

Dear Senators MORTIMER, Thayn, Buckner-Webb, and  
Representatives HARTGEN, Anderson, King:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Vocational Rehabilitation:

IDAPA 47.01.01 - Rules of the Idaho Division of Vocational Rehabilitation - Proposed Rule (Docket  
No. 47-0101-1601);

IDAPA 47.01.02 - Rules and Minimum Standards Governing Extended Employment Services -  
Proposed Rule (Docket No. 47-0102-1601).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/24/2016. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/22/2016.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Education Committee and the House Commerce & Human Resources Committee

**FROM:** Division Manager - Mike Nugent

**DATE:** October 04, 2016

**SUBJECT:** Vocational Rehabilitation

IDAPA 47.01.01 - Rules of the Idaho Division of Vocational Rehabilitation - Proposed Rule (Docket No. 47-0101-1601)

IDAPA 47.01.02 - Rules and Minimum Standards Governing Extended Employment Services - Proposed Rule (Docket No. 47-0102-1601)

The Division of Vocational Rehabilitation is proposing two separate rule changes that were both the subject of negotiated rulemaking. The first proposed rule relates to the Division's field service policy manual which had incorporated by reference federal statutes and regulations and when the statutes and regulations there was a necessity to update the rules with the new citations. Also these proposed rules are making definitional changes, determination of significance of disability changes and procedures within the agency mostly in compliance with the federal changes. The second set of proposed rules relates to the extended employment services program which is a program within the Division of Vocational Rehabilitation and would provide that the program is separate from federal programs managed by the Division. The rules also revises references, provider qualifications and the referral process. Also the program year is changed to be more closely aligned to the state fiscal year. One picky comment we would make is that in subpart 03(b) of rule 500 the term "CSE" might be defined or referenced. The term is a term of art and means community supported employment and is a Medicaid home and community based waiver service that was part of a relative recent federal district court decision. It just seems to us that upon final adoption the agency could make the appropriate reference for that term.

Other than this one comment, we do not have any substantive, procedural or technical problems with either set of proposed rules.

cc: Vocational Rehabilitation  
Tracie Bent

# IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

## 47.01.01 - RULES OF THE IDAHO DIVISION OF VOCATIONAL REHABILITATION

DOCKET NO. 47-0101-1601

### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 33-2211, and 33-2301, Idaho Code, and the Rehabilitation Act of 1973 and all subsequent amendments.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Idaho Division of Vocational Rehabilitation (IDVR) Field Services Policy Manual contains internal processes to IDVR as well as eligibility and program requirements for the people and agencies IDVR serves. Currently this manual is incorporated by reference into Idaho Administrative Code, IDAPA 47.01.01. When a document is incorporated by reference into administrative rule it has the force and effect of law and can only be changed through the rulemaking process. Proposed amendments update reference to governing federal regulation by replacing the Workforce Investment Act with the Workforce Innovation and Opportunity Act, to update the Order of Selection Process to current standards in compliance with federal regulations, and updates the Field Services Policy Manual with the amendments approved by the State Board of Education on August 11, 2016. Amendments to the Field Services Policy Manual included technical corrections, removal of outdated references, updates of definitions or new definitions in compliance with federal regulations, clarification to review and assessment data used for eligibility determinations, determination of significance of disability, and the removal of process internal to the agency.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 1, 2016 Idaho Administrative Bulletin, [Vol. 16-6, pages 57](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26th, 2016.

DATED this 26th day of August, 2016

Tracie Bent, Chief Planning and Policy Officer  
Office of the State Board of Education  
Tel: (208)332-1582 / Fax: (208)334-2632

650 W. State Street  
P.O. Box 83720  
Boise, ID 83720-0037

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 47-0101-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 47.01.01, "Rules of the Idaho Division of Vocational Rehabilitation." (5-3-03)

**02. Scope.** The chapter has the following scope: To streamline the existing rules and to implement program changes necessitated by the ~~1998 Amendments of the~~ Rehabilitation Act of 1973, as amended. ~~(4-5-00)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. INCORPORATION BY REFERENCE.**

**01. General.** Unless provided otherwise, any reference in these rules to any document identified in Subsection 004 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (3-30-01)

**02. Documents Incorporated by Reference.** The following documents are incorporated by reference into these rules: (3-30-01)

**a.** All federal publications through the Rehabilitation Services Administration. (2-17-09)

**b.** Idaho Division of Vocational Rehabilitation Field Services Policy Manual, approved August 13, 2015, available for review on the website at <http://www.vr.idaho.gov/>. ~~(3-25-16)~~( )

