



State of New Mexico | Public Education Department  
 Division of Vocational Rehabilitation  
 Manual of Operating Procedures (MOP)

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**DVR Overview**

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**1. DVR Overview**

Revised: 08/03

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**1.1. Agency Philosophy**

The Division of Vocational Rehabilitation (DVR) is a program that offers unique services to individuals with disabilities for the express purpose of assisting them in achieving competitive integrated employment. DVR is committed to providing quality and culturally sensitive services to all eligible New Mexicans, including typically underserved populations such as individuals in rural communities, tribal members, veterans, and those with significant or multiple disabilities. DVR is further committed to working collaboratively with Native American 121 Vocational Rehabilitation Programs to ensure that the needs of New Mexico's Native American population are met.

Vocational Rehabilitation (VR) services are provided with a focus on employment, and with an emphasis on quality services. Counseling and guidance are the primary services, with an emphasis on a partnership between the participant and the VR counselor, as well as the establishment of partnerships with Workforce Development Systems, community resources, tribal entities and employers. In order to serve as many individuals as possible, the DVR service delivery system also places an emphasis on utilizing its resources in an efficient manner.

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**1.1.1. Focus on Employment**

The primary focus of the Division of Vocational Rehabilitation is to assist individuals with disabilities in achieving an employment outcome. Individuals with disabilities are faced with barriers and obstacles unique to their particular situation. DVR's role is to assist the participant in addressing and reducing those barriers related to employment.

DVR is an eligibility-based program, which distinguishes it from entitlement programs.



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To qualify for services, participants must meet the eligibility criteria. This being the case, all services are provided on an individualized basis. Services are also provided in support of determining eligibility or in support of a vocationally related activity. For example, ancillary services such as physical or psychological restoration may be provided to enable participation in a vocational program. Transportation assistance may be provided to ensure that the participant can get to work, school, or other vocationally related activity.

Services will not be provided for reasons other than determining eligibility or supporting a vocational program. Diagnostic evaluations, for example, can only be provided to aid in the determination of eligibility or ineligibility. They cannot be provided just to determine a diagnosis or find out about a medical or psychological condition, unless the intent is specifically to obtain information for determining eligibility or for the development of an Individualized Plan for Employment (IPE). Once a participant is determined eligible, any service provided must be related to the achievement of the employment goal as outlined on the IPE.

**1.1.2. Quality Service Delivery**

The best measures of quality are participant satisfaction, appropriate service delivery, and the acquisition and retention of competitive integrated employment by the participant as evidenced by appropriate case documentation. In all phases of service delivery, participants are considered the primary customer of DVR services. As such, they are to be treated with dignity and respect at all times. This applies even in instances when an impasse may occur between the VR counselor (and / or other rehabilitation service team member) and the participant. DVR does have mechanisms for resolving an impasse including program manager reviews, administrative reviews, mediation, and Fair Hearing Hearings with an impartial Hearing Officer. If any of these avenues are pursued, the participant should continue to receive timely services as appropriate. There should also be no repercussions. In short, the VR service delivery team should maintain a high level of professionalism at all times.





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Quality service delivery also means timely service delivery from the outset of the participant's referral and application to DVR. Agency counselors have 60 days in which to determine eligibility (unless exceptional and unforeseen circumstances beyond the control of DVR warrant an extension of that time agreed to in writing by the participant) However, efforts should be made to expedite an eligibility determination in as timely a manner as possible. Ongoing involvement by the participant and/or her/his representative is necessary to facilitate timely service delivery.

DVR utilizes a client data system for streamlining and capturing essential case information.

**1.1.3. Counseling and Guidance: a Central Service**

The most important service that DVR provides is counseling and guidance. This service provides the forum for the VR counselor, and to a lesser degree, other members of the rehabilitation team to communicate agency policies, expectations, employment and career options, and to provide direction for the case.

It is important to establish a counseling relationship with the participant early on in order to foster a collaborative relationship. This begins at the time of the initial interview with the counselor or rehabilitation technician. Expectations should be established, and planning should begin. Initially the focus is on obtaining information in order to make an eligibility determination. The counseling and guidance relationship provides a mechanism for outlining the eligibility criteria and what will be necessary to make a determination. Employment planning should begin immediately to place an emphasis on what the overall intentions of DVR services will be. Consideration should be made as to whether the participant is eligible, and for what the participant is eligible. By keeping a specific focus on the employment outcome described in the individualized plan for employment (IPE), and the services and supports it will take to achieve it, the counselor and participant can avoid confusion and conflict.



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After a plan has been implemented in TWE, Service or in Post-Employment status, on-going counseling and guidance is critical to the success of the program and to keep a focus on the ultimate goal of achieving an employment outcome. While some programs require less of an interactive role such as when the participant is attending school, periodic counseling must take place to ensure that suitable progress is being made in the program and to ensure that any obstacles which may arise get addressed. For more immediate interactive activities such as job placement, intensive counseling and guidance is necessary to ensure suitable placement and job retention. When job retention services, such as job coaching services are provided in supported employment or other related programs, counselors should play an active and integral role in facilitating service delivery; even when community rehabilitation providers or Workforce Development System providers are providing the direct job coaching services. Periodic visits to the job site, frequent visits with the participant/representative, and interaction with the provider (in addition to reviewing progress reports) are necessary to guide the process and to ensure that a suitable vocational adjustment takes place.

**1.1.4. Partnership between the Participant and VR Counselor**

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A key factor to the success of a participant in achieving an employment outcome is his or her relationship with the VR counselor. Participation by both in all aspects of service delivery is necessary to create a productive partnership. From the participant's perspective, this involves making informed choices throughout his or her participation in the VR program. It also involves investment and commitment by the participant to become successful in achieving an employment outcome. Part of this process involves becoming independent and self-sufficient to the extent possible. The counselor's role is to facilitate decision-making and informed choice, to provide thorough information about policies and procedures, to assist in outlining vocational options, to provide information about available resources and vendors, and to provide vocational expertise. Effective communication is essential to the success of the partnership. In order to facilitate effective case management and meet the Agency's responsibilities, the counselor must utilize a mode of communication best suited for the participant.



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A partnership involves a shared commitment and mutual respect. Both parties should be committed to achieving a suitable employment outcome. The participant should be treated with respect, as should the counselor and rehabilitation team. While rehabilitation team members must maintain a high level of professionalism, participants are also expected to conduct themselves in a respectful manner. It is recognized that some disabling conditions can lead to behavioral issues that create challenges for interpersonal communication and collaboration. However, to the extent possible; participants are expected to treat their relationship with VR staff as a partnership. In instances where blatant abuse of DVR staff is evident, and disability factors have been taken into consideration (including those within and beyond the participant's control) staff can require a corrective course of action on the participant's part. The corrective course of action will be included as part of as part of the Individual Plan for Employment. For example, this could mean participation in therapy or related services. If the behavior is not corrected, and / or DVR staff are clearly endangered, case closure is considered an appropriate course of action.

*Note: For case closure to take place there must be clear evidence and documentation of the events leading up to the action and evidence of appropriate action to address behavioral problems.*

In instances where the behavior is beyond the participant's control, collaboration with other service delivery professionals should take place to evaluate the appropriateness of employment and to develop strategies for behavior management. In either instance, consideration must be given to the fact that the participant will ultimately be interacting with an employer, co-workers, and possibly customers. In some instances, it may be appropriate to close the case based on inability to correct behaviors impacting progress and ultimately employment in a competitive integrated work setting.

#### 1.1.5. Partnership with Community Resources and Employers

Part of the role of the DVR counselor and service delivery team is to forge partnerships with other community resources including Workforce Development Systems partners and employers. By developing community resources, the DVR service delivery team creates avenues for participants to access other needed resources. This also facilitates outreach activities to recruit more participants. In an era of shrinking resources, it is important to maximize use of outside resources to the extent possible. More importantly, collaboration with outside resources serves to benefits DVR participants. Obtaining and maintaining employment is but one aspect of the participant's life. Frequently, other services are needed to improve the chances of reaching a suitable employment outcome.

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DVR is mandated under the [Workforce Innovation and Opportunity Act](#) to partner with various other entities including the One-Stop Centers to streamline service delivery and avoid duplication of services. Other partners including school systems (to improve and expand VR services to students with disabilities), community rehabilitation providers as partners in the job placement of persons with disabilities, the medical community, etc. The DVR service delivery team has specialized expertise in assisting persons with disabilities in achieving an employment outcome and, as such, DVR should be marketed as a viable community resource.

Employers are the most important resource for DVR counselors. Without employers, employment outcomes cannot be achieved. DVR service delivery team members should always remain aware of the need to maintain a positive relationship with employers. This entails being sensitive to employer needs and satisfaction, maintaining a visible and positive image in the community, and acting as a resource. Participation in community activities, participation in business networks, conducting and / or participating in job fairs, participating in marketing activities, working cooperatively with other agencies geared towards job placement, and focused job development activities all serve in this capacity. Providing expertise or assisting in identifying resources for Americans with Disabilities Act issues such as job accommodations should also be considered a service for employers. In essence, employers are considered DVR's second customer. Recognizing employer needs and considering them as partners can only serve to enhance DVR's emphasis on assisting participant's with achieving employment outcomes.

**1.1.6. Efficient Use of Resources**

The New Mexico DVR program is committed to providing quality services and to serving as many eligible participants as possible. In order to accomplish this, service delivery staff must maintain a focus on utilizing financial resources efficiently. Tools to assist with this are the use of comparable benefits and the Participant Financial Contribution. Negotiation with participants is also recommended to ensure that costs of services are shared to the extent possible.

Negotiation with service providers must also take place. This does not imply that participants should not receive necessary services or that they should not have a choice in the types of services or the vendors of their choice. It does imply that staff should utilize the most cost-effective means of service delivery when possible and when it does not impede on specific service needs of the participant.



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When providing counseling and guidance and assisting with the development of an IPE, participants should also be provided only with those services that are necessary for the determination of eligibility or to identify VR needs of the participant for the achievement of an employment outcome.

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**1.2. Informed Participant Choice**

Informed choice refers to an ongoing process in which the individual with a disability and the counselor collaborate to gather and evaluate information that will be used by the individual to make informed choices about goals and services that will lead to an employment outcome. It is the vocational rehabilitation counselor's responsibility to serve as a facilitator, using his or her skills and knowledge of the vocational rehabilitation process to contribute to this partnership. The individual requesting the services brings his or her experiences with the implications of the disability and the knowledge of his or her strengths, abilities, and interests.

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**1.2.1. Policy Statement**

Each applicant and recipient of services must be informed, through appropriate modes of communication, about the opportunities to exercise informed choice throughout the VR process, including the availability of support services for individuals with cognitive impairments or others who require assistance in exercising informed choice.

Assistance, if requested, desired, or needed must be provided to applicants and recipients of services in exercising informed choice in making decisions related to the provision of assessment services. Assistance must also be provided to participants (referred to from this point forward as participants) in acquiring information that enables them to exercise informed choice in the development of their Individualized Plans for Employment (IPE's) with respect to the selection of the employment outcome, VR services and service providers, the employment setting as well as the settings in which services will be provided, and methods for procuring services.

The informed choice process essentially calls for cultivating a partnership between the applicants and recipients of services, or as appropriate, the participant's representative, and the VR counselor. This promotes a vested interest and involvement in the application, eligibility, IPE, and employment processes.



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**1.2.2. Requirements**

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While implementing informed choice, the participant and / or his or her representative are encouraged to take the lead in making choices about the VR services that they receive and the choice of their employment goal. The VR counselor assists the participant during the assessment process to discover the participant's strengths, resources, priorities, concerns, abilities, capabilities and interests. It is the VR counselor's responsibility to inform the participant about available options for developing the IPE, for exercising informed choice and to assure that the individual understands the options. The participant must participate in choosing the employment goal. The counselor acts as a resource in facilitating this process by outlining options, interpreting agency policies, educating, and informing of available resources. Once an IPE has been signed by both the participant and the VR counselor, the participant assumes the responsibilities identified in the IPE for implementing the decisions and achieving the employment outcome. The counselor provides guidance and monitors progress to assist in the process. The individual's strengths, resources, priorities, concerns, abilities, capabilities and informed choice are critical factors in the employment plan, in addition to the labor market and the individual's willingness to relocate in search of employment. Cost is not a determining factor in establishing an employment goal and the services related to that goal, however, cost efficient strategies must be used. These strategies must be consistent with comparable benefits and services requirements as well as the Participant Financial Contribution.

The participant or participant's representative must be provided with information necessary to make an informed choice about the specific vocational rehabilitation services, including the providers of those services that are needed to achieve the individual's employment outcome. This information must include, at a minimum, information relating to:

- Cost, accessibility, and duration of potential services;
- Consumer satisfaction with those services to the extent that information relating to consumer satisfaction is available;
- Qualifications of potential service providers as available and appropriate;
- Types of services offered by the potential providers;
- Degree to which services are provided in integrated settings; and
- Outcomes achieved by participants working with service providers, to the extent that such information is available.



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In providing or assisting the individual or the individual's representative in acquiring this information, the following methods or sources of information may be used:

- Lists of services and service providers;
- Periodic consumer satisfaction surveys and reports;
- Referrals to other consumers (with permission and signed release form), consumer groups, or disability advisory councils qualified to discuss the services or service providers;
- Relevant accreditation, certification, or other information relating to the qualifications of service providers; or
- Opportunities for individuals to visit or experience various work and service provider settings.

In instances where participants with cognitive or other disabilities who require assistance in exercising informed choice, the VR counselor must describe the support services available to facilitate the informed choice process through methods which can be adequately understood by the participant. Such support services include:

- Assessing the level of the disability need to effectively communicate and / or acquire other assistance as necessary
- Providing interpreter services as necessary throughout the participant's participation in the VR process.
- Providing guidance and technical assistance to the extent necessary to convey information about informed choices throughout the VR process.
- Providing the participant's representative, as appropriate, and / or guardian with information necessary to make an informed choice about the specific vocational rehabilitation services to be provided.
- Providing information to other service delivery staff such as Community Rehabilitation Provider staff, case managers, education officials, advocates, other interested parties or professionals as appropriate to facilitate informed decision making.
- Simplifying information for persons with cognitive impairments.
- Using multiple modes of communication and repetition (i.e. audio tapes) as appropriate.
- Scheduling a longer time period for meetings when appropriate.



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1.2.3. Procurement Methods

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To be fully engaged in the VR process, the individual must gather and use information to the extent possible, participate in planning and problem solving, make and implement decisions and seek or identify needed resources. The counselor works with the individual to build relationships and to align resources that will enable the individual to exercise informed choice and work toward the employment outcome. Such activity includes:

- Providing a listing of available vendors for particular services;
- Assisting participants by working with new service providers to become recognized State vendors;
- Providing a description of the State Procurement Code requirements as they apply to DVR and the participant when selecting goods or services;
- Utilizing the most flexible and least restrictive procurement methods available on an individualized basis and identifying when another vendor may be more appropriate;

Informing the participant and / or representative of expected time frames for procuring goods or services.

- Providing a description of what constitutes comparable benefits as related to specific services;
- Processing authorizations and payments in as timely a manner as possible.
- Informing the participant of requirement to have an authorization in place prior to provision of services.





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**1.2.4. Guidelines**

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**1.2.4.1. Exercising Informed Choice**

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Exercising informed choice and taking more responsibility in the VR process makes demands on individuals with disabilities and may also make demands on other people in their lives.

The participant is encouraged to take a lead role in the selection of the employment goal, services necessary to achieve the goal, service providers and procurement methods. Effective implementation of informed choice depends on working jointly with the VR counselor. The VR counselor brings to the partnership knowledge of rehabilitation and the VR process, an understanding of informed choice, information regarding rehabilitation resources and current labor market trends, and the experience of assisting other individuals through the VR process.

The participant brings to the partnership information on the implications of the disability and on his or her strengths, values, resources, priorities, concerns, abilities and capabilities. The participant is responsible for following through with agreed upon services and is a partner in seeking out comparable benefits and services. For example, the participant is responsible for researching available financial aid and applying for financial aid when entering into or participating in a training program when he/she has the ability to do so.

**1.2.4.2. IPE Process**

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During the IPE process, the participant and / or the representative have the option of initiating the process by selecting the employment goal, services, and vendors. The counselor guides the process, but must approve and sign the IPE.

As part of the process of selecting an employment goal, the counselor should conduct a thorough assessment of the requested goal. This requires case development and exploration and does not necessarily require an immediate approval or denial of any requests.

As part of the process in selecting the employment goal, the participant should be assisted with options that will provide them with the same opportunities as persons who do not have disabilities. Such options should be sufficient and of a nature which will enable the participant to compete for employment opportunities with anyone else.



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Another factor in facilitating informed choice that should be taken into consideration is the participant's potential for maximizing employment in terms of obtaining meaningful employment, which is not necessarily the same as premium employment. The counselor must work with the participant to assess the factors related to strengths, resources, priorities, concerns, abilities, and capabilities. This assessment must evaluate the participant's ability to achieve meaningful employment with transferable skills, training, retraining, or advanced training.

When the participant has the necessary skills and background to enter employment that is clearly consistent with abilities and aptitudes and would not result in underemployment, then support for training or advanced training would not be appropriate. This means that a request for a specific type of training such as attendance at graduate school requires a thorough assessment to determine the appropriateness of the request (in some instances it may be appropriate; however, requests of this nature do not have to automatically be honored, and may require managerial or administrative review and approval).

If the assessment reveals that the participant can achieve his or her employment goal without the receipt of advanced training, then a denial of the request for advanced training would be appropriate.

### 1.3. Vocational Rehabilitation Process

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#### 1.3.1. Legal Basis

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Legal Authority for VR programs: The Rehabilitation Act of 1973 as amended, 29 U.S.C.A. **(29 U.S.C. 701 et seq)**, 34 C.F.R. parts 361 through 397 Section 22-14-7 at seq., NMSA 1978.

#### 1.3.2. Non-Discrimination

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The New Mexico State Board of Education, Department of Education, Division of Vocational Rehabilitation does not discriminate with regard to duration of residence, race, culture, ancestry, color, national origin, sex, age, religion or impairment in their programs or hiring practices.



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1.3.3. Status Overview

The VR process is a goal-oriented sequence of services provided on an individualized basis to assist participants with disabilities in achieving an employment outcome consistent with the individual's unique strengths resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

The rehabilitation process is broken down into "Participant Statuses" which are listed below, along with identification of possible services available to participants while in the particular status.

Status	Description	Possible Service
Potentially Eligible Students with disabilities	Pre-employment transition services	Job Exploration Counseling Work based learning experiences Counseling on opportunities for enrollment in comprehensive transition or post-secondary education program Work Readiness Training Instruction in Self-Advocacy
Applicant	Receipt of signed application.	Intake, diagnostics, and evaluation necessary to make an eligibility determination.
*Trial Work Experiences	Completion of Trial Work Experience Plan prior to any determination that an individual with a disability is unable to benefit from VR services in terms of employment, due to the severity of the individual's disability,	Evaluation within a realistic work setting with proper supports. Potential for additional diagnostics.
Eligible	Determination of eligibility for VR program.	Comprehensive diagnostics and assessments for determining eligibility and priority for services.
Delayed	Placed on a waiting list due to a closed category in Order of Selection.	One-time information and referral
Service	IPE written and approved.	Assessments for determining rehabilitation needs, joint planning towards IPE development and the provision of VR services identified in IPE.

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Status	Description	Possible Service
Potentially Eligible Students with disabilities	Pre-employment transition services	Job Exploration Counseling  Work based learning experiences  Counseling on opportunities for enrollment in comprehensive transition or post-secondary education program  Work Readiness Training  Instruction in Self-Advocacy
Employed	Participant secures employment outcome.	
Closed - Rehabilitated	Case closure following 90 days of successful employment.	
Closed - Other Than Rehabilitated	Case closure following a decision that participant is ineligible or is unable or opts not to reach an employment outcome.	
Post-Employment Services	Post-Employment Services aimed at assisting the participant to maintain, regain or advance in employment.	Provision of VR services identified in IPE.

**1.3.4. Case Status Movement**

Below is a chart indicating to which statuses a participant may be moved from the current status, if appropriate action or documentation has preceded the status change.

Status	May Be Moved To	CLIENT DATA SYSTEM Data pages
Potentially Eligible	Applicant	Intake, Education, Disability
	Applicant	Personal Information, Application, Application Documentation, Disability Browse, Special Programs
Applicant	Eligible TWE Closed-Ineligible Closed-Other Than Rehabilitated	Eligibility Determination TWE Plan Closure
Eligible	Service Delayed (OOS) Closed-Other Than Rehabilitated	Plan Browse Closure

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Status	May Be Moved To	CLIENT DATA SYSTEM Data pages
Potentially Eligible	Applicant	Intake, Education, Disability
Delayed (Closed OOS Priority Category)	Service Closed-Other Than Rehabilitated	Plan Browse Closure
Service	Employed Closed-Other Than Rehabilitated	Employment Browse closure
Employed	Closed - Rehabilitated Closed - Other Than Rehabilitated  Supported Employment Achieved	Closure Closure
Closed - Rehabilitated	PES	Post-Employment Browse
Closed - Other Than Rehabilitated		Closure
	PES Closure	PES Plan / Closure Section #5

**1.4. Definitions**

**Potentially Eligible**

All students with disabilities who satisfy the definition of a student with a disability (34CFR361.5(c)(51), regardless of whether they have applied, and been determined eligible for VR program

**1.4.1. Applicant**

An individual who has completed and signed an application for vocational rehabilitation services or has otherwise requested services from DVR.

**1.4.2. Application Status**

Status within the vocational rehabilitation process in which the participating individual has applied for VR services and is awaiting eligibility determination.



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**1.4.3. Appropriate Mode of Communication**

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Specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed-captioned videos, specialized telecommunications services and audio recordings, brailled and large print materials, materials in electronic formats, augmentative communication devices, graphic presentations and simple language materials.

**1.4.4. CLIENT DATA SYSTEM**

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The Automated case management system used by DVR staff for participant data management and storage.

**Potentially Eligible**

Pre-Employment Transition Services provided to Students with Disabilities which are: Job Exploration Counseling, Work based learning experiences, Counseling on opportunities for enrollment in comprehensive transition or post-secondary education program, Work Readiness Training, and Instruction in Self-Advocacy.

**1.4.5. SERVICE STATUS**

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Status within the vocational rehabilitation process in which the participant has signed an approved Individualized Plan for Employment (IPE) and is actively engaged in service(s) aimed at achieving the employment goal identified in the IPE.

**1.4.6. Clear and Convincing Evidence**

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Clear and convincing evidence means a high degree of certainty that an individual is incapable of benefiting from services in terms of an employment outcome. Clear means unequivocal; free from obscurity or ambiguity. Generally, existing information will not provide clear and convincing evidence that an employment outcome is not achievable. Clear and convincing evidence might include:



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- a description of assessments, including situational assessments and supported employment assessments, from service providers who have concluded that they would be unable to meet the individual's vocational needs due to the severity of the individual's disability. In addition, the involvement of the participant in "in-house" assessments - testing, homework assignments, participation in relevant group activities - may assist in making such a determination.
- if appropriate, a functional assessment of skill development activities with any necessary supports (including assistive technology) in real life settings.

**1.4.7. Closed Other than Rehabilitated**

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Status within the vocational rehabilitation process in which the participant has either:

- applied for VR services but the case was closed prior to an eligibility determination;
- was determined eligible for VR services and the case was closed prior to development of an Individualized Plan for Employment (IPE);
- received services through an approved IPE and their case was closed without achieving an employment outcome.

**1.4.8. Closed Successfully Rehabilitated**

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Status within the vocational rehabilitation process in which the participant received services through an approved IPE, reached his or her employment goal, achieved stability on the job and maintained employment for 90 days.

**1.4.9. Comparable Services and Benefits**

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Services and benefits that are provided or paid for, in whole or in part, by other Federal, State, or local public agencies, by health insurance, or by employee benefits that are available to the individual at the time needed to ensure the progress of achieving the employment outcome identified in the IPE and that is commensurate to the services that the individual would otherwise receive from DVR. Comparable benefits do not include awards and scholarships based on merit. Exempt services include:

- Assessments for determining eligibility and VR needs

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- Counseling and guidance, including information and support services to assist an individual in exercising informed choice
- Referral and other services to secure needed services from other agencies
- Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services
- Post-employment services.

**1.4.10. Competitive Integrated Employment**

Work that is in the competitive labor market that is performed on a full-time or part-time basis, including self-employment for which an individual for which an individual is compensated at or above the Federal, State, or local minimum wage, whichever is higher, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; or in the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities, and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and is eligible for the level of benefits provided to other employees; that is at a location where the employee interacts with other persons who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that individuals who are not individuals with disabilities and who are in comparable positions interact with other persons; and that, as appropriate, present opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.





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**1.4.11. Customized Employment**

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Competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the strengths, needs, and interests of the individual with a significant disability, is designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer, and is carried out through flexible strategies, such as 1) job exploration by the individual; 2) working with an employer to facilitate placement, including customizing a job description based on current employer needs or on previously unidentified and unmet employer needs; developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location; representation by a professional chosen by the individual, or self-representation of the individual, in working with an employer to facilitate placement; and providing services and supports at the job location.

**1.4.12. Eligible Status**

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Status within the vocational rehabilitation process in which the participant has been determined eligible for VR services by a qualified VR Counselor and is in the process of developing an Individualized Plan for Employment.

**1.4.13. Employed Status**

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Status within the vocational rehabilitation process in which the participant has reached an appropriate employment goal following receipt of VR services.

**1.4.14. Employment Outcomes**

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Full-time or part-time competitive employment in the integrated labor market, supported employment, or any other type of employment in a competitive integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.



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**1.4.15. Extended Services**

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Ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in employment and that are provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received by DVR after an individual has made the transition from support provided by DVR. Also referred to as long-term support services.

For Youth with most significantly disabilities, ages 14 to 24, extended services may be provided for this population by DVR for a period not to exceed four years, or until the youth turns 25 years of age, whichever occurs first.

**1.4.16. Extreme Medical Risk**

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Probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously.

**1.4.17. Fair Hearing**

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Formal procedure as part of the appeal process in which an impartial hearing officer is appointed to render a determination on disputed issues between the participant and DVR; based on agency and participant evidence.

**1.4.18. Family Member**

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For the purposes of receiving vocational rehabilitation services means an individual who either is a relative or guardian of an applicant or eligible participant, or lives in the same household or who has a substantial interest in the well-being of the participant and whose receipt of vocational rehabilitation services is necessary to enable the applicant or participant to achieve an employment outcome.

**1.4.19. Functional Limitations**

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Limitations imposed by an impairment that impedes or limits an individual in one or more area of his or her physical or mental functioning.



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**1.4.20. Individual Education Plan**

---

Individualized plan developed by the public school systems for a special education student which identifies educational goals, objectives and services to be provided to the student. When a student reaches age 14, his or her IEP should also include a transition plan that addresses services and support focused towards post-school outcomes.

**1.4.21. Individualized Plan for Employment**

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Written instrument utilized to identify, coordinate and implement the participant's employment goal, services and vendors, responsibilities, time frames and costs.

**1.4.22. Individual with a Disability**

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An individual who has a physical or mental impairment that results in a substantial impediment to employment, and who can benefit in terms of an employment outcome from the provision of VR services.

**1.4.23. Individual with a Most Significant Disability**

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An individual who has a severe physical or mental impairment that:

1. Impedes the individual's functional capacities in three or more areas (such as mobility, communication, self-care, self-direction, interpersonal skills, cognitive abilities, or work tolerance or attendant factors) in terms of an employment outcome, and
2. whose vocational rehabilitation can be expected to require multiple and intensive vocational rehabilitation services over an extended period of time in order to result in an employment outcome.

**1.4.24. Individual with a Significant Disability**

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An individual who has a severe physical or mental impairment that:

1. seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and



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2. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.

**1.4.25. Individual's Representative**

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Any representative chosen by an applicant or participant, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual's representative.

**1.4.26. Integrated Setting**

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1. With respect to the provision of services:

A setting typically found in the community in which applicants or participants interact with non-disabled individuals other than non-disabled individuals who are providing rehabilitation services

2. With respect to an employment outcome:

A setting typically found in the community in which applicants or participants interact with non-disabled individuals who are providing services to those applicants or participants, to the same extent that non-disabled individuals in comparable positions interact with other persons.

**1.4.27. Local Workforce Development Board**

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A local board, as defined in section 3 of the Workforce Innovation and Opportunity Act. (See 20 CFR 679.320)

**1.4.28. Maintenance**

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Monetary support provided to an individual for expenses such as food, and shelter, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an IPE.



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**1.4.29. Mediation**

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Process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies.

**1.4.30. Personal Assistance Services**

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Range of services provided by one or more persons designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability. The services must be designed to increase the individual's control in life and ability to perform everyday activities on or off the job. The services must be necessary to the achievement of an employment outcome and may be provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising and directing personal assistance services.

**1.4.31. Post-Employment Services**

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One or more vocational rehabilitation services that are provided subsequent to the achievement of an employment outcome and that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

**1.4.32. Post-Employment Status**

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Status within the vocational rehabilitation process in which a participant who was previously closed successfully rehabilitated accesses additional VR services aimed at maintaining, regaining or advancing within employment.

**1.4.33. Pre-Employment Transition Services**

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Services provided by DVR or in collaboration with the local educational agency to students with disabilities who are eligible or potentially eligible for these services.

