

Important VR Definitions 34 CFR § 361.5

<https://www.law.cornell.edu/cfr/text/34/361.5>

Applicant – an individual who has submitted an application for vocational rehabilitation services but has not yet been determined eligible.

Assessment for determining eligibility and vocational rehabilitation needs - a review of existing data to determine if an individual is eligible for vocational rehabilitation services, assign priority for an order of selection, and determine of an employment outcome and the nature and scope of vocational rehabilitation services. VR may also conduct assessments (or evaluations –see that definition) if there is no existing data.

Assistive technology – any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an individual with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

Community rehabilitation program - a program that provides one or more vocational rehabilitation service to VR clients to enable them to maximize their opportunities for employment. Examples include: Physical, occupational, and Speech therapy; assessment for determining eligibility and vocational rehabilitation needs; Rehabilitation technology; Job development, placement, and retention services; Orientation and mobility services for individuals who are blind; and supported or customized employment.

Comparable Benefits: alternative services, benefits accommodations and auxiliary aids and services that are provided or paid for by other Federal , State, or local public agencies, health insurance, or employee benefits.

Customized employment - competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the unique strengths, needs, and interests of the individual with a significant disability and designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer.

Eligible individual - *Eligible individual* means an applicant for vocational rehabilitation services who meets the eligibility requirements of having a physical or mental impairment, that result in a substantial impediment to employment and who requires vocational rehabilitation services for successful employment.

Economic Need - A process that determines whether the client will contribute to the cost of the client's VR services.

Evaluation – In the limited circumstances where an individual cannot participate in a *trial work experience* (See Trial Work Experience), VR must conduct an extended

evaluation. This evaluation must be consistent with the rehabilitation needs of the individual and must be based on the informed choice of the individual.

Extended services - *Extended services* means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability including a youth with a most significant disability, in supported employment. ; (ii) Organized or made available, singly or in combination, in such a way as to assist an eligible individual in maintaining supported employment; (iii) Based on the needs of an eligible individual, as specified in an individualized plan for employment; (iv) Provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, after an individual has made the transition from support from the designated State unit; and (v) Provided to a youth with a most significant disability by the designated State unit in accordance with requirements set forth in 34 CFR 361 and 363 for a period not to exceed four years, or at such time that a youth reaches age 25 and no longer meets the definition of a youth with a disability, whichever occurs first. The designated State unit may not provide extended services to an individual with a most significant disability who is not a youth with a most significant disability.

Fair Hearing: A formal hearing conducted by an administrative law judge (or hearing officer) to hear and decide disputes between the VR and clients/applicants.

Hearing Officer: An administrative law judge that works for the Arizona Department of Economic Security Office of Appeals who will conduct the *Fair Hearing* and make a decision after the *Fair Hearing*.

Individualized Plan for Employment (I.P.E.): A document that is agreed upon by the client and the VR Counselor, which states the client's employment goal and what services VR will provide the client to reach that goal. For more information about an I.P.E., see the Center's guide, *A Summary of Your Vocational Rehabilitation Rights: Individualized Plan for Employment*.

Informal Resolution: An informal way to try and solve disagreements about your vocational rehabilitation services. The review is conducted by a supervisor or program manager that is not directly responsible for the work of your VR Counselor or his/her supervisor. A written decision is made following the *Informal Resolution*, also known as an *Administrative Review*.

Mediation: An informal way to try and resolve a dispute about your VR services. A *Mediation* is conducted by an impartial and trained mediator who listens to both sides and tries to help the parties reach an agreement that can satisfy both parties. If the *Mediation* is successful, a *Mediation* agreement is written.

Ombudsman: A VR staff member whose duties include assisting the applicant, or client and VR in investigating and addressing complaints. The Ombudsman guides the client and agency through the complaint resolution process.

