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PART 5

EDUCATION AND REHABILITATION OF DISABLED AND HANDICAPPED PERSONS

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CHAPTER 401

VOCATIONAL REHABILITATION

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§ 3051. Short title

This chapter may be cited as the "Vocational Rehabilitation Act of 1959."

1959, c. 286, § 1.

§ 3052. Purpose

The purpose of this chapter is to provide for and improve the rehabilitation of physically handicapped individuals, other

than the blind, so that they may prepare for and engage in remunerative employment to the extent of their capabilities, thereby increasing not only their social and economic well-being but the productive capacity of the State and nation.

Pursuant to such purposes the state board is designated and established as the sole state agency to provide vocational rehabilitation services to all residents of the State under Public Law 565, 83rd Congress, 2nd session, except the blind, as provided for under Title 22. Subject to the approval of the state board, the executive officer of the state board shall make such rules and regulations as he finds necessary or appropriate to efficient administration of a program of vocational rehabilitation, shall enter into agreements with local, state and federal agencies providing services relating to vocational rehabilitation, and shall prepare and issue a state plan of vocational rehabilitation which shall be amended from time to time as appears necessary or desirable.

1959, c. 286, § 1.

§ 3053. Definitions

For the purposes of this chapter the following terms are defined:

1. **Director.** "Director" means the Director of the Vocational Rehabilitation Division.

2. **Division.** "Division" means the Vocational Rehabilitation Division.

3. **Handicapped individual.** "Handicapped individual" means any individual other than the blind who is under a physical or mental disability which constitutes a substantial handicap to employment, but which is of such a nature that vocational rehabilitation services may reasonably be expected to render him fit to engage in a remunerative occupation.

4. **Individual who is under a physical or mental disability.** "Individual who is under a physical or mental disability" means an individual who has a physical or mental condition, exclusive of blindness, which materially limits, contributes to limiting, or, if not corrected, will probably result in limiting his activities or functions.

5. **State board.** "State board" means the State Board of Education.

6. Vocational rehabilitation services. "Vocational rehabilitation services" means any goods and services necessary to render a handicapped individual fit to engage in a remunerative occupation, including:

A. Diagnosis and related services, including transportation, required for the determination of eligibility for service and of the nature and scope of the services to be provided;

B. Guidance;

C. Placement;

D. Acquisition of vending stands or other equipment, and initial stocks and supplies for small business enterprises conducted by severely handicapped individuals under the supervision of the division;

E. Training;

F. Physical restoration services;

G. Books and training materials;

H. Maintenance;

I. Tools, equipment, initial stocks and supplies, including equipment and initial stocks and supplies for vending stands;

J. Transportation not included under paragraph A;

K. Business, professional and occupational licenses; and

L. Other goods and services necessary to render a handicapped individual fit to engage in a remunerative occupation.

7. Workshop. "Workshop" means a place where any manufacture or handiwork is carried on, and which is operated for the primary purpose of providing remunerative employment to severely handicapped individuals as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market, or during such time as employment opportunities for them in the competitive labor market do not exist.

1959, c. 286, § 1.

§ 3054. Vocational Rehabilitation Division

There shall be a Vocational Rehabilitation Division which shall be administered by a director under the general supervision of the state board acting through its executive officer.

1959, c. 286, § 1.

§ 3055. Provision of services

Vocational rehabilitation services shall be provided directly or through public or private instrumentalities to any handicapped individual who is a resident of the State at the time of filing his application therefor, and whose vocational rehabilitation the director determines after full investigation can be satisfactorily achieved, or who is eligible therefor under the terms of an agreement with another state or with the Federal Government. Vocational rehabilitation services enumerated in section 3053, subsection 6, paragraphs D to L, shall be provided at public cost only to those handicapped individuals who are found by the director to require financial assistance with respect thereto.

In case vocational rehabilitation services cannot be provided to all eligible handicapped individuals who apply for such services, the director shall provide regulations, with approval of the state board, for determining the order to be followed in selecting those to whom such services will be provided.

1959, c. 286, § 1; c. 363, § 29; c. 378, § 35.

§ 3056. Powers and duties of division

In carrying out this chapter, the director, with the approval of the state board:

1. Regulations. Shall prescribe regulations governing the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation and determination thereof, for vocational rehabilitation services, procedures for fair hearings, the establishment and operation of rehabilitation facilities and workshops and such other regulations as he finds necessary;

2. Units within division. Shall establish appropriate administrative units within the division;

3. Reports. Shall prepare and submit to the state board annual reports of activities and expenditures and, prior to each regular session of the Legislature, estimates of sums required for carrying out this chapter and estimates of the amounts to be made available for this purpose from all sources;

4. Cooperate with other departments. Shall cooperate with other departments, agencies and institutions, both public and private, in providing for the vocational rehabilitation of handicapped individuals, in studying the problems involved therein, and

in establishing, developing and providing, in conformity with the purposes of this chapter such programs, facilities and services as may be necessary or desirable;

5. **Delegation of powers and duties.** May delegate to any officer or employee of the division such of his powers and duties, not inconsistent with the law, as he finds necessary to carry out the purposes of this chapter;

6. **Reciprocal agreements with other states.** May enter into reciprocal agreements with other states to provide for the vocational rehabilitation of handicapped individuals who are residents of the states concerned;

7. **Rehabilitation facilities and workshops.** May establish and operate rehabilitation facilities and workshops and make grants to public and other nonprofit organizations for such purposes;

8. **Vending stands and other businesses.** May supervise the operation of vending stands and other small businesses established pursuant to this chapter to be conducted by severely handicapped individuals;

9. **Research fellowships and traineeships.** May make studies, investigations, demonstrations and reports, and provide training and instruction, including the establishment and maintenance of research fellowships and traineeships with such stipends and allowances as may be deemed necessary, in matters relating to vocational rehabilitation;

10. **Other action.** Shall take such other action as he deems necessary or appropriate to carry out the purposes of this chapter;

11. **Contracts for training and services.** May contract with schools, hospitals and other agencies and with doctors, nurses, technicians and other persons, for training, physical restoration, transportation and other services required to carry on a program of vocational rehabilitation.

