

Code of Federal Regulations (CFR) Related to Supported Employment

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Title 34 Education

PART 361 - STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

§ 361.5 Applicable definitions.

Competitive integrated employment

Competitive integrated employment means work that -

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

(A) 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;

(B) 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

(C) 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

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

(ii) Is at a location -

(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

(iii) 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.

(Authority: Sections 7(5) and 12(c) of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 705\(5\)](#) and [709\(c\)](#))

Employment Outcome

Employment Outcome means, with respect to an individual, entering, advancing in, or retaining full-time or, if appropriate, part-time competitive integrated employment, as defined in [paragraph \(c\)\(9\)](#) of this section (including customized employment, self-employment, telecommuting, or business ownership), or supported employment as defined in [paragraph \(c\)\(53\)](#) of this section, that is consistent with an individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(Authority: Sections 7(11), 12(c), 100(a)(2), and 102(b)(4)(A) of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 705\(11\)](#), [709\(c\)](#), [720\(a\)\(2\)](#), and [722\(b\)\(4\)\(A\)](#))

Extended Services

Extended services means ongoing support services and other appropriate services that are -

- (i) Needed to support and maintain an individual with a most significant disability including a youth with a most significant disability, in supported employment;
- (ii) Organized or made available, singly or in combination, in such a way as to assist an eligible individual in maintaining supported employment;
- (iii) Based on the needs of an eligible individual, as specified in an individualized plan for employment;
- (iv) Provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, after an individual has made the transition from support from the designated State unit; and
- (v) Provided to a youth with a most significant disability by the designated State unit in accordance with requirements set forth in this part and part 363 for a period not to exceed four years, or at such time that a youth reaches age 25 and no longer meets the definition of a youth with a disability under [paragraph \(c\)\(58\)](#) of this section, whichever occurs first. The designated State unit may not provide extended services to an individual with a most significant disability who is not a youth with a most significant disability.

(Authority: Sections 7(13), 12(c), and 604(b) of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 705\(13\)](#), [709\(c\)](#), and [795i\(b\)](#))

Individual with a Significant Disability

Individual with a significant disability means an individual with a disability -

(i) Who has a severe physical or mental impairment that 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;

(ii) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, intellectual disability, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

(31) Individual's representative means any representative chosen by an applicant or eligible individual, 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.

(Authority: Sections 7(22) and 12(c) of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 705\(22\)](#) and [709\(c\)](#))

Integrated Setting

Integrated setting means -

(i) With respect to the provision of services, a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals; and

(ii) 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.

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 709\(c\)](#))

Ongoing Support Services

Ongoing support services, as used in the definition of supported employment, means services that -

- (i) Are needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment;
- (ii) Are identified based on a determination by the designated State unit of the individual's need as specified in an individualized plan for employment;
- (iii) Are furnished by the designated State unit from the time of job placement until transition to extended services, unless post-employment services are provided following transition, and thereafter by one or more extended services providers throughout the individual's term of employment in a particular job placement;
- (iv) Include an assessment of employment stability and provision of specific services or the coordination of services at or away from the worksite that are needed to maintain stability based on -
 - (A) At a minimum, twice-monthly monitoring at the worksite of each individual in supported employment; or
 - (B) If under specific circumstances, especially at the request of the individual, the individualized plan for employment provides for off-site monitoring, twice monthly meetings with the individual;
- (v) Consist of -
 - (A) Any particularized assessment supplementary to the comprehensive assessment of rehabilitation needs described in [paragraph \(c\)\(5\)\(ii\)](#) of this section;
 - (B) The provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;
 - (C) Job development and training;

(D) Social skills training;

(E) Regular observation or supervision of the individual;

(F) Follow-up services including regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

(G) Facilitation of natural supports at the worksite;

(H) Any other service identified in the scope of vocational rehabilitation services for individuals, described in [§ 361.48\(b\)](#); or

(I) Any service similar to the foregoing services.

