

## Counselor Policy Manual Table of Contents

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# GENERAL INFORMATION

## CHAPTER 1

**1.00 Purpose of Manual.** This manual establishes the Division of Vocational Rehabilitation [hereafter referred to as DVR] basic program requirements in accordance with Federal and State laws and regulations. It is used by the Bureau of Field Services to assist DVR customers in accomplishing their goals for employment outcomes. Chapter 1, Sections 1.00 to 1.15 and Chapter 2 of this manual pertain to all Field Services staff. In addition, there are Department of Education (DOE) policies and/or regulations and Florida statutes governing purchasing, personnel, fiscal, and community rehabilitation programs.

### 1.01 References

1. P.L. 113-128 Workforce Innovation and Opportunity Act including the Rehabilitation Act of 1973 (as amended).
2. The State Division of Vocational Rehabilitation program; Revised July 1, 2001 Final Rules and Regulations 34 CFR Part 361, et. al.
3. The Federal State Plan for the Division of Vocational Rehabilitation and the State Agency Functional Plan. (Reference: Rehabilitation Amendments Sec 101(a)(1) (A-C).
4. Florida Statutes, Chapter 413, Part II, Chapter 112, Section 112.311 and 112.313, and Chapter 120.
5. The Division of Vocational Rehabilitation Rules, Chapter 6A-25, Florida Administrative Code.

**1.02 Description.** DVR is a Federal/State Program that assists individuals with disabilities who require vocational rehabilitation services to prepare for, secure, regain, or retain employment. The rehabilitation process is based upon an Individualized Plan for Employment (IPE) that is oriented toward achieving an employment outcome. It is essential that the individual with a disability participate totally in the process to accomplish his or her goals. DVR may contract with other agencies to provide vocational rehabilitation services.

**1.03 Mission.** DVR's mission is to help people with disabilities find and maintain employment, and enhance their independence.

### 1.04 Workforce Innovation and Opportunity Act.

1. The Workforce Innovation and Opportunity Act (WIOA) requires that DVR be a partner in the One-Stop Delivery System. DVR must carry out the following functions:
  - a. Make available to participants through the One-Stop service delivery system the core services that are applicable to DVR.
  - b. Use a portion of the funds made available through the WIOA.

- c. Enter into a memorandum of understanding (MOU) with the Local Workforce Development Board.
- d. Participate in the operation of the One-Stop service delivery system consistent with the terms of the MOU and the requirements of the WIOA.
- e. Provide representation on the Local Workforce Development Board.

### 1.05 Interagency Agreements

DVR is authorized to enter into cooperative agreements with any state agency or institution, county, county agency or institution, municipality, or municipal agency or institution for the purpose of enabling the division and cooperating governing bodies, agencies, and institutions to jointly use their services and facilities to enlarge and improve the opportunities for persons who have disabilities to achieve self-support and self-care.

### 1.06 Guiding Principles, Consistent with the Rehabilitation Act of 1973, DVR places the utmost priority on high value outcomes for individuals with disabilities. All programs, projects, and activities shall be carried out in a manner consistent with the principles of:

1. respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice;
2. respect for privacy, rights, and access (including the use of accessible formats);
3. full engagement and participation;
4. support for the involvement of an individual's representative if an individual with a disability requests, desires, or needs such support;
5. support for individual and systemic advocacy and community involvement;
6. work as a cornerstone of the American way of life that fosters personal responsibility, builds independence and strengthens character; and
7. the provision of appropriate DVR services and supports, that benefit individuals with disabilities, including those with the most significant, to achieve, contribute and accomplish their best employment goals and career opportunities.

### 1.07 Ethics. The "Code of Ethics for Public Officers and Employees" was adopted by the Legislature. [[Florida Statute, Chapter 112, Part III](#)] The Code promotes the public interest and maintains the respect of the people for their government. Also, it ensures that public officials conduct themselves independently and impartially, not using their offices for private gains other than compensation provided by law. The Florida Commission on Ethics was created by the Legislature to serve as guardian of the standards of conduct for public officials, state, and local government. The [Standards of Conduct](#) are for all public officers and employees, including DVR.

1. The Department of Education adopted the Governor's Code of Ethics, which was effective January 4, 2011. [Reference: [Executive Office of the Governor's Code of](#)

[Ethics](#)] All employees will comply with the requirements of this revised Code of Ethics; [Chapter 112, Part III](#), Florida Statutes; [Article I, Section 24](#) of the Florida Constitution (Open Meetings); and [Chapter 119](#), Florida Statutes (Public Records)].

2. Each executive state agency has an assigned Chief Ethics Officer. The Chief Ethics Officer will make reasonable efforts to ensure that the employees responsible for adhering to the Department's Code will become familiar with relevant ethics, public records and open meeting requirements.

**1.08 Employee Misconduct.** An allegation or information coming to the attention of an employee indicating that misconduct has been committed by an employee of DVR must be promptly reported by the employee having such knowledge directly to the immediate supervisor. If it is believed that the immediate supervisor is involved in the alleged misconduct or may be unable or unwilling to properly deal with the alleged misconduct, the employee must notify the next higher level supervisor. Reports may be made orally or in writing to the appropriate supervisor. The confidentiality of the source of the report will be maintained in the manner appropriate to the circumstances of the case. The information in the report will be disclosed only to those entitled to receive it. This does not preclude the individual contacting the DOE Labor Relations Director or the Office of the Inspector General to file a complaint.

#### **1.09 Code of Professional Ethics for Rehabilitation Counselors and Staff Interpreters.**

1. In addition, the counselors and other rehabilitation professionals must demonstrate adherence to the Code of Professional Ethics for Rehabilitation Counselors. All certified rehabilitation counselors who violate the Code are subject to disciplinary action. The Commission of Rehabilitation Counselor Certification reserves the power to suspend or to revoke privilege or impose other penalties for a rule violation.
2. Staff Interpreters must adhere to the Code of Professional Conduct (CPC) from the national Registry of Interpreters for the Deaf (RID) as providers of interpreting services.

**1.10 Publications and Media Contacts.** These policies and procedures apply to all publications, news releases, public service announcements, prepared in whole or in part by DVR staff, concerning DVR programs and services regardless of the funding source. Publications include, but are not limited to, newsletters, flyers, handbooks, brochures, annual reports, and movie scripts.

1. All publications of DVR will be consistent with the Division's mission, philosophy, and values. They should reflect a positive image of the agency as well as the dignity, value, and worth of individuals with disabilities. The name, Florida Division of Vocational Rehabilitation, should be clearly visible on all publications as well as included in the narrative format, when appropriate.
2. The VR logo must appear on all publications.
3. When a statement of non-discrimination is required in any of DVR publications, such as those produced with federal funds or those to be given to consumers, the following non-discrimination statement must be used verbatim: "The Florida Division of Vocational Rehabilitation assures equal employment opportunity to all individuals

without regard to race, sex, color, religion, national origin, age, disabilities, marital status, political affiliation, or veteran status.”

4. The final draft of all DVR publications, (e.g., handbooks, brochures, annual reports) that are to be distributed outside of DVR must be submitted to the DVR Communications Office in Headquarters.
5. Only Area Directors or those specifically designated by the DVR Communications Office should respond to press inquiries. Employees who provide information to the media should keep the Communications Office informed of the content.
6. All calls of a controversial nature should be reported immediately to the DVR Communications Office.
7. Copies of all newspaper articles which mention DVR news should be sent to the Communications Office in Headquarters. Any DVR news release or public service announcement for the media generated in the field should be reviewed by the Communications Office prior to being sent to the media.
8. A DVR Public Relations Waiver form and Non-Customer Waiver (employer) must be on file with the Communications Office for any person, except full-time staff, appearing in a photo related to DVR. This includes any portion of a person (e.g., hands, back of the head) as well as out-of-focus shots.
9. An e-mail or phone call should be made to the Communications Director when appearances by staff on television or radio are requested or if staff takes calls from the media.
10. Counselors may use their discretion in identifying successful DVR Customers for referral to the Communications Office for inclusion in DVR’s new releases or other media campaigns.
  - a. Criteria for identifying DVR customers should include individuals who have a unique occupation or overcome an unusual situation. These individuals have the best opportunity to be featured in the media.
  - b. To have a DVR customer featured in a news release or other media campaigns, the Success Story form and the Public Relations Waiver form must be completed and forwarded to the Communications Office in Headquarters. Forms are located on the DVR’s intranet under Communications.

### **1.11 Transportation Liability**

1. Florida Statutes state: “No employee...shall be held personally liable...in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of his/her employment or functions, unless such employee acted in bad faith or with malicious purposes or in a manner exhibiting wanton and willful disregard of human rights, safety or property.”
2. The key element of this sovereign immunity is the fact that the employee is within the “scope of employment.” Staff must maintain state business at all times while

transporting the consumer. They must not stop to perform a personal errand or any such action while the consumer is being transported. The moment one's behavior can be construed to be anything other than an employment function, sovereign immunity is lost.

3. The law does not eliminate the necessity of employees maintaining personal auto insurance coverage.

### **1.12 Public Records Request**

1. "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. [Reference: Chapter 119, Florida Statutes,]. All department employees' records are also considered to be public records.
2. If a DVR employee receives a public records request, the employee must forward the request to PRR@fldoe.org. The request can be mailed to 325 W. Gaines St., Suite 1144, Tallahassee, Florida 32399-0400 or faxed (850-245-3316).
3. If a DVR employee receives a public records request on a DVR client's record and/or email, this information is exempted from public information because it is confidential and privilege.

### **1.13 Family Members**

1. All DVR employees, household members or an immediate member of their family (immediate family member is defined as the spouse; or child, parent, grandparent, sister, brother, or grandchild of either the employee or the spouse of the employee; or a person for whom the employee or the spouse of the employee has documented legal responsibility), or an individual who has a sexual or romantic relationship with a DVR employee requesting services shall be assigned a counselor by the Area Director or designee. The counselor should be in another unit when possible, so as to preclude any conflict of interest or breach of confidentiality. This assignment will be documented in the case notes.
2. Services provided to the DVR staff members and family members require Area Office prior approval. [Reference: Chapter 15]

### **1.14 Securing DVR Case Records**

1. DVR employees must exercise due professional care in securing active case records and working papers containing confidential client information.
2. Closed case records and records not in use must be secured in a designated locked area or file accessible only to DVR employees.

### **1.15 Destruction of Documentation/Case Record**

1. DVR may destroy an individual's closed case records five (5) years after the most recent case closure date or action (Reference: 6A-25.012(4), 1B-24.003(1)(a) and GS1-SL schedule #275 of the Florida Department of State.) In all cases, destruction must be certain and confidentially assured.
2. Any printed documents that identify applicants or eligible individuals or contain confidential information must be destroyed/disposed of in a manner that insures confidentiality.

### **1.16 Assignment of Cases**

1. An individual will be served within the Area in which he/she resides.
2. Assignment of an applicant or individual to a DVR counselor will be based upon the needs of the individual. Consideration is given to location of primary residence, and/or the unique characteristics of the impairment. Individuals have the right to request assignment to a specific counselor and/or a change of counselor at any time.
3. Decisions regarding the individual's request for a specific counselor or for a change in counselor shall be made by the unit supervisor if the requested counselor is in the same unit or made by the Area Director or designee if the requested counselor is in a different unit. The decision shall be based on the individual's impairment(s), the individual's perception of the counseling relationship, location of the requested counselor, the counselor's case load size, and the present counselor's perception of the counseling relationship.
4. Employees of DVR, household member or an immediate member of their family (immediate family member is defined as the spouse; or the child, parent, grandparent, sister, brother, or grandchild of either the employee or the spouse of the employee; or a person for whom the employee or the spouse of the employee has documented legal responsibility), or an individual who has a sexual or romantic relationship with a DVR employee, requesting services shall be assigned a counselor by the Area Director or designee. That counselor should be in another unit when possible, so as to preclude any conflict of interest or breach of confidentiality. This assignment will be documented in the case notes.
5. Case transfers should be handled in accordance with FSOP Casework Process 2 – Case Transfer.

### **1.17 Independent Status for Counselors.**

1. Independent status should be considered for all counselors and consultants at the time the performance evaluation is completed at the end of the probationary period. For individuals who have completed probation, but have not obtained independent status, consideration must be granted upon the individual's request.
2. Based on case reviews, independent status may be granted to counselors and consultants at the recommendation of the Unit Supervisor and at the discretion of the Area Director.

3. The Unit Supervisor will select and review a minimum of five (5) cases utilizing the Area Quality Assurance Case Review form (A peer review team approach may be used).
4. To obtain and retain independent status, the following requirements must be met:
  - a. 95% eligibility accuracy
  - b. 85% IPE accuracy
  - c. 95% financial accountability
  - d. 95% case closure (accuracy)
5. If the Unit Supervisor:
  - a. approves the request, he or she completes the Independent Status Request form and forwards it to the Area Supervisor and Area Director for approval.
  - b. denies the request, he or she will notify the counselor or consultant of the decision with recommendations for professional development.
6. If the Area Director approves the independent status request, he or she scans the form and forwards it to the Bureau of Field Services to process the request.
7. Independent status allows the counselor or consultant to complete eligibility determinations, IPEs and case closures without supervisory review or approval.
8. Supervisors must approve all authorizations electronically.
9. Independent Status Review
  - a. The Unit Supervisor will select a minimum of five cases, utilizing the Area Quality Assurance Case Review form every six months, from initial approval of Independent Status.
  - b. In order to approve the retention of independent status, the above requirements (# 4) must be met.
  - c. The Unit Supervisor completes the independent status review and recommends to retain or revoke the independent status.
10. The Area Director's designee will maintain a log of independent status requests and reviews.

### **1.18 Quality Assurance.**

1. A system of quality assurance has been designed to include DVR Counselor, Area Operations, and the Bureau of Field Services.
  - a. The DVR Supervisor, through individual case reviews and face-to-face coaching meetings with DVR Counselor, performs the first level of quality assurance. The quality assurance review encompasses all of the requirements of this manual.

- b. The Area Director is responsible to develop a quality assurance process to examine DVR Counselor casework performance at the Area level and to provide a feedback report to the Bureau of Field Services. This process may include a team approach and/or Area Supervisor reviews. These reviews are planned to sample cases quarterly.

### **1.19 Case Record Review.**

1. Individual case records must be reviewed by the supervisor at, eligibility, plan development, annual review, closure, and at transfer. Reviews, except transfer reviews, are to be recorded on the case review form or the RIMS based screen. Counselors on Independent Status will have a sample of files reviewed.
2. Transfer reviews will be documented by a case note recorded in RIMS and will be reviewed by the Area Supervisor during the case transfer process.

# Confidentiality and Release of Consumer Information/Records

## Chapter 2

- 2.00 **Confidentiality** is the legal and ethical responsibility of vocational rehabilitation professionals to safeguard individuals (including applicants) from unauthorized disclosures of information. Except as noted elsewhere in this Chapter, the Division of Vocational Rehabilitation (DVR) employees:
1. shall not discuss an individual's information or records with non-DVR personnel, including the individual's attorney, or attorney's employee;
  2. shall not permit the inspection by, or provide copies of an individual's records to, non-DVR personnel, including individual's attorney, or attorney's employee;
  3. shall not testify about an individual's records or information at any hearing, trial or deposition.
  4. shall not discuss, permit the inspection by, or provide copies of an individual's information or records to DVR personnel who are not directly involved in providing or securing services for the individual.
  5. shall provide only as much information as is necessary, to other DVR personnel who are involved in providing or securing services for the individual.

### 2.01 **General Rules**

1. Under Florida Statute 413.341, release of information/records except as consistent with this policy and the statute constitutes a misdemeanor.
2. Confidentiality includes both applicants and individuals determined eligible for services.
3. DVR will release only as much information as is necessary to accomplish the purpose stated in the release. Providers, including the VR Workers' Compensation provider, will be given only the pertinent information needed to adequately provide their services. If information is requested by a law enforcement entity or is subpoenaed, only information that is requested or subpoenaed will be provided. [Reference 2.10, 2.14, 2.15]

- 2.02 **Handbook of Services.** The Handbook of Services contains a detailed description and a statement on confidentiality of personal information. It describes the conditions for accessing and releasing information/records.

### 2.03 **Release and Waiver Forms.**

1. In order to obtain or release confidential information, DVR shall use only one of the following forms:

- a. **Authorization for Release of Information** (DOE/VR-VCMT004) for the purposes of obtaining confidential information from external entities.
- b. **Individual's Waiver of Statutory Confidentiality Rights** (DOE/VR-VCMT066) is required for purposes of obtaining the authorization from the applicant, eligible individual, or representative, for release to designated person(s). Waivers from outside sources are not acceptable.
- c. **Waiver of Confidentiality for Release of Information to Potential Employers** (DOE/VR-VCMT153) for the purposes of releasing the individual's name and resume to potential employers.

2.04 **Disability Rights Florida's Client Assistance Program (CAP):** DVR personnel may discuss information regarding the individual's records with CAP when the individual has requested CAP's assistance. Signature on the Handbook of Services constitutes this consent. DVR shall not release written or electronic documents without the written consent of the individual/applicant as stated in 2.03(1)(b).

#### 2.05 **Copy Fees**

1. The first copy of records shall be provided free of charge to:
  - a. The individual or the individual's representative or other persons or parties to whom the individual has given DVR written permission to release the records; and
  - b. The Client Assistance Program if the individual has given DVR written permission to release the records. The Rehabilitation Act requires the State to have a CAP to provide information, assistance and advocacy for DVR applicants and eligible individuals.
2. New information prepared or received since the original request may be provided at no cost for the first copy. The case notes shall document the provision of the first copy provided, date, and requester.
3. Subsequent requesters shall be charged \$.15 per page, payable in advance of receipt of the copy and in the form of check or money order to DVR. Mail the copy charge with a Cash Receipts Transmittal Form to the Bureau of Financial Management at the address reflected at the top of the form.

#### 2.06 **Mailing Costs**

1. Postage may be added to a copying charge if the requestor asks that records be mailed.

#### 2.07 **Request for Case Record Amendment**

1. If an applicant or individual believes that information in the case record is incomplete, inaccurate or misleading, the applicant or individual may request in writing that DVR amend the information. The request for the amendment shall be documented in the case record.

2. DVR shall accept additional information for inclusion in the case record to the extent it determines such information to be reasonably material to providing or not providing rehabilitation services to the applicant or individual.
3. Any such additional information shall be identified as produced by the applicant or individual.
4. DVR shall not alter the existing case record in any other way.
5. If the additional information is not accepted for inclusion in the case record, DVR shall document in the case record both the request and its denial of the request.

**2.08 Release to Applicant/Individual or Individual's Representative at the Request of the Individual.**

1. When an applicant/individual or the individual's representative requests the individual's records in writing, DVR shall make all requested information in the individual's case record accessible and shall release the information in a timely manner.
2. DVR shall provide the following to the applicant/individual or the individual's representative exceptions are provided in Section 2.08(3):
  - a. a copy of only the documents paid for or produced by DVR, a copy of the applicant/individual's expenditure summary and a statement that third party information exists but cannot be provided by DVR, if applicable.
  - b. upon receipt of a subsequent request DVR may provide all expenditure documents (copies of the individual's invoices) and a list of the names, addresses, telephone number and a brief description of the information provided by third party providers. The Social Security Administration is to be included in this list if information has been received from that office.
3. Exceptions and HIV/AIDS Information.
  - a. Information that may be harmful to the applicant/individual may not be released directly to the individual, but instead must be provided through the individual's designated representative, physician or a licensed psychologist.
  - b. HIV/AIDS test and any related information shall not be released unless release is specifically requested by the applicant/individual or the individual's guardian (if the individual is incompetent).
  - c. The release of HIV/AIDS information to the individual or the individual's guardian must be made in a face-to-face meeting during which DVR is prepared to offer counseling to the individual (and guardian, if appropriate) regarding such information.
  - d. All references to HIV/AIDS information in case file documents must be stricken unless the foregoing conditions are met (do not mark up the original documents in the file; only

mark up the copy provided). The area medical and psychological consultants can provide guidance on which information to release.

- e. **HIV information shall not be released without the individual's written consent except to a medical provider who will be performing services that would put such provider at risk of contracting HIV/AIDS from the individual. Clearance to release such information under such circumstances must be received from the unit supervisor. The unit supervisor should contact the Bureau Chief of Field Services if it is unclear whether such information should be released.**

#### **2.09 Release to Person or Entity Other than Individual or the Individual's Representative at the Request of the Applicant/Individual.**

1. Upon the written request of the individual, DVR may release the same information to third parties that it could release to the applicant/individual or the individual's representative.
2. HIV/AIDS information shall not be released (and references thereto must be stricken from such copies) unless such release is specifically requested in writing by the applicant/individual or the applicant's or individual's representative.

#### **2.10 Release in Administration of the DVR Program**

1. Under Section 2.01(3), DVR may give providers only as much information as they need to adequately provide services. It must be pertinent information as it relates to the services requested and the entire case file may not be necessary.
2. Records (including third party records) may be released to agencies, including the Office of Disability Determination, or providers only as required to administer the DVR program, provided:
  - a. The recipient agency or provider has given DVR an assurance that it will not release the information or records to any other party unless compelled to do so by applicable law; and
  - b. Only pertinent information necessary to administer the DVR program with regard to such agency or provider is released.
3. The DOE Legal Office is available to answer questions on what records may be released.

#### **2.11 Release to Agency or Political Subdivision of the State of Florida**

1. If another state agency or a political subdivision of the State of Florida requests records or information in the performance of its duties, such records or information may be released.

#### **2.12 Release Based on Declared Intent to Harm Persons or Property Based on Potential Harm by or to the Individual with a Disability**

1. If the individual has declared any intention to harm other persons or property, that declaration shall be disclosed to law enforcement or to another appropriate person or entity. If the

applicant/individual poses a threat to his/her own safety or to the safety of others DVR should release necessary records and information to law enforcement or to another appropriate person or entity.

2. The individual's consent is not necessary to release information or records under this heading.

**2.13 Release to Report Abuse, Neglect, or Exploitation of an Elderly Person, Person with a Disability, or a Child**

1. DVR shall release information as necessary to report abuse, neglect or exploitation of an elderly person, person with a disability or child.
2. The applicant/individual's consent is not necessary to release information or records under this heading.

**2.14 Release to Law Enforcement Agencies Investigating the Commission of a Crime, Fraud or Abuse**

1. DVR shall release information in response to investigations by local, state, or federal authorities in connection with law enforcement, fraud, or abuse.

**2.15 Release Based on Attorneys' Request or Subpoena or Court Order**

1. A copy of all attorneys' requests, subpoenas and all court orders should be faxed immediately upon receipt to DOE Legal Office, at 850-245-9379 (Fax) and no actions should be taken until the DVR Counselor has received approval and direction from the DOE Legal Office.
2. If records are requested by an attorney, are subpoenaed or DVR counselor is subpoenaed to testify, and the applicant/individual has consented to a release of records/information in writing on the Legal Office's Waiver form which is available through the DOE Legal Office, the records may be inspected and DVR Counselor may testify after consultation with DOE Legal Office. **No records/information or testimony may include HIV information unless expressly included in the individual's consent to the release.**
3. If there is no release in the file, no records should be inspected, copied or released and no testimony should be given until the DVR Counselor has received approval and direction from the DOE Legal Office.
4. If the DVR Counselor is unable to testify or furnish subpoenaed records due to foreseeable reasons, the DVR Supervisor must be prepared to testify and/or deliver the requested or subpoenaed records. If for some reason the Supervisor is unavailable, the DOE Legal Office must be contacted immediately.
5. In the case of subpoena, a list of all providers of information subject to release only under the condition established by the provider (third party information) not paid for, but provided as a courtesy (including the address and telephone number of the providers and a brief description of the information) will be provided. While the federal regulations are more restrictive than state

law regarding the release of third party information, it is considered a good faith effort to provide the source of third party information.

## **2.16 Third Party Information**

Third party information may not be released except as described in 2.08(2)(b), 2.10(2)(a)(b), 2.15(5). This includes any reports, evaluations and summaries related to services provided by the third party that were not paid for by DVR.

## **2.17 Release for Research, Evaluation or Audit**

1. Information may be released to an individual or agency engaged in an audit, evaluation or research, only for purposes directly connected with the administration of DVR or for purposes which would significantly improve the quality of life for persons with disabilities.
2. Prior to release of any information, the Chief of the Bureau of Field Services must review and approve any request for information.

## **Stevens Amendment**

The Florida Department of Education, Division of Vocational Rehabilitation (VR) is an equal opportunity employer. It is against the law for VR as a recipient of Federal financial assistance to discriminate against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The application process used by VR to determine eligibility for services, any subsequent services and the entire VR process are subject to these non-discrimination requirements. Auxiliary aids and services are available upon request to individuals with disabilities. VR program receives 78.7 percent of its funding through a grant from the U.S. Department of Education. For the 2021 Federal fiscal year, the total amount of grant funds awarded were \$176,836,896. The remaining 21.3 percent of the costs (\$47,860,557) were funded by Florida State Appropriations. Revised October 2021.

## **Notice of Decisions and Appeals Procedures**

### **Chapter 3**

3.00 **Area Complaint Resolution.** When disputes arise, the counselor and supervisor are encouraged to negotiate resolution with the individual. If their attempts fail, the individual may be provided information regarding the availability of the Ombudsman to discuss the questions and concerns. The Ombudsman service is an information alternative included in the resolution process provided by the Ombudsman Unit in the DVR state office. The toll free number is 1-866-515-3692 or 1-800-451-4327.

3.01 **Continuation of Services through Appeal.** Services being provided for the individual shall not be suspended, reduced, or terminated pending a mediation agreement, a decision by a hearing officer, or reviewing official. This includes evaluation, assessment, plan development and IPE services.

1. Services may be suspended, reduced or terminated if such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct or so requested by the individual with a disability or in an appropriate case, the individual's representative.
2. Support services, such as maintenance, transportation, personal assistance services, childcare or other services to family members, provided to enable an individual to participate in a service that is reduced, suspended or terminated, shall also be reduced, suspended, or terminated.

3.02 **Determinations and Review Procedures**

1. A determination is any decision made by DVR that affects the provision of vocational rehabilitation services to an applicant or eligible individual.
2. A determination shall be in writing and shall include notification of a right of review.
3. Notification of Right of Review
  - a. The notification shall include information on the procedures for filing a request for an administrative review or administrative hearing and the availability of Mediation.
  - b. The notification shall include a description of the individual's right to contact the Disability Rights Florida's CAP for assistance and advocacy in pursuing appropriate remedies.