Required activities include:

- Job Exploration Counseling;



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- Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), provided in integrated environment in the community to the maximum extent possible;
- Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
- Workplace readiness training to develop social skills and independent living; and
- Instruction in Self-advocacy.

**Coordinated Activities:**

- Attending individualized education program meetings for students with disabilities, when invited;
- 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;
- Working with schools, including those carrying out activities under section 614(d) of the IDEA, to coordinate and ensure the provision of pre-employment transition services;



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**1.4.34. Authorized Activities**

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When invited, attending person-centered planning meetings for individuals receiving services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); **Authorized activities** include: implementation of effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces; developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently, participate in postsecondary educational experiences, and advance in, obtain and retain competitive integrated employment; providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities; disseminating information about innovative, effective, and efficient approaches to achieve the goals of this section; coordinating activities with transition services provided by local educational agencies under the Individuals With Disabilities Education Act (20 U.S.C. 1400 et seq.); applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel, in order to better achieve the goals of this section; developing model transition demonstration projects; establishing or supporting multistate or regional partnerships involving states, local educational agencies, designated state units, developmental disabilities agencies, private businesses, or other participants to achieve the goal of this section; and disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved and underserved populations.

**1.4.35. Reasonable Accommodation**

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Modification or an adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equal to those of non-disabled employees.

**1.4.36. Rehabilitation Engineering**

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Systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communication, hearing, vision and cognition, and in activities associated with employment, independent living, education, and integration into the community.



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**1.4.37. Rehabilitation Technology**

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Systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

**1.4.38. Student with a Disability**

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An individual with a disability in a secondary, postsecondary, or other recognized education program who

- is not younger than age 14; and
- not older than age 21; and
- is receiving services under the Individuals with Education Act (IDEA) or is a student who is an individual with a disability for purposes of section 504 of the Rehabilitation Act of 1973 as amended.

**1.4.39. Substantial impediment to employment**

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A physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication, and other related factors) which hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual's abilities and capabilities.

**1.4.40. Substantially Limits**

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In relation to the impairment, having a substantial consequence that is not temporary or easily ameliorated.





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**1.4.41. Supported Employment**

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Competitive integrated employment, including customized employment, that is individualized and customized consistent with the strengths, abilities, interests, and informed choice of the individuals involved, or individuals with the most significant disabilities for whom competitive integrated employment has not historically occurred; or for whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and who, because of the nature and severity of their disability, need intensive supported employment services and extended services in order to perform the work involved.

**1.4.42. Supported Employment Services**

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On-going support services, including customized employment, needed to support and maintain an individual with a most significant disability, including youth with a most significant disability, in supported employment, that are provided singly or in combination and are organized and made available in such a way as to assist an participant to achieve competitive integrated employment; are based on a determination of the needs of an participant as specified in an individualized plan for employment; and are provided by the designated State unit for a period of not more than 24 months, except that period may be extended, if necessary, in order to achieve the employment outcome identified in the individualized plan for employment.

**1.4.43. Temporary or Easily Ameliorated**

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A condition which is expected to last for a limited time only or to be corrected, either partially or totally, by an identified treatment, with little or no residual effects on functioning; an impairment for which the only service needed is payment of medical services.

**1.4.44. Transferable Skills**

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Skills and abilities with multiple applications that have been acquired through past work or life experiences. Examples may include but are not limited to interpersonal skills, communication skills and self-management skills.



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**1.4.45. Transportation**

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Travel and related expenses which are necessary to enable an applicant or participant to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation vehicles and systems.

**1.4.46. Youth with a Disability**

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An individual with a disability who is not younger than age 14, and older than 24 years of age, and not a high school student or associated with a transition program.

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Referral / Potentially Eligible Status/Applicant Status

## 2. Referral / Potentially Eligible Status/Applicant Status

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### 2.1. Referral

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#### 2.1.1. Policy Statement

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The New Mexico Division of Vocational Rehabilitation has established standards for the prompt and equitable handling of referrals of individuals for vocational rehabilitation services, including referrals made through the Workforce service delivery systems. Referrals shall be tracked and monitored as appropriate to maintain adequate documentation and ensure timely follow up. Efforts to contact all referrals will be made in a timely and appropriate manner as outlined below.

#### 2.1.2. Definition of a Referral

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A referral is an individual who has been referred to DVR by other agencies, organizations or individuals and from whom the following information has been obtained:

- Name
- Means by which to contact the individual (address and/or phone #)

Referrals should be accepted if:

- the individual is available for pre-employment transition services, transition services or VR services
- referral information indicates the individual may be potentially eligible for pre-employment transition services or eligible for VR services

*Note: Institutionalized referrals shall be accepted if they are available to participate in the rehabilitation process and employment. Generally, notification of a discharge date from the institution, or discharge plan, which will allow for active participation by the individual, shall be required.*



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**Referral / Potentially Eligible Status/Applicant Status**

**2.1.3. Tracking in CLIENT DATA SYSTEM**

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The CLIENT DATA SYSTEM Referral data page allows tracking of all referred individuals which includes those who proceed to Potentially Eligible Status or Applicant Status.

**2.1.4. Procedures**

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A referring agency or individual can submit referrals via NMDVR's online (<http://www.dvr.state.nm.us>) referral application. The link to the referral application is on the NMDVR website. Referrals will be accepted via phone, mail, email, fax, initial contact, etc.

Office staff has 48 hours to respond to the new referral. Within that period, staff will:

Review AWARE Referral Module to identify if the individual referred, already has an open referral. (If the referral is a duplicate, staff will contact referral for clarification)

Verify online referral (this moves the data from Online Referral Application into AWARE Referral Module)

Contact referral to provide orientation date and time.

If a self-referral is completed online, the individual is required to indicate if they are inquiring information or if they are requesting application. If an individual is only request information, it will be treated as a referral. If the individual indicates they are requesting an application, it will be expedited as an application and the 60 days to complete application will begin.



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Referral / Potentially Eligible Status/Applicant Status

- ~~• Within two working days of receipt of referral, contact the participant with an appointment date and time. Best practice is to provide an appointment date and time at initial contact.~~
- ~~• Provide information and explanation of eligibility criteria and VR program~~
- ~~• Complete Participant Information Client Information Sheet~~
- ~~• Complete CLIENT DATA SYSTEM Referral data page~~
- ~~• Document the "Reasonable Effort to contact" and outcome of referral in the comment section of the referral data page~~

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#### 2.1.5. Reasonable Efforts to Contact

Reasonable efforts to contact a referral should be made within two working days of receipt of the referral by telephone, letter or personal visit. The purpose of your contact is to ascertain the individual's interest in applying for DVR services and schedule the initial interview if indicated. Contacts should be via the mode of communication best suited for the individual based on the available referral information and documented. For example, if there is a question about the referral's ability to fully understand written language, a phone contact or personal visit should be made.

Home visits should be approached with common sense and caution. An alternative meeting location will be used whenever possible. If a visit to a participant's home is required, two staff members will make the visit and take an agency-issued cell phone while on the visit.



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## **2.2. Potentially Eligible Status**

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### **2.2.1. Policy Statement**

The New Mexico Division of Vocational Rehabilitation commits to a process which informs and provides potentially eligible students with disability(ies) Pre-Employment Transition Services.

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### **2.2.2. Definition**

A potentially eligible participant for VR services (all students with disabilities, including those who have not applied or have been determined eligible for VR services).

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### **2.2.3. Procedures**

The purpose of Potentially Eligible Status is to provide students with disability(ies) with Pre-Employment Transition Services.

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## **2.3. Applicant Status**

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### **2.3.1. Policy Statement**

The New Mexico Division of Vocational Rehabilitation commits to a process which informs referrals for VR services of application requirements and gathers information necessary to initiate an assessment for determining eligibility in a timely and equitable manner. All applicants are entitled to participate in the assessment for determining eligibility, if supporting documentation is unavailable, and assessment is necessary for determining eligibility.

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### **2.3.2. Definition**

An applicant is an individual who has completed and signed an application for vocational rehabilitation services or has completed a common intake application form in a one-stop center requesting VR services; or has otherwise requested vocational rehabilitation services from DVR. The application or request for services must be signed and dated by the participant or participant's representative and entered in the case management system.

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**2.3.3. Procedures**

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**2.3.3.1. Time Limitations**

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The purpose of Applicant Status is to gather diagnostic information sufficient to make a determination of eligibility. Though planning activity may take place in Applicant Status, the emphasis must be on making an eligibility determination in a timely manner. The counselor must determine whether an individual is eligible for vocational rehabilitation services within 60 DAYS after the individual has submitted a signed application for services **unless**:

- the counselor determines, in consultation with the participant, that exceptional and unforeseen circumstances beyond the control of the counselor preclude making an eligibility determination within 60 days, and the participant agrees to a specific extension of time by signing an Eligibility Determination Extension documented in the case services record; or,
- the counselor determines, in consultation with the participant, that a specific extension of time is required to involve the participant in trial work experiences in order to determine whether the individual is incapable of benefiting from VR services due to the severity of his or her disability, and prior to determining ineligibility.

**2.3.3.2. Initial Interview**

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Upon receipt of a referral or signed application, an initial interview should be scheduled as soon as possible to assure compliance with the 60-day eligibility time limit. A counselor or rehabilitation technician must conduct the initial interview. During this interview as well as in all communication with the participant, it is critical to utilize the mode of communication which most effectively facilitates communication. Interpreter services should be provided if identified as a need either through the Client Information Sheet or through contact with the applicant or referral source. During the initial interview and throughout the VR process, it is essential to assess the communication process and participant's comprehension and adjust your communication style, use of interpreters or other appropriate modes of communication as necessary. The purpose of the initial interview is to:

- Exchange information with the participant,
- Establish a basis for the participant/counselor relationship,

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- Provide a thorough review regarding DVR's process, procedures, and expectations;
- Start the diagnostic process needed to determine eligibility.

During the initial interview, document to the extent necessary, an appraisal of the individual's current functioning in the following areas:

- Medical - to include reported diagnosis, functional limitations, medications, surgeries.
- Social - to include family and other support network.
- Intellectual - to include level of functioning.
- Financial.
- Other issues affecting the participant's vocational rehabilitation.
- Psychological - to include reported diagnosis, functional limitations, medications, hospitalizations, etc.
- Education - to include levels of attainment and areas of study.
- Vocational - to include full work history, tasks performed, reasons for leaving jobs, transferable skills, etc.
- Independent living.

During the initial interview, the following forms should be reviewed with the participant and completed as follows:

- Application for VR services - obtain applicant and / or guardian signature as appropriate on DVR Application for Services if this has not yet occurred. The applicant signature date on the signed form is the application date used as the starting point for the 60-day eligibility timeline.
- Participant Rights and Responsibilities Handout - review the handout sheet with the applicant and / or guardian as appropriate. Obtain signature(s) of the applicant and / or guardian and provide them with a copy of the handout. A copy of the signed form must be placed in the hard file.
- Release of Information forms - while all efforts should be made to have the applicant gather existing information to document the reported disability, an alternative to gathering existing records is to have the applicant or guardian sign and date a release of information form. The release must be completed prior to obtaining the signature with copies of the forms retained in the case file.

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During the initial interview, set short-term "homework" tasks for the applicant as appropriate given the reported impairment, to expedite the eligibility determination process and assess motivation. Examples would include, attendance at appointments with the counselor or other diagnostic appointments, exploration of vocational interests, contacting educational institutions or employers as appropriate, contacting other service providers such as the Workforce Connection Centers. Make the participant aware of the 60-day requirement for an eligibility decision and, as appropriate, his or her responsibilities in helping to expedite the process including providing verification of SSDI/SSI eligibility. Emphasizing job placement issues during the initial contacts with the applicant during the initial contacts helps to focus attention on the real mission of the agency and not on the immediate psycho-social service needs of the individual.

**2.3.3.3. Guidelines for Assessment**

- A. Counselor determination is a critical factor in all issues pertaining to eligibility, particularly in determining, in consultation with the participant, the nature and scope of information necessary to determine eligibility and what assessment activities are needed that will provide such information.
- B. The law emphasizes the use of existing information that is current as appropriate considering the nature of the disability. The best way to determine the sufficiency of existing information is in relation to critical case questions formulated by the counselor when considering all eligibility criteria. When existing information is not sufficient, appropriate assessment activities must be undertaken which will provide the necessary additional data.
- C. When arranging for additional assessments, the counselor must review the need for such assessments.
- D. During the assessment period, the Participant Financial Contribution does not apply and the participant is exempt from the determination of comparable benefits and services. Comparable services and benefits may be utilized voluntarily by the applicant. Use of these benefits or services cannot be mandated by DVR during the assessment period.
- E. Diagnostics assessments provided during this phase of the rehabilitation process are for the purpose of gathering data related to eligibility determination.

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**2.3.4. Scope of Diagnostic Study**

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**2.3.4.1. Diagnostics for Eligibility**

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Impairments must be substantiated in written form by a Medical Doctor, Doctor of Osteopathy, Physician's Assistant, Nurse Practitioner or other professional licensed or certified in the diagnosis of the impairment to include the following:

- A. Optometrist for eye infractions
- B. Certified Psychologist to diagnose mental health/emotional disorders
- C. Audiologist for hearing impairments
- D. Educational Diagnostician for learning disabilities or development disabilities
- E. Licensed Professional Clinical Counselor and Independent Social Workers for mental health diagnosis.

**2.3.4.2. Other Diagnostics**

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Reports from Licensed Professional Clinical Counselors, Independent Social Workers and Licensed Substance Abuse Counselors should be sought if the applicant is currently receiving treatment from this source. These reports should be considered in the overall assessment of the applicant.

- If the impairment is stable and non-progressive, existing data is generally sufficient for substantiating the impairment. Existing reports should be utilized whenever possible, however, when the impairment is not stabilized or is progressive, current reports should be obtained.
- If existing reports are not available or sufficient, the participant's own physician or physician of choice should be utilized whenever possible.
- Further diagnostics needed to substantiate or clarify functional limitations may be obtained, as appropriate, from individuals who are licensed or qualified according to statewide professional standards to include:
  - Speech, occupational or physical therapists
  - Vocational evaluators in private practice or in a facility

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- Rehabilitation engineer to assess a participant's potential to benefit from Rehabilitation engineering services
- Educational Diagnostician's reports, school transcripts, or other school records
- Licensed Professional Clinical Counselors
- Independent Social Workers
- Licensed Substance Abuse Counselors
- Other diagnostics which lend information regarding the individual's level of functioning

Specialist exams should be utilized as described below:

- Visual Impairments
  - Ophthalmologist if eye disease or pathology is known or suspected;
  - Optometrist can be used for initial screening or for refraction errors.
- Hearing Impairments
  - Otolaryngologist (ENT) if on-going ear pathology is known or suspected;
  - Audiologist may be used for hearing evaluations.
- Learning Disability/Developmental Disability
  - Psychologist certified by the State Board of Psychological Examiners;
  - Clinical Psychologist under the State Personnel Board;
  - Educational Diagnostician certified by the State Department of Education;
  - Neuropsychologist when a learning disability is questionable.
- Mental or Emotional Disorders
  - Psychiatrist;
  - Psychologist certified by the State Board of Psychological Examiners;

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- Clinical Psychologist under the State Personnel Board;
- Licensed Independent Social Worker; or Licensed Professional Clinical Counselor.

**2.3.4.3. Hospitalization for Diagnostics**

If hospitalization is requested by a physician for the purpose of diagnostic study, medical and supervisory consultation shall be obtained.

**2.3.5. Eligibility Determination Extension**

An Eligibility Determination Extension is reserved for exceptional and unforeseen circumstances that are clearly beyond the counselor's ability to control and must be agreed to by the counselor and participant. The reasons will usually pertain to one of the following:

- Applicant: Applicant's failure to keep appointments, failure to participate in services, unavailability, etc.
- Agency: Assessment activity has been appropriate; however, the information does not sufficiently answer case questions pertaining to eligibility and additional time is required to generate the information.
- Documentation: Inability to obtain medical and / or psychological records in a timely manner when multiple impairments exist or the disability(ies) are of a complicated nature.

*Note: Be sure to clearly document in the CLIENT DATA SYSTEM Case Notes data page, what questions pertaining to eligibility need to be answered and what actions are planned to answer the questions.*

When any of the above reasons exist for not being able to make an eligibility determination, explain the circumstances to the applicant and give the option of proceeding with an Eligibility Determination Extension or having the case closed. Before seeking the specific extension of time, the counselor should review the case to see if an eligibility determination is feasible.



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When counselor/team failure is the reason for not being able to make an eligibility determination within the allowed sixty (60) day time frame from submission of application, explain the circumstances to the participant and inquire as to their willingness to proceed with an Eligibility Determination Extension. If the participant refuses, then the counselor must proceed as rapidly as possible in overtime to make an eligibility decision. Exceeding the 60-day time frame in this manner is in violation of Federal law for time in status.

Eligibility Determination Extensions must be printed, signed by the counselor and participant, and filed in the case file

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#### **2.4. Trial Work Experience**

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##### **2.4.1. Policy Statement**

Prior to determining that an applicant is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of the disability, the counselor must conduct an exploration of the individual's abilities, capabilities and capacity to perform in realistic work situations. There must be clear and convincing evidence to support a determination of ineligibility. This is assessed through Trial Work Experiences.

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##### **2.4.2. Definition**

Trial Work Experiences (TWE) are placements within a realistic work setting which allow for exploration and assessment of the participant's abilities, capabilities and capacity to perform in work situations. Possible examples of TWE placements include structured volunteer work, situational work assessments with proper supports, supported employment, on-the-job training, internships, job shadowing and other experiences using realistic work settings. Trial Work Experiences must be of sufficient variety and over a sufficient period of time for the counselor to make an eligibility determination. Trial Work is an exploration of the individual's abilities, capabilities, and capacity to perform in work situations, which shall be assessed periodically during trial work experiences, including experiences in which the individual is provided appropriate supports and training.



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**2.4.3. Requirements**

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- Are provided only to applicants with a significant disability or most significant disability in situations when the counselor is unable to determine if he or she can benefit from VR services in terms of an employment outcome and is considering an ineligibility determination. The provision of trial work experiences will enable the counselor to make such a determination.
- Must be set in the most integrated settings possible, consistent with informed choice and the rehabilitation needs of the applicant.
- Must allow for appropriate supports to accommodate the rehabilitation needs of the applicant during the trial work experiences.
- Shall include VR services, including support services, necessary to determine the participant's ability to benefit from VR services in terms of an employment outcome.
- Shall include, to the degree needed, an appraisal of the applicant's work behaviors and identification of services required to acquire work skills and to develop work attitudes, work habits, work tolerance and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the participant.
- During the TWE, the participant is exempt from the determination of comparable benefits and services. Comparable services and benefits may be utilized voluntarily by the applicant but use of these services and benefits cannot be mandated by DVR during the assessment period.



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**2.4.4. Procedures**

Prior to the expiration of the allowed 60 days in applicant Status and upon determination that Trial Work Experiences are required, the counselor should:

- A. Discuss with the participant the reasons for trial work experiences.
- B. Jointly develop a PLAN with the participant CLIENT DATA SYSTEM. Within the plan, adequately describe the rationale for requiring TWE, identify the employment setting or potential employment settings if site not yet determined and the services identified to assess the applicant's ability to benefit from vocational rehabilitation services.
- C. Apply the Participant Financial Contribution for non-assessment services provided through the TWE plan, i.e. child care, transportation, clothing, etc. The Participant Financial Contribution is not to be applied to services directly related to assessment of the participant's abilities to work, i.e. restoration services, job placement/coaching; OJT associated costs, etc.
- D. Obtain necessary approval from Area Program Manager.
- E. Obtain participant's signature on the plan and initiate the provision of services as soon as possible.
- F. Review the TWE plan monthly. The counselor should make clear what the critical case questions are pertaining to Eligibility and terminate this phase of service provision as soon as it is determined that the questions have been answered.



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**2.4.5. CLIENT DATA SYSTEM Documentation**

- A. The counselor must establish that the participant is significantly disabled or most significantly disabled in the client data system.
- B. Complete a Trial Work Experience Plan providing a description of the purpose of the plan, identifying the employment setting if identified at time of plan development and primary support services required and documenting the criteria for evaluating the participant's progress.
- C. As appropriate, the Trial Work Experiences Plan must be submitted to the Area Program Manager for approval.
- D. Signatures of the counselor, participant or participant's representative, as appropriate, must be obtained. One copy of the plan is retained for the case file and the other is provided to the participant. Once all signatures are obtained, the start date may be entered into the client data system and planned services can be initiated.

**2.4.6. Advancing from Trial Work Experience**

To Status:	When:
Closure	<ul style="list-style-type: none"> <li>A. Assessments indicate, by clear and convincing evidence that the applicant is unable to benefit from VR services in terms of an employment outcome, and is, therefore, ineligible.</li> <li>B. Applicant requests case closure, moves or becomes otherwise unavailable to participant in the planned TWE.</li> </ul>
Eligibility	Assessments indicate that the applicant can benefit from VR services in terms of an employment outcome and the applicant is, therefore, eligible. Complete the Eligibility data page and begin the IPE planning process.





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### **3. Eligibility Status**

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#### **3.1. Policy Statement**

In order to determine whether an applicant is eligible for VR services and the individual's priority under an order of selection for services (if operating under an order of selection), DVR must conduct an assessment for determining eligibility and priority for services. Considering the 60-day time requirement in which to determine eligibility from the date of application, the need for efficient and timely activity is critical.

There are two means by which an applicant can meet eligibility for VR services. The first is to meet the criteria related to disability, impediment to employment and the need for VR services. The second means of eligibility for VR services is by meeting eligibility for Title II or XVI Social Security benefits.

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#### **3.2. Eligibility**

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##### **3.2.1. Requirements**

An individual is eligible for assistance if the individual

- Has undergone an assessment for determining eligibility and vocational rehabilitation needs, if necessary, and as a result has been determined to be an individual with a disability (physical or mental impairment which substantially limits one or more life activities, has record of such an impairment, or is regarded as having such an impairment);
- Requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. For purposes of an assessment for determining eligibility and vocational rehabilitation needs, an individual shall be presumed to benefit in terms of an employment outcome.

An applicant who has a physical or mental impairment which constitutes a substantial impediment to employment is presumed to be able to benefit from vocational rehabilitation services.

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**3.2.2. Responsibilities**

Prior to determining that an applicant is unable to benefit due to the severity of the individual's disability or that the individual is ineligible for vocational rehabilitation services, the VRC shall explore the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual in providing the trial experiences. The VRC shall provide the individual with the opportunity to try different employment experiences, including supported employment, and the opportunity to become employed in competitive integrated employment.

Clear and convincing evidence means a high degree of certainty that an individual is incapable of benefiting from services in terms of an employment outcome. Clear and convincing means unequivocal; free from obscurity or ambiguity. Generally, existing information will not provide clear and convincing evidence that an employment outcome is not achievable. Clear and convincing evidence might include:

- A description of assessments, including situational assessments and supported employment assessments, from service providers who have concluded that they would be unable to meet the individual's vocational needs due to the severity of the individual's disability. In addition, the involvement of the participant in "in-house" assessments - testing, homework assignments, participation in relevant group activities - may assist in making such a determination.
- If appropriate, a functional assessment of skill development activities with any necessary supports (including assistive technology) in real life settings.

**3.2.3. SSA Presumption of Eligibility**

An applicant is presumed eligible for VR services (34 CFR §361.42(a)(3) and to be an individual with a significant disability, if he or she is eligible for Social Security benefits under Title II (SSI) or Title XVI (SSDI) and the case moved into eligible status. Should additional information be submitted to support that the individual has a most significant disability, the counselor should assign the individual to such category.



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Guidelines for SSA beneficiaries Presumption of Eligibility

- A. The applicant eligible for VR services based on the SSDI/SSI Presumption of Eligibility is automatically determined to be an individual with a significant disability. The applicant may also be considered a person with most significant disability, but this will require additional justification.
- B. When an applicant reports receipt of SSDI or SSI benefits, all efforts should be made to have the participant and / or guardian provide an award letter or copy of check to verify receipt of benefits. If the participant is unable to produce verification of benefits, a release form should be signed and submitted to SSA or other appropriate sources.

3.2.4. Guidelines for Eligibility Determination

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- A. The VR counselor is responsible for making eligibility decisions. Counselor judgment is a critical factor in all issues of eligibility, particularly in determining the types of diagnostics necessary to determine eligibility and the best resources available for those diagnostics. Timelines, quality and informed participant choice must all be considered relative to the acquisition of essential diagnostic service.
- B. Persons needing surgery or specific short-term medical or dental treatment are generally not eligible if the surgery is expected to correct the condition with little or no residual effects. The existence of a medical problem, regardless of the immediate or current effect, does not necessarily constitute an impediment to employment.
- C. Persons with chronic impairments that are currently in remission (multiple sclerosis, cancer) are considered to be disabled if the impairment has created functional limitations, or, if without treatment the impairment may become active again. The other eligibility criteria must still be met.
- D. Eligibility determinations are applied without regard to duration of residency, sex, race, age, creed, color, national origin, and type of disability, economic status or availability of comparable services and benefits.
- E. An individual must be physically present and available for services. There is no residential time or legal proof requirement such as driver's license, voting registration, etc.
- F. An individual may be served by more than one state rehabilitation agency at the same time provided that there is no duplication of services. A release of information must be signed by the individual to

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- secure information necessary to prevent duplication and allow for the coordination of services between the state rehabilitation agencies.
- G. Individuals who are deaf-blind may be concurrently served by the New Mexico Division of Vocational Rehabilitation (DVR) and the Commission for the Blind.
- H. American Indians may be eligible for services under the DVR program and the American Indian Vocational Rehabilitation Program (Section 121) simultaneously. Also, eligible veterans may receive vocational rehabilitation services from the Veterans Administration VR program and DVR simultaneously. IPE development must be coordinated with the American Indian or Veterans Administration VR programs to assure appropriate use of comparable benefits and non-duplication of services.
- I. Legalized aliens may be eligible for VR services based on meeting other agency requirements. DVR is unable to provide services to individuals who are not US citizens or do not have an Alien Registration Receipt Card, Form I-151 or I-1551 (commonly referred to as "Green Cards") or an Employment Authorization Document (commonly referred to as a "work permit") issued from the Immigration and Naturalization Services.
- J. Eligibility determinations must be made in a reasonable period of time, not to exceed 60 days after the individual has submitted an application.
- K. There are only two exceptions to eligibility within 60 days:
- Eligibility Determination Extension in exceptional and unforeseen circumstances in writing and signed by the participant, representative when appropriate, and the counselor.
  - Trial Work Experiences plan(s), prior to a determination that an individual is unable to benefit from VR in terms of an employment outcome because of the severity of his or her disability.
  - Employment; Exclusion of Alcoholics: According to the Rehabilitation Act as amended, the term "individual with a disability" does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.
  - In general; exclusion of individuals engaging in drug use. The term "individual with a disability" does not include an individual

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who is currently engaging in the illegal use of drugs with the following exceptions:

- The applicant has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;
- The applicant is participating in a supervised rehabilitation program and is no longer engaging in such use.

**3.2.4.1. Procedures for Eligibility Determination**

- A. Review information related to eligibility and make a determination whether the applicant meets DVR eligibility criteria.
- B. Determine the level of disability if the individual is determined eligible. There are three levels of disability:
  1. Not Significantly Disabled - An individual who has a physical or mental condition who does not meet the criteria for either of the levels described below.
  2. Significantly Disabled- An individual:
    - who has physical or mental disabilities in which, they are seriously limited in one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and
    - for whom vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.
  3. Most Significantly Disabled- An individual who has a severe physical or mental impairment that:
    - Impedes the individual's functional capacities in at least three areas (such as mobility, communication, self-care, self-direction, interpersonal skills, cognitive abilities, or work tolerance or attendant factors) in terms of an employment outcome, and



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- whose vocational rehabilitation can be expected to require multiple and intensive vocational rehabilitation services over an extended period of time in order to result in an employment outcome.
- C. Discuss the decision with the participant. It is important that the participant understand that a positive eligibility determination does not imply any services requested or discussed to date are automatically approved but that identification of specific services will be determined during the development of the Individualized Plan for Employment.
- D. Complete the Eligibility Determination and file a hardcopy in the case file. It is important that the counselor accurately reflect correct diagnosis and other relevant information identified during the eligibility assessment. Reported disabilities which the counselor was unable to substantiate through diagnostic reports, should be removed from the client data system with explanation in a contact note. Disability data may be updated in the system at any time. Any updated Eligibility Determinations should be printed, signed by the counselor and placed in the case file.

**3.2.5. Requirements for Ineligibility**

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An individual is ineligible for VR services if the individual does not meet one or more of the eligibility criteria. (Any of the following reasons may constitute the basis for a determination of ineligibility):

- A. No physical or mental impairment exists and is substantiated by medical, psychological or other case data.
- B. A physical or mental impairment exists; however, the impairment does not result in a substantial impediment to employment based on counselor analysis of information obtained during the assessment.
- C. The counselor has demonstrated by clear and convincing evidence that the applicant is incapable of benefiting from VR services in terms of an employment outcome due to the severity of their disability and this is demonstrated through participation in trial work experiences. . . . When an applicant has been determined incapable of benefiting from VR services, a referral must be made to a local extended employment provider.



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- D. VR services are not required for the individual to enter, return to or maintain employment.

