

Overview and Discussion of Federal Regulations on Supported Employment

**U.S. Department of Education
Office of Special Education and Rehabilitative Services
Rehabilitation Services Administration**



What is Supported Employment?

Supported employment is:

- Competitive integrated employment, including customized employment; or employment in an integrated work setting in which an individual with a most significant disability is working on a short-term basis toward competitive integrated employment; and
- Employment that is individualized and customized, consistent with the individual's unique strengths, abilities, interests, and informed choice, including with ongoing support services for individuals with the most significant disabilities.

(Section 7(38) of the Act and § 363.1(b) of the regulations)



Who Does the Supported Employment Program Serve?

Individuals with the most significant disabilities, including youth with the most significant disabilities, for whom:

- Competitive integrated employment has not historically occurred; or
- Competitive integrated employment has been interrupted or intermittent; and
- Intensive supported employment services and extended services are needed in order to perform the work involved, because of the nature and severity of their disability.

(Section 7(38) of the Act and § § 361.5(c)(53) and 363.1(b) of the regulations)

Authorized Activities

The State uses funds allotted under the Act for the Supported Employment program to:

- Provide supported employment services, as defined in section 7[(39) of the Act and § 361.5(c)(54); and
- Provide extended services in accordance with the requirements in section 604(b) of the Act and § 363.4(a)(2), to youth with the 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.

Authorized Activities (cont.)

Nothing in the Act prohibits a State from providing:

- Supported employment services in accordance with the State Plan submitted under section 101 of the Act by using funds made available through a State's VR program allotment; and
- Discrete postemployment services in accordance with the State Plan submitted under section 101 by using funds made available through a State's VR program allotment to an individual who is eligible under this program.

Overview of Significant Changes to the Supported Employment Program Made by WIOA

Significant changes include:

- Extending the time frame for the provision of supported employment services from 18 months to 24 months;
- Requiring that supported employment be in competitive integrated employment or, if not in competitive employment, in an integrated work setting in which the individual is working toward competitive integrated employment on a short-term basis;
- Requiring the availability of supported employment funds and/or VR program funds for providing extended services to youth with the most significant disabilities;

Overview of Significant Changes to the Supported Employment Program Made by WIOA (cont.)

- Requiring a reservation of 50 percent of a State's allotment under the Supported Employment program for the provision of supported employment services, including extended services, to youth with the most significant disabilities;
- Requiring not less than a 10 percent match for the 50 percent of the allotment reserved to serve youth with the most significant disabilities; and
- Reducing the amount of funds that may be spent on administrative costs to 2.5 percent of the State's Supported Employment program allotment.

Extended Time Frame for Provision of Supported Employment Services

The time frame for the provision of supported employment services was extended from 18 months to no longer than 24 months, unless, under special circumstances, the eligible individual and the rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the individualized plan for employment (IPE).

(Section 7(39)(C) of the Act and § § 361.5(c)(54)(iii) and 363.50(b)(1) of the regulations)



Competitive Integrated Employment and Short-Term Basis

Supported employment is now required to be in competitive integrated employment or, employment in an integrated work setting in which the individual is working on a short-term basis toward competitive integrated employment.

(Section 7(38) of the Act and § 363.1(b) of the regulations)

Short-Term Basis

Short-term Basis: For purposes of supported employment, an individual with a most significant disability, whose supported employment in an integrated setting does not satisfy the criteria of competitive integrated employment, as defined in 34 CFR 361.5(c)(9), is considered to be working on a short-term basis toward competitive integrated employment so long as the individual can reasonably anticipate achieving competitive integrated employment:

Short-Term Basis (cont.)

(1) Within six months of achieving a supported employment outcome; or

(2) In limited circumstances, within a period not to exceed 12 months from the achievement of the supported employment outcome, if a longer period is necessary based on the needs of the individual, and the individual has demonstrated progress toward competitive earnings based on information contained in the service record.

(Section 7(38) of the Act and § 363.1(c) of the regulations)



Short-Term Basis (cont.)

