

# CHAPTER 18

## South Carolina Commission for the Blind

(Statutory Authority: South Carolina Code §§ 43–26–10, et seq.)

### Editor's Note

This chapter, consisting of Title 1, Regulations 18-1 through 18-18, became effective October 20, 1981.

### TITLE 1 BUSINESS ENTERPRISE PROGRAM

#### 18–1. Purpose and Definitions.

##### A. Purpose

The South Carolina Commission for the Blind is designated as the State Licensing Agency for the Randolph-Sheppard Vending Facility Program. The program establishes, constructs, equips and maintains vending facilities on suitable public and private sites in order to provide qualified blind individuals with remunerative employment opportunities as Blind Licensed Vendors. The Rules and Regulations herein have been adopted to enable the South Carolina Commission for the Blind to carry out its full responsibilities under the Randolph-Sheppard Act, and assure the effective conduct of the Business Enterprise Program and the operation of each Vending Facility established under the program in accordance with 34 CFR Part 395, and with the requirements and conditions of each property managing agency, including the conditions contained in agreements, as well as in all applicable Federal and State laws, local ordinances and regulations.

##### B. Definitions

1. "Agency" means The South Carolina Commission for the Blind.
2. "Blind Licensed Vendor" means a Blind Licensee who is operating a vending facility.
3. "Blind Licensee" means a blind person licensed by the State Licensing Agency to operate a vending facility on public or private property.
4. "Blind Person" means a person who, after examination by a physician skilled in diseases of the eye or by an Optometrist, whichever such person will select, has been determined to have a central visual acuity of 20/200 or less in the better eye with correcting glasses, or a disqualifying field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance of no greater than twenty (20) degrees.
5. "Business Enterprise Program (BEP)" means that department of the South Carolina Commission for the Blind charged with the management and supervision of the Vending Facility Program and carrying out the Randolph-Sheppard Act.
6. "Direct Competition" means the presence and operation of a vending machine or vending facility on the same premises as a vending facility operated by a Blind Licensed Vendor. Vending facilities operated in areas serving employees the majority of whom normally do not have direct access in terms of uninterrupted ease of approach and the amount of time required to patronize the vending facility will not be considered to be in direct competition with the vending facility operated by a Blind Licensed Vendor.
7. "Full Time" means working a minimum of 37.5 hours per week.
8. "License" means a written instrument issued by the Agency to a blind person authorizing such person to operate a vending facility.

9. "Net Proceeds" means the amount remaining from the sale of articles or services of vending facilities and any vending machine or other income accruing to Blind Licensed Vendors after deducting the cost of such sale and other expenses.

10. "Normal Working Hours" means an eight-hour work period between the approximate hours of 8:00 a.m. to 6:00 p.m., Monday through Friday.

11. "Permit" or "Agreement" means the official approval given the Agency by a department, agency or instrumentality in control of the maintenance, operation and protection of Federal or other property, whereby the Agency is authorized to establish a vending facility.

12. "Probation" means the condition of being under warning of retribution if further action continue.

13. "Promotion" means the movement of a Blind Licensed Vendor to a vending facility where the demonstrated or projected earnings are higher than the Blind Licensed Vendor's present vending stand proceeds.

14. "Satisfactory Site" means an area fully accessible to vending facility patrons and having

a. A minimum of 175 people patronizing the vending facility per shift.

b. Normal required working hours not to exceed 50 hours per week per Blind Licensed Vendor.

c. Sufficient break time for the patrons to have access to the facility.

d. Availability of local wholesalers to the vending facility.

e. Solvency of the business firm.

f. A minimum of 250 square feet for the vending and storage of articles necessary for the operation of the facility; and

g. Sufficient electrical, plumbing, heating and ventilation outlets for the location and operation of a vending facility in accordance with applicable health laws and building codes.

15. "State Licensing Agency (SLA)" means the South Carolina Commission for the Blind (SCCB), which has been designated, under the provisions of the Randolph-Sheppard Act, to issue licenses to blind persons for the operation of vending facilities on federal or other property.

16. "Suspension" means status of a Blind Licensed Vendor in which he or she has lost all his or her rights and fringe benefits.

17. "Transfer" means the movement of a Blind Licensed Vendor to a vending facility that has demonstrated or projected earnings that are less than or approximately equal to the Blind Licensed Vendor's present vending stand proceeds.

18. "Vending Facility" means automatic vending machines, cafeterias, snack bars, canteens, car service shelters, counters and such other auxiliary equipment which may be operated by Blind Licensed Vendors 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.

19. "Vending Machine" for the purposes of assigning income under these regulations, means a coin or currency operated machine which dispenses articles or services, except that 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 will not be considered to be vending machines.

20. "Vending Machine Income" means receipts (other than those of a Blind Licensed Vendor) from vending machine operations, after deducting the cost of goods sold (including reasonable service and maintenance costs in accordance with customary business practices of commercial vending concerns).

21. "Vendor Assistant" means a person who may or may not be blind who assists the Blind Licensed Vendor in the operation of a vending facility on a part-time or full-time basis.

22. "Vocational Rehabilitation Department" means that department of the South Carolina Commission for the Blind which, under the State plan for Vocational Rehabilitation Services approved pursuant to the provisions of the Rehabilitation Act of 1973, provides such services to the blind.

**HISTORY: Amended by State Register Volume 18, Issue No. 4, eff April, 22, 1994; State Register Volume 28, Issue No. 3, eff March 26, 2004.**

## **18-2. Issuance of Licenses.**

- A. Licenses are only issued to those individuals who are determined by the Agency to be:
1. Legally blind in accordance with the definition in 18-1 (B) (3) of these regulations.
  2. Citizens of the United States; legal resident of the State of South Carolina.
  3. At least 18 years of age.
  4. In need of employment.
- B. Individuals must be certified by the Vocational Rehabilitation and Business Enterprise Program as being qualified to operate a vending facility prior to licensing. (see 18-4 and 18-5).

**HISTORY: Amended by State Register Volume 18, Issue No. 4, eff April 22, 1994; State Register Volume 28, Issue No. 3, eff March 26, 2004.**

## **18-3. Termination of Licenses.**

- A. Licenses will be issued for an indefinite period of time, but will be subject to suspension or termination if, after affording the Blind Licensed Vendor an opportunity for a full evidentiary hearing, the Agency finds that the vending facility is not being operated in accordance with its rules and regulations, the terms and conditions of the agreement, or the terms and conditions of the written agreement with the Blind Licensed Vendor.
- B. Additionally, the license of a Blind Licensed Vendor may be suspended or terminated for any of the following reasons:
1. Improvement of vision so that the Blind Licensed Vendor no longer meets the definition of blindness in 18-1 (B) (3) of these regulations.
  2. Extended illness with medically documented diagnosis of prolonged incapacity of the Blind Licensed Vendor to operate the vending facility in a manner consistent with the needs of the location or other available locations in the Vending Facility Program.
  3. Withdrawal of the Blind Licensed Vendor from the program upon his or her written notification to the Agency.