3.03 **Administrative Review**

1. An individual may request an administrative review when he/she is dissatisfied with and\_wishes to dispute DVR's determination. The Area Director, or his or her designee shall, upon request by

the individual, conduct the administrative review to facilitate the speedy resolution of the dispute.

2. The individual or his or her authorized representative shall have 21 calendar days from the date of receipt of the notification of determination to inform DVR in writing of his or her desire for an administrative review. If DVR provides the notification to the individual or authorized representative by mail, 5 days shall be added to the prescribed period. The individual may elect to bypass the administrative review and file a petition for an administrative hearing. The individual, the individual's representative or CAP, if representing the individual, may initiate a timely request to extend the 21 days.
3. The individual or authorized representative may attend the administrative review in person or by teleconference and shall have the right to present information relevant to the determination.
4. DVR Area Director or his or her designee shall render a decision based upon the individual's case record, any information presented by the individual or by DVR at the administrative review, any other pertinent information, and applicable laws, regulations, and DVR policy. The Area Director or his or her designee shall render a decision in writing consisting of findings and conclusions within five (5) working days of the administrative review. A copy shall be placed in the individual's records.
5. The individual shall have the right to challenge the administrative review decision by timely filing with the Director of DVR a request for mediation or a petition for an administrative hearing within 21 days of receipt of the decision.

3.04 **Mediation.** Mediation is a process whereby a neutral and impartial third person acts to encourage and facilitate the resolution of a dispute between DVR and the individual and/or the individual's representative. It is an informal and non-adversarial process with the objective of helping those in disputes reach a mutually acceptable and voluntary agreement. In mediation, decision-making authority rests with the parties, not the mediator. [FL Statutes 44.1011]

1. If an individual files a petition for an administrative hearing, and upon the agreement of the individual and DVR, the dispute shall be mediated by a family, county court or civil court mediator certified by the Florida Supreme Court. Such mediation shall be paid for by DVR.
2. DVR shall propose three (3) certified mediators from the judicial circuit in which the individual resides. The individual shall select from such list one (1) of the three (3) to mediate the dispute. The mediator may not have been previously involved in the individual's vocational rehabilitation or have a personal, professional, or financial interest that would impair the mediator's objectivity.
3. Counselors will review the option of mediation with individuals at the time of application and at IPE development. Detailed information regarding mediation will be contained in all decision letters.

4. At the time of requesting an administrative hearing, information will be provided regarding the availability of voluntary mediation. An individual may request mediation by sending a letter to the DVR Director.
5. Requests for mediation shall be reviewed. DVR will first determine whether the matter can be resolved without the need for mediation. If it is determined that the applicant/eligible individual's issues can be resolved, DVR will notify the applicant/eligible individual and the counselor of this determination. If DVR determines that the case is appropriate for mediation, DVR will agree to participate in mediation.
6. DVR utilizes mediators who are certified by the Florida Supreme Court and knowledgeable in laws and regulations relating to the provision of vocational rehabilitation services. Qualified and impartial mediators may not have been previously involved in an individual's vocational rehabilitation or have personal professional or financial interests that would conflict with the mediator's objectivity.
7. The individual and/or authorized representative and DVR must agree upon the choice of mediator and his/her impartiality in the dispute. DVR shall pay the cost of the mediation process. Mediation will be scheduled in a timely manner and in a location convenient for individual's access. Participation in mediation will not deny or delay due process.
8. Individuals may have legal representation or request CAP representation during mediation. Individuals may freely present information and evidence during the mediation process. An agreement reached by the parties to the dispute in the mediation process will be contained in a written, signed mediation agreement.
9. Discussions during the mediation process will be confidential. Information disclosed only in mediation cannot be used as evidence in any due process hearing or civil proceeding. Parties involved in the mediation may be required to sign a confidentiality agreement prior to the commencement of the mediation process.

### **3.05 Administrative Hearing**

1. If the individual is dissatisfied with any determination made by DVR and/or decision of the administrative review or the outcome of Mediation, or has elected to bypass the administrative review or mediation, the individual may file a written request for an administrative hearing before an Administrative Law Judge (ALJ) assigned by the Division of Administrative Hearings (DOAH).
  - a. The request for an administrative hearing must be made within 21 days after the administrative review decision is received, or if the administrative review option is bypassed by the individual, within 21 days after the determination of DVR is received. If DVR provides the notification to the individual or authorized representative by mail, five (5) days shall be added to the prescribed period.

- b. The request for a hearing must be written to the Director of DVR.
- c. The individual may be represented at the administrative hearing by an attorney, or any person selected by the applicant or eligible individual competent to meet the requirements for a personal representative pursuant to Rule 28-106.106, F.A.C. During the administrative hearing, the individual, or as appropriate, the individual's representative may present witnesses and evidence and may examine all witnesses and other relevant sources of information and evidence.
- d. The administrative hearing shall be conducted in conformance with the requirements of Chapter 120, Florida Statutes, and Chapter 28-106, F.A.C.
- e. The ALJ shall issue a Recommended Order based on Federal and Florida law. The Florida Commissioner of Education shall review the Recommended Order and the parties' Exceptions to the Recommended Order, if any, and pursuant to Section 120.57, Florida Statutes, issue a final Order. The Commissioner may not overturn or modify the ALJ's Recommended Order except as provided in Section 120.57 (1) Florida Statutes.

- 2. As DVR enters into contracts and agreements to implement public private partnerships for the delivery of services, DVR will retain all authority and responsibility for determinations concerning the provision of vocational rehabilitation services. Contract providers will be required to cooperate as necessary to ensure the individual's ability to exercise his or her rights to mediation and an administrative hearing.

**3.06 Commissioner's Final Review.** An order or decision issued by the Commissioner of Education in the above process is Final. A party aggrieved by the final decision is entitled to judicial review pursuant to Section 120.68, Florida Statute.

**3.07 Judicial Review**

- 1. An individual who has exhausted all available and adequate administrative remedies and is aggrieved by the administrative disposition of the matter in dispute is entitled to judicial review.
- 2. An individual who has pursued judicial review as in 3.07(1) and disagrees with the decision of the judicial review, has a right to bring a civil action.

**Stevens Amendment**

The Florida Department of Education, Division of Vocational Rehabilitation (VR) is an equal opportunity employer. It is against the law for VR as a recipient of Federal financial assistance to discriminate against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The application process used by VR to determine eligibility for services, any subsequent services and the entire VR process are subject to these non-discrimination requirements. Auxiliary aids and services are available upon request to individuals with disabilities. VR program receives 78.7 percent of its funding through a grant from the U.S. Department of Education. For the 2021 Federal fiscal year, the total amount of grant funds awarded were \$176,836,896. The remaining

21.3 percent of the costs (\$47,860,557) were funded by Florida State Appropriations. Revised October 2021.

# Referrals, Applications, Preliminary Assessment and Diagnosis

## Chapter 4

### 4.00 Referrals

1. Any agency, organization, individual (including self-referral) or the One-Stop delivery **system may refer an individual** to VR for services. The referring agent has the option to provide the local VR office with the following information on the referred individual, when available:
  - a. Full name
  - b. Address/e-mail address
  - c. Telephone number where referred individual may be reached
  - d. Date of birth, if available
  - e. Contact person's name, phone number and referral source
2. The VR Referral form is available for referral, but its use is not required. This form is located on the VR Web site <http://www.rehabworks.org>.
3. Upon receiving a referral, VR staff must contact the individual within three (3) working days, and a referral note is required.

### 4.01 Other Requirements

1. All individuals have the right to apply for VR services and to have a decision made regarding their eligibility for such services.
2. Age shall not exclude any individual who meets the basic eligibility requirements for vocational rehabilitation services. Individuals must be available and legally permitted to join the labor market prior to eligibility determination.
3. Individuals must have legal status in the United States and be authorized to work. An individual must be physically present in the state and available to receive services. VR does not impose any residence requirement that excludes from vocational rehabilitation services any individual who is present in the state.
4. Documents that establish employment eligibility and identity must be consistent with forms required by the Department of Homeland Security, United States Citizenship and Immigration Services. ([Form I-9, Employment Eligibility Verification](#))
5. An individual who does not possess appropriate documentation shall be closed as other or transferred to another agency.

### 4.02 Right to Apply

1. An individual has the right to apply for VR services and have an appointment and to have a decision made regarding their eligibility for services. The refusal to accept an application or to interview the individual constitutes a "denial of access" to a public program and is a violation of Section 504 of the Rehabilitation Act of 1973, as amended.

### 4.03 Informed Choice

1. Informed choice is a process in which individuals with disabilities share responsibility with counselors by identifying options and considering the advantages and disadvantages of each option from the viewpoint of the individual. Informed choice occurs when each partner has shared responsibility for the process and outcome. It begins with the first meeting between the individual with a disability and the counselor and continues throughout the rehabilitation

- process with provision for whatever accommodations are needed. [Reference Chapter 11, Section 11.01]
2. Applicants and eligible individuals or, as appropriate, the individuals' representatives, must be provided information and support services to assist them in exercising informed choice throughout the vocational rehabilitation process. These may include the selection of a competitive integrated employment, the specific vocational rehabilitation services needed to achieve the employment outcome, the entity that will provide the services, the employment setting and the settings in which the services will be provided, and the methods available for procuring the services.
  3. When disclosing information, counselors must assure appropriate modes of communication, conveying to the individual with a disability the availability of support services for individuals with cognitive or other disabilities who require assistance in understanding and exercising informed choice.
  4. Applicants and eligible individuals must be assisted to exercise informed choice in decisions related to service providers.
    - a. If an individual chooses a service provider outside the service area where he/she resides, the individual shall provide for his/her own transportation costs, unless no qualified provider possessing the required expertise is available or a provider in another area is within a shorter commuting distance to the individual. Consideration of comparable services and benefits is required. [Reference Chapter 9, Sections 9.03, 9.04, and 9.05]
    - b. The provider of choice must be qualified and, where applicable, licensed by the state and/or appropriately accredited to perform such services must meet VR's Standards for Vendors. [Reference Chapter 11, Section 11.01 and Chapter 12, Section 12.02]
    - c. The provider of choice must agree to accept VR's portion of the payment and bill the individual's cost share separately. The individual may agree to pay more than his/her cost share. In this case, a signed copy of such agreement must be maintained in the case record. [Reference Chapter 9, Section 9.01(6)]
  5. **Documentation of Informed Choice.** Counselors must have case documentation to reflect choice as a concept or a value that permeates all interactions.
    - a. To demonstrate that this concept is a part of their relationship with individuals, evidence of informed choice must be provided throughout the case recording narrative.
    - b. This documentation must describe the meaningful events in which the individual has participated in making decisions as a fully informed partner.
    - c. Counselors must be specific and deal with substantive issues. Issues needing resolution must be identified, and the manner in which the consumer was informed and involved in the process must be delineated.
    - d. In general, case recording should reflect the decision-making process used by the counselor with particular attention paid to clearly describing the active roles each played in deciding the final outcome.
    - e. The counselor needs to document the quality of the individual's interaction and involvement in the vocational rehabilitation process. This not only notes that participation occurred but also the level and extent to which the individual expressed his/her needs and participated in the process of determining how best to meet them.

#### 4.04 Applications

1. An application is not required for an appointment with a counselor. An application is completed at the initial appointment with the counselor.
2. A signed and dated application for services or a signed and dated request for services is required to complete the VR application.
3. Once an individual submits a completed VR application, an eligibility determination must be made as soon as possible, but no later than 60 days from the application date. If VR cannot make an eligibility determination within 60 days of the application due to exceptional and unforeseen circumstances beyond the control of VR, the individual and counselor must agree to a specific extension of time. An extension must be documented in the case record by the counselor. [Reference Chapter 6, Section 6.06(2)]
4. Counselors may use the Preliminary Assessment Interviewing Tool to obtain applicant information, explore vocational counseling and guidance issues, and address potential barriers to employment.

#### 4.05 Representatives/ Parents/Guardians

1. Individuals shall be informed that they may select a representative. The individual's representative shall be included in the vocational rehabilitation process with the consent of the individual or when so ordered by a court of competent jurisdiction. An informed, signed request of consent and release of information shall be placed in the individual's records. Whenever possible, a third party should complete the request of consent for individuals unable to complete such a written request.
2. Parents or guardians shall be included in the vocational rehabilitation process only if the individual with a disability is a minor (less than 18 years old) or pursuant to 4.05(1) above. Families and other natural supports can play important roles in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.
3. Guardians shall be included in the vocational rehabilitation process only if participation is within the scope of the guardianship, or pursuant to 4.05(1) above.
4. Representatives, parents, or guardians included in the rehabilitation process shall receive written notice of all VR determinations that suspend, reduce or terminate services. They shall also be entitled to take part in all meetings between VR and the individual receiving services.

#### 4.06 Signature

1. An applicant for vocational rehabilitation services must provide his or her signature on the application form if he/she is at least 18 years of age and legally competent. If the applicant is less than 18 years of age or is legally incompetent, the applicant's parent, legal guardian or representative must provide his or her signature on the application form in addition to the individual's signature.
2. The signature of an authorized representative shall be valid only if the individual or recipient of VR services expressly designates such representative in the presence of the counselor, and such designation is noted by the counselor in the individual's records. Documentation shall include a release of information to the representative for all information.
3. The signature of a legal guardian on behalf of an individual or recipient of services from VR shall be invalid unless it is accompanied by one of the following:
  - a. a court order establishing such guardianship, or

- b. a statement by the guardian that the individual or recipient of services is a minor and the guardian is the natural parent and/or legal custodian of the child.

4.07 **Preliminary Assessment.** The preliminary assessment may be the first personal contact the individual has with the counselor. It forms the basis of the relationship between the counselor and the individual and is the first step to eligibility determination.

1. The preliminary assessment must be completed as expeditiously as possible. Counselor may use the Preliminary Assessment Interviewing Tool to obtain applicant information, explore vocational counseling and guidance issues, and address potential barriers to employment.
2. The counselor shall prepare a preliminary assessment of each applicant that shall include:
  - a. An identification of the applicant's barriers to employment;
  - b. An appraisal of the applicant's abilities, functional limitations, and rehabilitation needs;
  - c. An initial appraisal of the rehabilitation technology needs to successfully complete an assessment;
  - d. A description of the individual's expectations with respect to assistance from VR;
  - e. An appraisal of the individual's understanding of informed choice regarding the services available from VR;
  - f. An initiation of the eligibility assessment;
  - g. Information that the Voter's Registration Form was completed or declined;
  - h. **Voter Registration** – Each applicant must be offered the opportunity to register to vote, and the decision must be documented, as required by Florida Statute 97.058 and Rule 1S-2.048, Florida Administrative Code:
    - i. If the applicant chooses to register to vote, the Voter Registration Application must be completed and mailed to the Supervisor of Elections within 5 working days. VR will not maintain a copy of the Voter's Registration Application.
3. During the preliminary assessment:
  - a. The counselor and the individual shall review and discuss the VR Handbook of Services, including financial participation, order of selection, mediation and the review process. The counselor shall keep the acknowledgement form signed by the individual in the case record.
  - b. VR shall to the greatest extent use information that is available, sufficient, and appropriate for the purpose of determining eligibility from other programs and providers (particularly information used by education officials and the Social Security Administration). Information that can be provided by the individual with a disability or the family of the individual shall be used for purposes of determining eligibility for the services offered by VR.

4.08 **Preliminary Assessment Requirements/Considerations**

1. The assessment must be conducted in the most integrated setting possible, consistent with the individual's needs and informed choice.
2. An assessment of the need for assistive technology and/or worksite modification may be secured through referral to rehabilitation engineering technology.
3. Additional data and reports may be obtained only to the extent they are reasonably necessary to determine eligibility and to make an assignment of a priority of services under an order of selection. Further assessments may be conducted after eligibility determination, if needed, to assist with the IPE planning.

4. SSI/SSDI recipients are presumed eligible and are excluded from preliminary assessment (Reference Chapter 6, Section 6.03). However, the preliminary assessment form must be completed.
5. SSI/SSDI recipients are not required to contribute to the cost of vocational rehabilitation services. [Reference Chapter 9, Section 9.02(1)]

4.09 **Trial Work Experience.** VR is required to use trial work experiences prior to make any determination that an individual with a significant disability is incapable of benefiting from vocational rehabilitation services in terms on an employment. [Reference Chapter 6, Section 6.02]

1. VR shall explore the individual's abilities, capabilities, and capacity to perform in realistic work settings through the use of trial work experiences before determining ineligibility due to the severity of a disability.
2. VR must develop an Individualized Plan for Trial Work (IPTW) to assess periodically the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experience. Trial work must be provided in the most integrated setting possible, consistent with the informed choice and the rehabilitation needs of the individual. A copy of the IPTW will be provided to the individual.
3. Trial work experiences provide the individual with the opportunity to try different employment experiences. They may include supported employment, on-the-job training, and other experiences using realistic work settings.
4. Trial work experiences must be of sufficient variety and over a sufficient period of time for VR to determine that:
  - a. There is sufficient evidence to conclude that the individual can benefit from the provision of vocational rehabilitation services in terms of an employment outcome; or
  - b. There is clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome due to the severity of the individual's disability.
5. VR shall provide appropriate supports, including assistive technology services and personal assistance services, to accommodate the rehabilitation needs of the individual during the trial work experiences.
6. An assessment of the individual's progress must be documented by the counselor in the case record at least once every 30 days during the trial work period and reflect whether the individual can be determined eligible, ineligible, or if trial work should continue.

4.10 **Assessment for Determining Eligibility and Vocational Rehabilitation Needs.** Once activated from the waiting list, if under an order of selection, or in instances where additional data is necessary to determine eligibility, a comprehensive assessment of the unique strengths, resources, priorities, interests and needs, including the need for supported employment, will be conducted. This is used for the purpose of determining the vocational goals, objectives, and nature and scope of vocational rehabilitation services to be included in the IPE or to obtain clear and convincing evidence that the individual is able to benefit from vocational rehabilitation services. The comprehensive assessment:

1. To the maximum extent possible, relies on information obtained from the individual's experiences in an integrated employment setting in the community or in other integrated community settings;

2. Is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the IPE for the eligible individual;
3. Uses as a primary source of information, existing information obtained for the purposes of determining eligibility of the individual and assigning priority of an order of selection for the individual. Such information can be provided by the individual and, if appropriate, by the family of the individual;
4. May include an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual;
5. May include an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the use of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment;
6. May include a referral for the provision of rehabilitation technology services to the individual, to assess and develop the capacities of the individual to perform in a work environment; and
7. May include an exploration of the individual's abilities, capabilities, and capacity to perform in work situations, which must be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.

There must be documentation which supports the vocational choice and gives direction to the rehabilitation process. This is important to ensure the competitive integrated employment.

VR must not consider an applicant's employment history, current employment status, level of education or educational credentials when determining eligibility for services.

#### 4.11 Diagnoses

1. A signed report, electronic or otherwise, from a qualified provider containing a diagnosis of the individual's disability shall be maintained in the individual's case records.
2. Diagnoses by professional staff with less than M.D. or doctoral level are acceptable if such individuals are employed by licensed/certified facilities with M.D. or doctoral level. Signature of the individual providing oversight is not required.

#### 4.12 Mental Health

1. The diagnosis of a mental health disorder shall be made by a psychiatrist or a licensed psychologist. A licensed school psychologist may be used for developmental diagnoses. [Reference VR's Guideline for the Use of Psychological Services]
2. Neuropsychological and specific learning disability assessments shall be made by qualified personnel approved to perform such assessments licensed under appropriate licensure laws.
3. The diagnosis of a mental or emotional disorder shall be consistent with the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by American Psychiatric Publishing, 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209, [appi@psych.org](mailto:appi@psych.org).
4. "V-Codes" in the DSM do not constitute an impairment for VR eligibility.

5. **Mental Disorders in Remission.** The DSM multiaxial diagnosis system specifies the current severity of a mental disorder by the following terms:
6. **Partial Remission:** A disorder in partial remission means, “The full criteria for the disorder were previously met, but currently only some of the symptoms or signs of the disorder remain.”
7. **Full Remission:** A disorder in full remission means, “There are no longer any symptoms or signs of the disorder, but it is still clinically relevant to note the disorder.” It is not sufficient to determine eligibility based on diagnosis alone. The differentiation of “in full remission” from “recovered” requires consideration of many factors, including the characteristic course of the disorder, the length of time since the last period of disturbance, the total duration of the disturbance, and the need for continued evaluation or prophylactic treatment.

#### 4.13 **Chemical Dependency**

1. The eligibility decision by the counselor should be based upon a current assessment of psychological functioning and a demonstrated desire by the individual to remain substance free and participate with available resources, e.g., Alcoholics Anonymous/Narcotics Anonymous (AA/NA), local community drug and alcohol awareness centers.
2. Individuals who are actively abusing drugs shall not fall under the category “individual with a disability.” In the context of chemical dependency, an individual is an “individual with a disability” who:
  - a. has successfully completed a supervised drug rehabilitation program and is no longer engaging in such use;
  - b. participates in a supervised rehabilitation program and is no longer engaging in such use; or
  - c. is mistakenly regarded as engaging in such use but is, in fact, not engaging in such use. Alcohol or drug testing may be used to ensure that the individual is no longer engaging in the use of alcohol or illegal drugs.

#### 4.14 **Adjustment Disorder.** Adjustment disorders are acute psychiatric/psychological impairments.

1. An adjustment disorder may be in response to temporary situational conditions that are frequently resolved within a short period of time but do cause substantial impediments to employment.
2. Six months after receiving the adjustment disorder diagnosis, the individual must be reevaluated. When adjustment disorders are present and cause substantial impediments, a reevaluation will generally indicate a more chronic impairment.
3. If an individual with an adjustment disorder is found ineligible for the services provided by VR, the ineligibility decision shall be based on an assessment of whether the adjustment disorder causes a substantial impediment to employment and whether the individual can benefit from VR in terms of an employment outcome.

#### 4.15 **Borderline Intellectual Functioning.** This is not an acceptable diagnosis for the purposes of eligibility for VR’s services.

1. Borderline Intellectual Functioning is interpreted as an Intelligence Quotient (IQ) score of 70-79 plus or minus five (5) points standard deviation in testing. If significant adaptive

functioning deficits are indicated for those scoring 70-75, it is appropriate to discuss with the psychologist changing the diagnosis to intellectual disability.

2. Individuals diagnosed with Borderline Intellectual Functioning with an IQ score of 76-79 without adaptive functioning deficits would not be eligible for the VR program.

#### 4.16 Intellectual Disability

1. The diagnosis of an intellectual disability shall be made by a psychiatrist, licensed psychologist, or by a licensed school psychologist.
2. The DSM defines the upper range of intellectual disability as an IQ of 70 plus or minus five (5). This means that an individual may be diagnosed as mildly intellectual disabled with an IQ as high as 75 if there are significant adaptive functioning deficits. An individual's IQ can be as low as 65 and not be coded as an intellectual disability as long as the adaptive functioning is adequate. The lower the IQ, the more probable presence of adaptive functioning deficits.
3. It is reasonable to use an early IQ test score that is less than 65 and evaluation of current adaptive functioning for documentation of an individual's intellectual disability.
4. Further assessments may be conducted after eligibility determination to assist with the IPE planning if necessary.
5. Retesting may be ordered for individuals who have an IQ score of 65 to 75 if the testing was done prior to 9<sup>th</sup> grade. The individual's adaptive functioning may have improved, and intellectual disability diagnostic criteria would not be met as a result.

#### 4.17 Specific Learning Disability.

1. Reports generated by schools in Florida, which document a Specific Learning Disability diagnosis, must meet the Department of Education (DOE) standards (FAC 6A-6.03018).
2. A diagnosis of specific learning disabilities shall be based on testing done in the 9<sup>th</sup> grade or later using the Wechsler Intelligence Scale for Children (WISC) ages 3 to 16 and/or the Wechsler Adult Intelligence Scale (WAIS) ages 16 and older.

#### 4.18 Hearing Loss

1. **Deafness** means a hearing loss of such severity that the individual must depend primarily upon visual communication such as lip-reading, writing, manual communication and gestures. There is usually a 70 decibel (db) loss or greater in both ears and a speech discrimination score of forty percent (40%) or less in the better ear.
2. **Hard of Hearing** means hearing loss resulting in a functional loss, but not to the extent that the individual must depend primarily upon visual communication. There is usually a thirty (30) decibel (db) loss in the better ear with speech discrimination below fifty percent (50%).
3. **Assessment.** In all cases of hearing loss, an audiogram shall be obtained. An audiologist licensed or certified in accordance with state laws or regulations must perform the evaluation of the auditory system. Certified audiology assistants under the direct supervision of licensed audiologists may also perform the evaluations.
  - a. An ophthalmologic evaluation shall be obtained in all cases of retinitis pigmentosa, and usher syndrome.
  - b. Individuals suspected of having ear disease should be evaluated by a physician skilled in diseases of the ear, e.g., an ENT, Otologist, and/or an Otolaryngologist.
  - c. **Related References:** Hearing Aid Purchases, Chapter 12, Section 12.05; Interpreter Services/Listening Devices, Chapter 11, Section 11.09; Post Secondary Training – Chapter

13, Section 13.07 and 13.08. For more information on hearing loss, hearing aids, prior approvals, and services to this population, see the VR's Best Practices Guide on Serving Individuals Who Are Deaf, Late-deafened and Hard of Hearing and Guidelines on Hearing Loss, the Purchase of Hearing Aids, and Cochlear Implants (Section 12.05(1)).

- 4.19 **Speech Impairments.** In cases of speech impairments, diagnosis shall be made by a Speech Language Pathologist.
- 4.20 **Vision Impairments.** A vision impairment is a condition resulting in the loss of visual acuity and/or limiting an individual's field of vision. Individuals who meet the definition of "blind" in Section 413.033(1), Florida Statutes, shall be referred to the Division of Blind Services, Florida Department of Education.

## Chapter 5 Transition Youth

**5.00 Operational Definitions** (Defined words, italicized in blue within the chapter, are per code and best practices.)

