

PRESENTATION

Vocational Rehabilitation (VR)

Workforce Innovation Opportunity ACT (WIOA)

10 changes: WIOA and Supported Employment

Presented via Skype on February 28, 2018



The Workforce Innovation Opportunity Act (WIOA) of 2014, brought many changes to Vocational Rehabilitation. This presentation covers 10 WIOA changes that affect VR Supported Employment services.

The Supported Employment Manual has been posted with this slide show. We will mention page numbers from the manual as we proceed. The notes section also refers you to specific code of federal regulations (CFR) citations.

Please send questions or comments in care of Oregon's general policy email:
VR.policy@state.or.us

WIOA was enacted into law July, 2014

Rehabilitation Services Administration (RSA)
posted final regulations August, 2016.

Oregon VR must revise both Oregon
Administrative Rules (OAR) and VR
procedures to align with federal and state law.

The Supported Employment Procedures
Manual is part of that work.



New federal laws create a cascade of responsibility to create rules:

- first at the federal level, Rehabilitation Services Administration revises the Code of Federal Regulations (CFR); and,
- Oregon's State legislature makes any needed changes to the Oregon Revised Statutes (ORS); and,
- the Vocational Rehabilitation (VR) policy unit revises or creates Oregon Administrative Rules (OAR) and Procedures that follow federal and state guidelines.

Programs like VR must also follow newly enacted state legislation and current Department of Human Services (DHS) rules.

All of these rule changes require Oregon VR to update their procedures and the Supported Employment Procedures Manual is part of that work.

For references, go to the Oregon Vocational Rehabilitation website's policy page at <http://www.oregon.gov/DHS/EMPLOYMENT/VR/Pages/Policies-Rules.aspx> to find:

- Workforce Innovation and Opportunity Act (WIOA)
- The final Code of Federal Regulations for WIOA
- Oregon Administrative Rules for VR
- New VR procedures
- This PowerPoint presentation and the Supported Employment Procedures Manual

10 changes:

1. Collaboration with others
2. Emphasis on services for youth (14-24)
3. Competitive Integrated Employment
4. Part-time employment
5. Extended services for youth
6. Integrated/not competitive (integrated with support)
7. Short term basis
8. Length of Supported Employment Services
9. Documentation
10. Oregon changes



Each of these 10 changes has a corresponding slide, but just to provide an overview at this point:

Many WIOA changes are not entirely new, but are more clearly defined or revised by WIOA. For example:

- Collaboration has always been a part of supported employment policy but now includes more specific requirements
- Previously, integrated setting was defined and that definition was expanded to become “competitive integrated employment”
- Part time employment that does not occur regularly is now acceptable under specific guidelines
- Number of months of supported employment services was extended (from 18-24 months)

... And, changes in Oregon also require VR policy and procedure revisions.

VR is expected to collaborate with:

- Extended services funding sources
 - DHS/ODDS, APD
 - OHA/ Mental health
- The Workforce system
- The Participant's Team



Collaboration has always been a part VR supported employment regulations but with WIOA, collaboration was called out more specifically and includes agencies/systems that provide both referral to the Program (VR) and extended services to Program Participants. Oregon has developed a MOU and other agreements with required collaborators including (Oregon Commission for the Blind, Tribal VR programs, Medicaid office, Developmental Disabilities Services and Mental Health Services).

Vocational Rehabilitation was a required member of the State Workforce (Worksource in Oregon) System and is now considered a core member of the that workforce team. See www.worksourceoregon.org for information about Oregon's Worksource system.

The Supported employment manual includes a new section about the Participant's team that could be expected to support and even participate in the VR Participant's efforts to gain and maintain employment. See page 4 to 5 of the manual.

Emphasis on services to youth

-”including youth with a disability/ with a most significant disability”.....
- New services for youth
 - Extended services for supported employment
 - Pre-Employment Transition Services
 - Subminimum Wage services to youth seeking subminimum wage employment



There are two ways that WIOA demonstrates Rehabilitation Services Administration’s (RSA) increased emphasis on serving youth:

1. Where former rules would refer to “an individual with a disability” (or “with a significant disability”), the phrase “including a youth with a disability” (or “with a significant disability”) have been added.
2. RSA added 3 new services for youth (ages 14-24):
 - VR can provide up to 4 years of extended services (including job coaching) to youth with significant disabilities, under specific circumstances.
 - VR must assure that students with disabilities receive (as needed) brand new services called Pre-employment Transition (Pre-ETS) services.
 - Any youth that VR knows to be seeking subminimum wage employment must receive specified services before they can begin the subminimum wage employment. This is a collaborative requirement with the Department of Labor, Wage and Hour Division.

Competitive integrated employment

When weighing whether a job is competitive integrated employment, there are two components:

- Wage, benefits and advancement
- Business
 - Is typical for the local labor market
 - Participant interacts with individuals without disabilities



Look in the Manual on pages 10, 17, 24, and 25 for:

- Requirement that all employment be Competitive integrated employment;
- Definition of Competitive Integrated Employment (34 CFR 361.5(c)9) ;
- Chart 2-Is that job competitive and integrated?; and
- Competitive Integrated Employment Fact Sheet.

Competitive integrated employment is the standard requirement for employment in every environment (regular wage employment that is either full time or part time; supported employment, customized employment, and self-employment).

