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CHAPTER 1 – GENERAL REQUIREMENTS

1.1 INTRODUCTION

The principles and guidelines presented in this chapter extend over all Division of Services for the Blind (DSB) policies.

The following principles generally apply to DSB consumers and potential consumers:

- Timeliness of services, decisions, and notifications
- Nondiscriminatory availability of services
- Confidentiality of consumer files
- Informed choice (See DSB Policy Chapter 2)
- Allowances for exemptions to policy limitations under reasonable extenuating circumstances
- An opportunity to appeal decisions regarding to their planned services or their eligibility for such services

1.2 LEGISLATIVE BASIS

The Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA) is the federal law that became effective in 2014 and replaced the Workforce Investment Act ~~and amended the Rehabilitation Act of 1973~~. Title IV of the WIOA law and 34 C.F.R. § 361 pertains to the requirements for the Vocational Rehabilitation program.

1.3 CONFIDENTIALITY

All DSB staff are responsible for ensuring that personal information regarding applicants and ~~consumers-recipients~~ of ~~vocational-rehabilitation~~ services furnished to this agency are held confidential. This includes information such as lists of names and addresses; records of agency evaluation; reports of medical examination and treatment; financial information; and photographs.

1.3.1 Release of Information

Release of information to any individual, agency, or organization shall be conditioned upon satisfactory assurance by such individual, agency, or organization that the information will be used only for the purpose for which it is provided, and it will not be released to any other individual, agency, or

organization. Information will not be disclosed, other than in the administration of the VR program, unless the informed consent of the consumer has been obtained in writing. Any release of information must be in accordance with 34 CFR § 361.38.

Upon written request, information shall be released to the consumer, or, as appropriate, the parent/guardian or other representative.

For purposes regarding any proceeding or action for benefit or damages, only information that is relevant to the needs of the consumer may be released.

If DSB has obtained personal information from another agency or organization, it may be released only by the other agency or organization from which it originated.

1.4 COMPETITIVE INTEGRATED EMPLOYMENT

All individuals working with the vocational rehabilitation program must intend to achieve a competitive integrated employment outcome. The requirements for competitive integrated employment are as follows:

- The job must be in an integrated environment.
 - The individual's supervision and level of involvement and interaction with others should be comparable to non-disabled employees performing the same or similar work in businesses typically found in the community. This means the individual interacts with others with and without disabilities while performing the duties of the job within the work unit and worksite. This is not based on a ratio of non-disabled employees, but rather interaction with non-disabled coworkers and customers.
 - The level of integration of some work environments, including enclaves and mobile work crews, ~~may must be need to be~~ reviewed on a case-by-case basis, as one situation may be non-integrated while another seemingly similar situation is integrated.
- The individual must be receiving competitive earnings.
 - The individual must be receiving a wage that is comparable to the prevailing wage for work performed at that location and must not be below the minimum wage set in that location. The individual's level of training, skills, and experience must be considered when determining if the individual is being compensated at a level comparable to individuals without disabilities working in a similar position.
 - The rate of pay is based on the local prevailing wage of the job consistent with wages paid for comparable work in the community. Minimum wage is not the default starting wage.

- The individual must have an opportunity for advancement similar to other employees.

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- The individual must be provided the equal potential for raises in pay, paid vacation, sick leave, and insurance benefits as other employees without disabilities who work for the employer.

Opportunities for advancement are not limited to a promotion to more advanced positions. They can also include increased job responsibilities or increased work hours.

If there is any indication the individual's employment may be non-competitive or non-integrated, the Counselor must determine the following information through consultation with the individual and the employer:

- The nature of the work and duties the individual is performing;
- The level of interaction the individual has with others who have and do not have disabilities;
- The wage the individual is receiving; and
- The opportunities for advancement available.

After consultation with the individual and employer, the Counselor will determine whether or not the individual is in competitive integrated employment. Documentation that supports the determination must be in the case record.

1.5 NONDISCRIMINATION

Referrals or applicants will not be excluded from applying for services or be found ineligible for services on the basis of: race, age, sex, ~~raee~~, color, or national origin, type of expected employment outcome, source of referral, particular service needs or anticipated cost of services, income level of the applicant or their family, applicant's employment history or current employment status, applicant's educational status or current educational credential.

1.6 REASONABLE ACCOMMODATIONS

Accommodations shall be provided, as needed, during the vocational rehabilitation process to enable individuals to participate in their services to the fullest extent possible. Accommodations may include aids, devices, services, and technology.

DSB must use comparable benefits if they are available to the individual at the time needed to ensure progress towards the employment outcome towards the cost of any accommodations. ~~cannot provide accommodations that are the legal responsibility of another party.~~ If the required accommodations are not available to

the individual at the time needed to ensure progress towards an employment outcome specified in the Individualized Plan for Employment (IPE), then DSB must provide the accommodations until the comparable benefits become available. More about accommodations can be found in DSB Policy Chapter 7, Section 504 of the Rehabilitation Act, and the [Americans with Disabilities Act](#).

1.7 FOREIGN LANGUAGE AND SIGN LANGUAGE ACCESS

The Rehabilitation Services Administration (RSA) requires that consumers receive information through appropriate modes of communication that are accessible to and preferred by them. Therefore, DSB must provide foreign language interpretation and translation services, including sign language interpretation, to consumers if the individual cannot access the VR program without that service. If available, only certified interpreters will be used.

1.8 NOTIFICATION OF RIGHTS

Consumers, including potentially eligible students with a disability, will be notified of their rights including the availability of the Client Assistance Program (CAP) and the manner in which a mediator or impartial hearing officer may be selected throughout the Vocational Rehabilitation (VR) process. The consumer or representative must be notified of their rights in writing at each of the following times:

- During their application or intake
- When the individual is assigned to a priority category in Order of Selection
- When a determination of ineligibility for services is made
- When an Individualized Plan for Employment (IPE) or Pre-ETS Service Agreement is developed or amended
- When DSB decides to initiate a reduction, suspension, or termination of any services being provided under an IPE or Pre-ETS Service Agreement

1.8.1 Client Assistance Program

While the applicant or eligible consumer may at any time call the following numbers, it is encouraged that they first pursue the agency's informal appeal process. The numbers are:

- The Division of Services for the Blind's toll-free number 1-800-960-9270
- Client Assistance Program's toll-free number 1-800-482-1174

1.9 STATE RESIDENCY/OUT OF STATE INDIVIDUALS

Individuals are not required to be Arkansas residents or to show documentation of residency to receive an eligibility determination or services. However, individuals must be present in Arkansas and be available to receive and participate in services. Examples of being present in Arkansas, but not a state resident, may include post-secondary students and migrant workers.

When an individual moves out of state after their Individualized Plan for Employment (IPE) is developed and approved, it may be advantageous for the individual to continue receiving services from DSB if:

- The individual plans to return to Arkansas; or
- The provision of services would be jeopardized if the individual applied for services in the other state (e.g. through order of selection delays or unique state policies).

There may be times when it would be beneficial for the individual to apply for services in their current state of residence:

- If the individual desires regular access to face-to-face communication with a rehabilitation counselor; or
- If the IPE requires extensive coordination of services.

In these situations, DSB can coordinate services with other state vocational rehabilitation agencies. It is important to ensure both states are not providing the same services.

There are times when individuals come from out of state to attend World Services for the Blind. It may be to the individual's benefit to apply for services at DSB, especially if they plan to stay in the state after finishing their program.

1.10 LEGAL RESIDENCY AND CITIZENSHIP

DSB does not require an individual to have legal residency or citizenship in order to apply for services and receive an eligibility determination. However, individuals who apply for vocational rehabilitation services must intend to achieve a competitive integrated employment outcome. The other conditions of eligibility required by policy must be met. (See DSB Policy 1.9, above, and 4.3.1)

1.11 KNOWLEDGE OF LAWS

DSB staff will keep current in their knowledge of state and federal laws that affect consumers. DSB staff must comply with all state and federal laws, rules, and regulations, including state purchasing requirements.

DSB staff who have reasonable cause to believe a child, elderly person, or person with a disability is being abused, neglected or exploited are mandatory reporters and shall report the information. For individuals in a facility, the incident is to be reported to the authority having responsibility for the facility. For other situations, the local office of Adult Protective Services (State Abuse Hotline 1-800-482-8049) will be notified if the individual is an adult; if the individual is a child, then Child Protective Services (Child Abuse Hotline 1-800-482-5964) will be notified.

1.12 ALLOWABLE COSTS AND COST EFFECTIVENESS

All rehabilitation services must be provided in the most cost-effective manner possible, consistent with the individual's needs and informed choice. The cost must be allocable, allowable, reasonable, and necessary. This means the cost must be necessary for the performance or administration of the vocational rehabilitation program, follow sound business practices, follow procurement processes, be prudent under state and local laws, with fair market prices, be in accordance with informed choice as outlined in 34 C.F.R. § 361.52, and fall within the terms of the vocational rehabilitation grant award. This includes using comparable benefits when applicable (See DSB Policy 6.4.9).

DSB must not place absolute dollar limits on specific service categories or on the total cost of services provided to an individual. Staff must comply with the established fee schedules and rates put in place for goods and services.

1.13 DUAL CASE FILES WITH OTHER VOCATIONAL REHABILITATION AGENCIES

In the unique circumstance where the specific expertise of another vocational rehabilitation agency is necessary to best meet the needs of an individual, there can be a dual case file. DSB has a dual service agreement with Arkansas Rehabilitation Services that uses a team approach with consumers who have disabilities in addition to blindness or visual impairment.

The expectation in any dual case situation is that there will be sufficient communication between the vocational rehabilitation counselors involved from each agency to prevent duplication of services and funding on the IPE. When a

counselor determines that a consumer has a case with another agency, they must notify Quality Assurance of the dual case. Quality Assurance will then coordinate with the other agency to assign one unique identifier to the participant for both agencies on all federal reports. This will ensure both agencies correctly identify the participant to RSA and correctly include them in all performance measures.

When a participant must be contacted for supplemental wage information, each agency will send their form to the consumer at the appropriate time after closure. It is possible that the case will close at different times for each agency, and this will allow both agencies to track their participant's performance measures as needed. When supplemental wage information is received by the agency for a shared consumer, the agency will provide a copy of that information to the other agency for federal reporting purposes.

If the individual has a Ticket to Work, both vocational rehabilitation agencies may seek cost reimbursement from the Social Security Administration (SSA).

Reimbursement payments will not be made more than once for the same service or cost. This is per [20 CFR 404, Subpart V](#). See RSA Technical Assistance Circular titled [Provision of Vocational Rehabilitation Services to an Individual by More Than One Agency](#).

1.14 TIMELINESS

DSB staff must assure that all individuals who are referred to, apply for, or receive vocational rehabilitation services are responded to in a timely manner. Timeliness will be defined individually, based on individual needs and readiness for services. This includes:

- Respond to emails and phone calls within one business day of receiving or within one business day of returning to the office;
- Documented contact with individuals at least every 45 days;
- Contact all referrals within one business day to schedule the orientation contact;
- Contact all newly assigned cases, including case transfers, within five business days of the assignment;
- An orientation meeting conducted by the vocational rehabilitation counselor completed within 10 days from the date of referral;
- Eligibility completed within 60 days of application;
- [Extensions must follow DSB Policy 4.2.4](#)
- Weekly contact with individual during the comprehensive assessment period;

- IPE developed within 90 days of eligibility; and
- [Extensions must follow DSB Policy 6.3.2](#)
- Authorizations processed and paid within 90 days of being issued, unless documented, extenuating circumstances apply.

1.15 QUALITY SERVICES

It is intended that consumers of this agency receive the quality services necessary and appropriate to the achievement of their vocational goal ~~the best and most appropriate services available within agency guidelines and funding capabilities.~~ DSB will strive to maximize the potential for consumers to prepare for, obtain, retain, and advance in high-quality jobs and high demand careers.

1.16 REPRESENTATIVES

A representative means a person designated by an individual, by law, or by the court system to represent the individual in any matter pertaining to a request for or receipt of rehabilitation services. Types of representation of the individual may include:

- **Parent(s)** - For minors under 18 years of age, as long as there are no other court appointed representatives or a legal emancipation, the parent has the right to make decisions regarding the minor's education, health care, and religion, among other things.
- **Legal Guardian** - A legal guardian is appointed by the court to make the personal decisions of a protected person or "ward". The guardian has the authority to make decisions on behalf of the protected person about such things as where to live, medical decisions, training and education, etc. A ward who has a legal guardian has been determined by the courts to have a lack of sufficient understanding or capacity to make or communicate responsible personal decisions and an inability to meet personal needs for medical care, nutrition, clothing, shelter, or safety.
- **Conservator** - A conservator is appointed to make financial decisions for the protected person or "conservatee." The conservator typically has the power to enter into contracts, pay bills, invest assets, and perform other financial functions for the protected person. Conservatees have had conservators appointed for them because they lack similar capacity and

have demonstrated an inability to make decisions regarding their financial affairs or estate.

- **Power of Attorney** - A power of attorney is written permission for someone to take care of property or money matters for the individual, in whatever way they want. With power of attorney, the individual can still act for themselves and they cannot be forced to do anything they do not agree to. An individual can give the power of attorney the ability to sign papers about property and money matters.
- **Designated Representative** - An individual who is 18 years of age or older can designate a representative to represent the individual in any matter pertaining to a request for or receipt of rehabilitation services. The designated representative must be a person designated by an individual in writing, and only one representative can be designated at one time.

All signature requirements placed on an individual are satisfied by the signature of an individual's representative. The individual is encouraged to also sign official documents to the extent possible, as this is the individual's vocational rehabilitation program, regardless of representation. All written notices which must be provided to an individual must also be provided to the individual's legal representative.

Documentation must be kept in the file showing the representation, including guardianship and conservatorship documentation.

Legal representatives do not require a release of information so long as they are actively designated to represent the individual.

1.17 COUNSELOR CHANGE REQUESTS

An individual may request a change in counselor. An individual can request a change for a variety of reasons, and the request should not be viewed negatively. The counseling relationship is important, and some individuals respond differently to certain counseling approaches. All change requests will be given consideration. If the Field Administrator grants the change request, there must be a case transfer meeting with the individual, the newly assigned counselor, and any involved supervisors to discuss expectations moving forward. If the change request is denied, the supervisor must consult with the individual and explain the reasons for the decision. At that time, the individual is provided their appeal rights.

1.17.1 Change in Counselor Procedure

1. Individual requests a new counselor:
 - a. If the call is to someone other than a counselor's direct supervisor, that staff person will listen and talk to the individual regarding the request to gather initial information and relay that information to the counselor's supervisor.
 - b. The receiver of the request must case note the discussion.
2. The supervisor will:
 - a. Talk to the individual to gather the facts.
 - b. Talk to the counselor to gather the facts.
 - c. Review case documentation and information collected.
 - i. The supervisor will then offer consultation with the individual and the counselor to try to resolve the situation. If this is not successful, the remaining procedure is applied.
 - d. Consult with the Field Administrator to review and discuss the situation.
 - e. Case note the information collected and the decision of the Field Administrator
3. If the decision is to transfer the case to another counselor:
 - a. An exchange meeting will take place with the individual, the counselor, and the involved supervisors to discuss expectations moving forward.
4. If the decision is not to transfer the case to another counselor:
 - a. A consultation with the individual must occur to explain the reason(s) for the decision.
 - i. The supervisor must provide the appeal rights to the customer.
 - b. A meeting with the individual, the counselor, and the supervisor must occur to discuss the situation and next steps.

1.18 CASE TRANSFERS

If an individual's case is transferred to a new counselor, the individual must be sent a letter notifying them. The letter will include:

- Reason for the transfer and
- The new counselor's contact information.

Staff must contact all newly assigned cases, including case transfers, within five (5) business days of the assignment.

