUM CREDIT HOURS OF ASSISTANCE FOR POST-SECONDARY TRAINING. The maximum credit hours for which NCBVI will provide financial assistance will be set according to the requirements of the institution of higher education, for the specific degree or diploma program for completion or by a state authority issuing mandatory licenses.

007.14. REMEDIAL OR DEVELOPMENTAL CLASSES. Limited program financial assistance is available for remedial or developmental classes. Remedial or developmental classes shall mean those classes designed to increase the ability of a recipient to pursue a course of study leading to a certificate or degree. Program financial assistance will only be provided for a maximum of six (6) semester hours or nine (9) quarter hours for remedial or developmental class hours. Costs for all remedial or developmental class hours in excess of six (6) semester hours or nine (9) quarter hours will be the recipient's responsibility.

007.15. ACCESSIBLY-FORMATTED TEXTBOOKS. Recipients are encouraged to get needed textbooks or course-related materials into accessible formats as early as possible, for upcoming courses. NCBVI support will be provided to achieve this in a timely manner despite whether or not grades for the current term have been issued. Continued support of tuition and fees still depends upon the recipient achieving the minimum requirement of grades. This provision assures that accessible course-related materials will be available to students in a timely manner even when an institution delays issuance of grades.

007.16. READERS. NCBVI will pay up to five (5) hours per credit hour of reader services per semester or quarter used by a recipient in vocational training. The rate of pay for services will be the current minimum wage per hour unless it can be documented that readers are accorded a higher rate of pay at the institution the recipient is attending. Supervisors may make allowance for additional hours for programs requiring reading in excess of that generally experienced in most post-secondary programs.

007.17. STUDENT LOAN DEFAULTS. Students who have defaulted on a student loan will not be provided program support for vocational training. Students who apply for a Pell Grant will not be accepted for a Pell Grant if they have defaulted on a student loan. Denial of a Pell Grant for this reason will be indicated on the award letter issued by the financial aid office the student has applied to. If the student is refusing to pay back the loan that student will not be provided academic support, unless the existence of extenuating circumstances can be documented, such as poor health, exorbitant medical bill, or the inability to secure substantial employment, as determined by the Deputy Director.

007.18. EXCEPTIONS. Supervisors or the Deputy Director have the authority and discretion to make reasonable exceptions to the program financial assistance provisions in this section based on individual circumstances. Exceptions may be granted if the Supervisor or Deputy Director determines there is no alternative to addressing a recipient's need for vocational training necessary to achieve the employment outcome on the recipient's approved individualized plan for employment.

008. SELF EMPLOYMENT AND ESTABLISHING A SMALL BUSINESS OPERATION.

008.01. PURPOSE. An individualized plan for employment with a goal of self-employment, jointly developed by the recipient and his or her counselor, can result in a successful employment outcome.

008.02. ASSESSMENT. Assessment of the individual's potential to succeed in self-employment. This assessment identifies the recipient's strong and weak characteristics and necessary disability-related accommodations, and highlights training or education that might need to be pursued.

008.03. BUSINESS PLAN. The recipient must present a comprehensive business plan. The plan must include a full description of enterprise objectives, client qualifications for the work, other participants in the enterprise, a full financial plan including investment necessary

to bring the business to opening day and who will pay for those investments, a full cash flow forecast for the first 2 years and a justification as to why NCBVI should support the enterprise.

008.04. SERVICES AND FINANCIAL ASSISTANCE PROVIDED. Training, personal assistance, and technology services are available to recipients with the goal of Self Employment. Services that may be provided when necessary to achieve an employment outcome of self-employment or establishing a small business operation are defined in policy, federal regulation, and in specified cases under the Randolph-Sheppard Act and its policy and regulations.

008.05. EXCEPTIONS to the limitation on the amount of financial assistance for the establishment and operation of a new business enterprise in accordance with NCBVI policy and federal and state regulations may be granted by the Executive Director or Deputy Director.

009. ORDER OF SELECTION

009.01. PURPOSE. An Order of Selection gives priority to persons with significant disabilities when there are insufficient resources to provide vocational rehabilitation services to all eligible individuals who apply for services, statewide. After eligibility has been determined, each eligible individual is assigned to a category group that is ranked in priority order. Order of Selection is only to be implemented if NCBVI has insufficient resources 361.36[c]). The procedures identified below will apply only if a lack of fiscal and personnel resources result in implementation of Order of Selection.

009.02. ELIGIBILITY. NCBVI will set aside sufficient funds to determine eligibility. Applications for services will be accepted without restriction. All individuals with disabilities including eligible individuals who do not meet NCBVI criteria for receiving services under Order of Selection, will be provided with information and referral to assist them in preparing for, securing, retaining, or regaining employment.

009.03. REFERRALS. will be made to other appropriate Federal and State programs, including other components of the statewide workforce development system, that are best suited to address the specific employment needs of the individual. These referrals will include:

009.03A. A notice from the Commission to the agency carrying out the program;

009.03B. Information to identify the specific person to be contacted at the agency carrying out the program;

009.03C. Information and advice regarding the most suitable services that will help the individual prepare for, secure, retain, or regain employment.

009.04. PRIORITY CATEGORIES. The Order of Selection categories are based upon the requirements of the Rehabilitation Act (34 CFR 361.5[b][31]) and implementing regulations for vocational rehabilitation (Title I) and supported employment services (Title VI-C). After eligibility for services has been determined, the client will be assigned to the highest category for which the client is qualified, and a rationale will be documented in the case file. If a client's circumstances change, or new information has been acquired, the category assignment can be changed. Priority Categories are as follows:

009.04A. CATEGORY 1. Eligible individuals with the most significant disabilities.

009.04A1. An individual with a severe visual impairment or combination of visual, physical, or mental impairments which profoundly 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; and

009.04A2. An individual whose vocational rehabilitation can be expected to require at least four extensive or intensive multiple core services for at least twelve months.

009.04B. CATEGORY 2. Eligible individuals with significant disabilities.

009.04B1. An individual with a severe visual impairment or combination of visual, physical, or mental impairments 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.

009.04B2. An individual who will require multiple services (substantial amount of at least three core services) over an extended period of time (at least six months).

009.04C. CATEGORY 3. All other eligible individuals.

009.05. CORE SERVICES. Core vocational rehabilitation services, pursuant to the Rehabilitation Act, United States Code, Title 29, Section 701 et. seq. include:

009.05A. Assessment for determining eligibility and priority for services;

009.05B. Assessment for determining vocational rehabilitation needs;

009.05C. Vocational rehabilitation counseling and guidance;

009.05D. Referral;

009.05E. Physical and mental restoration services;

009.05F. Vocational and other training services;

009.05G. Maintenance;

009.05H. Transportation;

009.05I. Vocational rehabilitation services to family members;

009.05J. Interpreter services;

009.05K. Reader services, rehabilitation teaching services, and orientation and mobility services;

009.05L. Job-related services;

009.05M. Supported and/or customized employment services;

009.05N. Personal assistance services;

009.05O. Post-employment services;

009.05P. Occupational licenses, tools, equipment, initial stocks, and supplies;

009.05Q. Rehabilitation technology including vehicular modification, telecommunications, sensory, and other technological aids and devices;

009.05R. Transition services;

009.05S. Technical assistance and other consultation;

009.05T. Other goods and services determined necessary for an individual with a disability to achieve an employment outcome.

009.06. SSI OR SSDI ELIGIBILITY. An individual who is determined eligible for SSI (Supplemental Security Income) or SSDI (Social Security Disability Insurance) because of disability meets the criteria for the definition of a significant disability and would need to be assessed like all other individuals to determine whether or not he or she meets the definition of most significant disability.

009.07. WAITING LIST. In the event that vocational rehabilitation services cannot be provided to all eligible individuals in a given category, a waiting list will be established, based on date of application for services. Each category will have its own waiting list, if needed.

010. HOME MODIFICATIONS.

010.01. PURPOSE. Home modifications are strictly limited to removal of barriers to access and function within the home environment and other limited modifications that are necessary to convert ordinary living space into space essential to achieve the employment outcome of the recipient.

010.02. PRICE QUOTATIONS. Price quotations are required for the purchase of home modifications costing over \$500. Price quotations may be according to the requirements in Section 005.02.

010.03. ERECTION OF STRUCTURES. Home modifications cannot constitute the erection of new rooms, units, or structures.

010.04. SCOPE. Scope and extent of home modifications include:

010.04A. ENTRANCE AND EGRESS. A single exterior ramp may be provided to enable the recipient to enter and leave the home, provided that the recipient will be engaging in services necessary to achieve an employment outcome. If circumstances such as small lot size, lot grades, excessive comparative costs, etc., preclude the use of a ramp, a single exterior stair glide or elevator may be provided instead.

010.04B. EXTERIOR AND INTERIOR DOORWAYS. A single interior doorway may be widened and the outer doors replaced, if necessary to permit the recipient to enter and leave the home. An interior doorway may be widened to permit the recipient to enter and leave rooms in the house essential to independent functioning and to achieve the goals on the individualized plan for employment; such as bathroom, kitchen, or personal bedroom.

010.04C. ROOM MODIFICATIONS. Modifications to rooms within the house is strictly limited to those which will be used for purposes directly related to enabling the recipient to function independently in self-care, daily living or housekeeping, and to achieve the goals on the recipient's individualized plan for employment.

010.04D. HEATING AND COOLING. Modifications to heating and cooling systems are strictly limited to those specifically required by the recipient's disabling condition and may include an air conditioner, air purifier, humidifier, and dehumidifier which attaches to the primary system or single room units sufficient for the room in which the recipient will perform most of the activities related to the individualized plan for employment.

010.04E. PLUMBING AND ELECTRICAL SYSTEMS. Home modifications involving plumbing and electrical systems are strictly limited to those required to connect disability related equipment and appliances, or relocated appliances and fixtures, into existing systems within the existing structure.

010.04F. BUILDING CODES AND SAFETY. All home modifications must conform to applicable local building codes and generally recognized design standards. However, in-home safety is the responsibility of the recipient or his or her family, not NCBVI. The recipient is responsible for providing smoke detectors, additional exits, and related personal safety features.

010.05. NEW HOME CONSTRUCTION. In situations where the recipient plans to, or is in the process of, constructing a new home or is building an addition to an existing home, assistance is strictly limited to the purchase of disability-related equipment. The recipient is responsible for all installation costs.

010.06. RENTAL OR LEASED PROPERTY. Accommodations or modifications to individually occupied rental or leased property may only be made if the owner refuses to make the modifications him/herself; the owner has given all appropriate clearances and approvals; building permits, and other pre-modification consents have been obtained; and, the recipient has no plans to move or otherwise vacate the premises.

010.07. EXCEPTIONS. NCBVI's Deputy Director has the authority and discretion to make reasonable exceptions to home modification regulations based on individual circumstances. Exceptions may be granted if he or she determines there is no alternative to accomplish the necessary accommodation in a safe manner.

011. VEHICLE MODIFICATIONS.

011.01. PURPOSE. Vehicle modifications are strictly limited to those changes, adaptations, or adjustments to a recipient's vehicle that enable him or her to ride in the vehicle and are essential to achieve the employment outcome of the recipient.

011.02. VEHICLE REQUIREMENTS. Vehicle modifications are strictly limited to those vehicles that are in good working condition, have a reasonable expected life, and are suitable for the adaptations and modifications required by the recipient. If the vehicle age exceeds four (4) years or the vehicle mileage exceeds 50,000 miles, the recipient must provide a statement from a qualified mechanic showing that the vehicle is in good working condition. The recipient is responsible for the cost of any repairs needed to put the vehicle into good working condition.

011.03. TITLE AND INSURANCE. Vehicle modifications are strictly limited to those vehicles that are titled in the name of the recipient, his or her spouse, or his or her parent, and for which there is current full liability insurance coverage.

011.04. PRICE QUOTATIONS. Price quotations are required for the purchase of vehicle modifications costing over \$500. Price quotations may be obtained according to the requirements in Section 005.02.

011.05. EXCEPTIONS. Vehicle modifications expressly do not include servo or joystick controlled steering, braking systems, or any other system that replaces the stock steering, braking system, or major part of the stock system provided as original equipment by the manufacturer.

011.06. REPAIRS. Repairs may be provided to any of the aids and devices that are already installed on a vehicle for purposes identified in 011.01.

011.07. ACQUISITION OF VEHICLES. NCBVI does not provide assistance for the acquisition of manufacturer modified or used modified vehicles. This restriction includes, but is not limited to, assistance with purchase, lease, rental, or any other means of acquiring a vehicle. This restriction also includes, but is not limited to, financial assistance with down payments, leasing or rental charges, financing or licensing fees, sales and use taxes, insurance premiums, or any other costs incurred in connection with acquiring a vehicle.

011.08. FINANCIAL ASSISTANCE. NCBVI may provide assistance up to the estimated value of the necessary adaptations and modifications if the recipient is purchasing a new vehicle that is modified by the manufacturer or a manufacturer approved vendor, or a used vehicle that is already adapted and modified. Any such financial assistance cannot exceed the estimated current value of the modifications (based on present average costs, and depreciation of 20% for each year of use from the date the modifications went into use).

011.09. EXCEPTIONS. The Deputy Director of Services has the authority and discretion to make reasonable exceptions to any state imposed vehicle modification regulations based on individual circumstances. An exception may be granted if he or she determines there is no alternative to accomplish the necessary accommodation in a safe manner.

012. SERVICES TO GROUPS.

012.01. SERVICES TO GROUPS are services for the benefit of groups of individuals with disabilities (34 CFR 361.49). NCBVI funds may be used for services to groups as follows:

012.01A. Special services to provide non-visual access to information for individuals who are blind; including a statewide digital voice delivery system and the use of tele-

communications, Braille, sound recordings, electronic accessibility via the internet, and other appropriate media;

012.01B. Technical assistance and support services to businesses and other components of the statewide workforce development system, which are best suited to address the specific employment needs of individuals who are blind or visually impaired;

012.01C. Services, goods, and other costs allowed pursuant to Section 71-8611, in the case of small business enterprises established under the Randolph-Sheppard Act, as amended (20 U.S.C. 107 et. Seq. [Title 192, Chapter 3 Blind Vendor Program]);

012.01D. Other goods and services that contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any single individual; such as workshops on diabetes, technology, etc. or the purchase of equipment or instructional materials to benefit a group of applicants or eligible individuals;

012.01E. Technical assistance services to educational agencies in planning for and facilitating the transition of students who are blind and visually impaired from school to post-school life, including employment.

012.02. NCBVI will maintain written policies specific to each program or service provided as a service to groups. Individualized contractual agreements will be written where appropriate to provide the services and will be maintained by the Deputy Director or Program Specialist responsible for specific services to groups. Information will be maintained to ensure the proper and efficient administration of each service.

APPENDIX A

FEE SCHEDULE FOR SERVICES PURCHASED BY NCBVI

The program maintains a fee schedule for services purchased by NCBVI to contain cost and to assure the availability of program services to the largest number of individuals with significant disabilities. The intent of the schedule is to assure costs are the lowest reasonable cost for program services purchased from third party providers, while allowing for sufficient flexibility to meet an applicant's or recipient's needs. Copies of relevant fee schedules will be made available by contacting the Lincoln Office of NCBVI.

