

SUBCHAPTER 89C - PROGRAM RULES

SECTION .0100 - GENERAL POLICIES

10A NCAC 89C .0101 ORGANIZATION AND ADMINISTRATION **10A NCAC 89C .0102 SERVICES TO THE BLIND**

History Note: Authority G.S. 143-545; 143-546; 143B-10(j); 150B-14(c); 34 C.F.R. 361.5; 34 C.F.R. 361.6; 34 C.F.R. 361.10; 34 C.F.R. 361.19; 34 C.F.R. 361.24; Eff. February 1, 1976; Amended Eff. May 1, 1990; Expired Eff. April 1, 2016 pursuant to G.S. 150B-21.3A.

10A NCAC 89C .0103 RATES OF PAYMENT

- (a) Rules governing rates of payment for all purchases, vocational rehabilitation services, and current rates of payment may be reviewed 8 a.m. to 5 p.m., Monday through Friday, at the Division's State office, 805 Ruggles Drive, Dorothea Dix Campus, Raleigh, North Carolina or on the Division's internet site. Vendors providing any services authorized by the Division shall agree not to make any charge to, or accept payment from, the individual receiving services from the Division or the individual's family for such services unless the amount for such service charge or payment is previously known to and approved by the Division in accordance with Sections .0200 and .0300 of this Chapter.
- (b) The Division's rate of payment for post secondary education, graduate, professional and summer school shall not exceed the Division's fixed rate charged for the public university and professional schools system and the rate charged for the community college system for tuition and fees as approved by the North Carolina General Assembly October 2001.
- (c) The Division's rate of payment for proprietary for profit vocational and trade schools or other training programs that offer curriculums comparable to those offered through the community college system shall not exceed the rate for payment established for the community college system.
- (d) The Division's rate of payment for proprietary for profit vocational and trade schools or other training programs that offer an accelerated or condensed curriculum or those training programs that offer training in areas not offered through the community college system shall not exceed the Division's fixed rate for the public university system per semester multiplied by two.
- (e) The Division's rate of payment for proprietary for profit vocational and trade schools and any other vocational or trade program that does not operate on a semester system or has varying program lengths up to one year shall not exceed a prorated monthly rate based on the Division's fixed rate for the public university system per semester multiplied by two and the Division's fixed rate for a session of summer school in the public university system multiplied by two.
- (f) The Division's rate of payment for proprietary for profit vocational and trade schools and any other vocational or trade programs that does not operate on a semester system or has a varying program length that is twelve months or longer shall not exceed the Division's fixed rate for the public university system per semester multiplied by two and the Division's fixed rate for a session of summer school in the public university system multiplied by two.
- (g) The Division's rate of payment for those individuals who are North Carolina residents and choose to attend training programs out-of-state, is limited to the Division's fixed rate specified in Paragraph (b) of this Rule.
- (h) The Division's rate of payment for optional fees at the community college system shall not exceed the amount approved by the local community college boards.
- (i) No training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing) as noted in Rule .0205, Paragraph (a)(9) of this Subchapter shall be paid for with vocational rehabilitation funds until maximum efforts have been made by the designated state unit and the individual to secure grant assistance in whole or part from other resources to pay for training and such assistance is applied to the cost of training.
- (j) The Division's rate of payment for community rehabilitation programs approved for vendorship shall be determined as follows:
- (1) Community rehabilitation programs approved by the Division for outcome based payment shall be paid based upon the Division's established benchmark rate. A payment is made for each benefit or outcome achieved that the vendor contracts with the Division to provide. The benchmark rate is determined based on average cost of outcomes for fiscal years 1997, 1998, and 1999. These benchmark rates are published in DVR-Vol V fee schedule manual.

- (2) Community rehabilitation programs approved by the Division for fee for service shall be paid an hourly rate for providing the services authorized by the Division. The rate is established by the Division based on historical cost finding. The vendor shall be reimbursed based on the number of hours of actual services provided.
- (3) Any adjustments to the rate shall be determined by the Division based on availability of funds and shall not exceed 85 percent of the annual salary increases for state employees as awarded by the legislature.

History Note: Authority G.S. 143-545.1; 34 C.F.R. 361.50;
Eff. February 1, 1976;
Amended Eff. May 1, 1990;
Temporary Amendment Eff. January 26, 2003; May 1, 2002;
Amended Eff. April 1, 2007; August 1, 2004;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0104 CONFIDENTIAL INFORMATION

The Division shall follow the standards and procedures for safeguarding confidential information outlined in 34 C.F.R. 361.49. This adoption by reference is made under G.S. 150B-14(c).

History Note: Authority G.S. 143-546; 150B-14(c); 34 C.F.R. 361.49;
Eff. February 1, 1976;
Amended Eff. May 1, 1990; October 20, 1979;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0105 ADMINISTRATIVE REVIEWS AND FAIR APPEALS

Procedures governing administrative reviews and appeals hearings are codified in Subchapter 20B, Section .0200 of this Chapter.

History Note: Authority G.S. 143-545; 143-546; 34 C.F.R. 361.48;
Eff. February 1, 1976;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0106 CASE RECORD ON INDIVIDUAL

(a) The Division shall maintain a case record on each applicant and client. The case record contains material regarding the individual to allow Division staff to:

- (1) determine eligibility or ineligibility;
- (2) determine the need for extended evaluation to determine rehabilitation potential;
- (3) provide the basis for joint planning between the client and counselor in developing the client's individualized written rehabilitation program;
- (4) provide documentation of services rendered and the documentation of client progress towards achieving the vocational goal (going to work); and
- (5) provide the necessary documentation to meet federal reporting requirements.

(b) Case record material is confidential and shall not be released or disclosed except as outlined in 34 C.F.R. 361.49.

History Note: Authority G.S. 143-546; 34 C.F.R. 361.39; 34 C.F.R. 361.49;
Eff. February 1, 1976;
Amended Eff. May 1, 1990; October 20, 1979;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0107 CLIENT INFORMATION FORMS

(a) The Division utilizes the forms specified in this Rule in its administration of the vocational rehabilitation program. Copies of the forms are available to the public upon written request to:

APA Coordinator
Division of Vocational Rehabilitation Services
805 Ruggles Drive
2801 Mail Service Center
Raleigh, North Carolina 27699-2801.

(b) Client Data Sheet. This form collects basic demographic information on the client (name, address, referral source, age, sex, social security number, public assistance status, etc.) as well as outlining the services being provided by the Division and the actions taken by the Division. This is the primary form used for initiating and updating the client data information with primary utilization being to meet the federal reporting requirements.

(c) Authorization of Services. This form is completed, forwarded to a vendor of services, and gives the vendor agency approval for the initiation of services.

(d) General Basic Medical Examination Record. This form is utilized to collect a record of the client or applicant's general health status and to meet federal requirements for such. It is completed by a medical doctor and becomes part of the client's record. The Division also utilizes, to some degree, variations of this basic form to provide specialty reports on specific disability types:

- (1) Medical Report Cardiac Disability,
- (2) Medical Report Visual Disability,
- (3) Medical Report Hearing Disability,
- (4) Physician's Report, and
- (5) Report of Dental Examination.

