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CHAPTER 41
VOCATIONAL REHABILITATION

NOTE: Public Law 13-18 repealed Chapter VIII of Title XII, "Vocational Rehabilitation," and enacted a new Title XII-A, "Vocational Rehabilitation." Public Law 14-77 also added a new Title XII-A though this new title was named Guam Community College. The Community College Act of 1977 can be found in Chapter 30.

The Chapter was again repealed and reenacted by P.L. 18-32:1. **SOURCE** information below is given only for changes in the law since that time. This Chapter has been placed in Title 17 and renumbered by the Compiler. Again, this Chapter was repealed and reenacted by P.L. 24-16:2.

2009 NOTE: P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. P.L. 30-050:2 (July 14, 2009) reverted the name of the Guam Public School System to the Department of Education. References to Guam Public School System have been changed to Department of Education pursuant to P.L. 30-050:3.

Article 1. Department of Integrated Services for Individuals with Disabilities (DISID).

Article 2. Vocational Rehabilitation (DVR).

Article 3. Division of Support Services for Individuals with Disabilities (DSSID).

Article 4. Division of Health Planning Program and Development.

Article 5. Division of Evaluation, Enforcement and Compliance.

Article 6. Individuals with Disabilities Disaster Recovery Fund.

Article 7. Individuals with Significant Disabilities Vending Act

ARTICLE 1
DEPARTMENT OF INTEGRATED SERVICES
FOR INDIVIDUALS WITH DISABILITIES
(DISID)

§ 41101. Department.

§ 41102. Definitions

§ 41103. Duties of DISID

§ 41104. Staff

§ 41105. Other Programs/Services.

§ 41101. Department.

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There is within the government of Guam an entity entitled "The Department of Integrated Services for Individuals with Disabilities (DISID)," which shall serve as a public service to coordinate and provide vocational rehabilitation and comprehensive community services for eligible individuals with disabilities.

§ 41102. Definitions.

For the purposes of this Chapter:

(a) *Department* means The Department of Integrated Services for Individuals with Disabilities ("DISID").

(b) *Director* means the Director of the Department of Integrated Services for Individuals with Disabilities ('DISID'). The Director shall be appointed by I Maga'lahaen Guåhan [Governor of Guam] and confirmed by I Liheslaturan Guåhan. The Director shall meet the following minimum qualifications:

(1) shall have graduated from a recognized college or university with a Master's Degree in Social Work or advanced degree in a related field of human services, and five (5) years experience in the field of disabilities or related field of human services of which three (3) years shall have been experienced as an administrator or director;

(2) shall have graduated from a recognized college or university with a Master's Degree in Public Health Administration or advanced degree in a related field of human services, and five (5) years experience in the field of disabilities or related field of human services of which three (3) years shall have been experienced as an administrator or director; or

(3) shall have graduated from a recognized college or university with a Bachelor's Degree in Social Work or degree in human services or related field and eight (8) years of experience in the field of disabilities or related field of human services of which five (5) years shall have been experienced as an administrator or director.

(c) [Repealed]

SOURCE: Subsection (c) added by P.L. 24-92:6. Subsection (b) amended by P.L. 26-40:1. Subsection (c) repealed/reenacted by P.L. 26-40:2. Subsection (c) repealed by P.L. 26-76:55 which repealed the original enactment in P.L. 24-92 as part of abolishing the Guam Health Planning Division.

§ 41103. Duties of DISID.

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(a) The DISID can accept grants, gifts, contributions and appropriations.

(b) The DISID shall conduct and provide for staff development, public education, and community awareness activities on the problems, needs, potentials, and rights of the individuals with disabilities through affirmative public education programs, including conferences, workshops and forums.

(c) The DISID shall serve as a central clearing house for public and private activities, which address the needs of persons with disabilities in Guam, review grant applications as related to the Division of Support Services for Individuals with Disabilities, proposed state plans and program descriptions in matters affecting persons with disabilities prior to submittal for the Governor's approval, and serve as a repository and disseminator of program information relating to persons with disabilities.

(d) The DISID shall review, assess and make recommendations addressing problems and needs and the availability of adequate services and resources for persons with disabilities in Guam through research and studies with regard to but not limited to employment, education, health, social services, recreation, civil rights, public facilities, housing, vocational training and rehabilitation, transportation and other matters pertinent to the well-being and independence of persons with disabilities, and to publicize the results thereof.

(e) The DISID shall compile and maintain a data base on the incidence of disabling conditions and number of persons with disabilities in Guam, and on resources allocated to address the needs of persons with disabilities.

(f) The DISID shall develop short and long-term plans to meet the needs of individuals with disabilities through facilitating the coordination of services and programs in collaboration with other organizations and/or agencies, whether they are community, public and/or private.

(g) The DISID shall be the state agency to supervise and administer the vocational rehabilitation services authorized by this Chapter under the state plan formulated in conformance with the Federal Vocational Rehabilitation Act, as amended, except for that part, as may be administered by a local agency of a political subdivision in the State, and DISID shall be the agency to supervise the local agency in the administration of that part.

(h) The DISID shall submit a detailed report on its activities and responsibilities to the Governor and the Speaker of the Guam Legislature on

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January 1 of each year, and for the previous fiscal year, and publish its availability for review to the public.

(i) The DISID shall implement Quality Assurance Programs to assure compliance of all public and private entities consistent with applicable local and federal statutes pertaining to individuals with disabilities.

(j) The DISID shall be designated as the state agency to administer the state plan for vocational rehabilitation services and services for adults who are blind.

(k) The DISID shall implement, consistent with applicable local and federal statutes, a fair, timely and impartial grievance procedure to provide administrative due process and recourse for individuals aggrieved by any action or failure to act on the part of the department under this Act.

(l) Design and implement an information and referral system for easy accessibility for individuals with disabilities and others who may benefit from services of DISID and availability of other services.

§ 41104. Staff.

The DISID shall hire staff to assist in the performance of its duties in compliance with Title 4, Guam Code Annotated, and personnel rules and regulations.

§ 41105. Other Programs/Services.

DISID will review annually the needs for new systems, or improvement of existing systems. DISID shall create and advocate for the expansion of programs and services and other systems as required to implement the services necessary for persons with disabilities.

ARTICLE 2
DIVISION OF VOCATIONAL REHABILITATION (DVR)

SOURCE: This Article was added by P.L. 24-16:2.

- § 41201. Division
- § 41202. Definitions
- § 41203. Administration.
- § 41204. Rehabilitation Advisory Council (RAC) for Division of Vocational Rehabilitation (DVR)
- § 41205. Rehabilitation Advisory Council (RAC) Function.

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- § 41206. Meetings
- § 41207. Compensation.
- § 41208. Establishment of a Community Rehabilitation Program.
- § 41209. Independent Living Services.
- § 41210. Employment of Individuals with Severe Disabilities.
- § 41211. Misuse of Lists and Records.

§ 41201. Division.

There is within the Department of Integrated Services for Individuals with Disabilities (DISID), a Division of Vocational Rehabilitation (DVR) which shall, as a public service, provide vocational rehabilitation services to eligible individuals with disabilities, and which shall be designated as the designated state unit to administer the state plan for vocational rehabilitation services and for the blind.

(a) (1) DVR may cooperate with other departments, agencies, and institutions, both public and private, in providing the services authorized by the Division to individuals with disabilities in studying the problems involved therein, and in establishing, developing, and providing, in conformity with the purposes of the DVR such programs, facilities, and services as may be necessary or desirable.

