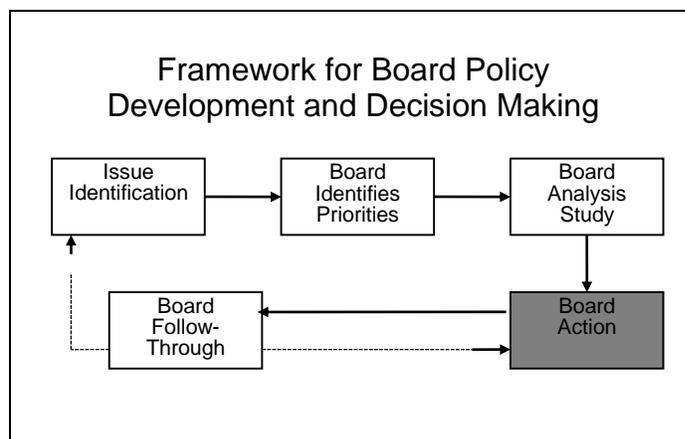


Iowa State Board of Education

Executive Summary

September 18, 2014



Agenda Item:

Rules: 281 IAC Chapter 56 - Iowa Vocational Rehabilitation Services (Notice)

Iowa Goal:

Individuals will pursue postsecondary education in order to drive economic success.

State Board Role/ Authority:

Iowa Code section 256.7(5) gives the State Board of Education the statutory authority to adopt rules under Chapter 17A.

Presenters:

Kelley Rice, Staff Attorney
Division of Vocational Rehabilitation Services

Attachments:

1

Recommendation:

It is recommended that the State Board give public notice of its intent to amend Chapter 56.

Background:

281 Iowa Administrative Code chapter 56 contains the administrative rules for the Division of Vocational Rehabilitation Services within the Iowa Department of Education. These rules govern use of federal and state funds for vocational rehabilitation services to persons with mental or physical disabilities who are seeking to obtain or retain competitive employment.

The overall effect of the proposed amendments is to clarify and improve the provision of vocational rehabilitation services to persons with disabilities who are seeking to obtain or retain competitive employment. Definitions are added and the process for obtaining self-employment services is streamlined, which will assist job candidates seeking this service.

EDUCATION DEPARTMENT [281]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 56, “Iowa Vocational Rehabilitation Services,” Iowa Administrative Code.

Chapter 281 – 56(256) provides for the services leading to employment for eligible Iowans with disabilities in accordance with Iowa Code chapter 259 and relevant federal statute and regulations.

Many of the proposed amendments are nonsubstantive clean-up items that primarily reflect actual practice and will not alter the services provided to clients of the Division of Vocational Rehabilitation Services. The proposed amendments of substance are as follows.

Item 1 clarified the type of employment sought.

Item 2 adds protected classes to the nondiscrimination rule to comport with Iowa Code chapter 216, Iowa’s Civil Rights Act.

Item 3 adds a definition of “customized employment,” and changes “client” to “job candidate.” (Items 6, 10 through 18, 20 through 25, 27, 28, 32, and 33 reflect the change to "job candidate").

Item 7 provides that a change in status must be in compliance with federal regulations.

Item 9 allows students in high school to work with a counselor to develop an employment plan.

Item 11 clarifies who can provide a medical diagnosis.

Item 14 creates a new category of training, “OJT,” on the job training.

Item 16 clarifies when the division will pay for certain transportation.

Item 19 defines “progressive employment.”

Item 21 adds "community rehabilitation providers" to the list of facilities providing specialized training.

Item 26 provides that the supervisor review of an appeal will be conducted by the bureau chief, rather than the assistant bureau chief.

Items 31 and 33 make the application process easier for individuals seeking to go into self-employment.

An agencywide waiver provision is provided in 281 – Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before November 4, 2014, at 4:30 p.m. Comments on the proposed amendments should be directed to Kelley Rice, Iowa Vocational Rehabilitation Services, 510 East 12th Street, Des Moines, Iowa 50319; telephone (515)281-4146; E-mail kelley.rice@iowa.gov; or fax (515)281-4703.

A public hearing will be held on November 4, 2014, from 11:00 to 12:00 at the State Board Room, Second Floor, Grimes State Office Building, East 14th and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any person who intends to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact and advise the Department of Education of their specific needs by calling (515)281-5295.

After analysis and review of this rule making, no impact on jobs has been found.

The following amendments are proposed.

