

IDAHO BLIND MERCHANTS BYLAWS

Article I Name

The name of this organization shall be Idaho Blind Merchants Committee.

Article II Purpose

The purpose of this committee is to work with, provide input to and be actively involved with those program decisions of the State Licensing Agency (SLA) as specified by the Randolph Sheppard Act.

Article III Membership

Section 1

The membership of this committee shall be comprised of all licensed operators meeting the following criteria:

- A. Must be a licensed operator running a primary location as defined by the SLA.**
- B. Contractors are not members of this committee.**

Section 2

A quorum consisting of a majority of qualified Operators must be present to conduct business. Once a quorum has been established it will remain effective for the remainder of the meeting.

Article IV Officers and Duties

Section 1 Elections

They shall be elected at the meeting during each even numbered year. These officers shall consist of a Chairperson, a Vice Chairperson, a Secretary, and two Regional representatives. The terms of these officers shall begin at the close of the meeting at which they are elected in and qualified for. The officers shall be elected by a majority vote of the members present and voting. All qualified members of the committee are eligible to vote, and there shall be no proxy voting. When more than one person is nominated for an office, a secret ballot shall be taken. If no nominee receives a majority vote on the first ballot, the person receiving the fewest votes shall be dropped from the list of nominees

and a second ballot shall be taken. This procedure shall continue until one of the nominees has received a majority vote from the active Members who are present. If a tie occurs then each candidate shall be given three minutes to present his/her plan (campaign). The second ballot will then be taken. If a second tie occurs, a toss of a coin will determine who the winner is. The Chairperson may not serve more than two consecutive terms.

Section 2 Duties of the Officers

1. Chairperson: The Chairperson will be the spokesperson for all operators. They will stay in contact with all operators and the SLA. They will perform all other duties pertaining to this office, as specified in the Randolph Shepard Act and the SLA rules.

2. Vice Chairman: The Vice Chairperson will assist the Chairperson and perform all other duties associated with this office.

3. Secretary: The Secretary will take and keep *on file* accurate attendees, motions and votes, outcomes of votes and elections, of all meetings. They will provide copies of the attendees,

motions and votes, outcomes of votes and elections to the SLA and the vendors with-in 30 days. They will perform all other duties pertaining to this office. The SLA will produce and distribute audio copies to the operators 30 days after the meeting. The audio copies of meetings are adopted as the official record. The secretary will keep record of all subcommittee members and sub-committee chairs and will provide updated copies to the vendors as necessary.

Between meetings, the business of this committee will be conducted by the board which will consist of the elected officers and the two regional representatives.

Section 3 Vacancies

Vacancies among the Board Members shall be filed by appointment by the Chairperson with approval of the remaining Board Members with the exception of the Chairperson position. The Vice Chairperson shall move to the Chairperson in the event of the resignation of the Chairperson. Appointees shall serve until the next regular election.

Section 4 Standing sub-committees

The chairperson shall appoint members to the following sub-committees:

- 1.Rules sub-committee**
- 2.Technology sub-committee**
- 3.Training sub-committee**
- 4.Finance sub-committee**

The role of each sub-committee:

The Chairperson or Elected Committee will solicit sub-committees to gather information through active contact with all vendors. This information will then be provided to the Elected Committee. The Elected Committee will then fulfill its role of active participation with the SLA.

Article V Meetings

Section 1

There shall be Two meetings yearly, the third Saturday in September and the third Saturday in March unless a date change is deemed necessary by the Chairperson s. A quorum must be present to conduct business.

Section 2

The Chairperson may call a special meeting of the committee at any time a majority of the board deems such action to be necessary. A quorum must be present to conduct business.

Article VI Committees

The Chairperson may appoint such committees as they or the Committee deems necessary.

Article VII Amendment

These bylaws may be amended at any regular meeting of the committee by an effective vote of two-thirds of the active members present and voting.

Article VIII Vendors Bill of Rights

Right No. 1. THE PRIORITY.

All blind licensees have a prior right to operate vending facilities; Federal agencies are required to establish one or more vending facilities to be operated by blind licensees on all Federal property. State law rights vary.

