



Opportunities for Ohioans with Disabilities

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Bureau of Services for the Visually Impaired
Bureau of Vocational Rehabilitation
Division of Disability Determination

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Response to U.S. Department of Education's Request for Regulatory Review Comments

Workforce Innovation and Opportunities Act (WIOA)

Performance Accountability (Sections 677.150-677.225)

- As the VR program transitions to new common performance measures under WIOA, it is imperative that there be access to wage data needed to validate employment 2nd and 4th quarter after exit and earnings 2nd quarter after exit. States will need access to both in and out of state wage data from sources such as WRIS, WRIS II, or SWIS, as well as other sources such as validation of federal employment. While states are negotiating this access to data with their state workforce partners VR agencies would benefit from U.S. Department of Education and U.S. Department of Labor to issue specific guidance authorizing Labor agencies to release wage data to VR agencies in order to properly report WIOA performance.
- 361.56 Requirements for closing the record of services of an individual who has achieved an employment outcome requires that in order for the VR program to close the record of services for an individual as achieving their employment outcome, the individual must have "achieved the employment outcome that is described in the Individualized Plan for Employment". This means that the counselor must either work with the individual to amend their IPE prior to case closure (which creates additional work for the counselor and additional paperwork for the individual with a disability) or forgo the "successful" closure if there is not alignment between the SOC code on the IPE and the actual job obtained. It should be noted that 361.46 Content of the Individualized plan for employment requires that the IPE include a description of the "specific" employment outcome. From a practical standpoint, there are many individuals with employment outcomes that are reasonable close to what is listed on the IPE but are outside the SOC code of the "specific" employment outcome listed on the IPE. Furthermore, it should be noted that 361.56 Requirements for closing the record of services of an individual has achieved an employment outcome also requires that the individual also agree that the employment is satisfactory as a condition of closure. If the individual is in agreement that the employment is satisfactory and this



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is documented on the closure statement, it seems unnecessary to also require alignment with the “specific” goal on the IPE. This requirement may have had relevance under the standards and indicators for the VR program under WIA, but given the new common performance measures that reflect employment 2nd and 4th quarter after exit, this does not seem to be the case any longer. Other programs under WIOA do not have that requirement. It also should be noted that, wage data does not provide information about the occupation of the individual.

- WIOA places emphasis on services to students and youth with disabilities. Title I programs report Youth and Adult performance separately given the nature of the how their program are established. In order to fully align reporting across programs under the performance measures, it is recommended that the VR program also report youth and adult performance separately.
- Under WIOA, program performance will be evaluated based upon program years that run from July 1 through June 30. Unified or Combined State Plans also follow this program year cycle. Because the VR grant is allocated to states using the Federal Fiscal Year (October 1 through September 30) states must run separate fiscal years for performance and financial reporting. This creates unnecessary complexities in administrative processes for states. RSA should utilize the program year for both performance and financial purposes.

Performance Reporting Administrative Requirements (Sections 677.235-677.240)

- The current RSA 911 reporting requirements include a total of 393 data elements (reporting positions) for each individual served by the Vocational Rehabilitation program. This is a significant increase since the implementation of WIOA. While many of these data elements are connected to new common performance measures and reporting necessary for State performance reports, many do not. There should be a systematic review of all reporting requirements under the RSA 911 to eliminate data elements that are no longer required in order to measure state’s performance under WIOA. It is important to note that these requirements for data collection and recording and the gathering of associated source documentation has increased the administrative burden on field staff who directly deliver services to individuals with disabilities, reducing the time that VR counselors can spend actually providing vocational guidance and counseling, services and supports to individuals with disabilities who are served by the VR program. Examples of data elements that do not



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appear to have continued value include: living arrangement at application (DE 17), source of referral at application (DE 21), service provided by comparable services and benefits providers and provider type (example DE 134 and DE 135), primary source of support at application (DE 30) and primary source of support at exit (DE 386).

361.48 - Scope of vocational rehabilitation services for individuals with disabilities

- WIOA requires that states set aside 15% of their federal allotment for Pre-Employment Transition Services. RSA has indicated in sub-regulatory guidance that states can also count accommodations necessary for students to participate in Pre-Employment Transition Services, such as interpreting, towards this 15% set aside. There are additional needs, however, that students may have in order to access these important services, most notably transportation assistance and rehabilitation technology services that cannot be attributed to the 15% set aside and are not available to students who are “potentially eligible”. If the point of WIOA allowing Pre-Employment Transition services to be provided to potentially eligible students with disabilities is to reduce process and barriers to doing so, then this interpretation of what is allowable is inconsistent with the intent. It is recommended that RSA allow any service necessary for a student with a disability to access Pre-Employment Transition Services to be able to be provided to students who are potentially eligible and for these expenditures to be counted towards the states 15% set aside.
- RSA has indicated that that the 15% set aside for Pre-Employment Transition Services must be paid for out of the federal allotment. This has created an extreme administrative burden to states, who must create and/or adjust budget processes in their case management system in order to ensure that authorizations for Pre-Employment Transition Services are paid for using federal funds. RSA should instead require that states expend an “amount equivalent to” 15% of the federal award on PETS activities.
- Part 397 of the federal regulations LIMITATIONS ON THE USE OF SUBMINIMUM WAGE requires that state VR programs meet annually with all individuals in sub-minimum wage employment to provide career counseling and information and referral services. After these services have been provided at least once to an individual, they should be able to exercise their informed choice and be allowed to opt out of the services during subsequent years.