

Regulations of Connecticut State Agencies

TITLE 10. Education and Culture

Agency

Board of Education and Services for the Blind

Subject

Vending Facilities in Public Buildings

Inclusive Sections

§§ 10-303-1—10-303-18

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Vending Facilities in Public Buildings

Sec. 10-303-1. Description

These regulations shall apply to the board of education and services for the blind in its implementation of food service and vending facilities in public buildings as described in Section 10-303 of the General Statutes and the Randolph-Sheppard Act 20-USC as amended.

(Effective July 23, 1987)

Sec. 10-303-2. Definitions

(a) Except as otherwise required by context, the following definitions shall apply:

(1) “Abandonment” means:

(A) a vendor’s voluntary leave from the vending facility without having given three days’ prior notice to the board of his intent to take such leave; or

(B) a vendor’s involuntary leave from the vending facility without having given reasonable notice to the board as soon as possible after learning of the necessity to take such leave.

(2) “Act” means the Randolph-Sheppard Vending Stand Act, 20 USC 107 as amended from time to time.

(3) “Active Participation” means to actively participate with the board in major administrative decisions, policies and program development decisions affecting the vending facility program.

(4) “Administrative Review” means an informal proceeding in which the legal rights, duties, or privileges of a licensed vendor are determined.

(5) “Blind Licensee” means a blind person licensed by the board of education and services for the blind to operate a food service facility or vending facility on federal or private property or property owned, operated or leased by the state or any municipality therein.

(6) “Blind Person” - the definition provided by Section 10-294a of the General Statutes shall apply.

(7) “Board” refers to the board of education and services for the blind.

(8) “Cafeteria” means a food dispensing facility capable of providing a broad variety of prepared foods and beverages, (including hot meals), primarily through the use of a line where the customer serves himself from displayed selections. A cafeteria may be fully automatic or some limited waiter or waitress service may be available and provided within a cafeteria and table or booth facilities are always provided.

(9) “Direct Competition” means the presence and operation of a vending machine or vending facility on the same premises as a vending facility operated by a blind vendor except that vending machines or facilities operated in areas serving employees, the majority of whom normally do not have access to the blind vending facility shall not be considered in direct competition with the blind vending facility.

(10) “Division of Industries” refers to the organizational unit of the board which has

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been designated to administer the vending facility program.

(11) “Dry/Wet Facility” means all facilities which are not included under the other three (3) types of facilities (cafeteria, snack bar, vending machine), normally merchandising for off-premises consumption of a variety of articles, refreshment items and services which are dispensed manually by the vendor and, in certain instances, by vending machines.

(12) “Equipment” means those occupational fixtures, furnishings, machinery, tools and accessories required in the operation of a small business. Equipment is characterized as having a relatively long life and the capacity to be used repeatedly to furnish a service or services.

(13) “Executive Director” refers to the executive director of the board.

(14) “Federal Property” means any building, land or other real property owned, leased or occupied by any department, agency or instrumentality of the United States (including the department of defense and the United States postal service).

(15) “Full Evidentiary Hearing” means a proceeding in which the legal rights, duties and privileges of a licensed vendor are determined after an adverse decision based on an administrative review of the action with which the vendor is dissatisfied.

(16) “Hearing Officer” means an impartial qualified official who has had no involvement with the board’s action which is at issue or with the administration or operation of the vending facility program.

(17) “Initial Stock and Supplies” means those merchantable items or supplies authorized by the permit and necessary to establish a vending facility program under the Randolph-Sheppard Act, including additional items necessary for the operation of a location, if the character or type of facility is changed substantially.

(18) “License” means a written instrument issued by the board to a blind person, authorizing such person to operate a vending facility on federal, state or other property.

(19) “Maintenance of Equipment” means all repairs necessary to keep equipment operational such as purchase of a new motor for refrigerator, replacement of glass in a showcase or finishing and painting counters, shelving or shelters.

(20) “Management Services” means supervision, inspection, quality control, consultation, accounting, regulating, in-service training and other related services provided on a systematic basis to support and improve vending facilities operated by blind vendors. “Management services” does not include those services or costs which pertain to the ongoing operation of an individual facility after the initial establishment period.

(21) “Net Proceeds” means the amount remaining from the sale of articles or services of vending facilities and any vending machines or other income accruing to blind vendors after deducting the cost of such sale and other expenses, excluding expenses which may be required to be paid by such blind vendors.

(22) “Normal Working Hours” means an eight hour work period between the hours established in the operating agreement.

(23) “Permit” means the official approval given to the board as defined in Section 10-303 (a) of the General Statutes.

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(24) “Program” means all the activities of the board related to vending facilities on federal, state, municipal and other property.

(25) “Promotional Subcommittee” means a body consisting of a minimum of three members of the state committee of blind vendors appointed by the elected chairperson.

(26) “Review Officer” means an impartial member of the board’s administrative staff who has not participated in the action which is at issue and who has been designated by the executive director to conduct an administrative review.

(27) “Satisfactory Site” means an area fully accessible to vending facility patrons and having:

(A) a minimum of 250 square feet available for the vending and storage of articles necessary for the operation of a vending facility or smaller than the minimum size with approval of the division of industries; and

(B) sufficient electrical, plumbing, heating and ventilation outlets for the location and operation of a vending facility in accordance with applicable health laws and building codes.

(28) “Secretary” means the United States secretary of education.

(29) “Snack Bar Facility” means a facility engaged in selling limited lines of refreshment and prepared food items necessary for a light meal service including establishments which sell food and refreshment items prepared on or off the premises and usually wrapped in containers at the point of sale.

(30) “State Licensing Agency” means the board of education and services for the blind as the state agency designated by the state of Connecticut and by the United States secretary of education to issue licenses to blind persons for the operation of vending facilities in federal and other property.

(31) “State Property” means any building or property owned, operated or leased by the state.

(32) “Transportation” means necessary travel for the purpose of conducting business of the board or to participate in an administrative review.

(33) “Vending Facility” means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by state law and conducted by an agency of the state.

(34) “Vending Facility Operating Agreement” means the formal written contract between the vendor and the board which sets forth the terms and conditions governing the issuance of a license and the operation of the vending facility.

(35) “Vending Machine” means a coin or currency operated machine which dispenses articles or services, except those machines operated by the United States postal service for the sale of postage stamps or other postal products and services located on postal service property.

