

Chapter 19**Business Enterprise Program****19.1 Authority:** 34 CFR 361.50

Federal Regulations allow USOR to provide for the establishment management services and supervision of small business enterprises including the Randolph Sheppard Vending Facility Program.

19.2 Definition - Small Business Enterprise

A small business enterprise is defined as a small business operated by severely disabled individuals under the management and supervision of the State Agency or its nominee. Such businesses include only those selling, manufacturing, processing, servicing, agricultural, and other activities which are suitable and practical for the most effective utilization of the skills and aptitudes of severely disabled individuals, and provide gainful employment or self-employment commensurate with the time devoted by the operator or operators to the business, the cost of establishing the business, and other factors of an economic nature.

19.3 Purpose of the Program

The purpose of the business enterprise program is to provide employment opportunities for those severely disabled individuals who have an interest in and aptitude for operating a small business. Candidates for this program must be clients of the vocational rehabilitation agency with a business enterprise objective as part of their individualized written rehabilitation plan. Through this State controlled program through the Division of Services for the Blind and Visually Impaired (DSBVI) can assist clients in the establishment and operation of business enterprises which are suitable and practical for the most effective utilization of the skills of the individual.

The purpose of DSBVI control is to provide essential management and supervisory services to assure the success of each business and for growth of the program which would provide additional employment opportunities. One criterion for placing an individual under the supervised program is the recognition that the program services are needed; otherwise, the individual could be assisted with the establishment of a small business through regular vocational rehabilitation process. Under a State Agency operated business enterprise program, Federal financial participation is available for the acquisition of equipment, initial stocks and supplies, and the provision of management services and supervision.

19.4 Training and Other Services

Since this is an "employment" program, both prevocational and vocational training may be provided if needed to the client through case service funds prior to entering the business enterprise program. This can include personal and vocational adjustment, books, tools, and other training materials, on-the-job training in all aspects of vending facility operation and mobility training. Post-employment services can be provided to blind vendors when necessary to assure that the maximum vocational potential of such vendors is achieved and suitable employment is maintained within the DSBVI business enterprise program.

19.5 Initial Stock

DSBVI can provide for the use of the vendor an initial stock of merchandise in an amount determined by the VR Counselor and client in accordance with the goal and objectives of the IEP (subject to administrative approval). Where DSBVI retains title to initial stocks and supplies and has continuous use and control of the location and exercises its option to place another manager in the enterprise, DSBVI is obligated to pay the former manager or heirs the value of usable stocks and supplies above the amount provided initially.

19.6 Replacement of Depleted Stock

Where DSBVI retains title to stocks of merchandise, replacement of stock depleted below the original inventory would not be subject to Federal financial participation. For example, should a manager allow the inventory of the enterprise to drop below an acceptable level, the State agency could not again utilize Federal funds under the business enterprise program to purchase additional initial stocks. This would not preclude the purchase of initial stocks and supplies from case service funds for new clients entering the program at an established location.

19.7 Vending Facility Eligibility

Operator eligibility for a vending facility business in Utah is specified in Section II, paragraph B, "Rules and Regulations for Business Enterprise Program for the Blind" (see Appendix 19-A). Basically a person must be legally blind (for placement in Federal Buildings), or visually impaired, as specified in the State Plan, a U.S. citizen, and be capable of managing the facility even though blind. All operators being placed in a vending facility must be on an active rehabilitation client base.

19.8 Set Aside Funds

DSBVI operates a business enterprise program for the blind and visually impaired under Section 103(b)(1) of the Rehabilitation Act, and has elected to set aside funds from the operation of the vending stand program. These funds are to be used for the following purposes only:

1. Maintenance and replacement of equipment.
2. Purchase of new equipment.
3. Management services.
4. Assuring a fair minimum of return to operators of vending facilities.
5. The establishment and maintenance of retirement of pension funds, health insurance contributions, and provision for paid sick leave and vacation time if so determined by a majority vote of blind vendors and if funds are available.

(See Section V - Set Aside Funds, in Appendix 19-A.)

