

SUBCHAPTER 63C - BUSINESS ENTERPRISES PROGRAM

SECTION .0100 – BUSINESS ENTERPRISES PROGRAM

10A NCAC 63C .0101 PURPOSE AND DEFINITIONS

(a) The Business Enterprises Program is a rehabilitative program which helps provide employment opportunities and economic security to blind individuals. The rules in this Subchapter are promulgated pursuant to 34 CFR 395 for the purpose of governing the operation and administration of the Business Enterprises Program in this state.

(b) As used in this Subchapter:

- (1) "Blind licensee" means a blind person licensed by the Division to operate a Business Enterprises facility on federal or other property.
- (2) "Blind operator" means a blind licensee who is operating a Business Enterprises facility on federal or other property.
- (3) The "Business Enterprises Program" provides blind individuals with remunerative employment through the operation of vending facilities on federal, state, and other properties.
- (4) "Business Enterprises facility" means any vending facility operated by the North Carolina Business Enterprises Program as defined in 34 C.F.R. 395.1.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395; 20 U.S.C. Sec. 107;
Eff. February 1, 1976;
Readopted Eff. November 16, 1977;
Amended Eff. August 1, 2002; February 1, 1986; October 1, 1978.

10A NCAC 63C .0102 RESPONSIBILITY

(a) The Division shall not provide for services or costs which pertain to the ongoing operation of an individual facility after the initial establishment period.

(b) The Division shall assure that each operator is provided access to all program and financial data of the Division relevant to the operation of the state vending facility program, including quarterly and annual financial reports, to the extent that such disclosure does not violate applicable federal and state laws pertaining to the disclosure of confidential information; that insofar as practicable such data shall be made available on tape, disk, large print, and Braille; and that, at the request of an operator, the Division will arrange a convenient time to assist in the interpretation of such data.

(c) The Division shall furnish to each operator copies of documents relevant to the operation of the Business Enterprises facility, including the rules and regulations, a written description of the arrangements for providing services, and the agreement and permit covering the operation of the Business Enterprises facility, and shall explain these documents to each operator in a timely manner.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395; 20 U.S.C. Sec. 107;
Eff. February 1, 1976;
Readopted Eff. November 16, 1977;
Amended Eff. August 1, 2002; October 1, 1978.

10A NCAC 63C .0103 STAND EQUIPMENT: MERCHANDISE: AND SUPPLIES

(a) The Division shall furnish each Business Enterprises facility with the equipment, initial stock, and initial supplies that are determined by the Division necessary to operate the unit.

(b) The right, title to, and interest in Business Enterprises equipment, merchandise, petty cash, and all other assets used in the program is vested in the Division only and may be used and disposed of by the Division for program purposes only, and in accordance with state and federal law.

(c) The Division shall maintain (or cause to be maintained) all Business Enterprises equipment in good repair and in attractive condition, and shall replace (or cause to be replaced) worn-out or obsolete equipment as required to assure the continued successful operation of the facility, subject to availability of funds. The licensed operator of a facility shall take the initiative in identifying needed equipment repairs and replacement.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395.6; 20 U.S.C. Sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002.

10A NCAC 63C .0104 TRAINING PROGRAM

The Division shall provide for the training of blind individuals according to the requirements of 34 CFR 395.11 and for the training and retraining of blind operators with assistance from the state committee of blind vendors.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395.11; 34 C.F.R. 395.14; 20 U.S.C. Sec. 107; Eff. October 1, 1978; Amended Eff. August 1, 2002; February 1, 1986.

SECTION .0200 - LICENSING AND PLACEMENT

10A NCAC 63C .0201 ISSUANCE OF LICENSES

The Division, through the Business Enterprises Program, shall license blind persons who meet eligibility requirements for the Business Enterprises Program. This license shall be issued for an indefinite period. The licensee shall signify his acceptance of the licensing agreement by affixing his signature or mark thereon.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.7; 20 U.S.C. Sec. 107; Eff. October 1, 1978; Amended Eff. August 1, 2002.

10A NCAC 63C .0202 ELIGIBILITY FOR LICENSING

(a) The Division shall interview prospective licensees as referred by the rehabilitation program and shall make written recommendations to the Chief of Business Enterprises concerning the potential of the referral commensurate with the specific job requirements of the Business Enterprises Program.

(b) To be licensed:

- (1) The consumer must meet the definition of legally blind as outlined in 34 CFR 395.1;
- (2) The consumer must be at least 18 years of age;
- (3) The consumer must be physically able to perform all the duties as further detailed in this Chapter;
- (4) All consumers must be evaluated for and demonstrate proficiency of skill in basic mobility, activities of daily living, mathematics and basic food service practices;
- (5) The consumer must be familiar with the rules and regulations for Business Enterprises facility operators. The consumer must successfully complete the Business Enterprises training program sponsored by the Division and must be certified by the Division as capable of operating a Business Enterprises facility;
- (6) The consumer must be a citizen of the United States; and
- (7) The consumer must have no previous conviction(s) of any felony class A through E.

History Note: Authority G.S. 111-27; 34 C.F.R. 395; 20 U.S.C. sec. 107; 143B-157; Eff. October 1, 1978; Amended Eff. January 1, 2009; August 1, 2002; August 1, 1990; February 1, 1986; June 1, 1982.

10A NCAC 63C .0203 SUSPEND: TERMINATE LICENSE: REMOVAL FROM BUSINESS ENTERPRISES FACILITY

(a) The Division may suspend or terminate the license of an operator, after affording the operator an opportunity for a full evidentiary hearing, when it finds that his facility is not being operated in accordance with the rules and regulations; with the terms and conditions of the agreement, contract, or permit between the Division and the sponsor of the building or site upon which the Business Enterprises facility is located; or with the terms of the contract between the operator and the Division relating to the particular assignment.

(b) An operator may be warned prior to suspension or termination of a license, particularly in situations where lack of compliance is not determined by the Division to pose an immediate threat to the general public or to bring discredit or irreparable damage to the Business Enterprises Program.

