
AGENCY: Division of Procurement Services

SUBJECT: South Carolina Vocational Rehabilitation – Exempt the South Carolina Vocational Rehabilitation Department’s (SCVRD) acquisition of specialized supplies, information technology, medical needs, and services which are individualized for each customer from the Chief Procurement Officer’s area of responsibility and from the purchasing procedures of the Procurement Code.

The South Carolina Vocational Rehabilitation Department (SCVRD) provides children, youth, and adults (consumers) with quality individualized vocational rehabilitation services, which lead to competitive employment and/or social and economic independence. Per governing Federal Regulations, SCVRD staff work with each Consumer to develop a set of goals for competitive employment and/or social and economic independence and to select the supplies, information technology, medical needs, and other services needed to achieve those goals.

Per 34 CFR 361.46, “each individualized plan for employment must include a description of the specific employment outcome, as defined in § 361.5(c)(15), that is chosen by the eligible individual and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice” (34 CFR 361.52). The individualized plan includes “a description of the specific rehabilitation services needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices, assistive technology services, and personal assistance services, including training in the management of those services.” Services may also include assessments for determining an individual’s eligibility for services and rehabilitation, assistive technology, and training needs. The individualized plan must also “include a description of the entity or entities chosen by the eligible individual or, as appropriate, the individual's representative that will provide the vocational rehabilitation services and the methods used to procure those services.” While the supplies, information technology, and services may not always be customized, they are selected based on the needs of the individual consumer. Any supplies/equipment (assistive technology, information technology, etc.) purchased by the agency for a consumer are owned by that consumer. Because no two consumers are alike, the needs vary, and each consumer will receive services required to address their specific situation.

SCVRD’s mandate is to enable the consumer to start working towards his/her goals as soon as possible. These goals are developed to include providing the necessary supplies, information technology, and services promptly. Per the Rehabilitation Services Administration, which oversees the federal programs offered by SCVRD, “VR agencies should eliminate delays in the referral and application process, thereby expediting engagement and facilitating rapid access to VR services” (RSA-Technical Assistance Circular 24-01).

The supplies, information technology, medical needs, and services needed by consumers are expensive, often exceeding the no competition threshold of the Procurement Code. The

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written requests for three written quote procedures take time and are not always effective. Sources of appropriate supplies, information technology, medical needs, or services are often limited, and SCVRD may have difficulty obtaining three bona fide quotes. Therefore, the SCVRD often must resort to advertised solicitation of quotes, bids, or proposals. Even if there is only one source of supply, SCVRD must go through the sole source procurement process. These processes delay SCVRD’s provision of supplies, information technology, medical needs, or services to the consumer thus delaying the consumer’s ability to work toward the achievement of his/her goals in an expeditious manner. Therefore, SCVRD requests an exemption from the Procurement Code giving it the flexibility to obtain the most appropriate individualized supplies, information technology, medical needs, or services for each consumer in a manner that is efficient and timely and will enable the consumer to work towards his/her goals swiftly.

AUTHORITY ACTION REQUESTED:

Under authority of S.C. Code Section 11-35-710, exempt the South Carolina Vocational Rehabilitation Department (SCVRD) from purchasing supplies, information technology, and services for people (consumers) with disabilities through the Chief Procurement Officer’s area of responsibility where such supplies, information technology, or services are acquired to enable consumers to achieve their goals for competitive employment and/or social and economic independence. Further, exempt SCVRD’s acquisition of such supplies, information technology, and services from the purchasing procedures of the Procurement Code.

ATTACHMENTS:

Agenda item worksheet and attachment

**STATE FISCAL ACCOUNTABILITY AUTHORITY
AGENDA ITEM WORKSHEET**

Meeting Scheduled for: 6/16/2026

Regular Agenda

1. Submitted by:

- (a) Agency: SFAA, Division of Procurement Services
- (b) Authorized Official Signature:



John St. C. White
Materials Management Officer
Division of Procurement Svcs

2. Subject: South Carolina Vocational Rehabilitation – Exempt the South Carolina Vocational Rehabilitation Department’s (SCVRD) acquisition of specialized supplies, information technology, medical needs, and services which are individualized for each customer from the Chief Procurement Officer’s area of responsibility and from the purchasing procedures of the Procurement Code.

3. Summary and Background Information:

SCVRD provides children, youth, and adults (consumers) with quality individualized vocational rehabilitation services, which lead to competitive employment and/or social and economic independence. Per governing Federal Regulations, SCVRD staff work with each Consumer to develop a set of goals for competitive employment and/or social and economic independence and to select the supplies, information technology, medical needs, and other services needed to achieve those goals.

Per 34 CFR 361.46, “each individualized plan for employment must include a description of the specific employment outcome, as defined in § 361.5(c)(15), that is chosen by the eligible individual and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice” (34 CFR 361.52). The individualized plan includes “a description of the specific rehabilitation services needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices, assistive technology services, and personal assistance services, including training in the management of those services.” Services may also include assessments for determining an individual’s eligibility for services and rehabilitation, assistive technology, and training needs. The individualized plan must also “include a description of the entity or entities chosen by the eligible individual or, as appropriate, the individual's representative that will provide the vocational rehabilitation services and the methods used to procure those services.” While the supplies, information technology, and services may not always be customized, they are selected based on the needs of the individual consumer. Any supplies/equipment (assistive technology, information technology, etc.) purchased by the agency for a consumer are owned by that consumer. Because no two consumers are alike, the needs vary, and each consumer will receive services required to address their specific situation.

SCVRD’s mandate is to enable the consumer to start working towards his/her goals as soon as possible. These goals are developed to include providing the necessary supplies, information technology, and services promptly. Per the Rehabilitation Services Administration, which oversees the federal programs offered by SCVRD, “VR agencies should eliminate delays in the referral and application process, thereby expediting engagement and facilitating rapid access to VR services” (RSA-Technical Assistance Circular 24-01).

The supplies, information technology, medical needs, and services needed by consumers are expensive, often exceeding the no competition threshold of the Procurement Code. The written requests for three written quote procedures take time and are not always effective. Sources of appropriate supplies, information technology, medical needs, or services are often limited, and SCVRD may have difficulty obtaining three bona fide quotes. Therefore, the SCVRD often must resort to advertised solicitation of quotes, bids, or proposals. Even if there is only one source of supply, SCVRD must go through the sole source procurement process. These processes delay SCVRD's provision of supplies, information technology, medical needs, or services to the consumer thus delaying the consumer's ability to work toward the achievement of his/her goals in an expeditious manner. Therefore, SCVRD requests an exemption from the Procurement Code giving it the flexibility to obtain the most appropriate individualized supplies, information technology, medical needs, or services for each consumer in a manner that is efficient and timely and will enable the consumer to work towards his/her goals swiftly.

4. What is the Authority asked to do? Under authority of S.C. Code Section 11-35-710, exempt SCVRD from purchasing supplies, information technology, and services for people (consumers) with disabilities through the Chief Procurement Officer's area of responsibility where such supplies, information technology, or services are acquired to enable consumers to achieve their goals for competitive employment and/or social and economic independence. Further, exempt SCVRD's acquisition of such supplies, information technology, and services from the purchasing procedures of the Procurement Code.

5. What is recommendation of the submitting agency involved? Grant SCVRD's requested exemption as set forth in item four above.

6. Private Participant Disclosure – Check one:

- No private participants will be known at the time the Authority considers this agenda item.
- A Private Participant Disclosure form has been attached for each private participant.
As referenced on the Disclosure forms, a private participant is a natural person or non-governmental legal entity which may directly benefit from, and is participating in or directly associated with, the requested approval.

7. Recommendation of other office (as required)? Approve the Authority action requested.

- (a) Authorized Signature: _____
- (b) Office Name:

8. List of Supporting Documents:

- A - Sections 11-35-710
- B - Request from South Carolina Vocational Rehabilitation

9. Upload Agenda Item Worksheet and supporting documentation in PDF and native format to the SFAA Authority File Drop. Supporting documentation should include all related agreements or approval requests (e.g., leases, contracts, permanent improvements, indebtedness, agenda items), either current or anticipated; or provide affirmation from the submitting agency that there are no related transactions.

Exhibit A

SECTION 11-35-710. Exemptions.

(A) The board, upon the recommendation of the chief procurement officer, may exempt governmental bodies from purchasing certain items through the respective chief procurement officer's area of responsibility. The board may exempt specific supplies, services, information technology, or construction from the purchasing procedures required in this chapter and for just cause by unanimous written decision limit or may withdraw exemptions provided for in this section. The following exemptions are granted from this chapter:

(1) the construction, maintenance, and repair of bridges, highways, and roads; vehicle and road equipment maintenance and repair; and other emergency-type parts or equipment utilized by the Department of Transportation or the Department of Public Safety;

(2) the purchase of raw materials by the South Carolina Department of Corrections, Division of Prison Industries;

(3) South Carolina State Ports Authority;

(4) Division of Public Railways of the Department of Commerce;

(5) South Carolina Public Service Authority;

(6) expenditure of funds at state institutions of higher learning derived wholly from athletic or other student contests, from the activities of student organizations, and from the operation of canteens and bookstores, except as the funds are used for the procurement of construction, architect-engineer, construction-management, and land surveying services;

(7) livestock, feed, and veterinary supplies;

(8) articles for commercial sale by all governmental bodies;

(9) fresh fruits, vegetables, meats, fish, milk, and eggs;

(10) South Carolina Arts Commission and South Carolina Museum Commission for the purchase of one-of-a-kind items such as paintings, antiques, sculpture, and similar objects. Before a governmental body procures the objects, the head of the purchasing agency shall prepare a written determination specifying the need for the objects and the benefits to the State. The South Carolina Arts Commission shall review the determination and forward a recommendation to the board for approval;

(11) published books, periodicals, and technical pamphlets;

(12) South Carolina Research Authority;

(13) the purchase of supplies, services, or information technology by state offices, departments, institutions, agencies, boards, and commissions or the political subdivisions of this State from the South Carolina Department of Corrections, Division of Prison Industries;

(14) Medical University Hospital Authority, if the Medical University Hospital Authority has promulgated a procurement process in accordance with its enabling provision;

(15) if approved in writing by the State Engineer in advance, and if some aspect of the overall transaction is otherwise approved by the board in advance of the acquisition, an acquisition of construction from an eleemosynary corporation or foundation, or a wholly owned business thereof, established solely for the governmental body's benefit, but only if the eleemosynary corporation or foundation acquires the construction on behalf of or for the use of the governmental body and does so pursuant to this code, as required by Section 11-35-40(4).

(B) The State Fiscal Accountability Authority shall maintain and post publicly a running list of all currently effective actions taken by the board pursuant to subsection (A).

Exhibit B



May 7, 2026

Mr. John White, CPO and Office of State Engineer
SFAA, Division of Procurement Services
1333 Main Street, Suite 700
Columbia, SC 29201

Mr. White:

South Carolina Vocational Rehabilitation (SCVRD) provides youth and adults (Consumers) with quality individualized vocational rehabilitation services, which lead to competitive employment and/or social and economic independence. Per governing Federal Regulations, SCVRD staff work with each Consumer to develop a set of goals for competitive employment and/or social and economic independence and to select the supplies, information technology, medical needs, and other services needed to achieve those goals. Our sister agency, the SC Commission for the Blind, is also tasked with these same regulations for their Consumers.

Per **34 CFR 361.46**, "each individualized plan for employment must include a description of the specific employment outcome, as defined in § **361.5(c)(15)**, that is chosen by the eligible individual and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice" (**34 CFR 361.52**).

The individualized plan includes "a description of the specific rehabilitation services needed to achieve the employment outcome, including as appropriate, the provision of assistive technology devices and personal assistance services, including training in the management of those services."

Services may also include assessments for determining an individual's eligibility for services and rehabilitation, assistive technology, and training needs. The individualized plan must also "include a description of the entity or entities chosen by the eligible individual or as appropriate, the individual representative that will provide the vocational rehabilitation services and the methods used to procure those services."

While the supplies, information technology, medical needs, and services may not always be customized; they are selected based on the needs of the individual Consumer. Any supplies/equipment (assistive technology, medical needs, information technology, etc.) purchased by the agency for a Consumer are owned by that Consumer. Because no two Consumers are alike, the needs vary and each Consumer will receive service(s), supplies, assistance (medical or otherwise) required to address their specific situation.

Felicia W. Johnson, Commissioner

The South Carolina Vocational Rehabilitation Department prepares and assists eligible South Carolinians with disabilities to achieve and maintain competitive employment

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803-896-6500 (Office) • 803-896-6553 (TTY) • 800-832-7526 (Toll free) • 803-896-6558 (Fax) • info@scvrd.net

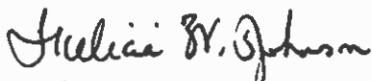
SCVRD's mandate is to enable the Consumer to start working towards his/her goals as soon as possible. These goals are developed to include providing the necessary supplies, information technology, medical needs, and services promptly (ASAP). Per the Rehabilitation Services Administration, which oversees the federal programs offered by SCVRD, "VR agencies should eliminate delays in the referral and application process, thereby expediting engagement and facilitating rapid access to VR services" (**RSA-Technical Assistance Circular 24-01**).

Moreover, a significant quantity of these supplies, information technology, medical needs, and services are expensive, often exceeding the no competition threshold of the Procurement Code. The requests for "three written quotes" procedures take time and are not always effective. Sources of appropriate supplies, information technology, medical needs or services are often limited and SCVRD constantly has difficulty obtaining three bona fide quotes. Therefore, SCVRD often must resort to advertised solicitation of quotes, bids, or proposals. Even if there is only one source of supply, SCVRD must go through the sole source procurement process. These processes delay SCVRD's provision of supplies, information technology, medical needs or services to the Consumer thus delaying the Consumer's ability to work toward the achievement of his/her goals and objectives in an expeditious manner.