ITEM 1. Amend rule 281—56.1(259) as follows:

281—56.1(259) Responsibility of division. The division is responsible for providing services

leading to competitive employment for eligible Iowans with disabilities in accordance with Iowa Code chapter 259, the federal Rehabilitation Act of 1973 as amended, the federal Social Security Act (42 U.S.C. Section 301, et seq.), and the corresponding federal regulations ~~therefor~~.

ITEM 2. Amend rule 281—56.2(259) as follows:

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

ITEM 3. Amend rule 281—56.3(259) as follows:

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

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

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

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

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

1. Evaluating the needs of an individual with a disability, including a functional evaluation

of the individual in the individual's customary environment;

2. Aiding an individual with a disability in purchasing, leasing, or otherwise providing for the acquisition of an assistive technology device;

3. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

4. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

5. Providing training or technical assistance for an individual with a disability or, if appropriate, the family members, guardians, advocates, or authorized representatives of the individual; and

6. Providing training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or others who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome by an individual with disabilities.

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

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

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

"Customized employment" means a flexible process designed to personalize the employment relationship between a job candidate and an employer in a way that meets the needs of both. It is based on an individualized match between the strengths, conditions, and interests of a job candidate and the identified business needs of an employer. Customized employment utilizes an individualized approach to employment planning and job development, one person at a time, one employer at a time.

“*Department*” means the department of education.

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

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

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

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

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

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

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

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

employment or is in danger of becoming separated from employment.

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

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

With respect to an employment outcome, integrated work setting 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.

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

“Maintenance” means monetary support provided to a ~~client~~ job candidate for expenses,

such as food, shelter, and clothing, that are in excess of the normal expenses of the client job candidate and that are necessitated by the client's job candidate's participation in the program.

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

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

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

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

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

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

- Vocational preparation that enhances and improves the client's job candidate's ability to perform specific work, learn the necessary skills to do a specific job, minimize negative work habits and behaviors that have impeded job retention, develop skills in finding a job, and learn

how to navigate transportation systems to and from work;

- Work adjustment training that remedies negative work habits and behaviors, improves work tolerance, and develops strategies to improve a client's job candidate's ability to maintain employment;
- Job-seeking skills training that teaches the client job candidate strategies necessary to find employment with ~~or without assistance~~ and at the level required by the client's job candidate's needs;
- Job development and job follow-up that places the client job candidate on a job in the community working for a business, maintains contact with the employer on the client's job candidate's progress, is jointly funded through the Medicaid waiver program when appropriate, and is purchased only when used in conjunction with another required service;
- Employer development that, through a job analysis, identifies for businesses the job tasks and customized training plan for the job for which the client job candidate will be trained, is authorized only as a stand-alone service when the Medicaid waiver funds the job development and is purchased only when used in conjunction with another required service;
- Supported job coaching that assists the client job candidate in learning job-specific skills and work habits and behaviors while employed on the job and that continues as needed after the division file is closed;
- Selected job coaching that assists the client job candidate in learning job-specific skills and work habits and behaviors while employed on the job and that is purchased only when approved by the area office supervisor.

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

assess employment stability, unless it is determined in the IPE that off-site monitoring is more appropriate.

“Physical or mental impairment” means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, or endocrine; or
2. Any mental or psychological disorder such as ~~mental retardation~~, an intellectual disability, organic brain syndrome, emotional or mental illness, or specific learning disabilities.
3. Any impairment for which an individual has a documented history of receiving special education services in both elementary and secondary school.

“Physical or mental restoration services” means:

1. Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment;
2. Diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with state licensure laws;
3. Dentistry;
4. Nursing services;
5. Necessary hospitalization (either inpatient or outpatient) in connection with surgery or treatment and clinical services;
6. Drugs and supplies;
7. Prosthetic and orthotic devices;
8. Eyeglasses and visual services, including visual training, and the examination and

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

9. Podiatry;

10. Physical therapy;

11. Occupational therapy;

12. Speech and hearing therapy;

13. Mental health services;

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

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

16. Other medical or medically related rehabilitation services.

"Progressive employment" means a coordinated set of experiences that may begin with volunteering and gradually progress to competitive employment for individuals for whom employment has not otherwise occurred.