(2) Cooperation may include contracts and cost-sharing agreements, to the extent permitted by the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and the implementing Federal regulations.

(3) Within the scope of the Federal Rehabilitation Act, through cooperative agreements with other public agencies, DVR shall be consistent with their approved state plan. To provide these services, with the provisions of Federal law, DVR and other agencies shall share facilities, utilize existing eligibility and assessment information, participate in cross-training for agencies participating in cooperative programs, and engage in other cooperative activities to reduce duplication of services, and to provide a new enhanced pattern of vocational rehabilitation services for persons with disabilities.

(b) DVR may cooperate with Department of Education and with the public post-secondary education system to provide instruction, individual counseling and guidance, and related rehabilitation services for eligible students with disabilities.

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(c) DVR and the Department of Education will coordinate efforts in assisting vocational orientation of students with disabilities.

(d) In performing any rehabilitative services or in contracting with other public or private agencies for rehabilitative services, DVR shall take into consideration the needs of non-English-speaking persons with disabilities and shall provide language assistance consistent with the approved state plan to those individuals participating in the Division's public or private rehabilitation programs.

(e) To the extent funds are available, DVR also shall take into consideration the needs of persons with disabilities who rely on alternate modes of communication; such as manual communication, tactile, oral and nonverbal communication devices; and shall provide communication assistance to those individuals participating in DVR's programs consistent with the approved state plan.

(f) DVR shall conduct strategic planning which may include research and compilation of statistics, relating to the provision of services or the need of services by persons with disabilities.

(g) Financial need shall be considered in the furnishing or denial of services in accordance with the approved state plan.

(h) Pursuant to Federal law, DVR may conduct an evaluation, when necessary, including, but not limited to, diagnostic and related services necessary to determine eligibility for vocational rehabilitation services and for choosing rehabilitation goals, objectives and services.

(i) Pursuant to Federal law, DVR shall establish a priority order to be followed in selecting individuals to whom vocational rehabilitation services will be provided, consistent with the approved state plan.

(j) License blind individuals to operate vending stands, under its supervision and control, property of the government of Guam and on Federal or other property, pursuant to the Randolph-Sheppard Act or any other Act of Congress relating to the subject; supervise the operation of vending stands and other small businesses established pursuant to this Chapter to be operated by persons with severe disabilities.

§ 41201.1 Public School Library Resources Fund.

[Compiler believes this section number to be a manifest clerical error in P.L. 27-05. Moved by Compiler to 17 GCA § 4201.1 to fit harmoniously within the code.]

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§ 41202. Definitions.

For the purpose of this Article:

(a) *Council* means the Rehabilitation Advisory Council (RAC) for Division of Vocational Rehabilitation (DVR).

(b) *Division* means the Division of Vocational Rehabilitation (DVR).

(c) *Administrator* means the Administrator of the Division of Vocational Rehabilitation (DVR), who shall be an ex-officio non-voting member of the RAC. The Administrator must have at least a bachelors degree in Special Education, Vocational Rehabilitative Counseling Services or related subject, and at least four (4) years of experience in vocational rehabilitation service or related service dealing with persons with disabilities of which two (2) years shall be administrative. The position shall be of the classified service of the government of Guam. The position Classification Standard and Compensation shall be established by the Director of Administration.

(d) *Individual with a Disability* means any individual who:

(1) Has a physical or mental impairment which for this individual constitutes or results in a substantial impediment to employment, and can benefit in terms of an employment outcome through the provision of vocational rehabilitation services provided, pursuant to Title I, III, VI, or VIII of the Vocational Rehabilitation Act of 1973, as amended.

(2) Can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to this Chapter.

(e) *Individual with a Severe Disability* means an individual with a disability who has a severe physical or mental impairment, which seriously limits one or more functional capacities as defined by the Vocational Rehabilitation Act, as amended.

(f) *Vocational Rehabilitation Services* means those services identified in this Article, to include services identified in the approved state plan. All expenses for the purposes of these services will not be restricted or included under capital outlay.

(g) *Supported Employment* means competitive work in integrated work settings for individuals with the severe disabilities for whom competitive employment has not traditionally occurred; or for whom competitive employment has been interrupted or intermittent as a result of a severe

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disability; and who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extended services to include transitional employment for persons who are individuals with the most severe disabilities due to mental illness.

(h) *Nonprofit* when used with respect to a rehabilitation facility means a rehabilitation facility which is owned and operated by a corporation or association, no part of the net earnings of which accrues or may lawfully accrue, to the benefit of any private shareholder or individual, and the income of which is exempt from taxation under §501(c)(3) of the Internal Revenue Code of 1954.

(i) *Assessment for determining eligibility and vocational rehabilitation needs* means, to determine whether an individual is eligible for vocational rehabilitation services; and to the extent additional data is necessary to make such determination, a preliminary assessment of such data, including the provision of goods and services during such assessment; to the extent additional data is necessary, a comprehensive assessment, including the administration of the assessment, of the unique strengths, resources, priorities, interests and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment is limited to information that is necessary to identify the rehabilitation needs of the individual to develop the rehabilitation program of the individual; uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements - existing information; and such information as can be provided by the individual and , where appropriate, by the family of the individual; may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments and employment opportunities of the individual, and the medical, psychiatric, psychological and other pertinent vocational, educational, cultural, social, recreational and environmental factors, that affect the employment and rehabilitation needs of the individual and may include an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work for successful job performance, including the utilization of work in real job situations to assess and develop the capacities

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of the individual to perform adequately in a work environment; and referral; the provision of vocational rehabilitation services to an individual for a total period not in excess of eighteen (18) months for the limited purpose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and an assessment at least once every ninety (90) day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described may be made.

(j) *State* means any one of the several states, territories or possessions of the United States.

(k) *Community Rehabilitation Program* means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individuals to maximize opportunities for employment, including career advancement:

(1) Comprehensive rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services.

(2) Testing, fitting or training in the use of prosthetic and orthotic devices.

(3) Recreation therapy.

(4) Physical and occupational therapy.

(5) Speech, language and hearing therapy.

(6) Psychiatric, psychological and social services.

(7) Personal and work adjustment.

(8) Vocational training, in combination with other rehabilitation services.

(9) Evaluation or control of special disabilities.

(10) Assessment for determining eligibility and vocational needs, including evaluation for supported employment, development, and placement in jobs.

(11) Development of, and placement in jobs.

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(12) Job coaching services to enable a person with disabilities to obtain or maintain supported or competitive employment.

(13) Extended employment for persons with severe disabilities who cannot be readily absorbed into the competitive labor market.

(14) Personal assistance services.