Therefore, SCVRD requests an exemption from the "SC Consolidated Procurement Code and Regulations Annotated" giving SCVRD the flexibility to obtain the most appropriate individualized supplies, information technology, medical needs, and/or services for each Consumer in a manner that is efficient and timely which will enable the Consumer to work towards and achieve his/her goals swiftly.

Thank you for the consideration and willingness to assist us in empowering our Consumers on their path to independence.

Sincerely,



Felicia W. Johnson
Commissioner

South Carolina Vocational Rehabilitation Department

Examples of Goods and Services Purchased for Consumers

It is important to note that no two Consumers (Youth and Adult) are the same depending on their disability and their level; of disability. Each may benefit from utilizing a specific brand of device, medical needs/services, equipment, training and training aids, information technology, other services, vehicle modification(s) etc.

Examples of goods/services/information technology/medical services that may be purchased for Consumers based on their individual needs include, but are not limited to:

- Orthotics
- Prosthetics
- Hearing Aids
- Cochlear Implants
- Cardiac Rehabilitation Services
- Pulmonary Rehabilitation Sessions
- Physical Therapy Sessions
- Equine-Assisted Therapy Services for Veterans Diagnosed With PTSD
- Occupational Therapy Sessions
- Specified Training (Occupational, 4-year Educational, Technician, etc.)
- Rehabilitation Technical Purchases (for miscellaneous items)
- Business Plans (i.e., We had one for a cooking/food business where we were approved to purchase a stove and refrigerator)
- Dentures
- Teeth Extractions
- Tools (for use in manufacturing skill training, home improvement skills training, factory skills training, etc.)
- Medical appointments (to include specialty and general physicians)
- Glasses (Safety and Prescription)
- Work Clothing (Uniforms, Dickies, Scrubs for medical office attire, etc.)
- Medical Records charges
- Agreements with School Districts for educators/guidance counselors/resource teachers to identify, assess and refer students in Special Populations for assistance through SCVRD to enable pathways and connections with institutions of higher learning and /or to be successful in their chosen career goals. Also to work with LEAs (Local Education Agencies) to provide Pre-ETS (Pre-Employment Transition Services) directly to students in their district and coordinate these services with local VR Counselors.
- Keyboards (tactile, standard, specialty)
- Laptop/Desktop Computers (to include specialty software installation)

- **Vehicle modifications – Each modification is tailored to the specific Consumers disability and physical need.**
- **Vehicle Modifications & Equipment**
 - **Hand controls (push/pull, push/rock, etc.)**
 - **Steering devices (spinner knobs, tri-pins)**
 - **Left-foot accelerators**
 - **Wheelchair lifts and ramps**
 - **Transfer seats and swivel bases**
 - **Vehicle seating modifications**

Examples:

(a) Consumer is a 26-year-old man with Cerebral Palsy. This consumer’s vehicle will be modified with a wheelchair accessible conversion and a lap and shoulder seatbelt system, and he will be provided with two sets of 4 retractable tie-down straps. The modifications will be inspected and subject to final approval by the SCVRD.

(b) The Consumer is a 19-year-old woman who has completed driver training at Peace Rehab. This Consumer’s vehicle will be modified to include In-floor ramp and access modifications (BraunAbility or VMI Northstar Access360). Tiedown for manual chair in main cabin. 6-way power transfer driver’s seat. Push-right-angle hand controls. Spinner knob with larger/flatter knob. Sure grip Switch RF 360 or RF mini or BB8 to facilitate use of secondary controls and allow switch access with thumb.

- **Home modifications – Example: Ramps to access the home and/or automobile**
- **Home Accessibility Equipment**
 - **Ramps (modular, portable, threshold)**
 - **Stair lifts**
 - **Vertical platform lifts**
 - **Grab bars and handrails**
 - **Shower chairs and transfer benches**
 - **Raised toilet seats and commode systems**
- **Driver Training**
- **Disability Related Skills Training**
- **Home Management Training**
- **iOS/Android Training**
- **Job Specific Training**
- **Orientation and Mobility Training**
- **Pre-Employment Transition Services (Instruction in Self-Advocacy; Work Based Learning Experiences; Job Exploration Counseling; Counseling on Post-Secondary Education Opportunities; Workplace Readiness Training)**
- **Support materials for Post-Secondary Education/Training**
- **Prescribed medical treatments/procedures (may include follow-up visits)**

- **Software Training (Zoom, Microsoft Suite, Fusion, etc.)**

Common Rehabilitation / Assistive Technology Items

- **Office & Ergonomic Equipment**
 - **Sit-stand desks (manual and electric)**
 - **Ergonomic office chairs (task, bariatric, specialty seating)**
 - **Keyboard trays and adjustable work surfaces**
 - **Ergonomic keyboards (split, compact, one-handed)**
 - **Vertical and adaptive mice/trackballs**
 - **Monitor arms and dual monitor mounts**
 - **Footrests and anti-fatigue mats**
- **Computer Access & Input Devices**
 - **Speech-to-text software**
 - **Screen readers and magnification software**
 - **Alternative input devices (joysticks, switches, head mice)**
 - **Large-print and high-contrast keyboards**
 - **One-handed keyboards and keyguards**
 - **Touchscreen devices (tablets, hybrid laptops)**
- **Vision & Low Vision Aids**
 - **Video magnifiers (desktop and portable)**
 - **Screen magnification software**
 - **Task lighting and glare reduction filters**
 - **Large monitors and high-contrast displays**
 - **OCR scanners and reading devices**
- **Hearing & Communication Devices**
 - **Amplified telephones**
 - **Captioned telephones**
 - **Personal FM/DM systems**
 - **Assistive listening devices**
 - **Visual alert systems (doorbells, alarms)**
 - **Speech-generating devices (AAC)**
- **Medical & Clinical Tools (Work-Specific)**
 - **Amplified stethoscopes**
 - **Digital/electronic stethoscopes**
 - **Adaptive medical tools (grip-modified instruments)**

- **Mobility Devices**
 - **Manual wheelchairs (standard and custom)**
 - **Power wheelchairs**
 - **Mobility scooters**
 - **Rolling walkers (rollators)**
 - **Standard walkers and canes**
 - **Crutches (forearm, platform)**
- **Seating & Positioning**
 - **Wheelchair cushions (pressure relief, positioning)**
 - **Back supports and lateral supports**
 - **Specialty seating systems**
 - **Standing frames and sit-to-stand supports**
- **Environmental Control & Smart Technology**
 - **Smart home systems (voice-controlled)**
 - **Environmental control units (ECUs)**
 - **Remote-controlled outlets and switches**
 - **Smart thermostats and lighting**
- **Daily Living Aids (ADLs/IADLs)**
 - **Reachers and grabbers**
 - **Dressing aids (button hooks, sock aids)**
 - **Adaptive kitchen tools (rocker knives, built-up handles)**
 - **Medication management devices**
- **Worksite-Specific Equipment**
 - **Industrial anti-fatigue flooring**
 - **Lift-assist devices (manual/electric)**
 - **Adjustable-height workbenches**
 - **Tool balancers and counterbalance systems**
 - **Modified hand tools (built-up grips, angled handles)**
- **Cognitive & Organizational Supports**
 - **Reminder systems and timers**
 - **Task management apps/devices**
 - **Visual schedules and prompting systems**
 - **Noise-canceling headphones (for focus)**
- **General Provision**

Other rehabilitation technology, adaptive equipment, or modifications as determined appropriate by engineering staff based on documented functional need and assessment findings.

This content is from the eCFR and is authoritative but unofficial.

Title 34 – Education

Subtitle B – Regulations of the Offices of the Department of Education

Chapter III – Office of Special Education and Rehabilitative Services, Department of Education

Part 361 – State Vocational Rehabilitation Services Program

Subpart B – State Plan and Other Requirements for Vocational Rehabilitation Services

Provision and Scope of Services

Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 709(c); Pub. L. 111-256, 124 Stat. 2643; unless otherwise noted.

Source: 81 FR 55741, Aug. 19, 2016, unless otherwise noted.

§ 361.46 Content of the individualized plan for employment.

- (a) **Mandatory components.** Regardless of the approach in § 361.45(c)(1) that an eligible individual selects for purposes of developing the individualized plan for employment, each individualized plan for employment must—
- (1) Include a description of the specific employment outcome, as defined in § 361.5(c)(15), that is chosen by the eligible individual and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice consistent with the general goal of competitive integrated employment (except that in the case of an eligible individual who is a student or a youth with a disability, the description may be a description of the individual's projected post-school employment outcome);
 - (2) Include a description under § 361.48 of—
 - (i) These specific rehabilitation services needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices, assistive technology services, and personal assistance services, including training in the management of those services; and
 - (ii) In the case of a plan for an eligible individual that is a student or youth with a disability, the specific transition services and supports needed to achieve the individual's employment outcome or projected post-school employment outcome.
 - (3) Provide for services in the most integrated setting that is appropriate for the services involved and is consistent with the informed choice of the eligible individual;
 - (4) Include timelines for the achievement of the employment outcome and for the initiation of services;
 - (5) Include a description of the entity or entities chosen by the eligible individual or, as appropriate, the individual's representative that will provide the vocational rehabilitation services and the methods used to procure those services;
 - (6) Include a description of the criteria that will be used to evaluate progress toward achievement of the employment outcome; and
 - (7) Include the terms and conditions of the individualized plan for employment, including, as appropriate, information describing—
 - (i) The responsibilities of the designated State unit;

- (ii) The responsibilities of the eligible individual, including—
 - (A) The responsibilities the individual will assume in relation to achieving the employment outcome;
 - (B) If applicable, the extent of the individual's participation in paying for the cost of services; and
 - (C) The responsibility of the individual with regard to applying for and securing comparable services and benefits as described in § 361.53; and
 - (iii) The responsibilities of other entities as the result of arrangements made pursuant to the comparable services or benefits requirements in § 361.53.
- (b) **Supported employment requirements.** An individualized plan for employment for an individual with a most significant disability for whom an employment outcome in a supported employment setting has been determined to be appropriate must—
- (1) Specify the supported employment services to be provided by the designated State unit;
 - (2) Specify the expected extended services needed, which may include natural supports;
 - (3) Identify the source of extended services or, to the extent that it is not possible to identify the source of extended services at the time the individualized plan for employment is developed, include a description of the basis for concluding that there is a reasonable expectation that those sources will become available;
 - (4) Provide for periodic monitoring to ensure that the individual is making satisfactory progress toward meeting the weekly work requirement established in the individualized plan for employment by the time of transition to extended services;
 - (5) Provide for the coordination of services provided under an individualized plan for employment with services provided under other individualized plans established under other Federal or State programs;
 - (6) To the extent that job skills training is provided, identify that the training will be provided on site; and
 - (7) Include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities.
- (c) **Post-employment services.** The individualized plan for employment for each individual must contain, as determined to be necessary, statements concerning—
- (1) The expected need for post-employment services prior to closing the record of services of an individual who has achieved an employment outcome;
 - (2) A description of the terms and conditions for the provision of any post-employment services; and
 - (3) If appropriate, a statement of how post-employment services will be provided or arranged through other entities as the result of arrangements made pursuant to the comparable services or benefits requirements in § 361.53.

- (d) **Coordination of services for students with disabilities.** The individualized plan for employment for a student with a disability must be coordinated with the individualized education program or 504 services, as applicable, for that individual in terms of the goals, objectives, and services identified in the education program.

(Approved by the Office of Management and Budget under control number 1205-0522)

(Authority: Sections 101(a)(8), 101(a)(9), and 102(b)(4) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 721(a)(8), 721(a)(9), and 722(b)(4))

This content is from the eCFR and is authoritative but unofficial.

Title 34 – Education

Subtitle B – Regulations of the Offices of the Department of Education

Chapter III – Office of Special Education and Rehabilitative Services, Department of Education

Part 361 – State Vocational Rehabilitation Services Program

Subpart A – General

Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c); Pub. L. 111-256, 124 Stat. 2643; unless otherwise noted.

Source: 81 FR 55741, Aug. 19, 2016, unless otherwise noted.

§ 361.5 Applicable definitions.

The following definitions apply to this part:

- (a) Definitions in EDGAR 77.1.
- (b) Definitions in 2 CFR part 200, subpart A.
- (c) The following definitions:
 - (1) **Act** means the Rehabilitation Act of 1973, as amended (29 U.S.C. 701 *et seq.*).
 - (2) **Administrative costs under the vocational rehabilitation services portion of the Unified or Combined State Plan** means expenditures incurred in the performance of administrative functions under the vocational rehabilitation program carried out under this part, including expenses related to program planning, development, monitoring, and evaluation, including, but not limited to, expenses for—
 - (i) Quality assurance;
 - (ii) Budgeting, accounting, financial management, information systems, and related data processing;
 - (iii) Providing information about the program to the public;
 - (iv) Technical assistance and support services to other State agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in § 361.49(a)(4);
 - (v) The State Rehabilitation Council and other advisory committees;
 - (vi) Professional organization membership dues for designated State unit employees;
 - (vii) The removal of architectural barriers in State vocational rehabilitation agency offices and State-operated rehabilitation facilities;
 - (viii) Operating and maintaining designated State unit facilities, equipment, and grounds, as well as the infrastructure of the one-stop system;
 - (ix) Supplies;
 - (x) Administration of the comprehensive system of personnel development described in § 361.18, including personnel administration, administration of affirmative action plans, and training and staff development;

- (xi) Administrative salaries, including clerical and other support staff salaries, in support of these administrative functions;
- (xii) Travel costs related to carrying out the program, other than travel costs related to the provision of services;
- (xiii) Costs incurred in conducting reviews of determinations made by personnel of the designated State unit, including costs associated with mediation and impartial due process hearings under § 361.57; and
- (xiv) Legal expenses required in the administration of the program.