1959, c. 286, § 1.

§ 3057. Cooperation with Federal Government

The state board, through the division, shall cooperate with the Federal Government in carrying out the purposes of any federal statutes pertaining to vocational rehabilitation as such statutes pertain to individuals other than the blind, and is author-

ized to adopt such methods of administration as are found by the Federal Government to be necessary for the proper and efficient operation of agreements or plans for such vocational rehabilitation and to comply with such other conditions as may be necessary to secure the full benefits of such federal statutes to this State and its residents. Upon designation by the Governor, the state board, acting through the division, may perform functions and services for the Federal Government in addition to those provided for in this section.

1959, c. 286, § 1.

§ 3058. Appropriation

The Legislature shall appropriate for vocational rehabilitation services such sums as it finds necessary.

1959, c. 286, § 1.

§ 3059. Cooperation with other agencies

In accordance with this chapter, the state board shall cooperate with and utilize the services of state agencies interested in problems related to vocational rehabilitation; shall make use of the services and facilities of the Maine Employment Security Commission especially as they relate to job placement and employment counseling services; and shall, subject to such standards and regulations as may be established by the state board, cooperate with other public and nonprofit organizations and agencies as far as possible in providing vocational rehabilitation services.

1959, c. 286, § 1.

§ 3060. Gifts

The director is authorized and empowered, with the approval of the state board, to accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this chapter. Gifts made under such conditions as in the judgment of the state board are proper and consistent with this chapter may be so accepted and shall be held, invested, reinvested and used in accordance with the conditions of the gift. All moneys received as gifts or donations shall be deposited in the State Treasury and shall constitute a permanent fund to be called the Special Fund for the Vocational Rehabilitation of Disabled Persons, to be used by said board to defray the expenses of vocational rehabilitation

in special cases, including the payment of necessary expenses of persons undergoing training.

1959, c. 286, § 1.

§ 3061. State agency designated; federal-state agreement

The state board is designated as the state agency to make determination of disability required under Section 221 of Title II of the Federal Social Security Act as set forth in Section 106, Public Law 761, 83rd Congress, and the executive officer of the state board, subject to approval of the Governor, is authorized and empowered to enter into an agreement on behalf of the State with the Secretary of Health, Education and Welfare to carry out Title II of the Federal Social Security Act relating to the making of determinations of disability.

1959, c. 286, § 1.

§ 3062. Receipt and disbursement of funds

The Treasurer of State is designated as the custodian of all funds received from the Federal Government for the purpose of carrying out any federal statutes pertaining to vocational rehabilitation of handicapped individuals or any agreements authorized by this chapter. The Treasurer of State shall make disbursements from such funds and from all state funds available for the vocational rehabilitation purposes set forth in this chapter upon the order of the state board or its designated representatives.

1959, c. 286, § 1.

§ 3063. Maintenance not assignable

The right of a handicapped individual to maintenance under this chapter shall not be transferable or assignable at law or in equity.

1959, c. 286, § 1.

§ 3064. Hearings and judicial review

Any individual applying for or receiving vocational rehabilitation under this chapter who is aggrieved by any action or inaction of the division shall be entitled, in accordance with regulations, to a fair hearing by the state board. An individual aggrieved, because of the state board's decision made on the basis of a hearing, may appeal to a court of competent jurisdiction. If the

court shall find the appellant has not had a fair hearing, or that the decision of the state board was arbitrary, capricious or unreasonable, or inconsistent with the law, the court shall remand the proceedings for redetermination of the issues by the state board.

1959, c. 286, § 1.

§ 3065. Misuse of lists and records

It shall be unlawful, except for purposes directly connected with the administration of the vocational rehabilitation program, and in accordance with regulations, for any person or persons to solicit, disclose, receive or make use of, or authorize, knowingly permit, participate in or acquiesce in the use of any list of, or names of, or any information concerning, persons applying for or receiving vocational rehabilitation, directly or indirectly derived from the records, papers, files or communications of the State or subdivisions or agencies thereof, or acquired in the course of the performance of official duties. Any person who violates any provision of this section shall be punished by a fine of not less than $50 nor more than $300, or by imprisonment for not more than 60 days, or by both.

1959, c. 286, § 1.

§ 3066. Cost of administration

Any cost of administering section 3061 shall be paid from funds received from federal sources in accordance with the agreement made under section 3061.

1959, c. 286, § 1; c. 363, § 30; c. 378, § 36.

§ 3067. Saving clause

The Legislature reserves the right to amend or repeal all or any part of this chapter at any time, and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges or immunities conferred by this chapter or by acts done pursuant thereto shall exist subject to the power of the Legislature to amend or repeal this chapter at any time.

1959, c. 286, § 1.