

**RHODE ISLAND GOVERNMENT REGISTER  
PUBLIC NOTICE OF PROPOSED RULEMAKING**

**DEPARTMENT OF HUMAN SERVICES**

**Title of Rule:** Vocational Rehabilitation Program Regulations (218-RICR-50-00-1)

**Rule Identifier:** 218-RICR-50-00-1

**Rulemaking Action:** Proposed Amendment

**Important Dates:**

Date of Public Notice: March 27, 2023

End of Public Comment: April 26, 2023

**Rulemaking Authority:**

42-35-2.8

**Summary of Rulemaking Action:**

This rule is being refiled by the agency pursuant to R.I. Gen. Laws § 42-35-4.1. Changes being made to regulations include:

Section 1.4 Definitions: Changes made to update ages of students with disabilities and youth with disabilities.

Section 1.5 Referrals and Applications: Added where ORS also receives referrals.

Section 1.8 Order of Selection/Waitlist: Changed number of functional capacities need to be considered Priority Category II.

Section 1.12 Individualized Plan for Employment: Added statement that “extension agreement must be in writing”.

Section 1.14 Comparable Benefits and Services: Removed line stating that comparable benefits are services/benefits “available to individual to ensure progress toward employment outcome in IPE”.

Section 1.17.3 Post-Secondary Education/VR Training: Added in under Training Expenses “trade schools or skills-based certification program” under what ORS is able to be pay with VR funds. Removed paragraph re: eligible individuals encouraged to take advance of Promise Grant. This was moved to our procedures. Revised how tuition rate and book/supplies funded by ORS are determined to be reviewed annually and be based on RI College rates and the Department of Labor and Training Eligible Training Provider List.

1.17.7 Supported Employment Services: Revised age for Youth-Aged Individuals with Significant Disabilities to “until they reach the age of 24”.

1.17.8 Post-Employment Services: Rewrote entire section based on changes in guidance from RSA stating when post-employment services can be done.

1.17.9 Occupational Tools, Licenses, Equipment: Removed an administrative waiver may be considered – in procedures.

1.17.11 – Transition and Pre-ETS: Added in words Pre-Employment Transition Services: Changed criteria of student with a disability to “up to the age of 22”.

1.17.13 – Adaptive Housing Services: Removed administrative waiver as this is in procedures.

1.17.14 Motor Vehicle Modifications: Revised conditions that make it not possible for ORS to provide any structural modifications to vehicle.

**Additional Information and Public Comments:**

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until April 26, 2023 by contacting the appropriate party at the address listed below:

Karen Davis

Department of Human Services/Office of Rehabilitation Services

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In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by a governmental agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of the publication of this notice.

**Regulatory Analysis Summary and Supporting Documentation:**

Students will benefit because of this change. Alternatives looked at included allowing lower amounts which would have negatively impacted students and not addressed the regular annual increases to tuition by universities, colleges and/or training providers, or allowing a higher rate which may have caused fewer students to benefit from post-secondary education.

: This change will likely result in an approximate twenty percent increase in combined State and Federal funding.

For full regulatory analysis or supporting documentation contact the agency staffperson listed above.

## TITLE 218 – DEPARTMENT OF HUMAN SERVICES

### CHAPTER 50 –REHABILITATION SERVICES

#### SUBCHAPTER 00 - N/A

#### PART 1 – Vocational Rehabilitation Program

### 1.1 PURPOSE

- A. These rules establish the requirements for implementation, based on the Rehabilitation Act of 1973, Pub. L. No. 93-112 as amended by the Workforce Innovation and Opportunity Act (WIOA) of 2014, Pub. L. No. 113-128 of the Vocational Rehabilitation (VR) Program and the Supported Employment (SE) Program. Under the Department of Human Services (DHS), the Office of Rehabilitation Services (ORS) is responsible for administering this program. These regulations will:
1. define required information for application
  2. define eligibility requirements
  3. specify scope of services
  4. specify standards for continued eligibility
  5. specify mediation and appeals process for denial of services/ineligibility
  6. specify criteria for case closure
- B. Programs: ORS, through three (3) distinct programs, provides vocational rehabilitation, social services and independent living services, and disability determination to Rhode Island residents. This document will focus on the regulatory requirement of the VR Program of ORS.
1. The VR program is a State/Federal program whose major function is to access, plan, develop, and provide access to employment opportunities to eligible individuals with physical, emotional and/or intellectual disabilities. ORS has long elected to base its minimum personnel standards for vocational rehabilitation counselors on the requirement of a Master's degree in Rehabilitation Counseling.
  2. The VR Program is able to provide a wide array of services designed to assist eligible Rhode Islanders to become employed which include: counseling and guidance; medical, social, psychological and educational

evaluations; physical restoration; medical services; personal adjustment; training; rehabilitation engineering services; job training; job exploration; job placement; and post-employment services.

3. The VR Program has two units that work with youth and adults with sensory impairments: Services for the Blind and Visually Impaired and a Deaf and Hard of Hearing Region Unit.

## 1.2 AUTHORITY

These rules and regulations are promulgated pursuant to the Rehabilitation Act of 1973, Pub. L. No. 93-112 as amended by the Workforce Innovation and Opportunity Act (WIOA) of 2014, Pub. L. No. 113-128 of the Vocational Rehabilitation (VR) Program and the Supported Employment (SE) Program R.I. Gen. Laws §§ 42-12-8 through 17 and 22; and 29 U.S.C. §§ 721-722. Federal Laws supersede RI General Law.

## 1.3 INCORPORATED MATERIALS

- A. These regulations hereby adopt and incorporate the following, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
  1. The State Vocational Rehabilitation Services Program, 34 C.F.R. § 361 (VR Program); The State Supported Employment Services Program, 34 C.F.R. § 363 (SE program); and Limitations on Use of Subminimum Wage, 34 C.F.R. § 397 (2016).
  2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. § 200 (2014).
  3. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 3485 (2012).
  4. The Education Department General Administrative Regulations (EDGAR) as follows:
    - a. Administration of Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations, with respect to subgrants to entities that are not State or local governments or Indian tribal organizations, 34 C.F.R. Part 74 (2014);
    - b. State Administered Programs, 34 C.F.R. Part 76 (2014);
    - c. Definitions that Apply to Department Regulations, 34 C.F.R. Part 77 (2014);

- d. Intergovernmental Review of Department of Education Programs and Activities, 34 C.F.R. Part 79 (2014);
  - e. Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 34 C.F.R. Part 80 (2014);
  - f. General Education Provisions Act - Enforcement, 34 C.F.R. Part 81 (2014);
  - g. New Restrictions on Lobbying, 34 C.F.R. Part 82 (1990);
  - h. Drug and Alcohol Abuse Prevention, 34 C.F.R. Part 86 (1996).
- 5. Description of One-Stop Service Delivery System under Title I of the Workforce Innovation and Opportunity Act of 2014, 20 C.F.R. Part 678.
  - 6. Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act of 2014, 29 C.F.R., Part 38 (2015).

## 1.4 DEFINITIONS

- A. For the purpose of these regulations, except as provided below, the following terms have the following meanings:
  - 1. "Agency" means the Office of Rehabilitation Services.
  - 2. "Applicant" means an individual who ~~applies submits an application~~ for the VR Program in accordance with 34 C.F.R. 361.41(b)(2), incorporated above.
  - 3. "Appropriate modes of communication" means 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.
  - 4. "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of individuals with disabilities.

5. "Assistive technology services" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.
6. "Clear and convincing evidence" means that the designated state unit will have a high degree of certainty before it can conclude that an individual is incapable of benefiting from services in terms of a competitive integrated employment outcome.
7. "Client assistance program" means the program located within the ~~Rhode Island Disability Law Center~~ Disability Rights Rhode Island (DRRI) for the purpose of advising applicants or eligible individuals about all available services under the Rehabilitation Act of 1973 (29 U.S.C § 701 *et seq.*), as amended, and to assist applicants and eligible individuals in their relationship with programs, projects, and facilities providing services for the Vocational Rehabilitation Program in accordance with 34 C.F.R. Part 371.
8. "Community rehabilitation program" means a program that provides directly or facilitates the provision of one or more vocational rehabilitation services to individuals with disabilities to enable them to maximize their opportunities for employment, including career advancement, in accordance with 34 C.F.R. 361.5(c)(7)(1), incorporated above.
9. "Consent decree" refers to a 2013 Consent Decree between the Department of Justice and the State of Rhode Island which have requirements about integrated work experiences, minimum wage employment and competitive employment as expectations of Rhode Island as an Employment First state.
10. "Comparable services and benefits" means services and benefits, including accommodations and auxiliary aids, that are provided or paid for in whole or in part, by other Federal, State, or local public agencies.
11. "Competitive integrated employment" means work in the competitive labor market that is performed on a full-time or part-time basis (including self-employment) 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 that benefits are paid by the employer for the same or similar work performed by individuals who are not disabled in accordance with 34 C.F.R. 361.5(c)(9), incorporated above. It can also include customized employment consistent with the above definition.
12. "Competitive earnings" means the hourly wage is equal to or greater than the local minimum wage, is comparable to the customary rate paid by the employer for similar positions, and includes the benefits afforded other employees.

13. "Department" means the Department of Human Services (DHS).
14. "Direct school costs" means expenses of tuition, fees, books, room, board, and other materials included in course syllabus.
15. "Durable medical equipment" means equipment prescribed by a physician with a shelf life of more than a year designed to overcome the functional limitations imposed by a disability.
16. "Economic need" means the determination made by the Office of Rehabilitation Services of the extent an individual with a disability and/or his/her family will contribute to the cost of vocational rehabilitation services, once similar benefits if available have been applied to the cost of such services in accordance with 34 C.F.R. 361.54, incorporated above.
17. "Eligible individual" means an applicant for the VR Program who meets the eligibility requirements of 34 C.F.R. § 361.42(a), incorporated above.
18. "Employment outcome" means, with respect to an individual, entering in, advancing in, or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market; supported employment; or any other type of employment in an 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.
19. "Evaluation of vocational rehabilitation potential" refers to a process of identifying an individual's strengths, abilities, and vocational interests in terms of competitive integrated employment.
20. "Extended services" means on-going support services and other appropriate services provided by a State agency, a private, nonprofit organization, employer, or any other appropriate resource after an individual with the most significant disabilities has concluded support services from State vocational rehabilitation agency support in accordance with 34 C.F.R. 361.5(c)(19), incorporated above.
21. "Family member" in accordance with 34 C.F.R. § 361.5(c)(22), incorporated above, means either an individual who is a relative or guardian of an applicant or eligible individual or lives in the same household and who has a substantial interest in the well-being of that individual and for whom receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an competitive integrated employment outcome.
22. "Impartial hearing officer" refers to an individual trained in mediation, with no conflict of interest, who has no personal, professional, or financial interest that would be in conflict with the objectivity of the presenting issue.