(Authority: Sections 7(1) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(1) and 709(c))

- (3) **Applicant** means an individual who submits an application for vocational rehabilitation services in accordance with § 361.41(b)(2).

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

- (4) **Appropriate modes of communication** means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed captioned videos, specialized telecommunications services and audio recordings, Brailled and large print materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

- (5) **Assessment for determining eligibility and vocational rehabilitation needs** means, as appropriate in each case—
 - (i)
 - (A) A review of existing data—
 - (1) To determine if an individual is eligible for vocational rehabilitation services; and
 - (2) To assign priority for an order of selection described in § 361.36 in the States that use an order of selection; and
 - (B) To the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make the eligibility determination and assignment;
 - (ii) To the extent additional data are necessary to make a determination of the employment outcomes and the nature and scope of vocational rehabilitation services to be included in the individualized plan for employment of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual. This comprehensive assessment—
 - (A) Is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the individualized plan for employment of the eligible individual;

- (B) Uses as a primary source of information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—
 - (1) Existing information obtained for the purposes of determining the eligibility of the individual and assigning priority for an order of selection described in § 361.36 for the individual; and
 - (2) Information that can be provided by the individual and, if appropriate, by the family of the individual;
- (C) May include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual;
- (D) May include, to the degree needed, an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the use of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and
- (E) To the maximum extent possible, relies on information obtained from experiences in integrated employment settings in the community and in other integrated community settings;
- (iii) Referral, for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and
- (iv) An exploration of the individual's abilities, capabilities, and capacity to perform in work situations, which must be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.

(Authority: Sections 7(2) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(2) and 709(c))

(6) **Assistive technology terms** –

- (i) **Assistive technology** has the meaning given such term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).
- (ii) **Assistive technology device** has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that the reference in such section to the term *individuals with disabilities* will be deemed to mean more than one individual with a disability as defined in paragraph (20)(A) of the Act.
- (iii) **Assistive technology service** has the meaning given such term in section 3 of the Assistive Technology Act of 1998, except that the reference in such section to the term—
 - (A) **Individual with a disability** will be deemed to mean an individual with a disability, as defined in paragraph (20)(A) of the Act; and

(B) *Individuals with disabilities* will be deemed to mean more than one such individual.

(Authority: Sections 7(3) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(3) and 709(c))

(7) *Community rehabilitation program* —

- (i) *Community rehabilitation program* means a program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:
- (A) Medical, psychiatric, psychological, social, and vocational services that are provided under one management.
 - (B) Testing, fitting, or training in the use of prosthetic and orthotic devices.
 - (C) Recreational therapy.
 - (D) Physical and occupational therapy.
 - (E) Speech, language, and hearing therapy.
 - (F) Psychiatric, psychological, and social services, including positive behavior management.
 - (G) Assessment for determining eligibility and vocational rehabilitation needs.
 - (H) Rehabilitation technology.
 - (I) Job development, placement, and retention services.
 - (J) Evaluation or control of specific disabilities.
 - (K) Orientation and mobility services for individuals who are blind.
 - (L) Extended employment.
 - (M) Psychosocial rehabilitation services.
 - (N) Supported employment services and extended services.
 - (O) Customized employment.
 - (P) Services to family members if necessary to enable the applicant or eligible individual to achieve an employment outcome.
 - (Q) Personal assistance services.
 - (R) Services similar to the services described in paragraphs (c)(7)(i)(A) through (Q) of this section.
- (ii) For the purposes of this definition, *program* means an agency, organization, or institution, or unit of an agency, organization, or institution, that provides directly or facilitates the provision of vocational rehabilitation services as one of its major functions.

(Authority: Section 7(4) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(4))

(8) *Comparable services and benefits* —

- (i) **Comparable services and benefits** means services and benefits, including accommodations and auxiliary aids and services, that are—
 - (A) Provided or paid for, in whole or in part, by other Federal, State, or local public agencies, by health insurance, or by employee benefits;
 - (B) Available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's individualized plan for employment in accordance with § 361.53; and
 - (C) Commensurate to the services that the individual would otherwise receive from the designated State vocational rehabilitation agency.
- (ii) For the purposes of this definition, comparable services and benefits do not include awards and scholarships based on merit.

(Authority: Sections 12(c) and 101(a)(8) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 721(a)(8))

- (9) **Competitive integrated employment** means work that—
 - (i) Is performed on a full-time or part-time basis (including self-employment) and for which an individual is compensated at a rate that—
 - (A) Is not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the rate required under the applicable State or local minimum wage law for the place of employment;
 - (B) Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; and
 - (C) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and
 - (D) Is eligible for the level of benefits provided to other employees; and
 - (ii) Is at a location—
 - (A) Typically found in the community; and
 - (B) Where the employee with a disability interacts for the purpose of performing the duties of the position with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., customers and vendors), who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons; and
 - (iii) Presents, as appropriate, opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(Authority: Sections 7(5) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(5) and 709(c))

(10) Construction of a facility for a public or nonprofit community rehabilitation program means—

- (i) The acquisition of land in connection with the construction of a new building for a community rehabilitation program;
- (ii) The construction of new buildings;
- (iii) The acquisition of existing buildings;
- (iv) The expansion, remodeling, alteration, or renovation of existing buildings;
- (v) Architect's fees, site surveys, and soil investigation, if necessary, in connection with the acquisition of land or existing buildings, or the construction, expansion, remodeling, or alteration of community rehabilitation facilities;
- (vi) The acquisition of initial fixed or movable equipment of any new, newly acquired, newly expanded, newly remodeled, newly altered, or newly renovated buildings that are to be used for community rehabilitation program purposes; and
- (vii) Other direct expenditures appropriate to the construction project, except costs of off-site improvements.

(Authority: Sections 7(6) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(6) and 709(c))

(11) Customized employment means competitive integrated employment, for an individual with a significant disability, that is—

- (i) Based on an individualized determination of the unique strengths, needs, and interests of the individual with a significant disability;
- (ii) Designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer; and
- (iii) Carried out through flexible strategies, such as—
 - (A) Job exploration by the individual; and
 - (B) Working with an employer to facilitate placement, including—
 - (1) Customizing a job description based on current employer needs or on previously unidentified and unmet employer needs;
 - (2) Developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location;
 - (3) Using a professional representative chosen by the individual, or if elected self-representation, to work with an employer to facilitate placement; and
 - (4) Providing services and supports at the job location.

(Authority: Section 7(7) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(7) and 709(c))

- (12) **Designated State agency or State agency** means the sole State agency, designated, in accordance with § 361.13(a), to administer, or supervise the local administration of, the vocational rehabilitation services portion of the Unified or Combined State Plan. The term includes the State agency for individuals who are blind, if designated as the sole State agency with respect to that part of the Unified or Combined State Plan relating to the vocational rehabilitation of individuals who are blind.

(Authority: Sections 7(8)(A) and 101(a)(2)(A) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(8)(A) and 721(a)(2)(A))

- (13) **Designated State unit or State unit** means either—

- (i) The State vocational rehabilitation bureau, division, or other organizational unit that is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities and that is responsible for the administration of the vocational rehabilitation program of the State agency, as required under § 361.13(b); or
- (ii) The State agency that is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities.

(Authority: Sections 7(8)(B) and 101(a)(2)(B) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(8)(B) and 721(a)(2)(B))

- (14) **Eligible individual** means an applicant for vocational rehabilitation services who meets the eligibility requirements of § 361.42(a).

(Authority: Sections 7(20)(A) and 102(a)(1) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(20)(A) and 722(a)(1))

- (15) **Employment outcome** means, with respect to an individual, entering, advancing in, or retaining full-time or, if appropriate, part-time competitive integrated employment, as defined in paragraph (c)(9) of this section (including customized employment, self-employment, telecommuting, or business ownership), or supported employment as defined in paragraph (c)(53) of this section, that is consistent with an individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Note to paragraph (c)(15): A designated State unit may continue services to individuals with uncompensated employment goals on their approved individualized plans for employment prior to September 19, 2016 until June 30, 2017, unless a longer period of time is required based on the needs of the individual with the disability, as documented in the individual's service record.

(Authority: Sections 7(11), 12(c), 100(a)(2), and 102(b)(4)(A) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(11), 709(c), 720(a)(2), and 722(b)(4)(A))

- (16) **Establishment, development, or improvement of a public or nonprofit community rehabilitation program** means—

- (i) The establishment of a facility for a public or nonprofit community rehabilitation program, as defined in paragraph (c)(17) of this section, to provide vocational rehabilitation services to applicants or eligible individuals;
- (ii) Staffing, if necessary to establish, develop, or improve a public or nonprofit community rehabilitation program for the purpose of providing vocational rehabilitation services to applicants or eligible individuals, for a maximum period of four years, with Federal financial participation available at the applicable matching rate for the following levels of staffing costs:
 - (A) 100 percent of staffing costs for the first year;
 - (B) 75 percent of staffing costs for the second year;
 - (C) 60 percent of staffing costs for the third year; and
 - (D) 45 percent of staffing costs for the fourth year; and
- (iii) Other expenditures and activities related to the establishment, development, or improvement of a public or nonprofit community rehabilitation program that are necessary to make the program functional or increase its effectiveness in providing vocational rehabilitation services to applicants or eligible individuals, but are not ongoing operating expenses of the program.

(Authority: Sections 7(12) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(12) and 709(c))

(17) *Establishment of a facility for a public or nonprofit community rehabilitation program* means—

- (i) The acquisition of an existing building and, if necessary, the land in connection with the acquisition, if the building has been completed in all respects for at least one year prior to the date of acquisition and the Federal share of the cost of acquisition is not more than \$300,000;
- (ii) The remodeling or alteration of an existing building, provided the estimated cost of remodeling or alteration does not exceed the appraised value of the existing building;
- (iii) The expansion of an existing building, provided that—
 - (A) The existing building is complete in all respects;
 - (B) The total size in square footage of the expanded building, notwithstanding the number of expansions, is not greater than twice the size of the existing building;
 - (C) The expansion is joined structurally to the existing building and does not constitute a separate building; and
 - (D) The costs of the expansion do not exceed the appraised value of the existing building;
- (iv) Architect's fees, site survey, and soil investigation, if necessary in connection with the acquisition, remodeling, alteration, or expansion of an existing building; and
- (v) The acquisition of fixed or movable equipment, including the costs of installation of the equipment, if necessary to establish, develop, or improve a community rehabilitation program.

(Authority: Sections 7(12) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(12) and 709(c))

- (18) ***Extended employment*** means work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act.

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

- (19) **Extended services** means ongoing support services and other appropriate services that are—
- (i) Needed to support and maintain an individual with a most significant disability including a youth with a most significant disability, in supported employment;
 - (ii) Organized or made available, singly or in combination, in such a way as to assist an eligible individual in maintaining supported employment;
 - (iii) Based on the needs of an eligible individual, as specified in an individualized plan for employment;
 - (iv) Provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, after an individual has made the transition from support from the designated State unit; and
 - (v) Provided to a youth with a most significant disability by the designated State unit in accordance with requirements set forth in this part and part 363 for a period not to exceed four years, or at such time that a youth reaches age 25 and no longer meets the definition of a youth with a disability under paragraph (c)(58) of this section, whichever occurs first. The designated State unit may not provide extended services to an individual with a most significant disability who is not a youth with a most significant disability.

(Authority: Sections 7(13), 12(c), and 604(b) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(13), 709(c), and 795i(b))

- (20) **Extreme medical risk** means a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously.

(Authority: Sections 12(c) and 101(a)(8)(A)(i)(III) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 721(a)(8)(A)(i)(III))

- (21) **Fair hearing board** means a committee, body, or group of persons established by a State prior to January 1, 1985, that—
- (i) Is authorized under State law to review determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services; and
 - (ii) Carries out the responsibilities of the impartial hearing officer in accordance with the requirements in § 361.57(j).

(Authority: Sections 12(c) and 102(c)(6) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 722(c)(6))

- (22) **Family member**, for purposes of receiving vocational rehabilitation services in accordance with § 361.48(b)(9), means an individual—
- (i) Who either—
 - (A) Is a relative or guardian of an applicant or eligible individual; or
 - (B) Lives in the same household as an applicant or eligible individual;

- (ii) Who has a substantial interest in the well-being of that individual; and
- (iii) Whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

(Authority: Sections 12(c) and 103(a)(19) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 723(a)(19))

(23) **Governor** means a chief executive officer of a State.

(Authority: Section 7(15) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(15))

(24) **Impartial hearing officer** –

- (i) **Impartial hearing officer** means an individual who—
 - (A) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);
 - (B) Is not a member of the State Rehabilitation Council for the designated State unit;
 - (C) Has not been involved previously in the vocational rehabilitation of the applicant or recipient of services;
 - (D) Has knowledge of the delivery of vocational rehabilitation services, the vocational rehabilitation services portion of the Unified or Combined State Plan, and the Federal and State regulations governing the provision of services;
 - (E) Has received training with respect to the performance of official duties; and
 - (F) Has no personal, professional, or financial interest that could affect the objectivity of the individual.
- (ii) An individual is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer.

(Authority: Sections 7(16) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(16) and 709(c))

(25) **Indian; American Indian; Indian American; Indian Tribe** –

- (i) **In general.** The terms "Indian", "American Indian", and "Indian American" mean an individual who is a member of an Indian tribe and include a Native and a descendant of a Native, as such terms are defined in subsections (b) and (r) of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).
- (ii) **Indian tribe.** The term "Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act) and a tribal organization (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(b)(l))).

(Authority: Section 7(19) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(19))

(26) **Individual who is blind** means a person who is blind within the meaning of applicable State law.