**HISTORY: Amended by State Register Volume 28, Issue No. 3, eff March 26, 2004.**

## **18-4. Training Program.**

- A. In order to successfully complete the Vending Facility Training Program, the client must possess the following basic skills:
1. Sufficient communication (verbal & reading) skills to complete the classroom work, outside reading assignments and the operation of a vending facility.
  2. Basic mathematical skills necessary to make change, take inventory and to calculate costs, profits, markups and percentages.
  3. The ability to distinguish between various denominations of coins and currency.
  4. Adequate home management skills to complete cleanup chores and the organization and location of stock.
  5. Sufficient home maintenance skills to provide routine preventative maintenance to vending facility equipment.
  6. The self-confidence, self-assurance and public relations skills necessary to deal with the public.
  7. Adequate mobility skills to allow for independent travel to and from a vending facility.
- B. Prior to acceptance into the Vending Facility Training Program a client:
1. Must be evaluated at the Ellen Beach Mack Rehabilitation Center to determine their current skill levels in the above areas, and to insure that they have adequate skills for independent living. In those areas where a candidate is found to be deficient, a training plan with instruction in those areas must be satisfactorily completed prior to acceptance into the Vending Stand Training Program.
  2. Must have an approved Individual Evaluation Plan for the Vending Stand Training Program.
  3. Must have the written approval of the BEP Director following his or her review of the case records and an interview with the candidate.

4. Will sign the Blind Vendor Trainee Agreement (Exhibit 7) which specifies that they understand that the successful completion of the program and the receiving of a license will in no way be considered a guarantee of placement in a vending facility. Such placement is subject to the availability of a vending facility whose location and size are compatible with the client's desires and abilities. All selections of Blind Licensed Vendors are made by the bidding process.

5. An individual who is in training applying for or operating a vending facility must be verified as being legally blind and sign a statement that will read; "I agree not to operate a motor vehicle to and from a vending facility while in training or working at such a location.

C. The Vending Facility Training Program includes 2 months of classroom work and 2 months of on the job training in vending facilities. After three (3) weeks of classroom training, the on-the-job training will include one (1) week in a small facility and one (1) week in a vending facility. Upon the completion of another five (5) weeks of classroom training the student will complete his or her on the job training with an additional six (6) weeks of work. The classroom work will include the following:

1. Introduction to the BEP.
2. Merchandising Concepts.
3. Customer Service Concepts.
4. Financial Management Concepts.
5. Employee/Employer Relationships.
6. Health, Sanitation and Safety Concepts.
7. On-the-Job Training Elements.

Throughout the training program the student is given outside reading assignments, lectures on salesmanship, public relations, personal attitudes, and the importance of personal hygiene and appearance. The student is thoroughly briefed on the vending facility rules and regulations. Upon successful completion of the classroom training, the student begins the on-the-job training experience in an actual vending facility. The student will gain experience in both small and large vending facilities. The student will be under the supervision of the Blind Licensed Vendor and the BEP Trainer. The ServSafe course and test will not be used to determine licensing of an individual. Test scores should be given to the individual and the areas of deficiency noted. Test results should be put into a form by which the student can read (ex. Braille, large print or tape).

D. In those cases where a client has been licensed in another state, he or she will be evaluated at the Ellen Beach Mack Rehabilitation Center to demonstrate competency in the vending facility skills prior to being licensed by this Agency.

E. Upon the successful completion of the Vending Facility Training Program the client will be licensed by the Agency as qualified to operate a vending facility (Exhibit 8) and will sign a certificate stating that he or she understands the rules and regulation of the program (Exhibit 9).

F. Blind Licensed Vendors already participating in the BEP will be afforded the opportunity to acquire additional information for the purpose of upward mobility through the following avenues:

1. Regional meeting to be held periodically throughout the state for each respective region which will be conducted by the BEP Counselor responsible for that region. Guest speakers may participate in these meetings discussing subjects which will help to improve individual Blind Licensed Vendors job performance.

2. The Blind Licensed Vendors Annual Meeting will be held at the South Carolina Commission for the Blind Columbia Facility. Attendance will be required by all Blind Licensed Vendors and an attendance record will be kept for each annual meeting. This record will be kept on file in the BEP Director's office in Columbia. Credit for this annual meeting attendance will be awarded two (2) points under the BEP Selection Criteria. The South Carolina Commission for the Blind will allocate funds to provide lunch for this meeting.

3. An evaluation of a Blind Licensed Vendor's facility can be conducted by the Commission for the Blind at which time a member of the staff or a neutral party operates the facility to determine areas in which the Blind Licensed Vendor needs additional assistance. The BEP Counselor will be required to work with the Blind Licensed Vendor to improve any skills needed for advancement or promotion.

4. BEP Counselors are required to work with each Blind Licensed Vendor on an individual basis to improve merchandising skills, increase knowledge of inventory, stock control and stock rotation, improve customer service and improve operations and equipment maintenance. This individualized training should enable Blind Licensed Vendors to move upward to a more difficult or demanding vending facility.

5. Blind Licensed Vendors may attend the Rehabilitation Center for evaluation or for the acquisition of additional skills.

6. Programs for Blind Licensed Vendors may be aired through the Commission's closed circuit radio program to acquaint them with the new procedures and new business techniques.

G. If a Blind Licensed Vendor has been inactive for a period of three (3) years or more, the local BEP Counselor will be required to evaluate the Blind Licensed Vendor through the administration of a standardized evaluation test. When deficiencies are found as a result of the standardized evaluation test, a refresher course will be required. The BEP Counselor will submit a summary of the evaluation to the BEP Trainer and the VR Counselor.

(Special Note: The BEP Counselors, BEP Director and the BEP Vendors Committee will develop a standardized test to be approved by the Commissioner.)

**HISTORY:** Amended by State Register Volume 12, Issue No. 6, eff June 24, 1988; State Register Volume 18, Issue No. 4, eff April 22, 1994; State Register Volume 28, Issue No. 3, eff March 26, 2004.

### **18-5. Selection, Transfer and Promotion of Blind Licensed Vendors.**

A. When new vending facilities are built or existing facilities become vacant, all Blind Licensed Vendors will be notified by the Vending Facility BidLine. The BidLine information will include the location and description of the vending facility, number of prospective patrons, operating hours, items to be sold, condition of the facility, projected Blind Licensed Vendor net proceeds and the bid closing date.

B. Should a Blind Licensed Vendor wish to bid on the vending facility, he or she will fill out the Bid Application, sign it, and return it to the BEP Director on or before the closing date. As each bid is received it will be dated and time of receipt noted. Any bids received after the closing date will not be considered and will be returned to the bidder. Following the closing of bids, the BEP Director will make a list of all bids received on or before the closing date. The list will indicate the date and time the bid was received and will be kept on file in the BEP Director's office. No Blind Licensed Vendor will be allowed to bid if he or she has any debts due to the South Carolina Commission for the Blind, wholesalers, suppliers, or any facility related debts. After merchandise inventory is taken and if any money is due the South Carolina Commission for the Blind, it must be repaid within a one-year period. Failure to pay during this time frame will result in the Blind Licensed Vendor being removed from the vending facility.