**3.2.5.1. Procedures for Determining Ineligibility**

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- A. Provide an opportunity for full consultation with the applicant or, as appropriate, the representative prior to determination of ineligibility. The participant may be excluded from consultation if he/she refuses to consult, is unavailable or whereabouts are unknown. The case record must contain documentation of reasonable effort made to afford him/her an opportunity for consultation prior to case closure.
- B. The appropriate reason for closure and rationale for the decision must be included in the case closure document.
- C. Inform the participant or, as appropriate, the participant's representative in writing, supplement as necessary with other appropriate modes of communication consistent with the informed choice of the individual. Include the reasons for the determination and information regarding participant rights and responsibilities.
- D. Refer the applicant to any other agencies or facilities as appropriate, including Independent Living Centers, extended employment providers, etc.

**3.2.5.2. Annual Review of Ineligibility Decision**

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- A. When ineligibility is based on the participant's inability to benefit in terms of an employment outcome, the counselor must review the determination within 12 months of the date that ineligibility was declared.
- B. The purpose of the annual review is to review new information or changes in circumstances that may affect the determination that the participant "cannot benefit in terms of an employment outcome". Reviews are made on an individual basis with the participant or as appropriate, the participant's representative.
- C. Continuation of annual reviews of ineligibility after the initial annual review will occur only at the request of the participant or as appropriate, the participant's representative. This may occur any time after the initial review and conditions applicable to the initial review will apply to additional reviews.

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D. Annual review is not required in cases where:

- the participant has refused services/review;
- the individual is unavailable;
- the individual's whereabouts are unknown;  
or
- the ineligibility decision is based on non-existence of a disabling condition, no substantial impediment to employment or VR services are not required.

**3.2.6. Guidelines for Closure Because the Participant is Unavailable**

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A distinction must be made between ineligibility and unavailability. A person is only ineligible if they fail to meet one or more of the eligibility criteria; they are not necessarily ineligible if they are unavailable. An applicant's case cannot be closed prior to making an eligibility determination unless the applicant is unavailable. An applicant is unavailable if he/she has:

- Died
- moved out of state
- not responded to reasonable efforts to contact
- been institutionalized under circumstances rendering the individual unavailable for preliminary or thorough diagnostic studies or VR services for an indefinite or considerable period of time; or
- declines to participate in appropriate VR services designed to assess eligibility despite reasonable efforts made to the participant or as appropriate, the participant's representative, to encourage the participant's participation.

**3.2.7. Procedures for Closure**

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- A. Indicate the reason for closure and document a rationale in the closure document.
- B. Document three attempts to contact the participant using at least two modes of communication or, as appropriate, the participant's representative in the case file.
- C. Notify the participant of impending closure by sending closure warning letter(s).

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D. If the participant does not respond to attempts to contact or letters of the impending closure, the case will be closed in case management system.

E. At closure, the participant is notified in writing of case closure, where appropriate, and provided information regarding participant's rights to appeal the decision.

~~C. Notify participant in writing of case closure, where appropriate, and provide information regarding participant's rights to appeal the decision.~~

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### 3.3. Order of Selection

#### 3.3.1. Purpose

In the event that the agency deems it necessary, due to the lack of sufficient resources to serve all participants, an Order of Selection will be implemented. All participants will be assigned a priority code based on the significance of disability. The agency will decide which priority level(s) will be funded at the point in time that an Order of Selection must be implemented, starting with the first priority.

#### 3.3.2. Definition

Refer to section 3.2.4.1 for definitions of disability priority categories.

#### 3.3.3. Assignment of Priority Order

Assign priority as follows:

##### 3.3.3.1. Priority Group I

The most significantly disabled individuals who require cost and / or no cost vocational rehabilitation services.



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3.3.3.2. Priority Group II

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Significantly disabled individuals who require cost and / or no cost vocational rehabilitation services.

3.3.3.3. Priority Group III

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Participants with non-significant disabilities who require cost or no cost vocational rehabilitation services.

3.3.4. Guidelines for Instituting an Order of Selection

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- A. At the time that an Order of Selection is implemented, those students receiving pre-employment services prior to being assigned to a closed order of selection priority category will continue to receive the same and any required activities under pre-employment transition services; and individuals receiving services under an IPE will not be affected by the priority codes and will continue to receive cost and no cost services. (34 CFR §361.36(a)(2)(i)). Generalized transition services under the services to groups, which can be provided to students and youth with disabilities regardless of whether or not the student/youth has applied for VR services (34 CFR §361.49(a)(7)). Core Required Activities Under Pre-Employment Transition Services to students with disabilities including:
- job exploration counseling,
  - work-based learning experiences;
  - counseling on opportunities for enrollment in comprehensive transition and postsecondary education programs at institutions of higher-education,
  - workplace readiness training, and
  - instruction in self-advocacy.
- B. Upon determining a participant eligible for services, the counselor shall assign a priority code (priority group I through priority group III).
- C. The participant shall be informed of his/her priority code and his/her right to appeal the priority code assignment.
- D. While the agency is operating under an Order of Selection, the counselor may only assist those potentially eligible students with disabilities in receipt

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of pre-employment transition services; and individuals in those priority categories for which the agency has determined there are sufficient resources to serve under an IPE;. DVR does not have a provision to serve participants other than those in priority categories for which there are sufficient resources.

- E. All other eligible participants that do not fit a funded category shall be placed in a holding or "waitlist" status.
- F. There will be a "delayed status" for those eligible participants who are interested in DVR services and are waiting for a change in the Order of Selection which would allow them to be served. If the individual is not interested in being placed on a waiting list, then the case should be closed accordingly.
- G. If at any time the agency lifts the Order of Selection for a particular priority group, those individuals within that priority group will automatically be changed in the system and the individual will need to be contacted to initiate the development of an IPE.
- H. Every six months the agency shall inquire of the individuals in the "delayed status" as to whether they are still interested in VR services and / or if there are changes in the individual's disability, which may make them eligible for a serviceable priority code. If they are still interested in services but their disability has not changed, they will continue to remain in a "delayed status."
- I. If their disability has changed, the counselor shall contact the participant for further assessment. Based on this information, the Order of Selection priority code may be upgraded by the counselor at any time. If the participant indicates that he/she are no longer interested in DVR services or is non-responsive to inquiries, his/her case will be closed.
- J. When a participant is placed in delayed status, the Counselor shall refer the individual to other appropriate community programs including other components of the Workforce System which are best suited to address their employment needs. Referrals shall be made in writing and include information and advice regarding the most suitable services to assist the individual and a specific point of contact within the agency to which the individual is being referred.



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- K. When DVR determines that a priority category opened, the first category to be opened will be that for individuals with most significant disabilities. All individuals assigned to this priority category will be served by date of application, prior to opening the next priority category. Once all individuals with most significant disabilities are served, the next priority category will open and all individuals with significant disabilities will be served based on the date of application. Once all individuals with significant disabilities have been served and the waitlist cleared, the last and final category will be opened and all individuals with disabilities served by date of application.

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#### **4. Service Status / IPE**

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##### **4.1. Policy Statement**

Services required to achieve an employment outcome are provided in Service Status. The mechanism for providing services is the Individualized Plan for employment (IPE). The IPE is the written agreement between DVR and the eligible participant and is designed to achieve the employment outcome consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. The IPE is developed in collaboration and partnership with the participant or their representative, as appropriate and the VR Counselor within 90 days from the date of eligibility determination.

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##### **4.2. Comprehensive Assessment**

During the development of the IPE the VR Counselor must conduct an assessment of the participant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the participant as these issues relate to the identification of an employment outcome and nature and scope of rehabilitation services necessary to achieve that outcome. In conducting the assessment, the VR Counselor must:

- To the extent possible, utilize existing information gathered during the eligibility determination process.
- To the extent possible, utilize existing information that is current.
- Utilize information available from other programs and providers, particularly information used by education officials and the Social Security Administration.
- Utilize information provided by the participant and the participant's family.
- Conduct the assessment in the most integrated setting(s) possible, consistent with the informed choice of the participant.
- Interpret findings of the comprehensive assessment with the participant.



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### 4.3. Options for IPE Development

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There are various alternatives for developing the IPE. In order to facilitate an informed choice regarding which option is best suited to the participant's needs, the following information shall be provided to the participant, or as appropriate, the participant's representative in writing and; if appropriate, in the native language or mode of communication of the participant or the participant's representative:

- Information regarding the alternatives available regarding IPE Development. These options are listed on the Participant IPE Development Options handout and are as follows:
  - The participant writes the IPE himself/herself.
  - The participant writes the IPE with their representative or advocate of their choosing.
  - The participant writes the IPE with their DVR Counselor.

Generally, DVR will not cover the cost associated with payment to an independent VR Counselor for the purposes of assisting with IPE Development.

- The participant may use a combination of the above options. The eligible participant may decide to write part of the plan himself/herself or with his/her representative or advocate with assistance from the VR counselor at any time during the process.
- Information on the availability of consultation and technical assistance from the rehabilitation counselor in developing all or part of the IPE.
- Information describing the full range of components included in the IPE.
- Information describing DVR's Participant Financial Contribution and policy regarding comparable services and benefits.
- Information regarding participant's rights including the availability of the CAP program.
- Information regarding the choice of vendors and the procurement options available.
- Any additional information requested by the participant and / or participant's representative necessary to exercise informed choice in completing the IPE.

The VR counselor shall make the IPE and other pertinent forms available and discuss the alternatives for developing the IPE with the eligible participant or, as appropriate, the participant's representative.

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A determination shall be made by the participant on which alternative is most appropriate for him/her. The requirement that the VR Counselor and / or Program Manager must approve the final IPE, regardless what option for development of the plan is chosen, should be clearly communicated to the participant or representative at that time.

#### **4.4. Employment Outcome**

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An appropriate employment goal is consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the participant. It should also result in employment in an integrated setting. Identification of an appropriate employment goal and agreement between the participant and VR Counselor on the employment goal is key to successful rehabilitation. In determining whether the individual possesses the strengths, resources, priorities, concerns, abilities and capabilities needed to perform the desired employment goal, the VR Counselor may acquire performance-based data through evaluations such as situational assessments, intelligence or aptitude evaluations, and other essential information utilizing any appropriate methods available. These factors include but are not limited to the following:

- transferable skills
- education, academic achievement
- financial situation/resources
- level of independence
- motivation to work
- personality
- physical/mental limitations
- talents
- aptitudes
- work behaviors
- intelligence
- attitudes
- interests
- transportation
- job accommodations
- assistive technology
- accessibility



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Term	Detail
Consistent with Capacities and Abilities	Work which is not precluded by the disability; will not exacerbate the condition; and work which is compatible with the individual's mental or physical abilities or aptitudes (not solely determined by earnings or income level).
Transferable skills	Full exploration of the participant's transferable skills, education and abilities should be conducted and these strengths and resources utilized to the fullest extent possible when identifying an appropriate employment goal. Primary consideration should be given to utilization of skills the participant already possesses, so that with the provision of counseling, selective placement, and / or restoration or other appropriate and necessary rehabilitation services, the participant can return to suitable employment.
Labor Market	It is advisable to consider local labor market conditions in determining the appropriateness of an employment goal. If the local market for a participant's desired employment goal is limited, the focus at that point should be on participant informed choice. Support for the employment goal is dependent on the participant's ability to achieve his or her desired employment outcome.
Employed Participants	The provision of VR services to a participant who is currently employed, but whose job is not consistent with the participant's strengths, resources, priorities, concerns, abilities and capabilities, must assist that participant to achieve employment consistent with the above and informed choice. Under such circumstances, "career advancement" or "upward mobility" factors should be considered in identification of an employment goal.

**4.5. Guidelines for IPE Development**

- A. The IPE shall be developed in a timely manner. An IPE should be developed as soon as all the pertinent information is available but, no later than 90 days following the determination of eligibility. An exception of IPE development within 90 days of eligibility determination is only permissible when agreed to, in writing, by the participant, participants representative when appropriate and the VR Counselor. A written extension must indicate the target date of the IPE completion. The VR Counselor should take all steps to ensure the timely development of the IPE and promptly address any issues which are causing a delay.
- B. The IPE shall be developed and implemented in a manner that affords the participant, or as appropriate, the individual's representative the opportunity to exercise informed choice in selecting an employment outcome, the specific vocational rehabilitation services to be provided under the plan, the entity that will provide the services and the methods used to procure the services. The methods used to purchase goods and services may be flexible, but the agency and participant must comply with the recognized state procurement requirements.

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- C. Students with Disabilities Rehabilitation services identified in the IPE must be services which are needed in order to achieve the employment outcome and must be provided in the most integrated setting possible and must be consistent with the informed choice of the participant.
- D. Both the Participant Financial Contribution and comparable services and benefits must be considered, when applicable, in identifying payment sources for planned services.
- E. The IPE must contain statements concerning the expected need for post-employment services (PES) prior to closing a participant successfully rehabilitated and, if possible, include a description of the terms and conditions for the provision of any PES identified and identification of comparable services and benefits to be utilized for PES

**4.6. Measurable Skills Gain**

**Policy Statement:** Section 116 of WIOA establishes performance accountability indicators and performance reporting requirements to assess the effectiveness of states in achieving positive outcomes for individuals served by Vocational Rehabilitation Programs. The Measurable Skills Gain (MSG) indicator is a real-time performance measure and is used to measure the interim progress of participants enrolled in education or training services in a program year. MSG is not an exit-based measure. The purpose is intended to capture progress of participants enrolled in education or training services towards competitive integrated employment outcomes while supported through the Vocational Rehabilitation program.

**Definition:** Measurable Skill Gains (MSGs) are a measure of the documented progress (academic, technical, occupational, or other) that a participant makes in a training or education programs toward obtaining a recognized postsecondary credential or reaching employment-related performance outcome. Depending on the type of education or training program documented progress is defined as one of the following:

1. Achievement of at least one Educational Functioning Level (EFL) of a participant who is receiving instruction below the postsecondary education level;



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1. Documentation:

- a. Results from an approved basic skills pre and post-test (Tests of Adult Basic Education (TABE) Comprehensive Adult Student Assessment Program (CASAS) Adult Basics Learning Exam (ABLE).

Example: Moving from a 9<sup>th</sup> grade reading level to a 10<sup>th</sup> grade reading level utilizing a test such as the Basic English Skills test (BEST).

- b. Adult high school programs that lead to a secondary school diploma or its recognized equivalent may measure and report educational gain through the awarding of credits or Carnegie units; or
- c. Report an EFL gain for participants who exit a program below the postsecondary level and enroll in postsecondary education and training during the program year. A program below the postsecondary level applies to participants enrolled in a basic education program.

2. Documented attainment of a secondary school diploma or its recognized equivalent;

1. Documentation:

- a. Secondary School Diploma or state recognized equivalent; passing scores on State equivalency test, alternative pathway diplomas.

Example: For each school year, a transcript or a report card of a consumer in HS, HSED, or a GED program demonstrating that they achieve a D- or above for all classes taken and are in good academic standing. The report card must not indicate the participant dropped out of school, was removed from the institution, or any other conditions that indicate removal on academic or conduct grounds.



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Documentation Examples: Copy of an official semester transcript or report card showing passing grades of D- or above in all classes and are in good academic standing.

3. Post-secondary transcript or report card for a sufficient number of credit hours that shows a participant is meeting the State units' academic standards:

1. Documentation

a. Fulltime student – completion of 12 credit hours for each.

b. Part-time student- completion of 12 credit hours over two consecutive semesters during a program year.

c. Documentation in the form of transcript or report card showing that credits are attained and good academic standing. Transcript should reflect no dropped status, removal from institution.

4. Satisfactory or better progress report, towards established milestones, such as completion of OJT or completion of one year of an apprenticeship program or similar milestones, from an employer or training provider who is providing training:

1. Documentation

a. Completion of an OJT and documented skills attained for the specific employment and objectives outlined by the employer

b. Substantial skill development that the participant has achieved

c. Progress reports may include training reports on milestones completed as the individual masters the required job skills to complete the OJT or apprenticeship program.

d. Increases in pay resulting from newly acquired skills or increased performance may be utilized to document progress.



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5. Successful passage of an exam that is required for a particular occupation or progress in attaining technical or occupational skills as evidenced by trade-related benchmarks, such as knowledge-based exams.

1. Documentation

- a. Copy of exam results indicating a passing score or related vocational/occupational exams indicating a passing score.
- b. Exam in registered apprenticeship, employer required knowledge Based exam, Industry or occupational competency assessment
- c. Completion of testing required to obtain a credential.

The following are not considered MSG's for federal reporting

- Yearly progression in special education courses working toward a Special Education Certificate of Attendance;
- Special Education Certificate of completion
- Other certificates or diplomas of completion or attendance, not credit bearing or consistent with state academic standards.
- Employer specific testing such as hiring assessment
- Vocational Evaluation Assessments or aptitude testing
- General skills gained as part of the Individualized Plan for Employment for activities that do not relate to training and education.
- Transportation skills attainment;
- Soft skills training;
- Pre- and post-tests demonstrating mastery of orientation and mobility training; and
- Documentation of attainment of Microsoft Office skills in JAWS.

**Procedures:** All measurable skills gains achieved in a program year for a participant must be reported and entered into the case management system. Documentation affirming the achievement of a measurable skills gain must be attached to the case file. Participants enrolled in education or training program that leads to a recognized secondary or post-secondary credential or employment must have an Individualized plan reflecting these supported services so that the reported measurable skills gain are

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included on the MSG indicator through RSA-911 reporting. Pre-Employment Transition services do not generally align with MSGs. Pre-employment transition services provide general career exploration activities to students with disabilities while MSGs document interim progress of participants who are enrolled in education or training programs that lead to a recognized postsecondary credential or employment. Counselors must routinely review cases where measurable skills gains may have been achieved.

Reference: WINTAC [http://wintac-s3.s3-us-west-2.amazonaws.com/topic-areas/t05\\_CommonPerformance/t0](http://wintac-s3.s3-us-west-2.amazonaws.com/topic-areas/t05_CommonPerformance/t0)

**4-6.4.7. Procedures**

- A. Review with the participant or, as appropriate, participant's representative, IPE approval requirements emphasizing need for counselor approval along with possible subsequent supervisor approval.
- B. Review with the participant or, as appropriate, participant's representative all pertinent data gathered during the comprehensive assessment.
- C. Ascertain from the participant the chosen method of IPE development based on options provided in the Individualized Plan for Employment Development Options handout.
- D. Provide technical assistance required for developing the IPE.
- E. Complete the Participant Financial Statement to determine level of individual's participation in the cost of their plan. If the participant is an SSI or SSDI recipient they are exempt from the Participant Financial Contribution.
- F. Evaluate availability of comparable services and benefits when applicable.
- G. Complete all sections of the IPE in the client data system.
- H. Submit for approval as necessary. If the IPE is not approved by the supervisor, he/she shall consult with the counselor and clearly outline the reasons as well as the changes necessary to obtain approval.
- I. Obtain signatures of the participant or, as appropriate, participant's representative and VR Counselor.
- J. Provide a copy of the IPE as well as a copy of the Rights and Responsibilities Handout, and information for the Client Assistance Program to the participant or, as appropriate, to the participant's representative and, if appropriate, explain to the participant in the native language or appropriate mode of communication of the participant or representative.
- K. A copy of the signed IPE shall also be placed in the case file.
- L. Authorize planned services once the IPE is approved and signed.

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M. Review the achievement of measurable skills gain in alignment with established IPE. Measurable skills gains are tracked or entered in the case management system.

N. Review the IPE annually, or more often if deemed necessary by the participant and the VR Counselor. At the time of annual review, the VR Counselor shall meet with the participant, or as appropriate, the participant's representative, to assess the participant's progress in achieving the employment goal and amend the IPE as necessary.

O. Document Annual Reviews in the Plan Review Browse.

~~M. Review the IPE annually, or more often if deemed necessary by the participant and the VR Counselor. At the time of annual review, the VR Counselor shall meet with the participant, or as appropriate, the participant's representative, to assess the participant's progress in achieving the employment goal and amend the IPE as necessary.~~

~~N. Document Annual Reviews in the Plan Review Browse.~~

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#### 4.7.4.8. IPE Amendments

The IPE must be amended as necessary to reflect the changing vocational rehabilitation needs of the participant. An amendment is required when there are changes in the follow areas:

- A. the employment goal
- B. the vocational rehabilitation services to be provided
- C. vendor(s) for an identified service
- D. extension in program completion dates

IPE amendments are reflected as subsequent plans in the CLIENT DATA SYSTEM. The provisions related to informed choice must continue to be applied. When adding new services or extending existing services, it is necessary to apply the Participant Financial Contribution, as appropriate, and review availability of comparable services and benefits. Appropriate approval from the Area Program Manager must be obtained for all amendments. Amendments do not take effect until agreed to and signed by the participant or, as appropriate, their representative, and the VR Counselor. A copy of the IPE Amendment should be provided to the participant or, as appropriate, their representative and a copy retained in the case file.

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## 5. Supported Employment

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### 5.1. Policy Statement

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DVR supports the employment of individuals with disabilities including those with most significant disabilities who, without intense, comprehensive and ongoing support, would be unable to locate, train for or maintain employment. Supported Employment services emphasizes coordination of services from various sources including other State and Federal Agencies, private non-profit entities, employers and family members; aimed towards providing intensive and long term support required for the participant to become employed. Definitions

#### 5.1.1. Supported Employment (SE)

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- A. The term supported employment means competitive integrated employment, including customized employment, or employment in an integrated work setting in which individuals are working on a short-term basis toward competitive integrated employment that is individualized and customized consistent with the strengths, abilities, interests, and informed choice of the individuals involved, or individuals with the most significant disabilities:
- for whom competitive integrated employment has not historically occurred; or
  - for whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and
  - who, because of the nature and severity of their disability, need intensive supported employment services and extended services after the transition described in paragraph (13)(C), in order to perform the work involved.
- The term supported employment services means on-going support services, including customized employment, needed to support and maintain an individual with a most significant disability in supported employment, including a youth with a disability that are provided singly or in combination and are organized and made

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available in such a way as to assist a participant to achieve competitive integrated employment;

- are based on a determination of the needs of a participant as specified in an individualized plan for employment; and
- are provided by the designated State unit for a period of not more than 24 months, except that period may be extended, if necessary, in order to achieve the employment outcome identified in the individualized plan for employment.

B. Supported employment funding can only be used for individuals who are deemed Most Significantly Disabled, in Employed status and will have access to long term funding.

**5.1.2. Competitive Integrated Employment**

Competitive integrated employment means work that -

Is performed on a full-time or part-time basis (including self-employment) and for which an individual is compensated at a rate that-

Is not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the rate required under the applicable State or local minimum wage law for the place of employment;

Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; and

In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

Is eligible for the level of benefits provided to other employees; and

Is at a location -

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- A. Typically found in the community; and
- B. Where the employee with a disability interacts for the purpose of performing the duties of the position with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., customers and vendors), who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons; and
- C. Presents, as appropriate, opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

**5.1.3. Working on a Short-Term Basis Toward Competitive Integrated Employment**

Individuals with most significant disabilities, including youth with most significant disabilities, served under the supported employment program may work on a short-term basis toward competitive employment in an integrated setting, so long as the individual can reasonably anticipate achieving competitive integrated employment within six months of achieving a supported employment outcome; or in limited circumstances, within a period not to exceed 12 months from the achievement of the supported employment outcome, for a longer period is necessary based on the individual's needs, and the individual has demonstrated progress toward competitive earnings based in information in the service record (34 CFR §363.1(c)).

Working on a short-term basis toward competitive integrated employment in supported employment is work in which an individual is receiving ongoing support services while working in an integrated setting and is progressing or moving toward the minimum wage level. An individual in supported employment working toward competitive employment would not be considered to have achieved a "competitive employment" outcome until the individual is earning at least the federal minimum wage.



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5.1.4. Most Significant Disability (refer to section 3.2.4.1)

5.1.5. Integrated Work Setting

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Integrated Work Setting is a setting typically found in the community in which applicants or participants interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or participants, to the same extent that non-disabled individuals in comparable positions interact with other persons and

With respect to an employment outcome, means a setting -

- A. Typically found in the community; and
- B. Where the employee with a disability interacts, for the purpose of performing the duties of the position, with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., customers and vendors) who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons.

5.1.6. Extended Services

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Extended Services are ongoing support services that are needed to support and maintain an individual with a most significant disability in supported employment and are provided by a state agency, a private nonprofit organization, employer, or any other appropriate resources other than DVR after the individual has made the transition from support provided by DVR.

Examples of extended services include but are not limited to ongoing job coaching, follow-along support to include regular contact with employers, natural supports at the job site, guardians, parents and other involved professionals in order to reinforce and stabilize job placement. Examples of funding sources include but are not limited to Adult DD Service Agencies, local mental health clinics, Social Security funds, etc.



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DVR may provide extended services to youth with most significant disabilities for a period of time not to exceed four years, or until such time that a youth reaches the age of 25 and no longer meets the definition of a youth with a disability, whichever occurs first (34 CFR §363.4(a)(2)).

**5.1.7. Customized Employment**

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The term “customized employment” means competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the strengths, needs, and interests of the individual with a significant disability, is designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer, and is carried out through flexible strategies, such as—

- job exploration by the individual;
- working with an employer to facilitate placement, including—
- customizing a job description based on current employer needs or on previously unidentified and unmet employer needs;
- developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location;
- representation by a professional chosen by the individual, or self-representation of the individual, in working with an employer to facilitate placement; and
- providing services and supports at the job location.

**5.2. Eligibility Criteria**

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In order to be eligible for Supported Employment services an individual must:

- A. meet the criteria for most significantly disabled; and
- B. meet the eligibility criteria for the basic support VR program as outlined in the Eligibility Section; and



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- C. because of the severity of their disability, require intensive supported employment services and extended services in order to maintain competitive employment; and
- D. have an identified long-term funding source for extended services or a reasonable expectation that sources will become available at the time of transition to extended services.

**5.3. Guidelines**

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All guidelines and procedures outlined in the Application, Eligibility and Closure Sections for the basic support program apply to Supported Employment along with the additional eligibility criteria identified above. If eligibility criteria for Supported Employment above are not met, every effort is made to serve an eligible participant under basic support program guidelines.

In SE cases, DVR may provide an individual with VR services under an IPE (e.g., job development and placement services), prior to beginning on-going support services (e.g., job retention and follow-along services) through the supported employment program. DVR may coordinate VR services using title I funds; and supported employment services using titles I and IV funds through the same vendor.

Ongoing communication with the provider of VR services (e.g., job development/placement and supported employment services (e.g., job coaching services), and the guardian or representative and case manager (in some instances) is critical in order to continuously assess the participant's placement and training needs and to determine when stability on a job site has occurred. Monthly written reports from the vendor supplemented with verbal reports and actual worksite visits by the VR Counselor or designee as necessary are strongly encouraged.

**5.4. Requirements for SE IPE**

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Once eligibility for Supported Employment services is determined, the IPE can be developed. All guidelines and procedures identified in development of a basic support plan apply to SE cases. In addition, an IPE for an individual with a most significant disability for whom an employment outcome in a supported employment setting has been determined to be appropriate must:



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- Reflect placement in an integrated setting prior to the provision of supported employment services (e.g., on-going support services) to maximum the number of hours worked by the participant based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual with the most significant disability.
- Specify the supported employment services to be provided by DVR, i.e., job coaching, etc.
- Specify the expected extended services needed, i.e. natural supports, job coaching on an as needed basis, ongoing guidance, counseling and / or emotional support, mental health treatment, etc.
- Identify the source of extended services for the individual with a most significant disability, including youth with most significant disabilities; or, if not possible to identify the source of the extended services at the time the IPE is developed, include a description of the basis for concluding that there is a reasonable expectation that those resources will become available.
- Coordinate IPE services with services provided for in the participant's Individualized Service Plan or other individualized plans established by other support programs.
- Provide for periodic monitoring to ensure that the individual is making satisfactory progress toward meeting the weekly work requirements established in the IPE by the time of transition to extended services.
- To the extent that on-the-job skills training is provided, identify that the training will be provided onsite.
- Services under a SE IPE are not to exceed 24 months in duration. Under special circumstances, a longer period may be utilized in order to achieve job stabilization. This must be jointly agreed to by the individual and the rehabilitation counselor and established in the IPE. The 24 month time period for services begins when the participant, or as appropriate, their representative signs an approved IPE.
- An IPE must be identified as a Supported Employment case by checking the Supported Employment Box in CLIENT DATA SYSTEM.

### 5.5. Guidelines for Closure

- A. The service record of an individual with a most significant disability, including a youth with a most significant disability, who has achieved an employment outcome in supported employment in competitive integrated employment will be closed concurrently with the achievement of the employment outcome in supported employment when the individual:

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**(a) Employment outcome achieved.** The individual has achieved the employment outcome that is described in the individual's individualized plan for employment in accordance with § 361.46(a)(1) and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

**(b) Employment outcome maintained.** The individual has maintained the employment outcome for an appropriate period of time, but not less than 90 days, necessary to ensure the stability of the employment outcome, and the individual no longer needs vocational rehabilitation services.

**(c) Satisfactory outcome.** At the end of the appropriate period under paragraph (b) of this section, the individual and the qualified rehabilitation counselor employed by the designated State unit consider the employment outcome to be satisfactory and agree that the individual is performing well in the employment.

**(d) Post-employment services.** The individual is informed through appropriate modes of communication of the availability of post-employment services.

- B. has achieved and demonstrated stability in a suitable, competitive integrated work site for at least 90 days; or
- C. has participated in an approved IPE and the VR Counselor, participant and the long-term provider are in agreement to transition the case to extended services.

