

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the D.C. Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to adopt the following amendment to Title 17 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. These rules were published as Final Rulemaking on January 6, 2006. Subsequent to the publication it was discovered that the chapter and sections were improperly numbered. The purpose of the amendment is to correct the chapter number and section numbers in 17 DCMR as they apply to anesthesiologist assistants.

Amend Title 17 (Business, Occupations & Professions) (May 1990) by adding a new Chapter 51 to read as follows:

CHAPTER 51: ANESTHESIOLOGIST ASSISTANTS**5100 GENERAL PROVISIONS**

- 5100.1 This chapter shall apply to applicants for and holders of a license to practice as an anesthesiologist assistant.
- 5100.2 Chapter 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) shall supplement this chapter.

5101 TERM OF LICENSE

- 5101.2 Subject to § 5101.2, a license issued pursuant to this chapter shall expire at 12:00 midnight of December 31 of each even-numbered year.
- 5101.2 If the Director changes the renewal system pursuant to § 4006.3 of chapter 40 of this title, a license issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birthdate of the holder of the license, or other date established by the Director.

5102 RENEWAL OF LICENSE

- 5102.1 The holder of a license to practice as an anesthesiologist assistant shall renew his or her license by submitting a completed application on the forms required by the Advisory Committee on Anesthesiologist Assistants and paying the required fees prior to the expiration of the license.

- 5102.2 The Board's staff shall mail out applications for renewal at least sixty (60) days prior to the date the license expires.
- 5102.3 The license holder shall have the burden of notifying the Board if a renewal notice is not received.
- 5102.4 A license holder shall notify the Board in writing of a change of home or business address within thirty (30) days after the change.
- 5102.5 A license holder applying for renewal of a license to practice as an anesthesiology assistant shall submit evidence of current national certification or recertification as an Anesthesiologist Assistant – Certified (AA-C), as applicable, by the National Commission for Certification of Anesthesiologist Assistants, or its successor.
- 5102.6 A license holder applying for renewal of a license who fails to submit proof of having completed the requirement as set forth in §5202.5 by the date the license expires may renew the license within sixty (60) days after the expiration by submitting the required documents and paying the required late fees.
- 5102.7 Upon submitting the required documents and paying the required late fees, the license holder shall be deemed to have possessed a valid license during the period between the expiration of the license and the submission of the required documents and fees.
- 5102.8 If a license holder applying for renewal of a license fails to submit proof of completion of the requirements set forth in §5202.5 or pay the late fee within sixty (60) days after the expiration of the license holder's license, the license shall be considered to have lapsed on the date of expiration and the license holder shall thereafter be required to apply for reinstatement of an expired license and meet all requirements and fees for reinstatement.
- 5102.9 The Board may, in its discretion, grant an extension of the sixty (60) day period to renew the license after expiration, if the license holder's failure to submit proof of the requirements or pay the late fee was for good cause. As used in this section, "good cause" includes the following:
- (a) Serious and protracted illness of the license holder;
 - (b) The death or serious and protracted illness of a member of the license holder's immediate family; or
 - (c) Active military deployment pursuant to 17 DCMR § 4015.

5103 LICENSURE REQUIREMENTS

5103.1 Except as otherwise provided in this subtitle an applicant shall furnish proof satisfactory to the Board in accordance with § 504 of the Act, D.C. Official Code §3-1205.04 that the applicant has met the following requirements:

- (a) Earned a degree or certification from an anesthesiologist assistant program accredited by the Commission on Accreditation of Allied Health Educational Programs, or by the Commission's successor; and
- (b) Obtained current certification by the National Commission for Certification of Anesthesiologist Assistants (NCCAA), or its successor organization, that indicates that the applicant has passed the national examination.

5103.2 Pursuant to § 5202.1(b), an application for licensure as an anesthesiologist assistant may be filed by an individual who has taken the national certification examination but has not yet received the results.

5104-5107 [RESERVED]

5108 CONTINUING EDUCATION REQUIREMENTS

5108.1 This section shall apply to applicants for the renewal of a license and does not apply to applicants for an initial license by examination or endorsement, nor does it apply to applicants for the first renewal of a license granted by examination.

5108.2 A licensee applying for renewal shall meet continuing education requirements by demonstrating that he or she has been recertified by the National Commission for Certification of Anesthesiologist Assistants (NCCAA), or its successor organization.

5108.3 A licensee applying for renewal of a license who fails to submit proof of the standards in § 5208.2 by the date the license expires may renew the license within sixty (60) days after the expiration by submitting proof and by paying the required late fees.

5108.4 Upon submitting proof and paying the required late fees, the licensee shall be deemed to have possessed a valid license during the period between the expiration of the license and the submission of the required documents and fees.

5109 – 5112 [RESERVED]

5113 SCOPE OF PRACTICE

5113.1 An anesthesiologist assistant shall, in accordance with this chapter and the Act, have the authority to perform the following tasks:

- (a) Obtain a comprehensive patient history, perform relevant elements of a physical examination, and present the history to the supervising anesthesiologist;
- (b) Pretest and calibrate anesthesia delivery systems and obtain and interpret information from the systems and monitors, in consultation with an anesthesiologist;
- (c) Assist the supervising anesthesiologist with the implementation of medically accepted monitoring techniques;
- (d) Establish basic and advanced airway interventions, including intubation of the trachea and performing ventilatory support;
- (e) Administer intermittent vasoactive drugs and start and adjust vasoactive infusions;
- (f) Administer anesthetic drugs, adjuvant drugs, and accessory drugs, including narcotics;
- (g) Assist the supervising anesthesiologist with the performance of epidural anesthetic procedures, spinal anesthetic procedures, and other regional anesthetic techniques;
- (h) Administer blood, blood products, and supportive fluids;
- (i) Provide assistance to a cardiopulmonary resuscitation team in response to a life-threatening situation;
- (j) Monitor, transport, and transfer care to appropriate anesthesia or recovery personnel;
- (k) Participate in administrative, research, and clinical teaching activities, as authorized by the supervising anesthesiologist; and
- (l) Perform such other tasks that an anesthesiologist assistant has been trained and is proficient to perform.

5113.2 An anesthesiologist assistant shall not perform the following tasks:

- (a) Prescribe any medications or controlled substances;
- (b) Practice or attempt to practice unless under the supervision of an anesthesiologist who is immediately available for consultation, assistance, and intervention;
- (c) Practice or attempt to administer anesthesia during the induction or emergence phase without the personal participation of the supervising anesthesiologist; or
- (d) Administer any drugs, medicines, devices, or therapies the supervising anesthesiologist is not qualified or authorized to prescribe.

5114 SUPERVISING ANESTHESIOLOGIST

- 5114.1 A supervising anesthesiologist shall be immediately available to participate directly in the care of the patient whom the anesthesiologist assistant and the supervising anesthesiologist are jointly treating, and shall at all times accept and be responsible for the oversight of the health care services rendered by the anesthesiologist assistant.
- 5114.2 A supervising anesthesiologist shall be present during the induction and emergence phases of a patient to whom anesthesia has been administered.
- 5114.3 A supervising anesthesiologist may supervise up to three (3) anesthesiologist assistants at any one time during normal circumstances, and up to four (4) anesthesiologist assistants at any one time during emergency circumstances, consistent with federal rules for reimbursement of anesthesia services.
- 5114.4 No faculty member of an anesthesiologist assistants program shall concurrently supervise more than two (2) anesthesiologist assistant students who are delivering anesthesia.

5199 DEFINITIONS

- 5199.1 As used in this chapter the following terms have the meanings ascribed:

Anesthesiologist Assistant - a person licensed to practice as an anesthesiologist assistant under the Act.

Anesthesiologist - a physician who has completed a residency in anesthesiology approved by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology and who is currently licensed to practice medicine in the District of Columbia.

Assist – to carry out procedures as requested by the supervising anesthesiologist, provided that the requested procedures are within the anesthesiologist assistant’s training and scope of practice, is medically directed, and defined by the supervising anesthesiologist in conformance with acceptable standards for anesthesia care and, approved by the hospital or ambulatory surgical facility medical staff.

Board – the Board of Medicine, established by § 203(a) of the Act, D.C. Code § 3-1202.03(a)(1) (2001).

Committee – the Advisory Committee on Anesthesiologist Assistants, established by § 203 (c-1) of the Act. D.C. Official Code § 3-1202.03(c-1) (2001).

Immediately available – means the supervising anesthesiologist is:

- (a) Present in the building or facility in which anesthesia services are being provided by assistant; and
- (b) Able to directly provide assistance to the anesthesiologist assistant in providing anesthesia services to the patient in accordance with the prevailing standards of:
 - (1) Acceptable medical practice;
 - (2) The American Society of Anesthesiologists’ guidelines for best practice of anesthesia in a care team model; and
 - (3) Any additional requirements established by the Board of Medicine through a formal rulemaking process.

Supervision – directing and accepting responsibility for the anesthesia services rendered by an anesthesiologist assistant in a manner approved by the Board of Medicine.

5199.2 The definitions in § 4099 of chapter 40 of this title and the Act are incorporated by reference into and are applicable to this chapter.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Registrar, Department of Health, pursuant to section 27 of the Vital Records Act of 1981, effective October 8, 1981 (D.C. Law 4-34; D.C. Official Code § 7-226), hereby gives notice of her intent to take final rulemaking action to adopt the following amendment to Chapter 28 of Title 29 of the District of Columbia Municipal Regulations (DCMR) in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of the proposed rules is to repeal 29 DCMR 2801.8(d), which requires entities that transmit vital records information or documentation electronically to the Registrar to subsequently file an original of the transmitted information or documentation with the Registrar.