(1) *Vocational Rehabilitation Services* when provided to and individual means any one or any combination of the following services:

(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, assessment by personnel skilled in rehabilitation technology;

(2) counseling, guidance, and work-related placement services for individuals with disabilities, including job search assistance, placement assistance, job retention services, personal assistance services and follow-up, follow-along, and specific post employment services necessary to assist such individuals to maintain, regain or advance in employment;

(3) vocational and other training services for individuals with disabilities, which shall include personal and vocational adjustment, books or other training materials, and such services to the families of such individuals as are necessary to the adjustment or rehabilitation of such individuals, except that no training services in institutions of higher education shall be paid for with basic support Federal funds unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training;

(4) physical and mental restoration services, including, but not limited to,

(a) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes an impediment to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time,

(b) prosthetic and orthotic devices,

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(c) eyeglasses and visual services, as prescribed by qualified personnel under Guam licensure laws,

(d) special services, including transplantation and dialysis, artificial kidneys and supplies necessary for the treatment of individuals with end-stage renal disease, and

(e) diagnosis and treatment for mental and emotional disorders by qualified personnel under Guam licensure laws;

(5) maintenance for costs incurred while participating in rehabilitation;

(6) interpreter services for individuals who are deaf, and reader services for those individuals determined to be blind after an examination by qualified personnel under Guam licensure laws;

(7) recruitment and training services for individuals with disabilities to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety and law enforcement, and other appropriate service employment;

(8) rehabilitation teaching services and orientation and mobility services for individuals who are blind;

(9) occupational licenses, tools, equipment and initial stocks and supplies;

(10) transportation in connection with the rendering of any vocational rehabilitation service;

(11) telecommunication, sensory and other technological aids and devices;

(12) rehabilitation technology services;

(13) referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed, if such services are not available under the Rehabilitation Act of 1973, as amended;

(14) transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

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(15) on-the-job training or other related personal assistance services provided while an individual with a disability is receiving vocational rehabilitation services;

(16) supported employment services; and

(17) vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(i) in the case of any type of small business operated by individuals with the most severe disabilities, the operation of which can be improved by management services and supervision provided by the Department, the provision of such services and supervision, along or together with the acquisition of equipment and initial stocks and supplies;

(ii) the establishment, development, or improvement of community rehabilitation programs, including under special circumstances, the construction of a facility, and the provision of other services, including services offered at community rehabilitation programs, which promise to contribute substantially to the rehabilitation of a group of individuals, but which are not related directly to the individualized rehabilitation written program of any one individual with a disability. Such programs shall be used to provide services that promote integration and competitive employment;

(iii) use of existing telecommunications systems, including telephone, television, satellite, radio, and other similar systems, which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of individuals with disabilities;

(iv) the use of services providing recorded material for individuals who are blind and captioned films or video cassettes for individuals who are deaf; and

(v) technical assistance and support services to businesses that are subject to Title I of the Americans with Disabilities Act of 1990 (42 U.S.C. §12111 *et seq.*) and that are seeking to employ individuals with disabilities.

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(m) *Designated State Unit or State Vocational Rehabilitation Agency* means the designated state unit, which is the Division of Vocational Rehabilitation (DVR), designated to develop and administer the State Plan for Vocational Rehabilitation Services.

(n) *State Plan* means the annual State Plan for Vocational Rehabilitation Services, or the vocational rehabilitation services part of a consolidated rehabilitation plan for vocational rehabilitation. In order to be eligible to participate in programs under the Rehabilitation Act of 1973, as amended, the Division shall submit to the Commissioner of Region IX, USDOE/Rehabilitation Services Administration a plan for vocational rehabilitation services for a three (3) year period, or shall submit the plan on such date, and at such regular intervals, as may be determined to be appropriate to coincide with the intervals at which the Division submits state plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. §1411 *et seq.*).

(o) *Individualized written rehabilitation program* shall do all of the following:

(1) Be designed to achieve the employment objective of the individual, consistent with the unique strengths resources, priorities, concerns, abilities and capabilities of the individual, and to the maximum extent appropriate, to include placement in integrated settings.

(2) Be jointly developed and agreed upon by the eligible individual, or when appropriate, the individual's parent, family member, guardian, advocate or authorized representative, and DVR. In developing the program, DVR shall inform the individual about and involve the individual in choosing among alternative goals, objectives, available services, entities providing the services and the methods used to provide or procure the services.

(3) Contain all of the information required by Federal law and regulations, including a statement of the specific vocational goods and services to be provided, and the terms and conditions under which available goods and services will be provided, to the extent Federal funds are available, to the individual in the most integrated setting.

(4) An individual is eligible for assistance consistent with the approved state plan.

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(p) *Assistive Technology Service* means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device; including:

(i) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in his or her customary environment or work place;

(ii) purchasing, leasing, or otherwise providing for the acquisition by an individual with a disability of an assistive technology device;

(iii) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(iv) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(v) training or technical assistance for an individual with a disability or, if appropriate, the family members, guardians, advocates, or authorized representatives of the individual; and

(vi) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or others who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome by an individual with a disability.

(q) *Comparable Services and Benefits* means services and benefits that are:

(i) provided or paid for, in whole or in part, by other Federal or Local public agencies, by health insurance, or by employee benefits;

(ii) available to the individual within a reasonable period of time; and

(iii) commensurate to the services that the individual would otherwise receive from the Division.

(r) *Competitive Employment* means work:

(i) in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and

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(ii) for which an individual is compensated at or above the minimum wage, but not less than the prevailing wage for the same or similar work in the local community performed by individuals who are not disabled.

(s) *Employment Outcome* means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated work setting to the greatest extent practicable; supported employment; or any other type of employment that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

(t) *Extended Employment* means work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act, and any needed support services to a person with a disability to enable the individual to continue to train or otherwise prepare for competitive employment, unless the individual through informed chooses to remain in extended employment.

(u) *Integrated Setting* with respect to the provision of services or an employment outcome, means a setting typically found in the community in which applicants or eligible individuals have the opportunity to interact on a regular basis with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals.

(v) *Maintenance* means monetary support provided to an eligible individual or an individual receiving extended evaluation services for those living expenses, such as food, shelter and clothing, that are excess of the normal living expenses of the individual and that are necessitated by the individual's participation in a program of vocational rehabilitation services.

(w) *Personal Assistance Services* means a range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability. The services must be necessary to the achievement of an employment outcome and may be provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising and directing personal assistance services.

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(x) *Physical and Mental Restoration Services* means corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment.

(y) *Transitional Employment* as used in the definition supported employment, means a series of temporary job placements in competitive work in integrated settings with ongoing support services for individuals with the most severe disabilities due to mental illness. In transitional employment, the provision of ongoing support services must include continuing sequential job placements until job permanency is achieved.

COMMENT: Effective January 1, 2006, reference to the "Civil Service Commission," amended to "Director of Administration" pursuant to P.L. 28-68:IV:45 (Sept. 30, 2005).

§ 41203. Administration.

(a) All executive and administrative functions of DVR are vested in the Administrator, who is the ex-officio non-voting member of the RAC. The Administrator's salary and benefits shall be established in accordance with 4 GCA government of Guam Unified Pay Schedule.