(e) Survey Interview. This form is the basic intake document of the Division and collects from the client or applicant basic demographic data (e.g., name, address, telephone, age, referral source, family information, earnings, vocational history, medical history, disability, military record, court record, etc.). The form is signed by the applicant or the applicant's guardian if the applicant is under age 18.

(f) Financial Statement. This form is utilized by the counselor to plan with the client the cost responsibility for certain services and to determine the extent to which client resources can be used in meeting the cost of the rehabilitation program.

(g) Certificate of Ineligibility. This form is directed to applicants or clients and advises them that they do not meet or no longer meet the criteria of eligibility for services. It also advises these individuals of their rights and remedies and the steps they should take to request an administrative review or hearing. It also states the Division's policy on nondiscrimination.

(h) Certificate of Eligibility. This form is directed to applicants or clients and advises them that they do meet the criteria of eligibility. It also advises them of the Division's policy on nondiscrimination.

(i) Individualized Written Rehabilitation Program. This form is directed to the eligible client and outlines the respective client's individualized rehabilitation program. It contains information regarding the types of services needed by the client to go to work, the objectives of the specific services, the evaluation criteria to measure success, the date to begin and complete the services, the client's eligibility for any comparable benefits, and the client's views of the program. The form also advises clients of their rights and remedies, their responsibilities, confidentiality, and annual progress review responsibilities. The form described in Paragraph (j) of this Rule is a continuation of this form.

(j) Addendum to the Individualized Written Rehabilitation Program. This form has several primary uses, including being a general utility, multi-purpose form. The primary use is to provide a mechanism for amending the individualized written rehabilitation program and keeping the client informed of the amendments. Other uses include the documentation of case closure, progress reports, post-employment services, review of ineligibility determinations, and annual reviews.

*History Note: Authority G.S. 143-546; 150B-11(1);
Eff. February 1, 1976;
Amended Eff. May 1, 1990; October 20, 1979;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,
2016.*

History Note: Authority G.S. 20-37.6(c); 143B-10;
Eff. October 20, 1979;
Amended Eff. May 1, 1990;
Expired Eff. April 1, 2016 pursuant to G.S. 150B-21.3A.

10A NCAC 89C .0109 RATES AND FEES FOR PURCHASERS OF SERVICES

The Division shall establish fees it charges for any services by determining the amount necessary to recoup all direct and indirect costs associated with the respective service. Direct costs are those that can be identified specifically with a particular service. Indirect costs are those that have been incurred for common or multiple services and cannot be readily identified with a specific service. Any fees assessed shall not be in conflict with the provisions regarding comparable benefits in 34 C.F.R. 361.44.

History Note: Authority G.S. 143-545.1; 143-546.1; 34 C.F.R. 361.44;
Eff. April 1, 1999;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

SECTION .0200 - ELIGIBILITY

10A NCAC 89C .0201 ELIGIBILITY AND INELIGIBILITY

(a) Eligibility for vocational rehabilitation services is based only upon the criteria specified in 34 C.F.R. 361.42. A preliminary assessment that meets the requirements of 34 C.F.R. 361.42 shall be used in order to determine whether an individual is eligible for vocational rehabilitation services or whether an extended evaluation is necessary to make such a determination.

(b) If an extended evaluation is necessary it will meet the requirements of 34 C.F.R. 361.42.

(c) Determinations of eligibility, ineligibility, or the need for extended evaluation to determine vocational rehabilitation potential, shall meet the requirements of 34 C.F.R. 361.42. The vocational rehabilitation counselor shall make the appropriate determination and document it in writing and include it in the individual's casefolder.

(d) The Code of Federal Regulations adopted by reference in this Rule shall automatically include any later amendments thereto as allowed by G.S. 150B-21.6.

History Note: Authority G.S. 143-545A; 143-546A; 150B-21.6; 34 C.F.R. 361.42;
Eff. February 1, 1976;
Amended Eff. July 1, 1998; March 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0202 PROCESSING REFERRALS AND APPLICANTS

(a) The Division shall maintain cooperative agreements with other public agencies and shall establish and maintain information and referral programs as required by 34 C.F.R. 361.37.

(b) Each rehabilitation counselor is assigned to a local office or vocational rehabilitation facility within a particular geographic area. Referrals may be made to the individual counselor, to the local community office, to a vocational rehabilitation facility, or to the state office of the Division. Information regarding referrals shall be forwarded to the appropriate counselor for processing. The counselor shall process the information regarding referrals as promptly as possible.

(c) The counselor shall contact all individuals referred and make a determination of eligibility, ineligibility, or the need for extended evaluation. The Division shall utilize any existing data and information available from the cooperating agencies to assure quick and equitable handling of referrals.

History Note: Authority G.S. 143-545A; 143-546A; 34 C.F.R. 361.22; 34 C.F.R. 361.23; 34 C.F.R. 361.37;
34 C.F.R. 361.41;
Eff. February 1, 1976;
Amended Eff. July 1, 1998; March 1, 1990; October 20, 1979;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0203 APPLICANT NOTIFICATION

The Division shall provide written notification to all applicants for services at the time of application that an order of selection as set out in Section .0600 of this Subchapter will be implemented if or when it is determined the Division has insufficient resources to serve all applicants who are determined eligible.

History Note: Authority G.S. 143-545A; 143-546A; 34 C.F.R. 361.36; P.L. 102-569, s. 101(a)(5)(A);
Eff. February 1, 1976;
Amended Eff. July 1, 1998; October 1, 1994; March 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0204 CONSIDERATION OF COMPARABLE SERVICES AND BENEFITS

The Division shall determine whether any comparable services and benefits are available under any other program and utilize those services and benefits as required under 34 C.F.R. 361.47(b).

History Note: Authority G.S. 143-545; 143-546; 143B-10(j); 34 C.F.R. 361.19; 34 C.F.R. 361.47(b);
34 C.F.R. 361.56;
Eff. February 1, 1976;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0205 SERVICES COVERED BY OR EXEMPT FROM FINANCIAL NEEDS TEST

(a) The financial need of a client, as determined by the financial needs test specified in Rule .0206 of this Section, shall apply as a condition for furnishing the following vocational rehabilitation services to clients eligible for services or to clients eligible for extended evaluation or trial work experiences:

- (1) physical and mental restoration;
- (2) maintenance;
- (3) transportation;
- (4) occupational license;
- (5) tools, equipment, and initial stock (including livestock), supplies and necessary shelters in connection with these items;
- (6) services to members of the individual's family necessary to the adjustment or rehabilitation of the individual with disabilities;
- (7) rehabilitation technology including vehicular, home modifications, telecommunications, sensory, and other technological aids and devices;
- (8) post-employment services provided subsequent to the achievement of an employment outcome necessary to assist individuals with disabilities in maintaining employment (other than those services in Paragraph (d)(1) of this Rule which are provided without regard to financial need);
- (9) vocational and other training services, books, tools, and other training materials;
- (10) other goods and services expected to benefit an individual with disabilities in obtaining employment or achieving the individual's independent living goals;
- (11) non-assessment services for eligible individuals receiving vocational rehabilitation services through trial work experiences or extended evaluation; and
- (12) personal and vocational adjustment training and On-the-Job Training that does not conflict with Federal and State wage and hour laws.