Service	Fee Schedule
Assistive technology devices (including wheelchairs), except eyeglasses and hearing aids	Cost determined by price quotes
Dental assessment and restoration	See Medicaid Dental Fee Schedule
Drugs	None--Use pharmacy billed charge
Eyeglasses purchase and repair	See Medicaid Visual Care Fee Schedule
Hearing aids-purchase and repair	See Medicaid Hearing Aid Services Fee Schedule
Hospitalization-assessment and restoration	See Medicaid Hospital Fee Schedule
Independent living training	Fees established in agreements with Centers for Independent Living or service agreements
Interpreters for hearing impaired	Fees established in individual contracts with service provider
Interpreters foreign language	Fees established in individual contracts with service provider
Job coaching	Fees established in written agreements with cooperating agencies, community rehabilitation programs, or businesses
Job placement services	Fees established in written agreements with cooperating agencies, community rehabilitation programs, or businesses
Life skills training	Fees established in written agreements with cooperating agencies, community rehabilitation programs, or businesses

Service	Fee Schedule
Maintenance	Cost for living expenses, such as food, shelter, clothing, and other subsistence items, that are in addition to normal subsistence expenses
Medical and psychological assessment and evaluation	See Medicaid Practitioner Fee Schedule
Mental restoration	See Medicaid Psychiatric Fee Schedule
Occupational therapy-including training	See Medicaid Practitioner Fee Schedule
On-the-job training	Fees established in agreements with employers
Physical restoration-medical, surgical, and allied health services	See Medicaid Practitioner Fee Schedule
Physical therapy-including training	See Medicaid Practitioner Fee Schedule
Prosthetics and orthotics	See Medicaid Durable Goods Fee Schedule
Rehabilitation engineering services, including assistive technology services	Fees established in written agreements with independent living center, cooperating agencies, community rehabilitation programs, or individuals
Speech therapy--including training	See Medicaid Practitioner Fee Schedule
Supported employment services	Fees established in written agreements with cooperating agencies, community rehabilitation programs, or businesses
Transportation	Coverage of mileage, lodging and meals will not exceed state rates.
Vocational assessment and evaluation	Fees established in written agreements with cooperating agencies, community rehabilitation programs, or businesses
Vocational training--institutions of higher education	See cost containment guidelines for vocational training at institutions of higher education in Section 011
Vocational training--other than in institutions of higher education	Fees established in written agreements with cooperating agencies, community rehabilitation programs, or businesses
Work adjustment training	Fees established in written agreements with cooperating agencies, community rehabilitation programs, or businesses
Customized employment services	Fees established in agreements with employers

APPENDIX B

STANDARDS FOR FACILITIES AND SERVICE PROVIDERS

To determine whether a facility, service, program, or provider meets minimum standards, NCBVI staff consider such factors as: their past performance in achieving results or employment outcomes and the quality of results or employment outcomes achieved, licensure, accreditation, certification, or registration from state authorities; accreditation or certification from nationally recognized accrediting organizations; education, training, and experience of personnel; and, compliance with the Americans With Disabilities Act and Section 504 of the Rehabilitation Act.

Hospitals and clinics must be licensed by the State of Nebraska. Hospitals accredited by the Commission on Accreditation of Rehabilitation Facilities are given preference for the provision of rehabilitation medicine and treatment of physical impairments.

Schools and other training institutions must be approved by a recognized accrediting body for the institution. Out-of-state schools must be approved by a nationally recognized accrediting agency or association.

Program services and goods may be purchased from any entity doing business in Nebraska, including businesses operated by independent contractors, for-profit sole proprietorships and partnerships, and those engaged in the construction or renovation of homes.

Medical or psychological diagnosis and treatment services in audiology and speech language pathology; chiropractic; dentistry; hearing aid instruments; dispensers and fitters; medicine and surgery; mental health; nursing; occupational therapy; optometry; physical therapy; podiatry; psychology; respiratory care; and, social work must be provided by professionals who are appropriately licensed, certified, or registered with the appropriate state examining board. Psychologists with clinical certification are given preference.

Prosthetic and orthotic services and appliances must be provided by professionals who are certified by the American Board of Certification for Prosthetic and Orthotic Appliance Industry Inc. or otherwise qualified by training and experience to perform the specific service required.

A qualified interpreter for the hearing impaired is an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary. Interpreters providing services for hearing impaired recipients must be appropriately qualified for the particular assignment.

All service providers must be at least 18 years of age.

Individuals who have been convicted of any felony or crime consisting of abuse of a child or vulnerable adult are disqualified to be selected as service providers.

**TITLE 192 – (NAC)- NEBRASKA ADMINISTRATIVE CODE
 NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
 CHAPTER 2- PROCEDURES FOR FORMAL REVIEW OF VOCATIONAL REHABILITATION
 DETERMINATIONS**

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**TITLE 192 – (NAC)- NEBRASKA ADMINISTRATIVE CODE
TITLE 192 – NEBRASKA COMMISSION FOR THE BLIND & VISUALLY IMPAIRED
CHAPTER 2 – PROCEDURES FOR FORMAL REVIEW OF VOCATIONAL REHABILITATION
DETERMINATIONS**

001. GENERAL INFORMATION

01.01. PURPOSE OF THIS CHAPTER. This chapter provides procedures for the formal review of written determinations by Nebraska Commission for the Blind and Visually Impaired (NCBVI) personnel concerning the provision of vocational rehabilitation services to blind individuals. This chapter is intended to implement the requirements of 29 U.S.C. 701 et.seq., 34 CFR Part 361 et.seq., Nebraska Revised Statute Sections 71-8601 to 71-8616 and the Nebraska Administrative Procedures Act.

01.02. DEFINITIONS. The following definitions shall apply as used throughout Chapter 2 of these rules and regulations.

001.02A. BOARD shall mean the governing board of NCBVI, to be appointed by the Governor of Nebraska according to state law.

001.02B. BLIND INDIVIDUAL shall mean any individual who has sight so defective as to seriously limit his or her ability to engage in the ordinary vocations and activities of life.

001.02C. CONTESTED CASE shall mean a proceeding before NCBVI in which the legal rights, duties, or privileges of specific parties are required by Title I of the Vocational Rehabilitation Act of 1973, as amended, or by Nebraska Revised Statute 71-8614, to be determined after a hearing before a hearing officer.

001.02D. DIRECTOR shall mean the Executive Director of the Nebraska Commission for the Blind and Visually Impaired.

001.02E. EX PARTE COMMUNICATION shall mean an oral or written communication which is not on the record in a contested case with respect to which reasonable notice to all parties was not given. Ex parte communication shall not include:

001.02E1. COMMUNICATIONS which do not pertain to the merits of a contested case;

001.02E2. COMMUNICATIONS required for the disposition of ex parte matters as authorized by law;

001.02E3. COMMUNICATIONS in a ratemaking or rulemaking proceeding; and

001.02E4. COMMUNICATIONS to which all parties have given consent.

001.02F. FAMILY MEMBER shall mean any relative by blood, adoption, or marriage of a blind individual and other individual living in the same household with whom the blind individual has a close interpersonal relationship.

001.02G. HEARING OFFICER shall mean the person or persons conducting a hearing pursuant to this Chapter whether designated as the presiding officer, administrative law judge, or some other title designation.

001.02H. NCBVI shall mean the Nebraska Commission for the Blind and Visually Impaired, which is administered by the Director and the governing Board.

001.02I. NCBVI PERSONNEL shall mean any NCBVI staff specialist assigned to work with the applicant or recipient.

001.02J. PARTY means the person by or against whom a contested case is brought or a person allowed to intervene in a contested case.

001.02K. PETITION means the initial document filed with the Director that sets forth a claim and request for action by NCBVI.

001.02L. PETITIONER shall mean a blind individual who is an applicant for, or recipient of, NCBVI Services who is dissatisfied with any written determination made by NCBVI personnel concerning the provision of vocational rehabilitation services, and shall include the applicant's representative, if the applicant or recipient lacks capacity.

001.02M. PREFERRED FORMAT shall mean the format individually preferred to assure accessibility of written materials; to include print, large print, Braille, electronic audio and text formats.

001.02N. RESPONDENT shall mean the Nebraska Commission for the Blind and Visually Impaired (NCBVI).

002. PROHIBITIONS AGAINST EX PARTE COMMUNICATIONS.

002.01. PROHIBITIONS; WHEN APPLICABLE. The prohibitions found in this section shall apply beginning at the time notice for hearing is given.

002.02. PROHIBITIONS; TO WHOM APPLICABLE.

002.02A. PARTIES AND PUBLIC. No party in a contested case or other person outside NCBVI having an interest in the contested case shall make or knowingly cause to be made an ex parte communication to the hearing officer.

002.02B. PERSONS IN DECISION MAKING ROLES. No hearing officer shall make or knowingly cause to be made an ex parte communication to any party in a contested case or other person outside NCBVI having an interest in the contested case.

002.02C. INVESTIGATORS. The Director or employees engaged in the investigation or enforcement of a contested case shall not make or knowingly cause to be made an ex parte communication to a hearing officer.

002.03. DISCLOSURE OF CONTACTS. The hearing officer who receives or who makes or knowingly causes to be made an ex parte communication set forth in subsections 002.02A through 002.02C shall file in the record of the contested case:

002.03A. All such written communications;

002.03B. Memoranda stating the substance of all such oral communications; and

002.03C. All written responses and memoranda stating the substance of all oral responses to all the ex parte communications.

002.03D. The filing shall be made within two working days of the receipt or making of the ex parte communication. Notice of the filing, with an opportunity to respond, shall be given to all parties of record.

002.03E. Filing and notice of filing provided under subsection 002.03D shall not be considered on the record and reasonable notice for purposes of the definition of ex parte communication.

003. INTERVENTION IN A CONTESTED CASE.

003.01. INTERVENTION in a contested case shall be allowed when the following requirements are met:

003.01A. A petition for intervention must be submitted in writing to the hearing officer or designee at least five days before the hearing. Copies must be mailed by the petitioner for intervention to all parties named in the hearing officer's notice of the hearing;

003.01B. The petition must state facts demonstrating that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

003.01C. The hearing officer or designee must determine that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

003.02. The hearing officer or designee may grant a petition for intervention at any time upon determining that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

003.03. If a petitioner qualifies for intervention, the hearing officer or designee may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Those conditions may include:

003.03A. Limiting the intervenors participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;

003.03B. Limiting the intervenors use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

003.03C. Requiring two or more intervenors to combine their presentation of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

003.04. The hearing officer or designee, at least twenty-four (24) hours before the hearing, shall issue an order granting or denying each pending petition for intervention, specifying any conditions and briefly stating the reasons for the order.

003.04A. The hearing officer or designee may modify the order at any time, stating the reasons for the modification.

003.04B. The hearing officer or designee shall promptly give notice of an order granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

004. COMMENCEMENT OF A CONTESTED CASE

004.01. When a blind individual, who is an applicant for, or recipient of, NCBVI services, is dissatisfied with a written determination made by NCBVI personnel, he or she may obtain a review of the determination by filing a petition within thirty (30) calendar days from the date he or she received the written determination. NCBVI will have made every effort to provide written determination in the individual's preferred format.

004.02. The contested case begins with the filing of a petition and request for hearing with the Director at his or her official office, at the Nebraska Commission for the Blind and Visually Impaired, 4600 Valley Road, Suite 100, Lincoln, Nebraska 68510. Filing shall be accomplished in writing and will be received during regular office hours of the Commission, which are 8:00 a.m. to 5:00 p.m., Central Time, Monday through Friday, except state holidays. The petition is the initial document filed with the Director that sets forth a claim and request for action by NCBVI.

004.02A. NCBVI has established procedures consistent with the requirements of Section 102(c) of the Act for the option of formal mediation prior to review through an impartial due process hearing. Mediation is voluntary and is available whenever an impartial hearing is requested.

004.02B. Details of the procedures for formal mediation of a vocational rehabilitation determination are provided in Appendix B.

004.03. A party to a contested case shall be the person by or against whom a contested case is brought or a person allowed to intervene in a contested case.

004.04. A party may appear on his or her own behalf in a contested case proceeding or may be represented by an attorney or other representative as permitted by law.

004.05. The pleadings in a contested case may include a petition, answer, reply, notice, motion, stipulation, objection or order or other formal written document filed in a proceeding before NCBVI. Any pleading filed in a contested case shall meet the following requirements:

004.05A. The pleading shall contain a heading specifying the name of NCBVI and the title or nature of the pleading, shall state material factual allegations and state concisely the action NCBVI is being requested to take. The pleading shall also contain the name and address of the petitioner, and shall be signed by the party filing the pleading, or when represented by an attorney, the signature of that attorney. A sample petition is contained in Appendix A.

004.05A1. Attorneys shall also include their address, telephone number and bar number.

004.05A2. The initial petition shall also contain the name and address of the respondent and shall include as an attachment a copy of the written determination with which the petitioner is dissatisfied. The petition may be filed on an optional form provided in Appendix A.

004.05B. All pleadings shall be made on white, letter-sized (8½ x 11) paper and shall be legibly typewritten, photostatically reproduced, brailled, electronically transmitted, printed or handwritten. If handwritten, a pleading must be legibly written in ink.

004.06. If the petition appears to comply with the procedural requirements of 004.05A, the Director shall appoint a hearing officer selected pursuant to Section 005 and Section 006 of this Chapter, to hear the contested case. The Director shall send a Notice of Appointment to the hearing officer with the petition attached and a copy to the petitioner and respondent.

004.07. All pleadings subsequent to the petition shall be filed with the hearing officer, with copies sent to the Director at his or her official office. Filing of pleadings and copies may be accomplished by personal delivery or mail to the hearing officer's address and to the NCBVI Director, Nebraska Commission for the Blind and Visually Impaired, 4600 Valley Road, Suite 100, Lincoln, Nebraska 68510 and will be received during regular office hours of NCBVI.

004.08. After appointment of the hearing officer, the Director shall serve a copy of the petition and a Notice to File Responsive Pleading on each respondent listed in the petition personally or by first-class or certified mail. Certification of mailing of the legal document shall be filed with the Director. Each respondent who chooses to file a responsive pleading must do so within 20 calendar days from the date of personal service or the date of the Director's mailing of the petition.

004.09. All pleadings subsequent to the initial petition shall be served by the party filing such pleading upon all attorneys of record or other representatives of record and upon all unrepresented parties. Service shall be made personally or by first-class or certified mail. Written proof of such service shall be filed with the hearing officer with a copy to the Director.

004.10. A hearing date shall be set by the Director so that the hearing shall be held within sixty (60) calendar days of the filing of the petition unless the parties agree to a specific extension of time. A written notice of the time and place of hearing shall be served by the Director upon all attorneys of record or other representatives of record and upon all unrepresented parties, in the preferred format of all individuals. The notice must include a proof of such service and will be filed with the Director.

004.11. In computing time prescribed or allowed by this chapter of these rules and regulations or by any applicable statute in which the method of computing time is not specifically provided, days will be computed by excluding the day of the act or event and including the last day of the period. If the last day of the period falls on a Saturday, Sunday, or state holiday, the period shall include the next working day.

004.12. Unless the blind individual so requests or, in an appropriate case, the representative of such individual so requests, pending a decision of the hearing officer under this Chapter, NCBVI shall not institute a suspension, reduction, or termination of services being provided for the individual, including evaluation and assessment services and plan development, unless such services have been obtained through misrepresentation, fraud, collusion or criminal conduct on the part of the petitioner or his/her representative.