Because of limited monies, set aside fund are presently used only for (1) one above maintenance and replacement of equipment.

RULES AND REGULATIONS
for the
BUSINESS ENTERPRISE PROGRAM FOR THE BLIND

UTAH STATE OFFICE OF REHABILITATION
Division of Services for the Blind and Visually Impaired

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PREFACE
Statement of Philosophy

The Utah Business Enterprise Program (B.E.P.) for the Blind has a two-fold mission: First, provide blind and visually impaired, rehabilitation clients the opportunity to function as financially self-supporting small business persons within a supportive environment, developed and nurtured by the Program's staff. Second, to provide government agencies and private businesses with high quality food service at reasonable prices, eliminating the need for these agencies to hire additional personnel or make substantial capital outlays for food service equipment.

To fulfill these missions, the following goals have been established for the Program.

1. To provide the essential managerial and support services necessary to ensure the financial success of each business.
2. To provide additional business opportunities for the blind through growth in the number of business in the program.
3. To ensure, through periodic supervisory monitoring, that each business is providing high quality food, prepared in facilities meeting all applicable sanitary regulations.
4. To encourage the individual growth of every business person in the program utilizing an upward mobility program.
5. Maintenance of a program environment that is supporting and safeguarding in nature.

The rules and regulations promulgated herein are designed to facilitate the accomplishment of the above mentioned goals by:

1. Providing a basis upon which an orderly and equitable program can be administered.
2. Providing blind vendors with an understandable and usable set of references to assist them in effectively operating within the program.
- (3) Reducing conflict by specifically delineating the obligations, responsibilities and authorities of the blind vendor, site management personnel and B.E.P. staff.

RULES AND REGULATIONS

BUSINESS ENTERPRISE PROGRAM FOR THE BLIND

SECTION I

Legal Authority and General Provisions

- A. Authority: The rules and regulations of the Utah Business Enterprise Program for the Blind were adopted by the Division of Services for the Blind and visually Impaired of the State of Utah. Insofar as they relate to vending stands of Federal or "other property", they were adopted in compliance with Section 3(5) of the Randolph-Sheppard Vending Stand Act as amended (Public Law, No. 565. 83rd Congress). The regulations were adopted in compliance with 34 CFR 361.50 Revised November 1, 1989.
- B. Scope: The regulations of the Utah Business Enterprise Program for the Blind shall apply to all vending facilities established on Federal property and on "other property" under the program, except as herein otherwise specified. The regulations shall also apply to all facilities in any building owned or occupied by the State or by any county or city, except as herein otherwise specified.

1. Definition: "Other property" means property which is not Federal property and on which vending facilities are established or operated by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on any Federal property.
2. Definition: "Vending facilities" as used in these regulations shall include vending machines.

SECTION II

Selection of Vendors and Conditions of Licenses

- A. Application for License: All applications and other communications relating to the issuance of a license for vending facilities shall be addressed to the State Licensing Agency (SLA) Utah Division of Services for the Blind and Visually Impaired, Business Enterprises Program for the Blind, 309 East 100 South, Salt Lake City, Utah 84111.
- B. Renewal of License: Request for renewal of a license for operation of a vending facility shall be delivered or mailed to the SLA, before December first of each calendar year.
- C. Qualification of Applicants: An applicant who qualifies under subsections (1) through (5) of Part C of Section II and who is also in need of employment shall be given preference in the issuance of licenses. A license will be issued only to a person who is determined by the SLA to be a person having all of the following characteristics:
 1. A blind person who is able, in spite of such disability, to operate a vending facility. A blind person is defined for the purpose of these regulations to be a person who has:
 - a. Not more than 20/200 central vision acuity in the better eye after correction
or
 - b. A visual acuity greater than 20/200 with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. Such blindness shall be certified by a person licensed in Utah as a physician or surgeon who specializes in diseases of the eye.
 2. A citizen of the United States.
 3. A person must be of legal age. (18 years)
 4. Physically qualified to operate a vending facility as shown by general medical reports on file with SLA. When necessary, the vendor shall have a food handler permit.
 5. Certified by the SLA to be eligible and feasible for vocational rehabilitation services and qualified to operate the vending facility.
- D. Partnership: A partnership will not be eligible for a license.
- E. Selection of Vendors: The SLA shall be responsible for the selection of vendors for any vending facility. The SLA will appoint a selection committee for the selection of vendors, but when deemed advisable by the SLA, the selection committee may be waived. A choice of vendors will be made on the basis of selecting the best qualified person for a particular location.
- F. Duration of License: A license for the operation of a vending facility shall be issued at the time the application is approved. Such license is subject to termination if, after affording the vendor an opportunity for a fair hearing as provided in Section VIII of these regulations, the SLA finds that either the vending facility is not being operated in accordance with these rules and regulations or the terms and conditions governing the permit for the vending facility.