(c) Licenses to operators may also be suspended or terminated for any of the following reasons:

- (1) Vision improves so that the operator is no longer eligible for licensing;
- (2) Extended illness occurs with medically documented diagnosis of prolonged incapacity of the operator to manage the Business Enterprises facility in a manner consistent with the needs of the location or other available locations in the Business Enterprises Program;

- (3) Withdrawal of the operator from the program upon his written notification to the Division;
 - (4) Gross misconduct or conduct so reprehensible as to bring discredit to the program;
 - (5) Conviction of a felony (Class A through E);
 - (6) Falsified information pertaining to eligibility requirements;
 - (7) Willful acts that would endanger the lives and property of others;
 - (8) Possession of firearms or lethal weapons on the job;
 - (9) Reporting to Business Enterprises assignment under the influence of alcohol or any controlled substance or partaking of such on the job.
- (d) Suspension may be used when an apparent action or lack of action by an operator is not serious enough in the opinion of the Division to warrant termination of the license. The length of the suspension shall vary with the seriousness of the situation, but shall not exceed a maximum of 60 days.
- (e) If the Division finds that the public health, safety, or welfare requires emergency action, summary suspension of a license may be ordered.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.7; 20 U.S.C. Sec. 107; Eff. October 1, 1978; Amended Eff. August 1, 2002; February 1, 1986.

10A NCAC 63C .0204 FILLING OF VACANCIES

- (a) The Division shall make available a listing of available Business Enterprises facilities to all licensees.
- (b) Licensees who wish to apply for any of the locations listed may forward an application to the office of the Chief of Business Enterprises.
- (c) Transfers and promotions shall be based on the following procedures:
 - (1) The Division shall send a notice of available facilities to all operators and licensees on the last 10 working day of the month. The notice shall provide a description of the vacancy and who to contact for more information.
 - (2) All applications shall be post-marked by the 10th of the month following the notice and mailed to the office of the Chief of Business Enterprises.
 - (3) The Interview Committee shall interview all applicants on the second Friday of the month which follows the application deadline.
 - (4) At least 10 working days prior to the interview, the Business Enterprises Counselor who works with the applicant shall calculate the applicant's points for sanitation, seniority, Financial Analysis/Operating Standards [Subparagraphs (d), (1), (2), (3) of this Rule] and inform the applicant of his point total. The applicant shall have five working days to review the point total and request any adjustments.
 - (5) After adding together the points from the sanitation, seniority, Financial Analysis/Operating Standards, Customer Relations and Oral Exam/Interview Sections [Subparagraphs (d), (1), (2), (3), (4), (5), (6), (7) of this Rule] for each applicant, the applicant with the highest point total (if above 60 points) shall be awarded the vacancy. If the applicant with the highest point total declines to accept the location, it shall be offered to the next highest applicant (if above 60 points) and so on. In the case of an exact tie, the applicant with the most time in the Business Enterprises Program shall be awarded the location.
 - (6) Applicants shall be notified as soon as possible after their interview whether or not they have been awarded a location. This notification shall be by telephone and followed up in writing.
 - (7) Upon being awarded a location, the applicant shall have 30 days to fill the vacancy. The Division shall agree to a different time frame if adhering to the 30-day time frame would cause a hardship to the applicant awarded the facility. The location shall not be filled for 15 working days following the award to allow time for administrative appeals to be filed. If an appeal is filed, the location shall not be filled until the appeal is resolved. If there is only one applicant for a location, the 15-day waiting period shall not apply.
 - (8) If an applicant is awarded a facility and has not had an Operator Agreement with the Agency in the last two years, and the applicant did not meet his financial analysis and operating standards for the last 12 months that his agreement was in effect, the applicant shall repeat the necessary on-the-job-training. The Interview Committee may also recommend refresher course training to assure qualified management.

- (9) Licensees/operators not selected may file an administrative appeal as provided for in Subchapter 63C Section .0400. The fifteen-day limit to file an appeal shall begin from the date the licensee/operator is informed by telephone of the results of the award.
 - (10) An applicant must have operated a Business Enterprises location for six months prior to the cut-off date for calculating financial performance according to standards to be considered an operator, otherwise, the operator shall be in licensee status. The cut-off date is defined as the 12-month period ending with the last day of the same month in which the vacancy is advertised.
 - (11) If an operator leaves the Business Enterprises Program and then applies for a location within 12 months of leaving, his financial performance according to standards for the 12 months prior to his leaving shall be used to calculate points in the Financial Performance Section.
 - (12) Financial analyses of facilities shall be done every two years. The analysis shall be on the facility not the operator; however, an operator may request a new analysis after at least four months in the new facility. If an applicant's financial analysis is less than two years old and the applicant's performance is neither above 100 percent nor below 85 percent on either measure, the financial analysis is current.
 - (13) An applicant who does not hold the required level of license for the vacancy may be awarded the facility contingent upon successfully completing the required training. Applicants who hold the required level of license but have not operated a facility at that level for at least two years shall complete refresher on-the-job training if the applicant did not meet his financial analysis and operating standards for the last 12 months that his agreement was in effect.
 - (14) An operator may not sit on the Interview Committee for a location for which he/she is applying or if a member of his/her immediate family has applied for a vacant facility. For this purpose immediate family is defined as spouse, parent, child, brother and sister. Also included are the step, half and in-law relationships. If the Vice-Chairman and the Chairman of the Elected Committee of Vendors and the Chairman of the sub-committee on Transfer and Promotion are all restricted from sitting on the Interview Committee under this Rule, those three must pick another Elected Committee of Vendors member to sit on the Interview Committee.
 - (15) The schedule for awarding vacancies may be changed to accommodate holidays, too many applications to process in one day, or at any time necessary due to program conflicts as determined by the chief of Business Enterprises and the Vice-Chairman of the Elected Committee of Vendors. All applicants shall be notified in writing of the date, time and place of their interview.
 - (16) Applicants shall be reimbursed for their expenses to come to the interview at the state's per diem rates. The Business Enterprises Program shall only reimburse for two interviews per year. After that, applicants shall bear their own expenses for coming to interviews. Licensees who have active rehabilitation cases shall be reimbursed through the rehabilitation program.
- (d) The Division shall use the following criteria in determining points:
- (1) Sanitation:
 - (A) Ten point maximum;
 - (B) One point for each sanitation grade point above ninety;
 - (C) Sanitation grade to be arrived at by averaging all sanitation scores received during last two years;
 - (D) Five points shall be subtracted for any adjusted B grade in the last two years;
 - (E) The Business Enterprises Counselor shall determine an adjusted grade by adding back in any points subtracted for deficiencies over which the operator has no control. The operator shall inform Business Enterprises Counselor when an inspection has occurred so he can review the inspection and adjust the grade if needed. The operator shall make sure the Business Enterprises Counselor has copies of every sanitation inspection form from the relevant period so that he or she can calculate an accurate grade.
 - (2) Seniority:
 - (A) Five point maximum;
 - (B) Seniority points shall be awarded as follows:

Years in Business Enterprises Program – Points
0 to 4.99 - 0 points
5 to 9.99 - 1 point
10 to 14.99 - 2 points
15 to 19.99 - 3 points

20 to 24.99 - 4 points

25 and over - 5 points

- (C) Seniority is defined as the amount of time in yearly increments an individual has been working in the Business Enterprises Program as an operator. An operator must work 51 percent of the working days in a month to receive credit for that month. The cutoff date for accruing time in the Program is the end of the month when the vacancy is advertised. Business Enterprises operators shall receive credit for one year of seniority for any combined 12-month period.
- (3) Performance According to Financial Analysis/Operating Standards: Operating standards are determined by tabulating all the invoices for purchases for resale for each facility for a period of three months. The optimum sales and gross profit percentage is determined by computing the maximum potential for sales and gross profit without consideration for theft, waste or poor management. Each operator is required to maintain 85 percent of the optimum standard established for each facility for sales and gross profit. Eighty-five percent of the optimum sales and gross profit percentage is considered the operating standard for each facility.
- (A) 50 Points Maximum;
- (B) Applicants shall receive 20 points for meeting or exceeding 85 percent of their sales standard;
- (C) Applicants shall receive 20 points for meeting or exceeding 85 percent of their gross profit percentage standard;
- (D) Applicants shall receive five points for meeting or exceeding 92.5 percent of their sales optimum;
- (E) Applicants shall receive five points for meeting or exceeding 92.5 percent of their gross profit percentage optimum.
- (4) Customer and Building Management Relations:
- (A) Five points shall be deducted for each written site management complaint in the past two years, up to a maximum of 10 points.
- (B) If the applicant has more than three written site management complaints, he shall not be considered for the award. No site management complaint that is more than three years old may be used against an operator. Site management is defined as the property official for the property on which a BEP facility is located.
- (5) Oral Exam/Interview:
- (A) 30 points maximum.
- (B) Interview shall be face to face (no conference calls).
- (C) All applicants shall be interviewed.
- (D) The Interview Committee shall consist of:
- (i) The Chief of Business Enterprises, or Deputy Chief or Assistant Director of Programs and Facilities as designated by Chief,
- (ii) The Area Rehabilitation Supervisor or B.E. Counselor for the area in which the vacancy occurs, and
- (iii) The Vice-Chairman of the Elected Committee of Vendors or the Chairman in his absence, or in the absence of the Chairman, the Chairman of the Transfer and Promotion subcommittee.
- (E) The Oral Exam part shall consist of 10 questions drawn either from a pool of standard questions or developed by the Interview Committee prior to the interview. The oral exam questions shall relate to any special needs of the vacant facility as well as to standard responsibilities and knowledge areas of Business Enterprises operators. Each member of the Interview Committee shall evaluate the applicant's response to each question in the oral exam. The applicant shall receive one point by demonstrating basic knowledge, the applicant shall receive one and one-half points for demonstrating above average knowledge, and the applicant shall be awarded two points for demonstrating exceptional knowledge for each interview question. There shall be at least one question involving a calculation and a talking calculator shall be provided, although applicants may bring their own. The oral exam shall yield a possible 20 points.

- (F) The interview part shall consist of a variety of questions in a give and take format. Each member of the Interview Committee shall evaluate the applicant's response to the interview questions and shall award up to 10 additional points based on the applicant's previous food service experience, knowledge and financial performance. If the applicant meets the requirements for the facility, the applicant shall receive five additional points. If the applicant's qualifications exceed the requirements of the facility, he may be awarded up to ten additional points. The interview shall include the following elements: questions related to business philosophy to promote general discussion to enable the interview panel to evaluate the applicant's expertise, maturity, experience and ability; a discussion of any related work experience outside the Business Enterprises Program; at least two business math questions. Since points are awarded for seniority, time in the Business Enterprises Program shall not be considered as a reason to award points; however, relevant work experience in the Business Enterprises Program may be discussed and taken into consideration. Applicants may bring letters of recommendation, certificates, and other documents that would aid the Interview Committee in awarding its discretionary points.
- (G) Each interviewer shall award discretionary points individually and the total score of Oral Exam and Interview points from each interviewer shall be averaged and added to the applicant's points from the other Sections.
- (6) Licensees and trainees:
 - (A) A licensee who has no previous experience in the North Carolina Business Enterprises Program shall be assigned 35 points in the Financial Analysis/Operating Standards category. If the licensee scores 90 percent or above on the National Restaurant Association's ServSafe exam, he/she shall be awarded three points in the sanitation category.
 - (B) A licensee with previous Business Enterprises experience shall be assigned 35 points in the Financial Analysis/Operating Standards category. Previous sanitation records shall be considered, if available; or the applicant may take the National Restaurant Association's ServSafe exam. If the licensee scores 90 percent or above on the ServSafe exam, he/she shall be given three points in the Sanitation Section.
 - (C) Applicants shall have satisfactorily completed Level I training or have a Level I license to be interviewed. The four levels of Business Enterprises facilities are defined as follows: Level I has no cooking or on-site food preparation and includes only service via vending machines or over the counter service including snacks, candy, pre-packaged sandwiches, coffee, and assorted beverages. Level II service is similar to a deli operation where hot and cold food is prepared on site. Level III service includes all of the above with the addition of a grill and fryer. Level IV service consists of full-service cafeteria style facilities. An applicant shall score at least 60 total points to be awarded a location. If the applicant scores at least 55 points but less than 60 points, the interview panel may make a conditional award if the panel agrees it is in the best interest of the Business Enterprises Program.