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(36) “Vendor” means a blind licensee who is operating a vending facility on federal, state, municipal or other property.

(37) “Vocational Rehabilitation Services” means those services as defined in Section 10-306-2 (53) of Connecticut regulations.

(Effective July 23, 1987)

Sec. 10-303-3. Licensing

(a) Licensing Vending Facility Operators

Licenses to operate vending facilities may be issued by the board only to persons who:

- (1) are blind, as defined by these regulations;
- (2) are citizens of the United States;
- (3) have been certified by the board’s division of industries as qualified to operate a vending facility; and
- (4) have executed a vending facility operating agreement.

(b) Unemployed Persons

An applicant for a license who is in need of employment shall be given preference in the issuance of a license.

(c) Religion, Race, Color, Ancestry, National Origin, Sex, Age, Disability or Political Affiliation

Selection of an applicant for licenses shall be made without regard to religion, race, color, ancestry, national origin, sex, physical or mental disability, age, or political affiliation of the applicant.

(d) Termination of License

All licenses shall be issued for an indefinite period of time but shall be subject to suspension or termination if, after affording the licensee (vendor) an opportunity for a full evidentiary hearing pursuant to these regulations, the board determines:

- (1) that the vending facility is not being operated in accordance with federal, state or municipal laws, these regulations or the terms and conditions of the vending facility operating agreement; or
- (2) that improvement of vision is such that the licensee (vendor) no longer meets the definition of blindness; or
- (3) that extended illness exists with medically documented diagnosis of prolonged incapacity of the vendor to operate or manage the vending facility in a manner consistent with the needs of the location or other available locations in the vending facility program (cooperation of vendor in obtaining medical evaluation shall not be withheld). All such situations to be reviewed carefully by the agency and the committee; or
- (4) withdrawal by the vendor from the program upon his written notification to the board; or
- (5) failure of the vendor to sign the agreement for operation of a vending facility after he has accepted assignment to operate a facility; or
- (6) inability of the vendor to operate the facility efficiently; or

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(7) abandonment of the location by the vendor (failure to report without proper notification); or

(8) failure to obtain written approval of the board's division of industries prior to the purchase, construction or installation of any equipment, accessories or fixtures to be used in the vending facility program.

(Effective July 23, 1987)

Sec. 10-303-4. Standards and procedures applying to establishment of a vending facility

The following standards and procedures shall apply to the establishment of a vending facility:

(a) Vending Facility Equipment and Initial Stock

The board shall furnish each new vending facility with adequate, suitable equipment and initial stocks of merchandise necessary for its establishment, operation and maintenance except that any increase in initial stock required by promotion, using federal vocational rehabilitation funds, is permitted only when promotion or upgrading is from a dry facility to wet snack bar or cafeteria.

(b) Title and Interest in Fixtures and Equipment

The right, title and interest in all fixtures and equipment furnished to a vending facility by the board shall be vested in the board and shall be labeled with a numerical sticker and so marked as to clearly reflect ownership by the state of Connecticut. Should the vendor elect to purchase such fixtures and equipment from the board, he may do so under the following conditions:

(1) the sale and purchase price shall be acceptable to the board; or

(2) upon the transfer of the vendor to another facility, his discontinuance as a licensee or his death, title and interest in such fixtures and equipment shall become vested in the board subject to:

(A) a determination of the fair market value of such fixtures and equipment in accordance with state procedure and regulations;

(B) payment of such fair market value to the vendor/owner or his estate; and

(C) the provision of an opportunity to the vendor, his representative or estate for a full evidentiary hearing concerning the determination of the fair market value of such equipment.

(c) Purchase Construction or Installation of Equipment

(1) written approval of the board must be obtained by the vendor prior to purchase, construction or installation of any equipment, accessories or fixtures to be used in a business enterprise by him.

(2) no opportunity to become a vendor shall be denied an individual on the basis of his unwillingness or inability to purchase the vending facility equipment or the initial stock.

(d) Maintenance and Replacement of EquipmentThe board shall furnish each vending facility with adequate suitable equipment and shall maintain, or cause to be maintained, all vending facility equipment in a workable condition and shall replace or cause to be replaced,

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worn-out or obsolete equipment as it deems necessary to assure the successful operation of the facility provided that:

(1) the board shall not assume responsibility or obligation for maintenance repair or replacement of equipment, present at a vending facility, in which it does not have full title;

(2) each vendor shall carry out routine day-to-day maintenance procedures;

(3) problems with equipment shall be reported by the vendor to the board as soon as they are identified; and

(4) the board will arrange for all necessary repairs or the replacement of vending facility equipment following an on-site evaluation and determination of need by a board supervisory staff member. Scheduling of expenditures for equipment, repair or renovations will be made in accordance with priorities developed annually by the board with the active participation of the state committee of blind vendors and based on the availability of funds.

(e) Routine License Fees and Preventative Maintenance

The board shall be responsible for payment of routine license fees and preventative maintenance of equipment with the following exceptions:

(1) if a vendor earns at least the average income, as shown on the federal Randolph-Sheppard report, completed by the board at the close of each fiscal year, he shall be responsible for payment of annual routine license fees;

(2) if a vendor's annual income exceeds a minimum of \$20,000, he will be responsible for payment of annual license fees and preventative maintenance of equipment; or

(3) if a vendor's annual income exceeds \$30,000, he will be responsible for payment of annual license fees, preventative maintenance of equipment and may be required by the board to employ another legally blind person as an assistant.

(f) Vendor Ownership of Equipment

When a vendor is responsible for maintenance of vending facility equipment as set forth in these regulations and is unable or fails to meet his obligations, the board will arrange for such maintenance and its payment subject to subsequent reimbursement thereof by the vendor.

(g) Enforcement

The board shall be responsible for the enforcement of the provisions set forth in this section of the regulations.

(h) Initial Stock and Final Inventory

The following standards and procedures shall apply to the provision of and reimbursement for initial stock supplied to a vending facility:

(1) the board shall set forth in the operating agreement the specific types of merchandise to be sold;

(2) the board will retain ownership of the initial inventory supplied to a new vendor and on termination from the vending facility program the following adjustments will be made:

(A) the board will purchase from the vendor any inventory in excess of the saleable value of the initial inventory; or

(B) if the value of final inventory is less than that of the cost of the initial inventory, the

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vendor will repay the difference to the board.

