

TITLE XI
VOCATIONAL REHABILITATION EDUCATION
CHAPTER 56
IOWA VOCATIONAL REHABILITATION SERVICES
[Prior to 9/7/88, see Public Instruction Department[670] Ch 35]

DIVISION I
SCOPE AND GENERAL PRINCIPLES

281—56.1(259) Responsibility of division. The division is responsible for providing services leading to employment for eligible Iowans with disabilities in accordance with Iowa Code chapter 259, the federal Rehabilitation Act of 1973 as amended, the federal Social Security Act (42 U.S.C. Section 301, et seq.), and the corresponding federal regulations therefor.

281—56.2(259) Nondiscrimination. The division shall not discriminate on the basis of race, creed, color, sex, national origin, religion, duration of residency, or disability in the determination of a person's eligibility for rehabilitation services and in the provision of necessary rehabilitation services.

DIVISION II
DEFINITIONS

281—56.3(259) Definitions. For the purpose of this chapter, the indicated terms are defined as follows:

“Act” means the federal Rehabilitation Act of 1973, as amended and codified at 29 U.S.C. Section 701, et seq.

“Aggregate data” means information about one or more aspects of division clients, or from some specific subgroup of division clients, but from which personally identifiable information on any individual cannot be discerned.

“Assistive technology device” means any item, piece of equipment or product system, whether acquired commercially or off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability.

“Assistive technology service” means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include:

1. Evaluating the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;
2. Aiding an individual with a disability in purchasing, leasing, or otherwise providing for the acquisition of an assistive technology device;
3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
5. Providing training or technical assistance for an individual with a disability or, if appropriate, the family members, guardians, advocates, or authorized representatives of the individual; and
6. Providing training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or others who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome by an individual with disabilities.

“Case record” means the file of personally identifiable information, whether written or electronic in form, on an individual that is collected to carry out the purposes of the division as defined in the Act and the Social Security Act. This information remains a part of the case record and is subject to these rules even when temporarily physically removed, either in whole or in part, from the file folder in which it is normally kept.

“Client” means an eligible individual receiving benefits or services from any part of the division and shall include former clients of the division whose files or records are retained by the division.

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

“Department” means the department of education.

“Designated representative” means anyone the client designates to represent the client’s interests before and within the division. The term does not necessarily mean a legal representative. The designated representative may be a parent, guardian, friend, attorney, or other designated person.

“Division” means the division of vocational rehabilitation services of the department of education.

“Employment outcome” means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market; supported employment; or any other type of employment, including self-employment, telecommuting, homemaking, other unpaid work within the individual’s family, or business ownership, that is consistent with an individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

“Home modification” means the alteration of an already existing living unit to make it usable or more usable by a person with a disability who is involved with the independent living program or as necessary to achieve stable employment as part of an individual plan for employment.

“Impartial hearing officer” or *“IHO”* means a person who is not an employee of the division; is not a member of the state rehabilitation advisory council; has not been involved previously in the vocational rehabilitation of the applicant or client; has knowledge of the delivery of vocational rehabilitation services, the state plan and the federal and state rules and regulations governing the provision of such services; has received training in the performance of the duties of a hearing officer; and has no personal or financial interest that would be in conflict with the person’s objectivity.

“Independent living services” or *“IL services”* means those items and services provided to individuals who have a significant physical, mental, or cognitive impairment and whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited, and for whom the delivery of IL services will improve their ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment.

“Individual plan for employment” or *“IPE”* means a plan that specifies the services needed by an eligible individual and the involvement of other payers and must include the expected employment outcome and the timeline for achievement of the expected employment outcome.

“Individual with a most significant disability” means an individual who is seriously limited in three or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome and includes an individual who, because of a disability, has been separated from employment or is in danger of becoming separated from employment.

“Individual with a significant disability” means an individual who has a significant physical or mental impairment that seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome or who is a recipient of SSD/SSI.

“Integrated work setting” means job sites where most of the client’s coworkers are not disabled and the client interacts on a regular basis, in the performance of job duties, with employees who are not disabled; or if the client is part of a distinct work group of only individuals with disabilities, the work group consists of no more than eight individuals; or the client has no coworkers; or if the only coworkers are part of a work group of eight or fewer individuals with disabilities, the client has regular contact with nondisabled individuals, other than the persons providing support service, including members of the general public.

“Maintenance” means monetary support provided to a client for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the client and that are necessitated by the client’s participation in the program.

“Mediation” means the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies.

“Menu of services” means the services provided by community partners to assist an individual with a disability in achieving an employment outcome. The services are selected and jointly agreed to by the counselor and client of the division. Payments for services are made based on a fee structure that is published and updated annually and include the following:

1. Referral to the community provider completed by the counselor and client for a desired outcome;

2. Assessment through a community work-site assessment, comprehensive vocational evaluation, facility work-site assessment, career exploration, or job shadowing assessment to identify a realistic vocational goal that is compatible with the individual’s needs, preferences, abilities, disability, and informed choice;

3. Enhanced planning requested by the counselor and coordinated with community partners when conflicting and multiple issues are preventing the client from moving forward with employment, so that a comprehensive plan is developed to achieve the employment outcome;

4. Placement services selected by the counselor, client and interested partners to prepare for and obtain employment. Placement services include the following:

- Vocational preparation that enhances and improves the client’s ability to perform specific work, learn the necessary skills to do a specific job, minimize negative work habits and behaviors that have impeded job retention, develop skills in finding a job, and learn how to navigate transportation systems to and from work;

- Work adjustment training that remedies negative work habits and behaviors, improves work tolerance, and develops strategies to improve a client’s ability to maintain employment;

- Job-seeking skills training that teaches the client strategies necessary to find employment with or without assistance and at the level required by the client’s needs;

- Job development and job follow-up that places the client on a job in the community working for a business, maintains contact with the employer on the client’s progress, is jointly funded through the Medicaid waiver program when appropriate, and is purchased only when used in conjunction with another required service;

- Employer development that, through a job analysis, identifies for businesses the job tasks and customized training plan for the job for which the client will be trained, is authorized only as a stand-alone service when the Medicaid waiver funds the job development and is purchased only when used in conjunction with another required service;

- Supported job coaching that assists the client in learning job-specific skills and work habits and behaviors while employed on the job and that continues as needed after the division file is closed;

- Selected job coaching that assists the client in learning job-specific skills and work habits and behaviors while employed on the job and that is purchased only when approved by the area office supervisor.

“Ongoing support services” means services that are needed to support and maintain individuals with the most significant disabilities in supported employment. Such services shall be specified in the IPE and include, at a minimum, twice-monthly monitoring at the work site to assess employment stability, unless it is determined in the IPE that off-site monitoring is more appropriate.

“Physical or mental impairment” means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, or endocrine; or

2. Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities.

3. Any impairment for which an individual has a documented history of receiving special education services in both elementary and secondary school.

“Physical or mental restoration services” means:

1. Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment;

2. Diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with state licensure laws;

3. Dentistry;

4. Nursing services;

5. Necessary hospitalization (either inpatient or outpatient) in connection with surgery or treatment and clinical services;

6. Drugs and supplies;

7. Prosthetic and orthotic devices;

8. Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel that are qualified in accordance with state licensure laws;

9. Podiatry;

10. Physical therapy;

11. Occupational therapy;

12. Speech and hearing therapy;

13. Mental health services;

14. Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services or that are inherent in the condition under treatment;

15. Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

16. Other medical or medically related rehabilitation services.

“Rehabilitation engineering” means the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community.

“Rehabilitation technology” means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

“Residency requirement” is a condition of eligibility and is met by an individual who resides in the state of Iowa and is present and available for participation in a rehabilitation plan.

“Satisfactory employment” means stable employment consistent with an individual’s IPE and acceptable to both the individual and the employer.

