



*California's protection & advocacy system*

## Self-Employment Services from the Department of Rehabilitation

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### **What is self-employment?**

Self-employment means “an employment setting in which an individual works in a chosen occupation, for profit or fee, in his or her own small business, with control and responsibility for decisions affecting the conduct of the business” (9 CCR § 7024.9).

Self-employment can be a good option for individuals with disabilities who require a flexible work environment. It can help reduce workplace barriers such as lack of accessible transportation; fatigue; inaccessible building and worksites; and the need for personal assistance. The 1998 Amendments to the Rehabilitation Act encourage the use of self-employment as a viable means to achieve a successful employment outcome. The Department of Rehabilitation (DOR) may be able to assist you in obtaining your employment goal in a self-employment setting.

### **How do I learn more about self-employment?**

As a client of the DOR, you have the right to receive information from the DOR that helps you to make meaningful decisions about your employment setting, services and service providers. Prior to developing of an Individualized Plan for Employment (IPE) your rehabilitation counselor should inform you of the criteria and process for assessing if the self-employment setting is appropriate for you. Your rehabilitation counselor should also provide you with information about the scope of services the DOR may provide to assist eligible clients to achieve employment in a self-employment setting and your responsibility to identify and obtain resources that may be necessary to establish and operate the proposed small business (9 CCR §7136.4).

## **Who is eligible for self-employment?**

If you are interested in a self-employment outcome, you must first demonstrate that the self-employment setting is appropriate. A proposed self-employment setting is appropriate when the following criteria have been met:

- It is consistent with your personal attributes, including your individual strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
- It is reasonably likely to produce sufficient income within a reasonable period after you begin operating the business, not to exceed 12 months, to pay ongoing operating expenses, where you are able to obtain income at or above minimum wage and meet your basic living expenses.
- You must be able to obtain all necessary resources to establish and operate the proposed small business including to fund the ongoing operating expenses of the business.

9 CCR § 7136.6

## **What does the DOR consider when determining if the self-employment setting is appropriate for me?**

The DOR must consider any available information, the summary of your proposed small business and information obtained through the assessment process (9 CCR § 7136.6(c)).

## **What is an assessment of personal attributes?**

An assessment of personal attributes is an exploration of your personal skills and abilities, technical knowledge, experience, education, financial history and credit record. If you need additional training or experience in order to establish your small business, the DOR should consider if it can assist you in obtaining further training or relevant experience and include these services in your IPE (9 CCR § 7136.7(a)).

This assessment should include at least one of the following: self-assessment tests, web resources such as those available through the Small Business Administration, and participation in self-employment workshops or seminars (9 CCR § 7136.7(b)). The DOR may also consider your participation in vocational services in assessing of your personal attributes (9 CCR §7136.7(c)).

## **How does the DOR assess my proposed business?**

Initially, the DOR will ask you to provide a Small Business Summary containing basic information about the proposed small business.

The Small Business Summary should include:

- The proposed products or services of the small business;
- The projected monthly income and expenses of the small business for the first 12 months of operation;
- The number of hours you will work in the small business on a monthly basis;
- The initial costs necessary to establish the proposed small business;
- Your resources, for example, savings or financial resources, equipment, vehicles, tools supplies or other items you have that you would use for your small business;
- The market analysis and marketing strategy for the small business; and
- The staffing requirements of the small business.

9 CCR § 7136.8(a)

Where more detailed information about the proposed small business is needed to determine the viability of the small business, the scope of services needed, and/or it would benefit you in obtaining other resources, you will develop a Small Business Plan. You can obtain assistance with the development of a Small Business Plan from the DOR and or be referred by the DOR to the U.S. Small Business Administration, a small

business development center at a local community college, Service Corps of Retired Executives (SCORE) or a Small Business Consultant (9 CCR § 7136.8 (b - d)).