An individual is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer.

23. "Independent living services" means any services that will improve the ability of an individual with a significant disability to function, continue to function, or move toward functioning independently.
24. "Individual with a disability" means any individual who has a physical/emotional/intellectual impairment that results in a substantial impediment to employment and who can benefit, in terms of an employment outcome, in an integrated competitive setting, from vocational rehabilitation services.
25. "Individualized plan for employment" means ~~a written~~ and written employment plan, developed and implemented by a qualified Vocational Rehabilitation Counselor and an eligible individual, that identifies an employment goal and the services needed to reach that goal; the entity/entities that will provide these services; and the methods available for procuring these services.
26. "Informed choice" means a decision-making process whereby the individual with a disability analyzes relevant information and selects, with the assistance of a qualified Vocational Rehabilitation Counselor, a vocational goal, and associated services to accomplish that goal.
27. "Integrated setting" means an employment setting typically found in the community in which individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services, to the same extent that non-disabled individuals in comparable positions interact with other persons.
28. "Mediation" means the act or process of using an independent third party to facilitate resolution between parties who have differences or disputes prior to pursuing formal administrative remedies, (i.e. Impartial Due Process Hearing); and must be conducted in accordance with requirements in 34 C.F.R. § 361.57(d), incorporated above, by a qualified and impartial mediator as defined in § 361.5(c)(43).
29. "Mental restoration" means the diagnosis and treatment for emotional or mental disorders prescribed and provided by qualified personnel in accordance with state law to enable an individual to achieve a competitive integrated employment outcome.
30. "Office of Rehabilitation Services" or "ORS" means the State agency overseeing the State VR program.

31. "On-the-job training" or "OJT" means a method of learning skills on the job needed for a specific vocation with the instruction delivered by the employer at the worksite.
32. "Order of selection" means the priority system the Vocational Rehabilitation Program uses when the program does not have enough resources to assist everyone who is eligible for services.
33. "Physical restoration" means diagnostic and corrective or therapeutic services prescribed and provided by qualified personnel in accordance with state licensing laws, in which service is likely to correct or substantially modify the limitations arising from a stable or slowly progressive physical disability to enable the individual to achieve a competitive integrated employment outcome.
34. "Post-secondary training" means education provided by a degree or certificate granting institution of higher education (universities, colleges, community, or junior colleges, vocational schools, technical institutes, hospital schools of nursing, or any other post-secondary education institution).
35. "Pre-employment transition services" means services provided to students with disabilities ages 14 to 22 who have Individualized Education Plans (IEPs) or 504 plans, regardless of application status or type of disability, that are limited to five focus areas:
  - a. job exploration counseling;
  - b. work-based learning;
  - c. counseling on opportunities for enrollment in comprehensive transition or post-secondary educational programs;
  - d. workplace readiness training to develop social skills and independent living; and
  - e. self-advocacy.
36. "State" means the State of Rhode Island.
37. "Student with a disability" means a student who meets all of the following criteria in accordance with 34 C.F.R. 361.5(c)(51), incorporated above:
  - a. is at least 14 but no older than 24 years of age;
  - b. has a disability as evidenced by medical documentation, a copy of an IEP or 504 plan;

- c. has confirmation of enrollment as a student in a secondary school, including home school and alternative school programs or post-secondary education;
  - d. has evidence of participation in adult basic education program leading to such nationally recognized credentials as a GED or high school diploma;
  - e. has evidence of enrollment in a state, nationally, or industry recognized certificate program leading to a credential such as Commercial Driver's License Certification, Microsoft Certification, Certified Nursing Assistant. Qualified documentation may include IPE, 504 Plan, report card, college registration receipt or other documentation from the educational program.
38. "Supported employment program" means a program that assists adults and youths with the most significant disabilities to obtain the supports, skills and experiences needed to attain, maintain, or advance in competitive integrated employment.
39. "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, in supported employment.
40. "Transition services" means a coordinated set of activities for a student or youth with a disability, designed within an outcome-oriented process that promotes movement from school to post-school activities, including post-secondary education, vocational training, career exploration, competitive integrated employment, supported employment, continuing and adult education, adult services, independent living, and/or community participation in accordance with 34 C.F.R. 361.5(c)(55), incorporated above.
41. "Trial work experience" means a process used to determine if an individual with a disability is unable to benefit from vocational rehabilitation services in terms of a competitive integrated employment outcome because of the severity of the individual's disability.
42. "Vocational rehabilitation services" means any goods or services necessary to assist an individual with a disability in preparing for, securing, retaining, advancing in, or regaining a competitive integrated employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
43. "Vocational training" means skill development in a specific vocation that will result in employment, such as, but not limited to, truck driving, propane gas service, wallpaper hanging, etc.

44. "Youth with a disability" means an individual with a disability; that is not younger than 14 years of age; and not older than 24 years of age. There is no requirement that a "youth with a disability" be participating in an education program. student with a disability, or an out-of-school youth with a disability, between 14 and 21 years of age. The distinction between the definitions of "student with a disability" and "youth with a disability" is critical for purposes of the various authorities for providing transition related services, including Pre-Employment Transition Services.

## 1.5 REFERRALS AND APPLICATIONS

- A. Referral and information requests submitted by individuals with disabilities to the Office of Rehabilitation Services will be processed upon receipt. Individuals who are not U.S. Citizens must be able to prove they are legally able to work in the United States as determined by the U.S. Citizenship and Immigration Services.
- B. An individual and/or their representative submits a signed Application (ORS-4) and a completed Current Health and Functional Capacities Self-Assessment Form (ORS-3), a completed common intake application in an America's Job (One-Stop) Center or another type of request for vocational rehabilitation services, to initiate an assessment to determine eligibility and priority for services.
- C. When an incomplete application is received, the assigned vocational rehabilitation counselor will make all attempts to contact applicant for information.
- D. Applications can be found at the Office of Rehabilitation Services, America's Job (One Stop) Centers, or on the ORS website ([www.ors.ri.gov](http://www.ors.ri.gov)), etc.
- E. Eligibility will be determined within sixty (60) days, unless exceptional and unforeseen circumstances occur in accordance with 34 C.F.R. 361.471(b)(i), incorporated above.

## 1.6 GENERAL ELIGIBILITY REQUIREMENTS

- A. For an applicant to be found eligible for the VR Program, the following requirements must be met in accordance with 34 C.F.R. 361.42, incorporated above:
1. Applicant has a physical/emotional/intellectual impairment which constitutes or results in a substantial impediment to employment; and
  2. The individual has functional limitations that are a barrier to competitive, integrated employment, and/or the individual is on SSI and/or SSDI (verified by counselor), and is presumed to be eligible for vocational rehabilitation services as long as the individual intends to achieve an employment outcome; and

3. Applicant requires and can benefit from vocational rehabilitation services to prepare for, secure, retain, regain, or advance in competitive integrated employment that is consistent with their unique strengths, resources, capabilities, interest and informed choice; and
  4. The individual is presumed to be able to benefit in terms of an employment outcome in an integrated, competitive setting, from vocational rehabilitation services;
  5. The applicant's completion of the application process for vocational rehabilitation services, is sufficient evidence of the individual's intent to achieve an employment outcome, and no additional demonstration on the part of the applicant is required; or
  6. Applicant who has been determined eligible for Social Security disability benefits under Title II or XVI of the Social Security Act (42 U.S.C. § 423 *et seq.*) is presumed eligible for vocational rehabilitation services, providing that the individual intends to achieve an employment outcome, and can benefit from vocational rehabilitation services in terms of a competitive integrated employment outcome, and submits verified SSI and/or SSDI benefits documentation.
- B. An applicant will be ineligible for the VR Program if any of the following is applicable:
1. The individual does not have an impairment which constitutes a substantial impediment to employment; or
  2. The individual is on SSI and/or SSDI, but does not intend to achieve an employment outcome; or
  3. The individual does not need vocational rehabilitation services to become employed; or
  4. The individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome due to severity of the individual's functional limitations based on clear and convincing evidence based on trial work experience.
- C. An applicants' eligibility will be determined within sixty (60) days of receipt of a signed and completed application. In making an eligibility determination, ORS will:
1. Utilize existing information to determine eligibility, including counselor observation, previous employment and training, education records, third-party records, information provided by the individual or the individuals' family, Social Security Administration, and officials of other agencies;

2. Presume individuals with a disability can benefit from vocational rehabilitation services in terms of an employment outcome unless clear and convincing evidence demonstrates otherwise;
  3. Conduct a Trial Work Experience for individuals with significant disabilities when information and observations are unable to determine if the individual will benefit in obtaining a competitive integrated employment outcome from vocational rehabilitation services. Prior to any determination that an individual with a disability is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of that individual's disability, ORS must conduct an exploration of the individuals' abilities, capabilities, and capacity to perform in realistic work situations to determine whether or not there is clear and convincing evidence to support a determination that they are unable.
    - a. ORS must develop a written plan to assess the individual's abilities, capabilities, and capacity to perform in competitive, integrated work situations to the maximum extent possible, consistent with the informed choice and rehabilitation needs of the individual.
    - b. Trial work experiences may include supported employment, community-based work experiences, and other experiences using realistic integrated work settings, and must be of sufficient variety over a sufficient period of time to determine if individual is incapable of benefitting from vocational rehabilitation services in terms of a competitive integrated employment outcome.
    - c. ORS must provide appropriate supports, including, but not limited to assistive technology and personal assistance services, to accommodate the rehabilitation needs of the individual during trial work experiences.
- D. Determination of eligibility need not be conducted if the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority for services, and ORS has made a reasonable number of attempts to contact the applicant, or if appropriate the applicant's representative, to encourage the applicant's participation.

## **1.7 ELIGIBILITY/INELIGIBILITY DETERMINATION**

- A. If an applicant is found ineligible, ORS will, upon consulting with the individual/individual's representative:
  1. Inform the individual in writing, as well as by other appropriate modes of communication, of their determination and the reasoning for that determination, and their right to appeal the decision;

2. Provide the individual with a description of services available under the Client Assistance Program (CAP);
3. Refer the individual to other programs that are part of the one-stop service delivery system, other Federal, State or Local programs, or service providers.
4. ORS will review within twelve (12) months, and annually thereafter if requested by individual/individual's representative, any ineligibility determination based on a finding that the individual is incapable of achieving an employment outcome; unless the individual has refused it, no longer lives in the state, whereabouts are unknown, or if their medical condition is rapidly progressive and terminal.