“Status” means the existing condition or position of a case. The specific case statuses are as follows:

00-0 Referral (individual has been referred to or personally contacted the division by any means);

02-0 Applicant (individual requests services and signs the rights and responsibilities form);

04-0 Accepted for services (eligible), but does not meet waiting list categories being served;

06-0 Trial work experiences/extended evaluation (individual’s abilities, capabilities, and capacities are explored);

08-0 Closed before acceptance (eligibility criteria cannot be met or case is closed for some other reason);

10-__ Accepted for services (eligible); substates are:

10-0 Eligible individuals other than high school students;

10-1 Eligible high school students;

12-0 IPE developed, awaiting start of services;

14-0 Counseling and guidance only (counselor works with client directly to reach goals through counseling and placement);

16-0 Physical and mental restoration (when such services are the most significant services called for on the IPE);

18-__ Training (when training is the most significant service called for on the IPE); substates are:

18-1 Training in a workshop/facility;

18-2 On-the-job training;

18-3 Vocational-technical training;

18-4 Academic training;

18-5 Correspondence training;

18-6 Supported employment;

18-7 Other types of training not covered above (including nonsupported employment job coaching);

20-0 Ready for employment (IPE has been completed to extent possible);

22-0 Employed;

24-0 Service interrupted (IPE can no longer be continued for some reason and no new IPE is readily obvious);

26-0 Closed rehabilitated (can only occur from Status 22-0 when client has been employed in the job of closure for a minimum of 90 days);

28-0 Closed after IPE initiated (suitable employment cannot be achieved or employment resulted without benefit of services from the division);

30-0 Closed before IPE initiated (can only occur from either Status 10-__ or 12-0 when a suitable individual plan for employment cannot be developed or achieved or when employment resulted without benefit of services from the division);

32-0 Postemployment services;

33-__ Closed after postemployment services; substates are:

33-1 Individual is returned to suitable employment or employment is otherwise stabilized;

33-2 Case reopened for comprehensive vocational rehabilitation services;

33-3 Situation has deteriorated to the point that further services would be of no benefit to individual;

38-0 Closed from Status 04-0 (individual does not meet one of the waiting list categories and the individual no longer wants to remain on the waiting list or fails to respond when contacted because individual's name is at top of waiting list).

"Substantial impediment to employment" means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capacities.

"Supported employment" means:

1. Competitive employment in an integrated setting, or employment in integrated work settings in which individuals are working toward competitive employment, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, with ongoing support services for individuals with the most significant disabilities:

- For whom competitive employment has not traditionally occurred or for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and
- Who, because of the nature and severity of their disabilities, need intensive supported employment services from the division and extended services after transition to perform this work; or

2. Transitional employment, as defined herein, for individuals with the most significant disabilities due to mental illness.

“*Supported employment services*” means ongoing support services and other appropriate services needed to support and maintain an individual with a most significant disability in supported employment that are provided by the division and documented through the employment readiness analysis and placement plan:

1. For a period of time not to exceed 18 months unless, under special circumstances, the eligible individual and the rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the IPE; and

2. Following successful case closure, as postemployment services that are unavailable from an extended service provider and that are necessary for the individual to maintain or regain the job placement or to advance in employment.

“*Transitional employment*,” as used in the definition of supported employment, means a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most significant disabilities due to mental illness. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

“*Transition services*” means a coordinated set of activities provided to a student and designed within an outcome-oriented process that promotes movement from school to postschool activities. Postschool activities include postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, and community participation. The coordinated set of activities must be based upon the individual student’s needs, taking into account the student’s preferences and interests, and must include instruction, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student’s IPE.

“*Trial work experiences*” means an exploration of the individual’s abilities, capabilities, and capacity to perform in realistic work situations in an integrated work setting in order to determine whether there is clear and convincing evidence that the individual is too severely disabled to benefit from the division’s services.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

DIVISION III ELIGIBILITY

281—56.4(259) Individuals who are recipients of SSD/SSI. Recipients of social security disability payments or supplemental security income payments are determined automatically as being significantly disabled and are eligible for vocational rehabilitation services if such recipients demonstrate eligibility under rules 281—56.8(259) and 281—56.13(259). Recipients who demonstrate eligibility under rules 281—56.8(259) and 281—56.13(259) must also demonstrate need in the employment plan under rule 281—56.14(259). Nothing in this rule automatically entitles a recipient of social security disability payments or supplemental security income payments to any good or service provided by the division.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.5(259) Eligibility for vocational rehabilitation services. Eligibility for vocational rehabilitation services shall be determined upon the basis of the following:

56.5(1) A determination by qualified personnel that the applicant has a physical or mental impairment;

56.5(2) A determination by qualified personnel that the applicant’s physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant;

56.5(3) A determination by a qualified vocational rehabilitation counselor that the applicant requires vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent

with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

A presumption exists that the applicant can benefit, in terms of an employment outcome, from the provision of vocational rehabilitation services. This presumption may be overcome by the division if, based on clear and convincing evidence, the division determines that the applicant is incapable of benefiting, in terms of an employment outcome, from vocational rehabilitation services due to the severity of the applicant's disability;

56.5(4) A determination that the individual meets the residency requirement.

281—56.6(259) Eligibility for specific services. Financial need must be established prior to provision of certain services at the division's expense. Applicants are eligible for physical restoration, occupational licenses, customary occupational tools and equipment, training materials, maintenance and transportation (except transportation for diagnosis, guidance or placement) only on the basis of financial need and when services are not otherwise immediately available. The following criteria are established for determination of eligibility of clients for the following services:

56.6(1) Physical restoration.

- a. The service is necessary for the client's satisfactory occupational adjustment.
- b. The condition causing disability is relatively stable or slowly progressive.
- c. The condition is of a nature that treatment may be expected to remove, arrest, or substantially reduce the disability within a reasonable length of time.
- d. The prognosis for life and employability are favorable.

56.6(2) Training and training materials.

- a. The training and books and supplies are necessary for the client's satisfactory occupational adjustment.
- b. The client has the mental and physical capacity to acquire a skill that the client can perform in an occupation commensurate with the client's abilities and limitations.
- c. The client is not otherwise precluded by law from employment in the client's field of training.
- d. The client meets the residency requirement.

56.6(3) Occupational licenses and occupational tools and equipment. The division may pay for occupational licenses and customary occupational tools and equipment when necessary for the client's entrance into, and successful performance in, a selected occupation.

56.6(4) Transportation. A client may be provided transportation in connection with securing medical or psychological examinations, physical restoration, training or placement, if such transportation is part of the client's IPE. A companion may be provided transportation at the division's expense if the client cannot travel alone.

56.6(5) Maintenance. A client is eligible for maintenance when it is necessary to the client's vocational rehabilitation and is an extra expense incurred due to the IPE.

281—56.7(259) Areas in which exceptions shall not be granted. Pursuant to federal law, an exception shall not be granted for any of the following requirements:

1. The eligibility requirements in rule 281—56.5(259) (i.e., presence of disability, substantial impediment to employment, need for vocational rehabilitation services).
2. The required use of trial work experiences prior to closure in Status 08-0 due to severity of disability.
3. The required contents of the IPE.
4. Identification of a long-term follow-up provider in supported employment cases.
5. Being in employment and in Status 22-0 for 90 days prior to Status 26-0 closure.
6. Status progression, restrictions, and time frames, such as the federal requirement that eligibility be determined within 60 days of an individual's application for services unless the individual has agreed to an extension.

7. Services may be provided only to individuals who are not on a waiting list, except for assessments which will help the division appropriately determine on which waiting list an individual belongs.

281—56.8(259) Waiting list. As required by the Act and 34 CFR 361.36, if the division cannot serve all eligible individuals who apply, the division shall develop and maintain a waiting list for services based on significance of disability. The three categories of waiting lists are as follows, listed in order of priority to be served:

1. Individuals with most significant disabilities;
2. Individuals with significant disabilities; and
3. Other individuals.

An individual's order of selection is determined by the waiting list and the date on which the individual was deemed eligible for services from the division. All waiting lists are statewide in scope; no regional lists are to be maintained.

Assessment of the significance of an applicant's disability is done during the process of determining eligibility but may continue after the individual has been placed on a waiting list.

281—56.9(259) Individuals who are blind. Pursuant to 111—10.4(216B), individuals who meet the department for the blind's definition of "blind" are to be served primarily by the department for the blind. Individuals with multiple disabilities who also are blind may receive technical assistance and consultation services while the department for the blind provides their rehabilitation plan.

281—56.10(259) Students in high school. The division may serve students in high school, provided the student demonstrates the maturity level, skills, and learning characteristics required to legally work in competitive environments for nonfamily members. If an applicant is in high school and is determined to be eligible for vocational rehabilitation services, such services may begin before the student exits the secondary school system. The services shall not supplant services for which the secondary school is responsible.

When the division determines that a student is eligible for services, the student's place on the waiting list under rule 281—56.8(259) shall be determined. If the waiting list category appropriate for the student is a category currently being served, the student's case shall be moved to Status 10-1. Otherwise the case is placed in Status 04-0, and the student's name is added to the waiting list for that category, based on the student's date of eligibility. An IPE may be written for a student in Status 10-1 at any time the student's vocational goal and the services necessary to reach that goal have been agreed upon by the student and the student's division counselor. The IPE must be in place when the student exits the secondary school system, unless the student has agreed to an extension or is on a waiting list or applied for services in the last quarter of the student's senior year.