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

"Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted

by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

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

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

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

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

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

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

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

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

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

10-0 Eligible individuals ~~other than high school students;~~

~~10-1 Eligible high school students;-~~

12-0 IPE developed, awaiting start of services;

14-0 Counseling and guidance only (counselor works with ~~client~~ job candidate directly to

reach goals through counseling and placement);

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

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

substatuses are:

18-1 Training in a workshop/facility;

18-2 On-the-job training;

18-3 Vocational-technical training;

18-4 Academic training;

18-5 Correspondence training;

18-6 Supported employment;

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

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

22-0 Employed;

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

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

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

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

32-0 Postemployment services;

33-__ Closed after postemployment services; substatures are:

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

33-2 Case reopened for comprehensive vocational rehabilitation services;

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

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

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

“Supported employment” means:

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

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

work; or

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

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

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

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

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

“Transition services” means a coordinated set of activities provided to a student and designed within an outcome-oriented process that promotes movement from school to postschool activities. Postschool activities include postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, and community participation. The coordinated set of activities must be based upon the individual student’s needs, taking into account the student’s

preferences and interests, and must include instruction, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student's IPE.

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

ITEM 4. Amend rule 281—56.4(259) as follows:

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

ITEM 5. Amend rule 281—56.5(259) as follows:

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

56.5(1) to 56.5(3) No change.

56.5(4) A determination that the individual meets the residency requirement at the time of

~~the eligibility determination.~~ application.

ITEM 6. Amend rule 281—56.6(259) as follows:

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

56.6(1) Physical restoration.

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

56.6(2) Training and training materials.

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

d. The ~~client~~ job candidate meets the residency requirement.

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

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

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

ITEM 7. Amend rule 281—56.7(259) as follows:

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

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

individual has agreed to an extension.

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

ITEM 8. Amend rule 281—56.8(259) as follows:

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

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

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

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

281—56.9(259) No change.

ITEM 9. Amend rule 281—56.10(259) as follows:

281—56.10(259) Students in high school. The division may serve students in high school, ~~provided the student demonstrates the maturity level, skills, and learning characteristics required~~ to who may legally work in competitive environments for non-family members. If an applicant is in high school and is determined to be eligible for vocational rehabilitation services, such

services may begin before the student exits the secondary school system. The services shall not supplant services for which the secondary school is responsible.

When the division determines that a student is eligible for services, the student's place on the waiting list under rule 281—56.8(259) shall be determined. If the waiting list category appropriate for the student is a category currently being served, ~~the student's case shall be moved to Status 10-1.~~ the case record moves to a planning status and the student will work with a counselor to develop an employment plan. Otherwise the case is placed in Status 04-0, and the student's name is added to the waiting list for that category, based on the student's date of eligibility application. An IPE may be written for a student ~~in Status 10-1~~ at any time the student's vocational goal and the services necessary to reach that goal have been agreed upon by the student and the student's division counselor. The IPE must be in place ~~when the student exits the secondary school system~~ as required by federal regulations, unless the student has agreed to an extension or is on a waiting list ~~or applied for services in the last quarter of the student's senior year.~~ The plan is to be developed in accord with the standard contained in the federal regulations, established by the agency for any eligible individual.

The counselor assigned by the division to work with the student may participate in the student's individualized education program meetings to provide consultation and technical assistance if the student is on the waiting list for services. Once a student is removed from the waiting list, the counselor may also provide vocational counseling and planning for the student and coordinate services with transition planning teams. When such services do not supplant services for which the secondary school is responsible, the division may begin to provide services specifically related to employment, such as supported employment or job coaching services, as early as the student's junior year of secondary school. Students in high school or in an alternative high school who have not yet met high school graduation requirements after four

years of secondary enrollment may continue to receive said services that do not supplant the responsibilities of the high school. Students in their final year of high school who have made satisfactory progress and who have demonstrated job-specific skills to work in their trained profession may receive assistance in purchasing tools to be used on a job.

ITEM 10. Amend rule 281—56.11(259) as follows:

281—56.11(259) Establishment of financial need. The division establishes the ~~client's~~ job candidate's financial need prior to providing physical restoration, including prostheses; transportation (for other than diagnostic, guidance or placement purposes); maintenance; and occupational licenses, tools and equipment. Recipients of SSD/SSI are not subject to a financial needs test for any services but must demonstrate eligibility under rules 281—56.8(259) and 281—56.13(259), as well as demonstrate need in the employment plan under rule 281—56.14(259).

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

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

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

56.11(2) No change.

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

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

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

56.11(6) No change.

