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Rehabilitation Act: Vocational Rehabilitation State Grants

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Summary

The federal government is authorized to make grants to state agencies for vocational rehabilitation (VR) services. These grants support services to help individuals with disabilities prepare for and engage in employment. VR state grants are administered at the federal level by the Rehabilitation Services Administration (RSA) in the Department of Education (ED).

The VR state grants program is authorized by Title I of the Rehabilitation Act of 1973, as amended. The Rehabilitation Act was amended and the VR state grants program was reauthorized in July 2014 by Title IV of the Workforce Innovation and Opportunity Act of 2014 (WIOA; P.L. 113-128). WIOA reauthorized a group of workforce programs, most of which were last authorized by the Workforce Investment Act of 1998 (P.L. 105-220). Title IV of WIOA authorizes appropriations for VR state grants through FY2020 and amends the Rehabilitation Act to make a number of changes to the VR state grants program. This report will discuss the VR state grants program as amended by WIOA.

Funding for VR state grants is mandatory funding. Statute requires that each year's appropriation must equal the prior year's appropriation plus an increase equal to inflation. In FY2015, funding for VR state grants was approximately \$3 billion.

VR funds are allotted to state VR agencies via formula. Each state is required to match a portion of its federal grant. If a grantee does not provide its full match, the unmatched funds are made available to other states. To be eligible for a federal grant, each state must have an approved state plan. WIOA requires states to develop a unified state plan that describes how it will coordinate and align WIOA-authorized programs (including its VR program) to meet its local workforce development needs.

Individuals' eligibility for VR services is determined by state VR agencies. To be eligible for services, an individual must (1) have a disability that constitutes or results in a substantial impediment to employment and (2) require VR services to achieve an employment outcome. If a state is not able to serve all eligible clients, priority is given to clients with the most severe disabilities.

After an individual is determined to be eligible for VR services, the client works with VR personnel to develop an individualized plan for employment (IPE). The IPE describes the client's employment objective and how the VR agency will provide or coordinate services to achieve it. Employment objectives are determined by the client but generally must be consistent with the principle of competitive integrated employment (i.e., employment in the community, earning a wage comparable to similar workers who do not have disabilities).

Services for each client are individualized to the client's employment objective as well as the client's strengths and interests. VR services can include (but are not limited to) counseling, job search and placement assistance, training and education, and post-employment support services. States may also use their VR funds for outreach and other services to employers. Statute requires that at least 15% of each state's VR grant be allocated to pre-employment transition services for students with disabilities.

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The federal government is authorized to make grants to state vocational rehabilitation (VR) agencies. These grants support services to aid individuals with disabilities in preparing for and engaging in employment. State agencies use VR funding to provide individualized services to individuals who have physical or mental impairments that impede those individuals' ability to engage in or maintain employment in the competitive labor market.

The VR state grants program was reauthorized in July 2014 by the Workforce Innovation and Opportunity Act of 2014 (WIOA; P.L. 113-128). The next section of this report will describe recent legislation and changes made by WIOA.¹ The remainder of the report will discuss the statutory provisions of the program as amended and authorized by WIOA.

Authorizing Legislation and 2014 Reauthorization

The VR grants to states program is authorized by Title I of the Rehabilitation Act of 1973, as amended.² The Rehabilitation Act authorizes a number of grant programs related to supporting the employment and independent living of individuals with disabilities.

In 1998, the Rehabilitation Act was reauthorized in conjunction with other employment programs as Title IV of the Workforce Investment Act of 1998 (WIA, P.L. 105-220). WIA authorized appropriations for VR state grants through FY2003. After the expiration of the authorization under WIA, the VR state grants program continued under the automatic reauthorization provisions in Section 100(d) of the Rehabilitation Act. These automatic reauthorization provisions specified that each year's appropriation for VR state grants must equal the prior year's appropriation plus an increase equal to inflation.

VR state grants are, by a substantial margin, the largest program authorized under the Rehabilitation Act. In FY2014, VR state grants accounted for approximately 90% of the funds appropriated under the act.