The counselor assigned by the division to work with the student may participate in the student's individualized education program meetings to provide consultation and technical assistance if the student is on the waiting list for services. Once a student is removed from the waiting list, the counselor may also provide vocational counseling and planning for the student and coordinate services with transition planning teams. When such services do not supplant services for which the secondary school is responsible, the division may begin to provide services specifically related to employment, such as supported employment or job coaching services, as early as the student's junior year of secondary school. Students in high school or in an alternative high school who have not yet met high school graduation requirements after four years of secondary enrollment may continue to receive said services that do not supplant the responsibilities of the high school. Students in their final year of high school who have made satisfactory progress and who have demonstrated skills to work in their trained profession may receive assistance in purchasing tools to be used on a job.

281—56.11(259) Establishment of financial need. The division establishes the client's financial need prior to providing physical restoration, including prostheses; transportation (for other than diagnostic,

guidance or placement purposes); maintenance; and occupational licenses, tools and equipment. Recipients of SSD/SSI are not subject to a financial needs test for any services but must demonstrate eligibility under rules 281—56.8(259) and 281—56.13(259), as well as demonstrate need in the employment plan under rule 281—56.14(259).

In determining financial need, the clients or, in the case of minors, the minors' parents or guardians are required to make a specific declaration regarding all family income from any source that may be applied toward the cost of rehabilitation services, except those of diagnosis, counseling, training and placement, which are provided without regard to financial need; however, the division shall not pay for more than the balance of the cost of the service minus comparable services and benefits. The income should be available to the client; that is, actually on hand, free from prior obligations and ready when needed.

The division shall observe the following policies in making a determination of financial need based upon the findings:

56.11(1) All services requiring the determination of financial need are provided on the basis of supplementing the resources of the client or of those responsible for the client.

56.11(2) A supervisor may grant an exception in cases where the applicant's disability caused or is directly related to financial need and where all other sources of money have been exhausted by the applicant or the parents or guardians of a minor applicant.

56.11(3) Consideration shall be given to the client's responsibility for the immediate needs and maintenance of the client's dependents, and the client shall be expected to reserve sufficient funds to meet the client's family obligations and to provide for the family's future care, education and medical expenses.

56.11(4) Consideration shall also be given to factors such as prior obligations as well as to the desirability of conserving the client's own resources for future rehabilitation purposes, such as becoming established in business or providing a business automobile required for transportation or employment.

56.11(5) Income up to a reasonable amount should be considered from the standpoint of its conservation and its maximum utilization to the long-term interest of the client. Small casual earnings and unpredictable gifts of indeterminate value should not be counted as resources.

56.11(6) Financial aid from public assistance is disregarded as a resource.

56.11(7) Grants and scholarships, while not required to be searched for a comparable benefit, may be considered when determining financial support of a plan.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

DIVISION IV
CASE MANAGEMENT

281—56.12(259) Case finding and intake. The division seeks to locate all disabled individuals of employable age who desire to be employed full- or part-time and may be eligible for vocational rehabilitation services. To that end, referrals are accepted from all sources, and the division has established working relationships with public and private agencies in the areas of health, welfare, compensation, education, employment, and other related services. All new cases, whether referred to a local worker or to the division, are checked for previous information and are acknowledged promptly by letter or a personal call.

281—56.13(259) Case diagnosis. The case diagnosis constitutes a comprehensive study of the client, including medical as well as a vocational diagnosis of the individual. Each case diagnosis is based on pertinent information, including the individual's health and physical status, intelligence, educational background and achievements, vocational aptitudes and interests, employment experience and opportunities, and personal and social adjustments.

56.13(1) Medical diagnosis.

a. As a basis for determination of eligibility and formulation of the individual's rehabilitation plan, the division secures competent medical diagnosis. When necessary, the diagnosis is, if at all practicable, secured from recognized specialists in specific fields indicated by the general medical

diagnosis. Whenever possible the diagnosis is accompanied by recommendations as to the means and methods of restoration and by a statement of any physical or mental limitations that may exist.

b. The division accepts a medical report in lieu of securing a new examination when the report can be relied upon to provide a sound basis for diagnosis of the physical or mental condition of the individual and is from one of the following providers or sources:

- (1) A licensed physician or surgeon;
- (2) A licensed osteopathic physician or surgeon;
- (3) A licensed doctor of chiropractic;
- (4) A licensed psychologist;
- (5) A licensed physician assistant;
- (6) A licensed advanced registered nurse practitioner;
- (7) A native healing practitioner recognized as such by an Indian tribe when services are being provided to American Indians with disabilities and the native healing practitioner services are necessary to achieve the individual's vocational rehabilitation objective;
- (8) A licensed dentist;
- (9) A licensed ophthalmologist;
- (10) A licensed audiologist;
- (11) A licensed independent social worker (LISW);
- (12) A licensed mental health counselor;
- (13) A certified school psychologist;
- (14) A recent individualized education program (IEP) as recognized by the Iowa department of education which documents a history of special education programs or services; or
- (15) An accredited or certified medical or treatment institution recognized by the state of Iowa or licensed by the department of public health or department of human services in any other state.

56.13(2) Vocational diagnosis. The methods of the vocational diagnosis include counseling interviews with the client; reports as may be needed, including when necessary in the individual case, reports from schools, employers, social agencies, and others; and psychological information.

56.13(3) Recording case data. The division maintains a record for each case. The case record contains pertinent case information including, as a minimum, the basis for determination of eligibility, the basis justifying the plan of services and the reason for closing the case together with a justification of the closure. A case record may not be destroyed until three years after the case has been closed.

281—56.14(259) Individual plan for employment (IPE).

56.14(1) Content. The IPE contains the client's expected employment goal, the specific vocational rehabilitation services needed to reach that goal, the entity or entities that will provide those services, the method by which satisfactory progress will be evaluated, and the methods available for procuring the services.

56.14(2) Client's participation and approval. The IPE is formulated with the client's participation and approval and provides for all rehabilitation services that are recognized to be necessary to fully accomplish the client's vocational rehabilitation whether or not services are at the expense of the division.

56.14(3) Conditions for development of the IPE. The basic conditions to be considered during the development of the IPE are:

a. The belief of the division that when concluded the IPE shall satisfactorily aid in the individual's achievement of vocational rehabilitation; and

b. That all services are to be carried to completion provided, however, that the division exercises its discretion in relation to the termination or revision of the individual's IPE when, for any reason, it becomes evident that the IPE cannot be completed or when the financial condition of the individual or the division makes termination necessary.

56.14(4) Cooperation by the client. The division requires good conduct, regular attendance and cooperation of all individuals engaged in the rehabilitation plan's implementation. The division makes the following provisions for ensuring trainee cooperation: instruction, verbally or by pamphlet, emphasizing the importance of these factors to the success of the IPE; at the beginning of the program,

advising each trainee about what is expected of the trainee and that services shall continue only if the trainee's progress, attitude and conduct are satisfactory; requiring periodic progress, grade and attendance reports from the training agency; promptly calling the trainee's attention to evidence of unsatisfactory progress or attendance before such conditions become serious; providing encouragement to the trainee to promote good work habits, with due commendation for effective effort; and maintaining good relationships with the training agency.

56.14(5) Ticket to work. The client's signature on the IPE verifies the ticket assignment to the division unless otherwise directed by the client.

DIVISION V
SERVICES

281—56.15(259) Scope of services. All necessary vocational rehabilitation services, including counseling, physical restoration, training, and placement, are made available to eligible individuals to the extent necessary to achieve their vocational rehabilitation and must be included in the employment plan and agreed to by the eligible individual's counselor before the service is delivered. The division cooperates with federal and other state agencies providing vocational rehabilitation or similar services, and written agreements providing for interagency cooperation may be entered into as required by the Act at the discretion of the division. In selected instances, the division assumes responsibility for providing short periods of medical care for acute conditions arising in the course of the client's rehabilitation, which if not cared for would constitute a hazard to the achievement of the rehabilitation objective because of the client's limited funds and the unavailability of free medical services.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.16(259) Training.