005. HEARING OFFICER; CRITERIA.

005.01. The Director shall appoint a hearing officer selected pursuant to 006 to conduct a prehearing conference and/or a hearing and submit a decision to the Director and the parties.

005.02. A person who has served as investigator, prosecutor, mediator or advocate in a contested case or in its prehearing stage may not serve as hearing officer or assist or advise a hearing officer in the same proceeding.

005.03. A person who is subject to the authority, direction, or discretion of one who has served as investigator, prosecutor, or advocate in a contested case or in its prehearing stage may not serve as hearing officer or advise a hearing officer in the same proceeding.

005.04. A person who is an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education) may not serve as a hearing officer.

005.04A. A person shall not be considered to be an employee of a public agency solely because the person is paid by NCBVI to serve as a hearing officer.

005.05. A member of the governing Board established pursuant to 29 U.S.C. 721 may not serve as a hearing officer.

005.06. A person who has been involved previously in the vocational rehabilitation of the applicant or recipient who is the subject of the hearing may not serve as a hearing officer.

005.07. A person who has participated in a determination of probable cause or other equivalent preliminary determination in a contested case may serve as hearing officer or assist or advise a hearing officer in the same proceeding.

005.08. A person may serve as hearing officer at successive stages of the same contested case.

005.09. A hearing officer shall have knowledge of the delivery of vocational rehabilitation services for the blind and visually impaired, NCBVI State Plan for Vocational Rehabilitation Services, and the federal and state rules governing the provision of such services, and training with respect to the performance of official duties.

005.10. A hearing officer shall have no personal or financial interest that would be in conflict with the objectivity of the individual.

006. SELECTION OF HEARING OFFICER.

006.01. The hearing officer shall be selected by the Director to hear a particular case either:

006.01A. On a random basis, or

006.01B. By agreement between:

006.01B1. The Director and the blind individual who is the subject of the hearing; or

006.01B2. In an appropriate case, the Director and the authorized representative who may be a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual.

006.02. The hearing officer shall be selected from among a pool of qualified persons identified jointly by:

006.02A. The Director of NCBVI,

006.02B. The members of the Board.

007. PREHEARING PROCEDURES.

007.01. PREHEARING CONFERENCES AND ORDERS. A hearing officer designated to conduct a hearing may hold a prehearing conference at the request of either party or on his or her own order. If a prehearing conference is not held, a hearing officer for the hearing may issue a prehearing order, based on the pleadings, to regulate the conduct of the proceedings.

007.01A. If a prehearing conference is conducted:

007.01A1. The hearing officer shall promptly notify the Director and the parties of the determination that a prehearing conference will be conducted. The Director may assign another hearing officer for the prehearing conference or the initial hearing officer may hold the prehearing conference; and

007.01A2. The hearing officer for the prehearing conference shall set the time and place of the conference and give reasonable written notice, in preferred format, to all parties and to all persons who have filed written petitions to intervene in the matter. The Director shall give notice to other persons entitled to notice.

007.01A3. The notice referred to in subsection 007.01A2 shall include the following:

007.01A3(a). The names and mailing addresses of all parties and other persons to whom notice is being given by the hearing officer;

007.01A3(b). The name, official title, mailing address, and telephone number of any counsel or employee who has been designated to appear for the agency;

007.01A3(c). The official file or other reference number, the name of the proceeding, and a general description of the subject matter;

007.01A3(d). A statement of the time, place, and nature of the prehearing conference;

007.01A3(e). A statement of the legal authority and jurisdiction under which the prehearing conference and the hearing are to be held;

007.01A3(f). The name, official title, mailing address, and telephone number of the hearing officer for the prehearing conference;

007.01A3(g). A statement that a party who fails to attend or participate in a prehearing conference, hearing, or other stage of a contested case or who fails to make a good faith effort to comply with a prehearing order may be held in default under the Administrative Procedure Act; and

007.01A3(h). Any other matters that the hearing officer considers desirable to expedite the proceedings.

007.01B. The hearing officer shall conduct a prehearing conference, as may be appropriate, to deal with such matters as exploration of settlement possibilities, preparation of stipulations, clarification of issues, rulings on identity and limitation of the number of witnesses, objections to proffers of evidence, determination of the extent to which direct evidence, rebuttal evidence, or cross-examination will be presented in written form and the extent to which telephone, television, or other electronic means will be used as a substitute for proceedings in person, order of presentation of evidence and cross-examination, rulings regarding issuance of subpoenas, discovery orders, and protective orders, and such other matters as will promote the orderly and prompt conduct of the hearing. The hearing officer shall issue a prehearing order incorporating the matters determined at the prehearing conference.

007.01C. The hearing officer may conduct all or part of the prehearing conference by telephone, television, or other electronic means if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

007.02. DISCOVERY IN CONTESTED CASES.

007.02A. The hearing officer or a designee, at the request of any party or upon the hearing officer's own motion, may issue subpoenas, discovery orders, and protective orders in accordance with the rules of civil procedure except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court.

007.02B. Any prehearing motion to compel discovery, motion to quash, motion for protective order or other discovery-related motion shall:

007.02B1. Quote the interrogatory, request, question, or subpoena at issue, or be accompanied by a copy of the interrogatory, request, subpoena or excerpt of a deposition;

007.02B2. State the reasons supporting the motion;

007.02B3. Be accompanied by a statement setting forth the steps or effort made by the moving party or his or her counsel to resolve by agreement the issues raised and that agreement has not been achieved; and

007.02B4. Be filed with the hearing officer with a copy to the Director. The moving party must also serve copies of all such motions to all parties to the contested case.

007.02C. Other than is provided in subsection 007.02B4 above, copies of discovery materials need not be filed with the Director.

007.03. CONTINUANCES. Except for the time limitation in subsection 004.10, the hearing officer may, in his or her discretion, grant reasonable extensions of time or continuances of hearings at the timely request of any party for good cause shown. A party must file a written motion for continuance which states in detail the reasons why a continuance is necessary and serve a copy of the motion on all other parties, in the preferred format of each party.

007.03A. GOOD CAUSE. Good cause for an extension of time or continuance may include, but is not limited to, the following:

007.03A1. Illness of the party, legal counsel, representative, or witness;

007.03A2. A change in legal representation; or

007.03A3. Settlement negotiations are underway.

007.04. AMENDMENTS.

007.04A. A petition may be amended at any time before an answer is filed or is due if notice is given to the respondent or his or her attorney. In all other cases, a petitioner must request permission to amend from the hearing officer.

007.04B. A hearing officer may also allow, in his or her discretion, the filing of supplemental pleadings alleging facts material to the case occurring after the original pleadings were filed. A hearing officer may also permit amendment of pleadings where a mistake appears or where amendment does not materially change a claim or defense.

007.05. INFORMAL DISPOSITION. Unless otherwise precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default

008. CONDUCTING A CONTESTED CASE HEARING.

008.01. ORDER. At the discretion of the hearing officer, the hearing may be conducted in the following order:

008.01A. The hearing is called to order by the hearing officer. Any preliminary motions, stipulations or agreed orders are entertained.

008.01B. Each party may be permitted to make an opening statement. Opening statements take place in the same order as the presentation of evidence.

008.01C. Presentation of evidence.

008.01C1. Evidence will be received in the following order:

008.01C1(a). Evidence is presented by the petitioner;

008.01C1(b). Evidence is presented by the respondent;

008.01C1(c). Rebuttal evidence is presented by the petitioner; and

008.01C1(d). Surrebuttal evidence is presented by the respondent.

008.01C2. With regard to each witness who testifies, the following examination may be conducted:

008.01C2(a). Direct examination conducted by the party who calls the witness;

008.01C2(b). Cross-examination by the opposing party;

008.01C2(c). Redirect examination by the party who called the witness; and

008.01C2(d). Recross-examination by the opposing party.

008.01D. After the evidence is presented, each party may have the opportunity to make a closing argument. Closing arguments shall be made in the same order as the presentation of evidence. The hearing officer may request that the parties submit briefs in lieu of closing argument.

008.02. EVIDENCE.

008.02A. In contested cases the hearing officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs and may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

008.02B. Any party to a contested case from which a decision may be appealed to the courts of this state, may request that the hearing officer be bound by the rules of evidence applicable in district court by delivering to the hearing officer at least three (3) calendar days prior to the holding of the hearing a written request therefore. Such request shall include the requesting party's agreement to be liable for the payment of costs incurred thereby and upon any appeal or review thereof, including the cost of court reporting services which the requesting party shall procure for the hearing.

008.02C. Documentary evidence may be received in the form of copies or excerpts or incorporated by reference.

008.02D. All evidence including records and documents in the possession of the hearing officer of which he or she desires to avail himself or herself shall be offered and made a part of the record in the case. No factual information or evidence other than the record shall be considered in the determination of the case.

008.02E. A hearing officer or designee may administer oaths and issue subpoenas in accordance with the rules of civil procedure except as may otherwise be prescribed by law. Subpoenas and orders issued under this subsection may be enforced by the district court.

008.02F. The hearing officer shall give effect to the rules of privilege recognized by law.

008.02G. The hearing officer may take official notice of cognizable facts and in addition may take official notice of general, technical, or scientific facts within his or her specialized knowledge and the rules and regulations adopted and promulgated by NCBVI.

008.02G1. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of materials so noticed.

008.02G2. Parties shall be afforded an opportunity to contest facts so noticed

008.02G3. The record shall contain a written record of everything officially noticed.

008.02H. The hearing officer may utilize his or her experience, technical competence and specialized knowledge in the evaluation of the evidence presented to.

008.03. CONDUCTING THE HEARING BY ELECTRONIC MEANS. The hearing officer may conduct all or part of the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

008.04. HEARING OFFICER'S DECISION. Within thirty (30) calendar days of the completion of the hearing, the hearing officer shall make a decision and provide a full written report of the findings and grounds for the decision to the petitioner, his or her attorney of record and/or petitioner's representative, and the Director by U.S. certified mail return receipt requested. Such report must be provided in preferred format for each party.

008.04A. The written report shall meet the requirement of 009.

008.04B. The hearing officer's decision shall be based on the approved NCBVI State Plan for Vocational Rehabilitation Services, the Rehabilitation Act of 1973, as amended and the regulations promulgated pursuant to it, Nebraska Revised Statute Sections 71-8601 to 71-8616 and 192 NAC 1.

008.04C. The hearing officer's decision is the final decision.

008.05. OFFICIAL RECORD.

008.05A. NCBVI shall prepare an official record, which shall include testimony and exhibits, in each contested case, but it shall not be necessary to transcribe the record of the proceedings unless requested for purpose of rehearing or appeal, in which event the transcript and record shall be furnished by NCBVI upon request and tender of the cost of preparation.

008.05B. NCBVI shall maintain an official record of each contested case under this Chapter for at least four years following the date of the final order.

008.05C. NCBVI record shall consist only of the following:

008.05C1. Notices of all proceedings;

008.05C2. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from NCBVI or hearing officer or Director pertaining to the contested case;

008.05C3. The record of the hearing before NCBVI, including all exhibits and evidence introduced during such hearing, a statement of matters officially noticed by the hearing officer during the proceeding, and all proffers of proof and objections and rulings thereon; and

008.05C4. The final order of the hearing officer.

008.05D. As provided in 002.03, the hearing officer who receives or who makes or knowingly causes to be made an ex parte communication as set forth in that subsection shall make the appropriate filings which shall be included in the official record of the contested case.

008.05E. Except to the extent that the Administrative Procedures Act or another statute provides otherwise, NCBVI record shall constitute the exclusive basis for NCBVI action in contested cases under the act and for judicial review there

008.06. COSTS. Each party shall pay his or her own costs to appeal the final decision.

009. DECISION AND ORDER IN A CONTESTED.

009.01. Every decision and order rendered by the hearing officer in a contested case shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law.

009.02. The decision and order of the hearing officer should include:

009.02A. The name of the hearing officer and name of the proceeding;

009.02B. The time and place of the hearing;

009.02C. The names of all parties or their attorneys who entered an appearance at the hearing;

009.02D. The findings of fact consisting of a concise statement of the conclusions upon each contested issue of fact;

009.02E. The conclusions of law consisting of the applications of the controlling law to the facts found and the legal results arising therefrom; and

009.02F. The order consisting of the action to be taken by NCBVI as a result of the facts found and the legal conclusions arising therefrom.

009.03. Parties to the proceeding shall be notified of the decision and order in person or by mail, in the individual's preferred format. A copy of the decision and order and accompanying findings and conclusions shall be delivered or mailed upon request to each party or his or her attorney of record, in the preferred format of all individual

010. APPEALS.

010.01. Any person aggrieved by a final decision in a contested case is entitled to judicial review under the Administrative Procedure Act or to resort to such other means of review as may be provided by

010.02. Parties desiring to appeal a NCBVI decision must file a petition for review in the district court of the county where the NCBVI action is taken within thirty (30) days after the service of the final decision by NCBVI. The thirty (30) day period for appeal commences to run from the date of mailing of the notice of order and decision to the parties or their attorneys of record. Service of the petition and summons must be made in accordance with Nebraska law.

010.03. Unless otherwise provided by statute, the procedures of Nebraska Revised Statute 84-917 govern the procedure for taking an appeal.

010.04. If any person appeals the final decision of the hearing officer, the final decision involved shall be implemented pending review by the court.

TITLE 192
CHAPTER 2

APPENDIX A: SAMPLE PETITION FORM

BEFORE THE NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
STATE OF NEBRASKA

_____)	CASE NO. _____
(Name))	
_____)	
(Address))	PETITION
_____)	
Petitioner,)	
vs.)	
Nebraska Commission for the Blind and)	
Visually Impaired)	
4600 Valley Road, Suite 100)	
Lincoln, NE 68510)	
Respondent.)	

Petitioner, in accordance with Title 192, Chapter 2, of the Nebraska Administrative Code, states and alleges as follows:

1. (Explain in a short and general statement why you are dissatisfied with the written determination)

2. (Explain why the Petitioner is entitled to the remedy request)

3. Concisely set forth all material facts upon which the petition is based and attach, as an exhibit, a copy of the written determination.)

WHEREFORE, Petitioner requests that the Director

(state remedy sought)

Dated this _____ day of _____,

(Signature)

(If attorney for petitioner, list address)

Appendix B

Nebraska Commission for the Blind and Visually Impaired

Mediation Procedures

Established procedures will be followed for mediation of determinations made by NCBVI personnel that affect the provision of vocational rehabilitation services to applicants or eligible individuals. An agreement has been formalized between NCBVI and the Nebraska Office of Dispute Resolution (NODR) and Regional Mediation Centers for the provision of Mediation Services. NODR, established in accordance with the Nebraska Dispute Resolution Act, is an office under the Nebraska State Supreme Court.

