CHAPTER 31

Vocational Rehabilitation

**SECTION 43‑31‑10.** Short title.

 This chapter shall be cited as “The Vocational Rehabilitation Act of South Carolina.”

HISTORY: 1962 Code Section 71‑271; 1957 (50) 114.

**SECTION 43‑31‑20.** Declaration of policy.

 It is hereby declared to be the policy of this State to provide rehabilitation services to the extent needed and feasible, to eligible handicapped individuals throughout the State, to the end that they may engage in useful and remunerative occupations to the extent of their capabilities, thereby increasing their social and economic well‑being and that of their families, and the productive capacity of this State and nation, also thereby reducing the burden of dependency on families and taxpayers.

HISTORY: 1962 Code Section 71‑273; 1957 (50) 114.

CROSS REFERENCES

Vocational rehabilitation services under the Workmen’s Compensation Law, see Section 42‑13‑90.

LAW REVIEW AND JOURNAL COMMENTARIES

Rehabilitation Act of 1973 ‑ Application to Postsecondary Educational Programs. Southeastern Community College v Davis, 99 S Ct 2361 (1979). 31 S.C. L. Rev. 394.

**SECTION 43‑31‑30.** Definitions.

 For the purposes of this chapter:

 (1) The term “Agency” means the State Agency of Vocational Rehabilitation.

 (2) The term “Commissioner” means the Commissioner of Vocational Rehabilitation appointed by the Agency.

 (3) The term “vocational rehabilitation services” means diagnostic and related services (including transportation) incidental to the determination of eligibility for, and the nature and the scope of, services to be provided; training, guidance and placement services for physically handicapped individuals; and, in the case of any such individual found to require financial assistance with respect thereto, after full consideration of his eligibility for any similar benefit by way of pension, compensation, and insurance, any other goods and services necessary to render such individual fit to engage in a remunerative occupation (including remunerative homebound work), including the following physical restoration and other goods and services:

 (a) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or substantially reduce such handicap within a reasonable length of time;

 (b) Necessary hospitalization in connection with surgery or treatment specified in paragraph (a) of this subsection;

 (c) Such prosthetic devices as are essential to obtaining or retaining employment;

 (d) Maintenance shall be furnished only in order to enable an individual to derive the full benefit of other vocational rehabilitation services being provided;

 (e) Tools, equipment, initial stocks and supplies (including equipment and initial stocks and supplies for vending stands), books and training materials, to any or all of which the State may retain legal title; and

 (f) Transportation (except where necessary in connection with determination of eligibility or nature and scope of services) and occupational licenses.

 Such term also includes:

 (g) The acquisition of vending stands or other equipment and initial stocks and supplies for use by severely handicapped individuals in any type of small business, the operation of which will be improved through management and supervision by the State Agency; and

 (h) The establishment of public and other nonprofit rehabilitation facilities to provide services for physically handicapped individuals and the establishment of public and other nonprofit workshops for the severely handicapped.

 (4) The term “physically handicapped individual” means any individual, except an individual qualifying under vocational rehabilitation of the blind, who is under a physical or mental disability which constitutes a substantial handicap to employment, but which is of such a nature that vocational rehabilitation services may reasonably be expected to render him fit to engage in a remunerative occupation, and persons who are severely handicapped and who are of employable age with a physical or mental disability so handicapping as to require that they be institutionalized or have the services of an attendant in order to provide themselves with their daily living requirements.

 (5) The term “remunerative occupation” includes employment as an employee or self‑employed; practice of a profession; homemaking, farm or family work for which payment is in kind rather than in cash; sheltered employment, and home industry or other homebound work of a remunerative nature.

 (6) The term “rehabilitation facility” means a facility operated for the primary purpose of assisting in the rehabilitation of physically handicapped individuals:

 (a) Which provides for one or more of the following types of services:

 (i) testing, fitting, or training in the use of prosthetic devices,

 (ii) prevocational or conditional therapy,

 (iii) physical or occupational therapy,

 (iv) adjustment training or

 (v) evaluation or control of special disabilities; or

 (b) Through which is provided an integrated program of medical, psychological, social, and vocational evaluation and services under competent professional supervision; provided, that the major portion of such evaluation and services is furnished within the facility and that all medical and related health services are prescribed by, or are under the formal supervision of, persons licensed to practice medicine or surgery in the State.

 (7) The term “workshop” means a place where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing remunerative employment to severely handicapped individuals who cannot be readily absorbed in the competitive labor market.