(b) No training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing) as noted in Paragraph (a)(9) of this Rule shall be paid for with vocational rehabilitation funds until maximum efforts have been made by the designated state unit and the individual to secure grant assistance in whole or part from other resources to pay for training and such assistance is applied to the cost of training.

(c) Physical and mental restoration as noted in Paragraph (a)(1) of this Rule shall only be provided to the extent that financial support is not available from a source other than the designated state unit such as through health insurance or a comparable service or benefit as defined in 34 CFR 361.6(b)(10).

(d) The financial needs test shall not apply as a condition for furnishing the following:

- (1) services exempt from the financial needs test under 34 C.F.R. 361.54;
- (2) foreign language interpreter/translator services for individuals who are unable to understand either verbal or written information presented by the Division;
- (3) any vocational rehabilitation service to individuals determined eligible for Social Security benefits under Titles II or XVI of the Social Security Act; and
- (4) all services and equipment provided by staff of the Division.
- (5) time-limited Division-sponsored internships with employers as a part of an individualized plan for employment made available to eligible individuals served through the NC Division of Vocational Rehabilitation Services Program. Division sponsorship for an internship described within this Paragraph will allow a rate of pay of at least minimum wage and will not exceed a period of four months unless an exception is granted by the Division's Chief of Policy based on the applicable policy. Pending available funding, Division sponsorship of these internships for clients as described in this Subparagraph is provided as a part of the ARRA plan and will expire on or before September 30, 2011, as determined by the Division Director.

(e) The Division shall grant an exception to the rate for tuition for post-secondary education specified in Rule .0119 of this Section when accommodations for the special training needs of individuals with significant disabilities are included in the tuition rate.

(f) Notwithstanding Paragraph (a) of this Rule, the following services are not subject to the financial needs test specified in Rule 0.0206 of Subchapter 89C for individuals being served through the NC Division of Vocational Rehabilitation Services Program:

- (1) Personal and Vocational Adjustment Training and On-the-Job Training that does not conflict with Federal and State wage and hour laws.

This Paragraph expires September 30, 2011.

History Note: Authority G.S. 143-545.1; 143-546.1; 150B-21.1B; 34 C.F.R. 361.40; 34 C.F.R. 361.41; 34 C.F.R. 361.47; 34 C.F.R. 364.59; P.L. 111.5; Eff. February 1, 1976; Amended Eff. February 1, 1996; October 1, 1994; March 1, 1990; Temporary Amendment Eff. January 26, 2003; May 1, 2002; Amended Eff. August 1, 2004; Emergency Amendment Eff. October 27, 2009; Temporary Amendment Eff. December 4, 2009; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0206 FINANCIAL NEEDS TEST

(a) A client's financial need shall be determined by application of the General Assembly's financial eligibility scale for non-medicaid medical programs which sets the limit of net annual income for families of various sizes and by consideration of other available assets that could be used to pay for the cost of rehabilitation services. The General Assembly's eligibility financial scale for non-medicaid programs is contained in the annual appropriation bill. In applying the General Assembly's financial eligibility scale, the Division shall follow the provisions of this Rule to determine net monthly income and family size. Financial information is obtained to determine the client's financial eligibility to receive services listed in Paragraph (a) of Rule .0205 of this Section. Financial information obtained may include check stubs, State and Federal income tax forms and other information to document income or other financial resources. If the client does not have check stubs or tax returns, the client shall complete a verification form signed by the client's last employer, the individual who supports the client, or the agency representative who processes the client's public support. Whenever the financial situation of the client is unclear or there is a question regarding the resources of the client, the Unit Manager or Facility Director shall be consulted for analysis or application of client financial information.

(b) The time period to be used as the basis for computing net monthly family income is the month prior to the planning of any service which is based on the individual's financial eligibility. Net monthly family income shall be recomputed at any time there is a change in the family's income but at least annually.

(c) A client's family shall include only the client if the client is not married and any of the following conditions apply:

- (1) The client is 23 years of age or older;
- (2) The client is a ward of the court;

- (3) The client is an emancipated minor;
 - (4) The client is a veteran of the United States Armed Forces; or
 - (5) The client is under 23 years of age and can produce a tax return from the year prior to application for services indicating self-support, or receipts, records for basic living expenses such as rent and utilities for a minimum of three consecutive months, pay stubs, or other information such as receipts of medical payments, payment of health insurance premiums, child care payment receipts, and legally mandated payments that indicate that he or she is independently self-supporting.
- (d) A client's family shall include the client and the following persons living in the same household if the client is married:
- (1) the client's spouse;
 - (2) the client's children under 23 years of age; or
 - (3) other individuals related to the client by blood, marriage, or adoption if the other individuals have no income.
- (e) A client's family shall include the client and the following persons living in the same household as the client if the client is less than 23 years of age and is not married or if the client is 23 years of age or older and is being claimed as a dependent by the parents for tax purposes regardless of place of residence:
- (1) the client's parents, not including step-parents;
 - (2) siblings or half-siblings of the client, but not step-siblings, if the siblings are unmarried and less than 23 years of age;
 - (3) siblings or half-siblings of the client, but not step-siblings, if the siblings are 23 years of age or older and have no income; and
 - (4) other individuals related to the client by blood, marriage, or adoption if the other individuals have no income.
- (f) Net monthly family income shall be computed by subtracting the deductions allowed in Paragraph (h) of this Rule from the gross monthly family income as computed according to Paragraph (g) of this Rule.
- (g) Gross Monthly Family Income.
- (1) Gross monthly family income shall mean the combined cash income received by the client's family from the following sources:
 - (A) wages and salaries;
 - (B) earnings from self-employment;
 - (C) earnings from stocks, bonds, savings accounts, rentals, and all other investments;
 - (D) Social Security benefits and Supplemental Security Income benefits received by family members;
 - (E) public assistance benefits;
 - (F) retirement and pension payments;
 - (G) Veterans Administration benefits; and
 - (H) all other sources of cash income.
 - (2) If the income received from any of the sources listed in Subparagraph (g)(1) of this Rule is not received on a monthly basis, the monthly pro rata share of the most recent receipt of the income shall be included in the computation.
 - (3) Gross family income shall not include:
 - (A) income that children may earn from babysitting, lawn mowing, or other miscellaneous tasks;
 - (B) gifts;
 - (C) inheritances;
 - (D) life insurance proceeds;
 - (E) Social Security benefits and Supplemental Security Income benefits of the client.
- (h) Any of the following expenses, which are paid by a member of the client's family, shall be allowed as deductions in determining net monthly income:
- (1) state, federal, Social Security, and Medicare taxes and any mandatory deductions for retirement contributions;
 - (2) medical and dental payments not covered by a third-party payer;
 - (3) health insurance premiums;
 - (4) disability related expenses, not covered by a third-party payor, paid for the client or a member of the client's family except for personal assistance expenses for those clients who require personal assistance services in order to achieve independent living;