56.16(1) Duration of training. Rehabilitation training is provided according to the actual needs of the individual. It is designed to achieve the specific employment outcome that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

56.16(2) Types of training. The types of training programs available are as follows:

a. Postsecondary training, which is training in the arts and sciences for which postsecondary credit is given and which is generally considered to be applicable toward an associate's degree, bachelor's degree, or advanced degree.

b. Vocational training, which includes any organized form of instruction that provides the knowledge and skills essential for performing in a vocational-technical area. Such knowledge and skills may be acquired through training in an institution, on the job, by correspondence, by tutors, through a selection from the menu of services, or through a combination of any or all of these methods.

c. Prevocational training, which includes any form of basic training given for the acquisition of background knowledge or skills prerequisite or preparatory to vocational training or to employment where the primary occupational knowledge and skills are learned on the job or through a selection from the menu of services.

d. Work adjustment training, which includes any training given for any one or a combination of the following reasons:

(1) To assist individuals with disabilities, if needed, to acquire personal habits, attitudes and skills that will enable them to function effectively.

(2) To develop or increase work tolerance prior to engaging in prevocational or vocational training, or in employment.

(3) To develop work habits and to orient the individual to the world of work.

(4) To provide skills or techniques for the specific purpose of enabling the individual to compensate for the loss of the use of a member of the body or the loss of a functional capacity.

e. Job coaching, which includes, but is not limited to, intensive on-the-job training necessary to teach an employee both the job duties and job-related responsibilities.

f. Supported employment, which means competitive work in an integrated work setting with ongoing support services for individuals with the most significant disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of significant disabilities. Supported employment also includes transitional employment for individuals with chronic mental illness. Supported employment is limited to a period of 18 months unless a longer period is established in the IPE.

g. Customized training, which is a plan developed by the client's counselor in cooperation with the client and the employer-trainer whereby the employer-trainer accepts the client for training for a specific job or job family, paid or unpaid, that may or may not result in employment with the training employer.

56.16(3) Scope of training. The division may provide training services as long as those services are part of a client's IPE. Training facilities shall be selected to meet the client's health, disability, and program needs. Training facilities within the state are preferred; those outside Iowa shall not be used unless approved for use by the vocational rehabilitation agency in the state in which the facility is located.

56.16(4) Financial assistance for postsecondary training. Calculations of financial assistance for postsecondary training are determined annually. In order for the division to continue to assist the greatest practical number of eligible clients, assistance shall be no less than 40 percent and no more than 60 percent of the cost of attending the least expensive in-state public institution for a course of instruction leading to an undergraduate degree. In all cases, the postsecondary institution in which the student is enrolled must be accredited by an entity recognized by the federal Department of Education as having authority to accredit postsecondary institutions.

a. Tuition and fee-based general assistance.

(1) Second year or less status. A student is considered to be in second year or less status when the student has earned fewer than 60 semester or 90 quarter credit hours in the student's present area of study or discipline; when the student is enrolled in a community college or other two-year postsecondary institution; or when the student is enrolled in a program whose terminal degree is an associate degree but the student has not yet attained the associate degree. For an eligible student in second year or less status, the division shall pay no less than 40 percent and no more than 60 percent of the least expensive per-credit-hour tuition charged by an Iowa community college.

(2) Third or fourth year status. A student is considered to be in third or fourth year status if the student has earned at least 60 semester or 90 quarter credit hours or has achieved an associate degree in the student's present area of study or discipline but has not yet earned a postsecondary baccalaureate degree. For an eligible student in third or fourth year status, the division shall pay no less than 40 percent and no more than 60 percent of the tuition charged by the college or university, limited to the amount charged by the least expensive Iowa regents institution. Students in third or fourth year status who take graduate courses are only eligible to receive the established assistance rate for third or fourth year status.

(3) Medical school. Only a student enrolled full-time in a graduate school pursuing a course of studies that will lead to a medical doctor (MD) or doctor of osteopathy (DO) degree is eligible for assistance under this paragraph. For a student who is an MD or DO candidate, the division shall pay no less than 40 percent and no more than 60 percent of the tuition charged by the college of medicine of the University of Iowa. Students pursuing any other graduate degree in a medical arts program may be eligible for assistance under subparagraph 56.16(4)"a"(5).

(4) Law school. Only a student enrolled full-time in a graduate school pursuing a course of studies that will lead to a doctor of jurisprudence (JD) degree is eligible for assistance under this paragraph. For a student who is a JD candidate, the division shall pay no less than 40 percent and no more than 60 percent of the tuition charged by the college of law of the University of Iowa. Students pursuing any other graduate degree from a law school may be eligible for assistance under subparagraph 56.16(4)"a"(5).

(5) Graduate or postgraduate school. Notwithstanding subparagraphs 56.16(4)"a"(3) and (4), for a student enrolled in a graduate or postgraduate school, the division shall pay no less than 40 percent and no more than 60 percent of the tuition charged by the college or university, limited to the amount charged by the least expensive comparable graduate school at an Iowa regents institution.

(6) Distance learning (on-line courses). For a student enrolled in a distance learning course, the division shall pay the lesser of one of the following:

1. No less than 40 percent and no more than 60 percent of the actual cost of the course, or
 2. The rate established for a student in second year or less status.
- (7) Continuing education courses. For a student taking a noncredit continuing education course, the division shall pay the lesser of one of the following:
1. No less than 40 percent and no more than 60 percent of the actual cost of the course, or
 2. The rate established for a student in second year or less status.
- (8) Out-of-state postsecondary institutions. For an eligible student who attends a postsecondary institution located outside Iowa, the division shall pay at the same rates set in this subrule.
- b. Support services for postsecondary training.* Unless approved as an exception by the supervisor, the amounts authorized for the items listed herein cannot exceed the amounts that would otherwise be spent on tuition and fees.
- (1) Transportation shall be provided only when and to the extent that the cost is caused by participation in a program of vocational rehabilitation services.
 - (2) Maintenance shall be provided only to support participation in a program of vocational rehabilitation services when the client has no resources to address basic living expenses.
 - (3) Books and supplies may be provided in lieu of tuition and fees, but the amount provided therefor shall be no less than 40 percent and no more than 60 percent of the amount based on tuition and fees.
 - (4) Tutoring shall be provided only for courses that are part of the actual degree requirements and only when this service is not available for free through the school attended by the client. Tutoring for program entrance examinations, such as the GRE, LSAT, or MCAT, is not allowed without an exception approved by the supervisor.
 - (5) Unless approved as an exception, tools and equipment required for participation in a training program shall be provided in lieu of the tuition and fee amount.
 - (6) Unless approved as an exception, supplies for a course without which the course cannot be successfully completed shall be provided in lieu of the tuition and fee amount.
 - (7) Unless approved as an exception, fees for specialized equipment or computer programs needed to learn a subject or to access a course shall be provided in lieu of the tuition and fee amount.
 - (8) Fees for certification tests that are part of a course shall be paid pursuant to the 40 percent to 60 percent range established as the tuition and fees standard. For certifications and licensure fees that are not part of a course, the division shall use the financial needs assessment form to determine the level of division participation.

56.16(5) General guidance regarding postsecondary training is available from the division's case services manual.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.17(259) Maintenance. The costs of maintenance shall not exceed the amount of increased expenses that the rehabilitation causes for the client or the client's family. Maintenance is not intended to provide relief from poverty or abject living conditions. Guidance regarding the financial support of maintenance is available from the division's case service manual.

281—56.18(259) Transportation. When necessary to enable an applicant or a client to participate in or receive the benefits of other vocational rehabilitation services, travel and related expenses, including expenses for training in the use of public transportation vehicles and systems, may be provided by the division. Transportation services may include the use of private or commercial conveyances (such as private automobile or van, public taxi, bus, ambulance, train, or plane) or the use of public transportation and coordination with a regional transit agency. The division shall not purchase or lease vehicles for a client. The division shall not pay for maintenance or repair of vehicles unless written approval of the supervisor allows for an exception.

281—56.19(259) Rehabilitation technology.

56.19(1) Rehabilitation technology services are available at any point in the rehabilitation process, except to those clients on the waiting list. Such services include, as appropriate, an evaluation of the

ability of the individual to benefit from rehabilitation technology services. Areas in which rehabilitation technology services may be of assistance include seating and positioning, augmentative communication, computer access, environmental controls, mobility equipment, and modification of the job site or home.

56.19(2) Unless a written exception is approved by a supervisor, the following division contribution limits apply:

- a. The division shall pay for no more than \$2,000 for home modifications.
- b. The division shall not pay anything toward the modification of a second living unit.
- c. Rescinded IAB 8/15/07, effective 9/19/07.

281—56.20(259) Business initiatives. Rescinded IAB 8/27/08, effective 10/1/08.

