



UNITED STATES DEPARTMENT OF EDUCATION

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**Increasing Postsecondary Opportunities and Success  
for Students and Youth with Disabilities**

The U.S. Department of Education (Department) is committed to ensuring that students and youth with disabilities are held to high expectations and have the resources and supports needed to expand their learning opportunities and prepare them for success in postsecondary education or careers. To that end, this “Questions and Answers” (Q&A) describes how State educational agencies (SEAs), local educational agencies (LEAs), and State vocational rehabilitation (VR) agencies may coordinate to assist students and youth with disabilities, including students and youth with intellectual disabilities who are in high school and at postsecondary education institutions, through appropriate supports funded under the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by Title IV of the Workforce Innovation and Opportunity Act (WIOA).

This Q&A addresses the following topics:

- The opportunity for students with disabilities to enroll in postsecondary education programs while still in high school;
- The opportunity for students and youth with disabilities to enroll in comprehensive transition and other postsecondary programs for individuals with disabilities after leaving high school;
- The coordination of transition-related services that students with disabilities may receive under the IDEA and under the VR program; and
- The financial aid available to students with disabilities enrolled in comprehensive transition and postsecondary education programs for students with intellectual disabilities offered at Institutions of Higher Education (IHEs) under the Higher Education Act of 1965, as amended (HEA).

Attached to this Q&A is an Appendix with further details on these topics.

We hope this information is helpful as State VR agencies, SEAs, LEAs, and postsecondary education institutions, including those with comprehensive transition and other postsecondary education programs, continue to review, develop, and implement policies, procedures, and programming for the provision of services for students and youth with disabilities, including students with intellectual disabilities, and for those students with disabilities who are dually enrolled in secondary and postsecondary education programs. If you have any further questions, please contact Jessica Spataro at 202-245-6493 or by email at [Jessica.Spataro@ed.gov](mailto:Jessica.Spataro@ed.gov).

Sincerely,

/s/

Johnny W. Collett  
Assistant Secretary for Special Education  
and Rehabilitative Services

/s/

Robert King  
Assistant Secretary for Postsecondary  
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[www.ed.gov](http://www.ed.gov)

# **Increasing Postsecondary Opportunities and Success for Students and Youth with Disabilities**

## **Questions and Answers**

### **Overview**

#### **Q1 What is dual enrollment?**

In this Q&A and accompanying Appendix, we use the term dual enrollment to refer to situations when high school students with disabilities who have individualized education programs (IEPs), are receiving services under the IDEA, and take courses offered by a community college or other postsecondary education institution program prior to high school graduation. As with all students taking classes at postsecondary institutions, students with disabilities who have IEPs must meet the postsecondary institution's criteria to take the class. Dual enrollment can be a helpful option for some of these students in facilitating their transition from secondary school to postsecondary education and the workforce.

#### **Q2 What is postsecondary education?**

Postsecondary education includes education and training by institutions of higher education (two- and four-year colleges and universities), as well as other career training and technical education programs.

#### **Q3 What are comprehensive transition programs (CTPs)?**

CTPs are a type of postsecondary education. CTPs offered at IHEs provide inclusive, academic, social, and career and technical education programs for individuals with intellectual disabilities seeking a postsecondary or college experience and career path. Participation in a CTP may generate academic credit leading to a postsecondary credential or degree. These programs embrace high expectations and provide valuable opportunities for individuals with intellectual disabilities to gain skills that will maximize their opportunities for achieving employment, including competitive integrated employment.

After exiting high school, students can enroll in CTPs on a full-time basis. Additionally, since CTPs are a type of postsecondary education program, students can dually enroll in CTPs while still attending secondary school.

#### **Q4 What are transition services?**

##### **Under Part B of the IDEA**

“Transition services” means a coordinated set of activities for a student with a disability designed within a results-oriented process that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement

from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

The coordinated set of activities is based on each student's needs, taking into account the student's strengths, preferences and interests, and includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, the acquisition of daily living skills and provision of a functional vocational evaluation. 20 U.S.C. § 1401(34). The regulation in 34 C.F.R. § 300.43(b) also explains that transition services under the IDEA may be special education if provided as specially designed instruction, or a related service if required to assist the student to benefit from special education.

