

**ADOPTED REGULATION OF THE BUREAU OF
SERVICES TO THE BLIND AND VISUALLY IMPAIRED OF THE
REHABILITATION DIVISION OF THE DEPARTMENT OF
EMPLOYMENT, TRAINING AND REHABILITATION**

LCB File No. R073-06

Effective June 28, 2006

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-5, NRS 426.560; §§6-13, NRS 426.560 and 426.610.

A REGULATION relating to blind persons; establishing procedures for resolving disputes concerning services to blind persons; and providing other matters properly relating thereto.

Section 1. Chapter 426 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 13, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Administrator” means the Administrator of the Division.*

Sec. 4. *“Bureau” has the meaning ascribed to it in NRS 426.045.*

Sec. 5. *“Division” has the meaning ascribed to it in NRS 426.071.*

Sec. 6. *1. A person applying for or receiving services to blind persons who is aggrieved by a decision of the Bureau may, not later than 60 days after he receives notice of the decision of the Bureau, submit a written request to the Administrator or his designee for a hearing conducted pursuant to NRS 426.610. The Administrator or his designee may, upon good cause*

shown, allow a person to file a request for a hearing more than 60 days after he receives notice of the decision.

2. In addition to, or in lieu of, submitting a request for a hearing pursuant to subsection 1, a person who is aggrieved by a decision of the Bureau may, not later than 30 days after he receives notice of the decision of the Bureau, submit a written request to the Administrator or his designee to resolve the dispute by using alternate means of dispute resolution in accordance with the Client Assistance Program as specified in 29 U.S.C. § 732(g)(3)(A) or by mediation pursuant to 29 U.S.C. § 722(c).

3. The provisions of this section do not prohibit a person applying for or receiving services to blind persons who is aggrieved by a decision of the Bureau from engaging in informal discussions with the Administrator or his designee concerning the dispute or reaching a settlement of the dispute.

Sec. 7. 1. *The Administrator or his designee shall, after receiving a request for a hearing pursuant to subsection 1 of section 6 of this regulation, immediately submit the request to the Hearings Division of the Department of Administration for assignment of a hearing officer.*

2. The hearing officer shall, not later than 60 days after the Administrator or his designee receives a request for a hearing pursuant to subsection 1 of section 6 of this regulation, conduct a hearing at a time and place that is acceptable to the parties.

3. With the approval of the hearing officer, the parties may agree in writing to continue the hearing.

Sec. 8. *The hearing officer may require each party to submit, at least 5 days before the hearing, a statement that includes:*

1. *The facts of the dispute;*
2. *The issues of law presented in the dispute;*
3. *A list of the names of the witnesses who may testify at the hearing; and*
4. *A list of exhibits that the party intends to use at the hearing.*

Sec. 9. *The aggrieved party may be represented at the hearing by an attorney or any other person designated by the aggrieved party.*

Sec. 10. *The hearing officer is not bound by the technical rules of evidence. Decisions concerning the admissibility of evidence must be made in accordance with the provisions of NRS 233B.123.*

Sec. 11. *Each party may present his case, examine and cross-examine witnesses, and rebut evidence. The aggrieved party shall present his case first, followed by the case of the Bureau, followed by such rebuttal evidence as the hearing officer may allow.*

Sec. 12. 1. *Not later than 30 days after the hearing, the hearing officer shall issue a written decision in accordance with the requirements of chapter 233B of NRS.*

2. *The decision of the hearing officer is a final decision for the purposes of judicial review, and any appeal of the decision must be filed within the period established by paragraph (c) of subsection 2 of NRS 233B.130.*

Sec. 13. *Upon the request of a party, the Bureau will provide a transcript of the oral proceedings of the hearing. The Bureau may require payment of the cost to provide the transcript.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R073-06**

The Bureau of Services to the Blind and Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation adopted regulations assigned LCB File No. R073-06 which pertain to chapter 426 of the Nevada Administrative Code on May 17, 2006.

Notice date: 4/12/2006
Hearing date: 5/17/2006

Date of adoption by agency: 5/17/2006
Filing date: 6/28/2006

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response and an explanation of how other interested persons may obtain a copy of the summary.

Notices of a workshop were placed in the Reno Gazette Journal and the Las Vegas Review Journal on November 11, 2005. Notices of intent to adopt regulation were placed in the Reno Gazette Journal and the Las Vegas Review Journal on February 8, 2006 and April 12, 2006. Notices were sent to all businesses regulated by this regulation, including the Nevada Committee of Blind Vendors, in the format requested by the business owner; regular font, large font or Braille. Notices were also sent to the members of the Nevada State Rehabilitation Council and the Nevada Disability Advocacy and Law Center in Las Vegas. The notices were posted on the public website of the Department of Employment, Training and Rehabilitation. There were no responses, either written or verbal, at the workshop. There was one comment, verbal followed by a letter, at the first public hearing on March 10, 2006 relating to these proposed regulations. Comments concerned the time frame in which a fair hearing must be conducted and the manner in which a request for a fair hearing must be made. At the second public hearing on May 17, 2006, there was one comment of appreciation for changes made in the proposed regulation. A copy of this summary may be obtained by calling the Rehabilitation Division at (775) 687-1900 or by writing to 1370 So. Curry Street, Carson City, Nevada 89703-5146.

2. The number of persons who:

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|--|----|
| (a) Attended workshop and hearing: | 11 |
| (b) Testified at workshop and hearing: | 1 |
| (c) Submitted written comments to the agency: | 1 |

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

The notices of workshop, public hearings and the proposed regulation were sent to all blind vendors in the format they request; normal font, large font, or Braille and to the Nevada State Rehabilitation Council. There were no responses, either written or verbal, at the workshop or at the public hearings on these proposed regulations. There was comment at the public

hearings on the proposed regulation from the Nevada Disability Advocacy and Law Center in Las Vegas. A copy of this summary may be obtained by calling the Rehabilitation Division at (775) 687-1900 or by writing to 1370 So. Curry Street, Carson City, Nevada 89703-5146.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The regulation was adopted with one change to the proposed LCB draft of the regulation. That change was to clarify the time in which the hearing officer has to conduct the hearing.

5. The estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and**
- (b) Both immediate and long-term effects.**

- a. The regulation does not impose any adverse economic effect upon businesses it regulates. The change provides a process for clients to appeal a decision by the bureau as required by the Rehabilitation Services Administration.
- b. There is no economic impact on the public, either immediate or long-term.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency.

7. A description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

This regulation does not overlap or duplicate regulations of other state or federal agencies.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

This regulation does not include provisions that are more stringent than a federal regulation.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not provide a new fee or increase an existing fee.