1.19 CASE MANAGEMENT SUPPORT FOR COUNSELOR-VACANT CASELOADS

The caseloads for vacant Counselor positions may be managed in the following ways at the direction of the Area Manager or Field Administrator, based on the nature of the caseload and length of vacancy:

- Primary case management by the Area Manager until vacancy is filled
- Temporary or permanent reassignment of specific cases to another rehabilitation counselor

1.20 EXCEPTIONS TO POLICY

Policies may be waived on a case-by-case basis depending on the individual's needs and circumstance. DSB recognizes that occasionally medical emergencies or other circumstances beyond the consumer's control occur preventing the consumer from completing an activity within allotted timeframes or causing a need for additional services. In these situations, the consumer may request an exemption to policy limits. Depending on the policy affected, a VR Counselor, Area Manager, or Field Administrator would review the situation and determine if reasonable extenuating circumstances existed and whether an exemption to policy limitations should be approved.

Any exception made to policy must be documented as such in the case record of the individual, and the documentation must include justification on why the exception was made.

1.21 RIGHT TO REVIEW AND MEDIATION

Recipients of services, including students receiving pre-employment transition services, applicants, and eligible individuals, have the right to a review and mediation if they are dissatisfied with any determination made by DSB staff that affects the provisions of rehabilitation services. The individual has a right to:

- An informal review of the decision conducted by DSB staff not involved in the decision
- Mediation; and
- An impartial hearing before an administrative law judge (ALJ)

A request for a review and mediation may be made by the affected individual or the individual's representative. The request must be in writing and must be sent to the DSB Director as follows:

Director

Arkansas Division of Services for the Blind

P.O. Box 3237
Little Rock, AR 72203

The written request for review or mediation must be received by the director no more than 60 calendar days after the appellant is notified of the action for which the review is requested. The appellant must identify the determination with which the appellant is dissatisfied.

DSB must not institute a suspension, reduction, or termination of rehabilitation services being provided to an appellant until completion of the review process unless requested by the appellant or if DSB has evidence that the services have been obtained through misrepresentation, fraud, collusion, or criminal conduct by the appellant.

DSB must contact the appellant within five calendar days following receipt of the written request and explain review and mediation options. This contact and all other matters related to the process of review and mediation will be done by DSB's Assistant Director.

DSB must also provide the appellant a description of services available from and information on how to contact the Client Assistance Program to assist the appellant in the review of determinations.

If the appellant is dissatisfied with the results of an informal review or mediation, or chooses an impartial hearing initially, an impartial hearing must commence within 60 calendar days of the initial written request unless the parties agree to a specific extension of time. DSB's Assistant Director is responsible for scheduling mediators and impartial hearing officers.

1.21.1 Informal Review

An appellant may request an informal review. An informal review must not be used to deny the right of an appellant to pursue mediation or an impartial hearing. Participation in the informal review is voluntary on the part of the appellant and on the part of DSB. The appellant or DSB may terminate the informal review at any time. In the event an informal review is terminated, the appellant or DSB may pursue resolution through mediation or an impartial hearing.

The informal review must be conducted by supervisory staff not involved in the original determination that caused the appellant to ask for a review. An appellant

may choose either:

- An informal review of written materials only. Supervisory staff conducting the review must consider all written evidence presented from the time the request for informal review is received until the final decision is made; or
- An informal review of written materials with a review conference. Supervisory staff conducting the informal review must consider all written and oral evidence presented from the time the request for review is received until the final decision is made.

The final decision regarding the informal review must be made by the reviewing supervisory staff either within 10 calendar days following the request for an informal review of written materials only, or within 10 calendar days following the conclusion of an informal review conference, unless the parties agree to a specific extension of time. The supervisory staff conducting the informal review must notify the appellant in writing by mail of the informal review decision. The informal review decision must contain a summary of the nature and basis of the decision and the appellant's review rights under this part.

1.21.2 Mediation

An appellant may request mediation at any time. Mediation must not be used to deny the right of an appellant to pursue an impartial hearing. Participation in the mediation process is voluntary on the part of the appellant and on the part of DSB. The appellant, DSB, or mediator may terminate mediation at any time. In the event mediation is terminated, the appellant or DSB may pursue resolution through an impartial hearing.

All mediation shall be conducted by a qualified and impartial mediator as defined in 34 C.F.R. § 361.5(c)(43). The mediator will be selected from a list maintained by the State of Arkansas as required in Section 102 of the Rehabilitation Act of 1973 as amended by WIOA. Selection will be on a random basis and agreed upon by both DSB and the applicant/client, or their representative. DSB will offer a list of three names of mediators and their qualifications to the applicant/client, who may then choose from those names. The list of mediators will be maintained by the Quality Assurance Unit. In mediation, decision-making authority rests with the parties agreeing to mediate. The role of the mediator includes but is not limited to assisting the parties to identifying issues, facilitating communication, focusing the parties on their interests, maximizing the exploration of alternatives, and helping the parties reach voluntary agreements. The mediator may offer options for the parties to consider as to settlement terms but will not impose settlement terms on

the parties. Mediation sessions must be held in a timely manner and at a location convenient to both parties.

Mediation discussions are 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 mediation. Any agreement resulting from mediation must be in writing with the assistance of the mediator, signed by both parties, and copies provided to both parties. DSB must pay for the cost of mediation but is not required to pay for any costs related to the representation of an appellant.

1.21.3 Impartial Hearing

An appellant may choose an impartial hearing. The impartial hearing officer for a particular case must be selected on a random basis from a list of qualified impartial hearing officers who have been identified by DSB. The hearing must be initiated and conducted according to [Code of Federal Regulations, title 34, part 361.57\(e\)](#).

The impartial hearing officer must provide by mail to both parties a full written report of the findings and grounds for the decision within 30 calendar days of the completion of the hearing. The impartial hearing officer's decision is final unless a review is requested by either party.

An appellant may request a review of the impartial hearing officer's decision using the following process:

1. A party who is dissatisfied with the impartial hearing officer's decision may request a review of the decision within 20 calendar days of the mailing of the impartial hearing officer's decision. The review must be conducted by the Director of the Division of Services for the Blind, who may not delegate the review to any employee of DSB.
2. The DSB Director must provide both parties with an opportunity to submit additional evidence and information relevant to a final decision concerning the matter under review.
3. The DSB Director may not overturn or modify the impartial hearing officer's decision, or any part of the decision, that supports the position of the appellant unless the commissioner concludes, based on clear and convincing evidence, that the decision of the impartial hearing officer is clearly erroneous on the basis of being contrary to the approved state plan, federal law and regulations, or state rules and policies that are consistent with federal requirements.

4. The DSB Director must make an independent, final decision within 30 calendar days of the request after reviewing the entire hearing record and provide the decision in writing, including a full report of the findings and the statutory, regulatory, or policy grounds for the decision to both parties.
5. The DSB Director's decision is final unless either party disagrees and brings a civil action, in which case the DSB Director's decision must be implemented pending review by the court.
6. Any party dissatisfied with the DSB Director's decision after reviewing the impartial hearing officer's decision may bring a civil action with respect to the matter in dispute.

1.21.4 Representation and Auxiliary Aids

The individual may designate in writing any representative (e.g., parent, guardian, Client Assistance Program, etc.) to assist them in the informal review, mediation, or impartial hearing activities. Costs associated with representation will not be borne, in whole or in part, by DSB. Auxiliary aids and services required for the individual to communicate directly with DSB or for communication needs at any scheduled meeting involving DSB will be provided by DSB. Required auxiliary aids and services will be provided by DSB during all stages and elements of the appeals process up through an impartial hearing.

CHAPTER 2 – INFORMED CHOICE

2.1 DEFINITION

Informed choice is a process where individuals or their designated representatives make informed decisions, based on information provided by the Counselor and gathered from various sources, to explore options and determine career goals when the individual is applying for or receiving vocational rehabilitation services. This process consists of:

- Identifying available options;
- Identifying both favorable and unfavorable consequences of each option;
- Discussing relevant laws and policies;
- Selecting an option; and
- Committing to and acting on the selected option.

2.2 INFORMED CHOICE IN THE VR PROCESS

The process of vocational rehabilitation is a consumer-centered process with key decision points focused on quality outcomes. Informed choice begins with the consumer's referral to DSB, is involved in the first meeting between consumer and counselor, and continues as the consumer moves toward an employment outcome while working with his or her counselor.

The Individualized Plan for Employment (IPE) is the tool for focusing and organizing informed choices toward the goal of competitive integrated employment.

2.3 IMPLEMENTATION

Potentially eligible students, as well as individuals who apply for or who are eligible to receive vocational rehabilitation services have the opportunity and responsibility to make appropriate informed choices during the vocational rehabilitation process. DSB staff will strive to assist individuals in a fair and objective manner to acquire the information needed to exercise informed choice. Staff must provide factual information and support throughout the rehabilitation process, and they must treat the individual as an active and full partner.

Counselors must provide opportunities to all potentially eligible students and individuals applying for or receiving vocational rehabilitation services to make decisions based on informed choice throughout the rehabilitation process. These opportunities will, as appropriate, also be provided to the designated representative.

DSB staff must provide information about opportunities and options regarding the informed choice process in the individual's preferred language and mode of communication.

The counselor will provide the consumer with information about the parameters which may affect the range of available career goals or service options. It is the consumer's responsibility to take the information provided and make sound career decisions and to accept ownership of the decisions that he or she has made.

Informed choice refers to choices that facilitate a successful competitive integrated employment outcome and that are consistent with the individual's strengths, resources, priorities, concerns, abilities, and capabilities. While an individual has the right to make decisions regarding the services they receive, it does not mean DSB staff will unilaterally support those decisions. DSB is responsible, as a

Designated State Agency for vocational-rehabilitation in Arkansas, for ensuring that vocational-rehabilitation funds are spent in an allowable, responsible, and effective manner.

If the individual and DSB disagree during the process, the individual has the right to question decisions that appear unclear or unfair, to exercise both informal and formal appeals, and to seek the assistance of the CAP.

2.3.1 Documentation

The case record must contain the following documentation requirements, as applicable:

- A description of the information the individual received to help make an informed choice
- Any discussion DSB staff and the individual had regarding the choice
- A description of how or why an individual made their choices

If a counselor does not support the individual's choice(s), the record must contain:

- The reasons for the counselor's decision
- A statement indicating the individual was given information about their appeal rights and the availability of the Client Assistance Program (CAP)

2.4 OPPORTUNITIES FOR INFORMED CHOICE

Opportunities for DSB staff to provide informed choice as part of the rehabilitation counseling relationship include, but are not limited to:

- Informing each individual about the availability of and opportunities to exercise informed choice;
- Assisting potentially eligible and eligible students in exercising informed choice in decisions related to the provision of pre-employment transition services;
- Assisting individuals in exercising informed choice in decisions related to the provision of assessment services; and
- Assisting individuals in exercising informed choice in the development and any subsequent amendment of their IPE in the areas of:
 - Employment goal;
 - Specific vocational rehabilitation services needed to achieve the employment goal;
 - Who will provide the services;

- Employment setting and the settings in which the services will be provided; and
- Methods for getting and paying for the services.

2.5 METHODS FOR PROVIDING INFORMATION FOR INFORMED CHOICE

DSB staff can provide this information in several different ways, including:

- Lists of services and service providers;
- Periodic consumer satisfaction surveys and reports;
- Provision of relevant accreditation, certification, or other information about the qualifications of service providers;
- Referrals to other individuals;
- Referrals to local, regional and state consumer organizations of the blind;
- Referral to local and regional advocacy organizations and disability advisory councils qualified to discuss the services or service provision;
- Opportunities to visit or experience various work and service provider settings; or
- Provision of information about the cost of services and the degree to which services are provided in integrated settings.

2.6 INFORMATION MADE AVAILABLE DURING ASSESSMENT AND IPE DEVELOPMENT

During the assessment for determining eligibility and vocational rehabilitation needs and during development of the IPE, DSB staff must provide or help the individual obtain the information necessary to make an informed choice about specific vocational rehabilitation services needed to achieve the individual's job goal. This must include, at a minimum, information relating to the:

- Purpose and need for the service;
- Cost, accessibility, and duration of potential services;
- Consumer satisfaction with those services to the extent that information is available;
- Qualifications of potential service providers;
- Types of services offered by the potential providers;
- Degree to which services are provided in integrated settings; and
- Outcomes achieved by individuals served by or working with service providers, to the extent that such information is available.

2.7 OPPORTUNITIES FOR INFORMED CHOICE WHEN CONSIDERING

CENTER-BASED ADJUSTMENT TO BLINDNESS TRAINING (ATB)

Adjustment to Blindness (ATB) training teaches individuals who are blind, visually impaired, or deaf-blind the skills necessary to function as independently as possible. ATB training is critical to an individual's success in both their career and their lives.

The Helen Keller National Center is available to those individuals who require specific deaf-blind skills training:

Helen Keller National Center
141 Middle Neck Road
Port Washington, NY 11050
(516) 944-8900

The DSB Counselor can inform Consumers or Applicants regarding the Helen Keller National Center, and other ATB options, as needed.

2.8 CHOOSING SEGREGATED OR NON-COMPETITIVE EMPLOYMENT

Generally speaking, individuals who are not pursuing competitive integrated employment are not eligible to receive vocational rehabilitation services. However, if they reverse their decision later, they can re-apply for DSB services. DSB cannot rely on vocational-rehabilitation funding to place or support consumers in subminimum wage jobs. Individuals who make an informed choice to pursue employment in a segregated or non-competitive environment will be referred to other organizations or agencies, such as the Department of Human Services' programs for people with disabilities and the Centers for Independent Living.

2.9 PARTNERSHIP BETWEEN CONSUMER AND COUNSELOR

The individual has the ultimate responsibility for making their own life choices and realizing the consequences of those choices. It is the responsibility of the vocational rehabilitation counselor to encourage the development of an individual's ability to make informed choices. It is the individual's responsibility to ask questions, engage in realistic self-evaluation, seek out information, take initiative, follow through on tasks, gain experience in the world of work, commit to an employment outcome, and to challenge the system when necessary.

The relationship between the individual and the vocational rehabilitation counselor

is a partnership based on mutual respect, mutual cooperation, shared information, and shared responsibility for achieving outcomes. DSB's goal is to help develop the individual's ability to make informed choices and to take effective charge of their life so they can achieve a successful competitive integrated employment outcome. DSB's efforts to facilitate the individual's exercise of informed choice includes providing encouragement, offering objective and factual information, and assisting the individual in exploring their potential and range of possibilities.

CHAPTER 3 – REFERRAL AND INTAKE POLICY

3.1 REFERRALS

A referral is an individual who has contacted or been placed in contact with DSB to inquire about the possibility of obtaining vocational rehabilitation services but has not applied for services. To be considered a referral, DSB must have the Individual's name and contact information. Referrals may come by phone, email, through the DSB website, or in person.

Referral information should include:

- Social Security Number (if available)
- Name
- Date of birth
- Address, including county
- Telephone number
- Email
- Gender
- Date of referral
- Source of referral
- Reported disability
- Any information provided by the consumer or referral source about their needs, concerns

3.1.1 Completing a Referral

When a consumer is referred to DSB, the DSB 8065 (referral form) should be completed at the time of initial contact. This form should be used to complete the referral in the AWARE Referral Module. This information should be entered immediately upon receipt of a referral. Once entered, the referral will be assigned

to the appropriate Area Manager by the person entering the referral. The paper referral is then sent to that Area Manager and their Administrative Assistant, by email, notifying them that the referral has been entered in AWARE. The Area Manager will review the referral and assign it to the VR counselor for that area within 1 business day. The VR Counselor then has 1 business day to contact the consumer and arrange an orientation meeting for the consumer. This meeting should occur within 10 business days of the first contact. The purpose of this meeting is to provide the consumer with information to allow them to make an informed choice about applying for VR services. This meeting should include eligibility criteria, expectations, rights and responsibilities of VR participants, and information on DSB services. The consumer may then decide to apply or not for DSB services (See DSB Policy 3.2). If for any reason the consumer cannot meet within 10 business days, the request for a later appointment must be documented in AWARE with the justification. All new cases in AWARE must begin in the referral module.