B. Upon determination of eligibility, the applicant will:

1. Be placed in appropriate Priority Category in Order of Selection (OOS).
2. Complete assessment of vocational needs to determine employment goal.
3. Work with vocational rehabilitation counselor to develop Individualized Plan for Employment (IPE).
4. Need to provide financial information that will be required to determine financial participation by eligible individual with the exception of Title II or Title XVI recipients.

## **1.8 ORDER OF SELECTION (OOS)/WAIT LIST**

- A. The Office of Rehabilitation Services (ORS) VR Program must use a priority system for services called the Order of Selection when the program does not have enough resources to assist everyone who is eligible for services.
- B. Applicants found eligible for ORS vocational rehabilitation services, but classified by functional limitations within an OOS category not currently being served, will be put on a Wait List. Individuals will be provided with information and referral services; however, no vocational rehabilitation services will be provided while individual is on Wait List. All eligible individuals will be assigned to one of the three Priority Categories listed below:
  1. Priority Category I: First priority will be given to consumers with the most significant disabilities or consumers classified in the Order of Selection as Category I. This category refers to a consumer who has a most significant disability if a mental or physical impairment exists that seriously limits four or more functional capacities in terms of an employment outcome and whose vocational rehabilitation requires multiple services over an extended period of time.

- a. Multiple services: Requiring two or more primary services.
  - b. Extended period of time: Six months or more.
2. Priority Category II: Second priority will be given to consumers with significant disabilities. A consumer has a significant disability if a mental or physical impairment exists that seriously limits ~~two or three~~ one or more functional capacities in terms of an employment outcome and whose vocational rehabilitation requires multiple services over an extended period of time.
  3. Priority Category III: Third priority will be given to other eligible consumers who have a disability that seriously limits one functional capacity in terms of an employment outcome and requires two or more services over an extended period of time.
- C. ORS will ~~not continue to~~ implement the option of serving individuals with a disability who otherwise would not meet the OOS priority category for services, who are currently employed and at risk of job loss due their disability, and who could benefit from VR services to maintain employment, ~~when all~~ If any Priority Categories are closed, ORS will be unable to do so.
  - D. If any Priority Categories are closed, ORS will take individuals off the Category I Wait List first, then Category II, and finally Category III, as funds are available for services. This process will be based on Priority Category and by date of applications. ~~when all Priority Categories are closed.~~
  - E. When applicable, ORS will maintain a page on their website (www.ors.ri.gov) with updated data and information on OOS and Wait List.

## 1.9 REVIEW OF DETERMINATIONS (MEDIATION/APPEALS)

- A. Applicants and eligible individuals, or as appropriate, the individual's parent, guardian, or any other representative chosen by individual, hereinafter referred to as "individual with a disability", are advised of her/his rights in accordance with 34 C.F.R. § 361.57, incorporated above.
- B. These rights include a review of determinations about eligibility for the VR Program and/or the provision of specific services to the applicant or individual with a disability. Information about the Client Assistance Program (CAP), informal administrative review, mediation, and informal due process hearing are shared with applicants and eligible individuals with a disability.
- C. The applicant or eligible individual with a disability must be advised of her/his appeal rights in accordance with 34 C.F.R. 361.57(b), incorporated above:
  1. When s/he applies for vocational rehabilitation services;

2. Upon assignment to a Wait List based on Order of Selection;
  3. At the time his/her Individualized Plan for Employment (IPE) is developed;
  4. Upon reduction, suspension, or cessation of vocational rehabilitation services for the individual.
- D. The applicant or eligible individual with a disability must be informed in writing about the following options for review:
1. Informal Administrative Review - an informal process for resolving a request for review without conducting mediation or a formal hearing where the Administrator reviews the case. This meeting must take place within fifteen (15) days of the request. The decision is rendered at the review.
  2. Mediation - in accordance with 34 C.F.R. § 361.57(d), incorporated above, mediation allows an applicant or eligible individual with a disability to resolve disputes involving determinations made by ORS that affect the provision of vocational rehabilitation services in a location and manner convenient to the parties. Mediation must be offered whenever an individual with a disability requests an impartial due process hearing, and must allow the opportunity to present evidence and other information supporting their position. The individual with a disability may have representation by counsel or other advocate during this process. This meeting must be held within fifteen (15) days of the request.
    - a. Discussions that occur during the mediation process must be kept confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties may be required to sign a confidentiality pledge prior to the commencement of the process.
    - b. Any agreement reached by the parties must be described in a written mediation agreement that is developed with assistance of the impartial mediator, and signed by all parties. A copy is sent to both parties.
  3. Impartial Due Process Hearing - a hearing conducted by an Impartial Hearing Officer that must be held within sixty (60) days of the applicant's or eligible individual with a disability's request for review of a determination made by ORS unless informal resolution or mediation agreement is achieved prior to the 60th day, or all parties agree to specific extension of time. An applicant or eligible individual with a disability can at this time present evidence and other information supporting their position, and present witnesses, as well as examine all witnesses and evidence. The individual with a disability may have representation by counsel or other advocate during this process. A written decision, including the findings of

fact and the grounds for the decision, will be sent to both parties within thirty (30) days of the completion of the Hearing.

4. Director's Option to Review Impartial Hearing Officers' Decision - Either party may request a review of the decision of the Impartial Hearing Officer within twenty (20) days of the mailing of the decision. If neither party requests this review, the decision of the hearing officer becomes the final decision of the agency twenty (20) days after the mailing of the decision issued.
    - a. The reviewing official will not overturn or modify the decision of the IHO, or part of the decision that supports the position of the applicant or eligible individual with a disability, unless the reviewing official concludes, based on clear and convincing evidence, that the decision of the IHO is clearly erroneous on the basis that it is contrary to the approved vocational rehabilitation services portion of the Unified State Plan, the Act, Federal vocational rehabilitation regulations, or State regulations and policies that are consistent with Federal requirements.
    - b. Both parties have the opportunity to submit additional evidence or information for the Director's review at this time.
    - c. The reviewing official will render a final written decision within thirty (30) days of the initial request to review.
    - d. The reviewing official will provide a written final decision to both parties, i.e., the applicant or individual with a disability or individual's representative and to ORS.
  5. Judicial Review - any party who disagrees with the findings and final decision after a Director's Review of the Impartial Hearing Officers' Decision has the right to bring a civil action with respect to the matter of the dispute.
- E. The individual with a disability must submit a "Request for Mediation/Impartial Due Process Hearing" (ORS-121) within thirty (30) days of the date on the denial letter from the Vocational Rehabilitation Program to initiate any of these reviews.
  - F. A hearing request may be denied or dismissed when it is determined that it has been abandoned. Abandonment may occur when, without good cause, an applicant or individual with a disability fails to appear at a hearing.
  - G. Services (including evaluation, assessment, and plan development) must continue and not be suspended, reduced, or terminated pending informal review, a review by a mediator, hearing officer, or Director review (i.e. pending a final decision), unless the individual with a disability so requests.

## **1.10 CONFIDENTIALITY**

### **A. Limitations on Disclosure**

1. The VR Program of ORS will safeguard the confidentiality of, and restrict the disclosure of, all personal information, such as medical, psychological, financial, and other, given or made available to ORS, its representatives, or its employees. Information will only be released when:
  - a. Requested by individual directly connected with the administration, evaluation, or enforcement of the Program;
  - b. Required by Federal law or regulations, such as: Investigations connected with law enforcement, fraud, or abuse, unless expressly prohibited by Federal or State laws or regulations, and in response to an order issued by a judge, magistrate, or other authorized judicial officer; or
  - c. There is a need to protect the individual or others if the individual poses a threat to his or her safety or the safety of others.

B. A signed release form from ORS' Vocational Rehabilitation Program and/or other agency will allow for the release or transfer of confidential health care information.

C. If requested in writing by applicant or eligible individual, ORS must make all requested information in that individuals' record of services accessible to and must release the information to the individual or their representative in a timely manner, unless:

1. Medical, psychological, or other information that the ORS determines may be harmful to the individual. That information may not be released directly to the individual, but must be provided to third-party individuals chosen by the individual.
2. Information obtained from another agency may only be released under conditions of that agency.
3. If applicant or eligible individual believes information is inaccurate or misleading, they may request the ORS to amend the information in their case record.

## **1.11 INFORMED CHOICE**

A. ORS is required to inform individuals through the appropriate means of communication of their right to make informed choices, and that this right may be exercised in a collaborative manner with their VR Counselor or other individual of their choice.

- B. All eligible individuals with disabilities are provided with information necessary to make an informed choice regarding the selection of their long-term vocational goals, intermediate rehabilitation objectives, vocational rehabilitation services (including assessment services), and service providers. In addition, information on the advantages and costs associated with alternative goals and providers is provided.
- C. In assisting an applicant and eligible individual in exercising informed choice during the assessment for determining eligibility and vocational rehabilitation needs and during development of the individualized plan for employment, ORS must provide the individual or the individual's representative, or assist the individual or the individual's representative in acquiring, 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 the:
  - 1. Cost, accessibility, and duration of potential services;
  - 2. Consumer satisfaction with those services to the extent that information relating to consumer satisfaction is available;
  - 3. Qualifications of potential service providers;
  - 4. Types of services offered by the potential providers;
  - 5. Degree to which services are provided in integrated settings; and
  - 6. Outcomes achieved by individuals working with service providers, to the extent that such information is available.

## **1.12 INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE)**

- A. An IPE will be developed and implemented in a timely manner for each individual determined eligible for vocational rehabilitation services who meets the Order of Selection (OOS) criteria when ORS is operating under an Order of Selection. The IPE must be designed to achieve the specific employment outcome that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice based on the required assessment of the individual's vocational needs.
  - 1. The IPE must be developed within ninety (90) days of determining that the individual is eligible and meets the OOS criteria.
  - 2. There may be circumstances where the period of time needed is significantly shorter or longer, depending upon the nature of the individual's situation as documented. Both the individual with a disability and ORS must agree to an extension of the deadline to a specific date by

which the IPE must be completed. That extension agreement must be in writing.

