

**TITLE 1: GOVERNMENT**  
**DIVISION 2: EXECUTIVE BRANCH**

**§ 20151. Placement to the Office of the Governor.**

The Office of Vocational Rehabilitation is hereby transferred from the Department of Public Health and placed under the Office of the Governor. In accordance with the conditions and requirements of 34 C.F.R. § 361.13, the Office of Vocational Rehabilitation shall be the Designated State Agency and the Designated State Unit. At [a] minimum, the Director of the Office of Vocational Rehabilitation shall be responsible for:

- (1) All decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of these services.
- (2) The determination to close the record of services of an individual who has achieved an employment outcome in accordance with 34 C.F.R. § 361.56.
- (3) Policy formulation and implementation.
- (4) The allocation and expenditure of vocational rehabilitation funds.

The responsibility for these functions may not be delegated to any other agency or individual. The Director of the Office of Vocational Rehabilitation shall also have signature authority for any agreements with the federal funding agency, the state plan for vocational rehabilitation services, and any inter-agency agreements.

**Source:** PL 14-81, § 2, modified.

**Commission Comment:** The Commission made stylistic modifications to the Code of Federal Regulations' citations and also inserted the bracketed word in the third sentence of the introduction paragraph pursuant to the authority granted by 1 CMC § 3806(g). PL 14-81 did not expressly repeal the vocational rehabilitation duty of the Department of Public Health mandated in 1 CMC § 2603(d).

PL 14-81 was enacted on July 29, 2005, and contained findings and purpose, transition, severability, and savings clause provisions. The findings and purpose and transition provisions stated:

Section 1. Findings and Purpose. The Legislature finds that the current placement of the Office of Vocational Rehabilitation within the Department of Public Health is inappropriate due to the disparity of the nature and intent of services provided. The purpose of the Department of Public Health is to protect the public from threats of public health, to provide access to essential and quality health care, and to educate the public about preventative health and empower them to take responsibility. The primary purpose of the Office of Vocational Rehabilitation is to assist eligible individuals with disabilities to prepare for, secure, retain, or regain employment and independence. The Office of Vocational Rehabilitation does not directly provide health-related, medical, or physical and mental restoration services as does the Department of Public Health. In fact, the U.S. Department of Education, Office of Special Education and Rehabilitative Services, the grantor agency for vocational rehabilitation programs, declared an Information Memorandum, 1M-01-44, dated September 25, 2001, that "While state VR agencies may, under certain conditions, expend VR program funds to pay for the diagnosis and treatment of an eligible individual's physical or

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mental impairment when necessary for the individual to achieve his or her employment goal (see section 103(a)(6) of the Rehabilitation Act and 34 CFR § 361.48(e) of the VR program regulations), the provision of medical care is not the primary purpose of the VR program.” Instead the VR program is “designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, so that such individuals may prepare for and engage in gainful employment (see section 100(a)(2) of the Rehabilitation Act). Thus, the VR program is not a ‘health plan’ and the definition of health care provider does not apply to VR programs.” The placement of the Office of Vocational Rehabilitation within the Department of Public Health is inconsistent with national organizational settings and creates misperceptions of the functions and intent of the program. A memorandum issued by Acting Governor Jesus C. Borja dated September 29, 1995, recognized that the placement of the Office of Vocational Rehabilitation in the Department of Public Health was problematic and transferred the Office of Vocational Rehabilitation to the Office of the Governor. A recent finding by the Attorney General’s Office declared the memo to be legally ineffective and that the placement of the Office of Vocational Rehabilitation within the Office of the Governor was in violation of 1 CMC § 2603. The Legislature believes that placing the Office of Vocational Rehabilitation within the Office of the Governor, notwithstanding any provisions of law, would result in more efficient overall administration of the program and accountability for the management and expenditure of federal funds.

. . .

Section 4. Transition. All records and property (including office equipment) of the Office of Vocational Rehabilitation within the Department of Public Health, and all records and property used primarily in the administration of the Office of Vocational Rehabilitation within the Department of Public Health and all personnel used in the administration and operations of the Office of Vocational Rehabilitation within the Department of Public Health will be retained by the Office of Vocational Rehabilitation when it is transferred to the Office of the Governor. The unexpended balance of appropriations, allocations, allotments, or other funds available for the use by the Office of Vocational Rehabilitation within the Department of Public Health shall be transferred to the Office of the Governor. In the absence of such funds, an amount shall be included for the liquidation of obligations incurred prior to the transfer.