

# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION FOR THE VISUALLY IMPAIRED

Statutory Authority: 29 Delaware Code, Sections 7903(9) and 7929(a) (29 **Del.C.** §§7903(9) and 7929(a))

16 **DE Admin. Code** 9101

### PROPOSED

### PUBLIC NOTICE

#### **9101 Rules and Regulations of the Statewide Contracts to Support Employment for Individuals with Disabilities**

Pursuant to 29 **Del.C.** §§7903(9) and 29 **Del.C.** 7929(a), the Department of Health and Social Services, Division for the Visually Impaired is proposing revisions to the Rules and Regulations of the Statewide Contracts to Support Employment for Individuals with Disabilities (16 **DE Admin. Code** 9101).

The proposed amendments will introduce several important changes to better serve and protect Delawareans. Technical changes are proposed to bring the regulation into compliance with the *Delaware Administrative Code Style Manual*.

Copies of the proposed regulation are available for review in the June 1, 2025 issue of the *Delaware Register of Regulations*, accessible online at: <http://regulations.delaware.gov> or by calling the Division for the Visually Impaired at 302-255-9800.

Public comments will be accepted until 4:30 PM on July 1, 2025. Comments will be accepted in written form via email to [InfoDVI@delaware.gov](mailto:InfoDVI@delaware.gov) or by U.S. mail to the following address:

Deborah Talley, Director  
Division for the Visually Impaired  
1901 North Dupont Highway  
New Castle, DE 19720

#### **9101 Rules and Regulations of the Statewide Contracts to Support Employment for Individuals with Disabilities**

##### **1.0 General Provisions**

- 1.1 The name of this entity is the Commission for Statewide Contracts to Support Employment for Individuals with Disabilities ("Commission").
- 1.2 The mailing address of the Commission is the Biggs Building, 1901 North DuPont Highway, New Castle, Delaware 19720, and the telephone number is 302-255-9800.
- 1.3 The Commission shall assure an expanded and constant market for products and services of individuals with disabilities. To that end, the Commission will approve proposed contracts and set the price of all products ~~manufactured~~ and services provided by ~~Delaware Industry for the Blind ("DIB")~~ or any community rehabilitation program (~~CRP~~) ("CRP") that are being offered to a State agency as defined in 16 **Del.C.** Ch. 96.
- 1.4 The Officers of the Commission shall be a Chair ~~(appointed by the Governor)~~ appointed by the Governor and a Vice-Chair ~~(elected by the members of the Commission)~~ elected by the members of the Commission.
- 1.5 The Chair shall preside at all meetings of the Commission. The Chair shall be the only person authorized to make public announcements for the Commission. The Chair may request from the head or administrator of any ~~state~~ State agency, as defined in 16 **Del.C.** Ch. 96, to provide information necessary to enable the Commission to carry out its duties pursuant to the same chapter. The Chair shall also appoint members to all subcommittees of the Commission. The Chair shall designate members of the Commission to represent the Commission ~~upon~~ at all affiliated associations, committees, and organizations; at meetings; and the like. The Chair may also appoint non-Commission members to any subcommittee where ~~he/she~~ the Chair deems the person's experience will assist that subcommittee with its responsibilities.
- 1.6 The Vice-Chair shall be vested with all powers and shall perform all the duties of the Chair in ~~his/her~~ the Chair's absence or disability, to the extent which may be permitted by law, and the Vice-Chair shall perform ~~such~~ other duties as may be prescribed from time to time by the Commission.
- 1.7 The Director of the Division for the Visually Impaired ~~(Director)~~ ("Director") shall provide administrative support services to the Commission. The Director will designate someone to provide administrative assistance at all

Commission and all subcommittee ~~meetings and~~ meetings, shall record the proceedings of the ~~meetings~~ meetings, and shall be responsible for creating the minutes of each meeting. The Director shall give proper notice of all meetings of the Commission and of all of the subcommittees.