3. Implementation includes an annual review of individual plans and appropriate amendments, as needed to support the achievement of the employment goal.
- B. ORS must provide the following information to each eligible individual or individual's representative, in writing or appropriate mode of communication:
1. The individual, or the individual's representative, may develop all or part of the IPE independently; with assistance from an ORS Qualified Vocational Rehabilitation Counselor; a Qualified Vocational Rehabilitation Counselor not employed by ORS; a disability advocacy organization; or other resources than those previously listed.
  2. Additional information regarding requirements provided to assist eligible individuals with developing their IPE accurately include:
    - a. IPE must be developed on ORS forms;
    - b. A description of the full range of components that must be included in the IPE:
      - (1) Description of specific employment outcome that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, or if student, the projected post-school employment outcome;
      - (2) Specific rehabilitation services, including settings, needed to achieve employment outcome;
      - (3) Timelines for initiation of services and achievement of employment outcome;
      - (4) Description of entity/entities providing services and the methods used to secure those services;
      - (5) Description used to evaluate program towards achievement of employment outcome;
      - (6) Description of both ORS and eligible individual's responsibilities that will be assumed in order to achieve employment outcome.
  3. An explanation of ORS guidelines and criteria for developing an individual's financial commitment under an IPE;

4. Information with regard to eligible individual applying for and securing comparable services and benefits;
  5. Information on the Appeals process, and contact information for and a description of the Client Assistance Program;
  6. When a supported employment outcome has been identified, a description of the time-limited on-going supports provided by the ORS, as well as those extended services provided by other State, Federal, or private programs or the basis for determining that such continuing support is available, must be provided.
- C. The IPE is agreed to and signed by the eligible individual or, as appropriate, his/her representative, and approved and signed by a Qualified Vocational Rehabilitation Counselor employed by ORS.
- D. An IPE is amended only with the individual's participation to reflect changes in goal, services, and/or service provider(s), and it reflects all services planned.
- E. The IPE, along with economic need, must be reviewed at least annually by the individual and an ORS Qualified Vocational Rehabilitation Counselor, ~~employed at ORS~~ or may be reviewed at any time upon the request of the consumer.
- F. Any subsequent policy changes will require all IPE's to be amended if applicable.

### **1.13 PARTICIPATION IN COST OF VOCATIONAL REHABILITATION SERVICES**

- A. The Federal regulations governing the VR Program give ORS the option to consider the financial need of individuals with disabilities when determining who should pay for the cost of rehabilitation services, except for those individuals who receive Social Security disability benefits under Title II or XVI of the Social Security Act (42 U.S.C. § 423 *et seq.*) In accordance with 34 C.F.R. 361.54, incorporated above, ORS will determine the financial need of those individuals not receiving SS/SSDI disability benefits to determine the extent of their participation in the cost of vocational rehabilitation services. Income and resources of the family are used in this determination when the applicant/eligible individual is part of the family unit, and must take into consideration any disability-related expenses paid for by the individual. The family unit is every person listed on the individual's most recent Federal income tax return (i.e. spouse, parent if individual is under 18). Methodology used to determine financial need include:
1. Income and resources can include:
    - a. Annual taxable income (gross income);

- b. Annual non-taxable income, such as Social Security benefits, retirement benefits, Workers' Compensation, and Veteran's benefits;
  - c. Total Cash Assets, including checking and savings accounts, certificates, stocks, and bonds;
  - d. Rental income, less all essential related expenses.
2. Expenses can include any disability-related medical or rehabilitation expenses.
  3. The difference between income and expenses is subtracted from the allowable gross weekly amount. The percentage of that excess over the allowable gross weekly income will be applied to total cost of the services.

B. VR Services which are Exempt include:

1. Information and Referrals;
2. Counseling and Guidance;
3. Services to determine eligibility and Order of Selection priority;
4. Job Related Services, including job search and placement assistance, job retention, assessment, work adjustment services;
5. Supported Employment Services by ORS-approved vendors;
6. Rehabilitation Engineering Evaluation/Assessment of vehicle modification, telecommunications, sensory, and other technical aids and device needs;
7. Personal Assistance Services and Auxiliary Aids or Services (such as interpreter services, reader services orientation, mobility, and rehabilitation teaching services).

C. VR Services which are Not Exempt and may be provided only after determining an individual's financial participation in the cost of services include:

1. Physical and Mental Restoration;
2. Training (other than on-the-job training);
3. Maintenance;
4. Transportation;
5. Services to Family Members;

6. Telecommunication;
7. Recruitment and Training Services;
8. Post-Employment Services;
9. Occupational Licenses;
10. Other Goods and Services.

## 1.14 COMPARABLE BENEFITS AND SERVICES

- A. Comparable services and benefits are services and benefits, including accommodations and auxiliary aids and services, which are:
  1. Provided or paid for in whole or in part by other Federal, State, or local public agencies, by health insurance, or by employee benefits;
  2. ~~Available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the IPE; and~~
  3. Commensurate with the services that the individual would otherwise receive from the vocational rehabilitation agency.
- B. Comparable services and benefits do not include awards or scholarships based on merit.
- C. Determination of comparable services and benefits is required unless:
  1. The determination would significantly interrupt or delay the progress of the individual toward achieving the employment outcome identified in the Individualized Plan for Employment;
  2. The determination would interrupt or delay the provision of services to any individual at extreme medical risk (extreme medical risk means the substantial increase of functional impairment or risk of death if medical services are not provided expeditiously) based on medical evidence provided by an appropriate qualified medical professional; or
  3. The determination would interrupt or delay the loss of an immediate job placement.
- D. Eligible individuals are required to apply for and accept those comparable services and benefits to which they are entitled when the services are needed to assure progress toward the achievement of their vocational goal.
  1. ORS cannot utilize vocational rehabilitation funds for services subjected to Comparable Services and Benefit Review if the individual:

- a. Refuses to apply for services or benefits for which he/she may be eligible (i.e. an individual seeking higher education must apply for the Pell Grant);
  - b. Refuses to accept a comparable service or benefit which is available and adequate to meet the intermediate rehabilitation objective of the Individualized Plan for Employment (IPE).
2. The determination of comparable services and benefits is not attached to financial eligibility/determination of economic need. An individual may be financially eligible and still will be expected to utilize whatever comparable services and benefits available to them to meet the cost of vocational rehabilitation services.

E. Services Subject to the Comparable Benefits Requirements:

1. Physical and Mental Restoration Services;
2. Maintenance;
3. Vocational Training Services;
4. Occupational licenses, tools, equipment and initial stock and supplies;
5. Transportation Services;
6. Vocational Rehabilitation Services to Eligible Individual's Family Members;
7. Transition Services; and
8. Other Goods and Services, not listed above.

F. Services not Subject to the Comparable Benefits Requirements:

1. Assessment for determining eligibility and vocational rehabilitation needs;
2. Counseling and Guidance;
3. Information and Referrals;
4. Job-related services, including job search and placement assistance, job retention services, follow-up services and follow-along services;
5. Rehabilitation Technology devices and services including telecommunications, sensory and other technological aid and devices; and
6. Post-Employment Services consisting of the previously listed exceptions.

- G. The determination of Comparable Services and Benefits is an ongoing process through the individual's vocational rehabilitation process. At a minimum information must be updated annually at the time of the client's IPE review.

### **1.15 STANDARDS FOR FACILITIES AND PROVIDERS OF SERVICES (COMMUNITY REHABILITATION PROGRAM)**

- A. Any facility used in conjunction with the delivery of vocational rehabilitation services must meet program accessibility requirements consistent with the requirements, as applicable, of the Architectural Barriers Act of 1968 (42 U.S.C. § 4151 *et seq.*), the American Disabilities Act of 1990 (42 U.S.C. § 12131; 47 U.S.C. §§ 155, 201, 218, and 225) (ADA), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 701 *et seq.*), and the regulations implementing these laws.
- B. Providers of vocational rehabilitation services will take affirmative action to employ, and advance in employment, qualified individuals with disabilities.
- C. Providers of vocational rehabilitation services will include among their personnel, or obtain the services of, individuals able to communicate in the native languages of applicants and eligible individuals who have limited English speaking ability; and ensure that appropriate modes of communication for all applicants and eligible individuals are available.

### **1.16 SCOPE OF VR PROGRAM**

- A. Pre-Employment Transition Services. ORS, in collaboration with the local educational agencies involved, must make the following pre-employment transition services available Statewide to all students with disabilities, regardless of whether the student has applied or been determined eligible for vocational rehabilitation services.
  - 1. Required Activities:
    - a. Job exploration counseling;
    - b. Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment in the community to the maximum extent possible;
    - c. Counseling on opportunities for enrollment in comprehensive transition or post-secondary educational programs at institutions of higher education;
    - d. Workplace readiness training to develop social skills and independent living; and

- e. Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring from individuals with disabilities working in competitive integrated employment.
2. ORS must carry out responsibilities consisting of:
- a. Attending and/or providing information at individualized education program meetings for students with disabilities, when appropriate;
  - b. 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 throughout the school year, and apprenticeships;
  - c. Working with schools, including those carrying out activities under the Individuals with Disabilities Education Act (20 U.S.C. § 1400 *et seq.*) to coordinate and ensure the provision of pre-employment transition services under this section; and
  - d. Attending person-centered planning meetings for individuals receiving services under title XIX of the Social Security Act (42 U.S.C. § 1396 *et seq.*).
- B. ORS will ensure that the following vocational rehabilitation services are available to assist the individual with a disability in preparing for, securing, retaining or regaining, or advancing in a competitive integrated employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. Written authorization for services will be made, either before or at the same time as the purchase of services.
- 1. Assessment for determining eligibility and priority for services, and assessment for determining vocational rehabilitation needs, by qualified personnel including, if appropriate, an assessment by personnel skills in rehabilitation technology;
  - 2. Vocational rehabilitation counseling and guidance, including information and support services to assist an individual in exercising informed choice;
  - 3. Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce investment system and to advise those individuals about the Client Assistance Program;
  - 4. Physical and mental restoration services;

5. Vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, except that no training or training services in institutions of higher education may be reimbursed by ORS unless maximum efforts have been by the state Vocational Rehabilitation agency to secure grant assistance in whole or in part from other sources;
6. Maintenance for those living expenses, such as food, shelter, clothing, and other subsistence items that are in excess of the normal subsistence expenses necessary for the individual's participation in a vocational rehabilitation;
7. Transportation in connection with the provision of any vocational rehabilitation services, which may be authorized on a temporary basis while other planned services are occurring, but not to transport an individual for employment purposes on a permanent basis;
8. Vocational rehabilitation services to family members of an applicant or eligible individual if necessary to that individual's employment outcome;
9. Interpreter services provided by qualified personnel, including sign language and oral interpretation services for individuals who are deaf or hard of hearing, and tactile interpreting services for individuals who are deaf/blind;
10. Reader services, rehabilitation teaching services, and orientation and mobility services for individuals who are blind;
11. Technical assistance and other consultation services for those who are pursuing self-employment as an employment outcome;
12. Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;
13. Supported employment services;
14. Personal assistance services;
15. Post-employment services (limited in scope and duration of 90 days or less);
16. Occupational licenses, tools, equipment, initial stock, and supplies;
17. Rehabilitation technology, including vehicle modification, telecommunication, sensory, and other technological aids and services
18. Transition services for students and youth with disabilities, that facilitate the transition from school to post-secondary life, which are collaborated

through ORS, Rhode Island Department of Education (RIDE), and Local Education Authorities;

19. Customized employment;
  20. Other goods and services determined necessary for the achievement of a competitive integrated employment outcome.
- C. An Administrative Waiver Request can be submitted by client to the Administrator of Vocational Rehabilitation or designee in certain instances where extenuating circumstances occur specifying exactly which service waiver is being requested for, the amount of funds needed to obtain the service, how the service is necessary and imperative to achieve current vocational goal in IPE or to the Administrator of SBVI if client is SBVI client. In addition, client would submit an explanation of alternative methods that were explored, including comparable benefits, to obtain the service with other steps taken to achieve vocational goal.