C. The Agency Selection Committee will be composed of the BEP Director (one (1) vote), the BEP Counselor from the district where the vending facility is located (one (1) vote), one Commission employee selected by the Commissioner (one (1) vote), the BEP Representative from the district that the facility is located (one (1) vote), and an Independent Business person to be selected from a rotating pool of four (4) people from within the community (one (1) vote). The Vendors Committee will nominate candidates for the pool. The Commissioner and the BEP Selection Committee will take minorities into consideration when making their decisions. The Agency Selection Committee will determine if there is a qualified applicant and will make their selection based on the five general criteria:

35% 1. Demonstrated knowledge of business practices: bookkeeping and record keeping (5 points), purchasing and inventory control (11 points), sales promotion and display (4 points), restaurant and food equipment and vending machines (4 points), sales and profit margins (11 points).

25% 2. Work habits: reporting to work on time and attendance record (7 points), cleanliness and sanitation of the vending facility (10 points), personal hygiene (3 points), submission of Monthly Stand Reports on time (5 points).

25% 3. Work attitudes: good working relationship and positive attitude toward customers (10 points), salesmen, repair personnel, building management personnel, and agency staff (7 points),

written complaints (4 points), attendance at the Annual BEP Vendors Meeting (2 points), hiring of a blind assistant (2 points).

5% 4. Demonstrated ability to handle the physical demands of the vending facility in question, including health (2 points) and mobility (3 points).

10% 5. Seniority (10 points): Seniority will begin on the first day a certified Blind Licensed Vendor begins operating a vending facility in South Carolina. Seniority is counted only for the years of service as a Stand Manager being certified and operating a vending facility under the Randolph-Sheppard program in South Carolina. (Blind Licensed Vendors who have been certified through the Training Center will receive one-half time credit for seniority as Blind Licensed Vendor Assistants. Work as a Blind Licensed Vendor Assistant must be verified by the Blind Licensed Vendor for whom the assistant worked.) A person who resigns or retires from a vending facility in South Carolina will lose all seniority, except in extreme circumstances such as drastic loss of sales and earnings through no fault of the Blind Licensed Vendor, or because of health reasons. Upon satisfactory improvement in health, with a Physician's certification, a Blind Licensed Vendor would retain all seniority. Seniority Verification Forms will be on file in the BEP Director's office for the use of Seniority Verification. (See exhibit. . . Seniority Verification Form in back of Manual). The Agency Selection Committee will have the authority to decide which facility the Blind Licensed Vendor will receive if he or she is the most qualified applicant for two or more facilities.

D. The BEP Director will develop an orientation procedure for the Agency Selection committee to be held annually at the South Carolina Commission for the Blind, Columbia facility. This training will be conducted by the BEP Director and will encompass the BEP Selection Criteria. If there is a change in the composition of the Selection Committee, the new committee member will meet with the BEP Director for orientation on the BEP Selection Committee prior to serving on this selection committee. Documentation of this orientation procedure and training will be kept in the BEP Director's office.

E. Letters of Recommendation will address the five criteria for the BEP Selection Process. Each sub category for the five criteria will be separately discussed in the BEP Counselor's recommendation. The last twelve (12) months of Contact and Inspection Reports will be used for the BEP Counselor's Recommendation Report.

F. A Blind Licensed Vendor will maintain a satisfactory performance rating prior to his or her request for transfer or promotion. A Blind Licensed Vendor must remain in a facility for one (1) year prior to transfer or promotion, except in extreme circumstances such as drastic loss of sales and earnings through no fault of the Blind Licensed Vendor, or because a Blind Licensed Vendor is forced to resign a facility for health reasons. Upon satisfactory improvement in health, with a Physician's Certificate, a Blind Licensed Vendor would be eligible to bid.

G. The bidders will be notified in writing by the BEP Director of the selection.

H. When a vending facility becomes vacant and the bid notice is on the BidLine and has resulted in no qualified Blind Licensed Vendor bidding on the vending facility, the South Carolina Commission for the Blind and the BEP Director have the authority to locate a qualified blind person, provide training, and upon successful completion of at least 6 months On-the-Job Training will be certified as a Blind Licensed Vendor. This person will be given the option to either accept this facility or to bid on another facility. If the Blind Licensed Vendor accepts this facility, the Blind Licensed Vendor must remain in the facility for one (1) year prior to transfer or promotion, except in extreme circumstances such as drastic loss of sales and earnings through no fault of the Blind Licensed Vendor or because a Blind Licensed Vendor is forced to resign a facility for health reasons. Upon satisfactory improvement in health with a Physician's certificate a Blind Licensed Vendor will be eligible to bid. If he or she does not accept the facility, the time that he or she worked in the facility will be awarded to him or her as half time.

I. If a Blind Licensed Vendor bids on a vending facility and decides that he or she wants to withdraw his or her bid, the withdrawal notice must be received before the selection has been made. If a Blind Licensed Vendor who has submitted a bid and is subsequently awarded a vending facility and refuses that vending facility, he or she may not bid on another facility for a period of six months.

J. Any Blind Licensed Vendor who resigns or retires from a vending facility in South Carolina for reasons other than health is not eligible to bid on a vending facility for a period of six months.

K. Any Blind Licensed Vendor who has satisfactorily operated his or her vending facility and has been displaced for reasons beyond his or her control will be entitled to priority for the next (one only) vending facility of comparable sales, earnings, and ability of the Blind Licensed Vendor to operate the facility.

**HISTORY:** Amended by State Register Volume 12, Issue No. 6, eff June 24, 1988; State Register Volume 13, Issue No. 6, eff June 23, 1989; State Register Volume 18, Issue No. 4, eff April 22, 1994; State Register Volume 28, Issue No. 3, eff March 26, 2004.

### **18-7. Vendor Assistants.**

A. Blind Licensed Vendors who have a need for Vendor Assistants in order to operate their vending facilities are responsible for the hiring, training, salary withholdings and benefits of such Assistants.

B. Because it is the policy of the Agency to employ as many blind and visually impaired individuals as possible in the vending facility program, a Blind Licensed Vendor will comply with the following procedure in the event he or she determines he or she is in need of a Vendor Assistant:

1. Notify his or her BEP Counselor who will contact the Vocational Rehabilitation Department to determine if there are any blind or visually impaired clients that may be qualified for work as Vendor Assistants. Such clients will be referred to the Blind Licensed Vendor for an interview.

2. Blind Licensed Vendors who hire a blind assistant will be awarded 2 points under the BEP Selection Criteria under work attitudes.

3. In the event there are no qualified blind or visually impaired clients available, or the Blind Licensed Vendor determines after interview of qualified clients that they will not meet his or her needs, the Blind Licensed Vendor may hire a sighted Vendor Assistant.

