

ALABAMA BOARD OF REHABILITATION SERVICES

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Rehabilitation Services

RULE NO. & TITLE: Amend Rule No. 795-7-4-.01 Selection Process.

INTENDED ACTION: The ALABAMA BOARD OF REHABILITATION SERVICES proposes to amend rules and regulations.

SUBSTANCE OF PROPOSED ACTION: The amendment of this rule is authorized under the authority of ALA. CODE 1975 §21-9-1 *et seq.*, and the Alabama Board of Rehabilitation Services wishes to amend this rule so as to come in compliance with requirements for the program. This amended rule and regulation is issued under the authority of ALA.CODE 1975 §21-9-1 *et seq.* This rule covers specific requirements and procedures necessary for the proper administration of Alabama law. The amendment corrects grammatical errors and clarifies which applications will be considered. It also changes the terminology from BEP area to BEP region, clarifies duties of the selection committee, corrects spelling of the word ServSafe, clarifies the procedure for seniority for vendors leaving a facility due to medical reasons, sets the time frame for notification of selection committee decisions and applicants' response, and sets a new requirement for BEP representatives to verify the ability of applicants to meet financial obligations.

Copies of the proposed amended rule are available for inspection in the offices of the Board, 602 South Lawrence Street, Montgomery, Alabama 36104. Upon reasonable notice, persons requiring accommodation may obtain copies in large print, Braille or other media.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested persons may submit written comments, and if requested in advance may personally appear before the Alabama Board of Rehabilitation Services by submitting a request to appear, to:

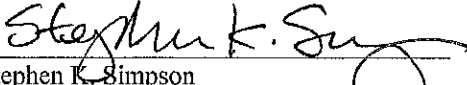
Stephen K. Simpson
602 South Lawrence Street
Montgomery, Alabama 36104
Telephone: (334) 293-7187

To be considered by the Board, written comments must be received in the office of the Board no later than two days before the next regularly scheduled Board meeting on March 3, 2017, to wit: not later than March 1, 2017. Persons desiring to orally express their views before the Board must first submit their comments in writing as stated above, and shall be limited to ten minutes per person.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: March 1, 2017.

CONTACT PERSON AT AGENCY:

Stephen K. Simpson
602 South Lawrence Street
Montgomery, Alabama 36104
Telephone: (334) 293-7187



Stephen K. Simpson
Alabama Board of Rehabilitation Services

**ALABAMA DEPARTMENT OF REHABILITATION SERVICES
BUSINESS ENTERPRISE PROGRAM**

**CHAPTER 795-7-4
ASSIGNMENT OF VENDORS**

TABLE OF CONTENTS

795-7-4-.01 Selection Process
795-7-4-.02 Facility Announcement
795-7-4-.03 Standards of Performance

795-7-4-.01 Selection Process.

(1) Individuals will be selected to operate a facility from those who are licensed on or before the closing date of applications as determined by the facility announcement.

(2) Applications will not be considered for individuals who at the time of the closing date on the Facility Announcement are:

- (a) not in compliance with any rule or regulation of BEP;
- (b) on probationary status having actively operated his/her permanent facility for a period of less than 180 days;
- (c) delinquent in payments to the SLA, set-aside and/or escrow fund;
- (d) delinquent in filing a timely and complete application with the SLA;
- (e) delinquent in filing timely and complete BEP-1E financial reports with the SLA;
- (f) ~~who are~~ vendors not current with payments for liability insurance coverage; or
- (g) who average less than 75 percent on his/her performance appraisal or averages less than 75 percent on his/her total average for the two most recent performance appraisals used in the selection process.

(3) Selection procedures:

(a) The SLA will notify all vendors and licensees of all available facilities through a facility announcement in an accessible format (i.e., Braille, large print,

diskette).

(b) The selection committee will consist of one representative from the SLA and two members of the Elected Committee of Blind Vendors. The SLA will select the two-elected committee members. Should a selected committee member not be available, their alternate may serve on a selection committee. Meetings for selection purposes shall be timely and scheduled in advance when possible. If possible, no elected or alternate committee members shall serve on a selection committee that involves an available facility or applicant from their respective BEP area region. A vendor serving on a selection committee shall receive travel and per diem consistent with department regulations and a \$50 per day income replacement fee paid from the set-aside fund.

(c) Elected and/or alternate committee members, serving as selection committee members, shall review their relationship to the selection being considered so as to prohibit a conflict of interest.

(d) For selection purposes: BEP facilities classified as "Vending Machine Facility", "Vending Machine Route" or as "Highway Vending" will require the selection committee to evaluate each qualifying applicant based on the following criteria:

1. Licensed on or before the closing date to receive applications
2. In compliance with items (1) through (8) found in 795-7-4-.01(2) By the closing date of applications as determined by the facility announcement.
3. Successful completion of training from the E. H. Gentry Technical Facility, and
4. The average of the applicants two most recent vendor performance appraisal scores, and
5. Seniority point(s), and
6. Displacement points.

(e) For BEP facilities classified as a Limited Food Preparation Facility or as a Snack Bar Facility the selection committee shall evaluate each applicant based on criteria (1) through (6) in section (d) above and in addition the applicant shall have successfully completed training in Safe Food Preparation as demonstrated by submitting a currently approved ~~Serve-Safe~~ ServSafe Food Certificate.