Chapter 28 (Vital Records) of Title 29 (Public Welfare) (May 1987) is amended as follows:

Section 2801.8 is amended to read as follows:

2801.8 Information that is properly transmitted to and received by the Registrar through electronic means shall be considered to be registered as of the date of transmission, provided that:

- (a) The Registrar has authorized the transmitting institution to transmit the information;
- (b) The electronic means by which the document is transmitted is secure within parameters the Registrar establishes in writing; and
- (c) The Registrar acknowledges and verifies receipt of the information.

All persons wishing to comment on the proposed rulemaking shall submit written comments no later than thirty (30) days after the date of publication of this notice in the D.C. Register, to the Registrar, District of Columbia Department of Health, Vital Records Division, 825 North Capitol Street, N.E., 1st Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained between the hours of 8:30 A.M. and 3:30 P.M. Monday through Friday, excluding holidays, at the address listed above.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

The Interim Director of the D.C. Department of Human Services, pursuant to authority set forth in the Rehabilitation Services Program Establishment Act of 2004 (Act) effective April 12, 2005 (D.C. Law 15-332; D.C. Official Code 32-332), and Mayor's Order 2002-173, dated October 14, 2002, hereby gives notice of the intent to amend Chapter 1 of Title 29 of the District of Columbia Municipal Regulations by adopting a new § 117 and §§ 119-126 and to amend § 199 by deleting the entire section and replacing it with new language. The proposed rules will become final in not less than thirty (30) days from the date of publication of the notice in the D.C. Register, unless indicated otherwise. The proposed sections provide program standards and procedures for the provision of vocational rehabilitation services, including post-secondary education, transition services, and entrepreneurial services. The proposed sections also describe the process for payment for services and goods, client financial participation, order of selection, and record closure for eligible individuals receiving vocational rehabilitation services, and independent living services.

Title 29 DCMR, Chapter 1 is amended by adopting a new Section 117:**117 REASONS FOR CLOSURE OF THE RECORD OF SERVICES**

- 117.1 The Rehabilitation Services Administration shall close a client's record of services after the client:
- (a) Maintains a successful employment outcome for a period of ninety (90) days or more in accordance with § 116;
 - (b) Indicates in writing that he or she no longer wishes to participate in the rehabilitation program;
 - (c) Fails to comply with the vocational rehabilitation process, required assessments or with provisions agreed to in the Individualized Plan for Employment (IPE) or Independent Living Plan (ILP) and is not working with the Rehabilitation Services Administration to remedy any problems or develop a new IPE or ILP;
 - (d) Fails to respond to a notice of the Rehabilitation Services Administration's intent to close the client's case;
 - (e) Ceases to meet the eligibility criteria for participation in the rehabilitation program in accordance with § 103;

- (f) Is determined to be incapable of achieving an employment outcome as defined in § 199, because of the severity of the individual's disability in accordance with § 103;
- (g) Ceases to be present in the District of Columbia or cannot be located;
- (h) Is determined to have an open vocational rehabilitation case in another state or United States territory;
- (i) Is institutionalized for ninety days or more or is unavailable for services;
- (j) Is determined not to have an impediment to employment or not to have a need for independent living;
- (k) Is unable to accept or maintain employment because suitable transportation was either not feasible or not available;
- (l) Is determined not to need vocational rehabilitation services to prepare for, enter into, engage in, or retain gainful employment consistent with their strengths, resources, priorities, concerns, abilities, capabilities and informed choice in accordance with section §103;
- (m) Is unable to access a source of extended services;
- (n) Is placed in a non-integrated setting for a public or non-profit organization after receipt of services;
- (o) Transfers to another Agency;
- (p) Dies; or
- (q) Is determined to have no disabling condition.

117.2

Before closing an individual's record of service based on a determination that the individual is incapable of achieving an employment outcome due to the severity of the disability, the Rehabilitation Services Administration shall give the individual an opportunity to participate in a trial work experience with appropriate supports, or if a trial work experience is not available, the Rehabilitation Services Administration shall perform an extended evaluation to determine if the individual is capable of benefiting from vocational rehabilitation services to achieve an employment outcome, in accordance with § 103.

117.3

Before closing an individual's record of service, the Rehabilitation Services Administration shall:

- (a) Give the applicant or eligible individual thirty (30) days written notice of the proposed closure;
- (b) Provide an opportunity for consultation with the individual or, as appropriate, the individual and the individual's representative; and
- (c) Record in the client's record of services the responses or views of the eligible individual and, as appropriate, the individual's representative, or the client's failure to respond to the thirty (30) days notice of closure and opportunity for consultation.

117.4 When the Rehabilitation Services Administration closes a record of services, the applicant or eligible individual or, as appropriate, the individual and the individual's representative are provided advance written notice of:

- (a) The reasons for the decision to close the record;
- (b) The individual's appeal rights and the means by which the individual may express and seek remedy for any concerns regarding the record closure, including the opportunity for an administrative review, mediation or an administrative hearing; and
- (c) The Client Assistance Program's role in client representation.

117.5 If the Rehabilitation Services Administration closes a record of services based on a determination that an individual is ineligible for services, the Rehabilitation Services Administration shall refer the individual to other agencies and programs, including, when appropriate, the independent living services program, pursuant to § 104.

117.6 If the Rehabilitation Services Administration closes a record of services based on a determination that the individual is incapable of achieving an employment outcome because of the severity of the individual's disability, the Rehabilitation Services Administration shall review the decision within twelve (12) months, after giving the individual written notice of and the opportunity to participate in the review, unless one of the following applies:

- (a) The individual refuses the review;
- (b) The individual is no longer present in the District of Columbia or cannot be located; or
- (c) The individual has a medical condition which is rapidly progressing or is terminal.

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- 117.7 The Rehabilitation Services Administration shall not close an applicant's record before completing the eligibility determination process, unless:
- (a) The applicant declines to participate in, or is unavailable to complete the eligibility assessment process pursuant to § 109, and the Rehabilitation Services Administration has documented at least three attempts to contact the applicant or representative, if appropriate, including by telephone and in writing, and the applicant or representative has not responded;
 - (b) The applicant fails to complete the assessment process for determining eligibility and priority for services, and existing information is insufficient to facilitate an eligibility determination; or
 - (c) The applicant notifies the Rehabilitation Services Administration that he or she is no longer present in the District of Columbia or has moved to another jurisdiction.
- 117.8 The Rehabilitation Services Administration shall consider an individual rehabilitated when either:
- (a) The individual has met all of the goals stated in the ILP; or
 - (b) The Rehabilitation Services Administration determined the individual's eligibility in accordance with §§ 102 and 103;
 - (c) The Rehabilitation Services Administration performed an assessment to determine the individual's rehabilitation needs and provided a comprehensive assessment, where required, and counseling and guidance in determining an appropriate employment goal;
 - (d) The Rehabilitation Services Administration provided appropriate vocational rehabilitation services, in accordance with the individual's IPE, which contributed to the achievement of the employment outcome;
 - (e) The individual achieved the employment outcome that is described in the IPE; and
 - (f) The individual maintained the employment outcome for at least ninety (90) days, and agreed with the rehabilitation counselor at the end of that ninety (90) days that:
 - (1) The individual's employment was satisfactory;

- (2) The individual was performing satisfactorily on the job;
- (3) The individual planned to continue the employment; and
- (4) The individual has been informed of the availability of post employment services.

117.9 After the Rehabilitation Services Administration determines that an individual has been rehabilitated, the Rehabilitation Services Administration shall close the individual's record of services.

117.10 The Rehabilitation Services Administration shall provide post-employment services as defined in § 199, after the Rehabilitation Services Administration has closed the record of services, if they are necessary to assist the individual in maintaining, regaining, or advancing in employment.

117.11 The Rehabilitation Services Administration shall review and reevaluate annually for a minimum of two (2) years and subsequently at the request of the individual, or, if appropriate, the individual's representative, the status of each individual placed in extended employment in a community rehabilitation program or in supported employment who is not earning the minimum wage to determine the interests, priorities and needs of the individual with respect to competitive employment or training for competitive employment.

117.12 If the Rehabilitation Services Administration conducts a review pursuant to § 117.11, the individual or, if appropriate, the individual's representative, shall provide input into the review and sign an acknowledgment that the review and reevaluation have taken place.

117.13 Following a review and reevaluation under § 117.11, and a determination that the individual can achieve an employment outcome, the individual's record of services shall be reopened, and the IPE amended to reflect the individual's current rehabilitation program.

Title 29 DCMR, Chapter 1 is amended by adding new Sections 119-126:

119 PAYMENT FOR REHABILITATION SERVICES

119.1 The Rehabilitation Services Administration shall pay only for services that are:

- (a) Required to complete the assessment or evaluation process;
- (b) Identified on the client's Individualized Plan for Employment (IPE) or Independent Living Plan (ILP);

- (c) Preauthorized and approved by the Rehabilitation Services Administration through a signed purchase order or other authorizing document, pursuant to the D.C. Procurement Practices Act (D.C. Official Code § 2-301 *et seq.*) and procedures;
- (d) Determined satisfactory based upon the Rehabilitation Services Administration's evaluation of the services; and
- (e) Not available through a comparable service or benefit pursuant to § 114.

- 119.2 The Rehabilitation Services Administration shall pay only the portion of the cost of services identified as the responsibility of the Rehabilitation Services Administration in the client's IPE or ILP, and shall not pay costs that have been designated as the client's financial responsibility.
- 119.3 Each service provider who is subject to District of Columbia or other state licensure or certification requirements shall provide evidence of a valid license or certification before the Rehabilitation Services Administration may authorize the provider to render services to its clients. The provider shall maintain licensure or certification during each period of rendering the authorized services. Providers selected must be authorized prior to rendering services as a District vendor pursuant to the District of Columbia Procurement Practices Act (D.C. Official Code § 2-301 *et seq.*).
- 119.4 Each college or university shall be accredited by an appropriate District, state, or national accrediting organization before the Rehabilitation Services Administration may authorize a client to attend that institution or authorize payment to that institution.
- 119.5 A private career or proprietary school or other institution subject to regulation shall provide evidence of a valid license, certificate of approval or certification issued by the appropriate licensing or accreditation authority authorizing the institution to provide the specific courses of instruction or services the individual is seeking before the Rehabilitation Services Administration may authorize an individual to attend that institution or authorize payment to that institution.
- 119.6 Each provider of services shall meet the requirements of the Americans with Disabilities Act (ADA) (42 U.S.C. § 12101 *et seq.*).
- 119.7 Each provider shall submit a detailed, completed, and signed invoice for services rendered, along with any required reports or information, in accordance with procedures established by the D.C. Government, before the Rehabilitation Services Administration may authorize payment to the provider or initiate a payment request. The Rehabilitation Services Administration may return to the

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provider each invoice not properly signed, completed, and accompanied by required reports.