Workforce Innovation and Opportunity Act of 2014

The Workforce Innovation and Opportunity Act of 2014 (WIOA, P.L. 113-128) was enacted in July 2014. Similar to the WIA legislation in 1998, WIOA reauthorized a group of employment and workforce development programs. Title IV of WIOA reauthorized programs in the Rehabilitation Act, including VR state grants. The VR provisions of WIOA are scheduled to be enacted incrementally over several years.

WIOA designates the major formula grants authorized by the legislation (including VR state grants) as *core programs*. All WIOA core programs are aligned and coordinated through a unified state plan (described in the "State Plans" section later in this report) and monitored by a common

¹ This report only discusses the VR state grants program; it does not discuss other programs and activities that are authorized by the Rehabilitation Act. A summary of all amendments to the Rehabilitation Act in WIOA, including provisions that are not related to the VR state grants program, is available from the Department of Education at <https://www2.ed.gov/about/offices/list/osers/ras/publications/wioa-changes-to-rehab-act.pdf>.

² The Rehabilitation Act of 1973 was enacted as P.L. 93-112. Major amendments to the Rehabilitation Act were enacted in 1974 (P.L. 93-516), 1976 (P.L. 94-230), 1978 (P.L. 95-602), 1984 (P.L. 98-221), 1986 (P.L. 99-506), 1992 (P.L. 102-569), 1993 (P.L. 103-73), 1998 (P.L. 105-220), and 2014 (P.L. 113-128).

set of performance accountability indicators (described in the “Performance Accountability” section later in this report). Prior to the enactment of WIOA, each core program had its own state plan and its own set of performance accountability indicators.

WIOA inserted three new purposes into Section 2 of the Rehabilitation Act. Programmatic changes that reflect these revised principles are included throughout the legislation:

- *Emphasis on competitive integrated employment for individuals with disabilities.* WIOA inserts a new definition of “competitive integrated employment” into the general provisions of the Rehabilitation Act.³ Generally, competitive integrated employment is employment that (1) is compensated at a rate that is at least minimum wage and not less than the customary rate paid to similar employees who are not individuals with disabilities, (2) is at a location where the employee interacts with persons who are not individuals with disabilities to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with such persons, and (3) presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions. WIOA amended language throughout the Rehabilitation Act to emphasize competitive integrated employment as the objective for program participants.
- *Increasing employment opportunities for individuals with disabilities by encouraging involvement and input from employers.* WIOA amends the Rehabilitation Act to allow states to spend VR funds on outreach, technical assistance, and other services to employers that provide opportunities for VR clients. The VR portion of a state’s unified state plan is required to describe how agencies will collaborate with employers to develop community-based competitive integrated employment.
- *Emphasis on services to youth with disabilities and students with disabilities to assist these populations in transitioning from secondary school to postsecondary education and/or competitive integrated employment.* WIOA creates new requirements for state VR agencies regarding the coordination of transition services and requires each state to reserve 15% of state VR grants for pre-employment transition services for youth who are transitioning out of secondary school. WIOA also requires coordination between state VR agencies and local educational agencies responsible for providing services under the Individuals with Disabilities Education Act (IDEA).⁴

WIOA is scheduled to be implemented in steps over the next several years. Currently, the VR state grants program is largely operating under the pre-WIOA provisions. This report will discuss the statutory provisions of the VR state grants program, as amended by WIOA.⁵

³ Complete definition is in Section 404 of WIOA and permanently codified at Section 7 of the Rehabilitation Act (29 U.S.C. 705).

⁴ IDEA is the federal statute governing special education and related services for children with disabilities between birth and 21 years old. For more information, see CRS Report R41833, *The Individuals with Disabilities Education Act (IDEA), Part B: Key Statutory and Regulatory Provisions*.

⁵ The statutory provisions may be clarified by regulations. Section 503 of WIOA specifies that the Department of Labor and the Department of Education must publish notices of proposed regulations relating to the transition to, and the implementation of WIOA not later than 180 days after the enactment of WIOA.

Federal Administration of VR Grants

VR state grants are administered at the federal level by the Rehabilitation Services Administration (RSA) of the Department of Education (ED). The head administrator of RSA is a commissioner who is appointed by the President and confirmed by the Senate.