## **1.17 VOCATIONAL REHABILITATION SERVICES**

### **1.17.1 VOCATIONAL REHABILITATION COUNSELING AND GUIDANCE**

- A. Counseling and guidance are integral parts of the entire rehabilitation process beginning at the intake interview and continuing throughout. The goals of counseling and guidance are to assist individuals with disabilities to reach maximum levels of independence by moving through the rehabilitation process toward their employment goal consistent with their abilities and capabilities.
- B. Counseling and guidance services will be provided by an ORS vocational rehabilitation counselor to each individual throughout the vocational rehabilitation process for the purpose of:
1. assisting the individual in developing an IPE towards a suitable vocational goal;
  2. reviewing progress towards the vocational goal, amending the IPE if necessary; and
  3. developing the individual's ability to seek, maintain, and advance in competitive integrated employment.

### **1.17.2 PHYSICAL AND MENTAL RESTORATION SERVICES**

- A. ORS provides physical and mental restoration services which are likely, within a reasonable time period, to enable individuals with disabilities to eliminate, reduce, or modify functional limitations which present barriers to employment. Such services must be needed to achieve an employment outcome or be for extended evaluation to determine employability.

- B. These services can be provided only after financial participation has been determined, and any comparable benefits available to meet, in whole or in part, the cost of restoration services has been explored.
- C. The services may be provided upon the recommendations of the appropriate clinical consultant who meets State licensure requirements.

### **1.17.3 POST-SECONDARY EDUCATION AND VOCATIONAL REHABILITATION TRAINING**

- A. ORS will ensure that access to training services is available to assist individuals with a disability to choose, prepare for, obtain, advance in, and maintain competitive integrated employment ~~that is~~ consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. Vocational exploration, career counseling, community-based work assessments, internships, and other supporting documentation will be considered in accordance with each individual's vocational rehabilitation needs. An individual's training needs will be delivered in a manner that is cost efficient, reasonable, and equitable for all individuals seeking vocational rehabilitation services.
- B. Training services may be needed to prepare an eligible ORS client for employment and are agreed upon by both the client and VR Counselor through the process of counseling and guidance, informed choice, and assessments. Training services include the following categories:
  - 1. Post-Secondary Training: education provided by a degree/certificate granting institution of higher education (universities, colleges, community, or junior colleges, vocational schools, technical institutes, hospital schools of nursing, or any other post-secondary education institution).
  - 2. Vocational Training: skill development in a specific vocation that will result in employment, such as, but not limited to, truck driving, propane gas service, wallpaper hanging, etc.
  - 3. On-the-Job Training (OJT): a method of learning skills on the job needed for a specific vocation with the instruction delivered by the employer at the worksite.
- C. Training Expenses
  - 1. Direct school costs include expenses of tuition, fees, books, room and board, and other materials included in course syllabus.
  - 2. No training or training-related services provided in any institution of higher education-, trade school, or skills based certification program can be paid for with vocational rehabilitation funds unless maximum efforts have been made to secure all other available federal, state, and private grant aid, and

other comparable services and benefits for which the individual is eligible. To the maximum extent possible, the costs of training must be met, wholly or in part, with grant aid and other comparable services and benefits and resources other than vocational rehabilitation funding. If the individual with a disability fails to apply for and accept any grant aid or comparable services and benefits assistance for which they are eligible, ORS cannot authorize any funds for the individual's ~~post-secondary~~ training expenses. ORS will support the lowest cost option to meet the individual's Individualized Plan for Employment (IPE) needs.

- ~~a. Eligible individuals who have currently graduated (or expected to graduate) from a secondary institution (public, private, or homeschooled), or are a GED recipient who is younger than 19 years old, will be encouraged to take advantage of the Promise Grant through CCRI, which provides two free years of tuition. This is a comparable benefit as long as this program is in effect, and students will be expected to utilize this grant prior to requesting financial assistance at any in-state college. Any exceptions to this policy will need to be granted via an Administrative Waiver with valid justification as to why this program is not be suitable (i.e. for Certificate Program).~~
- ab. The Promise Grant, Free Application for Federal Student Aid (FASFA), Student Aid Report (SAR), family contributions, work study, or accepted loans will be considered as part of a student's financial aid package. The student is not required or obligated to accept a loan to reach an unmet need for school or training, but are encouraged to do so, as ORS does not typically cover all of the costs associated with attending college or training. Merit scholarship awards will be exempt from this classification as a comparable benefit but the individual may choose to utilize this grant to help them fund their training program.
- be. After utilizing the financial awards, grant aid, scholarships, or other comparable benefits, ORS will fund up to an annually designated amount based on current Rhode Island College tuition and fees per calendar year, \$5,000 per academic calendar year. Room and board will not be covered for freshman or sophomores, or those living within 30 miles of a state college or university. If greater than 30 miles, and room and board is approved, the maximum allowable amount is \$2,000 per academic calendar year. An Administrative Waiver may be considered.
- cd. Preference will be given to in-state public post-secondary institutions or training programs for both programs that offer financial aid and for those that do not. If no comparable program exists at an in-state institution, Administrative approval can be

provided for attendance for both a private and/or out-of-state school or training provider, however, the funding will be the same amount as the in-state rate at Rhode Island College provided to other vocational rehabilitation individuals. If no comparable program exists at an in-state institution, the student must take all available pre-requisite classes at CCRI which are transferrable prior to requesting tuition at another school. Administrative approval can be provided for attendance for both a private/and or out-of-state school, but the funding will be the same as the CCRI tuition rate, ~~for freshman and sophomores, or~~ the Rhode Island College (RIC), or the Department of Labor and Training (DLT) Eligible Training Provider List (ETPL) tuition rate, for juniors and seniors up to the \$5,000\* maximum.

- de. Individuals are expected to attend on a full-time basis in order to take full advantage of the available comparable benefits and ORS resources. ~~An Administrative Waiver, based on disability and/or family-related circumstances may be requested.~~
- ef. ORS may pay an annually designated amount per academic calendar year up to \$100 per class ~~per academic calendar year~~ for all required books, materials, and tools identified on the course syllabus. Additional tools and equipment will be considered on an individualized basis with comparable benefits being considered. ORS will purchase hardware and/or software only when it is an accommodation to the individual's disability and necessary for the student to successfully complete the IPE. Before providing any funds, the counselor must ~~ensure~~ ensure that the student has contacted the school's Disability Services Office. The student and/or counselor must also diligently pursue all other alternative funding sources and alternative accommodations before ORS VR funds are committed.
- fg. Continued educational support towards the IPE goal is conditional based on an acceptable academic GPA of 2.5 or greater depending on the requirements of the specific major or course of study. ORS must receive copies of grades and documentation of progress towards the successful completion of this goal. ~~An Administrative Waiver may be considered.~~
- gh. Tuition for vocational technical institutions will be awarded at a rate similar to the DLT ETPL maximum of \$5,000\* per academic calendar year. ~~An Administrative Waiver may be considered.~~
- hi. ORS may participate in sponsoring an advanced degree program if the person has tried and been unable to find employment in the field of choice with an undergraduate degree; and graduate work

will significantly enhance the opportunities in the field of choice. The VR Counselor and the individual seeking services must explore other vocational options, consider other transferable skills, and the person's undergraduate degree, and determine that no job realistically exist. If ORS agrees to provide support for an advanced degree, the in-state preference will be applicable, ~~with up to a maximum of \$5,000\* per academic calendar year. Room and board will not be covered for those living within 30 miles of a state college or university. If greater than 30 miles, and room and board is approved, the maximum allowable amount is \$2,000\* per academic calendar year. An Administrative Waiver may be considered.~~

- D. BiaAnnually, the CRP Assistant Administrator will review the fees to ensure there is no undue hardship to individuals with regards to cost of living changes.

#### **1.17.4 MAINTENANCE SERVICES**

- A. ORS will provide monetary support for expenses such as food, shelter, and clothing when such expenses are reasonable and in excess of normal expenses and are necessary for participation in an assessment for determining eligibility and vocational rehabilitation needs or participation in a vocational rehabilitation program supported by ORS.
- B. Such monetary support will be provided utilizing the informed choice of an individual when the individual does not have other resources available and for a specific period of time.
- C. Monetary support should not be construed as an automatic allowance.

#### **1.17.5 TRANSPORTATION SERVICES**

- A. Transportation services are always connected to a specific vocational rehabilitation service or attainment of the employment goal, and are identified as such on the Individualized Plan for Employment (IPE). The description of the required transportation should include the purpose, costs, duration, and how transportation service supports one or more vocational rehabilitation services.
- B. Need for transportation services will depend on assessment completed by ORS. Such assessment includes the individual's specific transportation needs including, but not limited to, her/his ability to access and use public transportation, para-transit services, or a privately-owned vehicle for transportation to employment. Other considerations include transportation resources through a Community Rehabilitation Program (CRP) or payment to another vehicle owner.
- C. Transportation services are not provided by ORS on a permanent basis.

- D. Maximum payment provided by ORS will be the cost of public transportation, unless no public transportation is available or the functional limitations imposed by the individual's impairment prevents the use of public transportation. At that time, services will be provided by an appropriate carrier at the least cost available.
- E. Transportation services are subject to a determination of financial participation, comparable benefits, and State of Rhode Island requirements governing purchases of services and goods.
- F. Types of Transportation Services may include:
  - 1. Public transportation (including para-transit);
  - 2. Travel reimbursement;
  - 3. Travel training to access public transportation;
  - 4. Driving evaluations and training when:
    - a. Disability presents an impediment to driving; and
    - b. Driver evaluation indicates likelihood that obstacles can be overcome with training or accommodation.
    - c. Vehicle modifications to enable an eligible individual to use her/his vehicle to access work.

#### **1.17.6 SERVICES TO FAMILY MEMBERS**

- A. ORS may provide services to a family member of an eligible individual with a disability who has met the Order of Selection priority to receive services when those services are necessary for the individual with a disability to achieve a competitive integrated employment outcome and are the result of an informed choice decision.
  - 1. Family members are subject to policies and laws regarding confidentiality and the HIPPA Law and will be required to sign a release form.
  - 2. In developing the Individualized Plan for Employment (IPE), the rehabilitation counselor must ensure that the client and family member understand the basis for provision of family services and its scope, nature, and duration and that it is an informed choice decision.
- B. Prior to ORS utilizing funds for vocational rehabilitation services in accordance with the requirements in 34 C.F.R. § 361.5(c)(8), incorporated above, Comparable Services and Benefits will be explored to determine if funds exist under any other program and are available to the individual. ORS will use these

Comparable Services and Benefits to meet, in whole or in part, the cost of vocational rehabilitation services.

