

**UNITED STATES DEPARTMENT OF EDUCATION**  
*Office of Special Education and Rehabilitative Services*  
*Rehabilitation Services Administration*

**PRE-EMPLOYMENT TRANSITION SERVICES**

Applicable Program:

- State Vocational Rehabilitation Services (CFDA 84.126A)

Requirements:

Section 110 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA), which took effect on July 22, 2014, reads, in pertinent part:

Sec. 110. STATE ALLOTMENTS.

(a)(1) Subject to the provisions of subsection (c) and (d), for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of—

\*\*\*\*\*

- (d)(1) From any State allotment under subsection (a) for a fiscal year, the State shall reserve not less than 15 percent of the allotted funds for the provision of pre-employment transition services.
- (2) Such reserved funds shall not be used to pay for the administrative costs of providing pre-employment transition services.

This mandate for a State to reserve funds for the sole purpose of providing pre-employment transition services is reinforced at section 113(a):

SEC. 113. PROVISION OF PRE-EMPLOYMENT TRANSITION SERVICES.

(a) IN GENERAL. - From the funds reserved under section 110(d), and any funds made available from State, local, or private funding sources, each State shall ensure that the designated State unit, in collaboration with the local educational agencies involved, shall provide, or arrange for the provision of, pre-employment transition services for all students with disabilities in need of such services who are eligible or potentially eligible for services under this title.

Given the new requirement at section 110(d)(1), a State must reserve at least 15 percent of its State allotment, under the State Vocational Rehabilitation Services (VR) grant (CFDA 84.126A), for the provision of pre-employment transition services under section 113 of the Rehabilitation Act. The State allotment, which forms the basis for the reservation of these funds, refers to the funds awarded pursuant to section 110(a) of the Rehabilitation Act, as well as any funds received during reallocation in accordance with section 110(b) of the Rehabilitation Act. Section 110(b)(3) makes clear that funds received during reallocation are considered an increase to the

State's allotment. Similarly, funds relinquished during reallocation are considered a reduction to the State's allotment. This means that the State – not RSA – must reserve at least 15 percent of the State's total Federal VR allotment for the provision of pre-employment transition services under section 113. States will not receive a separate grant award for these reserved funds.

In calculating the 15 percent minimum amount to be reserved, RSA recommends that States - regardless of whether there is one or two VR agencies in the State - base the percentage on the total amount allotted to the State in each Grant Award Notification it receives in the fiscal year. In so doing, the State can be sure it has reserved at least 15 percent of its total allotment (as described in sections 110 and 111 of the Rehabilitation Act) for this purpose, taking into account adjustments made throughout the year for continuing resolutions, reallocations, and reductions for maintenance of effort deficits.

The reservation of funds for the provision of pre-employment transition services 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. While RSA recommends that each designated State unit, particularly when a State has two designated State units, reserve at least 15 percent of its allotment to facilitate tracking of State compliance of the reservation requirement, there is no statutory requirement that this be done. If one agency (when a State has two VR agencies) uses more of its funds than the other, the State would be in compliance so long as the State's total of funds reserved for the provision of pre-employment transition services is at least 15 percent of the State's total allotment, including any additional funds received during reallocation by one or both agencies.

It is important to note that none of the funds reserved in accordance with section 110(d) may be used to pay for administrative costs or any other VR service. These funds must be used solely for the provision of services described in section 113 of the Rehabilitation Act. Section 113(b) describes the required pre-employment transition services that must be provided to students with disabilities. Section 113(c) describes other authorized activities that the State may provide if reserved funds remain after students with disabilities have received the required services. This means that the State must use the entire amount reserved solely for the provision of pre-employment transition services required and/or authorized under section 113. In pertinent part, section 113 reads as follows:

\*\*\*\*

(b) **REQUIRED ACTIVITIES.**—Funds available under subsection (a) shall be used to make available to students with disabilities described in subsection (a)—

- (1) job exploration counseling;
- (2) 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 to the maximum extent possible;
- (3) counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
- (4) workplace readiness training to develop social skills and independent living; and
- (5) instruction in self-advocacy, which may include peer mentoring.

- (c) **AUTHORIZED ACTIVITIES.**—Funds available under subsection (a) and remaining after the provision of the required activities described in subsection (b) may be used to improve the transition of students with disabilities described in subsection (a) from school to postsecondary education or an employment outcome by—
- (1) implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;
  - (2) developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently, participate in postsecondary education experiences, and obtain and retain competitive integrated employment;
  - (3) providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;
  - (4) disseminating information about innovative, effective, and efficient approaches to achieve the goals of this section;
  - (5) coordinating activities with transition services provided by local educational agencies under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);
  - (6) applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel, in order to better achieve the goals of this section;
  - (7) developing model transition demonstration projects;
  - (8) establishing or supporting multistate or regional partnerships involving States, local educational agencies, designated State units, developmental disability agencies, private businesses, or other participants to achieve the goals of this section; and
  - (9) disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved populations.

\*\*\*\*

It is important to note that only students with disabilities may receive pre-employment transition services under section 113. A student with a disability is defined at section 7(37) of the Rehabilitation Act as:

(37) **STUDENT WITH A DISABILITY.**-

(A) **IN GENERAL.**-The term ‘student with a disability’ means an individual with a disability who-

(i)(I)(aa) 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

(bb) 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

(II)(aa) is not older than 21 years of age; or

(bb) 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

(ii)(I) 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

(II) is an individual with a disability, for purposes of section 504.

(B) STUDENTS WITH DISABILITIES.-The term ‘students with disabilities’ means more than 1 student with a disability.

Because both sections 110(d) and 113 of the Rehabilitation Act are clear that the State must reserve and use at least 15 percent of its total VR allotment for a specific purpose (pre-employment transition services) that benefits a specific population (students with disabilities), it will be critical that the designated State unit implement administrative methods and procedures that ensure proper data collection and financial accountability of these reserved funds, as required by 34 CFR 361.12. Moreover, the State’s accounting procedures must be such that the designated State unit will be able to accurately complete all required forms, including financial reports, that show the reservation and use of these funds for this purpose, as required by 2 CFR 200.302.

Rev. 8/2015