- 1.8 The Director shall supervise and direct the execution of all policies, orders, and resolutions of the Commission as may be required of ~~him/her~~ the Director by the Commission.
- 1.9 The Commission shall be composed of ~~the following serving~~, voting members or their designees pursuant to 16 Del.C § 9603(b), serving at the pleasure of the Governor, ~~as voting members with a majority of~~ a majority of members present to rule when ~~voting~~: voting.
  - 1.9.1 ~~Director of Government Support Services or a designee;~~
  - 1.9.2 ~~Director of the Division of Vocational Rehabilitation or a designee;~~
  - 1.9.3 ~~Secretary of Finance or a designee;~~
  - 1.9.4 ~~Three public members, which shall include at least one person with a disability or a family member of an individual who is 14 years of age or older and has a disability, who are appointed by the Governor;~~
  - 1.9.5 ~~The Chair, who shall be appointed by the Governor;~~
  - 1.9.6 ~~Non-voting members who shall consist of the following:~~
    - 1.9.6.1 ~~A representative of an industry that employs persons with disabilities, appointed by the Governor;~~
    - 1.9.6.2 ~~The Director of the Delaware Association of Rehabilitation Facilities, Inc. (d/b/a A.N.D.) or its successor; and~~
    - 1.9.6.3 ~~The Director of the Division for the Visually Impaired.~~
- 1.10 Members of the Commission shall serve without compensation other than reimbursement for expenses actually incurred in connection with the work of the Commission, and for travel expenses when away from their homes or regular places of business. Reimbursement must be requested and approved in writing by the Chair.
- 1.11 There are no set terms for the members of the Commission.

## 2.0 Meetings

- 2.1 The Commission shall meet once each month; provided, however, that either the Chair or a majority of a quorum present at any ~~such~~ meeting may postpone or change the date of the next monthly meeting.
- 2.2 A special meeting of the Commission may be called at any time by the ~~Chair~~. Chair, with notice as required by 29 Del.C. §10004(e)(4).
- 2.3 ~~A written notice of each regular meeting of the Commission shall be electronically transmitted by the Director of the Division for the Visually Impaired or his/her designee to each member of the Commission at least seven (7) days prior to the date of such regular meeting. Notice shall be electronically transmitted by the Director of the Division for the Visually Impaired or his/her designee to each member of the Commission at least two (2) days prior to the date of any special meeting which may be duly called, as aforesaid. Director of the Division for the Visually Impaired will cause the Notice and Agenda for each regular and special meeting to be electronically transmitted to the members of the Commission when the Notice and Agenda are posted.~~
- 2.4 A majority of the voting members of the Commission shall constitute a quorum for the transaction of business. Pursuant to 16 **Del.C.** §9603(j), members of the Commission may participate in a meeting of the Commission by means of conference telephone or other communications equipment by which all persons participating in the meeting can hear each other. Participating in the meeting in this manner shall constitute presence in person at the meeting.
- 2.5 No meeting of the Commission shall be only telephonic. There will be at least ~~one~~ 1 voting member present in the physical location where the public may attend in person pursuant to 29 Del.C. § 10006A(c)(2).
- 2.6 All Commission meetings shall offer the public the ability to attend the meeting ~~telephonically through electronic means of communication~~ by including ~~a toll-free number~~ this information in its public notices.
- 2.7 It shall be the duty of the members of the Commission to attend the meetings of the Commission so as to take part in its deliberations. If any appointed member fails to attend ~~three~~ 3 successive meetings of the Commission without good and valid ~~cause or excuse or~~ cause, excuse, without leave of absence from the Chair, or if the Chair for any cause cannot act, from the Vice Chair of the Commission, that member's office shall be declared vacant by the Commission, ~~and the Chair shall notify the Governor of a vacancy on the Commission, and request that the Governor shall fill the same.~~
- 2.8 New Commission members shall complete an orientation session designated by the Chair.
- 2.9 All Commission members shall participate in training session as designated by the Chair.
- 2.10 At all meetings of the Commission or any subcommittee thereof, all proceedings shall be conducted in accordance with the Delaware Freedom of Information Act, 29 **Del.C.** Ch. 100 and the Delaware Administrative Procedures Act, 29 **Del.C.** Ch. 101, as applicable.

### 3.0 Conflicts of Interest

- 3.1 Any member of the Commission or subcommittee member having an interest in a matter presented to or being considered by the Commission or a subcommittee for recommendation, authorization, approval or ratification, ~~shall must~~ give prompt, ~~full full~~, and frank disclosure of ~~his or her the member's~~ interest to the Commission or subcommittee ~~and the Public Integrity Commission ("PIC")~~ prior to its acting on such matter. ~~The body to which such disclosure is made~~ The PIC shall thereupon determine by majority vote in accordance with 29 Del.C. Ch. 58, whether the disclosure shows that a conflict of interest exists or can reasonably be construed to exist.
- 3.2 If the ~~body to which the disclosure is made~~ PIC determines that a conflict exists, the person regarded as having the conflict shall not vote on, nor use ~~his or her the person's~~ personal influence on, nor participate ~~(other than to present factual information or to respond to questions)~~ in the discussions or deliberations with respect to ~~such matter the matter, other than to present factual information or to respond to questions.~~ Such This person may not be counted in determining the existence of a quorum for the portion of the meeting where the matter that includes the conflict is under discussion or is being voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon, and where applicable, the abstention from voting and participation, and whether a quorum was present.