(3) initial inventory supplied to a vendor as a vocational rehabilitation service between the period July 1, 1975 and March 20, 1985 shall be adjusted on termination of the vendor from the facility as follows:

(A) a vendor who remains in the program for a period of time in excess of one year shall be reimbursed for the value of the full inventory at the time of termination; or

(B) a vendor who remains in the program for a period of time less than one year shall adjust payment of final inventory in accordance with the provisions of the preceding subsection (h) (2) (A) or (B) of these regulations.

(4) a vendor who was provided with an initial inventory prior to July 1, 1975, or subsequent to March 20, 1985, may elect to reimburse the board for the cost of the initial inventory and on termination in the program he shall be reimbursed by the board for the full value of the final inventory. No interest shall accrue on any unpaid obligation due on the initial inventory;

(5) new inventory provided to a vendor as part of a promotional plan shall remain the property of the board and adjustment of obligations at termination of the vendor will be made in accordance with this section of the regulations.

(Effective July 23, 1987)

Sec. 10-303-5. Income from vending machines on federal property

The following standards and procedures shall apply to the distribution and use of income derived from vending machines on federal property and which has been disbursed to the board by a property managing department, agency or instrumentality of the United States under the vending machine income sharing provision of Section 395-32 of the federal regulations.

(a) such income shall accrue to each (blind) vendor operating a vending facility on such federal property with the following limitations:

(1) the accrual of such income to such vendor shall not exceed the average net income of the total number of blind vendors within Connecticut as determined in each fiscal year on the basis of each year's operation; and

(2) such vending machine income shall not accrue to any such vendor in an amount exceeding the average net income of the total number of blind vendors in the United States; and

(3) no such vendor shall receive less vending machine income than he was receiving during the calendar year prior to January 1, 1974 as a direct result of any limitation on such income under this section of the regulations.

(b) no limitation shall be imposed on accrual of income from vending machines which are combined to create a vending facility when such facility is maintained, serviced, or operated by a blind vendor.

(c) any vending machine income shall be disbursed to eligible vendors by the board on at least a quarterly basis.

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(d) Vending Machine Income

Pursuant to Section 10-303 (b) of the General Statutes, vending machine income disbursed to the board by a property managing department agency or instrumentality of the United States, in excess of the amounts eligible to accrue to blind vendors as established by federal law and these regulations shall be retained by the board and shall be used in accordance with the Randolph-Sheppard Act as follows:

- (1) to establish and maintain health and other insurance programs for blind vendors;
- (2) to purchase and maintain vending facility equipment;
- (3) to assist in developing and opening new vending facilities;
- (4) to provide training opportunities;
- (5) to meet the cost, in whole or in part, of the administration of the vending facility program; and
- (6) to provide contributions to meet the cost in whole or in part, of vacation pay and/or retirement plans.

(e) Guidance of Vendors

In carrying out the provisions set forth in Section 10-303-5 (d) (1) and 10-303-5 (d) (6), the board will be guided by a majority vote of licensed vendors after each vendor has been furnished information on all matters relevant to the determination of the use of such vending machine income for insurance contributions, vacation pay or retirement contributions.

(Effective July 23, 1987)

Sec. 10-303-6. Vending facility operating agreement

This section of the regulations authorizes the board to enter into agreements with individual blind persons, setting forth the terms and conditions under which a vending facility is established and operated including the rights, duties and obligations of both parties as set forth in these regulations.

In addition to requirements imposed by state and federal law and other sections of these regulations, the vending facility operating agreement shall:

- (a) identify the parties to the agreement as the licensed vendor and the board, acting through its division of industries;
- (b) specify the site and type of vending facility to be operated including the kind of merchandise to be sold;
- (c) establish the length of time of the agreement as indefinite or provide that the time period shall coincide with the termination date of the permit or any extension thereof;
- (d) provide for termination of the agreement by:
 - (1) the vendor after adequate notice to the board, but no less than sixty (60) days;
 - (2) the death, incapacity or inability of the vendor to continue to operate the facility;
 - (3) the suspension or termination of the vendor's license by the division of industries as provided for by these regulations; or
 - (4) the division of industries for other valid reasons such as its inability to obtain extension of the permit or insufficient income from the vending facility to warrant its

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continued operation.

All such decisions shall be reviewed with the committee.

(e) provide that the vendor account to the division of industries for proceeds of the business by maintaining financial, personnel and payroll records adequate to permit the preparation of periodic tax or other reports required by the board or by state or federal law and shall, as a minimum, require the vendor to file the following reports with the division of industries:

(1) a weekly “vending facility business report” on a form provided by the board listing the financial activities of the facility.

(2) a duplicate copy of the vendor’s annual profit or loss statement, Form 1040, Schedule “C”, accompanied by the vendor’s certification signed under penalty of perjury attesting that it is a true copy as filed with the internal revenue service, such duplicate copy to be filed no later than April 15th of each year.

(f) provide that any vendor who submits an incorrect financial statement concerning the facility operation or who fails to submit such reports or is delinquent in filing such reports is subject to revocation of his vending facility license;

(g) provide for compliance by the vendor with division of industries evaluation to verify and assure the correctness of all reports;

(h) provide for a periodic audit of the facility’s financial affairs by the board as in its discretion it deems necessary and that the vendor will make available to the division of industries any books, records and accounts connected with the facility’s operation for the following purposes:

(1) review of the adequacy of the books of account maintained for the facility;

(2) a general verification of the facility’s accounts;

(3) a determination of the facility’s financial condition, its operating results and adherence by the vendor to established fiscal principles; and

(4) a determination of the gross profit on direct sales percentage that the facility should yield.

(i) prohibit the vendor from dealing in games of chance except as permitted by state or federal laws;

(j) provide for the establishment and maintenance by the vendor of bank checking and savings accounts to be used for the sole purpose of:

(1) receipt and disbursement of funds pertinent to the facility’s operation;

(2) separation and safe keeping of funds for payment of all sales, income or other taxes during interim periods of collection and payment; and

(3) that such bank accounts shall be used exclusively for the fiscal affairs of the facility without intermingling of personal or other funds.