SECTION III

Termination of Licenses

- A. Grounds for Termination: When a license for operation of a vending facility is revoked, the vendor shall return the license to the SLA. The occurrence of any of the following events is grounds for termination of such a license:
1. Death of a vendor.
 2. Termination of blindness as blindness is defined in Section II, Part C-1.
 3. Handling of illicit goods or any other dishonest acts.
 4. Serious illness of the vendor preventing personal operation of the vending facility as outlined in Section IV, D-2, of the regulations.
 5. Withdrawal of a permit to operate the vending facility by an agency of the United States Government; an agency of the State or local government; a governing board or any person having the care, custody, and control of the building in which a vending stand is operated, providing the withdrawal was initiated by these departments, due to improper actions of the vendor.
 - a. The withdrawal of a permit may be the result of failure to meet local, State or Federal health standards or local licensing regulations.
 6. Decision by the SLA that the vending facility is not being operated in accordance with the law; or with these regulations; or the terms and conditions of permits issued by the United States Government; State or local government; or persons having the care, custody and control of the building in which a vending facility is operated.
 7. Any willful or malicious destruction of any equipment furnished by the SLA or gross negligence in caring for it.
 8. Willful falsification of any records or reports required by these regulations or by the SLA to these regulations.
 9. Failure to pay set aside as required under Section V, part A, or to provide the SLA with weekly reports used to calculate vendor net income.
 10. Unauthorized absence.
- B. Transfer of Operation to Spouse: In the event that a vendor is terminated for failure to operate the facility personally as required by Section IV, Part D and the reason for such failure is that the vendor is so ill or disabled that the vendor cannot continue to work, if such a person's spouse desires to be licensed for the location and is qualified under these regulations, such spouse shall be given preference.
- C. Surrender of Premises: The vendor shall vacate the vending facility premises immediately upon termination of the license for any reason. If a person does not do so, the SLA may remove any of the property of the licensee and place the same in storage at the expense of the vendor or deliver it to the vendor's home at his or her expense.
1. Inventory: An inventory of the vending facility to include equipment and merchandise will be taken at the time of termination prior to vacating the facility. This inventory will be done by personnel of the SLA and, whenever possible, in the presence of the vendor or his/her representative. As a result of this inventory, a settlement of account shall be made as soon as possible after the termination date.
 2. Death of an Operator: Upon the death of an operator, the SLA will arrange with a representative of the estate for settlement of his accounts on the basis of respective interest of the vendor and the SLA. The deceased's spouse may be given consideration and preference to operate the vending facility if otherwise qualified under these regulations and if he/she so desires.

- D. Reinstatement: If a license has been terminated, a new application will be required before any consideration for reinstatement is made. New applications are discussed in Section II, Part A.

