

**REGULATIONS IMPLEMENTING THE  
REHABILITATION ACT OF 1973, AS AMENDED BY THE  
WORKFORCE INNOVATION AND OPPORTUNITY ACT**

**REGIONAL TRAINING SERIES**

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**REHABILITATION SERVICES ADMINISTRATION**

# FISCAL OVERVIEW: PRE-EMPLOYMENT TRANSITION SERVICES





# Reservation of Funds Requirement

- A State must reserve at least 15% of its VR State allotment for the provision of pre-employment transition services to students with disabilities (section 110(d)(1) of the Rehabilitation Act).
- The funds reserved must be used solely for the provision of pre-employment transition services and pre-employment transition coordination activities described in section 113(b) through (d) of the Rehabilitation Act (§361.48(a)(2), (3) and (4));

## Reservation of Funds Requirement (cont.)

- Funds reserved for the provision of pre-employment transition services may not be used to pay for administrative costs incurred in the provision of these services or be used to pay for any other VR service (section 110(d)(2) of the Rehabilitation Act);
- The amount of funds to be reserved is based on the total amount of Federal funds allotted to the State as of the end of the year of appropriation (4<sup>th</sup> quarter/September 30<sup>th</sup>) in order to take into account increases and decreases due to the reallocation process or reductions for MOE deficits.



## Reservation of Funds Requirement (cont.)

- The requirement to reserve funds for the provision of pre-employment transition services is a State requirement, not an agency-specific requirement.
- When there are two State VR agencies, the reservation of funds for the provision of pre-employment transition services is a State matter that must be resolved at the State level.

## Reservation of Funds Requirement (cont.)

- This will necessitate coordination between both VR agencies in order to ensure the State satisfies the reservation of funds requirement for the provision of pre-employment transition services.
- Any reduction to the State's VR allotment that occurs after the year of appropriation, either through deobligation or grant closeout, will **not** reduce the amount to be reserved that is calculated based on the State's allotment at the end of the year of appropriation.

# Non-Federal Share/Carryover

- Although all Federal VR funds drawn down for use, including the amount reserved for the provision of pre-employment transition services, must be matched (21.3%), there is no requirement that non-Federal funds used for match purposes must be expended specifically for the provision of pre-employment transition services.
- Funds reserved for the provision of pre-employment transition services can be carried over into the subsequent Federal fiscal year for obligation and expenditure so long as the State provided the requisite match by the end of the year of appropriation (4<sup>th</sup> quarter), as is true for the carryover of all Federal VR funds.

## Non-Federal Share/Carryover (cont.)

- If a State is not able to use any portion of the funds reserved for the provision of pre-employment transition services, it may not use those excess funds for other VR services, even if the State was able to meet the non-Federal share requirement. Such funds, if not relinquished during reallocation, will be deobligated just prior to the closeout of the award.

# Unallowable Costs

The funds reserved for the provision of pre-employment transition services may not be expended on –

- Administrative costs, as defined in section 7(1) of the Rehabilitation Act and 34 CFR 361.5(c)(2); and
- Other costs not directly associated with the provision of pre-employment transition services. In other words, the funds reserved for the provision of pre-employment transition services may not be spent on the provision of other VR services.

# Ensuring State Compliance with the Reservation of Funds Requirement

- Section 506(d) of WIOA states that the amendments to the Rehabilitation Act made by WIOA took effect upon enactment – July 22, 2014.
- There is no authority in the Rehabilitation Act, as amended by WIOA, for the Department to waive the requirement for any State to reserve and use at least 15 percent of its VR allotment for the provision of pre-employment transition services.
- However, section 503(e) permits the Department of Education to exercise a transition authority that allows for the orderly transition of requirements under the Rehabilitation Act, as amended by WIA, to those requirements in the Rehabilitation Act, as amended by WIOA.

# Ensuring State Compliance with the Reservation of Funds Requirement (cont.)

- Given the significant change to the VR program that the requirements of sections 110(d) and 113 of the Rehabilitation Act represent, the Department has exercised its transition authority to develop an approach for ensuring compliance.

# Ensuring State Compliance with the Reservation of Funds Requirement (cont.)

- The Department is initially focusing on providing the technical assistance necessary to ensure States understand:
  - The legal requirements set forth in sections 110(d) and 113;
  - How to apply those legal requirements to the services States provide, or may consider providing, that meet the reservation requirement;
  - What activities may be paid with the reserved funds;
  - How to report pre-employment transition expenditures accurately; and
  - What revisions might be necessary on the SF-425s to ensure accuracy.

# Ensuring State Compliance with the Reservation of Funds Requirement (cont.)

- RSA is providing the technical assistance, both informally (e.g., in response to specific questions from States) and formally (e.g., during on-site technical assistance visits and in response to formal requests from States for technical assistance).
- RSA will be analyzing the final SF-425s for FFY 2015 and the 4<sup>th</sup> quarter SF-425s for FFY 2016 to determine which States did not satisfy the reservation of funds requirement for the provision of pre-employment transition services with respect to the FFY 2015 VR grant and which States may be still struggling with respect to the FFY 2016 VR grant.

# Ensuring State Compliance with Reservation of Funds Requirement (cont.)

- Some factors RSA will be considering in its analysis are:
  - percentage of funds reserved and used for the provision of pre-employment transition services;
  - improvement with respect to satisfying the requirements;
  - whether the improvement continued with respect to the FFY 2016 VR allotment; and
  - whether the State has shown no improvement with respect to complying with the requirements.