**Note:** *Stability on the job site is demonstrated when the individual is requiring minimal support to successfully maintain employment, or when it is determined that the participant has reached a plateau in his or her ability to benefit from DVR sponsored support services and it is appropriate to transfer the individual to extended support.*

**Note:** *Guidelines and procedures identified in the Closure Section should be followed regarding closing a Supported Employment case other than rehabilitated.*



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### 5.6. Scenarios for Supportive Employment for Outcomes and Closure

- Scenarios for the Achievement of a Supported Employment Outcome and Closure of the Service Record (Vocational Rehabilitation Services and Supported Employment Services Programs FY 2018 monitoring and technical assistance guide)

SCENARIO 1: Bob has been placed in a competitive wage job in an integrated setting individualized and customized for him that is consistent with his strengths, abilities, interests and informed choice; has completed up to 24 months of supported employment services; has transitioned to extended services provided by a provider other than the vocational rehabilitation (VR) agency; and has been stable for a minimum of 90 days after transitioning to extended services.

- Has he achieved a supported employment outcome? YES
- Can the service record be closed? YES, if the requirements for case closure in 34 CFR §361.56 have also been satisfied.
- SCENARIO 2: In the previous scenario, what if Bob is a youth and is receiving extended services from the VR agency?
- Has he achieved a supported employment outcome? YES
- Can the service record be closed? NO. Bob is continuing to receive services (extended services) from the VR agency. Once he no longer is receiving extended services from the VR agency, his case can be closed, if the requirements for case closure in 34 CFR §361.56 have also been satisfied.

SCENARIO 3: Bob has been placed in a job in an integrated setting at a subminimum wage that is individualized and customized for him that is consistent with his strengths, abilities, interests, and informed choice; has completed up to 24 months of supported employment services; has transitioned to extended services provided by a provider other than the VR agency; and has been stable for a minimum of 90 days after transitioning to extended services and is receiving VR services while working on a short-term basis toward competitive integrated employment.

- Has he achieved a supported employment outcome? YES



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- Can the service record be closed at the time of the supported employment outcome? NO. Bob is continuing to receive VR services during the short-term basis period from the VR agency with funds under 34 CFR part 361 (title I VR program funds).
- When can the service record be closed? The service record can be closed when Bob:
- Achieves competitive integrated employment within the short-term basis period established pursuant to 34 CFR §363.1(c);
- Satisfies the requirements for case closure in 34 CFR §361.56; and is no longer receiving VR services provided by the VR agency with funds under 34 CFR part 361. The service record must be closed if Bob does not achieve competitive integrated employment within the short-term basis period.

SCENARIO 4: Bob is a youth who has been placed in a job in an integrated setting at a subminimum wage that is individualized and customized for him that is consistent with his strengths, abilities, interests, and informed choice; has completed up to 24 months of supported employment services; has transitioned to extended services provided by the VR agency; has been stable for a minimum of 90 days after transitioning to extended services and is receiving VR services funded under Title I VR program funds while working on a short-term basis toward competitive integrated employment.

- Has he achieved a supported employment outcome? YES
- Can the service record be closed at the time of the supported employment outcome? NO. Bob is continuing to receive extended services funded under the Supported Employment or the VR program and VR services during the short-term basis from the VR agency with Title I VR program funds.
- When can the service record be closed? The service record can be closed when Bob:
- Achieves competitive integrated employment within the short-term basis period; and
- Is no longer receiving VR services provided by the VR agency with funds under 34 CFR part 361; and/or





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- Is no longer eligible to receive extended services provided by the VR agency with funds allotted under the Supported Employment program or the VR program or has transitioned to another extended services provider; and
- Satisfies the requirements for case closure in 34 CFR §361.56. The service record must be closed if Bob does not achieve competitive integrated employment within the short-term basis period and, in such a case, extended services should be coordinated with another extended services provider.

## **6. CLIENT DATA SYSTEM Employed Status**

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### **6.1. Policy Statement**

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It is the Division of Vocational Rehabilitation's policy to provide participants with vocational rehabilitation services leading to competitive employment opportunities in integrated settings. Employment status is utilized when the participant has entered into suitable employment. The counselor's role is to monitor the participant's employment and provide the services necessary for the participant to remain employed. Employment outcomes must be work that is performed in an integrated setting and include competitive employment, and self-employment Options for Employment Outcomes

### **6.2. Competitive Integrated Employment**

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Competitive employment means work that is performed on a full-time or part-time basis in an integrated setting; and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.



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### 6.3. Self-Employment

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Self-employment, including small business enterprises such as a cottage industry and home based employment, is a vocational option which may be considered when the counselor and participant have explored potential options and determined that it is the best course of action leading to a successful employment outcome. This option recognizes that self-employment is more prevalent in rural areas and that people with a disability tend to be self-employed at rates higher than individuals without a disability. The decision to support a self-employment plan will be based upon a variety of factors including but not limited to; participant informed choice, total start-up costs, viability of the business plan, potential for other financial sources and counselor judgment.

#### 6.3.1. Self-Employment Guidance

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Self-employment is not an appropriate goal for everyone. The process for developing a plan for self-employment is progressive and begins with an assessment of a participant's potential for self-employment success based on the following conditions:

- Participant displays the personality, traits and characteristics conducive to self-employment
- Evaluation and appropriate feasibility studies reflect self-employment aptitude and a good employment match
- Self-employment is the result of a participant's informed choice and consistent with their unique strengths, resources, abilities, capabilities and interests, and each participant understands the complexities and challenges of this choice.
- Self-employment will produce the greatest likelihood of attaining and maintaining meaningful employment.

The purpose of self-employment is to assist individuals achieve a level of self-sufficiency. Self-employment is a vocational option available only to profit-making businesses.



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For the purposes of this policy, self-employment refers to an employment outcome in which an individual works for profit or fees in their own business, profession, or trade. The participant will manage and operate a business they own. Occupations such as cosmetology and realty would be considered self-employment under this policy only if the participant owns the business. When appropriate, individuals who legally organize their business as a corporation and are employed by their corporation may be eligible while in the startup phase of operations. Self-employment requires that the business is, at a minimum, 51% owned, controlled and managed by the New Mexico Division of Vocational Rehabilitation participant.

Self-employment requires that the anticipated net income of a business will solely support the individual or will significantly assist an individual monetarily if that person has income from other sources.

Self-employment is a business operated by the participant in which that individual performs, supervises or subcontracts the major part of the product or service to be produced. This may include sole proprietorships, partnerships, corporations or limited liability companies.

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DVR does NOT support the following:

- Business ventures that are speculative in nature or considered high-risk by the Better Business Bureau (or a similar organization). Examples of this might include multi-level marketing or investment schemes.
- The purchase of franchises or real estate.
- The development of a Non-profit 501(c)(3).
- Businesses determined to be illegal by state and/or federal regulations.

**6.3.1.1. Participant Responsibilities**

- A. Complete a proposed Small Business Plan and Proposal for Assistance and Forecast of Annual Income and Expenses.
- B. Participate in a business potential assessment and a feasibility assessment.
- C. Participate in the evaluation and analysis of the proposed self-employment by appropriate public or private entities recommended by the Small Business Consultant when appropriate.
- D. Make available to the Small Business Consultant and/or the rehabilitation counselor pertinent financial records necessary to properly evaluate self-employment, e.g. profit and loss statements.
- E. If the participant's proposed plan for self-employment is implemented, then the participant shall file a profit and loss statement each month the business is in operation or until case is closed.
- F. Maintain routine contact with the counselor. Routine contact means a minimum of one personal contact per month for the duration of the plan.
- G. Fully cooperate with an auditor or other professional consultant, as appropriate, to assess and resolve financial or technical business problems that endanger the success of a business.

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- H. Failure on the part of the participant to fully cooperate with his/her counselor will result in termination of the self-employment plan. If the participant disagrees, the counselor shall inform the participant of the right to a supervisory or Administrative Review or Fair Hearing Fair Hearing

**6.3.1.2. Counselor Responsibilities**

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- A. Prior to developing an IPE or Amendment for a self-employment program the counselor shall:
- B. Assist participant in accessing services to develop a small business plan such as a Small Business Development Center.
- C. Make participants aware of other small business funding sources besides DVR.
- D. Forward the participant's completed small business form(s) to the Small Business Consultant for an evaluation and written report as appropriate.
- E. If the proposed business is recommended by the Small Business Consultant and the counselor concurs, the counselor prepares an IPE with written justification which includes:
- A description of the self-employment objective.
  - Statement that the participant possesses all of the required education, training and work experience, or equivalent education, training or work experience, unless waived by the Program Manager.
  - An analysis of the self-employment proposal and likelihood that the business will be financially successful.
  - Listing of services needed for the IPE, including the participant's resources and anticipated contributions.

Counselors may, as part of the preliminary and/or ongoing evaluation:

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- A. Obtain a credit check for the participant if the participant intends to apply for a business loan or expects to purchase goods on credit
- B. Arrange for an audit of the participant's business records when the participant and counselor agree that professional assistance is needed to assess and resolve financial and record keeping problems of the business.
- C. Arrange for expert consultation to assist the participant for a specific purpose, e.g. to improve a marketing or advertising plan, etc.

Note: Small Business Consultants, with appropriate expertise, may be hired to provide services if no comparable services are available.

**6.3.1.3. Business Consultant's Responsibilities**

The Small Business Consultant will be a third-party consultant. Area Managers will evaluate resumes, interview consultants and negotiate fees if necessary. Consultants should have a college degree, preferably with a major in business administration or closely related field or extensive experience in the proposed area of self-employment. They must have experience in evaluating, writing and implementing business plans.

- A. The Small Business Consultant shall review the appropriate small business form(s) or business plan to determine:
  - If the participant possesses the required training, work experience or business courses.
  - The thoroughness and soundness of the participant's business plan.
  - The sufficiency of the participant's skills and resources to succeed in the proposed business.
  - The likelihood that the proposed market area will support the business.



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- Feasibility of a new business producing increasing net profits by the end of the last quarter of the first year of operation. Typically, the estimated net monthly income (profit) at the end of the first year of business operation shall be sufficient to meet the participant's monthly living needs when combined with other income available.
  - If equipment requested in a business plan needs to be reviewed by an expert of that business field to determine reasonableness.
  - The likelihood for an established business to continue to generate sufficient income to meet participant's needs.
- B. The Small Business Consultant may, if appropriate, arrange to interview the participant to obtain further information to more thoroughly assess the business plan or the participant's qualifications.
- C. The Small Business consultant shall prepare a written report. If recommendations are made to the counselor for further work, these should be followed by the counselor,
- D. If the Small Business consultant concludes that the self-employment proposal is not likely to succeed, the reasons shall be set forth in a written report. If the counselor concurs with the Small Business Consultant, the participant will be informed of the reasons why the division will not support the proposed self-employment, in writing, including the participant's right to supervisor and administrative review and right to a Fair Hearing before the Agency Director.

**6.3.1.4. Self-employment Assessment Process**

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The case record will reflect the following:

- A. Assessment of Participant Business Potential



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- Evaluation of participant's interests, skills, aptitudes and personal qualities as they relate to self-employment. This may include formal vocational assessment to the degree necessary to ensure the individual has the basic skills necessary to operate and manage a small business. Formal assessment may be waived by the manager if the participant's work and educational history support the pursuit of the proposed self-employment goal. If it is evident that the participant does not possess, and cannot acquire such business management skills, the counselor must document how this will be accommodated through other means.
- Counselors should encourage individuals to attend entrepreneurship training to affirm advantages and disadvantages of business ownership, preparedness from a personal perspective, and assessment of skills related to the business venture, and guidelines for receiving technical and financial assistance for business development.
- Examine the participant's financial goals related to self-employment. Issues such as terminating government benefits, supplementing family income vs. primary source of family support, and earning sufficient funds to maintain competitive employment standards (minimum wage or above) should be considered.
- Participant expectations relative to the financial support they are expecting from DVR should be discussed at the onset. It is important the participant understand that DVR is not in a position to totally capitalize new business and any funding directed to the startup of the business will be limited.

**B. Assessment of Participant's Disability as it Relates to the Self-employment Goal**

- Ensure the viability of self-employment as it relates to the participant's disability. This may require consultation with medical or psychological service providers that have been treating the participant. If clear information is not available reflecting the participant's ability to handle the physical, mental/emotional, and cognitive aspects of the selected goal. Additional assessments such as a functional capacity evaluation, an assessment of cognitive skills and abilities, mental status evaluations, as well as job site analysis would be encouraged.

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**C. Business Idea and Exploration of Feasibility**

- Counselor and participant will discuss the business idea and its feasibility, and the participant will be referred to outside resources for assistance in examining their business ideas and feasibility as appropriate. Examples of programs providing assistance are the Small Business Development Centers, and similar business assistance programs. . The information developed at this stage will provide much of the basic data that will be used in completing the "Business Plan". The following are questions that could be considered in a feasibility study:
  - a) Is the idea practical and will it fill a need?
  - b) What is the competition?
  - c) What is your advantage over existing businesses?
  - d) Can you deliver a better-quality service or product?
  - e) Where will you locate the business?
  - f) What equipment or supplies will be needed?
  - g) What financing will be needed?
  - h) What are your resources?
  - i) What is your target market?
  - j) Will the business have sustainable profits by the end of the first year?



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- Testing the feasibility of the business idea should be formalized through a written Feasibility Assessment, a report documenting the following:
  - a) **Concept Feasibility:** Clear description of the business idea; individual's background related to the business concept including education, training, direct experience and transferable skill sets; and a summary statement identifying issues of concern regarding the feasibility of the concept.
  - b) **Market Feasibility:** Geographic description of market area; description of competitors working in or marketing to potential customers in geographic area; definition of target markets including size and scope of each market; zoning issues/requirements for establishing a business at intended location.
  - c) **Financial Feasibility:** Capitalization requirements consistent with individual's business concept; identification of resources for startup funding and ongoing capitalization.

At this point in the process, a criminal background check or credit check may be conducted if appropriate to the type of business, to ensure that the participant will be able to obtain all the necessary licenses, permits, bonding, certifications, etc. and that no unanticipated barriers related to the participant's legal status will be encountered as the self-employment process is pursued.

**6.3.1.5. Evaluation Criteria**

Participants requesting vocational rehabilitation services in support of self-employment shall possess or acquire:

- A. Formal training which would meet current industry or occupational standards being considered for self-employment; or
- B. A minimum of one year paid work experience in the occupational area being considered for self-employment; AND



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- C. Business management training or experience, to include a minimum of one semester of formal education or six months of work experience or specialized training in at least two of the following:
- Business Administration
  - Office Management
  - Personnel Administration
  - Accounting and/or Bookkeeping
  - Sales and Marketing

Training, experience and educational requirements may be waived by the program manager where there is sufficient and compelling evidence that the participant has the capacity and skills to operate and manage a small business enterprise such as a cottage industry or home-based operation. Factors to consider:

- A. Physical and mental capacities: Analysis of actual work requirements considering the participants' physical and mental abilities; work history; availability of family member or others to provide assistance.
- B. Marketing: formal or informal market analysis prior to starting the business; participant's ability to carry out marketing activities as necessary to maintain the business.
- C. Sound revenue and expense projections prior to starting the business (See Business Plan Requirements).
- D. Record Keeping - ability to keep accurate records, knowledge of tax and other State and Federal reporting requirement
- E. Inventory and Supplies - projecting the need for initial stock, equipment and supplies, maintaining inventory, purchasing, etc.
- F. Overall management skills; organization and planning; self-motivation and independence.

**6.3.1.6. Consultation**

The business plan shall be reviewed by an independent business consultant with the education, training, work experience and expertise to provide this service. Consultation may be obtained at any point to determine:

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- A. whether or not the participant possesses the required training, work experience or business courses;
- B. the thoroughness and soundness of the participant's business plan;
- C. the sufficiency of the participants skills and resources to succeed in the proposed business;
- D. the likelihood that the proposed market area will support the business;
- E. the feasibility of the new business producing a profit sufficient to enable the participant to be self-supporting by the end of the first year of operation.

Consultation may be waived by the program manager where there is sufficient and compelling evidence that these criteria are met.

The small business consultant shall prepare a written report regarding the viability of the business plan and submit to the counselor with recommendation.

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**6.3.1.7. Business Plan**

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A Business Plan must be developed to determine the feasibility of self-employment as a vocational goal as well as to determine the basis for the IPE or amendment. Providing that the conditions specified exist, the participant shall complete a proposed self-employment plan that shall include all of the following elements:

- A. a detailed description of the proposed business
- B. products and services to be offered
- C. form of business such as sole proprietorship
- D. detailed marketing plan
- E. financial forecast
- F. itemized list of business expenses
- G. list of assets that the participant will contribute to the business
- H. services participant expects the agency to provide.

Agency's small business forms shall be completed and may be utilized as a tool for exploration and initial assessment of the feasibility of a small business plan or if completed sufficiently, may stand as the proposed business plan. Use of Agency's business forms are not required if a comprehensive business plan, which includes all required components of forms, is available.

**6.3.1.8. Limitations and Restrictions**

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Participants must be informed that self-employment services do not include any of the following services:

- A. Businesses deemed illegal by the New Mexico Attorney General and/or federal regulation.
- B. Speculative real estate development.
- C. Salary or benefits for any owner or employee of the business
- D. Purchase of land, real estate, or the erection of any permanent or structure/buildings action.
- E. Refinancing existing debt – business or personal



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6.3.1.9. Financial Participation Requirements

The DVR may not necessarily become the sole funding source for any self-employment endeavor. Participants will be required to make a contribution toward the self-employment venture in cash, materials or equipment in an amount consistent with the schedule below. The participant's contribution may come from personal resources, property critical to the business operation, loans from banks, loans from micro-lender organizations, or funds derived from a PASS plan. Participant contribution will begin at IPE approved start date. Any investment in a business venture prior to the IPE start date will not be considered. The level of participant participation for business start-up costs (excluding training or modifications necessitated by the participant's disability) is as follows:

Total Cost of Business Plan	Percent of Agency Financial Contribution	Percent of Participant Financial Contribution
Tier #1 \$1 - \$5,000	100%	0%
Tier #2 \$5,001 - \$50,000	50%	50%

DVR will support business plans of \$50,000 or less.

The Agency's policy is to provide eligible participants with vocational rehabilitation services leading to competitive employment opportunities including self-employment in an expeditious yet cost effective manner. The financial participation requirements above must be applied and will be cumulative to determine to what extent the participant will participate towards the costs of their self-employment plan. DVR will provide agency financial contribution as per business plan cost tiers above starting with tier one, then two. After the appropriate tiers have been applied, the Participant Financial Contribution (PFC) will then be applied to those participants who need to contribute to their plan based on this test. Those participants who meet financial need or those that are on SSI/SSDI will be excluded from Participant Financial Contribution (PFC), but are still responsible for the identified level of participation for business start-up costs (excluding training or modifications necessitated by the participant's disability) as outlined above. See examples below:



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Example #1

Total for Self-Employment Plan = \$5,000

PFC= \$300 participant contribution                      or                      PFC= \$0 due to SSI, SSDI, PFS  
Tier #1 - DVR Contributes \$5,000    Tier #1 - DVR Contributes \$5,000

Contribution:	DVR	Participant	Contribution	DVR	Participant
Tier #1	\$5,000	\$0	Tier #1	\$5,000	\$0
Sub Total	\$5,000	\$0	Sub Total	\$5,000	\$0
PFC	-\$300	+\$300	PFC	- \$0	+\$0
<b>Total</b>	<b>\$4,700</b>	<b>\$300</b>	<b>Total</b>	<b>\$5,000</b>	<b>\$0</b>

Example #2

Total for Self-Employment Plan = \$10,000

PFC= \$300    or                      PFC = \$0 due to SSI, SSDI, FNT  
Tier #1 - DVR Contributes \$5,000    Tier #1 - DVR Contributes \$5,000  
Tier #2 - DVR Contributes (50%) \$ 4,700    Tier #2 - DVR Contributes (50%) \$5,000

Contribution:	DVR	Participant	Contribution	DVR	Participant
Tier #1	\$5,000	\$0	Tier #1	\$5,000	\$0
Tier #2 -	\$2,500	2,500	Tier #2	\$2,500	\$2,500
Sub Total	\$7,500	2,500	Sub Total	\$7,500	\$2,500
PFC	-\$300	+300	PFS	-\$0	+\$0
<b>Total</b>	<b>\$7,200</b>	<b>2,800</b>	<b>Total</b>	<b>\$ 7,500</b>	<b>\$2,500</b>

In all cases the counselor should assist the participant to access or leverage funding from other sources such as SBA, ACCION, WESST, New Mexico Seed Loan Program or private lending agents.

Exceptions may be made after an administrative review on a case by case basis

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**CLIENT DATA SYSTEM Employed Status**

**6.3.1.10. Guidelines for Successful Self-Employment Closures**

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At the end of the appropriate time period, the participant and counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job. The evaluation should take into account the following:

- Participant is meeting the timeline and expectations addressed in the business plan and IPE as per the agreed upon gross income by the participant and counselor.
- Participant is increasing amount of financial equity including sweat equity. This will be evaluated via monthly profit loss statements.
- There is a personal commitment to the business through active involvement and reinvestment in the business.
- Increasing level of take home pay and a sustained cash flow.
- Decreasing reliance on social service benefits and increased level of independence.

**6.3.2. Moving out of Employment Status**

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If it is determined that the participant is no longer suitably employed, he or she should be moved out of employment status, document using the CLIENT DATA SYSTEM.





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Post-Employment Services Status

## 7. Post-Employment Services Status

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### 7.1. Policy Statement

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To implement a post-employment services (PES) program, an Individualized Plan for Employment (IPE) must be developed for the participant. The IPE must contain a description of the terms and conditions for the provision of any post-employment services, including the anticipated duration of those services. It must also include, if appropriate, a statement of how post-employment services will be provided or arranged through cooperative agreements with other service providers and / or through comparable benefits.

### 7.2. Guidelines

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- A. Post-employment services are only available to cases closed rehabilitated from the VR Process. Post-employment services must be for the purpose of advancing (if the disabling condition is a barrier to advancement), maintaining and / or regaining employment for the participant.
- B. The expected need for Post-employment services must be identified on the IPE, prior to closing the record of service. If a record has been closed, and extensive services are needed, a new case will need to be opened.
- C. Post-employment services are intended for the purpose to provide continued support of the Vocational Goal identified at Rehabilitated Case closure.
- D. The Participant Financial Contribution must be applied, and comparable benefits must be utilized in accordance with the financial participation guidelines.
- E. Any services which can be provided under a regular IPE may also be provided as PES, with the same requirements.
- F. In some instances, it may be more appropriate to open a new case rather than proceed with a PES program. The counselor should re-assess the participant's current circumstances and needs. Based on this reassessment the counselor should determine if the needs can be met through post-employment services or if a new VR case should be opened.
- G. Post-employment services must be requested within 5 years after the date of Rehabilitated Case closure.
- H. The services should be for a prescribed period of time and not expected to last longer than 1 year.
- I. If after opening a Post-employment case the Counselor discovers the participants needs are more complex than initially thought, VRC may consider closing the PES case and opening a new VR case.



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J. Post-Employment cases can be opened to any caseload in the state. Participants requesting Post-employment services do not have to remain with the caseload in which they were closed rehabilitated

- ~~A. Post employment services must be for the purpose of advancing (if the disabling condition is a barrier to advancement), maintaining and / or regaining employment for the participant.~~
- ~~B. The expected need for Post-employment services must be identified on the IPE, prior to closing the record of service. If a record has been closed, and extensive services are needed, a new case will need to be opened.~~
- ~~C. The Participant Financial Contribution must be applied and comparable benefits must be utilized in accordance with the financial participation guidelines.~~
- ~~D. Any services which can be provided under a regular IPE may also be provided as PES, with the same requirements.~~
- ~~E. In some instances, it may be more appropriate to open a new case rather than proceed with a PES program. The counselor should consider this option in situations where the participant must complete an entirely new rehabilitation process, or an additional comprehensive effort unrelated to the original IPE is required.~~

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- ~~F. Consideration for Post-Employment Plan Post-employment services must be for the purpose of advancing (if the disabling condition is a barrier to advancement), maintaining and / or regaining employment for the participant.~~
- ~~G. The expected need for Post-employment services must be identified on the IPE, prior to closing the record of service. If a record has been closed, and extensive services are needed, a new case will need to be opened.~~
- ~~H. The Participant Financial Contribution must be applied and comparable benefits must be utilized in accordance with the financial participation guidelines.~~
- ~~I. Any services which can be provided under a regular IPE may also be provided as PES, with the same requirements.~~
- ~~J. In some instances, it may be more appropriate to open a new case rather than proceed with a PES program. The counselor should consider this option in situations where the participant must complete an entirely new rehabilitation process, or an additional comprehensive effort unrelated to the original IPE is required.~~

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7.3. Procedures for Developing a PES Plan

1. Maintain employment: necessary services are in alignment with original vocational goal identified at rehabilitated case closure. Provided supports will assist the individual to maintain current employment and / or services will stabilize employment based on Counselor assessment of the request.
2. Regain Employment: vocational goal remains consistent with the original goal established in rehabilitated case closure. Necessary services are identified to determine the participant will be supported in regaining employment.
3. Advance Employment: participant requires VR services to address barriers in accessing promotional opportunities or necessary supports to attain skill set(s) needed for career advancement with consideration to duration and scope of services.



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- ~~A. Developing the IPE with the participant and, as appropriate, the guardian or representative in order to promote informed participant choice.~~
- ~~B. Entering the agreed upon PES Plan in the PES data page in client data system documenting services, entering costs, and providing evaluation criteria.~~
- ~~C. Obtaining supervisor approval as necessary. A copy of the PES Plan and a copy of the Participant Rights and Responsibilities form must also be provided to the participant.~~
- ~~D. Closing the PES plan. The PES plan is closed from the PES data page in client data system. The PES plan may be closed as employment "maintained" or "not maintained." See CLIENT DATA SYSTEM Help.~~
- ~~E. The Plan must be signed by the counselor and participant.~~

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#### 7.4. Procedures for Developing a PES Plan

- A. Developing the IPE with the participant and, as appropriate, the guardian or representative in order to promote informed participant choice.
- B. Entering the agreed upon PES Plan in the PES data page in client data system documenting services, entering costs, and providing evaluation criteria.
- C. Obtaining supervisor approval as necessary. A copy of the PES Plan and a copy of the Participant Rights and Responsibilities form must also be provided to the participant.
- D. Closing the PES plan. The PES plan is closed from the PES data page in client data system. The PES plan may be closed as employment "maintained" or "not maintained." See CLIENT DATA SYSTEM Help.
- E. The Plan must be signed by the counselor and participant.
- F. Post-Employment Services require the creation of a new participant case file. Medical records, IPE's and other relevant documents may be copied to the post-employment file.
- G. Post-Employment services for Supported Employment cases may not include extended services identified to be provided by long-term provider(s).
- H. Consideration of Post-Employment services is based on the date of the Rehabilitated Case Closure.



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7.5. Procedures for Closing a PES Case

- A. Closure options from Post Employment Services include "employment maintained or regained", "not employed or no further services at this time" or "reopening VR case."
- B. PES cases may be closed once services have been provided and were successful in supporting the identified goal established during PES. As a result, the participant has maintained, regained or advanced in employment.
- C. Consultation with participant to close post-employment services has occurred.
- D. Counselor will document in case notes that participant is stable and does not anticipate immediate need for additional services.
- E. The Counselor will need to assess the situation should employment services not enable the individual to maintain, regain or advance in employment. In these instances PES may be closed "not employed, no further services at this time" or "reopening VR case"
- F. The PES plan is closed from the PES data page in client data system.

Extensive Services – Requires multiple intensive services to reach an employment outcome. Substantial services expected to last 6 months or longer.

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Closure Status

## 8. Closure Status

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### 8.1. Policy Statement

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The types of case closures that can occur include - "rehabilitated" and "other than rehabilitated." Cases closed "rehabilitated" are considered successful employment outcomes. Cases closed "other than rehabilitated" involve all other types of closures including those closed from applicant status, eligible status, and service status. Cases served in Post-Employment status can be closed based on an outcome of employment being "maintained" or "not maintained."

The specific criteria outlined in the guidelines section must be met when proceeding with a case closure. In all instances, a closure letter must be sent to the participant outlining the reason(s) for closure and the availability of Post-Employment services (for participants closed rehabilitated). A copy of the letter must be kept in the hard case file. The participant should also be provided with a copy of the Participant Rights and Responsibilities form, and when possible, provided with an explanation of their rights through appropriate modes of communication.

### 8.2. Guidelines

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#### 8.2.1. Closed "Rehabilitated"

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A participant has achieved an employment outcome and can be considered "rehabilitated" when:

- A. The provision of substantial services under the participant's Individualized Plan for Employment (IPE) has contributed to the achievement of the employment outcome.
- B. The employment outcome is consistent with the participant's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
- C. The employment outcome is in a competitive integrated setting.
- D. The individual has maintained the employment outcome and achieved stability for a period of at least 90 days.
- E. The participant and the VR counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.



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- F. The participant's job is compatible with the employment goal identified in their IPE.

If a participant accepts a job that is contraindicated by the disability, not commensurate with abilities, in a different field from that for which they trained, the counselor may consider it as a successful rehabilitation if:

- A. After counseling is provided to point out the reasons it is considered questionable or unsuitable, the participant still accepts the job; and
- B. VR services were a significant factor in the vocational adjustment leading to employment and the case record reflects this; and
- C. The IPE has been amended to reflect the employment goal of the chosen occupation.