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

(27) **Individual with a disability**, except as provided in paragraph (c)(28) of this section, means an individual—

- (i) Who has a physical or mental impairment;
- (ii) Whose impairment constitutes or results in a substantial impediment to employment; and
- (iii) Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

(Authority: Section 7(20)(A) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(20)(A))

(28) **Individual with a disability**, for purposes of §§ 361.5(c)(13), 361.13(a), 361.13(b)(1), 361.17(a), (b), (c), and (j), 361.18(b), 361.19, 361.20, 361.23(b)(2), 361.29(a) and (d)(8), and 361.51(b), means an individual—

- (i) Who has a physical or mental impairment that substantially limits one or more major life activities;
- (ii) Who has a record of such an impairment; or
- (iii) Who is regarded as having such an impairment.

(Authority: Section 7(20)(B) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(20)(B))

(29) **Individual with a most significant disability** means an individual with a significant disability who meets the designated State unit's criteria for an individual with a most significant disability. These criteria must be consistent with the requirements in § 361.36(d)(1) and (2).

(Authority: Sections 7(21)(E) and 101(a)(5)(C) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(21)(E) and 721(a)(5)(C))

(30) **Individual with a significant disability** means an individual with a disability—

- (i) Who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
- (ii) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
- (iii) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, intellectual disability, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

- (31) **Individual's representative** means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual's representative.

(Authority: Sections 7(22) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(22) and 709(c))

- (32) **Integrated setting** means—

- (i) With respect to the provision of services, a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals; and
- (ii) With respect to an employment outcome, means a setting—
 - (A) Typically found in the community; and
 - (B) Where the employee with a disability interacts, for the purpose of performing the duties of the position, with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., customers and vendors) who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons.

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

- (33) **Local workforce development board** means a local board, as defined in section 3 of the Workforce Innovation and Opportunity Act.

(Authority: Section 7(25) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(25))

- (34) **Maintenance** means monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment.

(Authority: Sections 12(c) and 103(a)(7) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 723(a)(7))

- (i) **Examples:** The following are examples of expenses that would meet the definition of *maintenance*. The examples are illustrative, do not address all possible circumstances, and are not intended to substitute for individual counselor judgment.

Example 1: The cost of a uniform or other suitable clothing that is required for an individual's job placement or job-seeking activities.

Example 2: The cost of short-term shelter that is required in order for an individual to participate in assessment activities or vocational training at a site that is not within

commuting distance of an individual's home.

Example 3: The initial one-time costs, such as a security deposit or charges for the initiation of utilities, that are required in order for an individual to relocate for a job placement.

(ii) [Reserved]

- (35) **Mediation** means the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies. Mediation under the program must be conducted in accordance with the requirements in § 361.57(d) by a qualified and impartial mediator as defined in § 361.5(c)(43).

(Authority: Sections 12(c) and 102(c)(4) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 722(c)(4))

- (36) **Nonprofit**, with respect to a community rehabilitation program, means a community rehabilitation program carried out by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(Authority: Section 7(26) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(26))

- (37) **Ongoing support services**, as used in the definition of *supported employment*, means services that—
- (i) Are needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment;
 - (ii) Are identified based on a determination by the designated State unit of the individual's need as specified in an individualized plan for employment;
 - (iii) Are furnished by the designated State unit from the time of job placement until transition to extended services, unless post-employment services are provided following transition, and thereafter by one or more extended services providers throughout the individual's term of employment in a particular job placement;
 - (iv) Include an assessment of employment stability and provision of specific services or the coordination of services at or away from the worksite that are needed to maintain stability based on—
 - (A) At a minimum, twice-monthly monitoring at the worksite of each individual in supported employment; or
 - (B) If under specific circumstances, especially at the request of the individual, the individualized plan for employment provides for off-site monitoring, twice monthly meetings with the individual;
 - (v) Consist of—
 - (A) Any particularized assessment supplementary to the comprehensive assessment of rehabilitation needs described in paragraph (c)(5)(ii) of this section;

- (B) The provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;
- (C) Job development and training;
- (D) Social skills training;
- (E) Regular observation or supervision of the individual;
- (F) Follow-up services including regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;
- (G) Facilitation of natural supports at the worksite;
- (H) Any other service identified in the scope of vocational rehabilitation services for individuals, described in § 361.48(b); or
- (I) Any service similar to the foregoing services.

(Authority: Sections 7(27) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(27) and 709(c))

- (38) **Personal assistance services** means a range of services, including, among other things, training in managing, supervising, and directing personal assistance services, provided by one or more persons, that are—
- (i) Designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability;
 - (ii) Designed to increase the individual's control in life and ability to perform everyday activities on or off the job;
 - (iii) Necessary to the achievement of an employment outcome; and
 - (iv) Provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.

(Authority: Sections 7(28), 12(c), 102(b)(4)(B)(i)(I)(bb), and 103(a)(9) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(28), 709(c), 722(b)(4)(B)(i)(I)(bb), and 723(a)(9))

- (39) **Physical and mental restoration services** means—
- (i) Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment;
 - (ii) Diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with State licensure laws;
 - (iii) Dentistry;
 - (iv) Nursing services;

- (v) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;
- (vi) Drugs and supplies;
- (vii) Prosthetic and orthotic devices;
- (viii) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel who are qualified in accordance with State licensure laws;
- (ix) Podiatry;
- (x) Physical therapy;
- (xi) Occupational therapy;
- (xii) Speech or hearing therapy;
- (xiii) Mental health services;
- (xiv) Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services, or that are inherent in the condition under treatment;
- (xv) Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and
- (xvi) Other medical or medically related rehabilitation services.

(Authority: Sections 12(c) and 103(a)(6) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 723(a)(6))

(40) *Physical or mental impairment* means—

- (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or
- (ii) Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(41) *Post-employment services* means one or more of the services identified in § 361.48(b) that are provided subsequent to the achievement of an employment outcome and that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(Authority: Sections 12(c) and 103(a)(20) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 723(a)(20))

Note to paragraph (c)(41): Post-employment services are intended to ensure that the employment outcome remains consistent with the individual's unique strengths, resources, priorities, concerns,

abilities, capabilities, interests, and informed choice. These services are available to meet rehabilitation needs that do not require a complex and comprehensive provision of services and, thus, should be limited in scope and duration. If more comprehensive services are required, then a new rehabilitation effort should be considered. Post-employment services are to be provided under an amended individualized plan for employment; thus, a re-determination of eligibility is not required. The provision of post-employment services is subject to the same requirements in this part as the provision of any other vocational rehabilitation service. Post-employment services are available to assist an individual to maintain employment, e.g., the individual's employment is jeopardized because of conflicts with supervisors or co-workers, and the individual needs mental health services and counseling to maintain the employment, or the individual requires assistive technology to maintain the employment; to regain employment, e.g., the individual's job is eliminated through reorganization and new placement services are needed; and to advance in employment, e.g., the employment is no longer consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(42) *Pre-employment transition services* means the required activities and authorized activities specified in § 361.48(a)(2) and (3).

(Authority: Sections 7(30) and 113(b) and (c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(30) and 733(b) and (c))

(43) *Qualified and impartial mediator* —

(i) *Qualified and impartial mediator* means an individual who—

- (A) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, employee of a State office of mediators, or employee of an institution of higher education);
- (B) Is not a member of the State Rehabilitation Council for the designated State unit;
- (C) Has not been involved previously in the vocational rehabilitation of the applicant or recipient of services;
- (D) Is knowledgeable of the vocational rehabilitation program and the applicable Federal and State laws, regulations, and policies governing the provision of vocational rehabilitation services;
- (E) Has been trained in effective mediation techniques consistent with any State-approved or -recognized certification, licensing, registration, or other requirements; and
- (F) Has no personal, professional, or financial interest that could affect the individual's objectivity during the mediation proceedings.

(ii) An individual is not considered to be an employee of the designated State agency or designated State unit for the purposes of this definition solely because the individual is paid by the designated State agency or designated State unit to serve as a mediator.

(Authority: Sections 12(c) and 102(c)(4) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 722(c)(4))

- (44) **Rehabilitation engineering** means the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community.

(Authority: Sections 7(32) and (12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(32) and 709(c))

- (45) **Rehabilitation technology** means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(Authority: Section 7(32) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(32))

- (46) **Reservation** means a Federal or State Indian reservation, a public domain Indian allotment, a former Indian reservation in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*); or a defined area of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.

(Authority: Section 121(e) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 741(e))

- (47) **Sole local agency** means a unit or combination of units of general local government or one or more Indian tribes that has the sole responsibility under an agreement with, and the supervision of, the State agency to conduct a local or tribal vocational rehabilitation program, in accordance with the vocational rehabilitation services portion of the Unified or Combined State Plan.

(Authority: Section 7(24) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(24))

- (48) **State** means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Authority: Section 7(34) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(34))

- (49) **State workforce development board** means a State workforce development board, as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(Authority: Section 7(35) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(35))

- (50) **Statewide workforce development system** means a workforce development system, as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(Authority: Section 7(36) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(36))

(51) *Student with a disability* –

- (i) *Student with a disability* means, in general, an individual with a disability in a secondary, postsecondary, or other recognized education program who—

(A)

- (1) Is not younger than the earliest age for the provision of transition services under section 614(d)(1)(A)(i)(VIII) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(VIII)); or
- (2) If the State involved elects to use a lower minimum age for receipt of pre-employment transition services under this Act, is not younger than that minimum age; and

(B)

- (1) Is not older than 21 years of age; or
- (2) If the State law for the State provides for a higher maximum age for receipt of services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*), is not older than that maximum age; and

(C)

- (1) Is eligible for, and receiving, special education or related services under Part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 *et seq.*); or
- (2) Is a student who is an individual with a disability, for purposes of section 504.

- (ii) *Students with disabilities* means more than one student with a disability.

(Authority: Sections 7(37) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(37) and 709(c))

- (52) *Substantial impediment to employment* means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication, and other related factors) hinders an individual from preparing for, entering into, engaging in, advancing in, or retaining employment consistent with the individual's abilities and capabilities.

(Authority: Sections 7(20)(A) and 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(20)(A) and 709(c))

(53) *Supported employment* –

- (i) *Supported employment* means competitive integrated employment, including customized employment, or employment in an integrated work setting in which an individual with a most significant disability, including a youth with a most significant disability, is working on a short-term basis toward competitive integrated employment that is individualized, and customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual, including with ongoing support services for individuals with the most significant disabilities—
- (A) For whom competitive integrated employment has not historically occurred, or for whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and

- (B) Who, because of the nature and severity of their disabilities, need intensive supported employment services and extended services after the transition from support provided by the designated State unit, in order to perform this work.
- (ii) For purposes of this part, an individual with a most significant disability, whose supported employment in an integrated setting does not satisfy the criteria of competitive integrated employment, as defined in paragraph (c)(9) of this section is considered to be working on a short-term basis toward competitive integrated employment so long as the individual can reasonably anticipate achieving competitive integrated employment—
 - (A) Within six months of achieving a supported employment outcome; or
 - (B) In limited circumstances, within a period not to exceed 12 months from the achievement of the supported employment outcome, if a longer period is necessary based on the needs of the individual, and the individual has demonstrated progress toward competitive earnings based on information contained in the service record.

(Authority: Sections 7(38), 12(c), and 602 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(38), 709(c), and 795g)

- (54) **Supported employment services** means ongoing support services, including customized employment, and other appropriate services needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment that are—
- (i) Organized and made available, singly or in combination, in such a way as to assist an eligible individual to achieve competitive integrated employment;
 - (ii) Based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment;
 - (iii) Provided by the designated State unit for a period of time not to exceed 24 months, unless under special circumstances the eligible individual and the rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the individualized plan for employment; and
 - (iv) Following transition, as post-employment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

(Authority: Sections 7(39), 12(c), and 103(a)(16) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(39), 709(c), and 723(a)(16))

- (55) **Transition services** means a coordinated set of activities for a student or youth with a disability—
- (i) Designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, competitive integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation;
 - (ii) Based upon the individual student's or youth's needs, taking into account the student's or youth's preferences and interests;

- (iii) That includes instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation;
- (iv) That promotes or facilitates the achievement of the employment outcome identified in the student's or youth's individualized plan for employment; and
- (v) That includes outreach to and engagement of the parents, or, as appropriate, the representative of such a student or youth with a disability.

(Authority: Sections 12(c) and 103(a)(15) and (b)(7) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 723(a)(15) and (b)(7))

- (56) **Transportation** means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation vehicles and systems.

(Authority: Sections 12(c) and 103(a)(8) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 723(a)(8))

- (i) **Examples.** The following are examples of expenses that would meet the definition of *transportation*. The examples are purely illustrative, do not address all possible circumstances, and are not intended as substitutes for individual counselor judgment.

Example 1: Travel and related expenses for a personal care attendant or aide if the services of that person are necessary to enable the applicant or eligible individual to travel to participate in any vocational rehabilitation service.

Example 2: The purchase and repair of vehicles, including vans, but not the modification of these vehicles, as modification would be considered a rehabilitation technology service.

Example 3: Relocation expenses incurred by an eligible individual in connection with a job placement that is a significant distance from the eligible individual's current residence.

- (ii) [Reserved]

- (57) **Vocational rehabilitation services** –

- (i) If provided to an individual, means those services listed in § 361.48; and
- (ii) If provided for the benefit of groups of individuals, means those services listed in § 361.49.

(Authority: Sections 7(40) and 103 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(40) and 723)

- (58) **Youth with a disability** –

- (i) **Youth with a disability** means an individual with a disability who is not—

(A) Younger than 14 years of age; and

(B) Older than 24 years of age.

(ii) *Youth with disabilities* means more than one youth with a disability.

(Authority: Section 7(42) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(42))

[81 FR 55741, Aug. 19, 2016, as amended at 82 FR 31913, July 11, 2017]

This content is from the eCFR and is authoritative but unofficial.

