

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. 795 Department or Agency Alabama Board and Dept. of Rehabilitation Services.

RuleNo. 795-7-1-.02

Rule Title: Definitions

 New; X Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Alabama Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Stephen K. Sing
Date 12-16-16

(DATE FILED)
(STAMP)

ALABAMA BOARD OF REHABILITATION SERVICES

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Rehabilitation Services

RULE NO. & TITLE: Amend Rule No. 795-7-1-.02 Definitions.

INTENDED ACTION: The ALABAMA BOARD OF REHABILITATION SERVICES proposes to amend rules and regulations.

SUBSTANCE OF PROPOSED ACTION: The amendment of this rule is authorized under the authority of ALA. CODE 1975 §21-9-1 *et seq.*, and the Alabama Board of Rehabilitation Services wishes to amend this rule so as to come in compliance with requirements for the program. This amended rule and regulation is issued under the authority of ALA.CODE 1975 §21-9-1 *et seq.* This rule covers specific requirements and procedures necessary for the proper administration of Alabama law. The rule clarifies when a blind licensee becomes a vendor.

Copies of the proposed amended rule are available for inspection in the offices of the Board, 602 South Lawrence Street, Montgomery, Alabama 36104. Upon reasonable notice, persons requiring accommodation may obtain copies in large print, Braille or other media.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested persons may submit written comments, and if requested in advance may personally appear before the Alabama Board of Rehabilitation Services by submitting a request to appear, to:

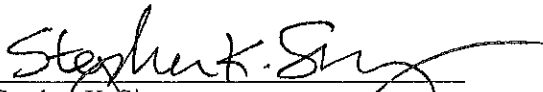
Stephen K. Simpson
602 South Lawrence Street
Montgomery, Alabama 36104
Telephone: (334) 293-7187

To be considered by the Board, written comments must be received in the office of the Board no later than two days before the next regularly scheduled Board meeting on March 3, 2017, to wit: not later than March 1, 2017. Persons desiring to orally express their views before the Board must first submit their comments in writing as stated above, and shall be limited to ten minutes per person.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: March 1, 2017.

CONTACT PERSON AT AGENCY:

Stephen K. Simpson
602 South Lawrence Street
Montgomery, Alabama 36104
Telephone: (334) 293-7187


Stephen K. Simpson
Alabama Board of Rehabilitation Services

**ALABAMA DEPARTMENT OF REHABILITATION SERVICES
BUSINESS ENTERPRISE PROGRAM**

**CHAPTER 795-7-1
GENERAL RULES**

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795-7-1-.01 Necessity and Function

795-7-1-.02 Definitions

795-7-1-.02 Definitions. Definitions of terms or phrases used in the Business Enterprise Program are as follows:

(a) Active Participation - An ongoing process of participation between the State Licensing Agency (SLA) and the Elected Committee of Blind Vendors to achieve joint planning of program policies, standards, and procedures affecting the overall operation of the program. It is understood that the SLA bears final authority and responsibility for the administration and operation of the Business Enterprise Program, including the assurance of continuing, active participation with the Elected Committee of Blind Vendors.

(b) Agency - The Alabama Department of Rehabilitation Services (ADRS) hereinafter referred to as SLA.

(c) Application and Permit - A document requesting approval to install a facility on federal or other property. An approved permit shall be signed by the authorized property official and define the terms and conditions of the operation.

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

(e) Cafeteria - A food dispensing facility capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where customers are served from displayed selections. A cafeteria may be fully automated or may have limited waiter or waitress service. Table or booth seating is always provided.

(f) Displaced Vendor - A vendor is considered displaced when a decision is made to close his/her permanently assigned facility through no fault of the vendor.

(g) Displacement - Means the decision to close a BEP facility. The decision

to close a BEP facility shall be at the discretion of the SLA in consultation with the ~~effected~~ affected vendor. Three displacement points will be awarded to a displaced vendor for selection purposes.

(h) Elected Committee of Blind Vendors - Vendors elected biennially by his/her peers on a regional basis and organized to function in partnership with the SLA.

(i) Escrow Fund - A fund managed by the SLA and maintained for the following purposes: to provide timely purchases of initial and/or expanded merchandise, to provide for the expedient payment of vendors while affording the option of identifying the best price and quality from a variety of wholesalers, to provide for expeditious access to petty cash which is often needed to supply coin mechanisms and bill changers, and to provide for effective and efficient reconciliation of obligations between new and transferring vendors.

(j) Federal Property - 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.

(k) License - License means a written instrument issued by the SLA to a blind person, authorizing such person to operate a vending facility on federal or other property.

(l) Licensee - Licensee means a qualified blind person licensed by the SLA to operate a BEP facility on Federal or other property who is not currently assigned a permanent facility.

(m) Management Services - Supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services including but not limited to marketing services, and customer satisfaction surveys provided by the SLA on a systematic basis to develop, support, and improve facilities operated by vendors.

(n) Net Proceeds - Net proceeds means the amount remaining from the sale of articles or services of BEP facilities, and any vending machine 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).

(o) Operating Agreement - Permanent or temporary agreements that shall be entered into between the SLA and a vendor or temporary operator covering the contractual responsibilities and conditions of each party.

(p) Other Property - Property that is not federal property.

(q) Permit - Permit means the official approval given to the SLA by a department, agency or instrumentality in control of the maintenance, operation, and

protection of Federal property, or person in control of other property, whereby the SLA is authorized to establish a BEP facility.

(r) Seriously Delinquent -- Financial reports and/or amounts due the set-aside fund or escrow fund that remain delinquent 90 days shall be considered seriously delinquent and may be cause for removal.

(s) Set-Aside Funds - Set-aside funds means funds which accrue to the SLA 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 which accrues to the SLA.

(t) State Licensing Agency - State Licensing Agency (SLA) means the state agency designated by the Secretary of the United States Department of Education under this part to issue licenses to blind persons for the operation of vending facilities on federal and other property.

(u) Temporarily Displaced Vendor -- A vendor is considered temporarily displaced when his/her permanently assigned facility is temporarily closed for a period of (60) sixty days or longer for any business reason; i.e., downsizing, remodeling, layoffs, etc.

(v) Temporary Operator - A qualified individual licensed or authorized by the SLA to manage a BEP facility temporarily.

(w) Vending Facility Or BEP Facilities - Vending facility means 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, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by state law and conducted by an agency of a state within such state.

(x) Vending Machine Income - Vending machine income means 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.

(y) Vendor - ~~Vendor~~ means a blind licensee vendor who is operating a vending facility on Federal or other property after inventorying in the facility and signing

the permanent operator agreement.

Author: Alabama Board of Rehabilitation Services, Alabama Elected Committee of Blind Vendors.

Statutory Authority: Alabama Code 1975 §§ 21-1-40 and 21-9-9; 20 U. S. C. § 107 et. seq.

History: **New Rule:** Filed January 19, 2000; effective February 23, 2000; **Amendment filed:** December 16, 2016.