281—56.21(259) Placement. The division not only prepares individuals with disabilities for jobs and trains them in techniques in securing their own jobs, but also accomplishes the actual placement, directly or indirectly through a service from the menu of services, of all eligible individuals with disabilities who receive rehabilitation services. Placement activities are based upon adequate evaluation and preparation of the client and ordinarily include some combination of the following: evaluation of the client's job readiness; development and execution of a plan for job-seeking activities; instruction in making job applications and in conduct and appearance during interviews; employer contacts; registration with the state workforce development center administration division; job analysis and modification; job coaching; employer or supervisor consultation, advisement and training; time-limited job coaching; postplacement follow-up; and relocation costs. Satisfactory employment is the objective of all division services of preparation, and placement services are an important, integral part of the overall vocational rehabilitation program. As such, in addition to the services listed herein, placement services may include the need for transportation and subsistence allowances and the purchase and acquisition of appropriate clothing, tools, equipment, and occupational licenses.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.22(259) Supported employment and transitional employment. As defined herein, supported employment is provided to clients with the most significant disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of significant disabilities. Supported employment also includes transitional employment as defined herein for clients with mental illnesses. Supported employment is provided either directly by division staff or through the selection of an item from the menu of services.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.23(259) Miscellaneous or auxiliary services.

56.23(1) Family member services. If necessary to enable an applicant or client to achieve an employment outcome as defined in these rules, the division may provide any service to a family member that it is legally able to provide to a client, as long as the purpose of the service is to assess the ability of the client to benefit from a program of vocational rehabilitation, prepare for, enter, and be successful in employment, or participate in a program of independent living services. Excluded are programs designed to prepare a family member to enter employment that will allow the family member to make money to support the applicant or client. A family member is an individual who either (a) is a relative or guardian of an applicant or client or (b) lives in the same household as an applicant or client and has a substantial interest in the well-being of the applicant or client.

56.23(2) Interpreter and note taker. If deemed necessary by the division to enable a client to engage in all parts of the vocational rehabilitation or independent living program process, interpreter services or note taker services shall be provided to such client, unless provision of such services is the statutory responsibility of an institution or organization.

Interpreter services are those special communications services provided by persons qualified by training and experience to facilitate communication between division personnel and persons unable to communicate verbally in English. Persons receiving services include deaf and hard-of-hearing persons who communicate using signs and finger spelling, as well as lip reading, writing, gestures, pictures,

and other methods. Persons not fluent in the English language who could benefit from having any part of the vocational rehabilitation process translated into their major language are included. The division shall purchase sign language interpreter services, including transliterating services, from appropriately licensed interpreters only.

Note taker services are services provided to make written notes and summaries of orally presented material. The notes may be made from a live presentation, such as a classroom lecture, or from materials that have been taped. These services are only purchased when the law states that the presenter or institution is not statutorily responsible.

56.23(3) *Other goods and services.* Other goods and services include anything that is legal and necessary to the completion of the client's IPE or independent living (IL) services plan. Under no circumstances may real estate be purchased or built with division funds. Services designed to decrease the need for future IL services can only be provided directly to IL clients.

281—56.24(259) Facilities.

56.24(1) *Types of facilities.* It is the policy of the division to utilize any type of public or private facility that is equipped to render the required services from the menu of services of diagnosis, physical restoration, training, and placement. Facilities include public and private schools; colleges and universities; correspondence schools; agencies for personal adjustment training; business and industrial establishments for employment training; psychometric service agencies; physicians' and dentists' offices; hospitals; sanatoria and clinics; audiometric service centers; rehabilitation centers; the offices of occupational, physical and work therapists or agencies providing these services; convalescent homes; prosthetic appliance dealerships; and other similar facilities that are adequately equipped to contribute to the rehabilitation of individuals with disabilities.

56.24(2) *Standards for facilities providing specialized training or other services.* The division selects its training agencies on the basis of their ability to supply the quality of training desired. The general practice of the division is to utilize the facilities of accredited or approved colleges, universities, and trade and commercial schools for residence and correspondence training. The general practice of the division is to utilize community partners to deliver items from the menu of services based on the partners' ability to supply the quality of training desired and to achieve expected outcomes resulting in job placements for clients of the division.

56.24(3) *Facilities providing training.* Facilities selected as locations for employment training must have personnel qualified with respect to personality, knowledge and skills in the technique of instruction, have adequate equipment and instructional materials and be willing to make definite provisions for a plan of graduated progress in the job to be learned according to an efficiently organized and supervised instructional schedule.

56.24(4) *Facilities providing personal adjustment training.* In addition to other standards set for tutorial and customized training, an important basis for selection of facilities for personal adjustment training is a sympathetic understanding of the personal adjustment needs of the individual and their importance to the client's total rehabilitation.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.25(259) Exceptions to payment for services. As required by the Act and 34 CFR 361.50(c), the division shall have a method of allowing for exceptions to its rules regarding payment for services.

56.25(1) *Reasons for exceptions.* Major reasons that will be considered in determining if an exception should be granted in favor of an applicant include, but are not limited to, the following:

- a. The need is disability-related.
- b. The applicant has used all sources available, such as applying for and using all available loans in postsecondary training situations.
- c. Family issues, such as dissolution of marriage, loss of income, or estrangement, render resources unavailable.
- d. Academic performance is poor, but could reasonably be expected to return to the required threshold in one semester.

e. Documented evidence supports that the client is in the process of repaying a previously defaulted student loan.

56.25(2) Prohibitions. Pursuant to federal law, the division is subject to the following prohibitions:

a. The fee schedule shall not be designed in a way that effectively denies an individual a necessary service.

b. An absolute dollar limit on specific service categories or on the total services provided to an individual may not be established.

56.25(3) Exception process. A request for an exception shall originate with a counselor, who shall either develop a case note detailing the reason(s) why an exception is believed to be warranted or complete the appropriate form. The case note or form shall be presented to a supervisor for determination. The supervisor's determination shall be documented by the supervisor in a separate case note or in the designated place on the form.

281—56.26(259) Exceptions to duration of services. As required by the Act and 34 CFR 361.50(d), the division shall have a method of allowing for exceptions to its rules regarding the duration of services. In order to exceed the duration of service as defined in the employment plan, a client must follow through on the agreed-upon employment plan and related activities and keep the division informed of the client's progress.

56.26(1) Reasons for exceptions. Major reasons that will be considered in determining if an exception should be granted in favor of an applicant include, but are not limited to, the following:

a. The need is disability-related.

b. Academic performance is poor, but could reasonably be expected to return to or above the required threshold in one semester.

c. The service is necessary and required in order for the client to attain employment.

56.26(2) Prohibitions. Pursuant to federal law, the division is subject to the following prohibitions:

a. The time period established for the provision of services shall not be so short as to effectively deny an individual a necessary service.

b. An absolute time limit on the provision of a specific service or on the total services provided to an individual may not be established. The duration of each service needed by an individual must be determined on an individual basis and reflected in that individual's IPE.

56.26(3) Exception process. A request for an exception shall originate with a counselor, who shall either develop a case note detailing the reason(s) why an exception is believed to be warranted or complete the appropriate form. The case note or form shall be presented to a supervisor for determination. The supervisor's determination shall be documented by the supervisor in a separate case note or in the designated place on the form.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.27(259) Maximum rates of payment to training facilities. In no case shall the amount paid a training facility exceed the rate published, and in the case of facilities not having published rates, the amount paid the facility shall not exceed the amount paid to the facility by other public agencies for similar services. The division will maintain information necessary to justify the rates of payment made to training facilities.

DIVISION VI
PURCHASING PRINCIPLES

281—56.28(259) Purchasing.

56.28(1) General purchasing principles.

a. The division shall purchase only those items/models that allow a client to meet the client's vocational objective. The division shall not pay for additional features that exceed the requirements to meet a client's vocational objective or that serve primarily to enhance the client's personal life.

b. The division shall purchase the most economical item/model that meets the client's vocational needs.

c. The division shall seek out the most economical alternatives to meet the client's vocational needs.

d. The division shall encourage all clients to develop strategies and savings programs to pay for replacement items/models or upgrades.

e. Items purchased for a client become the property of the client but may be repossessed by the division, subject to reimbursement to the client for the client's share of the purchase price, if the client does not attain employment prior to case closure.