A Small Business Plan should include:

- A description of the proposed small business and the products or services to be provided;
- The form of business organization;
- A detailed market analysis, including identification of potential customers, the geographic area in which the business will provide products or services, and potential competition within the area;
- A plan that describes how the products or services will be distributed and advertised;
- A projected timetable for starting business operations and an estimate of anticipated work hours before operations begin;
- A financial plan that includes a projection of estimated sales, monthly income and operating expenses for the first year of operation, an itemization of the costs necessary to establish the business, and an estimate of when the business will produce income that exceeds operating expenses;
- A description of required licenses, permits, or zoning variances and insurance;
- A description of the vocational rehabilitation services the individual is requesting from the Department, consistent with these regulations; the resources that will be obtained from other sources to establish and operate the small business; how the ongoing operating expenses of the small business will be funded, whether through the projected business income, loans, or other sources; and how the individual will provide for basic living expenses until the small business produces sufficient income; and

- A description of the tasks to be performed by the individual in operating the business and anticipated hours that the individual will be required to work to obtain projected income.

9 CCR § 7136.8(e)

## **How can the DOR assist me with establishing my small business?**

The DOR may provide eligible clients with assessment, technical assistance, and training to assist the individual in preparing for work in a self-employment setting. The DOR may also fund certain initial one-time costs to establish the proposed small business.

One-time, initial costs are those that are consistent with the DOR's general scope of services, occupational license fees, purchase or lease of tools or other equipment, initial stock and supplies for the first six months of operation and payment of initial deposits required for rental agreements or utilizes that are appropriate. The DOR will only fund services that are necessary to assist the individual to achieve employment in a self-employment setting, cost effective and are consistent with the usual and customary initial costs typically required for establishing similar small businesses. (9 CCR § 7137(a-c).

## **Are there things the DOR is prohibited from providing?**

The DOR is prohibited from funding the following:

- Costs associated with expansion of a small business;
- Lease or purchase of real property;
- Construction or remodeling of real property;
- Payment of taxes or tax liens;
- Payment of patent fees or for product development;
- Refinancing or repayment of debt;

- Reimbursement or payment of any losses incurred in connection with the small business;
- Purchase of an existing business or of a business franchise;
- Purchase or lease of a vehicle for use in operating a small business;
- Employee wages and benefits; and
- Funding for ongoing operating expenses.

9 CCR §7137(d)

To the extent that your proposed small business requires any of the above listed items, you will need to secure resources outside of the DOR for these expenses.

### **What kinds of resources must I obtain on my own?**

The DOR assists eligible clients with only the training, technical assistance and initial stock and supplies to establish the small business. The client must be able to obtain all resources necessary to establish and operate the proposed small business beyond those services provided by the DOR. The DOR should help you identify resources necessary to establish and operate your small business (9 CCR §7136.9(a)(1)).

Ongoing operating expenses include but are not limited to: rent; utilities; insurance; professional services; payroll and payroll taxes; inventory; stock or supplies (above and beyond initial stock and supplies provided for a period of six months as initial costs); advertising; depreciation; repair and maintenance of property; replacement of tools and equipment; dues and subscriptions; assistive services, such as attendants, readers, and interpreters that will be used in operating the business; and transportation that will be used in operating the business (9 CCR § 7136.8(g)). You will need to identify necessary resources to fund these costs.

Resources could be funds or equipment you currently have or those from family members, use of comparable services and benefits, funding from grants, loans, loan guarantee programs, economic development funds, and/or a PASS (9 CCR § 7136.9(a)(1)).

If you are denied funding by a source outside of the DOR, the DOR can consider the decision and the reasons for such decision in assessing whether the self-employment setting is appropriate (9 CCR § 7136.9(c)).

### **When will my Individualized Plan for Employment (IPE) for self-employment be developed?**

The IPE shall be developed “as soon as an appropriate employment outcome and the services necessary to assist the individual to achieve it are identified” (9 CCR § 7136.5(a)). This means that you and the DOR will have to agree that your business plan is viable and agree about the types of services you will need to establish your small business.

The employment outcome is the occupation in which you are seeking to be employed and a description of the self-employment setting. For example, if you wish to work as an accountant in your own accounting business where you are the boss, as a cosmetologist doing contract work for clients who pay you directly, etc. (9 CCR § 7136.5(b)).

