

UNITED STATES DEPARTMENT OF EDUCATION
Office of Special Education and Rehabilitative Services
Rehabilitation Services Administration

VOCATIONAL REHABILITATION
Pre-employment Transition Services

Section 110 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA), which took effect on July 22, 2014, reads, in pertinent part:

Sec. 110. STATE ALLOTMENTS.

(a)(1) Subject to the provisions of subsection (c) and (d), for each fiscal year beginning before October 1, 1978, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under section 100(b)(1) for allotment under this section as the product of—

(d)(1) From any State allotment under subsection (a) for a fiscal year, the State shall reserve not less than 15 percent of the allotted funds for the provision of pre-employment transition services.

(2) Such reserved funds shall not be used to pay for the administrative costs of providing pre-employment transition services.

This mandate for a State to reserve funds for the sole purpose of providing pre-employment transition services is reinforced at section 113(a):

SEC. 113. PROVISION OF PRE-EMPLOYMENT TRANSITION SERVICES.

(a) IN GENERAL.—From the funds reserved under section 110(d), and any funds made available from State, local, or private funding sources, each State shall ensure that the designated State unit, in collaboration with the local educational agencies involved, shall provide, or arrange for the provision of, pre-employment transition services for all students with disabilities in need of such services who are eligible or potentially eligible for services under this title.

Given the new requirement at section 110(d), a State must reserve at least 15 percent of its State allotment, under the State Vocational Rehabilitation Services (VR) grant (CFDA 84.126A), for the provision of pre-employment transition services under section 113 of the Rehabilitation Act. The State allotment, which forms the basis for the 15 percent reservation, refers to the funds awarded pursuant to section 110(a) of the Rehabilitation Act. State allotment, in this context, does not refer to an allotment of State funds awarded by the State. This distinction is made clear by section 113(a), which requires the State to use the reserved funds “and any funds made available from State, local, or private funding sources” to provide the pre-employment transition services.

This means that the State – not RSA – must reserve at least 15 percent of the State’s Federal VR allotment for the provision of pre-employment transition services under section 113. In other words, States will not receive a separate grant award for this 15 percent reservation since the State is required to reserve the funds from its total VR allotment.

In calculating the 15 percent minimum amount to be reserved, States must base the percentage on the total amount allotted to the State in each Grant Award Notification it receives in the fiscal year. Only then can the State assure it has reserved at least 15 percent of its total allotment (as described in sections 110 and 111 of the Rehabilitation Act), taking into account adjustments made throughout the year for continuing resolutions, reallocations, and remedies applied for maintenance of effort deficits, for this purpose.

Example 1: A State receives only one Grant Award Notification for the fiscal year of \$1 million. The State must reserve at least 15 percent of that amount, or \$150,000, for the provision of pre-employment transition services.

Example 2: A State receives two Grant Award Notifications – one at the beginning of the fiscal year for \$1 million and a second during the reallocation process for an additional \$1 million. The State should reserve 15 percent of the funds allotted in the first Grant Award Notification (\$150,000) plus an additional \$150,000 to account for the additional \$1 million received during reallocation. By reserving the appropriate amount from each Grant Award Notification, the State has ensured it has reserved the appropriate amount of funds.

Example 3: The State receives a Grant Award Notification for \$1 million, but relinquishes \$100,000 for reallocation to other States later in the year. This means that the State must reserve 15 percent of the initial Grant Award Notification when it receives it (\$150,000) but the amount will be adjusted downward when the State gets a revised Grant Award Notification after the relinquishment of funds to reflect an allotment of \$900,000 for the year. At that point, the State must only have reserved \$135,000 – not the full \$150,000 based on the initial grant.

Example 4: A State receives only one Grant Award Notification for \$1 million. However, at the end of the year, the State left \$500,000 in its account, unmatched and unexpended. The State did not relinquish these funds during the reallocation period. In this case, the Grant Award Notification still reflects an allotment of \$1 million. The State must reserve the full 15 percent of \$150,000 based on the total allotment – not the amount of funds used.

It is important to note that none of the funds reserved in accordance with section 110(d) may be used to pay for administrative costs or any other VR service. These funds must be used solely for the provision of services described in section 113 of the Rehabilitation Act. Section 113(b) describes the required pre-employment transition services that must be provided to students with disabilities. Section 113(c) describes other authorized activities that the State may provide if reserved funds remain after all eligible students with disabilities have received the required services. This means that the State must use the entire amount reserved solely for the provision of pre-employment transition services required and/or authorized under section 113. In pertinent part, section 113 reads as follows:

(b) **REQUIRED ACTIVITIES.**—Funds available under subsection (a) shall be used to make available to students with disabilities described in subsection (a)—

- (1) job exploration counseling;
- (2) 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 to the maximum extent possible;
- (3) counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
- (4) workplace readiness training to develop social skills and independent living; and
- (5) instruction in self-advocacy, which may include peer mentoring.

(c) **AUTHORIZED ACTIVITIES.**—Funds available under subsection (a) and remaining after the provision of the required activities described in subsection (b) may be used to improve the transition of students with disabilities described in subsection (a) from school to postsecondary education or an employment outcome by—

- (1) implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;
- (2) developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently, participate in postsecondary education experiences, and obtain and retain competitive integrated employment;
- (3) providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;
- (4) disseminating information about innovative, effective, and efficient approaches to achieve the goals of this section;
- (5) coordinating activities with transition services provided by local educational agencies under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);
- (6) applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel, in order to better achieve the goals of this section;
- (7) developing model transition demonstration projects;
- (8) establishing or supporting multistate or regional partnerships involving States, local educational agencies, designated State units, developmental disability agencies, private businesses, or other participants to achieve the goals of this section; and
- (9) disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved populations.

It is important to note that only students with disabilities are eligible to receive pre-employment transition services under section 113. A student with a disability is defined at section 7(37) of the Rehabilitation Act as:

(37) **STUDENT WITH A DISABILITY.**-

(A) **IN GENERAL.**-The term ‘student with a disability’ means an individual with a disability who-

- (i)(I)(aa) is not younger than the earliest age for the provision of transition services 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); or
(bb) if the State involved elects to use a lower minimum age for receipt of pre-employment transition services under this Act, is not younger than that minimum age; and
(II)(aa) is not older than 21 years of age; or
(bb) if the State law for the State provides for a higher maximum age for receipt of services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), is not older than that maximum age; and
(ii)(I) is eligible for, and receiving, special education or related services under Part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or
(II) is an individual with a disability, for purposes of section 504.
(B) STUDENTS WITH DISABILITIES.-The term ‘students with disabilities’ means more than 1 student with a disability.

Because both sections 110(d) and 113 of the Rehabilitation Act are clear that the State must reserve and use at least 15 percent of its total VR allotment for a specific purpose (pre-employment transition services) that benefits a specific population (students with disabilities), it will be critical that the designated State unit implement administrative methods and procedures that will ensure proper data collection and financial accountability of these reserved funds, as required by 34 CFR 361.12. Moreover, the State’s accounting procedures must be such that the designated State unit will be able to accurately complete all required forms, including financial reports, that show the reservation and use of these funds for this purpose, as required by 34 CFR 80.20(a). These relevant provisions are reprinted here for convenience:

§ 361.12 Methods of administration.

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

§ 80.20 Standards for financial management systems.

(a) A State must exp[e]nd and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:

- (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
- (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.