When the Impartial Hearing Coordinator receives a hearing request, the Impartial Hearing Coordinator will send the individual requesting the hearing a letter immediately with the following information:

- a. Mediation is voluntary on the part of the individual and NCBVI.
- b. Mediation is available whenever a Fair Hearing is requested.
- c. The use of mediation will not be used to deny or delay the rights of an individual in regards to the requested impartial hearing and in regards to any right under the Rehabilitation Act.
- d. Mediation will be conducted by a qualified, impartial mediator knowledgeable in laws and regulations relating to the provision of vocational rehabilitation services for the blind, through the Regional Mediation Centers in Nebraska. A list of the Mediation Centers will be provided, including the counties they serve.
- e. Sessions will be scheduled in a timely manner and will be held in a location that is convenient to the parties to the dispute.
- f. NCBVI will cover the costs of the mediation process.
- g. The individual has five (5) days from the date of receiving the letter to request mediation from the appropriate Mediation Center should he/she choose to do so.
- h. An agreement reached by the parties to the dispute in the mediation process will be set forth in a written mediation agreement.
- i. Discussions that occur during mediation are confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding. The parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the mediation process.

Should both sides agree to mediation, the Mediation Center will make the appropriate

arrangements. The Centers require two weeks to set up the mediation; the process is completed within 27 days. NCBVI will pay for any accommodations needed and will pay on an hourly rate for cases referred to a Center.

**TITLE 192 (NAC)-NEBRASKA ADMINISTRATIVE CODE
NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
CHAPTER 3- BLIND VENDOR PROGRAM**

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**TITLE 192 (NAC)-NEBRASKA ADMINISTRATION CODE
NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
CHAPTER 3- BLIND VENDOR PROGRAM**

001. SCOPE AND AUTHORITY. The regulations govern the Blind Vendor's Program, which was created by the Randolph-Sheppard Act.

001.01. This program seeks to aid blind persons by providing needed rehabilitation and employment opportunities, to enable blind persons to achieve remunerative employment, to enlarge economic opportunities of blind persons, and to stimulate blind persons to greater self-sufficiency. The program aims to improve the image of blind persons by giving them the opportunity to interact with their community while providing a necessary service.

001.02. These regulations are authorized by the Nebraska vocational rehabilitation small business enterprises statutes, Nebraska Revised Statutes Sections 71-8610 to 71-8613, and Sections 71-8615 and 71-8616 and meet the requirements of the Randolph-Sheppard Act, 20 U.S.C. § 107 et seq., and federal regulations at 34 CFR 395.

002. DEFINITIONS.

002.01. ACTIVE PARTICIPATION shall mean the informed involvement that allows meaningful input into State Licensing Agency decisions. Active participation does not mean joint or equal decision-making authority. An ongoing process of negotiations between the State Licensing Agency and the Committee of Blind Vendors to achieve joint planning and approval of program policies, standards, and procedures affecting the overall operation of the vending facility program, prior to their implementation by the State Licensing Agency. The State Licensing Agency has the final authority for the administration of the vending facility program.

002.02. BLIND LICENSEE PERSON shall mean a person licensed by the State Licensing Agency to operate a vending facility on federal or other property, a person who, after examination by a physician skilled in diseases of the eye or by an optometrist, at the applicant's option, has been determined to have:

002.02A. Not more than 20/200 central visual acuity in the better eye after correction; or

002.02B. An equally disabling loss of the visual field in which the widest diameter subtends an angle no greater than 20 degrees (34 CFR 395.1).

002.03. BLIND VENDORS COMMITTEE shall mean the Committee created and defined in Section 006, pursuant to 20 U.S.C. 107b-1.

002.04. FEDERAL PROPERTY shall mean any building, land, or other real property owned, leased, or occupied by any department, agency or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States (34 CFR 395.1).

002.05. FINAL ADMINISTRATIVE DECISION shall mean, for purposes of federal court judicial review, the decision rendered by the Secretary of Education upon appeal as provided in 013.02; Evidentiary Hearings and Arbitrations of Vendor Complaints.

002.06. MANAGEMENT SERVICES shall mean supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors (34 CFR 395.1). Management services do not include those services or costs which pertain to the ongoing operation of the individual facility after the initial establishment.

002.07. NET PROCEEDS shall mean the amount remaining from the sale of articles or services of vending facilities, and any vending machines, or other income accruing to blind vendors after deducting the cost of such sale and other expenses (excluding set-aside charges required to be paid by such blind vendors) (34 CFR 395.1).

002.08. OTHER PROPERTY shall mean property which is not federal property and on which vending facilities are established or operated by the use of any funds derived in full or in part, directly or indirectly, from the operation of vending facilities on any Federal property (34 CFR 395.1).

002.09. PERMIT shall mean the official approval given the State Licensing Agency by a department, agency or instrumentality in control of the maintenance, operation, and protection of federal property, or persons in control of other property, whereby the State Licensing Agency is authorized to establish a vending facility- (34 CFR 395.1).

002.10. SET-ASIDE FUNDS shall mean funds that accrue to a State Licensing Agency from an assessment against the net proceeds of each vending facility in the state's vending facility program and any income from vending machines on federal property that accrues to the State-Licensing Agency.(34 CFR 395.1). Contributions to set-aside funds shall not be deducted from receipts when calculating net proceeds or net profits.

002.11. STATE LICENSING AGENCY (SLA) shall mean the Nebraska Commission for the Blind and Visually Impaired.

002.12. VENDING FACILITY shall mean shelters, counters, shelving, display and wall cases, refrigerating apparatus, and other appropriate auxiliary equipment necessary for the vending of articles approved by the office, agency, or person having control of the property on which the vending facility is located; and manual or coin-operated vending machines or similar devices for vending articles approved by the office, agency, or person having control of the property on which the vending facility is located. Automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, food, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of changes for any lottery authorized by state law and conducted by an agency of a state within such state (34 CFR 395.1).

002.13. VENDING MACHINES shall mean for the purpose of assigning vending machine income, a coin or currency machine which dispenses articles or services, except those machines operated by the United States Postal Service for the sale of postage stamps or other postal products and services, machines providing services of a recreational nature, and telephones shall not be considered to be vending machines (34 CFR 395.1).

002.14. VENDING MACHINE INCOME shall mean receipts (other than those of a blind vendor) from vending machine operations on federal property, after deducting the cost of goods sold (including reasonable service and maintenance costs in accordance with customary business practices of commercial vending concerns), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, or commissions paid (other than to a blind vendor) by a commercial vending concern which operates, services, and maintains vending machines on federal property for, or with the approval of, a department, agency, or instrumentality of the United States. (34 CFR 395.1).

003. ISSUANCE OF LICENSES.

003.01. REQUIREMENT FOR LICENSING. The State Licensing Agency may issue licenses to those persons meeting the following requirements:

003.01A. Blind as defined by these rules and regulations under 002.02;

003.01B. Citizen of the United States;

003.01C. Certified by the State Vocational Rehabilitation Agency as qualified to operate a vending facility; and

003.01D. At least 19 years of age.

003.02. QUALIFICATIONS FOR TRAINING. To be eligible for selection, training, and licensing as a vendor, an individual must give evidence of being or able to become:

003.02A. Having the knowledge and ability to grasp the fundamentals of vending facility operation;

003.02B. Maintain personal grooming and manners as to be able to meet and interact effectively with the public;

003.02C. Honest and careful in handling sums of money;

003.02D. Willing to work hard to advance in the vending facilities program, improve business, and develop maximum vocational potential;

003.02E. Competent in maintaining business records and accounts;

003.02F. Able to control inventory;

003.02G. Able to work with other business persons, including supervisors, jobbers and others in the business community;

003.02H. Able to recognize and where reasonably feasible, correct machine problems;

003.02I. Able to reflect favorably on the competence of blind persons in the eyes of the public by handling business and relations with the public in a competent manner.

003.03. PREFERENCE TO BLIND PERSONS IN NEED OF EMPLOYMENT. The State Licensing Agency, in issuing licenses to operate vending facilities, shall give priority to blind persons who are in need of employment.

003.04. DURATION AND TERMINATION OF LICENSES. The State Licensing Agency shall issue all licenses for an indefinite period, subject to suspension or termination by the SLA if, after affording the vendor an opportunity for a full evidentiary hearing as provided under 013; Evidentiary Hearings and Arbitrations of Vendor Complaints the SLA finds that the facility is not being operated in accordance with its rules and regulations, the terms and conditions of the permit, and the terms and conditions of the agreement with the blind vendor (pursuant to Section 010; Operating Agreements; ref. Appendix A).

003.04A. A license may be terminated or suspended for any of the following reasons:

003.04A1. Improvement of vision so that the vendor no longer meets the definition of blindness found in these regulations;

003.04A2. Failing to personally operate the assigned facility as set forth in the permit or contract for any reason, unless approved in writing by the SLA;

003.04A3. Any leave, sick or vacation, requires notification of the SLA to prevent consideration of abandonment. Any unexplained or unexcused absence for more than five days shall be considered as abandonment and failing to personally operate the assigned facility unless another person is covering the business and approved by the SLA. Extended illness of more than thirty (30) days resulting in incapacity of the vendor to operate the vending facility must be documented, and reviewed by the SLA Director for possible reassignment of the facility; or,

003.04A4. Evidence that the vendor does not meet one or more of the criteria under 003.01 and 003.02.

003.04A5. Failure to submit the required monthly reports, to the SLA by the 20th of the succeeding month, in two consecutive months or for three or more months in a 12 month period.

003.04A5(a). THE BLIND VENDORS COMMITTEE may review reports from the SLA of such failure and actively participate with respect to potential administrative action to be taken.

003.04B. Administrative Actions will be imposed on the vendor for any of the above reasons according to policy decisions recommended by in accordance with active participation of the Blind Vendors Committee and approved by the SLA; as follows:

003.04B1. Written reprimand;

003.04B2. Corrective action plan;

003.04B3. Probation;

003.04B4. Loss of Facility;

003.04B5. Termination.

003.04C. A license may not be sold or assigned and will automatically terminate upon the death of the blind vendor.

004. VENDING FACILITY EQUIPMENT AND INITIAL STOCK.

004.01. FURNISHING OF FACILITY EQUIPMENT AND INITIAL STOCK. The State Licensing Agency shall provide adequate and suitable equipment necessary for the operation of each vending facility. The SLA shall also furnish each facility with the initial stock of merchandise to establish the facility.

004.02. OWNERSHIP OF FACILITY EQUIPMENT AND STOCK: All initial vending facility equipment and stock purchased by the state is and shall remain the property of the State of Nebraska while it is being used in the vending facility program, unless otherwise provided by Nebraska law.

005. MAINTENANCE AND REPLACEMENT OF EQUIPMENT.

005.01. SLA SHALL MAINTAIN AND REPLACE. The State Licensing Agency shall maintain (or cause to be maintained) all vending facility equipment in good repair and in an attractive condition and shall replace or cause to be replaced worn-out and obsolete equipment as required to ensure the continued successful operation of the facility.

005.02. VENDOR SHALL TAKE REASONABLE CARE AND MAKE MINOR REPAIRS. Each vendor, as a part of his or her day-to-day duties, shall take reasonable care of the equipment in his or her vending facility and, notwithstanding anything in 005.01, is responsible for routine maintenance and minor repairs, provided that no expenses are incurred by the vendor.

006. THE COMMITTEE OF BLIND VENDORS.

006.01. COMPOSITION OF COMMITTEE. The State Licensing Agency shall form a State Committee of Blind Vendors consisting of a minimum of five members (pursuant to current Bylaws of the Committee) to be elected at a general meeting of all vendors in May of each odd-numbered year. As much as possible, membership must be representative of vendor population in terms of such factors as geography, gender, and vending facility type with a goal of providing for proportional representation of blind vendors on federal property and blind vendors on other property.

006.02. VOTING. Every vendor licensed by the State Licensing Agency is entitled to vote and no vendor may be denied his or her vote for the nonpayment of dues or any other dues or any other fees. If any vendor is not able to attend the meeting, the State Licensing Agency shall poll and record his or her vote before the election becomes final.

006.02A. Any licensed vendor may submit his or her name as a candidate for election to the Committee to the State Licensing Agency. The submissions must be received by the SLA no later than the last day of April. If five or more names have been submitted, the State Licensing Agency shall make the list of candidates available to all licensed vendors not later than the 7th day of May. If fewer than five names are submitted prior to the last day of April, the SLA shall consult with the existing Committee of Blind Vendors to

persuade one or more additional licensed vendors to be candidates for election to the Committee.

006.02B. Once five or more nominations have been submitted, the SLA shall prepare a ballot containing the names of all candidates. After review of the ballot for accuracy by the Committee of Blind Vendors, the SLA shall distribute ballots to all licensed blind vendors. Each vendor may vote for five or fewer candidates (or more pursuant to 006.01). The SLA shall certify the candidates with the highest total of votes as the elected Committee of Blind Vendors at the spring meeting. Ties will be broken by secret ballot or show of hands at the spring meeting. Any vendor may request Secret-Ballot ballots.

006.03. COMMITTEE SHALL CHOOSE OFFICERS: At the earliest convenient time, the elected members of the committee shall meet to choose officers.

006.04. MEETINGS WITH EXECUTIVE DIRECTOR. The committee shall meet with the Executive Director of the State Licensing Agency or his or her designated representative on at least a quarterly basis. Either the committee or the State Licensing Agency may request a special meeting at any time and, if agreed upon between the parties, the SLA shall arrange the meeting.

006.05. VACANCIES: In the event of a vacancy occurring on the committee, the State Licensing Agency shall promptly provide for an election, conducted by either mail or phone canvass, to fill the vacancy. The person elected to fill the vacancy shall serve for the unexpired portion of the term.

006.06. MINUTES. The appropriate officer of the committee shall keep the minutes of each regular and special meeting and make them available for public inspection in accordance with the Public Meeting Law; Nebraska Revised Statutes Section 84-1413 within ten working days after the meeting. The State Licensing Agency shall duplicate the minutes and distribute them to all vendors. If any vendor requests that minutes be provided in Braille, recorded or electronic format, the State Licensing Agency will fill that request.

006.07. OPEN MEETING. All meetings of the committee are open to the public in accordance with the Public Meeting Law, Nebraska Revised Statutes Section 84-1408, except as allowed in accordance with Nebraska Revised Statutes Section 84-1410.

006.08. QUORUM AND BYLAWS. For the purpose of transacting business, a quorum shall consist of a simple majority of the committee. The committee shall establish procedural by-laws in order to facilitate the conduct of meetings and other business.

006.09. RESPONSIBILITIES OF THE COMMITTEE. The Committee of Blind Vendors shall:

006.09A. Actively participate with the State Licensing Agency in major administrative decisions and policy and program development decisions affecting the overall administration of the Nebraska vending facility program;

006.09B. Receive and transmit to the State Licensing Agency any grievance of a blind vendor who so requests and serve as advocate for such vendor in connection with such grievance if the grievant so requests, as provided in 013; Evidentiary Hearing and Arbitration of Vendor Complaints.

006.09C. Actively participate with the State Licensing Agency in the administration of a system for the transfer and promotion of blind vendors as provided in 010; Transfer and Promotion of Vendors.

006.09D. Actively participate with the State Licensing Agency in the development of training and retraining programs for blind vendors;

006.09E. Sponsor, with the assistance of the State Licensing Agency, meetings and instructional conferences for blind vendors within the state;

006.09F. Actively participate with the State Licensing Agency in determining set-aside charges as provided in 007; Set-Aside Funds.

006.09G. Actively participate with the State Licensing Agency in developing operating agreements as provided in 010; Operating Agreements.

006.09H. Carry out any similar functions that the committee and/or the State Licensing Agency find appropriate.

007. SET-ASIDE FUNDS.

007.01. AMOUNT OF SET-ASIDE FUNDS: The State Licensing Agency shall determine annually with the active participation of the Committee of Blind Vendors, the percentage of the net proceeds of each vending facility that shall accrue to the State Licensing Agency.