All available information including a summary of your proposed small business will be used to assess if the self-employment setting is appropriate and to identify your vocational needs and services. Where more information is needed, the DOR may ask you to develop a Small Business Plan (9 CCR § 7136.5(e)(1) and (2)).

### **What should my IPE include?**

Your IPE should include information about why the self-employment setting is appropriate for you and the types of services you will need to establish your small business. This should include:

- A description of any one-time, initial costs of establishing your small business that the DOR is going to cover.
- Your responsibility to actively participate in applying for and obtaining any additional needed resources.
- Estimated date you will establish and begin working in your small business.

- The methods and criteria by which the DOR will monitor the success of your small business, and
- Any anticipated need for post-employment services.

(9 CCR § 7136.5(e) and (f)).

As part of the development of the IPE you can work with the DOR and/or business consultant to develop a business summary and business plan (9 CCR § 7136.5(c) and 7136.8(a)). Assessments can take place during or after the development of the IPE (9 CCR § 7136.5(f) and (g)). Your IPE may be amended at any time if additional necessary services are identified (9 CCR § 7136.5(e)(3)).

### **What happens if I am not approved for self-employment?**

In the event that you do not meet the above assessment criteria during or after the IPE has been developed, you and the DOR shall discuss alternative employment settings and an IPE shall be developed, or amended consistent with your informed choice toward an alternative employment setting (9 CCR §§ 7136.5(g), 7136.7(e), 7136.8(h) and 7136.9(d)).

If you decline alternative employment settings, your DOR case may be closed and the DOR may ask that you return any equipment provided to you in the self-employment setting (9 CCR 7179.5).

If you disagree with the DOR's decision, you have the right to appeal. For more information about your appeal rights, please see our publication, *California Department of Rehabilitation Appeals Options & Process Fact Sheet* at <http://www.disabilityrightsca.org/pubs/553001.pdf>

### **How does the DOR help me after I have established my small business?**

The DOR will monitor your employment in the self-employment based on the criteria and methods established in your IPE and for no less than 90 days and up to 12 months. The monitoring period allows the DOR to determine if you are able to maintain employment, if you need additional training or technical assistance, if your business is producing the projected

income, and whether the criteria for closure of the record of services have been met.

If, during the monitoring period, you and the DOR determine you are having difficulty maintaining your employment or your business is not producing projected income, DOR staff with expertise in self-employment and/or DOR's Small Business Consultant should help you identify the problems. They will also assess further training or technical assistance that would help you to overcome those problems. Your rehabilitation counselor should continue to monitor and reassess if the problems have been resolved. If the DOR determines that additional training or technical assistance would assist in terms of maintaining employment in the self-employment setting, the DOR will discuss alternative employment settings with you, and your IPE should be amended, as appropriate (9 CCR § 7138).

### **When will my DOR case be successfully closed?**

Your DOR case may be closed successfully, when the following conditions have been met:

- You have maintained employment in the self-employment setting for a period of no less than 90 days and up to one year,
- The employment is consistent with the IPE,
- Your employment is stable and you are earning at or above minimum wage but not less than the customary wage and benefit level received by individuals engaged in the same or similar self-employment, and
- You and your rehabilitation counselor agree that the employment outcome in the self-employment setting is satisfactory, and you are performing well.

At the time your case is successfully closed, any equipment provided by the DOR will be returned or provided to you (9 CCR 7179.4). (For more information regarding equipment and loaned property, see 9 CCR § 7194(c)).

## What if I need help getting self-employment services through DOR?

If DOR denies your request self-employment services or if you have questions about your self-employment services, you may contact the Client Assistance Program (CAP) by calling DRC at (800) 776-5746 or TTY 1-800-719-5798; or go to [www.disabilityrightsca.org](http://www.disabilityrightsca.org).

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### Get Help

If you are an individual, family member, or advocate for someone with a disability and have questions about legal rights related to your disability, call:

**1-800-776-5746**

or TTY call: 1-800-719-5798

Available M-F, 9 am - 4 pm

*Disability Rights California is funded by a variety of sources, for a complete list of funders, go to <http://www.disabilityrightsca.org/Documents/ListofGrantsAndContracts.html>.*