8.2.2. Closed "Other Than Rehabilitated"

"Other than rehabilitated" closures can occur for the following reasons in applicant status:

- A. Death
- B. Determined Ineligible following TWE (s)
- ~~B.C. Does Not Require Vocational Rehabilitation Service~~
- D. Foster Care
- E. Health/Medical
- F. Individual is Incarcerated
- G. Institutionalized (Not in Jail or Prison)
- H. No Longer Interested in Receiving Services
- I. Reservist Called to Active Duty
- J. Transferred to Another Agency
- K. Unable to locate, or contact.
- ~~C. Death~~
- ~~D. Disability too severe/unable to benefit from services (with clear and convincing evidence available through use of Trial Work Experiences)~~
- ~~E. Does not require vocational rehabilitation services~~
- ~~F. Failure to cooperate~~
- ~~G. Institutionalized and not available for services~~

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- ~~H. No impairment~~
- ~~I. No impediment to employment~~
- ~~J. Refused services or no further services needed~~
- ~~K. Unable to locate, or contact.~~
- ~~L. Reservist called to active duty~~

"Other than rehabilitated" closures can occur for the following reasons in eligible ~~delayed and~~ service status ~~and employed status~~:

- A. Death
- B. Disability too severe/unable to benefit from services with clear and convincing evidence
- C. ~~Institutionalized and unavailable for services~~ Extended Employment
- D. ~~Refused services or no further services needed~~ Extended Services Not Available
- E. ~~Unable to locate or contact~~ Foster Care
- F. Health/Medical
- G. Individual is Incarcerated
- H. Ineligible (after determination of eligibility)
- I. Institutionalize (Not in Jail or Prison)
- J. Long term Extended Services Not Available
- K. No Longer Interested in Receiving Services
- L. Reservist Called to Active Duty
- M. Transferred to Another Agency
- N. Unable to Locate or Contact

8.2.3. Closures from Post-Employment Services

Closures from Post-Employment services are either:

- A. Employment maintained or regained; or
- B. Not employed, no further services at this time
- C. Reopening VR case





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8.3. Procedures

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8.3.1. Closed "Rehabilitated"

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To close a case "rehabilitated":

- A. Validate through the participant, guardian, representative if appropriate, community rehabilitation provider staff, and / or employer (verbally or in writing) that the participant has achieved suitable employment for at least 90 days, assuming the other criteria have been met.
- B. Verify that the participant is receiving minimum wage or higher to meet the criteria for competitive employment.
- C. Discuss the closure with the participant, the guardian, or representative as appropriate to determine if Post-Employment services will be needed.
- D. In conjunction with obtaining supervisory approval, complete all fields of the closure in the client data system.
- E. Print a copy of the closure from the client data system and insert it in the hard case file.
- F. Send the participant a closure letter describing the reason for closure and the availability of Post-Employment services along with a copy of the Participant Rights and Responsibilities form.
- G. Insert a copy of the closure letter in hard case file.
- H. Inform the participant of their rights and responsibilities through appropriate modes of communication and in writing, and document that this occurred.
- I. Pay or cancel any outstanding authorizations associated with the case.
- H. The six primary indicators of performance:
  - Employment second quarter after exit
  - Employment fourth quarter after exit
  - Median earnings second quarter after exit
  - Credential attainment
  - Measurable skills gain
  - Effective employer relations are tracked via the client data system and/or through data sharing with NM Department of Workforce Solutions.

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8.3.2. Closed "Other Than Rehabilitated"

To close a case "other than rehabilitated" from applicant status:

- A. If the case is being closed because the counselor is unable to locate or contact the participant, a reasonable effort to contact the participant must be made and documented in a case note(s).
- B. If the case is being closed because the participant does not require VR services, has no impairment, or has no impediment to employment, document the reason in a case note.
- C. If the case is being closed because the participant's disability is too severe and he/she is unable to benefit from services in terms of an employment outcome, there must be clear and convincing evidence that this is the case and this must be documented into the case record.
- D. Additionally, a program must have been developed in Trial Work Experiences prior to determining an individual is unable to benefit from VR services in terms of employment due to the severity of his or her disability and proceeding with this type of closure.
- E. If the case is being closed because the participant makes an informed choice to pursue extended employment as their employment goal, the participant must be referred to a local extended employment provider.
- F. Discuss the closure with the participant, the guardian, or representative as appropriate.
- G. In conjunction with obtaining supervisory approval as necessary, complete the closure.
- H. Send the participant a closure letter describing the reason for closure along with a copy of the Participant Rights and Responsibilities form.
- I. Insert a copy of the closure letter in hard case file. Inform the participant of their rights and responsibilities through appropriate modes of communication and in writing, and document that this occurred (or the reason that this did not occur if it is not possible).
- J. Pay or cancel any outstanding authorizations associated with the case.

To close a case "other than rehabilitated" from eligible, service or employed status:

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- A. If the case is being closed because the counselor is unable to locate or contact the participant, a reasonable effort to contact the participant must be made and documented in a case note(s).
- B. If the case is being closed because the participant makes an informed choice to pursue extended employment as their employment goal, the participant must be referred to a local extended employment provider.
- C. As able, discuss the closure with the participant, the guardian, or representative as appropriate.
- D. In conjunction with obtaining supervisory approval as necessary, complete the closure.
- E. Send the participant a closure letter describing the reason for closure along with a copy of the Participant Rights and Responsibilities form and information for the Client Assistance Program.
- F. Insert a copy of the closure letter in hard case file. Inform the participant of their rights and responsibilities through appropriate modes of communication and in writing, and document that this occurred (or the reason that this did not occur if it is not possible).
- G. Pay or cancel any outstanding authorizations associated with the case.

**8.3.3. Closures from Post-Employment Services**

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To close a case from Post-Employment services:

- A. Discuss the closure with the participant, the guardian, or representative as appropriate.
- B. In conjunction with obtaining supervisory approval, complete the Post-Employment services reason for closure, employment maintained or regained; not employed, no further services at this time or Reopening VR case.
- C. Print a copy of the Post-Employment services data page and insert it in the hard case file.
- D. Send the participant a closure letter describing the reason for closure along with a copy of the Participant Rights and Responsibilities form. Insert a copy of the closure letter in hard case file
- E. Inform the participant of their rights and responsibilities through appropriate modes of communication and in writing,

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and document that this occurred (or the reason that this did not occur if it is not possible).

- F. Pay or cancel any outstanding authorizations associated with the case.

**8.4. Annual Review of Closed Cases**

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Case reviews are required on closed cases as follows:

**8.4.1. Cases Closed Due to Ineligibility**

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In instances where the participant was closed due to ineligibility because the participant was "unable to benefit from VR services in terms of achieving an employment outcome", an annual review must take place within one year and thereafter if requested by the participant. The purpose of the review is to assess the individual's circumstances to determine their current appropriateness for VR services.

This review does not have to occur if:

- the individual has refused the review, or
- the individual is no longer present in the State, or
- the individual's whereabouts are unknown

**8.5. Guide for Closure**

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**8.5.1. Cases Closed "Successfully Rehabilitated" in Supported Employment**

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A participant who receives Supported Employment and has achieved an employment outcome and can be considered "successfully rehabilitated" when all these conditions are met:

- A. The participant has completed supported employment services- (not to exceed 24 months)
- B. The participant has maintained employment in a competitive integrated setting for at least 90 days.
- C. The participant has transitioned to extended services (long-term support funding), and

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D. The participant has maintained employment and achieve stability in a work setting for an additional minimum of 90 days after transitioning to extended services.

E. The employment must be individualized and customized consistent with the strength, abilities, interests, and informed choice of the individual.

Employed 90 days + transition to Long term supports + 90 days employed under long term supports = closure

Once a participant has transitioned to extended services, (long-term support funding) and maintains their employment for, a minimum, of an additional 90 days (180 days minimum) this individual has achieved a successful supported employment outcome.

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**Service Status / Scope of Services**

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## **9. Service Status / Scope of Services**

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### **9.1. Policy statement**

Vocational rehabilitation services are provided based on the vocational rehabilitation needs of each participant and consistent with their informed choice.

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### **9.2. Scope of Services**

The following services will be available to all applicants and participants and provided based on the need for the service in order to achieve the employment goal:

- A. Assessment for determining eligibility of applicants in accordance with Eligibility and, if necessary, Trial Work Experience requirements.
- B. Assessment for determining vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology.
- C. Referral and other services necessary to assist applicants and participants to secure needed services from other agencies.
- D. Interpreter services, including sign language and oral interpreter services, by qualified personnel for individuals who are deaf or hard of hearing and tactile interpreting services for individuals who are deaf-blind
- E. Rehabilitation teaching services and referral for orientation and mobility services for individuals who are blind.
- F. Reader Services for individuals who are visually and or cognitively impaired.
- G. Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services.
- H. Post-employment services.
- I. Other goods and services determined necessary for the individual with a disability to achieve an employment outcome, including but not limited to, items discussed in detail in the following sections.

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#### **9.2.1. Purchase of Computer Equipment and Software**

A computer and / or computer equipment may be purchased for participants when it is the most appropriate means of meeting training or employment needs. Plans should include assistance/training for participants to effectively utilize the equipment requested, with or without reasonable accommodation, when appropriate.

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9.2.1.1. Scope

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The purchase of a computer must meet at least one of the following conditions:

- A. In the case of a self-employment plan, the computer and / or computer equipment is required for the operation of the business.
- B. In the case of a participant in a training program, the computer is required for success in a training program and sufficient access to a computer is not offered by the school, the participant does not own a computer and/or computer is not provided from the school (it is assumed a person attending training will require a computer to be successful in training).
- C. In case a computer is needed for job search.
- ~~C-D.~~ In the case of employment, a computer is necessary for employment when not provided by the employer.
- ~~D-E.~~ When a computer is assistive technology required to facilitate the individual's full participation in a DVR sponsored training program or employment, an evaluation from an evaluator who specialized in computer aided adaptive equipment must be in the file and the evaluation must support purchase of the equipment.

9.2.1.2. Guidelines

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- A. Comparable services and benefits shall be explored and utilized (except when the computer is assistive technology) prior to the purchase of a computer by the agency in accordance with the Financial Participation Section. B. If a computer is needed for a short time, loan banks, rental of the equipment or utilizing pay per hour arrangement should be explored.
- B. Computers are purchased d only for participants in service status with clear justification in the IPE documenting the connection between the computer and/or computer equipment to the desired employment outcome.
- C. The counselor shall assess the purpose of the computer to determine the capacity of the equipment needed, the counselor will provide only the current minimum needs as determined by present day standards only provide a device that meets the minimum technical requirements for the activity. Purchased computers will be the basic minimum required for participation in the IPE activity (training, job search, employment). Counseling should be consider appropriate accommodation required for specific disability.

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- D. Computer purchase will only be considered if the participant is able to take responsibility for the maintenance, replacement and upgrade of equipment and software. The IPE must reflect the participant's role in maintaining, replacing and upgrading the equipment.
- E. Counselors may consider assisting with upgrades for purchased computer systems if the additional equipment or upgrade is required due to a change or progression of the disabling condition or to obtain or maintain employment.
- F. Prior to the purchase of a computer, the counselor will determine the need for any orientation or training in computer use. The IPE will reflect the training needed.

**9.2.2. Counseling and Guidance**

Provision of quality Counseling and Guidance remains a fundamental aspect of the VR program and a key element in the successful rehabilitation of individuals with disabilities. In all cases, Counseling and Guidance service needs should be considered and these services may be all that is required to return the participant to work. All counseling sessions held with an applicant or eligible participant shall be documented in a case note.

Counseling is generally provided to provide information related to:

- the disability and functional limitations
- availability of training, medical or other resources
- obtaining comparable benefits
- occupational requirements, job market trends, available openings, other vocational topics
- agency policies/procedures related to the rehabilitation process
- information regarding service providers and service options to facilitate participant choice
- assist participants with vocational and psychosocial adjustment to the disability
- provide support, coordination or assistance in obtaining needed services.





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9.2.3. Maintenance

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Maintenance is financial support provided to an applicant or eligible participant for expenses related to subsistence, such as shelter, utilities, food and personal items that are in excess of the normal expenses of the individual and that are necessary for participation in the assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an Individualized Plan for Employment (IPE). Maintenance is provided only to enable the individual to participate in and derive full benefit from other VR services.

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9.2.3.1. Limitations

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Maintenance is not:

- ~~E.F.~~ intended as a means for increasing the participant's standard of living;
- B. to be used as a means to pay for any previous or current expenses incurred by the participant or family member - other than those extra costs of subsistence required by the applicant or participant to participate in the rehabilitation process;
- C. to be provided during periods in which the IPE or other services are interrupted, such as summer vacations from school or while waiting for a VR program to begin; or
- D. intended to cover luxury items.

*Note: Under no circumstances should DVR attempt to resolve a participant's debt or financial difficulties (e.g., making bank payments, installments on furniture or credit cards, etc.) through maintenance payments.*

9.2.3.2. Guidelines

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- ~~F.G.~~ Maintenance can be considered to cover a participant's subsistence costs which are above and beyond their normal subsistence costs and are a direct result of participating in the assessment for eligibility of VR services or planned services in an approved IPE.
- ~~G.H.~~ The Participant Financial Contribution must be applied in accordance with the Financial Participation Section of this manual when providing maintenance services.
- ~~H.I.~~ Comparable Services and Benefits should be fully considered when providing any maintenance according to the Financial Participation Section of this manual. The following Comparable Services and Benefits must be applied prior to providing maintenance. In cases where the Participant is ineligible for the following services, documentation to that effect must be included in the case notes prior to providing maintenance.
- ~~I.J.~~ Rent payments for housing are restricted to those necessary for a participant to attend training or relocate to new employment.



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Comparable Service required when available:

1. Rent or housing subsidy
  - A. TANF, General Assistance
  - B. SSI/SSDI
  - C. Workers Compensation
  - D. City, County, HUD or other housing subsistence
2. Utilities
  - A. Same as above to offset housing expense
  - B. City, County or State utility subsidies
3. Food
  - A. Supplemental Nutrition Assistance Program (SNAP).
  - B. Commodities
4. Room and board while enrolled in an academic program
  - A. Student federal financial aid

*Note: It is important to review the case periodically to assess whether maintenance should be provided; or in instances when it is being provided over an extended period of time, assessment should be made about the appropriateness for continued maintenance assistance as well as changes in financial need.*

**9.2.3.3. Relocation Expenses**

Relocation expenses in connection with job placement that is a significant distance from the participant's current residence can be provided when the following conditions are met:

- A. the move is necessary to achieve the participant's employment goal;
- B. job security has been established; and
- C. there is significant distance from the participant's current residence and job site.



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9.2.4. Miscellaneous Goods and Equipment

9.2.4.1. Definitions

9.2.4.1.1 *Equipment*

Mechanical items such as calculators, power tools, hand tools, etc.

9.2.4.1.2 *Goods*

Tangible commodities such as supplies, clothes, books, furniture, stock, etc.

9.2.4.2. Self-Employment Equipment and Supplies

Miscellaneous goods and equipment can be purchased for an eligible participant to assist in securing, maintaining or regaining an employment outcome. Comparable services and benefits as well as the Participant Financial Contribution must be applied in accordance with the Participant Financial Participation Section. Following is a list of various equipment and goods:

9.2.4.2.1 *Placement Tools*

Basic tools customarily required for a worker to perform on the job and normally provided by the employee as a prerequisite to work in the field. The counselor is responsible for obtaining consultation concerning the basic tool requirements for a particular job.

9.2.4.2.2 *Special Tools*

Tools over and above the basic tools normally required and may be provided if needed to improve the participant's job functioning in light of the disability.



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9.2.4.2.3 *Training Tools*

The basic tools required to successfully complete a training program may be provided.

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9.2.4.2.4 *Special Adaptive Equipment*

A participant may be provided special adaptive equipment if required as a reasonable accommodation at the job site. Adaptive equipment may also be provided if necessary to enable the participant to participate in his/her rehabilitation program.

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9.2.4.2.5 *Shelters*

A permanent structure may not be purchased or remodeled under any circumstances. A portable, easily dismantled shelter, i.e. storage unit and utility shed, may be provided to house a self-employment venture.

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9.2.4.2.6 *Initial Stock*

Stock and supplies, including "startup" inventory of merchandise or goods for resale may be provided to participants entering self-employment. The amount of items purchased should be adequate to ensure a gross profit margin that will allow for replenishment of stock without further DVR support.

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9.2.4.2.7 *Livestock*

Livestock necessary for the establishment of a base stock, or animals for a farming or agricultural self-employment venture may be provided as well as initial supplies of seed, fertilizer, feed, etc.



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9.2.4.2.8 *Supplies*

Stationery, pens, forms and other expendable items necessary for the day-to-day operation of a small business enterprise may be provided.

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9.2.4.2.9 *Land*

Land may not be purchased under any circumstances.

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9.2.4.2.10 *Equipment*

Appliances, apparatus, machine, fixture or furniture may be provided when required by a participant to enter employment or self-employment.

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9.2.5. Occupational Licenses

Occupational Licenses are any license, certificate, permit or other written governmental authorization prerequisite to entering an occupation or small business enterprise, and may be sponsored by DVR to eligible participants. Examples of Occupational Licenses include:

- A. Chauffeur's license for employment as a cab driver, bus driver, etc.
- B. Barber or beauty operator, food service, realtor, or other trade licenses
- C. Business licenses to operate a small business enterprise
- D. Certification, licensure or registration for the practice of a profession such as nursing, mental health counseling, teacher, massage therapy, psychology, law, etc.

Services in support of obtaining an Occupational License may include, but are not limited to:

- A. Licensure/certification/permit fees
- B. Transportation/lodging necessary to obtain the license
- C. Short-term training or study courses needed to obtain the license

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9.2.5.1. Guidelines for Purchasing

- A. Attention should be given to licensure/certification during development of training plans to ensure that the participant will not encounter obstacles to meeting licensure requirements (e.g. criminal records, etc.).
- B. Only licenses/certifications required by the participant to be able to work in the profession shall be covered by DVR. Other licenses that are not required, but are felt to enhance the marketability of the participant, may be provided at the counselor's discretion.
- C. Comparable Services and Benefits as well as the Participant Financial Contribution shall be applied when providing support towards licensure.

9.2.6. Personal Assistance Services

Personal Assistance Services are designed to assist the participant to perform daily living activities on or off the job that the individual would typically perform without assistance if non-disabled. Examples of Personal Assistance Services include attendant care services and training in managing, supervising and directing personal assistance services.

9.2.6.1. Requirements

- J-K. Personal Assistance Services must be necessary to the achievement of an employment outcome and counselor must document this relationship in the Individualized Plan for Employment.
- K-L. Personal Assistance Services may be provided only while the individual is receiving other vocational rehabilitation services.
- L-M. Comparable Services and Benefits must be applied when providing Personal Assistance Services.

*Note: The Participant Financial Contribution cannot be applied when providing Personal Assistance Services.*



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**9.2.7. Placement Services**

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Placement services consist of those services planned, directed and coordinated by the counselor that result in employment for the participant. Placement services are designed to address barriers to employment resulting from functional limitations and other attendant factors. Services are provided to enable the participant to both obtain and maintain employment. Placement services may include, but are not limited to:

- A. Vocational Counseling
- B. Job Readiness Skills Training
- C. Interview Skills Training
- D. Job Club
- E. Job Referral
- F. Job Development
- G. Job Placement
- H. Job Coaching
- I. Job Re-engineering
- J. Reasonable Accommodations
- K. Task/Job Analysis
- L. Employer Consultation:
- M. tax credits
- N. federal certification
- O. ADA issues
- P. other incentives

**9.2.7.1. Guidelines**

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- A. Use of Comparable Services and Benefits cannot be required nor can the Participant Financial Contribution be applied when providing job-related services including job search and placement assistance, job retention services, follow-up services and follow along services.
- B. It is the counselor's responsibility to assess the participant's placement needs, provide counseling, plan for the provision of services and document these activities. The types of services used should be determined on an individualized basis.
- C. Counselors should enlist services provided by One-Stop Centers and / or other public or private organizations to promote job placements as determined appropriate.





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- D. Placement services may be purchased when such an arrangement is in the best interest of the participant, such as when DVR is unable to provide timely and appropriate services. Some placement services are time intensive and when viewed in terms of the counselor's overall job, are best arranged for when possible. An individualized determination based on the participant's needs must be made regarding the use of specific placement services through the use of other resources, the counselor or a combination of both.
- E. When placement services are purchased, the counselor still retains the primary responsibility for directing the placement process. The counselor must assure quality services are being provided and provide ongoing counseling to the participant as needed.

**9.2.8. Rehabilitation Technology**

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**9.2.8.1. Definitions**

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*9.2.8.1.1 Rehabilitation Technology*

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The application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living and recreation. Examples of rehabilitation technology include vehicular modifications, telecommunications, sensory and other technological aids and devices.

*9.2.8.1.2 Rehabilitation Engineering*

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The application of engineering sciences to design, develop, adapt, test, evaluate, apply and distribute technological solutions to problems confronted to individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education and integration into the community.

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*9.2.8.1.3 Assistive Technology Device*

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Any item, piece of equipment or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain or improve the functional capabilities of an individual with a disability.

*9.2.8.1.4 Assistive Technology Services*

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Any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device, including:

- A. the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in his or her customary environment;
- B. purchasing, leasing or otherwise providing for the acquisition of an assistive technology device for an individual with a disability;
- C. selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;
- D. coordinating and using other therapies, interventions or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- E. training or technical assistance for an individual with a disability or, if appropriate, a family member, guardian, advocate or authorized representative of the individual;
- F. training or technical assistance for professionals, employers, or others who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities, to the extent that training or technical assistance is necessary to the achievement of an employment outcome by an individual with a disability.



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9.2.8.2. Guidelines for Purchasing

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- M-N.** A Rehabilitation Engineer should be consulted as needed for assistance in providing rehabilitation technology services.
- N-O.** Comparable Services and Benefits cannot be required when providing Rehabilitation Technology including telecommunications, sensory and other technological aids and devices.
- O-P.** Participant Financial Contribution must be applied in accordance with the Financial Participation Section when providing rehabilitation technology.
- P-Q.** Rehabilitation technology services, aside from evaluations of an individual's rehabilitation technology needs, should be identified in the IPE with documentation showing the connection of the rehabilitation technology service to the identified employment outcome.
- Q-R.** Should an assistive technology device be required during a TWE period, the justification for the device should clearly identify why the device is necessary in addressing the question of eligibility.

9.2.8.3. Computers as Assistive Technology

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Computers, computer equipment and software can be considered assistive technology equipment if the purpose of the equipment is to provide accommodations for an individual with a disability. Requirements for computer purchases are outlined in the Computer Purchase Section.

9.2.9. Restoration Services

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9.2.9.1. Physical Restoration

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Physical Restoration Services include:

- A. Diagnostic exams to establish the diagnosis, prognosis and recommended treatment of a physical condition
- B. X-ray or laboratory work
- C. Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical impairment that constitutes a substantial impediment to employment



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- D. Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services to include anesthesia
- E. Dentistry
- F. Nursing Services
- G. Medically prescribed drugs and supplies
- H. Prosthetic and orthotic devices
- I. Eyeglasses and visual services, including visual training, examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel that are qualified in accordance with State licensure laws
- J. Podiatry
- K. Physical therapy
- L. Occupational therapy
- M. Speech or hearing therapy
- N. Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical or mental restoration services, or that are inherent in the condition under treatment
- O. Special services for the treatment of individual with end-stage renal disease, including kidney transplant, dialysis, artificial kidneys and supplies
- P. Other medical or medically related rehabilitation services.

*9.2.9.1.1 Diagnostic Evaluations*

Medical evaluation reports shall include:

- A. diagnosis
- B. prognosis
- C. functional limitations
- D. recommended treatment (type, frequency, duration)
- E. short term treatment objectives
- F. expected final outcome of treatment
- G. testing to the extent needed.



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*9.2.9.1.2 Surgery*

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Where inpatient or outpatient surgery is part of the IPE services, the counselor must ensure that provisions for payment through DVR, comparable benefits or the participant include:

- A. All hospital costs; room, board, supplies, drugs, operating room, etc.
- B. Surgeon and assistant surgeon
- C. Anesthesiologist and anesthesia
- D. X-rays and radiologist
- E. Lab work
- F. Post-operative follow-up and treatment
- G. Other costs such as co-insurance payments if needed
- H. Required medication

*9.2.9.1.3 Orthotics, Prosthetics and other Assistive Devices*

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- G. Hearing aids, eyeglasses, prosthetics, orthotics or other medical equipment should be purchased only with a prescription or written recommendation from a licensed or certified diagnostician or provider.
- H. Purchase of prescribed assistive devices is subject to participant financial contribution.
- I. Purchase shall be made at the best available price. Some medical equipment is on contract with the State Purchasing Agent so the list of SPA contracts should be checked prior to authorizing these services.
- J. The Counselor is responsible for discussing the issue of "product warranty" with the vendor. If a warranty is normally provided, a copy should be placed in the case file. If no warranty is offered, the counselor shall discuss with the participant and vendor the responsibility for repair or replacement, particularly for prosthetics.
- K. In all cases, counseling should be provided to ensure the participant's awareness of responsibility of repair and replacement after the participant becomes employed.



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*9.2.9.1.4 Organ Transplants*

- L. Restoration services can be provided for participants with end-stage renal disease, including transplantation, dialysis, artificial kidneys and supplies. These services are only to be provided when other financial support is not available.
- M. No other organ transplants are to be provided. Individuals who have successfully undergone organ transplants may be candidates for VR services once the condition "stabilizes" provided other eligibility criteria are met.

**9.2.9.2. Mental Restoration**

Mental restoration is a planned program of professional treatment which is designed to systematically reduce those major functional limitations of a mental or emotional disability which prevent adequate performance in a training or employment setting. Mental restoration services include:

- A. Psychotherapy
- B. Psycho-educational services (e.g., stress management, assertiveness training, etc.)
- C. Prescribed medication
- D. Medication monitoring
- E. Biofeedback
- F. Psychosocial rehabilitation services
- G. Cognitive therapy/retraining
- H. Therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive mental impairment that constitutes a substantial impediment to employment
- I. Drugs and Supplies
- J. Treatment of either acute or chronic complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services, or that are inherent in the condition under treatment
- K. Inpatient or outpatient drug or alcohol treatment

*9.2.9.2.1 Diagnostic Evaluations*

Psychological or psychiatric evaluation reports shall include:

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- A. diagnosis
- B. prognosis
- C. functional limitations in behavioral terms
- D. recommended treatment (type, frequency, duration)
- E. short term treatment objectives
- F. expected final outcome of treatment
- G. testing to the extent needed

If the participant fails to keep an appointment for a psychological or psychiatric evaluation or therapy that results in a financial loss to the vendor, payment will be made up to 50% of the authorized amount, unless the appointment is cancelled at least 24 hours prior to the appointment. No payment will be allowed if the participant was scheduled for a service such as group therapy which causes no loss of time to the vendor. When appointments are scheduled, the individual should be provided in writing with the date, time, location and phone number to the vendor and made aware of the need to cancel or reschedule at least 24 hours prior to the appointment if necessary.

9.2.9.3. Guidelines

R.S. Restoration services shall be provided only by facilities and professionals licensed or certified according to state law.

S.T. Diagnostic examinations and procedures may be provided in any status and do not have to be identified as a service in plans for those individuals in TWE, PES or Service Status.

T.U. In all cases the counselor should clarify all rehabilitation issues pertaining to the individual's employability and their relationship to planned restoration services.

U.V. Counseling and Guidance issues necessary for the individual's adjustment should be documented as an integral part of the rehabilitation program.



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V-W. Comparable Services and Benefits shall be applied when providing restoration services in accordance with the Financial Participation Section. When providing restoration services, the following examples of comparable services and benefits shall be explored as appropriate:

- Pharmaceutical Assistance Programs
- Private Insurance
- Worker's Compensation
- Children's Medical Services (for ages 21 and under - Dept. of Health)
- Medicaid
- Medicare
- Hill Burton Funds
- Knights Templar Eye Foundation Inc.
- County Indigent Funds

- F. The Participant Financial Contribution shall be applied in accordance with the Client Financial Participation Section.
- G. Restoration services provided under an IPE shall include objectives developed in conjunction with the service provider which identify measurable behavioral outcomes.
- H. Psychotherapy must be recommended through a psychological or psychiatric examination in order to provide psychotherapy in an IPE, TWE, or PES plan.
- I. When providing psychotherapy services, a brief monthly report outlining progress made in therapy shall be obtained.

**9.2.9.4. Non-Traditional or Unlicensed Providers**

Non-traditional treatment or services, not covered by state regulation (licensure, certificates, etc.), cannot be covered by DVR. When there is a question surrounding a treatment request or prescription, medical consultation shall be obtained.





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**9.2.9.5. Long-Term Care or Treatment**

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DVR does not provide long term medical, psychiatric or psychological care or treatment. Upon receiving a request for Restoration services for the purpose of enhancing an individual's level of functioning to the degree necessary to actively participate in job search or training activities, the counselor shall:

- A. negotiate a reasonable time frame for services
- B. identify expected benefits of the restoration services as it relates to the participant's employability
- C. ensure the services are measurable in order to determine the efficacy of the treatment
- D. obtain a medical consultation as appropriate.

If the individual has ongoing medical needs (medication, supplies, etc.) the counselor may assist with these needs during the rehabilitation program, provided the participant continues progressing in their program. The counselor should consider ongoing medical expenses when determining an employment goal and the level of earnings needed, as the participant will have to assume responsibility for the costs after closure.