- A. **Transition Youth** - are individual's ages 14 – 24 years old who have a disability. In Florida, the Division of Vocational Rehabilitation (VR) begins outreach activities to youth when they turn 14 years of age, so that they and their families are aware of possible services available to help transition from school to a life beyond secondary (Grade 6-12) schooling. A *transition youth* can be a *student with a disability* or a *youth with a disability*.
- B. **Transition Youth Services** - are activities offered by VR to promote movement from school to post-school/youth to adulthood. The services are varied and may include postsecondary education, vocational training, competitive integrated employment (including supported employment), continuing and adult education, and community participation. Transition services must promote or facilitate the achievement of the employment outcome identified in the Individualized Plan for Employment (IPE). [Reference: 34 CFR Section 361.5(c)(55).]
- C. **Student with a Disability** –
1. Is a student [Reference: 34 CFR Section 361.5(c)(51) and Section 614(d)(1)(A) of IDEA]
    - a. at least 14, but not older than 21 years of age, and
    - b. in a secondary, postsecondary, or other recognized educational program that includes:
      - i. individuals who are eligible for, and receiving, special education or related services under part B of IDEA or;
      - ii. an individual with a disability receiving services from a Florida secondary, postsecondary, or other recognized educational program under a *504* plan or for purposes of Section *504* of the Rehabilitation Act, or;
      - iii. an individual who is regarded as having a disability by the secondary, postsecondary, or other recognized educational program, including homeschool and virtual school.
  2. Students with disabilities do not need to apply and be determined eligible for the VR program to receive Pre-ETS.
- D. **Youth with a Disability** –
1. Is at least 14, but not older than 24 years of age [Reference: 34 CFR Section 361.5(c)(58)].
  2. Who may or may not be participating in an educational program but may apply to receive *Transition Youth Services*.
    - a. Note: A *student with a disability* is considered a *youth with a disability* because they are within the age range specified above AND eligible for or receiving educational services; however
    - b. A *youth with a disability* who is outside the age range for a *student with a disability* or is not participating in an educational program is not a *student with a disability*.

- E. **Potentially Eligible** – A *Transition youth* must be a student with a disability to access services without officially applying to VR. Only a *student with a disability* may be identified as a *potentially eligible* individual.

A *student with a disability* must:

1. Be enrolled in secondary or postsecondary training or education;
2. Be between the ages of 14-21 years of age; and
3. Have Disability Documentation that may include an Individualized Education Plan (*IEP*), a *504* plan, or other documentation of the disability.

**Note:**

- a. Potentially eligible individuals may only receive Pre-ETS.
- b. No additional VR services may be offered until after they apply, be determined eligible for VR services, be assigned the appropriate category if the State is on an Order of Selection, and have an approved IPE.
- c. Potentially eligible individuals may continue to receive Pre-ETS while waiting for eligibility determination, if application is made.

F. **Pre-employment Transition Services (Pre-ETS)**

1. Pre-Employment Transition Services (*Pre-ETS*) are the earliest set of vocational rehabilitation services that a student can receive. The student must at a minimum meet the *potentially eligible* guidelines set forth in 361.48 (a)(1) meaning all students with disabilities regardless of whether they have applied or been determined eligible for vocational rehabilitation services are provided the following five types of services:
  - a. job exploration counseling;
  - b. workplace readiness training;
  - c. work based learning experiences (WBLE);
  - d. self-advocacy instruction, including peer mentoring; and
  - e. counseling on opportunities for enrollment in postsecondary educational programs, including Comprehensive Transition Programs.
2. *Potentially eligible* individuals can receive *Pre-ETS* services only.
3. Similar services can be provided to those not meeting the *student with a disability* definition, such as *youth with a disability*; however, they are not offered the *Pre-ETS* coursework, counted as *Pre-ETS*, nor paid with *Pre-ETS* budgets (Y codes).

G. **Local Education Agency (LEA)**

1. The Local Education Agency (*LEA*), that operates local public primary and secondary schools, is responsible for providing and paying for transition services that are also considered special education or related services and that are necessary for ensuring a free appropriate public education (FAPE) to children with disabilities.
2. 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 [Reference: Section 101(c) of the Rehabilitation Act and 34 CFR Section 361.22(c).]

H. **State Education Agency (SEA)**

Formal governmental level for the state-level government agencies within each U.S. state responsible for providing information, resources, and technical assistance on education matters to schools and residents.

I. **Supplant** – to supersede or replace.

VR Transition Services do not *supplant* transition services authorized under the Individuals with Disabilities Education Act (IDEA) that are delivered through a secondary school or any other entity charged with the delivery of transition services in accordance with the IDEA.

J. **504 Plan** – is a school's written statement of services provided in accordance with Section 504 of the Federal Rehabilitation Act of 1973. Section 504 requires school districts that receive federal funding to provide a "free and appropriate public education" (FAPE) to each qualified *student with a disability* who is in the school district's jurisdiction, regardless of the nature or severity of the disability. Appropriate educational services are designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. Pre-Employment Transition Services can be provided to students who are receiving services under a 504 plan in a traditional or non- traditional high school setting. [Reference: 34 CFR Part 104, Subpart D, Sections 104.31–104.39.]

K. **Individualized Education Program (IEP)** - The school's written plan to meet educational goals and objectives for a *student with a disability* is called an Individualized Education Program (*IEP*). The *IEP*, or "Plan", must include a statement of the student's present levels of academic achievement and functional performance. It must also include how the student's disability affects his or her involvement and progress in the general education curriculum, that is, the same curriculum as for students without disabilities. [Reference: 34 CFR Section 300.320.]

L. **Workforce Innovation and Opportunity Act (WIOA)** - is a federal law that became effective in 2014 and reauthorizes and amends the Workforce Investment Act and the Rehabilitation Act of 1973. The law consists of five titles, and Title IV contains the requirements for the Vocational Rehabilitation program. The underlying principle behind Title IV is that too many individuals are leaving high school unprepared for work and independence. With that in mind, *WIOA* prescribes certain service provision requirements discussed below.

### 5.01 VR Requirements

A. VR must offer *Pre-ETS* to all students with disabilities who need them, who are eligible or *potentially eligible* (without the need to make application to the agency) for VR services.

B. VR must consider the unique strengths, resources, priorities, interests and needs of all *transition youth* and ensure every effort to provide information to help them make informed choices. [Reference: VR Counselor Policy Manual, Chapter 4.]

C. VR is required to provide *Pre-ETS* to all individuals who meet the definition of *student with a disability*. The law allows students with undocumented immigration status to receive *Pre-ETS* through

VR. As long as the individual is a *student with a disability* as evidenced by an *IEP* or *504* plan, the student is considered *potentially eligible* and may receive Pre-Employment Transition Services. Individuals who apply for VR services must follow the established policies and procedures including the Non-Discrimination and Residence Requirements in VR Policy Chapter 4, 4.01.

- D. VR is responsible for following Section 511 guidelines to ensure individuals 24 or younger (Youth) are informed of all employment options. VR must provide direction and establish statewide consistency when a Youth, 24 years or younger, makes an informed choice not to pursue competitive integrated employment (CIE) and wishes to pursue subminimum wage employment. [Reference: Field Services Operational Procedure (FSOP) Section 511, Youth Seeking Subminimum Wage and Counselor Policy Manual, Chapter 17.]
- E. To participate in any Transition services, *Pre-ETS* or other VR services, parental consent, if applicable, must be obtained pursuant to the state law regarding confidentiality, as well as policies of the educational programs. [Reference: VR Counselor Policy Manual, Chapter 2 and 6A-25.004(1)(c) and (d).] Parents or guardians shall be included in the vocational rehabilitation process only if the individual with a disability is a minor (less than eighteen [18] years old), unless otherwise documented in case file.
- F. In order to obtain or release confidential information, including to educational agencies, VR shall use the release and waiver forms as referenced in the VR Counselor Policy Manual, Chapter 2.
- G. Notice of Decisions and Appeals Procedures will follow standards established in the VR Counselor Policy Manual, Chapter 3.
- H. Case transfers will follow standards established in the VR Counselor Policy Manual, Chapter 1 [Reference: FSOP Casework Process 2 Out of Area Case Transfer Process.]

## **5.02 VR Transition Services in Coordination with Educational Agencies**

- A. The reauthorization of the Rehabilitation Act in 1998 and in 2014 places responsibility on VR to form working relationships with, and provide technical assistance and consultation to, the State Education Agency (*SEA*) in order to develop long-term rehabilitation goals and to facilitate the transition of students with disabilities from secondary schools to VR. Collaboration includes:
  - 1. providing transition services, including *Pre-ETS* for students with disabilities, and
  - 2. creating joint informational memos, informing all parties of *WIOA* updates and subsequent actions of those updates.
- B. Coordination with postsecondary educational agencies is optional but encouraged, upon request and informed consent of the individual.

### 5.03 Referrals

- A. Any agency, organization, individual (including self-referral) or the One-Stop delivery system, may refer an individual to VR for Transition, *Pre-ETS* and/or other agency services.
- B. A secondary or postsecondary school may refer *transition youth* who are *potentially eligible* students with disabilities for *Pre-ETS*. The preferred method is through the STAR portal. The referring agent shall provide the local VR office with the required documentation.
- C. The *Pre-ETS* Referral and the VR Referral forms are both available for use, but neither is required for referral. The *Pre-ETS* Referral form may be provided by the secondary or postsecondary school that the student attends. The VR Referral form is located on the VR website at [www.rehabworks.org](http://www.rehabworks.org).
- D. Each referred individual must be seen or contacted by VR within three (3) business days of the referral's receipt by utilizing **an initial appointment letter (VCMT003)**, e-mail or documentation in a case note of telephone contact. [Reference: Counselor Policy Manual, Chapter 4.]

### 5.04 Application

- A. A *youth with a disability*, that is not also a student with a disability, must make formal application to receive VR services. If they are not in a formal educational program they are not considered a *student with a disability* or *potentially eligible*.
- B. VR will provide information regarding available alternatives, including the option to apply for VR services should a *potentially eligible* individual request services that are not *Pre-ETS*. Upon request, VR will assist the student and/or the student's representative to complete a VR referral/application during the initial appointment or earlier, as appropriate.
- C. Should a *student with a disability* apply for VR services and be determined ineligible they are no longer considered to be *potentially eligible* and no longer qualify to receive *Pre-ETS*. The student may reapply for services if their circumstances change.
- D. If VR is under an Order of Selection, access to *Pre-ETS* for a *student with a disability* placed in a closed category [Reference: VR Counselor Policy Manual, Chapter 7] is based on the following:
  - 1. If the student received *Pre-ETS* from VR prior to being determined eligible for VR services, and is placed on a wait list when VR is under an Order of Selection, that student may continue to access and receive *Pre-ETS* services while waiting to be processed.
  - 2. If the student did not receive *Pre-ETS* from VR prior to being determined eligible for VR services, and is placed on a wait list while VR is under an Order of Selection, that student will not be allowed access to receive *Pre-ETS* from VR while waiting to be processed.
  - 3. Students that are in a closed category while VR is under an Order of Selection may participate in Services to Groups when such services are available. [Reference: VR Counselor Policy manual, Chapter 11.]

4. Students that are unable to begin or otherwise participate in *Pre-ETS* through VR must be provided information by VR regarding any other known comparable services or benefits that would provide such services.

#### 5.05 Eligibility

- A. *Transition Youth* must meet the same eligibility criteria as any other individual applying for VR services [Reference: VR Counselor Policy Manual, Chapter 6.]
- B. *Pre-ETS* may be delivered continuously to a potentially eligible student after formal VR application and throughout eligibility determination.
- C. An individual is considered to be a *student with a disability* up until their 22nd birthday while they are in school.

#### 5.06 Accommodations

- A. A *student with a disability* (*potentially eligible* and eligible customers) may be provided Auxiliary Aids and/or Services in order to access or participate in pre-employment transition services.
- B. If any *student with a disability* requires an auxiliary aid or service to access or participate in any of the pre-employment transition services, VR must pay for such costs if no other public entity (e.g. schools) is required to provide such aids or services.
- C. Aids and services include interpreter services, reader services, screen reader software or video based telecommunication products [Reference: Section 103(a)(10) of the Rehabilitation Act and 34 CFR 361.48(b)(10) and (11).]
- D. If application is made for VR services, individuals will receive appropriate accommodations as determined according to the VR Counselor Policy Manual and associated procedures.

#### 5.07 Individualized Plan for Employment (IPE) for Transition Youth

- A. A *Transition youth*, who is not a *student with a disability*, must have an IPE developed as standard practice for any VR customer.
- B. When application is made, an IPE for a *student with a disability* should be developed for a student as soon as possible in the transition process.
- C. During Financial Participation Determination, when estimating the financial extent of their participation in the costs of VR services, *Pre-ETS* are considered exempt services. [Reference: VR Counselor Policy Manual, Chapter 9.]

- D. A student with a disability, with an approved IPE, may be referred for placement services, including Supported Employment, during their senior year up to five (5) months prior to exiting from secondary school, as a best practice.
1. To ensure a seamless transition from secondary school to employment VR staff should be careful about initiating services that may deter a student from finishing school, or introducing services that may reduce the individuals' attention in meeting their academic requirements.
  2. Ensure that the student has received enough career exploration services, before committing to a final employment outcome.
  3. To participate in placement services the student with a disability must meet the following criteria:
    - a. is no longer participating in *Pre-ETS* but has received at least one *Pre-ETS* service before having a placement referral; and
    - b. is graduating without a deferral and/or is exiting from secondary school; and
    - c. has a vocational goal on the IPE or IPE amendment that is the focus of placement services; and
    - d. is not pursuing or planning to pursue postsecondary education or training.

#### 5.08 Transition Services

- A. VR must provide *Pre-ETS* within a reasonable period of time, not to exceed 90 days after the date that VR receives an individual's consent or, for a minor, a parent's or legal guardian's consent, to receive services; unless unforeseen circumstances beyond the control of the division prevent the division from providing services within the 90-day timeframe and the division and the individual or, for a minor, a parent or legal guardian agrees that an extension of time is warranted [Reference: Florida Statute (F.S.) 413.301(2)].
- B. *Pre-ETS* may be delivered to a *student with a disability* whenever and wherever the student is available to participate as long as VR is not *supplanting* school services.
- C. *Pre-ETS* may also be delivered to a *student with a disability* in a group or class setting when it is the natural environment for receipt of such services.
- D. Purchases for *Pre-ETS* or other transition services shall align with VR standard procedural practices. [Reference: VR Counselor Policy Manual 9, and FSOP Budget 2: Authorizations.]

#### 5.09 Closures

- A. Case Closure for a *potentially eligible* individual (or a *student with a disability*) must meet the same requirements as found in Chapter 18 (Closures). Closure reasons also include when the individual is:
1. no longer participating in *Pre-ETS* and requests the case to be closed;
  2. reaching his/her 22<sup>nd</sup> birthday;
  3. to graduate without deferral of diploma or when obtaining a high school equivalency diploma; or
  4. exiting secondary or postsecondary education and no longer meets the definition of a *student with a disability*.

## **Eligibility**

### **Chapter 6**

- 6.00 **Eligible individual means** an applicant for vocational rehabilitation services who meets the eligibility requirements.
- 6.01 **Basic Eligibility Requirements.** The Division of Vocational Rehabilitation (VR) must determine if an individual is eligible for vocational rehabilitation services based only on the following requirements:
1. Counselor determines if an individual has a physical or mental impairment.
  2. Counselor determines whether the individual's physical or mental impairment constitutes or results in a substantial impediment to employment.
  3. Counselor determines that an individual requires vocational rehabilitation services to prepare for, secure, retain, or advance in, or regain employment consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
  4. The individual shall be presumed to have a goal of competitive integrated employment.
- 6.02 **Presumption of Benefit.** VR must presume that an applicant who meets the eligibility requirements in Section 6.01(1) and 6.01(2) can benefit in terms of an employment outcome, unless:
1. Through a trial work experience, VR determines the individual is unable to benefit due to the severity of the individual's disability or that the individual is ineligible for vocational rehabilitation services, (Reference Chapter 4, Section 4.09). [Reference Chapter 4, Section 4.08]
- 6.03 **Presumption of Eligibility for Social Security Recipients and Beneficiaries**
1. An individual who has a disability and receives SSI or SSDI for disability or blindness shall be considered to be an individual with a significant disability and presumed to be eligible for services offered by the Division of Vocational Rehabilitation. This is not to be construed to create an entitlement to the Division of Vocational Rehabilitation's services.
  2. The State Verification and Exchange System (SVES) record of the individual's disability will serve as evidence of receipt of SSI and SSDI and eligibility. If the SVES record does not provide sufficient information to determine if the individual can be presumed eligible, the counselor shall contact the local SSA Office (by phone or using the standard Verification of Benefits (VOB) form) to obtain the information needed to expedite determination of eligibility of the individual.
  3. The submitted application is verification of the individual's intent to work, and no tests may be used to assess the intent of the individual to achieve an employment outcome. The VR counselor or qualified personnel is responsible for informing the individual during the applicant process that individuals who receive services must intend to achieve an employment outcome.
  4. The individual receiving SSI or SSDI for his/her disability is presumed to be eligible unless it can be demonstrated by clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from the services offered by the Division of Vocational Rehabilitation due to the severity of the individual's disability.

5. The individual receiving SSI or SSDI for his/her disability is not required to participate in the cost of vocational rehabilitation services.

6.04 **Recency.** When using existing medical, psychiatric, or psychological information, the counselor will determine if it is recent enough to document an impairment. Recency is determined by the current status of the individual's condition compared to available reports.

1. Consultants are available to assist the counselor in making this determination.
2. In instances where VR is funding treatment, information can be no older than one year.

6.05 **Decision Alternatives.** One of the following decisions must be made by the counselor:

1. Eligibility cannot be established due to the severity of the impairment, and the individual agrees to engage in a trial work experience.
2. The applicant is eligible for VR services.

6.06 **Eligibility or Extension of Eligibility**

1. VR must make an eligibility decision as soon as possible, but no later than 60 days following the submission of a completed application.
2. If VR cannot make an eligibility determination within 60 days of the application due to exceptional and unforeseen circumstances beyond the control of VR, the individual, or an authorized representative of the individual, and the counselor must agree to a specific extension of time. An extension must be documented in the case record. The eligibility extension consent must be signed by the individual and kept in the case record. Exceptional and unforeseen circumstances may include:
  - a. a necessary assessment or report could not be secured within 60 days;
  - b. the individual is unavailable to participate in the assessment; or
  - c. official VR office closure.
3. If an eligibility decision cannot be completed during the timeframe identified in the extension, the individual or his/her representative and the counselor must agree to another specific extension of time. The counselor must document the circumstances necessitating the continued extension in the case record.

6.07 **Certification.**

1. The certification of eligibility must:
  - a. document the impairment(s) based to the extent possible on existing data.
  - b. describe how the impairment(s) constitute(s) substantial impediment(s) to employment.
  - c. include a rationale why the individual requires the Division of Vocational Rehabilitation to prepare for, secure, regain or retain employment.
2. If in the counselor's opinion additional diagnostic information is required to determine the need for services, such evaluations can be done after the individual is determined eligible.
3. If additional impairments and/or impediments to employment are revealed from additional diagnostics, these should be reflected in a case entry entitled "Addendum to Certification".

6.08 **Ineligibility Determination.**

1. The ineligibility determination shall be an individualized one, based on the available data, and shall not be based on assumptions about broad categories or disability;

2. The ineligibility determination shall be made only after the counselor provides an opportunity for full consultation with the individual or, as appropriate, the individual's representative;
3. The ineligibility determination must be provided in writing (or by appropriate modes of communication consistent with the informed choice of the individual) including:
  - a. The reasons the individual was determined ineligible, including the clear and convincing evidence that forms the basis for the determination and the effective date of the ineligibility decision.
  - b. A description of how the individual may express and seek a remedy for any dissatisfaction with the ineligibility determination (Reference Chapter 3 for all options that are available to the individual).
4. The individual shall be provided with a description of services available from the Disability Rights Florida and how to contact the program. [Reference Chapter 3]
5. Any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed.
  - a. within 12 months; and
  - b. thereafter, if the individual or the individual's representative makes a request.
  - c. Exceptions. The review need not be conducted if:
    - i. the individual has refused it;
    - ii. the individual has refused services;
    - iii. the individual is no longer present in the state;
    - iv. the individual's whereabouts are unknown;
    - v. the individual's medical condition is rapidly progressive or terminal;
    - vi. the case is closed as No Impairment or as No Vocational Impediment.
6. If an individual who is determined to have a disability which is too significant to benefit from VR services is also a youth (age 14 – 24), the individual must be provided services by VR in a manner that facilitates informed choice and decisions made by the individual, or the individual's representative, as appropriate, before the individual's case record may be closed.
  - a. VR services delivered must only include information on competitive integrated employment. Information must not include options for subminimum wage employment or any employment-related services compensated at a subminimum wage provided by any entity.
  - b. Required VR services will be offered in the individual's geographic area and will be designed to enable the individual to explore, discover, experience, and attain competitive integrated employment. Services must include:
    - i. career counseling;
    - ii. work readiness training;
    - iii. work experiences;
    - iv. information on Federal, State, and other programs providing employment services; and
    - v. referral to Federal, State, and other programs providing employment services.
  - c. Services must be part of an Individualized Plan for Trial Work (IPTW). (Reference Chapter 4, Section 4.09).
7. The counselor must prepare a **Certification of Ineligibility** for the individual's case record. The certification must be signed and dated by the counselor stating all of the above information has been explained in detail to the ineligible individual.

# Significant and Most Significant Disabilities

## Chapter 7

7.00 **Emphasis.** In keeping with the Rehabilitation Act of 1973 as amended, the Division prioritizes the provision of services to eligible individuals with the most significant disabilities.

7.01 **Determination and Documentation.** After eligibility determination, there must be an assessment and documentation in the case record of significance of disability. [Reference Section 7.06]

Disability must be a result of one or more physical or mental impairment(s) resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disability, and end-stage renal disease, or another disability or combination of disabilities as listed on the Certification of Eligibility to cause comparable substantial functional limitation.

The counselor will identify:

- severe impairments which seriously limit one or more functional capacities,
- the vocational rehabilitation services needed to address those impairments, and
- an estimate of the time that services will be provided to reach competitive integrated employment outcome.

This will provide the information needed to determine the level of significance of the individual's disability.

7.02 **Criteria for Most Significant Disability (Category 1).** An individual with a disability which...

1. seriously limits three (3) or more functional capacities in terms of work,
2. requires three (3) or more primary services, and
3. services must be provided over an extended period of time (at least 12 months), and
4. is not likely to be corrected through surgical intervention and/or other treatment modes.

7.03 **Criteria for Significant Disability (Category 2).** An individual with a disability which...

1. seriously limits one or two functional capacities in terms of work,
2. requires two or more primary services, and
3. services must be provided over an extended period of time (at least 6 months).

**Or**

4. the individual is a recipient of Social Security Disability Benefits (SSDI) or Supplemental Security Income (SSI) as a result of disability or blindness.

7.04 **Criteria for Individual with a Disability (Category 3).** An individual with a disability which...

1. does not seriously limit functional capacity in terms of work and/or
2. services are expected to last less than 6 months.

#### 7.05 Definitions

1. Primary services do not include assessment services cited in the IPE. Each service, if provided alone, could reasonably be expected to directly benefit the individual in terms of competitive integrated employment outcome.
  - a. **Primary Services:** Major services that are necessary to prepare the eligible individual for employment. Primary services include counseling and guidance, training, treatment and job placement. Primary services must be both appropriate and reasonable.
  - b. **Support Services:** Services that support a primary service. Support services are never provided alone, but are provided in conjunction with a primary service. Support services must be both appropriate and reasonable.

7.06 **Functional Capacities.** Limitations on the following functional capacities are used to determine the level of significance of disability. These limitations are derived from the individual's impairments listed on the Certification of Eligibility. [Reference Chapter 6, Section 6.07]

1. **Mobility** means an individual's physical access to his or her environment, either through his or her own ability (actions) or with the assistance of others. Mobility also includes transportation to and from worksite. The functional capacity of mobility is seriously limited when the individual:
  - a. Due to disability, has no independent mobility and must use a mobility device (wheelchair, walker, scooter) or requires a personal care assistant;
  - b. Due to physical, cognitive or mental disability, is unable to independently drive, arrange or use public transportation;
  - c. Due to disability, has limitation(s) in balance and gross motor coordination; (clumsiness or accident proneness)
  - d. Due to disability, is unable to climb one flight of stairs or walk 100 yards without a pause;
  - e. Due to disability, is unable to lift, reach, carry, grasp objects, push or pull; or
  - f. Due to disability, requires rehabilitation engineering for home, vehicle, or work modifications.
2. **Communication** means the individual's ability to express himself or herself through speech and/or the ability to receive and process communication. The functional capacity of communication is seriously limited when the individual:
  - a. Due to disability, cannot communicate without hearing aids(s) and/or adaptive equipment, interpreter, e-mail, or relay services;
  - b. Due to disability, cannot speak or spoken language is unintelligible;
  - c. Due to disability, is unable to control inappropriate communication due to cognitive dysfunction or mental illness (may say bizarre things, hear voices, repeat self incessantly, and/or inappropriate comments); or
  - d. Due to disability, cannot focus, concentrate, or understand what is being communicated.

3. **Self-Care** means the ability to conduct the essential activities of daily living unassisted by another individual. The functional capacity of self-care is seriously limited when the individual:
  - a. Due to disability, requires personal assistance with dressing, bathing, eating, toileting, grooming, preparing meals, transferring from bed to chair; or
  - b. Due to disability, requires supervision or personal assistance services with money management (banking, balancing a checkbook, or making change).
  
4. **Self-Direction** means the capacity to organize structure and manage activities required to obtain and maintain employment. The functional capacity of self-direction is seriously limited when the individual:
  - a. Due to cognitive dysfunction or mental illness, requires ongoing prompts or assistance to understand and remember instructions;
  - b. Due to cognitive dysfunction or mental illness, requires ongoing prompts or assistance in the area of concentration and persistence to stay on task; or
  - c. Due to cognitive dysfunction or mental illness, requires customized technology to accommodate the lack of concentration, to remember instructions, or to understand instructions.
  
5. **Interpersonal Skills** mean the individual's ability to interact in a socially acceptable manner at work with coworkers, supervisors, peers and the general public. The functional capacity of interpersonal skills is seriously limited when the individual:
  - a. Due to disability, does not accept instructions and does not respond appropriately to feedback from supervisors;
  - b. Due to disability, does not get along with coworkers or peers; or
  - c. Due to disability, does not maintain socially appropriate behavior at work based upon what would be normally accepted in a work environment.
  