(b) The authority and responsibility of the Administrator shall include the following:

- (1) to see that all rules and regulations of DVR are enforced;
- (2) to attend all scheduled meetings of RAC and submit a quarterly written report on the affairs of the Division with data and in a format requested by the Council of the affairs, needs and immediate problems of DVR on the issues requested by RAC as defined the Vocational Rehabilitation Act;
- (3) to keep the RAC informed of the needs of the Division;
- (4) to devote his or her entire time to the business of the DVR;
- (5) to plan, organize, coordinate and control the services of such employees as to achieve the goals of DVR;
- (6) will address the current and projected vocational rehabilitation services personnel training needs for DVR;
- (7) provide for the coordination and facilitation of efforts between DVR and institutions of higher education and professional associations

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to recruit, prepare and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities;

(8) responsible for the implementation of agreements with the operators of community rehabilitation programs for the provision of services for the rehabilitation of individuals with disabilities;

(9) provide that special consideration will be given to the rehabilitation under the Rehabilitation Act of 1973, as amended, of a person with a disability whose disability was sustained in the line of duty while such individual was performing as a public safety officer, if the proximate cause of such disability was a criminal act or hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution and administration of law or fire prevention, fire fighting or related public safety activities if there is an approved order of selection plan;

(10) provide outreach procedures to identify and serve persons with disabilities who are minorities and persons with disabilities, who have been unserved or underserved by the vocational rehabilitation system;

(11) provide services designed to promote supported employment, independent living and community participation;

(12) provide that DVR has the authority to enter into contracts with profitmaking organizations for the purpose of providing on-the-job training and related programs for persons with disabilities under Part B of Title VI of the Rehabilitation Act of 1973, as amended, upon a determination by the Division that such profit making organizations are better qualified to provide such rehabilitation services than nonprofit agencies and organizations;

(13) develop and implement a strategic plan for expanding and improving vocational rehabilitation services for persons with disabilities;

(14) seek and seriously consider on a regular and ongoing basis advice from the RAC regarding the development and implementation of the state plan and the strategic plan and amendments to the plans, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in Guam. Copies of the aforementioned items must be submitted to RAC two (2) months

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prior to submission to the Guam State Clearinghouse, Federal agency(ies) or the public;

(15) cooperate with the Federal government in carrying out the purpose of any Federal statute pertaining to vocational rehabilitation;

(16) adopt the Rehabilitation Act of 1973, as amended in 1992, and any future amendments thereof, in administering vocational rehabilitation services.

§ 41204. Rehabilitation Advisory Council (RAC) for Division of Vocational Rehabilitation (DVR).

(a) Pursuant to Federal law, there is a Rehabilitation Advisory Council (RAC), that shall advise and assist the Administrator after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities in carrying out the vocational rehabilitation provisions of DVR.

(b) Composition. The Administrator will submit nominations for membership of RAC for approval by the Governor and shall be composed of the representatives specified in the Vocational Rehabilitation Act, as amended. The members shall include:

(1) At least one (1) representative of the Statewide Council on Independent Living which representative may be the Chairperson;

(2) At least one (1) representative of a parent training and information center;

(3) At least one (1) representative of the Client Assistance Program;

(4) At least one (1) vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex-officio, nonvoting member if employed by the Division of Vocational Rehabilitation (DVR);

(5) At least one (1) representative of community rehabilitation program service providers;

(6) At least four (4) representatives of business, industry, and labor;

(7) Representatives of disability advocacy groups representing a cross section of individuals with physical, cognitive, sensory and

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mental disabilities, and parents, family members, guardians, advocates or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves;

(8) Current or former applicants for, or recipients of, vocational rehabilitation services; and

(9) The Administrator of DVR, who shall be an ex-officio non-voting member.

(c) A majority of the council members shall be persons who have disabilities and are not employed by DVR. The RAC members shall elect a chairperson from the membership. Each member of the RAC shall serve a three-year term, but may not serve more than two (2) consecutive full terms. Terms shall be staggered.

§ 41205. Rehabilitation Advisory Council (RAC) Function.

The RAC shall provide technical assistance and advise DVR on eligibility, order of selection, services provided, performance of DVR and other public and private entities. The RAC shall prepare and submit an annual report by November 30 for the previous fiscal year to the Governor of Guam on the status of the vocational rehabilitation programs within Guam and make the report available to the public.

§ 41206. Meetings.

(a) The RAC shall convene at least four (4) meetings a year to conduct RAC business that are publicly announced, open and accessible to the public, including individuals with disabilities; and

(b) Conduct forums or hearings, as appropriate, that are publicly announced, open and accessible to the public, including individuals with disabilities.

§ 41207. Compensation.

Federal funds appropriated under Title I of the Rehabilitation Act, as amended, except funds to carry out Sections 112 and 130 of the Act, may be used to compensate and reimburse the expenses of the RAC members in accordance with Section 105(g) of the Rehabilitation Act, as amended. The RAC shall serve with compensation and shall be reimbursed for reasonable expenses, including travel expenses, necessary for the performance of their duties.

§ 41208. Establishment of a Community Rehabilitation Program.

The establishment of a community rehabilitation program means the acquisition, expansion, remodeling or alteration of existing buildings necessary to adapt them to community rehabilitation program purposes or to increase their effectiveness for such purposes, subject, however, to such limitations as the Federal government, or the Administrator, may, by regulation, prescribe in order to prevent impairment of the objectives of, or duplication of, other laws providing assistance in the construction of such facilities for community rehabilitation programs and may include additional equipment and staffing permitted by Federal law or regulation.

(a) It is the purpose of this Chapter to extend the opportunities for eligible individuals with disabilities for employment through encouragement of local communities to develop rehabilitation programs and to provide Guam with information concerning their effectiveness in providing employment and rehabilitation services to individuals with disabilities.

(b) DVR may provide consultative services to organizations in the establishment and operation of community rehabilitation programs for individuals with disabilities. These consultative service shall include the bringing together of persons interested in the established community rehabilitation programs, surveying community needs, securing the cooperation of other community agencies, planning methods of financing, securing work contracts, establishing professional standards and maintaining of appropriate records.

(c) DVR may contract with qualified persons or firms for consultation in such technical fields as accounting, engineering and sales so that the directors and governing bodies of the community rehabilitation programs may be advised as to the desirability of any undertaking, and the best methods of achieving their objectives.

(d) It is the intent of DVR to encourage the local government agencies and departments to purchase products manufactured by and services provided by public or private nonprofit Guam corporations operating workshops serving persons with disabilities whenever it is feasible to do so, and the proximity of the public or private nonprofit Guam corporations operating workshops serving individuals with disabilities makes the purchases reasonably convenient, and to provide equality of competitive advantage for organizations operating workshops for persons with

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disabilities and organizations operating workshops for individuals who are blind.

(e) Only local government agencies or departments may, without advertising or calling for bids, purchase materials and supplies manufactured and services provided by public or private nonprofit Guam corporations operating community rehabilitation programs serving persons with disabilities who have indicated an interest in supplying those goods and services and may, on an equitable basis apportion the business among the interested community rehabilitation programs, provided the goods or services meet the specifications and needs of the purchasing agency or department and are purchased at a fair market price, as determined by General Services Agency and provided that the public or private nonprofit Guam corporations comply with all of the following requirements:

(1) Contract work obtained under this Section shall be performed by a labor force which is comprised primarily of persons with disabilities, as measured by the percentage of person-hours of direct labor devoted to the contract work.

(2) For purposes of this Paragraph, *primarily* means seventy-five percent (75%) or greater.

(3) Agree to make those elections permitted of any nonprofit corporation under the Federal Insurance Contributions Act and the Guam Unemployment Insurance Code in order to provide social security and unemployment and disability benefits for its employees commencing with its first contract or purchase order under this Section and continuing thereafter. In the event that the nonprofit corporation ceases to provide those benefits, any existing contract or purchase order under this Section with the corporation is terminated, and no further contracts or purchase orders shall be awarded to that corporation for the period of two (2) years after the corporation ceases to provide benefits. For the purpose of this Subdivision, a person with a disability shall be considered an employee when performing productive work.

(4) Provide in its articles of incorporation that at least two (2) of the directors of its board of directors shall be comprised of persons with disabilities or the parents, guardians or conservators of persons with disabilities. Directors who are also employees of the nonprofit corporation shall not participate in, or be present at discussions of, the

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board of directors concerned with labor-management contract negotiations.

