

UNITED STATES DEPARTMENT OF EDUCATION
Office of Special Education and Rehabilitative Services
Rehabilitation Services Administration

PRE-EMPLOYMENT TRANSITION SERVICES

Applicable Program:

- State Vocational Rehabilitation Services (CFDA 84.126A)

Requirements:

A. Reservation and Expenditure of Funds

Section 110 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA), reads, in pertinent part:

Sec. 110. STATE ALLOTMENTS.

(a)(1) Subject to the provisions of subsection (c) and (d), for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of—

(d)(1) From any State allotment under subsection (a) for a fiscal year, the State shall reserve not less than 15 percent of the allotted funds for the provision of pre-employment transition services.

(2) Such reserved funds shall not be used to pay for the administrative costs of providing pre-employment transition services.

This mandate for a State to reserve funds for the sole purpose of providing pre-employment transition services is reinforced at Section 113(a):

SEC. 113. PROVISION OF PRE-EMPLOYMENT TRANSITION SERVICES.

(a) IN GENERAL. - From the funds reserved under section 110(d), and any funds made available from State, local, or private funding sources, each State shall 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 under this title.

Given the new requirements at Sections 110(d)(1) and 113(a), a State must reserve and expend at least 15 percent of its State allotment, under the State Vocational Rehabilitation Services (VR) grant (CFDA 84.126A), to provide, or arrange for the provision of, pre-employment transition services to students with disabilities. The statute makes clear that 15 percent is a minimum, not a maximum, amount that must be spent on the provision of pre-employment transition services to students with disabilities and not on any other VR service.

B. Basis for the Amount to be Reserved and Expended

The State allotment, which forms the basis for the reservation and expenditure of these funds, refers to the funds awarded pursuant to Section 110(a) of the Rehabilitation Act, as well as any funds received during reallocation in accordance with Section 110(b) of the Rehabilitation Act. Section 110(b)(3) makes clear that funds received during reallocation are considered an increase to the State's allotment. Similarly, funds relinquished during reallocation are considered a reduction to the State's allotment. This means that the State—not RSA—must reserve and expend at least 15 percent of the State's total Federal VR allotment (taking into account additional funds received or funds relinquished during the reallocation process) for the provision of pre-employment transition services under Section 113. States will not receive a separate grant award for the funds the State must reserve for the provision of pre-employment transition services.

In calculating the 15 percent minimum amount to be reserved and expended, States—regardless of whether there is one or two VR agencies in the State—may consider basing the percentage on a rolling basis on the total amount allotted to the State in each Grant Award Notification it receives in the year of appropriation. In so doing, the State can be sure it has reserved at least 15 percent of its total VR allotment (as described in Sections 110 and 111 of the Rehabilitation Act) for this purpose, taking into account adjustments made throughout the year for continuing resolutions, reallocations, and reductions for maintenance of effort deficits.

The reservation and expenditure of funds for the provision of pre-employment transition services is a State matter that must be resolved at the State level when there are two agencies. For this reason, RSA encourages agencies to coordinate to ensure State compliance. While it may be helpful for each VR agency, particularly when a State has two VR agencies, to reserve and expend at least 15 percent of its allotment to facilitate tracking of State compliance of the reservation requirement, there is no statutory requirement that this be done. If one agency (when a State has two VR agencies) uses more of its funds than the other, the State would be in compliance so long as the State's total of funds reserved for the provision of pre-employment transition services is at least 15 percent of the State's total allotment, including any additional funds received during reallocation by one or both agencies.

C. Allowable Uses of Reserved Funds

It is important to note that none of the funds reserved in accordance with Section 110(d) may be used to pay for administrative costs or any other VR service. These funds must be used solely for the provision of pre-employment transition services described in Section 113 of the Rehabilitation Act. Section 113(b) describes the “required” pre-employment transition service activities that must be provided to students with disabilities. Section 113(c) describes the “authorized” activities that the State may provide if reserved funds remain after students with disabilities have received the “required” activities. Furthermore, each local office of the VR agency must carry out certain coordination activities, as described in Section 113(d) of

the Rehabilitation Act, related to the provision of pre-employment transition services. This means that the State must use the entire amount reserved solely for the provision of pre-employment transition services described in Section 113(b) through (d). In pertinent part, Section 113 reads as follows:

- (b) **REQUIRED ACTIVITIES.**—Funds available under subsection (a) shall be used to make available to students with disabilities described in subsection (a)—
- (1) job exploration counseling;
 - (2) 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 to the maximum extent possible;
 - (3) counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
 - (4) workplace readiness training to develop social skills and independent living; and
 - (5) instruction in self-advocacy, which may include peer mentoring.
- (c) **AUTHORIZED ACTIVITIES.**—Funds available under subsection (a) and remaining after the provision of the required activities described in subsection (b) may be used to improve the transition of students with disabilities described in subsection (a) from school to postsecondary education or an employment outcome by—
- (1) implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;
 - (2) developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently, participate in postsecondary education experiences, and obtain and retain competitive integrated employment;
 - (3) providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;
 - (4) disseminating information about innovative, effective, and efficient approaches to achieve the goals of this section;
 - (5) coordinating activities with transition services provided by local educational agencies under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);
 - (6) applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel, in order to better achieve the goals of this section;
 - (7) developing model transition demonstration projects;
 - (8) establishing or supporting multistate or regional partnerships involving States, local educational agencies, designated State units, developmental disability agencies, private businesses, or other participants to achieve the goals of this section; and
 - (9) disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved populations.
- (d) **PRE-EMPLOYMENT TRANSITION COORDINATION.**—Each local office of a designated State unit shall carry out responsibilities consisting of—
- (1) attending individualized education program meetings for students with disabilities,

- when invited;
- (2) working with the local workforce development boards, one-stop centers, and employers to develop work opportunities for students with disabilities, including internships, summer employment and other employment opportunities available throughout the school year, and apprenticeships;
 - (3) work with schools, including those carrying out activities under section 614(d)(1)(A)(i)(VIII) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(VIII)), to coordinate and ensure the provision of pre-employment transition services under this section; and
 - (4) when invited, attend person-centered planning meetings for individuals receiving services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

It is important to note that only students with disabilities may receive pre-employment transition services under Section 113. A student with a disability is defined at Section 7(37) of the Rehabilitation Act as:

(37) STUDENT WITH A DISABILITY.-

- (A) IN GENERAL.-The term ‘student with a disability’ means an individual with a disability who-
 - (i)(I)(aa) is not younger than the earliest age for the provision of transition services under section 614(d)(1)(A)(i)(VIII) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)(i)(VIII)); or
 - (bb) if the State 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; and
 - (II)(aa) is not older than 21 years of age; or
 - (bb) if the State law for the State provides for a higher maximum age for receipt of services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), is not older than that maximum age; and
 - (ii)(I) is eligible for, and receiving, special education or related services under Part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or
 - (II) is an individual with a disability, for purposes of section 504.
- (B) STUDENTS WITH DISABILITIES.-The term ‘students with disabilities’ means more than 1 student with a disability.

D. Match

All Federal VR funds drawn down for use, including the amount reserved for the provision of pre-employment transition services, must be matched in an amount equivalent to at least 21.3 percent of the total amount expended under the VR program (e.g., both Federal and non-Federal shares). There is no requirement that non-Federal funds used for match purposes must be expended specifically for the provision of pre-employment transition services.

E. Carryover

Section 19(a)(1) of the Rehabilitation Act permits a State to carry over into the subsequent Federal fiscal year (FFY) any grant funds that remain available at the end of the FFY in which the funds were awarded so long as the State provided the requisite match for those funds by the end of the FFY in which the funds were awarded (year of appropriation). Funds reserved for the provision of pre-employment transition services merely represent a percentage of the State's VR allotment and, therefore, these funds must comply with all requirements governing the allotment, including requirements related to carry over of funds. This means that unobligated funds reserved for the provision of pre-employment transition services that have been matched by the end of the fourth quarter (9/30) of the year of appropriation may be carried over for obligation and expenditure during the subsequent FFY.

F. Internal Controls

Because both Sections 110(d) and 113 of the Rehabilitation Act are clear that the State must reserve and expend at least 15 percent of its total VR allotment for a specific purpose (pre-employment transition services) that benefits a specific population (students with disabilities), it will be critical that the VR agency implement administrative methods and procedures that ensure proper data collection, internal controls, and financial accountability of these reserved funds, as required by 34 C.F.R. § 361.12, thereby ensuring that the State spends these reserved funds solely on the provision of pre-employment transition services and not on any other VR service. Moreover, the State's internal controls must be such that the VR agency will be able to accurately complete all required forms, including financial reports, that show the reservation and use of these funds for this purpose, as required by Uniform Guidance at 2 C.F.R. § 200.302. This will require that VR agencies track and report all Federal expenditures for pre-employment transition services even if that amount exceeds the 15 percent minimum. Failure to reserve at least 15 percent of the State's allotment and expend those reserved funds solely for the provision of pre-employment transition services could result in RSA taking enforcement action against the State pursuant to 34 C.F.R. Part 81.