

Transition services means a coordinated set of activities for an individual with a disability designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based upon the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student's individualized plan for employment.

WIOA defines two categories of transition services:

1. "Youth with a disability" is defined as anyone who has a disability and is aged 14 to 24, regardless of whether they are in school.
2. "Student with a disability" is defined as an individual with a disability in school who is:
  - a. 16 years old, or younger, if determined appropriate under the Individuals with Disabilities Education Act (IDEA), unless the State elects to provide pre-employment transition services at a younger age, and no older than 21, unless the State provides transition services under IDEA at an older age; and
  - b. Receiving transition services pursuant to IDEA, or is a student who is an individual with a disability for the purposes of section 504 of the Act (29 U.S.C. 794).

Therefore, all students with disabilities would meet the definition of a youth with a disability, but not all youth with disabilities would satisfy the definition of a student with a disability. For example, an 18-year-old individual with a disability who is in secondary school and receiving services under IDEA meets both the definition of a student with a disability as well as the definition of a youth with a disability. However, an 18-year-old with a disability who is not in school would meet only the definition of a youth with a disability.

It is important to note that current proposed regulations for the definition of a "student with a disability" specifically excludes students in post-secondary education.

#### 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.

(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.

(d) PRE-EMPLOYMENT TRANSITION COORDINATION.—Each local office of a designated State unit shall carry out responsibilities consisting of—

(1) attending individualized education program meetings for students with disabilities, when invited;

(2) working with the local workforce development boards, one-stop centers, and employers to develop work opportunities for students with disabilities, including internships, summer employment and other employment opportunities available throughout the school year, and apprenticeships;

(3) work 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 pre-employment transition services under this section; and

(4) when invited, attend person-centered planning meetings for individuals receiving services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(e) NATIONAL PRE-EMPLOYMENT TRANSITION COORDINATION.—

The Secretary shall support designated State agencies providing services under this section, highlight best State practices, and consult with other Federal agencies to advance the goals of this section.

“(f) SUPPORT.—In carrying out this section, States shall address the transition needs of all students with disabilities, including such students with physical, sensory, intellectual, and mental health disabilities.”.

1. A VR-eligible student who is blind is participating in a work-experience placement after school hours as part of her individualized education program. Because that activity takes place in a location outside of school, the student needs travel training in order to travel independently from school to work and then home.

2. A VR-eligible student is enrolled in an apprenticeship program in construction trades as part of his individualized education program under IDEA. The program requires the student to have special gloves, clothing, equipment, and footwear to attend the program.

3. A VR-eligible student is participating in a work experience activity during school hours as part of her individualized education program. The school has arranged for several IDEA-eligible students to participate in this same work activity and is providing a school bus to transport the IDEA-eligible students to and from the worksite. The VR-eligible student needs transportation to the worksite and a uniform.

While neither the Act nor IDEA is explicit as to which entity, the VR agency or the local education agency, is financially responsible for providing transition services, which are not considered solely special education or related services under IDEA, both proposed Sec. 361.22(c) and current 34 CFR 300.324(c)(2)) make clear that neither the local educational agency nor the VR agency may shift the burden for providing a service, for which it otherwise would be responsible, to the other entity. We want to make clear that the Act and IDEA, along with their implementing regulations in proposed Sec. 361.22(c) and 34 CFR 300.324(c)(2), are to be read in concert.

Since the ultimate decisions related to financial responsibility for the provision of transition services must be established at the State and local level during the collaboration and coordination of transition and pre-employment transition services, a State's formal interagency agreement or other mechanism for interagency coordination can provide a foundation for addressing these issues by including criteria to be used by the VR agencies and local educational agencies when considering and assigning the financial responsibility of each agency for the provision of transition services to students with disabilities on an individualized basis. For example, the criteria could include:

1. The purpose of the service--Is it related more to an employment outcome or education (i.e., is it considered a special education or related service (e.g., rehabilitation counseling that is necessary for the provision of a free appropriate public education))?

2. Customary Services--Is the service one that the school customarily provides under IDEA part B? For example, if the school ordinarily provides job exploration counseling to its eligible students with disabilities, the mere fact that such a service is now authorized under the Rehabilitation Act as a pre-employment transition service does not mean the school should cease providing that service and refer those students to the VR program.

3. Eligibility--Is the student with a disability eligible for transition services under IDEA? As stated earlier, the definition of a "student with a disability," for purposes of the VR program, is broader than that under IDEA because the definition in the Rehabilitation Act includes those students who are individuals with a disability under section 504 of the Rehabilitation Act. It is possible that these students do not have an individualized education program under IDEA and, therefore, would not be eligible for or receiving special education and related services under IDEA. As a result, VR agencies are authorized to provide transition services under the VR program to a broader population than local educational agencies are authorized to provide under IDEA.