The six-month short-term basis period, and the additional six months that may be available in limited circumstances, begins after an individual has completed up to 24 months of supported employment services (unless a longer period of time is necessary based upon the individual's needs) and the individual has achieved a supported employment outcome, meaning that the individual is stable in the supported employment placement for a minimum period of 90 days following the transition to extended services. At this point, the individual has achieved a supported employment outcome in accordance with the criteria set forth in § 363.54.



Extended Services for Youth with the Most Significant Disabilities

Under WIOA, DSUs may use Supported Employment program or VR funds to provide extended services only to youth with the most significant disabilities—not to individuals with the most significant disabilities who are not youth.

Section 604(b)(2) of the Act, as amended by WIOA, mandates that the VR agency make available extended services for youth with the most significant disabilities for a period not to exceed four years. § 363.4(a)(2) of the regulations clarifies that extended services may be provided for a period of up to 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” under 34 CFR 361.5(c)(58), whichever occurs first.



Extended Services for Youth with the Most Significant Disabilities (cont.)

A youth may no longer be eligible to receive extended services provided by the VR agency with funds allotted under the Supported Employment program or the VR program because the individual:

- No longer meets age requirements established in the definition of a youth with a disability; or
- Has received extended services for a period of four years; or
- Has transitioned to extended services provided with funds other than those allotted under the VR or Supported Employment programs prior to meeting the age or time restrictions.

**Fiscal Overview:
Supported Employment Reservation
and
Expenditure of Funds Requirement**

Supported Employment Reservation and Expenditure of Funds Requirement

The State must reserve and expend 50 percent of its Federal Supported Employment allotment for the provision of supported employment services, including extended services, to youth with the most significant disabilities.

(Section 603 of the Act and § 363.22 of the regulations)

Supported Employment Reservation and Expenditure of Funds Requirement (cont.)

Similar to the requirement for pre-employment transition services, the amount to be reserved and expended will be affected by adjustments to a State's allotment made throughout the year of appropriation, such as adjustments made during the reallocation process, if applicable. If a State receives funds or relinquishes funds during reallocation, the State is still obligated to reserve 50 percent of the State's increased or decreased allotment for that fiscal year's appropriations.

Supported Employment Reservation and Expenditure of Funds Requirement (cont.)

Additionally, any reduction to the State's Supported Employment allotment that occurs after the year of appropriation, either through deobligation or grant closeout, will not reduce the 50 percent amount to be reserved and expended that is calculated based on the State's allotment at the end of the year of appropriation.

Supported Employment Reservation and Expenditure of Funds Requirement (cont.)

- The requirement to reserve and expend funds for the provision of supported employment services, including extended services, to youth with the most significant disabilities is a State requirement.
- When there are two State VR agencies, the reservation of funds for the provision of supported employment services is a State matter that must be resolved at the State level. RSA encourages agencies to coordinate to ensure State compliance with the reservation requirement.

Supported Employment Match Requirement

- The State must provide a match of at least 10 percent in non-Federal expenditures for the total amount of expenditures incurred with the half of the allotment reserved to provide supported employment services, including extended services, to youth with the most significant disabilities. (Section 606(b)(7)(I) of the Act and § 363.23 of the regulations)
- Since the required non-Federal share is only applicable to the 50 percent of funds reserved for youth with the most significant disabilities, the non-Federal expenditures are required to be spent on supported employment services, including extended services, to youth with the most significant disabilities.



Supported Employment Match Requirement (cont.)

- A State must match the 50 percent reserve of supported employment funds for the provision of supported employment services, including extended services, to youth with the most significant disabilities by September 30 of the Federal fiscal year (FFY) of appropriation for the State to fully expend the reserved funds, or permit the carryover of any unobligated portion of the reserved funds into the succeeding FFY for obligation and expenditure. Any amount of the reserved funds carried over into the next FFY must be spent on supported employment services, including extended services, for youth with the most significant disabilities in that carryover year.

Supported Employment Administrative Cost Limitation

States may not use more than 2.5 percent of their supported employment allotment to pay for administrative costs. States may use VR funds to pay for supported employment administrative costs in excess of the 2.5 percent. However, such costs would not count as match for the Supported Employment program or as expenditures for the 50 percent required to be reserved and expended for serving youth with most significant disabilities.