SECTION IV
Operation of Vending Facility

- A. Equipment:
1. The State Licensing Agency (SLA) of the Division of Services for the Blind and Visually Impaired: Is responsible for furnishing each vending facility with adequate equipment suitable to the needs of the location. The SLA is responsible for the maintenance, repair and replacement of such equipment provided the cost is greater than \$25.00.
 2. Title of Equipment: The right, title to and interest in vending facility equipment, other than equipment owned and maintained by a private vending machine company is vested in the State of Utah, Utah State Office of Rehabilitation, State Licensing Agency of the Division of Services for the Blind and Visually Impaired. The vendor shall be in possession thereof only by virtue of the license. Upon termination of the license for any cause whatsoever, the licensee shall at once surrender the equipment in the condition in which it was received, reasonable and ordinary wear excepted.
 3. Care of Equipment: A vendor will exercise reasonable care in the use and maintenance of any equipment and make every effort to keep it in good condition. A vendor shall use the equipment furnished him by the SLA only for the purpose authorized by the license.
 4. Repairs: The SLA will secure all repairs and replacements of equipment except for such minor repairs and replacements costing less than \$10.00, which will be the responsibility of the operator. When any repairs are made or secured by the vendor, shall have authority to approve or disapprove such repairs or replacements.
 5. Change or Addition of Equipment: All equipment shall be changed or added to a vending facility by the SLA.
- B. Initial Stock: SLA will provide for the use of the vendor an initial stock of merchandise in an amount determined by the SLA to be adequate for the location. The right, title to and interest in such stock or stock of like character and amount by which it is replaced or successively replaced is vested in the SLA. In addition to merchandise or initial stock, the SLA will provide the vendor with an appropriate amount of petty cash necessary to begin operation of that specific vending facility.
1. Inventory: Prior to the operation of any vending facility, whether it be a new one or a previous facility to be opened with a different operator, an inventory will be taken of all equipment and stock. In a new facility, the inventory will be conducted by the SLA and the new manager. In a re-opened facility the inventory will be conducted by the incoming and outgoing managers. They will send a copy of the inventory with both signatures signifying agreement. BEP will price the inventory and return to managers for their approval.
- C. Income from Vending Machines: Any vending facility on Federal property, other government property, or "other property", as defined herein, which has vending machines within reasonable proximity to it and in direct competition with it will have the income from such vending machines assigned to the vendor of the vending facility, rather than the program's set-aside account. However, certain state properties may retain said vending machines by contractual agreement with the state licensing agency. The SLA will decide whether the vending machines are within reasonable proximity to the vending facility and in direct competition with it, which will be necessary before any income can be assigned to the vending facility operator.

- D. Personal Operation by the Vendor: The vending facility shall be operated personally by the vendor daily during customary business hours. Provisions can be made for relief periods during the day.
1. Vacations: Each vendor, after one year of continuous services, will be eligible for one week of vacation. This vacation time earned during the year shall not accumulate from year to year. Vendors must arrange for relief operators who will be paid minimum wage from set-aside funds. Vendors are responsible to see that vacations do not interfere with business. Those vendors wishing to take an additional week vacation will follow the procedures outlined in Section IV, Part F., for replacement.
 2. Illness: Necessary absence of the licensee on account of personal illness is allowable if the absence does not exceed one period of 30 consecutive days in any calendar year, or two or more periods totaling not more than 45 days in any calendar year. The SLA, at its discretion, may extend the allowable period of absence where special circumstances exist. Replacement operators must be provided under the procedures of Section IV, Part F.
- E. Employees: If additional help is needed in the vending facility, the vendor shall hire employees in consultation with and with the approval of the SLA. When the operator finds it necessary to hire an employee, the vendor shall apply to the SLA for assistance in securing qualified employees. The vendor shall be responsible for the expenses of any additional help, which will be considered operating expenses. It is the intent of the SLA that qualified employees of vendors be given preference in the following order:
1. In positions which a blind person can fill, in the opinion of the SLA, blind persons as defined in these regulations shall be selected.
 2. Other physically disabled persons.
 3. Non-disabled persons.
- F. Those vendors hiring employees must be aware that as employers they have the following responsibilities.
1. Federal Unemployment Tax: Any vending facility operator who has employed in any calendar quarter (i.e., January-March) one or more employees at any time each of 20 calendar weeks (not necessarily consecutive) must pay Federal Unemployment Tax. This tax must be deposited quarterly and a tax return must be filed annually.
 2. Federal Income Tax Liability: A vendor with an employee must withhold Federal Income Tax as indicated on the employee's W-4. Those taxes withheld must be deposited quarterly with the quarterly return.
 3. F.I.C.A. (Social Security): A vendor with an employee must withhold Social Security from that employee's pay at a percentage specified by IRS. In addition, the vendor must contribute a matching percentage to that employee's Social Security account. The Social Security withheld and the matching contribution must be deposited quarterly with the Federal Income Tax withheld.
 4. State Income Tax Liability: Same as Federal tax liability.
 5. Workman's Compensation Insurance: Required of vendors with one or more employees. These vendors are required to pay a fixed percentage of gross wages to cover payment for work-related injuries of their employees.
- G. Relief Operators: For vacation, extended illnesses, and other absences of the licensee, except short relief periods during the day, the licensee, will be responsible for ensuring that his facility is operated by a qualified relief operator. The relief operator will be selected by the vendor, but must be approved by the state licensing agency. In the event the vendor is having difficulty locating a replacement, he should contact the state licensing agency. The state licensing agency may have a trainee available who could be utilized. In addition, the state licensing agency will maintain a listing