 (8) The term “nonprofit,” when used with respect to a rehabilitation facility or a workshop, means a rehabilitation facility and a workshop, respectively, owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under Section 501 (c) (3) of the Internal Revenue Code of 1954.

 (9) “Establishment of a workshop or rehabilitation facility” means:

 (a) In the case of a workshop, the expansion, remodeling, or alteration of existing buildings necessary to adapt such buildings to workshop purposes or to increase the employment opportunities in workshops, and the acquisition of initial equipment necessary for new workshops or to increase the employment opportunities in workshops; and

 (b) In the case of a rehabilitation facility, the expansion, remodeling, or alteration of existing buildings, and initial equipment of such buildings, necessary to adapt such buildings to rehabilitation facility purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary of the Department of Health, Education, and Welfare may by regulations prescribe in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance to states in the construction of such facilities) and initial staffing thereof (for a period not exceeding one year).

 (10) The term “eligible physically handicapped individual,” when used with respect to diagnostic and related services, training, guidance and placement, means any physically handicapped person, except a person qualifying under vocational rehabilitation for the blind, whose vocational rehabilitation or self‑care rehabilitation is determined feasible by the commissioner, and when used with respect to other vocational rehabilitation services means an individual meeting the above requirement who is also found by the commissioner to require financial assistance with respect thereto, after full consideration of his eligibility for any similar benefit by the way of pension, compensation and insurance.

 (11) The term “self care rehabilitation services” means such diagnostic, psychological, medical, surgical, physical restoration, guidance, training and related services including equipment and prosthetic appliances and training in their use needed to enable a severely handicapped person to dispense with or largely dispense with the need for institutional care or for the services of an attendant and to achieve, in so far as practicable, the ability for independent living.

 (12) The term “eligible” or “eligibility” when used in relation to an individual’s qualification for vocational rehabilitation services means a certification that (1) a physical or mental disability is present; (2) a substantial handicap to employment exists; and (3) vocational rehabilitation services may reasonably be expected to render the individual fit to engage in a gainful occupation.

HISTORY: 1962 Code Section 71‑272; 1957 (50) 114; 1961 (52) 255; 1971 (57) 752, 884.

CROSS REFERENCES

Vocational rehabilitation services under the Workers’ Compensation Law, see Section 42‑13‑90.

**SECTION 43‑31‑40.** State Agency of Vocational Rehabilitation; appointment and terms of members.

 The Governor shall appoint a State Agency of Vocational Rehabilitation to be composed of seven members, and this agency shall provide for the administration of this chapter. The members of the agency shall consist of one member from each congressional district. The Governor, upon the advice and consent of the Senate, shall appoint the members. The members shall serve a term of seven years. The terms of office must always remain staggered so that the term of one member expires every year with appointments to fill unexpired terms caused by death, resignation, or disability.

HISTORY: 1962 Code Section 71‑274; 1957 (50) 114; 2012 Act No. 279, Section 16, eff June 26, 2012.

Editor’s Note

2012 Act No. 279, Section 33, provides as follows:

“Due to the congressional redistricting, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires. Further, the inability to hold an election or to make an appointment due to judicial review of the congressional districts does not constitute a vacancy.”

CROSS REFERENCES

Requirement that the Department of Vocational Rehabilitation work with the State Department of Mental Health to find employment for mentally disabled citizens, see Section 44‑22‑190.

Library References

States 45, 47, 51.

Westlaw Topic No. 360.

C.J.S. States Sections 88, 145 to 147, 151, 153, 157 to 161, 169 to 170, 249.

**SECTION 43‑31‑50.** Chairman of Agency; meetings; compensation of members.

 The agency shall elect a chairman and shall meet quarterly in regular session and on call by the chairman when necessary for the transaction of agency business. Agency members shall receive such per diem and mileage as is provided by law for members of boards, commissions and committees.

HISTORY: 1962 Code Section 71‑275; 1957 (50) 114.

Library References

Public Assistance 179.

States 62, 73.

Westlaw Topic Nos. 316E, 360.

C.J.S. Social Security and Public Welfare Section 183.

C.J.S. States Sections 89, 101 to 102, 196 to 198, 202 to 204, 229, 240 to 249, 253.