SOURCES OF RIGHT NO. 1: “... blind persons licensed under the provisions of this chapter shall be authorized to operate vending facilities on any Federal property.” 20 U.S.C. § 107(a). “...wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States. “20 U.S.C. § 107(b)(2).

Right No. 2. INDEFINITE LICENSE.

Once licensure is obtained, the license can only be terminated after an opportunity for a fair hearing and only if the vendor’s facility is not being operated in accordance with the SLA’s rules and regulations.

SOURCES OF RIGHT NO. 2: “Each such license shall be issued for an indefinite period but may be terminated by the State licensing agency if it is satisfied that the facility is not being operated in accordance with the rules and regulations prescribed by such licensing agency. “ 20 U.S. § 107a(a)(6). “The State licensing agency shall provide for the issuance of licenses for an indefinite period but subject to suspension or

termination if, after affording the vendor an opportunity for a full evidentiary hearing, the State licensing agency finds that the vending facility is not being operated in accordance with its rules and regulations, the terms and conditions of the permit, and the terms and conditions of the agreement with the vendor.” 34 C.F.R. § 395.7(b).

Right No. 3. EQUIPMENT AND INITIAL STOCK.

A licensed vendor has the right to suitable vending facility equipment maintained in good repair and adequate initial stock.

SOURCES OF RIGHT NO. 3: A State agency shall agree “to provide for each licensed blind person such vending facility equipment, and adequate initial stock of suitable articles to be vended therefrom, as may be necessary.” 20 U.S.C. § 107b(1). “The State licensing agency shall maintain (or cause to be maintained) all vending facility equipment in good repair and in an attractive condition and shall replace or cause to be replaced worn-out and obsolete equipment as required to ensure the continued successful operation of the facility.” 34 C.F.R. § 395.10.

Right No. 4. TRAINING AND CONSULTATION.

A licensee has the right to adequate training and management services, both before and after licensure, coordinated with the State VR program including post-employment services to assure maximum vocational potential of each blind vendor is achieved.

SOURCES OF RIGHT NO. 4: “The Commissioner shall insure, through promulgation of appropriate regulations, that uniform and effective training programs, including on-the-job training, are provided for blind individuals, through services under the Rehabilitation Act of 1973 [29 U.S.C.A. § 701 et seq.]. He shall further insure that State agencies provide programs for upward mobility (including further education and additional training or retraining for improved work opportunities) for all trainees under this chapter, and that follow-along services are provided to such trainees to assure that their maximum vocational potential is achieved.” 20 U.S.C. § 107d-4. The SLA’s application shall include “the methods to followed in providing suitable training, including on-the-job training and, where appropriate, upward mobility training, to blind vendors.” 34 C.F.R. §

395.3(a)(8). “The State licensing agency shall ensure that effective programs of vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, shall be provided to blind individuals as vocational rehabilitation services under the Rehabilitation Act of 1973 (Pub. L. 93–112), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516). Such programs shall include on-the-job training in all aspects of vending facility operation for blind persons with the capacity to operate a vending facility, and upward mobility training (including further education and additional training or retraining for improved work opportunities) for all blind licensees. The State licensing agency shall further ensure that post-employment services shall be provided to blind vendors as vocational rehabilitation services as necessary to assure that the maximum vocational potential of such vendors is achieved and suitable employment is maintained within the State’s vending facility program.” 34 C.F.R. § 395.11. “Management services means supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis to support and improve vending facilities

operated by blind vendors. Management services does not include those services or costs which pertain to the on-going operation of an individual facility after the initial establishment period.” 34 C.F.R. § 395.1(j)

Right No. 5: INDEFINITE PERMIT FOR A SATISFACTORY SITE ON FEDERAL PROPERTY

And certain other property if required by state law. On Federal property, the site is to be satisfactory — 250 sq. ft. (including storage) with sufficient plumbing, heating & ventilation per health & building codes.