C. Blind Licensed Vendors will submit a Vendor Monthly Assistant Form along with the Monthly Stand Report to the South Carolina Commission for the Blind; this form will list the names, visual condition, working hours and salary of all Vendor Assistants.

**HISTORY:** Amended by State Register Volume 28, Issue No. 3, eff March 26, 2004.

### **18-8. Operating Agreement Between the Agency and Blind Licensed Vendor.**

A. The Agency agrees to:

1. Equip the vending facility for carrying out the business authorized by the permit.

2. Furnish initial stocks of merchandise and cash sufficient to enable the Blind Licensed Vendor to commence operating the business authorized by the permit. The Agency will ensure sufficient code dates for assigned merchandise inventories. The Agency will also furnish the Blind Licensed Vendor with a complete inventory of all equipment, initial stocks and cash provided.

3. Maintain the equipment at the vending facility in good repair, and will replace obsolete and worn out equipment as necessary, subject to the availability of funds.

4. Provide supervisory and management service necessary for the efficient operation of the vending facility.

5. Participate in the Setoff Debt Collection Program with the Department of Revenue, to enforce the collection of the Blind Licensed Vendor's debt owed to the South Carolina Commission for the Blind.

B. The Blind Licensed Vendor agrees to:

1. Be responsible for having the vending facility open for business on the days and during the hours specified in the permit.

2. Operate the vending facility business on a cash basis except for such credit as may be established and authorized by the agency.

3. Be accountable to the Agency 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 Agency.

4. Carry on the business of the vending facility in compliance with applicable health laws and regulations.

5. Maintain a neat and clean businesslike appearance while working at the vending facility and will conduct business in an orderly, businesslike manner.
6. Take proper care of the equipment of the vending facility and make alterations or changes therein only with the written approval of the Agency.
7. Notify the Agency within a reasonable amount of time in advance of taking any voluntary leave from the vending facility and as soon as possible with respect to any involuntary leave.
8. Provide for a substitute operator for the vending facility as may be necessitated by the absence of the Blind Licensed Vendor due to illness or vacation. The salary of the person who substitutes for the Blind Licensed Vendor will be charged to the vending facility where the service is performed.
9. Keep such records and make such reports, as the Agency will require.
10. Provide housekeeping, janitorial and exterminating services required for the vending facility and not provided by the property manager.
11. Maintain a business account (set of vending facility records) separate from the Blind Licensed Vendor's personal banking accounts.
12. Maintain inventory levels as prescribed by the Agency.
13. Establish selling prices for the vending facility stock in trade as prescribed by the Agency.
14. Be responsible for safeguarding money, stock in trade and supplies. The Blind Licensed Vendor will be responsible for absorbing any losses or reduction in value of stock regardless of cause.
15. Report promptly any complaints or criticism of the property manager to the Agency.
16. Report promptly any malfunctioning or damaged equipment, loss by fire, damage, theft or any other cause to the Agency.
17. Report the names of Vendor Assistants employed, their working hours, weekly salary and visual condition to the Agency.
18. Hire legally blind Vendor Assistants whenever feasible.
19. Cooperate with the BEP Counselor in the conducting of inventories of the vending facility as deemed necessary by the Agency. The Blind Licensed Vendor will submit a list of suppliers and a price list to the BEP Counselor in the conducting of these inventories. After the merchandise inventory is taken and if any money is due to the South Carolina Commission for the Blind, it must be repaid within a 1-year period. Failure to pay during this time frame will result in the Blind Licensed Vendor being removed from the vending facility. Each Blind Licensed Vendor is required to perform an annual merchandise inventory. This inventory is to be conducted by December 31<sup>st</sup> of each year and a copy of this inventory must be submitted to the BEP Counselor by January 15<sup>th</sup> of the following year. The Blind Licensed Vendor must maintain an inventory level not to decrease more than \$500 of the original assigned inventory.
20. Blind Licensed Vendors are required to operate all machines assigned to their facility. Any transfer of machines to full service must have the prior approval of the BEP Director.

#### C. Work Hour Policy for Indoor and Vending Route Locations.

Each Blind Licensed Vendor must give his or her BEP Counselor the hours he or she will work each week. The schedule must include a minimum of 37.5 hours per week. If a Blind Licensed Vendor is not at his or her vending facility during the hours he or she has given his or her BEP Counselor, he or she will be considered absent from work.

1. At the first occurrence when a BEP Counselor visits a vending facility and the Blind Licensed Vendor is not at the facility the required hours, the BEP Counselor will document the files and give an oral warning. The oral warning will be accompanied by a letter stating this is the first occurrence and is the first official warning.
2. The second time a Blind Licensed Vendor is absent from work during the year (12 continuous months) the BEP Counselor will again notify the Blind Licensed Vendor. The Blind Licensed Vendor will receive a warning from the BEP Counselor. The warning will be in writing and indicate it is the second warning.
3. Should a Blind Licensed Vendor fail to be at work three times during a 12 month continuous period, this will result in that individual being placed on probation for twelve months. The Blind



Licensed Vendor will receive a letter from the BEP Director stating that he or she is on probation for twelve months and failure to be at work will result in his or her termination.

4. If a Blind Licensed Vendor is absent from work during the probationary period, the individual will be terminated from the Vending Facility Program.

5. If a Blind Licensed Vendor is at work for a period of one year, beginning from probationary period, he or she will be reinstated as a Blind Licensed Vendor in good standing.

#### D. Work Hour Policy for Interstate Vending Facilities.

All Blind Licensed Vendors must work a minimum of four to six hours per day, seven days a week. (Blind Licensed Vendors working at Welcome Centers must work the hours of the Welcome Center.) All Blind Licensed Vendors must work a minimum of 37.5 hours per week. Each Blind Licensed Vendor must give his or her BEP Counselor the hours he or she will work each week (minimum of four to six hours per day). If a Blind Licensed Vendor is not at his or her vending facility during the hours he or she has given his or her BEP Counselor, he or she will be considered absent from work.

1. At the first occurrence when a BEP Counselor visits a vending facility on an interstate highway and the Blind Licensed Vendor is not at the facility the required hours, the BEP Counselor will document the files and give an oral warning. The oral warning will be accompanied by a letter stating this is the first occurrence and is the first official warning.

2. The second time a Blind Licensed Vendor is absent from work during the year (12 continuous months) the BEP Counselor will again notify the Blind Licensed Vendor. The Blind Licensed Vendor will receive a warning from the BEP Counselor. The warning will be in writing and indicate it is the second warning.

3. Should a Blind Licensed Vendor fail to be at work three times during a 12 month continuous period, this will result in that individual being placed on probation for twelve months. The Blind Licensed Vendor will receive a letter from the BEP Director stating that he or she is on probation for twelve months and failure to be at work will result in his or her termination.

4. If a Blind Licensed Vendor is absent from work during the probationary period, the individual will be terminated from the Vending Facility Program.