**SECTION 43‑31‑60.** Duties and powers of Agency generally.

 The agency shall provide the vocational rehabilitation services authorized by this chapter to every physically handicapped individual determined by the commissioner to be eligible therefor, as defined by Section 43‑31‑30, item (10), and in carrying out the purposes of this chapter, the agency is authorized, among other things:

 (1) To cooperate with other departments, agencies and institutions, both public and private, in providing the services authorized by this chapter to disabled individuals, in studying the problems involved therein, and in establishing, developing and providing in conformity with the purposes of this chapter, such programs, facilities and services as may be necessary or desirable;

 (2) To enter into reciprocal agreements with other states to provide for the services authorized by this chapter to residents of the states concerned;

 (3) To conduct research and compile statistics relating to the provision of services to or the need of services by disabled individuals;

 (4) To enter into contractual arrangements with the Federal Government and with other authorized public agencies or persons for performance of services related to vocational rehabilitation;

 (5) To contract with schools, hospitals, and other agencies, and with doctors, optometrists, nurses, technicians and other persons, for training, physical restoration, transportation, and other vocational rehabilitation services;

 (6) To take such action as may be necessary to enable the agency to apply for, accept and receive for the State and its residents the full benefits available under the Vocational Rehabilitation Act of Congress and any amendments thereto, and under any other Federal legislation or program having as its purpose the providing of, improvement or extension of, vocational rehabilitation services.

 The agency shall not assume responsibility for permanent custodial care of any individual and shall provide rehabilitation services only for a period long enough to accomplish the rehabilitation objective or to determine that rehabilitation is not feasible through the services which can be made available to the individual being served.

HISTORY: 1962 Code Section 71‑276; 1957 (50) 114; 1961 (52) 255; 1971 (57) 752.

CROSS REFERENCES

Agency to promulgate regulations for implementation and administration of Disability Trust Fund, see Section 44‑28‑370.

Agency to promulgate regulations for implementation and administration of Self‑Sufficiency Trust Fund, see Section 44‑28‑80.

Commissioner of State Agency for Vocational Rehabilitation, or designee, an ex officio member of Advisory Council to S.C. Head and Spinal Cord Service Delivery System, see Section 44‑38‑380.

Duties and responsibilities of agency with respect to the Self‑Sufficiency Trust Fund and the Disability Trust Fund, to aid developmentally disabled, mentally ill, and physically handicapped persons, see Sections 44‑28‑10 et seq., 44‑28‑310 et seq.

Library References

Public Assistance 179.

States 67, 73.

Westlaw Topic Nos. 316E, 360.

C.J.S. Social Security and Public Welfare Section 183.

C.J.S. States Sections 224 to 227, 229, 240 to 251, 253.

Attorney General’s Opinions

Simultaneously holding the position of Senior Manager for Quality, Training and Policy with the State Agency of South Carolina Vocational Rehabilitation Department ‑ Disability Determination Services and serving as a member of the Calhoun County Disability and Special Needs Board does not violate the dual‑office holding prohibitions in the South Carolina Constitution. S.C. Op.Atty.Gen. (May 7, 2010) 2010 WL 2320797.

**SECTION 43‑31‑70.** Appointment and qualifications of Commissioner of Vocational Rehabilitation.

 The agency shall appoint a Commissioner of Vocational Rehabilitation, in accordance with established personnel standards and on the basis of his education, training, experience and demonstrated ability. The commissioner shall serve as secretary and executive officer of the Agency.

HISTORY: 1962 Code Section 71‑277; 1957 (50) 114; 1971 (57) 752.

Library References

Public Assistance 175.

States 46, 47.

Westlaw Topic Nos. 316E, 360.

C.J.S. Social Security and Public Welfare Sections 12 to 19.

C.J.S. States Sections 88, 147, 158 to 161, 163 to 165, 195.

**SECTION 43‑31‑80.** Duties and powers of commissioner generally.

 In carrying out his duties under this chapter, the commissioner:

 (1) shall, with the approval of the agency, make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, and investigation and determination therefor, for vocational rehabilitation and other services, procedures for fair hearings and such other regulations as he finds necessary to carry out the purposes of this chapter;

 (2) shall, with the approval of the agency, establish appropriate subordinate administrative units;

 (3) shall, with the approval of the agency, appoint such personnel as he deems necessary for the efficient performance of the functions of the agency;

 (4) shall prepare and submit to the agency annual reports of activities and expenditures and, prior to each regular session of the legislature, estimates of sums required for carrying out this chapter and estimates of the amounts to be made available for this purpose from all sources;

 (5) shall make certification for disbursement, in accordance with regulations, of funds available, for carrying out the purposes of this chapter;

 (6) shall, with the approval of the agency, take such other action as he deems necessary or appropriate to carry out the purposes of this chapter;

 (7) may, with the approval of the agency, delegate to any officer or employee of this agency such of his powers and duties, except the making of regulations and the appointment of personnel, as he finds necessary to carry out the purposes of this chapter.

