

CHAPTER 97

**THE BUSINESS ENTERPRISE PROGRAM OF THE
NEW JERSEY COMMISSION FOR THE
BLIND AND VISUALLY IMPAIRED**

Authority

N.J.S.A. 30:1-12, 30:6-15.1 and 15.2, 20 U.S.C.
§§ 107 et seq., and 34 CFR 395.

Source and Effective Date

R.2004 d.277, effective June 24, 2004.
See: 36 N.J.R. 1702(a), 36 N.J.R. 3425(a).

Chapter Expiration Date

Chapter 97, The Business Enterprise Program of the New Jersey Commission for the Blind and Visually Impaired, expires on June 24, 2009.

Chapter Historical Note

Chapter 97, The Vending Facility Program of the New Jersey Commission for the Blind and Visually Impaired, was adopted and became effective prior to September 1, 1969.

Chapter 97, The Vending Facility Program of the New Jersey Commission for the Blind and Visually Impaired, was repealed and Chapter 97, The Business Enterprise Program of the New Jersey Commission for the Blind and Visually Impaired, was adopted as new rules by R.1984 d.149, effective April 16, 1984. See: 15 N.J.R. 2020(a), 16 N.J.R. 909(a).

Pursuant to Executive Order No. 66(1978), Chapter 97, The Business Enterprise Program of the New Jersey Commission for the Blind and Visually Impaired, was readopted as R.1989 d.249, effective May 15, 1989. See: 21 N.J.R. 424(a), 21 N.J.R. 1431(a).

Pursuant to Executive Order No. 66(1978), Chapter 97, The Business Enterprise Program of the New Jersey Commission for the Blind and Visually Impaired, was readopted as R.1994 d.209, effective April 5, 1994. See: 26 N.J.R. 725(b), 26 N.J.R. 1841(a).

Pursuant to Executive Order No. 66(1978), Chapter 97, The Business Enterprise Program of the New Jersey Commission for the Blind and Visually Impaired, was readopted as R.1999 d.101, effective March 1, 1999. See: 31 N.J.R. 21(a), 31 N.J.R. 873(b).

Chapter 97, The Business Enterprise Program of the New Jersey Commission for the Blind and Visually Impaired, was readopted as R.2004 d.277, effective June 24, 2004. See: Source and Effective Date. See, also, section annotations.

Cross References

See N.J.A.C. 10:91-4.4, Blind and visually impaired vending facility program.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:97-1.1 Legal authority

(a) This chapter is promulgated pursuant to authority of P.L. 74-732, as amended by P.L. 83-565 and P.L. 93-516; 34 CFR, part 395.

(b) N.J.S.A. 30:6-15.1 and N.J.S.A. 30:6-15.2.

10:97-1.2 Uniform applicability of chapter compliance with Federal standards

This chapter shall be deemed uniformly and impartially applicable to all persons and procedures and is in complete compliance with the laws of the State of New Jersey, the Randolph-Sheppard Act, Title VI of the Civil Rights Act of 1964, and the Rehabilitation Act of 1973, as amended.

10:97-1.3 Definitions

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

“Active participation” means the activity in which the Committee of Business Enterprise Operators provides meaningful input into the decision making process in the formulation of policies and standards that affect the Program.

“Approved training” refers to training that is set forth by the Business Enterprise Program, with the active participation by the Committee of Business Enterprise Operators.

“Blind person” means a person who, after examination by an ophthalmologist or by an optometrist, which ever such person shall select, has been determined to have:

1. Not more than 20/200 central visual acuity in the better eye with corrective lenses; or
2. An equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

“Business enterprise” means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters and such other appropriate equipment which may be operated by blind operators 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.

“Business Enterprise Program Fund, non-Federal” means funds which accrue to the Business Enterprise Program from all non-Federal sources.

“Certified for placement list” means a roster of blind persons who have successfully completed approved training for the Business Enterprise Program and are so certified by the Commission.

“Committee” means Committee of Business Enterprise Operators.

“Federal Set-Aside Funds” means funds which accrue to the Commission from any income from vending machines on Federal property.

“Full Evidentiary Hearing”: for purposes of this Code Full Evidentiary Hearing and Administrative Hearing are synonymous.

“License” means a written instrument issued by the State licensing agency to a blind person authorizing such person to operate a vending facility on Federal or other property.

“Licensee” means a blind operator who has been duly licensed by the Commission.

“Management services” means supervision, inspection, quality control, consultations, bookkeeping services, regulating, in-service training, and other related services provided on a systematic basis to support and improve business enterprises.

“Net profit or net proceeds” means the amount remaining from the sale of articles or services of business enterprises and any vending machine or other income accruing to operators after deducting the cost of such sale and other expenses.

“Operator” means a qualified blind person assigned by the Commission to operate a business enterprise on Federal or other property. An operator is not an employee of the State of New Jersey.

“Operating agreement” means the agreement which shall be entered into between the Commission and each operator, covering the basic terms and conditions required of each party for the operation of a specific business enterprise.

“Permit” means the agreement between the Commission and a department or agency in the control of the maintenance, operation and protection of Federal and non-Federal property whereby the Commission is authorized to establish a business enterprise.

“Property manager” means the official responsible for the property where the business enterprise is located.

“Revocation of license” means a termination of license for cause, after, if requested, a full evidentiary hearing.

“Secretary” means the Secretary of the United States Department of Education.