(Authority: Sections 7(27) and 12(c) of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 705\(27\)](#) and [709\(c\)](#))

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

(Authority: Sections 7(20)(A) and 12(c) of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 705\(20\)\(A\)](#) and [709\(c\)](#))

Supported employment -

(i) **Supported employment** means competitive integrated employment, including customized employment, or employment in an integrated work setting in which an individual with a most significant disability, including a youth with a most significant disability, is working on a short-term basis toward competitive integrated employment that is individualized, and customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual, including with ongoing support services for individuals with the most significant disabilities -

(A) 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

(B) Who, because of the nature and severity of their disabilities, need intensive supported employment services and extended services after the transition from support provided by the designated State unit, in order to perform this work.

(ii) For purposes of this part, 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 [paragraph \(c\)\(9\)](#) of this section 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 -

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

(B) 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.

(Authority: Sections 7(38), 12(c), and 602 of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 705\(38\)](#), [709\(c\)](#), and [795g](#))

Supported employment services means ongoing support services, including customized employment, and other appropriate services needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment that are -

(i) Organized and made available, singly or in combination, in such a way as to assist an eligible individual to achieve competitive integrated employment;

(ii) Based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment;

(iii) Provided by the designated State unit for a period of time not to exceed 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; and

(iv) Following transition, as post-employment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

(Authority: Sections 7(39), 12(c), and 103(a)(16) of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 705\(39\)](#), [709\(c\)](#), and [723\(a\)\(16\)](#))

Youth with a disability -

(i) **Youth with a disability** means an individual with a disability who is not -

(A) Younger than 14 years of age; and

(B) Older than 24 years of age.

(ii) **Youth with disabilities** means more than one youth with a disability.

(Authority: Section 7(42) of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 705\(42\)](#))

PART 363 - STATE SUPPORTED EMPLOYMENT SERVICES PROGRAM

§ 363.3 Who is eligible for services?

A State may provide services under this part to any individual, including a youth with a disability, if -

(a) The individual has been determined to be -

(1) Eligible for vocational rehabilitation services in accordance with [34 CFR 361.42](#); and

(2) An individual with a most significant disability;

(b) For purposes of activities carried out under [§ 363.4\(a\)\(2\)](#), the individual is a youth with a disability, as defined in [34 CFR 361.5\(c\)\(59\)](#), who satisfies the requirements of this section; and

(c) Supported employment has been identified as the appropriate employment outcome for the individual on the basis of a comprehensive assessment of rehabilitation needs, as defined in [34 CFR 361.5\(c\)\(5\)](#), including an evaluation of rehabilitation, career, and job needs.

(Authority: Section 605 of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 795j](#))

§ 363.1 What is the State Supported Employment Services program?

(a) Under the State supported employment services program, the Secretary provides grants to assist States in developing and implementing collaborative programs with appropriate entities to provide programs of supported employment services for individuals with the most significant disabilities, including youth with the most significant disabilities, to enable them to achieve an employment outcome of supported employment in competitive integrated employment. Grants made under the State supported employment services program supplement a State's vocational rehabilitation program grants under [34 CFR part 361](#).

(b) For purposes of this part and [34 CFR part 361](#), “supported employment” means competitive integrated employment, including customized employment, or employment in an integrated work setting in which an individual with a most significant disability, including a youth with a most significant disability, is working on a short-term basis toward competitive integrated employment, that is individualized and customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual, including with ongoing support services for individuals with the most significant disabilities -

(1)

(i) For whom competitive integrated employment has not historically occurred; or

(ii) For whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and

(2) Who, because of the nature and severity of the disability, need intensive supported employment services, and extended services after the transition from support provided by the designated State unit in order to perform the work.

(c) **Short-term basis.** For purposes of this part, 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 -

(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.

(Authority: Sections 7(38), 7(39), 12(c), and 602 of the Rehabilitation Act of 1973, as amended; [29 U.S.C. 705\(38\)](#) [705\(39\)](#), [709\(c\)](#), and [795g](#))