Beginning with the first IEP to be in effect when a student turns 16, or younger if determined appropriate by the IEP Team, and updated annually thereafter, each student's IEP must include: (i) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and (ii) the transition services (including courses of study) needed to assist the student in reaching those goals. 20 U.S.C. § 1414(d)(1)(A)(i)(VIII) and 34 C.F.R. §§ 300.320(b); see also 34 C.F.R. §300.321(b).

### **Under the VR program**

“Transition services” means a coordinated set of activities for a student or youth with a disability—

- Designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, competitive integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation;
- Based upon the individual student's or youth's needs, taking into account the student's or youth's preferences and interests;
- That includes instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation;
- That promotes or facilitates the achievement of the employment outcomes identified in the student's or youth's individualized plan for employment (IPE); and
- That includes outreach to and engagement of the parents, or, as appropriate, the representative of such a student or youth with a disability.

34 C.F.R. § 361.5(c)(55).

If individualized transition services are identified on an eligible student's or youth's approved IPE in accordance with Section 103(a)(15) of the Rehabilitation Act and

34 C.F.R. § 361.48(a)(18), then VR agencies provide those services to students and youth with disabilities who have applied and been determined eligible for the VR program. VR agencies may provide transition services to groups of students and youth with disabilities who have not yet applied or been determined eligible for the VR program in accordance with section 103(b)(7) of the Rehabilitation Act and 34 C.F.R. § 361.49(a)(7).

**Q5 Who is responsible, the VR agency or the LEA, for providing and paying for transition services?**

There are instances in which some special education and related services under the IDEA may also be services provided under the VR program. Decisions as to which agency, the VR agency, the SEA, or the LEA, is responsible for providing and/or paying for pre-employment transition services or transition services considered to be both a special education (or a related service) and a VR service must be made at the State level.

Pre-employment transition services and transition services under the Rehabilitation Act may be categorized as both VR services under the VR program and as special education or related services under the IDEA.

Under the IDEA, related services could include psychological services; counseling services, including rehabilitation counseling; orientation and mobility services; and medical services for diagnostic or evaluation purposes.

Some of the special education or related services, such as counseling services, including rehabilitation counseling, orientation and mobility services, and work experiences, are also similar to pre-employment transition services that are available to students with disabilities (*e.g.*, job exploration counseling, workplace readiness training, and work-based learning opportunities).

**Dual Enrollment and CTPs (IDEA)**

**Q6 Can IDEA Part B funds be used to support the participation of students with disabilities in dual enrollment programs?**

Yes. IDEA Part B funds can be used to support students with disabilities with IEPs in dual enrollment programs if certain conditions are met.

Under IDEA Part B, States and LEAs must make a free appropriate public education (FAPE) available to all eligible children with disabilities residing in the State in mandatory age ranges. FAPE includes special education and related services that: 1) are provided at public expense, under public supervision and direction, and without charge; 2) meet the standards of the SEA, including the requirements of IDEA Part B; 3) include an appropriate preschool, elementary school, or secondary school education in the State involved; and 4) are provided in conformity with an IEP that meets the requirements of 20 U.S.C. § 1414(d). 20 U.S.C. § 1401(9) and 34 C.F.R. § 300.17.

Therefore, in order for IDEA Part B funds to be used to support students with disabilities who have been accepted in dual enrollment programs, the student's IEP Team must determine that the courses offered as part of a dual enrollment program are necessary to provide the student with FAPE. Because FAPE under IDEA Part B does not include postsecondary education, when using IDEA Part B funds, LEAs are only permitted to provide or pay for services that constitute FAPE in postsecondary education settings with IDEA Part B funds if the education provided is considered secondary school education in the State.

**Q6a How is secondary school defined in the IDEA?**

Under the IDEA, the term "secondary school" means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12. 20 U.S.C. § 1401(27) and 34 C.F.R. § 300.36.

**Q7 Can students with disabilities participate in dual enrollment programs if such programs are not part of a student's IEP?**

Yes. Students with disabilities are not precluded from participating in dual enrollment programs solely because such courses are not explicitly detailed in a student's IEP, or such services are not considered secondary school education by the State. These requirements only affect whether Federal funds may be used to defray the costs of such programs or services.