119.8 A provider may not charge or accept payment from an individual client of the Rehabilitation Services Administration, the individual's family, or a third party for authorized services, unless the amount of the individual's financial responsibility to the provider has been:

- (a) Preauthorized by the Rehabilitation Services Administration;
- (b) Agreed to by the individual in writing; and
- (c) Incorporated into the Rehabilitation Services Administration's written authorization for services to the provider.

119.9 The Rehabilitation Services Administration shall pay for authorized services at a rate not higher than the provider's customary charge.

119.10 The Rehabilitation Services Administration shall pay for all authorized services in accordance with the Procurement Practices Act (§ 2-301 *et. seq.*).

120 PAYMENTS FOR GOODS

120.1 The Rehabilitation Services Administration shall pay only for goods that are:

- (a) Determined by the Rehabilitation Services Administration to be necessary for the client to participate in the assessment or evaluation process;
- (b) Identified on the client's Individualized Plan for Employment (IPE) or Independent Living Plan (ILP);
- (c) Preauthorized and approved by the Rehabilitation Services Administration through either a signed purchase order or other authorizing document;
- (d) Determined satisfactory by the Rehabilitation Services Administration; and
- (e) Not available through a comparable service or benefit pursuant to § 114.

120.2 The Rehabilitation Services Administration shall pay only the portion of the cost of goods identified as the responsibility of the Rehabilitation Services Administration on the client's IPE in accordance with § 124, and shall not pay costs that have been designated as the client's financial responsibility.

120.3 Each provider of goods shall comply with the requirements of § 119.3 during the

entire period of providing goods.

- 120.4 If a provider supplies goods pursuant to a purchase order or other authorizing document, the provider shall submit the invoice for the delivered goods in accordance with procedures established by the Rehabilitation Services Administration. The amount of the invoice shall not exceed the cost specified in the purchase order or authorizing document.
- 120.5 A provider may not charge or accept payment from a client of the Rehabilitation Services Administration, the client's family, or a third party for authorized goods unless the amount of the client's financial responsibility to the provider has been:
- (a) Preauthorized by the Rehabilitation Services Administration;
 - (b) Agreed to by the client in writing; and
 - (c) Incorporated into the Rehabilitation Services Administration's authorization for goods from the provider.
- 120.6 The Rehabilitation Services Administration shall pay for authorized goods at a rate equal to or lesser than:
- (a) The provider's customary charge; and
 - (b) The rate established as the result of competitive bidding conducted by the Department of Human Services, Office of Contracts and Procurement as reflected in an issued purchase order.
- 120.7 The Rehabilitation Services Administration shall not purchase vehicles, land, or buildings or pay for the cost of construction or additions to a building.
- 120.8 The Rehabilitation Services Administration shall provide no more than one (1) pair of glasses and frames per year unless additional glasses are required by a change in prescription, and no comparable benefit is available to pay for the glasses.
- 120.9 The Rehabilitation Services Administration may purchase assistive technology devices and aids for an eligible individual pursuant to an assistive technology assessment which establishes a need for the device, if no comparable benefit is available to pay for the assistive technology device(s).
- 120.10 The Rehabilitation Services Administration shall provide no more than one of each type of assistive technology device or aid unless a new evaluation shows that a replacement or additional device or aid is warranted.

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- 120.11 The Rehabilitation Services Administration shall provide computers, books, tools, and other training materials that are necessary to complete training pursuant to § 113.2, only after an eligible individual provides one of the following:
- (a) Written verification from the chairperson of the relevant department, or director of the training program, that a specific computer or specific books, tools, and other training materials are required for the course of study;
 - (b) The catalog or syllabus for the course which specifies that a specific computer or specific books, tools, and training materials are a requirement for all students; or
 - (c) Written documentation from a licensed professional that the eligible individual requires a specific computer, or specific books, tools, and training materials as an accommodation for the client's disability and functional limitations.
- 120.12 The Rehabilitation Services Administration shall not pay for upgrades, repairs, or maintenance for computer systems or operating programs except as provided in § 120.11.
- 120.13 When an individual provides documentation that a computer is required to complete training pursuant to § 120.11, the Rehabilitation Services Administration shall first determine if a comparable computer is available through the computer loan program. If no computer is available pursuant to the computer loan program, the Rehabilitation Services Administration shall purchase a computer for use by the individual.
- 120.14 A client's request for a computer, books, tools and training equipment made in accordance with §§ 113 and 120.11 must be submitted by the client as soon as possible, but no later than one week after the first day of training, and must include the cost of each item or supply requested. Failure to comply with § 120.11 may result in a delay of the receipt of supplies.
- 120.15 The Rehabilitation Services Administration may establish other reasonable purchase requirements from time to time, through public notice.
- 120.16 The Rehabilitation Services Administration shall pay for all goods authorized in accordance with the Procurement Practices Act (§ 2-301 *et. seq.*).
- 121 PAYMENT FOR DENTAL SERVICES, PRESCRIPTION GOODS, PRESCRIPTION DRUGS AND MEDICAL SUPPLIES**

121.1 The Rehabilitation Services Administration shall pay for dental services under the following circumstances:

- (a) The dental condition is documented by a licensed and certified dental professional as:
 - (1) Secondary rather than a primary impairment, and services are necessary to render the individual employable or are required to prevent a serious physical illness; or
 - (2) A significant maxillofacial problem and/or disease of the gums that is a serious impediment to employment or may cause or aggravate specific health condition;
- (b) Comparable benefits are not available in accordance with § 114;
- (c) The dental consultant, who is not the treating dentist, has reviewed and approved the dental service to ensure that the service provided is necessary to achieve the individual's vocational goal or independent living goal;
- (d) The Rehabilitation Services Administration has approved the services for payment; and
- (e) The treating dentist provides a post-dental service report.

121.2 The Rehabilitation Services Administration shall purchase prescription goods, prescription drugs, and medical supplies under the following circumstances :

- (a) The Rehabilitation Services Administration determines it is necessary to achieve the individual's vocational goal or independent living goal;
- (b) The Rehabilitation Services Administration determines that no comparable benefit is available to the client, in accordance with § 114;
- (b) A current, valid prescription from an authorized medical professional is provided; and
- (c) Unless a particular brand is specified by an authorized medical professional, the Rehabilitation Services Administration shall purchase generic drugs.

121.3 The Rehabilitation Services Administration shall procure authorized dental services, prescription goods, and medical supplies in accordance with the

Procurement Practices Act (D.C. Official Code § 2-301 *et. seq.*).

122 POST-SECONDARY EDUCATION

122.1 The Rehabilitation Services Administration may fund post-secondary educational expenses in accordance with this section, and as specified in an eligible individual's Individualized Plan for Employment (IPE).

122.2 The Rehabilitation Services Administration may fund post-secondary education and training consistent with § 122.3(b) if an eligible individual requesting post-secondary educational services:

- (a) Provides documentation of acceptance for matriculation from an accredited post-secondary institution as defined in § 199;
- (b) Demonstrates the aptitude and ability to succeed in college level work in the particular course of study identified in the IPE through either past post-secondary academic performance or a diagnostic assessment conducted by a qualified professional, which shall include, at a minimum:
 - (1) A career assessment; and
 - (2) Psycho-educational assessment;
- (c) Resolves any defaulted student loan or obtains a waiver from the Department of Education regarding any defaulted student loan;
- (d) Submits a financial aid application annually to the following:
 - (1) The post-secondary institution the individual is attending or to which the individual has applied;
 - (2) The D.C. Tuition Assistance Grant, if applicable;
 - (3) All other District or state funded educational assistance programs and school grants or financial aid;
 - (4) The U.S. Department of Education (The Free Application for Federal Student Aid (FAFSA));
 - (5) All federal grant programs, including the Pell Grant; and
 - (6) The Leverage Educational Assistance Program (LEAP);
- (e) Provides the Rehabilitation Services Administration a copy of the FAFSA

Student Aid Report (SAR) and any other aid award from each source; and

(f) Signs the Rehabilitation Services Administration's form authorizing the post-secondary institution to provide the Rehabilitation Services Administration with information relating to the individual's training or educational program, including, but not limited to:

- (1) A copy of the individual's official transcript;
- (2) A copy of the individual's grades at the conclusion of each semester;
- (3) Attendance records;
- (4) Financial awards; and
- (5) Notice of any disciplinary or adverse action.