56.11(7) Grants and scholarships based on merit, while not required to be searched for a comparable benefit, may be considered when determining financial support of a plan. Public grants and institutional grants or scholarships not based on merit are considered a comparable benefit.

281—56.12(259) No change.

ITEM 11. Amend rule 281—56.13(259) as follows:

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

interests, employment experience and opportunities, and personal and social adjustments.

56.13(1) Medical diagnosis.

a. No change.

b. The division accepts a medical report in lieu of securing a new examination when the report can be relied upon to provide a sound basis for diagnosis of the physical or mental condition of the individual; ~~and is from one of the following providers or sources:~~ as listed in the case service manual; and is from an accredited or certified medical or treatment institution recognized by the state of Iowa or licensed by the department of public health or department of human services in any other state.

~~(1) A licensed physician or surgeon;~~

~~(2) A licensed osteopathic physician or surgeon;~~

~~(3) A licensed doctor of chiropractic;~~

~~(4) A licensed psychologist;~~

~~(5) A licensed physician assistant;~~

~~(6) A licensed advanced registered nurse practitioner;~~

~~(7) A native healing practitioner recognized as such by an Indian tribe when services are being provided to American Indians with disabilities and the native healing practitioners services are necessary to achieve the individual's vocational rehabilitation objective;~~

~~(8) A licensed dentist;~~

~~(9) A licensed ophthalmologist;~~

~~(10) A licensed audiologist;~~

~~(11) A licensed independent social worker (LISW);~~

~~(12) A licensed mental health counselor;~~

~~(13) A certified school psychologist;~~

~~(14) A recent individualized education program (IEP) as recognized by the Iowa department of education which documents a history of special education programs or services;~~
or

~~(15) An accredited or certified medical or treatment institution recognized by the state of Iowa or licensed by the department of public health or department of human services in any other state.~~

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

56.13(3) Recording case data. The division maintains a record for each case. The case record contains pertinent case information including, as a minimum, the basis for determination of eligibility, the basis justifying the plan of services and the reason for closing the case together with a justification of the closure. A case record may not be destroyed until ~~three~~ four years after the case has been closed. A case record documenting participation in a Transitional Alliance Program shall be maintained until the job candidate reaches age 25 or later.

ITEM 12. Amend rule 281—56.14(259) as follows:

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

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

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

56.14(3) No change.

56.14(4) *Cooperation by the ~~client~~ job candidate*. The division requires good conduct, regular attendance and cooperation of all individuals engaged in the rehabilitation plan's implementation. The division makes the following provisions for ensuring trainee cooperation: instruction, verbally or by pamphlet, emphasizing the importance of these factors to the success of the IPE; at the beginning of the program, advising each trainee about what is expected of the trainee and that services shall continue only if the trainee's progress, attitude and conduct are satisfactory; requiring periodic progress, grade and attendance reports from the training agency; promptly calling the trainee's attention to evidence of unsatisfactory progress or attendance before such conditions become serious; providing encouragement to the trainee to promote good work habits, with due commendation for effective effort; and maintaining good relationships with the training agency.

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

ITEM 13. Amend rule 281—56.15(259) as follows:

281—56.15(259) Scope of services. All necessary vocational rehabilitation services, including counseling, physical restoration, training, and placement, are made available to eligible individuals to the extent necessary to achieve their vocational rehabilitation and must be included in the employment plan and agreed to by the eligible individual's counselor before the service is delivered. The division cooperates with federal and other state agencies providing

vocational rehabilitation or similar services, and written agreements providing for interagency cooperation may be entered into as required by the Act at the discretion of the division. In selected instances, the division assumes responsibility for providing short periods of medical care for acute conditions arising in the course of the ~~client's~~ job candidate's rehabilitation, which if not cared for would constitute a hazard to the achievement of the rehabilitation objective because of the ~~client's~~ job candidate's limited funds and the unavailability of free medical services.

ITEM 14. Amend rule 281—56.16(259) as follows:

281—56.16(259) Training.

56.16(1) No change.

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

a. No change.

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

c.to e. No change.

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

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

g. OJT – training on the job either as an employee or trainee of the business. See rule 281.56 (3.)

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

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

a. (1) to (5) No change.

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

1. No less than 40 percent and no more than 60 percent of the actual cost of the course, or
2. The rate established for a student ~~in second year or less status.~~ at their academic level.

a. (7) to (8)

b. *Support services for postsecondary training.* Unless approved as an exception by the supervisor, the amounts authorized for the items listed herein cannot exceed the amounts that would otherwise be spent on tuition and fees.

b. (1) No change.