5. If a Blind Licensed Vendor is at work for a period of one year, beginning from probationary period, he or she will be reinstated as a Blind Licensed Vendor in good standing.

The Blind Licensed Vendor must sign all Work Hour Policy Warnings. If the Blind Licensed Vendor refuses to sign the warning, the BEP Counselor or the BEP Director is required to make a note of the refusal on the warning, sign the warning and have it witnessed in the presence of the Blind Licensed Vendor.

#### E. General Agreement

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, the stock in trade and funds on hand are vested in the Agency, and will be left at the vending facility or turned over to the Agency upon 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 Agency and paid to the Blind Licensed Vendor or to the Blind Licensed Vendor's heirs or assignees.

3. The monthly income of the Blind Licensed Vendor will be the net profits of the business of the vending facility for the period in question.

4. Rebates, commissions or bonuses received by the Blind Licensed 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 Blind Licensed Vendor.

5. Merchandise taken from the stock in trade of the vending facility by the Blind Licensed Vendor for his or her own personal use will be accounted for by the Blind Licensed Vendor and paid for at cost prices and reported on the monthly report.

6. The South Carolina Commission for the Blind will make available to all Blind Licensed Vendors arrangements for carrying general liability and product liability insurance. The cost of such insurance

will be a cost of operating the business of the vending facility and will be taken into account as such in determining the net proceeds of the business.

7. Hot food will be sold only in those vending facilities specifically built and equipped for that purpose and which comply with applicable health regulations.

8. The Blind Licensed Vendor may terminate this agreement at any time. It will be terminated upon the revocation or termination of the permit or contract. This agreement may be terminated by the Agency if the business of the vending facility is not conducted in accordance with this agreement or with applicable federal, state or local laws and regulations. In addition, the Blind Licensed Vendor's seniority will be revoked and the manager will be ineligible to bid on any location for six months.

**HISTORY: Amended by State Register Volume 18, Issue 4, eff April 22, 1994; State Register Volume 28, Issue No. 3, eff March 26, 2004.**

## **18-9. Blind Licensed Vendor Record Keeping and Reporting Procedures.**

A. All Blind Licensed Vendors operating a vending facility will complete the BEP Monthly Stand Report each month.

B. Each Blind Licensed Vendor operating a vending facility will receive individualized instruction from his or her BEP Counselor enabling him or her to properly utilize the BEP Monthly Stand Report form.

C. The Blind Licensed Vendor will be responsible for the following:

1. Maintaining a record of all purchases (invoices paid during each month) and entering that amount on the BEP Monthly Stand Report each month and enclosing all invoices with his or her monthly stand report. (If invoices are lost, the Blind Licensed Vendor will obtain a duplicate invoice from his salesman or vendor.)

2. Maintaining an accurate record of gross cash (cash on hand which includes sales tax, rent, insurance and take home pay) and entering that amount on the BEP Monthly Stand Report. No cash may be removed for personal use until the money has been recorded as part of the gross cash figure.

3. Maintaining a record of all helpers' salaries and entering that information on the BEP Monthly Stand Report. The Blind Licensed Vendor will provide for payment of worker's compensation, social security taxes, insurance and all other related expenses on all employees.

4. The Blind Licensed Vendor will be responsible for submitting to the Department of Revenue the Monthly Sales Tax form with a check or money order for sales taxes made payable to the South Carolina Department of Revenue.

5. Insuring that the BEP Monthly Stand Report is mailed to the South Carolina Commission for the Blind no later than the 5th working day following the end of each month.

a. A report is late when it has not been mailed to the South Carolina Commission for the Blind on the 5th working day following the end of each month. The following steps will be enforced:

1. At the first occurrence of a late Monthly Stand Report, an Oral Warning will be issued by the BEP Counselor to the Blind Licensed Vendor. This Oral Warning will be accompanied by a letter stating that this is a first occurrence and is the first official warning.

2. At the second occurrence of a late Monthly Stand Report, the BEP Counselor will notify the Blind Licensed Vendor. The Blind Licensed Vendor will receive a warning from the BEP Counselor, this warning will be in writing and will indicate that it is the second official warning.

3. At the third occurrence of a late Monthly Stand Report, the BEP Director will notify the Blind Licensed Vendor in writing that he or she will be placed on probation for one year.

4. If a late Monthly Stand Report occurs during the probationary period, the Blind Licensed Vendor will be placed on a suspension status resulting in the loss of fringe benefits and right to bid on any vending facilities for a period of one year. Notification will be in writing from the BEP Director and hand delivered by the BEP Counselor or by certified mail.

5. If a Blind Licensed Vendor submits a late Monthly Stand Report during the suspension period (one-year) the Blind Licensed Vendor will be terminated.

6. If the Blind Licensed Vendor is unable to complete the BEP Monthly Stand Report, they may request help from the BEP Counselor assigned to their district. When the Blind Licensed

Vendor is requesting assistance in completing the BEP Monthly Stand Report from either the BEP Counselor or the Agency, the Blind Licensed Vendor must make certain the following information is available to the BEP Counselor or the Agency.

- a. Gross Cash-Line 1 on the Monthly Stand Report. The correct gross cash figure including all cash must be reported.
- b. All invoices (purchases) must be included.
- c. All helper's salaries-Line 3 of the Monthly Stand Report must be included.
- d. All newspaper sales-Line 5 of the Monthly Stand Report must be included.
- e. All Full Service Machine Income(map machines, USA Today, etc.)-Line 20 of the Monthly Stand Report must be included.

**HISTORY: Amended by State Register Volume 12, Issue No. 6, eff June 24, 1988; State Register Volume 18, Issue No. 4, eff April 22, 1994; State Register Volume 28, Issue No. 3, eff March 26, 2004.**

## **18–10. Vacation, Sickness and Maternity Leave.**

A. Blind Licensed Vendors are entitled to three (3) weeks vacation during each calendar year. Blind Licensed Vendors will be permitted to carry over from one calendar year to the next any unused vacation credit up to a total accumulation of forty-five (45) days. Emergency leave must be certified as a true emergency and approved by the BEP Counselor and BEP Director.

### **B. Short-term Illness**

1. Blind Licensed Vendors are required to report all illnesses or injuries that may prevent full time employment to the BEP Counselor.
2. All short term illness leave must be approved by the BEP Director.
3. The Blind Licensed Vendor is required to hire a suitable employee to operate the facility while absent because of illness or injury.
4. In a 12 month period, up to 120 days of short-term sick leave may be granted.
5. If a short-term illness extends beyond 120 days, the long-term sick leave policy will be applied.
6. All short-term illness needs a statement verified by a physician. If an illness extends longer than 4 days, a Physician statement is required.