Annual Funding and Sequestration

VR state grants receive mandatory funding through the appropriations process (i.e., this program is an annually appropriated entitlement to states). Statute specifies that each year's appropriation must be at least equal to the prior year's appropriation plus an increase equal to inflation.⁶ Statute further specifies that if authorization for appropriations expires and Congress does not act to extend the program, each year's mandatory appropriation will be equal to the prior year's appropriation plus inflation. In years where the inflation rate is negative, the appropriation equals the prior year's appropriation. These automatic reauthorization provisions applied during the lapse between the expiration of WIA and the enactment of WIOA.

WIOA authorizes \$3,302,053,000 per year for VR state grants for FY2015 through FY2020. This authorization level matches the FY2014 appropriation level.⁷ WIOA did not amend the automatic increase provisions for VR state grants, meaning that annual appropriations are to be adjusted for inflation, when applicable.

VR state grants are not exempt from sequestration under the Budget Control Act of 2011 (BCA; P.L. 112-25). The BCA, as amended, requires annual sequestration reductions for non-exempt mandatory spending to occur annually through FY2024. Therefore, the funding available for grants to states may be less than the appropriated amount during this timeframe. For instance, the Office of Management and Budget (OMB) announced that non-exempt nondefense mandatory spending programs, including VR state grants, are to be reduced by 7.3% in FY2015.⁸ As such, the initial appropriation of \$3.335 billion appropriated in the FY2015 omnibus (P.L. 113-235) was reduced by 7.3%, leaving \$3.091 billion available for VR state grants (see **Table 1**).

⁶ See Section 100(c) of the Rehabilitation Act (29 U.S.C. 720[c]). The specific index used is the not seasonally adjusted all items Consumer Price Index for all urban consumers. The reference period is the 12 months ending the October two years prior to the fiscal year. For example, the reference period for the FY2014 appropriation was the 12 month period ending October 2012.

⁷ Specifically, \$3,302,053,000 was appropriated in Title III of Division H of P.L. 113-76. The FY2014 appropriation level was determined by increasing the pre-sequestration FY2013 appropriation by the 2.2% change in the Consumer Price Index during the reference period.

⁸ *OMB Report to the Congress on the Joint Committee Reductions for Fiscal Year 2015*, March 10, 2014, p. 1 and p. 5, http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/sequestration_order_report_march2014.pdf.

Table I. Funding for Vocational Rehabilitation State Grants, FY2003-FY2015

Fiscal Year	Appropriation (nominal dollars in thousands)	Change from Prior Year	Post- appropriation Reduction	Total Funds for Grants (nominal dollars in thousands)
2003	\$2,533,492	2.1%	n/a	\$2,533,492
2004	\$2,584,162	2.0%	n/a	\$2,584,162
2005	\$2,635,845	2.0%	n/a	\$2,635,845
2006	\$2,720,192	3.2%	n/a	\$2,720,192
2007	\$2,837,160	4.3%	n/a	\$2,837,160
2008	\$2,874,043	1.3%	n/a	\$2,874,043
2009	\$2,974,635 ^a	3.5%	n/a	\$2,974,635
2010	\$3,084,696	3.7%	n/a	\$3,084,696
2011	\$3,084,696	0.0%	n/a	\$3,084,696
2012	\$3,121,712	1.2%	n/a	\$3,121,712
2013	\$3,230,972	3.5%	-5.1% ^b	\$3,066,192
2014	\$3,302,053	2.2%	-7.2% ^c	\$3,064,305
2015	\$3,335,074	1.0%	-7.3% ^d	\$3,091,614

Source: Department of Education Budget Justifications, FY2004-FY2015. Additional details on sequestration in FY2013-FY2015 are available in each year's Congressional Action document at <http://www2.ed.gov/about/overview/budget/tables.html>.

- a. The American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5) provided an additional \$540 million for VR state grants. The ARRA funding is not included in the FY2009 funding level in the table.
- b. 5.1% sequester went into effect October 1, 2012, for non-exempt mandatory spending, pursuant to the Budget Control Act of 2011 (BCA, P.L. 112-25).
- c. 7.2% sequester went into effect October 1, 2013, for non-exempt mandatory spending, pursuant to the BCA as amended.
- d. 7.3% sequester went into effect October 1, 2014, for non-exempt mandatory spending, pursuant to the BCA, as amended.