**c.** Workforce ~~Investment~~ Innovation and Opportunity Act (WIOA), Public Law ~~105-220~~ 113-128. ~~(5-3-03)~~( )

**d.** Federal Register, Department of Education, 34 CFR Parts ~~361-~~ 363, and 397. ~~(2-17-09)~~( )

**e.** The Rehabilitation Act of 1973, as amended. (2-17-09)

**03. Availability of Reference Material.** Copies of the documents incorporated by reference into these rules are available at the Central Office, Idaho Division of Vocational Rehabilitation, 650 W. State Street, Room 150, Boise, Idaho 83720, (208) 334-3390 or through access to the internet URL addresses outlined in Subsection 004.02. (2-17-09)

**005. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Authorization ~~to~~ for Purchase.** A purchase order issued on behalf of the Division. ~~(5-3-03)~~( )

**02. CFR.** Code of Federal Regulations. (7-1-93)

- 03. Customer.** Any individual who has applied for or is eligible for Vocational Rehabilitation services. (7-1-13)
- 04. Designated State Agency.** The Idaho State Board of Education. (5-3-03)
- 05. Designated State Unit.** The Idaho Division of Vocational Rehabilitation. (7-1-93)
- 06. IDVR.** The Idaho Division of Vocational Rehabilitation. (4-5-00)
- 07. IPE.** Individualized Plan for Employment. (4-5-00)
- 08. Most Significant Disability (MSD).** Meets the criteria as Significant Disability as found in the Rehabilitation Act of 1973, as amended, and defined in 34CFR Part 361.5 (b) 30 and is further defined as: (2-17-09)
- a.** Having a severe physical, mental, cognitive or sensory impairment which seriously limits three (3) or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance or work skills) in terms of an employment outcome; and (7-1-13)
- b.** Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time. (3-20-04)
- 09. Method of Written Notification.** The written notification of findings and conclusions arising from an Informal Dispute Resolution, Mediation, or Fair Hearing, shall be served to the customer via the U.S. Postal Service. (7-1-13)( )
- 10. PM.** Policy Memorandum. (5-3-03)
- 11. RSA.** Rehabilitation Services Administration, U.S. Department of Education. (5-3-03)
- 12. State Administrator.** The Chief Executive Officer of the Idaho Division of Vocational Rehabilitation. (4-5-00)
- 13. VRC.** Vocational Rehabilitation Counselor. (5-3-03)
- 011. -- 099. (RESERVED)**

**100. CUSTOMER APPEALS.**

In accordance with 34 CFR Part 361.57, the customer appeals process is governed by Section 100 through 103 of these rules and is outlined in the Division's agency Field Services Policy Manual on the website at <http://www.vr.idaho.gov/> that is incorporated by reference into these rules in Subsection 004.02.b. (7-1-13)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. ORDER OF SELECTION.**

~~The following order of selection will be used if the Idaho Division of Vocational Rehabilitation finds that it cannot serve all eligible customers due to a lack of either personnel and/or financial resources. The priority listings progress downward with priority one (Priority Number 1) being the most restrictive and priority four (Priority Number 4) being the least restrictive.~~ (7-1-13)

**01. Order of Selection.** In the event that the Division of Vocational Rehabilitation lacks the personnel or financial resources, or both, to provide the full range of vocational rehabilitation services to all eligible individuals, the following Order of Selection (OOS) will be used to prioritize service provision. ( )

a. Students with disabilities (as defined by 34 CFR 361.5(c)(51)) who received pre-employment transition services prior to eligibility determination and assignment to a priority category shall continue to receive

such services. ( )

b. All customers who have an Individualized Plan for Employment (IPE) will continue to be served. ( )

**02. Priority Status.** Priority will be given to eligible individuals with the most significant disabilities, followed by those eligible individuals with significant disabilities, and finally those eligible individuals with disabilities. All eligible customers will be assigned to one (1) of the following priority categories: ( )

~~01a.~~ Priority **Number 1.** ~~At the time that a decision to move to an order of selection is made, it is determined that only those consumers who already have an existing individualized plan for employment (IPE) will continue to be served~~ Eligible individuals with the Most Significant Disabilities (MSD). (5-3-03)( )

~~02b.~~ Priority **Number 2.** ~~At the time that a decision to move to an order of selection is made, it is determined that only those customers in Priority Number 1 above and current and future, otherwise eligible, customers rated to this or a more restrictive priority can be served. Customers meeting this priority rating are those customers with most significant disabilities~~ Eligible individuals with Significant Disabilities (SD). (7-1-13)( )

~~03c.~~ Priority **Number 3.** ~~At the time that a decision to move to an order of selection is made, it is determined that only those customers in Priorities Numbers 1 and 2 above and current and future, otherwise eligible, customers rated to this or a more restrictive priority can be served. Customers meeting this priority rating are those customers with significant disabilities~~ All other eligible individuals with Disabilities (D).