- (5) child care payments for any child in the family unit who is 14 years of age or younger and the parents or other adult members of the family unit are not able to care for the child;
 - (6) post-secondary training expenses for family members not to exceed the rate specified in Rule .0119(b) to (i) of this Section; and
 - (7) legally mandated payments such as alimony, child support or Social Security paybacks.
- (i) In addition to net monthly family income, other assets that are available to the client's family shall be considered in determining a client's financial need. Available assets shall mean the combined cash or property of the client's family members as determined by Paragraphs (c) - (e) of this Rule. The available assets which could be used to pay for the cost of rehabilitation services shall include:
- (1) cash in checking or savings accounts which exceeds an amount three times the net monthly income allowed for the family size; and
 - (2) real property considering the following provisions:
 - (A) Real property, other than the family homesite, shall be considered if the fair market value less encumbrances exceeds twenty-five thousand dollars (\$25,000).
 - (B) The equity shall be determined by subtracting the amount owed on mortgages or liens from the purchase price or the fair market value, whichever is less.
 - (C) The family homesite for the purposes of this Rule shall be defined as the family's principle place of residence and includes real property, land, and buildings that are used for activities associated with occupancy of the dwelling as a living space for the family.
 - (D) Real property shall be regarded as an available asset to the extent that it can be converted to cash, either by sale or by use as collateral for a loan, in a timely manner to meet the cost of rehabilitation services.
 - (3) Gifts, inheritances, or life insurance proceeds which exceeds an amount three times the net monthly income allowed for the family size; and to the extent that it can be converted to cash in a timely manner to meet the cost of rehabilitation services.
- (j) Contributions available to the client's family shall be considered in determining a client's financial need. Contributions shall mean non-merit based scholarships, educational grants, community funds or other resources that the client has available to contribute to the rehabilitation program.
- (k) If the net monthly income of the client's family is greater than the amount allowed by the General Assembly's financial eligibility scale after allowable deductions as defined in Paragraph (g) of this Rule are applied, the client has excess income. The excess income, combined with the client family's available assets and contributions are considered to be excess resources that shall be applied to the cost of the client's rehabilitation. The Unit Manager or Facility Director shall approve the plan to apply excess resources to the cost of the client's rehabilitation.
- (l) When personal assistance services is a planned service for a client of the Independent Living program and the client's family is determined to have excess resources as defined in Paragraph (j) of this Rule, the client's financial contribution toward the cost of the personal assistance services shall be one-half the excess net monthly family income. The counselor shall determine the amounts to be paid and the method of payment. The Unit Manager or Facility Director shall approve the payment plan.
- (m) If there are extenuating circumstances that prohibit the client's application of the excess resources toward the cost of rehabilitation, the Division may waive the application of part or all of the excess resources toward the rehabilitation. Such circumstances may include the inability to sell property, the fact that the amount of funds would be so small that it would provide little help with the rehabilitation program, and the fact that the conversion of the excess resources may result in delay in proceeding with the rehabilitation program. Written approval of the Unit Manager or Facility Director shall be required for the waiver. Documentation of the particular circumstances shall be provided by the client and shall be maintained in the client's record.

History Note: Authority G.S. 143-545.1; 143-546.1; 34 C.F.R. 361.47; Eff. February 1, 1976; Amended Eff. April 1, 1999; March 1, 1990; Temporary Amended Eff. January 26, 2003; May 1, 2002; Amendment Eff. August 1, 2004; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

SECTION .0300 - SCOPE AND NATURE OF SERVICES

10A NCAC 89C .0301 SCOPE; EVALUATION OF REHABILITATION POTENTIAL

(a) Pursuant to 34 C.F.R. 361.42(b), the Rules in this Section set forth the scope and nature of services provided by the Division that are required under 34 C.F.R. 361.42(a).

(b) Each applicant's rehabilitation potential shall be assessed through a diagnostic study. The assessment will consist of an evaluation, as appropriate, of pertinent medical, social, psychological, educational, and vocational factors and will serve as a basis for determining eligibility, ineligibility, the scope of services necessary for an eligible individual's rehabilitation, or the need for extended evaluation. Services under a plan of extended evaluation shall be provided only in those instances where there is a physical or mental disability that constitutes or results in a substantial handicap to employment for an individual, but there is an inability to determine that vocational rehabilitation services will benefit the individual in terms of employment. Services under a plan of extended evaluation may be provided for only 18 months.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42; Eff. February 1, 1976; Amended Eff. May 1, 1990; October 20, 1979l; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0302 COUNSELING, GUIDANCE, AND REFERRAL

The rehabilitation counselor shall help the client develop a realistic individualized written rehabilitation program leading to the objective of employment. The counselor shall provide counseling to clients having adjustment problems, emotional problems, or other personal problems which impede rehabilitation and their ability to work. The counselor shall use referrals to the extent necessary to help clients secure needed services from other agencies and shall advise clients and client applicants about the client assistance program (CAP).

History Note: Authority G.S. 143B-10(j); 34 C.F.R. 361.42; Eff. February 1, 1976; Amended Eff. May 1, 1990; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0303 PHYSICAL AND MENTAL RESTORATION SERVICES

Physical and mental restoration services may be provided only to those clients determined eligible for a program of rehabilitation services or for extended evaluation. Restoration services shall be provided to these individuals for the purpose of enhancing their employability by removing, improving, or lessening the handicapping problem. Restoration services which may be provided are:

- (1) medical or surgical treatment, or both;
- (2) psychiatric treatment;
- (3) hospitalization (inpatient and outpatient) and clinic services;
- (4) prosthetic and orthotic devices;
- (5) dental services;
- (6) nursing services;
- (7) physical therapy;
- (8) occupational therapy;
- (9) medically directed speech and hearing therapy;
- (10) convalescent, nursing, or rest home care;
- (11) drugs and supplies;
- (12) physical rehabilitation in a rehabilitation facility;
- (13) treatment of medical complications that are associated with, or arise from, the provision of physical restoration services; and
- (14) other medically related or medical rehabilitation services as indicated.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42; Eff. February 1, 1976; Amended Eff. May 1, 1990;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0304 VOCATIONAL AND OTHER TRAINING

(a) Vocational and other training may be provided only to those clients determined eligible for rehabilitation services or for extended evaluation. These services shall be provided only to extent necessary to achieve the job choice. Training shall be provided in licensed and approved public or private facilities as specified in 10 NCAC 20D .0207. The Division's funding for training expenses shall be as specified in Rule .0205 of this Subchapter.

(b) Vocational and other training may include on-the-job training; training at community rehabilitation programs; supported employment training; and postsecondary training. Postsecondary training may include:

- (1) vocational training at business schools, trade schools, community colleges, technical institutes, nonprofit schools, or proprietary schools, or
- (2) college or university training including college parallel programs at community colleges and graduate school.