Funding Formula for State Grants

The annual appropriation for VR grants is allotted to states using a formula.⁹ The formula considers each state's population, average per capita income, and original VR allotment in 1978. Grant sizes are positively correlated with a state's population and original 1978 allocation and negatively correlated with per capita income. The formula for the District of Columbia and the territories is somewhat different than the formula for the 50 states. Statute requires that no state

⁹ Prior to allotment, between 1.0% and 1.5% of the appropriation is reserved for VR grants to American Indian tribes. See Section 110 (c) of the Rehabilitation Act (29 U.S.C. 730[c]).

may receive a grant smaller than one-third of 1% of the total funding for VR state grants.¹⁰ A more detailed description of the formula is provided in the **Appendix**.¹¹

State Matches

VR grants require a match from the states. The federal share is 78.7%, with the state providing the remaining 21.3%.¹² Grant recipients have the option of contributing funds beyond their required match.

Not all states provide a full match for their VR allotments. In these cases, the state's federal grant is reduced and the remaining funds are made available to other states. States that receive reallocated funds must match them as they do their original VR grant funds. If state requests for reallocated funds exceed the funds available for reallocation, ED typically gives first preference to states that received the smallest increases (in percentage terms) from the prior year. In cases where the amount of funding available for reallocations is greater than requests for reallocated funds, the unmatched funds are typically returned to the Treasury, though Congress may specify other uses for unmatched funds in appropriations legislation.¹³

State Administration of VR Grants

Determination of client eligibility and provision of VR services are conducted by state VR agencies. While the Rehabilitation Act provides general guidance and certain requirements, state agencies have discretion in how clients are assessed, what specific services are provided, and how the services are delivered.

State Plans

To be eligible for a VR grant, each state must submit and have approved a unified state plan (USP). The USP is a four-year strategy that applies to the recipient state agencies receiving VR state grants as well as the agencies administering WIOA core programs.¹⁴ WIOA specifies that each state's USP must describe the labor force needs in the state and how the core program authorized by WIOA will be administered, aligned, and coordinated to meet those needs.¹⁵

¹⁰ The minimum grant provisions do not apply to Guam, American Samoa, the Northern Mariana Islands, and U.S. Virgin Islands.

¹¹ A detailed analysis of the formula is available in CRS Report RL34017, *Vocational Rehabilitation Grants to States and Territories: Overview and Analysis of the Allotment Formula*.

¹² See Section 7(14) of the Rehabilitation Act (29 U.S.C. 705[14]).

¹³ For example, the Consolidated Appropriations Act of 2014 (P.L. 113-76) specified that any funds remaining after reallocation may be used "for activities aimed at improving the education and post-school outcomes of children receiving Supplemental Security Income (SSI)." More information on these activities is available at <http://www2.ed.gov/about/inits/ed/promise/index.html>.

¹⁴ The core programs under WIOA are (1) adult, dislocated worker, and youth formula grants; (2) adult education state grants; (3) employment services under the Wagner-Peyser Act; and (4) VR state grants.

¹⁵ The required content of the USP is described in Section 102 of WIOA. States also have the option of developing a combined state plan, which includes the WIOA core programs as well as at least one other partner program.

The USP and the formal alignment of each state's core workforce programs is a change enacted in WIOA. Prior to WIOA, each state submitted a separate plan for each core program.

State plans must be approved by the Secretary of Labor and the Secretary of Education, in consultation with the commissioner of RSA. WIOA specifies that each state must submit its USP by March 2016.¹⁶ These plans will be effective July 1, 2016.

