

## CHAPTER 129A

### VOCATIONAL REHABILITATION

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**129A.01 DEFINITIONS.**

Subdivision 1. **General.** For the purposes of this chapter, the terms defined in this section shall have the meanings given them.

Subd. 2. **Department.** "Department" means the department of jobs and training.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of jobs and training.

Subd. 4. **Vocational rehabilitation services.** "Vocational rehabilitation services" means those services and goods so defined in the federal Rehabilitation Act of 1973 and section 129A.03, clause (b).

Subd. 5. **Handicapped person.** "Handicapped person" means a person who because of a substantial physical, mental, or emotional disability or dysfunction requires special services in order to enjoy the benefits of society.

Subd. 6. **Long-term sheltered workshop.** "Long-term sheltered workshop" means a facility where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing remunerative employment to those handicapped persons who, as a result of physical or mental disability, are unable to participate in competitive employment. A long-term sheltered workshop shall supply such employment (1) as a step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market, or (2) during such time as employment opportunities for them in the competitive labor market do not exist.

Subd. 7. **Work activity program.** "Work activity program" means a program which utilizes paid work and training services for the primary purpose of providing basic vocational skills development for the handicapped and which permits a level of production below that required for a long-term employment program.

Subd. 8. **Sheltered employee.** "Sheltered employee" means a handicapped person working for pay while participating in an extended employment program.

Subd. 9. **Center for independent living.** "Center for independent living" means a private nonprofit organization incorporated under Minnesota law and operated for the purpose of providing independent living services to persons with disabilities. Boards of directors for the center for independent living are composed of community representatives. Fifty-one percent of the board members must be individuals who are either severely disabled themselves or spouses or parents of severely disabled persons.

Subd. 10. **Long-term employment program.** "Long-term employment program" means a program which provides paid work on the premises of a long-term sheltered workshop and training services on or off the premises and which does not include work activity.

Subd. 11. **Extended employment programs.** "Extended employment programs" means the following programs which may be offered by a long-term sheltered workshop:

- (1) long-term employment program;
- (2) work activity program;
- (3) work component program; and
- (4) community-based employment program.

Subd. 12. **Community-based employment program.** "Community-based employment program" means a program providing paid work and service hours in a position removed from a long-term sheltered workshop site.

Subd. 13. **Work component program.** "Work component program" means a cooperative effort agreed to between a long-term sheltered workshop for a long-term employment or a work activity program and a developmental achievement center licensed by the Minnesota department of human services or other facility to provide work activity on a limited scale so that the primary responsibility over vocational outcomes will be vested in the long-term employment or work activity program.

**History:** 1987 c 369 s 1

### 129A.03 POWERS AND DUTIES.

The commissioner shall:

(a) certify the long-term sheltered workshops to offer extended employment programs, grant funds to the extended employment programs, and perform the duties as specified in section 129A.08;

(b) provide vocational rehabilitation services such as: diagnostic and related services incidental to determination of eligibility for services to be provided, including medical diagnosis and vocational diagnosis; vocational counseling, training and instruction, including personal adjustment training; physical restoration, including corrective surgery, therapeutic treatment, hospitalization and prosthetic devices, all of which shall be obtained from appropriate established agencies; transportation; occupational and business licenses or permits, customary tools and equipment, maintenance, books, supplies and training materials; initial stocks and supplies; placement; acquisition of vending stands or other equipment, initial stocks and supplies for small business enterprises; supervision and management of small business enterprises, merchandising programs or services rendered by severely disabled persons; establishment, improvement, maintenance or extension of public and other nonprofit rehabilitation facilities, centers, workshops, demonstration projects and research. These services shall be provided for handicapped persons in the state whose capacity to earn a living has in any way been destroyed or impaired through industrial accident or otherwise; these persons are entitled to free choice of vendor for any medical or dental services provided under this paragraph;

(c) formulate plans of cooperation with the commissioner of labor and industry for providing services to workers covered under the workers' compensation act;

(d) maintain a contractual relationship with the United States as authorized by the act of Congress approved September 1, 1954, known as the "Social Security Amendments of 1954," Public Law Number 761, section 221, and the act approved October 30, 1972, known as the Social Security Amendments of 1972, Public Law Number 92-603, and subsequent amendments. Under the contract, the state will undertake to make determinations referred to in those public laws with respect to all individuals in Minnesota, or with respect to a class or classes of individuals in this state that is designated in the agreement at the state's request. It is the purpose of this relationship to permit the citizens of this state to obtain all benefits available under federal law;

(e) provide an in-service training program for department employees by paying for its direct costs with state and federal funds;

(f) conduct research and demonstration projects; provide training and instruction, including establishment and maintenance of research fellowships and traineeships, along with all necessary stipends and allowances; disseminate information to the handicapped and general public; and provide technical assistance relating to vocational rehabilitation;