**9.2.9.6. Medication**

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- A. DVR can assist with prescribed medications that are FDA approved. DVR cannot assist with the purchase of Non-FDA approved medications or prescriptions.
- B. The counselor must monitor the efficacy of the medication through medical or psychiatric updates as well as contact with the participant.
- C. Ongoing assistance with medication is dependent on medical reports supporting participant gains as a result of the medication and counselor documentation that these gains are connected with the participant's employability.
- D. Comparable services and benefits to include Pharmaceutical Assistance Programs must be explored and utilized as appropriate prior to providing assistance with medication.



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9.2.9.7. Consultation

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Medical Consultation is expert advice related to medical aspects of VR cases by a medical practitioner. These consultative services are provided by an area or state medical consultant or on a fee for service basis by private physicians and are rendered directly to VR counselors and supervisors. The medical consultant does not make eligibility decisions. This remains the responsibility of the VR Counselor. The purpose of the medical consultant is to:

- A. provide technical assistance on medical aspects of rehabilitation
- B. help insure quality medical services
- C. assist the counselor to obtain, understand and use adequate medical services at a reasonable cost
- D. identify and assess the degree of functional limitations using existing medical information
- E. interpret and clarify medical terms and information provided in medical reports
- F. assist counselors in the choice of practitioners for diagnostics or treatment
- G. provide advice when medical incompetence, negligence or unlawful acts are suspected.

9.2.9.7.1 *Guidelines for Medical Consultation*

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Medical consultation must be obtained during the formulation of an IPE that provides for:

- N. in-patient or out-patient hospitalization
- O. severe physical impairment with uncertain prognosis, even if DVR is not providing restoration services
- P. controversial or experimental medical or health services, even if DVR is not providing the service
- Q. clarification on AMA standard of care if counselor is uncertain about a recommended treatment



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9.2.9.7.2 Guidelines for Dental Consultation

The dental consultant serves essentially the same purpose as the medical consultant. Cases involving provision of any dental services in excess of \$2,000.00 shall be referred to the dental consultant for review. Referrals to the Dental Consultant shall include:

- A. cover letter
- B. dental examination and treatment plan
- C. x-rays

9.2.10. School to Work Transition Services

9.2.10.3.1 Authority

The Rehabilitation Act of 1973 as amended, 29 U.S.C.A. (29 U.S.C. 701 et seq), 34 C.F.R. parts 361 through 397 Section 22-114-7 at seq., NMSA 1978.

9.2.10.3.2 Policy

The Workforce Innovation and Opportunity Act (WIOA) amends the Rehabilitation Act of 1973 and requires vocational rehabilitation (VR) agencies to set aside at least 15% of their federal funds to provide "pre-employment transition services" to students with disabilities who are eligible or potentially eligible for VR services. The Commission for the Blind and the Division of Vocational Rehabilitation have agreed to make pre-employment transition services available to all students with disabilities who are potentially eligible or eligible for VR services in New Mexico starting at 14 years of age, or earlier as needed, based on the IDEA definition of a "student with a disability." WIOA mandates VR agencies place emphasis on providing transition students with disabilities to access employment and training opportunities that provide them the skills necessary to compete in the workforce.

9.2.10.3.3 Glossary of Terms –

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Assistive Technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device. 34 CFR 361.5(c) (6)

Community Rehabilitation Program

Community Rehabilitation Programs (CRP) that offer a range of employment-related and support services to Vocational Rehabilitation participants. CRPs may include a vendor who has a formal agreement with Division of Vocational Rehabilitation (DVR) in providing services. 34 CFR 361.5(c) (7)

Customized Employment (CE)

Customized employment is a flexible process designed to personalize the employment relationship between a job candidate and an employer in a way that meets the needs of both. It is based on an individualized match between the strengths, conditions, and interests of a job candidate and the identified business needs of an employer. Customized Employment utilizes an individualized approach to employment planning and job development. 34 CFR 361.5(c) (11)

Competitive Integrated Employment (CIE)

Work performed by a person with a disability in a setting that has a balance of peers with and without disabilities. Wages are at least minimum wage or higher and at a rate comparable to non-disabled workers performing the same tasks. 34 CFR 361.5(c) (9)

To satisfy the definition of "competitive integrated employment," which is one of the types of employment outcomes permitted under the VR program, the employment must satisfy the requirements for all three components:

1. Competitive earnings;
2. Integrated Location; and



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3. Opportunities for advancement.

This means that if an individual's employment fails to satisfy any one of the above components, the employment will not meet the definition of "competitive integrated employment."

Free Application for Federal Student Aid (FAFSA)

A form that can be prepared annually by current and prospective college students (undergraduate and graduate) in the United States to determine their eligibility for student financial aid.

Family Education Rights and Privacy Act (FERPA)

A federal privacy law that gives parents certain protections with regard to their children's education records, such as report cards, transcripts, disciplinary records, special education records, contact and family information, and class schedules.

Fair Labor Standards Act (FLSA)

Establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments.

Individuals with Disabilities Education Act (IDEA)

Federal law that makes available a free appropriate public education to eligible children with disabilities throughout the nation and ensures special education and related services to those children.

Individualized Education Program or Plan (IEP)

An Individualized Education Program (IEP) is a written statement of the educational program designed to meet a student's individual needs. Every child who receives special education services must have an IEP. The IEP has two general purposes: 1) to set reasonable learning goals for a student, and 2) to state the services that the school district will provide for the student.

Individualized Plan for Employment (IPE)

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The Individualized Plan for Employment (IPE) is a written plan outlining an individual's vocational goal, and the services to be provided to reach the goal. 34 CFR 361.45 (1) 34 CFR 361.46 (2) The individualized plan for employment is a written document prepared on forms provided by the State unit;

(2) The individualized plan for employment is developed and implemented in a manner that gives eligible individuals the opportunity to exercise informed choice, consistent with § 361.52, in selecting -

- (i) The employment outcome, including the employment setting;
- (ii) The specific vocational rehabilitation services needed to achieve the employment outcome, including the settings in which services will be provided;
- (iii) The entity or entities that will provide the vocational rehabilitation services; and
- (iv) The methods available for procuring the services

Student with a Disability

See section 1.4.38 of Manual of Operating Procedures

Youth with a Disability

See section 1.4.46 of Manual of Operating Procedures

RT- Rehabilitation Technician

TC- Transition Counselor

VRC- Vocational Rehabilitation Counselor

VTS- Vocational Transition Specialist

9.2.10.3.4 Provision of Pre-employment Transition Services

An individual is considered to be a student with a disability for the purposes of Pre-Employment Transition Services (Pre-ETS) if:



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- the individual with a disability is in a secondary, postsecondary, or other recognized education program;
- is eligible for and receiving special education or related services under IDEA, or is a student with a disability for purposes of Section 504; and
- at least 14 years of age, up to their 21st birthday (based on transition age per IDEA in New Mexico);
- if a student turns 22 years old during the school year (while in high school), they continue to be considered a student with a disability until they finish the academic year.

DVR shall provide or arrange for provision of Pre-ETS. All students with disabilities ages 14 through 21 in need of such services who are eligible or potentially eligible for VR under this title shall receive Pre-ETS. Applications and IEPs are not required.

Pre-ETS are an early start to job exploration whether a student has applied for VR services. Services are for the purpose of career exploration and experience without regard to assessing skills or abilities.

The DVR will reserve not less than 15 percent of the allotted federal funds to provide or arrange for provision of Pre-ETS for students with disabilities.

The educational setting can vary and can include public school, private school, homeschool, adult education, college or university, or an alternative school setting.

In the event a student does not have a 504 plan or IEP, the counselor may provide Pre-ETS if other documentation of the disability is provided. Other options for documentation include medical documentation, review of school records, statement from school staff, case notes documenting counselor observations, or a letter verifying the student receives Supplemental Security Income benefits as a result of the student's disability (survivor's benefits do not apply)

.9.2.10.3.4.1 Pre-Employment Transition Services Description

The Rehabilitation Act of 1973 as amended by the Work Innovation Act (WIOA) establishes activities to be provided to students with disabilities called Pre-Employment

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Transition Services (Pre-ETS). Pre-ETS are coordinated activities for a student with a disability designed within an outcome-oriented process that promotes movement from school to post-school activities leading to competitive integrated employment.

VR shall provide or arrange for provisions of these services for all potentially eligible and eligible students with disabilities. Services provided by VR enhance transition services, but do not reduce the responsibility of local educational agencies under IDEA or Free Appropriate Public Education (FAPE). Pre-ETS services can be provided and coordinated by the Rehabilitation counselor in collaboration with the local educational agencies involved, or purchased through another entity, and provided in and out of the school setting.

**9.2.10.3.4.2 Pre-Employment Transition Services Required Activities**

Pre-ETS must include, as appropriate to the needs of the person, the following required activities:

- Job exploration counseling;
- Instruction in self-advocacy (including instruction in person-centered planning)
- Counseling on opportunities for enrollment in comprehensive transition or postsecondary education programs at institutions of higher education;
- Workplace readiness training; and
- Work-based learning experiences;

**Job Exploration Counseling:** Job Exploration Counseling, or Career counseling can include a wide variety of professional activities which help individuals with career-related issues. Career counselors work with students with disabilities seeking to explore career options. Career counseling is also offered in various settings, including in groups and individually, in person or virtually.

Job exploration counseling may be provided on an individual basis. Services may be provided in school or in the community. Examples of job exploration may include the following:

- The vocational interest inventory;
- In-demand occupations;
- Career pathways; and
- Local labor market information that applies to the student's particular interests.

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Job exploration counseling may be provided in a group setting. Examples of job exploration may include the following:

- Information regarding in-demand industry sectors and occupations, as well as;
- Nontraditional employment;
- Information about labor market composition;
- Administration of vocational interest inventories

**Work-based learning (WBL) experiences:**

WBL experiences are an educational approach or instructional methodology that uses the workplace or real work to provide students with the knowledge and skills that will help them connect school experiences to real-life work activities and future career opportunities. It is essential that direct employer or community involvement be a component of the WBL to ensure in-depth student engagement. These opportunities are meant to engage, motivate and augment the learning process. These WBL opportunities can be done in conjunction with private, for-profit, public or nonprofit businesses in your community and/or through web-based resources. In addition, work-based learning requires in-depth engagement of students with disabilities and an evaluation of acquired work relevant skills.

WBL experience shall be provided in integrated settings within the community to the maximum extent possible. Integrated settings may include in school, after school or outside the traditional setting. WBL experiences may include individual or group services.

Examples of individual WBL experiences include:

- Internships(paid/non-paid);
- Apprenticeships;
- Short-term employment;
- Fellowship;
- On-the-job trainings located in the community;
- Job Shadowing

Examples of group WBL experience include:

- Coordinating a school-based program of job training and informational interviews to research employers;
- Work-site tours to learn about necessary job skills;
- Job shadowing;
- Mentoring opportunities in the community

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Each student participating should be covered under liability insurance provided by the school or provider of the service.

Vocational Rehabilitation agencies shall exhaust all opportunities for work-based learning experiences in integrated settings before placing an individual in a non-integrated setting.

Funds for work-based learning experiences must be used solely for costs incurred in the provision of Pre-Employment transition services for the benefit of a student with a disability. The following are broad examples of costs that might be allowable:

- Interpreters, reader services, accessible informational materials necessary to ensure equal access.
- Workplace readiness training or any of the other activities, as required by the Americans with Disabilities Act or section 504 of the Rehabilitation Act;
- Fees charged by the employer for costs incurred in providing the work-based learning experience, such as printing additional informational materials, providing uniforms, employer-provided staff or trainers, or other costs incurred by the employer in providing the work-based learning experience to students, which are not individualized in nature

Utilization of Community Rehabilitation programs (CR)) and comparable benefits are applicable and utilized as appropriate.

**Counseling on Opportunities for enrollment in comprehensive Transition or postsecondary programs at Institutions of Higher Education:** Maximum flexibility in the career decision making process is important in the early phases of Post-Secondary Education (PSE) planning. This includes gaining an awareness of the wide range of career pathway options and labor market realities and projections.

Such counseling may also be provided on an individual basis. Some examples include:

- Advising students and parents or representatives on academic curricula;
- Providing information about college application and admissions processes;
- Completing the Free Application for Federal Student Aid (FAFSA);
- Providing resources that may be used to support individual student success in education and training, which could include disability support services

Examples of services provided on a group basis include:

- Enrollment in comprehensive transition or postsecondary educational

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programs at institutions of higher education, including information on course offerings:

- Career options, the types of academic and occupational training needed to succeed in the workplace;
- Postsecondary opportunities associated with career fields or pathways

**Workplace Readiness training:** Workplace readiness traits describe a number of commonly expected, skills that employers seek from most employees. Work readiness skills are a set of skills and behaviors that are necessary for any job. Work readiness skills are sometimes called soft skills, employability skills, or job readiness skills.

These abilities help employees learn how to interact with supervisors and co-workers.

They help reinforce the importance of timeliness and build an understanding of how

we are perceived by others. Employers value employees who can communicate effectively and act professionally. No matter what technical skills a job may require,

every job requires good social skills/interpersonal skills.

Services may be provided on an individual or group basis. Workplace readiness training services may be offered in a generalized manner in a classroom or other such group settings to provide programming to assist students with disabilities to develop social skills and independent living skills necessary to prepare for eventual employment. These services may include instruction, as well as opportunities to acquire and apply knowledge. These services may be provided in a generalized manner in a classroom setting or be tailored to an individual's needs in a training program provided in an educational or community setting.

Examples of services provided on an individual basis include:

- Independent living skills: hygiene, time management, transportation, nutrition, safety, appropriate dress;
- Communication and interpersonal skills;
- Financial literacy;
- Understanding employer expectations for punctuality and performance, as well as other "soft" skills necessary for employment;
- programming to develop social skills and independent living;
- Job-seeking skills;
- Professionalism

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Examples of series provided on a group basis include:

- Teamwork;
- Group orientation and mobility skills (i.e., to access workplace readiness training or to learn to travel independently);
- Understanding employer expectations for punctuality and performance, as well as other "soft" skills necessary for employment;
- Job-seeking skills;
- Professionalism

**Instruction to Self-Advocacy:** Self-advocacy refers to an individual's ability to effectively communicate, convey, negotiate or assert his/her own interests and/or desires. Self-determination means that individuals with disabilities have the freedom to plan their own lives, pursue the things that are important to them and to experience the same life opportunities as other people in their communities. It means taking the responsibility for communicating one's needs and desires in a straightforward manner to others. The development of self-advocacy skills should be started at an early age. These skills are necessary in education, workplace and community settings.

Services can also be provided through individualized opportunities that include:

- Conducting informational interviews;
- Mentoring with educational staff such as principals, nurses, teachers, or office staff;
- Mentoring with individuals employed by or volunteering for employers, boards, associations, or organizations in integrated community settings;
- Participating in student leadership activities offered in educational or community settings

Instruction in self-advocacy services may be provided through generalized classroom lessons in which students:

- Learn about their rights and responsibilities;
- Learn how to request accommodations or services and supports needed during transition from secondary to postsecondary education and employment;
- Communicate their thoughts, concerns, and needs, in order to prepare them for peer mentoring opportunities with individuals working in their area(s) of interest

9.2.10.3.4.3 Pre-Employment Transition Local Educational Agencies

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To facilitate Pre-ETS, VRC's will collaborate with schools and educational agencies to include:

- Secondary Education
- Non-transitional or Alternative Secondary Education Programs, including home schooling;
- Other Recognized educational programs, such as those offered through the juvenile justice system;
- Bureau of Indian Affairs Educational programs;
- School for the Deaf and school for the Blind

9.2.10.3.4.4 Pre-Employment Transition Coordination Activities

DVR Local offices are responsible for fulfilling the designated coordination responsibilities outlined in the Workforce Innovation and Opportunities Act Title IV 361.48 (a) (4.) Pre-employment transition coordination activities are:

- Attending Individualized Education Plan meetings, when invited;
- Working with the local workforce development boards, one-stop centers, and employers to develop work opportunities may include internships, summer employment, other employment opportunities and apprenticeships. Pre-employment transition services are available statewide;
- Working with schools to coordinate and ensure the provision of pre-employment transition services; and
- Attending person-centered planning meetings for students with disabilities receiving services under title XIX of the Social Security Act, when invited



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In New Mexico, schools are responsible for initiating transition planning at the age of 14, for students identified with a disability. School faculty and staff specialize in academics and Vocational Rehabilitation Counselors focus on students' vocational future. Including Vocational Rehabilitation early can align educational needs with the vocational concerns of the student. Since counselors are educated on federal and state laws, they are able to act as an advocate for students and parents.

When invited, counselors are required to attend Individual Education Plan (IEP), meetings as early as age 14 and act as a consultant. If the Counselor is unable to attend in person, alternative methods such as webcam or teleconference are allowed.

Early contact with students and families increases opportunities for planning and development, which promotes informed decisions about employment goals.

Pre-employment transition services may be provided to individuals or groups of students with disabilities, without regard to individual needs or disability related concerns. Students may not need all five services; however, the opportunity for each must be available. Counselors should work with schools and providers to facilitate opportunities when needed services are unavailable.

**9.2.10.3.5 Procedures Vocational Rehabilitation Counselor or Designee**

VRC or designee responsibilities include:

- VRC's or designee shall provide required Pre-ETS activities to potentially eligible and eligible students with disabilities; By August 30<sup>th</sup>, of each school year counselor's should make contact and schedule a meeting with local educational agency personnel to include (school transition counselor/liaison or designated staff, vocational transition specialist, VTS in their school district.
- VRC's are assigned to a high school(s) and charter school(s) in the state. VRC shall inform student, families, special and regular education teachers, school administrators, advocacy groups, and others about DVR.
- VRC or designee will conduct presentations and distribute both print and electronic materials that explain transition and pre-employment services, and traditional vocational rehabilitation services. The information provided will include a description of the purpose of DVR, eligibility requirements.

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application procedures and scope of services that may be provided to eligible and potentially eligible individuals;

- VRC shall reach out to eligible and potentially eligible students with disabilities who are in need of transition services and Pre-ETS as early as possible through outreach activities such as:
  - information sharing at IEP's;
  - transition planning meetings;
  - career fairs, orientations;
  - information school meetings;
  - parent support group; and
  - other activities

By October 31<sup>st</sup> of each school year, counselor's & or VR designee should have established a designated day to be at assigned schools to provide Pre-ETS activities. Activities to include intake, Pre-ETS, follow up meetings with students who are already VR clients.

- VRC shall work with local school staff to identify all students with disabilities including those served in special education, receiving an accommodation under Section 504, and other students with disabilities. This will include students with disabilities receiving school psychological, health, nursing or social work services, and students with disabilities enrolled in an educational program and not in special education; By December 31st of each school year, Intakes for Seniors, Deaf and Hard of hearing & high-risk students should have occurred.
- VR or designee shall reach out to students with disabilities who have dropped out of an education program or students who are at risk of dropping out of high school.
- VRC or designee will collaborate with Local Educational Agencies (LEA) to complete a Needs assessment of LEA's in the state of NM. VRC staff, and LEA's will identify, understand, and prioritize the needs of students with disabilities in each LEA's district. VRC will identify roles, and responsibilities including non - financial costs to the LEA regarding needs assessment. LEA's will identify number of potential students to be provided pre-employment transition services, number of students on each career pathway (Abilities, Modified, Standard) number of students on a 504 plan, identify career programs/curriculum, work experience, and what transition process are LEA's seeing a gap in linkages, and services. By September

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30<sup>th</sup> of each school year, a needs assessment should be completed.

- VRC or designee will collaborate with local Educational agencies to complete Collaboration Form. VRC and LEA's will identify the roles and responsibilities regarding collaboration form. VRC staff, and LEA's, Vocational Transition Specialist will identify, coordinate attendance at Individual Educational Plans (IEPs), VR orientations, referrals to VR, transition/career fairs and providing pre-employment transition services to students with disabilities. Between January & May of each school year counselor's and designated DVR staff will conduct Pre-ETS – to potential and current VR students with disabilities, conducting intakes as referred, and working with school and work force student programs on identifying work experience sites for summer.
- A completed referral & signed Release of Information must be submitted to DVR by public school staff, student or guardian in order to be recorded and tracked.
- Once the referral form is received, student and or family will be contacted by DVR support staff to schedule an Initial Intake. Intakes need to be seen either at the school or DVR office.
- VRCs shall be responsible for fulfilling the designated coordination activities

Pre-ETS coordinated services may be provided to individuals or groups of students with disabilities, without regard to individual needs or disability-related concerns. Students shall not need all five services; however, the opportunity for each must be available. VRC shall work with schools and providers to facilitate opportunities when needed services are unavailable.

**9.2.10.3.6                      Timeline Procedures**

**9.2.10.3.7                      Procedures for Database Reporting**

VRC or designee will document time spent providing Pre-ETS or coordination activities. Documentation will be entered on the Pre-ETS time sheet and/or the Case Management System (CMS). Documentation shall occur each time activities are provided.

VRC provide 12 hours biweekly, and Supervising Counselors provide 20 hours weekly of Pre-employment transition services to students including coordination activities with school personnel

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and families. VRC and SC are expected to have a significant presence at their assigned schools. Each will attend Individualized Education Plans for students; attend community school-to-work meetings; Workforce Youth Program meetings; share and distribute information regarding Pre-employment Transition activities.

When the office receives information on a student who has been identified potentially eligible, local office staff must enter all required data element in the "potentially eligible" section of the Case Management System.

The Workforce Innovation and Opportunity Act (WIOA) RSA-TAC-17-01 requires providing and reporting Pre-Employment Transitions Services (Pre-ETS) provided to any reportable individual. A Reportable Individual is defined as "an individual who has taken action that demonstrates an intent to use program services and who meets specific reporting criteria of the program, including:

Individuals who provide identifying information;

- Individuals who only use the self-service system;
- Individuals who only receive information-only services or activities; or
- For purposes of the title IV VR program only, a student with a disability who solely receives pre-employment transition services and who does not apply for VR services, who is not determined eligible, and who does not have an approved IPE."

In order to document Pre-ETS provided to a reportable individual, other than a VR Participant, the Aware Case Management System includes a "PRE" case type.

The following Codes will be used when reporting:

PETS: Counseling on Enrollment Opportunities 109

PETS: Instruction in Self Advocacy 121

PETS: Job Exploration Counseling 97

PETS: Work-Based Learning Experience 103

PETS: Workplace Readiness Training 115

List code with a description;

RSA-2/RSA-911 Code

Aware: Service Categories - RSA-911 Reporting Requirements

PETS: Counseling on Enrollment Opportunities 109

Counseling on opportunities for enrollment in comprehensive transition or post-secondary educational programs at institutions of higher education.

- Seminars/Workshops
- Counseling & Guidance

PETS: Instruction in Self Advocacy 121

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Instruction in self-advocacy, which may include peer mentoring.

- Counseling & Guidance
- Peer Guidance
- Seminars/Workshops

PETS: Job Exploration Counseling 97

A wide variety of professional activities which help people deal with career-related challenges intended to foster motivation, consideration of opportunities and informed decision-making

- Benefits Counseling
- Career Awareness
- Career Speakers
- Counseling & Guidance
- Informational Interviews
- Job Coaching -- Non-Supported Employment
- Job Coaching -- Supported Employment
  - Job Shadowing
  - On-the-Job Evaluation
  - Trial Work Experience
  - Vocational Testing
  - Volunteering
  - Workshop/Work Sample Evaluation

PETS: Work-Based Learning Experience 103

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.

- Apprenticeship Training
- Communication Skills Training
- Job Club or Job Seeking Skills
- Job Coaching -- Non-Supported Employment

RSA-2/RSA-911 Code

Aware: Service Categories - RSA-911 Reporting Requirements Job Aid Page 6 2/18/2019

- Job Coaching -- Supported Employment
- On-the-Job Training
- Work or Personal Adjustment Training

PETS: Workplace Readiness Training 115

Training to develop social skills and independent living.

- Job Club or Job Seeking Skills
- Job Coaching -- Non-Supported Employment
- Job Coaching -- Supported Employment
- Job Readiness Training

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- [Seminars/Workshops](#)
- [Work or Personal Adjustment Training](#)
- [Cognitive Remedial or Literacy](#)
- [Counseling & Guidance](#)

**9.2.10.3.7.1 Documentation**

To ensure accurate federal reporting, 6 data elements must be recorded in the Case Management System for each student receiving pre-employment transition services. Paper files should not be maintained on students who receive only pre-employment transition services. When a potentially eligible student is entered into the Case Management System, a case number will be provided.

The required data elements are:

- [Name](#)
- [Address](#)
- [Date of Birth](#)
- [Gender](#)
- [Ethnicity](#)
- [Race](#)
- [Disability](#)

Useful additional data:

- [Educational setting of record](#)
- [Individualized Education Plan, 504 plan, or none](#)
- [Documentation of Disability – scan verification into the Case Management System](#)
- [Phone number](#)
- [Social Security Number if available or leave blank](#)
- [STARS student number](#)

Record of Actual Services, student interactions, Pre-ETS activities must be documented in the case management system. Please refer to the Step-by-step, guided reporting procedures are available to staff: DVR Share-point, AWARE Resources, Job Aids. <https://nmdvrgov.sharepoint.com/is/at/ja/Pre-Employment%20Transitions%20Services%20Case%20Type.pdf>

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9.2.10.3.7.3 Order of Selection

Students with disabilities are not exempt from order of selection requirements. For students who are determined eligible, but placed on order of selection:

- If the student received pre-employment transition services prior to being placed in a closed priority category, he or she may continue to receive pre-employment transition services up until the age of 22.
- If the student did not receive pre-employment transition services prior to being placed in a closed priority category, they may not receive pre-employment transition services while in a closed category.

9.2.10-9.2.11. Services to Family Members

Family members may be the most effective resource for providing essential support to participants and can make critical contributions toward their efforts related to job readiness, job search and job retention. Family members can be a critical partner in the rehabilitation process and their participation in the process should be encouraged and respected. Vocational rehabilitation services to family members of an applicant or participant can be provided if necessary to enable the participant to achieve an employment outcome.

9.2.10.1-9.2.11.1. Definition

For the purposes of receiving vocational rehabilitation services, a family member means an individual who either is a relative or guardian of an applicant or participant, or lives in the same household or who has a substantial interest in the well-being of the participant and whose receipt of vocational rehabilitation services is necessary to enable the applicant or participant to achieve an employment outcome.

9.2.10.2-9.2.11.2. Scope

Any VR service allowed an applicant of participant may also be made available to a family member provided the service is necessary to enable the participant to achieve an employment outcome.



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9.2.10.3-9.2.11.3. Requirements

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- W.X. Services to family members should meet the same requirements as a service being provided to the applicant or participant.
- X.Y. If a VR service is to be provided to a family member during in Service, Employed or Post-Employment Status, the service must be identified and justified in the respective plan clearly identifying why the service is necessary in addressing the question of eligibility or in assisting the participant to achieve their employment goal.
- Y.Z. Comparable Services and Benefits must be utilized when providing services to family members in accordance with the Participant Financial Participation section.
- Z.AA. The Participant Financial Contribution must be applied when providing services to family members in accordance with the Participant Financial Participation section

9.2.11-9.2.12. Training

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9.2.11.1-9.2.12.1. Academic Training

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Academic training can occur in a vocational or technical institution, community college or university, either private or public, with the purpose of acquiring skills specific to a particular job or occupation.

Ample time is required for a comprehensive assessment to be completed to jointly determine whether the academic training program is required to achieve the agreed upon employment goal. Refer to the policy section on eligibility (applicant status section) and individualized plan for employment (service status section) for the average time needed for eligibility and the development of an individualized plan for employment which varies for each participant. An immediate decision of approval or disapproval of an academic program is not feasible or appropriate.

Some training programs lend themselves to self-employment and the counselor needs to review employment options with participant prior to initiating training program. Refer to self-employment requirements.



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*9.2.12.1.1. Prerequisites*

The completion of a training program must be required to achieve the agreed upon employment goal. Prior to consideration of academic training there shall be reasonable evidence of the participant's ability to succeed in their chosen field. The participant must also meet the college or university's standards for admission.

Assistance with a limited number of classes can be provided as an additional assessment tool as a continuation of the comprehensive assessment when there is no clear evidence that the participant can or cannot succeed.

If academic training is determined to be required to achieve the employment goal, the participant must provide a copy of the required core classes and follow the outlined curriculum in the school catalog.

The Participant Financial Contribution and comparable benefits must be applied prior to DVR paying any related costs, including tuition and books.

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9.2.11.2-9.2.12.2. Guidelines for College Training Programs

*9.2.12.2.1 Grade Point Average*

Training costs should be authorized one semester at a time pending grade reports. Participants shall maintain at least a cumulative 2.0 grade point average (or the minimum GPA allowed by the academic program, if higher) to continue funding of the IPE. If the participant falls below this average, the counselor should assess the overall performance of the participant in the training program and the feasibility of assisting with further training. In situations where timely authorization is needed such as with pre-registration, and obtaining grades or update transcripts in a timely manner is not possible, other means of verifying progress should be used such as reviewing previous or mid-term grades.

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Continued support may be warranted if the participant has suffered an illness or other set back beyond his/her control.