**03. When Unable to Serve Eligible Individuals.** If the Idaho Division of Vocational Rehabilitation cannot serve all eligible individuals within a given priority category, individuals will be released from the statewide waitlist based on priority category and date of application. (7-1-13)( )

~~04. Priority Number 4.~~ ~~All eligible customers for Vocational Rehabilitation services (no order of selection in place).~~ (7-1-13)

201. -- 299. (RESERVED)

### 300. CUSTOMER SERVICES.

**01. Provision of Purchased Services Contingent Upon Financial Need of the Customer.** The Idaho Division of Vocational Rehabilitation will apply a financial needs assessment. Financial need will not be a consideration in the determination of eligibility for Vocational Rehabilitation, but will be a consideration in allocating the cost of VR services, with some exceptions. (7-1-13)

**02. Authorization ~~to~~ for Purchase.** The Division requires that when purchasing services from a vendor, an authorization must be issued prior to, or on, the beginning date of service. If services are provided without a Division approved authorization ~~to~~ for purchase, the Division reserves the right to not honor the vendor's invoice. (5-3-03)( )

**03. General Provisions.** Idaho Division of Vocational Rehabilitation will only pay for services that contribute to the determination of eligibility or to achieve an employment outcome. (3-20-04)

**04. Residency Requirement.** There is no duration of residency requirement. The customer must be living in the state of Idaho and legally be able to work within the United States (i.e., non U.S. citizens must show they are legally able to work within the United States). (7-1-13)( )

**05. Provision of ~~CRP~~ (Community Rehabilitation Program) (CRP) Services.** ~~IDVR~~ Idaho Division of Vocational Rehabilitation will purchase vocational services from CRPs that are accredited by either Commission Accreditation Rehabilitation Facilities (CARF), the Rehabilitation Accreditation Commission, or Rehabilitation Services Accreditation System (RSAS). In conjunction with the customer, the qualified professional Vocational Rehabilitation Counselor, will determine which CRP Services, if any, are required for the customer to achieve an employment outcome. (7-1-13)( )

## **INCORPORATION BY REFERENCE SYNOPSIS**

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

### ***IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION***

#### ***47.01.01 - RULES OF THE IDAHO DIVISION OF VOCATIONAL REHABILITATION***

##### ***Proposed Rulemaking - Docket No. 47-0101-1601***

Amendments to the Field Services Policy Manual included technical corrections, removal of outdated references, updates of definitions or new definitions in compliance with federal regulations, clarification to review and assessment data used for eligibility determinations, determination of significance of disability, and the removal of process internal to the agency.

Substantive amendments include the amendment to, or the addition of, definitions to bring them into compliance with changes to federal regulations enacted through the Workforce Innovation and Opportunity Act.

In Section 1, the definition of Competitive Integrated Employment have been amended by adding more specificity, while the expanded definition fits within the previous definition, it now provides additionally specificity on how the definition applies to individuals that are self-employed and the requirement that the employment be integrated with other employees within the work unit. A definition has been added for Customized Employment and Extended Employment. Customized employment is competitive integrated employment based on individualized determination of the unique strengths, needs, and interests of the individual. Extended Employment is work in a non-integrated or sheltered setting. The definition of Integrated Setting has been amended to add additional specificity regarding employment outcomes. The definition of Pre-employment Transition Services has been moved so that the definitions are in alphabetical order.

In Section 6, priority categories have been numbered. And the category descriptions have been reordered and updated.

Finally, internal processes for agency staff regarding documentation for waiting lists have been removed from the manual.

## IDAPA 47 -- DIVISION OF VOCATIONAL REHABILITATION

### 47.01.02 -- RULES AND MINIMUM STANDARDS GOVERNING EXTENDED EMPLOYMENT SERVICES

DOCKET NO. 47-0102-1601

#### NOTICE OF RULEMAKING -- PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 33-2211 and 33-2303, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Extended Employment Services Program is a program housed within the Idaho Division of Vocational Rehabilitation (IDVR). Proposed amendments clarify that the Extended Employment Services are a specific program separate from federal programs managed by IDVR. Additional changes make technical corrections, update references, remove outdated language and update provider qualification and referral process to be in alignment with current best practices, and provide clarification of the "program year."

