These are comments submitted by Minnesota Vocational Rehabilitation-General in response to **Docket ID:** ED-2017-OS-0074:

**Pre-Employment Transition Services**

1. The services that can be included in the 15 percent set-aside for pre-employment transition services are unnecessarily restrictive. We recommend the inclusion of additional services that support pre-employment transition, including the following: job coaching, assistive technology, transportation, clothing, and post-secondary tuition/fees/books/supplies (when it meets the Pre-ETS definition or is in support of pre-ETS education).
2. We recommend permitting the provision of pre-employment transition services to individuals on the VR waiting list, regardless of whether the individual has received such services prior to application. Under the current regulations, a person who has not received pre-employment transition services upon applying for VR services will be denied pre-employment transition services even if that person is placed on a waiting list for VR services. In Minnesota, for example, there are currently 1,498 individuals on a waiting list for services – 452 of whom are transition-age youth who may not have received pre-employment transition services. Denying those students access to pre-employment services seems to defeat the purpose of WIOA’s emphasis to increase students’ access to services that will set them on the path to competitive integrated employment.
3. We recommend development of performance measures specific to pre-employment transition services, focusing on the quality of service provision and outcome measures.

**Section 511 Restrictions on Subminimum Wage Employment**

One year into the implementation of WIOA Section 511 requirements, the biggest objection Minnesota has encountered is to the mandatory referral to VR of youth age 24 and younger who are considering subminimum wage employment. The VR program is historically an eligibility-based program, but it is also a voluntary program. Under the current regulations, the perceived and experienced reality is that this population (youth age 24 and younger) are being forced to participate in the VR program, even if they don’t want to. This would seem to conflict with the principle of informed choice. We would recommend that VR services continue to be made available to youth age 24 and younger, but that mandatory referral – even to individuals who neither want nor need VR services – be made optional.

**Timely Employment Plan Development**

The requirement to complete the IPE within 90 days of eligibility has resulted in repeated audit findings in Minnesota. In spite of the fact that our rate of timely completion of employment plans approaches 97 percent, the requirement as written leaves no room to acknowledge that plans that aren’t completed within 90 days are often for reasons beyond the control of the VR program. We recommend that the requirement be revised to allow for a compliance rate between 95 and 100 percent, with the stipulation that VR documents the reason for the delay in employment plan development.

**Presumed Ability to Benefit**

WIOA and the implementing regulations made changes to the presumption of eligibility (WIOA, Section 102; Section 361.42 of regulations) by dropping the reference to the need for clear and convincing evidence for purposes of determining the person is ineligible for services. This change would suggest that the VR program should always – without exception – presume a person’s ability to benefit. This is inconsistent with the trial work requirements set forth in 361.42(e). We recommend revising the regulations to clarify the presumption of eligibility requirements.

**Definition of Competitive, Integrated Employment**

Minnesota VR-General supports, and recommends no change, to the definition of “competitive, integrated employment,” as clarified in the regulations. We know that some individuals and community rehabilitation providers object to the definition as being too restrictive – that it unnecessarily limits the use of crews and enclaves, even when those jobs pay wages that are higher than the minimum wage. While we understand the frustration, we also believe that the current definition of “competitive, integrated employment” is fully in keeping with the spirit and intent of WIOA to facilitate full community integration.