3.1.2 Types of Referrals

For students with a disability who wish to apply for VR services, DSB Policy 3.1 should be followed. For those students who are interested in only Pre-ETS services and may be potentially eligible, see DSB Policy 13.3. Referrals for the Older Individuals Who Are Blind Program should follow the DSB OIB Policy Manual 3.0.

3.1.3 Contact with Consumer

The Counselor is expected to keep in contact with the consumer throughout the vocational rehabilitation process beginning with the referral to provide counseling and guidance, deliver services, prevent or resolve problems, check progress, follow up on actions, maintain the relationship, share information, etc. All contacts or attempted contacts must be documented in AWARE. If the counselor is unable to reach the consumer, they may follow the unable to locate guidelines.

During the VR process the consumer and counselor will have regular contact with contact occurring at least once every 45 days. While face to face contacts between counselor and consumer are preferred, there will be times when that may not be possible. During these times, email, phone, and written correspondence are acceptable ways of making contact. Should the VR counselor need to obtain a

signature from the consumer and is unable to meet face to face the counselor must work with the consumer to obtain either an electronic signature or signature by mail on the required documents. The documents will not be considered complete until the signature is received.

Staff do have the ability to obtain electronic signatures to reduce the need for printing or mailing of documents. If the consumer is unable to sign electronically, staff may email or mail the form to the consumer to sign and return by email or mail. If staff have a delay in obtaining signatures due to this process, it must be documented in a case note. If a consumer is unable to sign electronically or return the printed signature to you, email record of the consumer's agreement to the form may be documented in AWARE. This email from the consumer should include a detailed indication of what they are agreeing to and this must be placed into the case file. Staff must document the date the application was taken and the date the form was mailed to the consumer in a case note.

3.1.4 Closing A Referral

All contacts and attempted contacts must be documented in the Referral Note section of the AWARE referral for that consumer. If the counselor is unable to contact the consumer, they must make at least 3 attempts by phone over different days and send an official contact letter giving the consumer 10 business days to respond before closing the referral for lack of contact. It is recommended the counselor also reach out via any additional contact options (i.e. email) and to the referral source to try and reach the consumer. Once this has been completed and documented the counselor may mark the referral closed.

If the consumer wishes to apply for services, the consumer and counselor may complete or set up a time to complete an application for services. Once the application has been completed, the counselor will create a new case in AWARE and this will close the referral file. For information on applications, see DSB Policy 3.2.

3.1.5 Developing Referral Sources

Developing referral sources is the process of locating individuals who may need and be eligible for services from DSB. DSB Staff should develop good working

relationships with physicians' offices, Workforce Centers, employers, consumer groups, colleges, non-profits, and other local and state government agencies to make them aware of DSB services and encourage referrals. DSB Staff will also set up informational booths at health fairs and other events to increase awareness and referrals. Staff should follow-up with referral sources at least once a quarter and maintain open communication.

3.2 APPLICANTS

An individual is considered an applicant when the individual or individual's representative, as appropriate, has completed and signed the DSB application form (DSB-8006). It is the responsibility of the Counselor to complete the application with the consumer and have the consumer sign the application. Any applications that are received by mail must be date stamped upon receipt by DSB and this date will be the formal date of application. The application with date stamp must be scanned into AWARE and placed in the case file.

The purpose of the application is to gather diagnostic information to make a determination of one of the following:

- Eligibility for placement in Trial Work Experience (See DSB Policy 4.2.6)
- Eligibility Status (See DSB Policy Chapter 4)

3.2.1 Applying for services

After completing their orientation meeting, the consumer may choose to apply for VR services (See DSB Policy 3.1.4). This intake meeting may be conducted at the same time as the orientation or may be scheduled for a later date, no more than 30 business days from the original referral.

An individual has the right to apply for vocational rehabilitation services, have an intake interview with a rehabilitation counselor, and have a decision made regarding their eligibility for services. The refusal to accept an application or to interview the individual constitutes a "denial of access" to a public program and is a violation of Section 504 of the Rehabilitation Act of 1973, as amended.

All individuals referred for vocational rehabilitation services must be informed that services are for individuals who intend to achieve a competitive integrated employment outcome. This means work, with or without supports, in a competitive labor market making at least minimum wage.

During the application process the applicant will provide the information necessary to initiate an assessment to determine eligibility and be available to complete the assessment process. The VR counselor will assist the consumer in obtaining the information necessary to determine eligibility.

3.2.2 Consumer Resources and Information

At the time of their application, the VR counselor is responsible for providing the consumer with information on:

- Client Assistance Program (See DSB Policy 1.8.1)
- Arkansas Information Reading Service (AIRS)
- Talking Book Service
- Consumer Groups, including ACB and NFB
- Voter Registration
- VR Process
- Consumer's Rights (See DSB Policy Chapter 1)
- Additional relevant resources as necessary

3.2.3 60 Day Timeline

RSA requires that eligibility for services be determined within 60 calendar days from the date of application. Any extension requires approval of the consumer and Area Manager (See DSB Policy 4.2.4).

3.2.4 Documentation Required

When documenting the application process, the following items must be included in the AWARE case record:

- DSB Application (DSB 8006) signed by the consumer
- Release of Information (DSB 8021) to obtain medical/psychological information signed by the consumer
- CAP Form (DSB 8033) signed by the consumer
- Medical insurance information
- Documentation of the consumer's legal authority to work (See DSB Policy 4.3.2)
- Initial Narrative (See DSB Policy 3.3)

- Voter Registration Form signed by the consumer, or consumer's documented decline of form
- Visual Acuity Report (DSB 8012) from a visit within the last 12 months, required prior to eligibility determination (See DSB Policy 4.2)
- Medical documentation related to either primary or secondary disability
- Any additional relevant documentation as part of the process
- Authorizations necessary for assessment and justification narratives for each authorization

3.3 INITIAL NARRATIVE

The Initial Interview Narrative builds the foundation and sets the platform for the documentation of the case service record. It gives the reader a snapshot view of the consumer's history, perceptions, living and work situations at intake. The following outline should be followed when completing the Initial Narrative:

- Opening Paragraph – Include the referral, initial contact, orientation meeting, and application dates; who referred the individual, and where you met with the consumer. Indicate the date the application was signed.
- Consumer's Statement of Disability – State the consumer's perception of the problem including their disability, barriers to employment, any proposed solutions, and any future goals.
- Family Arrangements and Income – List the consumer's type of residence (private home, institution, half-way house, etc.), others who live in the home, the household income, and source of income.
- Education – List the individual's high level of education at application.
- Work History – State the individual's work history for the past ten years if possible.
- Similar Benefits – List all benefits the consumer has at the time of application. This may include, but is not limited to, medical insurance, VA benefits, PELL Grant, scholarships, Workers' Comp, SSI/SSDI, and T.E.A.
- Presumed Eligibility – If the individual receives SSI or SSDI due to visual problems, and meets Criterion II (requires VR services to prepare for, enter, engage in, or retain gainful employment), the counselor may presume the applicant eligible for VR services and immediately proceed with the case.

- An applicant's history and counselor observation that the person is obviously totally blind and has received previous services from DSB, or the person has bilateral ocular prosthesis also give the counselor reason to presume eligibility.
- Informed Choice – State how informed choice was explained to the applicant (See DSB Policy Chapter 2).
- Explanation of Services – Document that the following items were discussed and explained to the applicant:
 - Services available through DSB
 - What DSB can and cannot do
 - Confidentiality of information
 - Eligibility guidelines
 - Consumer's rights and responsibilities
 - The appeal process and how to contact the supervisor and CAP personnel if needed. State that the applicant signed the CAP form and was given a copy.
 - Arkansas Information Reading Services
 - NFB Newsline
 - Talking books
 - Voter registration
 - Consumer organizations

3.4 SERVICES PROVIDED DURING REFERRAL AND INTAKE

An applicant or referral may receive auxiliary aids and services in order to access the vocational rehabilitation program. This would include interpreters and translators. An applicant may also receive assessment services related to eligibility determination (See DSB Policy 4.1.2).

3.5 INTERNAL CONTROLS

Area Managers are responsible for ensuring that staff are addressing referrals within the time frame designated by policy. Staff can run regular reports on referrals and applications to determine dates and timelines that may be approaching using AWARE. Staff should review their referrals and applications at least once a week using any of the available reports. Each VR counselor is responsible for ensuring that their cases are following all DSB policies and procedures. All authorizations require approval by the VR counselor and Area Manager before they may be issued and sent to vendors or paid. If the counselor or Area Manager is unavailable their supervisor may approve in their place.

Additionally, all cases are subject to random and routine audits by Quality Assurance, Area Managers, or Administration to ensure that DSB policies and procedures are being followed (See DSB AWARE Quality Assurance Tool Procedure Guide). These audits will ensure all required documentation are in the case files and corrective action will be required when deficiencies are found. Staff will be responsible for correcting any issues found during these audits.

CHAPTER 4 – ELIGIBILITY POLICY

4.1 OVERVIEW

The primary purpose of determining eligibility for VR services is to identify applicants of the VR program with visual disabilities who require VR services to prepare for, secure, retain, advance in, or regain employment. There are 3 criteria for determining an individual's eligibility for VR services that a consumer must meet (See DSB Policy 4.2.5). This process is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice so that they may prepare for and engage in competitive integrated employment and achieve economic self-sufficiency.

An eligibility decision can only be made by a vocational rehabilitation counselor, subject to review, as needed, by the counselor's supervisor or the DSB Director. During the first 12 months of a VR Counselor's employment, the counselor must have his/her supervisor's approval before he/she can certify DSB applicants eligible for services. The supervisor should review the visual acuity report and applicable assessments used to determine eligibility and provide written approval of the VR Counselor's determination (either in a narrative or e-mail) for certifying the applicant eligible.

The Vocational Rehabilitation Counselor shall determine eligibility for services within a reasonable period of time, not to exceed 60 days of receiving a signed application. Any exceptions to the 60-day timeline require a formal Eligibility Extension (See DSB Policy 4.2.4)

4.1.1 Individuals to be Served

To receive VR services from DSB, an individual must be classified as having one of the following that results in a substantial impediment to employment at the time of eligibility:

- Total blindness – any permanent visual condition resulting in total loss of vision
- Legal blindness – any visual condition resulting in either
 - a visual acuity for distance vision in the best eye with the best correction of 20/200 or less
 - or the widest diameter of visual field subtending an angle of less than 20 degrees
- Visual impairment – having either of the following
 - Visual acuity of 20/50 in the best eye after correction that is progressive. Progressive means a visual condition that is more likely than not to result in legal blindness.
 - Imminent danger that the individual may become totally or legally blind within six months as documented by a physician who is skilled in diseases of the eye

4.1.2 Assessment for Determining Eligibility

To the maximum extent possible, the comprehensive assessment for determining eligibility will be based on a review of existing data, including the vocational rehabilitation counselor's observations. Information should be obtained from other programs and providers, such as educational institutions, the Social Security Administration, physicians, hospitals, and from information provided by the individual or members of their family.

When existing data is not current or are unavailable, insufficient, or inappropriate to make an eligibility determination, additional data must be obtained.

In the event the individual is determined ineligible based on the fact the applicant does not have a physical or mental impairment that results in a substantial impediment to employment that requires VR services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interest, and informed choice, supporting documentation must be included in the case file. Documentation may include an eye report that shows the individual does not meet the visual criteria. This determination must be thoroughly documented in AWARE (See DSB Policy 4.4.1).

4.2 DETERMINATION OF ELIGIBILITY

4.2.1 Introduction

The VR Counselor has the responsibility for determining an individual's eligibility for VR services, need for a trial work period, or ineligibility for VR services. An eligibility decision may be subject to review by the counselor's supervisor or the DSB Director.

VR eligibility is decided in accordance with the three criteria in 34 CFR 361.42(a):

- A determination by qualified personnel that the applicant has a physical or mental impairment.
- The determination that the impairment results in a substantial impediment to employment for the applicant.
- A determination by a qualified VR counselor that the applicant requires vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

4.2.2 Documenting Eligibility and ~~Priority for Services~~ Functional Limitations

DSB staff must obtain a medical eye or optometric examination report or social security verification to determine eligibility. Staff must also obtain all other relevant medical and mental health documentation to complete ~~priority for services~~ a comprehensive assessment. The case record must contain, as applicable:

- All assessment information used to determine eligibility and priority for services, including medical and mental health records
- A copy of the eligibility letter that includes the individual's ~~waitlist status and~~ appeal rights
- A written extension for eligibility determination that is signed by the individual
- A copy of the ineligibility letter
- Eligibility Determination Narrative (See DSB Policy 4.2.12)

When documenting an eligibility ~~and priority for services~~ decision, the following items must be done before a determination is complete.

1. Enter Disability into AWARE with documentation included
2. Complete the Disability Priority and Eligibility Determination Data Pages in AWARE
 - a. Print and sign the Eligibility Determination Page
 - b. A copy should be scanned into the file and a copy given to the consumer

3. Eye report must be uploaded into AWARE
4. All other medical and psychological information used in the determination of eligibility ~~and priority for services~~ uploaded into AWARE (e.g. Social Security Benefits Letter, Psychological Evaluation).
5. Signed copy of the Eligibility Notification Letter uploaded into AWARE.

4.2.3 Notification

The Counselor will notify the applicant by letter when he/she has been determined either eligible or ineligible for services. If an applicant is determined eligible for services, they must also be notified of their Disability Priority Category and how to appeal this placement when an order of selection has been implemented (See DSB Policy 5.1.7). Once an eligibility determination has been made the VR counselor will complete the Eligibility Determination data page in AWARE. The counselor must then print and sign the certificate, giving a copy to the consumer and scanning a copy back into AWARE. The date on the Eligibility Certificate, Eligibility Letter, and Eligibility Determination Data Page in AWARE must match to ensure accurate reporting to RSA.

4.2.4 Eligibility Timeline

Eligibility determinations for either active VR services or for a trial work period (See DSB Policy 4.2.6) must be made within 60 calendar days after the consumer has applied for VR services. Exceptions can only occur if the consumer is notified in writing that exceptional and unforeseen circumstances beyond the agency's control prevent making a determination within the prescribed 60-day timeframe, and the consumer agrees that the extension of time is necessary. This notification must include a timeframe for completion of eligibility determination as well as the reason for the extension request. The determination of need for this exception must be made within 45 calendar days after application for VR services and requires approval by the VR Counselor's Area Manager. The consumer must sign the request for extension, which is then scanned into AWARE and included in the case file.

4.2.5 Eligibility Criteria for VR Services

It is important to remember that individuals are not eligible based on a diagnosis alone. The DSB counselor will need to assess what the impact of their disability is

to that particular individual; determine whether or not the disability creates a substantial impediment to employment for that individual based on their occupational goals; and determine whether the individual will require VR services to obtain or retain employment.