Title 34 – Education

Subtitle B – Regulations of the Offices of the Department of Education

Chapter III – Office of Special Education and Rehabilitative Services, Department of Education

Part 361 – State Vocational Rehabilitation Services Program

Subpart B – State Plan and Other Requirements for Vocational Rehabilitation Services

Provision and Scope of Services

Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c); Pub. L. 111-256, 124 Stat. 2643; unless otherwise noted.

Source: 81 FR 55741, Aug. 19, 2016, unless otherwise noted.

§ 361.52 Informed choice.

- (a) **General provision.** The vocational rehabilitation services portion of the Unified or Combined State Plan must assure that applicants and recipients of services or, as appropriate, their representatives are provided information and support services to assist applicants and recipients of services in exercising informed choice throughout the rehabilitation process consistent with the provisions of section 102(d) of the Act and the requirements of this section.
- (b) **Written policies and procedures.** The designated State unit, in consultation with its State Rehabilitation Council, if it has a Council, must develop and implement written policies and procedures that enable an applicant or recipient of services to exercise informed choice throughout the vocational rehabilitation process. These policies and procedures must provide for—
 - (1) Informing each applicant and recipient of services (including students with disabilities who are making the transition from programs under the responsibility of an educational agency to programs under the responsibility of the designated State unit and including youth with disabilities), through appropriate modes of communication, about the availability of and opportunities to exercise informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice throughout the vocational rehabilitation process;
 - (2) Assisting applicants and recipients of services in exercising informed choice in decisions related to the provision of assessment services;
 - (3) Developing and implementing flexible procurement policies and methods that facilitate the provision of vocational rehabilitation services and that afford recipients of services meaningful choices among the methods used to procure vocational rehabilitation services;
 - (4) Assisting eligible individuals or, as appropriate, the individuals' representatives, in acquiring information that enables them to exercise informed choice in the development of their individualized plans for employment with respect to the selection of the—
 - (i) Employment outcome;
 - (ii) Specific vocational rehabilitation services needed to achieve the employment outcome;
 - (iii) Entity that will provide the services;
 - (iv) Employment setting and the settings in which the services will be provided; and

- (v) Methods available for procuring the services; and
- (5) Ensuring that the availability and scope of informed choice is consistent with the obligations of the designated State agency under this part.
- (c) **Information and assistance in the selection of vocational rehabilitation services and service providers.** In assisting an applicant and eligible individual in exercising informed choice during the assessment for determining eligibility and vocational rehabilitation needs and during development of the individualized plan for employment, the designated State unit must provide the individual or the individual's representative, or assist the individual or the individual's representative in acquiring, information necessary to make an informed choice about the specific vocational rehabilitation services, including the providers of those services, that are needed to achieve the individual's employment outcome. This information must include, at a minimum, information relating to the—
 - (1) Cost, accessibility, and duration of potential services;
 - (2) Consumer satisfaction with those services to the extent that information relating to consumer satisfaction is available;
 - (3) Qualifications of potential service providers;
 - (4) Types of services offered by the potential providers;
 - (5) Degree to which services are provided in integrated settings; and
 - (6) Outcomes achieved by individuals working with service providers, to the extent that such information is available.
- (d) **Methods or sources of information.** In providing or assisting the individual or the individual's representative in acquiring the information required under paragraph (c) of this section, the State unit may use, but is not limited to, the following methods or sources of information:
 - (1) Lists of services and service providers.
 - (2) Periodic consumer satisfaction surveys and reports.
 - (3) Referrals to other consumers, consumer groups, or disability advisory councils qualified to discuss the services or service providers.
 - (4) Relevant accreditation, certification, or other information relating to the qualifications of service providers.
 - (5) Opportunities for individuals to visit or experience various work and service provider settings.

(Approved by the Office of Management and Budget under control number 1205-0522)

(Authority: Sections 12(c), 101(a)(19), 102(b)(2)(B), and 102(d) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 721(a)(19), 722(b)(2)(B), and 722(d))

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, DC 20202-2800

TECHNICAL ASSISTANCE CIRCULAR
RSA-TAC-24-01
DATE: October 30, 2023

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES
STATE REHABILITATION COUNCILS
AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICE
PROJECTS
CLIENT ASSISTANCE PROGRAMS
STATE DIRECTORS OF SPECIAL EDUCATION
TECHNICAL ASSISTANCE CENTERS

SUBJECT: Promoting Meaningful and Sustained Engagement of Individuals with
Disabilities in the State Vocational Rehabilitation Services Program

PURPOSE:

The Rehabilitation Services Administration (RSA) provides this Technical Assistance Circular (TAC) to support State vocational rehabilitation (VR) agencies in their efforts to make changes that will promote meaningful and sustained engagement with individuals with disabilities throughout the VR process. The continuum of VR services affords VR agencies opportunities, through multiple touchpoints, to provide quality services that maximize the potential of individuals with disabilities, including individuals with the most significant disabilities, to achieve “competitive integrated employment,” as defined in Section 7(5) of the Rehabilitation Act of 1973 (Rehabilitation Act), and 34 C.F.R. § 361.5(c)(9). By actively considering and acknowledging the importance of sustained engagement that encourages and fosters active participation of individuals with disabilities in services, VR agencies can improve performance, reduce attrition of those they serve, and increase the number of participants achieving their employment goal on their individualized plan for employment (IPE).

Through the identification and implementation of critical strategies and flexibilities, without compromising the responsibilities of qualified VR counselors and staff at key points in the process, VR agencies will afford the greatest likelihood of success and employment satisfaction for both program participants and VR agency employees. Meaningful early and consistent engagement practices will contribute to participant retention, timely provision of valuable and needed services, participant satisfaction and long-term success, and could improve agency performance. Additionally, meaningful engagement strategies likely will place State VR agencies in a better position to maximize the expenditure of available Federal funds for VR services, as well as for the provision of pre-employment transition services, thereby increasing the likelihood of competitive integrated employment and supported employment outcomes, including customized employment, for individuals with disabilities under the VR program.

RSA recognizes the multiple challenges faced by State VR agencies, including balancing quality service delivery with staffing limitations, effectively serving both urban and rural areas, and rebuilding performance and capacity of both agency staff and service providers lost during the COVID-19 pandemic. This TAC lays out suggested methods and approaches to encourage, inform, and inspire the development of strategies for optimizing VR program visibility, easing application and eligibility processes, engaging eligible individuals awaiting services while in a closed order of selection category, providing VR services leading to successful high-quality employment outcomes, supporting the engagement of VR professionals in meaningful work that will lead to participant and agency success, and recognizing and incentivizing VR program successes and achievements.

TECHNICAL ASSISTANCE:

Meaningful and sustained engagement involves the ongoing cultivation of relationships, supported by a culture that engages both employees and participants. The most effective way of engaging individuals with disabilities throughout the VR process is by putting them first, building trust in their relationships with VR counselors and staff, and adding extraordinary value to their overall experiences and services. Simply providing basic service alone is no longer enough to constitute meaningful engagement with the individual. RSA encourages VR agencies to ensure that services not only meet but exceed the expectations and needs of individuals with disabilities because the quality of VR participants' experiences, i.e., the perception that participants form based on their interactions with the VR agency and the services they receive, has a direct impact on a VR agency's potential for success with those participants.

Optimizing VR Program Visibility

The VR program has been referred to among stakeholders, professionals, and public officials as a "best-kept secret" far too long. Changing that reality means optimizing the visibility of State VR agencies by marketing the program in accordance with the requirements in the Uniform Guidance at 2 C.F.R. § 200.467 and regularly engaging in strategic actions to improve their visibility to people who access their services. VR agencies can improve their visibility and invite successful engagement through a variety of methods which could include—

- Spotlighting successes on VR agency websites and through community connections with stakeholder groups;
- Providing a 24-hour open-door and high-quality service presence virtually online or through social media, or by telephone;
- Featuring positive ratings and feedback from program participants and employers through multiple media;
- Highlighting the value of services, agency performance, and the social and fiscal return on investment when sharing information with public policymakers;
- Engaging public officials and legislators in personalizing and acknowledging the achievements of program participants through congratulatory letters or similar recognition activities;
- Establishing a virtual or physical presence in secondary and postsecondary educational settings and in American Job Centers (AJCs);

- Promoting the broad continuum of available services from pre-employment transition services for students with disabilities to employment advancement;
- Emphasizing on websites and in public information what the VR agency aspires to accomplish along with the range and depth of available resources rather than featuring limitations on services (e.g., order of selection, lack of fiscal resources, staff shortages); and
- Introducing the wide array of available services to ensure individuals with disabilities have access to information to make choices and inquire about specific resources to support their pathway to the greatest possible employment success.

Optimizing the VR agency's presence and visibility in the State can be done at minimal cost with maximum effect that results in fulfilling the VR agency's purpose and mission while successfully engaging and serving individuals with disabilities and employers, thereby assisting individuals with disabilities to achieve employment outcomes in high-demand and rewarding careers in the competitive labor market.

Engaging Early and Often

Students and youth with disabilities should be afforded multiple opportunities to connect and engage with VR professionals who can provide services that can help to ensure the successful transition from school to work life. VR professionals can provide access to an early start at job exploration through transition and pre-employment transition services arranged in coordination with educational agencies. VR professionals can also provide career counseling and information and referral services to facilitate the successful transition from school to work life. Pre-employment transition services, as described in 34 C.F.R. § 361.48(a), are the earliest set of services available to individuals with disabilities under the VR program. These services, provided in collaboration with local educational agencies (LEAs), are available to both potentially eligible and eligible students with disabilities who meet the definition of a "student with a disability" in 34 C.F.R. § 361.5(c)(51). A student can receive multiple and frequent pre-employment transition services. Participation in these services can promote continued engagement with the VR program and support the development of a meaningful and substantive IPE, including the delivery of services leading to achievement of competitive integrated employment.

The five required pre-employment transition services activities outlined in 34 C.F.R. § 361.48(a)(2) provide opportunities for early engagement of students with disabilities, regardless of whether they have applied or been determined eligible for the VR program. They are—

- Job exploration counseling;
- Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment in the community to the maximum extent possible;
- Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
- Workplace readiness training to develop social skills and independent living; and

- Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring (including peer mentoring from individuals with disabilities working in competitive integrated employment).

When a VR agency is working with schools to coordinate and provide transition services or pre-employment transition services to students with disabilities, including those students identified for purposes of Section 504 of the Rehabilitation Act, the coordination of any VR services should occur concurrently with transition planning and services under the Individuals with Disabilities Education Act (IDEA). Specifically, a VR agency should proactively seek engagement with educational agencies to participate in individualized education program (IEP) team meetings, when invited, to coordinate activities, provide consultation, and encourage seamless access to the VR program (34 C.F.R. § 361.48(a)(4)(i) and (iii)).

Although the purpose of the VR program is to assist individuals with disabilities to achieve an employment outcome in competitive integrated employment or supported employment, some individuals with disabilities may choose to consider subminimum wage employment. Section 511 of the Rehabilitation Act imposes limitations on the payment of subminimum wage for a “youth with a disability,” as defined in 34 C.F.R. § 361.5(c)(58), seeking subminimum wage employment. The requirements related to the roles and responsibilities of VR agencies and LEAs are outlined in Section 511 of the Rehabilitation Act. Certain specific requirements, set forth in 34 C.F.R. § 397.20, must be fulfilled and documented prior to a youth with a disability receiving a subminimum wage. The requirements support meaningful, sustained, and informed engagement of youth with disabilities, affording opportunities for youth and their networks to receive information regarding pre-employment transition services, as applicable, the opportunity to apply for VR services, and, regardless of determination of eligibility, the receipt of career counseling and information and referral services to local Federal and State programs that offer employment-related services and supports. Career counseling and information and referral services may include benefits counseling to assist youth with disabilities and their families in understanding the interplay between earned income and income-based financial, medical, and other benefits (34 C.F.R. § 397.40(a)(4)). While Section 511 of the Rehabilitation Act prescribes minimum required contact intervals, more frequent contact can encourage greater engagement, help to facilitate the VR program connection with youth with disabilities that otherwise might not occur once a youth is hired at subminimum wage, and may foster further exploration of available VR services, leading to the achievement of an employment outcome in competitive integrated employment or supported employment.

Expediting Application and Eligibility to Sustain Engagement

“If you build it, they will come” only works if people know about VR agencies and if VR agencies offer the services people value and need. Increased visibility of VR agencies, coupled with positive expectations and VR experiences, will inevitably lead to more referrals, applicants, and potentially more eligible individuals with disabilities who could benefit from the VR program.

Streamlining Application - Initiating Engagement

Timely engagement of individuals during referral and application, essential at this early stage in the VR process, is best achieved if VR agencies streamline procedures and remove any unnecessary barriers and requirements. The Rehabilitation Act and the VR program regulations require standards for the prompt and equitable handling of referrals of individuals for VR services, including referrals of individuals made through the one-stop delivery system under Section 121 of the Workforce Innovation and Opportunity Act (WIOA), which must include timelines for making good faith efforts to inform individuals of application requirements and to gather information necessary to begin an assessment for determining eligibility and priority for services (34 C.F.R. § 361.41(a)). VR agencies should eliminate delays in the referral and application process, thereby expediting engagement and facilitating rapid access to VR services.

VR agencies can simplify the application process and provide multiple avenues for individuals with disabilities to apply, including by: telephone; completion of an online application; submission of a written application form; or in person at multiple locations such as a local VR agency office, an AJC or one-stop center, an employer location (including an entity holding a certificate issued under Section 14(c) of the Fair Labor Standards Act), or a mutually convenient location in the community such as a library or an individual's home. Requiring applicants to attend a scheduled group meeting to submit an application, while potentially more efficient for a VR agency experiencing capacity and resource challenges, reduces the ease of applying for those who may need transportation, accommodations, personal assistance arrangements, or who may be otherwise inconvenienced or unable to participate in the group meetings. Such an approach also can lengthen the application timeframe and unintentionally discourage some individuals from applying, or cause others to disengage prematurely from the VR process.