(f) For BEP facilities classified as cafeterias the selection committee shall evaluate each applicant based on criteria (1) through (6) in Section (d) above and in addition, the applicant shall have successfully completed training in Safe Food Preparation as demonstrated by submitting a currently approved ~~Serve-Safe~~ ServSafe Food Certificate.

(g) For BEP facilities classified as "Other", the selection committee shall evaluate each applicant based on criteria (1) through (6) in Section (d) above and in addition, the applicant shall meet the additional requirements posted in the Facility Announcement, if any.

(h) Performance appraisals completed prior to the advertised facility date shall be assigned a point value for performance as follows: An applicant may receive a maximum of 100 points based on scores received on his/her performance appraisals. The BEP representative in whose area region an applicant is located will submit to the SLA for selection purposes the applicant's two most recent performance appraisals.

(i) The selection committee shall review the two most recent performance appraisal scores. If a vendor has not participated as a permanent vendor for a sufficient period to receive two performance appraisals, then his/her most recent appraisal shall be used to derive one score for selection purposes.

(j) For those vendors who have participated in BEP for sufficient time to receive two performance appraisals, the selection committee shall add the two most recent scores and divide by two to derive the average score.

(k) A point value shall be assigned for seniority as follows:

1. One seniority point shall be awarded for each full year the applicant has been a permanently assigned vendor operating a facility. Seniority points shall accrue and be determined from the date the applicant began the operation of a facility as a permanent vendor.

2. A vendor who transfers from one facility to another does not lose seniority.

3. A vendor who leaves a facility ~~for~~ due to documented medical reasons will ~~continue to accrue seniority for a period not to exceed two years from the date medical leave began~~ have their seniority frozen until the first day of business at a permanent facility after they receive a doctor's medical release. A vendor's performance appraisal form shall be completed at the time of such medical leave, retained on file, and utilized should the vendor subsequently apply for an available facility.

4. A vendor who is involuntarily removed from his/her facility as a result of demand by the grantor shall have the merits of the action reviewed in accordance with 795-7-10-.05(2) and (3). The review shall be conducted jointly by the SLA and the Elected Committee consisting of BEP director, assistant director, Elected Committee chairperson, and two members of the BEP Rules Committee. Should the review conclude that the vendor's action would not be programmatic grounds for removal, his/her seniority points shall be recorded upon date of removal and utilized for selection purposes. Accumulation of seniority shall cease until the vendor's first business day in a subsequent permanent facility at which time seniority will be retroactively reinstated.

(l) Displacement points are awarded to a vendor who loses his/her facility through no fault of his/her own. Displaced vendors shall be awarded three displacement points for selection purposes; points must be used within a two-year period after displacement. A vendor may be placed in one facility based on displacement points. A vendor shall not be awarded displacement points if the loss of the facility is a direct result of his or her conduct. The displaced vendor will continue to accrue seniority for a period not to exceed two years.

(m) In the event that no vendor applies or is qualified for an advertised facility, the qualified licensee applicant with the earliest training completion date shall be offered the location. If this individual declines, each licensee applicant shall be notified according to his/her earliest training completion date until someone accepts the facility. In the event no one accepts the advertised facility, it may be considered for temporary assignment and reviewed.

(n) All personal information made available to the committee in the course of the selection process shall be confidential. Under no circumstances shall selection committee members release such information to any individual, agency, or organization. Selection committee members or BEP state office representatives shall not discuss the prospects of an applicant being selected prior to the selection committee meeting.

(o) The BEP director and ADRS commissioner shall review the work of the selection committee prior to notifying applicants of the decision.

(p) Applicants shall be notified, in writing, within ~~ten calendar~~ five (5) business days of the selection committee's decision. The individual selected must respond, in writing, to the BEP director indicating acceptance or rejection of the facility within ~~ten calendar~~ five (5) business days of the date of receipt of his/her selection notification letter. Failure to respond within the prescribed time frame will be considered a rejection. Before an applicant is offered a new facility, said applicant must demonstrate the ability to meet the financial obligations of their current facility to the satisfaction of their representative. The representative will send a letter of verification to the selection committee stating the vendor is able to meet the financial obligation of their current facility.

(q) Applicants accepting a facility shall complete a final inventory and forfeit any agreement to operate as well as any right of possession, control, privilege, priority, or advantage over his/her current facility.

(r) A vendor selected for a facility shall return all purchased stocks, supplies, or cash equivalent, and equipment to the SLA within 30 days of receiving his/her exit inventory. In some cases, a vendor may be required to continue operating his/her current facility. Such operations shall be considered a temporary facility.

(s) The SLA shall execute an operating agreement with the vendor upon

completion of the beginning inventory for the new facility.

(t) The expense of moving personal and household items due to the acceptance of a facility by a vendor or licensee shall be his/her sole responsibility and expense.

Author: Alabama Board of Rehabilitation Services, Alabama Elected Committee of Blind Vendors.

Statutory Authority: Alabama Code 1975 §§ 21-1-40 and 21-9-9; 20 U. S. C. § 107 et. seq.

History: **New Rule:** Filed March 9, 2004; effective April 13, 2004; **Amendment:** Filed December 16, 2016.