(g) receive and disburse pursuant to law money and gifts available from governmental and private sources for the purpose of vocational rehabilitation. Money received from workers' compensation carriers for vocational rehabilitation services to injured workers must be deposited in the general fund;

(h) design all state plans of vocational rehabilitation services required as a condition to the receipt and disbursement of any money available from the federal government;

(i) cooperate with other public or private agencies or organizations for the purpose of vocational rehabilitation. Money received from school districts, governmental subdivisions, mental health centers or boards, and private nonprofit organizations is appropriated to the commissioner for conducting joint or cooperative vocational rehabilitation programs;

(j) enter into contractual arrangements with instrumentalities of federal, state, or local government and with private individuals, organizations, agencies, or facilities with respect to providing vocational rehabilitation services;

(k) take other actions required by state and federal legislation relating to vocational rehabilitation and disability determination programs;

(l) hire staff and arrange services and facilities necessary to perform the duties and powers specified in this section; and

(m) adopt, amend, suspend, or repeal rules necessary to implement or make specific programs that the commissioner by sections 129A.01 to 129A.09 is empowered to administer.

**History:** 1987 c 369 s 2

#### **129A.06 LONG-TERM SHELTERED WORKSHOPS.**

Subdivision 1. Any city, town, county, nonprofit corporation, or any combination thereof, may apply to the commissioner for assistance in establishing or operating a community long-term sheltered workshop. Application for assistance shall be on forms supplied by the commissioner. Each applicant shall annually submit to the commissioner its plan and budget for the next fiscal year. No applicant shall be eligible for a grant hereunder unless its plan and budget have been approved by the commissioner.

Subd. 2. In order to provide the necessary funds for extended employment programs offered by a long-term sheltered workshop, the governing body of any city, town, or county may expend money which may be available for such purposes in the general fund, and may levy a tax which, except when levied by a county, shall not exceed in any one year the following amounts per capita of the population, based upon the last federal census: Cities of the first class, not to exceed ten cents per capita; cities of other than the first class, and towns, not to exceed 30 cents per capita. A tax levied pursuant to this subdivision is not a special levy as defined in section 275.50, subdivision 5, and shall be subject to the limitation provided in sections 275.51 to 275.56. Any city, town, county, or nonprofit corporation may accept gifts or grants from any source for the long-term sheltered workshop. Any money appropriated, taxed, or received as a gift or grant may be used to match funds available on a matching basis.

**History:** 1987 c 369 s 3

#### **129A.07 LONG-TERM SHELTERED WORKSHOP BOARDS.**

Subdivision 1. Every city, town, county, nonprofit corporation, or combination thereof establishing a long-term sheltered workshop shall appoint a long-term sheltered workshop board of no fewer than nine members before becoming eligible for the assistance provided by sections 129A.06 to 129A.08. When any city, town, or county singly establishes such a workshop, the board shall be appointed by the chief executive officer of the city or the chair of the governing board of the county or town. When any combination of cities, towns, counties or nonprofit corporations establishes a workshop, the chief executive officers of the cities, nonprofit corporations and the chairs of the governing bodies of the counties or towns shall appoint the board. If a nonprofit corporation singly establishes a workshop, the corporation shall appoint the board of directors. Membership on a board shall be representative of the community served and shall include a handicapped person. One-third to one-half of the board shall be representative of industry or business. The remaining members should be representative of lay associations for the handicapped, labor, the general public, and education, welfare, medical, and health professions. Nothing in sections 129A.06 to 129A.08 shall be construed to preclude the appointment of elected or appointed public officials or

members of the board of directors of the sponsoring nonprofit corporation to the board, so long as representation described above is preserved. If a county establishes a workshop and manages the workshop with county employees, the governing board shall be the county board of commissioners and other provisions of this chapter pertaining to membership on the governing board do not apply.

Subd. 2. The term of office of each member of the long-term sheltered workshop board shall be for four years, measured from the first day of the year of appointment, except as follows: Of the members first appointed, at least three shall be appointed for a term of two years, at least three for a term of three years and at least three for a term of four years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Any member of a board may be removed by the appointing authority for neglect of duty, misconduct, or malfeasance in office, after being given a written statement of charges and an opportunity to be heard thereon.

Subd. 3. Subject to the provisions of sections 129A.06 to 129A.08 and the rules of the department, each long-term sheltered workshop board shall:

(a) Review and evaluate the need for extended employment programs offered by the long-term sheltered workshop provided pursuant to sections 129A.06 to 129A.08 and report thereon to the commissioner and, when indicated, the public, together with recommendations for additional extended employment programs;

(b) Recruit and promote local financial support for the extended employment programs from private sources such as community chests, business, industrial and private foundations, voluntary agencies and other lawful sources and promote public support for municipal and county appropriations;

(c) Promote, arrange, and implement working agreements with other educational and social service agencies both public and private and any other allied agencies;

(d) Advise the commissioner on the adoption and implementation of policies to stimulate effective community relations;

(e) Review the annual plan and budget and make recommendations thereon;

(f) When the extended employment program offered by the long-term sheltered workshop is certified, act as the administrator of the workshop and its programs for purposes of this chapter.