007.02. USE OF SET-ASIDE FUNDS: The State Licensing Agency shall establish, with the active participation of the Committee of Blind Vendors, a set-aside schedule which covers the purposes for which any and all set-aside funds are used and the method of determining the charge for each intended purpose.

007.02A. Funds shall be set aside in accordance with this rule for any of the following purposes:

007.02A1. Maintenance and replacement of equipment;

007.02A2. Purchase of new equipment;

007.02A3. Management services;

007.02A4. Assuring a fair minimum return to vendors;

007.02A5. Establishment and maintenance of retirement or pension funds, health insurance, and paid sick leave, and/or vacation time, if it is so determined by a majority vote of blind vendors licensed by the State Licensing Agency, after such agency provides to each such vendor information on all matters relevant to such proposed purposes.

007.02B. The conditions of 007.02A5 having been satisfied, there is hereby established a retirement plan for blind vendors with contributions from each blind vendor who chooses to participate being matched with an equivalent approved contribution from the Small

Business Enterprise Cash Fund, said amount to be reviewed annually by the State Committee of Blind Vendors and the State Licensing Agency.

007.02C. Set-aside funds may not be used for any purpose not listed in 007.02A.

007.02D. The State Licensing Agency shall keep and maintain adequate record to support the reasonableness of each charge in the set-aside scheduled for each of the purposes listed in 007.02A. The State Licensing Agency shall submit any and all charges in the set-aside schedule to the Commissioner of the Federal Rehabilitation Services Administration for approval prior to taking effect.

007.02E. The State Licensing Agency shall design the set-aside scheduled to prevent, so far as is practicable, a greater charge for any purpose than is reasonably required. Allowances must be made for the retention of reasonable reserves necessary to assure that each such purpose can be provided on a continuing basis.

008. VENDING MACHINE INCOME.

008.01. INCOME ACCRUES TO STATE LICENSING AGENCY. All vending machine income from vending machines on federal property which is disbursed to the State Licensing Agency by a property managing department, agency or instrumentality of the United States under the vending machine income sharing provisions in 34 CFR 395) shall accrue to each blind vendor operating a vending facility on such federal property.

008.02. INCOME CEILING: The amount of the vending machine income accruing to an individual blind vendor is not to exceed the average net income of blind vendors within the state. The average net income must be determined each fiscal year on the basis of each prior year's operation, except:

008.02A. VENDING MACHINE INCOME shall not accrue to any blind vendor in any amount exceeding the average net income of blind vendors in the United States.

008.02B. NO BLIND VENDOR shall receive less vending machine income than he or she received during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this ceiling.

008.02C. NO LIMITATION WHEN MACHINES ARE PART OF A FACILITY. The State Licensing Agency shall not impose a limitation on income from vending machines combined to create a vending facility when such facility is maintained, serviced, or operated by a blind vendor.

008.02D. EXCESS RETAINED BY SLA. The State Licensing Agency shall retain vending machine income disbursed by a property managing department, SLA, or instrumentality of the United States in excess of the amounts eligible to accrue to blind vendors. The State Licensing Agency shall use the income for:

008.02D1. The establishment and maintenance of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation time for blind vendors, if it is so determined by a majority vote of the licensed vendors, after each vendor has been furnished information on all matters relevant to such purposes;

008.02D2. Any vending machine income not necessary for such purposes shall be used for one or more of the following: maintenance and replacement of equipment; purchase of new equipment; management services, and assuring a fair return to vendors; and that any assessment charged to blind vendors shall be reduced pro-rata in an amount equal to the total of such remaining vending machine income.

008.03. DISBURSEMENT AT LEAST QUARTERLY. The State Licensing Agency shall disburse vending machine income to blind vendors within the state on at least a quarterly basis and shall inform vendors of the disbursement schedule.

009. PERMITS TO OPERATE ON FEDERAL AND OTHER PROPERTY.

009.01. PERMIT TO OPERATE ON FEDERAL PROPERTY. The procedures at 34 CFR 395.16 and 395.35 shall govern the issuance of permits on federal property, with the exception of cafeterias on Federal property, governed by 34 CFR 395.33.

009.02. PERMIT TO OPERATE ON STATE PROPERTY. A permit shall be submitted to the on-site official responsible for the State property of each property managing department, agency or instrumentality of the State of Nebraska, with the exception of the Game and Parks Commission and the University of Nebraska. Said permit shall provide that a priority to operate the vending facility shall be granted by the property managing department so long as the SLA's bid contains proposed product prices comparable in price to the product prices in similar bids submitted for similar products sold in similar buildings on similar property, and similar components in bids for state contracts. Under no conditions can a permit on State property require the payment of rent to the State. In all other respects a permit to operate a vending facility on State property shall be as reasonably equivalent as practicable to a permit to operate a vending facility on Federal property.

009.03. PERMIT TO OPERATE ON CITY, COUNTY, OR MUNICIPAL PROPERTY. In its discretion, the SLA may submit a permit for vending facility operation on property owned or controlled by any county, city or municipality. Said permit is subject to the approval of the local governing body. Said permit shall provide that a priority to operate the vending facility shall be granted by the property managing department so long as the SLA's bid contains proposed product prices comparable in price to the product prices in similar bids submitted for similar products sold in similar buildings on similar property, and similar components in bids for state contracts. In all other respects a permit to operate a vending facility on State property shall be as reasonably equivalent as practicable to a permit to operate a vending facility on Federal property.

0010. OPERATING AGREEMENTS.

010.01. DEVELOPMENT. The State Licensing Agency shall develop, with the active participation of the Committee of Blind Vendors, an operating agreement to be entered into between the State Licensing Agency and each blind vendor (Appendix A).

010.02. PROVISIONS: The agreement must provide

010.02A. The duties of the vendor and the performance of such duties in accordance with standards for vendors, developed with the active participation of the Committee of Blind Vendors, and prescribed by the SLA and with any applicable health laws and regu-

lations of the federal or other SLA or organization in control of the site of the vending facility;

010.02B. The responsibilities of the SLA in providing management services and supervision to the vendor;

010.02C. That the vendor shall receive the net proceeds from the vending facility he or she operates;

010.02D. That the vendor shall furnish any reports that the SLA shall require;

010.02E. That the vendor may voluntarily terminate the operating agreement by notifying the SLA Executive Director at least thirty days prior to the termination if reasonably feasible;

010.02F. That the agreement shall terminate upon the failure of the vendor to operate the facility in accordance with applicable federal, state or local law or regulations or the provisions of the agreement after an opportunity for a hearing pursuant to 013; Evidentiary Hearings and Arbitration of Vendor Complaints if appropriate, or under any of the circumstances specified in 003.04.

011. TRANSFERS AND PROMOTION OF VENDORS.

011.01. NOTIFICATION TO ALL BLIND VENDORS. Whenever a new facility is to be established or a vacancy occurs in an existing facility, the State Licensing Agency shall notify all blind vendors in a reasonable time of the opening.

011.02. BIDDING FOR THE FACILITY OPENING. The State Licensing Agency shall establish a procedure whereby all blind vendors, if they so desire, may submit a bid to the State Licensing Agency requesting that they be placed in the available facility and

011.02A. The State Licensing Agency shall submit each bid received to the Committee of Blind Vendors for their recommendation.

011.02B. The Committee shall forward its recommendation to the State Licensing Agency in writing with the reasons for the recommendation. The State Licensing Agency shall review any recommendation for consideration, together with the reasons provided by the State Committee of Blind Vendors. In the event that the State Licensing Agency does not accept the recommendation of the Committee, it shall provide in writing to the Committee its reasons for not accepting its recommendations.

011.02C. In making its recommendations, the committee shall assess the qualifications of all those who have submitted bids according to any or all of the following criteria and any others that seem to be reasonably significant:

011.02C1. Length of experience as a vendor;

011.02C2. Demonstrated business competence;

011.02C3. Need for income improvement;

011.02C4. Dependability; and

011.02C5. Honesty.

011.02D. THE COMMITTEE may, if it chooses, interview any candidates who submit bids and may be granted access to financial records of any applicant who gives written permission.

011.03. APPEAL. Any individual who has bid and has not been successful may utilize the procedures for appealing State Licensing Agency decisions found in these regulations.

011.04. NOTICE TO ELIGIBLE CANDIDATES. Vocational Rehabilitation Counselors of the SLA will give notice of any remaining openings to eligible persons who are interested in becoming a blind vendor. Training pursuant to Section 011 will be required to enter the program.

012. TRAINING IN THE BLIND VENDOR PROGRAM.

012.01. TRAINING PROVIDED TO BLIND PERSONS. The State Licensing Agency shall provide training to all blind persons with the capacity and desire to operate a vending facility program, including on-the-job training in all aspects of vending facility operation. Such training may be a part of the general rehabilitation program and all training must be part of the Individualized Plan for Employment of the candidate and must be developed on an individual basis. The prospective trainee will be evaluated for blindness and math skills necessary to accomplish the objectives of Section 003.02. Training will be provided in areas identified as needing further instruction. Examples of further instruction include, but are not limited to the following: mobility, braille, computer, life skills, bookkeeping, math, and vending repair. The training for each individual shall include a probationary period not to exceed 90 days after the individual is placed in a vending facility, during which time there must be written evaluations of progress on at least a monthly basis. At the end of this probationary period, subject to satisfactory results of the periodic evaluations, the State Licensing Agency shall issue a license to operate the vending facility, in accordance with applicable rules and an operator's agreement.

012.03. ASSISTANCE OF VENDORS. The State Licensing Agency shall provide further training to the extent feasible to any vendor who contacts the State Licensing Agency with an individual problem concerning the operation of his or her vending facility.

012.04. RIGHT TO APPEAL. Any vendor shall have the right to appeal a decision by the State Licensing Agency, as provided in 013, Evidentiary Hearings and Arbitration of Vendor Complaints, regarding the vendor's need of additional education or training.

013. EVIDENTIARY HEARINGS AND ARBITRATION OF VENDOR COMPLAINTS.

013.01. AUTHORIZATION FOR A FULL EVIDENTIARY HEARING. Any blind vendor who feels aggrieved by an action of the State Licensing Agency directly affecting him or her may file a grievance in writing with the Executive Director of the State Licensing Agency for a full evidentiary hearing before an individual or panel comprised of one designee of the SLA's Executive Director, one designee of the grievant, and one neutral party, agreed upon by both.

013.01A. Such a hearing shall include representation by counsel for the vendor at the vendor's expense, if desired; an opportunity for witnesses to testify; cross-examination of witnesses; and a written or recorded decision explaining why the grievance was either denied or granted; and shall conform to the requirements of Nebraska's Administrative Procedures Act, Nebraska Revised Statutes Section 84-901 et. seq.

013.01B. The State Licensing Agency shall hold the hearing at a reasonable time, not to exceed 30 days following the filing of the grievance by the vendor. The SLA shall give reasonable notice to the vendor of the time and place of the hearing, which may be postponed for good cause by the Panel or by mutual agreement of the parties.

013.01C. Should the aggrieved blind vendor so desire, he or she may first submit the grievance to the Committee of Blind Vendors requesting the Committee to act as his or her advocate in the matter. The aggrieved blind vendor may appear in person before the Committee, meeting specifically to hear the grievance, or may submit the grievance to the Committee in writing or in some recorded form (including braille or digital format).

013.01C1. The grievant may call upon others to testify in his or her behalf to the extent that the Committee of Blind Vendors deems it necessary to establish the facts of the situation. If such testimony should be relevant to the grievance, the Committee may exclude evidence that is needlessly cumulative.

013.01C2. The Committee of Blind Vendors shall review the written statement, if any, from the SLA announcing the action to the vendor who is appealing.

013.01C3. After reviewing all relevant facts, the Committee of Blind Vendors shall forward the grievance to the Executive Director of the SLA together with its recommendation as to disposition. The Committee of Blind Vendors may recommend anything from outright rejection of the grievance to acceptance of said grievance and reversal of the original action.

013.01C4. The Committee of Blind Vendors may seek to negotiate a reconciliation between the parties or it may act as advocate for the vendor.

013.01C5. On receipt of a grievance from the Committee of Blind Vendors, the State Licensing Agency shall respond in a reasonable time, not to exceed five working days, to the recommendation by either reaffirming, reversing or modifying its original action.

013.01C6. The Committee may meet in closed session only in accordance with Nebraska Revised Statute 84-1410.

013.02. APPEAL TO THE SECRETARY. If the aggrieved blind vendor is dissatisfied with the outcome of this hearing decision rendered subsequent to the full evidentiary hearing, he or she may file a complaint with the Secretary of Education. The complaint shall include all available supporting documents including the decision rendered at the hearing and the reasons in support thereof. The appeal shall be conducted in accordance with the federal rules of 34 CFR 395.

013.03. CONSENT FOR RELEASE OF INFORMATION. The filing of a complaint under this rule with either the State Licensing Agency or the Secretary shall indicate consent by

the blind vendor for the release of such information as is necessary for the conduct of a full evidentiary hearing or the hearing of an ad hoc arbitration panel.

014. ACCESS TO PROGRAM AND FINANCIAL INFORMATION.

014.01. SLA ALLOWS VENDORS ACCESS TO FINANCIAL DATA. The State Licensing Agency shall provide each blind vendor access to all financial data of the State Licensing Agency relevant to the operation of the state vending facility program. Such data shall include quarterly and annual financial reports, but shall not include individual vendor's financial transactions or income. Such data may include vending facility gross income.

014.02. AVAILABLE IN ACCESSIBLE FORMAT. Insofar as practicable, the State Licensing Agency shall make such data available in the individual's preferred format to include print, large print, braille, electronic audio and text formats, as requested.

014.03. SLA ASSISTS VENDORS IN INTERPRETATION. At the request of a blind vendor, the State Licensing Agency staff shall arrange a time convenient to both parties to assist the blind vendor in the interpretation of such financial data.

015. NOTIFICATION TO VENDORS OF THEIR RIGHTS AND RESPONSIBILITIES.

015.01. DUTY OF STATE LICENSING AGENCY. The State Licensing Agency shall furnish to each blind vendor a copy of these rules and regulations and any amendments thereto, a written description of the arrangements for providing services and the agreement and permit covering the operation of the vending facility.

015.2. SLA ASSISTS VENDOR IN INTERPRETATION. At the request of a blind vendor, the State Licensing Agency staff shall arrange a time convenient to both parties to assist the blind vendor in the interpretation of the regulations, agreements or permits.

APPENDIX A

**AGREEMENT FOR OPERATION
OF A VENDING FACILITY
UNDER RANDOLPH-SHEPPARD ACT
BETWEEN**

THE Nebraska Commission for the Blind and Visually Impaired

STATE LICENSING

AGENCY AND _____, A LICENSED BLIND VENDOR

THIS AGREEMENT entered into this _____ day of _____, 20__ , by and between the Nebraska Commission for the Blind and Visually Impaired State Licensing Agency (hereinafter, SLA), and _____ licensed as a blind vendor under the Randolph-Sheppard program (hereinafter, vendor) by the SLA, WITNESSETH:

WHEREAS: the SLA has been granted a permit by _____, for the operation of a vending facility by a licensed blind vendor under the Randolph-Sheppard program (hereinafter, permit) on the (Federal property) (non-Federal property) located at _____, a copy of which permit is attached hereto and made a part hereof; and,

WHEREAS: the SLA has offered the vendor the opportunity to operate the vending facility under the terms and conditions hereinafter set forth; and

WHEREAS: the vendor has agreed to undertake the operation of the vending facility under the terms and conditions hereinafter set forth; and

WHEREAS: the parties do not intend to derogate in any way from responsibilities and rights imposed and granted by applicable Federal, State, or local laws or regulations by this agreement;

By and between _____, for the SLA

And _____, licensed vendor.