While the USP coordinates the WIOA core programs, there are a number of state plan requirements that are specific to VR grantees.¹⁷ Required components of the VR portion of the USP include

- how the state will implement an order of selection waiting list if all eligible clients cannot be served;
- how the state will develop and maintain a comprehensive system of personnel development and maintain an adequate supply of qualified VR personnel;
- assurance that prior to providing a service with VR funds, a state agency will determine if comparable benefits or services are available from another source;
- assurance that the state will produce an annual report with detailed data on the characteristics of individuals served, the nature of their services, and the nature of their employment outcomes (see the "Additional Reporting Requirements" section later in this report);
- how the state VR agency will establish cooperative agreements with other stakeholders, including other workforce system partners, the state agency responsible for the public education of students with disabilities, employers, and other specified entities; and
- assurance that the state will conduct a triennial assessment of the rehabilitation needs of specified subpopulations of individuals with disabilities and provide strategies and reports of progress in meeting these needs.

Designated State Units

The VR component of the USP designates a state agency to carry out the plan. Each state has the option of establishing a single VR agency that serves all eligible clients or establishing one VR agency that serves blind clients and a second agency that serves other eligible clients. The Rehabilitation Act generally refers to the relevant state agencies as the designated state unit (DSU).

¹⁶ Specifically, Section 102 of WIOA specifies that each state must submit its USP "[N]ot later than 120 days prior to the commencement of the second full program year after the date of enactment of this Act." Program years run nine months behind fiscal years and begin on July 1. Thus July 1, 2016, will be the beginning of the second program year after the enactment of WIOA.

¹⁷ See WIOA Section 102(b)(2)(D) and Rehabilitation Act Section 112 (29 U.S.C. 721).

State Rehabilitation Councils

Each DSU works in conjunction with a State Rehabilitation Council (SRC). The SRC advises the DSU with regard to its performance and assists in the development and amendment of the state plan. Statute specifies 11 groups that must be represented on the SRC.¹⁸ A majority of SRC members must be individuals with disabilities who are not employed by the DSU. In cases where a state has separate VR agencies for clients who are blind and other clients, the state may maintain two SRCs.

Performance Accountability System

Section 116 of WIOA establishes a set of common performance accountability indicators for its core grant programs. Each core WIOA program must report and will be measured on these factors. The metrics are based on employment and credential attainment, reflecting the priorities of the broader WIOA legislation. The six common indicators established by WIOA are

1. the percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program;
2. the percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program;
3. the median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program;
4. the percentage of program participants who, during participation in or within one year after exit from the program, obtain either (1) a recognized postsecondary credential or (2) a secondary school diploma or its recognized equivalent and subsequently enter employment or are in a program leading to a recognized postsecondary credential;
5. the percentage of program participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment and are achieving measurable skill gains toward such a credential or employment; and
6. indicators of effectiveness in serving employers (as established by the Secretary of Education and the Secretary of Labor).

Each state must identify an expected level of performance for each indicator for each core WIOA program. As such, VR grantees must report on each of the six performance metrics. Expected levels of performance may be negotiated between the state and the Secretary of Labor in conjunction with the Secretary of Education and will be included in each unified state plan. States that do not meet their negotiated levels of performance will receive technical assistance from the Secretary of Labor and the Secretary of Education, including assistance in the development of a performance improvement plan. If performance does not improve, states may face sanctions and possible reductions in federal grant levels.

¹⁸ For a full list, see Section 105(b) of the Rehabilitation Act (29 U.S.C. 725[b]).

The standardization of performance accountability measures across core programs represents a change from prior provisions of the Rehabilitation Act. Previously, standards for VR state grantees were established by the commissioner of RSA, in consultation with state agencies and other stakeholders.

Additional Reporting Requirements

In addition to the standardized performance accountability measures, the Rehabilitation Act contains (and WIOA expanded) a number of reporting requirements for state VR grantees. These additional data include information on applicants' characteristics (i.e., nature and severity of disability) and clients' progress through the rehabilitation process.¹⁹

In their USP, states must provide an assurance that they will collect and provide the additional data. These additional data can provide expanded insight into program performance and may inform discussions between federal and state entities in negotiating levels of performance. For example, a state that serves a high proportion of VR clients with the most significant disabilities may be expected to have a lower rate of program exiters in employment.

Services Provided by State Units

VR services are provided or coordinated by designated state units. While all grantees are subject to the requirements of the Rehabilitation Act, each unit has some latitude in determining how it provides services.