In accordance with 34 C.F.R. § 361.41(b)(2), an application has been made when an individual—

- Has completed and signed an agency application form;
- Has completed a common intake application form in a one-stop center requesting VR services; or
- Has otherwise requested services from the designated State unit (DSU).

Additionally, an individual is considered to have completed an application when the individual or the individual's representative, as appropriate—

- Has provided the information necessary to initiate an assessment to determine eligibility and priority for services, and
- Is available to complete the assessment process.

In general, unless specifically required by State statute or regulation, applicants should not be required to provide unnecessary information or documentation during the application process, such as proof of State residency, which can potentially deter applicants or prolong the application and eligibility determination process. For example, VR agencies must assure in the VR services portion of their Unified or Combined State Plan that they will not impose a duration

of residence requirement that excludes from services any applicant who is present in the State. Thus, the VR agency may not require the applicant to demonstrate a presence in the State through the production of any documentation that, under State or local law, or practical circumstances, results in a de facto duration of residence requirement. Furthermore, in accordance with 34 C.F.R. § 361.42(c), no applicant or group of applicants may be excluded or found ineligible solely on the basis of the type of disability; and eligibility requirements must be applied without regard to the—

- Age, sex, race, color, or national origin of the applicant;
- Type of expected employment outcome;
- Source of referral for VR services;
- Particular service needs or anticipated cost of services required by an applicant or the income level of an applicant or applicant's family;
- Applicants' employment history or current employment status; and
- Applicants' educational status or current educational credential.

In addition, while collecting information to determine financial need is allowable, it is not required by the Rehabilitation Act and may lengthen the timeframe for eligibility determination and development of the IPE, increasing the burden for the VR counselor as well as the applicant.

Streamlining Determination of Eligibility - Expediting Engagement

Timely delivery of VR services begins with eligibility determinations. Eligibility must be determined within 60 days unless there are exceptional and unforeseen circumstances beyond the control of the DSU and the DSU and applicant agree to a specific extension of time (34 C.F.R. § 361.4(b)), or an individual requires a trial work experience (34 C.F.R. § 361.42(e)). A DSU's determination of whether an individual with a disability is eligible for the VR program must be based only on the following three criteria:

- Determination by qualified personnel that the applicant has a physical or mental impairment (34 C.F.R. § 361.42(a)(1)(i));
- Determination by qualified personnel that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment (34 C.F.R. § 361.42(a)(1)(ii); and
- Determination by a qualified VR counselor employed by the DSU that the applicant requires VR services to prepare for, obtain, maintain, advance in, or regain employment that is consistent with the applicant's unique strength, resources, priorities, concerns, abilities, capabilities, interests, and informed choice (34 C.F.R. § 361.42(a)(1)(iii)).

The Rehabilitation Act and its regulations create two distinct presumptions to assist in streamlining the eligibility determination process, as appropriate. First, Section 102(a)(3) of the Rehabilitation Act presumes that an applicant who has been determined to have a disability or to be blind for purposes of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) must be:

- Considered to be a person with a significant disability, as defined at Section 7(21) of the Rehabilitation Act; and
- Presumed to be eligible for VR services (provided the applicant intends to achieve an employment outcome) unless the qualified VR counselor employed by the DSU can demonstrate that the applicant is incapable of benefitting from the VR program due to the severity of the applicant's disability.

The qualified VR counselor employed by the DSU can verify the applicant's SSI or SSDI determination in accordance with 34 C.F.R. § 361.41(b)(2), after obtaining the applicant's informed consent, by obtaining the applicant's SSI or SSDI award letter at the applicant's "my Social Security account" at the [U.S. Social Security Administration](#). If an applicant does not have an account, the VR counselor may assist the applicant in navigating the steps to create one. While this documentation supports the presumption of eligibility and the existence of a significant disability and, thus, an eligibility determination by a qualified VR counselor, it will likely not be sufficient for accurately assigning a priority of service category. As defined in Section 7(21)(E)(i) of the Rehabilitation Act and 34 C.F.R. § 361.5(c)(29), an "individual with a most significant disability" means an individual with a significant disability who meets the DSU's criteria for an individual with a most significant disability. These criteria must be consistent with the requirements in Section 101(a)(5)(C) of the Rehabilitation Act and 34 C.F.R. § 361.36(d)(1) and (2). Because an award letter from the SSA, alone, will not be sufficient for assigning a priority category related to the definition of an individual with a most significant disability, VR agencies may also find that additional medical or educational data are needed for assigning the individual to a priority of service category and determining service needs for IPE development.

Second, Section 102(a)(2) of the Rehabilitation Act and 34 C.F.R. § 361.42(a)(2) create a presumption that applicants with disabilities can benefit from the VR program, thereby helping to expedite the eligibility process, for purposes of satisfying the requirement at 34 C.F.R. § 361.42(a)(1)(iii).

It is the Department's longstanding interpretation that a determination that an applicant has a physical or mental impairment, or meets any of the other eligibility criteria, must be made by personnel who meet existing licensure, certification, or registration requirements applicable to their profession (62 FR 6308, 6324 (Feb. 11, 1997)). In addition to licensed medical and mental health professionals, the Department has long stated its belief that "qualified personnel" for purposes of 34 C.F.R. § 361.42(a)(1)(i) and (ii), "encompass individuals who are certified under State law and individuals licensed or certified under State regulations" (60 FR 64476, 64487 (Dec. 15, 1995)). Although "qualified personnel" need not be medical or mental health professionals in all instances, the Department "anticipates that in most instances [eligibility] determinations will be supported by medical documentation" (Id.). DSUs can ensure they use existing data and documentation, including information from educational agencies to the maximum extent appropriate to make eligibility determinations, as required by Section 102(a)(4) of the Rehabilitation Act, and consistent with the assessment for eligibility determination process, as defined at Section 7(2)(A)(i) of the Rehabilitation Act, which means a review of existing data.

The determination of a disability must be made by qualified personnel¹ certified or licensed to make such determinations in the State, which may include VR counselors holding such certifications or licensures.² A qualified VR counselor is critical to expediting the assessment for determining eligibility and priority for services, as described in 34 C.F.R. § 361.42. State VR agencies must establish standards that are consistent with any national or State-approved or recognized certification, licensing, or registration requirements, or, in the absence of these requirements, other comparable requirements (including State personnel requirements) that apply to the profession or discipline in which those personnel are providing VR services, and must ensure personnel have a 21st-century understanding of the evolving labor force and the needs of individuals with disabilities (Section 101(a)(7)(B) of the Rehabilitation Act and 34 C.F.R. § 361.18(c)). Agencies must ensure they recruit, prepare, and retain personnel who are qualified in accordance with required personnel standards.³

VR agencies employ a variety of personnel who interact with both individuals with disabilities and employers, but a qualified VR counselor must meet the education and experience standards of the profession, consistent with those set forth at Section 101(a)(7)(B) of the Rehabilitation Act and 34 C.F.R. § 361.18(c). Although Section 101(a)(7)(B) of the Rehabilitation Act, as amended by WIOA, broadened the education and experience requirements for qualified rehabilitation personnel, the requirement remains that the DSU must maintain personnel standards that are “consistent with any national or State-approved or recognized certification, licensing, or registration requirements, or, in the absence of these requirements, other comparable requirements (including State personnel requirements).” Therefore, it is essential that the DSU establish personnel standards in its Unified or Combined State Plan, consistent with Federal requirements at Section 101(a)(7)(B) of the Rehabilitation Act and 34 C.F.R. § 361.18(c), including the specialized training and experience described in 34 C.F.R. § 361.18(c)(2)(ii), which enable the qualified VR counselor employed by the DSU to work effectively with individuals with disabilities to assist them in achieving competitive integrated employment and to work with employers who hire them.

Pursuant to 34 C.F.R. § 361.42(a)(1)(iii), only a qualified VR counselor employed by the DSU (i.e., those VR counselors meeting the personnel standards established by the DSU pursuant to Section 101(a)(7)(B) of the Rehabilitation Act and 34 C.F.R. § 361.18(c)) may make eligibility determinations for individuals with disabilities applying for services under the VR program. This responsibility is consistent with the non-delegable functions reserved solely for the VR program, specifically those set forth at 34 C.F.R. § 361.13(c)(i) (i.e., all decisions affecting eligibility for VR services, the nature and scope of available services, and the provision of VR services). Therefore, VR agencies must ensure that only those VR counselors who are “qualified” in accordance with the State’s personnel standards for VR counselors, as set forth in the State’s approved Unified or Combined State Plan, are assigned the task of determining eligibility, as permitted by 34 C.F.R. § 361.42(a)(1)(iii).

¹ 34 C.F.R. § 361.42(a)(1)(i).

² Although neither the Rehabilitation Act nor its implementing regulations address State licensure or certifications for purposes of determining whether personnel are qualified to determine whether an individual has a disability, the Department has stated its position during past rulemaking processes. See relevant preamble discussions at 60 FR 64476, 64477-64478 (Dec. 15, 1995), 62 FR 6308, 6324-6325 (February 11, 1997), 65 FR 10620, 10625-10627 (Feb. 28, 2000), and 66 FR 4380, 4427-4428 (Jan. 17, 2001).

³ 34 C.F.R. § 361.18(b).

When developing the State's personnel standards to be included in the approved Unified or Combined State Plan, the State must establish and maintain education and experience requirements to ensure, among other things, that the personnel have a 21st-century understanding of the needs of individuals with disabilities (34 C.F.R. § 361.18(c)(1)(ii)). The range of education and experience that States must consider when establishing personnel standards, in accordance with 34 C.F.R. § 361.18(c), are set forth at 34 C.F.R. § 361.18 (c)(1)(A) and (B). For those personnel employed as a qualified VR counselor by the DSU, these minimum education and experience standards, set forth in the State's established personnel standards approved in the State's Unified or Combined State Plan, lay the foundation for indicating a level of competency and skill with respect to the needs of individuals with disabilities. This is particularly important for those non-delegable functions that can only be performed by qualified VR counselors employed by the DSU, such as determining individuals with disabilities eligible for the VR program in accordance with 34 C.F.R. § 361.42(a)(1)(iii). VR agencies should exercise prudence when establishing personnel standards and ensure personnel responsible for making disability-related decisions have the appropriate knowledge and experience. To that end, for example, some State VR agencies have established and maintained personnel standards for VR counselors that require advanced training in a field of study related to disability or rehabilitation or a professional certification in rehabilitation counseling.

Eligibility Determinations – Balancing Expedited Decisions with Meaningful Engagement

During the eligibility determination process, which begins what will eventually become a sustained and meaningful engagement between the participant and VR counselor, the “qualified VR counselor employed by the DSU” could also constitute “qualified personnel,” for purposes of the determinations that must be made in accordance with 34 C.F.R. § 361.42(a)(1)(i) and (ii) (i.e., that the applicant has a physical or mental impairment and that the physical or mental impairment constitutes or results in a substantial impediment to employment) However, as noted above, for a VR counselor to be qualified to do so, the State must have established personnel standards in its approved Unified or Combined State Plan that indicate its VR counselors have the competency and skill to make such determinations, which are comprehensive in nature, thereby promoting sustained meaningful engagement between the individual with a disability and the VR counselor. As noted above, such competency and skill are demonstrated in the State's standards through relevant education and experience consistent with Federal requirements set forth at Section 101(7)(B) of the Rehabilitation Act and 34 C.F.R. § 361.18(c)). However, even if a State's established personnel standards in its approved Unified or Combined State Plan specify VR counselors who are “qualified” to make the various determinations required by 34 C.F.R. § 361.42(a)(1), including those at 34 C.F.R. § 361.42(a)(1)(i) and (ii), additional documentation may still be needed from other “qualified personnel,” either internal or external to the DSU, to document the applicant's impairment or substantial impediment to employment before the qualified VR counselor employed by the DSU can determine the applicant is eligible for VR services. When additional documentation is necessary to determine eligibility, it is the responsibility of the qualified VR counselor to assess disability-related information (e.g., supporting documentation from medical and educational records), make the eligibility determination, and document in the record of service how the requirements of eligibility are met, thereby satisfying 34 C.F.R. § 361.42(a)(1)(iii) and § 361.47(a)(1).

Similarly, a qualified VR counselor employed by the DSU, even though experienced in the needs of individuals with disabilities generally, may need additional information or documentation from other qualified personnel, either internal or external to the DSU, to determine whether the applicant requires VR services to prepare for, obtain, maintain, advance in, or regain employment that is consistent with the applicant's unique strength, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, as required by 34 C.F.R. § 361.42(a)(1)(iii). The qualified VR counselor may obtain existing data or may need to obtain additional information and data, through the assessment process, as defined at Section 7(2)(A)(ii) of the Rehabilitation Act, to make any of the determinations at 34 C.F.R. § 361.42(a)(1). At each stage of the assessment process, the qualified VR counselor should be engaging with the applicant, explaining the need for the additional information and the benefit it will provide in expediting the process and the eligibility determination. Although qualified VR counselors may not be trained diagnosticians, medical and mental health records can assist qualified VR counselors, who are trained in interpreting such reports, in comprehending any secondary disabilities or medical conditions that should be considered in assessing the eligibility and VR service needs of an applicant. For example, although a qualified VR counselor may readily observe a disability, such as an amputation of a limb, and, thus, could make determinations required by 34 C.F.R. § 361.42(a)(1)(i) and (ii), other assessment information and reports by other certified or licensed professionals could provide the qualified VR counselor with invaluable information. For example, an individual with an amputated leg may also experience medical conditions, such as diabetes or post-traumatic stress disorder. Thus, observation of a visible disability by a qualified VR counselor may be sufficient to determine that an applicant is an individual with a disability as required by 34 C.F.R. § 361.42(a)(1)(i); it alone may not be sufficient to determine a secondary disability, nor may it be sufficient to determine if the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment as required by 34 C.F.R. § 361.42(a)(1)(ii).