- of acceptable relief operators. In emergency situations the state licensing agency may assign a staff member to operate a facility for a short period of time. A vendor who feels he is in an emergency situation should contact the state licensing agency immediately. The wage paid a relief operator will be a matter of agreement between the vendor and the relief operator.
- H. Credit: No merchandise, goods, or services will be sold or purchase on credit.
- I. Merchandise: The operator shall sell only the items stipulated in there permit from the agency or person in charge of the building where the vending facility is located. No type of merchandise shall be added without the approval of the SLA. All buying is to be done from approved sources of supply. Generally, the use of standard brands of merchandise will be recommended. The supervisor of the Business Enterprise Program for the Blind will be available for consultation.
- J. Records: The operator shall maintain necessary records of purchases and sales, as required by the state licensing agency. The operator shall make reports to the SLA as required.
- K. Rent: Locations that will require payments of rent will not be given favorable consideration. If such a location is selected for a vending facility, the operator of such vending facility shall be responsible for any rent. The operator shall make rent payments promptly when due. Any rent paid for a vending facility location will be classified as an operating expense.
- L. License and Sign: The SLA will provide and attach to the vending facility in a conspicuous place, a framed license and sign. The operator shall not cover or remove the license or sign or cause or permit the license or sign to be covered or removed.
- M. County and City License: The SLA will assist the licensee in securing necessary licenses and permits required for the operation of the vending facility. All operators will be required to have in their possession any necessary licenses, such as cigarette licenses.
- N. Conduct: The operator shall refrain from conduct on the vending facility premises or elsewhere on the location which is detrimental to the vending facility, to the owner of the premises, or to the State vending facility program. Included in such conduct, but not limited to such acts or to acts of a like nature, are drunkenness, indecency, use of profanity, embezzlement, the making of false financial reports, and any act which constitutes a misdemeanor involving moral turpitude or felony. Any such acts may be grounds for termination under Section III, Part A of these regulations. All operators shall be neat and clean; hair nets must be worn during food preparation. The supervisor of the Business Enterprise Program will be available for consultation in this area as outlined in Section VI, Part 15.
- O. Payment of Obligations: The operator shall pay promptly all bills arising from the vending facility operation. State licensing agency policy prohibits purchasing on credit. Operators will therefore make payment for merchandise and supplies at the time of delivery. When payment is made, the operator request a receipt marked, "Paid in Full".
- P. Insurance: The SLA shall procure and maintain liability insurance for each vending facility, which will cover the licensed operator of such vending facility.

SECTION V Set-Aside Funds

- A. Funds Set Aside from Proceeds of Vending Facilities: The operator of all vending facilities shall send, on a monthly basis, ten percent of their monthly net income to Internal Accounting, State Board of Education, 250 East 500 South, Salt Lake City, Utah 84111. Checks should be made out to State Board of Education. This money will be deposited in a fund known as the "Vending Facility Account", Set-Aside Fund. Set-Aside funds will be used for the following purposes only:
1. Maintenance and replacement of equipment.