### 1.17.7 SUPPORTED EMPLOYMENT SERVICES

- A. The Supported Employment (SE) Services Program assists adults and youths with the most significant disabilities to obtain skills, supports, experience needed to attain, maintain or advance in competitive integrated employment, ensuring access to the necessary supports and services as determined by the Individualized Plan for Employment (IPE).
- B. Duration of Supported Employment Services
  - 1. Adults: For a period not to exceed twenty-four (24) months, to achieve job stabilization and transition to a long-term support provider for extended services, that has been jointly agreed to by the individual and the rehabilitation counselor and identified in the IPE.
  - 2. For Youth-Aged Individuals with Significant Disabilities ~~up to~~ until they reach the age of 24: For a period not to exceed forty-eight (48) months, to achieve job stabilization and transition to a long-term support provider for extended services, that has been jointly agreed to by the individual and the VR Counselor, and identified in IPE.
  - 3. The duration of Supported Employment services can be extended, under special circumstance, to achieve job stabilization and with an IPE amendment approved by the counselor and individual.
  - 4. Extended Services means on-going support services and other appropriate services provided by a State agency, a private, nonprofit organization, employer, or any other appropriate resource after an individual with the most significant disabilities has concluded support services from State vocational rehabilitation agency support.
  - 5. Post-Employment Services may be provided, if typically, not available from an extended service provider.
- C. On-going Supported Employment Services as services that are based on an assessment of employment stability and provision of specific services needed to maintain employment and must include:
  - 1. At least twice monthly meetings with each individual in supported employment either at the work site or off-site based on client preference, as identified in the IPE, and review job performance to identify any other service needed in order to ensure employment stability;
  - 2. Ongoing assessment of rehabilitation needs through the provision of SE services provided by the long-term supports provider who accompany the

individual for intensive job skill training at the work site; job development and training; social skills training; regular observation or supervision of the individual; follow-up services with employers and others invested in clients employment, in order to reinforce and stabilize the job placement and facilitate development of natural supports at the worksite;

3. Services based on the determination of the individual's needs, as specified in the IPE, and identified through the ongoing support services.
4. Provide for periodic monitoring to ensure that the individual is making satisfactory progress toward meeting the weekly work requirement established in the IPE by the time of transition to extended services.

#### D. IPE Development

1. The IPE for Supported Employment Services must specify the services to be provided by ORS, the need for supported employment, and the extended services identified that will be needed to maintain employment in competitive integrated employment. It is expected that job placement will include the maximum number of actual work hours/weeks possible based on strengths, preferences, and informed choice of individual. Supported employment services listed in the IPE must be monitored to ensure that the individual is progressing towards employment.
2. The IPE must target the ideal maximum number of hours an individual can work based on vocational guidance and counseling between the counselor and individual, and an assessment of the strengths, preferences, and informed choice of the individual.

### 1.17.8 POST-EMPLOYMENT SERVICES

A. ~~ORS provides P~~post-employment services (PES) are defined in 34 C.F.R. § 361.5(c)(41) as one or more of the VR services provided prior to a participant exiting VR services to enable a rehabilitant, if necessary, to maintain, regain or advance in employment consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, and interests recognizing the informed choice of the individual.

1. Provided under an amended individualized plan for employment (IPE); thus, a re-determination of eligibility is not required;

2. Limited in scope and duration; and

3. Available to meet rehabilitation needs that do not require a complex and comprehensive provision of services

B. To be eligible for short-term post-employment services, individual must have achieved an employment outcome but not exited the VR program.

C. Should the participant need additional services post having exited/been closed by VR and the exit was reported in the WIOA/RSA-911 quarterly reporting, the VR participant would need to re-apply and be determined eligible for the VR program, develop a new IPE and begin to receive services under that IPE.

~~1. Post-employment services should be limited in scope and duration (90 days or less\*), and should not entail a complex or comprehensive rehabilitation effort unrelated to the employment plan at closure. If comprehensive services are indicated, a new evaluation and determination of eligibility should be made.~~

~~2. Post-employment services do not include transportation (except in support of another service which the individual requires in order to maintain, regain or advance in employment) or medical services for acute conditions.~~

~~3. Criteria for Terminating Post-Employment Services~~

~~a. Decisions to terminate post-employment services should be made on an individual basis in consultation with the individual and recorded in the amended Individualized Plan for Employment (IPE).~~

~~B. An Administrative Waiver may be considered.~~

### **1.17.9 OCCUPATIONAL TOOLS, LICENSES, EQUIPMENT, AND INITIAL STOCKS AND SUPPLIES**

A. Occupational licenses, tools, equipment, and initial stocks and supplies may be provided only to the extent necessary to enable an eligible individual to attain competitive integrated employment outcome and in accordance with requirements for Order of Selection and the IPE. Occupational licenses, tools, equipment, and initial stocks and supplies are subject to the determination of financial participation and to consideration of any comparable benefit available to an individual to meet, in whole or in part, the cost of occupational licenses, tools, equipment and initial stocks and supplies.

B. Occupational licenses and tools may be provided only to enable an eligible individual to derive the full benefit of other vocational rehabilitation services to enter or maintain competitive integrated employment.

C. Equipment may be purchased, leased or rented when necessary to enable an eligible individual to carry out the requirements and efficient operation of a business, trade, or profession.

D. Initial stocks and supplies may be provided only when necessary to establish an individual in self-employment. ORS may provide up to six (6) months\* of stocks and supplies that are necessary to establish an eligible individual in self-employment but will not provide initial stocks and supplies as post-employment

services. The individual with a disability is expected to replenish depleted initial stock and supplies thereafter.

- E. ORS may establish maximum dollar limits for the purchase of any necessary occupational licenses, tools, equipment (excluding assistive technology), or initial stocks and supplies.
- F. Rates, fees, and expenditures for occupational licenses, tools, equipment, and initial stocks and supplies are subject to determination of financial participation by ORS, comparable benefits being explored, and all applicable State of Rhode Island statutory, regulatory, and related requirements governing purchases of services and goods.

~~G. An Administrative Waiver may be considered.~~

### **1.17.10 REHABILITATION TECHNOLOGY SERVICES**

- A. Rehabilitation technology services assist individuals with disabilities to overcome barriers to full participation in rehabilitation, employment, transportation, independent living, and recreation. ORS will only support rehabilitation technology that is necessary to achieve an individual's vocational objectives and goals. An individual's need for rehabilitation technology must be considered at any stage of the vocational rehabilitation process.
- B. Rehabilitation technology refers to the systematic application of technologies, engineering methodologies, or scientific principles to address the barriers confronted by individuals with disabilities. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.
  - 1. Assistive technology services include:
    - a. the evaluation of the needs of an individual, including functional evaluation of the individual in the environment where the device will be used, such as the home or worksite;
    - b. purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices;
    - c. selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of 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 or, where appropriate, the family of an individual; and

- f. training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.
- C. Rehabilitation technology services, including evaluation of the need for rehabilitation technology services, will be provided by personnel who are skilled in rehabilitation technology and who meet applicable licensing or certification requirements of the State of Rhode Island, when necessary to assess eligibility and vocational rehabilitation potential, especially when the disabling condition of the individual is so severe that the absence of rehabilitation technology services could result in a determination of ineligibility.
- ~~D. In the development and review of the IPE, rehabilitation technology services will be considered to eliminate barriers to and/or enhance opportunities for the development of capacities for successful job performance. Rehabilitation technology services provided to individuals to assist them to attain intermediate objectives and long-range rehabilitation goals, including supported employment, will be specified in the individual's IPE.~~
- ~~E. Reviews of ineligibility or inability to attain a vocational goal due to the severity of the disability will include consideration of rehabilitation technology services. The effect of rehabilitation technology services on the determination of eligibility will be considered in any review initiated by the individual and in annual reviews initiated by ORS.~~
- ~~F. Annual reviews and evaluations of extended employment in rehabilitation facilities to identify individuals capable of competitive employment will, include consideration of rehabilitation technology services.~~
- ~~G. Review of post-employment services will include consideration of rehabilitation technology services.~~
- ~~H. ORS may review or conduct studies to evaluate rehabilitation technology services and the provision of such services. Such reviews and studies may evaluate utilization, cost effectiveness, fee schedules, safety, and reliability.~~
- ~~I. Determination of comparable benefits is not required prior to the provision of assistive technology services and/or devices. Counselors are, however, encouraged to use other resources if readily available (e.g., Medicaid benefits for provision of devices considered medically necessary, etc.) pursuant to the individual's informed choice. Evaluation for assistive technology services and/or devices is not subject to an economic means test, however, the provision of recommended services (i.e., equipment, aids, devices, training, etc.) will be provided only after financial participation has been determined. Rates, fees, and expenditures for rehabilitation technology services are subject to all applicable~~

~~State of Rhode Island statutory, regulatory, and related requirements governing purchases of services and goods.~~

~~1. ORS may establish maximum dollar limits designed to ensure the lowest reasonable cost for rehabilitation technology services. The maximum dollar limits will include a waiver process so that rehabilitation technology services that are essential to vocational rehabilitation and employment of otherwise eligible individuals are not precluded by the maximum dollar limits established to control costs.~~

~~J. If an individual with disabilities is successfully employed in a competitive integrated employment outcome and now requires post-employment services, including the provision of assistive technology services and/or devices to determine eligibility, refer to Post-Employment Services section.~~

~~K. An Administrative Waiver may be considered.~~

### 1.17.11 TRANSITION AND PRE-EMPLOYMENT TRANSITION SERVICES

A. ORS actively collaborates with the Rhode Island Department of Education (RIDE) and with Local Education Agencies (LEAs) responsible for the education of students with disabilities by assisting in the coordination and provision of transition and pre-employment transition services and planning.

1. ORS currently has designated ~~MA-level~~ VR Counselors who function as liaisons to each school district and provide consultation, technical and planning assistance for the transition of students with disabilities from school to employment/training.

2. The VR Counselor also accepts referrals from schools and other parties for Transition and/or Pre-Employment Transition Services. VR Counselors are also available to consult with private schools and middle schools.