When determining eligibility, the VR counselor is responsible for ensuring that the applicant meets all 3 eligibility criteria:

1. The individual has a visual impairment which for such individual constitutes, or results in, a substantial impediment to employment and meets the DSB criteria stated in Policy 4.1.1.
 - A substantial impediment refers to a consequence of a physical or mental impairment (in conjunction with medical, psychological, vocational, educational, and other related factors) that impedes an individual's occupational performance by preventing or making extremely difficult obtaining, retaining, advancing in, or preparing for employment consistent with the individual's capacities and abilities.
2. The individual can benefit in terms of an employment outcome from vocational rehabilitation services.
 - The vocational rehabilitation counselor will presume the individual can benefit from the provision of vocational rehabilitation services in terms of competitive integrated employment, unless clear and convincing evidence demonstrates the individual is incapable of benefiting in terms of an employment outcome. Prior to any determination that an individual is incapable of benefiting because of the severity of the individual's impairment, the consumer must be given the opportunity to participate in Trial Work Experience (See DSB Policy 4.2.6).
3. The individual requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment.
 - Vocational rehabilitation services are required when an individual needs the specialized services offered by the vocational rehabilitation program in order to prepare, secure, retain, regain, or advance in employment.
 - Individuals must have the intention of entering employment at the end of their rehabilitation process. Individuals who intend to enter non-competitive or non-integrated employment are not eligible for vocational rehabilitation services. ~~The one exception is in the case of a youth with a disability age 24 or younger seeking subminimum~~

~~wage employment. These individuals must engage in the vocational rehabilitation process prior to entering into subminimum wage.~~

A consumer can be closed with a "disability too severe" only if there is clear and convincing evidence that the individual is not capable of an employment outcome. There must be evidence that establishes such a conclusion with a high degree of certainty. This determination is made only after conducting ~~an~~ exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations through trial work experiences (See DSB Policy 4.2.6). Supported employment services must also be considered.

Clear and convincing evidence may include assessments from service providers who provide documentation of why they would be unable to meet the needs of the consumer due to the severity of their disability. This evidence must include the assessments from real life settings with any necessary supports provided to the consumer.

4.2.6 Trial Work Experience

The purpose of a trial work experience is to determine if there is clear and convincing evidence that an individual cannot benefit from VR services in terms of an employment outcome due to the severity of individual's disability.

If the Counselor has reason to doubt that the consumer can benefit from VR services, the consumer should be provided with a trial work experience of sufficient variety in a competitive integrated employment setting to the maximum extent possible, consistent with the informed choice and rehabilitation needs of the individual.

Trial work experiences can include supported employment, on-the-job training, and other experiences using realistic integrated work settings.

Trial work experiences must be of sufficient variety and period of time to determine that:

- There is sufficient evidence to conclude that the individual can benefit from services in terms of competitive integrated employment; or
- There is clear and convincing evidence that the individual is incapable of benefiting from services in terms of a competitive, integrated employment outcome due to the severity of the individual's disability.

The agency must provide appropriate supports, including, but not limited to, assistive technology devices and services and personal assistance services, to

accommodate the rehabilitation needs of the individual during the trial work experiences. The consumer's progress must be monitored using a comprehensive assessment at least every 30 days to ensure the consumer is making sufficient progress and to determine if any additional supports are necessary (See DSB Policy 4.1.2).

4.2.7 Presumed Eligibility

Individuals are presumed eligible for VR services if, based on their own visual impairment, they are SSDI beneficiaries under Title II or SSI recipients under Title XVI, and they meet the DSB criteria stated in Policy 4.1.1. (See 34 C.F.R. § 361.42(a)(1-2).) They are also considered individuals with a significant disability (See DSB Policy 5.1.5). Any applicant's assertion of eligibility for Social Security benefits under Title II (SSDI) or Title XVI (SSI) of the Social Security Act must be verified before presumption of eligibility may be applied. However, should the applicant be unable to produce this information, eligibility may move forward using the standard process while attempts are made to obtain verification. Applicants who are presumed eligible based upon their Social Security benefits must still intend to achieve an employment outcome to be eligible for VR services.

Although SSDI beneficiaries and SSI recipients are presumed to be eligible for VR services, the presumption of their benefit from VR services in terms of an employment outcome can be rebutted based on clear and convincing evidence. This evidence must show that the individual is incapable of benefiting from VR services in terms of an employment outcome due to the severity of the individual's disability. The required "clear and convincing evidence" must be produced through the provision of trial work experiences. (See DSB Policy 4.2.6).

4.2.8 Residency

In accordance with § 361.42(c)(1), DSB must not impose, as part of determining eligibility, a duration of no-residence requirement will be imposed which that excludes an applicant who is present in the State from an eligibility determination or receipt of VR services any individual who is present in the State. DSB may not require the applicant to demonstrate a presence in the State through the production of any documentation that under State or local law, or practical circumstance, results in a de facto duration of residence requirement. The other conditions of eligibility required by policy must be met. ~~Refer to section 4.3, Determination of Eligibility—Immigrants, for more information.~~

4.2.9 Dual Caseloads

The June 11, 2012 Technical Assistance Circular 12-04, “Provision of Vocational Rehabilitation Services to An Individual by More Than One Agency,” clarifies that an individual may receive vocational rehabilitation services from more than one VR agency simultaneously, including those in different States, when appropriate, and in accordance with the implementation of an order of selection, as applicable, in each State. In this way, the individual can receive the services that best support his or her vocational needs and the achievement of an employment outcome. The consumer must disclose that he/she is receiving VR services in another state, so the counselors handling the case can coordinate benefits and avoid duplication of services. Examples might include:

- students from one state attending college in another state
- students from other states attending World Services for the Blind
- consumers living in one state and working in another

4.2.10 Eligibility and Order of Selection

Eligibility for ~~active~~ VR services and the individual’s priority for VR services ~~applicant’s disability category~~ must be determined prior to applying an Order of Selection for receipt of services. Refer to DSB Policy Chapter 5, Order of Selection, for additional information.

4.2.11 Non- Discrimination

In determining eligibility, DSB will ensure that eligibility requirements are applied without regard to:

1. Age, sex, race, color, or national origin
2. Type of expected employment outcome
3. Source of referral
4. Particular service needs or anticipated cost of services
5. Income level of the applicant or their family
6. Applicant’s employment history or current employment status
7. Applicant’s educational status or current educational credential

4.2.12 Eligibility Determination Narrative

The Eligibility Determination Narrative documents the eligibility determination for the case and the reasons for the determination. A summary of the visual report and any additional medical or psychological reports as necessary will be included in

this narrative, including the functional skills assessment. This information should be provided to directly address the consumer's eligibility based on the three eligibility criteria (See DSB Policy 4.2.5). A consumer must meet all 3 criteria to be determined eligible.

The narrative should include confirmation that all necessary documentation has been completed and placed in the case file. This includes, the eligibility notification letter, signed eligibility determination page (for eligible consumers), and the functional skills assessment. Additionally, this narrative must address any concerns with determining a vocational goal or scope of services for the consumer and what steps will be taken to address these prior to the development of the Individualized Plan for Employment.

4.3 EMPLOYMENT ELIGIBILITY VERIFICATION **DOCUMENTSLEGAL AUTHORITY TO WORK**

4.3.1 Overview

~~An individual does not have to be a resident or legal citizen in order to apply for services. However, individuals who apply for Vocational Rehabilitation services must intend to achieve a competitive integrated employment outcome. Therefore, the applicant must be able to legally accept work in the United States. If an individual has no intention of being able to legally work in the United States, their case must be closed.~~

~~In order to be legally able to work in the United States an individual must have the documents as required by the federal Employment Eligibility Verification Form, or I-9. Should any individual not have access to these documents, the VR Counselor has a responsibility to assist them with obtaining these documents before determining they are unable to obtain a legal employment outcome. The I-9 provides a list of acceptable documents required to obtain, maintain, or regain employment in the United States. This evidence must be documented in the AWARE case file using the Legal Authority to Work Table.~~

~~List A identifies the list of documents that establish identity and employment authorization. List B identifies documents that verify identity only. List C identifies documents that verify employment authorization only. An individual can present a document from List A or one from List B and one from List C. All documentation presented must be unexpired.~~

~~A student visa or a visitor's visa must accompany acceptable work eligibility documentation as described on the I-9. Illegal or undocumented individuals are also unable to legally accept work and are therefore considered to be ineligible for vocational rehabilitation services.~~

~~4.3.2 Employment Eligibility Verification Documents~~

Required documents for working in the United States may include:

- Valid Social Security card
- Valid Driver's License
- Valid Non-Driver ID Card (issued by the Department of Motor Vehicles)
- U.S. passport
- Certificate of Naturalization
- Certificate of Citizenship

~~4.3.3 Illegal Immigrants~~

~~By definition, individuals in the United States without legal status are not eligible for VR services.~~

4.4 INELIGIBILITY FOR VR SERVICES

4.4.1 Ineligibility Determination

It may be determined that an applicant is not eligible for VR services. If so, a notification letter will be sent to the consumer. The date of the determination of ineligibility must be consistent with the AWARE closure date to ensure accurate reporting. (Note: Notification letters are also sent when a consumer is determined eligible.)

A VR counselor may decide, after complying with the requirements of the Rehabilitation Act, that a youth that seeks only subminimum wage work is ineligible for VR services. Before making that ineligibility determination in accordance with the requirements of 34 C.F.R. § 361.43, however, a VR counselor would need to provide an opportunity for full consultation with the youth or, as appropriate, the youth's representative (34 C.F.R. § 361.43(a)). Exercising informed choice in selecting an employment outcome, includes the right to decide not to seek an employment outcome.

Any of the following reasons may constitute the basis for a determination of ineligibility with proper documentation and justification in the case file:

- Diagnostics indicate there is no disabling condition.
- There is a disabling condition, but it does not present an impediment to an employment outcome.
- The individual's disability is too severe to allow gainful employment. However, a case cannot be closed due to the severity of a disability unless the consumer has participated in trial work experience (see DSB policy 4.2.6), or the consumer is being closed from service status.
- The individual does not require VR services to prepare for, secure, retain, advance in, or regain employment

4.4.2 Criteria for Closing an Applicant's Case

A case is closed from Applicant Status when:

- An applicant is determined ineligible for VR services,
OR
- An eligibility determination cannot be made. For example, an applicant may decline to participate in an assessment; if the VR Counselor has made at least three unsuccessful attempts by phone, email, and registered letter to encourage the applicant's participation, the case may be closed. Each of these attempts must be well documented in AWARE.

4.5 ANNUAL REVIEWS OF INELIGIBLE CASES

4.5.1 Annual Review of Cases

Individuals who are determined ineligible for VR services are to be provided an opportunity for a review of the ineligibility determination no later than 12 months after the decision is made. The VR counselor should contact the prior applicant to determine if they would like an annual review and document this review in AWARE.

4.5.2 When is an Annual Review NOT Required?

Annual reviews of eligibility are required for any closures based on a determination that the individual is incapable of achieving an employment outcome (Applicant Status, "Disability Too Significant to Benefit from Service").

However, annual eligibility reviews are not required in the following circumstances:

- The individual refuses the opportunity for review.
- The individual is no longer present in the state or his/her whereabouts are unknown.
- Medical information upon which the ineligibility decision was based indicated the condition was rapidly progressive or terminal.
- The individual is deceased.

Chapter 5 – Order of Selection

5.1 OVERVIEW

5.1.1 Introduction

The Order of Selection is a set of criteria prioritizing the order in which VR-eligible individuals will be served if DSB cannot provide services to all eligible individuals.

If an Order of Selection is implemented and one or more priority categories are closed, eligible consumers (regardless of their category) will continue receiving services so long as they were receiving VR services under an individualized plan for employment (IPE) prior to implementation of the Order of Selection.

5.1.2 Purpose

The Rehabilitation Act of 1973, as amended by Title IV of the Workforce Innovation and Opportunity Act (WIOA), requires the VR program to serve individuals with the most significant disabilities first when there are not enough resources to serve everyone who is eligible for VR services. In a process called the Order of Selection, individuals with the most significant disabilities are given priority over those with less significant disabilities.

5.1.3 Individuals Eligible for Services Generally

In order to receive services from DSB, an individual must be classified in one of the following categories: blindness, legal blindness, or visual impairment (See DSB Policy 4.1.1 ~~through 4.1.4~~).

5.1.4 Services While Eligibility is Assessed

Applicants for VR services are entitled to an assessment to determine eligibility and priority for VR services. Diagnostic services, provided in Application Status are used to determine eligibility and priority classification. Services during the eligibility determination process are provided without regard to Order of Selection.

5.1.5 Significant Disability

According to Section 7(21)(A) of the Rehabilitation Act of 1973, as amended by the WIOA, an individual with a significant disability is someone:

1. who has a significant 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; (See DSB Policy 5.1.98).
2. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and
3. who has one or more physical or mental disabilities as identified in the Rehabilitation Act, or any other disability or disabilities that cause comparable substantial functional limitation. This includes an individual 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 retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, and other spinal cord conditions, sickle cell anemia, 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, which cause comparable substantial functional limitations.

5.1.6 Priority Categories

The DSB Director will determine the priority levels that will remain open prior to the start of the Federal fiscal year based on the availability of its resources.

Individuals in Priority 1 will be selected first for VR services. Individuals in Priority 2 will be served only if it is determined that all individuals in Priority 1 can receive services using the resources available. Individuals in Priority 3 will receive services only if resources are available to serve all individuals in Priorities 1 and 2. DSB will apply the Order of Selection in the following manner, if needed:

Priority 1 Most Significant Disability:

Priority 1 includes individuals eligible for DSB services with the **most significant disability** whose impairment severely limits **four 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 and requires substantial VR services over an extended period of time.

Priority 2 More Significant Disability:

Priority 2 includes individuals eligible for DSB services with a **significant disability** whose impairment limits **three** functional capacities in terms of employment outcome and requires substantial VR services over an extended period of time.

Priority 3 Significant Disability:

Priority 3 includes individuals eligible for DSB services with a **significant disability** whose impairment limits **one or two** functional capacities in terms of an employment outcome and requires substantial VR services over an extended period of time.

5.1.7 Job Retention

Individuals who are at immediate risk of losing employment may be served outside of the Order of Selection. (See 34 C.F.R. 361.36(a)(3)(v).) Immediate need means that an individual would almost certainly lose his/her current job if not provided specific services or equipment in the very near future that would enable him/her to retain that employment. Only services or equipment needed to maintain that current employment may be provided outside of the Order of Selection. If the individual loses their job or chooses a different employment outcome, they will be subject to the Order of Selection. Likewise, the Order of Selection will be applied to any services for the consumer that are not job-retention services.

5.1.8 Functional Capacities

Individuals who are eligible for DSB services have a disability that limits their functional capacities in terms of an employment outcome. The capacities that should be considered include the following:

1. **Mobility** – Mobility refers to the ability to move from place to place inside and outside the home. A serious limitation in mobility exists if, due to the disability, the person requires assistance from others to get around in the community; or if the individual requires modifications, adaptive technology, or accommodations (not typically made for other workers) in order to move around the community; or if the person needs specialized training to learn to move around in the community.

The following circumstances do not constitute serious, disability-related limitations in mobility, though they may be considered in rehabilitation planning as related factors: Absence of or limitations in public transportation available in a geographic area; loss of driving privileges because of accumulation of points and/or charges such as DWI; lack of a personal vehicle.

2. **Communication** – Communication is the ability to effectively exchange information through words or concepts (writing, speaking, listening, sign language, or other adaptive methods). A serious limitation in communication exists if the disability results in severely impaired expressive or receptive communication, either oral or written, and to be able to communicate effectively, the individual requires modifications, adaptive technology, or accommodations not typically made for other workers. Upon first contact, the individual may not be readily understood by others or may not understand others.

Communications problems stemming from a language or cultural difference that are not disability based would not constitute serious limitations in communication, though they would need to be considered in rehabilitation planning.

3. **Self-care** – Self-care is the ability to manage oneself or ones living environment (including but not limited to eating, toileting, grooming, dressing, money management, and medication compliance) as they affect the individual's ability to participate in services or work-related activities. Limitations may occur because of physical, cognitive or emotional impairments and could impact all tasks or only specific tasks. A serious limitation in self-care exists if the disability results in the individual being dependent upon other individuals, services, or devices to manage themselves or their living environment.