**Q8 Can IDEA Part B funds be used to support the students with disabilities dually enrolled and participating in CTPs?**

Yes. As with other dual enrollment programs, IDEA Part B funds can be used to support students with disabilities in CTPs if certain conditions are met. As outlined in Q6 above, in order for IDEA Part B funds to be used to support students with disabilities in CTPs, the student's IEP Team must determine that the courses offered as part of a CTP are necessary to provide the student with FAPE. Because FAPE under IDEA Part B does not include postsecondary education, when using IDEA Part B funds, LEAs are only permitted to provide or pay for services that constitute FAPE in postsecondary education settings if the education provided is considered secondary school education in the State.

**Q9 Can students with disabilities participate in CTPs if such programs are not part of a student's IEP?**

Yes. Students with disabilities are not precluded from participating in CTPs solely because such courses are not explicitly detailed in a student's IEP, or such services are not considered secondary school education by the State. These requirements only affect whether Federal funds may be used to defray the costs of such programs or services.

## Dual Enrollment and CTPs (VR)

### Q10 What are Pre-Employment Transition Services?

Pre-employment transition services are certain “required activities” and “authorized activities” specified in the Rehabilitation Act that are provided to students with disabilities in need of such services who are either eligible or potentially eligible for services under the VR program. VR agencies are required to provide, or arrange for the provision of, pre-employment transition services for all students with disabilities in need of such services, regardless of whether they have applied and been determined eligible for the VR program. VR agencies must provide these services in collaboration with LEAs. Section 113(a) of the Rehabilitation Act; 34 C.F.R. § 361.48(a)(1). Pre-employment transition services must include, among other activities, counseling on opportunities for enrollment in comprehensive transition or postsecondary education programs at IHEs. Section 113(b)(3) of the Rehabilitation Act; 34 C.F.R. § 361.48(a)(2)(iii).

### Q11 Can VR funds be used to support a student with a disability in a dual enrollment program?

Yes. VR funds can be used to support students with disabilities in dual enrollment if certain conditions are met.

Students and youth with disabilities who have been determined eligible for the VR program and who are interested in postsecondary education should work with the student’s or youth’s VR counselor to consider the postsecondary environment that provides the educational program and support services that will best fit their individual needs and career goals. Once the most appropriate program has been agreed to by both the student or youth and the VR counselor, such education services, as well as any other needed VR services consistent with Section 103(a) of the Rehabilitation Act, will be identified on the IPE, which is signed by both the student or youth (or his or her parent or legal representative) and the VR counselor. VR services described in an IPE may be provided to an eligible student with a disability transitioning from secondary education to postsecondary training, education, or employment. Some students may be eligible to receive transition services through their State VR agency to participate in dual enrollment programs.

Students with disabilities with IEPs benefit when transition services under the IDEA are coordinated early in the transition process with the VR program. To that end, VR agencies may coordinate with LEAs to assist students with disabilities who have IEPs under the IDEA who are dually enrolled in secondary and postsecondary education programs, including CTPs and other postsecondary education programs (e.g., postsecondary education programs for students with autism or learning disabilities).

**Q12 Can VR funds be used to support a student with a disability in a CTP?**

Yes. VR funds can be used to support students with disabilities in CTPs if certain conditions are met.

Students, youth, and their families, with the assistance of the VR program as appropriate, should consider the wide array of postsecondary options that are available, including but not limited to, two- and four-year colleges and universities, career and technical schools, adult education programs, and comprehensive transition and postsecondary education programs.

Students and youth with disabilities who have been determined eligible for the VR program and who are interested in postsecondary education should work with the student's or youth's VR counselor to consider the postsecondary environment that provides the educational program and support services that will best fit their individual needs and career goals. Once the most appropriate program has been agreed to by both the student or youth and the VR counselor, such education services, as well as any other needed VR services consistent with Section 103(a) of the Rehabilitation Act, will be identified on the IPE, which is signed by both the student or youth (or his or her parent or legal representative) and the VR counselor.

A comprehensive transition program is an example of one postsecondary option for which the VR program could provide assistance to students and youth with intellectual disabilities when appropriate and agreed to on their approved IPE.