2. Purchase of new equipment.
3. Management services.
4. Assuring a fair minimum of return to operators of vending facilities.
5. The establishment and maintenance of retirement or pension funds, health insurance contributions, and provisions for paid sick leave and vacation time if so determined by a majority vote of blind vendors, and if funds are available.
 - a. Basis of Charge The money amount paid to the set-aside account by each operator shall be determined by the weekly net income amounts on the weekly envelopes. The amount of set-aside each operator must pay and the method to determine this amount shall be furnished each operator by the State agency. The set-aside percentage may be re-evaluated periodically and adjustments made if necessary. In no case shall the amount paid by operators into the set-aside account exceed the amount necessary for the purpose listed in Section V, Part A.
 - b. Records: Adequate daily records shall be maintained in order to determine the amount of "set-aside" to be paid by each operator. Such records shall be open to inspection by an responsible person in the SLA or any other appropriate government agency. A report of the sales expenditures will be sent weekly to the State Licensing Agency.
 - c. Method of Payment: The operator shall, within ten days after receiving a statement of "set-aside" funds due, send all such set-aside payments to cover charges for the preceding month to Internal Accounting, State Board of Education, 250 East 500 South, Salt Lake City, Utah, 84111, accompanied by the report form provided by the SLA. Payments may be made in cash or check. Failure to make set-aside payments when due will result in a violation of these regulations, and an operator will then be subject to termination according to Section II, Part F of these regulations or Section III, Part A-9.
 - d. Receipts from Vending Machines: The operator shall report the month NET receipts from vending machines which are owned and maintained by the vending machine companies, but assigned to the vending facility, as outlined in Section IV, Part C. These receipts shall be entered on the Saturday line of the weekly envelope.

SECTION VI

Policies Governing the Duties, Supervision, Transfer and Participation of Operators

- A. The operator of each vending facility shall, by separate written agreement, agree to:
 1. abide by all rules and regulations of the licensing agency governing the operation of the vending facility program for the blind, and abide by all of the terms contained in the licensing agency's permit for the vending facility location to which he may be assigned.
 2. Faithfully perform to the best of his or her ability the duties required of an operator in connection with the operation of the vending facility to which he or she is assigned.
 3. Cooperate with the vending facility supervisors and other duly authorized representatives of the licensing agency regarding the operator's responsibility under the vending facility program.
 4. Be on duty during the hours of business established by the permit for the assigned location. When sickness or other circumstances of an emergency nature renders this impossible, to

- notify immediately the licensing agency in order that the licensing agency may be assured that arrangements have been made to keep the vending facility in operation.
5. Make arrangements with the licensing agency at least two weeks in advance for any non-emergency leave from the vending facility, in order that the licensing agency may be assured necessary plans have been made for continued operation of the vending facility.
 6. Be responsible for the employment of assistance and/or relief operators for any and all occasions when the operator is not able to be in attendance at the vending facility to assure the continued operations of the vending facility. Such assistants and relief operators shall be subject to approval by the licensing agency.
 7. Notify the licensing agency when additional or replacement personnel are hired.
 8. Abide by the policy of the licensing agency which encourages placement of qualified disabled individuals where possible in the vending facility program.
 9. Conduct himself or herself and the operation of the vending facility at all times in an orderly, clean and business like manner. When janitorial services for the vending facility are not otherwise provided, they shall be the responsibility of the operator.
 10. Take proper care of all equipment and stock assigned to the vending facility. Operators shall make no alterations or changes in the fixtures or equipment assigned to the vending facility without the prior written consent and approval of the licensing agency.
 11. Operate the vending facility in accordance with all applicable Federal, State, County and Municipal laws and ordinances concerning sanitation and health measures; and comply with all applicable Federal, State and Municipal tax and other laws, including Social Security withholdings, unemployment contributions and Workmen's Compensation laws.
 12. Comply with the requirements established by the licensing agency, relating to the retail price of stock sold in the vending facility. Such requirements shall be based on the factors of competition, the needs of the particular location, the needs of the clientele and a reasonable profit margin for the particular vending facility.
 13. Furnish such reports as the licensing agency may from time to time require and allow verification of these reports by the licensing agency.
 14. Submit to the licensing agency upon request a written medical report from a licensed medical practitioner indicating that such operator is physically and mentally qualified to operate the vending facility. In the event the operator is determined to have a physical or mental disability of a chronic, permanent or continuing nature, and which results in the operator being unable to operate said vending facility in an adequate and competent manner, the licensing agency may replace the operator at its discretion.
 15. Cooperate with officials and duly authorized representatives of the SLA in connection with their official program and responsibilities. A supervisor will be assigned by the SLA to work closely with licensed operators and will be available to the operators for consultation.