Eligibility Determination

State agencies assess an applicant to determine if he or she is eligible for VR services. To be eligible for services, an assessment must demonstrate that the applicant

- has a physical or mental impairment that constitutes a substantial impediment to employment;
- can benefit from services provided under the Rehabilitation Act; and
- requires VR services to prepare for, secure, retain, advance in, or regain employment that is consistent with the applicant's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Applicants who are beneficiaries of Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) are presumed to be eligible for VR services.²⁰ In making VR eligibility determinations, statute directs state VR agencies to use existing information "to the maximum extent appropriate" and "particularly information from educational officials and the Social Security Administration[.]"

¹⁹ For complete information, see Section 101 of the Rehabilitation Act (29 U.S.C. 721[a][10]).

²⁰ For more information on SSI and SSDI, see CRS Report RL32279, *Primer on Disability Benefits: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)*, by (name redacted).

A determination that an individual is ineligible for VR services must be individualized and based on a full consultation with the applicant. Determinations of ineligibility may not be made on the basis of the applicant's category of disability.

A state VR agency may only find an applicant to be ineligible on the basis of that individual not being able to benefit from VR services due to the severity of his or her disability after the agency has explored the individual applicant's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences with appropriate supports. The trial work experiences must "provide the individual with the opportunity to try different employment experiences, including supported employment, and the opportunity to become employed in competitive integrated employment."²¹

Order of Selection

If a state VR agency anticipates that it will not have enough resources to provide services to all eligible persons during a given fiscal year, it must notify RSA that it will implement an order of selection plan to determine which individuals will have the first priority to receive services. Regulations require that the order of selection plan must ensure that persons with the "most significant disabilities" will be able to receive services before other eligible persons.²² Other persons not placed in the priority group may be placed on a waiting list and are not guaranteed services.

Individualized Plan for Employment

The core of the VR service model is the Individualized Plan for Employment (IPE). After eligibility is determined (but before any services are provided), every client prepares an IPE with the assistance of agency staff. The IPE states the client's employment goal as well as the specific services that the agency will provide to help the client reach that goal.

An IPE is statutorily required to include the following items:

- the specific employment outcome chosen by the client, consistent with the client's strengths, capabilities, and interests and consistent with the general goal of competitive integrated employment;
- the specific VR services that are necessary to achieve the specified employment outcome;
- the timeline for starting services and achieving the employment outcome;
- the specific entity, selected by the client, from which services will be obtained;
- the criteria that will be used to evaluate the progress made by the client;
- the responsibilities of the client, the VR agency, and other entities included in the IPE;

²¹ See Section 102(a)(2)(B) of the Rehabilitation Act (29 U.S.C. 722[a][2][B]).

²² See Section 101(a)(5) of the Rehabilitation Act (29 U.S.C. 721[a][5]).

- if the client is pursuing supported employment, the extended services needed by the individual; and
- if necessary, the projected need for post-employment services.²³

Statute emphasizes the role of *informed choice* in the development and implementation of a client's IPE. Generally, this means that a client is made aware of various options and chooses the option that best meets his or her needs. Informed choice can refer to the selection of

- the employment outcome;
- the services needed to achieve the employment outcome;
- the entity that will provide the services;
- the settings in which the services will be provided; and
- the methods for procuring the services.²⁴

While the client has final discretion in the development of an IPE, all components must be approved by state VR personnel. If a client does not agree with a determination made by the personnel of a state agency, statute permits the client to seek mediation, an impartial due process hearing, or both.²⁵

Delivery of Services

VR services may be provided by a state VR agency, or another state agency, or purchased from a private provider. Clients must exhaust all other sources of federal funding for a service before a state VR agency will pay for it. For example, a client must apply for federal student aid such as Pell Grants before a VR agency will pay for postsecondary education.

Scope of Services

VR services may be provided on an individual or group basis. Due to the individualized nature of each client's plan for employment, the nature and intensity of services provided to each client may vary.

Services to individuals may include²⁶

- counseling and guidance services, including assistance in helping a client exercise informed choice in selecting an employment objective;
- job-related services, including job search and placement assistance as well as job retention services, follow-up services, and follow-along services;
- training services (such as postsecondary education) as well as support of training (such as books and supplies) or application of training (such as licensing fees);

²³ See Section 102(b)(4) of the Rehabilitation Act (29 U.S.C. 722[b][4]).