(c) Vocational and other training services may be provided to clients who require these services in order to become employed and when direct job placement for a client with transferable work skills is not a suitable option due to disability-related issues. Specific criteria for sponsorship of all types of training include:

- (1) Clients with Prior Work Experience:
 - (A) If the client's disability creates impediments to performance in the client's current or previous occupation and the client does not possess transferable work skills that will match requirements of a new occupation, the client may be considered for sponsorship of training.
 - (B) If the client's disability is such that it does not interfere with satisfactory performance in the current or previous occupation, the client shall not be considered for sponsorship of training.
- (2) Clients with No Prior Work Experience:
 - (A) If the client's disability will place the client at a greater disadvantage in securing employment than peers who are not disabled, the client may be considered for sponsorship of training.
 - (B) If the client's disability is expected to prevent the client from holding employment compatible with the client's capabilities, the client may be considered for sponsorship of training.
- (3) Clients who were previously precluded from maximizing their potential for employment due to impediments caused by their disability may be considered for further training contingent upon the job choice.
- (4) Based on objective data and input from the client, the Division shall determine that the individual has the capacity to perform the essential functions of the job upon completion of training.
- (5) The client and counselor shall complete an Individualized Plan for Employment (IPE) in which the job choice requires the training.

(d) Postsecondary Training

- (1) In addition to meeting the general requirements for sponsorship of training specified in Paragraphs (b) and (c) of this Rule, a client shall meet the following requirements for the Division to sponsor postsecondary training:
 - (A) The Division shall obtain, analyze, and include in the client record objective data that ensures that the client is capable of successfully completing the training program. Sources of data may include, but not be limited to, SAT scores, placement test scores, secondary transcripts for those just out of high school, previous postsecondary transcripts, vocational evaluations and other psychometric assessments.
 - (B) Attendance Requirements:
 - (i) The client shall attend the training program on a full-time basis.
 - (ii) If there are factors related to the client's disability or need to work that may interfere with full-time attendance as defined by the training program, part-time attendance may be authorized if the counselor submits justification and the unit manager approves part-time attendance.
 - (iii) The unit manager may approve extension of a community college program from four to five semesters and extension of a college or university program from

eight to ten semesters. The unit manager may approve attendance at summer school if such attendance will decrease the number of full-time semesters or quarters necessary to complete the training program. Exceptions regarding attendance beyond the limits set in this paragraph shall be approved by both the unit manager and the Chief of Operations.

- (iv) Clients attending postsecondary programs other than a college or university program shall meet the institution's requirements for full-time attendance or secure approval for an exception from the unit manager.
 - (v) If a student drops enough courses to change the courseload from full-time to part-time without prior approval of the Division, sponsorship shall be discontinued after the counselor notifies the student at least one quarter or semester before termination. The student may have one grading period to return to full-time status unless an exception has been approved.
- (C) The Division may sponsor a client in a non-degreed curriculum on a limited basis. These courses must be completed as follows:
- (i) The Division may sponsor a client as a "special student" or a student in a "provisional status" when the client cannot be accepted into a degreed program and there is strong evidence that such a plan is feasible according to the postsecondary training policy in Paragraph (d) of this Rule. The Division shall limit the sponsorship to 24 semester hours. Semester hours for these courses shall also be considered part of the 10 semesters for postsecondary training that is the Division's maximum limit.
 - (ii) The Division may sponsor remedial training courses if the client is accepted into a degreed curriculum contingent upon completion of these courses or as a part of a comprehensive assessment as outlined in 34 C.F.R. 361.5(b)(6). The Division shall sponsor no more than three remedial courses over a period of two semesters over the life of the case. An exception may be granted if more courses are needed because the client has a most severe disability and the exception is approved in writing by the Chief of Operations.
- (D) The Division may sponsor clients enrolled in licensed or accredited distance learning programs as specified in 10 NCAC 20D .0207 when such programs are not available through traditional on-campus programs or when the client has special disability-related problems that prevent him or her from participating in an on-campus program. The client's participation in such a program shall be approved in writing by the unit manager. The Division shall not sponsor programs where the entire package or curriculum must be purchased initially. The Division may assist with required software for distance learning but shall purchase computer equipment only as permitted under Rule .0314 of this Section.
- (E) The client shall meet the academic standards imposed by the postsecondary school and demonstrate steady progress toward completion of the training program. If the school does not have specific academic standards for completion of the program, the Division shall require the client to have at a minimum a 2.00 grade point average at entry into the junior year for the agency to continue sponsorship. If the client is in the community college system, he or she shall have a 2.00 average at the end of the second semester or the average required by the school or particular curriculum in order to graduate from the program. In other programs such as proprietary schools, the client shall meet the requirements of each specified progress period that will enable the student to graduate or achieve the competency-based requirements at regular intervals set by the school. If the client's grades fall below the minimum grade point average or other requirements set in this Paragraph, the counselor shall notify the client of the pending loss of Division assistance at least one quarter or semester before terminating assistance. The client may then have one grading period to improve to an acceptable level. Failure to maintain the prescribed academic standards shall mean the loss of Division assistance with tuition, fees, books, interpreter services, maintenance, personal attendant services, and other authorized services directly related to the course of study.

- (F) Graduate training may be sponsored for those clients who require this level of training to reach the job choice. For those clients who are either in or entering undergraduate school, graduate training shall be included as part of the original or amended IPE and shall be indicated when the client generally declares his or her major in undergraduate school. For those clients who have an undergraduate degree and require graduate training due to their disability, graduate training may be sponsored subject to the unit manager's approval.
- (2) Counselors shall review in-state opportunities and discuss them with the client prior to considering out-of-state vendors. The unit manager shall approve all out-of-state training. Exceptions regarding out-of-state training shall be approved by the Chief of Operations.
- (e) The Division shall not sponsor the following:
 - (1) professional improvement courses (including computer certification courses) after a client has completed the level of training for the job outlined in the original or amended Individual Plan for Employment and secured a job that meets the requirements in the IPE;
 - (2) training at the preparatory school level;
 - (3) training when the client cannot demonstrate that sufficient funds are available from other resources to cover expenses that are not covered by the Division; or
 - (4) programs that decline authorization with semester or incremental payments in favor of purchase as a complete package.

History Note: Authority G.S. 143-545.1; 143.546.1; 34 C.F.R. 361.5(b)(6); 34 C.F.R.; 361.48; 34 C.F.R.; 361.54; P.L. 105-220 s. 103(a);
Eff. February 1, 1976;
Amended Eff. March 1, 1990;
Temporary Amendment Eff. July 3, 2001;
Amended Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0305 MAINTENANCE

- (a) Maintenance services may be provided at any time during the rehabilitation process including initial evaluation and extended evaluation. These services are supplementary to other rehabilitation services and shall be provided only to enable clients to derive full benefit from their individualized written rehabilitation programs. Service costs shall be limited to the amount of increased costs or expenses that the rehabilitation program causes the individual or the individual's family. Maintenance services include basic living expenses such as food, shelter, clothing, and other subsistence expenses essential to the achievement of employment and other program objectives.
- (b) The Division maintains maximum rates of payment on the amount of funds to be expended on individual clients requiring these services. The rates are based on the projected costs of the services. However, exceptions to these limits may be made by the Division for good cause. The maximum rates of payment may be inspected at the Division's State office, 805 Ruggles Drive, Dorothea Dix Campus, Raleigh, North Carolina from 8 a.m. to 5 p.m., Monday through Friday.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42;
Eff. February 1, 1976;
Amended Eff. May 1, 1990; October 20, 1979;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0306 TRANSPORTATION

- (a) Transportation services may be provided at any time during the rehabilitation process including initial evaluation and extended evaluation. These services are supplementary to other rehabilitation services and shall be provided only to enable the client to derive full benefit from other services.
- (b) Transportation services may include travel for an attendant or escort of the client, as well as the client, when necessary to enable the client to receive other services. Transportation may be by public or private conveyance depending upon the circumstances of the individual client and the availability and appropriateness of the transportation system.