History Note: Authority G.S. 111-27; 143B-157; 20 U.S.C. sec. 107; Eff. October 1, 1978; Amended Eff. January 1, 2009; August 1, 2002; May 1, 1996; December 1, 1993; February 1, 1986; February 1, 1981.

10A NCAC 63C .0205 CONTRACTUAL AGREEMENT BETWEEN DIVISION AND OPERATOR

- (a) Each licensee who accepts a Business Enterprises assignment must enter into a contractual operating agreement with the Division upon initial placement and upon subsequent reassignment.
- (b) A copy of the permit or contract with the sponsor of the site upon which the Business Enterprises facility is located shall become a part of the agreement, and the operator shall conduct the business in accordance with the provisions of that permit or contract.
- (c) The agreement shall include provisions which specify:
 - (1) the responsibilities of the licensed operator as contained in the rules in this Subchapter;
 - (2) the responsibilities of the Division as contained in the rules in this Subchapter;
 - (3) that the licensed operator will receive the net proceeds [in accordance with 45 CFR 1369.1(k)] from the Business Enterprises facility he/she operates in accordance with Section .0700 of this Subchapter;

- (4) the right of the operator to terminate the agreement at any time;
- (5) that the agreement will be terminated upon termination of the permit or contract with the sponsor of the site upon which the Business Enterprises facility is located;
- (6) that the agreement will be terminated upon failure of the licensed operator to operate the Business Enterprises facility in accordance with the agreement or applicable federal, state, or local laws or regulations;
- (7) that the agreement will be terminated upon the closing of a facility which the Division has determined offers no possibility of being profitable.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.1; 34 C.F.R. 395.3; 20 U.S.C. sec. 107; Eff. October 1, 1978; Amended Eff. August 1, 2002; February 1, 1984; February 1, 1983.

10A NCAC 63C .0206 CONFIDENTIAL INFORMATION

All information and records pertaining to handicapped persons served by this program shall be considered confidential and may not be revealed except in the administration of the program or by the consent of the handicapped person.

History Note: Authority G.S. 111-27; 34 C.F.R. 361.49; 20 U.S.C. Sec. 107a et seq., as amended; Eff. October 1, 1978; Recodified from .0409(f) effective May 30, 1984; Amended Eff. February 1, 1986.

SECTION .0300 - SPECIAL PROVISIONS

10A NCAC 63C .0301 HEALTH INSURANCE

A group health insurance policy shall be available for each licensed operator. Each new operator shall be contacted concerning enrollment in this plan when he begins employment.

History Note: Authority G.S. 111-27; 20 U.S.C. sec. 107a et seq., as amended; Eff. February 1, 1976; Readopted Eff. November 16, 1977; Amended Eff. April 1, 1990; October 1, 1978.

10A NCAC 63C .0302 TEMPORARY CLOSING

(a) A facility may be temporarily closed due to the closing of a public building, industry, or institution caused by an emergency condition such as snow days, fire, or death of a company official.

(b) If a facility is closed for an extended period of time through no fault of the operator, that operator may be eligible for financial assistance through the Business Enterprises Program's Emergency Relief Fund. This fund is supported through Federal Unassigned Vending based on a majority vote of the operators in the Program. The following guidelines apply:

- (1) Facility must be closed an entire calendar month due to no fault of the operator.
- (2) Facility must have a target date for reopening.
- (3) The closing is not covered by insurance or all coverage must be exhausted before the Emergency Fund is used.
- (4) The Elected Committee of Vendors shall establish the monthly rate to be paid to operators who qualify for use of the Fund.. The monthly rate set by the Committee shall appear in the minutes from the Committee meeting when the rate was set and the rate shall be on file in the Office of the Chief of Business Enterprises Program, 309 Ashe Avenue, Raleigh, NC, 27606.
- (5) The operator may be subsidized for an initial period up to six months after which the situation will be reassessed by Committee members as appointed by the Chair and by the Chief of the Business Enterprises Program. They shall determine if an extension should be allowed and if so, for how long.
- (6) If a feasible satellite facility is available, the operator must apply for that location. Failure to apply for any satellite facility for which the operator is qualified shall result in immediate forfeiture of the Emergency Relief Funds for the period of time the satellite facility is available. If the operator applies for the satellite facility and is not awarded the facility, no penalty shall apply. If applying for the

satellite facility would pose a financial hardship on the operator, the Division shall waive this requirement.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.4; 20 U.S.C. sec. 107;
Eff. February 1, 1976;
Readopted Eff. November 16, 1977;
Amended Eff. August 1, 2002; April 1, 1990; February 1, 1986; October 1, 1978.

10A NCAC 63C .0303 MOVING EXPENSES

After consultation with the Elected Committee of Vendors, the Division shall participate in the funding of moving expenses for operators who are forced to relocate due to the closing of a Business Enterprises facility. The operator must have applied for and been awarded a new Business Enterprises facility to receive compensation for moving expenses. The operator is not eligible for compensation if the closing of his previous Business Enterprises facility was a direct result of his performance. The total amount funded by the Division shall not exceed one thousand five hundred dollars (\$1,500). This expenditure is based on the availability of funding.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.4; 20 U.S.C. sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002.

SECTION .0400 - ADMINISTRATIVE APPEAL PROCEDURE

10A NCAC 63C .0401 PURPOSE

The purpose of the administrative appeal procedure is to provide a means of appeal to each operator/licensee who is dissatisfied with an action of the Division arising from the operation or administration of the Business Enterprises Program.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395.4; 34 C.F.R. 395.13; 20 U.S.C. sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002; May 1, 1996; February 1, 1984.