122.3

The amount of financial assistance the Rehabilitation Services Administration may provide for post-secondary educational and training expenses for each eligible individual shall not exceed:

(a) The amount specified in the annual student expense budget determined by the post-secondary institution's financial aid administrator, in accordance with the Higher Education Act of 1965 (20 U.S.C. § 1071 *et. seq.*) as amended:

- (1) Plus the cost of educational and training-related expenses that are required to enable the individual to have access to and participate in the institution's educational or training program, such as:
 - (A) Disability-related support services for which the institution is not responsible;
 - (B) Adaptive equipment for which the institution is not responsible in accordance with § 120; and
 - (C) Books and supplies in accordance with § 120;
- (2) Minus the amount of:
 - (A) Grants and scholarships awarded to the individual to attend the post-secondary institution; and

- (B) The individual or family financial participation in accordance with §124;
- (b) The published tuition rate of the University of the District of Columbia, or other public District of Columbia post-secondary institution, unless the Administrator approves an exception under one of the following circumstances:
- (1) If the University of the District of Columbia or other public District of Columbia post-secondary institutions does not provide the course of study or program essential to achievement of a client's vocational goal, the Rehabilitation Services Administration shall pay for education and training at a public post-secondary institution in the Washington, D.C. Metropolitan Area;
 - (2) If the University of the District of Columbia, other public District of Columbia post-secondary institutions, or a Washington, D.C. Metropolitan Area public post-secondary institution does not provide the course of study or program essential to achievement of a client's vocational goal, the Rehabilitation Services Administration shall pay the published in-state tuition rate of the public post-secondary institution located in another state; or
 - (3) If there is no public post-secondary institution in the District of Columbia, District of Columbia Metropolitan Area, or other state that provides the course of study or program essential to achievement of the client's vocational goal, the Rehabilitation Services Administration shall allow a client to attend a private post-secondary institution, but shall only pay an amount of tuition equal to the highest published in-state tuition rate of a public post-secondary institution located in the state where the private post-secondary institution is located.
- 122.4 Before the Administrator approves an exception pursuant to § 122.3(b), the eligible individual shall work with the assigned vocational rehabilitation counselor to document the availability of the program that is essential to achieve the vocational goal in accordance with the priority of attendance set forth in § 122.3(b).
- 122.5 Costs related to the individual's choice to attend a post-secondary institution outside of the District of Columbia or a private institution that exceed the costs specified in § 122.3 are the responsibility of the individual unless the Administrator approves an exception pursuant to § 122.3(b).
- 122.6 The Rehabilitation Services Administration shall not fund on or off-campus room

and board, except in exceptional circumstances. Exceptional circumstances shall be documented annually, and shall include the following circumstances:

- (a) The post-secondary educational institution requires on-campus housing, and the requirement is documented by the student handbook or other official school documents annually; or
- (b) On-campus housing is necessary to accommodate a client's disabilities, as documented annually by a professional with expertise in the area of the individual's disability.

122.7

An eligible individual who is receiving post-secondary educational expenses in accordance with this section, shall continue to receive financial assistance, subject to the availability of program funds, if the individual:

- (a) Maintains eligibility in accordance with § 103;
- (b) Maintains a minimum cumulative grade point average of C or its equivalent, computed annually;
- (c) Maintains eligibility for financial aid in accordance with the post-secondary institution's written criteria for satisfactory academic progress toward a degree, certificate, or certification;
- (d) Attends only one post-secondary institution per academic/training year, transferring only after receiving prior approval of the Rehabilitation Services Administration and the amendment of the IPE to reflect the new institution;
- (e) Secures the prior approval of the Rehabilitation Services Administration and amends the IPE to specify any change(s) before changing the course of study or the major agreed upon in the individual's IPE;
- (f) Keeps current his or her financial obligations with the post-secondary institution;
- (g) Participates in annual reviews for financial participation in the cost of services pursuant to § 124;
- (h) Resolves any defaulted student loans or obtains a waiver from the Department of Education regarding any defaulted student loans;
- (i) Annually submits a financial aid application in accordance with § 122.2(d);

- (j) Annually provides the Rehabilitation Services Administration a copy of the FAFSA Student Aid Report (SAR) and any other aid awards or scholarships from all sources in accordance with § 122.2(e); and
- (k) Signs the Rehabilitation Services Administration's form authorizing each post-secondary institution to provide the Rehabilitation Services Administration with information relating to the individual's training or educational program pursuant to § 122.2(f), at the end of each semester, for the duration of any training program, and the institution has provided the individual's cumulative grade point average.

122.8 An individual must obtain prior written approval from the Rehabilitation Services Administration for any costs the individual expects the Rehabilitation Services Administration to assume. The Rehabilitation Services Administration shall not be responsible for the payment of any post-secondary educational or training costs that the individual may incur before receiving the Rehabilitation Services Administration's written commitment to fund the costs at the post-secondary educational or training institution.

122.9 The Rehabilitation Services Administration shall authorize and process payment of post-secondary educational and training expenses, consistent with §§ 119, 120, 121 and this section, only after:

- (a) The Rehabilitation Services Administration receives the individual's cumulative grade point average at the end of each academic year; and
- (b) The institution submits to the Rehabilitation Services Administration an invoice that states at a minimum, the costs for courses, training, registration, fees, and other agreed upon services.

122.10 The Rehabilitation Services Administration may approve only one transfer from one post-secondary institution to another post-secondary institution and only one change in the vocational goal during the vocational rehabilitation process, unless the Administrator determines that exceptional circumstances warrant a change.

122.11 The Rehabilitation Services Administration shall not fund the costs of a post-secondary education for, at the least, the academic semester following:

- (a) Dismissal by a post-secondary institution;
- (b) The individual's failure to maintain satisfactory academic or other progress in accordance with the institution's academic or performance requirements or financial aid eligibility criteria; or

- (c) The individual's failure to meet the institution's requirements for progress toward earning a degree or to earn the requisite certificate for the course of study.
- 122.12 Subsequent to § 122.11, the Rehabilitation Services Administration may reconsider funding costs of post-secondary education if the individual:
- (a) Provides documentation of successful completion of a C or better while maintaining a full-time schedule at a post-secondary educational institution for one semester; and
- (b) Complies with the requirements set forth in § 122.7.
- 122.13 The Rehabilitation Services Administration may consider or reconsider an individual's written request to pursue a post-secondary educational program on less than a full-time basis, only if the request is accompanied by written documentation from a licensed professional with expertise in the area of the individual's disability, who has assessed the individual's capabilities, and the individual's need for a reduction from full-time attendance due to their disability. The individual shall submit the request and written documentation annually.
- 122.14 The Rehabilitation Services Administration shall not provide financial assistance for an individual to:
- (a) Attend summer school, a summer program, or an enrichment course that is not a required course, and can be completed during the academic year;
- (b) Engage in travel that is not a requirement for completion of their course of study or training or travel outside of the United States; or
- (c) Repeat a course or training program.
- 122.15 An individual shall not withdraw from a course after the institution's drop and add period is over without receiving the Rehabilitation Services Administration's prior approval. This requirement for prior approval includes instances where the individual has a medical certification of incapacitation that prevents further matriculation.
- 122.16 An individual who fails to comply with § 122.15 shall be responsible for paying the institution any costs associated with the individual's unauthorized withdrawal.
- 122.17 An individual receiving funding for post-secondary education or related expenditures shall notify the Rehabilitation Services Administration immediately of any change in his or her status as a student or trainee, such as:

- (a) Dismissal or suspension from a post-secondary institution or training program; and
- (b) Interruption in courses or training for any reason, and disciplinary actions that affect completion of the post-secondary or training program.

122.18 An individual who fails to comply with § 122.17 shall be responsible for paying the institution any costs associated with the individual's failure to report an immediate change in his or her status as a student or trainee.

122.19 The Rehabilitation Services Administration shall not pay for the costs of post-secondary education for the semester in which the individual fails to comply with § 122.17.

122.20 The Rehabilitation Services Administration may provide financial assistance to an eligible individual for graduate education only when:

- (a) Graduate or professional certification is documented as a commonly recognized standard for entry into the field which is the employment goal on the IPE;
- (b) The approved IPE states that graduate or professional education is necessary and essential to the achievement of the individual's employment goal;
- (c) The graduate or professional school has accepted the individual;
- (d) The Rehabilitation Services Administration approves the request for graduate or professional study; and
- (e) The individual who is enrolled in a graduate or professional program maintains the grade point average required by the graduate or professional school for progress toward the specific degree or certificate.

122.21 An individual who is receiving services under an IPE before the effective date of this section shall not be subject to §§ 122.3(b), 122.4, 122.5, and 122.6 unless:

- (a) The vocational goal identified in the IPE is achieved;
- (b) The individual's record of service is closed; or
- (c) The individual changes their vocational goal, course of study, or major agreed upon in the individual's IPE.

122.22 An individual who is pursuing a graduate education under an IPE before the effective date of this section shall not be subject to § 122.20 until the vocational goal identified in the IPE is achieved or their record of service is closed.

123 THE ENTREPRENEURIAL PROGRAM

123.1 The Rehabilitation Services Administration shall provide an entrepreneurial program that assists a client in starting his or her own business in the District of Columbia.

123.2 When an eligible individual elects a self-employment outcome, the vocational rehabilitation counselor shall:

- (a) Explore and discuss with the individual the nature of the desired business, the feasibility of the business, and the individual's preparation for operating the business;
- (b) Prepare a written referral to the entrepreneurial program for the individual who wishes to pursue a self-employment goal;
- (c) Schedule an interview for the individual and the counselor to consult with the entrepreneurial program;
- (d) Inform the individual about:
 - (1) How the entrepreneurial program works;
 - (2) Required training and training sources for would-be entrepreneurs;
 - (3) The type of business funding that is available;
 - (4) The type of funding the would-be entrepreneur must obtain to start the business enterprise; and
 - (5) The support services that are available to assist the entrepreneur in determining the feasibility of the business, preparing for the business, preparing the business plan, and seeking funding for the business;
- (e) Determine, along with the individual, any supportive services the individual may require to participate in the entrepreneurial training, prepare the business plan, and prepare for operation of the business; and
- (f) After receipt of the Entrepreneurial Program's report and recommendation

for entrepreneurial services, develop an Individualized Plan for Employment (IPE) that addresses the individual's entrepreneurial goal, training needs and supportive services.