Part-time employment

- Any type of part-time employment can be a successful rehabilitation if:
 - All rules and definitions apply
 - The job is the employment goal from the plan and meets the informed choice of the participant
 - If more than one job is required to meet an employment goal of hours worked, rules and definitions apply to each one



VR-AR-17-08 Temporary, Seasonal, On-Call (Intermittent) Employment (Revised 12/8/17) can be found on the policy page of the Oregon Vocational Rehabilitation public website: <http://www.oregon.gov/DHS/EMPLOYMENT/VR/Pages/Policies-Rules.aspx>. This document has lists of suggested discussion points for seasonal, temporary, on-call employment that can help inform client choice. These important rules and definitions apply to all variations of supported employment:

- Part time employment must:
 - Be competitive integrated employment
 - Be consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
 - Match the goal in the IPE
 - Follow timelines for closure for both regular and supported employment;

These rules can be found in VR-AR-17-08:

- 34 CFR 361.5 (c) (9) Competitive Integrated Employment
- 34 CFR 361.5 (c) (15) Employment outcome definition
- 34 CFR 361.56 Requirements for closing the record of services of an individual who has achieved an employment outcome
- 34 CFR 363.54 When will an individual be considered to have achieved an employment outcome in supported employment

Extended services for youth

- Ongoing support services and other appropriate services needed to support and maintain an individual in supported employment.
- Must follow procedures in new manual in deciding:
 - Whether to provide these services
 - The length of services provided



WIOA allows VR to pay for extended services only for eligible youth with the most significant disability. For information about this new VR service, see page 7-8 in the Supported Employment Procedures Manual.

For additional information:

- For a discussion about closure when VR funded extended services for a youth (14 through 24 years old); see Manual page 13, Section D.ii.
- For Special Guidance 1: Deciding about Extended Services for Youth, see Manual pages 38-40

34 CFR 361.5(c) 19 Extended Services definition can be found on Manual page 19.

Integrated but not competitive

- WIOA allowed supported employment placement in integrated but not competitive employment (subminimum wage employment)
- Must last only for a short term basis
- This is known as (integrated with support)
- Oregon chose to NOT use this option



Integrated but not competitive employment is introduced in the definition of Supported Employment in the Code of Federal Regulations. The definition can be found in the Supported Employment Procedures Manual, on page 21. Oregon VR has chosen to not utilize this service as apparently intended by RSA because we do not choose to place VR participants in subminimum wage employment, even on a short term basis.

On page 10 of the Supported Employment Procedures Manual, you will see the instance when Oregon VR chose to apply this new service. When a Participant accepts a job that pays minimum wage, or higher, but where other employees of the same business started in a similar job at a higher wage. The goal would be to take this job on a short term basis while working to increase employment opportunities with the business, including competitive integrated employment.

Note that we will revisit this new service in our Self-Employment Procedures (currently in process).

Short term basis

- Intended for those who because of nature and severity of disability need intensive supported employment services and extended services after transition;
- where can reasonably anticipate achieving competitive integrated employment;
- Working in integrated but not competitive setting on a short term basis (6 months)

Short term basis applies only to the specific instance described in the previous slide.

The definition for Short term basis can be found in the Supported Procedures Manual, on page 20.

Supported employment services

- Support services can be provided as needed before employment to assure informed choice....., but
- Supported employment services happen during employment (between starting employment and closing the case file).
- Maximum time increased to 24 months.



Supported Employment Services occur between placement and case file closure.

- Supported employment services also include support services provided as post employment services
- The maximum time VR can provide supported employment services was previously 18 months and has been raised to 24 months.

34 CFR 361(c) 54 Supported employment services definition can be found on Manual page 22

34 CFR361.5(c)19 Extended Services definition can be found on Manual page 19.

Documentation -- must show:

- Before closing the file, VRC and Participant agree that no additional time is needed (even if used full 24 months);
- That the employment is competitive and integrated;
- That employment meets the criteria of the employment goal in the plan
- Verify wages at employment and at case file closure.



WIOA adds additional documentation requirements. The list of four on this slide are the primary ones for supported employment.

WIOA final Code of Federal Regulations can be found on the Oregon Vocational Rehabilitation website at: <https://www2.ed.gov/about/offices/list/osers/ras/wioa-final-rules.html>

363.53 What requirements must a designated State unit meet for the transition of an individual to extended services? (b) (1) The counselor and individual have determined that no further employment services are necessary to support and maintain the individual in supported employment before transition to extended services.

363.54 When will an individual be considered to have achieved an employment outcome in supported employment. (introductory paragraph – Competitive integrated employment

361.56 Requirements for closing the record of services of an individual who has achieved an employment outcome (a) meets the criteria of the employment goal in the plan.

361.47 Record of services (9) Verification that the individual is compensated at or above minimum wage and level of benefits are not less than that customarily paid by the employer for the same or similar work performed by non-disabled individuals (note Rehabilitation Services Administration 911 report metrics)

Oregon changes

- Increased subminimum wage
- Settlement in Lane v. Brown lawsuit:
 - 20 hour per week standard for planning supported employment (document hours desired in IPE)
 - Greater collaboration between VR and DD



Information about Oregon Legislature's, Senate Bill 1532 (2016) and the increases in Oregon minimum wage can be found at:
<http://www.oregon.gov/boli/WHD/OMW/Pages/Minimum-Wage-Rate-Summary.aspx>

This information has also been copied into the Supported Employment Procedures Manual on pages 41-43

For the Lane v. Brown Settlement, you can go to Oregon Employment First and then go to the Employment First News page scroll down to 12/9/2015 Lane v. Brown Settlement and click on the first link: "settlement"
<http://www.oregon.gov/DHS/EMPLOYMENT/EMPLOYMENT-FIRST/Documents/Lane%20v%20Brown%20Proposed%20Settlement.pdf>

For the most recent MOU between VR and ODDS, go to the Oregon Vocational Rehabilitation website and then to the Cooperative Agreements page:
<http://www.oregon.gov/DHS/EMPLOYMENT/VR/Pages/Cooperative-Agreements.aspx>