SOURCES OF RIGHT NO. 5: “The permit shall be issued for an indefinite period of time subject to suspension or termination on the basis of compliance with agreed upon terms.” 34 C.F.R. § 395(b). Satisfactory site means an area fully accessible to vending facility patrons and having: (1) Effective on March 23, 1977 a minimum of 250 square feet available for the vending and storage of articles necessary for the operation of a vending facility; and (2) Sufficient electrical plumbing, heating, and ventilation outlets for the location and operation of a vending facility in accordance with applicable

health laws and building codes.” 34 C.F.R. § 395.1(q). “No ... agency shall undertake to acquire by ownership, rent, or lease, or to otherwise occupy, in whole or in part, any building unless it is determined that such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind vendor.” 34 C.F.R. § 395.31(a).

Right No. 6: NET PROCEEDS.

The licensee has the right to the profit from sales, less set aside, without income limitations. Associated is the right to independently manage day-to-day operations, including decisions regarding partnering with private entities.

SOURCES OF RIGHT NO. 6: “if any funds are set aside, or caused to be set aside, from the net proceeds of the operation of the vending facilities, such funds shall be set aside, or caused to be set aside, only to the extent necessary for and may be used only for the purposes of . . . in no event shall the amount of such funds to be set aside from the net proceeds of any vending facility exceed a reasonable amount which shall be determined by the Secretary” 20 U.S.C. §107b(3). Any limitation on

the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing, who shall determine whether such limitation is justified. 20 U.S.C. § 107(b). No limitation shall be imposed on income from vending machines, combined to create a vending facility, which are maintained, serviced, or operated by a blind licensee. 20 U.S.C. § 107d-3(a). Net proceeds means “the amount remaining from the sale of articles or services of vending facilities, and any vending machine or other income accruing to blind vendors after deducting the cost of such sale and other expenses (excluding set-aside charges required to be paid by such blind vendors). “34 C.F.R. § 395.1(k). “such operation shall be expected to provide maximum employment opportunities to blind vendors to the greatest extent possible.” 34 C.F.R. § 395.33(a). “no department, agency, or instrumentality of the United States, shall undertake to occupy, in whole or in part, any building which is to be constructed, substantially altered, or renovated, ... unless it is determined that the design for such construction, substantial alteration, or renovation includes a satisfactory site or sites

for the location and operation of a vending facility by a blind vendor. 34 C.F.R. 395.31(b) (emphasis added).

Right No. 7. VENDING MACHINE INCOME ON FEDERAL PROPERTY.

Income from vending machines on federal property is allocated to the blind licensee where there is competition. For non-competing vending machine income, the SLA administers the funds as voted upon by a majority of blind licensees; uses are limited to retirement/ pension plans, health insurance, and paid sick leave/vacation time.

SOURCE OF RIGHT NO. 7: “100 per centum of all vending machine income from vending machines on Federal property which are in direct competition with a vending facility operated by a blind vendor shall accrue to the State licensing agency which shall disburse such income to such blind vendor operating such vending facility on such property provided that the total amount of such income accruing to such blind vendor does not exceed the maximum amount determined under §395.8(a). In the event that there is income from such vending machines in

excess of the maximum amount which may be disbursed to the blind vendor under §395.8(a), such additional income shall accrue to the State licensing agency for purposes determined in accordance with §395.8(c). 34 C.F.R. § 395.32(b).

Right No. 8. DUE PROCESS.

A vendor is entitled to a full evidentiary hearing; if dissatisfied with the decision, a vendor has the right to submit the grievance to an arbitration panel with costs of arbitration panel to be paid by the Secretary of Education.

SOURCE OF RIGHT NO. 8: Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to a State licensing agency a request for a full evidentiary hearing, which shall be provided by such agency in accordance with section 107b(6) of this title. If such blind licensee is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 107d-2 of this title, and the decision of such panel shall be final and binding on the parties except as otherwise

provided in this chapter. §107d-1. Grievances of blind licensees, 20 USCA § 107d-1 “The State licensing agency shall specify in writing and maintain procedures whereby such agency affords an opportunity for a full evidentiary hearing to each blind vendor (which procedures shall also apply to cases under §395.6(e)) dissatisfied with any State licensing agency action arising from the operation or administration of the vending facility program. When such blind vendor is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary.” 34 C.F.R. § 395.13(a).