10A NCAC 63C .0402 POLICY

- (a) Every operator/licensee has the right to present a problem or appeal free from interference, restraint, coercion, discrimination, or reprisal. This policy shall be covered fully during orientation procedures for new operators/licensees.
- (b) When presenting an appeal, an operator/licensee may be accompanied by a person or persons of his choice.
- (c) The filing of a complaint with the Division shall indicate consent by the blind operator/licensee for the release of such information as is necessary for the conduct of the administrative appeal.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395.4; 34 C.F.R. 395.13; 20 U.S.C. sec 107;
Eff. October 1, 1978;
Amended Eff. February 1, 1984, February 1, 1981;
Recodified Paragraph (f) to Rule .0212 Eff. May 30, 1984;
Amended Eff. August 1, 2002; May 1, 1996; August 1, 1990; February 1, 1986.

10A NCAC 63C .0403 PROCEDURE

- (a) The operator/licensee shall discuss the problem with the Division staff person taking the action with which the operator is dissatisfied and request specific action in writing to resolve the grievance. This discussion shall be held within 15 working days of the occurrence of the action challenged by the operator. The operator/licensee shall receive a response within five working days following the discussion. Any decision made by agency personnel at this step shall be subject to supervisory review and approval.
- (b) If the complaint is not resolved and the operator/licensee is not satisfied with the outcome of Paragraph (a) of this Rule, he shall have 15 working days to ask for a review by the operator relations committee in writing. Within five working days after asking for a review, the operator/licensee shall be notified of the date of the hearing, which shall be held within 25 working days after the operator's/licensee's request for a hearing. The committee shall render its decision within 20 working days after the hearing.

- (c) If the decision reached in step of Paragraph (b) of this Rule is not satisfactory to the operator/licensee or the Division staff person responsible for the initial action, the matter may be referred by the operator/licensee or the Division staff person to the director of the Division. Any request for review shall be submitted within 15 working days after the operator relations committee has presented its recommendation. The party requesting the referral shall provide a written summary of the specific facts of the complaint and request for specific action to resolve the grievance, copies of which shall be provided at the same time to all other parties concerned. The director shall make the decision for the Division within 15 working days, and his decision shall be announced immediately to all parties concerned.
- (d) If the complaint is not resolved and the operator/licensee is not satisfied with steps of Paragraphs (a) through (c) of this Rule, then the operator/licensee may file a complaint with the Division requesting a full evidentiary hearing.
- (e) If a blind operator/licensee requests a full evidentiary hearing, such request shall be made within 15 working days after the director's adverse direction rendered through the procedures in this Rule.
- (f) A blind operator/licensee shall request a full evidentiary hearing in writing. This request shall be transmitted to the director of the Division personally or by certified mail, return receipt requested, transmitted through the Elected Committee of Vendors in accordance with 34 C.F.R. 395.14(b)(2). This hearing shall be held in accordance with G.S. 150B, Article 3, the extent that such article does not conflict with these Rules pertaining to grievance procedures or any federal law or regulation.
- (g) A blind operator/licensee shall be entitled to legal counsel or other representation in a full evidentiary hearing. The Division shall reimburse the operator for costs of legal counsel at a rate of 50% of the total amount not to exceed a total expenditure by the Division of one thousand five hundred dollars (\$1,500). This expenditure is based on the availability of funds.
- (h) Reader services or other communication services shall be arranged for the blind operator/licensee should he so request. Transportation costs and per diem shall be provided also to the blind operator/licensee during the pendency of the evidentiary hearing, if the location of the hearing is in a city other than the legal residence of the operator/licensee.
- (i) The hearing shall be held at a time and place convenient and accessible to the blind operator/licensee requesting a full evidentiary hearing. The blind operator/licensee shall be entitled to have the hearing held in the county of his residence unless he waives this right. A hearing held during regular Division working hours shall be deemed among the convenient times. The hearing shall be scheduled by the Division within 15 working days of its receipt of such a request, unless the Division and the blind operator/licensee mutually, in writing, agree to some other period of time. The Division shall notify the blind operator/licensee in writing of the time and place fixed for the hearing and of his right to be represented by legal or other counsel. The Division shall provide the blind operator/licensee a copy of the hearing procedures and other relevant information necessary to enable him to prepare his case for the hearing.
- (j) The presiding officer at the hearing, to be appointed by the Secretary of the Department of Health and Human Services, shall be impartial, unbiased, have knowledge in conducting hearings, and have no involvement either with the Division action which is at issue in the hearing or with the administration or operation of the Randolph-Sheppard Business Enterprises Program.
- (k) The presiding officer shall conduct a full evidentiary hearing, avoid delay, maintain order, and make sufficient record of the proceedings for a full and true disclosure of the facts and issues. To accomplish these ends, the presiding officer shall have all powers authorized by law and may make all procedural and evidentiary rulings necessary for the conduct of the hearing.
- (l) Both the blind operator/licensee and the Division shall be entitled to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such examination and cross-examination of witnesses as may be required for a full and true disclosure of all facts bearing on the issue.
- (m) All papers and documents introduced into evidence at the hearing shall be filed with the presiding officer and provided to the other party. All such documents and other evidence submitted shall be open to examination by the parties, and opportunities shall be given to refute facts and arguments advanced on either side of the issues.
- (n) A transcript shall be made of the oral evidence and shall be made available to the parties. The Division shall pay all transcript costs and shall provide the blind operator/licensee with at least one copy of the transcript.
- (o) The transcript of testimony, exhibits, and all papers and documents filed in the hearing shall constitute the exclusive record for decision.
- (p) The decision of the presiding officer shall set forth the principal issues and relevant facts adduced at the hearing, and the applicable provisions in law, federal regulations, and state rules. It shall contain findings of fact and conclusions with respect to each of the issues, and the reasons and basis therefor. The decision shall also set forth any remedial action necessary to resolve the issues in dispute. The decision shall be made within 15 working days after the receipt of the official transcript. The decision shall be mailed promptly to the blind operator/licensee and the division.