(5) Provide for employees with disabilities of the nonprofit corporation benefits and other employer-employee agreements substantially equal to those benefits and agreements entered into between each nonprofit corporation and the representatives designated by a majority of the employees.

(6) Not commit any unfair labor practices as defined in Section 8(a) of the National Labor Relations Act.

(7) Abide by the provisions of the Federal Fair Labor Standards Act, the Walsh-Healy Public Contract Act, the Wagner O Day Act, and the regulations of the government of Guam Department of Labor.

§ 41209. Independent Living Services.

(a) DVR may establish and enter into contracts not to exceed three (3) years per contractual period, a nonprofit corporation qualified to provide independent living services. In the event that no nonprofit corporations exist or there are no bid requests from a nonprofit corporation, the contract may be opened to the general public.

(b) DVR shall implement the Independent Living Services consistent with the approved Independent Living State Plan.

§ 41210. Employment of Individuals with Severe Disabilities.

(a) Departments and agencies of the government of Guam shall adopt departmental rules and regulations for the hiring of individuals with severe disabilities. Such rules shall include the granting of preference credits allowed under 4 GCA § 4104.

(i) Eligibility Procedures. An individual with severe disability as defined in the Rehabilitation Act to mean an individual with severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively. He/she is considered to meet the two percent (2%) employment program eligibility criteria when an appropriate certification is received from a counselor from the

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Division of Vocational Rehabilitation ('DVR'). This certification will be based on knowledge of the jobsite by the counselor and will relate to a specific position. The certification must state that in the counselor's judgment the proposed applicant for the position has the ability to perform the duties of the position with or without assistive technology devices and is capable to perform the work without possible injury to himself/herself or to others.

(ii) The Certification must be supported by a report of a medical examination that fully reflects the nature and extent of the disability and a narrative statement from a Guam-licensed medical provider that documents:

- (1) ability of the proposed applicant to do the job, based on the recommended need for a job coach;
- (2) recommendations of job modifications, if needed;
- (3) recommendations for work-site modifications, if needed;
- (4) limitations of the proposed applicant which would affect work in the job situation (modified work schedules, flexible leave policies, acquisition or modification of equipment and/or devices);
- (5) other information concerning the proposed applicant which would be helpful in assuring a successful placement.

(b) Government of Guam departments and/or agencies shall employ at least two percent (2%) of the workforce with severe disabilities, meeting the criteria as defined by local or Federal agencies and certified by a counselor from the Division of Vocational Rehabilitation ('DVR'). Government of Guam departments and/or agencies may meet such requirement through direct employment, or by contract with non-profit organizations employing individuals with disabilities.

Non-profit organizations contracted under this Provision shall be required to have the contracted services performed by individuals with disabilities who meet the criteria contained herein. Such employment shall be on a temporary, limited-term employment not to exceed six (6) months. The immediate supervisor shall complete an evaluation of the individual's performance, and if the immediate supervisor, with the concurrence of the appointing authority, determines that the individual has performed satisfactorily either prior to or after the expiration of the six (6) month

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period, the position occupied by the individual shall be converted to permanent employment.

If the evaluation recommends that the individual may require an extension of the employment program, the immediate supervisor and the counselor at DVR shall develop a revised Individual Work Rehabilitation Plan (*IWRP*) to assure successful placement not to exceed an additional six (6) months, which may include consideration of a department or agency acquisition, or modification of assistive technology devices or services, or placement to other positions in another agency/department within the government of Guam. DVR shall provide a work coach to assist the department and/or agency when necessary. DVR shall be responsible to monitor compliance by the departments and/or agencies.

(c) Government of Guam departments and/or agencies shall consult with the Administrator of the Division of Vocational Rehabilitation to advise them of which individuals with severe disabilities meet the eligibility criteria. The Division of Vocational Rehabilitation shall maintain a listing of those individuals and their capabilities for reference by the department and/or agency. For the government of Guam departments and/or agencies who meet the requirement by contract with non-profit organizations, the Division of Vocational Rehabilitation must first certify that such non-profit organizations employing individuals with disabilities meet the eligibility criteria herein.

(d) Government of Guam departments and/or agencies cannot use standards, criteria or other methods of administration have the effect of discrimination on the basis of disability, may not use employment tests or other selection criteria that tend to screen out individuals with disabilities unless the test is related to the job and consistent with government needs, must select and administer employment to individuals with severe disabilities so that they accurately reflect the skills, aptitude and other features they purport to measure.

(e) Government of Guam departments and/or agencies should provide reasonable accommodations to an individual with severe disabilities:

(i) making existing facilities used by employees readily accessible to persons with disabilities; and

(ii) job restructuring; flexible work schedules; acquisition or modifications of equipment or devices; modification of examinations;

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training materials or policies; and similar accommodations for individuals with severe disabilities.

(f) Provisions of this Section shall only apply to all new applicants certified under the two percent (2%) employment program and those individuals presently participating in of the seven hundred (700) hour program upon enactment of this Act.

SOURCE: Subsections (a)(i), (b) and (f) amended by P.L. 24-252. Subsections (b) and (c) amended by P.L. 26-109; and 3.

NOTE: P.L. 25-109 added the following sections (uncodified) relative to staffing and funding the positions referred to in the amendments to this section:

“Section 4. The implementation of this provision shall not be affected by current and future contract hiring restrictions of the government of Guam and its departments and/or agencies.

Section 5. Funding. (a) Government of Guam departments and/or agencies shall reserve enough funding from their budget in order to fund the requirement set forth under § 41210(b) of Title 17 of the Guam Code Annotated.

(b) If government of Guam departments and/or agencies are unable to employ the requirement pursuant to § 41210(b) of Title 17 of the Guam Code Annotated, due to the lack of individuals with disabilities who are able to work, the reserved fund shall be utilized for the purchases of supplies produced by non-profit organizations employing individuals with disabilities and/or products manufactured by individuals with disabilities.”

§ 41211. 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 applicable rules and regulations, for any person to solicit, disclose, receive, make use of, authorize, knowingly permit, participate in or acquiesce in, the use of any name of or any information concerning a person applying for or receiving vocational rehabilitation directly or indirectly derived from the records, papers, files or communications of the Council or Division thereof acquired in the course of performance of official duties. Any violation of this Section shall be a misdemeanor.

ARTICLE 3
DIVISION OF SUPPORT SERVICES FOR INDIVIDUAL WITH
DISABILITIES
(DSSID)

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SOURCE: This Article was added by P.L. 24-16:2.

- § 41301. Division.
- § 41302. Definitions.
- § 41303. Administration.
- § 41304. Community Services for Persons with Disabilities System.
- § 41305. Application and Assessment for Services; Individualized Service Plans.
- § 41306. Provision of Services.
- § 41307. Duties of DSSID.
- § 41308. Establishment of Division of Support for Individual with Disabilities Council (DSSIDC).
- § 41309. Composition of the Division of Support Services for Individuals with Disabilities Council (DSSIDC).
- § 41310. Powers of the Division of Support Services for Individuals with Disabilities Council (DSSIDC).

§ 41301. Division.

There is a division within the "The Department of Integrated Services for Individuals with Disabilities (DISID)," entitled "Division of Support Services for Individuals with Disabilities (DSSID)," and shall be responsible for the development of a community service delivery system which includes design, implement, administer, coordinate, monitor and evaluate the programs and services of the division for persons with disabilities. DSSID shall not duplicate services already available in the community through local and Federal funding or nonprofit organizations.