**Q13 Can students with disabilities exercise informed choice when participating in postsecondary education through the VR program?**

Yes. The Rehabilitation Act supports the informed choice of a student or youth with a disability receiving services under the VR program, with respect to, among other things, participation in programs offered by postsecondary education institutions, including comprehensive transition and postsecondary programs, the benefits of which may enhance the academic, career, and independent living skills of these individuals. Section 102(b)(3)(B) of the Rehabilitation Act and 34 C.F.R. § 361.52 require that VR agencies provide participants with the opportunity to exercise informed choice throughout the VR process, including making decisions related to employment goals, services and service providers, settings for employment and service provision, and methods for procuring services.

**Participation in Federal Student Aid Programs**

**Q14 Can students with disabilities who participate in CTPs receive Federal student financial aid?**

Yes. Under Section 484(s) of the HEA (20 U.S.C. § 1091(s) and 34 C.F.R. Part 668, Subpart O), students enrolled in a comprehensive transition and postsecondary program for students with intellectual disabilities who are maintaining satisfactory academic

progress in that program may receive Federal student financial aid under the Federal Pell Grant, Federal Supplemental Opportunity Grant, or Federal Work-Study programs. The term “comprehensive transition and postsecondary program for students with intellectual disabilities” is defined in Section 760(1) of the HEA (20 U.S.C. § 1140(1)) and includes degree, certificate, and nondegree programs that meet certain requirements.



# **Increasing Postsecondary Opportunities and Success for Students and Youth with Disabilities**

## **Appendix**

### **Overview**

The purpose of this Appendix is to support the answers in the Questions and Answers (Q&A) and provide a more detailed explanation, including legal requirements, of dual enrollment and comprehensive transition programs (CTPs) supported under the Individuals with Disabilities Education Act (IDEA) and the State vocational rehabilitation (VR) program.

For purposes of this Q&A and the Appendix, the term postsecondary education institution includes institutions of higher education (IHEs) (two- and four-year colleges and universities), as well as other career training and technical education programs.

Although this Q&A and the Appendix discuss the Rehabilitation Act, they do not address a local educational agency's (LEA's) or postsecondary education institution's responsibility to comply with the nondiscrimination protections and obligations under Section 504 of the Rehabilitation Act (Section 504), 29 U.S.C. § 794; 34 C.F.R. Part 104, and under the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 *et seq.*, including Title II of the ADA, which applies to public entities, including public schools and public postsecondary education institutions. Furthermore, note that Section 504 (29 U.S.C. § 705(20)(B)) and the ADA (42 U.S.C. § 12102; 28 C.F.R. § 35.104) use the same definition of an "individual with a disability" and this definition is different than the definition of a "student with a disability" under the Rehabilitation Act, as amended by the Workforce Innovation and Opportunity Act (WIOA), that is discussed in this Appendix.

This Appendix uses the term "students with disabilities eligible under the IDEA" to refer to students who qualify as children with disabilities under Part B of the IDEA and who have individualized education programs (IEPs). The definition of "child with a disability" is in Section 602(3) of the IDEA, 20 U.S.C. § 1401(3). The regulatory definition, which includes definitions of individual disability categories, is at 34 C.F.R. § 300.8.

Except as otherwise noted, this Appendix will primarily use the term "students and youth with disabilities" throughout. The Rehabilitation Act defines the term "student with a disability" in Section 7(37) and the term "youth with a disability" in Section 7(42) for purposes of the VR program.

While this Appendix discusses programs and services that are available for students and youth with disabilities in general, CTPs at IHEs are specifically for individuals with intellectual disabilities.

### **Dual Enrollment in Postsecondary Education Institutions Consistent with the IDEA**

Providing students with disabilities in high school who have IEPs under the IDEA with opportunities to take courses at a community college or other postsecondary education institution prior to high school graduation, a strategy known as dual enrollment, can be a helpful option for

some students in facilitating their transition from secondary school to postsecondary education and the workforce.

Participation in courses at a postsecondary education institution, including comprehensive transition and postsecondary programs for students with intellectual disabilities when applicable,<sup>1</sup> can occur under State law consistent with Part B of the IDEA and with the use of IDEA Part B funds as determined appropriate. Providing students with disabilities eligible under the IDEA with the opportunity to participate in dual enrollment programs helps to ensure that when they exit from high school, they have the knowledge and skills they need to prepare them for success in postsecondary education and careers.