HISTORY: 1962 Code Section 71‑278; 1957 (50) 114; 1971 (57) 752.

Library References

Public Assistance 175.

States 68, 73.

Westlaw Topic Nos. 316E, 360.

C.J.S. Social Security and Public Welfare Sections 12 to 19.

C.J.S. States Sections 224 to 225, 229, 240 to 249, 252 to 253.

**SECTION 43‑31‑90.** Administration of chapter.

 This chapter shall be administered under the general supervision and direction of the agency by the commissioner.

HISTORY: 1962 Code Section 71‑279; 1957 (50) 114; 1971 (57) 752.

**SECTION 43‑31‑100.** Persons eligible for services; plan effective throughout State.

 Pursuant to the policy declared in Section 43‑31‑20, the vocational rehabilitation services shall be provided under this chapter to persons throughout the State, and the vocational rehabilitation plan adopted pursuant to this chapter shall be in effect in all political subdivisions of the State.

HISTORY: 1962 Code Section 71‑280; 1957 (50) 114.

Library References

Public Assistance 179, 181.

Westlaw Topic No. 316E.

C.J.S. Social Security and Public Welfare Sections 28 to 30, 183 to 184, 187 to 188, 193 to 198.

**SECTION 43‑31‑110.** Services shall be available to disabled civil employees of United States.

 Rehabilitation services provided under the State plan shall be available to any civil employee of the United States disabled while in the performance of his duty, on the same terms and conditions as apply to other persons.

HISTORY: 1962 Code Section 71‑281; 1957 (50) 114.

Library References

Public Assistance 181(1).

Westlaw Topic No. 316E.

C.J.S. Social Security and Public Welfare Sections 193 to 195.

**SECTION 43‑31‑120.** Vocational rehabilitation fund.

 There is created a special fund, to be known as the vocational rehabilitation fund. The fund shall consist of all monies appropriated by this State and all monies received from the United States or any other source for such purpose, as provided by this chapter. All monies in this fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as provided by law for other public funds in the State Treasury. All monies in this fund are appropriated and made available to the agency, and shall be expended solely for the purposes of this chapter. Any balances in the fund shall not lapse at any time but shall be continuously available to the agency for expenditure consistent with this chapter. The agency, acting through the commissioner, shall issue its requisition for payment of all costs of administering this chapter to the Comptroller General, who shall draw his warrant in the usual form provided by law on the State Treasurer, who shall pay it by check on the vocational rehabilitation fund.

HISTORY: 1962 Code Section 71‑282; 1957 (50) 114; 1971 (57) 752.

Library References

States 114, 127, 135.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 328 to 331, 386 to 387, 418 to 433.

**SECTION 43‑31‑130.** Acceptance and use of gifts, Federal grants and other funds.

 (1) The commissioner may, with the approval of the agency, accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this chapter. Gifts made under such conditions as in the judgment of the agency are proper and consistent with the provisions of this chapter may be so accepted and shall be held, invested, reinvested, and used in accordance with the condition of the gift.

 (2) The acceptance of Federal funds and other funds, and their use for vocational rehabilitation, subject to such restrictions as may be imposed by the donor and not inconsistent with this chapter, is hereby authorized.

 (3) Federal grants and donations for vocational rehabilitation services, unless otherwise restricted, shall be available for all vocational rehabilitation services provided under the State plan, and also for the purpose, whenever Federal funds are made available to the State under Section 3 of the Federal Vocational Rehabilitation Amendments of 1954, for the extension and improvement of vocational rehabilitation services, or under Section 4 of such act for projects for research, demonstrations, training and traineeships, and for the planning for and initiating expansion of vocational rehabilitation services under the State plan.

HISTORY: 1962 Code Section 71‑283; 1957 (50) 114; 1971 (57) 752.

Library References

States 85.

Westlaw Topic No. 360.

C.J.S. States Section 259.

**SECTION 43‑31‑140.** Appropriations.

 The General Assembly shall appropriate for vocational rehabilitation such sums as are necessary, along with available Federal and other funds, to carry out the purposes of this chapter.

HISTORY: 1962 Code Section 71‑284; 1957 (50) 114.

Library References

States 129.

Westlaw Topic No. 360.

C.J.S. States Sections 390 to 417.

**SECTION 43‑31‑145.** Consideration to be given similar benefits available to handicapped in meeting cost of rehabilitation; insurance carriers not to deny benefits.