- 123.3 Upon receipt of a referral for entrepreneurial services, the Entrepreneurial Program shall consult with the individual and the counselor to:
- (a) Assess the individual's:
 - (1) Entrepreneurial interest;
 - (2) Past training and related experiences;
 - (3) Practical skills for operating a business; and
 - (4) Command of the skills necessary to operate a business or be self-employed in accordance with the entrepreneurial goal;
 - (b) Determine training required to prepare the individual to open and operate the determined business;
 - (c) Assess how the individual's disability may affect his or her ability to operate the business; and
 - (d) Determine supports or services the individual may require to operate the business.
- 123.4 The Entrepreneurial Program shall send a report and recommendation for services to the individual's counselor for IPE development to provide for the training and support services the individual requires to learn how to operate a business, develop a business plan and open and operate the business, after completion of an assessment of the individual's entrepreneurial skills and needs.
- 123.5 The Rehabilitation Services Administration may purchase goods and services for a business enterprise, including the occupational licenses, tools, equipment, initial stocks, and supplies necessary to open the business, in accordance with §§119, and 120, only after the individual:
- (a) Demonstrates that he or she possesses the basic knowledge and skills required to manage a business through either:
 - (1) Successful completion of training as required in the individual's IPE;
 - (2) Successful completion of related courses; or

- (3) Past work experience or entrepreneurial experience;
- (b) Submits a business plan completed in accordance with § 123.8, and approved by the Chief of the Entrepreneurial Program;
- (c) Submits a request for funding; and
- (d) Provides documentation of any additional funding secured for the business.

123.6 In accordance with § 123.3 (a)(2), an individual may demonstrate knowledge and skills required to manage a business by providing documentation of completion of the following or comparable courses with a cumulative grade point average of "C" or better at an accredited college or university as a regular or non-degree student:

- (a) Entrepreneurship/self-employment;
- (b) Principles of Accounting;
- (c) Introduction to Business;
- (d) Principles of Finance; and
- (e) Marketing.

123.7 In accordance with § 123.3(a)(3), an individual may demonstrate knowledge and skills required to manage a business through past work or entrepreneurial experience by providing the following documentation:

- (a) A detailed description of the work or entrepreneurial experience that he or she believes demonstrates the knowledge and skills required to operate a business;
- (b) The nature of the business;
- (c) Clientele served;
- (d) Numbers of clients/customers;
- (e) The location of the business;
- (f) The number of years he or she operated the business; and

- (g) The reason why the business ceased to operate or why the individual ceased to function with the business.

123.8 In accordance with § 123.5(b), an individual must provide a business plan that:

- (a) Describes the nature of the business and the income source;
- (b) Identifies funding sources other than the Rehabilitation Services Administration and projects income streams that are sufficient to maintain the business;
- (c) Provides a Five Year Plan for the business that addresses:
 - (1) Five years of projected sales;
 - (2) The targeted clientele;
 - (3) The full range of services to be offered; and
 - (4) Sustainability of the business for a five-year period and in a down-turned market;
- (d) Identifies the specific items and costs for which the business is seeking funding from the Rehabilitation Services Administration and states the role they are to play in the operation of the business and generation of business income; and
- (e) Is approved by the Chief of the Entrepreneurial Program.

123.9 The Rehabilitation Services Administration, directly or through its training sources, shall assist the client in identifying a lending institution to which the client may apply for a business loan, if the client successfully completes all of the required training and develops a business plan that meets the Rehabilitation Services Administration's approval.

123.10 An individual who is receiving services under an IPE which specifically identifies an entrepreneurial vocational goal before the effective date of this section shall continue to be served in accordance with their IPE until the vocational goal identified in the IPE is achieved or their record of service is closed.

124 CLIENT PARTICIPATION IN THE COST OF SERVICES

124.1 The Rehabilitation Services Administration shall consider the financial need of an eligible individual through uniform application of a financial need test. The test

shall accord equitable treatment in determining an eligible individual's participation in the cost of rehabilitation services that are subject to the financial need test pursuant to §§ 124.5 and 124.6, and authorized by the Rehabilitation Services Administration.

124.2 Unless an eligible individual is exempt from participation in the financial need test pursuant to §§ 124.3, 124.4 or 124.17, an eligible individual shall participate in a financial need test:

- (a) At the time the first Individualized Plan for Employment (IPE) or Independent Living Plan (ILP) is developed;
- (b) Annually on or around the date that the first IPE or ILP became effective;
- (c) Each time an IPE or ILP is amended; and
- (d) Each time there is a change in an eligible individual's financial status.

124.3 An eligible individual is not required to contribute to the cost of vocational rehabilitation services if they are:

- (a) A ward of the District of Columbia Government because of dependency or delinquency commitments;
- (b) A recipient of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI);
- (c) A client of the Income Maintenance Administration who meets the requirements for Income Maintenance Administration-related rehabilitation programs; or
- (d) An eligible individual receiving any other form of public assistance income.

124.4 The following vocational rehabilitation services and independent living services shall not be subject to a financial need test:

- (a) Assessment and related services to determine eligibility, priority for services, and vocational rehabilitation needs;
- (b) Counseling, guidance and referral services that the Rehabilitation Services Administration provides;
- (c) Maintenance when additional costs are incurred as a result of undertaking

or participating in assessment services;

- (d) Transportation when required to enable an individual to participate in assessment services;
- (e) Personal assistance services during the assessment process;
- (f) Placement services, including job coaching and on-job training that the Rehabilitation Services Administration provides;
- (g) Auxiliary aids or services such as interpreter services or reader services that an individual requires in order to participate in the assessment process; and
- (h) Non-assessment services that are provided to an individual with a significant disability during either an exploration of the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences or an extended evaluation.

124.5

The following rehabilitation services, shall require the financial need test to determine the eligible individual's participation in the cost of rehabilitation services as shown on the Client Financial Statement:

- (a) Physical and mental restoration;
- (b) Maintenance;
- (c) Telecommunications, sensory and other technological aids and devices;
- (d) Transportation for other than diagnostic services;
- (e) Training;
- (f) Occupational licenses;
- (g) Books and training materials;
- (h) Tools, equipment and initial stock; and
- (i) Supplies and other goods and services including services to family members.

124.6

The following independent living rehabilitation services shall require the financial need test to determine the eligible individual's participation in the cost of rehabilitation services as shown on the Client Financial Statement:

- (a) Physical and mental restoration services;
- (b) Housing incidental to the provision of any independent living rehabilitation services, including appropriate accommodations to and modifications of any space utilized to serve individuals with severe disabilities;
- (c) Transportation;
- (d) Recreational services;
- (e) Services to family members of individuals with severe disabilities of a type which would require economic need consideration when necessary for improving the individual with disabilities' ability to live and function more independently; and
- (f) Telecommunication, sensory and other technological aids and devices.

124.7 The following individuals shall participate in the cost of rehabilitation services:

- (a) The applicant or eligible individual; and
- (b) Any other individual who:
 - (1) Claims the applicant or eligible individual as a dependent for federal tax purposes; or
 - (2) Is required to provide financial information on the eligible individual's free application for federal student aid, in accordance with the Higher Education Act of 1965, (20 U.S.C. §§ 1071 *et seq.*) as amended.

124.8 An individual required to participate in the cost of rehabilitation services, in accordance with this chapter, shall, as a condition for the provision of vocational rehabilitation services:

- (a) Complete the financial statement prescribed by the Rehabilitation Services Administration;
- (b) Promptly notify the Rehabilitation Services Administration of any changes in financial status; and
- (c) Participate in the Rehabilitation Services Administration's review

of the eligible individual's financial status, in accordance with §124.2.

124.9 The amount of the eligible individual's financial participation in the cost of rehabilitation services, is based upon available family income and family unit size (number of dependents claimed for federal tax purposes) and determined in accordance with the schedule in § 124.12.

124.10 Available income is calculated by:

- (a) Adding annual adjusted gross income as reported on the most recent federal and state tax return plus current nontaxable income, including but not limited to, Social Security, other than Social Security Insurance (SSI) or Social Security Disability Insurance (SSDI), workers' compensation, and veteran benefits;
- (b) Adding all other income as set forth in § 124.14;
- (c) Subtracting any deductible medical and dental expenses as reported on the Internal Revenue Service Form 1040, Schedule A, of the most recent federal and state tax return; and
- (d) Subtracting any substantiated disability-related expenses not included in deductible dental and medical expenses in paragraph (c) of this subsection.

124.11 When the current income of the eligible individual or the person who claims the individual for federal income tax purposes is substantially different from that reported on the most recent federal tax return, the available income is determined using current financial information.

124.12 Each eligible individual shall participate in the cost of rehabilitation services that are subject to the financial needs test pursuant to §§ 124.5 and 124.6, as shown on the following financial participation schedule:

FINANCIAL PARTICIPATION SCHEDULE

Number of Dependents:	1	2	3	4	5	6	7	8
Available	Amount of Annual Individual/Family Financial Participation:							
1. \$19,000 and below	0	0	0	0	0	0	0	0
2. \$19,001- \$23,000	\$184	0	0	0	0	0	0	0

3. \$23,001- \$27,000	\$313	\$219	0	0	0	0	0	0
4. \$27,001- \$31,000	\$471	\$363	0	0	0	0	0	0
5. \$31,001 - \$35,000	\$660	\$536	\$289	0	0	0	0	0
6. \$35,001- \$39,000	\$879	\$740	\$463	\$324	0	0	0	0
7. \$39,001- \$43,000	\$1,128	\$974	\$666	\$513	\$	0	0	0
8. \$43,001- \$47,000	\$1,406	\$1,238	\$900	\$731	\$394	0	0	0
9. \$47,001- \$51,000	\$1,715	\$1,575	\$1,164	\$980	\$613	\$417	0	0
10. \$51,001- \$55,000	\$2,054	\$1,855	\$1,458	\$1,259	\$861	\$663	0	0
11. \$55,001 - \$59,000	\$2,423	\$2,209	\$1,781	\$1,568	\$1,140	\$926	\$499	
12. \$59,001- \$63,000	\$2,821	\$2,592	\$2,135	\$1,906	\$1,449	\$1,220	\$762	0
13. \$63,001- \$67,000	\$3,250	\$3,006	\$2,519	\$2,275	\$1,788	\$1,544	\$1,056	\$569
14. \$67,001- \$71,000	\$3,709	\$3,450	\$2,933	\$2,674	\$2,156	\$1,898	\$1,380	\$86
15. \$71,001 - \$75,000	\$4,198	\$3,924	\$3,376	\$3,103	\$2,555	\$2,281	\$1,734	\$1,18
16. \$75,001- \$79,000	\$4,716	\$4,428	\$3,850	\$3,561	\$2,984	\$2,695	\$2,118	\$1,540
17. \$79,001-\$83,000	\$5,265	\$4,961	\$4,354	\$4,050	\$3,443	\$3,139	\$2,531	\$1,924
18. \$83,001 and above	6.5%	6.125%	5.375%	5%	4.25%	3.875%	3.125%	2.375%

124.13 The amount of individual or family participation when the available income is above eighty three thousand dollars (\$83,000) per year, is determined by multiplying the available income by the percentage shown in the appropriate column.