§ 41302. Definitions.

(a) *Active Services* means provision of services as specified in an individualized service plan. These services may include, but not limited to, activities, experiences and therapy which are part of a professionally developed and supervised program of health, social, habilitative and developmental services.

(b) *Case Management* means services to persons with disabilities that assist in gaining access to need social, medical, legal, educational and other services, and includes:

- (1) Follow along services which assure, through a continuing relationship between an agency or provider and a person with a disability and the individual's parent, if the individual is a minor, or

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guardian, if a guardian has been appointed for the purpose, that the changing needs of the individual and the family are recognized and appropriately met.

(2) Coordinating and monitoring services provided to persons with disabilities by two (2) or more persons, organizations or agencies that are qualified or eligible under other case management programs.

(3) Providing information to persons with disabilities about availability of services and assisting the persons in obtaining the services.

(c) *Division* means the Division of Support Services for Individuals with Disabilities (DSSID).

(d) *Individual with a Disability* means any individual who:

(1) Has a physical or mental impairment (a) that substantially limits one or more of the major life activities of such individual; (b) a record of such an impairment; or (c) being regarded as having such an impairment.

(e) *Administrator* means the Administrator of Division of Support Services for Individuals with Disabilities (DSSID) who shall be an ex-officio, non-voting member of the Division of Support Services for Individuals with Disabilities Council (DSSID). The Administrator must have at least a bachelors degree in Special Education or Social Work or related subjects and at least four (4) years of experience in community services dealing with persons with disabilities, of which two (2) years shall be administrative. The position shall be of the classified service of the government of Guam. The position Classification Standard and Compensation shall be established by the Director of Administration.

(f) *Habilitation* means the process by which the staff of an agency assists an individual to cope more effectively with the demands of his or her own person and environment and to raise the level of his or her physical, mental and social functioning. Habilitation includes, but is not limited to, programs of formal structured education and treatment.

(g) *Individualized service plan* means the written plan for required in Section 41305.

(h) *Individually appropriate* means responsive to the needs of the individual, as determined through interdisciplinary assessment and provided pursuant to an individualized service plan.

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(i) *Interdisciplinary team* means a group of persons that is drawn from or represents those professions, disciplines or service areas that are relevant to identifying an individual's needs and designing a program to meet them, and is responsible for evaluating the individual's needs, developing an individual program plan to meet them, periodically reviewing the individual's response to the plan, and revising the plan accordingly. A complete team includes the individual receiving the service, unless clearly unable to participate; the individual's family, unless their participation has been determined to be inappropriate; those persons who work most directly with the individual each of the professions, disciplines or service areas that provide service to the individual, including direct-care or direct-contact staff; and any other persons whose participation is relevant to identifying the needs of the individual and devising ways to meet them.

(j) *Least restrictive* means the least intrusive and least disruptive intervention into the life of an individual with a disability that represents the least departure from normal patterns of living that can be effective in meeting the person's developmental needs.

(k) *Inclusive environment* means that environment that represents the least departure from normal patterns of living that can be effective in meeting the individual's needs.

(l) *Monitor* means to conduct a systematic, coordinated, objective, qualitative review of services provided by any person, agency or organization.

(m) *Representative* means any individual who can advise and advocate for an individual with disabilities, who shall serve at the request and pleasure of such person; provided, that if the person with disabilities is a minor or is legally incapacitated.

(n) *Residence or residential* means the living space occupied by the individual with a disability, including single-person homes, natural family homes, care homes, group homes, foster homes, institutional facilities and all other types of living arrangements.

(o) *Services* means appropriate assistance provided to an individual with a disability, individually appropriate environment to provide for basic living arrangements and continuing development of independence or interdependent living skills of the person. These services include, but are not restricted to: case management, medical, education, assistive technology, advocacy, residential, developmental and vocational support;

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training; active services; day treatment; day activity; respite care; domestic assistance; attendant care; rehabilitation; speech, physical occupational and recreational therapy; recreational opportunities; counseling, including counseling to the person's family, guardian or other appropriate representative; development of language and communications skills; interpretation; transportation and equipment, and other related services.

(p) *Respite Care* means in-home or out-of-home temporary, non-medical support for families with individuals with disabilities,

SOURCE: Added by P.L. 24-16:2. Amended by P.L. 28-068:IV:42 and 47 (Sept. 30, 2005), effective January 1, 2006; reference to Civil Service Commission changed to Director of Administration.

§ 41303. Administration.

(a) All executive and administrative functions of DSSID are vested in the Administrator, who is the ex-officio non-voting member of the DSSIDC. The Administrator's salary and benefits shall be established in accordance with 4 GCA Government of Guam Unified Pay Schedule.

(b) The authority and responsibility of the Administrator shall include the following:

- (1) to see that all rules and regulations of DSSID are enforced;
- (2) to attend all scheduled meetings of the DSSIDC and submit a general report of the affairs of DSSID;
- (3) to keep the DSSIDC advised of the needs of the DSSID;
- (4) to devote his or her entire time to the business of the DSSID;
- (5) to plan, organize, coordinate and control the services of such employees as to achieve the goals of the DSSID;
- (6) will address the current and projected personnel training needs for the DSSID;
- (7) provide for the coordination and facilitation of efforts between DCSID and institutions of higher education and professional associations to recruit, prepare and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities;
- (8) provide (as appropriate) for entering into agreements with the operators of community habilitation programs for the provision of services for the habilitation of individuals with disabilities;

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(9) provide outreach procedures to identify and serve persons with disabilities who are minorities and persons with disabilities who have been unserved or underserved;

(10) develop and implement a strategic plan for expanding and improving community services for persons with disabilities; and

(11) seek and seriously consider on a regular and ongoing basis advice from the DSSIDC regarding the goals and strategic plans developed for the Division;

§ 41304. Community Services for Persons with Disabilities System.

(a) DSSID shall develop and administer a comprehensive system of programs and services for individuals with disabilities within the limits of local and Federal resources allocated or available for purposes of this Chapter. DSSIDC responsibility for individuals with disabilities shall be under one administrative unit for the purpose of coordination, monitoring, evaluation and delivery of services.

(b) DSSID shall ensure the provision of an array of appropriate services and care to individuals with disabilities through the utilization of existing resources within the community, through coordination with programs and services provided under other Federal and local programs and through specific funding when no other resources are available. DSSID shall not supplant or duplicate services provided by other Federal or local programs.

(c) Programs of DSSID may include, but not limited to,:

(1) referral for evaluation of persons with disabilities;

(2) development, planning and implementation in coordination with other Federal or local agencies of service programs for persons with disabilities;

(3) development and provision of service programs in the public or private sectors for persons with disabilities;

(4) establishment of a continuum of comprehensive services and residential alternatives in the community so as to allow individuals with disabilities to live in the least restrictive, individually appropriate environment;

(5) development and implementation of a program for single entry access by individuals with disabilities for services provided in the

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private sector or other Federal or local programs, including case management and development of an individualized service plan by an interdisciplinary team;

(6) Collaborative and cooperative services with public health and other groups for programs of prevention of disabilities;

(7) Informational and educational services to the general public and to lay and professional groups;

(8) Consultative services to the judicial branch of government, to educational institutions and to health and welfare agencies whether such agencies are public or private;

(9) Provision of community residential alternatives for persons with disabilities, including group homes; and

(10) Provision of other programs, services or facilities necessary to provide a continuum of care for persons with disabilities.