Lack of or limited financial resources affecting self-care would not constitute serious limitations in self-care because it is not disability-related. However, such factors would need to be considered in rehabilitation planning.

4. **Self-direction** – Self-direction refers to the ability to plan, initiate, problem solve, organize and independently carry out goal-directed activities related to self-care, socialization, recreation and work. A serious limitation in self-direction exists if due to the disability the individual is confused or disoriented, or requires assistance or intervention on an ongoing basis or during episodes in order to perform tasks, monitor own behavior, and make decisions.

General impulsivity and lack of focus, often characteristics of teenagers, would not in and of themselves constitute a serious limitation in self-direction for transitioning students, but would need to be considered in rehabilitation planning.

5. **Interpersonal Skills** – Interpersonal skills refers to the ability to establish and maintain personal, family, community and work relationships. A serious limitation in interpersonal skills means that due to the disability the individual has no or limited ability to interact with others in a socially acceptable manner or is unable to relate to peers or co-workers without exhibiting inappropriate behaviors.

Immaturity, which is a common characteristic of teenagers and may be expressed as lack of developed communication skills, in and of itself does not constitute a serious limitation in interpersonal skills. Such traits, however, should be considered in rehabilitation planning.

6. **Work tolerance** – Work tolerance refers to the capacity to perform effectively and efficiently jobs that require various levels of physical and/or psychological demand, for at least a partial work day. A serious limitation in work tolerance exists when the individual will require modification, adaptive technology, or accommodations (not typically made for other workers) in terms of capacity or endurance. For example, the individual may not be able to sustain an 8-hour workday, meet production standards, or perform at a consistent pace without frequent rest breaks.

Individuals who could work full time but choose to work less than full time in order to retain benefits or for other reasons are not considered to have a serious limitation in work tolerance.

7. **Work Skills** – Work skills refers to the ability to perform specific tasks required to carry out job functions, the capacity to benefit from training in the necessary skills, and the capacity to practice the work habits needed to stay employed. A serious limitation in work skills exists when the disability results in an inability to obtain or maintain employment normally available to persons of equivalent age, education, training, or experience. In order to acquire work skills, the person requires modifications, adaptive technology or accommodations not typically made for other workers.

Lack of work skills, for example, of transitioning youth because of age, does not in and of itself constitute a serious limitation in work skills, but may be considered as a related factor in rehabilitation planning.

Anticipated difficulty in achieving work skills, and requirements for AT and other modifications, aside from absence of work experience, may be considered in determining limitations related to work skills.

In determining whether there are serious limitations in work skills, consider the impact of the disability on specific employment goals rather

than on the universe of jobs. For example, a math impairment may have a significant impact on an individual's ability to be an engineer, but little impact on many other careers, including rehabilitation counselor or DDS examiner.

5.2 APPLYING THE ORDER OF SELECTION

5.2.1 Determining Priority Category

Once an applicant is determined eligible for VR services, the VR Counselor will use the AWARE Disability Priority Page to indicate the number of functional limitations. Based on information provided during assessment of the applicant, the VR Counselor will ~~determine if extensive services are necessary over an extended period of time~~ indicate the estimated number of services on the AWARE Disability Priority Page. The consumer will then be assigned a Disability Priority Category based on the definitions in Policy 5.1.6.

In determining the priority category, the consumer will be placed in the category with the most functional limitations for which he/she qualifies. However, if a consumer's disability condition changes or additional documentation becomes available after being assigned a priority category, re-evaluation may cause a reclassification to a higher or lower priority ~~downward or upward reclassification~~.

Individuals will be assigned to the appropriate priority category when eligibility determination is made ~~Order of Selection and Disability Priority~~ Individuals should be determined eligible and have their priority category assigned prior to being placed on any waiting list for services if their the assigned priority category is currently closed ~~not currently able to be served~~. Once the individuals' category is open and they are able to be served, they will be immediately placed in eligibility status and ready to work with their VR counselor in developing their career goals and services needed on an IPE.

~~Once an applicant is determined eligible for VR services, the VR Counselor will use the AWARE Disability Priority Page to indicate the number of functional limitations. Based on information provided during assessment of the applicant, the VR Counselor will indicate the estimated number of services on the AWARE Disability Priority Page. The consumer will then be assigned a Disability Priority Category based on the definitions in Policy 5.1.6.~~

Consumers will be notified of their Disability Priority Category, and their status on the waiting list in their eligibility for VR services notification letter. Any applicant or eligible consumer who is dissatisfied with the order of selection category assigned them may request an administrative review for reevaluation. Both VR Counselors and the eligibility determination letter will inform consumers of this right and how to contact the Client Assistance Program for further assistance.

5.2.2 Pre-Employment Transition Services for Waitlisted Students

VR Eligible Students are not exempt from order of selection or the waiting list; however, they may be able to receive Pre-ETS while on the waiting list:

- If a student received any of the five required Pre-ETS, ~~either~~ through DSB or as part of a joint program between DSB and the local education agency (LEA), prior to applying for vocational rehabilitation services, they can continue to receive the five required Pre-ETS while on the waiting list. They cannot receive any other services while on the waiting list.
- If a student did not receive any Pre-ETS from DSB prior to applying for vocational rehabilitation services, they can only receive ~~Pre-ETS to services~~ to groups while they are on the waiting list.
 - ~~Pre-ETS to Services to~~ groups are those services that are available to all individuals with disabilities and require no authorization. For example, a student on the waiting list can attend an DSB-hosted career expo or mentorship fair.

5.3 Procedure for Managing Order of Selection and the Waiting List

The Field Administrator manages the waiting list and is responsible for tracking and communicating with ~~waitlisted~~ individuals placed on a waitlist. The following procedures are in place for managing OOS and the waiting list:

OOS Report

By the tenth of each month, the statistician provides a report to the Director and Field Administrator with the following information:

- Number of applications received that month

- Number of individuals determined eligible, by priority for services category (cumulative since the last time the waiting list was opened and subsequently closed)
- Number of individuals on the waiting list who are 16 through 21 years old

Procedure for Opening the Waiting List

1. Each quarter, the Director will review the status of funds and personnel to determine which, if any, categories can be opened. If the Director determines there are sufficient funds and personnel, they will notify the DSB Field Administrator 15 calendar days in advance of the:
 - ~~Number of i~~Individuals who can come off the waiting list or the categories which will be open based on the date individuals applied for services (earliest to most recent)
 - ~~Start date and duration~~ the waiting list will be open, or if entire categories will be open
 - Priority categories will only be open when all individuals under the priority category can be served
2. ~~When an individual is moved off the waiting list, On the start date of opening the waiting list,~~ the Field Administrator or designee will send an Off the Waiting List notification letter ~~to all affected individuals~~ and place a copy into the individual's case record in AWARE. The notification letter indicates the individual can begin receiving vocational rehabilitation services and has 15 calendar days to respond. The Area Manager for each area will receive a list of individuals by caseload that are moved off the waiting list for their area.
3. On the start date of the open waiting list, all affected individuals will be moved to the "Off the Waiting List" status. This status means the individuals have been removed from the waiting list and have been contacted to determine if they are still interested in receiving services. The 90-day countdown for developing an Individualized Plan for Employment (IPE) ~~does NOT start begins when the until the~~ individual has been removed from the waitlist, and not when the individual has contacted DSB expressing interest in receiving services, ~~and has been moved to the "Plan Development" activity status.~~
4. If the individual does not respond within 15 calendar days, the Field Administrator or designee will attempt two additional contacts over the course of 15 additional calendar days. Each contact must be documented in the case management system.

~~5.—When an individual responds that they are interested in receiving services, their activity status is changed to “Plan Development,” and they are immediately transferred to a counselor to begin receiving services. The counselor and individual must develop an IPE within 90 days from the date they were moved into “Plan Development”.~~

65. If the individual does not respond within 30 calendar days from the start date of the open waiting list or they indicate they are no longer interested in receiving services, their case must be closed.

5.4 ORDER OF SELECTION IMPLEMENTATION

If an Order of Selection is implemented, the DSB Director will determine the priority levels that will remain open for services. This determination will be made before the start of the upcoming Federal fiscal year, based on the projected availability of resources ~~based on the availability of its resources.~~

DSB will provide services to all eligible individuals until an Order of Selection reduction in services must be imposed due to a shortage of funds, staff, or other resources. In the event such a shortage occurs, DSB will implement OOS for services which will potentially impact individuals who are not receiving services under an IPE on the implementation date. DSB will consider any cost saving measures that can be implemented prior to closing any priority categories.

~~If DSB is unable to serve all existing and future individuals with the funds available, the DSB Director will consult with the DSB Governing Board regarding the:~~

- ~~• Need to establish an order of selection, including any reevaluation of the need;~~
- ~~• Priority categories of the particular order of selection;~~
- ~~• Criteria for determining individuals with the most significant disabilities;~~
- ~~and~~
- ~~• Administration of the order of selection.~~

Services will continue to be provided without restriction to all individuals who have begun to receive services under an IPE prior to the implementation date of the OOS. There will be no restriction of services to individuals receiving post-employment services. There will be no restriction of services to individuals receiving services as part of a trial work experience.

A waiting list will be established and maintained by priority category and application date for all eligible individuals. Within categories, individuals will be in receiving services ~~served on a "first come, first served" basis utilizing based on~~ their date of application.

The Director and Field Administrator will review the projected fiscal and personnel resources to determine if all individuals can be served. This includes a review of projected number of successful closures for the upcoming year, costs for serving current customers, personnel and other non-personnel services (NPS). Based on availability of funds, individuals in Category 1 will be served first. Individuals in other categories will be served in descending order (from Category 1 through Category 3). OOS requirements will be applied uniformly throughout the state.

In the event DSB needs to enter into an OOS, DSB staff must amend the State Plan to include:

- Which categories are subject to the waiting list;
- A justification for the order of selection;
- Identified service and outcome goals and the time within which the goals may be achieved for individuals in each priority category within the order, as required under §361.29(c)(5); and
- Assure that:
 - o Individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and
 - o Individuals who do not meet the order of selection criteria are provided information and referrals to access other available services.

Throughout the federal fiscal year, the OOS decision and categories must be evaluated whenever there is a change in circumstances. A change in circumstances could include a change in funding or personnel. DSB may at some point determine that it is no longer necessary to continue to implement the OOS. In such case, DSB must establish that it will be able to provide all needed services to all eligible individuals in the coming fiscal year. This determination must be based on circumstances that have changed that will allow the vocational rehabilitation agency to provide the full range of services to all eligible individuals, including:

- An estimate of the number of such individuals and the cost of services;
- The costs of administering the program, including personnel costs, outreach activities and required statewide studies; and

- The projected revenue.

5.5 NOTICE AND ADMINISTRATION OF ORDER OF SELECTION

Individuals must be notified about OOS during the referral, orientation, and intake process. Definitions of priority categories and the criteria used in assigning individuals to these categories will be provided to the individual in writing and will be explained by DSB staff.

At the time an individual is determined eligible for services, the vocational rehabilitation counselor will assign the individual to the priority category with the most functional limitations for which they are qualified. The priority category and the rationale for the decision will be documented in the case record. A detailed description of how the functional limitations restrict the individual's capacity to obtain, maintain, advance in, or prepare for employment must be included in the case file.

The individual will be notified in writing of their assigned priority category and which priority categories are currently being served. The individual will be notified in writing of their right to appeal the decision and will be given information about the Client Assistance Program (CAP).

Once assigned to a specific priority category, an individual cannot be moved from that priority category unless changes in the individual's functional limitations occur that would put them in a different priority category. If such a change results in placement in a different priority category, the individual will be advised in writing of the change. The individual will also be notified in writing of their right to appeal that decision and will be given information about the CAP.

All individuals without an IPE prior to the date the OOS is implemented will be advised in writing of its implementation and their assignment to a specific priority category. Individuals will be notified in writing of their right to appeal the decision and will be given information about the CAP.

DSB will inform all consumer groups, referral sources, and vendors in a timely manner of the start date OOS will be implemented.

The OOS vocational rehabilitation counselor will be responsible for reviewing assignments of individuals to priority categories and monitoring the provision of services to individuals based on the principles of the OOS.

Priority categories will be opened on the basis of the availability of resources. Individuals within categories will be served ~~on a "first come, first served" basis, in order determined by of their~~ date of application for services.

The Director will monitor the activities of the OOS to determine any needed changes of the number of individuals served by opening or closing additional priority categories.

Information and referral services will be made available and provided to all eligible individuals on a waiting list. These services are designed to ensure that individuals on a waiting list are provided accurate vocational rehabilitation information and guidance to assist them in preparing for, securing, advancing in, or regaining employment. Individuals will be appropriately referred to other federal and state programs including other components of the statewide workforce investment system.

Chapter 13 - Pre-Employment Transition Services (Pre-ETS)

13.1 INTRODUCTION

In collaboration with state local educational agencies, DSB shall provide or arrange for the provision of pre-employment transition services (Pre-ETS) for students with disabilities in need of such services.

Pre-ETS, as defined in Title IV of the Workforce Innovation and Opportunity Act, offer students an early start with identifying career interests, but are not intended to be focused on an employment outcome. Pre-ETS includes job exploration, work-based learning, counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs, workplace readiness training, and self-advocacy skills instruction.

All students with disabilities who are potentially eligible or eligible for the VR program and in need of Pre-ETS may receive the Pre-ETS they need. A potentially eligible student is any student with a disability who has not applied and been determined eligible for the VR program.

13.2 STUDENT WITH A DISABILITY

DSB defines a student with a disability in accordance with federal regulations. Under 34. C.F.R. §361.5(c)(51), a student with a disability is an individual in a secondary, postsecondary, or other recognized education program receiving services through the Individuals with Disabilities Education Act (IDEA, also known as Special Education), or an individual with a disability for purposes of section 504 of the Rehabilitation Act.

In Arkansas, a student may not be younger than 16 and not older than 22. This is in accordance with IDEA in Arkansas.

Pre-ETS may only be provided to those that meet the definition of a student with a disability. Those that are not within the defined age range cannot receive Pre-ETS, but they may receive VR transition services once they apply for and are determined eligible for the VR program.

Note: The definition of a Student with a Disability differs from the definition of a Youth with a Disability. A youth with a disability is an individual with a disability, age 14-24 who may or may not be enrolled in an education program. Definition of Enrolled in School:

- Examples include high school, home school, post-secondary education programs, GED programs, charter school, or other programs considered educational in nature.
- To be considered enrolled in a recognized post-secondary education program, there must be:
 - Documentation of graduation from secondary education;
 - Documentation of the intent or confirmed acceptance of the invitation to enter a post-secondary program, such as a class registration form; and
 - Documentation from an institution that the seat or spot is being held for them, such as a letter of acceptance.
- The summer between high school and additional education is still considered enrollment as long as the student has applied for and has been accepted into a program.

Students who need Pre-ETS are not required to apply for Vocational Rehabilitation (VR) Services to receive Pre-ETS. If a student requires other services in addition to Pre-ETS, they must be informed that in order to receive those additional services, the student must apply for services, receive an eligibility decision, and have an

active Individualized Plan for Employment (IPE). If the student has an active IPE, any Pre-ETS provided must be on their IPE. At referral, all students with disabilities must be provided the opportunity for informed choice on whether or not to apply for VR services.

Students with disabilities connected with DSB for the provision of Pre-ETS will have one of two case types: Potentially Eligible (PE) or Vocational Rehabilitation (VR). Students with disabilities who have not applied for the VR program will have a PE case. Students who have applied to the VR program and are in the eligibility determination process or have been determined eligible will have a VR case.

The term “potentially eligible” applies only in the context of Pre-ETS. Therefore, if students with disabilities require individualized services beyond the scope of Pre-ETS, they must apply and be determined eligible for the VR program, be assigned to the appropriate priority category, and develop an approved IPE to receive the additional VR services they need.