Under IDEA, States and LEAs must make a free appropriate public education (FAPE) available to all eligible children with disabilities residing in the State in mandatory age ranges.<sup>2</sup> FAPE includes special education and related services that: 1) are provided at public expense, under public supervision and direction, and without charge; 2) meet the standards of the State educational agency (SEA), including the requirements of the IDEA; 3) include an appropriate preschool, elementary school, or secondary school education in the State involved; and 4) are provided in conformity with an IEP that meets the requirements of Section 614(d) of IDEA, 20 U.S.C. § 1414(d), 20 U.S.C. § 1401(9) and 34 C.F.R. § 300.17.

Because FAPE under the IDEA does not include postsecondary education, when using IDEA funds, LEAs are only permitted to provide or pay for services that constitute FAPE in postsecondary education settings if the education provided is considered secondary school education in the State. Therefore, IDEA funds can be used for appropriate education services included in an IEP that are provided outside of a public or private elementary or secondary school if the education provided is considered secondary school education in the State. However, the student would need to be accepted by the dual enrollment program for this to occur. Under the IDEA, the term “secondary school” means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12. 20 U.S.C. § 1401(27) and 34 C.F.R. § 300.36. The language in the definition of “secondary school” -- “as determined under State law” -- does not require that a State statute specifically address what educational opportunities can be provided to students with disabilities eligible under the IDEA at postsecondary education institutions. There is no provision in the IDEA that requires States to include this information in their State law or to change State law to permit this to occur. Rather, States have the flexibility to interpret how “secondary school” education is defined and would apply to dual enrollment programs in their State. For example, a State may provide guidance or

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<sup>1</sup> Not all comprehensive transition and postsecondary education programs for individuals with intellectual disabilities support dual enrollment.

<sup>2</sup> Under IDEA a student’s entitlement to FAPE could last until the student’s 22nd birthday, depending on State law or practice. 20 U.S.C. § 1412(a)(1)(A)(B) and 34 C.F.R. §§ 300.101-300.102 (applicable to States); and 20 U.S.C. § 1413(a)(1) and 34 C.F.R. § 300.201 (applicable to LEAs). The obligation to make FAPE available does not apply to children with disabilities who have exceeded the age of eligibility for FAPE under State law or to children with disabilities who have graduated from high school with a regular high school diploma. 20 U.S.C. § 1412(a)(1)(B) and 34 C.F.R. § 300.102(a)(1) and (3). Note, however, that some State laws may address the provision of educational services to individuals with disabilities beyond their 22nd birthday.

amend its policies and procedures to make clear that permitting high school students to attend classes at a postsecondary education institution, whether auditing or for credit, is considered secondary school education in the State for students in grade 12 or below if the education provided meets applicable State standards. Under these circumstances, enrollment by a high school student in a dual enrollment program could be designated as a service on the student's IEP and paid for with IDEA Part B funds, consistent with the student's entitlement to FAPE.

As with all special education and related services provided under the IDEA, it is up to each student's IEP Team to determine the special education and related services that are needed to meet each student's unique needs in order for the student to receive FAPE. In general, the IDEA requires that the special education and related services provided to a student pursuant to his or her IEP must be provided at public expense and at no cost to the parents. 34 C.F.R. §§ 300.101, 300.17, and 300.201. This requirement would apply to services in a community, technical, or other postsecondary program that are determined to be necessary to assist the secondary school student in receiving FAPE. Whether the school district is obligated to provide and pay for other supports and related services, such as transportation, tuition, and/or a paraprofessional to attend classes with the student, is a determination that must be made on an individual basis by the student's IEP Team.