124.14 The financial resources of an individual or the family of a dependent individual means the financial resources that are readily available for the support of the individual. Resources that are readily available during the period of time that the individual has an approved IPE or ILP in effect, include, but are not limited to:

- (a) Wages;
- (b) Pension, compensation, or insurance income;
- (c) Income from investments;
- (d) Income from entrepreneurial activities;
- (e) Assets that can be liquidated within one year from the time the client's vocational rehabilitation program begins such as:
 - (1) Savings accounts;
 - (2) Stocks;
 - (3) Bonds;
 - (4) Certificates of deposit; and
 - (5) Other income available to the client;
- (f) Resources invested in IRA, Keogh, and deferred compensation plans, if those resources can be accessed, without penalty, while the IPE or ILP is in effect; and
- (g) Income from other sources.

124.15 If the individual's required financial contribution pursuant to § 124.12 is equal to or greater than the entire cost of services, the individual is financially responsible for the entire cost of services that are subject to the financial need test pursuant to §§ 124.5 and 124.6.

124.16 When an eligible individual, or any other person, who is required to participate in the financial need test chooses not to participate in the determination of financial need, submit supporting documentation, or contribute financially as required, the Rehabilitation Services Administration shall provide only services that do not require financial participation.

124.17 An individual who is receiving services under an IPE or ILP before the effective date of this section shall continue to be served in accordance with their IPE or ILP, and shall not be subject to the financial needs test until:

- (a) The vocational goal identified in the IPE, or the independent living goal identified in the ILP, is achieved;

- (b) The individual's record of service is closed; or
- (c) The individual's IPE or ILP is amended.

125 OWNERSHIP OF GOODS

- 125.1 The District of Columbia shall retain legal title to tools, equipment, and supplies provided as part of an individual's rehabilitation program, except as provided in § 125.3.
- 125.2 An individual shall return goods provided by the Rehabilitation Services Administration if:
- (a) Requested by the Rehabilitation Services Administration;
 - (b) The goods are no longer needed for the individual's vocational rehabilitation program or independent living program; or
 - (c) The individual is no longer participating in the vocational rehabilitation or independent living program, as agreed to and specified in the individual's signed loaner equipment agreement, Individualized Plan for Employment (IPE), or Independent Living Plan (ILP).
- 125.3 The Rehabilitation Services Administration may assign the eligible individual title to the following:
- (a) Medical appliances not transferable to or useable by another person;
 - (b) Goods provided as part of a business plan that was approved with the understanding that the goods would be used as collateral to leverage funds for the business; and
 - (c) Devices or technologies that are associated with the client's disability or are required for the client to maintain the employment outcome.

126 ORDER OF SELECTION OF SERVICES

- 126.1 The Rehabilitation Services Administration shall provide vocational rehabilitation services based on the availability of funds.
- 126.2 If sufficient funds are not available to provide vocational rehabilitation services to all eligible individuals, the Rehabilitation Services Administration shall institute an order of selection for services, providing services on a priority basis to eligible individuals with the most significant to the least significant disability, at the time

of rendering services, as follows:

- (a) **Category I: Individual with a most significant disability.**
An individual with a most significant disability is an individual:
- (1) Who first meets the definition of an individual with a significant disability pursuant to § 199 and paragraph (b) of this subsection;
 - (2) Who has a severe physical or mental impairment that seriously limits three or more functional capacities such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills in terms of an employment outcome; and
 - (3) Whose vocational rehabilitation can be expected to require multiple, highly specialized vocational rehabilitation services over an extended period of time;
- (b) **Category II: Individual with a significant disability.**
An individual with a significant disability is an individual:
- (1) Who first meets the definition of an individual with a significant disability pursuant to § 199;
 - (2) Who has a severe physical or mental impairment that seriously limits one or more functional capacities such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills in terms of an employment outcome;
 - (3) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
 - (4) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation;

- (c) **Category III: Individual with a disability.**
An individual with a disability is an individual:
 - (1) Who has a physical or mental impairment that does not meet the criteria set forth in paragraphs (a) and (b) of this subsection;
 - (2) Whose impairment constitutes or results in a substantial impediment to employment; and
 - (3) Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

126.3 If an order of selection is implemented, the Rehabilitation Services Administration shall:

- (a) Notify all eligible individuals of the priority categories in the order of selection, their assignment to a particular category, and their right to appeal their category assignment;
- (b) Provide services to each individual in a higher category before serving any individual in a lower category;
- (c) Maintain a waiting list of each eligible individual that cannot be served;
- (d) Notify each individual as funding becomes available and the individual becomes next in line for services, based on the priority established by the order of selection and the waiting list; and
- (e) Provide each eligible individual who cannot be served with information and referrals to other federal and District of Columbia programs which may be able to meet their employment needs.

126.4 The order of selection shall not apply to:

- (a) An individual applying for or receiving Independent Living Services under Title VII of the Rehabilitation Act; or
- (b) An individual who has begun to receive services under an Individualized Plan for Employment (IPE) before the effective date of the order of selection.

127 TRANSITION SERVICES FOR SECONDARY SCHOOL STUDENTS

127.1 The Rehabilitation Services Administration shall provide students with

disabilities, as defined by these regulations, transition services that plan for the student's employment outcome or independent living after the student leaves secondary education.

127.2 The Rehabilitation Services Administration shall provide transition services two years before the student's anticipated exit from secondary education. Transition services shall include the following:

- (a) Outreach through technical assistance and general information to secondary school staff, students and families on the vocational rehabilitation program and independent living program, including information on eligibility requirements, the application process, scope of services, and linkages with other agencies and organizations to enable the student to move smoothly from secondary education to vocational activities leading to an employment outcome, or an independent living program leading to self-sufficiency;
- (b) Consultation and technical assistance to students referred to or requesting transition services in development of vocational or independent living goals that will be identified in their Individualized Plan for Employment (IPE) or Independent Living Plan (ILP), based on the student's needs, taking into account the student's preferences and interests; and
- (c) During the student's final academic year of secondary education, the Rehabilitation Services Administration shall:
 - (1) Assist the student with completing and submitting an application for vocational or independent living services;
 - (2) Determine the student's eligibility for services; and
 - (3) Develop and approve an IPE or Independent Living Plan (ILP) for each eligible student consistent with §§ 110 and 111, to be implemented upon the student's exiting the secondary educational institution.

127.3 The Rehabilitation Services Administration shall implement an eligible student's IPE or ILP after the student exits the secondary educational institution, or if the Rehabilitation Services Administration is operating under an order of selection, after each eligible student able to be served under the order of selection leaves the school setting.

127.4 The Rehabilitation Services Administration shall enter into a formal interagency agreement with the state education agency for collaboration in the provision of transition services that includes:

- (a) Consultation and technical assistance to educational agencies in planning for the transition of students with disabilities from school to post school activities, including vocational rehabilitation and independent living services;
- (b) Joint transition planning that facilitates the development, completion and approval of the student's Individualized Education Plan (IEP), IPE, and ILP;
- (c) The roles and responsibilities, including financial responsibilities, of each agency; and
- (d) Procedures for outreach to and identification of students with disabilities who are in need of transition services.

Title 29 DCMR, Chapter 1 Section 199 is amended by deleting the present language of Section 199 and replacing it with the following:

199. DEFINITIONS

199.1 For purposes of this chapter, the following terms and phrases shall have the meanings ascribed below:

Act - means the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 701 et seq.).

Applicant - means an individual who submits an application for vocational rehabilitation services.

Appropriate modes of communication - means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed captioned videos, specialized telecommunications services and audio recordings, Brailled and large print materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.

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

C.F.R. - means or stands for the Code of Federal Regulations.

Client - means an applicant for vocational rehabilitation services who meets the eligibility requirements.

Client Assistance Program or CAP - means the program established pursuant to 34 C.F.R. Part 370 for the purpose of advising, informing, assisting and advocating for applicants and eligible individuals regarding all services and benefits available pursuant to this chapter.

Client Services Division - is a division within the Rehabilitation Services Administration, Department of Human Services.

Comparable services and benefits - means:

- (a) Services and benefits that are:
 - (1) Provided or paid for, in whole or in part, by other Federal, State, or local public agencies, by health insurance, or by employee benefits;
 - (2) Available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's individualized plan for employment in accordance with section 111; and
 - (3) Commensurate to the services that the individual would otherwise receive from the Rehabilitation Services Administration.
- (b) For the purposes of this definition, comparable benefits do not include awards and scholarships based on merit.

Competitive employment - means work:

- (a) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and
- (b) 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 individuals who do not have a disability.

Department of Human Services - means a department within the government of the District of Columbia.

Determination - means an official written decision made or an action taken by a representative of the District of Columbia, Department of Human Services, Rehabilitation Services Administration, affecting eligibility or the provision of services.

Eligible individual - means an applicant for vocational rehabilitation services who meets the eligibility requirements of subsection 103.1.