6. **Work Tolerance** means the ability to carry out tasks in an efficient and effective manner over a sustained period of time. The functional capacity of work tolerance is seriously limited when the individual:
  - a. Due to disability, is unable to carry out work tasks without the intervention of job coaching or natural supports to perform work activities;
  - b. Due to disability, is unable to sustain mental, cognitive or physical activities in a work environment without the use of individualized accommodation or customized rehabilitation technology; or
  - c. Due to disability, unable to work around certain substances or certain environments.
  
7. **Work Skills** means the specific job skill required to learn and carry out work functions. The functional capacity of work skills is seriously limited when the individual:
  - a. Due to disability, is limited or unable to retain new information or new learning without assistance; or

- b. Due to disability, can only learn work skills through constant repetition.

**7.07 Order of Selection.** In the event that the Division will be unable to serve all eligible individuals, the DVR Director shall make a determination as to the categories that will be served. The determination will be based on staffing patterns, available funds, projected referrals, number of eligible individuals, and caseloads. The DVR Director shall have sole authority for implementation of an Order of Selection.

The Division has the option to serve eligible individuals in need of specific services or equipment for the purpose of maintaining employment, regardless of their assignment to a priority category.

1. Priority Categories in the Order of Selection - Upon the completion of the assessment of the eligible individual, the counselor shall make a determination as to the significance of the disability and the appropriate priority category. The priority categories are:
  - a. Category I. Individuals with the most significant disabilities [See 7.02]
  - b. Category II. Individuals with a significant disability [See 7.03]
  - c. Category III. All other individuals with a disability [See 7.04]
2. The Division shall continue to provide all necessary services to individuals who have begun to receive services under an IPE prior to the effective date of the order of selection, irrespective of the severity.
3. The Order of Selection permits immediate reclassification into a higher priority category when there is a change resulting in additional functional limitations that require additional primary services and/or length of time.
4. The Order of Selection shall not regulate the provision or authorization of diagnostic and trial work services.
5. Documentation that supports the priority category assignment must be contained in the case record.
6. Individuals placed in a category not receiving services shall have all options fully explained in writing at the time of designation. The written explanation shall include the individual's rights of appeal and information regarding referral to other programs or agencies that may assist them.
7. The counselor and individual will discuss the options available to those who have been placed on the waiting list. Options include:
  - a. case closure;
  - b. placement on a waiting list, and if not processed from the waiting list follow up after one year.

## Individualized Plan for Employment (IPE)

### Chapter 8

8.00 An **Individualized Plan for Employment (IPE)** must be developed as soon as possible, but no later than 90 days after the date of eligibility determination or activation from the waiting list, whichever is later. Meeting the 90-day timeframe is the mutual responsibility of the counselor and individual.

1. An IPE, developed by the individual and the counselor, is a description of the specific rehabilitation services. All services provided must be needed for the individual to achieve an employment outcome.

If the individual is not exempt from Financial Participation, the total cost of services and the amount of the financial participation by both the individual and VR must be entered on the IPE.

2. An IPE must be designed to achieve the specific employment outcome that is selected by the individual and consistent with the individual's unique economic self-sufficiency, strengths, resources, priorities concerns, abilities, capabilities, interests and informed choice; and

3. The IPE must to the maximum extent appropriate result in a competitive integrated employment.

#### 8.01 **Options for Developing an IPE** ([English](#)) ([Spanish](#))

1. Eligible individuals or the individual's representative must be provided in writing and in an appropriate mode of communication with information on the individual's options for developing an individualized plan for employment including:

a. Information on the availability of assistance or technical assistance, from a counselor or from Disability Rights Florida's CAP, to the extent the individual desires assistance in developing all or part of the IPE,

b. A description of the full range of components that shall be included in an IPE;

c. As appropriate:

- an explanation of agency policy and guidelines regarding payment for services,
- information on the availability of assistance in completing VR forms required when developing an IPE
- additional information the individual may request or VR determines necessary.

d. A description of the individual rights and appeal procedures, including the availability of the Disability Rights Florida's CAP and information about how to contact the CAP.

[Reference Chapter 2, Section 2.04]

8.02 **Content of the IPE.** Regardless of the option selected by the eligible individual, the IPE must contain:

1. A description of the specific employment outcome that is chosen by the eligible individual and is consistent with the unique economic self-sufficiency, strengths, resources, priorities, concerns, abilities, capabilities, career interests, informed choice consistent with the general goal of competitive integrated employment;

(except in the case of the eligible individual who is a student or a youth with a disability, the description may be a description of the individual's projected post-school employment

- outcome);
2. A description of the specific vocational rehabilitation services that are:
    - a. Needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices, assistive technology services, and personal assistance services, including training in the management of such services; and
    - b. Provided in the most integrated setting that is appropriate for the services involved and is consistent with the informed choice of the eligible individual;
  3. Timelines for the achievement of the employment outcome and dates for the initiation of the services;
  4. A description of the entities chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services. Up to three entities may be listed on the IPE for services that may present scheduling problems; first, second, and third choice provider. A case note is required to justify the activation/use of a provider beyond the first choice. The case note must address the customer's acknowledgement of informed choice of change in provider. If additional providers are needed, an IPE amendment must be initiated (Reference Chapter 8, Section 8.07.)
  5. A description of criteria to evaluate progress toward achievement of the employment outcome; if applicable, the counselor shall consider the Timely Progress Standards established for participants in the Ticket To Work and Work Incentives Program (Reference Chapter 16, Section 16.06);
  6. The terms and conditions of the IPE including, as appropriate, information describing:
    - a. The responsibilities of VR, including:
      - i. The assignments of how and when a new provider option will be initiated;
    - b. The responsibilities of the eligible individual, including:
      - i. The duties he/she will assume in relation to the individual's employment outcome;
      - ii. If applicable, the participation of the eligible individual in paying for the costs of the plan;
      - iii. The responsibility of the eligible individual with regard to applying for and securing comparable services and benefits (Reference Chapter 9, Section 9.03); and
    - c. The responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits as described in Chapter 9, Section 9.03;
  7. An IPE for an eligible individual with the most significant disability for whom an employment outcome in a supported employment setting has been determined to be appropriate must meet the requirements found in Chapter 17, Section 17.03.

### 8.03 IPE or IPE Extension

1. If the IPE cannot be developed within 90 days due to exceptional and unforeseen circumstances, the individual, or an authorized representative of the individual, and the counselor must agree to a specific extension of time. An extension must be documented in the case record by the counselor. Exceptional and unforeseen circumstances may include:
  - a. an appointment for a necessary assessment could not be secured in a timely fashion;
  - b. illness of the individual or other reason for non-availability to participate in the IPE development; or

- c. unexpected closing of offices due to natural causes.
2. The IPE or IPE amendment must be approved by a supervisor before being signed by the counselor unless the counselor has gained independent status. [Reference Chapter 1, Section 1.18] No vocational rehabilitation services proposed under an IPE or IPE amendment are effective absent such approval.
3. If an IPE cannot be developed during the timeframe identified in the extension, the individual or his/her representative and the counselor must agree to another specific extension of time. The counselor must document the circumstances necessitating the continued extension in the case record.

#### 8.04 **Mandatory Procedures**

1. **Written Document.** The IPE must be written document prepared on the form provided by the Agency.
2. **Informed Choice.** An IPE must be developed and implemented in a manner that affords eligible individuals the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the vocational rehabilitation services, and the methods used to procure the services. [Reference Chapter 4, Section 4.03]
3. VR shall not pay for goods and services unless such goods and services are listed in the IPE or an amendment thereto, or are part of the assessment for determining eligibility and vocational rehabilitation needs.
4. If applicable, the counselor shall explain to the SSA Ticket-holder(s) (with assignable Tickets) the conditions that will apply once the eligible individual's signs the IPE as referenced on the IPE.

#### 8.05 **Signatories**

1. The IPE must be agreed to and signed by the eligible individual or, as appropriate, the individual's representative; and
2. Approved and signed by a qualified vocational rehabilitation counselor employed by VR of Vocational Rehabilitation.

#### 8.06 **Copies**

1. A copy of the eligible individual's written IPE must be provided to the individual, or as appropriate, to the individual's representative.
2. If appropriate, the IPE must be in the native language or mode of communication of the individual or, as appropriate, the individual's representative.

#### 8.07 **Annual Review and Amendments**

1. The IPE must be reviewed at least **annually** by a vocational rehabilitation counselor employed by VR and the eligible individual or, as appropriate, the individual's representative and documented in the record. The annual review date is based on the signature date of the original IPE and the annual review must be conducted prior to or on the signature date of the original IPE.
2. The IPE must be amended if there are substantive (major) changes to the original IPE. IPE amendments are required for the following:
  - a. changes in the employment outcome
  - b. changes in the vocational rehabilitation services to be provided

- c. changes in the provider of the vocational services
- 3. Any amendments do not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative and by a vocational rehabilitation counselor employed by VR.

#### **8.08 School to Work Transition Services in Coordination with Educational Agencies**

- 1. When services are being provided to an individual who is also eligible for services under the Individuals with Disabilities Education Act (IDEA), the IPE must be prepared in coordination with the appropriate education agency and must include a summary of the relevant elements of the Individualized Education Program (IEP) for that individual.
- 2. The reauthorization of the Rehabilitation Act in 1998 places responsibility on VR to form working relationships with state educational agencies in order to develop long-term rehabilitation goals and to facilitate the transition of students with disabilities from secondary schools to VR.
- 3. Transition services mean a coordinated set of activities for a student, designed within an outcome-oriented process that promotes movement from school to post-school activities including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
  - a. The coordinated set of activities shall be based upon the individual student's abilities and capabilities, taking into account the student's preferences and interests.

#### **8.09 Termination of Services Under an IPE**

- 1. If services are to be terminated or not initiated under an IPE because of a determination that the individual is not capable of achieving an employment outcome, the following conditions and procedures will be met and carried out:
  - a. This decision is made only with the full consultation of the individual, or, as appropriate, the individual's representative, unless the:
    - i. individual refuses to participate
    - ii. individual is no longer present in the state
    - iii. individual's whereabouts are unknown
    - iv. individual's medical condition is terminal.

#### **Stevens Amendment**

The Florida Department of Education, Division of Vocational Rehabilitation (VR) is an equal opportunity employer. It is against the law for VR as a recipient of Federal financial assistance to discriminate against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The application process used by VR to determine eligibility for services, any subsequent services and the entire VR process are subject to these non-discrimination requirements. Auxiliary aids and services are available upon request to individuals with disabilities. VR program receives 78.7 percent of its funding through a grant from the U.S. Department of Education. For the 2021 Federal fiscal year, the total amount of grant funds awarded were \$176,521,122. The remaining 21.3 percent of the costs (\$47,775,094) were funded by Florida State Appropriations. Revised October 2022.

**Authorization for Services, Financial Participation Determination,  
Comparable Services and Benefits, Third Party Payers  
Chapter 9**

9.00 **Request for Approval.** Certain services require approval before they can be provided to applicants or eligible individuals [See Chapter 15].

9.01 **Authorization for Services**

1. DVR's highest allowable fee for health care services is the amount payable for such services in Florida under the Medicare Part B system. VR's highest allowable fee for hospital inpatient services is the fee-for-service amount based on the Florida Diagnosis Related Group (DRG) rates. In setting its highest allowable fee for all other services, VR shall ensure such fee is not set so low as to deny individuals the right to make informed choices among service providers.
2. DVR shall not pay for goods or services unless such goods or services are listed in the IPE or amendment thereto or are part of the assessment for determining eligibility and vocational rehabilitation needs, and:
  - a. The goods or services were authorized in writing by VR prior to the time they were provided; or
  - b. The goods or services were provided under emergency circumstances subsequent to verbal authorization by VR.
3. Exceptions:
  - a. DVR shall pay an amount based on prevailing market rates for necessary and customary services incidental to surgery, hospitalization or medical diagnosis when such services were not authorized at the time of authorization of a primary service.
  - b. DVR shall provide a written commitment letter for hospital inpatient services payable under the Florida Medicaid DRG method prior to delivery of those services. Upon receipt of a detailed invoice, DVR shall submit a written authorization to the hospital.
  - c. DVR shall provide a written commitment letter for hospital outpatient services prior to delivery of those services. Upon receipt of a detailed invoice, DVR shall submit a written authorization to the hospital.
  - d. Written commitment for contract services is considered to have been provided when a referral form is completed selecting the service(s) and provider. Written authorization shall be provided upon the receipt of the provider's invoice consistent with the terms of the contract(s).
4. Oral authorization in an emergency situation or for necessary support services is permitted but shall be documented and followed by written authorization by DVR to the provider within three (3) workdays or as soon thereafter as possible after such oral authorization.
5. DVR shall not be liable for services provided without oral or written authorization by a duly authorized employee of DVR.
6. In accepting the State of Florida authorization for services and payment for the provision for the specified goods or services, the vendor agrees to accept VR's portion of the payment. The individual's share of costs identified in the authorization and billing invoice will be paid to the vendor directly. DVR will not be responsible for debt incurred by the individual.
7. If an individual should not complete, for any reason, an authorized, paid service, the counselor shall request refund from the vendor.

8. Only those staff members authorized by the Unit Supervisor may utilize government or corporate accounts for purchase of goods and services. An approved Department of Education/Vocational Rehabilitation Services Authorization and Billing Invoice must be presented when purchasing goods or services on a government/corporate account.
9. The individual's record must contain the following documentation prior to payment for services:
  - a. determination of the availability of comparable services and benefits;
  - b. a written statement reflecting the individual's agreement to pay the difference between DVR's maximum allowed amount and the cost of the service when the customer has chosen to use a vendor that will not accept DVR's maximum allowed amount;
  - c. the individual's contribution toward payment for a service;
  - d. the request for approval with the final approval signature [Reference Chapter 15, Section 15.00];
  - e. a written verification from the individual's employer stating the specific goods or services, occupational licenses, tools, equipment, initial stocks and supplies necessary for the individual's employment [Reference Chapter 11, Sections 11.07 and 11.10 and Chapter 15, Section 15.03(9)];
  - f. the individual's approved business plan that includes the specific goods or services, occupational licenses, tools, equipment, initial stocks and supplies necessary for self-employment. [Reference Chapter 11, Sections 11.07 and 11.10 and Chapter 15, Section 15.03(7a)].

## 9.02 Financial Participation Determination ([Overview](#))

### 1. General Policy

- a. DVR considers the financial need of individuals to determine the extent of their participation in the costs of vocational rehabilitation services.
- b. If an individual or family member refuses to provide the information necessary to determine participation, or if the individual or family refuses to accept responsibility for their expected contribution, DVR cannot authorize services subject to financial participation.
- c. DVR strictly protects the confidentiality of all financial information obtained from the individual and family members. [Reference Chapter 2, Confidentiality & Release of Information].

### 2. Exempt Services

- a. Assessment for determining eligibility and vocational rehabilitation needs
- b. Vocational rehabilitation counseling and guidance
- c. Referral and other services to assist individuals in securing services from other agencies
- d. Job-related services including job search and placement assistance
- e. Personal assistance services
- f. Any auxiliary aid (e.g., communication boards, speech synthesizers, telephone handset amplifiers, TDDs) or service (e.g., interpreter services for individuals who are deaf or hard-of-hearing, reader services, communication assistance in the individual's native language)
- g. Supported employment services
- h. Trial work services
- i. On-the-job training
- j. Pre-Employment Transition Services

k. Vehicle Modifications

**3. Non-Exempt Services**

- a. Physical and mental restoration services
- b. Maintenance
- c. Transportation
- d. Services to family members
- e. Hearing Aids
- f. Home Modifications
- g. Occupational licenses, tools, equipment, stock and supplies
- h. Technical assistance for small business
- i. Vocational and other training services (e.g., tuition, books, supplies, fees)
- j. Other goods and services

**4. Financial Needs Assessment (FNA)**

DVR staff must:

- a. Explain financial participation during initial discussion of the VR program and during IPE planning.
- b. Complete a Financial Needs Assessment (FNA) at the time of initial IPE and review the amount of financial participation with the individual.
- c. Update the FNA when the income information changes.

**5. Individuals Exempt from Financial Participation (Exemption Status)**

Individuals who meet the following exemption status are not required to participate or make a contribution toward the cost of vocational rehabilitation services.

- a. Individuals who receive SSDI, SSI, public assistance (Temporary Assistance for Needy Families [TANF]), SNAP [Food Stamps] and/or other General Assistance), **or**
- b. Any individual who has annual income less than 285% of the Federal Health and Human Services Poverty Guidelines, **or**
- c. Individuals who were not legally required to file a U.S. Tax Return in the year prior to application. For more information access the IRS interview tool: <https://www.irs.gov/help/ita/do-i-need-to-file-a-tax-return>)

**6. Individuals Non-Exempt from Financial Participation**

Each non-exempt individual shall be placed in one of the following categories:

- a. **Independent** (the individual is not married and was not claimed as a dependent on any other person's U.S. tax return for the prior year or has been granted a "dependency override" by a financial aid administrator);
- b. **Dependent** (the individual is not married and was claimed as a dependent on another person's U.S. tax return for the prior year); or
- c. **Married** (the individual is married).

**7. Impairment Related Work Expense (IRWE)**

- a. An IRWE is the cost of an item or service that is directly related to enabling an individual with a disability to work, and which is incurred by the individual because of a physical or mental impairment.

- b. In all cases, the expense must have been paid by the individual. Expenses paid by sources such as health insurance, vocational rehabilitation, or an employer, are not IRWEs.
- c. DVR uses the Social Security Administration's definitions of impairment related work expenses (IRWEs).

#### **8. Individual's Financial Responsibility**

- a. The type of services, the total cost of rehabilitation services, and the amount of the individual's financial participation should be documented by the counselor. This must be clearly written in the IPE or IPE amendment.
- b. The individual's payment(s) will be made directly to the vendor(s). The amount that the individual must pay will be included on the Authorization and Billing Invoice and the IPE for services.
- c. The counselor may seek an exception to the policy. (Reference Chapter 15.01[3][c])

#### **9. Certification**

- a. The individual or his/her representative must verify that the information provided is true and correct.
- b. Both the individual and the counselor must sign the printed FNA template.
- c. A copy of the signed FNA must be provided to the individual or his/her representative.

#### **10. Documentation**

- a. The case must include:
  - o The signed FNA form; and
  - o a copy of all backup documentation/information provided to determine financial participation.
- b. The documentation must include U.S. tax returns, employment security wage reports, employer generated pay stubs, proof of the impairment related work expenses (IRWEs), and any other information provided. IRWE cannot be self-reported.
- c. The counselor must ensure that no social security numbers are visible on any documentation.

#### **11. Modification to the Individual's Financial Participation**

- a. The individual or their representative may request modification to the Financial Participation at any time to adjust for changes in income or other economic circumstances.
- b. Changes in the amount of financial participation must be reflected in an IPE amendment. If modification is requested, the counselor will obtain verification from the sources listed above.

#### **9.03 Comparable Services and Benefits.** Comparable services and benefits are:

- 1. Provided or paid for, in whole or in part, by other Federal, State, or local public agencies, by health insurance, or by employee benefits;
- 2. Available to the individual prior to the provision of such services (including accommodations and auxiliary aids) or at the time needed to achieve the employment outcome in the individual's IPE;
- 3. Commensurate to the services that the individual would otherwise receive from DVR.

4. Consideration of comparable services and benefits is necessary and must be documented in the record of services.

9.04 **Required Use.** DVR will determine whether comparable services and benefits are available under any program other than DVR to cover costs of services and utilize such services and benefits, unless such a determination would interrupt or delay:

1. The progress of the individual toward achieving the employment outcome identified in the IPE;
2. An immediate job placement, or
3. The provision of such service to any individual at extreme medical risk based upon medical evidence provided by an appropriate licensed medical professional; or,
4. If the comparable services and benefits are **not available** to the individual at the time needed to achieve the employment outcome identified in the IPE or if the benefits exist but are not available at the time needed to satisfy objectives in the IPE, the counselor may authorize funding directly only until the comparable benefits and service become available.
5. If an eligible individual is a SSA Ticket to Work holder whose Ticket is assigned to an Employment Network (EN), DVR shall consider all goods and services referenced in the IPE to be comparable services and benefits to be purchased or provided by an EN with which the eligible individual's Ticket is assigned. [Reference Chapter 16, Section 16.04, 16.05 and 16.07]

9.05 **Exceptions.** Exceptions to DVR's determination of the availability of comparable services and benefits include:

1. Uses of awards and scholarships. Comparable services and benefits do not include awards and scholarships based on merit that are granted without restrictions as to their use by the individual.
2. Information and referral services
3. Assessment for determining eligibility and vocational rehabilitation needs
4. Counseling and guidance, including information and support services to assist an individual in exercising informed choice
5. Job-related services, including job search and placement assistance, job retention services, personal assistance services, follow-up, and follow-along services
6. Rehabilitation technology including telecommunications, sensory and other technological aids and devices
7. Post employment services listed in 9.05(1) – 9.05(6) above, necessary to assist eligible individuals to maintain, regain or advance in employment

9.06 **Assignment of Rights.** An applicant for or a recipient of vocational rehabilitation and related services is deemed to have assigned to the DVR her or his rights to any payments for such services from a third party (e.g., private insurance, Medicaid, and Medicare).

9.07 **Third Party Payer: Private Insurance**

1. Necessary information:
  - a. The name of the company
  - b. The group policy number
  - c. The company representative
  - d. The expiration date of the policy

- e. What is covered and what percentage would be paid
2. Counselors should request that vendors file against the insurance company rather than bill DVR.
3. If DVR has paid a vendor for services and the vendor is paid for those services by a third party, the vendor shall reimburse DVR.
4. If the third party policy only partially pays or a co-payment deductible must be paid, DVR may supplement the third party payment or the co-payment deductible.
5. The supplement to third party insurance or co-payment/deductible must be documented by the insurance carrier or vendor and DVR shall not authorize an amount in excess of DVR's maximum allowed amount.

**9.08 Third Party Payer: Medicaid or Medicare**

1. Individuals who receive SSI or Temporary Assistance for Needy Families (TANF) automatically receive Medicaid. The medically needy may also be eligible for Medicaid.
2. Necessary information:
  - a. Verify the Medicaid or Medicare number
  - b. Send the individuals to vendors who will accept Medicaid or Medicare
  - c. Ensure that the vendor bills Medicaid or Medicare directly
3. If the vendor will not accept Medicaid or Medicare, DVR may pay the vendor for services and recover from Medicaid. In this instance, a cover memo and the invoice should be submitted to Medicaid providing the individuals:
  - a. Name
  - b. Social Security number
  - c. Date of birth
  - d. Current Address
4. If a co-payment/deductible must be paid, DVR may pay the co-payment/deductible.
5. The co-payment/deductible must be documented and shall not exceed DVR's maximum allowed amount.

**9.09 Recovery from Third Parties**

1. DVR shall seek the recovery of monies spent on behalf of an individual from a third party:
  - a. Whenever a third party is liable for the payment of such services
  - b. From the individual if the individual has already received third-party payments
  - c. From the provider of the services if the provider recovers from the individual or a third party on behalf of the individual
2. Counselors should determine if an individual or applicant has any rights to third-party payments as a result of the circumstances which caused them to seek services.
3. When there is a possibility of a liable third party, the counselor, with the assistance of the individual, shall complete the Subrogation Form. The individual shall be requested to read and sign the Subrogation Form. Services to the individual provided through DVR shall not be contingent upon the signing of this form nor shall the subrogation rights of DVR be contingent upon the individual signing the form.
4. When the Subrogation Form is completed, it shall be immediately forwarded to DVR Legal Counsel.
5. If the DVR attorney and DVR believe that there is an expectation that subrogation monies could likely be recovered, DVR attorney may either file a lien meeting the requirements of F.S. Section 413.445 or notify the individual's attorney by letter of DVR's right to subrogation.

The failure of the counselor and the individual to complete a Subrogation Form, or the failure of DVR's attorney to file a lien or notify the individual's attorney in writing, shall not affect DVR's subrogation rights.

6. Under special circumstances, where undue financial hardship would result to the individual, DVR may consider, in its sole discretion, whether to seek reimbursement or to seek reimbursement for less than all of such funds expended. Under such circumstances, DVR shall consider the following factors in determining whether to seek less than full or no reimbursement:
  - a. The amount of reimbursement being offered by any party liable therefore;
  - b. Cost to DVR of services rendered to the individual;
  - c. Types of services rendered to the individual;
  - d. Employment status of the individual;
  - e. Cost to the individual of living independently;
  - f. Additional liens against the individual resulting from medical or rehabilitation services provided to such individuals;
  - g. Whether any other lienors have reduction of their liens;
  - h. Whether any attorney representing the individual has reduced his/her fee;
  - i. Other sources of income available to the individual; and
  - j. The cost effectiveness of pursuing the recovery.
7. DVR shall have the sole discretion, after consideration of such factors, to reduce or waive any claims DVR may have under Section 413.445, Florida Statutes.
8. If DVR receives a third party payment on either a pending SSDI/SSI claim or for which reimbursement has been received, then this must be reported to the Social Security Administration [Reference Chapter 16].

# DOE Purchasing and Bidding Requirements

## Chapter 10

10.00 **Florida Statutes (F.S.)** Part I, Chapter 287, 413.036 and Florida Administrative Code (FAC) Chapter 60A-1 govern purchasing by agencies of the State of Florida. DOE Methods of Procurement must be followed in purchasing occupational tools, equipment and supplies for those individuals served by DVR.

1. Purchasing Category Threshold Amount – the procurement category threshold amounts established in Section 287.017, F.S., which distinguish dollar amounts at which various purchasing rules are implemented.

- a. Category One: \$20,000
- b. Category Two: \$35,000
- c. Category Three: \$65,000
- d. Category Four: \$195,000
- e. Category Five: \$325,000

### 10.01 Purchases less than \$35,000

- 1. Purchases with value below \$2,500 shall be carried out using good purchasing practices informal solicitations that may include, but are not limited to, written quotations or written records of verbal quotations.[Reference F.A.C. 60A-1.002(2)]
- 2. Purchases of value \$2,501 and \$15,000 require a minimum of two (2) written quotes or written records of two (2) telephone quotations on the DOE/DVR PUR-14.
- 3. Purchases of \$15,001 but less than \$35,000 requires three written quotes or informal bids to be open upon receipt. [Reference F.A.C. 60A-1.002(3)]
- 4. If verbal quotations are received, the name and address of each respondent and the amount quoted shall be part of the written documentation.
- 5. At least one quote should be requested from a certified minority vendor (CMBE), if available. If no certified minority vendor quote is included, documentation must be provided explaining why. Minority vendor quotes should be identified with minority type or code.

