**Regulatory Reform Comments**

### ISSUE: Constricting Regulatory Language and Impact on Services -- 34 CFR §361.5(c)(51)(i)(A)(2) – definition of ‘student with a disability” – Age at which Pre-Employment Transition Services (Pre-ETS) can commence.

In States with two vocational rehabilitation (VR) state units (a general vocational rehabilitation unit and a unit serving individuals who are blind), both state units must select the same age at which Pre-Employment Transition Services (Pre-ETS) can become available to students with disabilities. This interpretation is driven by the definition of “Student with a Disability” in CFR §361.5(c)(51)(i)(A)(2) that refers to the “state” rather than the “state unit.”

Decisions regarding service delivery should rest with each state unit, consistent with the provisions of their specific section of the unified or combined state plan. Transition services to prepare children for life after high school should begin at an early age to inspire youth with disabilities to realize the wide range of career opportunities that await them and to begin the process of mentoring, company tours, and leadership development activities. While state units that serve all other disabilities are unlikely to have the staffing or funding to serve youth who are younger than age 16, the state units for individuals who are blind have been doing so in many states, long before the passage of WIOA. Interpretations from Rehabilitation Services Administration (RSA) indicates that these youth can still be served using basic VR funds after a determination of eligibility is reached and an employment plan is developed. But only when the child turns age 16, can Pre-ETS funds be accessed if the “state” has selected that age. Aside from the administrative burden that requires the VR Unit to start services using the Title I funds that are not reserved for Pre-ETS to initiate services to a 14 or 15 year old, only to shift over to Pre-ETS funding once age 16 is reached, the larger issue is the effect that such a narrow interpretation of the federal regulations has on providing VR services to youth prior to age 16.

The WIOA and accompanying regulations require the VR Units to reserve 15% of existing Title I funds for the exclusive delivery of Pre-ETS services. No new funds were allocated for this requirement. Therefore, funds that were previously available for the entire population of eligible individuals are now partitioned into the two categories: “Student with a Disability” and everyone else. Given that blindness is more frequently a disability with onset later in life, the demand for the 85% share of the federal appropriation is high, while the population of youth is considerably less. Requiring the VR Unit to use the basic portion of the grant for youth ages 14 and 15 draws needed funding away from the adult population that are also in need of services, while there are potentially unused Pre-ETS funds that could greatly benefit these youth. Please consider a minor fix to this dilemma by adding the word “unit” after “state” in CFR §361.5(c)(51)(i)(A)(2) so that it could read:

“If the State Unit involved elects to use a lower minimum age for receipt of pre-employment transition services under this Act, is not younger than that minimum age.”

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### ISSUE: Narrow interpretation of what are considered as allowable charges to the Pre-ETS reserve funds-- 34 CFR §361.48(a)

Arguably, nearly the entire scope of allowable services listed in 34 CFR §361.48(b) can benefit a student with a disability in preparing the individual for post-secondary education, trade school training and competitive, integrated employment after exiting high school. Indeed, several of the allowable Pre-ETS services listed in 34 CFR §361.48(a) are the same as those in subsection (b). Additionally, for those services not specifically named in subsection (a), they are nonetheless of vital importance for the delivery of the stated services in that subsection. For instance, how can a client who is blind participate in the Pre-ETS service of workplace readiness training if the VR Unit cannot pay for the cost of transportation necessary for the client to get to the training location? Why is tuition for the student to try out a college course in a field on interest not considered a component of Pre-ETS workplace readiness training? How can the individual with blindness access workplace readiness program materials without the provision of adaptive technology? It appears that the regulations have been written and interpreted in the narrowest of terms, making a component of WIOA that was intended to expand options for younger individuals with disabilities a burdensome administrative tracking exercise to prove that only the list of exact services were funded with the Pre-ETS reserve. Please consider allowing for a broader interpretation of the services listed in 34 CFR §361.48(a) to, at a minimum, permit support services necessary for participation in Pre-ETS activities to be included. Services such as adaptive technology, mobility instruction, transportation, books and supplies, post-secondary education, and maintenance should be allowable Pre-ETS expenditures.

**ISSUE:** Administration Burden – need for prior approval under 2 CFR §200.407

Regulations at 34 CFR §361.4(d) makes applicable the requirements under 2 CFR Part 200 (Uniform Administrative Regulations) to the State Vocational Rehabilitation (VR) Services Program. In the past EDGAR 34 CFR Part 80 applied instead. Part 80 has expired and was replaced by 2 CFR Part 200. Under Part 80, OSERS and RSA had received an exemption to the prior approval requirements.

Seeking prior approval for expenditures has placed a tremendous administrative burden on State VR programs and RSA as well. All equipment purchases over $5,000 (if the agency maintains title) fall into this category. Some categories such as conferences and associated travel costs for Gubernatorial appointed members of the State Rehabilitation Council and membership fees in community organizations require RSA preapproval regardless of the dollar amount. Even a $100 membership fee must first be submitted to RSA and the state unit cannot proceed until that approval is granted. RSA does not have the staffing to absorb this responsibility across the entire national VR system of nearly 80 agencies. In time sensitive situations, such as purchasing a replacement freezer for a business enterprise run by a client under the authority of the Randolph-Sheppard Act, a delay while awaiting RSA approval can result in lost product, lost wages for the client, and possibly even jeopardizing their business and the terms of the agreement between the VR agency and the host facility that has granted permission for a food service operation. There needs to be a more efficient and streamlined approach that at a minimum, provides for rapid response to time-sensitive requests. It is hoped that RSA can seek a waiver that would allow for an exemption of this new requirement.

Respectfully submitted,

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