Therefore, if a student's IEP Team determines that a high school student's needs can best be met through participation in dual enrollment programs, which are offered on college campuses or in community-based settings, and classes from those programs are considered to meet secondary school education requirements by the State, as discussed above, the IEP Team could include those services in the student's IEP, and if appropriate to the needs of the student, could designate them as transition services.<sup>3</sup> School districts must ensure that the services that are included in a student's IEP that are deemed necessary for the provision of FAPE to the student are provided at public expense and at no cost to the parents, and the school district may pay for those services with IDEA funds. 20 U.S.C. § 1413(a)(2)(A) and 34 C.F.R. § 300.202(a). Please note that students with disabilities are not precluded from participating in dual enrollment programs solely because such courses are not explicitly detailed in a student's IEP, or such services are not considered secondary school education by the State.<sup>4</sup> These requirements only affect whether Federal funds may be used to defray the costs of such programs or services.

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<sup>3</sup> Under IDEA, "transition services" means a coordinated set of activities for a student with a disability designed within a results-oriented process that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities is based on each student's needs, taking into account the student's strengths, preferences and interests, and includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, the acquisition of daily living skills and provision of a functional vocational evaluation. 20 U.S.C. § 1401(34). The regulation in 34 C.F.R. § 300.43(b) also explains that transition services under the IDEA may be special education if provided as specially designed instruction, or a related service if required to assist the student to benefit from special education.

<sup>4</sup> Under Section 504 of the Rehabilitation Act, individuals with disabilities must be provided with an equal opportunity to participate in or benefit from any aid, benefit, or service that is available to individuals without disabilities. 34 C.F.R. § 104.4(b)(1)(ii).

Additionally, some students may be eligible to receive transition services through their State VR agency to participate in dual enrollment programs, as discussed further below. A State also could elect to use IDEA funds it reserves for other State-level activities to facilitate the participation of IDEA-eligible students in dual enrollment programs, such as by developing and implementing transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to postsecondary activities. 20 U.S.C. § 1411(e)(2)(C)(vi) and 34 C.F.R. § 300.704(b)(4)(vi).

The participation of a student with a disability who has an IEP under the IDEA in a dual enrollment program while in high school could be addressed through the transition services component of the student's IEP. Beginning with the first IEP to be in effect when a student turns 16, or younger if determined appropriate by the IEP Team, and updated annually thereafter, each student's IEP must include: (i) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and (ii) the transition services (including courses of study) needed to assist the student in reaching those goals. 20 U.S.C. § 1414(d)(1)(A)(i)(VIII) and 34 C.F.R. §§ 300.320(b) and 300.321(b). LEAs must invite representatives of any participating agency, with parental consent or the consent of the student who has reached the age of majority, to participate in IEP Team meetings where transition services and postsecondary goals are discussed, if that agency is likely to be responsible for providing or paying for the transition services to be included in the student's IEP. 34 C.F.R. §§ 300.321(b)(3) and 300.622(b)(2). This individual could be a representative of a State VR agency. The involvement and collaboration with other public agencies (e.g., VR agencies), as appropriate, can be helpful in planning for transition and in providing resources that will help students when they leave high school.<sup>5</sup> We believe that students with disabilities benefit when transition services under the IDEA are coordinated early in the transition process with the VR program, as well as other supports and programs that serve all students transitioning from school to adult life. To that end, VR agencies may coordinate with the LEAs to assist students with disabilities eligible under the IDEA who are dually enrolled in secondary and postsecondary education programs, including CTPs and other postsecondary education programs (e.g., postsecondary education programs for students with autism or learning disabilities).

We also note that, consistent with 34 C.F.R. § 300.110, States must ensure that public agencies take steps to ensure that students with disabilities eligible under the IDEA have access to the same program options that are available to nondisabled students in the area served by the agency. This would apply to dual enrollment programs in postsecondary or community-based settings. Therefore, a State would be responsible for ensuring that a public agency that offered dual enrollment programs in postsecondary or community-based settings to nondisabled students

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<sup>5</sup> While IEP Teams are not required by the IDEA or the Rehabilitation Act to invite representatives from the postsecondary programs students and youth with disabilities are participating in, or considering participating in, to IEP Team meetings, we recommend IEP Teams consider whether a higher education provider should be invited to IEP Team meetings. If representatives of postsecondary institutions are invited to a student's IEP Team meeting where the student's participation in the postsecondary program is to be discussed, the prior consent of the parents or the student who has reached the age of majority would be required in order for that individual to attend the meeting consistent with 34 C.F.R. §§ 300.321(b)(3) and 300.622(b)(2).

would make that option available to students with disabilities under the IDEA, whose IEP Teams determined that such programs would best meet the students' needs.

