

Vision 2020

CSAVR’s *In Focus* – Regulatory Context

Published quarterly, CSAVR’s *In Focus* newsletter highlights innovative ways state vocational rehabilitation (VR) agencies are fulfilling their charge as core members of state workforce systems. It is framed around four focus areas.

- Meeting the Needs of Individuals with Disabilities as Customers
- Responding to the Needs of Businesses
- Collaborating with Public Agencies and Community Partners
- Informing and Shaping Federal and State Policy and Practice

To assist in understanding the impetus for practices by State VR agencies under each of these four focus areas, this document outlines related provisions in Title I of the Rehabilitation Act, as amended by the Workforce Innovation and Opportunity Act (WIOA).

Contents

Focus Area 1: Meeting the Needs of Individuals with Disabilities as Customers.....2

 Overview 2

 Regulatory Context 2

Focus Area 2: Responding to the Needs of Businesses3

 Overview 3

 Regulatory Context 3

Focus Area 3: Collaborating with Public Agencies and Community Partners4

 Overview 4

 Regulatory Context 5

 Public Agencies 5

 Community Partners 6

Focus Area 4: Informing and Shaping Federal and State Policy and Practice8

 Overview 8

 Regulatory Context 8



Focus Area 1: Meeting the Needs of Individuals with Disabilities as Customers

Overview

To enhance employment opportunities for individuals with disabilities, State VR agencies implement a wide array of practices, programs and support services. Reflecting WIOA's emphasis on provision of pre-employment services for those transitioning from school to postsecondary education and employment, many of these focus on students and youth. Others are helping forge career pathways and job-driven work experience opportunities for adult VR customers, including through rapid engagement. Among these career pathways is entrepreneurship, an option facilitated by drastic changes in technology and the nature of work in recent years. In addition, due to various work incentives and the advent of the Achieving a Better Life Experience (ABLE) Act, many State VR agencies have expanded their service menus to include financial literacy for VR customers, especially related to how working impacts benefits.

Regulatory Context

To assist in understanding the impetus for individual-focused practices put into action by State VR agencies, following are the related provisions in Title I of the Rehabilitation Act, as amended by WIOA:

- The VR services portion of the State Plan must include the results of a comprehensive statewide assessment, particularly the VR services needs of individuals with disabilities who have been unserved or underserved by the VR program. [34 CFR 361.29(a)(i)(B)]
- The VR portion of the State Plan must also describe strategies the State will use to address the needs identified by the assessment, including outreach procedures to identify and serve individuals with disabilities who have been unserved or underserved by the VR program. [34 CFR 361.29(d)(5)]
- An individualized plan for employment must be developed and implemented in a timely manner. [34 CFR 361.45] The IPE must include the specific employment outcome that is chosen by the individual with a disability and must be 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, including an employment outcome in a supported employment setting. [34 CFR 361.46(a) and (b)]
- The regulations include a list of VR services for individuals that must be available, such as job-related services, supported employment services, rehabilitation technology [34 CFR 361.48(b)] and VR services for groups of individuals with disabilities e.g., telecommunications systems, disability-owned businesses, supporting assistive technology demonstration projects. [34 CFR 361.49]
- The individual 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. [34 CFR 361.46(d)]



- Prior to any determination that an individual with a disability is unable to benefit from VR services in terms of an employment outcome because of the severity of that individual’s disability or that the individual is ineligible for VR services, the VR agency must conduct an exploration of the individual’s abilities, capabilities, and capacity to perform in realistic work settings (trial work periods). [34 CFR 361.42(e)]
- Pre-employment transition services must be made available Statewide to all students with disabilities, regardless of whether the student has applied or been determined eligible for VR services. Pre-employment transition services include job exploration counseling, work-based learning experiences, counselling 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. [34 CFR 361.48(a)]
- If the VR agency is unable to provide the full range of VR services to all eligible individuals in the State who apply for services, the VR services portion of the State Plan must state whether the VR agency will elect to serve, in its discretion, eligible individuals (whether or not the individuals are receiving VR services under the order of selection) who require specific services or equipment to maintain employment, notwithstanding the general assurance that individuals with the most significant disabilities will be selected first for the provision of VR services. [34 CFR 361.36(a)(3)(v)]

Focus Area 2: Responding to the Needs of Businesses

Overview

The expected outcome for individuals with disabilities participating in State VR programs is to enter or retain integrated, competitive employment. To do this, State VR agencies provide a range of services and supports; however, they do not create jobs. Rather, businesses provide work opportunities, just as they do for individuals without disabilities. Thus, to successfully serve individuals with disabilities, State VR agencies have in recent years broadened the definition of who they serve, recognizing and responding to businesses’ needs in tandem to those of individuals—often referred to as the “dual customer” approach. Reflecting this paradigm shift, increased engagement with employers in order to better understand their needs is a central tenet of Title I of the Rehabilitation Act, as amended by WIOA—and State VR agencies are meeting the charge.

