

## **CHAPTER 50-06.1 VOCATIONAL REHABILITATION**

### **50-06.1-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the North Dakota department of human services.
2. "Division" means the vocational rehabilitation division.
3. "Division executive director" means the director of the vocational rehabilitation division.
4. "Rules" means rules adopted by the division executive director with the approval of the executive director of the department.

### **50-06.1-02. Acceptance of benefits of federal acts in vocational rehabilitation - Cooperation with federal government.**

The state of North Dakota hereby accepts all of the provisions and benefits of the acts of Congress of the United States to assist states to provide for the vocational rehabilitation of disabled persons in accordance with state statutes and policies of the department, and the department shall comply with such conditions as may be necessary to secure the full benefit of such acts. The department shall cooperate pursuant to agreement with the federal government in carrying out the purposes of any federal act pertaining to vocational rehabilitation and shall adopt such methods of administration as may be found by the federal government to be necessary for the proper and efficient operation of such agreement.

### **50-06.1-03. Custody and payment of vocational rehabilitation funds.**

The department is charged with the duty of administering all funds that are received from federal and state sources for vocational rehabilitation purposes. All such moneys received must be placed in the custody of the state treasurer and must be paid in accordance with legislative appropriations by the office of management and budget as directed by the division executive director.

### **50-06.1-04. Division executive director - Duties - Relationship of division to department.**

The department is responsible for vocational rehabilitation. The division executive director must be appointed in accordance with established personnel standards and on the basis of the person's education, training, experience, and demonstrated ability. In carrying out the division executive director's duties under this chapter, the division executive director, with the approval of the department:

1. Shall make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility and investigation and determination thereof for vocational rehabilitation services, procedures for fair hearings, and such other regulations as the division executive director finds necessary to carry out the purposes of this chapter relating to vocational rehabilitation.
2. Shall establish, with the approval of the department, appropriate subordinate administrative units within the division.
3. Shall appoint, with the approval of the department, such personnel as the division executive director deems necessary for the efficient performance of the functions of the division.
4. Shall prepare and submit to the department annual reports of activities and expenditures and, prior to each regular session of the legislative assembly, estimates of sums required for carrying out the provisions of this chapter relating to vocational rehabilitation, and estimates of the amounts to be made available for this purpose from all sources.
5. Shall make certification for disbursement, in accordance with regulations, of funds available for vocational rehabilitation purposes.

6. Shall take, with the approval of the department, such other action as the division executive director deems necessary or appropriate to carry out the provisions of this chapter relating to vocational rehabilitation.
7. May delegate, with the approval of the department, to any officer or employee of the division such of the division executive director's powers and duties, except the making of regulations and the appointment of personnel, as the division executive director finds necessary to carry out the provisions of this chapter relating to vocational rehabilitation.
8. Shall appoint such advisory bodies with emphasis on consumer participation as deemed necessary for compliance with any federal act pertaining to vocational rehabilitation or for the proper and efficient carrying out of the duties of the division.

**50-06.1-05. Administration of vocational rehabilitation.**

Except as otherwise provided by law, the department shall provide vocational rehabilitation services to disabled individuals determined by the division executive director to be eligible therefor. In carrying out the purposes of this chapter, the division, among other things, may:

1. Cooperate with other departments, agencies, and institutions, both public and private, in providing for the vocational rehabilitation of disabled individuals, in studying the problems involved therein, and in establishing, developing, and providing, in conformity with the purposes of this chapter relating to vocational rehabilitation, such programs, facilities, and services as may be necessary or desirable.
2. Enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned.
3. Conduct research and compile statistics relating to the vocational rehabilitation of disabled individuals.

**50-06.1-06. Rehabilitation services provided to any disabled individual - Eligibility.**

Vocational rehabilitation services must be provided to any disabled individual:

1. Whose vocational rehabilitation the division executive director determines, after full investigation, can be satisfactorily achieved; or
2. Who is eligible therefor under the terms of an agreement with another state or with the federal government.

**50-06.1-07. Rehabilitation services provided to disabled individuals requiring financial assistance.**

Except as may be otherwise provided by law or as may be specified in any agreement with another state or with the federal government, rehabilitation services must be provided at public cost to disabled individuals found to require financial assistance.

**50-06.1-08. Gifts - Authorization to accept and use.**

The division executive director, with the approval of the department, may accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this chapter. Gifts made under such conditions as in the judgment of the department are proper and consistent with the provisions of this chapter may be so accepted and must be held, invested, and reinvested, and used in accordance with the conditions of the gift.

**50-06.1-09. Maintenance not assignable.**

The right of a disabled individual to vocational rehabilitation maintenance under this chapter is not transferable or assignable at law or in equity.

**50-06.1-10. Hearings allowed to aggrieved persons.**

Any individual applying for or receiving vocational rehabilitation who is aggrieved by any action or inaction of the division is entitled, in accordance with regulations, to a fair hearing by the department.

**50-06.1-11. Misuse of vocational rehabilitation lists and records.**

Repealed by S.L. 1977, ch. 451, § 2.

**50-06.1-12. Limitation of political activity.**

Repealed by S.L. 1977, ch. 420, § 3.