In the event a qualified VR counselor determines that additional information to make an eligibility determination is necessary, the VR counselor should inform the applicant. In arranging for any additional assessment activities, the VR counselor should engage the applicant in making informed choice of providers, such as with respect to any necessary medical, psychiatric, psychological, and physical capacity evaluations. The documentation from qualified personnel must reflect a determination that the individual has an impairment and the impairment results in a substantial impediment to employment, to assist the qualified VR counselor employed by the VR agency in making an eligibility determination. For example, an applicant reports having bipolar disorder on the application for services, and at the intake interview, they do not bring any medical documentation to support the diagnosis, but reports they were treated by a doctor in a different State. Because the qualified VR counselor cannot observe any current impacts of the disability solely based on interactions with the applicant during the intake interview, the VR counselor should obtain permission to request medical records from the applicant's prior treating provider and, if needed, arrange for a psychological evaluation to substantiate the diagnosis for eligibility determination purposes. In other words, the qualified VR counselor cannot determine this applicant eligible without obtaining additional information because there is insufficient information to make any of the eligibility determinations at 34 C.F.R. § 361.42(a)(1).

For applicants who have a congenital or permanent disability, existing historical medical and educational information may be sufficient for the purpose of determining eligibility. For example, an applicant who is blind who presents documentation of permanent blindness to the qualified VR counselor employed by the DSU during the intake interview could be determined eligible by that counselor on the basis of that historical information, pursuant to 34 C.F.R. § 361.42(a)(1). However, even though the qualified VR counselor can easily determine this applicant eligible, it could be beneficial to obtain other current records relevant to the information learned during the interview in order to have a better understanding of the eligible individual's scope of VR service needs. On the other hand, an applicant's self-report of a traumatic brain injury (TBI) with no supporting data or records created by a qualified diagnostician is not sufficient to make an eligibility determination. An assessment, such as neuropsychological evaluation, is necessary to support an eligibility determination for VR services. In pursuing an assessment, the qualified VR counselor should engage the applicant in meaningful ways, explaining the process and obtaining informed choice of the providers whenever possible.

Trial work experiences offer another opportunity for engagement during the eligibility determination process. In accordance with 34 C.F.R. § 361.42(e), VR counselors may decide that trial work experiences will help determine whether an individual with a significant disability can benefit from VR services in terms of an employment outcome. Engaging an applicant during the development of a written plan for the trial work experience is essential to ensure a sufficient variety of experiences over a sufficient period of time, along with appropriate supports, to accommodate the rehabilitation needs of the individual during the trial work experiences. Appropriate supports could include assistive technology devices and services, and personal assistance services. Taking into consideration the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice also builds rapport to support communication of the results of the trial work experience. The trial work experience should be extensive enough that it produces sufficient evidence to conclude that the individual can benefit from the provision of VR services in terms of an employment outcome, or yield clear and convincing evidence that an individual is incapable of benefitting from the provision of VR services in terms of an employment outcome to support an ineligibility determination.⁴ Ensuring consistent communication and engagement with an individual throughout the trial work process facilitates individual choice in the settings and supports needed to produce the most accurate results and inform the eligibility determination.

The supporting documentation obtained for the purposes of eligibility determination will likely also serve as substantiating documentation for determining a priority for services (if the State is operating under an order of selection as outlined in Section 101(a)(5) of the Rehabilitation Act and 34 C.F.R. § 361.36). Determining eligibility and assigning a priority for services are companion activities, meaning they are separate determinations, but the information and records used in determining eligibility is often critical to informing the assessment for priority for services (i.e., with the review of data to determine functional capacities that are seriously limited by a severe physical or mental impairment) (34 C.F.R. §§ 361.30 and 361.29). As previously discussed, if an individual has additional medical or psychological information or undergoes an assessment that reveals other disabilities, such information and documentation will assist in

⁴ Section 102(a)(2)(B) of the Rehabilitation Act.

assigning the individual to the appropriate priority category for a VR agency that has established and implemented an order of selection (Section 102(a)(2)(B) of the Rehabilitation Act).

Flexibilities Under the Rehabilitation Act for Expediting and Ensuring Engagement During Eligibility Determination

Rapid engagement of applicants can also occur if a VR agency elects to develop and implement policies for interim eligibility determinations. While an interim determination is not a full and final determination, as outlined in 34 C.F.R. § 361.42(b)(3), the VR agency can initiate the assessment of VR needs and services based on an interim determination of eligibility prior to the 60-day period but must make a final determination of eligibility within 60 days of the individual submitting an application for services in accordance with 34 C.F.R. § 361.42(b)(2). This method of eligibility determination may assist some agencies in quickly engaging individuals while awaiting additional information to support the final determination. Applying the flexibility of interim eligibility determination can be useful when an applicant has an observable disability or reports having a disability that is apparent to a VR counselor but may require additional supporting documentation. For example, if an applicant who presents wearing a medically prescribed back brace, commonly known as a Boston brace, self-reports chronic back pain and limited mobility as a result of scoliosis, and states medical documentation exists that clearly indicates a history of scoliosis, the qualified VR counselor can assess applicant self-report as well as document counselor observations of the Boston brace to make an interim eligibility determination while awaiting additional supporting documentation from the applicant's treating physician. In this example, the documentation needed is a report of the applicant's limitations in order for the qualified VR counselor to make a determination that the disability poses a substantial impediment to employment, as required by 34 C.F.R. § 361.42(a)(1)(ii).

Supporting and Facilitating Eligibility Documentation

No method of determining eligibility waives the requirement to obtain documentation supporting an eligibility determination in the record of services as outlined in 34 C.F.R. § 361.47, or the determination by a qualified VR counselor employed by the DSU (i.e., the VR agency) that the applicant requires VR services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interest, and informed choice (34 C.F.R. § 361.42(a)(iii)). Supporting documentation, including information from educational agencies serving students with disabilities, and written documentation provided by qualified personnel duly licensed and certified by States to determine whether an individual is an "individual with a disability," may assist the VR counselor in establishing eligibility and can often easily be obtained through online patient and student portals. To expedite eligibility determination and foster engagement, VR agencies are encouraged to train staff on assisting applicants in accessing electronic records, using existing documentation to the maximum extent possible, understanding the responsibilities of qualified VR counselors in making eligibility determinations, exercising available flexibilities under the Rehabilitation Act for making eligibility determinations, and prioritizing timely and engaged communications and relationships with applicants and eligible individuals.

Sustained Engagement When Implementing an Order of Selection

VR agencies implementing an order of selection have multiple opportunities to facilitate and improve the engagement of eligible individuals on a waiting list. Continued engagement while awaiting services is paramount in retaining the interest of individuals with disabilities, assisting them in accessing no cost or comparable benefits and services, and increasing employment readiness. The more individuals can engage in activities, including pre-employment transition services for students prior to being determined eligible or before being released from a waiting list, the better informed such individuals can be about needed services and their employment goals. Ultimately, consistent and meaningful communication and engagement with individuals while they are awaiting services may reduce the number of individuals exiting the VR program, reduce case closures prior to developing the IPE and beginning VR services, and increase the number of participants successfully achieving their employment goals. While operating under an order of selection (Section 101(a)(5) of the Rehabilitation Act and 34 C.F.R. § 361.36), an agency may adopt policies and practices that facilitate meaningful engagement, such as setting timely and routine check-ins with eligible individuals who are placed in a priority category that is closed or making referrals to other programs that can provide supports or training to help prepare individuals for their employment journey with the VR program. For example, AJCs may have potential information or training opportunities that could complement or expedite the completion of VR services once an eligible individual is removed from a waiting list and is able to be served. Helping individuals on the waiting list contact transportation programs, social service agencies, or relevant community programs, such as independent living centers, can help create a foundation of personalized concern and trust that the VR agency is working proactively in the best interests of eligible individuals as they await VR services.

Maximizing Meaningful Engagement During Planning and Services

Meaningful and sustained engagement requires a holistic approach and an ongoing relationship built upon trust and respect. This applies to both VR program participants and VR staff. Planning for VR services begins with an assessment and comprehensive understanding by both the VR counselor and eligible individual regarding the eligible individual's needs, disability-related challenges, desired goals, educational and work history, cultural influences, personal and professional strengths, motivation, and environmental challenges. This cannot be accomplished without affording the opportunity for the VR counselor and the individual to establish an ongoing relationship, which to be successful will need to be built on regular good communication and mutual respect. Such a relationship can be built both virtually and in person. VR agency management can support VR counselors and other frontline staff by removing, revising, or restructuring burdensome policies, practices, or alignment of staff duties that may inhibit timely engagement and meaningful interactions with VR program participants while continuing to maintain necessary internal controls. One such example might be eliminating the initial and annual assessment of financial need to determine participant costs in allowable services. Another example might be assigning processing and follow-up tasks to support staff. Evaluating and implementing even small changes can result in big dividends in terms of developing meaningful engagement among VR staff and between VR counselors and the individuals they serve.

Benefits Planning and Financial Literacy

VR counselors and benefits planners should provide participants with information about how the VR program can change the financial trajectory of their lives, and their future possibilities if they can move away from solely relying on SSDI or SSI benefits by supplementing their income and leveraging work incentives, or ideally, engage in employment paying good wages and benefits that eliminates dependence on or the need for public benefits. Section 102(b)(2) of the Rehabilitation Act and 34 C.F.R. § 361.45(c)(3) require that individuals entitled to benefits under Title II or Title XVI of the Social Security Act on the basis of a disability or blindness be provided general information on additional support and assistance for individuals with disabilities desiring to enter the workforce, including assistance with benefits planning. Agencies are encouraged to augment benefits planning services available through SSA or community-based Work Incentives Planning and Assistance (WIPA) programs, by developing VR counselor knowledge regarding Social Security disability benefits and associated work incentives and/or building a team of in-house Community Work Incentive Coordinators (CWIC) who can engage participants in an analysis of available work incentives and the effect of work upon benefits and potential long-range financial security. Providing professional development opportunities for VR counselors to expand their understanding of disability benefits and work incentives increases the likelihood and quality of conversations that can help participants maximize their possible employment outcomes.

Students with disabilities who are receiving transition planning under an IPE or participating in pre-employment transition services may benefit from financial literacy training and workplace readiness or work-based learning activities in which they learn about money, personal finances, and budgeting. Such activities help them understand the complexities of money, whether from public benefit programs or earned from an employer, or both. Benefits planning services as part of financial literacy training may shift a student's view from one of concern to one of hope and the possibility of a brighter financial future. An individual receiving SSA disability-related benefits prior to participating in a paid work-based learning experience should receive benefits planning beforehand, to understand SSA's wage reporting requirements and to help alleviate fear and confusion around the process, creating a proactive learning experience that can add to future success.

Benefits planning should be provided at multiple points within the continuum of VR services to support informed choice. It may be appropriate, for example, to provide benefits planning services during pre-employment transition services, IPE development, upon an employment offer, or the offer of a raise or an advancement opportunity. Benefits planning services can also help answer questions and alleviate concerns individuals, their families, and others may have about the effect of work on the receipt or loss of benefits and assist with making an appropriate informed choice of an employment goal, including the wage and hours of work. An individual interested in going to work might have a life-long fear of losing their disability-related benefits and may be uncertain about a number of factors, including whether they will be able to work given their disability, whether they will need workplace accommodations, transportation challenges related to getting to work, whether they can keep their healthcare benefits, and whether they will have less money. Providing individuals with disabilities with benefits planning

services is a way to provide support and ensure informed decision-making related to employment.

Meaningful Engagement in Vocational Assessment and Career Exploration

Vocational assessment and career exploration are essential to the development of an IPE. When conducted in a manner that provides informed choice (34 C.F.R. § 361.52 and Section 102(d) of the Rehabilitation Act), in conjunction with counseling and guidance, such assessment and evaluation is valuable and informative and can result in the greatest likelihood of successful achievement of an employment goal. Assessing VR need, as outlined in 34 C.F.R. § 361.45(b)(1) and (f), is an individualized approach. It can be fairly simple when an individual is seeking advancement in employment, enters the VR program with an employment goal and a self-written IPE that identifies the nature and scope of VR services that can be supported by their VR counselor, or the information used to determine eligibility and priority for services provides enough data to substantiate and expedite disability-related services needed and identified on the IPE without the need for comprehensive assessment. Alternately, through meaningful and sustained engagement, a VR counselor may identify the need for additional information or assessments to support a fully developed IPE or an amendment to the original IPE.

Comprehensive assessment engages individuals with disabilities when additional data are necessary to determine an employment outcome and the required IPE services (34 C.F.R. § 361.45 (f)(2)). When conducted with the IPE in mind, the information derived from comprehensive assessment informs plan development and helps to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the needs for supported employment (34 C.F.R. § 361.5(c)(5)(ii)). There may be other areas in a person's life that may require further exploration, including cultural values, language-related needs, or other challenges such as housing struggles, childcare needs, access to transportation, and essential needs related to independent living. While the comprehensive assessment uses, to the maximum extent possible, existing information or information provided by the individual or their network of support necessary to identify their rehabilitation needs to develop the IPE, there may be instances when additional information is needed.

An individual may not be aware of the variety of assessment tools available to help inform decision-making, and through the careful guidance of a VR counselor, information can be shared that will encourage active participation in the vocational assessment and career exploration process. VR services and systems can seem complicated. Therefore, strong communication and facilitation are necessary to optimize results. A qualified VR counselor should introduce and explain the types of assessments and career exploration tools available to assist an individual in making thoughtful decisions regarding their rehabilitation services as well as the need for the assessment when requested or required to participate in such activities. It may be necessary to evaluate patterns of behavior, attitudes, habits, and tolerance related to work, in typical employment settings through community-based work assessments, to assess and further develop the capacities of an individual to perform adequately in a work environment (34 C.F.R. § 361.5(c)(5)(ii)(C), (D) and (E)). These aforementioned activities are critical in helping to identify the services needed to achieve the employment outcome on an IPE, which may include the provision of assistive technology devices and services, personal assistance services, and

transition services for a student or youth with a disability (34 C.F.R. § 361.46(a)(2)) as well as the specific supported employment services for and individual with a most significant disability for whom an employment outcome in a supported employment setting has been deemed to be appropriate, including the expected extended services needed (34 C.F.R. § 361.46(b)).