Regulatory Context

To assist in understanding the impetus for business-focused practices put into action by State VR agencies, following are the related provisions of Title I of the Rehabilitation Act, as amended by WIOA:

- The VR agency must work with employers to identify competitive integrated employment opportunities and career exploration opportunities in order to facilitate the provision of VR services and transition services for youth and students with disabilities, including pre-employment transition services. [34 CFR 361.24(d)]



- The VR agency may expend Title I VR funds to educate and provide services to employers who have hired or are interested in hiring individuals with disabilities under the VR program, including training about the ADA, work-based learning experiences, technical assistance and consultation regarding accommodations, assistive technology, and assisting employers with utilizing available financial support for hiring or accommodating individuals with disabilities. [34 CFR 361.32]
- VR services for groups of individuals with disabilities included technical assistance to businesses that are seeking to employ individuals with disabilities. [34 CFR 361.49(a)(4)]
- If the VR agency is unable to provide the full range of VR services to all eligible individuals in the State who apply for services, the VR services portion of the State Plan must state whether the VR agency will elect to serve, in its discretion, eligible individuals (whether or not the individuals are receiving VR services under the order of selection) who require specific services or equipment to maintain employment, notwithstanding the general assurance that individuals with the most significant disabilities will be selected first for the provision of VR services. [34 CFR 361.36(a)(3)(v)]

Focus Area 3: Collaborating with Public Agencies and Community Partners

Overview

To meet the needs of their customers, both individuals and employers, State VR agencies simply cannot succeed without meaningful collaboration with both public and non-public entities. To start, State VR agencies are required partners in the American Jobs Center (AJC) system and thus must, among other things, facilitate access to its services through AJCs. As a part of this “seamless delivery system,” VR plays a complementary role, providing support and expertise to AJCs to ensure physical and programmatic accessibility. In addition, as a distinct program, VR provides direct services to individuals with disabilities who require specialized expertise. This cannot be done in isolation, however. Thus, State VR agencies also collaborate with other public partners (including education, mental health, intellectual and developmental disabilities and Medicaid agencies). Of course, this “team approach” also necessitates engaging the disability community. Community rehabilitation programs, independent living centers, and public and nonprofit disability organizations (such as state rehabilitation councils, protection and advocacy systems and parent training and information centers) also have an important role to play—and vested interest—in increasing VR’s effectiveness and reach. What’s more, such partnerships reflect policy that all activities under the Rehabilitation Act be carried out in a manner consistent with support for individual and systemic advocacy and community involvement.



Regulatory Context

To assist in understanding the impetus for collaborations with public agencies and community partners put into action by State VR agencies, following are the related provisions of Title I of the Rehabilitation Act, as amended by WIOA:

Public Agencies

VR Program Integral Part of the Statewide Workforce Development System

- Under the State VR Services Program, the Secretary of Education provides grants to assist States in operating statewide comprehensive, coordinated, effective, efficient, and accountable VR programs. The VR program is an integral part of a statewide workforce development system. [34 CFR 361.1]
- The State VR program authorized under Title I of the Rehabilitation Act, as amended is a required partner in the local one-stop systems. [34 CFR 361.400] Each required partner must, among other things, provide access to its programs or activities through the one-stop delivery system, in addition to other appropriate locations. [34 CFR 463.420] The VR program, in its capacity as a required partner, must make contributions to infrastructure costs. [34 CFR 463.735-.738]

Comparable Benefits

In general, the State VR agency must ensure that prior to providing an accommodation or auxiliary aid or service or any VR services (with certain exceptions) it has determined whether comparable services and benefits exist under any other program and whether those services and benefits are available to the individual unless such a determination would interrupt or delay -

- The progress of the individual toward achieving the employment outcome identified in the individualized plan for employment;
- An immediate job placement; or
- The provision of vocational rehabilitation services to any individual who is determined to be at extreme medical risk, based on medical evidence provided by an appropriate qualified medical professional. [34 CFR 361.53]

Collaboration with Educational Agencies

- The VR services portion of the State Plan must contain plans, policies, and procedures for coordination between the VR agency and education officials responsible for the public education of students with disabilities that are designed to facilitate the transition of students with disabilities from the receipt of educational services, including pre-employment transition services, in school to the receipt of VR services under the responsibility of the VR agency. The coordination must include a formal interagency agreement. [34 CFR 361.22]



- The individual 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. [34 CFR 361.46(d)]
- Neither the State educational agency nor the local educational agency will enter into a contract or other arrangement with a [community rehabilitation program] for the purpose of operating a program under which a youth with a disability is engaged in work compensated at a subminimum wage. 34 CFR 361.22(b)(2); See also 34 CFR 397.5(d)]

Coordination with Medicaid, Mental Health, Intellectual and Developmental Disabilities Agencies

- The VR agency must enter into a formal cooperative agreement with the State agency responsible for administering the State’s Medicaid program and the State agency responsible for providing services and supports to individuals with intellectual disabilities and individuals with developmental disabilities who have been determined to be eligible for home and community-based services. [34 CFR 361.24(f)]
- The VR agency must also collaborate with the State agency responsible for providing mental health services [34 CFR 361.24(g)]; develop a working relationship and coordinate activities with the lead agency designated by the Governor under the Assistive Technology Act of 1998, as amended and a State agency that is functioning as an employment network under the Ticket to Work and Self-Sufficiency Program. [34 CFR 361. 24(h) and (i)]