(k) require the operation of the facility to be on a cash basis except for such credit accounts as may be established or authorized by the division of industries;

(l) provide that the value of a facility’s stock and/or cash will be maintained at a level at least equal to the wholesale value of the initial stock and that assets will exceed liabilities

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during the term of the agreement;

(m) provide for accounting for and payment by the vendor at cost price for any merchandise taken by him for personal use;

(n) establish the level of potential income which the facility is expected to produce with efficient operation and provide:

an opportunity to the vendor to increase his reported income through improved methods of operation and control when such income is out of proportion to the potential anticipated income established in the agreement; and

(o) provide that the vendor:

(1) must keep the facility open during normal working hours;

(2) will make adequate advance plans to provide a relief or substitute operator for any planned or unforeseen absences of short duration;

(3) will furnish the division of industries with the name or names of such relief or substitute operator who may be hired in emergency situations;

(4) will immediately report his inability to locate a relief or substitute operator to the division of industries; and

(5) will pay the salaries of persons hired to relieve or substitute for him.

(p) provide that the vendor will employ sufficient staff to ensure the efficient operation of the facility and adequate service to the public and provide that:

(1) a normal employer-employee relationship exists between the vendor and his staff; and

(2) the division of industries may recommend the dismissal of any person employed by the vendor when the actions of such employee are considered contrary to the best interests of the facility operation or its location.

(q) provide that the vendor will deal with the public in a fair and responsible manner concerning pricing of merchandise, and: subject to the approval of the division of industries, will adopt pricing policies that are competitive with the facility's immediate locale.

(r) provide that placement of signs on the premises of a facility will be made only with prior approval of the division of industries and in accordance with any conditions set forth in the board's agreement with the location owner or manager;

(s) provide that the vendor will report to the division of industries field representative any accident or injury which occurs at the vending facility location within one (1) working day of the occurrence of such accident or injury;

(t) set forth any terms or conditions the division of industries determines necessary to the efficient operation of said vending facility.

(Effective July 23, 1987)

Sec. 10-303-7. Transfer promotion and selection, readmittance to program

In addition to the requirements for licensing vending facility operators as set forth in Section 10-303-3 (a) through Section 10-303-3 (c) inclusive, of these regulations, this section establishes the standards and procedures to be used in the transfer, promotion and

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selection and readmittance of a vending facility operator to a specific vending facility.

(a) List of Applicants for Transfer or Promotion

During February of each year, the board shall compile a new list of all vendors who express the desire to be considered for transfer or promotion from one vending facility location to another location that may become available and who have been approved for placement on such list. Any vendor who desires to be placed on such list must complete and submit a written application form to the board requesting such transfer or promotion. The agency will send out a reminder in December of each year. Such application form is to be submitted annually during the month of January and shall include the following information:

- (1) the type of facility requested, such as a dry facility, wet facility, snack bar or cafeteria;
- (2) the vendor's expected income range;
- (3) geographical preference; and
- (4) qualifying experience and training.

(b) Approval of Application for Transfer or Promotion

Approval of vendor's applications to be considered for transfer or promotion shall be based on the following standards and procedures:

- (1) review of each application by the promotional subcommittee with its comment and recommendations concerning approval to be given to the full committee of blind vendors;
- (2) review of each application and the recommendation of its promotional subcommittee by the full committee of blind vendors and its recommendation and comments concerning approval to be given to the executive director;
- (3) review of such applications, comments, and recommendations by the executive director for a decision concerning approval by him, or his designee; and
- (4) establishment by the executive director or his designee of an approved list of applicants for promotional or transfer consideration.
- (5) procedures in parts (1), (2) and (3) to be implemented at a public session of the committee to which all applicants will be invited. Operator vending facility files may be reviewed with the signed release of the applicant.

(c) Criteria for Approval of Applications for Transfer or Promotion

The following factors shall be used by the committee of blind vendors and its promotional subcommittee in reviewing applications for promotion or transfer and by the executive director or his designee in approving or disapproving requests for transfer or promotion by vending facility operators:

- (1) no vendor who has been situated in his current vending facility program for less than one year shall be considered for transfer or promotion except in cases of hardship;
- (2) the vendor shall have demonstrated the ability to successfully operate a vending facility and must possess a good work record as demonstrated by having:
 - (A) a satisfactory attendance record;
 - (B) maintained the facility in a neat and orderly fashion;
 - (C) timely and accurately completed reports;

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(D) shown initiative in the operation of the facility with sufficient stock levels permitting an efficient operation; and

(E) having a proven record of financial stability.

(3) the vendor's past work experience and/or training has adequately prepared him to undertake the operation of the type of facility requested;

(4) the vendor's willingness to accept specialized or advanced training prior to or after transfer or promotion; and

(5) reassignment will be considered promotional when the vendor can realize a net gain in excess of \$2,000 per year.

(d) Notice to Vendor

Upon final decision the executive director or his designee shall notify each vendor who has applied for consideration for transfer or promotion of the disposition of his request.

(1) Any vendor who is dissatisfied with the decision denying him consideration for transfer or promotion shall be given the opportunity for an administrative review. Written request for such review must be made within ten (10) days of mailing of the decision. Such request for administrative review is to be filed in accordance with the provisions for administrative review set forth in these regulations.

(e) Selection of Vendor

The following procedures will be used to fill a vacancy in a vending facility location:

(1) the executive director or his designee shall automatically consider all vendors on the approved list of vendors for promotional or transfer consideration to achieve an appropriate vendor-job match. Such selection to be based on the seniority of the vending facility operator except in special cases of hardship or financial need as approved by the committee and the executive director;

(2) the selected vendor shall be contacted to determine whether or not placement would be accepted if offered and be allowed three days from the date of contact to accept or waive the offer of placement;

(3) if the offer is waived or if the selected vendor fails to notify the board of acceptance of the offer within the time allowed, the executive director or his designee shall follow the procedure set forth in this section of the regulations to select an alternate approved vendor from the list; and

(4) if appointment of a qualified vendor cannot be made from the approved list by promotion or transfer, a new vendor may be assigned to the vending facility.

(f) Readmittance to the Program

The request of an individual, who has been in the program previously and seeks readmittance, will be reviewed by the committee for their recommendation to the executive director based on conformance with these regulations and prior performance as an operator. Seniority will be based from the date of the most recent reentry to the program.