NOW, THEREFORE, in consideration of the premises, it is mutually agreed as follows:

A. THE SLA:

1. The SLA will equip the vending facility for carrying out the business authorized by the permit.
2. The SLA will furnish initial stocks of merchandise sufficient to enable the vendor to commence operating the business authorized by the permit. The SLA will also furnish the vendor with a complete inventory of all equipment and initial stocks.
3. The SLA will maintain the equipment at the vending facility in good repair, and will replace obsolete and worn out equipment as necessary.
4. The vendor assumes all responsibility of providing substitute help as may be necessitated by the vendor's absence because of illness, vacation, or otherwise. All substitute help shall be approved by the SLA. The salary of the person who substitutes for the vendor, or that of other emergency help, shall be charged to the vending facility where the service is performed, unless other provisions providing for vacation or sick leave are made available by the SLA.
5. The SLA will provide, or will provide for, supervisory and management services necessary for the efficient operation of the vending facility.

B. THE VENDOR:

1. The vendor will be responsible for having the vending facility open for business on the days and during the hours specified in the permit.
2. The vendor will operate the vending facility business on a cash basis except for such credit accounts as may be established or authorized by the SLA.
3. The vendor will be accountable to the SLA for the proceeds of the business of the vending facility, and will handle the proceeds, including payments to suppliers and deposits of funds, in accordance with instructions from the SLA.
4. The vendor will carry on the business of the vending facility in compliance with applicable health laws and regulations.
5. The vendor will maintain a neat business-like appearance while working at the vending facility, and will conduct the facility in an orderly, business-like manner.
6. The vendor will take proper care of the equipment of the vending facility, and will make alterations or changes therein only with the written approval of the SLA.
7. The vendor will notify the SLA a reasonable time in advance of taking any voluntary leave from the vending facility, and as soon as possible with respect to any involuntary leave.
8. The vendor will keep such records and make such reports as the SLA shall require.

C. GENERAL:

1. The business to be carried on at the vending facility will be limited to that specified and authorized in the permit.
2. The right, title, and interest in and to the equipment of the vending facility and the stock in trade, are vested in the SLA, and will be left at the vending facility or turned over to the SLA on the termination of this agreement for any reason by either of the parties. In such an event the fair market value of the vendor's interest will be determined by the SLA and paid to the vendor or to the vendor's heirs or assignees.
3. The monthly income of the vendor shall be the net profits of the business of the vending facility for the period in question, less the funds which must be set aside, as established in writing by the SLA pursuant to 34 CFR 395.9 (as amended 1987).
4. Rebates, commissions, or bonuses received by the vendor from suppliers are, and must be accounted for as, income of the vending facility. Under no circumstances are such funds to be treated as the separate, personal funds of the vendor.
5. Merchandise taken from the stock in trade of the vending facility by the vendor for their own use shall be accounted for by the vendor and paid for at costs prices.

SLA Representative Signature

Vendor Representative Signature

Printed Name

Printed Name

Date

Date

**TITLE 192 (NAC) NEBRASKA ADMINISTRATIVE CODE
NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
CHAPTER 4 - WORKPLACE POLICIES**

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**TITLE 192 (NAC) NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
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Definitions	§ 71-8605	Section 002
Employee Recognition Program	§ 71-8605	Section 012
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APPENDIX

United States Department of Education 34 CFR Part 361 State Vocational Rehabilitation Services Program

**TITLE 192 (NAC) NEBRASKA ADMINISTRATIVE CODE
NEBRASKA COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
Chapter 4 - WORKPLACE POLICIES**

01. COVERAGE.

001.01. COLLECTIVE BARGAINING AGREEMENT. NCBVI employees included in collective bargaining units may have provisions that differ from those in this rule covering salary, benefits and other terms and conditions of employment. In cases where there is a discrepancy, the collective bargaining agreement prevails. The Business Manager III has a listing of which positions are covered by a collective bargaining agreement.

001.01A. Employees in bargaining units represented by the Nebraska Association of Public Employees, Local 61 of the American Federation of State, County and Municipal Employees (NAPE/AFSCME) are covered by these rules except as specifically covered by the applicable NAPE/AFSCME contract with the State of Nebraska.

001.02. NEBRASKA DEPARTMENT OF ADMINISTRATIVE SERVICES RULES AND REGULATIONS. Supervisors and other exempt NCBVI employees, except those whose positions are created as discretionary pursuant to Nebraska Revised Statute 71-8605, are covered by the Nebraska Classified System Personnel Rules and Regulations (Personnel Rules). If there is any discrepancy, the Personnel Rules prevail for those employees. Employees subject to the Personnel Rules are covered by these rules except where language therein applies.

001.03. NCBVI RULES AND POLICIES. These rules shall not be construed as limiting, in any way, the power and authority of NCBVI to make policies governing the conduct of NCBVI employees and the performance of NCBVI functions, provided that such policies shall be consistent with, and limited by, the provisions of these rules and any collective bargaining agreements or Personnel Rules, which supersede all NCBVI Commission policies.

001.04. AVAILABILITY AND RESPONSIBILITY. Each employee has the right to examine these rules. Copies are available for examination in the Personnel Office (in print, Braille, and electronic audio or text formats) and posted on the NCBVI website (www.ncbvi.nebraska.gov). It is the responsibility of all NCBVI employees to know and understand the rules, regulations, and internal processes applicable to their work, including these rules, Personnel Rules, and the applicable NAPE/AFSCME labor contract.

002. DEFINITIONS.

002.01. BUSINESS MANAGER shall mean the Business Manager of the Nebraska Commission for the Blind and Visually Impaired.

002.02. CONSUMER/BLIND CONSUMER shall mean a person having sight that is so defective as to seriously limit his or her ability to engage in the ordinary vocations and activities of life (Nebraska Revised Statute 71-8603).

002.03. CUSTOMER shall mean a person, organization, or entity with whom NCBVI is engaged, including but not limited to clients, policy-makers, public and private entities and organizations, and the public at large.

002.04. DIRECTOR shall mean the Executive Director of the Nebraska Commission for the Blind and Visually Impaired.

002.05. EMPLOYEE shall mean any person who works for the Nebraska Commission for the Blind and Visually Impaired and receives a state payment warrant.

002.06. NCBVI shall mean the Nebraska Commission for the Blind and Visually Impaired (Nebraska Revised Statutes 71-8603).

003. MISSION AND CULTURE

003.01. MISSION: Empowering blind individuals, promoting opportunities, and building belief in the blind.

003.01A. NCBVI provides services enabling blind persons to achieve education or training, engage in the workforce, eliminate dependence on public support, and to be able to live independently, fully participating in all facets of life.

003.01B. Vision loss alone does not prevent people from living full, meaningful lives. Blind and visually impaired people can participate in everyday life with training in the alternative skills of blindness, confidence in themselves, and a positive understanding of blindness. Promoting greater awareness of the capabilities of blind people among employers, educators, family members, and the public in general can eliminate the attitudinal barriers that prevent blind persons from achieving personal, vocational and independent living goals.

003.02. CULTURE PRINCIPLES:

003.02A. COMMUNICATION. Communication means keeping people informed; listening actively; being open and accessible; and ensuring we are accurate, timely, and complete in all we say and write. Blind consumers, the people we work with and the public, should be able to perceive us as open and honest in our communication, believe that we hear and understand what they say, and consider us as a source of valid and reliable information that is easily accessible.

003.02B. COOPERATION, FLEXIBILITY AND ADAPTABILITY. Cooperation means a willingness to work with others in good faith; assisting them and accepting assistance from them. Blind consumers and other people we work with join us in seeking solutions and improvements.

003.02C. COLLABORATION AND TEAMWORK. Collaboration means a willingness and ability to work together with others as equals in the pursuit of common goals. Our consumers and the people we work with trust that we will work with them as partners in the pursuit of common goals.

003.02D. CUSTOMER SERVICE. Customer Service means responding to our customers in a respectful, timely, and effective manner. Our customers know we value them, their needs, and their perspectives.

003.02E. CONFIDENCE (JOB KNOWLEDGE AND PRODUCTIVITY). Confidence

means reliance on us to do our jobs effectively and efficiently with integrity and fairness. We do our jobs with commitment, professionalism, efficiency, and through accountable programs and accurate systems.

004. CODE OF CONDUCT.

004.01. SERVICE/PROFESSIONAL CONDUCT. NCBVI employees will implement all roles, relationships, and responsibilities of employment in a professional manner. All persons are entitled to expect NCBVI employees to be honest, trustworthy and respectful, and to take responsibility for upholding these standards of behavior. NCBVI employees measure their actions using these standards:

004.01A. NCBVI EMPLOYEES SHALL MAINTAIN PROFESSIONAL STANDARDS:

004.01A1. NCBVI employees will demonstrate only proper and unbiased involvement with clients. Personal relationships that conflict with the professional judgment and interests of NCBVI or the client are prohibited.

004.01A2. NCBVI employees' workplaces will portray professional standards.

004.01A3. NCBVI employees will maintain constructive oral and written communication with consumers, customers, the public, other professionals and other staff.

004.01A4. NCBVI employees will work to achieve and maintain proficiency at assigned duties.

004.01B. NCBVI employees shall uphold the highest level of integrity and impartiality:

004.01B1. NCBVI employees will ensure that personal relationships do not influence professional decisions, and avoid even the appearance of impropriety, bias, or conflict of interest.

004.01B2. NCBVI employees will immediately report to supervisors any situation where a conflict of interest could be perceived.

004.01B3. NCBVI employees will abide by state and federal laws and by the rules and regulations that cover their employment.

004.01B4. NCBVI employees will immediately report to supervisors any information that could impact an individual case, contract, or other NCBVI business.

004.01B5. NCBVI employees will understand that all work products developed on work time belong to NCBVI, and will not accept any outside financial gain or benefit.

004.02. EXPECTATIONS OF EMPLOYEE ATTENDANCE. Absenteeism and lateness detract from our ability to carry out the mission and cause an undue burden, as well as morale issues, for those employees who must fill in for absent or tardy employees. Regular, predictable attendance is an essential function of each job in NCBVI. Each employee has the responsibility to report to work promptly, as scheduled. Tardiness and unexcused absences may impact on transfer or promotion opportunities and may result in loss of pay or

disciplinary action.

004.03. EMPLOYEE DRESS. All NCBVI employees will maintain a high standard of personal appearance and grooming. The clothing worn on the job should reflect the requirements of the job and working conditions. Supervisors have the responsibility and authority to determine what attire reflects the requirements of the job and working conditions. Administrators may provide specific expectations to staff.

005. THE WORK PLACE.

005.01. EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION STATEMENT. Each employee regardless of title is expected to make a good faith effort to carry out this understanding and demonstrate appropriate behavior. Disparaging remarks, actions or materials making reference to race, religion, national origin, disability, color, gender, age, marital status or sexual orientation will not be tolerated. New employees will receive a copy of this statement, as one step in confirming the significance these values have in the workplace. Disciplinary action may be imposed for any such behavior in accordance with the applicable labor contract and/or Personnel Rules.

005.02. NCBVI is committed to a future that is inclusive of all who can provide the knowledge, skills, abilities, ideas and efforts needed to make our vision a reality.

005.03. EQUITY AND DIVERSITY POLICY. We recognize, encourage, utilize, and value people's similarities and differences to carry out our mission. Therefore, all employees are expected to incorporate NCBVI's Equal Opportunity and Affirmative Action Statement and Equity and Diversity Policy as an integral and visible way we do our work.

005.03A. Specifically, we expect that each employee will:

005.03A1. Treat all people with respect and dignity, and

005.03A2. Foster a culture that invites and values the rich diversity among our employees and the people we serve.

005.03B. Adherence to NCBVI Equal Employment Opportunity and Affirmative Action Statement and Equity and Diversity Policy is a part of the overall basis for evaluating the performance of administrators, managers, and supervisors. The leadership of NCBVI will enforce the principles set forth in this policy in appropriate ways and in a timely manner.

005.04. WORK PLACE HARASSMENT AND DISCRIMINATION POLICY.

005.04A. WORK PLACE HARASSMENT is based, in whole or in part, on race, color, gender, religion, age, disability, national origin, or sexual orientation and is manifested in the form of unwelcome comments, jokes, printed or electronic material and/or unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature, or display of materials and/or the utterance of offensive comments in the work place that are derogatory towards a group or individual.

005.04B. DIRECTIVES TO SUPERVISORS. Work place harassment can and does create a negative work environment which affects productivity, efficiency, work attendance, and turnover in staff. In addition, allegations of such harassment which are

not appropriately responded to place both NCBVI and the State of Nebraska in a position of potential liability to the victim of harassment. Therefore, each member of management is expected to carry out this policy within his/her area of responsibility. All supervisors must report any complaint alleging work place harassment or any unreported inappropriate behavior that the supervisor observes to the NCBVI Business Office, who must report this information to the Executive Director. This report will be provided in writing to NCBVI-AA/EEO (Affirmative Action/Equal Employment Opportunity) designee (NCBVI Business Manager) within five working days of the alleged incident(s). Failure to do so will be considered a violation of this policy and will be just cause for corrective or disciplinary action.

005.04B1. Any supervisor receiving a complaint alleging work place harassment will also be obligated to immediately notify the complainant of his/her rights concerning the pursuit of such allegations by giving the complainant a copy of the policy. Complainants and other persons involved in the investigation will not be subjected to retaliation, coercion, intimidation, or fear of reprisal. Since investigations of alleged work place harassment are personnel matters, persons involved shall maintain appropriate confidentiality. Information concerning a complaint will not be released to anyone who is not a party to or involved in the investigation.

005.04B2. All complaints will be handled in a timely and confidential manner. Information concerning a complaint will not be released to anyone who is not a party to or involved in the investigation. Complainants and other persons involved in the investigation of an allegation of work place harassment will not be subjected to retaliation, coercion or intimidation, or fear of reprisal. Such actions, in addition to any employee breaching confidentiality on information obtained as a result of a work place harassment complaint, are subject to disciplinary action.

005.05. NOTIFICATION. All employees are to receive a copy and explanation of this policy at the time of hire. All employees will be required to sign an acknowledgment of receiving this information.

005.06. DISABILITIES AND ACCOMMODATIONS. State and federal law prohibits discrimination against people with disabilities in every aspect of employment. Discrimination in employment actions include recruitment, selection, hiring, separations, job related reasonable accommodations and any other terms, conditions and/or privileges of employment.

005.07. REASONABLE ACCOMMODATION GUIDELINES. NCBVI has a responsibility to provide reasonable accommodation to allow otherwise qualified persons with disabilities to participate in our workforce. This accommodation must be provided unless doing so would create an undue hardship for NCBVI.

005.08. DISABILITY. An employee may be considered to have a disability if the employee has a physical or mental impairment that substantially limits one or more major life activities, if the employee has a record of such impairment, or if the employee is regarded as having such impairment. Major life activities include things such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working. Employees who experience disabilities are protected from discrimination. In addition, discrimination against an employee on the basis of association with a person who experiences a disability is prohibited.