13.3 REFERRALS

When a consumer is referred to DSB, the DSB 8065 (referral form) should be completed at the time of initial contact. This form should be used to complete the referral in the AWARE Referral Module. This information should be entered immediately upon receipt of a referral. Once entered, the referral will be assigned to the appropriate Area Manager by the person entering the referral. The paper referral is then sent to that Area Manager and their Administrative Assistant, by email, notifying them that the referral has been entered in AWARE. The Area Manager will review the referral and assign it to the VR counselor for that area within 1 business day. The VR Counselor then has 1 business day to contact the consumer and arrange an orientation meeting for the consumer. This meeting should occur within 10 business days of the first contact. The purpose of this meeting is to provide the consumer with information to allow them to make an informed choice about applying for services. This meeting should include eligibility criteria, expectations, rights and responsibilities of participants, and information on DSB services. The consumer may then decide to apply or not for DSB services. If for any reason the consumer cannot meet within 10 business days, the request for a later appointment must be documented in AWARE with the justification. All new cases in AWARE must begin in the referral module. This applies to both VR and PE case types.

Information for the AWARE Referral Module will come from one of 2 forms: The VR/PE Referral or the Pre-ETS Referral, Consent, and Release Form. The VR/PE Referral is the form completed by staff monitoring phone lines or when the consumer is not the referring party. However, should a VR Counselor be able to take a referral in person for a consumer who desires only Pre-ETS Services, they may complete the entire Pre-ETS Referral, Consent, and Release Form at that time. After completing a referral, if a consumer chooses to apply for services, the consumer will identify whether they are applying for VR Services or only asking to receive Pre-ETS Services. At that time the VR Counselor will open the correct case type in the AWARE Participant Module. Consumers who desire only Pre-ETS services, will be opened under the Potentially Eligible (PE) case type (DSB Policy 13.3.1). However, consumers who desire additional Vocational Rehabilitation (VR) services will need to be opened under the VR case type (DSB Policy 13.3.2). The VR Counselor will be responsible for ensuring that the consumer meets the criteria for the specified case type before moving past the application status.

DSB provides copies of the Pre-ETS Referral, Consent, and Release Form to schools to assist with referrals. Referrals do require consent of a parent/legal guardian where applicable. Pre-ETS Counselors also share referral information through parent nights, open houses, transition fairs, summits, and group meetings with students. Referrals may also happen over the phone or from a VR counselor with a consumer that now meets the definition of a student with a disability and would meet DSB's eligibility criteria for vision loss, to make them eligible or potentially eligible for DSB's vocational rehabilitation services. If the student has other disabilities, they must be referred to Arkansas Rehabilitation Services (ARS). (See 13.2).

For a consumer who already has an IPE and is now in need of Pre-ETS, DSB will work with the consumer to reassign them to a counselor with knowledge of Pre-ETS and add the necessary Pre-ETS to their IPE. The consumer will then receive both Pre-ETS and additional VR Services under their existing IPE with their new Pre-ETS counselor.

- Referral information should include:
 - Social security number (if available)
 - Date of birth
 - Race and ethnicity
 - Disability

- To complete a referral and intake process, the DSB counselor must receive documentation of a disability which may be provided through any of the following:
 - Referral form for Pre-ETS that identifies the student's disability and is signed by school staff and parent/guardian, if the student is under the age of majority in a state (parental consent to participate in Pre-ETS is governed by state law, as well as policies of the educational programs and the designated state unit (DSU))
 - Copy of the IEP or 504 plan, Social Security Administration (SSA) beneficiary award letter, school psychological assessment documenting the student's diagnosis, or documentation of a disability determination related to section 504 accommodation(s).
- Documentation of enrollment in a secondary, postsecondary, or other recognized educational program

Please note that an Order of Selection, if implemented, may affect the ability of an individual eligible for VR services to receive per-ETS. See DSB policies Chapter 5 (Order of Selection), section 5.1.1.

Potentially eligible students do not need to complete an application for VR services unless they are:

- in need of services beyond the scope of pre-employment transition services, and
- requesting VR services in addition to Pre-ETS.

13.3.1 Potentially Eligible Case Type

Potentially Eligible Consumers are those students with a disability that have not applied and been determined eligible for the VR program. If a student with a disability applies for VR services and is determined ineligible for VR, the student no longer qualifies to receive Pre-ETS because he or she is no longer considered potentially eligible. However, a consumer who is determined eligible for VR services would receive Pre-ETS under the VR Case Type (DSB Policy 13.3.2). When a referral for a potentially eligible consumer is received outside of the Pre-ETS Referral, Consent, and Release Form, DSB will enter the consumer's information into the Referral Module of the AWARE system and assign it to the appropriate Area Manager. The Area Manager will then assign a counselor to the

case. The DSB counselor has 1 business day to contact the consumer after being assigned the referral. Area Managers should review referrals in AWARE daily to ensure they are being processed in a timely manner. Any referrals received using the Pre-ETS Referral, Consent and Release Form will be entered into the AWARE Referral Module and can be moved immediately into the AWARE Participant Module as an Applicant by their VR Counselor.

Once the Referral, Consent, and Release Form has been received, and assigned to a DSB counselor, a potentially eligible (PE) case may be opened and pre-employment transition services may be arranged and provided according to the student's needs. Upon receipt of this information, DSB will move the consumer from the Referral Module to the Participant Module in AWARE as a PE Case. At this point, AWARE will generate a 12-digit Unique Identifier for the student, which will be used when reporting Pre-ETS service delivery, as required by federal law.

Once confirmation is received that the consumer meets the definition of a student with a disability (DSB Policy 13.2), the counselor will send a letter notifying the student that they are able to receive pre-employment transition services at this time. In order to be potentially eligible for services from DSB, blindness or severe vision loss must be documented in the IEP, 504, or in a letter from the school, if an IEP/504 is not available. If a consumer is determined to not meet the definition of a student with a disability, their PE Case must be closed, and services cannot be provided.

If the consumer has not responded to the letter notifying them that they are able to receive Pre-ETS services within 10 business days, the assigned counselor must contact them to confirm the desire for services. Each attempt to contact the consumer must be documented in AWARE. If the counselor is unable to contact the student within 30 days of mailing the letter, the case may be closed without providing services after review and approval from the DSB Pre-ETS Area Manager.

The counselor will discuss service options with the student, in either an individual or group setting, at the school, the DSB office, or a mutually agreed upon location in the community or via phone conversation as appropriate. This conversation will begin the process to prepare the Pre-ETS Agreement Form, which is the agreement between DSB and the consumer on what pre-employment transition services will be provided.

During the initial discussion, the DBS counselor shall:

- Provide basic job exploration counseling, and document this in AWARE in an Actual Service record.
- Discuss next steps, including identifying additional appropriate pre-employment transition services and providers, consistent with the student's informed choice and which may be completed before the student no longer qualifies for pre-employment transition services.
- Verifies the student qualifies for pre-employment transition services

Once a consumer's documentation has been received the counselor and consumer (With applicable parent/guardian) may complete the Pre-ETS Agreement Form using informed choice.

- Lists services, providers, and estimated begin and end dates
 - DSB will provide services based on a 12-month timeline
 - A new agreement form will be signed at least once a year while services are being received
- Have the student, parent/legal guardian (if necessary), and counselor sign the printed form
 - Student should receive one signed copy
 - Signed Copy should be scanned into AWARE and placed in consumers hard copy file
- Provide services in accordance with the Agreement.
 - Services should be documented in AWARE using either the Actual Service feature or case notes and authorizations as necessary.
- Notify student and parent/guardian of available resources to them

As long as the student qualifies to receive pre-employment transition services, services will be provided through the Pre-ETS Agreement Form or in the case a student has been determined eligible, in accordance with the student's IPE. At any time, new Agreements may be written, as additional services are identified through ongoing coordination activities with the education providers and other interested parties.

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 and enrollment in a recognized education program shall not have their participation in pre-employment transition services delayed by the process of applying for vocational rehabilitation services. Students assigned DSB counselors will discuss vocational rehabilitation services with them and their parent/legal guardian and encourage interested students to apply by the time they have two years remaining in high school to facilitate a smooth transition into vocational rehabilitation services.

Students who do not apply for vocational rehabilitation services may continue to receive pre-employment transition services under the Pre-ETS case type as long as they continue to satisfy the definition of a “student with a disability.”

13.3.2 Pre-ETS Under the VR Case Type

If a student with a disability applies for VR services and is determined eligible, they may generally receive any Pre-ETS as part of their Individualized Plan for Employment on the VR Case Type. This may occur in two distinct ways.

1. A consumer may already be receiving VR services before requesting Pre-ETS
2. A Potentially Eligible student with a disability may decide to apply for VR Services and be determined eligible.

Any PE consumer who applies for VR Services and is determined ineligible will be closed from the PE Case Type as they are no longer potentially eligible.

Eligible students 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.”

If DSB should need to implement Order of Selection, any eligible students assigned to a closed order of selection category and placed on a waiting list for vocational rehabilitation after receiving pre-employment transition services may continue to receive pre-employment transition services using the PE case type. If an eligible student is assigned to a closed order of selection category and placed on a waiting list for vocational rehabilitation before receiving pre-employment transition services, they may not receive Pre-ETS using the PE case type. These students will be required to wait for pre-employment transition services until they

are removed from the waiting list and an Individualized Plan for Employment can be developed.

13.4 COORDINATION WITH SCHOOLS

DSB will coordinate services with the Department of Education (DOE) at a state level and with schools and school districts at the local level. Pre-ETS Counselors should work closely with DOE's Educational Services for the Visually Impaired (ESVI) Consultants, who are located around the state and provide support and assistance to students who are blind and visually impaired in the schools. School officials continue to be responsible for providing a free and appropriate public education to include transition services required under IDEA.

To better serve consumers, Pre-ETS Counselors should be familiar with legislation affecting students who are blind or visually impaired and school programs available to them. Important programs and terms include:

- **Section 504 Plan**

A school's written statement of services provided in accordance with Section 504 of the federal Rehabilitation Act of 1973 is called a 504 Plan (<https://www2.ed.gov/policy/speced/leg/rehab/rehabilitation-act-of-1973-amended-by-wioa.pdf>). Section 504 requires school districts that receive federal funding, to provide a "free and appropriate public education (FAPE)" to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. Appropriate educational services are designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met.

- **Individualized Education Program (IEP)**

The school's written plan to meet educational goals and objectives for a student with a disability is called an Individualized Education Program (IEP). The IEP must include a statement of the student's present levels of academic achievement and functional performance. It must also include how the student's disability affects his or her involvement and progress in the general education curriculum, that is, the same curriculum as for students without disabilities. The IEP must be revised at least once a year.

The counselor will make every effort to attend all IEP meetings scheduled for consumers on their caseload either in person or electronically.

Attendance at IEP meetings will allow the VR Counselor to understand what

additional services the consumer is receiving from comparable benefits and develop an appropriate set of services for the consumer.

13.5 PRE-EMPLOYMENT TRANSITION SERVICES

The primary purpose of Pre-ETS provided or coordinated by DSB is to help students begin to identify career interests and to learn skills in preparation for transition to employment and/or post-secondary education. DSB will make every effort to provide or coordinate the following services to ensure statewide availability. Section 110 of WIOA requires that a minimum of 15 percent of federal vocational rehabilitation funds be spent on Pre-ETS services.

DSB staff will make every effort to develop and maintain cooperative working relationships with state and local secondary education staff (including alternative school programs), post-secondary education staff, state operated programs, and workforce development partners (i.e., American Job Centers, etc.) to coordinate pre-employment transition services.

Pre-ETS are comprised of five required activities that must be made available to all students with disabilities who may need them, four coordination activities that must be carried out, and nine authorized activities that may be provided if the agency can demonstrate funds remain after the provision of the required and coordination activities.

13.5.1 Pre-ETS Required Activities

Pre-ETS includes five required services. These services must be made available statewide to students and can be provided individually or in a group setting. These services must be in collaboration with the local education agency and the Individualized Educational Program (IEP) team. Determining which of the five services a student receives is based on their individual needs.

Job Exploration Counseling

Using customized tools, this process helps students discover their skills, abilities, and interests by:

- Helping students complete interest inventories and explore careers using various paper and online resources
- Providing opportunities for work on career exploration tools such as:

- Explore-Work.com helps students with disabilities explore the five Pre-Employment Transition Services
- My Next Move is a career exploration tool designed for use by students to learn about careers and match their interests to career options
- Assist students to explore O*NET Online (<https://www.onetonline.org/>), a tool for career exploration and job analysis.
- Completing a career interest inventory that provides insight into vocational paths
- Participating in training on informational interviews
- Making site visits to businesses
- Connecting with a network of blind and visually impaired mentors who are in a variety of occupations and workplace settings

Work-Based Learning Experiences

This program provides work opportunities and experiences outside of the traditional school setting:

- Attending workplace tours and job shadowing opportunities
- Participating in internships (when determined appropriate by staff)
- On-site work-based experiences (paid or unpaid), i.e. volunteering, practicums, service learning, or apprenticeships (excluding pre-apprenticeships and registered apprenticeships), located in the community

Counseling on Opportunities for Enrollment

Provides counseling on opportunities for enrollment in local community college/post-secondary education programs:

- Visiting local colleges
- Meeting with Offices of Disability Services at colleges and learning about the process for applying for accommodations
- Receiving individualized advising on course selection, admission requirements (when applicable), financial aid, and degree guidance

Workplace Readiness Training

This training is designed to develop social skills and independent living skills:

- Receiving individual and small group instruction on soft skills including how to interact with supervisors and co-workers

- Developing documents including a resume, cover letter, an online presence, and practicing mock interviews by responding to common interview questions
- Having access to a network of blind and visually impaired individuals who are already in college or gainful employment.
- Receiving formal training from a certified orientation and mobility specialist.
- Using public transportation options to navigate independently to work sites
- Following workplace guidelines with respect to attendance, punctuality, professionalism, and productivity

Instruction in Self-Advocacy

Students are shown the knowledge and skills to effectively communicate, convey, negotiate, or assert their own interests and/or desires:

- Learning about their rights and responsibilities as a consumer
- Practicing how to discuss their disability and necessary accommodations with different audiences such as professors, peers, and potential employers
- Learning about their skills, interests, and abilities
- Gaining experiences and acquiring skills to build their confidence and sense-of-self

13.5.2 Pre-ETS Coordination Activities

The four coordination activities may be necessary for arranging and providing direct pre-employment transition services and are therefore included under the implementation of pre-employment transition services in 34 C.F.R. 361.48(a)(4). are as follows:

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;
3. working with schools, including those carrying out activities under IDEA, to coordinate and ensure the provision of Pre-ETS under this section; and

4. when invited, attending person-centered planning meetings for individuals receiving services under title XIX of the Social Security Act.

13.6 REASONABLE ACCOMMODATIONS/AUXILIARY AIDS AND SERVICES

DSB will ensure that no qualified student with a disability is denied the benefit of pre-employment transition services on the basis of the individual's disability. Therefore, if a student with a disability requires reasonable accommodations, auxiliary aids, or services to access or participate in any of the required pre-employment transition services, DSB may pay for such costs when no other public entity is required to provide such aid or service.

Reasonable accommodations, aids and services for students include:

- qualified readers
- audio recordings
- Braille materials and displays
- screen reader software
- magnification software
- large print materials
- accessible electronic and information technology
- other effective methods of making visually delivered materials available to individuals who are blind or have low vision

13.7 PRE-ETS CASE CLOSURE AND DISCONTINUATION OF SERVICES

Pre-employment transition services shall be discontinued once an individual no longer satisfies the definition of a "student with a disability," regardless of whether those services were being provided consistent with a Pre-ETS Agreement or an Individualized Plan for Employment.

