

-Preface-

Arizona Department of Economic Security

Five – Year Review Reports

A.R.S. § 41-1056 requires that at least once every five years, each agency shall review its administrative rules and produce reports that assess the rules with respect to considerations including the rule’s effectiveness, clarity, conciseness and understandability. The reports also describe the agency’s proposed action to respond to any concerns identified during the review. The reports are submitted in compliance with the schedule provided by the Governor’s Regulatory Review Council (GRRC). A.R.S. § 18-305, enacted in 2016, requires that statutorily required reports be posted on the agency's website.

Department of Economic Security
Title 6, Chapter 4 - Rehabilitation Services
Five-Year Review Report

1. Authorization of the rule by existing statutes:

General Statutory Authority: A.R.S. § 41-1954(A)(3) and 46-134(10)

Specific Statutory Authority: A.R.S. §§ 23-501 et seq., 41-1953(E)(3), and 1954(A)(1)(d)

2. Analysis of rules:

<u>Rule</u>	<u>Analysis</u>
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R6-4-104	<u>Title:</u> Definitions
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<u>Objective:</u>	The objective of this rule is to define the terms in this Chapter and promote a uniform understanding of terms used by the Vocational Rehabilitation (VR) program.
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- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is inconsistent with other rules and statutes because it contains outdated terminology. The Department proposes to amend this rule and update definitions to align with regulations and current Department practice.

Rule**Analysis**

R6-4-201 Title: General considerations

Objective: The objective of this rule is to inform the public about the types of VR services available to applicants or participants in the VR program.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is not enforced as written because it contains outdated definitions and terminology and does not reflect current Department practice. The Department proposes to amend this rule to align with current Department practice and update terminology.

Rule**Analysis**

R6-4-202 Title: Eligibility, ineligibility, and certification

Objective: The objective of this rule is to describe the eligibility requirements applicants shall meet to qualify for the VR program.

- Is this rule effective in meeting the objective? **Yes** **No**

- Is this rule consistent with other rules and statutes? Yes No
- Is this rule enforced as written? Yes No
- Is this rule clear, concise, and understandable? Yes No

Explanation: This rule is ineffective in meeting its objective, inconsistent with federal regulations, and is not enforced as written because it contains outdated terminology and does not reflect current Department practice. The Department proposes to amend this rule to update eligibility and application requirements for the VR program that are consistent with federal regulations.

Rule **Analysis**

R6-4-203 Title: Diagnostic study

Objective: The objective of this rule is to describe how the Department determines eligibility for VR services and plans services after determining an applicant is eligible for the VR program.

- Is this rule effective in meeting the objective? Yes No
- Is this rule consistent with other rules and statutes? Yes No
- Is this rule enforced as written? Yes No
- Is this rule clear, concise, and understandable? Yes No

Explanation: This rule is ineffective in meeting its objective, inconsistent with federal regulations and is not enforced as written. The Department proposes to

amend this rule by updating language to make it more clear, concise, and understandable and updating the timelines in which the Department develops a VR program participant's Individualized Plan for Employment (IPE) to be consistent with federal regulations.

Rule

Analysis

R6-4-204

Title: Extended evaluation

Objective: The objective of this rule is to describe extended evaluation, which Department staff may use when a VR counselor needs additional time to determine whether an applicant with a severe disability may benefit from receiving VR services in terms of achieving an employment outcome.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is inconsistent with federal regulations and is not enforced as written because it contains outdated terminology and assessment practices. The Department proposes to repeal this rule by updating language regarding extending the eligibility determination for an individual with a significant disability.

Rule**Analysis**

R6-4-205

Title: Individualized written rehabilitation program**Objective:** The objective of this rule is to describe the requirement for Department staff and a VR program participant to jointly develop an Individualized Written Rehabilitation Program (IWRP).

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is inconsistent with federal regulations and is not enforced as written because it contains outdated terminology and does not reflect current Department practice. The Department proposes to amend this rule and update terminology and timeframes and practices for developing a participant's IPE to align with federal regulations and current Department practice.

Rule**Analysis**

R6-4-104

Title: Provision of VR services**Objective:** The objective of this rule is to describe the services that

Department staff provide to applicants or participants in the VR program and the conditions under which each service is provided.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is inconsistent with federal regulations and is not enforced as written because the rule contains outdated terminology and does not reflect current Department practice. The Department proposes to amend this rule to update terminology and provide information regarding the VR's program determination of an individual's economic need for services, including the ability to subtract a VR client's disability-related expenditures, paid for by the VR client and not otherwise reimbursed, from the total reported income of the VR client or of the individual claiming the VR clients as a dependent.