005.08A. REQUEST. An employee may request an accommodation at any time. NCBVI may ask for information supporting the request from the employee's physician or another appropriate source. If information is requested, the supervisor shall discuss this with the employee in advance and provide the employee with a copy of any correspondence sent to a third party.

005.09. DRUG FREE WORK PLACE POLICY. NCBVI supports the Drug Free Work Place Act of 1988 and unequivocally endorses the philosophy that the work place should be free from the detrimental effects of illicit drugs.

005.09A. It is the policy of NCBVI that unlawful manufacture, distribution, dispensation, possession, use, or being under the influence of a controlled substance or alcohol in the work place is prohibited. Any employee who violates this policy will be subject to discipline up to and including dismissal, referred to a law enforcement agency, and/or may be required to successfully complete an approved drug abuse program sponsored by a private or governmental institution.

005.09A1. The term "controlled substance" means any drug listed in 21 U.S.C. 812 and other federal regulations. Such drugs also include legal drugs that are not prescribed for the person using them.

005.09A2. Employees may be subject to drug and alcohol testing in conformance with Chapter 48, Article 19 of the Revised Statutes of Nebraska when there is reasonable cause to believe the employee is using or under the influence of a controlled substance or alcohol while on duty or on work premises. Reasonable cause includes, but is not limited to, observable signs of intoxication (such as bloodshot eyes, slurred speech, or unsteady movement); a work-related accident or near accident which indicates employee fault; or credible information received from a reliable person with first-hand knowledge. A positive test result that has been confirmed in compliance with Chapter 48, Section 1903 of the Revised Statutes of Nebraska may result in disciplinary action in conformance with the applicable collective bargaining agreement, state statutes, regulations, or rules.

005.09B. An employee of NCBVI is required by the Drug Free Work Place Act of 1988 to inform the agency within five (5) days after being convicted for violation of any federal or state drug offense criminal statutes, where violation occurred while on the work premises or while the employee was representing in an official capacity. A conviction

means a finding of guilt, including a plea of nolo contendere (no contest), or the imposition of a sentence by a judge or jury in any federal or state court.

005.09C. The Drug Free Work Place Act of 1988 specifies that the agency head or designee of NCBVI must notify the U.S. Government agency from which any funding is received, either through contract or grant, within ten days after receiving notice from an employee or otherwise receiving actual notice of a conviction.

005.09D. Any contractor/vendor doing business with NCBVI must have on file a written drug free work place policy with the state Purchasing Department. A contractor/vendor's failure to comply with this policy will result in violation of the contract and/or removal from the state Vendor List.

005.10. PROCEDURES. All employees will receive a copy of this policy at the time of hire, and will sign an acknowledgment of receiving the information.

005.10A. REASONS FOR IMPOSING DISCIPLINARY ACTION. Unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcoholic beverage in the workplace, or reporting for duty under the influence of alcohol and/or unlawful drugs will constitute reason for imposing disciplinary action.

006. CONFIDENTIALITY.

006.01. PUBLIC RECORDS AND CONFIDENTIALITY. State law provides that records that the agency has are available for review unless another law expressly provides that the record is not public. Supervisors will review with each employee the state and federal laws and regulations governing the release of records to which they have access on a routine basis as part of their work assignments. Employees shall know the internal agency process for access to and security of such records. Application forms for vocational rehabilitation and independent living services of NCBVI state that all information provided by the applicant will be kept confidential, except as specifically released for purposes of information exchange, for the purpose of service provision, or for public information.

006.01A. Employees shall comply with those laws, regulations, and internal processes in providing access to public records and maintaining the confidentiality of the records in accordance with 34 CFR 361.38 (Appendix).

006.01B. Employees who have access to confidential records through interagency agreements or similar sharing arrangements shall comply with the conditions under which access to the confidential information is permitted.

006.01C. Employees who gain access to a record, or information from a record, which has been designated by law or regulation as confidential, whether as part of their regular job duties or by accident, may not further share that information with anyone other than those people within the agency who have the right to know this information.

006.02. RELEASE OF INFORMATION. If a NCBVI employee appears before a legislative committee, the courts, the Parole Board, Pardons Board or any other administrative or judicial body, the employee shall not purport to speak on behalf of the NCBVI, unless so authorized by the director or designee.

006.02A. There may be some situations when information may be released to individuals who normally do not have access to NCBVI confidential records and information. Written release of information must be obtained in such situations.

007. USE OF STATE PROPERTY.

007.01. No employee shall use state property or time for their own personal use or benefit. Therefore, NCBVI employees must go outside the work area for such things as postage, photocopies, computer use, sending and receiving faxes, or any other personal business. Personal business shall be conducted on an employee's own time, either on breaks or non-work hours.

007.02. All employees must take every precaution to see that waste is avoided and that care is exercised at all times to ensure that employees, contract staff (such as drivers), and volunteers properly care for state property.

007.03. TELEPHONE USAGE. NCBVI telephones are provided for the conducting of state business. NCBVI telephones may be used for essential personal business as long as no costs are charged to the state, the use does not interfere with state business and the use is kept to a minimum.

007.03A. Essential personal business is defined as local or long distance calls to children at home, teachers, doctors, day care centers and baby sitters to inform family members of unexpected schedule changes or other essential personal business. Essential personal long distance calls shall be either collect, charged to a third-party, non-state number, or charged to a personal credit card.

007.04. MOBILE COMMUNICATIONS. The state provides mobile communication devices to agency personnel to utilize in the performance of their official state duties when deemed necessary. Employees are not permitted to make or receive personnel calls on state mobile communication devices unless it is of an emergency nature or as state in §007.05. Each emergency situation will be evaluated on a case by case basis by the appropriate supervisor or manager. An example of an emergency situation would be to notify someone that a trip has been extended and the previously scheduled return time will be delayed.

007.04A. Employees operating state vehicles will use extreme caution if it is necessary to use a cell phone while operating a motor vehicle.

007.05. CALLING CARDS. When on NCBVI business away from the home base, employees may use their state mobile device to make one three-minute long-distance call to their home per day.

007.06. COMPUTER USAGE. All communications sent or received via computer functions, including email and internet logs, are the property of NCBVI and are subject to being retrieved and viewed by authorized staff at any time. End users should have no expectations of privacy regarding personal business conducted on NCBVI electronic equipment or on the State Data Communications Network unless protected by state or federal statute. The information is generally retrievable even after the sender or receiver has erased it from the file. Computers, including laptops, are tools for work and should only be used for work-related activities. Only software owned/licensed and distributed by NCBVI using the standard software distribution methods will be authorized for use by NCBVI staff. Software

not distributed in this fashion will be removed from the PC with no requirement to notify the user. User computer identification numbers and passwords shall not be "loaned" to anyone in the agency or outside the agency without supervisory approval. It is against state policy to use state equipment for unauthorized personal use. Computer use is also governed by the State of Nebraska, "Acceptable Use Policy" located at <http://www.doc.state.ne.us/policies/AUP.pdf>, which will be provided to all employees. Employees must be familiar with this policy when using a State of Nebraska Computer.

007.07A. COMPUTER ASSETS. Employees of NCBVI shall report lost or suspected theft of all computer equipment or other property including computer software to appropriate management personnel. Note that copying computer software from an NCBVI computer and placing it on a home PC is theft.

007.07A1. To prevent unauthorized losses, all moves of computer equipment shall require prior written approval of the Technology Program manager in consultation with the Fixed Asset Inventory Coordinator so the location can be maintained on the Fixed Asset Tracking System.

007.07A2. Staff members of NCBVI are responsible for reporting damaged computer equipment to appropriate managers. For items management elects to replace or remove, disposal shall involve the Technology Program Manager, the agency Inventory Coordinator (Executive Director's Administrative Assistant), and the Department of Administrative Services as required by statute.

007.07A3. No computer, hardware or software should be destroyed or discarded without approval from the Technology Program Manager and the agency Inventory Coordinator who will work with the Department of Administrative Services.

007.08. OTHER ASSETS. Property other than computer equipment that is lost or suspected stolen should be reported to the employee's immediate supervisor and to the agency Inventory Coordinator. Damaged equipment must be reported to appropriate managers. Replacement, removal, or disposal of equipment shall involve the agency Inventory Coordinator and the Department of Administrative Services as required by statute.

007.09. USE AND OPERATION OF STATE MOTOR VEHICLES.

007.09A. DRIVING POLICY FOR STATE BUSINESS. NCBVI has a responsibility to the public to allow only employees with driving records indicating a pattern of safe driving practices to operate a motor vehicle on state business. It is the policy of NCBVI to ensure that when our employees drive a motor vehicle on state business, they do so legally, safely and defensively. In addition, independent contractors driving for NCBVI under contract will be subject to the same policies, expectations, and rules that apply to NCBVI employees. (Refer to the Department of Administrative Services Transportation Services Bureau (DAS TSB) Rules and Regulations for additional information on driving vehicles for state business.).

007.09B. EMPLOYEES DRIVING ON STATE BUSINESS ON A REGULAR OR OCCASIONAL BASIS. The supervisor or Personnel Officer will verify that the employee has a valid driver's license from his/her domicile state. If the employee will be driving a personal vehicle on state business, proof of required liability insurance will also be verified. Employees who drive on state business are required to successfully complete

an approved defensive driving course within six months of their employment or notification of this policy. State rules and regulations require that every state employee authorized to drive a state-owned vehicle shall also have a State of Nebraska identification card registered with the Department of Administrative Services, Transportation Services Bureau.

007.09C. NCBVI periodically reviews the license status and driving record of employees assigned an ID card. The assessment of six or more points in the preceding 24 months on a driving record is the indicator for an in-depth review. State rules and regulations require that each employee sign an affidavit that he/she has read the Transportation Services Bureau Policies and Procedures Manual before operating a state-owned vehicle (NAC Title 8, Ch. 1, Sec 003.).

007.09D. Employees shall comply with applicable driver's licensing laws and shall also notify the agency if they are experiencing a medical condition or are using medication that would interfere with the safe operation of a motor vehicle. If a medical condition appears to be interfering with an employee's safe operation of a motor vehicle, the agency shall request a medical release from the employee's physician indicating whether the employee is medically capable of driving as part of his/her job duties.

007.09E. RESPONSIBILITIES OF EMPLOYEES WHO DRIVE ON STATE BUSINESS. Any employee failing to meet the responsibilities described within this policy and the Department of Administration Services, Transportation Services Bureau Rules and Regulations shall be subject to corrective personnel action and may be subject to disciplinary action up to and including dismissal.

007.09F. REPORTING OF CITATIONS.

007.09F1. Employees shall notify their supervisor by the beginning of the next working day any time a citation for either of the following serious moving violations occurs: 1) motor vehicle homicide or 2) driving under the influence. Employees shall report all citations for moving violations received while on state business no later than the first working day following the citation to their supervisor. State rules and regulations require that the Department of Administrative Services, Transportation Services Bureau be notified if a ticketed violation is being contested. Employees shall notify their supervisor immediately if their driver's license is suspended, is revoked, or becomes invalid.

007.09F2. NCBVI employees may not operate a state vehicle or a personal vehicle being used for state business under the influence of drugs or alcohol.

008. GENERAL EMPLOYEE INFORMATION.

008.01. INTERVIEWS. Employees interviewing for positions within NCBVI will be allowed up to two hours of work time to interview. This time will be granted only if the time involved cuts across the employee's normal work hours. Interviewing time beyond the employee's normal work hours will not be counted as work time and will not be compensated. With supervisory approval, the employee may use leave to extend the time needed for the internal interview beyond the allowed two hours of work time. Travel to and from the interview site is the responsibility of the employee and no travel expenses will be reimbursed.

008.02. POLITICAL ACTIVITIES. Employee positions within NCBVI are partially or entirely funded with federal money, so employees are covered by the Federal Hatch Act and are barred from being a candidate for a partisan office (offices with candidates identified as being from specific political parties). Employees may engage in political activities when not performing official state duties, but shall not use a position with the state to distribute or receive political favors.

008.02A. Employees may not display a political poster in the office, nor wear clothing with political slogans/symbols or political buttons while on duty.

008.02B. If an employee wishes to take part in political activities during his/her normally scheduled work hours, he/she must arrange for leave (vacation, leave without pay, etc.) to cover the period of authorized absence.

008.02C. If an employee is elected to an office, and such office presents a conflict of interest with his/her job or interferes with scheduled work hours, the agency has the authority to change terms and conditions of employment, up to and including termination of employment.

008.03. LAW VIOLATIONS. NCBVI employees are required to report, in writing, any arrest or apprehension for law violations, including traffic offenses to their immediate supervisor in accordance with 192 NAC Ch. 4, Section 007.09F1.

008.03A. NCBVI employees are required to report, in writing, any arrest or apprehension for law violations, including traffic offenses to their immediate supervisor in accordance with 92 NAC Ch. 4, Section 007.09F1.

008.03B. NCBVI employees are expected to maintain a standard of good conduct on and off the job. Failure to maintain this standard adversely affects NCBVI's standing in the community. Conduct unbecoming shall include that which brings the agency into disrepute or reflects discredit upon the employee as a member of NCBVI.

008.04. EMPLOYEE FRAUD. Any employee who believes another employee of NCBVI is committing a fraudulent act with respect to NCBVI programs or functions shall provide a written confidential report to the agency head or designee.

008.05. OFFICE/FACILITY SECURITY AND SAFETY. Each office/district in NCBVI strives to assure safety and security for employees on the job, the security of state property and the safety and security of the people we serve. NCBVI employees are expected to keep

possession of and to not loan any keys or access cards that have been issued to them, unless written authorization has been given by a supervisor.

008.06. EMERGENCY SITUATIONS POLICY. In the case of emergencies that present a danger to the safety or security of employees, the Executive Director or District Supervisor may release employees. Employees will be released only for the period necessary to correct the situation.

008.06A. If no weather emergency has been declared by the Governor, employees who choose either not to report to work or to leave work will be charged with accumulated vacation leave, earned compensatory time or leave without pay.

008.06B. NCBVI employees who are on the road on NCBVI business and face severe conditions will continue to be in work status, even if unable to travel further. The employee will contact his/her supervisor, or the next level supervisor if necessary.

009. COMPENSATION AND BENEFITS.

009.01. PAY PERIODS. NCBVI employees are paid on a bi-weekly pay cycle. It is critical to notify the Personnel Officer of any change of address. Deductions for employees paid every two weeks are done in two equal amounts each month. For these bi-weekly paid employees, there are two pay cycles during the year when there are no deductions except for federal and state withholding taxes, Social Security, credit union, and retirement contributions.

009.02. LEAVE. State of Nebraska employees are eligible for various types of leave. The NAPE/AFSCME labor contract and state Rules and Regulations provide detailed information about the types of leave, provisions for requesting leave, and specific dates of established holidays.

009.03. INSURANCE.

009.03A. LIFE INSURANCE. Full-time employees, excluding temporaries, of NCBVI receive a \$20,000 Basic Life term insurance policy at no cost to them. Employees who work at least half time and are less than full-time may enroll in the optional Basic Life (\$20,000) but will be required to pay a portion of the state's premium contribution. Optional Life Insurance for employees and dependents is available at the employees' expense.