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 1, 2016 Idaho Administrative Bulletin, [Vol. 16-6, pages 58](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tracie Bent, Chief Planning and Policy Officer, at (208)332-1582 or [tracie.bent@osbe.idaho.gov](mailto:tracie.bent@osbe.idaho.gov).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26th, 2016.

DATED this 26th day of August, 2016

Tracie Bent, Chief Planning and Policy Officer  
Office of the State Board of Education  
650 W. State Street  
P.O. Box 83720  
Boise, ID 83720-0037  
Tel: (208)332-1582  
Fax: (208)334-2632



**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 47-0102-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**000. LEGAL AUTHORITY.**

The following rules and minimum standards for ~~e~~Extended ~~e~~Employment ~~s~~Services are made under sections 33-2211 and 33-2303, Idaho Code. (3-14-07)(    )

**001. TITLE AND SCOPE.**

**01. Title.** These rules govern the Extended Employment Services (**EES**) ~~P~~program of the Idaho Division of Vocation Rehabilitation (IDVR) and are to be cited as IDAPA 47.01.02, Idaho Division of Vocational Rehabilitation, "Rules and Minimum Standards Governing Extended Employment Services." (3-14-07)(    )

**02. Scope.** In accordance with Section 33-2203, Idaho Code, the Extended Employment Services ~~P~~program of IDVR provides **services** to eligible ~~Clients services customers~~ that are intended to increase opportunities for such ~~Clients customers~~ to work in their communities. ~~IDVR The Extended Employment Services (EES) program~~ will contract with providers that have been ~~certified by IDVR approved~~ to provide such services, as provided herein. (3-14-07)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**005. OFFICE INFORMATION.**

**01. Office Hours.** The ~~IDVR administrative~~ **Extended Employment Services** office is open from 8:00 am until 5:00 pm Monday through Friday. (3-14-07)(    )

**02. Mailing Address.** PO Box 83720, Boise, ID 83720-0096 (3-14-07)

**03. Street Address.** Len B. Jordan Building, 650 W State Street, Room 150, Boise, Idaho. (3-14-07)

**04. Telephone.** (208) 334-3390, Fax: (208) 334-5305 TDD: (208) 327-7040. (3-14-07)

**05. Internet website** at <http://www.vr.idaho.gov/>. (3-14-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

For the purpose of the rules contained in this chapter, the following terms and abbreviations are used as herein defined. (3-14-07)

**01. CAREF.** The Rehabilitation Accreditation Commission, an international accrediting body of employment services providers. ~~The internet website for CAREF is http://www.carf.org.~~ (3-14-07)(    )

**02. ~~Client Customer~~.** An individual residing in the state of Idaho who has applied for, and who is eligible to receive, ~~Extended Employment Services from IDVR EES~~. A ~~Client customer~~ must be at least ~~eighteen (18) years of age, unless such person is participating as part of a school work transition program, in which case such person must be at least~~ sixteen (16) years of age. (3-14-07)(    )

**03. Certified Extended Employment Services (**EES**) Provider.** A community rehabilitation program

services provider, sometimes referred to in these rules as a provider, that has been ~~certified~~ **approved** by ~~IDVR EES program~~ to provide ~~Extended Employment Services~~. (3-14-07)(    )

**04. Extended Employment Services (EES).** Long term maintenance services that assist ~~Clients customers~~ in maintaining employment, or in gaining employment skills in preparation for community employment, or which provide assistance to adult ~~Clients customers~~ with disabilities within an ~~industrial industry~~/business community setting or a community rehabilitation program, intended to maintain paid employment. Such services include individual supported employment, group ~~community-based non-integrated~~ supported employment, and work services. (3-14-07)(    )

**05. Individual Program Plan.** The ~~EES plan of Extended Employment Services~~ to be provided to individual ~~Clients customers~~. (3-14-07)(    )

**06. Idaho Division of Vocational Rehabilitation (IDVR).** The Idaho Division of Vocational Rehabilitation, a state agency under the Idaho State Board of Education, with administrative oversight of the ~~Extended Employment Services EES P~~ program. (3-14-07)(    )

**07. RSAS.** Rehabilitation Services Accreditation Systems, a national accrediting body of vocational services providers. ~~The internet website for RSAS is http://www.rsasnet.org.~~ (3-14-07)(    )