(Effective July 23, 1987)

Sec. 10-303-8. Training program

In accordance with requirements of Section 395.3 (a) (8) of federal regulations adopted to implement the Randolph-Sheppard Act the board, with the active participation of the committee of blind vendors, shall develop and maintain a training program for blind persons, covering each aspect of vending facility operation and where appropriate, upward mobility training or retraining for all blind licensees. The division and the committee shall establish and maintain standards to be met by trainees for satisfactory completion of the training program, and the division shall certify as qualified to operate a vending facility all trainees who have met these standards. The vending facility training program shall include the following basic components:

- (a) pertinent laws and regulations including the Randolph-Sheppard Act, and these regulations;
- (b) customer relations;
- (c) business math and use of the cash register;
- (d) accounting and money changing;
- (e) financial reporting and analysis;
- (f) taxes;
- (g) merchandising, inventory control;
- (h) housekeeping;
- (i) food sanitation;
- (j) food preparation and menu planning;
- (k) safety;
- (l) vending machine operation;
- (m) personnel management and employee relations;
- (n) other specialized training as requested by the vendor/trainee;
- (o) after successful completion of formal training, trainees shall be provided on-the-job training in accordance with procedures established in the training program developed in these regulations.

(Effective July 23, 1987)

Sec. 10-303-9. State committee of blind vendors

The board shall establish a committee of blind vendors in accordance with the requirements of the Randolph-Sheppard Act, as amended at Chapter 6A of Title 20 of the United States Code for the purposes set forth herein.

(a) Composition of Committee

The state committee of blind vendors shall consist of seven (7) members and two (2) alternate members.

(b) Election of Members and Eligibility

The board shall conduct among the licensed vendors in the Connecticut program an annual election to select state committee members who must be licensed vendors. To the extent possible the state committee shall be representative of all such vendors on the basis

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of such factors as:

- (1) geographical location;
- (2) vending facility type; and
- (3) proportional representation of blind vendors on federal, state or private property.

(c) Nominations, Elections and Term of Office

Nominations and elections to the state committee of blind vendors shall be held each year during the annual meeting of all licensed vendors in accordance with the following:

- (1) the chairman shall call for nominations from the floor;
- (2) four regular committee members and two (2) alternate members shall be elected during even numbered years and three regular committee members and two alternative members shall be elected in odd numbered years;
- (3) election shall take place by ballot;
- (4) successful election to office shall be determined by a majority vote of licensed vendors present;
- (5) each of the seven regular committee members shall serve a term of two consecutive years except that any committee member who fills the remainder of a term may thereafter be elected to a full two year term;
- (6) no regular member may be elected to serve more than two consecutive terms; and
- (7) an alternate shall be elected to serve a one year term.

(d) Committee Meetings

- (1) the committee shall hold a minimum of four meetings annually;
- (2) a meeting of all vendors licensed by the board to operate a vending facility shall be held annually;
- (3) unless otherwise specified by the committee, the parliamentary procedure to be utilized in the conduct of meetings will be Robert's Rules of Order, latest revision.
- (4) all meetings of vendors and the committee shall be held at the board's central office unless otherwise determined by the committee; and
- (5) between regular meetings of the committee, its functions will be carried on through subcommittees to be designated by it.

(e) Functions of the Committee

- (1) to actively participate with the board in major administrative decisions, policies and program development decisions affecting the vending facility program;
- (2) to receive and transmit to the board grievances at the request of blind vendors and to act as advocates for such vendors in connection with such grievances;
- (3) to actively participate with the board in the development and administration of a system for the transfer and promotion of blind vendors; and
- (4) to sponsor, with the assistance of the board, meetings and instructional conferences for blind vendors within the state.

(f) Committee Participation

In fulfilling its ultimate responsibility for administration of the state's vending facility program, the board shall assure that opportunity is presented for effective constructive and

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active participation by the committee in the decision making process by:

(1) establishing a communications procedure under which the committee will automatically receive advance written notice of matters within its purview that are being considered for decision;

(2) providing written notice to appropriate subcommittee members or state committee members and extending an invitation to attend important discussions and decision making meetings in areas of the subcommittee's interest;

(3) providing an opportunity to the committee at each of its meetings to initiate matters for consideration by the board;

(4) giving careful and serious consideration to the committee's views, positions and recommendations; and

(5) providing written notice to the committee of the board's decision or action taken and the reason for such decision or action if it is not in accordance with the views, positions or recommendations of the committee.

(Effective July 23, 1987)

Sec. 10-303-10. Administrative review

(a) An administrative review is an informal procedure through which the board affords a blind vendor or his representative an opportunity to express and seek remedy for his dissatisfactions with any board action arising from the operation or administration of the vending facility program. Administrative review is not a "contested case" within the meaning of Section 4-166 (2) of CGS. The administrative review is not open to the public.

(b) **Review Officer:** An administrative review shall be conducted by the board's executive director or a member of its supervisory staff, to be designated by the executive director, who did not participate in the agency action in question.

(c) Prior Notification of Actions Affecting Vendors and Right to Review or Fair Hearing

At least ten (10) days prior to instituting any action by the board which substantially affects a vendor's rights, duties and privileges in the operation of a facility, except as may otherwise be provided for in the vendor operating agreement, the chief of the division of industries shall notify the vendor in writing of the action to be taken. The notice shall be dated and shall include a statement informing the vendor of the reasons for the action to be taken; that if he wishes to challenge or oppose the intended action, he must request an administrative review within fifteen (15) working days of receipt of notice.

(d) Opportunity for an Administrative Review

(1) The board shall afford an opportunity for an administrative review to every licensed vendor who so requests.

(2) Every licensed vendor shall be informed in writing at the time his license is issued and at the time of any action affecting him:

(A) of his right to an administrative review as described in these regulations;

(B) of the method by which he may obtain an administrative review; and

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(C) that he may be represented by an authorized representative such as legal counsel, member of state committee of blind vendors, lay advocate, relative or other spokes-person. If fees are charged by legal counsel, the vendor is responsible for payment.

(3) A vendor or his designated representative must file a written request for a review within fifteen (15) days of the occurrence of the action arising out of the operations or administration of the state vending facility program with which the blind vendor is dissatisfied.

(e) Scheduling and Location of Administrative Review

An administrative review shall be:

- (1) scheduled within fifteen (15) working days of receipt of the written request for review but may be postponed by mutual consent of the vendor and the executive director;
- (2) held during board working hours; and
- (3) conducted at the board's central office location or at a location mutually satisfactory to the parties.

