

# Archived Information

UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND  
REHABILITATIVE SERVICES  
REHABILITATION SERVICES ADMINISTRATION  
WASHINGTON, D.C. 20202

## POLICY DIRECTIVE

RSA-PD-92-02

RSM-2015 & 2515 1/

DATE: November 21, 1991

TO: STATE VOCATIONAL REHABILITATION AGENCIES (GENERAL)  
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)  
CLIENT ASSISTANCE PROGRAMS  
RSA SENIOR MANAGEMENT TEAM

SUBJECT: Provision of Financial Assistance for Post-Secondary Education By State  
Vocational Rehabilitation Agencies

BACKGROUND: This directive to the State Vocational Rehabilitation (VR) agencies addresses the provision of financial assistance for post-secondary education by VR agencies to clients who have been refused Pell Grants because these individuals defaulted on student loans. It also clarifies that a VR client cannot be required to take a student loan as a condition for receiving VR services.

Section 103(a)(3) of the Rehabilitation Act of 1973, as amended, authorizes the use of VR funds to pay for "vocational and other training services ... Provided, that no training services in institutions of higher education shall be paid for with funds under this title unless maximum efforts have been made to secure grant assistance, in whole or in part, from other sources to pay for such training."

In addition, Section 101(a)(8) provides that each State plan shall: "provide, at a minimum, for the provision of the vocational rehabilitation services specified in clauses (1) through (3) and clause (12) of section 103(a), and for the provision of such other services as are specified under such section after a determination that comparable services and benefits are not available under any other program, except that such determinations shall not be required where it would delay the provision of such services to any individual at an extreme medical risk."

1/ Under Development

This language, contained in the Rehabilitation Act Amendments of 1986 (Public Law 99-506), amends the "similar benefits" provision formerly contained in Section 101(a)(8) of the Act.

**POLICY  
STATEMENT:**

It is clear from these provisions that Congress intended that VR clients avail themselves of the numerous grant programs which are available to pay for higher education before VR program funds are used to pay these costs. Although the term "maximum efforts" is not defined in the Act, 34 CFR 361.42(a)(4) further clarifies the responsibility for assuring that maximum effort is made to secure assistance for post-secondary education through the statement that "maximum efforts have been made by the State unit to secure grant assistance in whole or in part from other sources." Since the State unit is not eligible to apply for grant assistance, the responsibility assigned under 34 CFR 361.42(a)(4) can best be carried out by such actions as providing information about grants to the client, providing information about eligibility requirements, assisting the client, as necessary, in completing an application for student financial assistance, and by assuming mutual responsibility in working with the Financial Aid Officer and the client in resolving any problems that may arise.

This does not mean that a VR client can be required to take a student loan as a condition for receiving VR services. Any form of student financial assistance that contains a pay-back requirement would not be considered either grant assistance within the meaning of Section 103(a)(3) of the Rehabilitation Act of 1973, as amended, or a comparable benefit or service within the meaning of Section 101(a)(8).

The process to coordinate student financial aid with VR assistance was never intended to force a client into accepting a loan as part of the aid package; neither was it intended to force a client to undertake a campus work study arrangement if the serious nature of the client's disability makes work study an unreasonable option. This does not mean, however, that a client should be discouraged from exercising either or both of these options. The VR counselor may, if State agency policy permits, substitute VR assistance

for the loan component of the aid package. In those instances where neither grant assistance nor VR agency assistance is available, the client may have no other choice but to accept the self-help package offered if higher education is to be attained.

Under Title IV of the Higher Education Act, in order to receive a grant, loan, or work assistance, a student must not owe a refund on grants previously received or be in default on any student loan (20 U.S.C. Section 1091(a)(3)).

Therefore, a client who owes a refund on a Title IV grant should make repayment arrangements with the post-secondary institution that made the grant and a client who has defaulted on a student loan should proceed to clear his default status.

For purposes of determining eligibility for a Pell Grant, a client who has previously defaulted on a Title IV loan is considered to no longer be in default status if:

- (1) the holder of the loan certifies for the purpose of reinstating Title IV eligibility that the borrower has made satisfactory arrangements to repay the defaulted loan, or
- (2) the loan is discharged in bankruptcy.  
(34 CFR 668.7)

In view of the flexibility in loan repayments, the fact that these VR clients have remained in default status may indicate that they have not attempted to make arrangements to repay their student loans, that would make them eligible for additional student financial aid under Title IV of the Higher Education Act. Consequently, it would appear that these individuals may not have made the maximum efforts required by Section 103(a)(3) of the Act to secure grant assistance from non-VR sources to pay for their training. It may also indicate that the State unit may have been remiss in carrying out the responsibility assigned to it under 34 CFR 361.42(a)(4) to assure that maximum efforts are made to secure grant assistance from other sources and to have fully advised the client of the responsibilities that are an inherent part of accepting the assistance. In this connection because of its earlier involvement in helping the client secure student financial assistance, the State unit must counsel with the client and assist in whatever ways it can to help work out some

satisfactory means of clearing up the client's default.

Under Section 101(a)(8), the determination of the availability of comparable services and benefits may take into consideration whether such financial assistance was "unavailable" due to actions within the individual's control. For example, if an individual simply decided not to repay the loan although financially able to do so, it would be appropriate within the purpose of Section 101(a)(8), to treat the grant assistance for which the individual is now ineligible as "available" within the meaning of that section due to the earlier choice made by the individual. Thus, it could be concluded that the individual has failed to carry out his/her part of the mutual responsibility to make maximum efforts to secure grant assistance, and the VR program would be prohibited from paying the individual's college costs under Section 103(a)(3).

We recognize that true hardship cases may arise where an individual has limited or no financial resources available and cannot work out a satisfactory repayment agreement with the lender. Under such circumstances, where a responsible repayment effort has been made, it can be concluded that maximum efforts have been made to secure grant assistance and that comparable benefits and services are not available. In such an instance, VR assistance may be appropriate. However, such a determination could only be made by a VR counselor on an individual basis, after carefully examining all of the circumstances involving an individual's default status and financial situation, and must be consistent with the intent that VR resources be used as a last resort to pay for training in institutions of higher education.

**CITATIONS  
IN LAW:**

- (1) Section 101(a)(8) under Title I of the Rehabilitation Act of 1973, as amended.
- (2) Section 103(a)(3) under Title I of the Rehabilitation Act of 1973, as amended.
- (3) 20 U.S.C. Section 1091(a)(3), Title IV of the Higher Education Act, as amended.

CITATIONS IN REGULATIONS: (1) 34 CFR 668.7 of the Student Assistance General Provisions  
(2) 34 CFR 361.47(b)  
(3) 34 CFR 361.42(a)(4)

EFFECTIVE DATE: Upon Issuance

ISSUANCES DELETED: RSA-PAC-88-05 and RSA-PAC-88-01

EXPIRATION DATE: NONE

INQUIRIES: RSA Regional Commissioners

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Commissioner  
Rehabilitation Services Administration