### **C. Long-term Illness**

1. Blind Licensed Vendors are allowed up to 1 year long-term leave for prolonged illness.
  2. The BEP Director must approve all long-term sick leave.
  3. All requests for long-term sick leave must include a detailed Physician's statement stating the nature of the illness.
  4. Upon return to work from long-term sick leave, the Blind Licensed Vendor must provide the BEP Director with a Physician's statement stating that he or she is able to return to work full time.
  5. When a Physician's statement indicates a Blind Licensed Vendor is unable to return to full time employment after a 12 month period of long-term sick leave, the Selection Committee will issue a 30 day notice of termination.
- D. The Blind Licensed Vendor will take maternity leave as soon as she finds her condition warrants discontinuance of her responsibilities or when so ordered by her physician. The Blind Licensed Vendor will be responsible for finding a suitable replacement. The Blind Licensed Vendor will be expected to resume her duties within six (6) weeks following the delivery of her child, unless otherwise ordered by her physician. (All Physicians' orders must be in writing.)

**HISTORY: Amended by State Register Volume 15, Issue No. 5, eff May 24, 1991; State Register Volume 18, Issue No. 4, eff April 22, 1994; State Register Volume 28, Issue No. 3, eff March 26, 2004.**

## **18–11. Supervision of Vending Facilities.**

A. As the State Licensing Agency for the Randolph-Sheppard Vending Stand Program, the Agency is responsible for the supervision and management of each vending facility.

B. In order to carry out this responsibility, the BEP Counselor will inspect each stand at least monthly using the Contact and Inspection Report Form (Exhibit 11). Inspections of each stand may be made more frequently if deemed necessary by the Agency.

C. Each Blind Licensed Vendor will be expected to participate in the periodic district meeting conducted by their BEP Vendor's Committee Representative. Participation in such meetings will be one factor considered in evaluating the Blind Licensed Vendor's performance on the Contact and Inspection Report.

D. The Contact and Inspection Reports will be signed by the Blind Licensed Vendor and BEP Counselor. One copy of the report will be given to the Blind Licensed Vendor and one copy will be placed in the Blind Licensed Vendor's case record.

E. The BEP Director will establish an Annual Performance Review of Blind Licensed Vendors. One copy of this report will be given to the Blind Licensed Vendor and one copy will be placed in the Blind Licensed Vendor's case record.

F. In some cases, Blind Licensed Vendors may be in need of and eligible for post employment services through the Agency's Vocational Rehabilitation Department to assist them in maintaining employment and preventing a breakdown of rehabilitation results. The determination of need for post employment services and eligibility for such services must be made on an individual basis by the VR Counselor in consultation with the BEP Counselor and the Blind Licensed Vendor.

G. The Agency maintains the right to conduct a study of any vending facility if it determines the Blind Licensed Vendor may be encountering some difficulty in his or her operation such as decreasing net proceeds or loss of business. Such a study may range from a simple spot check of vending facility records to a more extensive study involving the actual operation of the vending facility for a period of time by a BEP Counselor or other Agency staff member. In such an event, the Blind Licensed Vendor will continue to receive the net proceeds of the vending facility for the period of the study.

H. No Blind Licensed Vendor will be allowed to distribute any menus or advertising of his or her vending facility in any building in which another South Carolina Commission for the Blind vending facility is located.

I. Any form of solicitation in a South Carolina Commission for the Blind facility whereby a jar, cup or other instrument is used to collect money for any personal benefit or for other purposes, unless approved in advance by the South Carolina Commission for the Blind is prohibited.

**HISTORY:** Amended by State Register Volume No. 12, Issue No. 6, eff June 24, 1988; State Register Volume 18, Issue No. 4, eff April 22, 1994; State Register Volume 28, Issue No. 3, eff March 26, 2004.

## **18-12. Explanation to a Blind Licensed Vendor of His Rights and Responsibilities.**

The Agency will furnish and explain to each Blind Licensed Vendor copies of documents relevant to the operation of the vending facility, including the rules and regulations, the agreement and permit covering the operation of the vending facility and The Agreement for Operation of a Vending Facility under the Randolph-Sheppard Act between the Agency and the Blind Licensed Vendor.

**HISTORY:** Amended by State Register Volume 28, Issue No. 3, eff March 26, 2004.

## **18-13. Administrative Reviews, Evidentiary Hearings and Arbitration of Blind Licensed Vendor Complaints.**

### **A. Administrative Review**

1. The purpose of an Administrative Review is to provide an informal procedure through which the Agency provides a Blind Licensed Vendor or his or her representative an opportunity to express and seek remedy for his or her dissatisfactions with any Agency action arising from the operation or administration of the vending facility program. The Agency will make every effort to resolve a Blind Licensed Vendor's complaint at the Administrative Review level since the resolution of disputes at the earliest possible time is mutually advantageous to all parties concerned. Such efforts will not discourage or interfere with Blind Licensed Vendors exercising their rights to pursue the Full Evidentiary Hearing process.

2. A Blind Licensed Vendor or his or her designee (who may be a member of the BEP Vendors Committee in accordance with Section 395.14 (B) (2) of the Randolph-Sheppard Regulations) may request in writing, to the Commissioner within 15 working days of the occurrence of the action, an

Administrative Review of an Agency action arising out of the Vending Facility Program with which the Blind Licensed Vendor is aggrieved. This review will be made only by a member or members of the administrative staff of the Agency who has not in any way participated in the Agency action in question.

3. The Administrative Review will be held at a time and place convenient to the Blind Licensed Vendor requesting such review. The Administrative Review should be held during regular Agency working hours at the Central Office. An Administrative Review will be conducted within fifteen (15) working days of receipt by the Agency of such a written request.

4. Transportation, reader or other communication services, if needed, will be arranged for the Blind Licensed Vendor by the Agency.

5. Documentation as to written requests for Administrative Reviews, actions and decisions resulting therefrom will be maintained as part of the Official Record of the Administrative Review Process.

6. When an informal Administrative Review does not resolve a dispute to the satisfaction of a Blind Licensed Vendor, such Blind Licensed Vendor may request of the Agency a Full Evidentiary Hearing in accordance with Section 395.13 (A) of the Randolph-Sheppard Regulations.

#### B. Full Evidentiary Hearing:

1. When a Blind Licensed Vendor is dissatisfied with any Agency action arising from the operation or administration of the Vending Facility Program, such Blind Licensed Vendor may file a complaint with the Agency requesting a Full Evidentiary Hearing. Such complaint should identify one or more disputed issues of fact to be resolved in an Evidentiary Hearing. Complaints alleging only issues of law, for example the authority of the Agency to take a particular action, are not appropriate for resolution through an Evidentiary Hearing. An Evidentiary Hearing should not be conducted to settle issues of law, the resolution of which depends on an interpretation of federal statutory or regulatory requirements.

2. Blind Licensed Vendors will be informed in writing of their right to and the procedures to be followed in obtaining a Full Evidentiary Hearing at the time they are licensed.

3. If a Blind Licensed Vendor requests a Full Evidentiary Hearing, such request must be made either within 15 working days after an adverse decision based on an Administrative Review or, in the absence of an Administrative Review, within 15 working days of the occurrence of the action with which the Blind Licensed Vendor is dissatisfied.