56.28(2) Client-specific purchasing principles. When considering what item/model to purchase for a specific client, the division shall in all cases consider the following factors:

a. Whether the item/model truly is needed for the client to be able to perform the essential functions of the client's job.

b. Whether a more economical item/model is available to permit the client to perform the essential functions of the client's job.

c. Whether other parties or entities may be responsible for providing or contributing to the costs of an item.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

DIVISION VII
SUPERVISOR REVIEW, MEDIATION, HEARINGS, AND APPEALS

281—56.29(259) Review process. At the time of making application for rehabilitation services, and at other times throughout the rehabilitation process, all applicants and clients shall be informed of the right to appeal and the procedures by which to file an appeal. If an applicant or client is dissatisfied with any agency decision that directly affects the applicant or client, the applicant, client, or designated representative may appeal that decision or request mediation. The term "appellant" shall be used to indicate the applicant, client, or designated representative who initiates an appeal. The appellant may initiate the appeal process either by calling a counselor or supervisor or by filing the appropriate division appeal form, available from any counselor or supervisor of the division. If the appeal process is initiated by telephone, the counselor or supervisor who received the call must complete the appeal form to the best of that person's ability with information from the appellant. The division shall accept as an appeal a written letter, facsimile, or electronic mail that indicates that the applicant or client desires to appeal. An appeal must be filed within 90 days of notification of the disputed decision. Once the appeal form has been filed with the division administrator, a hearing shall be held before an impartial hearing officer (IHO) within the next 60 days unless an extension of time is mutually agreed upon or one of the parties shows good cause for an extension. The appellant may request that the appeal go directly to impartial hearing, but the appellant shall be offered the opportunity for a supervisor review or mediation. The appellant may request assistance with an appeal or mediation from the Iowa client assistance program (ICAP).

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.30(259) Supervisor review. As a first step, the appellant shall be advised that a supervisor review of the counselor's decision may be requested by notifying the counselor or supervisor in person, by telephone or by letter of the decision to appeal. If the supervisor has been involved in decisions in the case to the extent that the supervisor cannot render a fair and impartial decision or if the supervisor is not available to complete the review in a timely manner, the appeal and case file shall be forwarded to the assistant bureau chief for review. The appellant is not required to request supervisor review as a prerequisite for appeal before an IHO; however, if a supervisor review is requested, the following steps shall be observed:

56.30(1) Upon receipt of a request for supervisor review, the supervisor shall notify all appropriate parties of the date and nature of the appeal; examine case file documentation; discuss the issues and reasons for the decision with the immediate counselor and other counselors who may have been previously involved with the case/issue; and, if necessary, meet with any or all parties to discuss the dispute.

56.30(2) The supervisor shall have ten working days from receipt of the request for supervisor review to decide the issue and notify the appellant in writing. A copy of the supervisor's decision shall be sent to all appropriate parties.

56.30(3) If the supervisor's decision is adverse to the appellant, the copy of the written decision given to the appellant shall include further appeal procedures, including notification that the appellant has ten days from the date of the letter to file further appeal. Also included shall be notice of the Iowa client assistance program (ICAP), a program within the department of human rights, commission of persons with disabilities. If ICAP determines it appropriate, ICAP provides assistance in the preparation and presentation of the appellant's case.

56.30(4) As an alternative to, but not to the exclusion of, filing for further appeal, the appellant may request mediation of the supervisor's decision.

281—56.31(259) Mediation. Regardless of whether a supervisor review is requested, an appellant may request resolution of the dispute through the mediation process. Mediation is also available if the appellant is dissatisfied with the supervisor's decision. If mediation is requested by the appellant and agreed to by the division, the following steps shall be observed:

56.31(1) Mediation shall be conducted by a qualified and impartial mediator, as defined in 34 CFR 361.5(43), trained in effective mediation techniques and selected randomly by the division from a list maintained by the division.

56.31(2) The mediation shall be conducted in a timely manner at a location convenient to the parties.

56.31(3) Mediation shall not be used to delay the appellant's right to a hearing.

56.31(4) Mediation must be voluntary on the part of the appellant and the division.

56.31(5) Mediation is at no cost to the appellant.

56.31(6) All discussions and other communications that occur during the mediation process are confidential. Any offers of settlement made by either party during the mediation process are inadmissible if further appeal is sought by the appellant.

56.31(7) Existing division services provided to an appellant shall not be suspended, reduced, or terminated pending decision of the mediator, unless so requested by the appellant.

281—56.32(259) Hearing before impartial hearing officer. Regardless of whether the appellant has used supervisor review or mediation or both, if the appellant requests a hearing before an IHO, the following provisions apply:

56.32(1) The division shall appoint the IHO from the pool of hearing officers with whom the division has contracts. The IHO shall be assigned on a random basis or by agreement between the administrator of the division and the appellant.

56.32(2) The hearing shall be held within 20 days of the receipt of the appointment of the IHO. A written decision shall be rendered and given to the parties by the IHO within 30 days after completion of the hearing. Either or both of these time frames may be extended by mutual agreement of the parties or by a showing of good cause by one party.

56.32(3) The appellant shall be informed that the filing of an appeal confers consent for the release of the case file information to the IHO. The IHO shall have access to the case file or a copy thereof at any time following acceptance of the appointment to hear the case.

56.32(4) Within five working days after appointment, the IHO shall notify both parties in writing of the following:

- a. The role of the IHO;
- b. The IHO's understanding of the reasons for the appeal and the requested resolution;
- c. The date, time, and place for the hearing, which shall be accessible and located as advantageously as possible for both parties but more so for the appellant;
- d. The availability of the case file for review and copying in a vocational rehabilitation office prior to the hearing and how to arrange for the same (see also rule 281—56.29(259));
- e. That the hearing shall be closed to the public unless the appellant specifically requests an open hearing;

f. That the appellant may present evidence and information personally, may call witnesses, may be represented by counsel or other appropriate advocate at the appellant's expense, and may examine all witnesses and other relevant sources of information and evidence;

g. The availability to the appellant of the Iowa client assistance program (ICAP) for possible assistance;

h. Information about the amount of time it will take to complete the hearing process;

i. The possibility of reimbursement of necessary travel and related expenses; and

j. The availability of interpreter and reader services for appellants not familiar with the English language and those who are deaf, as well as transportation or attendant services for those appellants requiring such assistance.

56.32(5) Existing division services provided to an appellant shall not be suspended, reduced, or terminated pending decision of the IHO, unless so requested by the appellant.

56.32(6) The IHO shall provide a full written decision, including the findings of fact and grounds for the decision. Unless either party chooses to seek judicial review pursuant to Iowa Code chapter 17A, the decision of the IHO is final. If judicial review is sought, the IHO's decision shall be implemented pending outcome of the judicial review.

DIVISION VIII
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The following rules are implemented in addition to the department's rules in 281—Chapter 5.

281—56.33(259) Collection and maintenance of records. The division has the authority to collect and maintain records on individuals under the Act, the state plan for vocational rehabilitation services, and the Social Security Act. The acceptance of the provisions and benefits of the Rehabilitation Act, under Iowa Code section 259.1, is conditioned on the requirement that the division maintain the confidentiality of personally identifiable information and its release under certain circumstances as provided by applicable federal laws. These laws include, but are not limited to, the following:

1. The Freedom of Information Act (5 U.S.C. 552, added by P.L. 90-23 and amended by P.L. 93-502 and P.L. 94-409).

2. The Privacy Act of 1974 (5 U.S.C. 552a, added by P.L. 93-579).

3. The Drug Abuse Office and Treatment Act (21 U.S.C. 1175, added by P.L. 92-255), as amended by the Comprehensive Alcohol and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendment of 1974 (42 U.S.C. 4582, added by P.L. 93-282).

4. Section 6103 of the Internal Revenue Code (26 U.S.C. 6103) as amended by the Tax Reform Act of 1976 (P.L. 94-455).

5. The Government in the Sunshine Act (P.L. 94-409).

6. The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g, added by P.L. 93-568).

Pursuant to Iowa Code section 259.9, the state of Iowa accepts the social security system rules for the disability determination program of the division. Failure to follow the provisions of the Act can result in the loss of federal funds. The state plan provides that all personally identifiable information is confidential and may be released only with the informed written consent of the client or the client's representative, except as permitted by federal law. Any contrary provision in Iowa Code chapter 22 must be waived in order for the state to receive federal funds, services, and essential information for the administration of vocational rehabilitation services.

281—56.34(259) Personally identifiable information. This rule describes the nature and extent of the personally identifiable information collected, maintained, and retrieved by the agency by personal identifier in record systems as defined herein. The record systems maintained by the division include the following:

56.34(1) *Personnel records.* These records contain information relating to initial application, job performance and evaluation, reprimands, grievances, notes from and reports of investigations of allegations related to improper employee behavior, and reports of hearings and outcomes of reprimands and grievances. Pursuant to Iowa Code section 22.7(11), some of the information in personnel records may be confidential.