SECTION VII

State Licensing Obligations

- A. Supervise operators to assure the operation of each vending facility in the most efficient and productive manner possible. This supervision will be accomplished through regular systematic visits and inspections of the vending facility by a designated staff member of the licensing agency.
- B. Furnish to the operator a copy of the vending facility beginning inventory of stock and equipment within a reasonable length of time after he or she assumes duties as an operator. Before the

- operator withdraws from the vending facility for any reason, the licensing agency and the outgoing manager shall take a closing inventory of the stock and equipment and cash on hand. Settlement of the operator's interest in the vending facility shall be made on a cash basis, using the difference between the beginning and closing inventory. A copy of the closing inventory will be provided to the operator.
- C. Transfer an operator from his assigned vending facility only when the transfer will directly benefit the operator or will be in the best interest of the vending facility program, as determined by the licensing agency.
1. Give preference to the vending facility operators having seniority in the vending facility program when the transfer is to be made to a vending facility having greater profit and income potential; provided such senior operators have demonstrated an ability to assume greater responsibility in management of vending facility location.
 2. Have the discretion of canceling any transfer if, within thirty days after such a transfer, the licensing agency determines that the operator has been transferred to a vending facility requiring a greater degree of management and performance ability than the operator is capable of performing. Whenever feasible, the operator will be returned to the vending facility form which he was transferred or to a comparable location.
- D. Instruct operators in the following areas of food service education:
1. Records and accounts.
 2. Display of merchandise.
 3. Purchase of merchandise or goods.
 4. Maintenance and repair of equipment.
 5. Development of sales techniques, maintenance and care of vending facilities.
 6. Personal appearance and good manners.
 7. Pricing, control and cost control.
 8. Sanitation techniques.
- E. Maintain records to support the justification of the charges for which funds are to be set aside. Evaluate on a periodic basis and make adjustments whenever necessary to the Set-Aside Fund.

SECTION VIII

Grievances and Hearings for Operators

- A. Administrative Review: A licensed operator shall be free to discuss any action believed to be unfair or unjustified with the Rehabilitation Director, SLA. If the Rehabilitation Director cannot resolve the problem, an opportunity for an administrative review will be afforded each operator dissatisfied with any action arising from the operation or administration of the vending facility program as follows:
1. The operator shall deliver or mail to the Director of the SLA a written request for a hearing. In the notice the licensee shall set forth the action taken by the SLA with which he is dissatisfied and shall state the reasons for his dissatisfaction.
 2. A hearing shall be held within a reasonable time after the request is received by the Director of SLA and at a time and place reasonable and convenient to the licensee.
 3. The Director shall give the licensee written notice of the time and place of the hearing.
 4. The operator shall have the right to be represented at the hearing by legal counsel or by a person designated by the operator.
 5. The operator shall have an adequate opportunity to present his case and to cross examine persons testifying against him.