<u>Rule</u>	<u>Analysis</u>
R6-4-301	<p><u>Title:</u> Definitions</p> <p><u>Objective:</u> The objective of this rule is to define the terms in Article 3 of this chapter and promote a uniform understanding of terms used by the Business Enterprise Program (BEP) program.</p>

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is not enforced as written because it contains outdated definitions and terminology and does not reflect current Department practice. The Department proposes to amend this rule to align with current Department practice and update terminology.

Rule **Analysis**

R6-4-302 Title: Participating business facilities

Objective: The objective of this rule is to describe how the BEP conducts surveys of properties to determine potential sites for merchandising opportunities, how written agreements with grantors of the site are established, and a description of how facility equipment is to be provided and maintained.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is inconsistent with current federal regulations, contains outdated terminology, and is not understandable. The Department proposes to amend this rule and update language to align with current federal regulations and make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-303	<p><u>Title:</u> Referral for the business enterprise program; qualifications of candidate</p> <p><u>Objective:</u> The objective of this rule is to describe how a recipient of VR services who is legally blind is referred to the BEP and the application process a client must complete to qualify for the BEP.</p> <ul style="list-style-type: none">• Is this rule effective in meeting the objective? Yes X No <input type="checkbox"/>• Is this rule consistent with other rules and statutes? Yes X No <input type="checkbox"/>• Is this rule enforced as written? Yes X No <input type="checkbox"/>• Is this rule clear, concise, and understandable? Yes <input type="checkbox"/> No X

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

Rule

Analysis

R6-4-304

Title: Screening for acceptance into initial training

Objective: The objective of this rule is to describe how Department staff screens a candidate to participate in initial training as a BEP operator.

- Is this rule effective in meeting the objective? **Yes X** **No**
- Is this rule consistent with other rules and statutes? **Yes X** **No**
- Is this rule enforced as written? **Yes X** **No**
- Is this rule clear, concise, and understandable? **Yes** **No X**

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

Rule

Analysis

R6-4-305

Title: Initial training

Objective: The objective of this rule is to describe initial training of a BEP operator.

- Is this rule effective in meeting the objective? **Yes** **No X**
- Is this rule consistent with other rules and statutes? **Yes X** **No**

- Is this rule enforced as written? Yes No **X**
- Is this rule clear, concise, and understandable? Yes No **X**

Explanation: This rule contains outdated terminology and does not reflect current Department practice. The Department proposes to amend this rule to align with current Department practice by removing the requirement that a trainee complete a level of training and receive a certificate prior to proceeding to the next level of training and update language to make the rule more clear, concise, and understandable.

Rule **Analysis**

R6-4-306 Title: Remedial training

Objective: The objective of this rule is to describe the remedial training requirement that the Department provides to a BEP operator when Department staff determines a deficiency or problem exists.

- Is this rule effective in meeting the objective? Yes **X** No
- Is this rule consistent with other rules and statutes? Yes **X** No
- Is this rule enforced as written? Yes **X** No
- Is this rule clear, concise, and understandable? Yes No **X**

Explanation: This rule contains outdated terminology, which may cause confusion. The

Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-307	<p><u>Title:</u> Upward mobility training</p> <p><u>Objective:</u> The objective of this rule is to describe educational and training options BEP provides to improve a BEP operator's work performance and promotional opportunities.</p> <ul style="list-style-type: none">• Is this rule effective in meeting the objective? Yes X No <input type="checkbox"/>• Is this rule consistent with other rules and statutes? Yes X No <input type="checkbox"/>• Is this rule enforced as written? Yes X No <input type="checkbox"/>• Is this rule clear, concise, and understandable? Yes <input type="checkbox"/> No X

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-308	<p><u>Title:</u> Qualifications for placement in a business facility</p> <p><u>Objective:</u> The objective of this rule is to describe the qualifications a BEP operator shall have in order to be considered to operate a</p>

business facility.

- Is this rule effective in meeting the objective? **Yes X** **No**
- Is this rule consistent with other rules and statutes? **Yes X** **No**
- Is this rule enforced as written? **Yes X** **No**
- Is this rule clear, concise, and understandable? **Yes** **No X**

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

Rule **Analysis**

R6-4-309 Title: Selection for placement in a business facility

Objective: The objective of this rule is to describe how BEP selects BEP operators of a business facility.