(f) Reader Services and Transportation

- (1) the board shall provide reader services at the review if needed and requested by the vendor at least seven (7) days prior to the review date;
- (2) should transportation be required, reimbursement will be paid to the vendor for a round trip from the vendor's home to the board's office in accordance with the transportation rate established by Section 10-306-13 (c) of the Connecticut regulations.

(g) Use of Vendor Records

Review by the vendor of his vocational rehabilitation record, if any, shall be permitted in accordance with the provisions set forth in Section 10-308-2 (f) of the Connecticut regulations. Other relevant agency and/or vendor records may be reviewed by either party.

(h) Request for Administrative Review

A vendor has a right to request an administrative review in any of the following situations:

- (1) matters concerning abandonment;
- (2) termination of a vending license;
- (3) matters concerning transfer or promotion;
- (4) matters concerning value of equipment or inventory;
- (5) matters concerning maintenance of equipment;
- (6) matters concerning purchase and/or payment for new equipment and the need for new equipment;
- (7) matters concerning pricing of merchandise;
- (8) coercive or otherwise improper conduct on the part of any board employee involved with the vendor, including unwarranted or illegal conditions imposed on the operation of the facility.

(i) Notice

Seven (7) calendar days prior to the administrative review, the review officer shall provide written notice to all parties as to the date, time and place of the review, including notice of the vendor's right to representation.

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(j) Request for Rescheduling

Prior to the day on which an administrative review is scheduled, the review officer may reschedule the review upon written notice to the vendor or his authorized representative or by agreement between the parties.

(k) Default

Failure to appear at a scheduled review shall be deemed a waiver of a right to a review. Upon such failure, the review officer may issue an order disposing of the matter or may, if requested by the defaulted party within ten (10) days of the default, reschedule the review.

(l) Adjustment of Matters Related to an Administrative Review

The fact that an administrative review has been filed does not prohibit the parties from making an adjustment in the matters at issue prior to administrative review. If, as a result of an adjustment, the vendor is satisfied and wishes to withdraw all or part of his petition for an administrative review, the vendor or his authorized representative shall transmit to the review officer his signed written withdrawal. However, the review officer may not delay nor cancel the administrative review because of a possible adjustment that is under consideration unless the vendor requests a delay or cancellation.

(m) Rights of the Vendor

The vendor shall have the right and be given the opportunity to present and establish all relevant facts by oral written statement, the introduction of pertinent portions of his records or board documents, advance pertinent arguments and to present witnesses in his behalf.

(n) Duties and Authority of Review Officer

(1) the review officer shall have the duty to conduct a fair review to assure equitable treatment to all parties, to define the issues, to receive and consider all relevant evidence, to exclude irrelevant evidence and to reach a fair decision in accordance with the law and good professional practices.

(2) the review officer's duties shall include the following:

(A) to assist all present to make a full and free statement of facts necessary to determine the issues involved;

(B) to ensure that all parties are given full opportunity to present their claims;

(C) to receive and to rule on relevancy of evidence presented;

(D) to rule on issues involving inspection of records;

(E) to introduce any regulations, statutes, or other materials he believes relevant to the issues at the proceeding; and

(F) to attempt to resolve the issues by agreement among the parties.

(o) Basis of Decision

The review officer's decision shall be based upon the applicable law and evidence presented at the review unless the evidence is in the nature of additional reports requested by the review officer at the review.

(p) Kinds of Decisions

(1) The review officer may accept a settlement of the issues as agreed to by the parties or may decide in favor of the vendor or of the board.

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(2) The review officer may accept a withdrawal or default any party who fails to appear.

(q) Form of Decision

The decision shall be a statement of the issues involved in the review, a finding of fact and a statement of the conclusions including the basis for the conclusions.

(r) Notice of Decision

The review officer shall render a decision within fifteen (15) working days from the date the review is concluded and shall mail a written copy of the decision to the vendor within such fifteen (15) day time period, informing the vendor of the following:

(1) if the decision is favorable to the vendor, the review officer shall notify him of his right to prompt implementation; or

(2) if the decision is adverse to the vendor, the review officer shall include in the notice of decision, the effective date of the decision and a statement informing the vendor of his right to a full evidentiary hearing as set forth in Section 10-303-11 of these regulations.

(s) Effective Date of Decision

The effective date of the decision shall be fifteen (15) days from the date of mailing.

(Effective July 23, 1987)

Sec. 10-303-11. Full evidentiary hearing

A full evidentiary hearing shall be granted only after an administrative review which has resulted in a decision adverse to the vendor and upon timely request for a full evidentiary hearing by the vendor or his duly authorized representative.

(a) Notice of Right to a Full Evidentiary Hearing

Notice of his right to a full evidentiary hearing shall be provided to the vendor by the board;

(1) at the time the operating agreement is signed and vendor's operating license issued; and

(2) following an administrative review when the decision is adverse to the vendor, the executive director shall notify the vendor of his right to a full evidentiary hearing, such notice to include:

(A) name and address to which the request for a full evidentiary hearing is to be forwarded;

(B) notice that the full evidentiary hearing will be conducted under the Uniform Administrative Procedure Act as set forth in Sections 4-177 through 4-181 of the General Statutes and Regulations adopted by the board; and

(C) notice that the request for a full evidentiary hearing must be received by the executive director within fifteen (15) working days after the adverse decision resulting from the administrative review either

(i) by delivering such notice to the executive director personally;

(ii) by forwarding such notice to the executive director by certified mail; or

(iii) by transmitting such notice to the executive director through the committee of blind vendors.

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(b) Scheduling and Notice

(1) within fifteen (15) working days of receipt of the request for a hearing, a full evidentiary hearing shall be scheduled.

(2) notice of the full evidentiary hearing shall be given to all parties thirty (30) calendar days prior to the date of hearing.

(3) notice shall contain all information required in such notice by Section 4-177(b) of the General Statutes.

(4) notice shall inform the vendor that he may be represented by a legal counsel or other authorized representative at the hearing.

(c) Time/Location

Full evidentiary hearings shall be conducted during board working hours and at the board's central office.

(d) Reader Services/Transportation

Reader services and transportation shall be provided in accordance with Section 10-303-10 (f) of these regulations.

(e) Meal Costs

A meal allowance shall be paid during the pendency of the hearing if requested by the vendor and shall be reimbursable at the rate established for "in state" meal allowance paid to state employees.