²⁴ See Section 102(d) of the Rehabilitation Act (29 U.S.C. 722[d]).

²⁵ See Section 102(c) of the Rehabilitation Act (29 U.S.C. 722[c]).

²⁶ For complete list, see Section 103(a) of the Rehabilitation Act (29 U.S.C. 723[a]).

- supportive services such as transportation subsidies or assistance in acquiring assistive technology; and
- supported employment services or other post-employment services necessary to help a client retain or advance in employment.

VR agencies can also support activities that more broadly assist individuals with disabilities in the labor market. These services for groups may include capacity building (such as the development of new programs) or investments in new materials such as assistive technology.

Pre-employment Transition Service

As noted previously, WIOA requires each state to reserve 15% of its VR grant for pre-employment transition services for youth with disabilities. WIOA also added Section 113 to the Rehabilitation Act, which establishes required activities and responsibilities regarding these transitional services.²⁷

WIOA emphasizes coordination between state VR agencies and state and local entities responsible for providing services under the Individuals with Disabilities Education Act (IDEA). Section 113 specifies that each state shall use its reservation of funds to “ensure that the designated State unit, in collaboration with the local educational agencies involved, shall provide, or arrange for the provision of, pre-employment transition services for all students with disabilities in need of such services who are eligible or potentially eligible for services[.]”

Required pre-employment transition activities include job exploration counseling, work-based learning experiences, counseling on postsecondary opportunities, workplace readiness training, and instruction in self-advocacy. Authorized activities include developing strategies for improving outcomes for individuals with disabilities in competitive integrated employment and postsecondary education and disseminating information about effective approaches.

Section 113 also specifies that the transition from secondary school must be coordinated among relevant government entities. Local offices of state VR agencies must

- attend individualized education program (IEP) meetings for students with disabilities, when invited;²⁸
- work with local workforce partners to develop work opportunities such as internships and summer employment for students with disabilities;
- work with local schools to coordinate the provision of pre-employment transition services with students’ IEPs; and
- attend person-centered meetings for individuals receiving services under Title XIX of the Social Security Act, when invited.²⁹

²⁷ Codified as 29 U.S.C. 733 in the U.S. Code.

²⁸ IEPs are the plan for providing special education services to a student with a disability.

²⁹ Title XIX of the Social Security Act authorizes the Medicaid program.

Services to Employers

WIOA amended the Rehabilitation Act to increase emphasis on employer involvement in VR programs. Among other provisions, it added a new section to the Rehabilitation Act that permits state VR agencies to use their federal grants to educate and provide services to employers who have hired or are interested in hiring workers with disabilities. Services can include

- providing technical assistance to employers, including information and training on disability awareness and the requirements of the Americans with Disabilities Act;
- working with employers to provide opportunities for work-based experience, recruit qualified applicants who are individuals with disabilities, and train employees who are individuals with disabilities;
- providing assistance to employers regarding workplace accommodations, assistive technology, and workplace access; and
- assisting employers with utilizing available financial support for hiring or accommodating individuals with disabilities.

Case Closures and Employment Outcomes

A state VR agency may close a client's case after the client achieves the employment outcome specified in the IPE. Typically, these outcomes will be competitive employment in an integrated setting. In some cases, other outcomes, such as supported employment or self-employment, may constitute an employment outcome.³⁰

If a client has not achieved an employment outcome and declines or otherwise does not pursue further VR services, the state VR agency may close the case without an employment outcome. As part of their annual reporting requirements, state VR agencies must report the reasons for individuals terminating participation without achieving an employment outcome.³¹

³⁰ The specific requirements for an employment outcome (e.g., duration of retaining employment) are not established in WIOA. These requirements and their relationship with the WIOA-wide performance accountability indicators will likely be clarified through regulations.

³¹ See Section 101(a)(10)(E) of the Rehabilitation Act (29 U.S.C. 721[a][10][E]).

Appendix. Formula for State VR Grant Allotments

The VR grant allotment process for states and territories consists of a series of steps that consider a jurisdiction's population, per capita income, and VR allocation in FY1978.