(2) Maintenance shall be provided only to support participation in a program of vocational rehabilitation services when the ~~client~~ job candidate has ~~no resources to address~~ an extra expense beyond their basic living expenses.

(3) No change.

(4) Tutoring shall be provided only for courses that are part of the actual degree requirements and only when this service is not available for free through the school attended by the ~~client~~ job candidate. Tutoring for program entrance examinations, such as the GRE, LSAT, or MCAT, is not allowed without an exception approved by the supervisor.

(5) and (6) No change.

~~(7) Unless approved as an exception, fees for specialized equipment or computer programs needed to learn a subject or to access a course shall be provided in lieu of the tuition and fee amount.~~

(7) Fees for certification tests that are part of a course shall be paid pursuant to the 40 percent to 60 percent range established as the tuition and fees standard. For certifications and licensure fees that are not part of a course, the division shall use the financial needs assessment form to determine the level of division participation.

56.16(5) No change.

ITEM 15. Amend rule 281—56.17(259) as follows:

281—56.17(259) Maintenance. The costs of maintenance shall not exceed the amount of

increased expenses that the rehabilitation causes for the ~~client~~ job candidate or the ~~client's~~ job candidate's family. Maintenance is not intended to provide relief from poverty or abject living conditions. Guidance regarding the financial support of maintenance is available from the division's case service manual.

ITEM 16. Amend rule 281—56.18(259) as follows:

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

ITEM 17. Amend rule 281—56.19(259) as follows:

281—56.19(259) Rehabilitation technology.

56.19(1) Rehabilitation technology services are available at any point in the rehabilitation process, except to those ~~clients~~ job candidates on the waiting list. Such services include, as appropriate, an evaluation of the ability of the individual to benefit from rehabilitation technology services. Areas in which rehabilitation technology services may be of assistance include seating and positioning, augmentative communication, computer access, environmental controls, mobility equipment, and modification of the jobsite or home.

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

contribution limits apply:

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

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

ITEM 18. Amend rule 281—56.21(259) as follows:

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

ITEM 19. Amend rule 281—56.22(259) as follows:

281—56.22(259) ~~Supported employment and transitional employment~~ Progressive

employment. As defined herein, ~~supported employment is provided to clients with the most significant disabilities for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of significant disabilities. Supported employment also includes transitional employment as defined herein for clients with mental illnesses. Supported employment is provided either directly by division staff or through the selection of an item from the menu of services.~~ progressive employment is a process that facilitates employment in the community through a natural progression starting with employment awareness, volunteerism, and gradually increasing the level of responsibility to work place acquisition skills, and using on-the-job training and supported employment to achieve competitive employment.

ITEM 20. Amend rule 281—56.23(259) as follows:

281—56.23(259) ~~Miscellaneous or auxiliary services.~~

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

56.23(2) *Interpreter and note taker.* If deemed necessary by the division to enable a ~~client~~

job candidate to engage in all parts of the vocational rehabilitation or independent living program process, interpreter services or note taker services shall be provided to such ~~client~~ job candidate, unless provision of such services is the statutory responsibility of an institution or organization.

Interpreter services are those special communications services provided by persons qualified by training and experience to facilitate communication between division personnel and persons ~~unable to communicate verbally in English.~~ who are deaf or hard of hearing. Persons receiving services include deaf and hard-of-hearing persons who communicate using signs and finger spelling, as well as lip reading, writing, gestures, pictures, and other methods. Persons not fluent in the English language who could benefit from having any part of the vocational rehabilitation process translated into their major language are included. The division shall purchase sign language interpreter services, including transliterating services, from appropriately licensed interpreters only.

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

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

ITEM 21. Amend rule 281—56.24(259) as follows:

281—56.24(259) Facilities.

56.24(1) No change.

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

56.24(3) No change.

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

ITEM 22. Amend rule 281—56.25(259) as follows:

281—56.25(259) Exceptions to payment for services.

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

a. to d. No change.

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

56.25(2) No change.

56.25(3) No change.

ITEM 23. Amend rule 281—56.26(259) as follows:

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

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

a. and b.

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

56.26(2) No change.

56.26(3) No change.

281—56.27(259) No change.

ITEM 24. Amend rule 281—56.28(259) as follows:

281—56.28(259) Purchasing.

56.28(1) General purchasing principles.

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

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

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

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

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

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

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

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

c. No change.