Personal Assistance Services: A range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

Rehabilitation Act: A federal law that was first passed in 1973. The purpose of the law is to provide training and services to help people with disabilities to reach an employment goal. The Rehabilitation Act outlines the rights of clients and the responsibility of the state in providing vocational rehabilitation services for people with disabilities. The latest amendment to the Rehabilitation Act is known as the Workforce Innovation and Opportunity Act (WIOA). For more information about the specific rights of clients and applicants, see the Center's guide, *A Summary of Your Vocational Rehabilitation Rights*.

Rehabilitation Services Administration (RSA): The state agency created to provide vocational rehabilitation services to qualified people with disabilities. Sometimes VR and RSA are used to refer to the same state agency. (VR will be used in this guide.)

Representative: A friend, family member, advocate, attorney, or person knowledgeable about your rights that assists you at any informal or formal hearing to appeal a dispute with VR.

Request for Review of Determination: A form provided to the client, or their representative, which serves as a *written notice* of appeal rights regarding decisions made by VR.

State Reviewing Official: The Director of the Arizona Department of Economic Security who may, upon the request of either party who does not win the *Fair Hearing*, review and change the decision of the hearing officer.

Transition Services: A coordinated set of activities for a student, 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 shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation. These services are primarily the responsibility of the school district, but VR is a partner where appropriate. For more information about the rights of students with disabilities for transition planning and services, see the Center's guide, *Transition Services*.

Trial Work Experience: If there is a question about a client's, ability to benefit from VR services, VR must develop a *trial work experience* for the client. This is a written plan to explore the client's abilities, capabilities, and capacity to perform in a realistic work situation. This can include supported employment, on-the-job training, and experiences using realistic work settings. The experience must fit the client's abilities, and accommodate his/her needs. The outcome of the experience is to either provide evidence that the client can or cannot benefit from VR services to achieve an employment outcome with respect to the client's disability.

Vocational Rehabilitation (VR) Services: Services that are available to a VR client who needs them to reach his/her employment goal on the I.P.E. including but not limited to assessment for eligibility, counseling and guidance, training, transportation, interpreters, readers, note takers, telecommunication aids and devices, job placement, job coaching, technology services etc. For more information about the type of services that may be available to VR clients and applicants, see the Center's guide, *A Summary of Your Vocational Rehabilitation Rights: VR Services*.

Vocational Rehabilitation (VR) Counselor: An individual assigned to assist you in developing your I.P.E. and obtaining the services necessary to reach the employment goal of your I.P.E, including vocational counseling.

Written Notice: A letter or other written document that VR must provide to a client when VR makes a change to a client's service, denies a service, or plans to close a case. The *written notice* will contain information of client rights and appeals options.

Fair hearing board - *Fair hearing board* means a committee, body, or group of persons established by a State prior to January 1, 1985, that— (i) Is authorized under State law to review determinations made by personnel of the designated State unit that affect the provision of vocational rehabilitation services; and (ii) Carries out the responsibilities of the impartial hearing officer in accordance with the requirements in 34 CFR § 361.57(j).

Family member - *Family member*, for purposes of receiving vocational rehabilitation services, means an individual— (i) Who either— (A) Is a relative or guardian of an applicant or eligible individual; or (B) Lives in the same household as an applicant or eligible individual; (ii) Who has a substantial interest in the well-being of that individual; and (iii) Whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

Impartial hearing officer - *Impartial hearing officer* means an individual who—(A) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);(B) Is not a member of the State Rehabilitation Council for the designated State unit; (C) Has not been involved previously in the vocational rehabilitation of the applicant or recipient of services; (D) Has knowledge of the delivery of vocational rehabilitation services, the vocational rehabilitation services portion of the Unified or Combined State Plan, and the Federal and State regulations governing the provision of services; (E) Has received training with respect to the performance of official duties; and (F) Has no personal, professional, or

financial interest that could affect the objectivity of the individual. (ii) 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.

Individual with a disability - *Individual with a disability* means an individual— (i) Who has a physical or mental impairment; (ii) Whose impairment constitutes or results in a substantial impediment to employment; and (iii) Who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

Individual with a most significant disability - *Individual with a most significant disability* means an individual with a significant disability who meets the designated State unit's criteria for an individual with a most significant disability. These criteria must be consistent with the requirements in 34 CFR § 361.36(d)(1) and (2).