§ 41305. Application and Assessment for Services; Individualized Service Plans.

(a) DSSID shall develop and administer an application and assessment system for persons with disabilities. If DSSID determines that the person is eligible for services under this Chapter within the limits of Federal or local resources available for the purposes of this Chapter, an individualized service plan for the person shall be prepared within thirty (30) days by an interdisciplinary team for the person and DCSID may provide case management services to the person. DSSID will provide for an annual review and update of plan.

(b) The procedure for assessment of the person and elements of the individualized service plan shall be as described in policies and procedures adopted by DSSID. The individualized service plan shall be in writing and shall include, at a minimum, the nature of the needs of the person, goals and specific services to be offered to the person to attain these goals.

§ 41306. Provision of Services.

Based upon the individualized service plan, DSSID shall, as may be required, refer the person to services provided by DSSID under this Chapter to services provided under other Federal or local laws, or to services provided by appropriately licensed private agencies.

§ 41307. Duties of DSSID.

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The Division of Support Services for Individuals with Disabilities (DSSID) with approval by the Director of "The Department of Integrated Services for Individuals with Disabilities" (DISID), and recommended by the Division of Support Services for Individuals with Disabilities Council (DSSIDC), shall develop policies and procedures which shall include, but not limited to:

(a) Establishment of eligibility requirements for participation in services provided under this Chapter.

(b) Establishment of standards of transfer from one facility to another.

(c) Provision for the involvement of the individual and where appropriate, the parents, guardian, or other representatives of the individual in the determination of eligibility under this Chapter, the preparation of the individual's individualized service plan and the selection or rejection of services under this Chapter.

(d) Protection and enhancement of the rights of individuals receiving or applying for services under this Chapter, including the right to privacy and confidentiality.

(e) Develop a case management program in coordinating and monitoring services to individuals with disabilities and follow-up services which assure, through a continuing relationship between an agency or provider that the changing needs of the individual and the family are recognized and appropriately met.

(f) Implement procedures to provide contract management, which shall include quality assurance.

(g) Other provisions required or appropriate to implement the purposes of this Chapter.

§ 41308. Establishment of Division of Support Services for Individuals with Disabilities Council (DSSIDC).

(a) There is established an advisory council entitled "Division of Support Services for Individuals with Disabilities Council" (DSSIDC) to be composed of fifteen (15) members to be appointed by the Governor. Eight (8) members shall be appointed for two (2) year terms, and seven (7) members shall be appointed for four (4) years. No member shall serve more than two (2) consecutive terms. All members shall serve, in addition to their regular term, until their successors are appointed. Members of the DSSIDC will be appointed within sixty (60) days of enactment of this Act.

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(b) The terms of the appointment and the terms of the members shall be rotated so that no more than three (3) members' terms shall expire each year.

(c) Any vacancy in the membership of the Council shall be filled for the period of the unexpired term in the same manner as was the original appointment.

(d) Council members shall serve without compensation; except that each member shall be paid a per diem of Fifty Dollars (\$50.00) for each day of attendance at a meeting of the Council, such compensation not to exceed One Hundred Dollars (\$100.00) per month.

§ 41309. Composition of the Division of Support Services for Individuals with Disabilities Council (DSSIDC).

(a) The members of the DSSIDC shall include: the Director of the Developmental Disabilities Council or his/her designee, the Director of the Department of Education or his/her designee, the Director of the Department of Public Health & Social Services or his/her designee, the Director of the Department of Mental Health & Substance Abuse or his/her designee, the Executive Director of Protection and Advocacy System or his/her designee, the Director of the University Affiliated Program or his/her designee, (1) representatives from nonprofit organizations that provide services to persons with disabilities, one (1) representative from a parent/guardian with a dependent under the age of ten (10) with a disability, one (1) representative from a parent/guardian with a dependent between the ages of 11-18 with a disability, and one (1) representative from a parent/guardian with a dependent over the age of eighteen (18) with a disability (as defined in Article 3, Section 41302(d)), (5) representatives from the community who have varying disabilities.

(b) Removal of DSSIDC Member. The Governor may remove any member from the DSSIDC for cause including, but not limited to, neglect of any duty required by law, incompetence, unprofessional conduct or willful misconduct. A member subject to disciplinary proceedings shall disqualify himself/herself from the DSSIDC business until the charge(s) are adjudicated.

§ 41310. Powers of the Division of Support Services for Individuals with Disabilities Council (DSSIDC).

(a) The DSSIDC shall elect a chairperson, who shall be a representative from one of the consumer groups; a vice-chairperson and

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other officers as determined in its rules and regulations. The DSSIDC shall further determine in rules and regulations the number of DSSIDC meetings required and what constitutes a quorum to conduct its business. Members of the DSSIDC shall not hold membership on other Boards or Council in the territory that oversee issues with individuals with disabilities. The rules and regulations shall be promulgated by the DSSIDC in accordance with the Adjudication Act by October 1, 1997.

(b) Serve as a public advocate for individuals with disabilities by advising and making recommendations to the Administrator of DSSIDC on matters relating to individuals with disabilities.

(c) Participate in public education and awareness activities on the problems, needs, potentials and rights of the disabled persons through affirmative public education programs, including conferences, work-shops and forums.

(d) Seek improvements in existing programs and services and identify unmet needs of individuals with disabilities.

(e) Initiate and maintain contact with public and private, local and national organizations, agencies and individuals generally engaging in activities relating to disabled persons, or otherwise interested in the general or specific well-being of the disabled.

(f) Shall advise the Governor with recommendations for the appointment of the Director.

ARTICLE 4
DIVISION OF HEALTH PLANNING AND DEVELOPMENT
[Article Repealed and Division Abolished]

SOURCE: This Article was added by P.L. 24-92:2. This Article was repealed by P.L. 26-76:55, which repealed §§1 through 8 of P.L. 24-92.

COMMENT: By repealing Section 8 of P.L. 24-92, which provided for pending Certificates of Need, the Compiler concludes that any pending Certificates of Need in 2002 need not be pursued, as such Certificates are no longer required..

ARTICLE 5
DIVISION OF EVALUATION, ENFORCEMENT AND COMPLIANCE

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SOURCE: This Article was added by P.L. 24-92:3. This Article was repealed by P.L. 26-76:55, which repealed §§1 through 8 of P.L. 24-92.

ARTICLE 6
INDIVIDUALS WITH DISABILITIES DISASTER RECOVERY FUND

SOURCE: This Article was added by P.L. 24-172:2.

- § 41601. Creation.
- § 41602. Separate Fund and Bank Account
- § 41603. Purpose and Expenditures
- § 41604. Same.
- § 41605. Administration.

§ 41601. Creation.

There is hereby created, separate and apart from other funds of the government of Guam, a fund known as the Individuals with Disabilities Disaster Recovery Fund ('FUND').

§ 41602. Separate Fund and Bank Account.

The Fund shall not be commingled with the General Fund and shall be kept in a separate bank account. The Governor pursuant to any of his transfer authority shall transfer no monies from the Fund.

§ 41603. Purpose and Expenditures.

The Fund shall be expended to mitigate damages and losses of medical equipment, medical supplies and medications to individuals with disabilities and other patients under the care of a licensed physician.

§ 41604. Same.

