**Federal Register Notice**

U.S. Secretary of Education Betsy DeVos released a [statement](http://links.govdelivery.com:80/track?type=click&enid=ZWFzPTEmbWFpbGluZ2lkPTIwMTcwNjI3Ljc1MTUwNzIxJm1lc3NhZ2VpZD1NREItUFJELUJVTC0yMDE3MDYyNy43NTE1MDcyMSZkYXRhYmFzZWlkPTEwMDEmc2VyaWFsPTE3ODc5MjU4JmVtYWlsaWQ9a2F0aGxlZW4uZW5kZXJzQGR3ZC53aXNjb25zaW4uZ292JnVzZXJpZD1rYXRobGVlbi5lbmRlcnNAZHdkLndpc2NvbnNpbi5nb3YmZmw9JmV4dHJhPU11bHRpdmFyaWF0ZUlkPSYmJg==&&&100&&&https://www.ed.gov/news/press-releases/secretary-devos-issues-statement-regulatory-reform-task-force-progress-report?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=) on the Department's Regulatory Reform Task Force's [first progress report](http://links.govdelivery.com:80/track?type=click&enid=ZWFzPTEmbWFpbGluZ2lkPTIwMTcwNjI3Ljc1MTUwNzIxJm1lc3NhZ2VpZD1NREItUFJELUJVTC0yMDE3MDYyNy43NTE1MDcyMSZkYXRhYmFzZWlkPTEwMDEmc2VyaWFsPTE3ODc5MjU4JmVtYWlsaWQ9a2F0aGxlZW4uZW5kZXJzQGR3ZC53aXNjb25zaW4uZ292JnVzZXJpZD1rYXRobGVlbi5lbmRlcnNAZHdkLndpc2NvbnNpbi5nb3YmZmw9JmV4dHJhPU11bHRpdmFyaWF0ZUlkPSYmJg==&&&101&&&https://www2.ed.gov/documents/press-releases/regulatory-reform-task-force-progress-report.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=) as required by President Donald Trump's [Executive Order 13777](http://links.govdelivery.com:80/track?type=click&enid=ZWFzPTEmbWFpbGluZ2lkPTIwMTcwNjI3Ljc1MTUwNzIxJm1lc3NhZ2VpZD1NREItUFJELUJVTC0yMDE3MDYyNy43NTE1MDcyMSZkYXRhYmFzZWlkPTEwMDEmc2VyaWFsPTE3ODc5MjU4JmVtYWlsaWQ9a2F0aGxlZW4uZW5kZXJzQGR3ZC53aXNjb25zaW4uZ292JnVzZXJpZD1rYXRobGVlbi5lbmRlcnNAZHdkLndpc2NvbnNpbi5nb3YmZmw9JmV4dHJhPU11bHRpdmFyaWF0ZUlkPSYmJg==&&&102&&&https://www.federalregister.gov/d/2017-02451?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=). The Department has also published a Federal Register [notice](http://links.govdelivery.com:80/track?type=click&enid=ZWFzPTEmbWFpbGluZ2lkPTIwMTcwNjI3Ljc1MTUwNzIxJm1lc3NhZ2VpZD1NREItUFJELUJVTC0yMDE3MDYyNy43NTE1MDcyMSZkYXRhYmFzZWlkPTEwMDEmc2VyaWFsPTE3ODc5MjU4JmVtYWlsaWQ9a2F0aGxlZW4uZW5kZXJzQGR3ZC53aXNjb25zaW4uZ292JnVzZXJpZD1rYXRobGVlbi5lbmRlcnNAZHdkLndpc2NvbnNpbi5nb3YmZmw9JmV4dHJhPU11bHRpdmFyaWF0ZUlkPSYmJg==&&&103&&&https://www.federalregister.gov/documents/2017/06/22/2017-13157/evaluation-of-existing-regulations?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=) to provide members of the public the opportunity to submit comments concerning regulations and policy guidance they recommend the Department repeal, replace or modify.

### ****DATE:**** We must receive your comments no later than **September 20, 2017**.

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| **Wisconsin DWD/DVR Topic Area:**  STATE VOCATIONAL REHABILITATION SERVICES PROGRAM-Pre-employment Transition Services waiver of 2014-2015 expenditure requirement |
| **Regulatory Citation:**  §361.65   Allotment and payment of Federal funds for vocational rehabilitation services.  **Subpart**  (3) *Reservation for pre-employment transition services.* (i) Pursuant to section 110(d) of the Act, the State must reserve at least 15 percent of the State's allotment, received in accordance with section 110(a) of the Act for the provision of pre-employment transition services, as described in §361.48(a) of this part.  (ii) The funds reserved in accordance with paragraph (a)(3)(i) of this section—  (A) Must only be used for pre-employment transition services specified in §361.48(a); and  (B) Must not be used to pay for administrative costs, (as defined in §361.5(c)(2)) associated with the provision of such services or any other vocational rehabilitation services. |
| **Request Removal:** Waive initial year of Pre-employment Transition Services expenditure requirement. |
| **Response:**  WI VR became responsible for implementation of a majority of the applicable Workforce Innovation and Opportunity Act provisions the day that the law was signed by President Obama in July 2014. This was not the case with other titles that are subject to the WIOA law. A new expenditure requirement was mandated for specific VR services classified as Pre-Employment Transition Services for students with disabilities. Having an immediate effective date for these new law provisions did not allow any time for states to change their outreach strategies and develop new services to meet the new requirements, much less to develop understanding of the requirements. In FFY15, (10-1/14 through 9/30/15), DVR came up 4.3 million dollars short of the required 15% federal expenditure rate requirement under the Pre-Employment Transition Services provisions. The 15% expenditure rate equaled $9.7 million dollars of the federal share for the VR program budget.  In addition, until the Federal Regulations were published in June 30, 2016, we received little guidance on implementation of this requirement. Forgiveness of at least the first year, if not the first two years of implementation of the Pre-employment Transition Services expenditure requirement is a reasonable approach and would be beneficial to state agencies. This would recognize and allow for the additional time States needed for development and implementation of effective strategies. It was necessary to develop new services and provider connections as well as the need for system modifications for accurate accounting of the Pre-employment Transition Service categories. It took time to build systems and to conduct training of staff and providers. |