### 10.02 Purchases of \$35,000 (Category 2) or more

- 1. Purchases that exceed \$35,000 must be made through formal competitive sealed bids (Invitation to Bid (ITB); Request for Proposal (RFP); Invitation to Negotiate (ITN)) to ensure fair and open competition, except as otherwise provided by law. [Reference F.S. 287.57(3)].

### 10.03 Exceptions to formal bid requirements

1. Purchases of prescriptive assistive devices for the purpose of medical, developmental, or vocational rehabilitation of individuals are exempt for solicitation requirements and must be procured pursuant to an established fee schedule or by any other method that ensures the best price for the state, taking into consideration the needs of the individual. Prescriptive assistive devices include, but are not limited to, prosthetics, orthotics and wheelchairs. [Reference Chapter 14, Section 14.08(3) & (4)]
2. Purchases of less than \$35,000.
3. Purchases made from a state contract or a contract previously established by DOE.
4. Purchases made from a state or local government agency or the federal government.
5. Purchases from a single source.
6. Contractual services provided to individuals with disabilities by non-profit organizations.

#### 10.04 **Non-competitive "Single Source" Purchasing**

1. Single source purchasing may be used if the product or service is available from only one source. The justification should explain why the service is provided by only one source and should include:
  - a. Description and use (in layman's term).
  - b. List unique features that this item or service has that other comparable items or services lack, and why these unique features are needed. Show as clearly and concisely as possible why only this item cannot be bid to the various dealers.
  - c. Explain if the product or service is being purchased directly from the manufacturer. If not, explain why the item cannot be bid to the various dealers.
  - d. Documentation of efforts made to identify other sources of supply.
  - e. Explain the necessity for compatibility with existing equipment or instrumentation, if applicable.
  - f. Provide proof of copyright or patent.
  - g. Price cannot be used as a justification for a single source.
  - h. Documented price analysis proving the agreed price is fair, reasonable and is not more than the competitive market rate. This may be accomplished by researching the current market price for the commodity or service.
2. The requester will furnish, along with a Single Source justification, a current written quotation from the vendor.
3. When DOE believes that commodities or contractual services is available only from a single source and total cost exceeds \$35,000 (Category 2), DOE shall electronically post a description of the commodities or contractual services sought for a period of at least ten (10) business days. The description must include a request that prospective vendors provide information regarding their ability to supply the commodities or contractual services described. [Reference F.A.C. 60A-1.045(1 & 2)]

4. If the price of a "single source" commodity or service exceeds \$195,000 (Category 4), DOE shall obtain approval of the purchase from the Department of Management Services (DMS), State Purchasing Office. [Reference F.A.C. 60A-1.045 (4)]

### **Stevens Amendment**

The Florida Department of Education, Division of Vocational Rehabilitation (VR) is an equal opportunity employer. It is against the law for VR as a recipient of Federal financial assistance to discriminate against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The application process used by VR to determine eligibility for services, any subsequent services and the entire VR process are subject to these non-discrimination requirements. Auxiliary aids and services are available upon request to individuals with disabilities. VR program receives 78.7 percent of its funding through a grant from the U.S. Department of Education. For the 2021 Federal fiscal year, the total amount of grant funds awarded were \$176,836,896. The remaining 21.3 percent of the costs (\$47,860,557) were funded by Florida State Appropriations. Revised October 2021.

## Scope of Rehabilitation Services

### Chapter 11

- 11.00 **Vocational Rehabilitation Services.** Vocational rehabilitation (VR) services are any services described in an IPE necessary to assist an individual with a disability in preparing for, securing, retaining, advancing in, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.
- 11.01 **Choice and Service Providers.** Individuals or their representatives are permitted to choose an individual or an entity to provide services; however,
1. The providers of choice must be qualified and, where applicable, licensed by the state and/or appropriately accredited to perform such service or must meet VR's standards for vendor qualification.
  2. If the individual selects a provider out-of-state and there are qualified service providers in-state, the individual with a disability shall agree to pay the excess travel and service costs.
  3. The counselor must request approval for out-of-state services except when the individual chooses service providers in Southern Georgia or Alabama because of the close proximity to his or her home. [Reference Chapter 15]
  4. In the event the individual chooses a service provider who will not accept VR's highest allowable fee and agrees to pay the excess, the individual should document this in a signed statement, which is placed in the case record before provision of the service.
  5. Providers of professional and paraprofessional services to individuals with disabilities shall meet the minimum standards established in Section 503 and 504 of the Rehabilitation Act, the Americans with Disabilities Act, the Civil Rights Act, and all applicable state and federal licensing requirements and procurement laws.
- 11.02 **Counseling and Guidance.** Counseling and guidance, including information and support services to assist an individual in exercising informed choice [Reference: Chapter 4, Section 4.03], shall be provided and documented from the time of application until the time of case closure and extends through the provision of post-employment services.
1. Examples of counseling and guidance include:
    - a. Informing each individual and eligible individual through appropriate modes of communication about the availability of and opportunities to exercise informed choice, including the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice throughout the rehabilitation process.
    - b. Assisting the individual in making decisions related to the provision of assessment services.
    - c. Assisting the individual in making choices about the procurement of services.
    - d. Providing and assisting eligible individuals in acquiring information related to the employment outcome, vocational rehabilitation services needed to achieve the employment outcome, the service provider, the employment setting, the settings in which the services will be provided, and the methods available for the procurement of services.

- e. Providing counseling regarding disabilities and employment.
2. Not every case entry has to involve counseling. There is a variety of valid and significant case entries other than counseling.
  - a. Counseling entries should state the purpose of the counseling session, summarize what occurs, and document what the expectations of the counselor and the individual are at the conclusion of the session. Although counseling entries are summaries, they should be detailed enough so that a reviewer understands the problem and can appraise the counselor's effectiveness in assisting the individual to achieve resolution.
  - b. Documentation of the provision of other services should confirm the connection of the counseling relationship to those services.

11.03 **Referral and other services** are those services designed to assist individuals with disabilities in securing needed services from other agencies.

11.04 **Assessment** includes those diagnostic and related services, which are necessary to the determination of eligibility and the nature and scope of services to be provided, as appropriate, to the individual.

1. **Work Site Evaluation.** A work site evaluation may be used to obtain an assessment of an individual's skills and abilities to perform specific job tasks. The duration of such an evaluation is generally brief and is determined by the complexity of the job.
2. Documentation of the assessment must be included in the case record.

11.05 **Personal Assistance Services** encompass a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

1. Personal Assistance Services may only be provided in support of other planned service(s); such as an individual who is engaged in a training program, including supported employment, or in an employment situation prior to rehabilitation.
2. An individual shall be paid or reimbursed for personal assistance services when these services are listed in the IPE.
3. The individual shall employ and train the personal assistant. The personal assistant will not be an employee of VR.
4. The individual and the counselor shall jointly determine if the individual requires training in the selection, compensation, and training of a personal assistant.

11.06 **Maintenance.** Maintenance is defined as monetary support provided to customer or eligible individual for those expenses that are in excess of normal expenses and that are necessitated by the services offered by VR. Maintenance does not include support for the discharge of court-ordered obligations or indebtedness of any kind incurred prior to or subsequent to an application for rehabilitation services.

1. The need for maintenance as determined by an expense analysis may be provided at any time from application through post-employment services.

2. The cost of maintenance shall not exceed the amount of increased expenses caused by participation in assessment or vocational rehabilitation services.
3. Consideration of comparable services and benefits is necessary and must be documented in the record of services.
4. Maintenance is provided to support and derive the full benefit of assessment activities or vocational rehabilitation services.
5. Maintenance may not be provided as a single service.
6. Transportation should not be considered maintenance but rather treated as a separate item.
7. Maintenance can cover an individual's basic living expenses, such as food, clothing and shelter if these expenses are in excess of normal expenses and are necessitated by the individual's participation in assessment or the IPE. The costs to be defrayed by the provision of maintenance must be itemized on the Expense Analysis (Reference: Field Services Operating Procedure [FSOP] – Budget Worksheet and Expense Analysis). In instances of one time provision of maintenance (maximum total under \$200), a case entry will suffice.
8. Maintenance is not intended to be a substitute for general assistance payments or to protect an individual's resources. Debts incurred prior to application for rehabilitation services are not a consideration in the determination of maintenance needs.
9. A request for approval must be obtained when maintenance is provided in the following amounts. Listed beside the amount is the entity which grants the approval:
  - a. \$750 or more - area director
10. Maintenance, which extends beyond six months, requires a review by the counselor and individual to ascertain whether the financial situation has changed. This review must be done in each increment of six months and documented in the record of services. If the maintenance amount is \$200 or more and extends beyond six months another request for approval must be submitted.
11. Maintenance warrants may be paid to the individual, an outside party, or a vendor.
12. Maintenance warrants will be distributed by mail unless the consumer requests to be allowed to receive it at the unit office. There must be justifiable reasons for this such as an unsecured mail receptacle or concern that it may be stolen. No maintenance payments will be directly handled by the authorizing counselor. The supervisor/supervisor's designee or counselor analyst should handle distribution of warrants.

#### 11.07 **Occupational Licenses, Tools, Equipment and Initial Stocks and Supplies**

1. Occupational licenses shall include any license, permit, or other written authority required by a state, city or other governmental unit to enter an occupation or enter self-employment.
2. State purchasing regulations must be followed in purchasing tools, equipment, and supplies. [Refer to Chapter 10]
3. A request for approval – Area Level must be obtained when the licenses, tools, equipment and/or initial stocks and supplies are \$1,000 or more.
4. Contracts for many commonly used items are competitively awarded by the Florida Department of Management Services, Division of Purchasing. VR is required to use such contracts.
5. If the aggregate cost of occupational tools is less than or equal to \$1,000, such Occupational Tools shall become the property of the individual immediately upon the purchase thereof.

6. If the aggregate cost of the occupational tools exceeds \$1,000, such occupational tools shall become the property of the individual upon purchase; however, title and ownership to such occupational tools shall revert back to VR upon written demand by VR, provided circumstances exist justifying the closure of the individual's case for reasons other than a successful completion of the IPE. When title to such occupational tools reverts to VR, the individual who received such occupational tools shall make them immediately available to VR.
7. DVR/BCL-1295 Receipt for Equipment Issued for Items Over \$1,000 will be completed on all equipment assigned to or reclaimed from an individual.
8. Occupational tools shall meet the requirements of the employment - the counselor must obtain written verification from the individual's employer of the specific occupational licenses, tools, equipment, initial stocks and supplies necessary for employment prior to initiating the authorization process. Occupational licenses, tools, equipment, initial stocks and supplies provided for self-employment must be contained in the individual's approved business plan. The supervisor may not approve any authorizations for occupational licenses, tools, equipment, initial stocks and supplies for employment without documentation. [Reference Chapter 9, Section 9.01(9) and Chapter 15.]
9. VR retains the right to provide the individual with previously used occupational tools.
10. The Area Office Automation Analyst (OAA) and Contracted Rehabilitation Technology Service Provider (CRTSP) are excellent resources for consultation on the purchase of computers and related equipment. The OAA may consult on technology and hardware issues and compliance with purchasing regulations.
11. Purchase of non-adaptive computer and related equipment of \$3,000 or more shall have approval by the area director. Computers with adaptive equipment prescribed by a CRTSP do not require approval. [Reference Chapter 15.]

**11.08 Technical Assistance** [Also refer to the Self-Employment and Supported Self- Employment Best Practice and Informational Guide]

1. Self-employment and supported self-employment with a viable business plan are considered acceptable employment outcomes. This option must be consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. The individual must directly contribute to the operation of a business service, development of a product, or perform a core function of the business. VR provides services to support this outcome. The services are described in an IPE as necessary to assist an individual to prepare for, secure, retain, or regain an employment outcome.
2. Self-employment is defined as working for oneself with direct control over work and with prices for products and/or services set to make a profit. It may be carried out through sole proprietorship, partnerships, or for profit corporations. Self-employment does not include passive investing in businesses operated by others or through not-for-profit or franchise businesses.
3. Prior to the development of an IPE with an employment outcome to be achieved through self-employment, the counselor will assess the individual's skills, abilities, capabilities, and support needs for self-employment. During IPE development, the counselor and the individual shall address together new business establishment considerations and strategies.

4. An IPE will be developed stating VR's responsibility when the business plan has been developed and the proposed business is agreed to be a viable business. If additional services are needed to achieve the proposed business, an IPE amendment is required.
5. VR funds the establishment of a new business where the business can reasonably be seen to have a likelihood of success, as indicated by an appropriate business plan and other information.
  - a. The determination that a self-employment business plan meets this criterion will be made by the counselor in consultation with the individual and others involved in the business planning process.
  - b. VR's funding support normally extends only to start-up costs necessary to establish a new business. Start-up costs are limited to the amount approved and duration specified in the business plan, consistent with request for approval policy/field services operating procedure (FSOP), and subject to approval in an IPE or IPE amendment. (Reference: Chapter 15.) Such costs may include, but are not limited to:
    - i. Initial stock and supplies
    - ii. Rent or lease of business space
    - iii. Necessary occupational tools and business equipment
    - iv. Necessary vendor services to support the business (legal, accounting, etc.
    - v. Initial marketing and advertising costs
    - vi. Necessary assistive technology devices and services specifically applicable to the business
  - c. If an individual chooses self-employment as a type of employment and VR agrees, the IPE will be signed by both the counselor or counselor analyst and the individual. The services may include preparation of a business plan through the assistance of a Certified Business Technical Assistance Consultant (CBTAC). CBTAC's may be authorized to assist with any of the following services:
    - i. Initial self-employment exploration meeting(s)
    - ii. Business concept development
    - iii. Market research and benefit analysis
    - iv. Marketing plans and business financials
    - v. Business Plan
    - vi. Business implementation assistance
      - Business plan implementation activities may include any legitimate support during launch necessary to the individual's getting the business to operational status. These activities and number of hours must be detailed in the approved business plan.
      - Business plan implementation activities are to be approved by the counselor in terms of the activity and of the hours at the authorized hourly rate.
      - Implementation hours shall be approved incrementally such as would appear reasonable in the circumstances, e.g., for a month at a time.
      - CBTACs shall submit a report to the counselor for completed hours, including a justification for additional implementation hours. VR will not pay implementation hours engaged in without the counselor's written prior approval or for activities inconsistent with the implementation activity approved.
      - Implementation hours over the course of a launch lasting several months are expected to decline as operational status is approached.

- vii. CBTACs may be authorized to provide any implementation activities determined to be necessary to the launch of the business as specified in the approved business plan.
- viii. Only in the event of extenuating circumstances, such as, but not limited to, the unavailability of other qualified vendors, the counselor may authorize the CBTAC to provide such support services determined necessary to the launch of the business (e.g., other goods and services, marketing, legal, and accounting assistance), in addition to the projected business implementation activities specified in the approved business plan. The counselor must request approval for these authorizations from the area director. All requests must be in writing and include justification.
  - For the purpose of this provision, the term CBTAC means the CBTAC who has developed the business plan and an entity in which the CBTAC has an ownership, management, operational, or other financial interest.
- d. VR may provide services necessary to stabilize and retain a small business only when an eligible individual has an existing business which for reasons related to the individual's disability requires:
  - i. changes to the product, services, or methods of operation of the business, or
  - ii. resumption of the operation of a business that has been disrupted, suspended, or interrupted.
- 6. Throughout the self-employment process, the counselor must review and evaluate all related information provided by the CBTAC and individual, especially in regards to the viability of the individual's business. If the counselor determines that the business is not viable for the individual, the counselor will assist the individual in establishing another desired employment outcome
- 7. VR will not support an individual's self-employment plan for:
  - a. a business speculative in nature
  - b. a business organized as a hobby
  - c. a business organized as not-for-profit
  - d. refinancing of existing debt
  - e. an existing business expansion
  - f. an unlawful or a socially repugnant business
  - g. a franchise business
- 8. Case Closure Considerations
  - a. The business plan shall include criteria to be considered in determining whether closure of the individual's case as successfully rehabilitated is warranted.
  - b. Criteria to be considered without limitation include the following in respect to achievement and trend:
    - i. sales
    - ii. customer base
    - iii. cash flow
    - iv. profit/loss statement
    - v. equity position
    - vi. need for VR support
    - vii. stability for at least 90 days in self-employment; stability for at least 150 days in supported self-employment
    - viii. counselor or counselor analyst and individual agreement
    - ix. reliance on public benefits

(Refer to Chapter 18 of the Counselor Policy Manual for additional requirements for determining if an individual case is considered Successfully Rehabilitated.)

9. For purchasing requirements, refer to Chapter 10 of the Counselor Policy Manual.
10. **Telecommuting** is defined as a work arrangement whereby employees are allowed to perform the normal duties and responsibilities of their positions through the use of computers or telecommunications at home or another place apart from the usual place of work. Generally, the employee will be required to sign a contract or agreement of understanding reflecting the terms of employment.
  - a. Services that may be required in conjunction with the employment training are time management training, organization skills, adaptation of computer equipment, work site modification, child or elder care.
  - b. In many instances, employers provide the equipment and training for the telecommuter. VR may provide consultation and adaptation of equipment if necessary. In situations where the individual is responsible for providing equipment and cannot do so, VR may purchase the equipment. Equipment requirements must be documented by the employer.

#### 11.09 **Interpreter Services, Telecommunications and Other Technological Aids**

The following services may be provided when the individual requires such services in assessment, to benefit from services, or to achieve an employment outcome.

1. Interpreter services (which may include, but is not limited to, a native language, American Sign Language, or tactile interpretation), note taking services, and communication devices shall be provided, as appropriate, to individuals to enable their full participation in the assessment for, development of, and completion of the rehabilitation program. Wherever possible, the need for such services shall be communicated to VR prior to the first meeting with a counselor. [Reference: Guidelines for Interpreting Services for Individuals with Hearing Loss – Part A.]
2. Telecommunication devices shall be provided where appropriate and when without them the individual would be unable to participate fully in the assessment, services offered by VR, and an employment outcome.
3. Any evaluation of the individual's needs and the appropriate method of meeting those needs shall be provided by duly licensed providers. Evaluation for listening devices shall be conducted by certified audiologists.
4. Any training in the use of technological devices shall be provided by a vendor approved by VR after consultation with the individual with a disability.
5. Individualized prescriptions and fittings for technological aids and devices shall be provided only by individuals licensed in accordance with Florida licensure laws or by appropriate certified professionals.

#### 11.10 **Other Goods and Services.** Other goods and services may be provided which are necessary to determine vocational rehabilitation potential, or which can reasonably be expected to benefit the individual in terms of an employment outcome.

1. Situations may arise in which an individual's participation in VR necessitates a need for monetary support for food, shelter and clothing, but the needed expense(s) is not in excess of the individual's normal living expenses. For example, an individual must work less than

his/her normal working hours to participate in a work evaluation, a training program or recuperate from a medical procedure. This reduction in hours may cause an undue hardship on the individual. In these situations, the expense shortfall deemed to be essential to the individual's rehabilitation may be paid as Other Services Not Elsewhere Classified.

2. Services authorized under this fee code cannot be paid to the individual, but only to the vendor to whom the payment is due.
3. The amount of monetary support provided requires the similar levels of approval and periodic reviews as maintenance. (Reference: VR Counselor Policy Chapter 15, FSOP – Request for Approval)
4. The counselor must obtain written verification from the individual's employer of the specific goods and services necessary for employment prior to initiating the authorization process. Other goods and services provided for self-employment must be contained in the individual's approved business plan. The supervisor may not approve any authorizations for other goods and services for employment without documentation. [Reference: Chapter 9 and Chapter 15.]

**11.11 Services to Family Members.** Services may be provided to family members of the individual when necessary to the vocational rehabilitation of the individual. A family member means any relative by blood or marriage and other person living in the same household with whom the individual has a close interpersonal relationship.

Examples of services that may be provided to family members are; daycare, family therapy, interpreting services, and training in use of medical equipment, transportation, and short-term personal assistance services.

**11.12 Transportation.** Transportation, including adequate training in the use of public transportation vehicles and systems, may be provided in connection with the provision of any other service needed by the individual to achieve an employment outcome. Transportation is not to be provided as a single independent service to the individual. The counselor shall explore, determine and document in the case record the most cost efficient and appropriate transportation option.

1. The counselor shall explore the ability of an individual to utilize existing transportation resources to participate in vocational rehabilitation services. Transportation resources shall include, but are not limited to:
  - a. The individual's current mode of transportation, includes private owned vehicle;
  - b. The reasonableness of using other modes of transportation, such as:
    - i. Taxicabs, carpools, co-workers, volunteers or attendants
    - ii. Paratransit, public transit or other community services. VR shall use the Florida Commission for the Transportation Disadvantaged coordinated transportation system for provision of transportation services to consumers when possible.
2. Reimbursement for transportation in a privately owned vehicle shall be determined by the following formula, taking into account the individual's unique circumstances and any available comparable services and benefits. To compute the amount paid for mileage, multiply the mileage for one trip by the number of trips; then multiply that number by the average cost of gas per gallon; then divide this figure by the average gas mileage of the vehicle in question. (See formula below)

- a. Amount Paid for Mileage =  $\frac{(\text{Mileage per trip} \times \# \text{ trips}) \times \text{Avg. Gas Cost}}{\text{Average Gas Mileage}}$
  - b. An individual who requests mileage reimbursement for transportation in a privately owned vehicle must present a valid driver's license.
  - c. If the individual is not a driver, the individual must provide a plan to the counselor that describes how he/she will utilize family members, personal care attendants or others as drivers in support of the rehabilitation plan. The counselor will document this in the case record.
3. Vehicle Repairs.
- a. "Used vehicle" means a vehicle that has been titled and registered to at least (1) owner or has been used as a demonstration model.
  - b. Repairs or costs for used vehicle operation may be made if they are necessary for the individual to participate in vocational rehabilitation services.
  - c. The individual must meet the conditions referenced in Section 11.12(2) above and present a current vehicle registration document for the vehicle considered for repair. A copy of the vehicle registration must be maintained in the individual's case record. If the individual is not the owner of the vehicle, the individual must also present a written and signed statement from the vehicle owner that this vehicle is provided to the individual for use during his/her rehabilitation program.
  - d. If it is determined that used vehicle repairs are necessary, an estimate on a Used Vehicle Inspection Form completed by a National Institute of Automotive Service Excellence (ASE) Certified Mechanic is required to document the cost of repairs.
  - e. Upon receipt of the completed Used Vehicle Inspection Sheet, the trade-in value of the used vehicle to be repaired shall be determined by reference to generally accepted valuation methods. The maximum amount that VR will expend on repairs for the life of the used vehicle is one and one-half times the trade-in value in the absence of special circumstances.
    - i. The counselor shall utilize the Vehicle Repair Checklist (DOE/VR-BFS0002) to verify that all requirements have been documented prior to vehicle repair services being authorized.
4. Vehicle modifications should be considered only after every other transportation option has been explored and only after it has been determined that vehicle modification is the most cost efficient and appropriate approach for the individual and VR. VR shall not authorize a vehicle modification when the individual can effectively utilize public transportation or other means of transportation. [Reference: 11.12(1).]
- a. Vehicle modification shall be provided only as part of an approved IPE, in conjunction with other services to support the attainment of a specific vocational goal. [Reference: Chapter 14, Section 14.07]
5. Transportation may include relocation and moving expenses necessary to achieve the employment outcome.

11.13 **Job-related Services.** This includes job search and placement assistance, job retention services, follow-up services, and follow-along services. The counselor will provide or assure placement services. Placement services are provided to identify suitable available employment, to assist individuals in preparing for, securing, maintaining, or retaining employment, and to assure

satisfaction of the employer and individual. Examples of placement and follow-up services include:

1. Employer contacts
2. Collaboration with other organizations involved in manpower assistance
3. Job analysis/modification
4. Study and interpretation of employment trends and economic outlook
5. Individual and group counseling in job seeking/retention skills and current potential job openings
6. Consulting and advising on job adjustment for individual and/or employer
7. Assistance with affirmative action programs and ADA
8. Selective placement
9. Follow-up activities until job stabilization, but for no less than 90 days

11.14 **Post-Employment Services (PES)** means one (1) or more of the services identified in § 361.48(b) that are provided subsequent to the achievement of an employment outcome, but prior to case closure. These services are necessary for an individual to maintain the employment placement, consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. [Reference: [RSA FAQ 22-03 Post Employment Services](#) (RSA Frequently-Asked Questions – Post-Employment Services); 34 CFR §361.5(c)(41) and 361.48(b).]

1. To receive PES, the following requirements must be met:
  - a. The individual achieved an employment goal.
  - b. The individual's case must be in Employed status.
  - c. The services required are related to the original impairment.
  - d. The services are available to meet rehabilitation needs that do not require comprehensive and complex services.
  - e. The services are limited in scope and duration.
  - f. Services must be provided prior to closure.
2. When PES are necessary, the counselor and the individual must develop an amended IPE identifying the additional services needed. [Reference: Counselor Policy Manual, Chapters 4, 8, and 11.01.]
  - a. Maintenance, transportation, and personal assistance are provided only in support of other services.
  - b. Identify the estimated End Date.
  - c. Document in a case note and on the amended IPE:
    - i. the individual is receiving PES;
    - ii. why the specific PES are necessary; and
    - iii. the criteria for evaluating progress.
  - d. Employment Services may be provided during post-employment when a new referral is made to the provider.
3. The notification of denial of PES shall be made in a manner consistent with the procedures contained in Chapter 3, Section 3.02, Determinations and Review Procedures.
4. If the individual does require more comprehensive services, a new rehabilitation effort should be considered.