(c) The Division maintains a limit on the cost of transportation services for a complete vocational rehabilitation program. Exceptions may be made by the Division upon a showing of good cause. The schedule of limits on transportation costs may be inspected at the Division's State office, 805 Ruggles Drive, Dorothea Dix Campus, Raleigh, North Carolina between 8 a.m. and 5 p.m., Monday through Friday.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42;
Eff. February 1, 1976;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0307 SERVICES TO MEMBERS OF CLIENT'S FAMILY

The Division may provide services to members of a client's family if the client is eligible for services or for extended evaluation and the services to be provided to the family members will aid the client's rehabilitation program, are essential to the program's success, and are not readily available through other agencies.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42;
Eff. February 1, 1976;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0308 INTERPRETER SERVICES FOR THE DEAF

(a) Interpreter services for the deaf may be provided at any time during the rehabilitation process including initial evaluation and extended evaluation. These services shall be provided when a client with communication problems is unable to communicate with the counselor or is unable to participate in job placement or training without the assistance of an interpreter.

(b) The Division will pay for interpreter services of a Division-approved interpreter at a rate of payment reflecting competence and certification. The Division maintains an ascending pay scale reflecting the qualifications of interpreters. This pay scale may be inspected at the Division's State office, 805 Ruggles Drive, Dorothea Dix Campus, Raleigh, North Carolina, from 8 a.m. to 5 p.m., Monday through Friday.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42;
Eff. February 1, 1976;
Amended Eff. May 1, 1990; October 20, 1979;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0309 READER SERVICES AND MOBILITY SERVICES FOR THE BLIND

Reader services and mobility services for the blind are generally provided under a separate state plan for vocational rehabilitation by the Division of Services for the Blind. The Division of Vocational Rehabilitation Services may provide such services to a client upon referral from the Division of Services for the Blind if the client also meets the eligibility requirements of the Division of Vocational Rehabilitation Services.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42;
Eff. February 1, 1976;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0310 TELECOMMUNICATION, SENSORY, AND OTHER TECHNOLOGICAL AIDS

Telecommunication, sensory, and other technological aids and devices may be provided to clients who are eligible for services or for extended evaluation. These services are available to aid the client in securing employment and completing the rehabilitation program.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42;

Eff. February 1, 1976;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0311 RECRUITMENT AND TRAINING SERVICES

Recruitment and training services may be provided to clients who are eligible for rehabilitation services or for extended evaluation. On-the-job training or college training may be provided in the fields of rehabilitation, health, welfare, public safety, and law enforcement and in other public service fields.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42;
Eff. February 1, 1976;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0312 PLACEMENT

Placement services may be provided to clients who have been determined eligible for vocational rehabilitation services. Services shall be provided either directly by the Division or through other public employment services.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42;
Eff. February 1, 1976;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0313 POST-EMPLOYMENT SERVICES

Post-employment services may be provided to clients who have been determined eligible for a program of rehabilitation services and have been successfully rehabilitated into employment. Post-employment services shall be available when needed by the individual to maintain or regain suitable employment.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42;
Eff. February 1, 1976;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0314 OCCUPATIONAL LICENSES, TOOLS, EQUIPMENT, AND SUPPLIES

(a) Assistance in obtaining occupational licenses, tools, equipment, initial stocks and supplies may be provided to clients determined eligible for rehabilitation services. Occupational licenses, permits, or other forms of written authority required by state, county, city or other government units in order for clients to participate in employment may be included, but privilege licenses shall not be included. Occupational tools or other placement equipment and supplies, including livestock, may be provided to the extent necessary for suitable and practical placement of the client.

(b) The Division may assist in the purchase of computers if assistive technology is required by the client for purposes of augmentative communication, environmental controls, or when voice recognition or equivalent adaptive input devices are required for the individual to complete the IPE/IPIL.

(c) The Division shall not purchase upgrades or improved versions of assistive technology unless the progression of the individual's disability requires such an upgrade.

(d) Division assistance with software shall be limited to five hundred dollars (\$500.00) unless the software is required for the purposes outlined in Paragraph (b) of this Rule.

History Note: Authority G.S. 143-545.1; 143-546.1; 34 C.F.R. 361.48;
Eff. February 1, 1976;
Temporary Amendment July 3, 2001;
Amended Eff. August 1, 2002;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0315 REHABILITATION ENGINEERING SERVICES

Rehabilitation engineering technology services shall be provided to applicants and clients to the extent necessary to assist them in accessing vocational rehabilitation services and in accomplishing their vocational rehabilitation goal. Applicants shall be evaluated to determine their need for engineering technology services. Clients eligible for vocational rehabilitation services or extended evaluation shall be provided engineering technology services, as appropriate, as a part of their individualized written rehabilitation program, to overcome or reduce barriers in training, employment, transportation, and independent living.

History Note: Authority G.S. 143-546; 143B-10(j); 34 C.F.R. 361.42; Eff. February 1, 1976; Amended Eff. May 1, 1990; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0316 OTHER GOODS AND SERVICES

(a) Modification of a client's residence or vehicle is limited as follows:

- (1) A limit of twelve thousand dollars (\$12,000) shall be placed on modification projects when the residence is owned by the client or the client's immediate family.
- (2) Modifications to a mobile home owned by the client or the client's family which is located on land owned by the client or client's family, except for those situations where exterior modifications are not permanently affixed to a parcel of rented or leased land and are moveable with the mobile home, shall not exceed eight thousand five hundred dollars (\$8,500) per project. Modifications to a mobile home not meeting the ownership and land ownership requirements stated in this Paragraph shall not exceed five thousand five hundred dollars (\$5,500) per project.
- (3) Modifications to rented or leased residences shall not exceed five thousand five hundred dollars (\$5,500) per project.
- (4) The limitations indicated in (1) through (3) of this Paragraph apply unless a higher amount is needed to meet the cost of unforeseen structural damage needing repair or adaptive equipment and related assistive technology and devices necessary:
 - (A) to accommodate the individual's degree of disability, and
 - (B) to enable the individual to complete the rehabilitation program or meet the goals of the independent living program.

Amounts exceeding the limitations must be approved by the Division's Modification Review Committee.

(b) Job site modifications shall not exceed seven thousand dollars (\$7,000) per client unless the vocational placement requires adaptive equipment which necessitates extensive physical site changes that warrant a higher amount which must be approved by the Division's Modification Review Committee (MRC).