ITEM 25. Amend rule 281—56.29(259) as follows:

281—56.29(259) Review process. At the time of making application for rehabilitation services, and at other times throughout the rehabilitation process, all applicants and clients job candidates shall be informed of the right to appeal and the procedures by which to file an appeal. If an applicant or client job candidate is dissatisfied with any agency decision that directly affects the applicant or client job candidate, the applicant, client job candidate, or designated representative may appeal that decision or request mediation. The term “appellant” shall be used to indicate the applicant, client job candidate, or designated representative who initiates an appeal. The

appellant may initiate the appeal process either by calling a counselor or supervisor or by filing the appropriate division appeal form, available from any counselor or supervisor of the division. If the appeal process is initiated by telephone, the counselor or supervisor who received the call must complete the appeal form to the best of that person's ability with information from the appellant. The division shall accept as an appeal a written letter, facsimile, or electronic mail that indicates that the applicant or ~~client~~ job candidate desires to appeal. An appeal must be filed within 90 days of notification of the disputed decision. Once the appeal form has been filed with the division administrator, a hearing shall be held before an impartial hearing officer (IHO) within the next 60 days unless an extension of time is mutually agreed upon or one of the parties shows good cause for an extension. The appellant may request that the appeal go directly to impartial hearing, but the appellant shall be offered the opportunity for a supervisor review or mediation. The appellant may request assistance with an appeal or mediation from the Iowa client assistance program (ICAP).

ITEM 26. Amend rule 281—56.30(259) as follows:

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

56.30(1) to (4) No change.

281—56.31(259) and 56.32. No change.

ITEM 27. Amend rule 281—56.33(259) as follows:

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

1. to 5. No change.

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

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

ITEM 28. Amend rule 281—56.34(259) as follows:

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

56.34(1) No change.

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

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

56.34(4) to (7). No change.

281—56.35(259) No change.

281—56.36(259) No change.

ITEM 29. Amend rule 281—56.37(259) as follows:

281—56.37(259) Purpose. The division of vocational rehabilitation services works in collaboration with the Iowa department for the blind to administer the Iowa self-employment (ISE) program. ~~which is also known as the entrepreneurs with disabilities (EWD) program.~~ The purpose of the program is to provide business development funds in the form of technical assistance (up to \$10,000) and financial assistance (up to \$10,000) to qualified Iowans with disabilities who start, expand, or acquire a business within the state of Iowa. Actual assistance is based on what is required by the business not to exceed the technical assistance and financial assistance limits.

ITEM 30. Amend rule 281—56.38(259) as follows:

281—56.38(259) Eligibility requirements. Clients of the division or the department for the

blind may apply for the program. All of the following conditions are also applicable:

1. The division may limit or deny ISE assistance to an applicant who has previously received educational or training equipment from the division through another rehabilitation program when such equipment could be used in the applicant's proposed business.

2. Any equipment purchased for the applicant under this program that is no longer used by the applicant ~~shall~~ may be returned to the division, at the discretion of the rehabilitation services bureau.

3. to 7. No change.

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

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

ITEM 31. Amend rule 281—56.39(259) as follows:

281—56.39(259) Application procedure.

56.39(1) to (2) No change.

56.39(3) Review. Applications will be forwarded to a business development specialist employed by the division for review. ~~Applicants whose applications receive a minimum score of~~

~~60 points out of a total of 100 points are eligible to pursue technical assistance funding.~~

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

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

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

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

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

~~d. *Creditworthiness: 0–10 points.* Does the applicant’s past credit history demonstrate responsible behavior? Awards will not be made if the applicant has a credit history showing delinquent credit obligations including, but not limited to, unpaid income tax, delinquent child support obligations, or defaulted student loans.~~

Funding. Before the division will invest funding into a small business, the job candidate must complete an in-depth study about the business they intend to start.

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

ITEM 32. Amend rule 281—56.40(259) as follows:

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

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

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

~~recommendation for approval by the division or departmental staff. When technical assistance is needed for specialized services beyond the expertise of the business development specialist, technical assistance will be issued to assist the job candidate.~~

56.40(3) to (5) *No change.*

ITEM 33. Amend rule 281—56.41(259) as follows:

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

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

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

56.41(3) Evaluation factors.

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

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

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

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

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

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

ITEM 34. Amend rule 281—56.42(259) as follows:

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

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

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

sources.

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

56.42(2) to (4) No change.