### 4.0 Order of Business

- 4.1 The order of business at all regular meetings of the Commission shall be as follows:
- 4.1.1 Call to Order;
  - 4.1.2 Approval of ~~Minutes of Previous Meeting(s)~~ minutes of previous meetings;
  - 4.1.3 Old Business;
  - 4.1.4 New Business;
  - 4.1.5 Report of the Chair;
  - 4.1.6 ~~Report(s) of the Subcommittee(s)~~ Reports of the subcommittees;
  - 4.1.7 Other ~~Report(s)~~ reports;
  - 4.1.8 ~~Public Comment(s) or Presentation(s)~~ comments or presentations; and
  - 4.1.9 ~~Adjournment;~~ Adjournment.
- 4.2 The Chair shall have the authority to deviate from the order of business as the circumstances warrant.
- 4.3 Members of the public may speak only during the time that has been designated as "public comment/presentation" under the agenda and only after they have been recognized by the Chair. Members of the public may also speak outside this designated time period but only with the permission of the Chair. Presentations by members of the public shall be limited to ~~five (5)~~ 5 minutes, unless otherwise approved by the Chair. Speakers are requested to give their presentations in the order of sign in. The Chair may limit the number of public speakers heard, as circumstances warrant.

### 5.0 Subcommittees

- 5.1 The subcommittees of the Commission shall be as follows:
- 5.1.1 The Regulations Subcommittee; and
  - 5.1.2 Central Non-Profit Agency ~~(CNA)~~ ("CNA") Subcommittee.
- 5.2 In December of each year, the Chair shall review the composition of each of the subcommittees, shall make appointments ~~and/or and~~ reassign members of the Commission to each of the subcommittees, as needed and permitted by law, and shall name a Chair of each of the subcommittees to serve for the following calendar year. Each member of the Commission shall participate actively in the work of ~~one 1~~ of the subcommittees. Non-members of the Commission may be appointed by the Chair pursuant to subsection 1.5 of ~~these regulations~~ this regulation. Those appointed non-members shall count towards the quorum of that subcommittee and shall have a vote in any matter before the subcommittee. Quorum for any subcommittee shall be a majority of that subcommittee's members.
- 5.3 The Chair may appoint special or ad hoc committees at any time and from time to time.
- 5.4 The Regulations Subcommittee shall review and revise, when appropriate, the Commission's Regulations to ensure that they are compliant with the Commission's purpose and statutory authority. It will review any recommendations made regarding the regulations.
- 5.5 The CNA Subcommittee shall develop the competitive solicitation for the selection of any central non-profit agency for the provision of set-aside services or the production and distribution of set-aside commodities. In addition, the subcommittee shall review the performance of the CNAs as well as review and respond to any

complaint filed against a CNA with the Commission. The subcommittee will present its findings and recommendations on any complaint to the Commission.

## **6.0 Annual Report**

- 6.1 Not later than 90 days following the close of each State fiscal year, the Commission shall transmit to the Governor and to the General Assembly a report ~~in a format as required by law or executive order. The report that~~ shall include the names of the Commission members serving the preceding fiscal year, the dates of the Commission meetings in that year, a description of its activities during that year, and any recommendations for changes in the law which the Commission might suggest.
- 6.2 The Chair may designate the initial drafting of the Annual Report to an ad hoc committee and the Commission shall vote on the final draft prior to its issuance to the Governor and General Assembly.

## **7.0 Amendments**

- 7.1 ~~At any time, anyone, whether a Commissioner~~ A Commission member or member of the public, who at any time wishes to propose amendments to ~~these regulations~~ this regulation shall send such proposal in writing to the Chair of the Regulations Subcommittee ~~Subcommittee~~, who will present the proposal to the subcommittee for their review and consideration.
- 7.2 A copy of any proposed ~~amendment(s)~~ amendments of ~~these regulations~~ this regulation as recommended by the ~~subcommittee~~ Regulations Subcommittee shall be forwarded by electronic transmittal to each member of the Commission at least ~~ten (10)~~ 10 days prior to the meeting of the Commission at which it is to be presented and acted upon, together with a written notice of the date, hour, and place of ~~such the~~ meeting.
- 7.3 Any amendments of ~~these regulations~~ this regulation must first be adopted by affirmative vote of two-thirds of the seated voting members of the Commission before the same shall become effective.

**20 DE Reg. 986 (06/01/17)**

**28 DE Reg. 854 (06/01/25) (Prop.)**