

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

REGIONAL TRAINING SERIES



REHABILITATION SERVICES ADMINISTRATION

TRANSITION OF STUDENTS AND YOUTH WITH DISABILITIES FROM SCHOOL TO POSTSECONDARY EDUCATION AND EMPLOYMENT

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Implementing VR Program Requirements

The Rehabilitation Act of 1973 (Act), as amended by the Workforce Innovation and Opportunity Act (WIOA):

- Emphasizes the provision of services to students and youth with disabilities to ensure they have opportunities to receive the training and other services necessary to achieve competitive integrated employment;
- Expands the population of students with disabilities who may receive services and the kinds of services that the VR agencies may provide to youth and students with disabilities who are transitioning from school to postsecondary education and employment;

Implementing VR Program Requirements (cont.)

- Increases opportunities to practice and improve workplace skills, such as through internships and other work-based learning opportunities; and
- Requires VR agencies to reserve not less than 15 percent of the Federal VR allotment to provide, or arrange for the provision of, pre-employment transition services for students with disabilities transitioning from school to postsecondary education programs and employment in competitive integrated settings, and that these services be coordinated with local educational agencies (LEA).



Transition-Related Definitions

- Student with a disability (section 7(37) of the Act and §361.5(c)(51));
- Youth with a disability (section 7(42) of the Act and §361.5(c)(58));
- Pre-employment transition services (section 7(30) of the Act and §361.5(c)(42)); and
- Transition services (§361.5(c)(55)).

Definition of “Student with a Disability”

A student with a disability is an individual who:

- Is in an educational program; and
- Meets certain age requirements; and
- Is eligible for and receiving special education or related services under IDEA; or
- Is an individual with a disability for purposes of section 504 of the Act.

Definition of “Student with a Disability” (cont.)

- Educational programs include:
 - Secondary education programs;
 - Non-traditional or alternative secondary education programs, including home schooling;
 - Postsecondary education programs; and
 - Other recognized educational programs, such as those offered through the juvenile justice system.



Definition of Student with a Disability (cont.)

- Age range requirements for a student with a disability:
 - Minimum age:
 - Not younger than the earliest age to receive transition services under IDEA; or
 - Not younger than the earliest age, if determined by the State as being different, to receive pre-employment transition services.
 - Maximum age:
 - Not older than 21 years old; or
 - Not older than the highest age determined by the State to receive services under IDEA, if older than 21 years of age.



Definition of “Youth with a Disability”

- A youth with a disability is:
 - An individual with a disability;
 - Not younger than 14 years of age; and
 - Not older than 24 years of age.
- There is no requirement that a “youth with a disability” be participating in an education program.
- The age range for a “youth with a disability” is typically broader than that for a “student with a disability.”



Transition-Related Services

Continuum of services available to students and youth with disabilities through the VR program:

- Pre-employment transition services (section 113 of the Act and 361.48(a))
 - Available only to students with disabilities
 - Application and IPE are not required
- Group transition services (section 103(b)(7) of the Act and §361.49(a)(7))
 - Available to both students and youth with disabilities
 - Application and IPE are not required
- Individualized transition and other VR services (section 103(a) of the Act and §361.48(b))
 - Available to all eligible individuals
 - Application and IPE are required



Pre-Employment Transition Services Overview

These services are an early start at job exploration that:

- Must be made available Statewide to all students with disabilities in need of such services, regardless of whether a student has applied for VR services;
- May begin once a student requests or is recommended for one or more pre-employment transition services and documentation of a disability is provided to the VR agency;
- Assist students with identifying career interests to be further explored through additional VR services, including transition services;
- Must be provided or arranged in collaboration with LEAs; and
- Are the only activities that can be paid for with the funds reserved under section 110(d)(1).



Scope of “Pre-Employment Transition Services”

Pre-employment transition services (section 7(30) of the Act and §361.5(c)(42)) are:

- “Required” activities (section 113(b) of the Act and §361.48(a)(2));
- “Authorized” activities (section 113(c) of the Act and §361.48(a)(3)); and
- “Pre-employment transition coordination” activities (section 113(d) of the Act and §361.48(a)(4)).



Population to Receive Pre-Employment Transition Services

Pre-employment transition services are provided to “students with disabilities” who are:

- Eligible for VR services; or
- Potentially eligible for VR services (i.e. all students with disabilities, including those who have not applied or been determined eligible for VR services).



Pre-Employment Transition Services: “Required” Activities

The five “required” activities of pre-employment transition services (section 113(b) of the Act and §361.48(a)(2)), which can be provided in group setting or on an individual basis, are:

- Job exploration counseling;
- Work-based learning experiences, which may include in-school, after school, or community-based opportunities;



Pre-Employment Transition Services: “Required” Activities (cont.)

- Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at IHEs;
- Workplace readiness training to develop social skills and independent living; and
- Instruction in self-advocacy, including peer mentoring.