**011. -- 099. (RESERVED)**

**100. CERTIFICATION OF PROVIDERS PROGRAM YEAR.**

~~01. Certification Required.~~ A provider must apply for and receive certification from IDVR, as provided herein, to provide ~~Extended Employment Services to Clients.~~ Such certification shall be for only the ~~Extended Employment Services Program region in which such provider intends to provide services, and for which approval is granted by IDVR.~~ (3-14-07)

**021. Timeline Program Year and Application Submission Date.** For purposes of these rules, the ~~Extended Employment Services EES P~~ program fiscal year is ~~June July~~ 1 of a given year through ~~May 31~~ **June 30** of the next succeeding year. An ~~application for certification EES Provider Agreement~~ for a fiscal year must be submitted on or before the first business day of ~~April~~ **May** preceding the fiscal year for which ~~certification approval~~ is sought. ~~A written decision on certification status in regard to such application will be issued by IDVR on or before the first business day of May preceding such fiscal year. If approved by IDVR, certification status for a provider becomes effective on June 1, the first day of such fiscal year. An application that is denied may be reconsidered during the course of a fiscal year if there have been significant developments in a region that require IDVR to add a new or additional provider after June 1. In such event, IDVR will give preference to denied applications based on date of application.~~ (3-14-07)(    )

**03. Criteria.** IDVR will determine to grant or deny certification based on the following criteria: (3-14-07)

**a.** The provider must be accredited by CARF or RSAS; (3-14-07)

**b.** The provider must meet and maintain all the requirements for provider qualifications, specified in Section 300 of these rules; (3-14-07)

~~04. Grandfather Provision for Current Providers.~~ Upon the effective date of adoption of these rules, providers that have been paid by IDVR for ~~Extended Employment Services that were provided to Clients during the month of May, 2006, and which comply in all respects with Section 300 of these rules, shall be grandfathered and deemed to be certified to provide Extended Employment Services in the region(s) in which they have provided services during such month.~~ (3-14-07)

~~05. Duration.~~ Once certified, an ~~Extended Employment Service Provider (including a provider that is grandfathered under subsection 100.04.05 of these rules)~~ retains certified status unless or until the certification is terminated or revoked by IDVR. (3-14-07)

101. -- 199. (RESERVED)

200. EXTENDED EMPLOYMENT SERVICES PROVIDER AGREEMENT.

01. Standard Form. ( )

a. Prior to providing ~~Extended Employment Services~~, a ~~Certified Extended Employment Services Provider~~ shall enter into an annual ~~Extended Employment Services EES~~ Provider Agreement with ~~IDVR the EES program~~ which will specify the terms and conditions of the ~~appointment approval~~. Such agreement shall be on a standard form approved by ~~IDVR the EES program~~, after consultation with ~~Certified Extended Employment Services the EES Provider~~. Such ~~EES Provider Agreement~~ shall detail the provider requirements, services, scope of work, other special provisions, and fees. The EES program will make the EES Provider Agreement available the first business day of April. (3-14-07)( )

b. Approval to provide EES will be provided by the EES program on or before the first business day of June preceding such fiscal year. If approved by the EES program, a provider is eligible to deliver EES effective July 1, the first day of such fiscal year. An agreement that is denied may be reconsidered during the course of a fiscal year. The EES program has the discretion to add a new or additional providers after July 1, if there have been significant developments in a region that justify the need for new or additional providers. In such event, the EES program will give preference to denied applications based on date of application. ( )

02. **Annual Agreement.** This agreement must be signed prior to the beginning of the ~~Extended Employment Services EES~~ fiscal year by an authorized representative of the ~~Certified Extended Employment Services Provider~~ and the IDVR ~~State~~ ~~Administrator~~ or a designee. (3-14-07)( )

03. **Subject to Agreement Revision.** ~~This~~ agreement shall be entered into annually, and is subject to revision, as may be required by ~~IDVR the EES program~~. The EES program will provide providers notification of any changes to the agreement, with as much notification as possible. (3-14-07)( )

201. -- 299. (RESERVED)

300. PROVIDER QUALIFICATIONS.

An approved EES ~~Certified Extended Employment Services Provider~~ shall meet all of the following requirements: (3-14-07)( )

01. Experience. A new provider must have a minimum of three (3) full years of experience working with customers who are receiving Medicaid Waiver or must have worked with IDVR customers in employment services, or both. ( )

~~02.~~ **Accreditation.** Receive and maintain accreditation by CARF or RSAS. (3-14-07)