Pre-ETS services can be discontinued when all needed Pre-ETS services have been provided to the student, and the student no longer needs any other Pre-ETS services. All Pre-ETS open authorizations should be paid or resolved before the case is closed with proper documentation. All the provided services must be documented in the client's case file in AWARE.

13.7.1 Potentially Eligible (PE) Case Type

The records of services for students receiving pre-employment transition services under the Pre-ETS case type shall be closed when the individual:

- No longer meets the definition of a “student with a disability.”
- Has become eligible for VR services under an open order of selection category and has had an approved Individualized Plan for Employment approved.
- Chooses not to participate in, or continue participating in pre-employment transition services, as confirmed by student and/or guardian either verbally or in writing.

At the time of service discontinuation, the DSB counselor or DSB manager will make every attempt to contact the individual to notify them and document these attempts in AWARE. The consumer must be sent a letter (documented in AWARE) notifying them of any discontinuation of services along with an explanation. Then the PE Case Type in AWARE may be closed and services discontinued.

13.7.2 Pre-ETS in the VR Case Type

Pre-employment transition services shall cease to be provided under an IPE once the individual no longer meets the definition of a “student with a disability.” All other VR services may continue as planned. Pre-employment transition services shall not be provided to any student age 22 and beyond.

When closing the record of a student in an open order of selection category receiving pre-employment transition services as part of an Individualized Plan for Employment, refer to (Section xxx, Record of Services Closure – Vocational Rehabilitation.

rehabilitation process is to assist the consumer in identifying and describing consumer and family needs and express expectations for services. The family will also assist and encourage the consumer to act as primary coordinator for all services to the consumer and the family, and assist the consumer in becoming an effective self-advocate.

17.4 WORK AND TRANSITION

17.4.1 Knowledge of Work Laws

VR Counselors will keep current in their knowledge of state and federal labor laws that affect minor consumers. This knowledge will include, but is not limited to: knowing and understanding minimum ages for employment, the number of hours a minor is allowed to work, requirements for lunch/breaks, and restrictions for certain types of jobs.

~~**17.4.2 Work Based Learning - a Pre-ETS Service for Students with Disabilities**~~

~~This type of work introduces the student to the world of work, offers the student opportunities to earn money for educational purposes, gives the student an inside look at a potential career, can provide a sense of independence and self-esteem, teaches responsibility, can increase the student's maturity, increases their experience in interacting with the general public, and provides networking opportunities.~~

~~VR Counselors can assist minor consumers seeking part-time or summer employment by, but not limited to, providing counseling, recommending places the students might apply for work, advising student on how to fill out a job application, and assisting the student in developing a resume. These services fall under Pre-ETS services for those students in high school.~~

Physical Restoration Services - Chapter 18

18.1 OVERVIEW

18.1.1 Definition

Physical restoration services are those medical and medically related services that are necessary to correct or substantially modify within a reasonable period of time a physical or mental condition.

18.1.2 Services

Physical restoration services include:

- Medical treatment
- Psychiatric treatment
- Surgical treatment
- Dental treatment
- Physical and occupational therapy

- Individuals who are blind, severely visually impaired, or deaf-blind have been provided with pre-requisite academic, personal adjustment and pre-vocational skills prior to being referred to DSB.
- It also provides for placements of individuals who are blind, severely visually impaired, or deaf-blind are based on an Individualized Education Program (IEP), and that the student will be served in the least restrictive environment.
- Schools will involve DSB staff in writing IEP's for children who will be referred for appropriate services. Schools will initiate and/or cooperate in the development of graduation plans, Tech Prep programs of study, vocational components and transitional goals of the IEP, and the Individual Plan for Employment (IPE).
- Comprehensive services will be provided and may include, but are not limited to, evaluation/assessment services, instructional services, and support services.
- Under the Americans with Disabilities Act (ADA), Special Education shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of services, programs, or activities conducted by Special Education and/or local educational agencies.

NOTE: Counselor must obtain the student's current IEP and have it filed appropriately in case file.

~~17.3.2 IEP Meeting~~

~~The counselor will attend all IEP meetings scheduled for the minor consumer.~~

17.3.3 Counselor's Other Responsibilities

The counselor will be responsible for the following:

- Providing information, support, and guidance to students, parents, and schools to promote a smooth transition
- Attending students' Individualized Education Program (IEP) meetings
- Assisting students in developing their Individualized Plan for Employment (IPE)
- Assisting students in technology decisions
- Assisting students in career exploration

17.3.4 Family's Role

When family support is available, family involvement in the transition process will significantly enhance both transition planning and a successful outcome. Each family has a unique set of family values and cultural influences that will affect their concerns, opinions, and requests. The family's role in the vocational

- 2) developing and improving strategies for individuals with intellectual disabilities and/or significant disabilities to live independently, participate in postsecondary educational 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 the WIOA,
- 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 the WIOA,
- 7) developing model transition demonstration projects;
- 8) establishing or supporting multistate or regional partnerships involving states, local educational agencies, designated state units, developmental disabilities agencies, private businesses, or other participants to achieve the goals of the WIOA, and
- 9) disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally underserved populations

Note: Supported Employment, including all assessments and benchmarks, is not a Pre-ETS service.

Pre-ETS can be provided to individuals who are eligible, or potentially eligible

When services provided do not involve expenditure of funds, consider whether the counselor's time can be counted as Pre-ETS. As long as the counselor's time was spent on one of the defined Pre-ETS areas, for individuals meeting the student with a disability definition, it can usually be counted. Examples include time spent planning a transition fair, time spent traveling to meet with students for the purpose of providing Pre-ETS, or time spent attending a transition-related training. When questioning whether an activity should be counted, the counselor should speak with his or her supervisor.

17.3 RESPONSIBILITIES

17.3.1 School's Responsibilities

Public schools have primary responsibility for ensuring and providing a free and appropriate public education (FAPE) for children. The Special Education Unit will establish and maintain policies and procedures and provide technical assistance to local education agencies to assure the following:

- Assessment and vocational assessment
- Vocational planning
- Orientation and mobility
- Academic recommendations, including tutoring and instructional adaptations
- Instruction including ADL, self-advocacy, and social skills
- Advocacy
- Adaptive technology
- Rehabilitation engineering
- Reader service
- Transportation
- Work experience including summer employment and job shadowing
- Physical restoration
- Community experiences

17.2.2 Technology Purchases

The counselor can **only purchase assistive devices and adaptive equipment if the items are needed for post-secondary education or long-term employment.** If a student needs assistive devices or adaptive equipment for his/her participation in secondary school, the public school, under the ADA, should provide the equipment necessary for the student's participation. (Devices unrelated to education or vocational rehabilitation will be the responsibility of the parents/guardian. For example, devices for home or recreational purposes should not be considered.)

~~17.2.3 PRE-EMPLOYMENT TRANSITION SERVICES~~

~~Pre-Employment Transition Services (Pre-ETS) are provided to individuals meeting the student with a disability definition. WIOA defines a total of 14 Pre-ETS categories in the WIOA section 422. Five of these categories are required and the other nine categories can be considered after the required services are considered or provided.~~

~~The five required Pre-ETS categories are:~~

- ~~1) Career Exploration;~~
- ~~2) Work-based Learning, including internships;~~
- ~~3) Counseling on post-secondary training opportunities;~~
- ~~4) Work readiness, including skill related to independent living and social skills; and~~
- ~~5) Self-Advocacy.~~

~~The additional nine possible Pre-ETS categories address the following:~~

- ~~1) implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;~~

50 percent of our Supported Employment funding be spent on the provision of Supported Employment services for youth with disabilities.

Minor

A minor is an individual who is under 18 years old and is not or has not been married. Also under this definition a minor has not had minority status removed for general purposes.

17.1.2 Overview of Transition and Pre-Employment Transition

DSB provides **transition services** to eligible students with disabilities through the adult Vocational Rehabilitation (VR) program to prepare blind and visually impaired students and youth to move from receiving special education services and services required under Section 504 of the Rehabilitation Act of 1973, as amended, to receiving VR services.

References to the counselor in this chapter apply to any counselors (VRCs) or transition vocational rehabilitation counselors (TVRCs) working with transition consumers.

~~DSB provides pre-employment transition services (Pre-ETS) to individuals meeting the student with a disability definition. The primary focus of DSB should be on those individuals who are ages 16-22. Individuals not meeting this definition can receive the same services, however, they are not counted as Pre-ETS and should only be paid with VR budget, not Pre-ETS budget.~~

17.1.3 When to Open a Case

Transition cases should be treated the same as any other case. Counselors are not to open a case unless they are going to write an IPE within 90 days after certifying eligibility (see Section 7.1.12). ~~Pre-employment transition services do not require a case to be opened, however, cases can be opened on Pre-ETS clients, provided that the core services are being provided.~~

17.1.4 Notice of Eligibility

Upon determination of eligibility, the counselor will notify the minor consumer and his/her parent or representative and proceed with program planning.

17.2 SERVICES

17.2.1 TRANSITION SERVICES

Transition services, by their nature, must be individualized and adjusted to the specific needs, environments, supports, and skills of each consumer. Transition services may include, but are not limited to the following:

- Counseling

~~include a statement of the student's present levels of academic achievement and functional performance. It must also include how the student's disability affects his or her involvement and progress in the general education curriculum, that is, the same curriculum as for students without disabilities. *Based on 34 CFR Section 300.320~~

Student with a Disability

~~A student with a disability is defined by the Workforce Innovation and Opportunity Act (WIOA) as anyone age 16-21 years old who is attending school, receiving services through the Individuals with Disabilities Education Act (Special Education) or are considered 504 eligible (including those individuals who are working with Vocational Rehabilitation or VR).~~

~~If an individual is 22, he or she will only meet the student with a disability definition if his or her 22nd birthday falls on or after September 1. In that case, the individual will meet the definition through August 31 of the following year.~~

~~The only group of consumers who will receive services considered Pre-Employment Transition Services (Pre-ETS) are those who meet this WIOA definition. The same services can be provided to those not meeting this definition; however, they are not counted as Pre-ETS and should not be paid with Pre-ETS budget.~~

Transition Vocational Rehabilitation Counselor (TVRC)

A TVRC is a qualified vocational rehabilitation counselor who works with a specialty caseload of primarily transition-age consumers at assigned high schools. Vocational rehabilitation counselors (VRCs) do not have to be designated TVRCs to work with transition consumers.

Workforce Innovation and Opportunity Act

The Workforce Innovation and Opportunity Act (WIOA) is a federal law that became effective in 2014 and reauthorizes and amends the Workforce Investment Act and the Rehabilitation Act of 1973. The law consists of five titles, and Title IV pertains to requirements for the Vocational Rehabilitation program.

The underlying principle behind Title IV is that too many individuals are leaving high school unprepared for work and independence. With that in mind, WIOA prescribes certain service provision requirements discussed below.

Youth with a Disability

Youth with a disability is defined as anyone ages 14-24 with the most significant disabilities. The Workforce Innovation and Opportunity Act (WIOA) requires that

obtainable, the counselor states in the case narrative that these items are missing from the record.

Transition Services and Pre-Employment Transition Services— Chapter 17

17.1 KEY TERMS

Transition

Transition services are activities designed for a student to promote movement from school to post-school activities. These activities must be coordinated, goal-oriented, and based on the student's needs and interests. The services include post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, and/or community participation. Transition services must promote or facilitate the achievement of the employment outcome identified in the student's individualized plan for employment (IPE). *Based on 34 CFR Section 361.5(b)(55)

~~**Pre-Employment Transition Services**~~

~~Pre-Employment Transition Services (Pre-ETS) are provided to individuals meeting the student with a disability definition. Individuals not meeting this definition can receive the same services; however, they are not counted as Pre-ETS and should only be paid with VR budget, not Pre-ETS budget.~~

~~The Workforce Innovation and Opportunity Act (WIOA) defined a total of 14 Pre-ETS categories. Five of these categories are required and the other nine categories can be considered after the required services are considered or provided. WIOA requires that 15 percent of federal vocational rehabilitation funds be spent on Pre-ETS services.~~

~~**504 Plan**~~

~~A school's written statement of services provided in accordance with Section 504 of the federal Rehabilitation Act of 1973 is called a 504 Plan. Section 504 requires school districts that receive federal funding to provide a "free and appropriate public education" (FAPE) to each qualified student with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the disability. Appropriate educational services are designed to meet the individual needs of such students to the same extent as the needs of students without disabilities are met. *Based on 34 CFR Part 104, Subpart D, Sections 104.31–104.39~~

~~**Individualized Education Plan (IEP)**~~

~~The school's written plan to meet educational goals and objectives for a student with a disability is called an Individualized Education Plan (IEP). The IEP must~~

~~The consumer and counselor will identify specific steps (intermediate objectives) needed to reach the employment goal. The counselor will provide information about the range of services available to support those steps. This will include specific information about various service providers, training programs, etc., their effectiveness and other quality factors. The counselor will provide as many service options from which to choose as reasonable and possible. The counselor will assist the participant to evaluate the options in order to make appropriate and informed choices.~~

~~The counselor and consumer will agree upon and clearly identify responsibilities, time lines and how progress will be measured.~~

~~If agreement cannot be reached, the partners may need to gather more information or to further research options. If this does not result in a mutual decision, the consumer may exercise the right to appeal.~~

~~6.4.8 Case Recording and Documentation~~

~~The case record should reflect the consumer's active involvement at major decision points (specifically, in the development of the IPE) and how information about choices was provided. The record should indicate what range of career options was considered and the rationale for the choice of vocational goal. IPE documentation should describe, in the consumer's own words, how he or she participated in the decision making process, development of vocational goals and selection of service providers. This documentation reinforces participant ownership of and responsibility for the plan.~~

~~6.4.9 Consumer Satisfaction~~

~~The effectiveness of the Informed Choice policy and practice will be evaluated through the Consumer Satisfaction Survey, area supervisors, and through DSB case review.~~

Individualized Plan for Employment (IPE) – Chapter 7

7.1 OVERVIEW

7.1.1 What is VR?

Vocational rehabilitation is the provision of services designed to assist the consumer in obtaining a successful employment outcome that is commensurate with the consumer's abilities, capabilities, unique strengths, resources, priorities, concerns, interests, and informed choice to the maximum extent appropriate, which results in employment in an integrated setting.

7.1.2 Aim of VR

provide the consumer with information and assist him or her to evaluate factors such as financial needs, occupational outlook, job availability, career values, and alternative strategies. This exploration may include other partners as the consumer decides appropriate.

Consumers will be taught to consider critical questions such as, "What more do I need to know about myself or about the world of work?" Counselors will facilitate critical thinking and support the process by suggesting and providing tools and resources, and by helping the consumer evaluate what is explored or experienced.

6.4.6 Options for Self Assessment and Career Exploration

The following are some options for self assessment and career planning:

- Participate in a job club which provides valuable peer feedback and support, as well as builds job search skills.
- Conduct an informational interview or job shadow a friend or mentor.
- Attend a career exploration or even specific job skills class.
- Take an interest or aptitude test.
- Get feedback from family and friends.
- Explore specific barriers through further standardized testing or psychological testing.
- Complete an assistive technology evaluation.
- Develop a resume or work profile
- Do volunteer work.
- Form a consumer-centered team of selected friends, neighbors, providers, advocates, or others to participate in career exploration, assessment and planning.
- Take a self advocacy skills class.
- Get feedback from the counselor and other partners on the above activities or experiences.
- Participate in participant group or mentoring programs.

NOTE: This list is by no means complete. Other tools/ resources may be identified or created to fit the specific needs of a particular consumer

6.4.7 IPE

The Individualized Plan for Employment is the tool for focusing and organizing informed choices toward the goal of employment. Based upon the results of the self-assessment process, the consumer and counselor will jointly develop an employment goal from the range of vocational goals that were considered, and will base the choice upon the appropriateness of the goal in relation to the consumer's interests, skills, abilities, and needs.