(Sections 603(c) and 608(a) of the Act and § 363.51)



When Payment for Supported Employment Services Begins

Because supported employment funds are meant to be used to support and maintain an individual with a most significant disability in employment, the provision of supported employment services may not be provided prior to an individual being placed into an employment position requiring supported employment services. All Federal expenditures for an individual that occur prior to the individual being placed into a supported employment position, must be provided with VR funds.

SF-425 Reporting

VR agencies must ensure that the cost of VR services provided prior to an individual's placement are not charged to or reported as supported employment expenditures on any SF-425 reports submitted for the Supported Employment program after October 1, 2016 (FFY 2017). This means any unobligated Federal supported employment funds carried over into FFY 2017, including the reserve funds that must be matched by September 30, 2016, may only be reported on the supported employment SF-425 as expenditures for ongoing supported employment services provided after an individual is placed into supported employment.



Employment Outcomes in Supported Employment

Requirements that must be satisfied for an employment outcome are set forth in § 363.54 of the regulations:

- First, the individual must have completed supported employment services, which may be received for up to 24 months, or longer if the counselor and the individual have determined that such services are needed to support and maintain the individual in supported employment. Any other vocational rehabilitation services listed on the IPE provided to individuals who are working on a short-term basis toward the achievement of competitive integrated employment in supported employment need not be completed prior to satisfying the achievement of an employment outcome;

Employment Outcomes in Supported Employment (cont.)

- Second, the individual has transitioned to extended services provided either by the VR agency for a youth with the most significant disability, or another provider, consistent with the provisions of § § 363.4(a)(2) and 363.22 of the regulations;
- Third, the individual has maintained employment and achieved stability in the work setting for a minimum of 90 days after transitioning to extended services; and
- Finally, the employment must be individualized and customized consistent with the strengths, abilities, interests, and informed choice of the individual.

Closure of the Service Record

- The service record of an individual who has achieved an employment outcome in supported employment will be closed in accordance with § 363.55 of the regulations.
- Closure of the service record may occur at the time of the supported employment outcome or at a later time, depending on whether individuals with the most significant disabilities, including youth with the most significant disabilities, achieve competitive integrated employment or work toward competitive integrated employment on a short-term basis and whether they are receiving extended services and/or any other VR services from the VR agency or from other service providers.

Examples of Supported Employment Outcome and Closure of the Service Record

EXAMPLE 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 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 also have been satisfied.

Examples of Supported Employment Outcome and Closure of the Service Record (cont.)

EXAMPLE 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 also have been satisfied.

Examples of Supported Employment Outcome and Closure of the Service Record (cont.)

EXAMPLE 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.

Examples of Supported Employment Outcome and Closure of the Service Record (cont.)

EXAMPLE 3: (cont.)

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 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?

Examples of Supported Employment Outcome and Closure of the Service Record (cont.)

EXAMPLE 3: (cont.)

The service record can be closed when Bob:

- Achieves competitive integrated employment within the short-term basis period established pursuant to § 363.1(c); and
- Satisfies the requirements for case closure in 34 CFR 361.56; and
- Is no longer receiving vocational rehabilitation 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.

Examples of Supported Employment Outcome and Closure of the Service Record (cont.)

EXAMPLE 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.

Examples of Supported Employment Outcome and Closure of the Service Record (cont.)

EXAMPLE 4: (cont.)

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?

Examples of Supported Employment Outcome and Closure of the Service Record (cont.)

EXAMPLE 4: (cont.)

The service record can be closed when Bob:

- Achieves competitive integrated employment within the short-term basis period; and
- Is no longer receiving vocational rehabilitation services provided by the VR agency with funds under 34 CFR part 361; and/or
- 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

Examples of Supported Employment Outcome and Closure of the Service Record (cont.)

EXAMPLE 4: (cont.)

- 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.

Supported Employment Outcome and Closure of the Service Record

In summary, the service record may be closed and the supported employment outcome taken at the same time unless an individual with a most significant disability is receiving VR services during the short-term basis period and/or, in the case of a youth, is receiving extended services funded by either Supported Employment program or VR program funds.

Questions

Please refer questions to your RSA State Liaison

Thank You!