009.03A1. The choice for the Optional Basic Life and Optional Life Insurance plans needs to be made within the first 30 days of employment. Coverage becomes effective the first of the month following 30 days of employment.

009.03B. HEALTH INSURANCE. State employees who work half-time or more are eligible for medical and hospitalization coverage under a group program. Temporary employees may be eligible for health insurance participation. This coverage can include single, partial or full family coverage. Employees have several plans to choose from and costs differ according to the coverage chosen.

009.03B1. Employees who choose to participate in the State of Nebraska health insurance plan must enroll within the first 30 days of employment. Coverage begins

the first day of the month following 30 days of employment.

009.03B2. When an employee ends employment with the state, he/she may be able to continue health insurance coverage for a period of time. If this option is chosen, the individual will be responsible for the total premium.

009.03C. DENTAL INSURANCE. State employees who work half-time or more and live or work in areas where there are contracting dentists are eligible to enroll in a voluntary dental plan under a group program. Temporary employees may be eligible for dental insurance participation. There is no state contribution for this insurance.

009.03D. VISION INSURANCE. State employees, excluding temporaries, who work half-time or more and live or work in areas where there are contracting eye doctors, are eligible to enroll in a voluntary vision insurance plan under a group program. There is no state contribution for this insurance.

009.03E. LONG TERM DISABILITY INSURANCE. State employees who work half-time or more are eligible to enroll in a voluntary long-term disability plan under a group program. Temporary employees may be eligible for long-term disability insurance participation. There is no state contribution for this insurance.

009.04. FLEXIBLE SPENDING. State employees, including new hires but excluding temporaries, may voluntarily elect to set aside an amount from their paycheck that is not taxed. The Department of Administrative Services Employee Benefits Division administers this flexible spending account under Internal Revenue Service Code Section 125. The money set aside in this plan can only be used toward medical and/or dependent care expenses. Contact the Personnel Officer for more information.

009.05. RETIREMENT. The State of Nebraska offers a retirement plan for the purpose of providing lifetime benefits in recognition of service to the state. Employees, other than temporaries, who are 30 years of age and have two years of continuous service must participate in the plan. Any employee who has attained the age of 20 and has a total of twelve months of service may elect voluntary participation. As a member of the Retirement System, employees contribute 4.33% of their salary. When the contribution reaches \$864.00 for the year, the contribution rate increases to 4.8%. The state matches the contribution at 156%. The benefits under the plan are in addition to any supplemental benefits received from Social Security.

009.06. DEFERRED COMPENSATION. A deferred compensation plan is available to permanent state employees. Under the provision of this voluntary supplemental retirement plan, employees may request the state to defer payment of a portion of their income to a later date. The taxes normally due now on the money are deferred until retirement when most participants would be in a lower tax bracket. The deferred income is invested at the direction of the participant in a fixed stock, bond, money market or several other available investment options. Any investment gains remain in the annuity account and are not reportable for federal or state income tax purposes.

009.07. EMPLOYEE ASSISTANCE PROGRAM (EAP). The state offers confidential short-term counseling and referral services through a statewide employee assistance program (EAP). All permanent employees and their dependent family members or family members residing with them may receive assistance in dealing with issues such as stress, chemical

dependency, emotional difficulties, marital complications, and difficulties at work. Initial visits with the EAP are covered at no cost to the employee. Fees for services beyond and outside of the EAP contract are the responsibility of the employee.

009.07A. The office hours of the EAP are flexible so employees are encouraged to make appointments during non-work time. If an appointment during the work schedule is needed, the employee will be allowed to use Sick Leave.

009.07B. The EAP is also available to supervisors when working with an employee who has unsatisfactory job performance, attendance or other issues. If a supervisor refers an employee to the EAP, the employee may use work time and any information shared with the counselor will be kept confidential unless the employee signs a release.

009.08. TRAINING AND TUITION ASSISTANCE.

009.08A. TUITION ASSISTANCE POLICY. Employees of NCBVI are eligible for tuition assistance on a first-come, first-served basis, (per semester) within existing NCBVI allocated funds, under the following guidelines.

009.08A1. TUITION. Shall mean the expenses required for tuition costs only. Expenses paid for fees, books and other expenses are not considered a part of tuition.

009.08A2. EMPLOYEE For purposes of this policy employee shall mean permanent in status, either full or part-time, excluding temporary, original probation or employees serving disciplinary probation.

009.08A3. PASSING GRADE For purposes of this policy a passing grade will be a "C" or better for an undergraduate course, a "B" or better for a graduate course (or in accordance with the graduate degree program if different), or a pass in a pass/fail situation.

009.08A4. Operational definitions for the course categories that can be approved at 100% are: Career related - shall mean any course taken which has direct relationship to a declared career path within NCBVI. Job-related shall mean any course taken that has direct relationship to the position the employee currently occupies.

009.08B. APPLICATION PROCESS. When an employee applies for tuition assistance she or he must complete a Tuition Assistance Request form, attach a current class/course description, indicate the appropriate category for this course on the application, and submit it to his/her immediate supervisor for approval or denial within sixty (60) days prior to the beginning of the course. Additional levels of review are at the agency's discretion. Applications will be logged in a centralized data base and summary reports of all applications (both approved and denied) shall be made available at the Executive Director's request. Agreements made regarding work scheduling will be noted on the request form. Decisions to deny tuition assistance are final and non-grievable.

009.08C. Tuition assistance requests that are approved may be paid at the rate of up to 100% depending on approval of the supervisor and Executive Director or Designee. Tuition assistance requests that are approved will be based on the actual attended

accredited institution's current tuition cost not to exceed a maximum of up to 150% per credit hour of University of Nebraska–Lincoln (UNL) rate for graduate and undergraduate courses respectively.

009.08D. Full time employees will receive full percentages of assistance as indicated. Part-time employees will receive pro-rated amounts based upon a percentage of their allocated FTE.

009.08D1. If the employee is eligible for tuition assistance through any other public or private source that will be noted by the employee on the Tuition Assistance Request form. The tuition assistance percentages outlined above will be applied to the remaining tuition cost. No employee will receive more than 100% of his/her course work reimbursed.

009.08E. A maximum of up to 18 credit hours per fiscal year per employee may be approved, depending on funding availability, with applications only considered for approval if received within 60 days of the starting date of the course. Employees will note the number of credit hours on the Tuition Assistance Request form. Exceptions to the maximum must be approved by the Executive Director.

009.08F. Tuition Assistance Request forms will be available through the NCBVI Business Office. The form can also be accessed on the W drive at: w:\forms-staff\tuition assistance form.

009.08G. PROCEDURE FOR REIMBURSEMENT. When the employee has completed the course with a passing grade, he/she will submit an Expense Reimbursement Document for payment of the tuition costs. Attached to this document shall be copies of an itemized receipt for the tuition paid, grade report indicating a passing grade, and a copy of the prior approved Tuition Assistance Request form.

009.08G1. Employees should apply for reimbursement as soon as the course is completed. They must apply for reimbursement no later than 90 calendar days after the course is completed. Masters level classes are subject to income tax and the amount of reimbursement will be added to the employee's W-2 form.

009.08G2. Failure to complete a course or receiving a less than passing grade, as defined above, voids approval of the Tuition Assistance Request.

009.08H. NCBVI employees receiving tuition assistance are expected to continue employment with NCBVI for at least one year after completion of each course. Employees failing to do so must reimburse that state for the cost of academic support. The amount paid back to the state may be pro-rated proportionately if more than a year has elapsed since the start of a class but less than a year before its conclusion. Employees resigning their position before a year has elapsed since the end of the last course completed who fail to reimburse that state for academic support will leave in poor standing.

009.09. CREDIT UNION. State employees, other than temporary, are eligible to join the Nebraska State Employees Credit Union (Credit Union). The Credit Union is a financial institution providing an opportunity to save regularly through payroll deductions. Credit Union members are eligible to borrow money for approved reasons at a reasonable rate of

interest. Share draft accounts, which enable an employee to write "checks" on a savings account, are also available, as are traveler's checks and a number of other services.

009.10. EXPENSE REIMBURSEMENT. Reimbursements will be made only for travel or other actual expenses strictly essential to the transaction of official business.

009.11. DISCLAIMER. Benefits are subject to change based on state negotiations with NAPE/AFSCME. Those listed are in place at effective date for 192 Nebraska Administrative Code Chapter 4. Beyond that date, the above text serves as examples of types of benefits that may be offered to NCBVI employees at any given time.

010. INTERNAL COMPLAINT PROCEDURE.

010.01. The applicable NAPE/AFSCME labor contract and Personnel Rules address in detail reasons for imposing disciplinary measures upon employees, types of disciplinary actions that may be imposed, and the processes for grieving such actions. Employees have the responsibility to acquaint themselves with those provisions.

010.02. NCBVI has established an internal complaint procedure to deal with issues that are not grievable and are not covered by the Workplace Harassment Policy. The internal complaint procedure is not intended to address any topic that may be the legitimate subject of a grievance. NCBVI will not process both a grievance and an internal complaint on the same issue at the same time.

010.03. All NCBVI employees are encouraged to bring concerns directly to his/her immediate supervisor for discussion and resolution. If the employee is not satisfied with a verbal response, the concern may be presented in writing to the supervisor within ten workdays of the event causing the concern. The supervisor will respond in writing within five workdays.

010.04. If the employee is not satisfied with his/her supervisor's response, the issue may be presented in writing to the Deputy Director, within five workdays of receiving the supervisor's response.

010.05. The Deputy Director shall respond in writing within ten workdays.

010.06. If the employee is not satisfied with the Deputy Director's response, the issue may be presented in writing to the Executive Director, within two workdays of receiving the Deputy Director's response. The Executive Director will respond in writing within 15 workdays. The Executive Director's decision is final.

010.07. Time frames may be extended by mutual agreement of the parties. Failure to meet the timelines by any member of management automatically allows the employee to go on to the next step. If the employee does not forward his/her concern within the specified time frame, the issue is considered resolved.

011. VENDOR SOLICITATION POLICY.

011.01. The intent of the Vendor Solicitation Policy is to make sure that the State of Nebraska is not endorsing or appearing to endorse or assist a vendor in selling or promoting his/her product or service.

011.02. For the purpose of this policy, a "vendor" is a person, group of people, or organization (whether profit or nonprofit) selling or promoting a product or service for personal use by the employee. These persons who are selling or promoting this product or service shall not contact individual employees during work hours. This does not apply to a vendor selling items to be used in state business (i.e. computers, office equipment, or consultants), who may contact the agency.

011.03. Only "state sponsored" vendors that have been selected by the state to provide a product or service to employees will be allowed to use state time and property to distribute information. This type of solicitation will be coordinated through the DAS State Personnel Division. The securing of a payroll deduction through the DAS Accounting Division does not mean a vendor is state sponsored.

012. EMPLOYEE RECOGNITION PROGRAM.

012.01. NCBVI may implement an Employee Recognition Program, which may include awards such as certificates, plaques, pins, and/or monetary recognition.

APPENDIX A

UNITED STATES DEPARTMENT OF EDUCATION
34 CFR Part 361
State Vocational Rehabilitation Services Program

Sec.361.38 Protection, use, and release of personal information.

(a) General provisions.

(1) The State agency and the State unit must adopt and implement written policies and procedures to safeguard the confidentiality of all personal information, including photographs and lists of names. These policies and procedures must ensure that--

(i) Specific safeguards are established to protect current and stored personal information;

(ii) All applicants and eligible individuals and, as appropriate, those individuals' representatives, service providers, cooperating agencies, and interested persons are informed through appropriate modes of communication of the confidentiality of personal information and the conditions for accessing and releasing this information;

(iii) All applicants or their representatives are informed about the State unit's need to collect personal information and the policies governing its use, including--

(A) Identification of the authority under which information is collected;

(B) Explanation of the principal purposes for which the State unit intends to use or release the information;

(C) Explanation of whether providing requested information to the State unit is mandatory or voluntary and the effects of not providing requested information;

(D) Identification of those situations in which the State unit requires or does not require informed written consent of the individual before information may be released; and

(E) Identification of other agencies to which information is routinely released;

(iv) An explanation of State policies and procedures affecting personal information will be provided to each individual in that individual's native language or through the appropriate mode of communication; and

(v) These policies and procedures provide no fewer protections for individuals than State laws and regulations.

(2) The State unit may establish reasonable fees to cover extraordinary costs of duplicating records or making extensive searches and must establish policies and procedures governing access to records.

(b) State program use. All personal information in the possession of the State agency or the designated State unit must be used only for the purposes directly connected with the administration of the vocational rehabilitation program. Information containing identifiable personal information may not be shared with advisory or other bodies that do not have official responsibility for administration of the program. In the administration of the program, the State unit may obtain personal information from service providers and cooperating agencies under assurances that the information may not be further divulged, except as provided under paragraphs (c), (d), and (e) of this section.

(c) Release to applicants and eligible individuals.

(1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, if requested in writing by an applicant or eligible individual, the State unit must make all requested information in that individual's record of services accessible to and must release the information to the individual or the individual's representative in a timely manner.

(2) Medical, psychological, or other information that the State unit determines may be harmful to the individual may not be released directly to the individual, but must be provided to the individual through a third party chosen by the individual, which may include, among others, an advocate, a family member, or a qualified medical or mental health professional, unless a representative has been appointed by a court to represent the individual, in which case the information must be released to the court-appointed representative.

(3) If personal information has been obtained from another agency or organization, it may be released only by, or under the conditions established by, the other agency or organization.

(4) An applicant or eligible individual who believes that information in the individual's record of services is inaccurate or misleading may request that the designated State unit amend the information. If the information is not amended, the request for an amendment must be documented in the record of services, consistent with Sec. 361.47(a)(12).

(d) Release for audit, evaluation, and research. Personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research only for purposes directly connected with the administration of the vocational rehabilitation program or for purposes that would significantly improve the quality of life for applicants and recipients of services and if only, in accordance with a written agreement. The organization, agency, or individual assures that—

(1) The information will be used only for the purposes for which it is being provided;

(2) The information will be released only to persons officially connected with the audit, evaluation, or research;

(3) The information will not be released to the involved individual;

(4) The information will be managed in a manner to safeguard confidentiality; and

(5) The final product will not reveal any personal identifying information without the informed written consent of the involved individual or the individual's representative.

(e) Release to other programs or authorities.

(1) Upon receiving the informed written consent of the individual or, if appropriate, the individual's representative, the State unit may release personal information to another agency or organization, in accordance with a written agreement, for its program purposes only to the extent that the information may be released to the involved individual or the individual's representative and only to the extent that the other agency or organization demonstrates that the information requested is necessary for its program.

(2) Medical or psychological information that the State unit determines may be harmful to the individual may be released if the other agency or organization assures the State unit that the information will be used only for the purpose for which it is being provided and will not be further released to the individual.

(3) The State unit must release personal information if required by Federal law or regulations.

(4) The State unit must release personal information in response to investigations in connection with law enforcement, fraud, or abuse, unless expressly prohibited by Federal or State laws or regulations, and in response to an order issued by a judge, magistrate, or other authorized judicial officer.

(5) The State unit also may release personal information in order to protect the individual or others if the individual poses a threat to his or her safety or to the safety of others.

(Authority: Sections 12(c) and 101(a)(6)(A) of the Rehabilitation Act; as amended; 29 U.S.C. 709(c) and 721(a)(6)(A))