**History:** 1987 c 369 s 4

## **129A.08 EVALUATION AND FUNDING OF EXTENDED EMPLOYMENT PROGRAMS.**

Subdivision 1. **Grants.** The commissioner may make grants to assist cities, towns, counties, nonprofit corporations, or any combination thereof in the establishment, operation, and expansion of the extended employment programs offered by long-term sheltered workshops. The commissioner may accept federal grants or aids and shall cooperate with federal agencies in any reasonable manner necessary to qualify for federal grants or aids for long-term sheltered workshops or their programs.

Subd. 2. **Evaluation; state funding.** At the beginning of each fiscal year, the commissioner shall allocate available funds to extended employment programs for disbursement during the fiscal year in accordance with approved plans or budgets. The commissioner shall study and recommend to the legislature by March 1, 1985, new allocation formulas which take into consideration effectiveness of the workshop extended employment programs. In its recommendation the commissioner shall calculate the fiscal impact of the various formulas on each workshop and the extent to which a workshop can utilize new allocation formulas. The commissioner shall develop forms to assist the workshops in collecting data necessary to complete the program evaluation. Information needed to conduct the evaluations must be submitted by the workshops along with the annual requests for funding. Failure to submit documentation requested by the commissioner shall result in the withdrawal of all state funding for the extended employment programs offered by the workshop.

The commissioner shall from time to time during the fiscal year review the budgets

and expenditures of the workshops and programs. If funds are not needed for the program to which they were allocated, the commissioner may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other programs. The commissioner may withdraw funds from any workshop or program which is not being administered in accordance with its approved plan and budget unless a modified plan and budget is submitted to and approved by the commissioner, and implemented within a reasonable time.

The commissioner shall also withdraw funds from a workshop or program not being administered according to department rules, or not meeting mandatory standards for certification, unless a plan bringing the workshop or program into compliance with the rules and standards is submitted to and approved by the commissioner and implemented within a reasonable time.

**Subd. 3. Operating costs funded.** The average of all grants under this section may not exceed 75 percent of the normal operating expenses for all individual programs for sheltered workshops. Wages paid sheltered employees or work activity program participants are to be excluded in determining operating cost. In the event that there are inadequate funds appropriated to meet the foregoing provisions in full, they shall be prorated proportionately.

**Subd. 4. Evaluation of programs.** The program evaluation must include, but not be limited to, the following considerations:

- (a) Wages and benefits paid to sheltered employees and number of hours worked;
- (b) Rate of placement in competitive employment;
- (c) Opportunities for sheltered employees to participate in decisions affecting their employment;
- (d) Workshop responsiveness to sheltered employees grievances;
- (e) Increases in individual sheltered employee productivity;
- (f) Implementing innovative ways to increase placement and retention of sheltered employees in competitive employment, or in sheltered positions with competitive employers, or innovative ways that increase sheltered employee wages;
- (g) Efficiency of the workshops; and
- (h) Types and levels of disability of the sheltered employees and willingness of the workshop to accept and assist persons with serious behavioral, mental, sensory, or physical disabilities.

The evaluation must take into account the disability levels of the sheltered employees, the geographic location and size of the workshop and the economic conditions of the surrounding community.

**Subd. 5. Rule authority.** In addition to the powers already conferred by law, the commissioner shall promulgate rules on:

- (a) state certification of all long-term sheltered workshops;
- (b) allocation of state grant funds to extended employment programs;
- (c) standards for qualification of personnel and quality of professional service and for in-service training and education leave programs for personnel;
- (d) eligibility for service so that no person will be denied service on the basis of race, creed, or color;
- (e) regulatory fees for consultation services;
- (f) standards and criteria by which handicapped persons are to be judged eligible for the services;
- (g) evaluation criteria for extended employment programs; and
- (h) program evaluation criteria for work activity programs in order to determine the extent to which these programs meet the goals and objectives established in state and federal law relating to work activity programs.

The rules on evaluation criteria for long-term sheltered workshops must be in effect by July 1, 1986. The rules must be used in making allocations for fiscal years beginning after June 30, 1987.

Subd. 6. **Technical assistance.** The commissioner shall provide technical assistance within available resources to workshops and programs based on the need reflected in an evaluation.

Subd. 7. **Grants.** The commissioner may use money allocated to the division of vocational rehabilitation for management information systems to provide grants to long-term sheltered workshops to finance and purchase equipment necessary to: (1) provide the information required to comply with the evaluation criteria developed under subdivision 5; (2) increase sheltered worker productivity; and (3) train severely disabled people in computer and other high-technology applications. As a condition of receiving a grant for the purposes of (2) or (3), the commissioner shall require workshops to provide matching money.

**History:** 1987 c 369 s 5