(f) Presiding Official

The presiding officer at the hearing shall be the executive director or his designee, who shall be an impartial qualified official and who has no involvement with the board action which is at issue in the hearing or with the administration or operation of the vending facility program. He may be a staff member or official of another state agency, or a state agency hearing officer.

(g) Evidence in Full Evidentiary Hearing

Evidence in full evidentiary hearing cases shall be received in compliance with Section 4-178 of the General Statutes:

(1) all papers and documents introduced into evidence at the hearing shall be filed with the presiding officer and provided to the other party.

(2) a transcript of the oral evidence shall be made and shall be made available to the parties. The board shall pay all transcript costs and shall provide the vendor with at least one (1) copy.

(h) Exclusive Record

The transcript of testimony, exhibits and all papers and documents filed in the hearing shall constitute the exclusive record for the decision.

(i) Proposal for Decision

(1) a proposal for decision shall be prepared by the presiding officer pursuant to Section 4-179 of the General Statutes and shall be made within fifteen (15) working days after the receipt of the official transcript.

(2) the proposed decision shall be mailed promptly to the blind vendor and the board.

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(j) Opportunity to Present Briefs/Oral Arguments

A vendor adversely affected by a proposed decision shall be given twenty (20) calendar days from the date of mailing of the proposed decision within which to file briefs or present oral arguments to the board. The parties by written stipulation may waive compliance with this provision.

(k) Final Decision

The board shall make the final decision in evidentiary hearing cases.

(1) In evidentiary hearing cases, the decision shall be rendered:

(A) within fifteen (15) working days after receipt of the proposed decision if the opportunity to file briefs or present oral arguments has been waived, or the final decision does not adversely affect the vendor; or

(B) within fifteen (15) working days after the filing of briefs or presentation of oral arguments.

(2) the board shall make the final decision in writing. It may, within its discretion, accept, reject, or modify the recommended decision of the presiding officer.

(l) Kinds of Decisions

In rendering his proposed decision, the presiding officer may, and in making its final decision, the board may, take one of several courses of action which include, but are not limited to the following:

(1) find in favor of the vendor;

(2) uphold the action or inaction of the board;

(3) accept a written withdrawal of the appeal which is signed by the vendor or his authorized representative;

(4) accept a settlement of the issues agreed to by the parties; or

(5) default any party who fails to appear and does not request a rescheduling of the appeal.

(m) Form of Decisions

Both the recommended and final decisions shall be comprehensive statements by the presiding officer and the board respectively, containing the following elements:

(1) a statement of the issue or issues involved in the hearing;

(2) clear and complete findings of fact on all relevant factual matters, which are supported by evidence in the record;

(3) reference to all laws, regulations and other legal bases for the decision;

(4) a concise statement of the conclusion drawn from the findings of fact and law, including the reasoning used in reaching the conclusions; and

(5) any remedial action necessary to resolve the issues in dispute.

(n) Appeal

(1) If a vendor is dissatisfied with the decision rendered after a full evidentiary hearing, he may file a complaint with the Secretary of the United States Department of Education as authorized by Sections 5 (a) and 6 of the Randolph-Sheppard Act and Sections 395.13 of the regulations at 34CFR; or

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(2) If a vendor is aggrieved by the decision rendered after a full evidentiary hearing, he may exercise his right of appeal under Section 4-183 of CGS.

(Effective July 23, 1987)

Sec. 10-303-12. Operating expenses and insurance

The vendor may contract only for those expenses necessary to the safe and efficient operation of the facility. Allowable operating expenses include wages, utilities, fees for services directly related to the operation of the facility, insurance and taxes.

(a) Method of Payment

Payment of expenses by the vendor shall be on a cash or check basis except as allowed by express prior written approval of the executive director or his designee.

(b) Rent and Utilities

Payment of charges for utilities and any charge for rent of facility space will be made by the board either directly or by reimbursement of the vendor.

(c) Telephone

Payment of charges for initial telephone installation will be made by the board.

The vendor will be responsible for payment of all telephone costs thereafter.

(d) Insurance

(1) vendors at scheduled locations, may be included as an additional named insured for liability coverage to the limit of \$1,000,000 each occurrence/\$1,000,000 aggregate for bodily injury liability and \$100,000 each occurrence/\$100,000 aggregate for property damage liability on the state insurance policy, which is purchased through the state insurance purchasing board.

(2) the vendor shall be responsible for the purchase of any other insurance coverage for his protection.

(3) each vendor shall be responsible for payment of unemployment compensation taxes, workers compensation insurance or other insurance coverage for persons in his employ.

(4) medical insurance coverage that is provided by the state to state employees may be provided by the board to a vendor provided the vendor shall make the same contribution towards the cost of the insurance coverage as state employees. Such insurance coverage may also be provided by the board to blind persons employed in workshops, established pursuant to section 10-298a, on December 31, 2002, provided such persons shall make the same contribution towards the cost of the insurance coverage as state employees. The board may decide, upon consideration of financial hardship, to lower the amount of the required contribution for vendors and eligible blind persons. A vendor shall also have the option to purchase the same medical insurance coverage for eligible family members. The vendor shall reimburse the board for the full cost of such medical insurance for such family members.

(5) the board may purchase and provide life insurance coverage with a disability provision to vendors.

(Effective July 23, 1987; Amended March 7, 2011)

Sec. 10-303-13. Income incentive plan

(a) Annual Net Income Incentive Plan

The annual net income incentive standard for every facility shall be recommended by the operators committee and approved by the executive director and the agency board. The annual net income incentive standard shall be the same amount for every facility.

(b) Income Incentive Payment Plan

(1) When a facility's net income for the current year, as reported by the vendor on business reports approved by the agency, is one half or less than one half of the annual net income incentive standard, the vendor may request that the board pay the vendor an amount equal to the facility's net income for the current year.

(2) When a facility's net income for the current year, as reported by the vendor on business reports approved by the agency, is less than the annual net income incentive standard but greater than one half of the annual net income incentive standard, the vendor may request that the board pay the vendor an amount equal to the difference between the annual net income incentive standard and the facility's net income for the current year.

(3) Incentive payments to vendors under the provisions of this section shall be made semi-annually. The first payment shall be made in October covering the first six months of that calendar year. The second payment shall be made in April of the succeeding year covering the second six months of the preceding calendar year.

(4) The amount of incentive payments granted under this section shall be adjusted on a semi-annual basis according to the facility's performance as presented in the business reports covering the previous six months.