Employment outcome - means, with respect to an individual, entering or retaining full-time or,

if appropriate, part-time competitive employment, as defined above, in the integrated labor market, supported employment, or any other type of employment in an integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Extended employment - means work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act (29 U.S.C § 214(c)).

Extended services - means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are provided by a District of Columbia agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under 34 C.F.R. Part 361 and 34 C.F.R. Part 363 after an individual with a most significant disability has made the transition from support provided by the Client Services Division.

Extreme medical risk - means a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously.

Fair Labor Standards Act - means the United States Fair Labor Standards Act of 1938, as amended, and codified at 29 U.S.C. §§ 201 et seq.

Family member (for purposes of receiving vocational rehabilitation services in accordance with subsection 113.2(i)) - means an individual:

- (a) Who either:
 - (1) Is a relative or guardian of an applicant or eligible individual; or
 - (2) Lives in the same household as an applicant or eligible individual;
- (b) Who has a substantial interest in the well-being of that individual; and
- (c) Whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

Good cause - means a substantial reason, a legitimate justification for acting or failing to act.

Impartial hearing officer - means the individual appointed by the Director that is selected to carry out the responsibilities associated with sections 135 through 169.

Independent Living Plan (ILP) - means a plan that describes the established goals or

objectives, the services to be provided and the anticipated duration of the services program necessary to enable an individual with a significant disability to become self-sufficient.

Individual with a disability (except as defined in the subsection that immediately follows) - means an individual:

- (a) Who has a physical or mental impairment;
- (b) Whose impairment constitutes or results in a substantial impediment to employment; and
- (c) Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

Individual with a disability for purposes of 34 C.F.R §§ 361.5(b)(14), 361.13(a), 361.13(b)(1), 361.17(a), (b), (c), and (j), 361.18(b), 361.19, 361.20, 361.23(b)(2), 361.29(a) and (d)(5), and 361.51(b) - means an individual who:

- (a) Has a physical or mental impairment that substantially limits one or more major life activities;
- (b) Has a record of a physical or mental impairment that substantially limits one or more major life activities; or
- (c) Is regarded as having an impairment that limits one or more major life activities.

Individual with a most significant disability - means an individual with a significant disability who is provided priority vocational services in those states that have implemented order of selection procedures pursuant to 34 C.F.R. § 361.36.

Individual with a significant disability - means an individual with a disability:

- (a) Who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
- (b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
- (c) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or

pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

Individual's representative - means any representative chosen in writing by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual's representative.

Individualized Plan for Employment (IPE) - means a plan prepared pursuant to sections 110 and 111 of this chapter.

Integrated setting - means:

- (a) With respect to the provision of services, means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals;
- (b) With respect to an employment outcome, means a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

Maintenance - means monetary support provided to an individual for expenses that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment.

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.

Natural Supports - means supports that are typically available to all workers in the workplace. Workplace supports may include, but are not limited to, such things as a coworker mentor who assists an employee in learning the job, a supervisor who monitors work performance, a coworker who assists the client in developing social relationships, orientation training or other company sponsored training events, an employee assistance program and other supports that may

be available.

One-Stop Center or One-Stop service delivery system - means a service delivery system that is structured pursuant to Title I of the Workforce Investment Act of 1998, in accordance with 20 C.F.R. Part 662.

Personal assistance services - means a range of services provided by one (1) or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability. The services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job. The services shall be necessary to the achievement of an employment outcome and may be provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.

Physical or mental impairment - means:

- (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or
- (b) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Post-employment services - means one (1) or more of the services identified in section 113 of this chapter that are provided subsequent to the achievement of an employment outcome and that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Note to Post-employment services- Post-employment services are intended to ensure that the employment outcome remains consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. These services are available to meet rehabilitation needs that do not require a complex and comprehensive provision of services and, thus, should be limited in scope and duration. If more comprehensive services are required, then a new rehabilitation effort should be considered. Post-employment services are to be provided under an amended individualized plan for employment; thus, a re-determination of eligibility is not required. The provision of post-employment services is subject to the same requirements as the provision of any other vocational rehabilitation service. Post-employment services are available to assist an individual to maintain employment, e.g., the individual's employment is jeopardized because of conflicts with supervisors or coworkers, and the individual needs mental health services and counseling to maintain the employment; to regain employment, e.g., the individual's job is eliminated through reorganization and new placement

services are needed; and to advance in employment, e.g., the employment is no longer consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Post-secondary education - means community/junior colleges, proprietary/private career schools, technical institutes, hospital schools of nursing, colleges, universities, and other post-secondary training.

Psycho-educational Assessment - means an evaluation of an individual's intellectual and educational functioning, limitations, achievement, and potential, and may also include identification of a secondary emotional disorder.

Rehabilitation Services Administration - means an administration within the Department of Human Services, District of Columbia.

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.

Sheltered setting - means a non-integrated work environment designed for applicants and eligible individuals that are closely supervised by other individuals who provide the necessary vocational services and supports.

State - means one (1) of the United States of America to include the District of Columbia, Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam American Samoa and the Commonwealth of the Northern Mariane Islands.

State Director - means the Administrator of the Rehabilitation Services Administration.

Statewide workforce investment system - means a system described in section 111(d)(2) of the Workforce Investment Act of 1998 (29 U.S.C. § 2821(d)(2)).

State plan - means the State plan submitted by the District of Columbia for vocational rehabilitation services submitted pursuant to 34 C.F.R. § 361.10.

State Rehabilitation Council - means the council established within the District of Columbia pursuant to 34 C.F.R. §§ 361.16 and 17 for the purpose of assisting the Client Services Division with the development, implementation, and revision of policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services.

Students with disabilities - means students:

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- (a) Who have a physical or mental impairment;
- (b) Whose impairment constitutes or results in a substantial impediment to employment;
- (c) Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services or who are candidates for independent living services to enable them to become self-sufficient; and
- (d) Who are in the last two years of secondary education in a D.C. Public School, D.C. Public Charter School, or Board of Education Public Charter School or who are D.C. Public School students attending a private secondary school.

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 capabilities.

Supported employment - means:

- (a) 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:
 - (1) 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
 - (2) Who, because of the nature and severity of their disabilities, need intensive supported employment services and extended services after transition to perform this work; or
- (b) Transitional employment for individuals with the most significant disabilities due to mental illness.

Supported employment services - means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment that are:

- (a) For a period of time not to exceed eighteen (18) months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time to achieve the employment outcome identified in the individualized plan for employment; and

- (b) Following transition, as post-employment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

Transition services - means a coordinated set of activities for a student designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services shall promote or facilitate the achievement of the employment outcome identified in the student's individualized plan for 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 shall include continuing sequential job placements until job permanency is achieved.

Transportation - means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation, vehicles and systems.

U.S.C. - means or stands for United States Code.

Vocational Rehabilitation services - means those services listed within section 113.2 of this chapter that are necessary to determine an applicant's eligibility or that are necessary for an eligible individual to prepare for, secure, retain, or regain employment consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Washington, D.C. Metropolitan Area - means areas in the District of Columbia, Maryland and Virginia that can be accessed by public transportation.

Workforce Investment Act - when referred to in this chapter, means Title I of the Workforce Investment Act of 1998, which is codified generally at 29 U.S.C. §§ 2801 et seq.

Persons who wish to comment on these proposed rules may do so in writing no later than thirty (30) days after the publication of this notice in the D.C. Register. Comments should be forwarded to the Administrator of the Rehabilitation Services Rehabilitation Services Administration, 810 First Street, N.E. 10th floor, Washington, D.C. 20002. Copies of the

proposed rules may be obtained from the Rehabilitation Services Rehabilitation Services Administration at the address stated above.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

The Director of the District Department of Transportation, pursuant to the authority of sections 3(b), 5(3)(D)(i) and 5(3)(D)(iii) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02(b), 50-921.04(3)(D)(i), and 50-921.04(3)(D)(iii)), and Mayor's Order 2006-22 (February 27, 2006), hereby gives notice of the intent to add a new Chapter 16 to Title 24 of the Public Space and Safety Regulations. Proposed Chapter 16, entitled "Valet Parking," establishes the general provisions governing valet parking services that utilize the District of Columbia's public space.

Final rulemaking action to adopt these amendments shall be taken in not less than thirty (30) days from the date of publication of the notice in the D.C. Register.

TITLE 24 DCMR, **PUBLIC SPACE AND SAFETY**, is amended by adding a new chapter to read as follows:

Chapter 16 VALET PARKING**1600 GENERAL PROVISIONS**

- 1600.1 No person shall conduct, operate, maintain, or provide Valet Parking services utilizing public space within the District of Columbia without a permit from the Department.
- 1600.2 The Department may issue a Valet Parking permit for up to one (1) year that allows a Permittee to rent public space for a Valet Parking Zone that shall be used only for the immediate drop-off and pick-up of motor vehicles during Valet Parking hours. No other use for a Valet Parking Zone shall be permitted.
- 1600.3 A Permittee shall use a Valet Parking Operator to provide Valet Parking services.
- 1600.4 If the Public Space Committee approves a Valet Parking permit application, then the Department may issue a permit for the rental of public space for Valet Parking services upon payment of the public space rental fees set forth in § 1605.2.
- 1600.5 Each Permittee shall save harmless and indemnify the District, and its officers, agents, and employees from all suits, claims, charges,

and judgments to which the District, its officers, agents, and employees may be subject on account of the issuance of a Valet Parking permit, the operation of Valet Parking services, or injury to any person or damage to any property, including the property of the District of Columbia.

1601 APPLICATION PROCEDURES

1601.1 An Applicant shall submit an application to the Department to rent public space for a Valet Parking Zone in the District of Columbia to offer Valet Parking services. The application form shall be furnished by the Department.