- 11.15 **Vocational Rehabilitation Services to Groups.** Services to groups of individuals with disabilities are expected to contribute substantially to the vocational rehabilitation of a group but do not relate directly to the individualized plan for employment (IPE) of any one individual with a disability.
1. VR may authorize or provide vocational rehabilitation services for the benefit of groups of individuals with disabilities.
  2. VR may provide for the following vocational rehabilitation services for the benefit of groups:
    - a. Telecommunications systems that have the potential for substantially improving vocational rehabilitation service delivery methods and developing appropriate programming to meet the particular needs of individuals with disabilities.
    - b. Special services to provide access to information for individuals who are deaf, hard of hearing, or deaf-blind.
    - c. Technical assistance to businesses that are seeking to employ individuals with disabilities.
    - d. Other services that promise to contribute substantially to the rehabilitation of a group of individuals or eligible individuals but that are not related directly to the individualized plan for employment of any one individual.
    - e. Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.
- 11.16 **Pre-Employment Transition Services.** Pre-employment transition services, as defined in 34 C.F.R. §361.5(c)(42) and 34 C.F.R. §361.48(a), may be provided to students with disabilities beginning at age fourteen (14).
- 11.17 **Physical and Mental Restoration services.** [Reference: Chapter 12.]
- 11.18 **Vocational and Other Training services.** [Reference: Chapter 13.]
- 11.19 **Supported and Customized Employment services.** [Reference: Chapter 17.]
- 11.20 **Rehabilitation Technology services.** [Reference: Chapter 14.]

## Rehabilitation Services: Restoration Services

### Chapter 12

12.00 **Definition:** Physical and mental restoration services are provided to correct or substantially modify a physical or mental condition that is stable or slowly progressive. Examples include:

1. Surgery or treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment,
2. Necessary hospitalization in connection with surgery or treatment,
3. Special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease,
4. Prosthetic and orthotic devices,
5. Eyeglasses and visual services.
6. Prescription drugs necessary to correct or treat a physical or mental condition that constitutes a substantial impediment to employment.
  - a. The counselor should obtain a written report from the prescribing physician that details the purpose of the medication, length of projected use and any side effects. Questions regarding these reports may be discussed with the medical or psychological consultant. [Reference Section 12.01(4)]
  - b. The counselor must determine whether comparable services and benefits are available under any program other than DVR to cover the costs of services. [Reference Chapter 9, Section 9.03]

#### 12.01 **Medical, Dental, and Psychological Consultation**

1. Consultants are available in each area to assist the counselor in interpreting records and to provide advice regarding appropriate treatment.
2. Prior to treatment, medical, psychological, or dental consultation is required for extraordinary or experimental procedures or when required by the supervisor. [Reference Chapter 15] Consultation is available for all case questions and may be utilized by counselors, except as required above.
3. Eligibility for DVR, the nature and scope of services to be provided, and closure of the case are decisions that rest with the counselor. Consultants are available to assist the counselor in making these decisions but in no case will the consultant make the decision for the counselor.
4. Consultants may assist the counselor in:

- a. interpreting medical, dental, or psychological reports.
  - b. determining the need for further diagnostics or for confirming the suitability of restoration services as recommended by a qualified physician, dentist, or psychologist.
  - c. determining whether a physical or mental condition is chronic and stable or slowly progressive.
  - d. determining the implication of the applicant's physical or mental condition for rehabilitation potential.
  - e. determining the appropriate fees for medical, dental, or psychological procedures.
  - f. determining the best option for various medical procedures.
  - g. determining the most appropriate hospital and the most cost-efficient fee.
  - h. monitoring the average hospital per diem cost to assure that individuals are admitted and discharged as early as medically appropriate.
  - i. developing and maintaining relationships with the medical/psychological community at large.
  - j. training staff in the medical/psychological aspects of disabilities.
5. In order to avoid even the appearance of a conflict of interest, consultation shall not occur with the actual provider of either a diagnostic or a treatment service unless no other provider is available.
  6. The consultant will sign and date the consultation response. The minimal acceptable documentation is the completed consultation form. In some instances, a more thorough explanation in a narrative case entry may be required.

#### 12.02 Treatment Provider

1. A Provider, who provides physical and mental restoration services, must meet the DVR's Standards for Vendor Qualifications prior to providing services to an individual.

#### 12.03 Mental Health Services

1. DVR may pay for psychotherapy from the implementation of an IPE to receive services.
2. The counselor should consider the local community mental health center as a comparable service for long-term psychotherapy or when the individual no longer requires services from DVR to effect an employment outcome. [Reference [DVR's Guideline for the Use of Psychological Services](#)]

#### 12.04 Dental Services

1. Dental services may be provided to an individual if the individual's dental condition is a substantial impediment to employment; is slowly progressive; is contributing significantly to the complication of another physical condition; and that condition constitutes a substantial vocational impediment.
2. Dental services are primarily provided to prevent the exacerbation or deterioration of a primary disability. Impairments that have the potential for being markedly affected by severe dental

conditions include, but are not limited to cardiac conditions, arthritis, diabetes, tuberculosis, and cleft palate.

3. The use of a dental condition as a primary disability is not prohibited but would be unusual and limited to the following instances:
  - a. When the dental condition creates toxicity and causes physical symptoms in other systems of the body. **This determination must be made by a physician and treatment approved by the medical consultant.**
  - b. When the dental condition results in a cosmetic problem that is severe enough to prevent an individual from obtaining or retaining a job in which the individual would be serving the public.
4. A dental condition may be classified as a secondary disability but only when it constitutes a substantial vocational impediment.
5. Preventive dental services may be provided only as an adjunct to dental treatment. A preventive dental service in and of itself is prohibited.

12.05 **Hearing Aids:** The choice of hearing aids shall be based on the recommendation of a licensed audiologist and the individual's current hearing and speech capabilities. The selected hearing aid(s) must enable the individual to successfully complete the services in the IPE that are needed to secure, retain or regain employment.

1. If the individual prefers a more expensive hearing aid(s), the individual must pay the difference in cost between the required hearing aid(s) and the chosen one. (Reference [VR Guide On Serving Individuals Who Are Deaf, Late-Deafened, Hard-of-Hearing or Deaf-Blind](#) and [Guidelines on Hearing Loss, the Purchase of Hearing Aids, and Cochlear Implants](#))
2. The purchase of hearing aid(s) shall be based on the "Manufacturers' Single Unit Price". The itemized invoice from the audiologist or hearing aid specialist must list the price of the hearing aid based on the "Manufacturer's Single Unit Price Sheet" plus a DVR established professional fee. The DVR professional fee shall cover programming, fitting, dispensing, up to 2 follow-up visits after the initial 30-day trial period, earmold(s), and a 1 year warranty. The counselor must verify the hearing aid price with the "Manufacturer's Single Unit Price" posted on DVR's Intranet.
3. An Individual may purchase an additional warranty for the hearing aid(s).

## 12.06 Bariatric Surgery

1. DVR may consider providing bariatric surgery only if an individual's weight constitutes a substantial impediment to employment. DVR may consider providing surgery to those individuals for whom it is medically necessary, because their medical condition will not allow them the time to lose weight by conservative approaches, (a balanced eating program and therapy for one year), or for whom more conservative approaches have failed to result in weight loss. The medical risks involved in the surgery and risk of surgery failure justify the imposition of the following conditions.

- a. DVR recognizes that there are individuals for whom this surgery is not an option, but is necessary because of their medical condition and their need to lose weight very quickly. DVR encourages therapeutic counseling before and after the bariatric procedure to ensure the individual is thoroughly educated about the risks and the realities of living after the surgery.
  - i. The individual must provide documented evidence of vocational impairments that exist at the time of request. (anticipated impairments do not meet eligibility requirements);
  - ii. An individual requesting bariatric surgery as an elective procedure must provide records of nutritional counseling and attempted weight loss with a balanced diet (may be through a weight loss program or in consultation with a nutritionist or doctor) for at least one year prior to DVR considering sponsoring bariatric surgery. DVR may assist with the costs of counseling and weekly fees for weight loss programs;
  - iii. The individual must submit to psychological evaluation and therapeutic counseling, if recommended, regarding the individual's current psychological status, expectations about the surgery and ability to maintain the extreme dietary discipline required after surgery. DVR may assist with these expenses if there are no comparable services and benefits available to the individual;
  - iv. The individual must present documented denial, reason for denial and appeals from insurance companies and/or other sources of comparable services and benefits available to the individual;
  - v. The individual must provide documentation from a doctor that the individual can safely undergo the surgery and be expected to return to employment; and
  - vi. The individual must agree to work with a nutritionist after surgery for six months. DVR may assist with these expenses if there are no comparable services and benefits available to the individual.

### **Stevens Amendment**

The Florida Department of Education, Division of Vocational Rehabilitation (VR) is an equal opportunity employer. It is against the law for VR as a recipient of Federal financial assistance to discriminate against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The application process used by VR to determine eligibility for services, any subsequent services and the entire VR process are subject to these non-discrimination requirements. Auxiliary aids and services are available upon request to individuals with disabilities. VR program receives 78.7 percent of its funding through a grant from the U.S. Department of Education. For the 2021 Federal fiscal year, the total amount of grant funds awarded were \$176,836,896. The remaining 21.3 percent of the costs (\$47,860,557) were funded by Florida State Appropriations. Revised October 2021.

## Vocational Training Services Chapter 13

**13.00 Definition:** Vocational and Other Training Services including personal and vocational adjustment training, advanced training in, but not limited to, a field of science, technology, engineering, mathematics (including computer science), medicine, law or business; books, tools, and other training materials.

- 13.01 Authorization:** Training shall be provided only when necessary for attainment of the counselor/individual agreed upon employment goal. [Reference: WIOA, the Florida REACH Act and the Field Services Operating Procedure (FSOP) – Postsecondary Education and Training.]
1. VR shall not continue payment for training or educational programs for eligible individuals who fail to maintain institutional standards for both satisfactory academic performance and a full academic load [Reference: 6A-25.014(4)and (5)] unless such failure is due to:
    - a. circumstances beyond the eligible individual’s control such as personal illness, physical, or mental limitations;
    - b. a need for part-time employment;
    - c. caring for children or other family members; or
    - d. other similar circumstances.
  
  2. The awarding of a degree or certificate shall be within a timeframe based on the individual’s needs and abilities.

**13.02 Exclusion:** No training services provided at a public postsecondary educational institution (e.g., universities, colleges, state/community colleges, vocational schools, technical colleges, or schools of nursing) can be paid for with VR funds unless maximum efforts have been made by the counselor/contractor and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training. Such efforts shall be documented in the individual's case records. [Reference: Chapter 9.03, Comparable Services and Benefits.]

1. Pell Grants - Pell Grants may only be used for expenses related to an individual’s participation in an educational program. Such expenses include, but are not limited to, tuition fees, room and board (or living expenses for a student who does not contract with the school for room and board), transportation, books, supplies, and rental or purchase of a computer. [Reference: 6A-25.014(2)(a-c.)]
  - a. The individual must provide VR/contractor with Pell Grant award or denial letters. A Financial Aid Officer must verify that the individual is not eligible to apply for a Pell Grant when that is the case.
  - b. VR may sponsor tuition, fees, books and supplies for the initial term while the individual's Pell Grant application is processed. VR may not sponsor subsequent terms unless the individual's Pell Grant application was denied or the Financial Aid Officer verifies the application has not been awarded.
  - c. Contact with the Financial Aid Officer shall be documented in the case record.
  - d. In the event that an individual is awarded the Pell Grant for a semester in which tuition, fees, books, and/or supplies have been sponsored by VR, that individual shall reimburse VR for the full amount of the expenditures up to the amount of the Pell Grant. Pell Grants in excess of this amount must be used by the individual for related educational expenses.

**13.03 Training for or of Family Members.** Training services may be provided to the family of an individual with a disability if such training is necessary to enable the individual to achieve an employment outcome.

**13.04 Training Materials.** Training materials may be provided to the individual by VR if required by the training institution.

1. Such training materials shall be for the use of the individual during the period of training.
2. If the aggregate cost of such training materials purchased by VR is less than or equal to \$1,000, such training materials shall become the property of the individual immediately upon purchase. [Reference: 6A-25.014(1).]
3. If the aggregate cost of such training materials purchased by VR exceeds \$1,000, such training materials shall become the property of the individual upon purchase. However, title and ownership to such training materials shall revert back to VR upon written demand by VR/Contractor provided circumstances exist justifying the closure of the individual's case for reasons other than a successful completion of the employment outcome. [Reference: 6A-25.014(1)(a).]
4. When title to such training materials reverts to VR, the individual who received such training materials shall immediately make the training materials available to be secured by VR/Contractor. [Reference: 6A-25.014(1)(b).]

**13.05 Florida Public Postsecondary Educational Institutions.** It is strongly advised that individuals attend Florida local public postsecondary educational institutions - universities, colleges, state/community colleges, vocational schools, technical colleges, or schools of nursing for academic, vocational, and technical training services. Florida local public postsecondary educational institutions are herein referred to as the least-cost accredited institution (Reference: FSOP – Postsecondary Education and Training.)

**13.06 Private and Out-of-State Schools.**

1. The individual may choose to attend a private school or out-of-state college or university. [Reference: 6A-25.014(3).]
  - a. If the individual selects a private or out-of-state institution, such institution must be fully accredited and in compliance with the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, and Title V of the Rehabilitation Act of 1973, as amended, in order to consider payment from VR.
  - b. If a private or out-of-state institution is used on the basis of individual preferences, costs shall be paid by VR at the same rate as that for a Florida public postsecondary educational institution after comparable benefits and financial participation has been applied. The individual will be responsible for paying any cost differences.
  - c. Under such circumstances, costs of ancillary services such as interpreters for the deaf, note takers, and other accommodations shall be covered by VR only if such services are not provided by similar Florida public postsecondary educational institutions or by the private or out-of-state institution chosen by the individual.
  - d. When providing training or education services, VR shall pay only the amount charged by Florida's public postsecondary educational institutions, least-cost, (less the amount the

individual is eligible to receive in grants and the percentage of required financial participation), unless attendance at an out-of-state or private institution is:

- i. necessary due to its unduplicated educational resources to prepare for, retain or regain the employment outcome; or
  - ii. the most cost effective option when taking into account transportation and maintenance due to location or when taking into account available grant and scholarship funds (except scholarships based on merit, such as Bright Futures and MacKay Scholarships); or
  - iii. necessary due to circumstances beyond the eligible individual's control such as personal illness, physical limitation(s), the need for part-time employment, or to care for children or other family members, and other similar circumstances; or
  - iv. paid by grant, award or scholarship monies (except those based on merit) sufficient to offset increased cost to VR.
2. The rationale for use of private or out-of-state educational institutions must be documented by the counselor/contractor in the individual's case record.
  3. Out-of-state college/university or vocational training must be approved by the Area Office prior to attendance. [Reference: Chapter 15.02 and FSOP Casework Process – Request for Approval.]
  4. Out-of-state postsecondary educational institutions or training programs paid for by VR must meet VR's standards for vendor qualifications to provide training.

**13.07 Community Colleges/Universities.** It is strongly advised that the first two (2) years of college training be provided at the local state/community college level. Florida state/community colleges are committed to making all programs, services and facilities accessible to and usable by individuals with disabilities in order for students to obtain maximum benefit from the educational experience and to effectively transition to the university environment.

### **13.08 Student Requirements**

1. Unless students in training programs maintain institution standards of satisfactory academic performance, VR shall have no obligation to continue payment for or sponsor such training. However, VR shall consider continuing such payment and sponsorship where failure to maintain passing grades is due to circumstances created by the individual's disability or circumstances beyond the individual's control. [Reference: 6A-25.014(4) and (5).]
  - a. The public postsecondary educational institution is required to provide appropriate academic accommodations deemed necessary to accommodate individuals with disabilities. The public postsecondary educational institution may require the student to follow reasonable procedures to request an academic accommodation, which may be found in the institution's student handbook, website, student disability services office or admissions office.
  - b. The appropriate academic accommodation must be determined based on the student's disability and needs. Academic accommodations include modifications to academic requirements and auxiliary aids and services.

Examples include: arranging for priority registration; reducing a course load; substituting one course for another; providing note takers, recording devices, sign language

interpreters, extended time for testing and, if telephones are provided in dorm rooms, a TTY in the dorm room; and equipping school computers with screen-reading, voice recognition or other adaptive software or hardware.

- c. In providing an academic accommodation, the public postsecondary educational institution is not required to lower or modify essential requirements. For example, although the institution may be required to provide extended testing time, it is not required to change the substantive content of the test.
2. If a student has to retake a course due to a failing grade or fails to attend the appropriate number of classes (and the failure to attend was within the student's control), VR shall have no obligation to pay for his or her retake of the course.
  3. Students in training programs shall maintain a full academic load as defined by the postsecondary educational institution except when there are substantial mitigating circumstances documented in the individual's case record.
    - a. Mitigating circumstances are physical or mental limitations, family responsibilities, availability of transportation, and financial considerations.
    - b. Reports will be accepted as documentation of maintenance of a full academic load.
    - c. Satisfactory grade reports, training progress reports, certificates of completion, or diploma copies are acceptable documentation of attendance and satisfactory performance.

### **13.09 Graduate Training**

1. Graduate training shall be provided when necessary for the attainment of the identified and agreed upon employment goal of the individual.
2. A Request for Approval – Area Level must be obtained prior to attendance. [Reference: Chapter 15.]

### **13.10 On-The-Job Training**

1. Individuals who make an informed choice to participate in an adult or youth (including student) work experience activity (WEA) under VR will be deemed an employee of the state for the purposes of workers' compensation coverage only [Reference: Florida Statute 413.209; FSOP Casework Process – Workers' Compensation.]
2. A non-contracted on-the-job training (OJT) initiated by the counselor may be provided for an individual if the counselor and individual determine that training for employment or skill acquisition can be learned on the job.
  - a. A Non-Contracted OJT Agreement for Employers (RIMS form DOE/VCMT014) must be completed prior to the start of the OJT. This agreement must include:
    - i. the wages, taxes, and benefits (including the employer's share of FICA, Medicare and other charges to the employer) for the employee/trainee,
    - ii. the type of training the employer/trainer will provide,
    - iii. the specific skills the employee/trainee will receive,
    - iv. the anticipated length and duration of the OJT,
    - v. the signature of the employer/trainer representative, the employee/trainee and counselor, and
    - vi. the Workers' Compensation coverage information.

- b. The individual shall be paid no less than the minimum wage if the employer is engaged in a business that is regulated by the Fair Labor Standards Act.
  - c. The employer providing the OJT must agree that an employment relationship shall exist between the employer and the individual during this training. The employer must agree to accept the basic responsibilities of employment as defined under all applicable laws, VR contracts, or agreements.
3. The employer/trainer must submit the Non-Contracted OJT Monthly Progress Report form to the counselor indicating the dates and hours worked for calculation of payment. The report shall be maintained in the individual's case record. The counselor/contractor shall verify this information prior to providing approval for payment.

#### **13.11 Tutorial Training**

1. Tutorial training (one-on-one instruction outside a classroom or other training setting) may be provided when it is determined by the counselor/contractor to be necessary for the individual to achieve an employment outcome.
2. Prior to VR's payment, the counselor/contractor shall contact the training provider to determine if they can provide the tutoring as required by the Americans with Disabilities Act (ADA). Documentation of the provider's agreement to provide tutorial training or the need for VR to pay for training shall be contained in the individual's case record.

#### **13.12 Personal Adjustment and Work Adjustment Training**

1. Personal adjustment training and work adjustment training may be provided to an individual to identify personal or social behavior patterns or work habits which are necessary to prepare for, secure, retain, or regain employment.

# Rehabilitation Services: Rehabilitation Technology Services

## Chapter 14

14.00 **Rehabilitation Technology** is the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living and recreation. The term includes rehabilitation engineering and assistive technology. [Reference: 2014 Amendments to the Rehab Act of 1973]

14.01 **Rehabilitation Engineer (RE)** means a consultant qualified to conduct an evaluation of an individual's rehabilitation technology needs and serves in an advisory capacity.

### 14.02 **Scope of Services**

1. DVR shall provide appropriate rehabilitation technology services including consultation with a RE that is necessary for the applicant or eligible individual to participate in DVR services, assessments or achievement of an employment outcome. Prior to providing repairs to rehabilitation technology, DVR shall determine whether maintaining equipment or replacement is appropriate.
2. The counselor will inform the individual that rehabilitation technology services are available. The counselor shall discuss all relevant policy pertaining to the provision of these services including the individuals' responsibilities and participation in the services.
3. Consultation services are available through a contract for DVR customers. This contract specifies standards for services. Consultations are required for all building, worksite, customized wheelchairs, and vehicle modification services.
4. The counselor will initiate all rehabilitation technology assessments, consultations and services by referring the individual to the RE Technician and provide applicable case notes, medical reports and relevant evaluations as requested by the RE. The counselor may use the Rehabilitation Engineering Referral Checklist/Tool for RE referrals.
5. Based on the assessment, the RE will submit a detailed report to the counselor. The report will outline the most cost effective and appropriate rehabilitation technology and services to achieve the desired result to support an employment outcome. The counselor may consult with the RE and request additional information and technical assistance. The counselor will utilize the rehabilitation technology report in the context of the IPE to determine whether the recommendations are appropriate and justifiable for the individual to achieve an employment outcome.
6. The counselor has the responsibility to discuss costs of insurance, maintenance and repairs so that individuals understand their responsibilities.
7. Any modification of the rehabilitation technology recommendations must be approved in writing by the RE. Changes should not be made to the recommendations without discussion with the RE.

8. If the individual needs changes after a recommendation has been provided or implemented, the counselor will work with the RE and individual to revise the recommendation of rehabilitation technology as necessary.
9. Once rehabilitation technology services are approved and authorized by the counselor, the RE will coordinate the work with the vendor(s) according to the established timeline. They will conduct necessary inspections to ensure the work is provided in compliance with the specifications and payments. [Reference Section 14.09]
10. Rehabilitation technology services must be completed and the referral closed before the individual's case record is closed.
11. The counselor is responsible to ensure that the individual is an active participant in every aspect of the vocational rehabilitation process including the provision of rehabilitation technology consistent with informed choice. [Reference Chapter 4, Section 4.03]
12. The counselor is encouraged to explore comparable benefits to the degree that it does not delay services or reduce the quality of rehabilitation technology services.

#### 14.03 Building Modifications

1. Building Modifications consist of alterations to homes, condominiums, apartments, and worksite facilities for the purpose of accessibility for individuals with disabilities. DVR will provide modifications that provide an accessible environment, consistent with the Florida Accessibility Code for Building Construction, and comply with local and state building codes.
  - a. [Home Modification Consumer Acknowledgement Form](#): Informs the individual of their responsibilities regarding cooperation with the vendor and agreement to the specifications for recommended home modification services. This form will be completed by the RE and the individual prior to authorization of services.
2. DVR may provide a limited range of residential architectural modifications if the modifications are required to achieve the employment outcome of an approved Individualized Plan for Employment and the modifications can be made with conformance to all applicable codes.
3. DVR will provide modification services for accessibility to a bathroom and a bedroom. Modifications to other areas such as living rooms are limited to doorways, unless further modification is justified by the individual's employment needs.
4. DVR may provide modifications to the kitchen if the individual is the primary person who prepares food. DVR will provide a single access route through the most ideal location. If a second route is required for emergencies, an additional access route will be provided or an egress window, whichever is more appropriate. Guidelines for an alternate route include situations in which:
  - a. No other resident or person typically present is available or physically capable of assisting or carrying the individual to safety; or

- b. The individual is required to access the primary route through the kitchen or like area.
5. Space contained within the existing roof line and foundation of the home will be considered for accessibility. Additions may be recommended only if the existing structure cannot be modified cost effectively.
6. If the required accessibility can be provided within the existing roofline, but the individual/owner wants an addition, the owner must prepare drawings to scale and specifications for review by the RE.
7. DVR may consider the addition only if the cost is equal to or less than modifying the original space and the accessibility meets the individual's needs. If the cost is more than modification of the original space, and the individual wishes to pay the difference to have the addition, the difference in cost must be paid to the contractor prior to DVR's payment for the project.
8. DVR will not pay for any portion of new construction of stand-alone buildings.
9. DVR will not purchase or modify existing swimming pools, heated pools, jacuzzis, whirlpool tubs or saunas. If a doctor prescribes therapy that requires a pool, jacuzzi, whirlpool or sauna, the counselor will advise the individual in locating an accessible facility which provides the prescribed therapy under the supervision of a qualified therapist or an alternative mode of therapy.
10. Portable rehabilitation technology will be provided for accessibility to rental or leased property, whenever possible. Limited structural modifications for the purposes of widening doorways may be provided when the counselor and RE agree the modifications are justified by the individual's employment and living needs.
11. DVR will not provide modifications to a building that does not meet local and state building codes.
12. Prior to the authorization of any building modifications, the counselor and individual will obtain all necessary approvals from the property owner, homeowner's associations, and any persons with an interest in such variances for the property.

#### 14.04 **Worksite Modifications**

1. **Worksite Modifications** means accommodations to work areas, tools, processes and appliances to increase the accessibility and function at the place of employment.
2. DVR may provide worksite modifications if the accommodations are required to achieve the employment outcome of an approved Individualized Plan for Employment.
3. The counselor will address any concerns of the individual prior to making a referral to the RE. Any identified concerns must be included in the referral information. The counselor will make the employer aware of the scope of the worksite assessment by the RE.

4. If the RE recommends adaptive equipment, products, or worksite modifications, the counselor may request that the employer provide the products or modifications as a comparable benefit.
5. The counselor or employer may utilize the RE to coordinate installation of employer-provided assistive technology.

#### 14.05 **Wheelchairs, Scooters and Mobility Aids**

1. Customized Wheelchairs/Mobility Devices consist of wheelchairs and mobility devices that require specialized seating such as customized cushions, tilt/recline systems or control systems such as sip/puff and head controls. Customized wheelchairs require a consultation with an engineer and the use of a vendor with an Assistive Technology Suppliers (ATS) certification.
2. DVR may purchase wheelchairs and other mobility aids that are medically necessary to enable the individual to support his/her employment outcome.
3. For non-customized wheelchairs (DME), the counselor may request consultation from RE. In considering mobility aids, the counselor must take into consideration other activities (e.g., driving, working), as well as accessibility to the home and the environment.
4. For customized wheelchairs, the counselor will consult with the RE for technical assistance prior to purchasing wheelchairs and other mobility aids.

#### 14.06 **Computer Purchases**

1. Adaptive Computers consist of hardware, software adaptations or training that increase the accessibility features for input (keyboard, mouse control), output (screen readers, Braille, etc.) or processing (word prediction, etc) of a computer system.
2. DVR may purchase computer hardware, software, and/or services (e.g., installation, training) if it is determined that the individual requires computer equipment or services to support a comprehensive assessment, complete a planned service, or attain an employment outcome.
3. If adaptive hardware or software is required, the RE will provide the necessary specifications to the counselor.
4. Products will be purchased from state contracts when they are available.
5. Adaptive hardware, software, or support services may be purchased from local vendors who can provide the customized systems, training, maintenance and/or technical support. Purchases will be in compliance with state purchasing guidelines.