6. The decision shall be based upon the information presented at the hearing and the decision, in writing, shall set forth the issue, the relevant facts brought out at the hearing, the pertinent provision in the law, that agency policy and the reasoning that led to the decision. The operator shall be forwarded a copy of the decision immediately upon its issuance. The decision shall constitute the official action of the SLA in relation to the subject of the hearing.
- B. The Evidentiary Hearing: If a licensee has reason to believe the decision reached in the administrative review process is not correct or fair, the operator may ask the Director for an evidentiary hearing. he must, however, do so within two weeks after the administrative review decision is reached.
1. This request must be in writing.
 2. It must contain the complaint and issue to be resolved.
 3. Be sent by certified mail (return receipt requested) or taken in person to the SLA Director or transmitted through the Utah Committee of Blind Vendors.
 4. The evidentiary hearing board will be the State Superintendent of Public Instruction or his designee.
 5. The vendor has a right to the following concerning the hearing:
 - a. Counsel.
 - b. Witnesses.
 - c. Cross examination of other witnesses.
 - d. A record of decision containing:
 1. The principal issue in question.
 2. Relevant facts from the hearing.
 3. Appropriate references to the law of regulations.
 4. Findings of fact, conclusions, and rationale of these findings.
- C. Arbitration: If the vendor has reason to believe the decision reached by the Evidentiary Hearing Board is not correct or fair, the operator may submit in writing a complaint to the Secretary of Education. He must, however, do so within two weeks after the evidentiary hearing board's decision is reached.
1. This complaint should contain:
 - a. The activity or portion of the operation that was the original source of the dispute.
 - b. The date and place of the full evidentiary hearing.
 - c. Decision from the hearing and any actions taken because of that decision.
 - d. A copy of the hearing decision, if it was in writing
 - e. The part of the decision or action that is causing the dissatisfaction and the reasons for dissatisfaction
 - f. A statement from the vendor about what remedy he or she would prefer.
 2. The following are possible results from the complaint:
 - a. Arbitration could be granted if remedies sought are within the authority of the panel to grant and if the complaint is based on solid facts showing valid grounds for arbitration.
 - b. Sent back to the vendor for amendment if there are insufficient facts and reasons for the vendor's remedies to be granted, or if the panel does not have the authority to grant the sought-after remedy.
 - c. Be dismissed.
 1. If the vendor does not file an amendment within 15 days after the return of the complaint.

2. If the amended complaint still does not meet the requirements for an arbitration to be granted.
 3. If the complaint does not elaborate on the dissatisfaction with the decision from the evidentiary hearing.
 4. If the complaint has not been filed in seriousness and seems to be for the sole intent to harass.
- d. Held so that more information can be obtained.

SECTION IX

The Utah Committee for Blind Vendors

- A. Committee Responsibility: This committee's primary responsibility is to be represent all of the blind vendors in the State in the following areas:
1. The committee will actively participate with the State agency in decision that affect administration, policy, and program development in the vending facility program, which affect the overall program.
 2. When a vendor has a grievance and if he or she chooses to involve the committee, the committee will receive the grievance and transmit it to the Sate Licensing Agency. This committee can serve as an advocate for the vendor (if he/she request this) in connection with the grievance.
 3. The Committee will actively participate with the licensing agency in developing and administering State systems for transfer and promotion of vendors.
 4. The Committee shall participate in making recommendation to the Licensing Agency in developing training and retraining programs for vendors.
 5. The Committee can also sponsor, with the assistance of the State Agency, meetings of vendors and educational or training conferences for vendors.
 6. Participation in selecting the methods of determining the set-aside charge.
- B. Elections
1. The elections shall be conducted annually during the month of September by the State Agency.
 2. The committee will be composed of one committee member for every seven vendors of fractional number of vendors greater than 3/7.
 3. Committee members will serve one-year terms with a limitation of two consecutive terms.
 4. Committee members shall be elected by a majority of vendors voting in the district in which their facility is located.
 - a. It shall be the responsibility of the State Agency to divide the State into districts to ensure adequate geographical representation to all vendors.
 - b. These district shall also ensure equal representation to vendors in both State and Federal facilities.
 5. All licensed vendors present at the meeting to elect committee members will be eligible to vote. Eligibility to vote will not be conditional upon payment of dues or any other fees.
 6. The Committee will meet at least twice annually at time specified by the Committee Chairperson.
 - a. All meetings will be held after normal working hours to ensure maximum attendance.