- Is this rule effective in meeting the objective? **Yes X** **No**
- Is this rule consistent with other rules and statutes? **Yes X** **No**
- Is this rule enforced as written? **Yes X** **No**
- Is this rule clear, concise, and understandable? **Yes** **No X**

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the

rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-310	<p><u>Title:</u> Refusal of placement in a facility</p> <p><u>Objective:</u> The objective of this rule is to describe the process when a business operator refuses placement in a business facility.</p> <ul style="list-style-type: none">• Is this rule effective in meeting the objective? Yes X No <input type="checkbox"/>• Is this rule consistent with other rules and statutes? Yes X No <input type="checkbox"/>• Is this rule enforced as written? Yes X No <input type="checkbox"/>• Is this rule clear, concise, and understandable? Yes <input type="checkbox"/> No X

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-311	<p><u>Title:</u> Licensure</p> <p><u>Objective:</u> The objective of this rule is to describe the requirement for a BEP operator to obtain a license, how BEP issues a license to a BEP operator once selected, and what information is specified on the license.</p>

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to remove the level of the business facility for which a license is issued from the license and update language to make the rule more clear, concise, and understandable.

Rule **Analysis**

R6-4-312 Title: Operator's agreement

Objective: The objective of this rule is to describe how BEP establishes an operator's agreement with a BEP operator.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-313	<p><u>Title:</u> Temporary operator</p> <p><u>Objective:</u> The objective of this rule is to describe when a temporary BEP operator may be placed in a business facility.</p> <ul style="list-style-type: none"> • Is this rule effective in meeting the objective? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> • Is this rule consistent with other rules and statutes? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> • Is this rule enforced as written? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> • Is this rule clear, concise, and understandable? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

Explanation: This rule contains outdated terminology and is not enforced as written because it does not reflect current Department practice. The Department proposes to amend this rule to update terminology and provide information regarding the order in which a temporary BEP operator is selected to operate a business facility.

<u>Rule</u>	<u>Analysis</u>
R6-4-314	<p><u>Title:</u> Initial probation</p> <p><u>Objective:</u> The objective of this rule is to describe the probation period when a BEP operator operates a business facility, whether it is the BEP operator's first business facility or the BEP operator</p>

moves to a higher level facility.

- Is this rule effective in meeting the objective? **Yes X** **No**
- Is this rule consistent with other rules and statutes? **Yes X** **No**
- Is this rule enforced as written? **Yes X** **No**
- Is this rule clear, concise, and understandable? **Yes** **No X**

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

Rule **Analysis**

R6-4-315 Title: Performance probation

Objective: The objective of this rule is to describe the methods BEP uses to identify a BEP operator's performance deficiencies, when BEP may place a BEP operator on performance probation, and how a BEP operator may correct deficiencies or file an appeal.

- Is this rule effective in meeting the objective? **Yes X** **No**
- Is this rule consistent with other rules and statutes? **Yes X** **No**
- Is this rule enforced as written? **Yes X** **No**
- Is this rule clear, concise, and understandable? **Yes** **No X**

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-316	<p><u>Title:</u> Continuing inspections of business facilities</p> <p><u>Objective:</u> The objective of this rule is to describe how the Department conducts continuing inspections of a BEP business facility and actions the Department may take to ensure compliance with a BEP operator's agreement.</p> <ul style="list-style-type: none">• Is this rule effective in meeting the objective? Yes X No <input type="checkbox"/>• Is this rule consistent with other rules and statutes? Yes X No <input type="checkbox"/>• Is this rule enforced as written? Yes X No <input type="checkbox"/>• Is this rule clear, concise, and understandable? Yes <input type="checkbox"/> No X

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-317	<p><u>Title:</u> Exchange of business facilities prohibited</p>

Objective: The objective of this rule is to describe the prohibition against the exchange of business facilities between BEP operators.

- Is this rule effective in meeting the objective? Yes No
- Is this rule consistent with other rules and statutes? Yes No
- Is this rule enforced as written? Yes No
- Is this rule clear, concise, and understandable? Yes No

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

Rule

Analysis

R6-4-318

Title: Termination of operator's agreement

Objective: The objective of this rule is to describe when BEP may terminate a BEP operator's agreement and the process the BEP shall follow to terminate a BEP operator's agreement.

