

CHAPTER 348
VOCATIONAL REHABILITATION

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" **§348-1 State vocational rehabilitation; policy and scope.**

(a) Vocational rehabilitation services shall be provided to handicapped individuals throughout the State in accordance with this chapter and within the limits of available federal, state, and private funds. The vocational rehabilitation plan, formulated in conformance with the Federal Vocational Rehabilitation Act, as amended, and adopted pursuant to this chapter, shall be in effect in all political subdivisions of the State.

(b) The acceptance of federal funds, donations, grants-in-aid, and outright grants, for use in carrying out the purposes of this chapter, is authorized, provided restrictions imposed by the donor are not inconsistent with this chapter. [L 1955, c 231, pt of §2; RL 1955, §42-30; HRS §348-1; am L 1969, c 53, §1; am L 1979, c 188, §1(1)]

Cross References

Administration of vocational rehabilitation, see §26-14.
Regulation of occupational therapy practice, see chapter 457G.

" **§348-2 Definitions.** For the purposes of this chapter:

"Department" means the department of human services.

"Director" means the director of human services.

"Eligible handicapped individual", when used with respect to diagnostic and related services, training, guidance, and placement, means any handicapped individual whose vocational rehabilitation is determined feasible by the department of human services, and when used with respect to other vocational rehabilitation services, means an individual meeting the foregoing requirements who is also found by the department to require financial assistance with respect thereto, after full consideration of the individual's financial resources, or in the instance of minors the financial resources of the parents, and eligibility for any similar benefit by way of pension, compensation, insurance, or of any other available assistance.

"Establishment of a workshop or rehabilitation facility" means:

- (1) In the case of a workshop, the expansion, remodeling, or alteration of existing buildings, necessary to adapt the buildings to workshop purposes or to increase the employment opportunities in workshops, and the acquisition of initial equipment necessary for new workshops or to increase the employment opportunities in workshops; and
- (2) In the case of a rehabilitation facility, the expansion, remodeling, or alteration of existing

buildings, and initial equipment of those buildings, necessary to adapt the buildings to rehabilitation facility purposes (subject, however, to limitations that the director of human services may by rules prescribe in order to prevent impairment of the objectives of, or duplication of, other federal laws providing federal assistance to states in the construction of those facilities), and initial staffing thereof.

"Handicapped individual" means an individual who is under a physical or mental disability that is stable or slowly progressive and constitutes a substantial handicap to employment, but that is of such a nature that appropriate vocational rehabilitation services may reasonably be expected to render the individual able to engage in a remunerative occupation.

"Health maintenance" means payments for medical care for acute conditions occurring in the course of vocational rehabilitation that are not expected to last thirty days.

"Maintenance" means payments, not exceeding the cost of subsistence, provided an eligible handicapped individual necessary to derive the benefit of other vocational rehabilitation services being provided to achieve the individual's vocational rehabilitation objective.

"Nonprofit", when used with respect to a rehabilitation facility or a workshop, means a rehabilitation facility and a workshop, respectively, owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c) of the Internal Revenue Code.

"Physical restoration" includes:

- (1) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such a nature that the correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time; and includes psychiatric treatment, dentistry, physical therapy, occupational therapy, speech or hearing therapy, treatment of medical complications, and emergencies that are associated with or arise out of physical restoration services or are inherent in the condition under treatment, and other medical services related to rehabilitation;

- (2) Necessary hospitalization (either inpatient or outpatient[]) and nursing care in connection with surgery or treatment specified in paragraph (1); and
- (3) Prosthetic devices essential to obtaining or retaining employment.

"Prosthetic appliance" means any appliance designed to support or take the place of a part of the body, or to increase the acuity of a sensory organ.

"Rehabilitation facility" means a facility operated for the primary purpose of assisting in the rehabilitation of handicapped individuals:

- (1) That provides one or more of the following types of services:
 - (A) Testing, fitting, or training in the use of prosthetic devices;
 - (B) Prevocational or conditioning therapy;
 - (C) Physical or occupational therapy;
 - (D) Adjustment training; or
 - (E) Evaluation or control of special disabilities; or
- (2) Through which is provided an integrated program of medical, psychological, social, and vocational evaluation and services under competent professional supervision.

"Remunerative occupation" includes employment as an employee or self-employed, practice of a profession, homemaking, or farm and family work for which payment is in kind rather than cash, sheltered employment and home industry or other homebound work of a remunerative nature.

"Vocational rehabilitation" means making an individual able, or increasing the individual's ability to engage in, and placement in, a remunerative occupation through providing the individual needed vocational rehabilitation services.