56.34(2) *Client case records.* An individual file is maintained for each person who has been referred to or has applied for the services of the division. The file contains a variety of personal information about the client, which is used in the establishment of eligibility and the provision of agency services. All information is personally identifiable and is confidential.

56.34(3) *Client service record computer database.* This database contains personal data items about individual clients. Data identifying the client is confidential. Data in the aggregate is not personally identifiable and thus is not confidential.

56.34(4) *Vendor purchase records.* These are records of purchases of goods or services made for the benefit of clients. If the record contains the client's name or other personal identifiers, the record is confidential. Lists of nonclient vendors, services purchased, and the costs of those services are not confidential when retrieved from a data processing system without personally identifiable information.

56.34(5) *Records and transcripts of hearings or client appeals.* These contain personally identifiable information about a client's case, appeal from or for some action, and the decision that has been rendered. The personally identifiable information is confidential. Some of the information is maintained in an index provided for in Iowa Code subsection 17A.3(1) "d." Information is available after confidential personally identifiable information is deleted.

56.34(6) *All computer databases of client and applicant names and other identifiers.* The data processing system contains client status records organized by a variety of personal identifiers. These records are confidential as long as any personally identifiable information is present.

56.34(7) *All computer-generated reports that contain personally identifiable information.* The division may choose to draw or generate from a data processing system reports that contain information or an identifier which would allow the identification of an individual client or clients. This material is for internal division use only and is confidential.

281—56.35(259) Other groups of records routinely available for public inspection. This rule describes groups of records maintained by the division other than record systems. These records are routinely available to the public, with the exception of parts of the records that contain confidential information. This rule generally describes the nature of the records, the type of information contained therein, and whether the records are confidential in whole or in part.

56.35(1) Rule making. Rule-making records, including public comments on proposed rules, are not confidential.

56.35(2) Council and commission records. Agendas, minutes, and materials presented to any council or commission required under the Act are available to the public with the exception of those records that are exempt from disclosure under Iowa Code section 21.5. Council and commission records are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319.

56.35(3) Publications. News releases, annual reports, project reports, agency newsletters, and other publications are available from the main office of the division at 510 E. 12th Street, Des Moines, Iowa 50319. Brochures describing various division programs are also available at local offices of the division.

56.35(4) Statistical reports. Periodic reports of statistical information on expenditures, numbers and types of case closures, and aggregate data on various client characteristics are compiled as needed for agency administration or as required by the federal funding source and are available to the public.

56.35(5) Grants. Records of persons receiving grants from division services are available through the main office of the division. Grant records contain information about grantees and may contain information about employees of a grantee that has been collected pursuant to federal requirements.

56.35(6) Published materials. The division uses many legal and technical publications, which may be inspected by the public upon request. Some of these materials may be protected by copyright law.

56.35(7) Policy manuals. Manuals containing the policies and procedures for programs administered by the division are available in every office of the division. Subscriptions to all or some of the manuals are available at the cost of production and handling. Requests for subscription information should be addressed to Vocational Rehabilitation Services Division, 510 E. 12th Street, Des Moines, Iowa 50319.

56.35(8) Operating expense records. The division maintains records of the expense of operation of the division, including records related to office rent, employee travel expenses, and costs of supplies and postage, all of which are available to the public.

56.35(9) Training records. Lists of training programs, the persons approved to attend, and associated costs are maintained in these records, which are available to the public.

56.35(10) Facility surveys. Records of division reviews of facilities providing services to the division are maintained and used to determine the current acceptable fee schedule. Information about individuals may be included in these records; therefore, parts of the records may be confidential.

56.35(11) All other records that are not exempted from disclosure by law.

DIVISION IX
STATE REHABILITATION COUNCIL

281—56.36(259) State rehabilitation council.

56.36(1) *Composition.* The state rehabilitation council shall be composed of no less than 15 members, appointed by the governor. A majority of the council members must be individuals with disabilities who are not employed by the division. The council members shall include the following:

a. At least one representative of the statewide independent living council, one of whom must be the chairperson or chairperson's designee of that council;

b. At least one representative of a parent training and information center established pursuant to Section 682(a) of the Individuals with Disabilities Education Act;

c. At least one representative of the client assistance program, one of whom must be the director or the director's designee of that program;

d. At least one qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs who serves as an ex officio, nonvoting member of the council if employed by the division;

e. At least one representative of community rehabilitation program service providers;

f. Four representatives of business, industry, and labor;

g. Representatives of disability groups that include a cross section of:

(1) Individuals with physical, cognitive, sensory, and mental disabilities; and

(2) Representatives of individuals with disabilities who have difficulty representing themselves or are unable, due to their disabilities, to represent themselves;

h. Current or former applicants for, or recipients of, vocational rehabilitation services;

i. At least one representative of the department's bureau of children, family, and community services;

j. At least one representative of the Iowa workforce development board; and

k. The director of the division, who serves as an ex officio, nonvoting member of the council.

56.36(2) *Chairperson.* The chairperson must be selected by the members of the council from among the voting members of the council.

56.36(3) *Terms.* Each member of the council shall be appointed for a term of no more than three years. Each member of the council, other than the representative of the client assistance program, shall serve for no more than two consecutive full terms. The terms of service of the members initially appointed must be for a varied number of years to ensure that terms expire on a staggered basis.

56.36(4) *Vacancies.* The governor shall fill a vacancy in council membership, unless the governor has delegated authority to fill that vacancy to the remaining members of the council.

56.36(5) *Functions.* The council shall perform the following functions:

a. Review and advise the division regarding the performance of the division's responsibilities under this chapter and the Act;

- b. In partnership with the division, develop, agree to, and review state goals and priorities;
- c. In partnership with the division, evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the federal Secretary of Education when required;
- d. Assist in the preparation of the state plan and amendments thereto, applications, reports, needs assessments, and evaluations required by the Act;
- e. To the extent feasible, conduct a review and analysis of the effectiveness of and consumer satisfaction with:
 - (1) The functions performed by the division;
 - (2) The vocational rehabilitation services provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under the Act; and
 - (3) The employment outcomes achieved by eligible individuals receiving services from the division, including the availability of health and other employment benefits in connection with those employment outcomes;
- f. Prepare and submit to the governor and to the Secretary of Education an annual report on the status of vocational rehabilitation programs operated within the state and make the report available to the public through appropriate modes of communication;
- g. Coordinate activities with the activities of other councils within the state, including the statewide independent living council, the advisory panel established under Section 612(a)(21) of the Individuals with Disabilities Education Act, the state developmental disabilities planning council, the state mental health planning and advisory council, and the state workforce development board;
- h. Provide for the coordination and establishment of working relationships between the division and the statewide independent living council and centers for independent living within the state;
- i. Prepare a plan for the provision of resources, including staff and other personnel, that may be necessary and sufficient for the council to carry out its functions under this rule; and
- j. Perform other comparable functions, consistent with the purpose of the Act, as the council determines to be appropriate, that are comparable to the other functions performed by the council.

56.36(6) Meetings. The council shall convene at least quarterly in locations open and accessible to the general public, including individuals with disabilities. The council's meetings are subject to Iowa Code chapter 21, the open meetings law.

Rule 281—56.36(259) is intended to implement 34 CFR 361.16 and 361.17.

DIVISION X
IOWA SELF-EMPLOYMENT PROGRAM
(a/k/a ENTREPRENEURS WITH DISABILITIES PROGRAM)

281—56.37(259) Purpose. The division of vocational rehabilitation services works in collaboration with the Iowa department for the blind to administer the Iowa self-employment (ISE) program, which is also known as the entrepreneurs with disabilities (EWD) program. The purpose of the program is to provide business development funds in the form of technical assistance (up to \$10,000) and financial assistance (up to \$10,000) to qualified Iowans with disabilities who start, expand, or acquire a business within the state of Iowa.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.38(259) Eligibility requirements. Clients of the division or the department for the blind may apply for the program. All of the following conditions are also applicable:

1. The division may limit or deny ISE assistance to an applicant who has previously received educational or training equipment from the division through another rehabilitation program when such equipment could be used in the applicant's proposed business.
2. Any equipment purchased for the applicant under this program that is no longer used by the applicant shall be returned to the division.
3. An applicant must demonstrate that the applicant has at least 51 percent ownership in a for-profit business that is actively owned, operated, and managed in Iowa.

4. Recommendation for and approval of financial assistance is based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested.

5. In order to receive financial support from the ISE program, the applicant's business plan feasibility study must result in self-sufficiency for the applicant as measured by earnings that equal or exceed 80 percent of substantial gainful activity.

