

§ 395.10

(c) The State licensing agency shall further set out the method of determining the charge for each of the above purposes listed in paragraph (b) of this section, which will be determined with the active participation of the State Committee of Blind Vendors and which will be designed to prevent, so far as is practicable, a greater charge for any purpose than is reasonably required for that purpose. The State licensing agency shall maintain adequate records to support the reasonableness of the charges for each of the purposes listed in this section, including any reserves necessary to assure that such purposes can be achieved on a consistent basis.

§ 395.10 The maintenance and replacement of vending facility equipment.

The State licensing agency shall maintain (or cause to be maintained) all vending facility equipment in good repair and in an attractive condition and shall replace or cause to be replaced worn-out and obsolete equipment as required to ensure the continued successful operation of the facility.

§ 395.11 Training program for blind individuals.

The State licensing agency shall ensure that effective programs of vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, shall be provided to blind individuals as vocational rehabilitation services under the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516). Such programs shall include on-the-job training in all aspects of vending facility operation for blind persons with the capacity to operate a vending facility, and upward mobility training (including further education and additional training or retraining for improved work opportunities) for all blind licensees. The State licensing agency shall further ensure that post-employment services shall be provided to blind vendors as vocational rehabilitation services as necessary to assure that the maximum vocational potential of such vendors is achieved and suitable employment is maintained within the State's vending facility program.

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§ 395.12 Access to program and financial information.

Each blind vendor under this part shall be provided access to all financial data of the State licensing agency relevant to the operation of the State vending facility program, including quarterly and annual financial reports, provided that such disclosure does not violate applicable Federal or State laws pertaining to the disclosure of confidential information. Insofar as practicable, such data shall be made available in braille or recorded tape. At the request of a blind vendor State licensing agency staff shall arrange a convenient time to assist in the interpretation of such financial data.

§ 395.13 Evidentiary hearings and arbitration of vendor complaints.

(a) The State licensing agency shall specify in writing and maintain procedures whereby such agency affords an opportunity for a full evidentiary hearing to each blind vendor (which procedures shall also apply to cases under § 395.6(e)) dissatisfied with any State licensing agency action arising from the operation or administration of the vending facility program. When such blind vendor is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary. Such complaint shall be accompanied by all available supporting documents, including a statement of the decision which was rendered and the reasons in support thereof.

(b) The filing of a complaint under paragraph (a) of this section with either the State licensing agency or the Secretary shall indicate consent by the blind vendor for the release of such information as is necessary for the conduct of a full evidentiary hearing or the hearing of an ad hoc arbitration panel.

(c) Upon receipt of a complaint filed by a blind vendor which meets the requirements established by the Secretary, the Secretary shall convene an ad hoc arbitration panel which shall, in accordance with the provisions of 5 U.S.C. chapter 5, subchapter II, give notice, conduct a hearing, and render its decision which shall be final and binding on the parties except that such

decision shall be subject to appeal and review as a final agency action for purposes of the provisions of 5 U.S.C. chapter 7.

(d) The arbitration panel convened by the Secretary to hear the grievances of blind vendors shall be composed of three members appointed as follows:

(1) One individual designated by the State licensing agency;

(2) One individual designated by the blind vendor; and

(3) One individual not employed by the State licensing agency or, where appropriate, its parent agency, who shall be jointly designated by the other members of the panel and who shall serve as chairman of the panel.

(e) If either the State licensing agency or the blind vendor fails to designate a member of an arbitration panel, the Secretary shall designate such member on behalf of such party.

(f) The decisions of an arbitration panel convened by the Secretary under this section shall be matters of public record and shall be published in the FEDERAL REGISTER.

(g) The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses which shall be published in the FEDERAL REGISTER.

(h) The provisions of this section shall not require the participation of grantors of permits for the operation of vending facilities on property other than Federal property.

§ 395.14 The State Committee of Blind Vendors.

(a) The State licensing agency shall provide for the biennial election of a State Committee of Blind Vendors which, to the extent possible, shall be fully representative of all blind vendors in the State program on the basis of such factors as geography and vending facility type with a goal of providing for proportional representation of blind vendors on Federal property and blind vendors on other property. Participation by any blind vendor in any election shall not be conditioned upon the payment of dues or any other fees.

(b) The State Committee of Blind Vendors shall:

(1) Actively participate with the State licensing agency in major administrative decisions and policy and program development decisions affecting the overall administration of the State's vending facility program;

(2) Receive and transmit to the State licensing agency grievances at the request of blind vendors and serve as advocates for such vendors in connection with such grievances;

(3) Actively participate with the State licensing agency in the development and administration of a State system for the transfer and promotion of blind vendors;

(4) Actively participate with the State licensing agency in the development of training and retraining programs for blind vendors; and

(5) Sponsor, with the assistance of the State licensing agency, meetings and instructional conferences for blind vendors within the State.

§ 395.15 Use of nominee agreements.

(a) The State licensing agency may enter into an agreement whereby another agency or organization undertakes to furnish services to blind vendors. Such agreement shall be in writing and shall contain provisions which:

(1) Clearly insure the retention by the State licensing agency of full responsibility for the administration and operation of all phases of the program;

(2) Specify the type and extent of the services to be provided under such agreement;

(3) Provide that no set-aside charges will be collected from blind vendors except as specified in such agreement;

(4) Specify that no nominee will be allowed to exercise any function with respect to funds for the purchase of new equipment or for assuring a fair minimum of return to vendors, except to collect and hold solely for disposition in accordance with the order of the State licensing agency any charges authorized for those purposes by the licensing agency; and

(5) Specify that only the State licensing agency shall have control with respect to selection, placement, transfer, financial participation and termination of the vendors, and the preservation, utilization, and disposition of program assets.