Individual Engagement in IPE Development

Developing an IPE can be simple or complex, while personalized and tailored to the individual who has an agreed upon a specific employment outcome in competitive integrated employment. For a student with a disability, the IPE should take into account the student's IEP or 504 services and reflect the financial responsibilities of the State education agency (SEA) as outlined in the interagency agreement, as applicable (34 C.F.R. §§ 361.45(d)(9) and 361.22). IPEs must be designed to achieve a specific employment outcome, as defined in 34 C.F.R. § 361.5(c)(15), that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice (34 C.F.R. § 361.45(b)(2)). For a student or youth with a disability, an IPE may include a description of the individual's projected post-school employment outcome, as provided in 34 C.F.R. § 361.46(a)(1), that will be refined to a specific employment outcome as the student or youth participates in VR services. In accordance with 34 C.F.R. § 361.46(a)(2), an IPE must also include the VR services needed to achieve the employment outcome, including any necessary specific transition services and supports.

Many factors influence a chosen employment outcome. Therefore, it is important to explore an individual's personal and professional strengths, past successes and challenges, and desired income, as well as the occupation. Evaluating existing and easy-to-access information regarding employment potential, both in today's labor market and the future, will help support conversations with an individual with a disability regarding their goals, time commitment, disability-related challenges, and plan for success. Individuals with disabilities should be provided informed choice and encouraged to reach their highest employment potential. VR professionals can facilitate IPE development to include services that support an employment outcome that is not simply an entry point in a field or the easiest position to obtain, but rather mid- to high-level positions that are in high demand, offer competitive pay, and desirable benefits packages. Qualified VR professionals bring significant, if not unique, value to these conversations because they are accustomed to addressing disability.

IPE development is critical to the perception and realization of the advantages the VR program provides to an individual with a disability, including a student or youth with a disability. While an IPE can and most often is developed with assistance from a qualified VR counselor employed by the State VR agency, there are flexibilities and multiple options that empower individuals to actively participate in their individualized plan development, as described in 34 C.F.R. § 361.45(c)(1) and allow an individual to engage with and seek assistance from others in the development of an IPE. For an individual with a most significant disability, who, because of the nature and severity of their disabilities has not historically obtained competitive integrated employment or such employment has been interrupted or intermittent as a result of their disability, needs intensive supported employment services and extended services as described in

34 C.F.R. § 361.5(c)(53) and (54), and for whom supported employment has been deemed appropriate, the IPE must:

- Specify the supported employment services to be provided by the VR agency;
- Provide for the transition of an individual with a most significant disability, including a youth with a most significant disability, to extended services no later than 24 months or longer, if needed, after the individual enters supported employment; and
- Identify the source of extended services as defined in 34 C.F.R. § 361.5(c)(19).

Clearly communicating the coordination efforts that the VR agency will undertake on behalf of the individual requiring supported employment services may reassure participants that the complex system of providers and services can be navigated and may alleviate any hesitation to fully participate in VR services.

Per 34 C.F.R. § 361.45(d)(3), the eligible individual must agree to the IPE, and the IPE must be approved and signed by a qualified VR counselor employed by the State VR agency. This collaborative process commits both parties to success. It is also an opportunity to review responsibilities, reiterate mutual expectations associated with each step in the IPE, acknowledge the potential for success, and begin facilitating access to the planned services that are required to reach the participant's maximum potential. The seamless and timely delivery of VR services fosters meaningful and sustained engagement and maximizes the likelihood of meeting expectations and commitments.

Engagement During Fulfillment of IPE Services

Engagement with the participant is a critical element to the successful fulfillment of IPE services. The qualified VR counselor's interaction with the participant while coordinating VR and supported employment services is important during this phase. Specifically, while there may be steps or milestones within an IPE that are reached or accomplished by the participant, the services to complete the steps or achieve the milestones are most often coordinated, provided, or paid for by the State VR agency. The coordination of VR and supported employment services may seem daunting to someone navigating the complex system of supports required to achieve competitive integrated employment. The knowledge and experience of qualified VR professionals are often essential to successfully facilitate the seamless delivery of VR and supported employment services. While a participant and the qualified VR counselor determine the required VR services, both the counselor and other VR staff, (e.g., rehabilitation technicians, business engagement specialists) coordinate and facilitate access to the services outlined in the IPE. An individual with a disability may be unsure of when or how to access coordinated services; however, clear and consistent communication from the State VR agency staff and its vendors will help to maintain a high level of engagement. While interactions may be frequent during the initial weeks or months after an individual is determined eligible for services, a VR agency is encouraged to establish policies or procedures outlining the minimum frequency of contact with individuals receiving VR services.

If an individual is participating in a training or education program, communication should be maintained to reinforce the available support of the VR program in the event any challenges arise

and to celebrate the success of related achievements. Waiting until the end of an academic term may be too late to navigate any related issues or challenges that may prohibit success and could negatively impact a person's progress towards achieving the goal on their IPE. Establishing expectations for regular and frequent communication by both VR agency staff and individuals participating in IPE services may result in opportunities to discuss progress, offer or request necessary supports, and foster effective engagement. When solid foundational relationships are established, they provide a safe space in which challenges can be discussed and addressed, as appropriate, to support the best possible result, reduce the likelihood of attrition, and increase the success of achieving milestones or completing steps within an IPE.

When ongoing support services, as defined in 34 C.F.R. § 361.5(c)(37), are required to achieve employment in a competitive integrated environment, communication and collaboration among the individual with a disability, the VR counselor, and service providers are key to sustain engagement and maintain the required levels of participation in services to reach the greatest level of employment success. The regular monitoring and follow-up services that are included in ongoing support services are paramount to ensure frequent contact and engagement of the employer, the individual, and their network of support to reinforce and stabilize the job placement in supported employment.

Post-Employment Services

Assessing and collaborating on an individual's post-employment needs is fundamental to keeping individuals with disabilities engaged from start to finish. The key to post-employment services, as defined in 34 C.F.R. § 361.5(c)(41), is ensuring the amended IPE includes those short-term services needed prior to closing the record of services of an individual who has achieved an employment outcome and providing or arranging for those services during the period of job stabilization, but prior to case closure and exit. The required 90-day timeframe for keeping a VR case service record open after the participant's achievement of an employment outcome represents a minimum timeframe (34 C.F.R. § 361.56(b)). If additional services are needed for an individual to maintain employment, a VR agency should employ flexibility in policy and practice to ensure the case remains open to allow sufficient delivery of required post-employment services. It is important for the VR counselor and the participant to discuss the potential need for post-employment services that would require an amendment to the IPE. When services are quickly identified and provided in a timely manner, they assist an individual with a disability in achieving the highest level of stabilization in employment and support their long-term employment success. VR agencies are reminded there is no provision for an individual to continue to receive VR services, including post-employment services, after their case has been closed and they have exited the VR program without reapplying for services. Keeping a case open to ensure employment is maintained through the delivery of post-employment services reassures the individual with a disability that their continued success is a priority and their goal to achieve high-quality employment will be fully accomplished.

Recognizing Success in the VR Program

The commitment and dedication to the VR process, participation in services, and ultimately achieving the employment outcome identified on an IPE often culminates in receipt of the first

paycheck and the satisfaction in successfully meeting or exceeding an employer's expectations. Recognition of such achievement is important to not only the individual with a disability who has worked hard to reach their goal but also to the VR professionals who helped along the way. VR agencies are encouraged to identify opportunities and find connections within their States to bolster support for and acknowledgment of VR participants and agency personnel. If appropriate consent forms or information releases are signed, a VR agency should consider engaging public officials, legislators, or department heads in personalizing congratulatory letters for successful program participants, as well as spotlighting the success of both participants and agency personnel on VR agency websites or through public meetings with stakeholder groups. Highlighting the types of VR services an individual with a disability received while participating in services helps to emphasize the value and significance of VR services for stakeholders, professionals, and public officials while at the same time providing examples of success for other VR participants or individuals with disabilities, including students with disabilities, who are considering applying for services. The impact of a VR agency may be underestimated; the social and fiscal return on investment should not go unrecognized, and no longer can agencies remain a quiet partner in employment successes or the "best kept secret" in town.

Recognition of success often begins with agency leadership who can establish recognition programs for participants and agency personnel. Advertising the accomplishments of program participants who achieve measurable skill gains through education and training, as well as high-quality employment and credential attainment, helps to elevate the VR program within the workforce system and the local community while also providing inspiration to others. Acknowledging dedicated counseling professionals who tirelessly serve and work to facilitate the employment achievement of individuals with disabilities through formal and informal recognition as well as competitive pay within their respective State demonstrates the commitment of the VR program to the employment success of individuals with disabilities and the retention of qualified VR professionals. Additionally, recognizing areas of professional expertise may be helpful in better serving individuals with specific types of disabilities. Agency leadership could consider implementing alternate caseload management strategies built upon the experience, strengths, and knowledge of VR professionals to increase access to services that require familiarity and connections with specific resources. When individuals with specific disabilities are connected quickly to required and meaningful supports, they may be more likely to remain engaged in services and realize the value of VR services in a more profound way that builds their confidence and increases the likelihood of their long-term success.

VR agencies may consider developing mentoring programs that match successful past program participants with individuals who are just beginning their journey to employment. Mentorship can be a positive experience for both the mentor and mentee and allows for the sharing of unique experiences while offering support and VR program-related information from a participant's perspective. Mentors can share their stories of success and their path to employment, including improvements to their financial future; they may also be a source of inspiration or encouragement as well as provide thoughts or ideas to help navigate the VR process. Establishing a strong mentoring program may lead to increased engagement and reduced attrition, ultimately resulting in an increase in successful outcomes in high-quality competitive integrated employment.

CONCLUSION

The continued success of the VR program will rely heavily on the perception of the quality and value of VR services coupled with positive and results-driven experiences of individuals with disabilities, including students with disabilities. The interactions between participants, VR agency personnel, and VR service providers, along with the timeliness, quality, and types of services received, directly impact a VR agency's performance and the employment success of VR program participants. Providing superior services, facilitated by highly qualified VR professionals, attracts individuals with disabilities to the VR program who are eager to engage in services that will help them to achieve their employment goals and exceed their expectations. Creating intentional opportunities for engagement throughout the continuum of VR services, including pre-employment transition services, provides a foundation for consistent and predictable interactions between an individual with a disability and the VR agency. Consistency supports relationship-building and increases trust in the program and services. Agencies that create a culture around valuing and recognizing highly-skilled personnel with diverse expertise and knowledge can recruit and retain a team of VR professionals who know their expertise is valued. Publicizing participant and personnel success helps to engage stakeholders, professionals, and public officials, reinforces the value in the State VR Services Program, and shapes the perception of VR in the statewide workforce development system. VR participants count on the services that VR agencies have to offer, and offering the highest level of individualized services via highly skilled and valued personnel is the most effective way of engaging individuals with disabilities and ensuring their greatest possible success.

INQUIRIES:

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/s/

Carol L. Dobak
Deputy Commissioner,
delegated the authority to perform the
functions and duties of the Commissioner

cc: Counsel of State Administrators of Vocational Rehabilitation
National Council of State Agencies for the Blind
National Disability Rights Network
National Coalition of State Rehabilitation Councils
National Association of State Directors of Special Education

CITATIONS:

Rehabilitation Act of 1973, Sections 7(2)(A)(i) and (ii), (5), (21), and (21)(E)(i); 101(a)(5), (a)(5)(C), and (a)(7)(B); 102(a)(2), (a)(2)(B), (a)(3), (a)(4), (b)(2), and (d); 504; 511.

Rehabilitation Act of 1973, Preamble at 60 FR 64476, 64477-64478 (Dec. 15, 1995), 62 FR 6308, 6324-6325 (February 11, 1997), 65 FR 10620, 10625-10627 (Feb. 28, 2000), and 66 FR 4380, 4427-4428 (Jan. 17, 2001).

State Vocational Rehabilitation Services Program Regulations at part 361, 34 C.F.R. §§ 361.4(b); 361.5(c)(5)(ii), (c)(5)(ii)(C), (c)(5)(ii)(D), (c)(5)(ii)(E), (9), (15), (19), (29), (37), (41), (51), (53), and (58); 361.13(c)(i); 361.18 (b), (c), (c)(1)(ii), (c)(1)(ii)(A), (c)(1)(ii)(B), and (c)(2)(ii); 361.22; 361.29; 361.30; 361.36, (d)(1) and (d)(2); 361.41(a), (b)(1), and (b)(2); 361.42, (a)(1), (a)(1)(i), (a)(1)(ii), (a)(1)(iii), (a)(2), (b)(2), (c), and (e); 361.45(b)(1), (b)(2), (c)(1), (c)(3), (d)(3), (d)(9), and (f); 361.46(a)(1), (a)(2), and (b); 361.47, (a)(1); 361.48(a), (a)(2), (a)(4)(i), (a)(4)(iii); and 361.52.

Uniform Administrative Requirements, Grants and Agreements, Cost Principles, and Audit Requirements for Federal Awards Regulations at part 200, 2 C.F.R. § 200.467.

Limitations On Use of Subminimum Wage at part 397, 34 C.F.R. §§ 397.20 and 397.40(a)(4).

Workforce Innovation and Opportunity Act, Section 121

Fair Labor Standards Act, Section 14(c)