Right No. 9: IMPARTIAL SELECTION PROCESS IN TRANSFER AND PROMOTION.

A licensee has the right to have a transfer and selection process that is based on objective criteria developed with the active participation of the vendors’ committee.

SOURCES OF RIGHT NO. 9: “participation, with the State agency, in the development and administration of a transfer and promotion system for blind licensees” 20 U.S.C. 107b-1(3). The preamble to the 1975 amendments makes it

clear that fair and uniform treatment of vendors is required.

Right No. 10: ACTIVE PARTICIPATION.

Via the elected state committee, a blind licensee has the right to participate in (a) major administrative decisions and policy and program development decisions affecting the overall administration of the vending facility program before the SLA implements decisions; (b) advocacy for grievants; (c) development of the transfer and promotion system; (d) training; and (e) sponsorship of meeting and instructional programs.

SOURCES OF RIGHT NO. 10: (b) The State Committee of Blind Vendors shall:(1) Actively participate with the State licensing agency in major administrative decisions and policy and program development decisions affecting the overall administration of the State's vending facility program;(2) Receive and transmit to the State licensing agency grievances at the request of blind vendors and serve as advocates for such vendors in connection with such grievances; (3) Actively participate with the State

licensing agency in the development and administration of a State system for the transfer and promotion of blind vendors;(4) Actively participate with the State licensing agency in the development of training and retraining programs for blind vendors; and (5) Sponsor, with the assistance of the State licensing agency, meetings and instructional conferences for blind vendors within the State. 34 C.F.R. § 396.14(b).

Right No. 11: PROGRAM AND FINANCIAL INFORMATION.

Insofar as practicable, must be provided by Braille or recorded tape. Assistance with interpretation is to be provided by the SLA. Under the Americans with Disabilities Act, documents must be accessible.

SOURCES OF RIGHT NO. 11: “Each blind vendor under this part shall be provided access to all financial data of the State licensing agency relevant to the operation of the State vending facility program, including quarterly and annual financial reports, provided that such disclosure does not violate applicable Federal or State laws pertaining to the disclosure of confidential information. Insofar as practicable, such data

shall be made available in braille or recorded tape. At the request of a blind vendor, State licensing agency staff shall arrange a convenient time to assist in the interpretation of such financial data.” 34 C.F.R. §395.12. State agencies are required to provide “effective methods of making visually delivered materials available to individuals who are blind or have low vision.” 42 U.S.C. § 12103, 28 C.F.R. § 36.303.

Right No. 12: APPROVAL BY THE UNITED STATES DEPARTMENT OF EDUCATION OF CHANGES IN RULES AND POLICIES.

After active participation, SLA’s proposed changes in rules, regulations, blind vendor agreements, set aside schedules, and arrangements for carrying insurance, as well as changes in the application for designation as SLA must be submitted to the Department of Education.

SOURCES OF RIGHT NO. 12: The assurances of the State licensing agency that it will: (i) Cooperate with the Secretary in applying the requirements of the Act in a uniform manner; (ii) Take effective action, including the termination of licenses, to carry out full responsibility for the

supervision and management of each vending facility in its program in accordance with its established rules and regulations, this part, and the terms and conditions governing the permit; (iii) Submit promptly to the Secretary for approval a description of any changes in the legal authority of the State licensing agency, its rules and regulations, blind vendor agreements, schedules for the setting aside of funds, contractual arrangements for the furnishing of services by a nominee, arrangements for carrying general liability and product liability insurance, and any other matters which form a part of the application; (iv) If it intends to set aside, or cause to be set aside, funds from the net proceeds of the operation of vending facilities, obtain a prior determination by the Secretary that the amount of such funds to be set aside is reasonable” 34 C.F.R. § 395.3(a)(11).
Article IX Standard operating Procedures

APPROVED: 23 MARCH 1985

MEETING TIMES AMENDED MARCH 2, 1996

BI-LAWS AMENDED SEPTEMBER 13, 2003

Meeting time amended September 2009

Bylaws amended March 29, 2017