Step 1. Distribute 1978 allocations

From the total amount available for grants,³² each state and territory receives an allocation equal to its grant in FY1978, which was determined by the state's population at that time. This component is fixed and the first \$759,317,831 in VR funds are distributed in the same way every year.

Step 2. Determine excess amount

The remainder of the available grant funds that are not allocated by the 1978 grants is referred to as the *excess amount*. The excess amount is equally divided into two parts that are allocated in steps 4 and 5.

Step 3. Calculate each state's allotment percentage

The VR grant formula calculates a biennial *allotment percentage* for each state that considers the state's per capita personal income as reported by the Department of Commerce.³³ State and national per capita income levels are determined by averaging the three most recent years of data, the most recent of which is typically two years prior to the fiscal year from which funds are being allotted. For example, the allotment percentages that were used in FY2014 and FY2015 were calculated using per capita income data from 2010 to 2012.

To calculate a state's allotment percentage, the per capita income of the state is divided by the national per capita income. The resulting quotient is then multiplied by 50%. The resulting product is then subtracted from 100%. The resulting difference is the state's allotment percentage. A state's allotment percentage can also be expressed in the following equation:

$$\text{AllotmentPercentage} = 100\% - \left(\frac{\text{StatePerCapitaIncome}}{\text{NationalPerCapitaIncome}} \times 50\% \right)$$

A state's per capita income relative to the national per capita income has an inverse relationship to its allotment percentage. States with below-average per capita incomes will have higher allotment percentages (and subsequently higher formula grants) than states with per capita incomes above the national average.

No state may have an allotment percentage less than 33.3% or greater than 75%. If a state's allotment percentage falls outside of these boundaries, it is automatically increased to 33.3% or decreased to 75%.

Step 4. Allot the first half of the excess amount using a formula

Each state's and territory's share of the first half of the excess amount is determined by

³² "The total amount available for grants" refers to the total annual appropriation for VR state grants minus the American Indian set-aside of between 1.0% and 1.5% of the total appropriation required by 29 U.S.C. 730(c).

³³ The allotment percentage formula is not used for territories or the District of Columbia. The allotment percentage for these jurisdictions is automatically set to 75%. See Section 8 of the Rehabilitation Act (29 U.S.C. 706).

multiplying the population of the state by its allotment percentage determined in step 3. The resulting product is then divided by the sum of the corresponding product for all states and territories. The resulting fraction is then multiplied by one-half of the excess amount to determine the second component of the state's formula allocation.³⁴ Expressed as an equation, this step is as follows:

$$\frac{(StatePopulation \times AllotmentPercentage)}{\sum_{AllStates} (StatePopulation \times AllotmentPercentage)} \times \frac{ExcessAmount}{2}$$

Step 5. Allot the second half of the excess amount using a formula

The next component of the formula is the same as that in step 4 except that the allocation percentages are squared. This change results in the following equation:

$$\frac{(StatePopulation \times AllotmentPercentage^2)}{\sum_{AllStates} (StatePopulation \times AllotmentPercentage^2)} \times \frac{ExcessAmount}{2}$$

Squaring the allotment percentage in this step increases the allotment percentage's influence on the portion of the grants that are calculated in this step. States with the highest allotment percentages receive a larger portion of the total funds available in this step than in Step 4. Conversely, states with the lowest allotment percentages will receive a larger portion of the total funds available in Step 4 than in this step.

Step 6. Sum allotments for preliminary formula grant

The resulting allotments from steps 1, 4, and 5 are combined for the state's preliminary grant. If every state's grant is at least one-third of 1% of total funds for grants, no further changes are needed.³⁵ Historically, several states required reallocated funds to reach this minimum.

Step 7. Adjust grants for small state minimums

If there are states with preliminary final grants states below the minimum (one-third of 1% of total funds for grants), those states' grants are increased to the required minimum and the grants of other states are reduced in proportion to their share of the total appropriation.

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³⁴ See Section 110 of the Rehabilitation Act (29 U.S.C. 730). This statute outlines steps 4-7 of the allotment process.

³⁵ The minimum grant level applies to the 50 states, the District of Columbia, and Puerto Rico, but does not apply to the other territories.

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