### **Transition-Related Services under the VR Program and the IDEA**

The VR program offers a continuum of services, with pre-employment transition services being among the most fitting for a student with a disability transitioning from secondary education to postsecondary education and employment, while VR services described in an individualized plan for employment (IPE) may be provided to an eligible individual with a disability transitioning from secondary education to postsecondary training, education, or employment. VR agencies must provide, or arrange for the provision of, pre-employment transition services for all students with disabilities in need of such services, regardless of whether they have applied and been determined eligible for the VR program. VR agencies must provide these services in collaboration with LEAs. Section 113(a) of the Rehabilitation Act; 34 C.F.R. § 361.48(a)(1). Pre-employment transition services could include, among other activities provided directly to students with disabilities, job exploration counseling and work-based learning experiences. Section 113(b) of the Rehabilitation Act; 34 C.F.R. § 361.48(a)(2).

It is important to note that pre-employment transition services are only available to those individuals with disabilities who meet the definition of a "student with a disability" in Section 7(37) of the Rehabilitation Act, meaning that the individual must be enrolled in an educational program and meet certain age requirements. For purposes of the VR program, students with disabilities who have exited from secondary education but are enrolled in a postsecondary education institution,<sup>6</sup> including a comprehensive transition and postsecondary education program, for whom classes have been delayed (for example due to summer break) or deferred, continue to be considered by the Department to be a student with a disability so long as the individual meets the age requirements for a "student with a disability" as set forth in Section 7(37) of the Rehabilitation Act and 34 C.F.R. § 361.5(c)(51). On the other hand, if an individual with a disability has not been accepted into a postsecondary education program upon exit from secondary education, that individual would not be considered enrolled or participating in an educational program. As such, the individual would be considered a "youth with a disability," as defined in Section 7(42) of the Rehabilitation Act, not a "student with a disability." Although youth with disabilities are not eligible to receive pre-employment transition services under the VR program because Section 113 of the Rehabilitation Act limits these services to students with disabilities, they may receive similar services, such as transition services, as permitted under Section 103(a)(15) and (b)(7) of the Rehabilitation Act and 34 C.F.R. §§ 361.48(b)(18) and 361.49(a)(7), or other VR services (Section 103(a) of the Rehabilitation Act and 34 C.F.R. § 361.48(b)) if they are determined eligible for VR services and such services are included on their IPE.

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<sup>6</sup> In this context, enrollment in a postsecondary education institution means, at a minimum, that the postsecondary education institution offered, and the student accepted, a space at the postsecondary education institution.

Pre-employment transition services and transition services under the Rehabilitation Act may be categorized as both VR services under the VR program and special education or related services under the IDEA.<sup>7</sup> Note that under the IDEA, related services could include a range of support services, such as psychological services; counseling services, including rehabilitation counseling; orientation and mobility services; and medical services for diagnostic or evaluation purposes. Some special education or related services, such as counseling services, including rehabilitation counseling, orientation and mobility services, and work experiences, are also similar to pre-employment transition services that are available to students with disabilities (e.g., job exploration counseling, workplace readiness training, and work-based learning opportunities).

Decisions as to which agency, the VR agency or the LEA, is responsible for providing and/or paying for pre-employment transition services or transition services considered to be both a special education (or related service) and a VR service must be made at the State level.

### **Participation in Postsecondary Education Institutions, including Comprehensive Transition and other Postsecondary Education Programs, under the VR Program**

As students and youth with disabilities, including those with intellectual disabilities, transition from secondary school to postsecondary education training and prepare for employment, including competitive integrated employment, it is critical that they are prepared for all aspects of postsecondary life. Students, youth, and their families, with the assistance of the VR program as appropriate, should consider the wide array of postsecondary options that are available, including but not limited to, two- and four-year colleges and universities, career and technical schools, adult education programs, and comprehensive transition and postsecondary education programs. Additionally, eligible students who have completed or are scheduled to complete a bachelor's degree program may be able to receive, pursuant to the Rehabilitation Act and consistent with their approved IPE, support such as tuition, as appropriate, when seeking VR services to attain an advanced degree in a field of science, technology, engineering, mathematics (including computer science), medicine, law, or business. Section 103(a)(18) of the Rehabilitation Act and 34 C.F.R. § 361.48(b)(6).