Allowable expenditures incurred in carrying out these activities may be paid with the funds reserved for the provision of pre-employment transition services.

Job Exploration Counseling – Overview of Examples in a Group Setting

General job exploration counseling in a group setting may be provided in a classroom or community setting and could include:

- Information regarding in-demand industry sectors and occupations, as well as nontraditional employment;
- Information about labor market composition;
- Administration of vocational interest inventories; and
- Identification of career pathways of interest to the students.

Job Exploration Counseling – Overview of Examples on an Individual Basis

Job exploration counseling provided on an individual basis might be provided in school or the community and could include discussions pertinent to the particular student about:

- The student's vocational interest inventory results;
- In-demand occupations;
- Career pathways; and
- Local labor market information that applies to the student's particular interests.



Work-Based Learning Experiences – Integrated Settings

- Work-based learning experiences may include opportunities that are:
 - In-school;
 - After school; or
 - Outside the traditional school setting (including internships).
- Work-based learning experiences must be provided in an integrated setting in the community to the maximum extent possible.
- VR agencies are to exhaust all opportunities for work-based learning experiences in integrated settings before placing an individual in a non-integrated setting.

Work-Based Learning Experiences – Overview of Examples in a Group Setting

Work-based learning experiences in a group setting may include:

- Coordinating a school-based program of job training and informational interviews to research employers;
- Work-site tours to learn about necessary job skills;
- Job shadowing; or
- Mentoring opportunities in the community.

Work-Based Learning Experiences – Overview of Examples on an Individual Basis

Work-based learning experiences on an individual basis could include paid or unpaid:

- Internships;
- Apprenticeships;
- Short-term employment;
- Fellowships; or
- On-the-job trainings located in the community.

Work-Based Learning Experiences – Overview of Potentially Allowable Costs with Reserved Funds

- Funds reserved in accordance with section 110(d) of the Act must be used solely to pay for those costs incurred in the provision of pre-employment transition services (section 113 of the Act and §361.48(a)).
- VR agencies must analyze each cost to determine whether it:
 - Fits within the scope of the itemized pre-employment transition services activities; and
 - Was incurred solely for the benefit of a “student with a disability.”
- Some, but not all, expenditures incurred in providing transition services prior to the enactment of WIOA may be permissible as expenditures for pre-employment transition services.



Work-Based Learning Experiences – Examples of Potentially Allowable Costs with Reserved Funds

The following are broad examples of the types of costs that might be allowable for purposes of providing work-based learning experiences with the funds reserved for the provision of pre-employment transition services:

- Interpreter or reader services or accessible informational materials necessary to ensure equal access to the work-based learning experience, as required by the ADA or section 504 of the Rehabilitation Act;



Work-Based Learning Experiences – Examples of Potentially Allowable Costs w/Reserved Funds (cont.)

- Fee charged by the employer to provide the work-based learning experience, which might include the cost for:
 - The additional costs incurred by the employer for providing the work-based learning experience, such as the printing of additional informational materials or the purchase of additional uniforms for the students;
 - The employer-provided staff or trainer who teaches the job tasks to the students; or
 - Other costs incurred by the employer in providing the work-based learning experience to the students, which are not individualized in nature.



Work-Based Learning Experiences – Examples of Potentially Allowable Costs w/Reserved Funds (final)

- These costs are those that would be incurred or charged by the employer for providing a work-based learning experience to any student, regardless of the existence or nature of a student's disability.
- Caveat: These are just examples of potentially allowable costs. Allowability is dependent on the facts of each situation.

Counseling on Opportunities for Enrollment in Comprehensive Transition or Postsecondary Educational Programs at IHEs – Overview of Examples in a Group Setting

Counseling on these specific opportunities in a group setting may include providing information on:

- Course offerings;
- Career options;
- The types of academic and occupational training needed to succeed in the workplace; and
- Postsecondary opportunities associated with career fields or pathways.

Counseling on Opportunities for Enrollment in Comprehensive Transition or Postsecondary Educational Programs at IHEs –

Overview of Examples on an Individual Basis

Such counselling may also be provided on an individual basis and may include:

- Advising students and parents or representatives on academic curricula;
- Providing information about college application and admissions processes;
- Completing the Free Application for Federal Student Aid (FAFSA); and
- Providing resources that may be used to support individual student success in education and training (i.e., disability support services).

Workplace Readiness Training – Overview of Examples in a Group Setting

Workplace readiness training services may be offered in a generalized manner in a classroom or other such group settings to provide programming to assist students with disabilities to develop social skills and independent living skills necessary to prepare for eventual employment. These services could teach skills such as:

- Communication and interpersonal skills;
- Financial literacy;
- Group orientation and mobility skills (i.e., to access workplace readiness training or to learn to travel independently);
- Job-seeking skills; and
- Understanding employer expectations for punctuality and performance, as well as other “soft” skills necessary for employment.