3. VR Counselors are available to participate on Career Development Planning and Individualized Education Plan teams.

B. The Workforce Innovation and Opportunity Act (WIOA) of 2014, affords ORS the opportunity to provide Pre-Employment Transition Services to students with disabilities who have with Individualized Education Plans (IEPs) and 504 plans, regardless of application status with ORS, ~~through Pre-Employment Transition Services~~. These Pre-Employment Services are provided on a fee-for-service basis and are limited to five focus areas:

1. Job Exploration

2. Work-Based Learning

3. Counseling on Opportunities for Enrollment in Comprehensive Transition or Post-Secondary Educational Programs
  4. Workplace Readiness Training
  5. Self-Advocacy
- C. ORS provides both Transition Services to youth with disabilities and Pre-Employment Transition Services to students with disabilities under the auspices of a Cooperative Agreement between the ORS and RIDE. This Cooperative Agreement enables ORS to locate VR Counselors within each high school in RI and describes:
1. interagency collaboration and coordination
  2. pre-employment transition services and transition services
  3. consultation and technical assistance
  4. transition planning by vocational rehabilitation and educational personnel that facilitates the development and implementation of a student's individualized education program (IEP)
  5. outreach to and identification of students with disabilities in need of PRE-ETS and Transition services
  6. coordination to satisfy the documentation requirements set forth in section 511 of the Rehabilitation Act
  7. assurance that neither the SEA nor the LEA will enter into an arrangement with an entity holding a special wage certificate under section 14(c) of the Fair Labor Standards Act, 29 C.F.R. Part 525, for the purpose of operating a program under which a youth with a disability is engaged in work at a subminimum wage
  8. the role and responsibilities of each partner
  9. the process for resolving disagreements.
- D. VR Counselors provide consultation and technical assistance regarding vocational guidance and counseling, information about related services, employment pathways, labor market information, and consideration of accommodations or Assistive Technology to maximize rehabilitation potential. The VR Counselor will conduct the following activities in the role of liaison to the school:

1. Attend individualized education program (IEP) meetings for eligible and potentially eligible students with disabilities, when invited, pending VR Counselor availability.
  2. Attend person-centered planning meetings, when invited and available, for students with significant intellectual disabilities as covered by the Consent Decree, for students receiving services under Title XIX of the Social Security Act (42 U.S.C. § 1396 *et seq.*).
  3. Partner with the local workforce development boards, one-stop centers, community rehabilitation providers and employers to develop work opportunities for students with disabilities, including afterschool, summer employment and other employment experiences throughout the school year.
  4. Encourage referrals of students with disabilities as early as age 14 for Pre-Employment Transition Services.
  5. Provide information about the timeline and application process for vocational rehabilitation services, and participate in yearly state service meetings, so that students and families can make informed decisions about applying for services with the agency.
  6. Collaborate with schools, including those carrying out activities under section 614(d)(1)(A)(i)(VIII) of the Individuals with Disabilities Education Act (20 U.S.C. § 1414(d)(1)(A)(i)(VIII)) to coordinate and ensure the provision of Transition and Pre-Employment Transition Services.
  7. Inform and educate students and parents about participation options for Pre-Employment Transition Services vs. applying for services during a prioritization/Wait List Order of Selection period.
  8. Attend Transition Advisory Council regional meetings and parent information sessions.
- E. Students may be referred to ORS by school district personnel, with the written permission of the student if he/she is at least eighteen years old or the written permission of a parent or guardian if the student is under eighteen years of age.
1. ORS Pre-ETS Referral form, Referral Guidelines, and School Referral Forms are utilized to ensure that all students and families receive accurate and consistent information about the process.
  2. The process ensures that VR Counselors receive documentation necessary to verify disability and parental/guardian support for vocational rehabilitation transition and/or pre-employment transition services.

- F. This referral to ORS, from the LEA with parental consent, is the first step in the referral process.
1. The VR Counselor then conducts an Intake meeting with the student and family to explain services and the options available to access services. This meeting will provide an opportunity to explore participation in Pre-Employment Transition Services prior to completing an application for services.
  2. If ORS is on an Order of Selection, this meeting provides an opportunity to educate the family to the timing of PRE-ETS services vs. applying for services as students are not exempt from being placed on a Wait List after eligibility determination. As Pre-Employment Transition Services are limited to five career and exploration services, this meeting offers the parent and student an opportunity to determine if the student needs will be met through just Pre-Employment Transition Services.
  3. The parent and student may elect to complete an application with ORS in order to access more comprehensive services. A student who has applied for services and found eligible has access to services that may vary depending on ORS' Order of Selection and prioritization for services, Additional services could include job coaching, transportation training and assistive technology
- G. Students with disabilities are not required to apply or be determined eligible for vocational rehabilitation services before receiving Pre-Employment Transition Services. Students who have provided adequate documentation of their disability, an IEP or 504 Plan, and enrollment in a recognized education program and have elected to apply for services will be able to participate in pre-employment transition services during the process of applying for vocational rehabilitation services.
1. The assigned VR Counselor will discuss vocational rehabilitation services with students and the parent/legal guardian, and encourage interested students to apply within two years prior to graduation in order to facilitate a smooth transition into vocational rehabilitation services and post high school plans.
  2. Students, who do not apply for vocational rehabilitation services, may continue to receive access to Pre-employment Transition Services, as long as the criteria of a “student with a disability” is met by the student up to the age of 22.
- H. Students who apply, are determined eligible for vocational rehabilitation services, assigned to an open Order of Selection category, and will continue to be designated as Pre-ETS eligible student category, may have Pre-employment Transition Services included on the Individualized Plan for Employment and

provided for as long as the individual continues to meet the definition of a “student with a disability.”

1. A student applicant who is ready to participate in Pre-employment Transition Services, but does not have a specific vocational goal on the Individualized Plan for Employment, can use a projected goal.
2. The purpose of the services on the IPE will be to assist the student in developing and refining a vocational goal.
3. The plan must be revised to indicate a specific vocational goal prior to graduation from high school.

#### **1.17.12 OTHER GOODS AND SERVICES**

- A. ORS may provide other goods and services determined necessary for the individual with a disability to achieve an employment outcome and are the result of an informed choice decision.
- B. The services must be necessary to the determination of an individual’s rehabilitation potential, or are provided to those individuals who meet the Order of Selection priority to receive services and are deemed necessary for the customer to achieve an employment outcome.
- C. Other goods and services can include but are not limited to: Short-term or emergency financial assistance to an individual to cover occasional or emergency purchases that are not covered under maintenance and will not support an individual’s everyday living expenses or substitute for, provide the services of, or become a payment program similar to transitional assistance and other public benefit programs. Other goods and services do not include those services in accordance with 34 C.F.R. § 361.48, incorporated above.
- D. Goods and services can be provided only after financial participation has been determined (if applicable), and any comparable benefits available to meet, in whole or in part, the cost of services has been explored, except for eligible customers who receive Social Security disability benefits under Title II or XVI of the Social Security Act (42 U.S.C. § 423 *et seq.*).

#### **1.17.13 ADAPTIVE HOUSING SERVICES**

- A. Adaptive housing is a supportive service provided to an individual with a disability who has an Individualized Plan for Employment (IPE), to enable that individual to have functional access to the primary living quarters where she/he lives and/or in order to leave the house to participate in job placement, training, and competitive integrated employment.

- B. ORS may purchase adaptive housing services only if these services are necessary to enable the individual to access to and from the home in order to work.
1. Adaptive Housing Services may include, but are not limited to, the provision of ramps, desks, railings, modifications to doorways, lowering kitchen counter tops, making bathrooms accessible and barrier-free, or any type of lifting device, (e.g., wheelchair lift, stairway chair lift, etc.) As appropriate, the contractor must have the necessary State License through the Department of Labor and Training, Division of Professional Regulation; must be registered with the RI Contractor's Registration and Licensing Board; must meet System for Award Management (SAM) requirements; must be an ORS-approved vendor; must carry appropriate insurance cover; and must submit the proper application for a permit to install.
  2. Adaptive housing services do not include, and ORS will not provide architectural modifications:
    - a. that are not necessitated by disability-related limitations of the eligible individual;
    - b. that would significantly add to the resale or assessed value of the home;
    - c. to a new home or a home under construction
    - d. that add a room or living space to a home currently being renovated or to a recently renovated home unless the renovation was completed before the onset of the impairment;
    - e. for items considered portable in nature that do not permanently modify the home;
    - f. When the individual resides in rental or leased property with the following exceptions:
      - (1) self-help devices such as grab bars and railings or portable ramps or other mechanical or motorized devices may be provided with the written consent of the landlord; or
      - (2) the owner is a relative, if the owner provides a notarized statement permitting the individual with a disability to reside on the premises for at least ten (10) years;
    - g. If house is not up to current city building codes and/or is not structurally sound.

- h. when property owner is a public entity such as a housing authority or otherwise has a legal obligation to provide accessible housing under provisions of the 7 C.F.R. 1901.203 - Title VIII of the Civil Rights Act of 1968, known as the Fair Housing Act.
- C. ORS may establish maximum dollar limits for adaptive housing services.
- D. Housing adaptations must be performed in accordance with all applicable building codes, specifications and architectural drawings approved by ORS, and in conformance with building trade standards. Equipment devices and installations will conform to all federal and state health and safety standards, and installations will conform to manufacturer specifications. Work will be performed by qualified licensed and insured individuals in carpentry, plumbing, electrical, concrete, related building trades, and mechanical trades.
- E. Procurement of all services, goods and supplies will be through a competitive bid process. Services, goods and supplies will be provided at the lowest cost to ORS.
- F. Adaptive housing services are subject to a determination of financial participation and consideration of any comparable benefit available to an individual to meet, in whole or in part, the cost of such services.

~~G. An Administrative Waiver may be considered.~~

#### **1.17.14 MOTOR VEHICLE MODIFICATION SERVICES**

- A. Motor vehicle modification services are changes to privately owned motor vehicles that are provided only when necessary to remove impairment related transportation barriers for an eligible individual to achieve a competitive integrated employment outcome. The approved IPE must describe the required vehicle modification service and how the vehicle modification service enables the individual to achieve the employment outcome. Vehicle modification services are subject to a determination of financial participation and to consideration of any comparable benefit available to an individual to meet in whole or in part, the cost of vehicle modification services. ORS may set maximum dollar limits for these services and may periodically review and update those limits.
- B. ORS will not provide or purchase:
  1. Modifications to a vehicle if the individual owns another vehicle which would meet transportation needs;
  2. Modifications to vehicles which do not meet the requirements of state inspection under the R.I. Motor Vehicle Code;
  3. Modifications to a vehicle for the purpose of enabling an individual to drive who, in the opinion of the agency after consultation with an agency

consultant, is not capable of operating a motor vehicle with reasonable safety due to the individual's disability.

C. ORS will not provide or purchase structural modifications to a van, with or without existing modifications, if an automobile would satisfy the person's need for transportation.

1. 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 person with a disability.