(q) If the dispute(s) is not resolved to the satisfaction of a blind operator/licensee after provision of a full evidentiary hearing, an appeal may be made to the Secretary of the U. S. Department of Education for the convening of an arbitration panel.

(r) The results of the arbitration shall be considered the final agency action and the operator/licensee shall have exhausted his administrative remedies.

History Note: Authority G.S. 111-27; 143B-157; 20 U.S.C. sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002; May 1, 1996; August 1, 1990; February 1, 1984; February 1, 1983;
December 1, 1981.

SECTION .0500 - ELECTION: ORGANIZATION AND FUNCTIONS OF THE COMMITTEE ON THE STAND PROGRAM

10A NCAC 63C .0501 ELECTION

The Division shall provide for biennial election among the operators in the program to elect a state committee of blind operators called the Elected Committee of Vendors. This Elected Committee of Vendors shall be representative of operators on the basis of geography and shall be proportionally representative of operators on federal property. The Elected Committee of Vendors shall consist of representatives from the four geographical regions and one region comprised of all Federal facilities.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395.14; 20 U.S.C. sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002; May 1, 1996; February 1, 1986.

10A NCAC 63C .0502 COMMITTEE SIZE

The number of representatives from each region is based on the number of facilities in a region, as follows:

- (1) 1-10 facilities--one representative;
- (2) an additional representative for each additional 10 facilities, or any part thereof.

History Note: Authority G.S. 111-13; 111-27; 34 C.F.R. 395.14; 20 U.S.C. sec. 107a et seq., as amended;
Eff. October 1, 1978;
Amended Eff. July 1, 1987; June 1, 1983.

10A NCAC 63C .0503 NOMINATIONS AND ELECTIONS

The Division shall forward to each operator in a particular region a list containing the names of the operators in that region, from which each operator will nominate the person(s) of his choice. Those lists shall be returned to the Division and tallied, after which a ballot containing nominees shall be forwarded to the operators. After indicating his choice, the operator shall return the ballot to the Division for tallying.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.14; 20 U.S.C. Sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002; April 1, 1990.

10A NCAC 63C .0504 TERM OF MEMBERSHIP

Each representative will be elected to serve a two year term.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.14; 20 U.S.C. sec. 107a et seq., as amended;
Eff. October 1, 1978.

10A NCAC 63C .0505 CONSECUTIVE TERMS

There is no limit to the number of consecutive terms a representative may serve.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.14; 20 U.S.C. sec. 107a et seq., as amended;
Eff. October 1, 1978.

10A NCAC 63C .0506 ORGANIZATION AND OPERATION

- (a) The officers of the Elected Committee of Vendors shall be a chairman and a vice-chairman. They shall be elected by the Elected Committee of Vendors from among Elected Committee of Vendors members.
- (b) Vacancies in any of the elective offices shall be filled by the Elected Committee of Vendors members for the unexpired term.
- (c) The chairman shall preside over all the meetings of the Elected Committee of Vendors. He shall appoint subcommittees at such time as the business of the Elected Committee of Vendors may warrant, except for the Operator Relations Committee which shall be elected by the Elected Committee of Vendors from its members. The chairman shall appoint temporary replacements to this subcommittee as needed to fill any vacancy until a new member may be elected. He shall also appoint a temporary replacement for any Operator Relations Committee member who has filed an appeal and whose appeal is pending before the Operator Relations Committee. The chairman shall serve as non-voting ex officio member of all subcommittees.
- (d) In the absence or disability of the chairman, the vice-chairman shall assume all the duties of the chairman.
- (e) The meetings shall be conducted according to Roberts Rules of Order.
- (f) A majority shall constitute a quorum.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395.14; 20 U.S.C. Sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002; May 1, 1996; February 1, 1984; February 1, 1983.

10A NCAC 63C .0507 MEETINGS

The Elected Committee of Vendors shall meet quarterly and at other times as may be called by the chairman or at the request of the Division, with the consent of a majority of the Elected Committee of Vendors.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395.14; 20 U.S.C. sec. 107a et seq., as amended;
Eff. October 1, 1978;
Amended Eff. May 1, 1996; February 1, 1983.

10A NCAC 63C .0508 FUNCTIONS

The Elected Committee of Vendors shall actively participate with the Division in major administrative decisions and policy and program development decision affecting the overall administration of the Business Enterprises Program. The Division and the Elected Committee of Vendors shall comply with the terms and conditions set forth in 34 C.F.R. 395.14.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395.14; 20 U.S.C. sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002; May 1, 1996; February 1, 1984.

10A NCAC 63C .0509 SUBCOMMITTEES

Between regular meetings of the Elected Committee of Vendors, it shall carry on its functions through the following subcommittees:

- (1) operator relations committee, whose function is to receive and transmit appeals at the request of operators;
- (2) committee on transfer and promotion of operators, whose function is to actively participate with the Division in the development and administration of a system for the transfer and promotion of operators;
- (3) committee on training and retraining, whose functions are to actively participate with the Division in the development of training and retraining programs and to assist the Division in sponsoring meetings and instructional conferences for the operators.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395.14; 20 U.S.C. Sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002; May 1, 1996; February 1, 1984.

10A NCAC 63C .0510 COMMUNICATION AND NOTICE

Committee (subcommittee) members will receive advance notice of all matters within its limit of concern or responsibility being considered for decision; agenda of upcoming meetings; and notices and invitations to attend important discussion and decision-making meetings in areas of the committee's (subcommittee's) interest.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.14; 20 U.S.C. sec. 107a et seq., as amended;
Eff. October 1, 1978.

10A NCAC 63C .0511 COMMITTEE INITIATIVE

The committee may initiate matters for consideration and its views and positions will be considered by the Division.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.14; 20 U.S.C. Sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002; February 1, 1986.

10A NCAC 63C .0512 DIVISION RESPONSIBILITY AND RELATIONSHIP WITH COMMITTEE

The Division has the ultimate responsibility for the administration of the Business Enterprises Program. It shall consider all recommendations forthcoming from the committee, which will act in an advisory capacity to the Division. If the Division does not adopt the views and positions of the committee on a particular issue, it shall give written notice to the committee of the decision reached, the actions taken, and the reasons therefore.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.14; 20 U.S.C. Sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002.