"Vocational rehabilitation services" means:

- (1) Diagnostic and related services (including transportation) incidental to the determination of whether an individual is a handicapped individual, and if so, the individual's eligibility for, and the nature and scope of other vocational rehabilitation services to be provided; and
- (2) The following services provided to eligible handicapped individuals needing the services:
 - (A) Training;
 - (B) Guidance;
 - (C) Placement;
 - (D) Maintenance, not exceeding the estimated costs of subsistence during vocational rehabilitation;

- (E) Occupational licenses, tools, equipment, initial stocks, and supplies (including equipment and initial stocks and supplies for vending stands), books, and training materials;
- (F) Transportation (other than provided as diagnostic and related services);
- (G) Physical restoration;
- (H) Reader services for the blind;
- (I) Interpreter services for the deaf;
- (J) Telecommunications, sensory, or other technological aids and devices;
- (K) Services to family members;
- (L) Post employment services; and
- (M) Other goods and services which will benefit an individual's employability.

"Workshop" means a place where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing remunerative employment to severely handicapped individuals who cannot be readily absorbed in the competitive labor market. [L 1955, c 231, pt of §2; RL 1955, §42-31; am L Sp 1959 2d, c 1, §18; am L 1965, c 175, §§3, 40; HRS §348-2; am L 1970, c 105, §5; am L 1979, c 188, §1(2) and c 228, §3; am L 1980, c 116, §1; gen ch 1985; am L 1987, c 339, §4; am L 2016, c 55, §4]

" **§348-3 Functions of the department.** (a) Except as may be otherwise provided with respect to the blind, the department of human services shall be the state agency to supervise and administer the vocational rehabilitation services authorized by this chapter under the state plan formulated in conformance with the Federal Vocational Rehabilitation Act, as amended, except for that part as may be administered by a local agency of a political subdivision in the State, and the department of human services shall be the agency to supervise the local agency in the administration of that part.

(b) The director of human services shall prepare, conformable to this chapter, the regulations and the state plan of vocational rehabilitation, and from time to time prepare such changes as shall appear to be necessary or desirable.

(c) Within such limits and under such conditions as may be specified in appropriations therefor, the department may establish public and other nonprofit rehabilitation facilities and workshops.

(d) The department shall use available state appropriations and donations for initiating projects for research, demonstrations, training, and traineeships, and for planning for and initiating expansion of vocational

rehabilitation services under the state plan whenever federal funds are available for such purposes. [L 1955, c 231, pt of §2; RL 1955, §42-32; am L Sp 1959 2d, c 1, §18; HRS §348-3; am L 1969, c 53, §2; am L 1970, c 105, §5; am L 1979, c 188, §1(3); am L 1987, c 339, §4]

Cross References

Administration of vocational rehabilitation, see §26-14.
Rulemaking, see chapter 91.

" **§348-4 REPEALED.** L 1979, c 188, §1(4).

" **§348-5 Federal employees.** Rehabilitation services provided under the state plan shall be available to any civil employee of the United States disabled while in the performance of the employee's duty, on the same terms and conditions as apply to other persons. [L 1955, c 231, pt of §2; RL 1955, §42-34; HRS §348-5; gen ch 1985]

" **§348-6 Administrative personnel and administration.** (a) The department of human services may adopt and promulgate regulations with respect to methods of administration, use of medical and other records of individuals who have been provided vocational rehabilitation services, and the establishment and maintenance of personnel standards, including provisions relating to the tenure, appointment, and qualification of personnel, which shall govern with respect to such matters notwithstanding any other law.

(b) The department shall adopt and promulgate regulations respecting[:]

(1) The establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational rehabilitation services; and

(2) The order to be followed in selecting those to whom vocational rehabilitation services are to be provided in situations where such services cannot be provided all eligible handicapped people.

(c) The department may also promulgate regulations with regard to the use of professional personnel of the department in cooperation with the federal government for the purpose of surveying needs and implementing rehabilitation services in any of the federal government's political subdivisions or trust territories, when such actions or services involve no cost to the State. [L 1955, c 231, pt of §2; RL 1955, §42-35; am L Sp 1959 2d, c 1, §18; HRS §348-6; am L 1970, c 105, §5; am L 1979, c 188, §1(5); am L 1987, c 339, §4]

Revision Note

In subsection (b), (1) and (2) reformatted as paragraphs (1) and (2), and in paragraph (1), ending punctuation changed pursuant to §23G-15.