(c) The Independent Living Program of the Division may assist with the modification of a client or family-owned/leased-to-purchase vehicle in order to enhance the client's ability to function independently in the family or to actively participate in the community. The Vocational Rehabilitation Program of the Division may assist with the modification of a client or family-owned/leased-to-purchase vehicle for employment purposes or to assist a client enrolled in a college training program. Other options such as public transportation or family assistance shall be used when available. The following conditions and limitations apply:

- (1) Modifications shall not be considered for clients in secondary school programs unless the individual is a client of the Independent Living Rehabilitation Program.
- (2) Modifications for postsecondary training may be considered only:
 - (A) when the client is a full-time student with satisfactory grades and personal transportation is required as part of the training curriculum; or
 - (B) when the client must live off campus because the college has no, or only limited, on-campus housing.
- (3) The Division shall require an evaluation of any used vehicle by a certified mechanic or a dealership to verify that the vehicle is in good repair. The rehabilitation engineer shall certify that the vehicle will accommodate the needed modifications.
- (4) Division ownership of the modifications shall be secured through a signed Security Agreement.

(d) The Vocational Rehabilitation Program may contribute to the cost of purchasing a vehicle for modification purposes for eligible clients with the most severe disabilities under the following conditions and limitations:

- (1) The Program shall not contribute to the purchase of more than one vehicle for any individual.
- (2) The Program shall select the most cost effective method, based on the recommendation of the Rehabilitation Engineer, to secure a vehicle that meets the modification requirements of the individual.
- (3) The vehicle must be titled to or in the process of being purchased through a lease-to-purchase arrangement by either the client or the client's immediate family.
- (4) The Program shall contribute to the purchase of a vehicle only when a vehicle is required to accomplish the employment goal of the individual which must be at or above the substantial gainful activity (SGA) level as defined by Social Security Administration.
- (5) A comprehensive review of other financial resources must be conducted by the client and counselor detailing the plan for purchasing, insuring, and maintaining the vehicle.
- (6) The client must contribute a minimum of 50 percent of the initial purchase cost of the vehicle.
- (7) All vehicle purchases shall be approved by the Modification Review Committee. The Modification Review Committee may grant an exception to any of the provisions of this Paragraph only upon the written recommendation of the appropriate regional director of the Division which shall indicate why the exception is needed in relation to the individual's particular disability and employment goal.

(e) Other goods and services not specifically mentioned in the rules in this Section may be provided to clients who are eligible for services if necessary to enable them to become employable or, in the case of the Independent Living Program, to live independently. The other services shall not include the purchase of land or the purchase or construction of a building.

History Note: Authority G.S. 143-545A; 143-546A; 34 C.F.R. 361.42; Eff. May 1, 1990; Amended Eff. February 1, 1996; October 1, 1994; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

SECTION .0400 - METHODS TO ASSURE NONDISCRIMINATION

10A NCAC 89C .0401 COMPLIANCE WITH FEDERAL REQUIREMENTS

(a) The Division shall administer its program of services in compliance with the provisions of federal statutes and regulations regarding nondiscrimination as outlined in 34 C.F.R. 76.500. No person shall be excluded on the basis of race, color, national origin, sex, age or handicap from participation in, or receiving the benefits of, any care or service provided by the Division. This includes services rendered directly by the Division and those arranged for by the Division and provided by a vendor as part of an individualized written rehabilitation program.

(b) The Division shall not approve any application for or make any expenditure for the establishment of a workshop or rehabilitation facility or for the acquisition of initial equipment until the applicant signs an assurance of compliance form indicating that the facility will be operated in compliance with Title VI of the Civil Rights Act of 1964.

History Note: Authority G.S. 143-546; 34 C.F.R. 76.500; Eff. February 1, 1976; Amended Eff. July 1, 1990; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0402 VENDOR COMPLIANCE

(a) The Division shall use only those training vendors, treatment vendors, community rehabilitation program vendors, and room and board vendors who have been approved by the Division and determined to be in compliance with Title VI of the Civil Rights Act of 1964. Vendors may request approval or the Division may request that a vendor or facility consider serving Division clients. In either case, a staff member of the Division shall conduct an on-site vendor review to determine that the vendor is in compliance with Title VI of the Civil Rights Act of 1964. In

addition, the vendor shall sign an assurance of compliance form indicating that services will be provided in compliance with Title VI of the Civil Rights Act of 1964.

(b) Out-of-state vendors may be added to the Division's list of approved vendors upon certification from the respective state's Division of Vocational Rehabilitation Services that the vendor is in compliance with Title VI of the Civil Rights Act of 1964.

(c) Vendors who wish to be added to the Division's list of those in compliance with Title VI of the Civil Rights Act of 1964 shall contact:

Section Chief, Program Policy, Planning, and Evaluation
Division of Vocational Rehabilitation Services
805 Ruggles Drive
2801 Mail Service Center
Raleigh, North Carolina 27699-2801

History Note: Authority G.S. 143-546; 34 C.F.R. 76.500;
Eff. February 1, 1976;
Amended Eff. March 1, 2007; July 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0403 RESOLVING AREAS OF NON-COMPLIANCE

(a) If Division staff determines that an approved vendor is not in compliance with Title VI of the Civil Rights Act of 1964, the Division shall inform the vendor of the area of non-compliance. The vendor shall agree to a plan to correct the areas of non-compliance.

(b) The Division shall monitor implementation of the plan. If the vendor fails to correct the area of non-compliance the Division shall remove the vendor from the list of approved vendors.

History Note: Authority G.S. 143-546; 34 C.F.R. 76.500;
Eff. February 1, 1976;
Amended Eff. July 1, 1990;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0404 COMPLAINTS

(a) The interviewing rehabilitation counselor or other designated staff member shall inform applicants and clients that services, financial aid, and other benefits of the program are provided on a non-discriminatory basis, as required by the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. They shall also be informed of their right to file a complaint if they believe that discrimination is taking place in violation of the Federal statutes or regulations.

(b) All complaints concerning discrimination shall be filed in writing, shall describe the type of discrimination alleged, and shall indicate when and where such discrimination took place, including any pertinent facts and circumstances surrounding the alleged discrimination.

(c) The complaint shall be signed by the person making it and shall be addressed to the U.S. Department of Education, Office For Civil Rights, Region IV, P. O. Box 2048, Atlanta, Georgia 30301.

History Note: Authority G.S. 143-546; 34 C.F.R. 76.500;
Eff. February 1, 1976;
Amended Eff. July 1, 1990; October 20, 1979;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

SECTION .0500 - SUPPORTED EMPLOYMENT SERVICES

10A NCAC 89C .0501 COMPLIANCE WITH FEDERAL REQUIREMENTS

(a) The Division shall administer its Supported Employment Program in compliance with the provisions of federal regulations 34 C.F.R. Part 363 which are incorporated by reference.

(b) The Code of Federal Regulations incorporated by reference in this Rule shall automatically include any later amendments thereto as allowed by G.S. 150B-21.6. Copies of 34 C.F.R. Part 363 may be obtained at no cost from the Division.

History Note: Authority G.S. 143-545; 143-546; 150B-21.6; 34 C.F.R. Part 363;
Eff. October 1, 1994;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0502 ELIGIBILITY AND MOST SIGNIFICANT DISABILITY

The Supported Employment Program shall serve only those individuals with the most significant disabilities as defined in 10A NCAC 89A.0102.

History Note: Authority G.S. 143-545; 143-546; 34 C.F.R. 363.3;
Eff. October 1, 1994;
Amended Eff. March 1, 2007;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

SECTION .0600 - ORDER OF SELECTION FOR SERVICES

10A NCAC 89C .0601 APPLICABILITY OF POLICY

The rules in this Section specify the order of selection for services that shall be followed by the Division in its general program when it does not have the financial or staff resources to serve all eligible individuals who apply for services. The rules do not apply to the Independent Living Program. The rules do not apply if an order of selection for services has not been implemented by the Division Director.