4. A Blind Licensed Vendor must request a Full Evidentiary Hearing in writing. This request must be transmitted to the Commissioner of the Agency personally or by Certified Mail, Return Receipt Requested. This request may be transmitted through the BEP Vendors Committee in accordance with Section 395.14 (B) (2) of the Randolph-Sheppard Regulations.

5. A Blind Licensed Vendor is entitled to legal counsel or other representation in a Full Evidentiary Hearing. A Blind Licensed Vendor may wish to obtain his or her own counsel at his or her own expense or may wish to avail himself or herself of any legal services available in the community at little or no cost, such as the Legal Aid Society, Neighborhood Legal Services, or any other sources willing to provide representation for the Blind Licensed Vendor.

6. Reader services or other communication services will be arranged for the Blind Licensed Vendor should he or she so request. Transportation costs and per diem will be provided also to the Blind Licensed Vendor during the pendency of the Evidentiary Hearing, if the location of the hearing is in a city other than the legal residence of the Blind Licensed Vendor.

7. The hearing will be held at a time and place convenient and accessible to the Blind Licensed Vendor requesting a Full Evidentiary Hearing. A hearing held during regular Agency working hours and located at the Agency central office or be deemed as a convenient time and place. The hearing will be scheduled by the Agency within 15 working days of its receipt of such a request, unless the Agency and the Blind Licensed Vendor mutually, in writing, agree to some other period of time. The Blind Licensed Vendor will be notified in writing of the time and place fixed for the hearing and of his or her right to be represented by legal or other counsel. The Blind Licensed Vendor will be provided a copy of the hearing procedures and other relevant information necessary to enable him or her to prepare his or her case for the hearing.

8. The presiding officer at the hearing will be an impartial and qualified hearing official who has no involvement either with the Agency action that is at issue in the hearing or with the administration

or operation of the Randolph Sheppard Vending Facility Program. He or she may be a staff member or an official of another state agency or a State Agency Hearing Officer.

9. The presiding officer will conduct a Full Evidentiary Hearing, avoid delay, maintain order and make sufficient record of the proceedings for a full and true disclosure of the facts and issues. To accomplish these ends, the presiding officer will have all powers authorized by law and may make all procedural and evidentiary rulings necessary for the conduct of the hearing. The hearing will be open to the public unless the presiding officer for good cause shown otherwise determines.

10. Both the Blind Licensed Vendor and the Agency are entitled to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such examination and cross examination of witnesses as may be required for a full and true disclosure of all facts bearing on the issues.

11. All papers and documents introduced into evidence at the hearing will be filed with the presiding officer and provided to the other party. All such documents and other evidence submitted will be open to examination by the parties and opportunities will be given to refute facts and arguments advanced on either side of the issues.

12. A transcript will be made of the oral evidence and will be made available to the parties. The Agency will pay all transcript costs and will provide the Blind Licensed Vendor with at least one copy of the transcript.

13. The transcript of testimony, exhibits, and all papers and documents filed in the hearing will constitute the exclusive record for decision.

14. The decision of the presiding officer will set forth the principal issues and relevant facts adduced at the hearing, and the applicable provisions in law, regulation and Agency policy. It will contain findings of fact and conclusions with respect to each of the issues, and the reasons and basis therefor. The decision will also set forth any remedial action necessary to resolve the issues in dispute. The decision will be made within 15 working days after the receipt of the official transcript. The decision will be mailed promptly to the Blind Licensed Vendor and the Agency.

15. If a Blind Licensed Vendor is dissatisfied with the decision rendered after a Full Evidentiary Hearing, he or she may request that an arbitration panel be convened by filing a complaint with the Secretary of the Department of Education in accordance with 395.13 (A) of the Randolph-Sheppard Regulations, within a reasonable period of time following receipt of the hearing decision.

**HISTORY: Amended by State Register Volume 18, Issue No. 4, eff April 22, 1994; State Register Volume 28, Issue No. 3, eff March 26, 2004.**

## **18–14. Vending Facility Equipment and Initial Stock.**

A. The Agency will furnish each vending facility with adequate, suitable equipment and initial stocks of merchandise and cash necessary for the establishment and operation of such facility.

B. The right, title to and interest in the equipment and initial stock of each vending facility will be vested in the Agency.

C. In the event a vendor is transferred, promoted or terminated, he or she will be responsible to the Agency for the amount of initial stock in that facility when he or she was placed in it. If there is saleable stock in excess of the initial stock, the Agency will reimburse the Blind Licensed Vendor for the excess amount.

D. In the event a Blind Licensed Vendor is transferred or promoted into a location with insufficient merchandise to operate the facility in accordance to the guidelines set forth in the agreement for that particular location, the South Carolina Commission for the Blind will furnish the necessary inventory to a sufficient operating level.

E. If the vending facility is to be closed, either temporarily or permanently, the Blind Licensed Vendor will sell out his or her entire saleable stock and will reimburse the Agency for the amount of initial stock in the vending facility when he or she was placed in it.

F. Vending machines that are in direct competition with a vending facility will be considered as a part of the vending facility equipment. The Blind Licensed Vendor will receive the net proceeds from vending machines in direct competition. Vending facilities on non-Federal property which do not receive net proceeds from vending machines in direct competition will not be subject to this policy. A

Blind Licensed Vendor will be required to pay a service charge to the supplier if the Blind Licensed Vendor is physically unable to load and supply the merchandise needed for the vending machine.

**HISTORY:** Amended by State Register Volume 18, Issue No. 4, eff April 22, 1994; State Register Volume 28, Issue No. 3, eff March 26, 2004.

### **18–15. Maintenance and Replacement of Equipment.**

A. The Agency will maintain (or cause to be maintained) all vending facility equipment in good repair and in attractive condition, and will replace (or cause to be replaced) worn out or obsolete equipment as required to assure the continued successful operation of the facility, subject to the availability of funds.

B. Maintenance and repair of equipment will be authorized by the BEP Counselor with the approval of the BEP Director upon the request of the Blind Licensed Vendor.

C. All repairs of equipment by other companies must be completed within 15 working days. If not, the BEP Counselor will be required to intervene to hasten the completion of the repair and return of the equipment.

D. Each Blind Licensed Vendor will be responsible for taking reasonable care of the equipment in the facility and will carry out routine day-to-day preventative maintenance procedures as required.

**HISTORY:** Amended by State Register Volume 28, Issue No. 3, eff March 26, 2004.

### **18–16. Distribution and Use of Income from Vending Machines on Federal Property.**

A. Vending machine income from vending machines on federal property which has been disbursed to the Agency by a property managing department, agency or instrumentality of the United States under the vending machine income sharing provisions in Section 395.32 of the federal regulations will accrue to each Blind Licensed Vendor operating a vending facility on such federal property in an amount not to exceed the average net income of the total number of Blind Licensed Vendors within the State, as determined each fiscal year on the basis of each prior year's operation, except that the vending machine income will not accrue to any Blind Licensed Vendor in any amount exceeding the average net income of the total number of Blind Licensed Vendors in the United States.