Workplace Readiness Training – Overview of Examples on an Individual Basis

The services discussed in the previous slide may be tailored to an individual's needs in a work readiness training program provided in an educational or community-based setting through instruction, as well as opportunities to acquire and apply knowledge.

Instruction in Self-Advocacy – Overview of Examples in a Group Setting

Instruction in self-advocacy services may be provided through generalized classroom lessons in which students:

- Learn about their rights and responsibilities;
- Learn how to request accommodations or services and supports;
- Communicate their thoughts, concerns, and needs, in order to prepare them for peer mentoring opportunities with individuals working in their area(s) of interest.

Instruction in Self-Advocacy – Overview of Examples on an Individual Basis

These services can also be provided through individualized opportunities that include students:

- conducting informational interviews;
- mentoring with educational staff such as principals, nurses, teachers, or office staff; or
- mentoring with individuals employed by or volunteering for employers, boards, associations, or organizations in integrated community settings; and
- participating in youth leadership activities offered in educational or community settings.



Order of Selection

- Neither the statute nor the regulations exempt students with disabilities from any of the order of selection requirements.
- A student with a disability who needs individualized VR services, in addition to pre-employment transition services, must apply and be determined eligible for the VR program and have an approved IPE.
- Should a student with a disability be determined eligible and placed in a closed priority category, he or she may not receive individualized VR services.

Continuation of Services Under an Order of Selection

- If a student with a disability were receiving pre-employment transition services prior to applying for VR services and being placed in a closed category, he or she may continue to receive pre-employment transition services.
- For students who have not received pre-employment transition services and are determined eligible for the VR program and placed into a closed order of selection priority category, VR agencies may provide general transition services that benefit a group of students with disabilities to ensure the continuation of beneficial services, but may not begin pre-employment transition services.

Continuation of Services under an Order of Selection – Example A

Student A:

- Begins pre-employment transition services;
- Applies and is determined eligible for the VR program;
- Is placed in a closed priority category;
- May continue to receive necessary pre-employment transition services;
- May receive group transition services or other available VR services to groups;
- Cannot receive individualized transition or other individualized VR services.

Continuation of Services under an Order of Selection – Example B

Student B:

- Applies and is determined eligible for the VR program before beginning pre-employment transition services;
- Is placed in a closed priority category;
- Can receive group transition services or other available VR services to groups; and
- Cannot receive pre-employment transition services, individualized transition services, or other individualized VR services.

Continuation of Services under an Order of Selection – Example C

Student C:

- Applies and is determined eligible for VR services, regardless of whether he or she has begun receiving pre-employment transition services;
- Is placed in an open category; and
- May receive the full range of services offered under the VR program, including pre-employment transition services, group transition services or other available VR services to groups, and individualized transition services or other individualized VR services.

Pre-Employment Transition Services: “Authorized” Activities

If funds reserved for the provision of pre-employment transition services remain after all necessary “required” activities have been provided, the VR agency may provide other “authorized” activities that:

- Improve the transition of students with disabilities from school to postsecondary education or an employment outcome; and
- Support the arrangement or provision of the “required” activities.



Pre-Employment Transition Services:

“Authorized” Activities (cont.)

“Authorized” activities (section 113(c) of the Act and §361.48(a)(3)) include, but are not limited to:

- Providing instruction to VR counselors, school transition personnel, and other persons supporting students with disabilities;
- Disseminating information about innovative, effective, and efficient approaches to achieve the goals of pre-employment transition services; and
- Applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel, in order to better achieve the goals of pre-employment transition services.



Reserved funds for Authorized Activities

States must determine whether all students in need of required activities have been provided the necessary services, prior to utilizing funds for authorized activities and pre-employment transition coordination activities.



Pre-Employment Transition Coordination

Pre-employment transition coordination activities (section 113(d) of the Act and §361.48(a)(4)) are:

- Attending IEP meetings, when invited;
- Working with the local workforce development boards, one-stop centers, and employers to develop work opportunities for students with disabilities;
- Working with schools to coordinate and ensure the provision of pre-employment transition services; and
- Attending person-centered planning meetings for students with disabilities receiving services under title XIX of the Social Security Act, when invited.



Definition of “Transition Services”

Although WIOA deleted the definition from the Act, RSA maintained the definition of transition services (§361.5(c)(55)) and revised it to include:

- “Students or youth with disabilities”; and
- Outreach to and engagement of parents or, as appropriate, the representatives of students or youth with disabilities.

Transition Services

Following the continuum of VR services, “transition services” represents the next set of VR services available to students and youth with disabilities and includes:

- Group transition services; and
- Individualized transition services.



Group Transition Services

VR agencies may provide transition services to groups of students and youth with disabilities who may not have applied or been determined eligible for VR services.