Coordination with Agencies Involved in the Administration of Subminimum Wage

The regulations governing limitations on use of subminimum wage [34 CFR part 397] include:

- General provisions
- Coordinated documentation procedures related to youth with disabilities
- Designated State Unit responsibilities prior to youth with disabilities starting subminimum wage employment
- Local educational agency responsibilities prior to youth with disabilities starting subminimum wage employment
- Designated State Unfit responsibilities to individuals with disabilities during subminimum wage employment

Community Partners

Overarching Policy

- It is the policy of the United States that all programs, projects, and activities receiving assistance under the Rehabilitation Act must be carried out in a manner consistent with the principles of [Section 2(c) of the Rehabilitation Act, as amended by Title IV of the Workforce Innovation and Opportunity Act], including support for individual and systemic advocacy and community involvement.



Disability Advocacy Community

- In administering the VR services portion of the State Plan, the VR agency must take into account the views individuals and groups of individuals who are recipients of VR services, or as appropriate, the individuals' representatives. [34 CFR 361.21]

Community Rehabilitation Programs

- In administering the VR services portion of the State Plan, the VR agency must take into account the views of providers of VR services to individuals with disabilities. [34 CFR 361.21]
- The VR services portion of the State Plan must include the results of a comprehensive statewide assessment, including an assessment of the need to establish, develop, or improve community rehabilitation programs within the state. [34 CFR 361.29(a)(ii)]
- The VR services portion of the State Plan must also describe strategies the State will use to address the needs identified by the assessment, including as applicable, the plan of the State for establishing, developing, or improving community rehabilitation programs. [34 CFR 361.29(d)(6)]
- The VR services portion of the State Plan must describe the manner in which cooperative agreements with private nonprofit VR rehabilitation service providers will be established. [34 CFR 361.31]
- The VR agency may provide VR services for the benefit of groups of individuals with disabilities including the establishment, development or improvement of a public or other nonprofit community rehabilitation program that is used to provide VR services that promote integration into the community and prepare individuals with disabilities for competitive integrated employment, including supported employment and customized employment. [34 CFR 361.49(a)(1)]

Client Assistance Program

- In administering the VR services portion of the State Plan, the VR agency must take into account the views of the director of the Client Assistance Program. [34 CFR 361.21]

State Independent Living Council and Independent Living Centers

- In administering the VR services portion of the State Plan, the VR agency must take into account the views of the State Rehabilitation Council, if the State has a Council. [34 CFR 361.21] The goals and priorities must be jointly developed, agreed to, revised by the VR agency and the State Rehabilitation Council, if the State has a Council. [34 CFR 361.29(c)(2)]
- The VR agency and the Statewide Independent Living Council and the independent living centers must develop working relationships and coordinate their activities. [34 CFR 361.24(b)]



Focus Area 4: Informing and Shaping Federal and State Policy and Practice

Overview

Given their rich history and experience, State VR agencies clearly bring specialized expertise to the table when it comes to workforce development. Furthermore, lending their voice to the conversation advances their fundamental goals to assist individuals with disabilities to obtain and maintain employment and employers to benefit from the skills they have to offer. Thus, State VR agencies are increasingly working with, and in fact being called upon, by federal and state policymakers to provide input into related public policies and practices. These include not only policies and practices directly related to disability employment, but also those impacting the many employment supports—such as housing, transportation and technology—that actually make work possible for all people, including people with disabilities. Such systemic advocacy efforts represent an increasingly important dimension of State VR agencies’ critical role in workforce development.

Regulatory Context

To assist in understanding the impetus for these and other federal and state policy-focused practices put into action by State VR agencies, following are the related provisions of Title I of the Rehabilitation Act, as amended by WIOA:

The purposes of the Rehabilitation Act [Section 2(b) of the Rehabilitation Act, as amended by Title IV of the Workforce Innovation and Opportunity Act] include:

- Empowering individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through statewide workforce development systems that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation to maximize opportunities for individuals with disabilities, including individuals with significant disabilities for competitive integrated employment;
- Ensuring that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living;
- Increasing employment opportunities and employment outcomes for individuals with disabilities, including through encouraging meaningful input by employers and vocational rehabilitation service providers on successful and prospective employment and placement strategies; and
- Ensuring, to the greatest extent possible, that youth with disabilities and students with disabilities who are transitioning from receipt of special education services under the Individuals with Disabilities Education Act and receipt of services under Section 504 of the Rehabilitation Act have opportunities for postsecondary success.



It is the policy of the United States that all programs, projects, and activities receiving assistance under the Rehabilitation Act must be carried out in a manner consistent with the principles of [Section 2(c) of the Rehabilitation Act, as amended by Title IV of the Workforce Innovation and Opportunity Act]—

- Respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;
- Respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;
- Inclusion, integration, and full participation of the individuals;
- Support for the involvement of an individual’s representative if an individual with a disability requests, desires, or needs such support; and
- Support for individual and systemic advocacy and community involvement.