B. No Blind Licensed Vendor will receive less vending machine income than he or she was receiving during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this ceiling.

C. No limitation will be imposed on income from vending machines combined to create a vending facility, when such facility is maintained, serviced, or operated by a Blind Licensed Vendor.

D. The Agency will retain vending machine income disbursed by a property-managing department, agency or instrumentality of the United States, in excess of the amounts eligible to accrue to Blind Licensed Vendors.

E. The Agency will disburse vending machine income to the Blind Licensed Vendors on a quarterly basis.

F. Vending machine income retained by the Agency will be used for the establishment and maintenance of retirement or pension plans, health insurance contributions, and the provision of paid sick leave and vacation time for Blind Licensed Vendors, if it is so determined by a majority vote of the Blind Licensed Vendors, after each Blind Licensed Vendor has been furnished information on all matters relevant to such purposes. Any vending machine income not necessary for such purposes will be used for one or more of the following: maintenance and replacement of equipment, purchase of new equipment, management services, and assuring a fair minimum return to Blind Licensed Vendors.

G. The money held in the Operator's Benefit Account will be kept as a reserve fund. When the South Carolina Commission for the Blind does not have any money from which to draw, it will be used for maintenance and repair of facilities or purchase needed equipment for facility.

**HISTORY:** Amended by State Register Volume No. 12, Issue No. 6, eff June 24, 1988; State Register Volume 28, Issue No. 3, eff March 26, 2004.

## **18–17. Election, Organization and Function of the Business Enterprise Program Vendors Committee.**

- A. The Agency will conduct among the Blind Licensed Vendors in the program a biennial election of a BEP Vendors Committee which will be representative, to the extent possible, of all such Blind Licensed Vendors on the basis of factors such as geographical location, vending facility type, and proportionally representative of Blind Licensed Vendors on Federal, State and private property.
- B. The BEP Vendors Committee will be composed of one (1) Blind Licensed Vendor from each Business Enterprise Program District and one Blind Licensed Vendor elected at large.
- C. A BEP Vendors Committee member will be nominated and elected among all the Blind Licensed Vendors in a district at a general meeting of all Blind Licensed Vendors within that district. Nominations and elections will be conducted in accordance with Robert's Rules of Order.
- D. A Blind Licensed Vendor who is elected to the BEP Vendors Committee must be working in the district they are elected to represent, unless the Blind Licensed Vendor is unable to transfer due to no fault of the Blind Licensed Vendor. The BEP Vendors Committee Representative must reside within a 50-mile radius of the district he or she works.
- E. The term of membership for a Committee Member will be two (2) years.
- F. A member may serve any number of consecutive terms if he or she is re-elected by a majority of the Blind Licensed Vendors voting from his or her district.
- G. The BEP Vendors Committee will elect a Chairman from among its members to serve for a period of two years. A chairman can serve no more than three consecutive terms.
- H. The BEP Vendors Committee will meet on a quarterly basis at the Ellen Beach Mack Rehabilitation Center. The Chairman may call for special meetings as necessary.
- I. The Chairman may establish subcommittees when necessary to carry out specific tasks.
- J. The Agency will provide the BEP Vendors Committee with such secretarial and financial support as necessary for the BEP Vendors Committee to carry out its functions.
- K. The Agency will provide meeting space for the BEP Vendors Committee meetings.
- L. The Agency will reimburse the BEP Vendors Committee Members for expenses incurred in participating in the BEP Vendors Committee meetings.
- M. The BEP Vendors Committee will:
1. Actively participate with the Agency in major administrative decisions and policy and program development decisions affecting the overall administration of the Agency's Vending Facility.
  2. Receive and transmit to the Agency grievances at the request of Blind Licensed Vendors and serve as advocates for such vendors in connection with such grievances.
  3. Actively participate with the Agency in the development and administration of a system for the promotion and transfer of Blind Licensed Vendors.
  4. Actively participate with the Agency in the development of training and retraining programs for Blind Licensed Vendors.
  5. Sponsor, with the assistance of the Agency, meetings and instructional conferences for Blind Licensed Vendors within the state subject to the availability of funds.
- N. In order to assure opportunity for effective and constructive active participation by the BEP Vendors Committee, its members will be provided advance written notice from the Agency of matters within its purview that are being considered for decision. Appropriate subcommittees or individual Members will receive written notices of and invitations to attend important discussion or decision making meetings in areas of the subcommittee's interest.
- O. The BEP Vendors Committee, in its role of active participant in decision making and administration consistent with Section 395.14 of the Federal Regulations, will have the opportunity to initiate agenda items for BEP Vendors Committee meetings and will do so by notifying the Chairman. Individual Blind Licensed Vendors who wish to suggest items for consideration at BEP Vendors Committee meetings will do so by contacting their district BEP Vendors Committee Representative. The agenda will be set, based on such input, by the Chairman and the Agency. Each Blind Licensed Vendor will receive notification of BEP Vendors Committee meeting time, place, date and agenda.



Blind Licensed Vendors are encouraged to express their views on agenda items to their representatives. While Blind Licensed Vendors are welcome to attend committee meetings, they will do so as observers only, and at their own expense. The purpose of the BEP Vendors Committee is to provide representation for each Blind Licensed Vendor through their Elected BEP Vendors Committee Representative.

P. The Agency has the ultimate responsibility for the administration of the State Vending Facility Program. The views and positions of the BEP Vendors Committee and the views and positions of the administration will be submitted to the Agency Board for decision. If the Board does not adopt the views and positions of the BEP Vendors Committee, the Chairman of the Board will notify the BEP Vendors Committee in writing of the decision reached or the action taken and the reasons therefor.

Q. The at large Blind Licensed Vendor will be elected at the BEP Vendor's Annual Meeting by a majority of all Blind Licensed Vendors. The at large Blind Licensed Vendor will be a minority vendor, unless the BEP Vendors Committee's composition exceeds the minority population, the at large Blind Licensed Vendor may be any Blind Licensed Vendor operating a vending facility in South Carolina.

**HISTORY: Amended by State Register Volume 13, Issue No. 6, eff June 23, 1989; State Register Volume 15, Issue No. 5, eff May 24, 1991; State Register Volume 28, Issue No. 3, eff March 26, 2004.**

### **18-18. Access to Program and Financial Information.**

Each Blind Licensed Vendor will be provided access to all program and financial data of the Agency relevant to the operation of the Vending Facility Program, including quarterly and annual financial reports upon request, if such disclosure does not violate applicable federal or state laws pertaining to the disclosure of confidential information. Insofar as is practical, such data will be made available in Braille or recorded tape and at the request of a Blind Licensed Vendor, the Agency will arrange a convenient time to assist in the interpretation of such data.

**HISTORY: Amended by State Register Volume 28, Issue No. 3, eff March 26, 2004.**