- Is this rule effective in meeting the objective? Yes No
- Is this rule consistent with other rules and statutes? Yes No
- Is this rule enforced as written? Yes No
- Is this rule clear, concise, and understandable? Yes No

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-319	<p><u>Title:</u> Revocation of license</p> <p><u>Objective:</u> The objective of this rule is to describe when BEP may revoke a BEP operator's license, the process the BEP uses to notify a BEP operator of the revocation of the BEP operator's license, and the continuing business obligations of a BEP operator.</p> <ul style="list-style-type: none">• Is this rule effective in meeting the objective? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>• Is this rule consistent with other rules and statutes? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>• Is this rule enforced as written? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>• Is this rule clear, concise, and understandable? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-320	<p><u>Title:</u> State committee of blind vendors</p>

Objective: The objective of this rule is to describe the purpose, duties, and responsibilities of the Arizona Participating Operators Committee (APOC).

- Is this rule effective in meeting the objective? Yes No
- Is this rule consistent with other rules and statutes? Yes No
- Is this rule enforced as written? Yes No
- Is this rule clear, concise, and understandable? Yes No

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-321	<p><u>Title:</u> Assessment against net proceeds of operators</p> <p><u>Objective:</u> The objective of this rule is to describe set aside funds, when the rate for set aside funds set each year is determined, and where the set aside schedule can be found.</p> <ul style="list-style-type: none">• Is this rule effective in meeting the objective? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>• Is this rule consistent with other rules and statutes? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>• Is this rule enforced as written? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>• Is this rule clear, concise, and understandable? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

Explanation: This rule is not enforced as written and contains outdated terminology, which may cause confusion. The Department proposes to amend this rule to comply with federal law and remove the Monthly Assessment Schedule in order to allow the BEP and BEP operators to decide annually what percentage to apply to set-aside funds. The Department will also update the language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-322	<p><u>Title:</u> Guaranteed fair minimum of return</p> <p><u>Objective:</u> The objective of this rule is to describe when BEP may grant a BEP operator with a fair minimum of return.</p> <ul style="list-style-type: none">• Is this rule effective in meeting the objective? Yes X No <input type="checkbox"/>• Is this rule consistent with other rules and statutes? Yes X No <input type="checkbox"/>• Is this rule enforced as written? Yes X No <input type="checkbox"/>• Is this rule clear, concise, and understandable? Yes <input type="checkbox"/> No X

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-323	<p><u>Title:</u> Distribution and use of federal unassigned vending machine income</p> <p><u>Objective:</u> The objective of this rule is to describe the statutorily mandated distribution and use of the federal unassigned vending machine income by the BEP.</p> <ul style="list-style-type: none"> • Is this rule effective in meeting the objective? Yes X No <input type="checkbox"/> • Is this rule consistent with other rules and statutes? Yes X No <input type="checkbox"/> • Is this rule enforced as written? Yes X No <input type="checkbox"/> • Is this rule clear, concise, and understandable? Yes <input type="checkbox"/> No X

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-324	<p><u>Title:</u> Reports and recordkeeping; access to information</p> <p><u>Objective:</u> The objective of this rule is to describe a BEP operator’s responsibility to maintain records, submit reports required by the Department, and make information and records accessible to the Department.</p>

- Is this rule effective in meeting the objective? **Yes X** **No**
- Is this rule consistent with other rules and statutes? **Yes X** **No**
- Is this rule enforced as written? **Yes X** **No**
- Is this rule clear, concise, and understandable? **Yes** **No X**

Explanation: This rule contains outdated terminology, which may cause confusion. The Department proposes to amend this rule and update language to make the rule more clear, concise, and understandable.

Rule **Analysis**

R6-4-325 Title: Appeals

Objective: The objective of this rule is to describe the appeal rights of any BEP candidate, trainee, or operator who has been adversely affected by a decision of the BEP.

- Is this rule effective in meeting the objective? **Yes** **No X**
- Is this rule consistent with other rules and statutes? **Yes** **No X**
- Is this rule enforced as written? **Yes X** **No**
- Is this rule clear, concise, and understandable? **Yes** **No X**

Explanation: This rule is inconsistent with federal regulations, contains outdated terminology, and is not understandable. The Department proposes to amend this rule and update language to correct the citation to current federal

regulations and make the rule more clear, concise, and understandable.