Individual with a significant disability - *Individual with a significant disability* means an individual with a disability— (i) Who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; (ii) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and (iii) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, intellectual disability, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

Integrated setting – Typically found in the community.

Maintenance - *Maintenance* means monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment.

Mediation - *Mediation* means the act or process of using an independent third party to act as a mediator, intermediary, or conciliator to assist persons or parties in settling differences or disputes prior to pursuing formal administrative or other legal remedies. Mediation under the program must be conducted in accordance with the requirements in 34 CFR § 361.57(d) by a qualified and impartial mediator as defined in 34 CFR § 361.5(c)(43).

Ongoing support services - *Ongoing support services*, as used in the definition of *supported employment*, means services that— (i) Are needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment; (ii) Are identified based on a determination by the designated State unit of the individual's need as specified in an individualized plan for employment; (iii) Are furnished by the designated State unit from the time of job placement until transition to extended services, unless post-employment services are provided following transition, and thereafter by one or more extended services providers throughout the individual's term of employment in a particular job placement; (iv) Include an assessment of employment stability and provision of specific services or the coordination of services at or away from the worksite that are needed to maintain stability based on—(A) At a minimum, twice-monthly monitoring at the worksite of each individual in supported employment; or (B) If under specific circumstances, especially at the request of the individual, the individualized plan for employment provides for off-site monitoring, twice monthly meetings with the individual; (v) Consist of—(A) Any particularized assessment supplementary to the comprehensive assessment of rehabilitation needs described in paragraph (c)(5)(ii) of this section; (B) The provision of skilled job trainers who accompany the individual for intensive job skill training at the work site; (C) Job development and training; (D) Social skills training; (E) Regular observation or supervision of the individual; (F) Follow-up services including regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement; (G) Facilitation of natural supports at the worksite; (H) Any other service identified in the scope of vocational rehabilitation services for individuals, described in § 361.48(b); or (I) Any service similar to the foregoing services.

Personal assistance services - *Personal assistance services* means a range of services, including, among other things, training in managing, supervising, and directing personal assistance services, provided by one or more persons, that are— (i) Designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability; (ii) Designed to increase the individual's control in life and ability to perform everyday activities on or off the job; (iii) Necessary to the achievement of an employment outcome; and (iv) Provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.

Physical and mental health restoration services - *Physical and mental restoration services* means—(i) Corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment; (ii) Diagnosis of and treatment for mental or emotional disorders by qualified personnel in accordance with State licensure laws; (iii) Dentistry; (iv) Nursing services; (v) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services; (vi) Drugs and supplies; (vii) Prosthetic

and orthotic devices; (viii) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids prescribed by personnel who are qualified in accordance with State licensure laws; (ix) Podiatry; (x) Physical therapy; (xi) Occupational therapy; (xii) Speech or hearing therapy; (xiii) Mental health services; (xiv) Treatment of either acute or chronic medical complications and emergencies that are associated with or arise out of the provision of physical and mental restoration services, or that are inherent in the condition under treatment; (xv) Special services for the treatment of individuals with end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and (xvi) Other medical or medically related rehabilitation services.

Physical or mental impairment - *Physical or mental impairment* means— (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or (ii) Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Pre-employment transition services - *Pre-employment transition services* means the required activities and authorized activities specified in § 34 CFR 361.48(a)(2) and (3).

Qualified and impartial mediator - *Qualified and impartial mediator* means an individual who— (A) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, employee of a State office of mediators, or employee of an institution of higher education); (B) Is not a member of the State Rehabilitation Council for the designated State unit; (C) Has not been involved previously in the vocational rehabilitation of the applicant or recipient of services; (D) Is knowledgeable of the vocational rehabilitation program and the applicable Federal and State laws, regulations, and policies governing the provision of vocational rehabilitation services; (E) Has been trained in effective mediation techniques consistent with any State-approved or –recognized certification, licensing, registration, or other requirements; and (F) Has no personal, professional, or financial interest that could affect the individual's objectivity during the mediation proceedings. (ii) An individual is not considered to be an employee of the designated State agency or designated State unit for the purposes of this definition solely because the individual is paid by the designated State agency or designated State unit to serve as a mediator.