 As required by the Federal Vocational Rehabilitation Acts, and any amendments thereto, including rules and regulation issued pursuant to such acts, the Vocational Rehabilitation Department shall give full consideration to any similar benefits available to a handicapped individual, including private, group or other insurance benefits, to meet, in whole or in part, the cost of any vocational rehabilitation services prior to expenditure of public funds. To the extent that an individual is eligible for other benefits, including private, group or other insurance benefits, such benefits shall be utilized insofar as possible. Insurance carriers shall not deny payment of benefits otherwise available solely on the basis that a handicapped individual has applied for, or has been deemed eligible to receive, vocational rehabilitation services as provided by the Vocational Rehabilitation Department.

HISTORY: 1976 Act No. 675.

CROSS REFERENCES

Acceptance of Federal grants available under the Federal Vocational Rehabilitation Acts, see Section 43‑31‑130.

Application for Federal grants available under the Federal Vocational Rehabilitation Acts, see Section 43‑31‑60.

Creation of a state vocational rehabilitation fund, see Section 43‑31‑120.

Library References

Public Assistance 179.

Westlaw Topic No. 316E.

C.J.S. Social Security and Public Welfare Section 183.

**SECTION 43‑31‑150.** Unlawful disclosure or use of information; records and communications are confidential and privileged.

 It shall be unlawful, except for purposes directly connected with the administration of the vocational rehabilitation program, and in accordance with regulations, for any person to solicit, disclose, receive or make use of, or authorize, knowingly permit, participate in or acquiesce in the use of any list of, or names of, or any information concerning, persons applying for or receiving vocational rehabilitation, directly or indirectly derived from the records, papers, files, communications of the State or subdivisions or agencies thereof, or acquired in the course of the performance of official duties without the written consent of each such applicant and recipient. The records, papers, files and communications shall be regarded as confidential information and privileged.

HISTORY: 1962 Code Section 71‑285; 1957 (50) 114; 1972 (57) 2398.

Library References

Privileged Communications and Confidentiality 370.

Records 31.

Westlaw Topic Nos. 311H, 326.

C.J.S. Colleges and Universities Section 30.

**SECTION 43‑31‑160.** Department of Vocational Rehabilitation to provide services to certain inmates.

 In addition to the duties of the Department of Vocational Rehabilitation as set forth in Sections 43‑31‑20 and 43‑31‑60, the department shall provide services authorized by this chapter to individuals who have committed criminal offenses and are or have been incarcerated in the Department of Corrections when these individuals suffer from physical or mental disabilities that may constitute a substantial handicap to employment.

HISTORY: 2001 Act No. 96, Section 2, eff August 31, 2001.

Editor’s Note

2001 Act No. 96, Section 3, provides as follows:

“This act takes effect upon approval by the Governor; however, the implementation of this act is contingent upon the appropriation of necessary funds to carry out the provisions of this act.”

CROSS REFERENCES

Offender Employment Preparation Program, see Section 24‑13‑2110 et seq.

Library References

Public Assistance 181.

Westlaw Topic No. 316E.

C.J.S. Social Security and Public Welfare Sections 28 to 30, 184, 187 to 188, 193 to 198.

**SECTION 43‑31‑170.** Training and experience requirements for counselors.

 A counselor for the state agency of Vocational Rehabilitation shall have:

 (1) a Master’s degree in Rehabilitation Counseling;

 (2) a Master’s degree in the field of counseling with a graduate course in theories and techniques of counseling; or

 (3) a Master’s degree in any discipline and at least eighteen documented hours of coursework at the Master’s level or above within thirty months of the date of hire including:

 (a) one graduate course with a primary focus on the theories and techniques of counseling;

 (b) three graduate courses, each with a primary focus on one of the following areas:

 (i) occupational information;

 (ii) job development and placement;

 (iii) medical aspects of disabilities;

 (iv) foundations of rehabilitation;

 (v) psychological aspects of disabilities;

 (vi) personal and vocational adjustment; and

 (c) two graduate courses, each with a primary focus on one of the following areas:

 (i) assessment;

 (ii) research methodology;

 (iii) vocational and career development;

 (iv) community resources;

 (v) case management;

 (vi) delivery of rehabilitation services; or

 (4) a current Certified Rehabilitation Counselor (CRC) certificate, regardless of degree.

HISTORY: 2006 Act No. 243, Section 1, eff March 15, 2006.

Library References

States 47.

Westlaw Topic No. 360.

C.J.S. States Sections 88, 147.