History Note: Authority G.S. 143-545A; 143-546A; P.L. 102-569, s. 101(a)(5)(A); 34 C.F.R. 361.36;
Eff. October 1, 1994;
Amended Eff. July 1, 1998;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0602 IMPLEMENTATION OF ORDER OF SELECTION

- (a) The Division Director shall make a determination of the necessity for implementing the order of selection specified in these Rules.
- (b) When the Division Director determines that the order of selection shall be implemented, it shall be implemented on a statewide basis and the Director shall also determine how many priority categories can be served within available resources and notify Division staff of this decision.
- (c) The Division shall provide written notification to all cooperative programs with which it has written agreements and all vendors of services as appropriate of its decision to implement an order of selection.

History Note: Authority G.S. 143-545A; 143-546A; P.L. 102-569, s. 101(a)(5)(A); 34 C.F.R. 361.36;
Eff. October 1, 1994;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0603 PRIORITY CATEGORIES

- (a) The Division shall determine each individual's priority category at the time the individual is determined eligible for services. The eligible individual shall be placed in the highest category (beginning with Category One) for which he/she qualifies.
- (b) The Division shall notify each eligible individual of his/her priority classification in writing at the same time the notification of eligibility is provided.
- (c) The priority categories for order of selection for services for eligible individuals are as follows:
 - (1) Category One: Individuals with a most significant (MSD) disability who are seriously limited in four functional capacity areas;

- (2) Category Two: Individuals with a most significant disability (MSD) who are seriously limited in three functional capacity areas;
 - (3) Category Three: Individuals with a significant disability (SD) who are seriously limited in two functional capacity areas;
 - (4) Category Four: Individuals with a significant disability (SD) who are seriously limited in one functional capacity area;
 - (5) Category Five: Individuals with a non-significant and permanent disability that results in permanent functional limitations and who will require multiple vocational rehabilitation services to obtain an employment outcome; and
 - (6) Category Six: Any eligible individual who does not qualify for placement in a higher category.
- (d) The Division shall change a client's priority classification immediately if there are changes in the client's significance of disability as evidenced by a review of medical information that warrants a change in the client's priority category classification. The Division shall notify the client in writing of any change in priority classification.

History Note: Authority G.S. 143-545A; 143-546A; P.L. 102-569, s. 101(a)(5)(A); 34 C.F.R. 361.36; Eff. October 1, 1994; Amended Eff. July 1, 1998; April 1, 1997; Temporary Amendment Eff. January 26, 2003; May 1, 2002; Amended Eff. August 1, 2004; Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0604 PROCEDURES

- (a) The Division Director upon determining that the Division does not have sufficient resources to provide services to all eligible individuals shall implement an Order of Selection.
- (b) The Division Director shall set the date for statewide implementation of an Order of Selection and provide written notification to Division staff, all cooperative programs and vendors.
- (c) Eligible individuals who are already receiving services under an Individualized Plan for Employment (IPE) at the time the order of selection is implemented shall not be subject to the order of selection process. Their rehabilitation programs shall continue until their records of service are closed.
- (d) When an Order of Selection is implemented, the Division shall provide written notification to all eligible individuals assigned to a priority category who do not have a signed Individualized Plan for Employment (IPE).
- (e) In determining an eligible individual's priority category for order of selection as set out in Rule .0603 of this Section, Division staff shall review existing data regarding the seriousness of limitations in functional capacity areas as related to the individual's disability(ies) and the problems those limitations pose in terms of an employment outcome.
- (f) The Division shall serve individuals in Priority Category One first and individuals in the other priority categories in descending order down through Priority Category Six according to the availability of resources. Within each category an individual's rank in that category is determined by the individual's application date. The individual that applies first is served first.
- (g) Individuals in applicant status prior to implementation of the order of selection and whose priority category classification is below the categories accepted for services when the individuals are determined eligible shall be placed on a waiting list until their priority category is opened for services.
- (h) Individuals determined eligible after the order of selection for services is implemented shall receive services if they are classified in the categories accepted for services or shall be placed on a waiting list if their classification places them in a category not currently being served.
- (i) Eligible individuals for whom rehabilitation services have not been planned under an Individualized Plan for Employment prior to the implementation of the order of selection and whose classification is below the categories accepted for service shall be placed on a waiting list.
- (j) When the order of selection is implemented, all individuals whose priority category classification places those individuals on a waiting list shall be notified in writing of their status. When services are made available to any category in which individuals are on a waiting list, the Division shall notify individuals in that priority category that their rehabilitation program can be developed and implemented.

(k) When the Division Director has determined that the Division has sufficient resources to serve all eligible individuals, the Division shall provide written notification to all eligible individuals, Division staff, all cooperative programs and vendors on the waiting list, that the implementation of an order of selection has ended.

(l) The Division shall provide services to all priority categories when the implementation of an order of selection has ended.

History Note: Authority G.S. 143-545A; 143-546A; P.L. 102-569, s. 101(a)(5)(A); 34 C.F.R. 361.36;
Eff. October 1, 1994;
Amended Eff. July 1, 1998;
Temporary Amendment Eff. January 26, 2003; May 1, 2002;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0605 POST EMPLOYMENT SERVICES

When a former client requires post-employment services and is otherwise eligible for such services, the services shall be provided without regard for the order of selection.

History Note: Authority G.S. 143-545A; 143-546A; P.L. 102-569, s. 101(a)(5)(A); 34 C.F.R. 361.36;
Eff. October 1, 1994;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0606 CASE FINDING AND INFORMATION AND REFERRAL PROGRAMS

(a) Case finding efforts shall not be modified because of an order of selection. The Division has a continuing responsibility to make the public and referral sources aware of the services it has to offer eligible individuals with disabilities, especially those with significant or most significant disabilities. Referral sources shall be informed of an existing order of selection or of the potential of an order of selection being implemented, but they shall be reassured that this should not discourage referrals or applications.

(b) The Division shall implement an information and referral program adequate to ensure that individuals with disabilities, including eligible individuals with disabilities who do not meet the Division's order of selection criteria for acceptance of services, are provided accurate vocational rehabilitation information and guidance which may include counseling and referral for job placement using appropriate mode of communication to assist them in preparing for, securing, retaining, or regaining employment.

History Note: Authority G.S. 143-545.1; 143-546.1; P.L. 102-569, s. 101(a)(5)(A); 34 C.F.R. 361.37;
Eff. October 1, 1994;
Amended Eff. July 1, 1998;
Temporary Amendment Eff. January 26, 2003; May 1, 2002;
Amended Eff. August 1, 2004;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.

10A NCAC 89C .0607 THIRD-PARTY FUNDING ARRANGEMENTS

The Division shall ensure that its funding arrangements for providing services, including third-party arrangements and establishment grants, are consistent with the order of selection.

History Note: Authority G.S. 143-545A; 143-546A; P.L. 102-569, s. 101(a)(5)(A);
Eff. October 1, 1994;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.