Rehabilitation technology - *Rehabilitation technology* means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

Student with a disability - *Student with a disability* means, in general, an individual with a disability in a secondary, postsecondary, or other recognized education program who— (A)(1) 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 (2) If the State involved elects to use a lower minimum age for receipt of preemployment transition services under this Act, is not younger than that minimum age; and (B)(1) Is not older than 21 years of age; or (2) 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 (C)(1) 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 (2) Is a student who is an individual with a disability, for purposes of section 504. (ii) *Students with disabilities* means more than one student with a disability.

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

Supported employment - *Supported employment* means competitive integrated employment, including customized employment, or employment in an integrated work setting in which an individual with a most significant disability, including a youth with a most significant disability, is working on a short-term basis toward competitive integrated employment that is individualized, and customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual, including with ongoing support services for individuals with the most significant disabilities— (A) For whom competitive integrated employment has not historically occurred, or for whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and (B) Who, because of the nature and severity of their disabilities, need intensive supported employment services and extended services after the transition from support provided by the designated State unit, in order to perform this work. (ii) For purposes of this part, an individual with a most significant disability, whose supported employment in an integrated setting does not satisfy the criteria of competitive integrated employment, as defined in paragraph (c)(9) of this section is considered to be working on a short-term basis toward competitive integrated employment so long as the individual can reasonably anticipate achieving competitive integrated employment— (A) Within six months of achieving a supported employment outcome; or (B) In limited circumstances, within a period not to exceed 12 months from the achievement of the supported employment outcome, if a longer period is necessary based on the needs of the individual, and the individual has demonstrated progress toward competitive earnings based on information contained in the service record.

Supported employment services - *Supported employment services* means ongoing support services, including customized employment, and other appropriate services needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment that are— (i) Organized and made available, singly or in combination, in such a way as to assist an eligible individual to achieve competitive integrated employment; (ii) Based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment; (iii) Provided by the designated State unit for a period of time not to exceed 24 months, unless under special circumstances the eligible individual and the rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the individualized plan for employment; and (iv) Following transition, as postemployment services that are unavailable from an extended services provider and that are necessary to maintain or regain the job placement or advance in employment.

Transition services - *Transition services* means a coordinated set of activities for a student or youth with a disability—(i) Designed within an outcome oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, competitive integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation; (ii) Based upon the individual student’s or youth’s needs, taking into account the student’s or youth’s preferences and interests; (iii) That includes 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; (iv) That promotes or facilitates the achievement of the employment outcome identified in the student’s or youth’s individualized plan for employment; and (v) That includes outreach to and engagement of the parents, or, as appropriate, the representative of such a student or youth with a disability.

Transportation - *Transportation* means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation vehicles and systems.

Youth with a disability – *Youth with a disability* means an individual with a disability who is not—(A) Younger than 14 years of age; and (B) Older than 24 years of age.(ii) *Youth with disabilities* means more than one youth with a disability.

- Assessment for determining eligibility and vocational rehabilitation needs
- Assistive technology
- Community rehabilitation program
- Competitive integrated employment should be modified to add the phrase “typically found in the community.”
- Customized employment
- Eligible individual

- Extended services
- Fair hearing board
- Family member
- Functional limitations should include every specific area of limitation, not just a select few. A client or prospective client may appeal the priority designation and this is critical information for a client to consider when determining whether they should challenge the designation.
- Impartial hearing officer
- Individual with a disability
- Individual with a most significant disability
- Individual with a significant disability
- Maintenance
- Mediation
- Ongoing support services
- Personal assistance services
- Physical and mental health restoration services
- Physical or mental impairment
- Pre-employment transition services
- Qualified and impartial mediator
- Rehabilitation technology
- Student with a disability
- Substantial impediment to employment
- Supported employment
- Supported employment services
- Transition services
- Transportation
- Youth with a disability