The Director of the Department of Integrated Services for Individuals with Disabilities ('Director') is hereby authorized to dispense funds from the Individuals with Disabilities Disaster Recovery Fund pursuant to this Article.

§ 41605. Administration.

The Director shall account for and administer the Fund. The Director shall keep all books, records, files and accounts for the Fund. The Director shall prepare semi-annual reports relative to the Fund reflecting the transactions and financial condition of the Fund, which semi-annual reports

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shall be transmitted to the Governor and the Speaker of the Guam Legislature.

ARTICLE 7
INDIVIDUALS WITH SIGNIFICANT DISABILITIES VENDING ACT

SOURCE: This Article was added by P.L. 26-110:2.

- § 41701. Statement of Policy and Legislative Intent.
- § 41702. Definitions.
- § 41703. Rules and Regulations.
- § 41704. Certification.
- § 41705. Vending Facility.
- § 41706. Government Agency.
- § 41707. Property Manager.
- § 41708. Exemptions.
- § 41709. Annual Report.
- § 41710. Reauthorization.
- § 41711. Grandfather Clause.

§ 41701. Statement of Policy and Legislative Intent.

The purpose of the Individuals with Significant Disabilities Vending Act is to establish public policy for the government of Guam to provide maximum opportunities to individuals with significant disabilities by providing expanded opportunities to participate fully in the social and economic life of the Community and to engage in entrepreneurial enterprise.

§ 41702. Definitions.

For the purposes of this Article, the following terms shall have the meanings indicated herein:

(a) *Individual with significant disability* means a severe chronic disability of a person that is attributable to a mental or physical impairment or combination of mental and physical impairments:

- (1) is likely to continue indefinitely; and
- (2) results in substantial functional limitations in two (2) or more of the following areas of major life activity: seeing, hearing, self-care,

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receptive and expressive language, learning, mobility, self-direction, capacity for independent living and economic self-sufficiency.

(b) *Certified vendors* means and includes:

(1) public or private nonprofit Guam corporations operating community rehabilitation programs serving individuals with significant disabilities, which also are in compliance with 17 G.C.A. § 41208 and duly certified by the Department of Integrated Services for Individuals with Disabilities ('DISID') to operate a vending facility in a public building or public facility;

(2) a Guam private business, which is one hundred percent (100%) owned by one (1) or more individuals with significant disabilities and duly certified by DISID to operate a vending facility; the owner(s) must actively participate in managing the business in a public building or public facility; or

(3) a Guam private business in which seventy-five percent (75%) or greater of its labor force is comprised of individuals with significant disabilities and duly certified by DISID to operate a vending facility in a public building or public facility as certified vendors. Each employed individual with significant disabilities shall be compensated following the current prevailing wages established by the Guam Department of Labor, and in no circumstances fall below the Federal minimum wage standard. Certified vendors shall be subject to year-to-year re-certification for vending facility operations under this Article.

(c) *Vending facility* means automatic vending machines, snack bars, cart services, shelters, counter or other manually operated facilities for the sale of newspapers, periodicals, confections, tobacco products, food, beverages, or other such articles or services dispensed or provided automatically or manually whether prepared on or off the premises in accordance with all applicable laws.

(d) '*Public building*' or '*public facility*' means any building or location owned or leased by any branch, agency, department or division of the government of Guam, including any autonomous agency or public corporation.

(e) '*Government agency*' means any branch, agency, department or division of the government of Guam, including any autonomous agency or public corporation.

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(f) 'Property manager' means a person who is in control of or responsible for the maintenance, operation, protection and management of a public building or public facility.

§ 41703. Rules and Regulations.

DISID, with the assistance and advice of the State Rehabilitation Council, after consultation with the property managers of public buildings or public facilities, within six (6) months upon the enactment of this Act, shall adopt rules and regulations necessary for the implementation of this Article, and any further amendments thereof shall follow the Administrative Adjudication Law, 5 G.C.A. § 9100 et seq.

§ 41704. Certification.

DISID shall act and function as the certification authority for this Article.

(a) Any certification granted pursuant hereto may be terminated by DISID if DISID determines that the vending facility is not being operated in accordance with prescribed rules. A notice shall be provided to the Department of Revenue and Taxation to enforce the cessation of activities at that public building or public facility.

(b) In order to promote the employment and self-sufficiency of individuals with significant disabilities on Guam, government agencies shall, upon the request of DISID, give preference to a licensee in the operation of vending facilities in public buildings or public facilities. Space for the vending facility shall be provided without charge.

(c) DISID shall notify all certified vendors, in writing or appropriate alternative format to communicate with individuals with significant disabilities, of the availability of vending facilities in this program. Such notice shall include, but not be limited to, a description of the type of facility, its characteristics and its geographic location; the type of building in which the facility is located; the date of availability; the business telephone number of the current operator, when applicable; and the availability of public transportation. The notice shall contain a deadline for responses, which is no less than fourteen (14) days after issuance.

(d) DISID shall work with the University of Guam's Small Business Development Center, existing Co-op programs, school-to-work programs or other community rehabilitation programs to assist in the development of a small business plan to allow for growth and funding for the vending facility.

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(e) DISID shall work with on-Guam and off-Guam support networks or training center entities available to individuals with disabilities to ensure delivery of training in a timely manner.

§ 41705. Vending Facility.

No business shall be offered or granted any vending facility by any property manager to operate a vending facility in any public building or public facility, unless DISID is notified of the proposed vending facility. DISID and the Government Agency shall determine in good faith whether a certified vendor is capable or cannot satisfactorily provide for such vending services. The property manager shall give public notice upon such determination encouraging certified vendors to apply for the available vending facility.

§ 41706. Government Agency.

If DISID determines that a public building or public facility is suitable for the operation of a vending facility by a certified vendor, the government agency with authority over the public building or public facility shall provide the space at no expense to the certified vendor. In the absence of any utility metering devices for the allocated space, the certified vendor shall negotiate with that Government Agency the fair value, if applicable, the compensation for utilities used.

§ 41707. Property Manager.

The property manager shall notify DISID at least ninety (90) days prior to the initiation of any new construction, expansion, leasing, or acquisition of public building or public facility occupied, or to be occupied, by a government agency. The property manager shall notify DISID at least ninety (90) days prior to the expiration of any existing vending contract whether such vending facility is suitable for operation by a certified vendor.

§ 41708. Exemptions.

This Article shall not apply to the Department of Education public school facilities, the Guam Community College and to the University of Guam. Vending facilities applicable to food services as a direct service to patients, institutionalized persons, inmates or wards are exempted under this Article for the Department of Corrections and Department of Youth Affairs, Guam Memorial Hospital Authority, and the Department of Mental Health and Substance Abuse by this Article.

§ 41709. Annual Report.

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The Director of DISID shall make an annual report to I Maga'lahen Guåhan and to I Liheslaturan Guåhan within one hundred and twenty (120) days at the termination of each fiscal year, reporting upon the progress made, and containing a detailed analysis with respect to the administration of the Individuals with Significant Disabilities Vending Act.

§ 41710. Reauthorization.

The Individuals with Significant Disabilities Vending Act shall come up for review and reauthorization four (4) years after its enactment by I Liheslaturan Guåhan.

§ 41711. Grandfather Clause.

Existing businesses located within any public building or public facility shall not be displaced, and shall be allowed to continue such business operation. Any business grandfathered in by this Section that ceases or forfeits their operations, activities or business license shall be subjected to comply with this Act.