<u>Rule</u>	<u>Analysis</u>
R6-4-401	<p><u>Title:</u> Order of selection</p> <p><u>Objective:</u> The objective of this rule is to describe the order of selection Department staff follow when selecting eligible individuals to receive VR services from the Department.</p> <ul style="list-style-type: none">• Is this rule effective in meeting the objective? Yes <input type="checkbox"/> No X• Is this rule consistent with other rules and statutes? Yes <input type="checkbox"/> No X• Is this rule enforced as written? Yes <input type="checkbox"/> No X• Is this rule clear, concise, and understandable? Yes <input type="checkbox"/> No X

Explanation: This rule is inconsistent with federal regulations, contains outdated terminology, and does not reflect current Department practice. The Department proposes to repeal this rule and incorporate information regarding order of selection into Article 2 of this chapter.

<u>Rule</u>	<u>Analysis</u>
R6-4-402	<p><u>Title:</u> Service and provider standards, service authorizations, equipment purchasing, Workers' Compensation</p> <p><u>Objective:</u> The objective of this rule is to describe service provider</p>

standards and circumstances under which the Department provides Workers' Compensation coverage for an individual participating in a job training program in a community.

- Is this rule effective in meeting the objective? **Yes** **No**
- Is this rule consistent with other rules and statutes? **Yes** **No**
- Is this rule enforced as written? **Yes** **No**
- Is this rule clear, concise, and understandable? **Yes** **No**

Explanation: This rule is ineffective in meeting the objective, is inconsistent with other rules and statutes, and is not enforced as written because it contains outdated information and practices regarding providers and service standards, which are addressed in the Arizona Workforce Innovation and Opportunity Act (WIOA) State Plan for Program Years 2020-2023, in accordance with 34 CFR 361.51. The Department proposes to repeal this rule.

<u>Rule</u>	<u>Analysis</u>
R6-4-403	<p><u>Title:</u> Economic need and similar benefits</p> <p><u>Objective:</u> The objective of this rule is to describe VR services contingent upon economic need, the methodology Department staff use to determine an eligible individual's economic need, and the circumstances under which Department staff determine the</p>

availability of comparable benefits.

- Is this rule effective in meeting the objective? **Yes** **No** **X**
- Is this rule consistent with other rules and statutes? **Yes** **No** **X**
- Is this rule enforced as written? **Yes** **No** **X**
- Is this rule clear, concise, and understandable? **Yes** **X** **No**

Explanation: This rule is inconsistent with federal regulations and is not enforced as written because it contains outdated terminology, and does not reflect current Department practice. The Department proposes to repeal this rule and incorporate updated information regarding VR services contingent upon economic need into Article 2, including adding the ability to subtract a VR client's disability-related expenditures, paid for by the VR client and not otherwise reimbursed, from the total reported income of the VR client or of the individual claiming the VR client as a dependent.

Rule **Analysis**

R6-4-404 Title: Administrative review of fair hearings

Objective: The objective of this rule is to describe the administrative procedure by which the Department conducts reviews of Department staff determinations concerning the provision or denial of services.

- Is this rule effective in meeting the objective? **Yes** **No** **X**

- Is this rule consistent with other rules and statutes? Yes No **X**
- Is this rule enforced as written? Yes No **X**
- Is this rule clear, concise, and understandable? Yes **X** No

Explanation: *This rule is inconsistent with federal regulations and is not enforced as written because it contains outdated terminology and does not reflect current Department practice. The Department proposes to repeal this rule and incorporate information regarding reviews of staff determinations concerning provision or denial of services into Article 2.*

Rule

Analysis

R6-4-404

Title: Confidentiality

Objective: The objective of this rule is to describe the Department's policies and procedures for safeguarding the confidentiality of all personal information obtained for the VR program.

- Is this rule effective in meeting the objective? Yes No **X**
- Is this rule consistent with other rules and statutes? Yes No **X**
- Is this rule enforced as written? Yes No **X**
- Is this rule clear, concise, and understandable? Yes **X** No

Explanation: *This rule is inconsistent with federal regulations and is not enforced as written because it contains outdated terminology and does not reflect current*

Department practice. The Department proposes to repeal this rule and incorporate information regarding safeguarding personal information obtained for the VR program, including when release of primary source information is required and when it's discretionary, into Article 2.

3. Has the Department received written criticisms of the rules within the last five years?

Yes No

4. Economic, small business, and consumer impact comparison:

There is no previous Economic, Small Business, and Consumer Impact Statement available from the last promulgation of the rules to provide an economic impact comparison. The Department is providing an assessment of the actual economic, small business, and consumer impact of the rules pursuant to R1-6-301.