*9.2.12.2.2 Scope*

Services which can be provided include, but are not limited to:

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- Tuition and fees,
- Room and board
- Books and supplies, as required by the course syllabi
- Tools; purchase must be related to profession and study only. Tools will be outlined in the equipment utilization form and are considered DVR property until released to participant.
- Special services to aid in compensating the functional limitations for successful completion of the training program,
- Other services listed on the Individualized Plan for Employment (IPE).

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9.2.11.3-9.2.12.3. Choosing a Post-Secondary School

Quality academic training can usually be obtained through publicly supported institutions. In comparing post-secondary school programs, the counselor should consider:

- Placement rate of graduates
- Time required for completion
- Cost, including travel, room and board, or other expenses associated with the training
- Availability of comparable benefits and or other funding sources
- Graduation rates

DVR supports the attendance at local community colleges and universities. A participant may be assisted with taking required courses (based on degree plan) at the local community college for the first two years. Should the participant choose to attend the local university or an out of town college or university versus the local community college, DVR will only support the cost the participant would have incurred attending a local community college completing the required core classes.

Listed below is a guideline for the maximum amounts of tuition support for an entire associate or baccalaureate degree program unless the participant's disability has precluded the achievement of the degree within the time frame. This is to be documented in the case note.

- A. Associate's degree (not including pre-college level courses), a maximum of 150% of the published length of the degree unless the individual's disability and/or extenuating circumstances results in an excess in the number of credit hours required to complete the program.
- B. Baccalaureate degree (includes costs/time frames of associate degree) a maximum of 150% of the published length of a bachelor's degree unless the individual's disability and/or extenuating circumstances results in an excess in the number of credit hours required to complete the program.

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(Example, average length of a bachelor's program is 128 hours; 150% is 192 attempted hours).

9.2.12.3.1 Full-Time Status

Participants will maintain a full-time status as defined by the training institution unless:

- A. Participant's disability precludes full-time attendance. A doctor's note should be provided to VRC.
- B. The participant must work while attending school, and will, therefore, not be able to maintain a full-time load. The counselor along with the participant shall determine the degree to which the participant's employment affects his or her ability to maintain a full time load.
- C. The participant is attending school part-time during the recovery or restoration phase of rehabilitation and will attend full-time at a later date as appropriate.
- D. Other circumstances beyond the participant's control, such as class scheduling and/or course availability.

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9.2.12.3.2 Continued Support of Academic Training

Continuing support of academic training is contingent upon:

- A. Participant maintaining at least a cumulative 2.0 GPA or minimum required by the academic program, if higher.
- B. Participant providing an official grade report at the end of each term.

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- C. Verification of annual FAFSA application (Federal Aid for Students Assistance).
- D. Participant maintaining a full-time course load sufficient to complete the program within the standard time frame, barring unusual circumstances.
- E. A degree plan or certificate plan filed in the case record of the participant's program, and evidence of adherence to the program. It is the counselor's responsibility to ensure that the degree plan is being followed and that repeat classes are not being taken. DVR will not support repeat classes unless otherwise justified.
- F. Participant providing registration document (class schedule w/tuition fees) within a reasonable time frame to allow the counselor ample time to review progress, address any relevant issues and process necessary paperwork.
- G. Participant notifying their counselor if they must withdraw from school prior to withdrawal or further sponsorship could be jeopardized. A copy of the withdrawal is needed for the case file.

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*9.2.12.3.3 Advanced Degrees*

Advanced degrees may be required for the achievement of an employment goal. The employment goal for a participant with a disability receiving services under the State DVR Service Program must be based, primarily on the participant's strengths, resources, priorities, concerns, abilities, capabilities and agency policies. The employment goal also must reflect the participant's interests and informed choice to the extent that those factors are consistent with the participant's strengths, resources, priorities, concerns, abilities, and capabilities.

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Justification of an advanced degree should include why pursuit of the degree is the most practical method of completing the IPE and attaining the employment goal.

Aptitude for graduate level training is generally indicated by acceptance into the graduate program and satisfactory work at the undergraduate level.

If the specific professional field of study has license requirements, the counselor must insure that the participant meets the licensure requirements prior to the approval of advanced degree.



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9.2.11.4-9.2.12.4. Training Alternatives

*9.2.12.4.1 Private Schools*

Some private institutions offer more intensive programs at higher costs per hour. The duration of the program is not enough to justify going with a private institution. When a request to attend a private institution is made, the counselor should assess the overall cost of participation in the training program to include financial aid availability, tuition and fees, transportation, housing, and any required equipment.

When the overall costs of the training programs are comparable between a public and private institution, other factors such as duration of the program, placement rates of the institution, disability related issues, or attendant factors that may impact school performance should be explored. The counselor, in consultation with the participant, should use his or her judgment to determine the best possible option.

When the overall costs of the programs are not comparable, DVR only supports the less expensive program. Should the participant choose to attend the higher cost program, DVR will only support the most economical training program.

For comparable training programs, DVR will pay rates charged at local state institutions after comparable benefits have been applied.

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DVR will not pay entire costs of a private program at the beginning of the training. Authorization will be made based on participant's successful progress (minimum cumulative 2.0 GPA) on a term basis verified by grade reports. The local rehab team will negotiate a payment schedule with their local private schools that allows for a series of payment based on successful performance.

Employment goals requiring specific private training programs (i.e., beauty schools, barber schools, dog grooming schools, massage therapy schools, motorcycle mechanic schools, etc.) must be in demand and demonstrated through local labor market analysis. Tools such as the O-Net and Department of Workforce Connection Centers Bureau of Labor Statistics are reliable tools available to conduct a market analysis. Support for training must be based on anticipated availability of work based on desired work location and/or participant's willingness to relocate to a location where there is a demand for the job.

Some training programs lend themselves to self-employment and the counselor needs to review employment options with participant prior to initiating training program. Refer to self-employment requirements.



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The counselor must consider the following:

- Placement rate of graduates
- Time required for completion
- Cost, including travel, room and board, or other expenses associated with the training
- Availability of comparable benefits and or other funding sources
- Graduation rates

It is the counselor's responsibility to explore, research and counsel the participant on their responsibility in terms of cost, loan repayments, etc. to make an informed choice resulting in responsible decision making.

9.2.12.4.2 Out-of-State Training

Out-of-state training may be supported if:

- A. The course of study is not available in the state, does not meet accreditation standards, or is not fully accessible; or
- B. The financial assistance available will make the program less costly than an in-state program.

Participants who desire an out-of-state school strictly for reasons of personal choice may be supported at the same level they would be supported in an in-state comparable program. The participant will be responsible to make up the difference in cost including room and board after applying financial aid.

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To the extent necessary, courtesy counseling should be arranged through the state DVR agency where the participant will be attending school. This may be helpful in coordinating special services or financial aid.

When it is determined that out of state training is the best option, a one round trip per academic school year may be approved. Other travel such as for holidays will not be provided. Application of the Participant Financial Contribution is required.

*9.2.12.4.3 Distance Learning*

Distance education, or distance learning is education obtained remotely that aims to deliver education to students who are not physically on site using various technology. Participant must demonstrate the ability to be self-disciplined for non-structured classroom and be proficient in the use of technology.

Counselor must verify participant's proficiency in the use of the required technology (technology evaluation may be required). Additionally, the counselor must assess the participant's ability to successfully complete course work timely which would require self-initiative & discipline. Self-initiative and discipline could be demonstrated by participant attending scheduled appointments on time and following through with counselor's requests, including but not limited to completing homework assignments, etc.

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In some instances, distance learning is a viable option. As when considering private institutions, the overall cost of the program should be considered. The counselor should also explore whether there are suitable alternatives. Considerations including cost and comparable benefits as they relate to agency policy must be taken into account. The school must be accredited.

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9.2.11.5-9.2.12.5. Student Support Services

Special needs related to the disability shall be assessed prior to initiation of the training program.

The counselor shall consider issues related to:

- Accessibility including assistive technology,
- The need for readers, interpreters, note takers, tutoring, recorders or other reasonable accommodations,
- Reliable transportation,
- Attendant care or other medical needs
- Coordinate through the Special Services Office on campus whenever possible.
- Comparable services must be accessed prior to DVR paying for the service

Counselors are responsible for providing the participant the contact information about student support services and ensuring that participant has accessed services as appropriate.

9.2.12.5.1 Academic Remediation

Academic remediation may be provided to:

- A. Upgrade academic skills to the level needed to achieve the vocational goal.
- B. Prepare the participant for further training.
- C. Teach the participant specific skills needed for a job such as recognition of selected words, measuring, making change.

Academic remediation should only be provided to the extent necessary for achievement of a goal.

Services may be provided through Adult Basic Education Centers, a rehabilitation facility, Workforce Centers, a private tutor, or other learning center.

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Tuition, fees, books, supplies, or other materials may be provided in addition to the training.

When the participant has inadequate academic skills for a formal training program being contemplated, the counselor should first attempt to upgrade these skills to avoid failure in the program. Delaying the training program to provide academic remediation is advisable if it will help ensure success and give the participant and counselor an indication of how the participant will perform in a classroom setting.

*9.2.12.5.2 Requirements for Academic Remediation*

Prior to providing such training the counselor shall have an assessment of the participant's current level of functioning.

The IPE shall specify the proficiency to which the participant will be trained (usually a grade level in reading or math). This should correspond to the level needed for the occupation or training the participant will enter (i.e. reading at the 7th grade level for cosmetology exam). Refer to Onet for reasoning, math and language requirements.

If ongoing remediation is required for continued participation, the counselor must continually assess, in consultation with the participant, ongoing progress and determine if further remediation services are justified. For example, if there is demonstrated evidence of progress, further remediation may be considered. In other instances, it may be appropriate to discontinue remediation services when there is no evidence of improvement or further improvement towards their goal. This will require a re-evaluation of employment goal and further career exploration.

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9.2.12.5.3 Private Tutorial Services

Private tutorial services may be provided if this is the best method given the participant's individual needs. These services are generally utilized when:

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A. Academic remediation programs are not available in the community.

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B. The participant needs to learn some selected academic skills which could be taught much faster through a tutor on a one-to-one basis than in a classroom. This may be related to medical maintenance of a disability, use of special tools or adaptive equipment, or skills related to a specific job, for which formal training may not be available.

The tutor should be given specific objectives on which to work, and report periodically to the counselor on progress. The frequency of progress reports will depend on the length and intensity of the training.

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The tutor must be qualified in the area of expertise and provide documentation attesting to this, i.e.: resume, transcript.



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9.2.11.6-9.2.12.6. \_\_\_\_\_ Comparable Services and Benefits

Sufficient planning time is necessary to ensure all training guidelines are completed prior to the creation of an Individualized Plan for Employment supporting training program(s). VRC must document all efforts in acquiring the required financial aid status of the participant prior to development of IPE. The financial aid award letter must be obtained from participant prior to the onset of the training program. Awarded funds from financial aid/grants must be incorporated within the IPE. VRC is responsible to calculate the correct agency funding support in consideration of the financial aid assistance. The financial aid fund amounts must be deducted from the overall cost of the training program(s) and VRC should calculate DVR funding support appropriately based on this information.

Continuation of DVR funding for a training program will only be approved after VRC has verified successful completion of a semester, or progress report verified by school staff in written form is received, and financial aid status has been resolved with approval or denial letter obtained. In many cases, VRC will need to meet with participant to complete an IPE amendment to address any changes in the plan and recalculate financial support of DVR with consideration of the financial aid status and awarded funding amount(s).

If the participant owes a refund or is in default, they must make the necessary arrangements with the post-secondary institution in order to clear the default status prior to DVR financial assistance.

Family contributions identified on FAFSA report should be considered as comparable services and benefits to the participant.

Prior to DVR authorizing services, all participants in applicable programs:

- Must apply for the Pell grant and provide FAFSA documentation to be filed in the case record prior to counselor authorizing tuition and books.
- Demonstrate efforts to secure grant assistance, in whole or in part, from other sources to pay for the training.
- Must provide documentation that a Pell grant application has been denied before payment is authorized for a second semester
- Provide written confirmation of financial award notice.

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If the family refuses to participate in costs, DVR will only provide the core VR services.

9.2.11.7-9.2.12.7. Participant Financial Contribution

Participant financial contribution must be applied for academic support in accordance with the Participant Financial Contribution policy.

Any type of student aid that contains a pay-back requirement would not be considered either a grant or comparable benefit or service. The participant cannot be required to apply for a student loan as a condition for receiving services. The participant may exercise the option of obtaining a loan to further support their program.

9.2.11.8-9.2.12.8. Informed Choice

To facilitate Informed Choice related to academic training, the counselor should consider the participant's potential for maximizing meaningful employment. The counselor must assess factors related to strengths, resources, priorities, concerns, abilities, and capabilities. If the assessment reveals that a certain level of academic training is necessary to achieve meaningful employment that can clearly meet his/her potential, that level of training should be supported.

9.2.11.9-9.2.12.9. On the Job Training

*9.2.12.9.1 Definition*

Training activity or series of training activities provided by an individual, group of individuals, or employees for the purpose of developing a job skill and related work experiences. Typically, this is an appropriate, and in many cases, a preferential method of enabling a participant to acquire training by placement in a setting which emphasizes "learning by doing".

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9.2.12.9.2 *Scope*

On-the-job training includes both formal and informal training activities for the purpose of acquiring skills specific to a particular job or occupation.

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A participant may be considered as an OJT placement for DVR's purposes if the participant's program falls within the definition of this section. The counselor, however, must also consider the requirements of the Fair Labor Standards Act, and U.S. Department of Labor regulations regarding definitions of "student-learners", "apprentices", "learners" and other "trainees", as distinguished from an "employee", to determine whether a participant placed in an OJT must be paid training stipends or must be paid wages.

9.2.12.9.3 *Guidelines and Considerations*

The following factors must be considered prior to providing on-the-job training:

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- R. The counselor should meet with employer to discuss participant's current skill level and identify training needs.
- S. It is appropriate in many cases to obtain a one week, two week or 30 day on-the-job assessment of the participant's training needs once a suitable training site has been identified. The counselor should explain to the employer and participant the purpose of the assessment and arrange for a face-to-face meeting upon its completion to establish terms for the OJT.
- T. The duration of an OJT should be based upon the standard vocational preparation (SVP) available in the "O\*Net" online help. Adjustments to the OJT duration may be made by taking into account the participant's functional limitations and the circumstances of the training situation.

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- U. The individual or entity providing the training at the job site should possess the knowledge, skill and ability to train the participant.
- V. There should be in place the necessary training materials and resources including space, tools, equipment, accessible facilities and working conditions conducive to learning and skill development.
- W. On-the-job training should serve to enable trainees to acquire the skills and level of proficiency necessary for entry level employment in that particular field or occupation.
- X. The employer or individual providing training should be willing to make appropriate arrangements for the training and agree to provide DVR with periodic progress reports on the training.
- Y. Comparable services and benefits must be taken into consideration when providing on-the-job training.
- Z. Accident Liability responsibility in case of accident or injury to the participant while at the work site shall be specified on the OJT Agreement Form.

9.2.12.9.4 Training vs. Employment

It is important to acknowledge, and the law distinguishes the difference between what constitutes training and what constitutes employment. The counselor must determine if a participant is a trainee or an employee according to DOL regulations. Training stipends **must** be paid to a trainee; wages **must** be paid to employees. A participant is considered a trainee when all of the following conditions exist. A participant is considered an employee if any of the following conditions are **not** met:

- AA. The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school.
- BB. The training is for the benefit of the trainee or student(s);

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- CC. The trainee or student does not displace regular employees, but works under their general supervision.
- DD. The employer that provides the training derives no immediate advantage from the activities of the trainee or student and on occasion his operations may actually be impeded.
- EE. The trainee or student is not necessarily entitled to a job at the conclusion of the training and;
- FF. The employer and the trainee or student understand that the trainee or student is not entitled to wages for the time spent in training.

*9.2.12.9.5 Training Stipend*

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If a participant meets the above Department of Labor criteria to be considered a trainee, the participant must receive a "training stipend" if wages are not paid. DVR may pay a student with a disability a competitive wage for a work experience, if it is an unpaid work experience. A stipend is intended to offset the costs associated with participating in the training program and expected to improve the likelihood of successful placement by increasing motivation or teaching the participant the relationship between work and money received.

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*9.2.12.9.6 Wages*

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If a participant does not meet the above Department of Labor criteria to be considered a trainee, the participant must be paid wages and afforded benefits commensurate with their contribution to the business. The amount of wages paid should be based on the employee's productivity in relation to others doing the same work. Participants who are employees must be paid at least the state minimum wage.

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*9.2.12.9.6 Training Fee*

A training fee can be paid if:

- GG. The trainer is paid on the basis of a percentage of participant wages (if applicable). This arrangement is designed to reimburse the trainer for the costs of training the participant. Because participant skills are expected to increase over time, the training fee or percent of wages is expected to decrease over time; or
- HH. The trainer is paid a flat fee by the week or month for providing the training. The fee is negotiated between the DVR counselor and the trainer.

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*9.2.12.9.8 OJT Training Agreement*

After an OJT has been arranged, the counselor shall develop an OJT agreement using the On-The-Job Training Agreement. The agreement should:

- II. Describe the type of business, organization or agency providing the training.
- JJ. Stipulate the length of time involved in the training program.
- KK. Indicate and describe those job skills which will be taught to the participant and describe those tasks which participant will perform as part of the OJT.
- LL. Include an understanding of which party will be responsible for Worker's Compensation or Accident Liability.
- MM. Indicate the method or manner of compensation and benefits afforded the trainee. These can include wages, stipend and entitled benefits.
- NN. Indicate if the individual, employer, firm or organization will be paid a training fee and, if so, indicate the amount.

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OO. The agreement shall be signed by DVR counselor, participant, employer, or designated individual with authority to honor the terms and conditions of the agreement. A copy shall be forwarded to the Rehabilitation Services Unit (RSU) OJT Manager, State Office, following IPE approval.

PP. Upon termination of OJT, a copy of the completed OJT agreement and a copy of all completed authorizations pertaining to training should be forwarded to the RSU OJT Manager, State Office.

*9.2.12.9.9 Progress Reports*

Monthly progress reports of training shall be received from the trainer. The Training Progress Report Form will be used as a convenience to the trainer. Copies for each month of anticipated training will be provided at the time the OJT Agreement is signed.

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9.2.11.10-9.2.12.10. Work Adjustment Training

*9.2.12.10.1 Definition*

Teaching the participant appropriate work habits and behaviors, in preparation for further vocational or skill training, entry-level employment.

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*9.2.12.10.2 Prerequisites*

Prior to providing work adjustment training, the counselor shall assess:

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- A. Work habits and behaviors.
- B. Specific behavioral indicators of any problem behaviors noted.
- C. The degree, frequency or severity of the problem



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*9.2.12.10.3 Scope*

Work Adjustment Services include training to:

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- A. Assist the participant in acquiring personal habits, attitudes, and skills for effective job functioning.
- B. Develop or increase work tolerance, stamina, and concentration on the job.
- C. Develop appropriate interpersonal and communication skills with co-workers and supervisors.
- D. Acquire job-seeking skills.
- E. Learn employer expectations concerning work production (quality and quantity of work).
- F. Learn work practices related to payroll deduction, insurance, timeliness, safety, etc.
- G. Learn specific skills such as counting, measuring, handling money, using public transportation.

*9.2.12.10.4 Referral*

The development of a work adjustment program shall be done jointly by the counselor, service provider and participant. Intermediate behavioral objectives shall be mutually agreed upon and time frames established for their achievement.

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These objectives should be established from baseline data collected in the initial assessment.

The agreed upon objectives, services and time frames will be clearly stated in the Individualized Plan for Employment.

*9.2.12.10.5 Monitoring Progress*

Monthly reports of progress shall be obtained from the service provider and must include:

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- A. Attendance.
- B. Behavioral indicators of progress on each of the stated objectives.

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- C. Negative or positive changes since the last progress report.
- D. Recommendations for changes in the program/services or changes in the time frames for meeting objectives.
- E. Other information that might be helpful to the counselor.

General statements such as "participant continues to improve" or "participant is doing better" are unacceptable as indicators of progress toward stated objectives. Progress from baseline indicators should be stated in measurable terms.

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9.2.12-9.2.13. Transportation Services

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9.2.12.1-9.2.13.1. Scope

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Transportation services are travel and related expenses that are necessary to enable an applicant or participant to participate in a vocational rehabilitation service. Transportation is a supportive service intended exclusively for the purpose of enabling the participant to participate in and derive full benefit of other vocational rehabilitation services.

Transportation services include:

- A. Fares or costs associated with public transit systems including but not limited to:
  - taxi/ride sharing
  - bus
  - airplane
  - train
- B. Costs associated with use of private transportation including but not limited to:
  - gasoline/oil for a private automobile
  - payment to a private individual for transportation services
- C. Short term rental of a vehicle (i.e. 1-2 weeks) to enable an individual to participate in a planned service in an approved IPE. Rentals should be authorized as direct payment to the participant with the participant assuming full responsibility for all liability issues associated with the rental.
- D. Costs associated with the upkeep and maintenance of operating a private vehicle including but not limited to:
  - automobile insurance
  - automobile maintenance
  - vehicle repairs
  - vehicle registration

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- E. Other incidental costs associated with minor services which are short term yet necessary to meet a participant's transportation needs.

9.2.12.2-9.2.13.2. Guidelines

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- A. The most economical means for transporting the participant will be selected taking into consideration the participant's needs, limitations, etc.
- B. Comparable services and benefits for transportation must be considered (and documented) in accordance with the Financial Participation Section of this manual.
- C. The Participant Financial Statement must be applied in accordance with the Financial Participation Section prior to agreeing to transportation assistance.

9.2.12.3-9.2.13.3. Mileage

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Mileage expenses are permitted when using a private vehicle based on estimated costs of gasoline as determined by the estimated miles traveled to participate in the planned service. Authorizations to vendors for gasoline is the preferred method for providing this service, however, in those instances where a vendor is unavailable or it is not feasible to utilize a vendor, an authorization may be issued directly to the participant.

9.2.12.4-9.2.13.4. Auto Repairs

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Payments for repairs and part replacements of private vehicles may be made in compliance with agency purchasing policies and procedures under the following conditions:

- There are no comparable services or benefits available to meet the participant's transportation needs, or the repair of the vehicle is deemed the most economical method for meeting the participant's transportation needs.
- Only those repairs that render the vehicle safe and operable are allowable.



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- The cost of the repair does not exceed the value of the vehicle. If the agency cost of the repair is determined to be higher than the value of the vehicle, as determined by a reputable source such as NADA or Kelly Blue Book, DVR will not provide the service. Maintenance such as tires and batteries is not applied to total value of the vehicle.
- If the overall condition of the vehicle indicates need for constant repair, excessive maintenance and the aggregate costs of the repairs exceed value of the vehicle, DVR will not provide the service.

9.2.13-9.2.14. Verification of Ownership

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Verification of participant ownership of the vehicle such as registration or title will be submitted. If vehicle is owned by family member, family member will provide statement agreeing to vehicle repair.

9.2.13.1-9.2.14.1. Vehicle Modification Policy Statement and Purpose

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The New Mexico Division of Vocational Rehabilitation will modify a vehicle for a participant if the Vocational Rehabilitation Counselor can demonstrate that:

- it is required for the participant to achieve or maintain employment
- it is a necessary component of an Individualized Plan for Employment (IPE)
- such demonstration is based on the policy and procedures as presented in this Manual of Operating Procedures (MOP) section.

In order to receive vehicle modification services as part of an IPE, the Participant Financial Statement must be completed.



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9.2.13.2-9.2.14.2. Definitions

*9.2.14.2.1 Non-Structural Modification*

Modification that does not require a vehicle to be structurally altered or major overhauls of the driving compartment or booster systems to activate the brake, accelerator, and steering systems. Such modifications include, but are not limited to:

- Hand controls.
- Wheelchair carriers or truck loaders.
- Pedal blocks.
- Left foot brake and accelerator pedals.
- Extensions on turn signal and/or shift lever.
- Electric parking brake.

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*9.2.14.2.2 Structural Modification*

A structural modification is a major modification (usually to a van) that requires specialized expertise as well as specific knowledge of a participant's functional ability to drive. Structural modifications may require major overhauls of the driving compartment or booster systems to activate the brake, accelerator, and steering systems. Structural modifications may include but are not limited to:

- wheelchair lifts
- reduced effort hand control systems
- raised roofs
- lowered floors
- console adaptations to access dashboard controls, etc.

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Structural modifications require input from consultants with engineering expertise acting on the recommendation of a driving evaluation. They are usually permanent modifications to the vehicle that typically cannot be transferred to another vehicle.

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9.2.13.3-9.2.14.3. Scope of Services

Motor vehicle modifications are rehabilitation technology services that may be provided only when necessary to enable an eligible participant to achieve a viable employment outcome. Modifications will not be provided for participants in trial work experience.

Motor vehicle modification services shall be provided only as part of an approved IPE.

**Evaluating the need for modifications**

Prior to initiating an evaluation for motor vehicle modifications, the counselor must explore the availability of other options to transport a participant for the intended purpose. When the following transportation options are available and suitable, the agency shall not authorize modification to a vehicle:

- A. When the participant owns or has use of - as driver or passenger - another vehicle that meets his or her transportation needs.
- B. The availability of other modes of transportation or solutions, such as:
  - Taxicabs, carpools, paid co-workers, volunteers or attendants;
  - Para-transit (an alternative mode of flexible public transportation that does not follow fixed routes or schedules), accessible public transit or other community services;



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- Relocating participant to where the specialized needs may be met if such a move is cost effective. For example, the participant relocates from an area outside of the range of public transit/para-transit to a location in the same city where accessible public transit/para-transit is available and suited to her or his needs.
- Telecommuting when this is an appropriate vocational avenue.

Participants who request motor vehicle modification services which will enable them to drive shall be required to undergo an evaluation by a Certified Driver Rehabilitation Specialist to determine:

- functional capacity to drive
- need for motor vehicle modification
- type of vehicle which would be appropriate
- type and extent of modification which will be required.

The Agency will assume the costs of such an evaluation.

Participants who request motor vehicle modification services to enable them to ride as a passenger shall be required to undergo an evaluation by a Certified Driver Rehabilitation Specialist to determine the need for motor vehicle modification, the type of vehicle which would be appropriate, and the type and extent of modification which would be required. The Agency will assume the costs of such an evaluation.



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**WHEN NOT TO MODIFY:**

The Agency will not provide or purchase:

- A. Modifications to a vehicle for the purpose of enabling a participant to drive who, in the opinion of a consultant with expertise in the field (i.e. certified driving evaluator, physician, etc.), is not capable of operating a motor vehicle with reasonable safety due to the limitations of the disability.
- B. Structural modifications to a van, with or without existing modifications, if an automobile would satisfy the participant's need for transportation. However, non-structural modifications such as hand controls, steering knobs, left-foot accelerator extensions, etc., may be considered if van transportation is preferred and no extensive structural modifications are required to make the van accessible to the participant with a disability.

The Agency will not provide **structural** modifications to a vehicle if the following conditions exist:

1. The vehicle is more than three (3) years old, and/or has more than 40,000 miles on the odometer, unless a qualified mechanic inspects the vehicle's power train, brakes, electrical system, body and safety features and certifies - in writing - that the inspected items are in good condition.
2. A vehicle, meeting the standards in the above paragraph and having structural modifications meeting the participant's needs already installed, is available for purchase by the Participant. In an instance where some, but not all necessary modifications are installed, the agency may consider assisting the participant in obtaining the additional and necessary modifications when all other MOP criteria are met.

**PARTICIPANT RESPONSIBILITIES:**

The participant is responsible for the regular, on-going maintenance and repair of the modified vehicle, including all modifications.



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The participant is responsible for adequate ongoing insurance coverage of the modified vehicle. This includes all modifications and will usually require an additional insurance rider. The agency is not responsible for repair/replacement of vehicle modifications damaged as a result of accident, vandalism or fire.

**ALLOWABLE MODIFICATIONS:**

The agency may assist in the installation of non-structural or structural modifications as described in the “Definitions” section above that are necessary for the participant to achieve or maintain a suitable employment outcome.

**NON-ALLOWABLE MODIFICATIONS:**

The Agency will not provide standard equipment or customary optional equipment that is ordinarily available when an individual purchases a new vehicle. Such equipment includes, but is not limited to:

- Automatic transmission.
- Power steering.
- Power brakes.
- Automatic speed control.
- Air conditioning.
- Heavy duty alternators.
- Power windows.

The Agency will not purchase or pay for the installation of non-essential equipment or options, such as:

- Entertainment systems.
- Burglar alarm systems.
- Insulation
- Tinted windows.

9.2.13.4.9.2.14.4. Procedure for Providing Motor Vehicle Modifications

The Agency procedures follow the process in place for all referrals (i.e., initial interview, adequate evaluation to determine eligibility and the nature and scope of services, etc.).

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- A. Upon notification of the participant's interest in vehicle modification, the counselor will review this MOP section with the participant and provide the participant with a copy of the MOP section regarding vehicle modification.
- B. If a participant has purchased a vehicle prior to referral or at any point after referral, the counselor must explain that such does not guarantee that the Agency will participate, either in part or in whole, in the cost of modifications.
- C. The case record must:
  - Reflect evidence of adequate vocational evaluation and exploration along with Counseling and Guidance, which provides the rationale for the participant's employment goal and required support services.
  - Reflect evidence of satisfactory progress toward achieving an employment outcome, if the participant has already been receiving services under an IPE.
  - Contain an assessment of alternatives that could be utilized, if appropriate, to meet the participant's transportation needs.