~~023.~~ **Staff.** All staff will meet the following requirements ~~assure that all its employees and subcontractors hired after August 10, 2006 who are providing Extended Employment Services:~~ (3-14-07)( )

a. Satisfactorily complete a criminal history background check, to be obtained by the provider; (3-14-07)

b. ~~Are not less than~~ Be eighteen (18) years of age and, if less than twenty-one (21) years of age, have not less than six (6) months experience with people with disabilities; (3-14-07)( )

c. Demonstrate the ability to deliver services as specified in the Individual Program Plan for each ~~Client~~ customer; and (3-14-07)( )

d. Document completion of not less than forty (40) hours of training directly related to vocational support for people with disabilities. Training must be documented no later than six (6) months from the date of hire and include all of the following topics: (3-14-07)

- i. Behavior technology, especially positive behavioral support; (3-14-07)
- ii. Instructional techniques; (3-14-07)
- iii. Strategies for dealing with aberrant or maladaptive behavior; (3-14-07)
- iv. Integration/normalization; (3-14-07)
- v. Functional impact of disabilities, particularly developmental disabilities and mental illness; ~~and~~ (3-14-07)( )
- vi. Strategies for remediation and accommodation. (3-14-07)
- vii. Ethics and confidentiality; ( )
- viii. The development and use of measurable objectives; and ( )
- ix. Overview of assistive technology. ( )

**301. -- 399. (RESERVED)**

**400. TERMINATION OR REVOCATION OF PROVIDER STATUS.**

~~IDVR~~ The EES program may terminate or revoke the certified approval status ~~of~~ and discontinue authorizing or purchasing services from ~~Certified~~ Extended Employment Services Providers for actions including, but not limited to, the following: (3-14-07)( )

- 01. Loss of Accreditation.** Failure to maintain accreditation from either CARF or RSAS; (3-14-07)
- 02. Out of Compliance.** The provider is determined by ~~IDVR~~ the EES program to be out of compliance with these rules or the ~~Extended Employment Services~~ EES Provider Agreement. (3-14-07)( )
- 03. Business Practices.** The provider is determined to be engaged in business practices that are inconsistent with sound fiscal practice; or (3-14-07)
- 04. ~~Client~~ Customer Rights.** The provider is determined to be in violation of ~~Client~~ a customer's rights. (3-14-07)( )

**401. -- 499. (RESERVED)**

**500. EXTENDED EMPLOYMENT SERVICES ~~CLIENTS~~ CUSTOMER —REFERRAL, ~~AND~~ ELIGIBILITY, AND CASE CLOSURE.**

**01. Referral.** Each applicant to be a ~~Client~~ customer for ~~Extended Employment Services~~ EES under these rules will be referred by a Vocational Rehabilitation Counselor, employed by IDVR, who will provide the applicant with information on the services available from ~~Certified Extended Employment Services~~ EES ~~Pr~~ providers. (3-14-07)( )

**02. Eligibility.** ~~Extended Employment Services Specialists at IDVR~~ The EES program will assess the eligibility of each applicant for ~~Extended Eligibility Services~~ services. Applicants who are eligible for and have access to other public funding sources for long term support services are not eligible for EES services. Eligible applicants must have a disability that falls into one (1) of four (4) categories described below, and such disability must constitute a barrier to such person maintaining paid employment without long term vocational support: (3-14-07)( )

- a. Developmental Disabilities.** Pursuant to Section 66-402, Idaho Code, a chronic disability of a person that appears before the age of twenty-two (22) years; and (3-14-07)

i. Is attributable to impairment, such as ~~mental retardation~~ intellectual disability, cerebral palsy, epilepsy, autism, or other condition found to be closely related to or similar to one (1) of those impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; ~~(3-14-07)~~ ( )

ii. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (3-14-07)

iii. Reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of life-long or extended duration and individually planned and coordinated. (3-14-07)

b. Mental Illness. A person has been assessed by a qualified professional and been diagnosed under DSM-IV or later editions with schizophrenia, schizoaffective disorder, major affective disorder, delusional disorder or a borderline personality disorder ~~and, in which~~ this psychiatric disorder must be of sufficient severity to cause a disturbance in role performance or coping skills in at least two (2) of these areas on either a continuous or an intermittent (at least once per year) basis: vocational/academic, financial, social/interpersonal, family, basic living skills, housing, community, or health. ~~(3-14-07)~~ ( )

c. Specific Learning Disability. A disorder in one (1) or more of the psychological processes involved in understanding, perceiving, or using language or concepts (spoken or written). A disorder which may manifest itself in problems related to speaking, reading, spelling, or mathematical calculations (or to a lesser extent, listening, thinking, or writing), and seriously limit two (2) or more functional capacities (mobility, communication, self-care, self-direction, work tolerance or work skills). (3-14-07)