Group Transition Services – Examples

Examples of group transition services may include, but are not limited to:

- Group tours of universities and vocational training programs;
- Employer or business site visits to learn about career opportunities;
- Career fairs coordinated with workforce development and employers to facilitate mock interviews and resume writing; and
- Other general services applicable to groups of students with disabilities and youth with disabilities.



Individualized Transition Services

- As the next step in the continuum, individualized transition services must be provided to students who have been determined eligible for the VR program and in accordance with an approved IPE.
- Any allowable VR service under section 103(a) of the Act and §361.48(b) can be provided as a transition service under an IPE.



Third-Party Cooperative Arrangements

- Since students and youth with disabilities may receive pre-employment transition services and group transition services, as applicable, prior to applying or being determined eligible for VR services, these students and youth with disabilities are considered “recipients” of VR services for purposes of contracting the provision of these services with another State agency or local public agency.
- VR agencies may enter into third-party cooperative arrangements for the provision of pre-employment transition services or group transition services so long as all third-party cooperative arrangement requirements are satisfied (see §361.28).



IPE: Projected Post-School Employment Outcome

The IPE may include a projected post-school employment outcome that:

- Is based upon the informed choice of the student or youth with a disability eligible for the VR program;
- May be amended during the career development process; and
- Must be revised to a specific vocational goal once this process is complete.



IDEA: Special Education and Related Services

Special Education means specifically designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, and includes related services.

Related Services include:

- Speech-language pathology and audiology services;
- Interpreting services;
- Psychological services;



IDEA: Special Education and Related Services (cont.)

- Physical and occupational therapy;
- Recreation, including therapeutic recreation;
- Early identification and assessment of disabilities in children;
- Counseling services, including rehabilitation counseling;
- Orientation and mobility services;
- Medical services for diagnostic or evaluation purposes;
- School health services and school nurse services; and
- Social work services in schools.



Financial Responsibilities of VR Agencies and Local Educational Agencies

- LEAs are responsible for providing and paying for any transition service that is considered special education or related services necessary for ensuring a free appropriate public education (FAPE) as required under IDEA.
- Nothing under title I of the Rehabilitation Act shall be construed as reducing a LEA's obligation to provide the above-described services under IDEA (see section 101(c) of the Rehabilitation Act and §361.22(c)).

Financial Responsibilities of VR Agencies and Local Educational Agencies (cont.)

- Pre-employment transition services and transition services can be both vocational rehabilitation services under the VR program and special education or related services under IDEA (as noted in slides 47 and 48).
- Decisions as to which agency, the VR agency or LEA, is responsible for providing and/or paying for pre-employment transition services or transition services considered to be both a special education (or related service) or VR service must be made at the State level.



Formal Interagency Agreement

The formal interagency agreement (§361.22) with the SEA and LEAs, as appropriate, should be a mechanism that describes criteria for determining financial and programmatic responsibilities that may include:

- Purpose of the service;
- Customary services; and
- Eligibility for services.



Formal Interagency Agreement – New Requirements

The SEA agreement (§361.22) must include information that addresses the following new requirements:

- Pre-employment transition services;
- Option to provide consultation and technical assistance to educational agencies through alternate means;
- Coordination necessary to satisfy documentation requirements set forth with regard to students with disabilities who are seeking subminimum wage employment; and an



Formal Interagency Agreement – New Requirements (cont.)

- Assurance that neither the SEA nor the LEA will enter into an arrangement with an entity holding a special wage certificate under section 14(c) of the Fair Labor Standards Act for the purpose of operating a program under which a youth with a disability is engaged in work at a subminimum wage.

Unified or Combined State Plan Requirements – Comprehensive Statewide Needs Assessment (CSNA)

VR agencies are required to include in the CSNA:

- VR needs of youth and students with disabilities, including the need for pre-employment transition services or other transition services;
- An assessment of their needs; and
- The extent to which services are coordinated with transition services under IDEA.



Description of Transition Coordination in the State Plan, Policies and Procedures

The VR agency must describe in the VR services portion of its Unified or Combined State Plan:

- Plans, policies and procedures for the coordination between VR and education officials to facilitate the transition of students with disabilities from the receipt of educational services in school to the receipt of VR services;



Description of Transition Coordination in the State Plan, Policies and Procedures (cont.)

- Plans, policies, and procedures that provide for the development and approval of an IPE as early as possible during the transition planning process and not later than the time a VR-eligible student leaves the school setting; and
- Strategies the State will use to improve and expand VR services for students and youth with disabilities, including pre-employment transition services for students.

Written Policies

VR agencies must develop written policies governing the nature and scope of each of the VR services, including pre-employment transition services and the criteria under which each service is provided (see §361.50).



Questions

Send Questions on Today's Meeting to:

RSAQuestions@ed.gov

Thank You!