**50-06.1-13. Division to license blind operators and operate vending facilities - Continuing appropriation of income.**

The division shall act as the state licensing agency to license the operators of vending facilities on federal property within the state to the extent permitted or required by the Randolph-Sheppard Act [Pub. L. 74-732; 20 U.S.C. 107]. The division may take any action, consistent with the provisions of that Act, for the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting. If there is no blind licensee operating a vending facility on federal property, the division may operate or contract for the operation of a vending facility, provided that all income from such a vending facility is distributed in a manner consistent with the requirements of such Act. There is hereby appropriated on a continuing basis all income from vending facilities which the division operates, or contracts to operate, consistent with the requirements of such Act and the regulations and policies of the United States secretary of education, promulgated thereunder, for the purposes of:

1. Maintenance and replacement of equipment.
2. The purchase of new equipment.
3. Management services.
4. Assuring a fair minimum return to operators of vending facilities.
5. Retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of blind licensees licensed by the division, after the division provides to each such licensee full information on all matters relevant to such proposed program, that income should be used for such purposes.

**50-06.1-14. Establishment of rehabilitation teaching program - Authorization of positions.**

The office of vocational rehabilitation may establish two rehabilitation teacher positions and one half-time teacher and half-time supervisor position for the rehabilitation of the blind and visually impaired. Each teacher shall provide rehabilitation teaching services that may include evaluation, counseling, adjustment training, communication, mobility, and other rehabilitation services to the blind and the visually impaired. Those services must be provided in the home of blind and visually impaired individuals, nursing homes, intermediate care facilities, senior citizen centers, and other facilities and centers in which one may find blind or visually impaired individuals. Rehabilitation teachers may provide aids and appliances, as well as assistance with meal planning, medication management, transportation needs, and recreation and social needs. Rehabilitation teachers may provide orientation to blindness instruction for those working directly with or otherwise involved in daily activities of the blind and visually impaired, including home health aids, homemakers, senior companions, staff of nursing homes and other professionals, paraprofessionals, and family members. The administrator of services for the blind and deaf in the office of vocational rehabilitation shall coordinate the activities and the services to be provided by persons employed pursuant to the provisions of this section and section 50-06.1-15.

**50-06.1-15. Cooperation between agencies.**

The office of vocational rehabilitation and other divisions of the department of human services shall work cooperatively to locate eligible clients and to identify and provide them with the services they require to lead a full and meaningful life.

**50-06.1-16. Committee on employment of people with disabilities - Appointment - Expenses - Director - Duties - Annual report.**

1. There is established a committee on employment of people with disabilities.
  - a. The governor shall appoint four members of the public to serve as committee members with terms of three years, staggered so the terms of at least one but no more than two members expire July first of each year:
    - (1) The executive director of the North Dakota association of community providers or a designee of the director;
    - (2) One community employer representative;
    - (3) One individual with a disability; and
    - (4) One family member of an individual with a disability.
  - b. The following five individuals shall serve on the committee as ex officio members:
    - (1) The director of the department of commerce division of workforce development, or the director's designee;
    - (2) The director of the department of human services division of vocational rehabilitation, or the director's designee;
    - (3) The superintendent of public instruction's director of special education, or the director's designee;
    - (4) The director of the protection and advocacy project, or the director's designee; and
    - (5) The head of the department of human services developmental disabilities programs, as identified by the executive director of the department of human services.
  - c. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for only the remainder of the unexpired term.
2. The public members of the committee are entitled to be paid for mileage and actual expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees.
3. The goal of the committee is to remove barriers in reaching and identify how to further the goal of public and private employers considering competitive and integrated employment as the first option when supporting individuals with disabilities who are of working age to obtain employment. As used in this section:
  - a. "Competitive employment" means work in the competitive labor market which is performed on a full-time or part-time basis in an integrated setting, and for which an individual 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 an individual who does not have a disability.
  - b. "Integrated setting" means with respect to an employment outcome, a setting typically found in the community in which applicants or eligible individuals interact with individuals who do not have a disability, other than individuals who do not have a disability who are providing services to those applicants or eligible individuals, to the same extent that individuals without a disability in comparable positions interact with others.
4. The committee:
  - a. At the call of the chairman, shall meet at least quarterly.
  - b. Shall collaborate, coordinate, and improve employment outcomes for working-age adults with disabilities, including:
    - (1) Reviewing and aligning policies, procedures, eligibility, and enrollment and planning for services for individuals, with the objective of increasing opportunities for community employment for North Dakotans with disabilities.
    - (2) Developing cross-agency tools to document eligibility, order of selection, assessment, and planning for services for individuals with disabilities.
    - (3) Identifying best practices, effective partnerships, sources of available federal funds, opportunities for shared services among existing providers, and

means to expand model programs to increase community employment opportunities for individuals with disabilities.

- (4) Identifying and addressing areas where sufficient support is not currently available or where additional options are needed to assist individuals with disabilities to work in competitive employment in integrated settings.
  - (5) Establishing interagency agreements to improve coordination of services and allow for data sharing as appropriate to assist individuals with disabilities.
  - (6) Setting benchmarks for improving community employment outcomes and services for individuals with disabilities.
- c. Before January first of each year, shall issue an annual report. The committee shall submit the annual report to the governor and the legislative management. The report must detail the committee's activities, the committee's goals, and the progress the committee has made in reaching these goals. State agencies shall cooperate with the committee on the creation and dissemination of the annual report. The annual report must include identification of barriers to achieving the committee's goals and must include identified strategies and policies that can help the committee realize its goals.
5. The department of human services division of vocational rehabilitation shall provide the committee with administrative services.