d. Traumatic Brain Injury. A traumatically acquired insult to the brain that may cause physical, intellectual, emotional, social, and vocational changes. A closed head injury may be caused by a rapid acceleration/ deceleration, as in a motor vehicle accident. An open head injury is visible insult and may be the result of an accident, gun shot wound, or other physical injuries. Immediate effects are loss of consciousness, loss of memory, or change in vision, strength, coordination, or sensory function. Anatomical abnormalities may be present, such as cerebral hemorrhage or skull fracture. Long term effects may include physical, cognitive, and psycho-social-behavioral-emotional impairments. (3-14-07)

**03. Case Closure.** Cases will be closed from the EES program for the following reasons and will include documentation in the case record that supports such reason: ( )

- a. Unable to locate or contact customer;** ( )
- b. Customer is utilizing Medicaid Waiver services for CSE;** ( )
- c. Customer's disability too significant to benefit from services;** ( )
- d. Customer is non-compliant or has not followed through with EES services;** ( )
- e. Customer has retired from employment;** ( )
- f. Customer no longer interested in employment or receiving EES services;** ( )
- g. Customer no longer needs EES services;** ( )
- h. Customer has moved out of state; or** ( )
- i. All other appropriate reasons.** ( )

**501. -- 599. (RESERVED)**

**600. COVERED SERVICES.**

The Extended Employment Services that may be provided to *Clients customers* by *Certified Extended Employment Services P* providers are described below. *These services EES* typically follow the completion of other vocational rehabilitation services, such as vocational evaluation, job site development, and initial training at the job site. (3-14-07)( )

**01. Individual Community Supported Employment.** Self-employment or paid employment that is: (3-14-07)( )

**a.** For a *Client customer* paid not less than minimum wage and who, because of his or her disability(ies), needs ongoing support to maintain that employment; (3-14-07)( )

**b.** Conducted in a community or industry setting where persons without known paid work supports are employed; and (3-14-07)

**c.** Supported by authorized activities needed to sustain paid work by persons with disabilities, including but not limited to supervision, training, and transportation. (3-14-07)

**02. Group Community-Based Non-Integrated Supported Employment.** Self-employment or paid employment which is: (3-14-07)( )

**a.** For a group of no more than eight (8) *Clients customers* who are paid not less than minimum wage and who, because of their disability(ies), need ongoing support to maintain that employment; (3-14-07)( )

**b.** Conducted in a variety of community and industry settings where the *Clients customers* have opportunities to interact with co-workers or others without known paid work supports at least to the extent that those opportunities typically exist in that work setting; (3-14-07)( )

**c.** Supported by training and supervision needed to maintain that employment; and (3-14-07)

**d.** Not conducted in the work services area of an *Extended Employment Services EES P* provider. (3-14-07)( )

**03. Work Services.** The work services program utilizes individual and group work to assist individuals in understanding the value and demands of work, enhancing positive work attitudes, and developing functional capacities that will enhance the ability to achieve and maintain an employment outcome. Limited non-paid work related activities and transportation may be billed only when authorized on an Individual Program Plan. Work services are typically conducted on *Certified Extended Employment Services EES P* provider premises. (3-14-07)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**800. SERVICE PROVISION.**

**01. Services on Individual Program Plan.** *Extended Employment Services EES* for each individual *Client customer* must be based on the Individual Program Plan developed for such *Client customer*. (3-14-07)( )

**02. Development of Individual Program Plan.** Those involved in developing the Individual Program Plan must include, but are not limited to, the following: (3-14-07)

**a.** The *Client customer*. Efforts must be made to maximize the *Client customer*'s involvement in the planning process by providing him or her with information and education regarding rights, and available options; and (3-14-07)( )

**b.** The *Client customer*'s legal guardian, if one has been appointed by the court; and (3-14-07)( )

c. ~~Certified Extended Employment Services~~ **The EES P**provider program staff, responsible for the implementation of the Individual Program Plan. (3-14-07)(\_\_\_\_)

**03. Submission of the Individual Program Plan.** The Certified ~~Extended Employment Services~~ **EES P**provider must submit the Individual Program Plan to ~~an Extended Employment Services~~ **the EES P**program ~~Specialist~~ using the standard format provided or approved by ~~IDVR~~ **the EES program**. The ~~Extended Employment Services~~ **P**program ~~Specialist~~ will either accept the Individual Program Plan as submitted, or may require revisions to the Individual Program Plan before acceptance. (3-14-07)(\_\_\_\_)

