WEST VIRGINIA CODE: §18-10G-3

§18-10G-3. Operation of food service in public office buildings by West Virginia division of vocational rehabilitation; operation of food service by governmental agency in violation of article prohibited.

(a) If a governmental agency proposes operating in a public office building a food service facility, whether such operation be of a food service facility in existence on the effective date of this article or be one thereafter to be instituted, the governmental agency, before continuing such existing operation beyond the period of six months immediately following the effective date of this article or before instituting such proposed new operation, shall in writing offer to the division of vocational rehabilitation the opportunity to operate such food service facility in such public office building. If there is a food service facility in operation in a public office building that is being operated by a blind person not covered or supervised as part of the federal or state rehabilitation program prior to the effective date of the amendments to this article, the blind operator shall be permitted to operate the food service facility until the operator ceases to operate or control that food service facility, after which time that food service facility shall become a part of the food service facility program administered by the division of vocational rehabilitation.

(b) If the division of vocational rehabilitation within sixty days from the receipt of the offer mentioned in subsection (a) of this section elects to operate such food service facility as is mentioned in the offer and if the governmental agency by which such offer was made does not, within such sixty-day period, make the determination mentioned in subsection (d) of this section in the manner prescribed in that subsection, the division of vocational rehabilitation, or its designee, may institute and conduct the operation of such proposed food service facility in such public office building without the payment of rent or other compensation for the premises occupied by it in the rendition of such service or for the privilege of conducting such operation.

(c) If the division of vocational rehabilitation under the authority of subsection (b) of this section institutes and operates such food service facility as is mentioned therein, the governmental agency shall not during the course of such operation, operate a food service facility in such public office building or by contract, lease, license, or otherwise, permit any other person, firm, corporation or agency to do so.

(d) If the division of vocational rehabilitation within sixty days from the receipt of the offer mentioned in subsection (a) of this section rejects or fails to accept the offer, or the governmental agency making the offer determines, in good faith and after a full and thorough study of the relevant circumstances, that the division of vocational rehabilitation is unable to operate such proposed food service facility, or that the division of vocational rehabilitation accepted such offer, but, within the period of six months from such acceptance, failed to institute such food service facility, such proposed food service facility may thereupon be provided in such other manner as may be permitted by law, free from the

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requirements of this article, and the division of vocational rehabilitation may not thereafter, without the express permission of the offering agency, institute such proposed food service facility in the public office building designated in such offer. If the governmental agency which made the offer makes the determination of inability of the division of vocational rehabilitation to operate the proposed food service facility, the governmental agency shall, within the aforementioned sixty-day period, provide the division of vocational rehabilitation with a full written statement of the reasons upon which such determination was predicated, and a food service facility may not be operated in such public office building free from the requirements of this article until the written statement mentioned in this subsection is first given.

(e) Notwithstanding any other provisions contained in this article, no governmental agency may by reason of the provisions of this article take any action which will result in the violation of the terms of any valid contract, lease or license existing on the effective date hereof, nor may such governmental agency be precluded from extending the period of such an existing contract, lease or license upon the same terms, and with the same contracting parties, as in the contract, lease or license so extended.

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