SECTION .0600 - RESPONSIBILITIES OF LICENSED OPERATORS

10A NCAC 63C .0601 GENERAL RESPONSIBILITIES

(a) The operator must:

- (1) perform faithfully and to the best of his ability the necessary duties in connection with the operation of the Business Enterprises facility in accordance with the rules of the Commission and standards issued pursuant thereto and the contractual agreement between the Division and the operator, and the terms and conditions of the permit or contract with the building or property on which the facility is located;
- (2) operate the facility in accordance with all applicable health laws and Rules;
- (3) assume such responsibilities as purchasing needed supplies and merchandise, pricing, merchandising the facility, and control of inventory;
- (4) devote his full managerial attention to the responsibilities of operating the facility in accordance with the agreement between him and the Division and in accordance with the Rules in this Subchapter. The operator is not required to be on site at all times; and
- (5) maintain good customer relations with his patrons and with the property-managing officials at his work site.

(b) The operator shall be accountable to the Division for the proceeds of the Business Enterprises facility, and shall handle the proceeds, including payments to suppliers and deposits of funds, in accordance with Division guidelines developed to facilitate the provision of management, accounting, and technical services to operators, and in accordance with the U. S. Department of Education reporting requirements.

(c) The operator shall maintain a neat, business-like appearance while working at the Business Enterprises facility, and shall conduct the facility in an orderly, business-like manner.

(d) In accordance with Paragraph (b) of this Rule, any rebates, commissions, or bonuses received by the operator from supplier shall be considered as income or a refund of purchases and shall be accounted for accordingly.

(e) The operator must assure that the business to be carried on at the facility shall be limited to that specified and authorized in the permit or contract with the sponsor of the building or property where the facility is located.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.7; 20 U.S.C. Sec. 107;
Eff. February 1, 1976;
Readopted Eff. November 16, 1977;
Amended Eff. August 1, 2002; April 1, 1990; February 1, 1984; October 1, 1978.

10A NCAC 63C .0602 HOURS OF OPERATION

(a) The operator shall have the Business Enterprises facility open for business on the days and during the hours specified in the permit.

(b) After a reasonable period of time as determined by the Division, during which the Division shall work with the operator in developing a list of relief workers, the operator shall assume the responsibility for securing a relief worker to work in his facility whenever the operator must be absent. Visually impaired persons may be given priority over all other persons hired by the operator. For the purpose of establishing a list of relief workers, a reasonable period of time shall be defined as no more than six months.

(c) If an operator transfers to another location, or a new operator enters the program, the Division shall again develop with the operator a new or revised list of qualified relief workers.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395.7; 20 U.S.C. Sec. 107; Eff. February 1, 1976; Readopted Eff. November 16, 1977; Amended Eff. August 1, 2002; May 1, 1996; February 1, 1984; October 1, 1978.

10A NCAC 63C .0603 SECURITY

The operator is responsible for seeing that security and safety measures are carried out in accordance with good business practice and the requirements of each location.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.7; 20 U.S.C. sec. 107a et seq., as amended; Eff. February 1, 1976; Readopted Eff. November 16, 1977; Amended Eff. February 1, 1984; October 1, 1978.

10A NCAC 63C .0604 REPORTS

The operator shall have four options for reporting revenues and expenses:

- (1) Category A - The operator may send all invoices, deposit slips, repair bills, and other documents to the Division including overcash according to a schedule established by the Division's Accounting Office. All payroll functions shall be performed by the Division.
- (2) Category B - The operator may retain sales and deposit documentation and send a summation of his purchases for resale and all expenses paid out of the facility to the Division monthly along with overcash. All payroll functions shall be performed by the Division.
- (3) Category C - The operator may perform all functions as in Item (2) of this Rule and perform his own payroll functions.
- (4) Category D - The operator may perform all functions of Items (2) and (3) of this Rule and may calculate its own profit and loss statement and send only the set-aside due to the Division.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395; 20 U.S.C. Sec. 107; Eff. February 1, 1976; Amended Eff. August 1, 1976; Readopted Eff. November 16, 1977; Amended Eff. August 1, 2002; May 1, 1996; February 1, 1996; February 1, 1984; October 1, 1978.

10A NCAC 63C .0605 REPAIRS

(a) Operators shall secure repairs to equipment not to exceed a dollar amount as determined by the Division on an annual basis.

(b) If the repair rate exceeds the amount as determined by the Division, bids must be obtained and submitted to the Division for approval. The Division shall apply state purchasing procedures as found in 01 NCAC 05 under the State Division of Purchase and Contract.

(c) If the operator is unable to secure bids, he shall contact the Division for assistance.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.4; 20 U.S.C. Sec. 107; Eff. February 1, 1976;

*Amended Eff. August 1, 1976;
Readopted Eff. November 16, 1977;
Amended Eff. August 1, 2002; October 1, 1978.*

10A NCAC 63C .0606 EQUIPMENT: MERCHANDISE: SUPPLIES: CASH

- (a) Each operator shall sign a receipt for all equipment, merchandise, supplies, and cash for which he is entrusted when initially placed in a Business Enterprises facility, and shall be held accountable for those assets.
- (b) Each operator shall maintain the equipment assigned to him, and shall ensure that the equipment is used only for the purposes of operating the business.
- (c) All assets vested in the Division shall be safeguarded and protected.

*History Note: Authority G.S. 111-27; 34 C.F.R. 395.7; 20 U.S.C. sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002; February 1, 1984.*

10A NCAC 63C .0607 INSURANCE

- (a) Each operator must maintain adequate bodily injury, property damage, and food products liability insurance as will protect the operator, anyone employed by the operator, and the Division against losses and claims arising out of the conduct of the business of the Business Enterprises facility. Each operator must also carry worker's compensation and unemployment insurance as required by state and federal law. Adequate coverage for liability insurance will be determined by the Business Enterprises Program Chief in consultation with the Elected Committee of Vendors and changes in limits shall be conveyed to the operators in writing with a 30-day advance notice.
- (b) The costs of such insurance shall be a cost of operating the business of the Business Enterprises facility and taken into account as such in determining the net proceeds of the business.