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| **Wisconsin DWD/DVR Topic Area:**  STATE VOCATIONAL REHABILITATION SERVICES PROGRAM-Pre-employment Transition Services expansion of required services. |
| **Regulatory Citation:**  §361.48   Scope of vocational rehabilitation services for individuals with disabilities  **Subpart**  (2) *Required activities.* The designated State unit must provide the following pre-employment transition services:  (i) Job exploration counseling;  (ii) Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment in the community to the maximum extent possible;  (iii) Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;  (iv) Workplace readiness training to develop social skills and independent living; and  (v) Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring (including peer mentoring from individuals with disabilities working in competitive integrated employment). |
| **Request Modification:**  Expand required activities to include approved IPE support services that facilitate participation in allowable Pre-employment Transition Services to be counted towards expenditure requirement. Specifically: transportation, job coaching and assistive technology. |
| **Response:**  RSA has narrowly defined what services can be included towards a 15% expenditure requirement. There are several services contained in an approved employment plan which are not allowable as pre-employment transitions services and therefore cannot count towards the required 15% expenditures. Examples include transportation costs associated with participation in an approved service, job coaching to learn a task on a work experience, and assistive technology that will allow an individual to perform a task that would not otherwise be possible due to their disability. These services are often necessary to allow a person to participate in a required activity and be successful in completion of that activity, however, these expenditures cannot be counted toward the requirement or be provided to potentially eligible students. |

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| **Wisconsin DWD/DVR Topic Area:**  LIMITATIONS ON USE OF SUBMINIMUM WAGE-Documentation Requirements |
| **Regulatory Citation:**  §397.40   What are the responsibilities of a designated State unit for individuals with disabilities, regardless of age, who are employed at a subminimum wage?  **Subpart**  (e) *Provision of services.* Nothing in this section will be construed as requiring a designated State unit to provide the services required by this section directly. A designated State unit may contract with other entities, *i.e.,* other public and private service providers, as appropriate, to fulfill the requirements of this section. The contractor providing the services on behalf of the designated State unit may not be an entity holding a special wage certificate under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) as defined in 397.5(d). |
| **Request Modification:**  WI DVR is requesting removal of the requirement for DSU signature of completed annual reviews. |
| **Response:**  RSA has interpreted that documentation requirements should include the signature of the designated State unit (DSU) on all annual review documents and not just refusals following provision of the annual review service.  Under WIOA, the annual review service is now required by the DSU, and States must direct allocated resources to its provision. There is no additional federal funding provided for the cost of the required services and the service must be managed within the existing staffing complement of a State Agency.  States have the option to contract for the service. Use of a contractor is intended to reduce the administrative and staffing burden on the DSU. But the interpretation by RSA to require a signature on all review documentation doesn't make sense and is not practicable nor reasonable given the ability to contract for the service. There is undue hardship to States who opt to contract out the service as allowed under the regulations.  Gathering the signature of the DSU on the documents is NOT a cursory action. It can be achieved only by asking the DSU to physically sign 6500 documents (in Wisconsin) created after the completion of the service in which the DSU had no part. The other option is to use a central electronic signature approach which will cost the DSU additional expense and administrative time.  The DSU agrees that signatures from the DSU should be required on refusal documentation. However, requiring DSU signature on all annual review documents increases the administrative burden for the DSU and diminishes the flexibility provided by the allowable use of a contractor for the services. |

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| **Wisconsin DWD/DVR Topic Area:**  RSA 911 -Closure Reopen |
| **Regulatory Citation:**  RSA 911 I. General Information  **Subpart**  B. Case Service Record-Closure of a Case Service Record |
| **Request Modification:**  WI DVR is requesting that RSA allow cases to be reopened to the date of initial application in the case of an error on the part of the DSU or appeal of a case closure. |
| **Response:**  RSA has indicated that States are not allowed to re-open a case once it has been reported on the Quarterly RSA 911 report as closed. Once a case has been submitted in a quarterly report, it cannot be re-opened. In this situation, a state would open a new case for that client. We have concerns with this change. There are times that a case needs to be reopened due to an appeal decision or an error on the part of the VR agency. RSA has not modified any of the conditions or policy in other parts of regulations (§361.48   Scope of vocational rehabilitation services for individuals with disabilities) to streamline the process of a reopened case and the consumer would have to submit to completion of all of the steps for a new case: application, eligibility/OOS decision, IPE, etc. Additionally, if a waitlist is in effect, this could cause additional delays in service. RSA has also not changed the reasons a consumer can appeal a DVR decision which includes the closure of a case. This requirement will be time consuming for the VR agency and will impose many extra steps for the consumer. The change appears to be connected to data collection and not added value for the consumer. |