Students and youth with disabilities who have been determined eligible for the VR program and who are interested in postsecondary education should work with the student's or youth's VR counselor to consider the postsecondary environment that provides the educational program and support services that will best fit their individual needs and career goals. Once the most appropriate program has been agreed to by both the student or youth and the VR counselor, such education services, as well as any other needed VR services consistent with Section 103(a) of the Rehabilitation Act, will be identified on the IPE, which is signed by both the student or youth (or his or her parent or legal representative) and the VR counselor. These services could include, among other things, career counseling, transportation, maintenance, interpreters, rehabilitation technology, transition, and postsecondary education services. A comprehensive transition

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<sup>7</sup> Note that under the IDEA, special education must include specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability (20 U.S.C. § 1401(29) and 34 C.F.R. § 300.39), and related services include a range of support services as are required to assist a child with a disability to benefit from special education (20 U.S.C. § 1401(26) and 34 C.F.R. § 300.34).

program is an example of one postsecondary option for which the VR program could provide assistance to students and youth with intellectual disabilities when appropriate and agreed to on their approved IPE.

Under Section 484(s) of the HEA (20 U.S.C. § 1091(s)) and 34 C.F.R. Part 668, Subpart O, students enrolled in a comprehensive transition and postsecondary educational program for students with intellectual disabilities who are maintaining satisfactory academic progress in that program may receive Federal student financial aid under the Federal Pell Grant or Federal Supplemental Opportunity Grant, or for the Federal Work-Study programs. The term “comprehensive transition and postsecondary program for students with intellectual disabilities” is defined in Section 760(1) of the HEA (20 U.S.C. § 1140(1)) and includes degree, certificate, and other nondegree programs that meet certain requirements.

The Department supports States in their work to increase postsecondary education options and opportunities for individuals with disabilities, including students and youth with intellectual disabilities, through participation in comprehensive transition programs at IHEs, regardless of whether the completion credential is a degree, certificate, or other recognized credential. Nothing in the Rehabilitation Act prohibits or precludes VR agencies from supporting individuals with disabilities (including those with intellectual disabilities), who have been determined eligible for and are receiving VR services under an IPE, at comprehensive transition and postsecondary education programs in order to achieve their employment goal.

In sum, individuals with disabilities may be supported by VR agencies using VR funds to support “students with intellectual disabilities” as defined in Section 760(2)(B) of the HEA and by LEAs with funds under IDEA Part B, when the students have IEPs under IDEA and are dually enrolled in secondary and postsecondary education programs, including comprehensive transition and postsecondary programs. The extent of the use of VR funds for these students will depend on whether they have been determined eligible for the VR program and have an approved IPE, or whether they need only pre-employment transition services. As noted above, pre-employment transition services may be provided to students with disabilities regardless of whether they have applied and been determined eligible for the VR program

### **Informed Choice under the Rehabilitation Act and Postsecondary Education Programs**

The Rehabilitation Act supports the informed choice of a student or youth with a disability receiving services under the VR program, with respect to, among other things, participation in programs offered by postsecondary education institutions, including comprehensive transition and postsecondary programs, the benefits of which may enhance the academic, career, and independent living skills of these individuals. Section 102(b)(3)(B) of the Rehabilitation Act and 34 C.F.R. § 361.52 require that VR agencies provide participants with the opportunity to exercise informed choice throughout the VR process, including making decisions related to employment goals, services and service providers, settings for employment and service provision, and methods for procuring services.

The exercise of informed choice involves communicating clearly, gathering and understanding information, setting goals, making decisions, and following through with decisions. Therefore, it is imperative that VR agencies inform applicants and recipients of VR services, including both

students with disabilities who are transitioning from programs under the responsibility of an educational agency to programs under the responsibility of the VR agency, and youth with disabilities, about opportunities to exercise informed choice when considering services and options available through postsecondary education institutions, including comprehensive transition and postsecondary education programs at IHEs. Such informed choice decisions must be reflected in the approved IPE that is signed by both the eligible individual with a disability and the VR counselor prior to the receipt of VR services.