1601.2 Each completed Valet Parking permit application shall be accompanied by a Valet Parking Plan that shall include, but is not limited to, the following information:

- (a) The name, address, and telephone number of the Applicant;
- (b) A copy of the Applicant's business license issued by the Department of Consumer and Regulatory Affairs (DCRA), if the Applicant is required to have one;
- (c) A copy of the Applicant's Certificate of Occupancy issued by DCRA for the facility used by the Applicant for the business for which the Valet Parking service will be provided;
- (d) The name, address, and telephone number of the Valet Parking Operator;
- (e) A copy of the Valet Parking Operator's business license issued by the District;
- (f) A copy of the Valet Parking Operator's liability insurance certificate.
- (g) Three (3) eight inch by ten inch (8 in. x 10 in.) glossy photographs of the public space, including the curb space and road way, of the proposed Valet Parking Zone. The photographs shall show the following views of the proposed Valet Parking Zone:
 - (1) Frontal view;
 - (2) Sharp angle right side view; and
 - (3) Sharp angle left side view.

- (h) The proposed pattern of discharge and pickup of motor vehicles, including the estimated number of motor vehicles being Valet Parked during each hour of operation, and the estimated number of agents, authorized designees, employees, or representatives providing Valet Parking during each hour of operation;
- (i) A traffic flow plan, including a map, that provides details regarding the route from the Valet Parking drop-off area to the off-street parking facility location(s) where the motor vehicles will be parked, and the route from the location(s) where the motor vehicles will be parked back to the Valet Parking Zone;
- (j) The name, address, and telephone number of the off-street parking facility where motor vehicles will be parked during Valet Parking hours;
- (k) Verification of access to off-street parking spaces in the off-street parking facility described in subsection (j) in an amount equal to at least thirty percent (30%) of the full occupancy rate of the business served (as specified on the Certificate of Occupancy issued by DCRA);
- (l) Verification that affected Advisory Neighborhood Commissions have been provided thirty (30) days advance notice of the Valet Parking Application and Valet Parking Plan for review and comment; and
- (m) Verification that adjacent property owners have been provided thirty (30) days advance notice of the Valet Parking application and Valet Parking Plan.

1602 APPLICATION REVIEW

1602.1 The Public Space Committee is responsible for reviewing Valet Parking applications.

1602.2 The Public Space Committee may approve a Valet Parking application if it finds that:

- (a) The Valet Parking operation will not disrupt vehicular or pedestrian traffic;
- (b) The Valet Parking operation will not pose a threat to public safety or welfare;

- (c) The Valet Parking Plan provides for sufficient agents, authorized designees, employees, or representatives of the Valet Parking Operator to park the projected number of motor vehicles during all hours of Valet Parking operations; and
- (d) The Valet Parking Plan provides for sufficient off-street parking spaces for the projected number of motor vehicles expected to use Valet Parking services during all hours of Valet Parking operations.

1602.3 In deciding whether to approve a Valet Parking application, the Public Space Committee may consider the following criteria:

- (a) The number of off-street parking spaces that will be used during Valet Parking operations;
- (b) The public space required for the Valet Parking Zone;
- (c) The traffic conditions at the time of Valet Parking operations;
- (d) The time required to travel safely from the location of the Valet Parking service to the location where the motor vehicles will be parked during Valet Parking hours, on foot and with a motor vehicle;
- (e) The estimated number of motor vehicles that will be Valet Parked by the proposed Valet Parking Operator during each hour of Valet Parking operations;
- (f) The average length of time a motor vehicle will be parked during Valet Parking hours;
- (g) The distance from the location of the Valet Parking service to the location where the motor vehicles will be parked during Valet Parking hours; and
- (h) Public safety or welfare.

1602.4 Upon approval of the Valet Parking application by the Public Space Committee, a Valet Parking permit shall be issued. If the Valet Parking application is denied, the Applicant shall be informed of the reasons for the denial in writing.

1603 **VALET PARKING ZONES**

- 1603.1 The Department shall decide where the Permittee's Valet Parking Zone will be located. The location of Valet Parking Zone as well as the size, hours of operation, and dimensions associated with the Valet Parking Zone shall be included in the Valet Parking permit.
- 1603.2 The Department shall post signs indicating the location and hours of operation of each Valet Parking Zone for which a permit has been granted and no parking shall be allowed in the Valet Parking Zone during the posted hours of operation.
- 1603.3 Valet Parking services shall be offered only in the location and during the hours specified by the Department.
- 1603.4 The Valet Parking Zone shall be used only for the immediate drop-off and pick-up of motor vehicles during the hours specified in the permit by the Department and no parking shall be allowed in the Valet Parking Zone during the posted hours of operation.
- 1603.5 A Valet Parking Operator shall immediately remove motor vehicles from the Valet Parking Zone to the off-street facility.
- 1603.6 No motor vehicle shall occupy space in a Valet Parking Zone during the posted hours unless that motor vehicle is making use of the Valet Parking service; except that the operator of a motor vehicle may stop momentarily in a Valet Parking Zone for the purpose of and while actually picking up or discharging passengers, as long as such stopping does not interfere with any motor vehicle about to enter the Valet Parking Zone designated for the use of such motor vehicle.
- 1603.7 The drop-off and pick-up of motor vehicles for Valet Parking services shall be conducted only in Valet Parking Zones.

1604 VALET PARKING OPERATIONS

- 1604.1 Any person engaged in parking or driving motor vehicles for a Valet Parking Operator shall possess a driver's license that is valid in the District of Columbia.
- 1604.2 While providing Valet Parking services, each individual shall wear a uniform that identifies the employee as working for the Valet Parking Operator.
- 1604.3 A Valet Parking Operator shall display a sign identifying the business for which the Valet Parking Operator is working and indicate any fees for Valet Parking services. The sign shall be

readily visible at the point where motor vehicles are accepted for Valet Parking. All signage shall comply with the provisions set forth in chapter 1 of this title.

1604.4 Valet Parking services shall be offered only during the hours specified in the Valet Parking permit.

1604.5 Valet Parking Operators shall comply with all applicable traffic laws and parking regulations when providing Valet Parking services.

1605 DUTIES

1605.1 A Permittee that provides Valet Parking services in the District of Columbia shall adhere to the provisions of this chapter.

1605.2 The public space rental fee for an annual Valet Parking permit shall be fifteen dollars per linear foot (\$15/linear-ft.) of public space that comprises a Valet Parking Zone. The Permittee also shall be responsible for any direct costs and loss of revenue incurred by the Department in the creation of the Valet Parking Zone.

1605.3 A Permittee who is issued a Valet Parking permit for Valet Parking services shall not park motor vehicles anywhere in the public space, including, but not limited to, on-street parking spaces and areas designated as Residential Permit Parking zones.

1605.4 The Permittee shall inform the Department in writing of any of the following changes to the approved Valet Parking Plan within five (5) business days of the change:

- (a) A change in the name, address, or telephone number of the Valet Parking Operator;
- (b) A change in the name, address, or telephone number of the Permittee;
- (c) A change in the name, address, and telephone number the off-street parking facility;
- (d) An expansion of the Permittee's business hours;
- (e) An increase in the number of patrons utilizing the Valet Parking services;
- (f) A change in the traffic flow plan; or

- (g) A change in the pattern of discharge and pickup of motor vehicles.

1605.5 The Permittee shall inform the Department in writing of the following material changes to the approved Valet Parking Plan ten (10) business days before the material change is scheduled to take place so that the Department may determine whether to approve the material change as pertains to the Valet Parking permit:

- (a) A proposed change in the location of the Valet Parking Zone;
- (b) A proposed change in the location of the Permittee's business;
- (c) A proposed change to the Applicant's business license as issued by DCRA; or
- (d) A proposed change to the Valet Parking Operator's liability insurance certificate.

1606 SUSPENSION AND REVOCATION OF PERMIT

1606.1 The Department may suspend or revoke a Valet Parking permit for the following reasons:

- (a) The Valet Parking operation adversely impacts vehicular or pedestrian traffic;
- (b) The Permittee violates a provision of this chapter or the Valet Parking permit;
- (c) The Valet Parking Operator violates a provision of this chapter or the Valet Parking permit;
- (d) The Permittee fails to submit timely payment of the applicable public space rental fees;
- (e) The Permittee fails to inform the Department of the changes discussed in §§ 1605.4 and 1605.5; or
- (f) Public safety or welfare.

1699 DEFINITIONS

1699.1 When used in this chapter, the following terms shall have the meaning ascribed below:

Applicant – a person who applies for a permit to offer valet parking services.

Department – the District Department of Transportation.

Motor Vehicle – any vehicle propelled by internal-combustion engine, electricity, or steam, including any non-operational vehicle that is being restored or repaired. The term "motor vehicle" shall not include road rollers, farm tractors, vehicles propelled only upon stationary rails or tracks, electric personal assistive mobility devices, and battery-operated wheelchairs when operated by a handicapped person at speeds not exceeding 10 miles per hour.

Permittee – a person who is issued a valet parking permit by the Department.

Person – a natural person or a corporation, company, firm, agency, association, partnership, organization, individually-owned business, or commercial entity.

Valet Parking – the act of removing a motor vehicle from the public right-of-way for the benefit of the motor vehicle's operator, regardless of whether a fee is charged for the act. Attendant parking at an off-street parking facility shall not constitute valet parking.

Valet Parking Operator – a person, who through its agents, authorized designees, employees, or representatives, provides the service of valet parking.

Valet Parking Plan – a plan submitted by an applicant that details the location of the valet parking service, the location where motor vehicles will be parked during valet parking hours, and the hours of operation for valet parking.

Valet Parking Zone – the public space adjacent to a curb reserved for valet parking.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with Lars Etkorn, Associate Director, District Department of Transportation, 2000 14th Street, N.W., 5th Floor, Washington, D.C. 20009. Comments may also be sent electronically to publicspace.committee@dc.gov. Copies of this proposal are available, at cost, by writing to the above address, and are also

available electronically, at no cost, on the District Department of Transportation's web site at ddot.dc.gov.