*History Note: Authority G.S. 111-27; 34 C.F.R. 395.7; 20 U.S.C. Sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002; April 1, 1990; February 1, 1984.*

10A NCAC 63C .0608 PRICING OF MERCHANDISE

- (a) Each operator shall determine his own pricing structure commensurate with prevailing pricing of local competitors and shall not take advantage of customers through unfair pricing practices.
- (b) Notwithstanding Paragraph (a) of this Rule, in Business Enterprises facilities where prices are determined in some manner by the contract between the Division and the location, the operator must comply with the terms of that contract.

*History Note: Authority G.S. 111-27; 34 C.F.R. 395.7; 20 U.S.C. Sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002.*

SECTION .0700 - EARNINGS: FUNDS: AND PROCEEDS

10A NCAC 63C .0701 MINIMUM FAIR RETURN AND DEFINITIONS

- (a) Operators may be guaranteed a fair minimum return as determined by the Division after consultation with the Elected Committee of Vendors.
- (b) Definitions which apply to all of 10A NCAC 63C .0700:
 - (1) Net profits means the amount remaining after subtracting the cost of goods sold and the operating expenses from the gross revenues.
 - (2) Income means the net profit of the facility less any funds which must be set aside.
 - (3) Net operating balance means the amount remaining at the end of the calendar year after subtracting the income paid year-to-date to the operator, from the income earned by the operation of the facility.
 - (4) Fair minimum return is the amount determined by the Elected Committee of Vendors and agreed upon by the Division as the minimum monthly income to be received by any Business Enterprises operator without regard to the profit or loss of the facility. Fair minimum return shall not exceed an amount equal to the hourly Federal Minimum Wage based on a 160-hour work month. This amount is

applicable to all Business Enterprises Operators regardless of the size or type of facility they currently manage.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.8; 34 C.F.R. 395.9; 20 U.S.C. sec. 107; Eff. February 1, 1976; Readopted Eff. November 16, 1977; Amended Eff. August 1, 2002; April 1, 1990; October 1, 1978.

10A NCAC 63C .0702 SET-ASIDE

- (a) "Set-aside" and "Net Proceeds" are used as defined in 34 CFR 395.1.
- (b) The Division shall set aside funds from the net proceeds of each facility to be used for the purposes outlined in 34 C.F.R. 395.9.
- (c) The set-aside shall not exceed an amount determined to be reasonable by the Commissioner of the Rehabilitation Services Administration.
- (d) Any set-aside collected in excess of the amount needed to cover the purposes in this Rule and in excess of any reasonable reserve necessary to assure that such purposes can be achieved on a consistent basis, shall be refunded on a pro rata basis at the end of the fiscal year.
- (e) Set-aside rates may be adjusted to meet program goals and objectives and shall be determined by the Division in conjunction with the NC Commission for the Blind.

History Note: Authority G.S. 111-12.5; 111-13; 111-27; 111-50; 143B-157; 34 C.F.R. 395.8; 34 C.F.R. 395.9; 20 U.S.C. sec. 107; Eff. February 1, 1976; Readopted Eff. November 16, 1977; Amended Eff. August 1, 2002; May 1, 1996; January 1, 1990; July 1, 1987; February 1, 1986; July 1, 1980.

10A NCAC 63C .0703 DISTRIBUTION OF PROCEEDS

- (a) The monthly income of the operator shall be the net proceeds of the Business Enterprises facility for that month less the funds which must be set aside.
- (b) When the financial statements are completed at the end of each fiscal year, any differences between the monthly income actually earned for the year and the amount of monthly income paid during the year shall be reconciled. If at the end of the year there is a net operating balance above what has already been paid to the operator, the operator shall receive that balance. If, on the other hand, net proceeds received by the operator during the year exceed the net operating balance as reflected on the closing financial statements for the year, this overpayment shall be deducted from the net proceeds earned during the next fiscal year before any net proceeds for that year are paid.
- (c) An operator whose license has been suspended shall not receive net proceeds generated during that period of time the license was suspended.

History Note: Authority G.S. 111-27; 143B-157; 34 C.F.R. 395.4; 20 U.S.C. Sec. 107; Eff. February 1, 1976; Amended Eff. December 1, 1976; Readopted Eff. November 16, 1977; Amended Eff. August 1, 2002; May 1, 1996; April 1, 1990; October 1, 1978.

10A NCAC 63C .0704 INCOME FROM VENDING MACHINES ON FEDERAL PROPERTY

- (a) Income from vending machines on federal property which has been disbursed to the Division by a property managing department, agency, or instrumentality of the United States under the vending machine income sharing provisions in 34 CFR 395.32 shall accrue to each operator of the Business Enterprises facility in an amount not to exceed the average net income of the total number of blind operators within such state as determined each fiscal year on the basis of each prior year's operation. Vending machine income shall not accrue to any operator in any amount exceeding the average net income of the total number of blind operators in the United States.
- (b) No blind operator 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 imposed on such income under this ceiling.

(c) No limitation shall be imposed on income from vending machines, combined to create a Business Enterprises facility, when such facility is maintained, serviced, or operated by a blind operator. The Division shall retain vending machine income disbursed by a property managing department, agency, or instrumentality of the United States in excess of the amounts eligible to accrue to blind operators.

(d) Vending machine income retained by the Division shall be used for the establishment and maintenance of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation time for blind operators, if it is so determined by a majority vote of the licensed operators, after each operator has been furnished information on all matters relevant to such purposes; any vending machine income not necessary for such purposes shall be used for one or more of the following: maintenance and replacement of equipment; purchase of new equipment; management services, and assuring a fair minimum return to operators; and any assessment charged to blind operators shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

History Note: Authority G.S. 111-27; 34 C.F.R. 395.14; 20 U.S.C. Sec. 107;
Eff. October 1, 1978;
Amended Eff. August 1, 2002; February 1, 1986.