#### 14.07 **Vehicles and Drivers Training**

1. Accessible vehicles means an ADA-compliant, original equipment manufacturer vehicle, or an original equipment manufacturer vehicle subsequently made ADA-compliant prior to delivery, or an existing vehicle as modified to reasonably accommodate an individual's needs.

Provision of accessible vehicles shall be considered only after every other transportation option has been explored and only after it has been determined that provision of an accessible vehicle is the most cost efficient and appropriate approach for the client and DVR. DVR shall not authorize provision of an accessible vehicle when the individual can effectively utilize public transportation and other means of transportation.

2. DVR may provide accessible vehicles and driving training if they are necessary to achieve the employment outcome of an approved Individualized Plan for Employment.
3. Used Vehicle means a vehicle that has been titled and registered to at least one owner or has been used as a demonstration model.
4. Vehicle Modification means any alteration to personal motor vehicles to increase access as either a passenger or a driver. Vehicle modification may include the replacement of an existing modification. All vehicle modifications must include an engineering consultation.
  - a. [Vehicle Modification Consumer Acknowledgement Form](#): Informs the individual of their responsibilities and agreement to terms regarding insurance, maintenance and transportation of their vehicle to the vendor facility. This form will be completed by the RE and the individual prior to authorization of services.
5. Driver Evaluation means an assessment of individuals' abilities to drive a vehicle safely, to determine what training needs exist and if vehicle modification, adaptive equipment or automotive equipment is necessary to enable the individual to drive. A driving evaluation by a qualified driving evaluator will be obtained to determine the individual's functional capacities to drive and need for modifications and adaptive equipment. The driving evaluator and rehabilitation engineer (RE) will produce final specifications for modifications.
6. Driver Training means instruction to teach an individual to drive a vehicle so that the individual will be able to obtain or retain a driver's license. A qualified driver specialist will provide training to ensure the individual's and public safety.
7. When the counselor determines that vehicle modifications may be necessary, the counselor will make a referral to the RE. The RE consultation should occur prior to the selection of the vehicle, or purchase of any Driver Rehabilitation Specialist (DRS) services.
8. A learner's permit or valid driver's license is required for an on-the-road driving assessment. A physician's review/clearance for a driver's evaluation may be required if requested by the evaluator, or if the individual's medical condition is unstable.
9. The counselor may authorize for additional on the road training as determined by the RE in the DRS vehicle before authorizing for any vehicle modifications if:
  - a. The DRS indicates the individual will require high technology driving modification; and/or
  - b. The DRS or RE are unsure of the individual's capability.

10. The DRS's written assessment of pertinent observations and a summary of the individual's abilities will accompany the prescription for adaptive equipment.
11. The DVR will pay for modifications to certain models of vehicles as per the Florida Standards Manual for Vehicle Modification used by Individuals with Disabilities and the Contracted Rehabilitation Technology Service Provider Manual.
12. When a vehicle is considered for a modification, all aspects will be addressed including entry, exit, driving, and transportation. Only modifications that comply with the Florida Standards Manual for Vehicle Modifications will be purchased. DVR will not participate in modifications deemed unsafe by the RE for the individual or the driving public.
13. DVR will only pay for modifications that the trade-in value of the used vehicle to be repaired shall be determined by reference to generally accepted valuation methods. The maximum amount that DVR will expend on repairs for the life of the used vehicle is one and one-half times the trade-in value in the absence of special circumstances.
14. If the individual uses more than one type of wheelchair, DVR will provide securement for one wheelchair. Wheelchair securement as a driver and one additional manual securement for a passenger will be provided for the individual. Any additional securement will be the individual's responsibility.
15. If the individual does not have an emergency communication device (On Star System, cell phone, etc.), an appropriate system will be included in the scope of the vehicle modification. The ongoing charges for the communication services will be the responsibility of the individual.
16. Rear air conditioning and other relevant accessories will be provided for individuals with a prescribed medical need. The individual is responsible for any accessories that are not required for medical or accessibility reasons.
17. The counselor will inform the individual that they are responsible for transportation of the vehicle to and from the vendor facility. Also, they are responsible for maintenance after the parts and labor agreement expires.
18. The counselor and the individual will discuss and determine the costs of insurance, and explore the costs of maintenance and repairs of vehicle modifications to determine if the individual can assume the responsibility for these costs after provision of services.
19. The DRS driving evaluation and/or physician's approval are the determining authority on the ability of the individual to independently drive. If either source determines the individual is unable to drive independently, alternative transportation solutions should be reviewed.
20. When necessary, DVR may pay transportation, lodging, personal assistance services, and subsistence costs for the individual during the final inspection process.
21. A used vehicle must be inspected by an Automotive Service Association (ASA) or Automotive Service Excellence (ASE) certified automobile mechanic if deemed necessary by the RE to determine if there is safety concerns.

22. If an individual purchases a used vehicle with adaptive equipment already installed, DVR will not fund the vehicle purchase or any portion related to the adaptive equipment already installed. The counselor will address only the additional items listed on the prescription and items that relate directly to the safety of the individual.
23. In the case of structural modifications (lowered floors and raised roofs) that have been performed by a National Highway Traffic Safety Administration (NHTSA) approved second stage manufacturer and the vehicle is being sold as a converted product, DVR will pay for the adaptive portion of the vehicle costs provided the sale of vehicle with modifications had not occurred prior to the authorization by the counselor.
24. If the previous modification is not in compliance with the Florida Standards Manual for Vehicle Modification, DVR may choose not to modify the vehicle. This determination will be made by the RE.
25. The individual is responsible to purchase a suitable vehicle recommended by the RE. This vehicle will be one requiring the most economical modification and meet the transportation accessibility need of the individual. If the individual chooses to purchase another vehicle and this vehicle can be modified safely and effectively to meet the transportation needs, the RE will obtain a written cost estimate for the modification. The individual will be responsible for any additional costs associated with the modification (RE cost estimate – cost of most economical modification = additional costs for which the individual is responsible). The additional funds for which the individual is responsible must be paid to the vendor prior to DVR authorizing any funds.
26. If an individual returns to DVR for subsequent requests for vehicle modification:
  - a. DVR will support the additional modifications if the current vehicle does not meet the individual's employment needs. This may be supplied by documentation of the individual's changing medical condition and/or a report from the RE that the current vehicle and modifications are no longer appropriate.
  - b. If the individual is returning to DVR as a result of an automobile accident in which the vehicle was not salvageable, DVR will only pay for the modifications for which the insurance will not pay. All insurance reimbursements for the value of the equipment must be applied to the modifications cost and paid to the vendor prior to DVR authorizing any funds.
  - c. If the individual has sold a vehicle that was previously modified by DVR and received compensation for the sale of the vehicle, the amount received for the equipment will be applied towards the new modifications.
27. Only work that meets or exceeds the current DVR standards, Federal Motor Vehicle Safety Standards, Society of Automotive Engineers, and other standards established in the industry will be acceptable.

#### **14.08 Equipment, Vendor Selection, Purchasing and Procurement of Services**

1. Durable Medical Equipment (DME) means any product as defined by the Federal Drug Administration, Devices and Cosmetics Act, any products reimbursed under the Medicare Part B Durable Medical Equipment Benefits, or any products reimbursed under the Florida Medicaid Durable Medical Equipment Program (F.S. 400.925). Home medical equipment includes oxygen and related respiratory equipment; manual, motorized, or customized wheelchairs and related seating and positioning, but does not include prosthetics or orthotics or any splints, braces, or aids custom fabricated by a licensed health care practitioner; motorized scooters; personal transfer systems; and specialty beds, for use by a person with a medical need.
2. Used Equipment means any equipment that has previously been sold to an individual or utilized as a demonstration product. DVR will not purchase used equipment or reimburse any portion of costs towards the equipment, where a sale or delivery has occurred prior to authorization of services.
3. Purchases of prescriptive assistive devices for the purpose of medical, developmental, or vocational rehabilitation of individuals are exempt from solicitation requirements and must be procured pursuant to an established fee schedule or by any other method that ensures the best price for the state, taking into consideration the needs of the individuals. Prescriptive assistive devices include, but are not limited to, prosthetics, orthotics, and wheelchairs. For purchases made pursuant to this paragraph, state agencies shall annually file with the department a description of the purchases and methods of procurement. [Reference Florida Statute 257.057(3)(e) and Chapter 10, Section 10.03(1)]
4. If more than one qualified vendor exists within the same or neighboring counties, a quote should be obtained from at least two vendors to ensure competitive pricing without causing undue hardship or delays for services.
5. The counselor will provide the individual with a list of all the qualified vendors that are available.
6. If an individual chooses to use a specific vendor and this vendor is not the lowest bidder, the vendor can be used only if this vendor meets DVR's Standards for Vendor Qualifications. The individual must agree to pay the full difference in cost. The individual will pay the difference in cost to the vendor prior to DVR authorizing any funds.
7. For building modifications that exceed \$35,000, a formal competitive sealed bid is required by State Purchasing. The counselor will send the following documents to the DOE Purchasing Management Services Office:
  - a. Letter requesting assistance in obtaining a formal competitive sealed bid and a pre-bid meeting date;
  - b. Specifications and drawings provided by the RE; and
  - c. List of qualified contractors to be invited to bid.

The State Office of Purchasing invites qualified contractors to a scheduled pre-bid meeting at the individual's home. Following the pre-bid meeting, the RE finalizes the specifications, which are

then sent by the counselor to the Procurement Office. The Procurement Office will award the work according to state purchasing requirements.

9. For vehicle modification, a vendor may only sub-contract work approved by the RE and will be limited to “non-serviceable” items such as structural lowered floors, raised roofs/doors, painting, upholstery and body work. No item that requires any adjustment during installation or after completion may be sub-contracted. If structural modification is sub-contracted, following conditions apply:
  - a. The subcontractor must be registered with National Highway Transportation Safety Administration as an approved “after-market-manufacturer.
  - b. Any transportation of the individual’s vehicle in excess of 25 miles must occur on a flat-bed truck or approved in writing by the individual.
  - c. The individual and the RE must be informed of the nature of the work. Notification must be documented in the case record.
  - d. The final fitting must occur at the primary vendor’s location who must employ a full time technician.

#### **14.09 Inspections and Payments**

1. The RE will verify the safety and function of the modifications and may conduct an in-progress and final inspections to:
  - a. Establish the state of the modification upon completion (removal of debris, operation of vehicle etc.);
  - b. Verify that all equipment/products that DVR paid for are installed;
  - c. Verify that the work meets specified/acceptable standards;
  - d. Verify that the modifications provided the necessary accessibility and function; and
  - e. Ensure that the project is completed per the specifications.
2. In lieu of an onsite inspection, the engineer may utilize the following methods to verify completion:
  - a. Digital pictures from vendor;
  - b. Written acceptance signed by the individual and vendor;
  - c. Communication with individual; and
  - d. Other inspections conducted by qualified individuals such as county inspectors, driver evaluators etc.

3. The counselor will be consulted on any issues that may require generating an authorization.
4. Upon verification that the work completed by the vendor has met the required specifications and function, the engineer will inform the counselor in writing of such and recommend payment. In the event that the work does not meet the required specifications, the engineer will inform the counselor in writing and provide a plan to address the issues.
5. The counselor will authorize payment upon written verification from the RE that the work performed is completed and meets the individual's functional needs.

### **Stevens Amendment**

The Florida Department of Education, Division of Vocational Rehabilitation (VR) is an equal opportunity employer. It is against the law for VR as a recipient of Federal financial assistance to discriminate against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The application process used by VR to determine eligibility for services, any subsequent services and the entire VR process are subject to these non-discrimination requirements. Auxiliary aids and services are available upon request to individuals with disabilities. VR program receives 78.7 percent of its funding through a grant from the U.S. Department of Education. For the 2021 Federal fiscal year, the total amount of grant funds awarded were \$176,836,896. The remaining 21.3 percent of the costs (\$47,860,557) were funded by Florida State Appropriations. Revised October 2021.

## Chapter 15 Request For Approval

**15.00 Definition.** Request for approval is a petition to gain an approval from the Vocational Rehabilitation (VR) State or Area Office prior to initiating certain vocational services for individuals. If the request is approved, the services requested will be included on the IPE or IPE amendment, as appropriate.

The counselor is responsible for identifying cases requiring approval and obtaining the required supporting documentation.

Services requested should not be initiated or provided until the request for approval is granted, signed and returned to the area/unit staff.

### **15.01 State Office Approvals.**

**Definition:** The approval of policy exceptions and certain medical/ psychological services by the State Office. The services are to be included on the IPE or IPE amendment, as appropriate.

For detailed information, refer to Field Services Operating Procedures (FSOP) – Request for Approval.

Services that require a request for approval at the State Office level are:

1. **Extraordinary or experimental medical/psychological services.** These include:
  - a. All Transplants;
  - b. All procedures to be performed on persons with cancer;
  - c. Cochlear implants (CI) and other implantable hearing devices (CI and bone-anchored hearing aid [BAHA] speech/sound processor [external device] replacements or repairs do not require state level approval);
  - d. Gastrointestinal procedures (e.g. laparoscopic gastric sleeve surgery) for morbid obesity;
  - e. Hyperbaric oxygen treatments for any condition;
  - f. Intrathecal baclofen Infusion for Cerebral Palsy (cerebral dystonia); or
  - g. Brain surgery.
  - h. Comprehensive InPatient/OutPatient Pain Management Programs conducted by a multi-specialty team or by an individual physician. The program could utilize single or multiple modalities such as narcotics, indwelling drug administration devices, acupuncture, implanted stimulation devices, transcutaneous electrical nerve stimulation (TENS) units, physical and massage therapy, and/or psychological support. Epidural injections beyond a 3-injection trial requires approval at the State Office level.
  - i. Any cosmetic/reconstructive surgery;
  - j. Any medical condition with an uncertain prognosis or outcome; or
  - k. Bone Stimulator.

2. **Treatment to be provided out of state** except in Southern Georgia or Alabama when in close proximity to the individual's home. **Note:** the determination of whether an individual lives in close proximity is based on the individual's needs, which may include availability of transportation and availability of services. [Reference Chapter 11, Section 11.01(3)]

3. **Policy Exceptions.**

For detailed information, refer to FSOP – Request for Approval.

a. An individual, through his or her counselor, may seek an exception to policy that is needed in order to meet his or her unique rehabilitation requirements to secure, maintain, retain, or advance in employment.

b. The policy exception(s) shall only be granted if the request meets the following criteria:

i. **Needs of an individual:** The exception(s) to the policy must be necessary because of the unique needs of an individual. The request for the exception must explain why the policy should not apply to the particular individual's services.

ii. **Legality:** The granting of a policy exception must not violate any federal or state law or regulation.

iii. **Intent of the policy:** Granting an exception must not violate the intent of the given policy. For example: Policy requires that there be evidence in the case file and on the IPE that an individual can succeed in training before that training can be provided. The intent of the policy is to ensure that individuals are moving appropriately toward a viable vocational goal and to ensure the prudent and efficient use of public funds.

iv. **Fairness:** The granting of the exception must not violate fairness to other individuals. For example: If an individual is granted an exception(s) for a certain type of service(s), other individuals that fall within that same category and circumstance may be given the right to request an exception(s) based upon individual need.

c. **Financial Participation Determination** - In exceptional cases, circumstances may occur where rigid adherence to the financial participation assessment procedures could seriously jeopardize the individual's opportunity to achieve rehabilitation objectives and an employment outcome. For example, the individual may need immediate medical intervention and may not have the funds immediately available. In such cases, the counselor may elect to seek an exception to the policy.

- An exception can only be requested based on at least one of the following reasons:

- i. substantial change in financial circumstances (based on employer-generated pay stubs, retirement program documents, or documentation from public or private economic support groups);
  - ii. need for immediate medical intervention (based on medical recommendations included in the case file); or
  - iii. the required financial participation, based on the percentage of participation, exceeds the individual's applicable income as calculated in the Financial Participation Assessment.
- For detailed information, refer to Financial Needs Assessment - Quick Reference which identifies the required information, and the budget worksheet for which the exception is sought. (Reference: FSOP – Budget Worksheet and Expense Analysis.)
  - When an exception to the financial participation policy is granted, the individual is not required to pay for the service or costs included and approved in the request. This exception does not exempt the individual from the required financial participation for any other service.

## 15.02 Area Office Approvals.

**Definition:** An approval obtained from an area director to include certain vocational services on the IPE or IPE amendment.

For detailed information, refer to FSOP – Request for Approval.

The services requiring a request for approval at the Area Office level are:

1. Services to VR or staff (this includes privatization staff) and family members who reside within the same VR area.
2. Services on an IPE or IPE amendment, which can reasonably be expected to require expenditures totaling \$40,000 or more. Approval will be required for each increment of \$20,000 thereafter.
3. Training to be provided out of state except in southern Georgia or Alabama when in close proximity to the individual's home. The determination of whether an individual lives in close proximity is based on the individual's needs, which may include availability of transportation and availability services. [Reference Chapter 13, Section 13.07]
4. Graduate level training.
5. Maintenance payments \$750 or more per month [See Chapter 11.06 and the FSOP – Budget Worksheet and Expense Analysis.]

6. Other goods and services \$750 or more provided and not classified as maintenance. [Reference Chapter 11, Sections 11.06 and 11.10 and the FSOP – Budget Worksheet and Expense Analysis.]
  - a. The counselor must obtain written verification from the individual's employer of the specific goods and services necessary for employment prior to initiating the authorization process. Other goods and services provided for self-employment must be contained in the individual's approved business plan. The supervisor or counselor analyst may not approve any authorizations for other goods and services for employment without documentation. [Reference Chapter 9, Section 9.01(9)]
7. Waivers of maintenance in extenuating circumstances.
8. Occupational Licenses, Tools, Equipment, Initial Stocks and Supplies \$1,000 or more. [Chapter 11, Section 11.07]
  - a. The counselor must obtain written verification from the individual's employer of the specific occupational licenses, tools, equipment, initial stocks and supplies necessary for employment prior to initiating the authorization process. Occupational tools and stocks provided for self-employment must be contained in the individual's approved business plan. The supervisor or counselor analyst may not approve any authorizations for occupational tools and stocks for employment without documentation. [Reference Chapter 9, Section 9.01(9)]
9. Purchase of non-adaptive computers and related equipment of \$3,000 or more [Reference Chapter 11, Section 11.07.]

## Social Security Administration (SSA)

### The Division of Vocational Rehabilitation Program

#### Chapter 16

- 16.00 **Ticket to Work Program** – The purpose of the Ticket to Work Program is to expand the employment opportunities for most individuals receiving Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits and reduce their dependency on SSA benefits.
- 16.01 **Tickets** – A Ticket under the Ticket to Work program is a document, which provides evidence of the SSA's agreement to pay DVR or another employment network (EN) to which a disabled beneficiary's ticket is assigned/in use. This would include employment services, vocational rehabilitation services or other support services to the SSI/SSDI beneficiaries.
- 16.02 **Work Incentive, Planning and Assistance (WIPA) Program** – SSA originally initiated the Benefits Planning, Assistance and Outreach (BPAO) Program. This was renamed the WIPA Program to provide SSI/SSDI recipients with information on various benefits and work incentives to empower them to make informed choices about employment.
- 16.03 **Protection and Advocacy** – SSA has developed Protection and Advocacy Center (P&A), an advocacy and protection program dedicated to beneficiaries who are receiving Social Security benefits.
- 16.04 **Ticket Activation** – SSI/SSDI beneficiaries eligible for a Ticket have the choice of placing their Tickets in use with DVR or assigning their Tickets to DVR or another local Employment Network. If the Ticket is placed in use with or assigned to DVR, DVR must provide the beneficiary with information, including contact information for the local WIPA, to assist beneficiaries in making choices regarding participation in the program and the most appropriate provider. The beneficiaries may decide to come directly to DVR for services or may be referred to DVR by another EN. Once referred and accepted by DVR, the beneficiary must place their Ticket in use with or assign their Ticket to DVR to receive services. When a beneficiary signs the IPE, the beneficiary has placed their ticket in use as referenced in Section 411 of the SSA Regulations. A beneficiary cannot use both DVR and an EN at the same time.
- 16.05 **Ticket Reassignment** – Beneficiaries may choose to initially assign their Tickets to another EN and later choose to be referred to DVR for services. Or a beneficiary may choose to receive services from DVR and reassign their Ticket to another EN.
- 16.06 **Timely Progress** – SSA has set guidelines to determine whether an individual is making timely progress toward self supporting employment and demonstrating an increasing ability to work that will reduce or eliminate beneficiaries' dependence on SSA benefits. DVR is responsible for assisting beneficiaries in understanding these guidelines so that they do not unnecessarily risk losing their protection from Continuing Disability Reviews (CDR's).

- 16.07 **The Division of Vocational Rehabilitation participates in the Traditional Cost Reimbursement Program and the Employment Network (EN) Payment Program** and complies with the Federal regulations governing the funding for services to individuals covered by these programs.
- 16.08 **SSA Traditional Cost Reimbursement** – SSA will reimburse DVR, on a case- by-case basis, under three payment provisions within the SSA/DVR Reimbursement Program. This special program includes the same range of services as the general program.
1. Not all SSI/SSDI recipients are eligible to participate in the Ticket to Work Program. DVR will serve recipients who do not have Tickets and DVR may receive SSA reimbursement if recipients become employed and meet other reimbursement program requirements.
- 16.09 **Reimbursement: Nine-Month Substantial Gainful Activity (SGA). SSA will pay for successful rehabilitation claims.**
1. According to Title II (SSDI) or Title XVI (SSI), a successful rehabilitation occurs when an individual performs nine continuous months of SGA (as defined in Section 16.1104) in accordance with the criteria established by the SSA. For individuals under both Title II (SSDI) and Title XVI (SSI), DVR may be paid for vocational rehabilitation services that contributed to the individual's performance of the nine-month period of SGA. (The criteria followed by the SSA are outlined in the applicable regulations.)
  2. Reimbursement, subject to the criteria, will be made for both actual expenses and for administrative, counseling and placement (ACP) and tracking costs on a formula basis.
  3. DVR must have considered comparable services and benefits. Costs claimed must not have been paid by or be payable from some other source.
  4. DVR services are provided to those SSDI beneficiaries and SSI recipients who apply for services. Cases potentially eligible for reimbursement must meet the following criteria requirements:
    - a. Nine months Substantial Gainful Activity (SGA) required. (Exceptions: section "301" and "refusal" cases);
    - b. Medical services must be provided, initiated and/or coordinated through the IPE if there is a Medical Improvement Expected (MIE) by SSA;
    - c. The total payment for each case must not be so high as to preclude a "net saving" to the Federal government.
  5. SSDI/SSI SGA cases closed as rehabilitated must have been followed for nine months of SGA employment to be eligible for reimbursement, with the follow-up period well documented in the case file.
  6. Termination of SSDI benefits and/or nonpayment or substantial reduction of SSI payments is the expected result of such rehabilitation efforts.
  7. The SSA/DVR claim for reimbursement should be submitted at the time of the nine month SGA rehabilitated closure, or as soon as employment documentation reflecting nine months of SGA is secured.

8. Under the general rehabilitation program, the IPE employment outcome can be homemaker, unpaid family worker, or below SGA, none of which would be likely to result in termination of benefits. Such non-SGA cases are not eligible for SSA reimbursement and need only be followed in employment for the regular 90 day minimum requirement.
9. All claims must be filed by the 12th month following completion of the nine months Continuous Period (CP) of SGA.

**16.10 "Section 301" Individuals** - [Section 301 refers to the location of this provision in the original legislation and it allows certain beneficiaries to continue receiving benefits even after the disability ceased.]

1. Section 301 cases do not require nine months of SGA employment for reimbursement.
2. Payment can be made by SSA to State VR agencies for services provided to individuals who continue to receive disability payments after their disability has ended because of their participation in an approved VR program.
3. "301" reimbursement claims should be submitted after DVR services end and/or at the time of the rehabilitated closure, and all "301" claims should be submitted within 90 days after DVR services end.

**16.11 SSA/DVR Reimbursement/Payment Provisions**

1. The State is subject to Federal audit of the VR services and/or administrative costs for which SSA reimbursements are made. Compliance with the criteria will be audited.
2. SSA regulations require that records relating to the services and costs for which payment was made be retained for a minimum of two years.
3. SSA will pay for those services that occurred within the SSDI/SSI allowance period(s).
  - a. The payment period for a Title II (SSDI) claimant extends from the waiting period through the extended entitlement period to termination, or to the first period of nine continuous months of SGA if that comes sooner.
  - b. The payment period for a Title XVI (SSI) claimant generally extends from the date of eligibility to the date of termination, excluding periods of ineligibility (non-pay). As with the Title II claimant, if the first period of nine months of continuous SGA occurs prior to termination, the payment period ends on the date success is achieved.
4. SGA lasting for a continuous period of nine (9) months means:
  - a. SGA in 9 consecutive months; or
  - b. SGA in 9 out of 10 months, regardless of reason for one month break; or
  - c. SGA in 9 out of 12 months, if break exceeding one month is unrelated to impairment and due to circumstances beyond individual's control (e.g., employer closed down for three months).

5. DVR has 60 days to appeal an SSA decision as it applies to the adjudication of a specific claim based on:
  - a. whether success occurred
  - b. whether DVR significantly contributed to the successful rehabilitation
  - c. the amount SSA paid on the claim

#### **16.12 Reporting Third Party Payments**

1. If a State receives a third party payment for either a pending claim or for which they have already received reimbursement, they must report the following information to SSA via the State SSA/DVR Program Coordinator.
  - a. State Division Name
  - b. Division Code (08)
  - c. Subject: Recovery of Third Party Payments for vocational rehabilitation services
  - d. Name of DVR individual (first, MI, last)
  - e. Social security number (SSN) under which the individual receives social security benefits
  - f. SSN of individual if different
  - g. Date claim filed
  - h. Direct costs claimed
  - i. Direct costs reimbursed by SSA
  - j. Administrative, counseling, and placement (ACP) costs claimed
  - k. ACP costs reimbursed by SSA
  - l. Amount of direct costs paid by a third party
  - m. Amount of ACP or any other costs paid by a third party
  - n. Total amount to be recovered
  - o. Source of third party payment(s)

#### **16.13 Coordination with SSA**

1. Through an agreement between SSA and DVR, DVR has implemented an automated system, the State Verification and Exchange System Agreement (SVES), to verify SSA benefit status for all persons applying for and receiving services from DVR. The counselors shall use the SVES record to verify SSA benefit status and, if applicable, code the individual's RIMS record. If needed, the counselor may request additional information from the local SSA office for the purpose of eligibility determination and/or verification of SSA benefit status.
2. The Area SSA/DVR Coordinator or designated Supervisor or Counselor should coordinate any informal "REFUSAL" requests for assistance from an SSA Area/Branch office.
3. A signed release of information is not necessary when exchanging any information between DVR and SSA or the Office of Disability Determinations.
4. DVR individuals should continue to be referred to the local SSA offices for any assistance in connection with their disability claims, or to report such events as recovery from impairment, return to work, termination of work, etc., which may have a bearing on their claims.