Cross References

Administration of vocational rehabilitation, see §26-14.

Personnel, see chapter 76.

Rulemaking, see chapter 91.

" **§348-7 Cooperative arrangements, etc.** Pursuant to the general policies of the department of human services, the department is authorized:

- (1) To cooperate with and utilize the services of the state agency administering the public assistance program, the Social Security Administration, and other federal, state, city and county, and local public agencies providing services relating to vocational rehabilitation, and with the state system of public employment offices in the State, and shall make maximum feasible utilization of the job placement and employment counseling services and other services and facilities of the offices;
- (2) To cooperate with political subdivisions and other public and nonprofit organizations and agencies, in their establishment of workshops and rehabilitation facilities and, to the extent feasible in providing vocational rehabilitation services, shall utilize all the facilities meeting the standards established by the department;
- (3) To enter into contractual arrangements with the Social Security Administration, with respect to certifications of disability and performance of other services, and with other authorized public agencies for performance of services related to vocational rehabilitation, for the agencies; and
- (4) To contract with schools, hospitals, and other agencies, and with doctors, nurses, technicians, and other persons, for training, physical restoration, transportation, and other vocational rehabilitation services. [L 1955, c 231, pt of §2; RL 1955, §42-36; am L Sp 1959 2d, c 1, §18; HRS §348-7; am L 1970, c 105, §5; am L 1987, c 339, §4; am L 2015, c 35, §10]

Cross References

Administration of vocational rehabilitation, see §26-14.

" **§348-8 State rehabilitation council.** (a) There is established within the department a state rehabilitation council. The council shall consist of twenty-one members appointed by the governor as provided in section 26-34 and without regard to section 78-4. The members shall include:

- (1) At least one representative of a parent training and information center;
- (2) At least one representative of the client assistance program;
- (3) At least one qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member if employed by the vocational rehabilitation division of the department;
- (4) At least one representative of community rehabilitation program service providers;
- (5) Four representatives of business, industry, and labor;
- (6) Representatives of disability advocacy groups representing a cross section of individuals with physical, cognitive, sensory, and mental disabilities, and parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;
- (7) Current or former applicants for or recipients of vocational rehabilitation services;
- (8) At least one representative of the state educational agency responsible for the public education of students with disabilities;
- (9) At least one representative of the state workforce development council; and
- (10) The administrator of the vocational rehabilitation division of the department, who shall be an ex officio, nonvoting member;

provided that the council shall include at least one member from each county; and provided further that a majority of the council members shall be persons who have disabilities and are not employed by the vocational rehabilitation division of the department. The council members shall elect a chairperson from the membership. Each member of the council shall serve a three-year term but may not serve more than two consecutive full terms. Any vacancy occurring in the council membership shall be

filled in the same manner as the original appointment, except that the governor may delegate the authority to fill such a vacancy to the remaining members of the council after making the original appointment.

(b) The council members shall serve without compensation but shall be reimbursed for reasonable expenses, including travel expenses, necessary for the performance of their duties.

(c) The council, after consulting with the state workforce development council, shall advise the vocational rehabilitation division of the department on eligibility, order of selection, extent, scope, and effectiveness of services provided, and performance of state agencies that affect or that potentially affect the ability of individuals with disabilities in achieving employment outcomes. The council shall develop, agree to, and review state goals and priorities, advise the vocational rehabilitation division of the department regarding authorized activities, and assist in the preparation of the state plan and amendments to the plan, applications, reports, needs assessment, and evaluations. The council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the performance by the vocational rehabilitation division of the department, vocational rehabilitation services provided by state agencies, and other public and private entities, and employment outcomes achieved by eligible individuals receiving services, including the availability of health and other employment benefits in connection with employment outcomes. The council shall prepare and submit an annual report to the governor on the status of vocational rehabilitation programs within the State and make the report available to the public.

(d) The council shall coordinate with other councils within the State including the state council on developmental disabilities, the state council on mental health, the advisory panel of individuals with disabilities in education, and the state workforce development council. The council shall establish working relationships between the vocational rehabilitation division of the department and other councils and coordinate other functions as deemed appropriate under federal law.

(e) If there is a disagreement between the council and the vocational rehabilitation division of the department, the disagreement shall be resolved by the governor. [L 1993, c 197, pt of §1; am L 1994, c 126, §§1, 2; am L 1999, c 154, §1; am L 2000, c 4, §3; am L 2001, c 175, §8; am L 2010, c 4, §5]

" **§348-9 REPEALED.** L 2009, c 97, §2.