During State Fiscal Year (SFY) 2023, there were 11,830 participants throughout Arizona in the Vocational Rehabilitation (VR) Program who received disability-related employment services under an Individualized Employment Plan. There were 1,268 participants who exited the VR Program with employment in SFY 2023, working an average of 30 hours per week and earning an average hourly wage of \$16.25 per hour.

Additionally, through an Interagency Service Agreement (ISA) with Arizona Health Care Cost Containment System (AHCCCS), DES and AHCCCS coordinate the provision of services to support individuals with serious mental illness. There were 3,852 individuals served under the ISA in SFY 2023, of which 248 exited the VR Program with employment.

DES also partners with Arizona school districts to provide structured and goal-oriented vocational and educational activities that prepare students with disabilities for employment. The VR Program engages students with disabilities as early as possible in their high school experience to provide Pre-Employment Transition Service (Pre-ETS), which are specific career exploration and job readiness services that are available to all students with disabilities between the ages of 14-22 who are eligible or potentially eligible for the VR Program. In SFY 2023, DES used Transition School to Work (TSW) agreements to partner with 32 high school districts and provide enhanced services to 4,000 students who were eligible for the full array of VR Program services. DES's collaboration with high school districts that did not have TSW agreements allowed for an additional 367 students to be served. There were also 1,153 potentially eligible students with disabilities who received Pre-ETS during SFY 2023, totaling 5,520 students with disabilities receiving VR services in SFY 2023.

The BEP provides employment opportunities for individuals who are legally blind to own a merchandising business, which includes vending and food service operations. Prior to the COVID-19 Pandemic, BEP Operators benefited from increased economic opportunity and self-sufficiency. BEP Operators earned a median income of approximately \$90,000 per year prior to the COVID-19 Pandemic. With the recovering economy, the median income for BEP Operators is approximately \$70,000 per year in SFY 2023.

5. Has the agency received any business competitiveness analyses of the rules?

Yes No

6. Has the agency completed the course of action indicated in the agency's previous five-year-review report?

Please state what the previous course of action was and if the agency did not complete the action, please explain why not.

Yes No

In the previous Five-Year Review Report, approved by the Council in June 2018, the Department indicated a plan to update the rules and submit a Notice of Final Rulemaking by December 2019. The Department received approval in July 2017 from the Governor's Office to proceed with rulemaking for Chapter 4. The Department is required to obtain review and approval of rulemaking associated with Article 3 of these rules from the U.S. Department of Education. The Department did not anticipate that it would take over a year for the U.S. Department of Education to complete its review of the draft rules. In early 2020, as the Department was reaching the final stages of drafting the proposed rules, the COVID-19 Pandemic required the Department to quickly divert all resources to providing pandemic response services. The Department was responsible for providing essential services to families, which caused a significant delay in the progress of rulemaking. As the pandemic has receded and staff availability has stabilized, the Department has renewed its commitment to rulemaking and has made significant progress on these rules. The Department has also overhauled its internal drafting and review process, resulting in secondary reviews, by both the general public and internal and external stakeholders in order to mitigate the number of comments received during the formal comment period, thus causing some additional delays in submitting the Notice of Final Rulemaking to the Council. Governor's Office approval to proceed with this rulemaking was received from the

Hobbs administration on June 27, 2023.

7. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

With the amendments to the rules in Chapter 4 proposed in this report, the Department believes that the rules would impose the least burden and costs to persons regulated by these rules, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objectives. These rules do not impose any cost to consumers or small businesses and are being sought to align with current federal law and regulations. Updates to the rules identified in this report outweigh any potential costs incurred from the proposed revisions. Additionally, program subject matter experts indicate that amendments to the rules, as proposed in this report, are the most cost-effective way to bring the Department into compliance with federal requirements because there is no less intrusive or less costly method of achieving the objectives of this rulemaking.

8. **Are the rules more stringent than corresponding federal laws?**

Please provide a citation for the federal law(s). And if the rule(s) is more stringent, is there statutory authority to exceed the requirements of the federal law(s)?

Yes No

9. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:

The Department has determined that A.R.S. § 41-1037 does not apply to these rules because none of the rules were adopted after July 29, 2010. Furthermore, these rules do not require the issuance of a permit, license, or agency authorization.

10. Proposed course of action:

The Department proposes to update the rules in Chapter 4 to address issues identified in Item 2 of this report. The Department anticipates filing a Notice of Proposed Rulemaking (NPR) in November 2023 and submitting a Notice of Final Rulemaking (NFR) to the Council by March 2024.