# Ensuring State Compliance with the Reservation of Funds Requirement (cont.)

- RSA will contact States directly to address concerns of non-compliance.
- With respect to those States that are not complying with the requirements, RSA will continue to provide technical assistance and work with the State to develop a corrective action plan in accordance with section 107(b)(2) of the Rehabilitation Act that will contain steps necessary to ensure compliance.
- If the facts warrant, RSA could take further enforcement action, as appropriate, in accordance with section 107(c) of the Rehabilitation Act and 34 CFR part 81. This approach is consistent with the Department's process for addressing non-compliance of any requirement under its purview.

# Other VR Fiscal Requirements

- Section 361.28(c) explicitly permits public third-party cooperative agencies to provide match via certified personnel time for those staff directly providing the VR services under the third-party cooperative arrangement, as they have been permitted to do for many years.
- Section 111(a)(2)(B) of the Rehabilitation Act requires the Secretary to reduce a subsequent year's VR program grant for any prior year's MOE deficit. State maintenance of effort penalties will be assessed through a reduction in the grantee's Federal VR award equal to the amount of the maintenance of effort deficit (§361.62).

# Resources

Prior to the final regulations, RSA issued guidance on the requirement to reserve VR funds for the provision of pre-employment transition services which included:

- On October 7, 2014, RSA conducted a webinar detailing the new pre-employment transition services requirements outlined in the FFY 2015 Grant Award Notification (GAN) attachment. <https://ncrtm.ed.gov/Download.aspx?type=doc&id=3120>
- A Grant Award Notification attachment was included with the FFY 2015 and FFY 2016 VR awards detailing the requirements outlined in the statute for the provision of pre-employment transition services.
- On April 13, 2016, RSA issued Fiscal Frequently Asked Questions regarding the provision of pre-employment transition services and the reservation of funds requirement for this purpose. <http://www2.ed.gov/programs/rsabvrs/fiscal-resources/index.html#faq>

# **FISCAL OVERVIEW: State Supported Employment Services Program**

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# Reservation of Funds Requirements

- The State must reserve and expend 50% of its Federal supported employment allotment for the provision of supported employment services, including extended services, to youth with the most significant disabilities (section 603d of the Rehabilitation Act and, and §363.22 of the final regulations).

## Reservation of Funds Requirements (cont.)

- Similar to the reservation requirement for pre-employment transition services, the amount to be reserved will be affected by adjustments to a State's allotment made throughout the year of appropriation, including continuing resolutions, funds relinquished or received during reallocation. If a State receives funds or relinquishes funds during reallocation, the State is still obligated to reserve 50 percent of the State's increased or decreased allotment for that fiscal year's appropriations.

## Reservation of Funds Requirement (cont.)

- Any reduction to the State's supported employment allotment that occurs after the year of appropriation, either through deobligation or grant closeout, will **not** reduce the 50% amount to be reserved that is calculated based on the State's allotment at the end of the year of appropriation. The requirement to reserve funds for supported employment services, including extended services, to youth with the most significant disabilities, is a State requirement, not an agency-specific requirement. It is a State matter that must be resolved at the State level when there are two agencies. For this reason, RSA encourages agencies to coordinate to ensure State compliance with the reservation requirement.

# Supported Employment Match Requirement

- The State must provide a match of at least 10% in non-Federal expenditures for the total amount of expenditures incurred with the half of the allotment reserved to provide supported employment services, including extended services, to youth with the most significant disabilities (Section 606(b)(7)(I) of the Rehabilitation Act).
- Since the required non-Federal share is only applicable to the 50% reserved funds for youth with the most significant disabilities, the non-Federal expenditures are required to be spent on supported employment services, including extended services, to youth with the most significant disabilities.

## Supported Employment Match Requirement (cont.)

- A State must match the 50 percent reserve of supported employment funds for the provision of supported employment services, including extended services, to youth with the most significant disabilities by September 30 of the fiscal year of appropriation for the State to fully expend the reserved funds, or permit the carryover of any unobligated portion of the reserved funds into the succeeding FFY for obligation and expenditure. Any amount of the reserved funds carried over into the next FFY must be spent on supported employment services, including extended services, for youth with the most significant disabilities in that carryover year.

# Supported Employment Requirements

- States may not use more than 2.5 % of their supported employment allotment to pay for administrative costs (section 603(c) of the Rehabilitation Act). States may use VR funds to pay for supported employment administrative costs in excess of the 2.5% (section 608(a) of the Rehabilitation Act). However, such costs would not count as match for the Supported Employment program or as expenditures for the 50% reserved for serving youth with the most significant disabilities.



## Supported Employment Requirements (cont.)

- Because supported employment funds are meant to be used to support and maintain an individual with a most significant disability in employment, (section 7(39) of the Rehabilitation Act), the provision of supported employment services may not be provided prior to an individual being placed into an employment position requiring supported employment services. All Federal expenditures for an individual that occur prior to the individual being placed into a supported employment position, must be provided with VR funds.



# Questions?

Send Questions on Today's Meeting to:

**[RSAQuestions@ed.gov](mailto:RSAQuestions@ed.gov)**

**Thank You!**