If there is a question about the participant's basic ability to operate a vehicle, written certification of the participant's ability to drive shall be obtained from appropriate medical or psychological professionals prior to authorization of an evaluation by a Certified Driver Rehabilitation Specialist.

9.2.13.5-9.2.14.5 Procedure for Evaluating Modification Needs

At this point in the process, the counselor may proceed with evaluating the participant's vehicle modification needs in preparation for the development of the IPE.

- A. The counselor must explain that proceeding with the evaluations is not a guarantee that the Agency will participate, either in part or in whole, in the cost of modifications.
- B. The participant must provide proof of a driver's license or ability to obtain a permit, if the participant will be the driver of the vehicle.

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- C. Driver Evaluation: A report from a driver evaluator certified by The Association for Driver Rehabilitation Specialists must document the participant's ability to drive safely and, as necessary, should include specifications for adaptive driving equipment and vehicle modifications. The only exception to this procedure is when replacement equipment is requested and the participant is a licensed driver and already using comparable adaptive driving equipment whose driving ability is unchanged.
- D. Passenger Evaluation: a participant who requests modification services to enable them to ride as a passenger must undergo an evaluation to determine the need for modifications, the type of vehicle which would be appropriate, and the type and extent of modification which would be required.

**NOTE:** The Agency reserves the right to seek further consultation on received recommendations.

- E. Because the Agency reserves the right to limit by year, make or model which vehicles it will consider for modification, the agency must be involved in the selection of the vehicle to be **structurally** modified.
- F. If the participant does not own the motor vehicle under consideration the counselor must obtain a notarized statement from the owner--who is a family member--giving permission to the participant to drive or otherwise utilize the vehicle for at least **ten (10) years if structurally modified, three (3) years if non-structurally modified**. The owner must also provide written permission to proceed with the proposed modification and provide proof of ownership (i.e., Title Certificate, Copy of Bank Loan, etc.). If there is a lender or mortgagor, clearance from that party must also be obtained in writing.
- G. The specifications for adaptive driving equipment and vehicle modification shall be submitted to a vendor listed with the National Mobility Equipment Dealers Association (NMEDA) and participant, in order to obtain documentation of cost.
- H. When necessary, document that the vendor has completed a site visit to assess the participant's needs and conduct any measurements needed to make an accurate determination of cost.

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9.2.13.6-9.2.14.6. Procedure for Program Manager Review

- A. The Program Manager shall review all required documentation and provide the counselor with a written decision if the request exceeds that counselor's level of independent approval.

**NOTE:** The Field Operations Director is available for consultation in cases of high cost or unusual circumstances.

- B. After approval has been received, the counselor and participant may proceed to develop an IPE for implementing approved motor vehicle modifications. The IPE shall stipulate the amount of the motor vehicle modifications less any manufacturer's rebate and/or contribution by the participant.
- C. The IPE shall include planning for the long-term transportation needs of the participant. Such planning will include, but is not limited to, participant savings planning for a replacement vehicle, use of benefits such as PASS plans and impairment related work expenses (IRWE), and discussion of loans or other financial programs as available.
- D. The Program Manager and FOD are available to the counselor on a consultant basis to review the proposed plan and to attempt to resolve any issues that may develop in the course of developing an IPE for vehicle modification.

9.2.13.7-9.2.14.7. Procedure for Participant Satisfaction

- A. Upon completion of the modification(s), the counselor shall consult with the participant to ascertain whether services have been completed to his/her satisfaction.
- B. If the participant is dissatisfied with the work, the counselor shall discuss the areas of dissatisfaction with the vendor and determine if services have been delivered to the Agency's satisfaction in accordance with the authorization and/or any arrangements or agreements made between the vendor and Agency. Once it is determined that the service has been provided satisfactorily, the Agency will process the vendor's invoice for payment. The participant may also utilize the NMEDA mediation process to resolve dissatisfaction with the vendor.



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9.2.13.8-9.2.14.8. Requirement for Driver Training

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In all cases where motor vehicle modifications are provided by the Agency to a participant who is also the driver, the counselor will ensure that proper training is provided concurrently with the provision of motor vehicle modifications. Driver training is to be provided by a Certified Driver Rehabilitation Specialist who is familiar with the motor vehicle technologies. The only exception to this procedure is when replacement equipment is provided and the participant is a licensed driver already using the provided adaptive driving equipment.

9.2.13.9-9.2.14.9. Transfer of Equipment

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Upon successful completion of a rehabilitation program, all modifications and equipment belong to the participant. If the participant does not achieve a successful employment outcome, he or she is subject to having some or all components of the modifications reclaimed by DVR. Factors to be considered by the counselor in determining what equipment may be reclaimed are:

- Transferability of the equipment, i.e., determination if another participant can potentially utilize the equipment, or if the equipment was customized for the original participant to the degree that transferability is impractical.
- Cost associated with removal of the equipment from the vehicle.
- Whether the equipment is reusable if removed from the vehicle.





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## **10. Participant Financial Contribution**

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### **10.1. Philosophy**

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DVR provides vocational rehabilitation services to eligible participants in the most expeditious manner possible. The use of comparable benefits and a process to determine the participant's financial contribution are intended to provide a vehicle for maximizing the responsibility of all concerned parties in meeting the cost of vocational rehabilitation services, not to screen out or deny services to participants.

DVR will not require a financial contribution of SSI/SSDI beneficiaries who are receiving benefits based on their own disabilities.

### **10.2. Process for determining participant financial contribution**

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#### **10.2.1. How the Participant's Financial Contribution is Determined**

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Federal Poverty Guidelines are published in January of each year by the Federal Department of Health and Human Services. These Guidelines shall be posted annually on the Intranet, and sent through an e-mail communication to DVR offices to coincide with the publication month of these Guidelines.

#### **10.2.2. Implementation Guidelines**

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The Participant Financial Statement (Financial Statement) shall be completed in all cases prior to the authorization of the first cost service. It will be valid for a twelve-month period. The Financial Statement will be updated as the participant's financial circumstances change, but at a minimum, on an annual basis, usually at annual review. If a case is reopened within twelve months of the most recent Financial Statement, the participant shall not incur a second financial contribution until the end of the original twelve-month period if the obligation was met with the contribution per the original IPE.

- A. The counselor shall complete the Financial Statement with the participant, or if the participant is non self-supporting, the spouse, parent or guardian responsible for the participant.

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- B. Family income will be used to complete the Statement if the spouse, parent, or guardian responsible for the participant claims the individual as a dependent for federal income tax purposes.
- C. The participant, or if appropriate, the spouse, parent, or guardian shall be provided with a copy of the completed DVR form.

10.2.2.1. Exceptions

Expenses not included on the Participant Financial Contribution include current expenses directly related to the participant's disability or the disability of another family member dependent on the Financial Statement income. These include expenses which are not covered by other sources and are non-reimbursable, and shall be deducted from the Statement's Adjusted Gross Annual Income. These expenses include, but are not limited to:

- medical/hospital bills,
- medical supplies/equipment,
- prescribed medication,
- therapy,
- adaptive equipment, (including equipment maintenance and supplies),
- attendant care,
- extraordinary transportation costs,
- driver, reader or interpreter services, and
- disability-related home modifications.

These expenses, if documented and approved by the VR counselor, will be deducted from the Adjusted Gross Annual Income in an amount equivalent to anticipated costs during the ensuing 12-month period, including annualizing of monthly installment payments; e.g., loans for disability-related home modifications.



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**10.2.3. Participant Responsibility to Cooperate**

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The participant, spouse, parent, or guardian is expected to provide the counselor with documentation of income and exceptional expenses when the Financial Statement is completed. When there is a refusal to provide this documentation, or a refusal to contribute, the counselor shall attempt to ascertain the reasons for refusal, and provide guidance on the benefits of cooperation.

When the participant is self-supporting, and/or in control of their income and reasons for refusal are not forthcoming, or guidance is denied, cost services may not be provided.

**10.2.4. Comparable Benefits**

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Comparable Benefits, if available, must be utilized within the development of the IPE planned services. Comparable benefits providing monetary supports to planned services must be correctly calculated by the VRC within costs for planned services developed on an IPE. If no comparable benefit is available VRC must describe through documentation what resources were explored. Comparable benefits not utilized must also be documented as to why they are not appropriate for reasons related specifically to lack of available funding, or undue hardship on behalf of the participant to utilize; i.e., excessive travel, and/or exacerbation of disability. Use of comparable benefits is not based on participant's preference. Only reasons justified through lack of resources, or disability related concerns are allowable reasons to disengage from utilizing available comparable benefits. Rehabilitation Technology, including assistive technology devices, services and vehicle modification do not require exploration of comparable services and/or similar benefits.

**10.2.4.1. SSI Recipients/SSDI Beneficiaries**

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DVR will not require a financial contribution from SSI/SSDI recipients who are receiving benefits based on their own disabilities. However, other sections of this manual pertaining to service provisions and limitations remain applicable.

SSI recipients are required to comply with federal regulations related to use of their benefits. The counselor must consider these requirements of receipt of SSI benefits in planning for and funding services.



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**10.3. Identification of Services which Require Participant Financial Contribution or Comparable Benefits**

The chart below delineates which services provided in a TWE, IPE or PES plan do or do not require application of financial statement or exploration of comparable benefits.

SERVICE	Requires Participant Financial Contribution	Requires Exploration of Comparable Services and/or Similar Benefits
Adjustment/mobility training	No	No
Assessment for determining eligibility (and priority of service)*	No	No
Assessment for determining rehabilitation needs	No	No
Books/Supplies/Occupational Tools / Equipment / Licenses / Personal Computers	Yes	Yes
Computer-related equipment and software	Yes	Yes
Cost services to other family members	Yes	Yes
Dental services	Yes	Yes
Discretionary training fees/not included in tuition	Yes	Yes
Guidance/Counseling	No	No
Home accessibility modifications (are considered Assistive Tech.)	Yes	No
Incidental Expenses	Yes	Yes
Job Placement	No	No
Maintenance	Yes	Yes
Other capital outlay purchases	Yes	Yes
Personal assistance services (example: attendant, scribe, reader, interpreter)	No	Yes
Physical/Mental Restoration, including medications	Yes	Yes
Referral to other Agencies, programs	No	No
Rehabilitation Technology, including assistive technology devices and services	Yes	No
Small Business Enterprise Costs	Yes	Yes
Transportation	Yes	Yes
Tuition and course related fees for college/vocational training	Yes	Yes
Vehicle modifications (are considered Assistive technology.)	Yes	No
Work tools, supplies, uniforms	Yes	Yes



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\*Note: an exception would be for those non-assessment services that are provided to a participant with a significant disability during either an exploration of participant's abilities, capabilities, and capacity to perform in work situations through the use of Trial Work Experiences.

The same guidelines apply for post-employment or trial work services consisting of any of the above-listed services.

**Exemptions**

No financial contribution is required as a condition for furnishing any vocational rehabilitation service if the participant in need of the service has been determined eligible for Social Security benefits under Title II or Title XVI of the Social Security Act.

**10.4. Procedures**

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- A. In situations where participant refuses to provide verification, only those services that do not require Participant Financial Contribution can be provided.
- B. A determination as to whether the Participant Financial Contribution is necessary is made at the time that the participant and counselor are developing an Individualized Plan for Employment (IPE), for Trial Work Experience, for service status, for Amendments, and for Post-Employment Services.
- C. If the service(s) to be provided under the IPE requires a Participant Financial Contribution, it is applied to that respective service in the IPE. If the service(s) to be provided on the IPE does not require a Participant Financial Contribution, it is not necessary to apply the test to those exempt services in the IPE.
- D. The Financial Statement must be completed annually and revised when the participant reports a change in their financial situation or family size which might affect the contribution to the cost of services.



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- E. The Financial Statement is completed to determine whether the participant meets the financial needs requirement or not. If the participant meets the Participant Financial Contribution, he/she is not required to contribute to the cost of the service(s). If the participant does not meet the Participant Financial Contribution, he/she is expected to contribute to the cost of the services.
- F. Once the Participant Financial Statement is completed, the CLIENT DATA SYSTEM "Application" data page should be updated to reflect the verified information that was provided at the time of application including: number in family, number of dependents, family income amount, primary source of support, whether the participant meets the Participant Financial Contribution, and if medical insurance is available/supplied by the employer.
- G. The criteria used to determine if the participant meets or does not meet the Participant Financial Contribution are based on the Federal Poverty Rate as published by the Department of Health and Human Services. If the participant/family's income is at or below 130% of the identified poverty rate, they meet the Participant Financial Contribution. If the income is higher, then they do not meet the Participant Financial Contribution and will be required to participate in the cost of the good or service.

**10.4.1. Countable Income**

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Income and resources of the family are to be used when the individual is part of a family. "Family" is defined as the family members (including any dependents) reported on the most recent federal income tax return. If the participant has been claimed as a dependent on any household member's income tax, then all family income reported on the return must be considered. If the participant filed an individualized income tax return and was not claimed on any household member's income tax he or she is counted as an individual.

When the most current income tax return does not reflect current income, the following sources of income must be considered:

- Wages - net wages of participant and family members (if considered a member of a household).
- Family contribution - contributions from family or individuals in cash or in kind on a regular basis.
- Public assistance - TANF, General Assistance

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- SSDI and SSI received by family/household members.
- Veterans Benefits.
- Worker's Compensation.
- Income from room and board, and rental property.
- Assistance from private welfare agencies, service clubs, or church groups.
- Income from stocks, dividends, bonds, interest, or other financial investments.
- Insurance benefits, retirement benefits, pensions
- Unemployment compensation benefits.
- Social Security other than SSDI.
- Liquid assets in the form of cash and savings accounts.
- Any other form of income not listed above

**10.4.1.1. Requirements for Verifying Income**

All applicants are required to provide verification of income. Examples of income verification include:

- Current income tax returns
- Check stubs
- FAFSA
- Award letters for public assistance, i.e. TANF, veterans' benefits, SSI/SSDI (or copies of checks)
- Bank statement
- Receipts from renters or in-kind services
- Financial investment report

In situations where participant refuses to provide verification, only those services that do not require a Participant Financial Contribution can be provided.

**Unusual or Exceptional Circumstances**

In situations where the case record documents an unusual or exceptional family circumstance, the Area Manager must approve any exceptions to proof of income requirements.



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Exceptions to proof of income will require documentation from sources other than DVR case record narrative and at a minimum, must include at least two letters from unbiased third parties who personally have knowledge of the participant's situation and can verify the circumstances. At least one letter must be on letterhead and must come from a guidance counselor, physician, social worker, clergy person, or other individual who has been involved in the circumstances in a professional capacity.

**10.4.1.2 Summary of Procedures for Calculating Participant Financial Contribution**

- A. When the participant does not meet the Participant Financial Contribution, he or she will be required to contribute to the cost of services if required as identified in the chart at 10-02-01 above.
- B. Participant contribution calculations will be documented on the DVR approved Participant Financial Statement.
- C. The Statement must be completed at least annually, usually at the annual review.

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**Participant's Rights**

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## **11. Participant's Rights**

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### **11.1. Policy Statement**

The New Mexico Division of Vocational Rehabilitation has established procedures to ensure that participants or, if appropriate, the participant's representative, who are dissatisfied with any determination made by DVR staff that affects the provision of vocational rehabilitation services, may request a timely review of that determination.

DVR may not institute a suspension, reduction or termination of any planned service in an approved Individualized Plan for Employment that is being provided to the participant pending a resolution through any of the appeal processes. A planned service may be discontinued if:

- A. the planned service expires as identified in the IPE, or
- B. the participant or, as appropriate, the participant's representative, requests the change in service, or
- C. DVR has evidence that the service has been obtained through misrepresentation, fraud, collusion or criminal conduct on the part of the participant or participant's representative. Evidence or documentation must be available and placed in the case file.

Appropriate evaluation and assessment services as well as IPE development should not be delayed pending resolution through any of the appeal processes.

While notifying participants of their appeal rights and while conducting any procedure related to appeals, DVR will ensure appropriate modes of communication are being utilized in order to facilitate effective communication with the participant and / or participant's representative.

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### **11.2. Notification Process**

Notification of the options for dispute resolution, how to access these options and information regarding the availability of the Client Assistance Program (CAP) to assist during these processes must be provided to participants in writing and through methods that can be adequately understood by participants.

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Options for dispute resolution:

- A. Mediation - Process by which the participant and counselor meet with an impartial mediator to try to resolve impasse and reach an agreement.
- B. Internal Processes
- C. Area Manager review of the disputed decision in which the counselor's decision may be overturned or amended.
- D. Field Operations Director (FOD) administrative review of the disputed decision in which the counselor's and / or Area Manager's decision may be overturned or amended.
- E. Fair Hearing - Process by which an impartial hearing officer reviews the disputed decision, gather's relevant information from all parties and makes a determination regarding the appeal.

Written notification to include participant's rights and responsibilities in the above appeals process along with address of the DVR Director must be provided to participants at the following times during the rehabilitation process:

- A. At application for VR services
- B. If on an Order of Selection, upon assignment of a category at the time of eligibility
- C. At IPE development
- D. At any time when a service is denied, reduced, suspended or terminated and the action is in dispute
- E. Upon determination of ineligibility for VR services
- F. At case closure

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### 11.3. Mediation

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#### 11.3.1. Requirements

- A. Mediation will be conducted by an impartial mediator who is trained in effective mediation techniques.
- B. Participation in mediation shall not be used to deny or delay the right of an individual to a Fair Hearing.
- C. Participation in the mediation process is voluntary on the part of the participant and the DVR staff involved in the disputed determination.
- D. The participant and the DVR staff involved have the right to representation during the mediation process by a representative or advocate.

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- E. Discussions that occur during the mediation process must be kept confidential and may not be used as evidence in any subsequent Fair Hearing or civil proceedings.
- F. Cost of mediation is covered entirely by DVR. The participant is not expected to bear any cost associated with mediation services aside from any fee for representation they choose to acquire.

**11.3.2. Procedures**

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- A. A participant may request mediation services by writing to the Deputy Director of Rehabilitation Services.
- B. Once a request for mediation is received at Rehabilitation Services Unit, the Deputy Director will determine if the counselor or other staff, as appropriate, is in agreement to participate in the mediation process and if the issue(s) can be resolved through mediation. If at that point it is determined that mediation is not an option, the Deputy Director will notify the participant in writing and advise them of their right for internal review processes and / or a Fair Hearing.
- C. If all parties agree upon mediation, the Deputy Director will refer the case to a mediation contractor.
- D. It is the mediator's responsibility to contact the participant and agency personnel to arrange mediation session(s) which are to be conducted in a timely manner and held in a location that is convenient to the parties involved.
- E. An agreement reached by the parties must be described in a written mediation agreement that is developed by the parties with the assistance of the mediator and signed by both parties. Copies of this agreement will be sent to both parties.
- F. At any point during the mediation process, either party or the mediator may elect to terminate the mediation. If this occurs, the mediator will notify the participant of their rights to proceed with internal reviews or a Fair Hearing.
- G. The counselor will ensure agreement(s) outlined in the mediation agreement are implemented unless otherwise assigned by the Area Manager, FOD or RSU Deputy Director.



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**11.4. Internal Processes**

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**11.4.1. Procedures for Area Manager Review**

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The following internal reviews are available for dispute resolution. Participation in Internal Reviews shall not be used to deny or delay the right of an individual to a Fair Hearing.

- A. The participant may request a supervisor's review through verbal or written means to either their counselor or directly to the Area Manager.
- B. The Area Manager will conduct an interview with the participant regarding their request, review the case file and clarify with the counselor their rationale for their decision.
- C. Within ten (10) working days, the Area Manager will respond to the participant in writing with a copy placed in the case file and notify the counselor of their decision. Written notice to the participant shall include information regarding further appeal processes.
- D. The counselor shall ensure any decision(s) made by the Area Manager are implemented unless otherwise assigned by the Area Manager, FOD or RSU Deputy Director.

**11.4.2. Procedures for Administrative Review by the F.O.D.**

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- A. A participant may request an administrative review by the FOD through verbal or written means to either their counselor, the Area Manager or directly to the FOD.
- B. If a review by the Area Manager has not occurred, the FOD will refer the participant back to the Area Manager for review. If circumstances prevent the Area Manager from reviewing the file within ten (10) days or if extenuating circumstances exist which preclude the area manager from reviewing the disputed decision, the FOD may waive the requirement to refer to the Area Manager.
- C. The FOD will review the case record, conduct an interview with the participant and discuss the disputed decisions made in the case by both the counselor and area manager if appropriate.
- D. Within ten (10) days, the FOD will respond to the participant in writing with a copy placed in the case file and notify the counselor and area manager of their decision. Written notice to the participant shall include information regarding further appeal processes.

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- E. The counselor shall ensure any decision(s) made by the FOD is implemented unless otherwise assigned by the Area Manager, FOD or RSU Deputy Director.

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**11.5. Fair Hearings**

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**11.5.1. Requirements**

The Fair Hearing is the final process for dispute resolution available through the agency. Either party who disagrees with the findings and decision of an impartial hearing officer may pursue civil action in State or district court.

- A. A Fair Hearing must be conducted within 60 days of receipt of the request, unless informal resolution or a mediation agreement resolution is achieved prior to the 60<sup>th</sup> day or the parties agree to a specific time extension.
- B. The participant has the right to representation during the mediation process by a representative or advocate.
- C. During the Fair Hearing, both parties are given the opportunity to present witnesses and to examine all witnesses and other relevant sources of information and evidence.
- D. A decision based on federal law and state policies will be provided by the Fair Hearing officer through a written report of the findings and basis for the decision within 30 days of the completion of the hearing.

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**11.5.2. Procedures**

- A. A participant may request a Fair Hearing by writing to the DVR Director within 45 days of a disputed decision. Upon receipt of the request, the request is forwarded to the Executive Support Unit who will manage the process.
- B. Executive Support Services notifies the counselor, Area Manager and FOD in writing of the request for Fair Hearing.
- C. Upon notification of the request for hearing, the counselor should review the case and, if appropriate, notify the participant and advise them of the availability of mediation and internal processes available to resolve disputes.
- D. Upon receipt of the decision by the Fair Hearing officer, the counselor is responsible for ensuring implementation of the decision unless

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otherwise assigned by the Area Manager, FOD or RSU Deputy Director.

- E. Should either party pursue civil action, DVR staff may be subpoenaed to testify. If served with a subpoena, DVR staff should notify the DVR attorney for consultation and guidance throughout this process.

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**12. Case Documentation**

Revised: 08/03

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**12.1. Policy statement**

New Mexico Division of Vocational Rehabilitation must maintain a record of services for each applicant and participant, that includes documentation supporting the eligibility determination, IPE, closure, and a description of how the applicant or participant exercised informed choice throughout the rehabilitation process.

There are two elements to DVR's case file. The first is a physical (hard copy) file and the second is the on-line file maintained within the case management system. Together they comprise the participant's record of service. The following section provides requirements for the physical case file, standards for proper case documentation, and procedures for transfer of cases, and provides an overview of mandatory reviews.

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**12.2. Case Files**

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**12.2.1. Case Files**

A physical case file shall be established for all applicants with the participant's name and Participant Number affixed to the file folder. Upon entry into Eligible Status, dividers will be placed in the case file and all documents will be filed according to these divisions. The dividers shall be labeled to identify the information contained in the particular section. Under each divider, information will be filed chronologically with the most recent on top. The case file shall be organized according to the standardized agency directive on file organization. Case File Security and Confidentiality

All DVR staff are responsible for case file security in the field offices. The Area Manager is responsible for instructing all employees' appropriate methods of insuring the participant's confidentiality and the security of these documents.



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**12.2.2. Guest Access**

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CLIENT DATA SYSTEM is designed to promote confidentiality by limiting access to the electronic case record. Access is limited to the primary user, support users, backup users and managers related to the particular caseload. Guest Access is a procedure that allows time-limited access to other staff for the purposes of providing services or for review of potential transfers. For example, an assigned representative from an DVR grant program may be granted access to a specific case for the purposes of a case consultation. This eliminates the need to provide the hard case file or to make copies of specific items (except for medical/psychological records not contained within CLIENT DATA SYSTEM).

Guest Access can be provided for a period of up to six months. The primary user sets up the guest access and parameters. For levels of security and the methods for establishing Guest Access, see the CLIENT DATA SYSTEM Help.

**12.2.3. CLIENT DATA SYSTEM Case Documentation**

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The CLIENT DATA SYSTEM case management system is designed to document participant information from referral through closure. The various data pages capture information relevant to the particular status or action associated with the data page. Not all relevant information readily fits into headings provided in the data pages and it is incumbent upon DVR staff to utilize the application documentation, comment sections and case notes to document:

- A. all relevant historical information;
- B. identify and address critical case questions;
- C. interpret medical/psychological/vocational assessments;
- D. justify decisions related to eligibility decisions, IPE development and case closure;
- E. DVR efforts to facilitate informed participant choice, describing the extent to which participant exercised informed choice throughout the rehabilitation process.

Narrative sections located throughout the CLIENT DATA SYSTEM data pages should also be utilized to ensure that thorough documentation takes place.





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**12.2.4. Case Notes**

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Case notes are an on-going record of significant events regarding participant activity as it relates to their rehabilitation process and includes analysis and synthesis of data relevant to the rehabilitation process. Any member of the rehabilitation team can enter documentation related to their interaction with the participant. Case notes become critical due to the fact that on-line reviews are an option for eligibility decisions, IPE and case closure. The following are guidelines related to case notes:

Case notes may only be changed or deleted to correct errors and cannot be changed after seven (7) days of entry.

Case notes should be as long as necessary to convey the relevant information but should not report every detail of an interaction with the participant or verbatim conversations unless such detail is significant to documenting problems or rationale for decisions. The same applies to summarizing diagnostic, treatment, or progress reports.

E-mail information, in whole or in part, may only be included if it is direct correspondence from and to the participant and only to the extent necessary to accurately document service provision. Information should be referenced in a case note and not cut and pasted into the body of the case note. It should be filed under correspondence in the case file.

Observations should be substantiated by witnessed behavior and/or factual information.

Case notes pertain only to a participant's rehabilitation program. Critical comments about other agency personnel, outside entities or procedures or philosophical discourses are inappropriate.

**12.3. Transfer of Cases**

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Participants may request case transfer in accordance with Case Transfer Guidelines and Protocol Policy.



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**12.4. Mandatory Reviews**

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**12.4.1. Annual Review**

Annual review of all Individual Plans for Employment is required. The CLIENT DATA SYSTEM will prompt team members when an annual review is due. The annual review must be documented in the CLIENT DATA SYSTEM. Federally Mandated Review of Closed Cases

In cases closed too severe/unable to benefit from VR services from any status, annual review (and annually thereafter if requested by the participant) is required.

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**12.5. Protection, Use, and Release of Information**

Participant provision of information is voluntary, but failure to provide pertinent information may result in case closure or delay in case development. A copy of the "Authorization for Release of Records or Information" will be used to document records and information that the participant has authorized DVR to use and / or disclose. Retain a copy in the participant file and provide a copy to the participant. The participant has the right to revoke this authorization at any time by writing, to the organization holding records or the DVR counselor.

All information obtained by DVR will be held confidential and will not be given to any person or agency without written consent of the participant except by order of the court. When staff members receive subpoenas for client records, the DVR staff attorney should be immediately consulted. The exception to this rule is through cooperative agreements between DVR, the Social Security Administration, the Department of Labor, and the Human Services Department. Information related to employment status and wages can be provided to or requested from these agencies.

DVR may use and disclose participant information without their consent when considered necessary to reduce or prevent a serious threat to a participant's health and safety or the health and safety or another individual or the public. Participants have the right to file a complaint if they believe their privacy rights have been violated. Complaints may be submitted, in writing, to DVR or the Secretary of the Health and Human Services.



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Division of Vocational Rehabilitation  
2935 Rodeo Park Drive East  
Santa Fe, NM 87505

- OR -

Region IV, Office of Civil Rights  
U.S. Department of Health and Human Services  
1301 Young Street, Suite 1169  
Dallas, TX 75202

**12.5.1. Release to Other Agencies**

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Information may be released to any other agency or individual with written consent of the participant unless it is prohibited from further release by the originating entity.

**12.5.2. Release to Participants**

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Any information in the case file that was generated by DVR must be released to the participant or representative upon request.

The only exception to this is in situations where the counselor has good reason to believe that the information would be harmful to the participant. In these situations the information may be released to a representative of the participant as deemed appropriate in the judgment of the counselor.

Information requested that was not generated by DVR may be released by DVR unless otherwise prohibited by the originating agency, in which case a referral should be made to the originating agency.

**12.5.3. Other Releases**

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Information requested for purposes of external audits, program evaluations, or research should be directed to the Deputy Director of Rehabilitation Services when such requests are not made through written consent of the participant.

Information may be shared with any unit of DVR for purposes related to administration of the VR program without written consent of the client.

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Information that is required to be shared via secured method with state employment service partners under the Workforce Innovation and Opportunity Act.

**12.5.4. Reproduction Costs**

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The out-of-ordinary costs for reproducing and sharing information to non-agency recipients not directly related to rehabilitation purposes will be borne by those recipients at rates set by DVR.

**12.5.5. Ethical Issues**

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DVR staff shall not abuse the privilege of viewing participant records. A staff member who is a personal friend or relative of a participant shall remove himself / herself from any involvement in the case, including viewing the case record or discussing the case with other staff members. Exceptions should be made based on professional judgment and discretion. In all cases, The Client Services – Impartial Services to Employees, Family Members or Others Policy shall be followed. Violations of this trust may be considered grounds for disciplinary action.

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