5. There should be regular liaison and cross training established by DVR with the Area SSA offices in order to ensure continued good cooperation and working relationships. Each SSA office has designated staff, Work Incentive Liaisons and Technical Experts, who may provide training for DVR and/or assist with the various work incentives, including the SSI Plan for Achieving Self Support (PASS).
6. DVR will request EN Payments as provided under 20 CFR, Part 411, Section 411.550 and as shown in DVR's Ticket to Work Program Procedural Guide.
7. The DVR SSA/Ticket to Work Program Unit will be responsible for designating which cases will be selected for EN Payments and for coordinating the submission of payment requests to SSA.

### **Stevens Amendment**

The Florida Department of Education, Division of Vocational Rehabilitation (VR) is an equal opportunity employer. It is against the law for VR as a recipient of Federal financial assistance to discriminate against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The application process used by VR to determine eligibility for services, any subsequent services and the entire VR process are subject to these non-discrimination requirements. Auxiliary aids and services are available upon request to individuals with disabilities. VR program receives 78.7 percent of its funding through a grant from the U.S. Department of Education. For the 2021 Federal fiscal year, the total amount of grant funds awarded were \$176,836,896. The remaining 21.3 percent of the costs (\$47,860,557) were funded by Florida State Appropriations. Revised October 2021.

**Supported Employment Program**  
**Chapter 17**

- 17.00 **Definition.** *Supported Employment* means competitive integrated employment, including *customized employment*, with *ongoing support services* for individuals with the most significant disabilities consistent with their strengths, abilities, interests, and informed choice. (Defined words, italicized in blue, are per code and best practices. They can be found at the end of this chapter or on VR Avenues.)
1. Individuals appropriate to receive Supported Employment services are those:
    - a. For whom *competitive integrated employment* has not occurred or for whom competitive integrated employment has been interrupted or intermittent as a result of a most significant disability;
    - b. Who, because of the nature and severity of their disabilities, need Supported Employment services and *extended services* after Transition in order to maintain their employment; and
    - c. Who may need a negotiated or *customized employment* opportunity that matches the specific abilities of the individual with a most significant disability and meets the business needs of an employer. Flexible strategies may include customizing a job description, developing a set of job duties, work schedule or other negotiated items.
  2. Customized Employment supplements supported employment services when more intensive interventions are needed to identify, obtain, or maintain employment. Customized Employment service strategies may include, but are not limited to, the following:
    - a. *Discovery* is a customized employment strategy that relies on a comprehensive process of observations and interviews counselors use to identify a specific strength or skill that will be the focus for employment planning. Discovery is appropriate when:
      1. An alternative to traditional, norm-referenced assessments is needed to identify interests, capacities, skills, or appropriate work environments where the individual is at their best; and/or
      2. It provides an added depth to the person centered planning process. Discovery does not replace the Supported Employment Individual Career Plan. It provides additional information used to target specific employers or work environments.
    - b. Customized Job Placement Services (CJPS) is a customized employment strategy available for use when individuals need a job to be personally negotiated or when a position needs to be created to make employment possible. CJPS is appropriate when the individual:
      1. Has complex needs and requires a variety of services, including coordination of supports;
      2. Needs a specific work environment and/or a specific work duty, based on the nature and severity of the disability, even after provision of supports; and/or
      3. Has participated in Discovery and the need for Customized Employment strategies is apparent to the counselor, provider, individual or their family member, and/or other representative, as appropriate.
    - c. Supported Self-Employment is a customized employment strategy that may be used to assist individuals with the most significant disabilities in developing a business of their own.

1. If an individual chooses Supported Self-Employment as a type of employment service, and the counselor agrees, the IPE will be signed by both the counselor and the individual. The services may include preparation of a business plan through the assistance of a Certified Business Technical Assistance Consultant (CBTAC). CBTACs may be authorized to assist with any of the following services:
  - a. Initial self-employment exploration meeting(s);
  - b. Business concept development;
  - c. Market research and benefit analysis;
  - d. Marketing plans and business financials;
  - e. Business Plan; and
  - f. Business implementation assistance.
2. A reasonable expectation of the availability of extended services should be identified in the IPE and in the Business Plan.
3. To determine if the potential placement meets the requirements of competitive integrated employment, the counselor must ensure it meets the following criteria:
  - a. The position is performed on a full-time or part-time basis;
  - b. The position compensates the individual at or above Florida's minimum wage, but not less than the customary wage paid for similar work;
  - c. The level of benefits offered is the same for similar work performed by individuals who are not disabled;
  - d. The level of interaction with others (customers, vendors, and co-workers) is the same as non-disabled persons within that individual's entire worksite and work unit; and
  - e. The opportunities for advancement are similar to those for non-disabled individuals who have similar positions.

**17.01 Eligibility for Supported Employment Services.** An individual shall be eligible to receive Supported Employment services if:

1. The individual is eligible for Vocational Rehabilitation services;
2. The individual is determined to be an individual with a most significant disability;
3. The individual's rehabilitation, career, and employment needs have been assessed by the counselor. (When appropriate, existing documentation that outlines the individual's work skills, support needs and prior work experience, may be utilized in lieu of an assessment); and
4. Supported Employment has been determined to be an appropriate rehabilitation objective for the individual.

**17.02 Documentation of Supported Employment Eligibility. There must be:**

1. A certification of eligibility reflecting that the individual meets the basic program eligibility requirements; and
2. Documentation titled "most significant" that reflects that the individual meets the requirements of having a *most significant disability*.

**17.03 Supported Employment Individualized Plan for Employment (IPE) Requirements.**

The Supported Employment IPE must:

1. Specify the Supported Employment services to be provided by DVR;

2. Specify the expected *extended services* (Phase II services) needed, which may be natural supports, employer supports, or other appropriate supports;
3. Identify the source of *extended services* (Phase II) or, include a description of the basis for concluding that there is a reasonable expectation that those sources will become available;
4. Provide periodic monitoring to ensure that the individual is making satisfactory progress toward meeting the weekly work requirement established in the IPE prior to beginning extended services;
5. Provide coordination of services under any other individualized plans established with Federal, State, or local government programs, especially local school transition plans, including Individual Educational Plans (IEP);
6. To the extent that job skills training is provided, identify that job skills training is provided on site;
7. Include Competitive Integrated Employment for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities;
8. Indicate extended services are to be provided off the job site only when it has been determined to be an appropriate option; and
9. State the period that services are to be provided in excess of 24 months if this has been determined at the time of the IPE development.

#### 17.04 **Documentation for the Supported Employment IPE**

1. The employment outcome must be documented in a Supported Employment IPE.
2. Time-limited services (Phase I) to be provided by DVR must be listed in the "Services" section of the IPE.
3. Identify the source for *extended services* (Phase II) in the "Services section" or include a description of the basis for concluding that there is a reasonable expectation that those sources will become available in the "Comparable Services and Benefits" section of the IPE.

#### 17.05 **Supported Employment Services (Phase I).** Supported Employment Services (Phase I) are the initial support services that:

1. Are furnished by DVR to support and maintain an individual in Supported Employment prior to beginning extended services;
2. Are based on a determination by DVR of the individual's needs as specified in the IPE;
3. Do not extend beyond 24 months unless under special circumstances the eligible individual and the rehabilitation counselor jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the Supported Employment IPE; and
4. Are provided, at a minimum, twice monthly in order to:
  - a. Provide job skills training at the worksite;
  - b. Make an assessment of the employment situation, at the worksite of the individual in Supported Employment, or, off-site when requested by the individual or otherwise required; and
  - c. Provide for the coordination or the provision of specific intensive services, at or away from the worksite, which is needed to maintain employment including long-term supports.

**17.06 Scope of Supported Employment Services (Phase I).** As appropriate, these services may include:

1. An assessment when additional information is needed in order to determine:
  - a. The most suitable Supported Employment placement for an individual;
  - b. What *ongoing support services* are needed, including the need for rehabilitation technology;
  - c. If a reassessment of the suitability of the placement is warranted; or
  - d. If there is a significant change in the individual's impairment.
2. The provision of job coaches or employment specialists who accompany the individual for intensive job skills training at the worksite and/or facilitate natural/employer supports at the worksite;
3. Job development;
4. Placement;
5. Social skills training;
6. Regular observation or supervision of the individual;
7. Follow-up services to reinforce or stabilize the placement; including, but not limited to regular contact with the individual, employer, family or guardian, and any other relevant professionals.; and
8. Other necessary and appropriate vocational rehabilitation services.

**17.07 Job Coaching. Job coaching may be provided:**

1. By VR to individuals in supported employment through the period of job development and before beginning extended services.
2. As a post-employment service. (Reference: Counselor Policy Manual Chapter 11.)

**17.08 Training, Stabilization and Employment**

1. The individual in Supported Employment is considered to be in training upon implementation of the IPE until placed in permanent employment by the service provider. The individual is considered to have begun stabilization when the counselor, job coach/employment specialist, employer and individual agree that the initial intensive services identified on the IPE have resulted in:
  - a. The individual demonstrating acceptable job performance; and
  - b. A reasonable expectation that satisfactory job performance will be maintained with the kind and level of *ongoing support services* being provided.Reaching this job performance level marks the start of the 90-day period of initial *stabilization*, which concludes with *transition* to *extended services*. Employment is maintained for the 90-day period of initial *stabilization* plus 90 additional days of stabilization following transition to *extended services*.
2. Case closure as an Achieved Employment Outcome may be pursued upon satisfactory completion of 90 days of stabilized employment after transitioning to Extended Services. (Phase II).

**17.09 Extended Services (Phase II).**

1. Extended services (Phase II) means *ongoing support services* by non-VR funded resources after an individual has made the transition from (Phase I) of supported employment services funded by VR.

2. Extended Services provision may, include but is not limited to, other State agencies, private pay, community grants, private agencies, Social Security work incentives, natural supports, employer supports, private pay, or any other appropriate resource.
3. There is a funding exception for youth based on the availability funds and the individual's needs; VR may provide up to four (4) years of extended services based on the Rehabilitation Act of 1973 as amended, or until such time that a youth reaches the age of 25 and no longer meets the definition of a youth with a disability.
4. Transition from Supported Employment services (VR-funded, Phase I) to *extended services* (non-VR funded, Phase II) requires that:
  - a. The individual's weekly work hour goal is substantially met;
  - b. Initial job stability has been demonstrated over a period of at least 90 days; and
  - c. The provider of *extended services* is ready to continue the ongoing services without interruption.

#### 17.10 **Achieved Employment Outcome**

1. An individual in Supported Employment is considered to have achieved an employment outcome if the individual:
  - a. Meets the basic program requirements for an *employment outcome*,
  - b. Maintains a Supported Employment placement for 90 days of stabilized employment with an employer, and
  - c. Completes 90 days of stabilized employment after transitioning to extended services.
2. The elements listed below must be in the "Justification for Closure":
  - a. The employment placement was in a competitive integrated employment and the individual was employed on a full-time or part-time basis;
  - b. The level of interaction with others (customers, vendors and co-workers) was the same as for non-disabled persons within the individual's entire worksite and the work unit;
  - c. The individual was compensated at or above the minimum wage, but not less than the customary wage; the individual's benefits were paid by the employer and were for the same or similar work performed by individuals who are not disabled; and
  - d. There was an additional minimum of 90 days follow-up after the individual began receiving *extended services*.

17.11 **Post-Employment Services.** Post-employment services (PES) may be provided to individuals who achieve an employment outcome, but prior to case closure, to ensure that the employment outcome can be maintained. PES will often enable the individual to preserve his or her employment. An amendment to the original IPE must be developed to provide this service. (Reference: Counselor Policy Manual Chapter 11.) These services are available to meet rehabilitation needs that do not require a complex and comprehensive provision of services and, thus, should be limited in scope and duration. If more comprehensive services are required, then a new rehabilitation effort should be considered. See 34 CFR § 361.5(41).

**Definitions** (Per Code of Federal Regulations and  
Best Practices; within the chapter the defined words are *italicized in blue*)

**Supported Employment (SE) § 361.5(53)**

Supported Employment means competitive integrated employment, including customized employment, that is individualized and customized consistent with the strengths, abilities, interests, and informed choice of the individuals involved, for individuals with the most significant disabilities:

1. For whom competitive integrated employment has not occurred; or
2. For whom competitive integrated employment has been interrupted or intermittent as a result of a most significant disability; and
3. Who, because of the nature and severity of their disability, need intensive Supported Employment services and extended services.

**Supported Employment Services § 361.5(54)**

Supported Employment Services means ongoing support services, including customized employment, needed to support and maintain an individual with a most significant disability in Supported Employment that are:

1. Provided singly or in combination and are made available to assist an eligible individual to achieve competitive integrated employment;
2. Based on a determination of the needs of an eligible individual, as specified in an SE individualized plan for employment (IPE); and
3. Provided for a period of not more than 24 months, unless under special circumstances the eligible individual and the rehabilitation counselor jointly agree to extend the time, in order to achieve the employment outcome identified in the SE IPE.

**Customized Employment § 361.5(11)**

Customized Employment means competitive integrated employment, for an individual with a most significant disability, that is: based on an individualized determination of the strengths, needs, and interests of the individual; is designed to meet the specific abilities of the individual and the business needs of the employer; and is carried out through flexible strategies, such as:

1. Job exploration;
2. Working with an employer to negotiate the placement;
3. Customizing a job description based on employer needs or previously unidentified employer needs;
4. Developing a set of job duties, a work schedule, job arrangements, and other negotiated job related duties;
5. Providing services and supports at the job location; or
6. Assisting an individual in the development of a business.

**Competitive Integrated Employment § 361.5(9)**

Competitive Integrated Employment means work that is performed on a full-time or part-time basis (including self-employment) and establishes three essential criteria of employment:

1. **Income** - the individual is compensated at or above the minimum wage and the individual's wage and level of benefits are not less than that customarily paid by the employer for the same or similar work performed by individuals without disabilities. In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals,

who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills.

2. **Integration** - the individual is employed at a location where the employee interacts with other persons who do not have disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals in comparable positions who do not have disabilities would interact with other persons.
3. **Advancement** - the employment, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

### **Most Significant Disability § 361.5(29)**

An individual with a most significant disability means an individual with a disability:

1. Who has a severe physical or mental impairment that seriously limits three or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;
2. Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period (at least 12 months); and
3. Who has one or more physical or mental disabilities or combination of disabilities determined on the basis of an assessment used for determining eligibility and vocational rehabilitation needs. The disability causes comparable substantial functional limitation.

### **Extended Services § 361.5(19)**

Extended Services are ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment that are:

1. Based on the needs of an individual, as specified in a supported employment individualized plan for employment; and
2. Provided by a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received by DVR, and are delivered after an individual with a most significant disability has made the transition from support provided by the DVR.
3. Based on the availability of funds and the needs of the individual, DVR may provide extended services to youth with a disability who are 14-24 years of age for a period not to exceed 4 years.

### **Stabilization**

Stabilization is achieved when the VR Counselor, Employment Specialist, Employer and Individual agree that:

1. The initial intensive services identified on the IPE have resulted in the Individual demonstrating acceptable job performance.
2. There is a reasonable expectation that satisfactory job performance will be maintained with the type and level of ongoing support services being provided.

### **Transition**

Transition occurs when:

1. A minimum of 90 days of stabilized employment is required to move into Transition.
2. Responsibility for funding ongoing support services transition from VR to the source of funding identified for the ongoing supports.

### **Supported Employment Outcome**

The term employment outcome with respect to an individual means:

1. Entering or retaining full-time or, if appropriate, part-time competitive employment in an integrated setting;
2. Satisfying the vocational outcome of Supported employment including satisfying the vocational outcome of customized employment, self-employment, telecommuting, or business ownership; or
3. An individual is considered to be successfully rehabilitated if the individual meets the basic program requirements for an employment outcome and maintains a Supported Employment placement for 90 days of stabilized employment with an employer and completes 90 days of stabilized employment after transitioning to extended services.

### **Discovery Services**

Discovery is an alternative strategy to determine the strengths, needs and interests of individuals with the most significant disabilities. Discovery provides a wealth of information that can be used to assist in the customized employment process. It is an appropriate substitute to comparison-based evaluation tools.

### **Ongoing Support Services § 361.5(37)**

The term “ongoing” support services means services:

1. Provided to individuals with the most significant disabilities;
2. Provided at a minimum twice monthly
  - a. to make an assessment, regarding the employment situation, at the worksite of each individual in supported employment, or under special circumstances, off site; and
  - b. based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and
3. Consisting of but not limited to:
  - a. assessments;
  - b. the provision of skilled job trainers;
  - c. job development, job retention, and placement services;
  - d. social skills training;
  - e. regular observation or supervision of the individual;
  - f. follow up services such as regular contact with employers, individuals, individual’s representatives, and other appropriate individuals, in order to reinforce and stabilize the job placement;
  - g. facilitation of natural supports in the worksite.

### **Employment Outcome § 361.5(15)**

Employment Outcome means, with respect to an individual:

1. Entering or retaining full-time or, if appropriate, part time competitive integrated employment;
2. Satisfying the vocational outcome of supported employment; or
3. Satisfying the vocational outcome of customized employment, self-employment, telecommuting, or business ownership.

## Closures Chapter 18

- 18.00 **Definition.** A case shall be closed when the individual has achieved a competitive integrated employment outcome, is determined ineligible, is not available, declines further service, or when the individual's actions or inaction materially interferes with providing services. The Counselor Analyst must review and approve all closures decisions for the private unit.
- 18.01 **Employment outcome** means, with respect to an individual, entering, advancing in, or retaining full-time or, if appropriate, part-time competitive integrated employment, (including customized employment, self-employment, telecommuting, or business ownership), or supported employment, that is consistent with an individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
- 18.02 **Competitive Integrated Employment** means work that is performed on a full-time or part-time basis (including self-employment) and establishes **three essential criteria of employment:**
1. **Income** - the individual is compensated at or above the minimum wage and the individual's wage and level of benefits are not less than that customarily paid by the employer for the same or similar work performed by individuals without disabilities.
  2. **Integration** - the individual is employed at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons.
  3. **Advancement**- the employment, as appropriate, presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.
- 18.03 **Successfully Rehabilitated.** For an individual to be considered successfully rehabilitated, the individual must have been:
1. determined to be eligible;
  2. provided an assessment for determining eligibility and vocational rehabilitation needs;
  3. provided services from VR in accordance with the IPE;
  4. determined to have achieved and maintained a suitable *employment outcome* for at least 90 days or, for Supported Employment completes an additional 90 days of stabilized employment after transitioning to Extended Services. The counselor must verify and document suitable employment through contact with the individual:

- a. The employment outcome is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
  - b. The individual and counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.
5. the individual is informed of the availability of post-employment services (PES) prior to case closure.

18.04 **SSA/VR Successful Rehabilitation** [Reference: Chapter 16 for additional requirements]

18.05 **Supported Employment Successful Rehabilitation** [Reference: Chapter 17]

18.06 **Ineligibility Closure**

1. **Disability Too Significant to Benefit from VR Services.** The individual's mental and/or physical disability and resulting functional limitations are so significant that the individual cannot benefit from VR services in terms of employment. This includes eligible individuals who later acquire additional disabilities and/or functional limitations that are so significant that the individual cannot continue to benefit from VR services [Reference: Chapter 4.09 and Chapter 6.05(1)]
2. **Does not Require VR Services.** The individual does not require VR services to prepare for, enter into, engage in, or retain gainful employment consistent with their strengths, resources, priorities, concerns, abilities, capabilities, and informed choice.
3. **No Impediment to Employment.** The individual is not eligible for VR services because his or her physical or mental impairment does not constitute a substantial impediment to employment.
4. **No Disabling Condition.** The individual is not eligible for VR services because no physical or mental impairment exists, such as when the reported disability is an acute condition with no residual impairment, e.g., a broken bone that heals.
5. **Ineligible After Determined Eligible.** After the individual was determined to be eligible, is later determined not to have met eligibility criteria.
6. **Ineligible, 511.** The individual applied for VR services pursuant to section 511 of the Rehabilitation Act but decided not to pursue competitive integrated employment and was determined ineligible.
7. **Ineligible, Following Trial Work.** Following Trial work Experience(s), the individual was unable to benefit from VR services due to the severity of the individual's disability and was determined ineligible.

### 18.07 Closure without Eligibility Determination

1. An individual's case may not be closed prior to making an eligibility determination unless the individual declines to participate in, or is unavailable to complete an assessment for determining eligibility and priority of services, and
2. A reasonable number of attempts have been made to contact the individual or, if appropriate, the individual's representative to encourage the individual's participation.
3. The rationale for closing the case must be documented in a case note. The closure will be reviewed and approved by the Counselor Analyst for the private unit.
4. The individual must be notified in writing.

### 18.08 Closure Reasons Other than Ineligibility

1. **Death**
2. **Individual in Institution other than a prison or jail.** The individual has entered an institution other than a prison or jail, and will be unavailable to participate in a VR program for an indefinite or considerable period of time. Institutions include: hospitals, nursing homes, residential treatment centers, etc.
3. **Health/Medical.** Individual is receiving medical treatment that is expected to last longer than 90 days and precludes entry into unsubsidized employment or continued participation in the program.
4. **Reserve Forces Called to Active Duty.** Individual is a member of the National Guard or other reserve military unit of the armed forces and is called to active duty for at least 90 days.
5. **Criminal Offender.** Individual entered a correctional institution (e.g., prison, jail, reformatory, work farm, detention center) or other institution designed for confinement or rehabilitation of criminal offenders.
6. **Unable to Locate or Contact.** The individual has relocated or left the state without a forwarding address, or when the individual has not responded to repeated attempts to contact the individual by mail, telephone, text or e-mail.
7. **No longer interested in receiving services or Further Services.** The individual chooses not to participate or continue his or her VR program at this time. It can be used when an individual's actions make it impossible to begin or continue a in the VR program. Examples would include repeated failures to keep appointments for assessment, counseling, or other services.
8. **Transferred to Another Agency.** The individual needs services that are more appropriately obtained elsewhere. Transfer to the other agency indicates that appropriate referral

information is forwarded to the other agency so that agency may provide services more effectively. Include individuals transferred to other State VR agencies.

9. **Extended Employment.** The individual received services and was placed in a non- integrated or sheltered setting for a public or private non-profit agency or organization that provides compensation in accordance with the Fair Labor Standards Act.
10. **Extended Services Not Available After Receiving Services.** Individual has received VR services but requires long term extended services for which no long term source of funding is available.
11. **All Other Reasons.** It is used only when no other category of closure status applies. This status is not to be used for ineligibility closures.

#### 18.09 Closure Documentation

1. For all closures, a standardized, approved letter will be sent to the individual or, as applicable, the individual's representative (except in the case of death or previous letters having been returned addressee unknown or no forwarding address).
2. Each letter must include the reason for closure, the effective date of closure, the right to appeal, the appeal procedures, mediation, Disability Rights Florida contact information and referrals to other agencies when appropriate. The letter must be co-signed by the Counselor Analyst for the private unit.
3. The individual's case record must contain the rationale for the closure decision, documented in a case note.
4. In addition, for successful closures the individual's case record must contain the following documentation:
  - a. the involvement of the individual in the closure decision and the individual's views regarding the closure
  - b. the availability of post-employment services
  - c. verification of suitable employment through contact with the individual. (Section 18.02)

## **Extended Employment Chapter 19**

### **Extended Employment [Reference Federal Register, January 22, 2001 (Volume 66, Number 14)]**

1. Extended Employment means work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act

DVR must refer to local extended employment providers an individual with a disability who makes an informed choice to pursue extended employment as the individual's employment goal. Before making the referral, the counselor must:

- a. Explain to the individual that the purpose of the vocational rehabilitation program is to assist individuals to achieve an employment outcome in an integrated setting;
  - b. Provide the individual with the information concerning the availability of employment options, and of vocational rehabilitation services, in integrated settings;
  - c. Inform the individual that services under the vocational program can be provided to eligible individuals in an extended employment setting if necessary for purposes of training or otherwise preparing for employment in an integrated setting;
  - d. Inform the individual that, if he or she initially chooses not to pursue employment in an integrated setting, he or she can seek services from DVR at a later date, if at that time, he or she chooses to pursue employment in an integrated setting; and
  - e. Refer the individual, as appropriate, to the Social Security Administration in order to obtain information concerning the ability of individuals with disabilities to work while receiving benefits from the Social Security Administration.
2. An annual review and reevaluation of the status of each individual with a disability who has achieved an employment outcome in an extended employment setting in a community rehabilitation program will be conducted for two (2) years after the achievement of the outcome (and thereafter if requested by the individual or if appropriate, the individual's representative).
  3. The Individual's Documentation of the Extended Employment review reflects:
    - a. the individual was provided the opportunity to have input into the review and re-evaluation, and

- b. the case record includes a signed acknowledgment that such review and re-evaluation has been conducted with the individual, or if appropriate the individual's representative, and
- c. this review includes exploration and provision of maximum efforts including the identification and provision of vocational rehabilitation services, reasonable accommodations, and other necessary support services, to assist the individual in engaging in competitive employment.
- d. Review and approval of the VR Counselor/Analyst or VR Supervisor.

### **Stevens Amendment**

The Florida Department of Education, Division of Vocational Rehabilitation (VR) is an equal opportunity employer. It is against the law for VR as a recipient of Federal financial assistance to discriminate against any individual in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The application process used by VR to determine eligibility for services, any subsequent services and the entire VR process are subject to these non-discrimination requirements. Auxiliary aids and services are available upon request to individuals with disabilities. VR program receives 78.7 percent of its funding through a grant from the U.S. Department of Education. For the 2021 Federal fiscal year, the total amount of grant funds awarded were \$176,836,896. The remaining 21.3 percent of the costs (\$47,860,557) were funded by Florida State Appropriations. Revised October 2021.