D. ORS will not provide structural modifications to a vehicle if the following conditions exist:

1. The ~~full-sized van~~~~vehicle~~ is more than ~~fivetwo~~ (52) years old, or has more than ~~fiftythirty~~ thousand (350,000) miles on the odometer; or

2. Minivan is more than three (3) years old or has more than thirty thousand (36,000) miles on the odometer; or

32. When ORS has previously provided motor vehicle modification services to the same individual; or

43. When the vehicle has previously been modified for another individual or has been modified by the client without the assistance of ORS.

54. The above restrictions do not apply to automobile modifications that are non-structural in nature.

65. The MVMC, with the concurrence of the Administrator, may waive this limitation if the modification is deemed by the coordinator to be appropriate and in conformance with good vocational rehabilitation practice.

7. The vehicle has been determined by a licensed mechanic or VM Engineer to not be in good mechanical and/or structural condition.

E. Responsibilities of the Individual with a Disability

1. ORS will not assume responsibility for the regular or on-going maintenance or repair of vehicles for which it has provided modifications.

2. Insurance on Motor Vehicle Modification - ORS will not repair or replace motor vehicle modifications damaged by accident, vandalism, or fire. The VR Counselor must emphasize to the individual receiving vehicle modification services that s/he must arrange for adequate insurance coverage.

F. Responsibilities of an Approved Vendor

1. Assume responsibility for damage occurring in performance of work and repair such damage at the expense of the contractor;
2. Guarantee work, materials, and equipment to be free from defect for one year from date of acceptance, as described in bid specifications, and guarantee work for high-tech jobs for two years. Should any defects be discovered during the stated period, the contractor must at their expense correct the defect(s), including labor, necessary transportation, and associated fuel costs, Vendors are encouraged to offer extended warranties to ORS-VR clients;
3. Maintain local and state required business licenses;
4. Maintain at a minimum the following insurance coverage levels:
  - a. Worker's Compensation for all employees;
  - b. Minimum statutory required automobile insurance;
  - c. General liability;
  - d. Hired/Non-Owned Auto Liability; and
  - e. Garage Liability, including coverage for Premises & Products and Completed Operations Insurance.

G. Equipment

1. ORS will not provide standard equipment or customary optional equipment that is ordinarily available when 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; or power windows.
2. ORS will not purchase or pay for the installation of non-essential equipment, such as: Radios, AM or FM, or other entertainment equipment; burglar alarm systems; or insulation.
3. ORS may provide non-structural modifications to a vehicle. Such modifications include, but are not limited to: VA approved hand controls; wheelchair carriers or trunk loaders; pedal blocks; left foot brake and accelerator pedals; extensions on turn signal and/or shift lever; and electric parking brake.
4. ORS may provide equipment for an eligible individual that is designed to enable them to enter, exit, operate, or be transported in their modified

vehicle. This equipment may include: wheelchair securement systems; raised roofs; lowered floors; restraint systems if the factory-installed system is inadequate or inappropriate; modification to the power brake system already purchased; switches or touch pads for secondary controls; wheelchair lift; dual battery system; outside rear-view mirrors; rear end sensors; and other equipment essential for safe entry, exit, and transit in the vehicle.

5. After completion of structural modifications to automobiles or installation of equipment in vans, the installed equipment belongs to the client.

#### H. Training with Motor Vehicle Modifications

1. In all cases where motor vehicle modifications are provided by the agency to an individual with a disability who will also be the driver, the counselor will ensure that proper training is provided concurrently with the provision of motor vehicle modifications. The counselor will select a vendor licensed to provide driver training who is familiar with the motor vehicle technologies that enable the person with a disability to drive. The MVMC can assist the counselor in selecting the appropriate adaptive driving instructor. The only exception to this procedure is when replacement equipment is provided and the person with a disability is a licensed driver already using the provided adaptive driving equipment.

~~I. An Administrative Waiver may be considered.~~

#### 1.17.15 SELF-EMPLOYMENT SERVICES

- A. Self-employment is one type of employment outcome clients of ORS may obtain. Self-employment services are services that maximize the client's work, earnings, and financial independence.
- B. ORS will complete a thorough evaluation and assessment of the eligible individual's priorities, strengths, resources, concerns, abilities, capabilities, and interests that will contribute to the startup, management, and success of the business over time. A business plan may be required.
- C. Start-up and operational costs related to self-employment services are only available for new self-employment ventures. (Refer to § 1.17.9 of this Part above)
- D. The VR Counselors' role is to provide guidance and counseling and informed choice throughout the assessment of the feasibility of a self-employment goal, planning, and implementation process with the client.
- E. Self-employment, a competitive integrated employment outcome, which provides the individual comparable income to individuals who are not individuals with disabilities, self-employed in similar occupations or on similar tasks, and who have similar training, expertise, or skills.

- F. Self-employment is not:
1. speculative in nature,
  2. a business set up as non-profit,
  3. an alternative employment path for an individual's difficulty with supervision and/or co-workers,
  4. a way of avoiding issues associated with a positive Bureau of Criminal Identification (BCI) or criminal background,
  5. organized as a hobby,
  6. utilized to finance existing debt,
  7. any form of pyramid sales--based venture, unprofitable in nature, or unlawful enterprises.

#### **1.17.16 INDEPENDENT LIVING SERVICES**

- A. Independent Living Services are any services that will improve the ability of an individual with a significant disability to function, continue to function, or move toward functioning independently.
- B. Individuals must be evaluated utilizing a comprehensive Independent Living Assessment showing the client's need for specific independent living services in order to achieve an employment outcome in the competitive labor market. The independent living services must be part of the IPE.
1. Assessments include general independent living assessment, comprehensive independent living/PA assessment, and assessment of equipment or adaptive housing needs.
- C. Once a client has met VR eligibility criteria or is in extended evaluation, and specific independent living services have been assessed and are required, and the IPE has been developed, ORS will authorize payment in accordance with existing agency fee schedule.
1. The only exception will be in the case of consumer-directed personal assistance services.

#### **1.18 SERVICES FOR THE DEAF AND HARD OF HEARING**

- A. ORS will maintain state-wide specialized caseloads to meet the complex rehabilitation needs of Deaf and Hard of Hearing Individuals. Vocational considerations need to include not only communication but also cultural, educational and social dynamics. ORS will arrange and pay for qualified

interpreters except when a service provider is mandated by Section 504 of the Rehabilitation Act, by ADA, or by state law to make interpreters available for provision of vocational rehabilitation services. Care will be taken to ensure specialized interpreter skills (medical, legal, CDI) are utilized in vocationally relevant situations.

- B. Assessing the 'Vocational Implications of Hearing Loss' is completed after the individual with a disability is determined eligible in accordance with § 1.7 of this Part above.
1. In determining if a hearing loss constitutes a substantial impediment to employment, the VR Counselor must examine the individual's functioning, as well as the audiological evidence, speech reception and speech discrimination.
    - a. Specific diagnostics for deafness and hearing loss will include an Otological exam and an audiological examination. These exams have to be completed by an Otolaryngologist and a Licensed Audiologist, not a hearing aid center. If these exams have been done within a year, then VR Counselors should request copies of these examinations for review and determination of eligibility.
    - b. An applicant should be made eligible for services if difficulty understanding spoken language represents a substantial impediment to employment. This should be documented in a narrative entry for eligibility and also on the Order of Selection Checklist.
- C. Hearing Aid Considerations
1. If a hearing aid is recommended and vocationally relevant, the VR Counselor will arrange for the individual to be seen by an Ear, Nose, Throat (ENT) and Licensed Audiologist (not a hearing aid center), if this has not been done within six (6) months of a hearing aid being considered.
  2. The purpose of the Otological examination by the ENT is to determine if there are any medical conditions which may interfere with the individuals hearing, if further testing is recommended, or if there are physical barriers to obtaining a hearing aid. If additional testing is recommended, the file needs to be reviewed by the medical consultant who will then recommend and approve a vendor for the test (i.e. CT scan).
  3. The purpose of the Audiological examination is to identify the severity of the hearing loss and the need for hearing aids. The exam will verify whether new aids are necessary. The Audiological Evaluation form must be completed and signed by the Audiologist.

#### D. Hearing Aid Services Provision

1. The VR Counselor must assess that all hearing aid services provided meet the employment goal of the IPE and the vocational rehabilitation needs of the individual. It is expected that the IPE will indicate that the regular care, maintenance and replacement of the hearing aid are the responsibility of the client.
2. Hearing aid services and devices are subject to a determination of financial participation and consideration of any comparable benefit available to an individual to meet, in whole or in part, the cost of such services.

### **1.19 INDIVIDUALS IN EXTENDED EMPLOYMENT, 14(C), AND OTHER EMPLOYMENT UNDER SPECIAL CERTIFICATE PROVISIONS OF THE FAIR LABOR STANDARDS ACT**

- A. The ability of employers to pay a subminimum wage to workers with disabilities is limited in accordance with 34 C.F.R. § 361.55. These new limitations prohibit employers from paying subminimum wage to persons with disabilities under 29 C.F.R. Part 525, Section 14(c) unless each worker has been regularly provided with career counseling and information about self-advocacy, self-determination, and peer mentoring training opportunities. ORS' VR Program monitors this activity. ORS will provide career counseling and information and referral services to all 14(c) certificate-holders to provide informed choice options and highlight the limitations of subminimum wage. ORS will provide these services initially, will then semi-annually review and reevaluate the status of each individual for two (2) years after the individuals' record is closed, and annually thereafter.
- B. The 14(c) certificate-holder will have the option to apply for vocational rehabilitations services if they so desire.

### **1.20 PROGRAM EXIT**

- A. An employment outcome is expected to occur in a competitive integrated setting as a result of the vocational rehabilitation process and services. To be considered a competitive integrated employment setting, the employment outcome must satisfy three requirements:
  1. competitive earnings;
  2. integrated location; and
  3. opportunities for advancement.
- B. In addition, eligibility for benefits provided to other non-disabled employees is available. The employment outcome must be consistent with the

occupational/career goal of the individual's most recent IPE or amended IPE. An employment outcome means full-time or, part-time employment, wages paid by the employer, supported or customized employment, self-employment, or telecommuting. The employment outcomes are consistent with the individual's strengths, resources, priorities, concerns, abilities capabilities, interests, and based on informed choice. In the case of an individual who is self-employed, work 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.

C. Cases will be closed under the following conditions:

1. When client has successfully met all goals on their Individualized Plan for Employment (IPE); has satisfactorily maintained employment for ninety (90) days; both individual and vocational rehabilitation counselor agree individual is performing well in the employment; and individual has been informed of availability of post-employment services; or
2. If the applicant did not complete an agreed upon service, is found ineligible for the program, withdrew from program, and/or has not responded to outreach efforts.