(5) In no event shall total incentive payments for an income year to a vendor by the agency under this section be greater than that facility's net income for that year and in no event shall the total of a facility's net income for a year and incentive payments for that income year to a vendor by the agency under this section exceed the annual net income incentive standard.

(6) Payment by the board under this section shall be contingent upon:

(A) compliance by the vendor with all terms and conditions of the vending facility operating agreement;

(B) provision by the agency and acceptance by the vendor of management services and supervisor assistance to improve operation of the facility;

(C) the efficient operation of the facility by the vendor; and

(D) the vendor's provision to the agency of full access to all of the vendor's financial records regarding operation of the facility.

(7) Payments made under this section are attached to the facility, not to the vendor. Therefore, if a vendor who receives a payment under this section ceases to operate a facility for which a payment was granted, then a new vendor for that facility can request that the agency continue payment to him or her, on a prorated basis, in the same amount and under the same terms as were offered to the previous vendor.

(8) A vendor may receive payments under this section for the operation of only one

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facility, regardless of the number of facilities operated. The income of any satellite or other facility shall be considered when computing whether payments should be paid under this section, unless the vendor, for the benefit of operational continuity for the program and at the request of the agency, temporarily assumes the operation of an additional facility or facilities. In such cases, the profit from such satellite operation(s) shall not be considered when computing whether a payment should be made under this section for the operation of the primary facility.

(Effective July 23, 1987; Amended March 7, 2011)

Sec. 10-303-14. Explanation of rights and responsibilities

(a) Documents

The division of industries shall furnish each vendor with copies of documents relevant to the operation of an assigned vending facility including the following:

- (1) the regulations of the vending facility program;
- (2) a written description of the arrangements for providing services;
- (3) the vending facility operating agreement;
- (4) the license to operate a vending facility in Connecticut.

(b) Procedures for Explanation

Each vendor to be licensed in the future shall receive as part of his vending facility training, full information as to the provisions contained in these regulations.

(Effective July 23, 1987)

Sec. 10-303-15. Supervision and management services

The board, through its supervisory staff, shall provide each vendor with management services, including assistance, advice and supervision necessary for the efficient operation of the facility.

(Effective July 23, 1987)

Sec. 10-303-16. Access to program and financial information

Each vendor shall be provided with access to all program and financial data of the board relative to the operation of the vending facility program, including quarterly and annual reports, except when such disclosure will be in violation of applicable federal or state laws pertaining to the disclosure of confidential information.

(a) insofar as is practicable such data shall be made available in braille or recorded type; and

(b) at the request of the vendor the board will arrange for a review of such program and financial information by the vendor.

Sec. 10-303-17. Establishment of new facilities and renovations

Planning for renovations and new facilities shall be conducted with the active

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participation of the operators committee and its designated subcommittee.

(Effective July 23, 1987)

Sec. 10-303-18. Permit to establish vending facilities on state property

This section of the regulations establishes the standards and procedures to be followed in developing and maintaining food service and vending facilities on state property:

(a) **Permit**

(1) At the request of the executive director or his designee, the authority in charge of any state property shall issue a permit to the board authorizing the board to establish and maintain a vending facility or vending machines on such property pursuant to Section 10-303 of CGS.

(2) Any such authority desiring to establish a vending facility or install a vending machine on state property shall give written notice to the executive director of such desire.

(A) Within thirty (30) calendar days of the receipt of such notice, the executive director or his designee, will check the location of the proposed vending facility for its potential value as a vending facility to be operated by a blind vendor and either:

(i) request such authority to issue a permit; or

(ii) send written notice to such authority of the decision not to request the issuance of a permit.

(B) In the event that the executive director or his designee fails to respond within thirty (30) calendar days or responds by notice to such authority of his decision not to request a permit, such authority may contract for other vending facility services provided that:

(i) upon termination of any such contract, no extension thereof nor new contract will be negotiated by such authority prior to its again complying with subsection 2 of this section of the regulations.

(b) **Agreement**

Upon issuance of such permit, a written agreement between the board and such authority will be prepared setting forth the terms and conditions governing the relationship between the parties including:

(1) the identification of the parties as the board and the authority in charge of such state property;

(2) a determination that the area is a satisfactory site as defined in these regulations and identifying the exact location of the vending facility, including:

(A) the agreed upon total square footage of the facility; and

(B) a working drawing of the floor plan.

(3) the type of facility to be operated;

(4) the type of articles to be sold and services to be provided by the vending facility;

(5) a listing of the fixtures and equipment for the facility, responsibility for the provision thereof and ownership;

(6) the location, type and number of vending machines which constitute all or part of the facility;

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- (7) issuance of the permit for an indefinite period of time subject to:
- (A) suspension or termination of the permit on the basis of noncompliance with the agreed upon terms; or
 - (B) in the case of property leased by the state, by expiration or termination of the term of the lease or any extension thereof.
- (8) a provision in the permit which specifies that:
- (A) no charge will be made to the board for normal cleaning, maintenance, and repair of the building structure in and adjacent to the vending facility area;
 - (B) any cleaning that is necessary for the sanitation, and the maintenance of vending facilities and vending machines in an orderly condition at all times and the installation, maintenance, repair, replacement, servicing, and removal of any vending facility equipment are to be without cost to the department or agency responsible for the maintenance of the state property; and
 - (C) the party responsible for preparation and readiness of the site to accept installation of the vending facility.
- (9) provision that articles sold at vending facilities in addition to those articles authorized by Section 10-303 of CGS, may include such articles or services as are determined by the division of industries, the vendor and authority in charge of the property, to be suitable for the particular location. Such articles or services may be:
- (A) dispensed automatically or manually; and
 - (B) prepared on or off the premises in accordance with health, sanitation and building codes and ordinances.
- (10) the installation, modification, relocation, removal and renovation of the vending facility will be subject to:
- (A) the prior approval and supervision of the on-site official responsible for the state property;
 - (B) the prior approval of the division of industries; and
 - (C) payment of costs of relocation of the vending facility to be made by the initiator of the request.

(Effective July 23, 1987)

Maintenance of Personal Data

Sec. 10-303-18–10-303-34. Transferred

Transferred to §§10-293-35–10a-293-51, July 28, 1988

Correlated Table

<i>Current Section Number</i>	<i>New Section Number</i>
10-303-18	10-293-35
10-303-19	10-293-36

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(Effective July 28, 1988)