

## Office of the Secretary of Defense

## § 260.3

260.5 Responsibilities.

260.6 Procedures.

260.7 Information requirements.

SOURCE: 74 FR 62235, Nov. 27, 2009, unless otherwise noted.

### § 260.1 Purpose.

This part:

(a) Assigns responsibilities in compliance with 20 U.S.C. 107 *et seq.* and 34 CFR part 395 and establishes the following policies within the Department of Defense:

(1) Uniform policies for application of priority accorded the blind to operate vending facilities;

(2) Requirements for satisfactory vending facility sites on DoD-controlled property; and

(3) Vending machine income-sharing requirements on DoD-controlled property

(b) Prescribes requirements and operating procedures for the vending facility program for the blind on DoD-controlled property.

(c) Does NOT apply to full food services, mess attendant services, or services supporting the operation of a military dining facility.

### § 260.2 Applicability.

This part applies to:

(a) Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the Department of Defense Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the “DoD Components”).

(b) Vending facility sites on DoD-controlled property.

### § 260.3 Definitions.

*Blind licensee.* A blind person licensed by the State licensing agency to operate a vending facility on DoD-controlled property.

*Cafeteria.* A food dispensing facility capable of providing a broad variety of prepared foods and beverages (including hot meals) primarily through the use of a line where the customer serves himself or herself from displayed selec-

tions. A cafeteria may be fully automatic, or some limited waiter or waitress service may be available and provided within a cafeteria and table or booth seating facilities are always provided. The DoD Component food dispensing facilities that conduct cafeteria-type operations during part of their normal operating day and full table-service operations during the remainder of their normal operating day are not “cafeterias” if they engage primarily in full table service operations.

*Direct competition.* The presence and operation of a DoD Component vending machine or a vending facility on the same DoD-controlled property as a vending facility operated by a blind vendor. Vending machines or vending facilities operated in areas serving employees, the majority of whom normally do not have access (in terms of uninterrupted ease of approach and the amount of time required to patronize the vending facility) to the vending facility operated by a blind vendor, shall not be considered to be in direct competition with the vending facility operated by a blind vendor.

*DoD-controlled property.* Federal property that is owned, leased, or occupied by DoD.

*Federal employees.* Civilian appropriated fund and nonappropriated fund employees of the United States.

*Federal property.* Any building, land, or other real property owned, leased, or occupied by DoD in the United States.

*Individual location, installation, or facility.* A single building or a self-contained group of buildings. A self-contained group of buildings refers to two or more buildings that must be located in close proximity to each other and between which a majority of the Federal employees working in such buildings regularly move from one building to another in the normal course of their official business during a normal working day.

*License.* A written instrument issued by a State licensing agency to a blind person, authorizing that person to operate a vending facility on DoD-controlled property.

*Military dining facility.* A facility owned, operated, or leased and wholly controlled by DoD and used to provide dining services to members of the

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Armed Forces, including a cafeteria, military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces.

*Normal working hours.* An 8-hour work period between the approximate hours of 0800 and 1800, Monday through Friday.

*On-site official.* The individual in command of an installation or separate facility or location. For the Pentagon Reservation only, the Washington Headquarters Services (WHS) Director of the Defense Facilities Directorate is designated as the on-site official.

*Permit.* The official approval given a State licensing agency by a department, agency, or instrumentality responsible for DoD-controlled property whereby the State licensing agency is authorized to establish a vending facility.

*Satisfactory site.* An area fully accessible to vending facility patrons and having sufficient electrical, plumbing, heating, and ventilation outlets for the location and operation of a vending facility in compliance with applicable health laws and building requirements. A "satisfactory site" shall have a minimum of 250 square feet available for sale of items and for storage of articles necessary for the operation of a vending facility.

*State.* A state, the District of Columbia, the Commonwealth of Puerto Rico, a territory, or possession of the United States.

*State licensing agency.* The State agency designated by the Secretary of Education, to issue licenses to blind persons for the operation of vending facilities on Federal and other property.

*Substantial alteration or renovation.* A permanent material change in the floor area of a building that would render it appropriate for the location and operation of a vending facility by a blind vendor.

*United States.* The several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

*Vending facility.* Automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such

other appropriate auxiliary equipment that may be operated by blind licensees and that are necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles and services to be dispensed automatically or manually and that are prepared on or off the premises according to applicable health laws. Also includes facilities providing the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State within such State.

*Vending machine.* For the purposes of assigning vending machine income, a coin or currency operated machine that dispenses articles or services except that those machines operated by the United States Postal Service for the sale of postage stamps or other postal products and services, machines providing services of a recreational nature, and telephones shall not be considered to be vending machines.

*Vending machine income.* (1) DoD Component receipts from the DoD Component vending machine operations on DoD-controlled property, where the machines are operated by any DoD Component activity, less costs incurred; or

(2) Commissions received by any DoD Component activity from a commercial vending firm that provides vending machines on DoD-controlled property.

(3) "Costs incurred" include costs of goods, including reasonable service and maintenance costs in accordance with customary business practices of commercial vending concerns, repair, cleaning, depreciation, supervisory and administrative personnel, normal accounting, and accounting for income-sharing.

*Vendor.* A blind licensee who is operating a vending facility on DoD-controlled property.

#### § 260.4 Policy.

It is DoD policy that a DoD Component having accountability for real property shall extend priority on such property to the blind when implementing the Randolph-Sheppard Act, as set out in the following paragraphs:

(a) The blind shall be given priority in the establishment and operation of vending facilities.