**04. Timeline for Submission.** The Individual Program Plan must be submitted to ~~an Extended Employment Services~~ **the EES P**program ~~Specialist~~ within thirty (30) days from the beginning of the provision of ~~Extended Employment Services~~ **EES**. No payment will be made for ~~Extended Employment Services~~ **EES** without receipt of the Individual Program Plan covering those Extended Employment Services. (3-14-07)(\_\_\_\_)

**05. Revision.** The ~~certified Extended Employment Services~~ **EES P**provider must submit an updated Individual Program Plan for each ~~Client~~ **customer** to ~~an Extended Employment Services~~ **the EES P**program ~~Specialist~~ at least annually. (3-14-07)(\_\_\_\_)

**06. Progress Reports.** The ~~Certified Extended Employment Services~~ **EES P**provider must submit a progress report on each ~~Client~~ **customer** to ~~an Extended Employment Services~~ **the EES P**program ~~Specialist~~ at six (6) month intervals. A standardized format provided or approved by ~~IDVR~~ **the EES program** must be used. (3-14-07)(\_\_\_\_)

**801. RECORDS.**

**01. Client Customer Files.** ~~Certified Extended Employment Services~~ **EES P**providers shall maintain individual ~~Client~~ **customer** files, which must include the following: (3-14-07)(\_\_\_\_)

- a. Referral information; (3-14-07)
- b. Eligibility; (3-14-07)
- c. Authorization for services; (3-14-07)
- d. Contact information; (3-14-07)
- e. Legal guardianship information; (3-14-07)
- f. Individual Program Plan; (3-14-07)
- g. Progress Reports; (3-14-07)
- h. Documentation of service; (3-14-07)
- i. Satisfaction measures; (3-14-07)
- j. Releases of information; and (3-14-07)
- k. Documentation that updates to ~~Client~~ **customer** information were provided to IDVR. (3-14-07)(\_\_\_\_)

**02. Storage.** Files must be maintained for five (5) years from the date of discharge of the Client to whom the file pertains. (3-14-07)

**802. -- 899. (RESERVED)**

**900. PAYMENT FOR SERVICES.**

**01. Fee for Service.** The IDVR State Administrator shall set the fees for covered services, after discussion with ~~Certified Extended Employment Services~~ **EES P** providers. Such fees shall be set forth in the annual ~~Extended Employment Services~~ **EES** Provider Agreement. Such fees shall be reviewed annually, and may be adjusted by ~~the~~ IDVR **State Administrator** to take effect at the beginning of the fiscal year. (3-14-07)( )

**02. Pre-Authorization.** All ~~Extended Employment Services~~ **EES** must be pre-authorized by ~~an~~ ~~Extended Employment Services~~ **the EES P** program ~~specialist~~, and shall be set forth in the Individual Program Plan for each ~~Client~~ **customer**. (3-14-07)( )

**03. Billing Procedures.** (3-14-07)

**a.** ~~Certified Extended Employment Services~~ **EES P** providers must submit a monthly billing statement for each ~~Client~~ **customer** served, in a format approved by an ~~Extended Employment Services~~ **EES P** program ~~Specialist~~ and within timelines set forth in the annual ~~Employment Services~~ **EES** Provider Agreement. (3-14-07)( )

**b.** Bills may only be submitted for ~~Extended Employment Services~~ **EES** that have been identified and accepted by ~~IDVR~~ **the EES program**, as ~~set out~~ **stipulated** in an Individual Program Plan. (3-14-07)( )

**c.** All bills submitted by ~~Certified Extended Employment Services~~ **P** providers are subject to prepayment and post payment review. Documentation sufficient to support each payment item shall be available for review, and must be maintained for five (5) years from the date of service. The ~~Certified Extended Employment Services~~ **P** providers must submit copies of the documentation regarding the provision of such services upon written request from an ~~Extended Employment Services Specialist~~ **EES program**. (3-14-07)( )

**04. Audits.** ~~IDVR~~ **The EES program** may perform audits of billing records and other documentation submitted by ~~Certified Extended Employment Services~~ **P** providers in order to verify the accuracy of such records. (3-14-07)( )

**05. Denial/Revocation of Payment.** ~~IDVR~~ **The EES program** may deny payment, or seek reimbursement or set-off for payments previously made, if the provider is not in compliance with these rules, the signed Employment Services Provider Agreement, or if the provider does not provide the services as set forth in a ~~Client~~ **customer**'s Individual Program Plan. (3-14-07)( )