6. The division cannot support the purchase of real estate or improvements to real estate.

7. The division cannot provide funding to be used as a cash infusion, for personal or business loan repayments, or for personal or business credit card debt.

8. The division may deny ISE assistance to an applicant who desires to start, expand, or acquire any of the following types of businesses:

- A hobby or similar activity that does not produce income at the level required for self-sufficiency;
- A business venture that is speculative in nature or considered high risk by the Better Business Bureau or similar organization;
- A business registered with the federal Internal Revenue Service as a Section 501(c)(3) entity or other entity set up deliberately to be not-for-profit;
- A business that is not fully compliant with all local, state, and federal zoning requirements and all other applicable local, state, and federal requirements.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.39(259) Application procedure.

56.39(1) Application. Application materials for the program are available from the division and the department for the blind.

56.39(2) Submittal. Completed applications shall be submitted to a counselor employed by the division or the department for the blind.

56.39(3) Review. Applications will be forwarded to a business development specialist employed by the division for review. Applicants whose applications receive a minimum score of 60 points out of a total of 100 points are eligible to pursue technical assistance funding. Approval of technical assistance funding is based upon the results of a business plan feasibility study. If the application is for financial assistance only, a business plan feasibility study will be required at the time of submission of the application. Applicants whose business plans receive a minimum score of 75 points out of a total of 100 points and a minimum of 15 points per section are eligible to pursue financial assistance funding. Approval of financial assistance funding is based upon acceptance of a business plan feasibility study and documentation of the applicant's ability to match dollar-for-dollar the amount of funds requested. A decision on all applications and forms will generally be issued within 30 days of submission with notification by letter to the applicant.

56.39(4) Applications for technical assistance—evaluation factors. Applications for the program will be reviewed and evaluated using a 100-point system, based upon the following criteria:

a. Descriptive and organization information: 0 - 30 points. Does the applicant have education, skills, and work experience relevant to the proposed business venture? Does the applicant document previous management or accounting experience? Does the applicant have a clear understanding of the nature of the business?

b. Market information: 0 - 30 points. Does the application indicate a clear understanding of potential customer groups and how to reach them? Does the application show sufficient knowledge of products/services, competition, and marketing methods? Does the applicant understand the critical issue of location?

c. Financial information: 0 - 30 points. Does the applicant demonstrate an understanding of how to estimate sales potential? Does the applicant indicate knowledge of estimated capital requirements for business start-up, expansion, or acquisition?

d. Creditworthiness: 0 - 10 points. Does the applicant's past credit history demonstrate responsible behavior? Awards will not be made if the applicant has a credit history showing delinquent

credit obligations including, but not limited to, unpaid income tax, delinquent child support obligations, or defaulted student loans.

56.39(5) *Appeal of application evaluation.* If an application is denied based upon the assignment of an inadequate evaluation score, an applicant may appeal the decision to the division or the department for the blind. An appeal shall be consistent with the appeal processes of the division or the department for the blind.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.40(259) Award of technical assistance funds.

56.40(1) *Awards.* Technical assistance funds may be used for specialized consulting services as determined necessary by the counselor, the business development specialist, and the client. Technical assistance funds may be awarded up to a maximum of \$10,000 per applicant. Specialized technical assistance may include, but is not limited to, market analysis; marketing plans; engineering, legal, accounting, and computer services; preliminary business plan feasibility study; financial packaging; and other consulting services that require specialized education and training.

56.40(2) *Award process.* Upon approval of the application by the counselor and the business development specialist, generally within 30 days, an applicant will receive notification of eligibility to pursue technical assistance funding. The applicant must demonstrate the ability to cover any technical assistance costs beyond \$10,000 if necessary. The business development specialist will identify whether specialized services are needed and will provide recommendation for approval by the division or departmental staff.

56.40(3) *Technical assistance contracts.* The division shall negotiate contracts with qualified consultants for delivery of services to an applicant if specialized services are deemed necessary. The contracts shall state hourly fees for services, the type of service to be provided, and a timeline for delivery of services. Authorization of payment will be made by a counselor employed by the division or the department for the blind based upon the negotiated rate as noted in the contract. A copy of each contract shall be filed with the division.

56.40(4) *Consultants.* Applicants will be provided a list of qualified business consultants by the business development specialist if specialized consultation services are necessary. The selection of the consultant(s) shall be the responsibility of the applicant.

56.40(5) *Case management.* The business development specialist or counselor will be available as needed for direct consultation to each applicant to ensure that quality services for business planning are provided in a timely manner.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.41(259) Business plan feasibility study procedure. Information and materials are available from the division and the department for the blind.

56.41(1) *Submittal.* The client shall submit the client's business plan feasibility study to the client's counselor if the study is completed at the time application is made or to the business development specialist if the business plan feasibility study is completed after application approval.

56.41(2) *Review.* The business plan feasibility study will be reviewed, evaluated, and scored by the business development specialist using a 100-point system. A business plan feasibility study receiving a minimum score of 75 points, with at least 15 points per section, will be recommended for financial assistance funding. Generally, the business development specialist will review the client's business plan feasibility study within 30 days of submission and will make recommendation for next steps to all parties involved.

56.41(3) *Evaluation factors.*

a. Personal sense: 0-20 points. Is the personal credit report sufficient to be considered for financial support or loans? If the credit report documents serious delinquencies or derogatory indicators or remarks, or includes adverse data from public or collection information sources, how have these issues been addressed or resolved? Are there other outstanding debt obligations which have been self-reported? Is there evidence that consideration and solutions/accommodations were given to possible barriers that might result due to disability?

b. Business sense: 0-20 points. Does the business plan feasibility study contain a well-written executive summary, business description, and operation and management plan?

c. Market sense: 0-20 points. Does the business plan feasibility study include details about market research and analysis as well as a market plan?

d. Financial sense: 0-20 points. Does the business plan feasibility study include details of capital requests, projected financials, and, where applicable, historical financials?

e. Other content area: 0-20 points. Does the business plan have a title page, table of contents, and appendix containing supporting documents?

56.41(4) Appeal of denial. If funding is denied based upon a low evaluation score, an applicant may appeal the decision to the division or department for the blind, consistent with the appeal processes of the agencies.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

281—56.42(259) Award of financial assistance funds.

56.42(1) Awards. Following the business development specialist's evaluation and scoring of the business plan feasibility study, the business development specialist will issue a recommendation to support or not to support the proposed business venture. The counselor shall make a decision regarding approval or denial of the recommendation. If approved, the client and counselor will review conditions of the financial assistance award and sign the appropriate forms of acknowledgment.

a. Financial assistance funds may be awarded up to \$10,000 based upon an approved business plan feasibility study and evidence of business need or evidence of business progression. Before receiving financial assistance, the client must demonstrate a dollar-for-dollar match based on the amount of funding needed. The match may be provided through approved existing business assets, cash, conventional financing or other approved sources.

b. Financial assistance funds may be approved for, but are not limited to: equipment, tools, printing of marketing materials, advertising, rent (up to six months), direct-mail postage, raw materials, inventory, insurance (up to six months), and other approved start-up, expansion, or acquisition costs.

56.42(2) Award process. The amount that may be recommended by the business development specialist and approved by the counselor shall be provided in three phases of business operations, when each phase meets specified business results and when the need for additional financial assistance funding is indicated.

a. The timing of each phase and the amount of funds for each phase should be established in the approved business plan feasibility study, as recommended by the business development specialist and approved by the counselor.

b. Recipients of financial assistance must demonstrate ongoing cooperation by providing the business development specialist with financial information needed to assess business progress before additional funds are expended.

56.42(3) Financial assistance contracts. Contracts for financial assistance funds shall be the responsibility of the division and will be consistent with the authorized use of Title I vocational rehabilitation funds and policy.

56.42(4) Vendors. Procurement of goods or services shall follow procedures established by the department of administrative services. The type of goods or services to be obtained, as well as a timeline for delivery of such, shall be stated by the vendor and agreed upon by the division. Authorization for goods or services shall be made by a counselor employed by the division or the department for the blind based upon the negotiated rate and terms as noted in the contract. A copy of each contract shall be filed with the division. Approval for payment of authorized goods or services shall be made by authorized division personnel.

[ARC 8806B, IAB 6/2/10, effective 7/7/10]

These rules are intended to implement Iowa Code chapter 259, the federal Rehabilitation Act of 1973 as amended, the federal Social Security Act (42 U.S.C. Section 301 et seq.), and 2008 Iowa Acts, Senate File 2101.

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