- Inform the consumer that they have the right to appeal when an agreement cannot be reached within the rehabilitation partnership or parameters of agency policy and refer the consumer to the Client Assistance Program;
- Create hope, empower and expand the consumer's range of "possibilities thinking" by emphasizing strengths and building capacities, and help identify and diminish barriers and fears.
- Individualize and customize their consumer partnerships and are sensitive to diversity issues
- Create ways for consumers, regardless of their level of functioning, to participate to the fullest extent possible in the informed choice process.

6.4.4. Consumer Role

The consumer is an active partner in researching and exploring options, strengths, barriers, resources, solutions, and a range of career possibilities.

The consumer's role includes the following.

- Evaluates reality-tests and prioritizes options.
- Develops and uses decision making and self-advocacy skills.
- Learns to make career choices consistent with identified strengths, resources, abilities, and environmental realities.
- Takes responsibility for the results of decisions, and for following through on planned activities and steps toward their employment goals.
- Chooses whether or not to include family, advocates or service providers in identifying options.
- Learns to offset barriers through technology, adaptive and other skills, natural supports and reasonable accommodations.
- Learns how to advocate for his/her own choices, when the counselor or others do not agree, by presenting additional information, by finding solutions or resources, and by using the right to appeal, etc.
- Learns skills that will assist in keeping or advancing in employment throughout his/her lifetime.

6.4.5 Assessment and Career Planning

Consumers will be expected to own and share responsibility for their assessment and career exploration experience. Self-assessment opportunities and experiences will be offered and facilitated by the counselor. These will be reality based and employment focused.

Consumers will be assisted, to the extent needed, to become aware of and knowledgeable about their skills, abilities, talents, interests, and priorities and how these relate to selection of meaningful career options. The pros and cons of a range of career paths will be explored with care and research. The counselor will

informed choices. The consumer should be provided information and assistance as appropriate to evaluate and determine the involvement, impact and quality of these resource partners in the formulation of career options and plans.

6.4.2 Consumer Benefits

With the assistance of the VR counselor and through the formulation of partnerships, the consumer receives all the information necessary to make valid and responsible decisions.

Through the information provided, the consumer

- develops decision-making skills which will benefit and empower him or her for a lifetime,
- owns decisions and shares responsibility for outcomes,
- learns that each option or choice has a different impact, meaning or result, and should be weighed carefully,
- learns that being an active partner means that to reach a goal, you have to be part of making it happen,
- gains a better understanding of his/her own needs, strengths and desires,
- shares the responsibility for information gathering and exploration,
- gains in self-assurance and the ability to be a self-advocate, and
- has a better chance for a satisfying, rewarding and secure job as a result of exploring thoroughly his/her own capacities and a wide range of options.

6.4.3 Counselor Role

The counselor must focus on counseling and guidance, skills training, providing tools and resources, consulting, and facilitating and advocating.

The VR Counselor's role includes the following.

- Assure consumers obtain adequate information on their strengths, resources, priorities, concerns, needs, abilities, and capabilities in order to develop personally meaningful short-term employment goals and long-term career and quality of life goals
- Provide skills training and opportunities to practice how to evaluate and prioritize options, solve problems, make decisions, communicate choices, and take responsibility for outcomes.
- Retain responsibility as professionals to present their best judgments to teach consumers to evaluate options, say "no" when alternatives are not possible under law, policy, budget constraints, the labor market or other circumstances, and help the consumer to understand that the universe of choices is not infinite.

~~example, an individual who is seeking the services of a job developer might want to ask the following questions.~~

- ~~• Does the job developer specialize in certain types of jobs?~~
- ~~• How does the developer get job leads?~~
- ~~• How much time will the developer spend per week working with the individual?~~
- ~~• What will the developer expect from the individual?~~

~~6.3.5 Support and Assistance from Others~~

~~Consumers can obtain assistance from other individuals in the form of support in their decision-making process. For any aspect of their rehabilitation process, the consumer could bring a friend, family member, or other individual into their making decisions on informed choice. The VR counselor plays a key supportive role in this process by following up with the consumer frequently to see how he or she is doing and by modifying or developing strategies to assist the individual in improving their planning and decision-making skills.~~

~~6.3.6 Simplifying Information~~

~~Counselors should provide consumers with access to appropriate information which will allow them to identify opportunities and solutions to problems, assess strengths and weaknesses, ask appropriate questions, locate resources, and, if necessary, advocate effectively.~~

~~Access to appropriate information allows a consumer to influence, and to be influenced by, the rehabilitation process.~~

~~6.3.7 Modes of Communication~~

~~The Rehabilitation Act of 1973, as amended (Section 501.32), requires that consumers receive information on informed choice through an appropriate mode of communication. This information must cover the availability of and scope of informed choice, the manner in which informed choice may be exercised, and the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice.~~

~~6.4 GUIDELINES FOR IMPLEMENTATION~~

~~6.4.1 Partnership~~

~~Although the consumer and counselor form the heart of the partnership in the rehabilitation process, other individuals, such as parents, friends, advocates, peer counselors, mentors, vendors, other agencies, or the Client Assistance Program, etc., may be directly or indirectly involved in career identification and planning. These other partners may provide valuable support to the consumer in making~~

Counselor judgment and observation are a primary source of discovery throughout the VR process. How the individual followed the process of obtaining VR services and how he or she processes information and responds to questions during interview and intake provides information about some of the skills related to informed choice. Probing the reasons the individual says "no" to a particular option helps to determine if the consumer is responding because of lack of information or because of fear. Assessing changes in the consumer's skill in implementing informed choice and adapting supports appropriately is a continuous evaluation and educational role for the counselor.

6.3.2 Consumer Self-Discovery

Self-discovery is an important factor in the implementation of informed choice. Employment outcome as defined in the final regulations for the VR Program includes the element that the employment outcome must be consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

The more complex the individual's situation or disability, the more difficult it is for others to help the individual consider all the factors necessary for making informed decisions. Using techniques that teach individuals to develop an awareness of how their disability affects them, how they function on a daily basis, and how they respond to information and make decisions may be a better investment of the time and efforts of VR counselors.

One method of self-discovery is for the individual to keep a log, either in writing or by audiotape. Individuals can record information such as variations in their energy level, times and conditions when they feel good and are doing their best work, variations in symptoms, etc. The log becomes a self-management tool, providing insight into behavior patterns and forming the basis for strategies to maximize the individual's functioning level.

6.3.4 Gathering Information

Assisting the consumer in gathering information can begin during the assessment process by allowing him or her to direct the discussions between counselor and consumer. Also, the VR counselor can provide the consumer with information which is written in a manner the individual can understand. The consumer can then clarify and discuss the information with the counselor, a peer group, rehabilitation team, family members, or other individuals. In this manner the VR counselor makes sure that the consumer understands the information.

Consumers can also be taught to gather information about goods, services and service providers. To provide structure for gathering such information, the VR counselor and consumer can develop a list of questions to ask providers. For

~~scope of informed choice, the manner in which informed choice may be exercised, and the availability of support services for individuals with cognitive or other disabilities who require assistance in exercising informed choice.~~

~~6.2.8 Complex Issues~~

~~Counselors may find that complex issues are difficult for some consumers to comprehend. The more truly complex the issue, the more likely it is that the consumer will feel the need for professional or technical information and advice. In these cases it is important for the counselor to consider using an outside advisor who has special knowledge of the issue, especially if the counselor does not feel qualified to inform the consumer on the issue.~~

~~6.2.9 Different Sources of Information~~

~~An effective way to reduce bias information and deal with complex issues is to broaden the scope of those who provide the information. Counselors should seek input from a variety of sources, but should not overload the consumer with conflicting information. By viewing advice and information from multi sources rather than a single, system-provided source, it is possible to include the counselor in the mix without violating the principle of impartiality. In general, the counselor should see that the consumer has access to information from a variety of sources.~~

~~6.3 STRATEGIES FOR IMPLEMENTING INFORMED CHOICE~~

~~6.3.1 Determining Consumer Ability~~

~~Methods to determine the consumer's ability to implement informed choice may vary depending upon the individual's disability and the severity of that disability. For some individuals the counselor, the consumer, or others can use a checklist to analyze the consumer's skills and abilities in areas important to the implementation of informed choice. Such an analysis provides a way for the consumer and others working with him or her to identify those tasks for which the consumer needs support, accommodations, and skill building. Purchased checklists can be used or counselors can develop their own.~~

~~Working with a consumer on developing a vocational profile and employment goal will yield information about how the consumer gathers and responds to information and makes decisions. Situational assessments or trial work experiences provide the opportunity to observe the consumer in natural life situations that help clarify not only the consumer's goal and service needs, but how the individual makes decisions. Interviewing family, friends, and others who are close to the individual may also yield the same information.~~

~~6.3.2 Counselor Judgment and Observation~~

are part of the VR counselor's duties. All systems have gatekeeping issues which affect the consumer's choices and which often require a blend of information and advice to assist them to make successful informed decisions. Counselors must recognize the limits of their advice and the possible bias of their information in light of their gatekeeping responsibilities, and be able to communicate these limits to the consumer. The limits referred to here typically are monetary issues such as the cost, value or individual's need relative to a service or product. Counselors need to reduce any arbitrary and limiting rules on the use of funds by placing the consumer's needs and satisfaction as first line considerations.

However, there are gatekeeping issues which go beyond money and which can compromise the effectiveness of advice and the validity of information which the counselor gives the consumer. If the decision of the consumer is one which has the potential to cause physical or emotional harm, it is often necessary to impose limits as opposed to offering information, options or opinions. Counselors must decide if and when it is appropriate to intervene if it appears harm may occur. These types of situations obviously go against the purpose of informed choice. When it is necessary for a counselor not to support a decision made by a consumer, the counselor should seek a wide variety of acceptable options which can be presented to the consumer.

6.2.5 Believability/Reputation

Since one of the traditional counselor roles has been that of gatekeeper, many consumers have questioned the degree to which advice and information serve their needs or the agency needs. In order for counselor input to be perceived as believable, it is necessary for the counselor to build a reputation of honesty, distinguishing between advice and the limiting reality of the gatekeeping needs of the agency.

6.2.6 Consumer Ownership of the Decision

The most important consideration relating to good advice and information is that responsible, viable and final decisions are made by the consumer, or by a designated family member, as appropriate. In order to accomplish this, counselors in advising roles must strive to provide unbiased advice and information which relates directly to the consumer choosing and pursuing a realistic employment objective. This advice and information should be adequate for the consumer to make an informed decision based on accurate information. It is the role of the counselor to provide information, but not usurp ownership by the consumer.

6.2.7 Rehabilitation Act Requirements

Rehabilitation Counselors are required by the Rehabilitation Act of 1973, as amended in 1992 (Section 361.52), to insure that each individual receives, through appropriate modes of communication, information concerning the availability and

~~In traditional rehabilitation, information and advice have been fundamental aspects of the counselor/consumer relationship. The counselor has been responsible for gathering facts and offering opinions on the consumer's efforts to become employed as well as defining the questions, issues and barriers which need to be addressed. The provision of counselor-centered advice and information is no longer an option for the counselor, and he/she must shift the focus away from counselor ownership of advice and information to a broader, more natural and consumer-centered basis.~~

~~6.2.2 Biased Information and Advice~~

~~It is important to note that almost all advice and information are biased by some influence on the individual who is giving the information. Information relates to facts, so it would appear to be bias free. However, since most rehabilitation personnel work for systems with rules and traditional responses to certain situations, it is often difficult to know whether an interaction concerning informed choice is factual or biased in some way.~~

~~The opinion aspect of advice is almost always inherently biased. Therefore, good advice should contain alternate avenues for consumer consideration, as well as the opinion of those offering the opinion. Good advice is an individualized blend of information, opinion and workable options offered to a consumer in a manner which can be understood and utilized.~~

~~6.2.3 Processing Information and Opinion~~

~~While it may seem that a consumer is making an informed decision based on the information and opinion of a counselor, the reality may be that the consumer is seeking to please or to simply follow any advice offered. Understanding the difference requires those giving advice and information to closely monitor all decisions and to consider subtle ways to insure that the consumer owns and understands the decisions as much as possible.~~

~~It is important to consider that technology, interpretation services and accessible formats may need to be available to assure that an individual understands and processes opinions of others. When confronted with new and complex decisions, people with disabilities, especially persons with significant intellectual disabilities, may need support and feedback from those most closely concerned about them in order for information and advice to be understood and processed.~~

~~6.2.4 Gatekeeping Issues~~

~~VR counselors are entrusted with the proper disposal of public funds which consumers use to accomplish the decisions they make. When the sole source of information a consumer receives is from a counselor, who works in the system, it is easy for that input to become infused with the gatekeeping responsibilities which~~

~~6.1.1 Definition~~

~~Informed choice occurs within a partnership where the partners identify and explore together the various options at each decision point in the consumer's rehabilitation, and where the counselor/ team provides support as needed for the consumer to make the informed choices that will result in a meaningful career outcome. This is a true partnership of a skilled counselor and informed consumer. Informed choice means that consumers are empowered to consider a range of options, that they own decisions, and share responsibility for the outcomes.~~

~~It is the process by which individuals participating in the VR Program make decisions about their vocational goals, the services and service providers that are necessary to reach those goals, and how those services will be procured. The decision making process takes into account the individual's values and characteristics, the availability of resources and alternatives, and general economic conditions. Implementing informed choice requires communicating clearly, gathering and understanding information, setting goals, making decisions, and following through with decisions.~~

~~To the extent that the individual participates in the procurement of services, implementing choice may also involve basic consumer skills, such as money management and negotiating in the marketplace.~~

~~6.1.2 The VR Process~~

~~The process of vocational rehabilitation is not a linear process based on the old diagnostic/prescriptive model, but is a consumer-centered, consumer-owned process with key decision points focused on quality outcomes. Informed choice begins with the first meeting of the consumer and counselor and moves from that first moment toward an employment outcome.~~

~~6.1.3 Counselor Role versus Consumer Role~~

~~Informed choice does not mean unlimited or unreasonable choice. The counselor's role is to provide information, tools, and resources to teach decision making skills, to facilitate the decision making process, and to support decision implementation.~~

~~The counselor will provide the consumer with up front information about the parameters which may affect the range of available career goals or service options. It is the consumer's responsibility to take the information provided and make sound career decisions, and to accept ownership of the decisions that he or she has made.~~

~~6.2 ADVICE AND INFORMATION~~

~~6.2.1 Traditional Rehabilitation~~

- the enforcement of criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces,
- a correctional program, facility, or institution if the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,
- a court having criminal or juvenile delinquent jurisdiction if the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees, or
- firefighting, fire prevention, or emergency rescue missions.

5.3.2 Special Consideration for Public Safety Officers

Special consideration will be given to public safety officers whose disability is a result of any of the following:

- Action performed in the line of duty
- A criminal act, apparent criminal act, or a hazardous condition
- The officer's performance of duties in direct connection with the endorsement, execution, and administration of law or fire prevention, firefighting, emergency rescue missions, or related safety activities

Public safety officers who meet eligibility criteria for a specific category will be given priority for services over other eligible individuals within that specific category.

5.3.3 Civil Employees of the United States

Vocational rehabilitation services are available to civil employees of the United States Government who are disabled in the line of duty under the same terms and conditions applied to other individuals with disabilities.

5.3.4 American Indians

Vocational rehabilitation services are available to American Indians with disabilities residing in the State to the same extent that these services are provided to other significant groups of individuals with disabilities residing in the State.

DSD will continue to provide VR services, including, as appropriate, services traditionally used by Indian tribes, to American Indians with disabilities who reside on reservations and are eligible for services by a special tribal program under 34 CFR part 371.

Informed Choice – Chapter 6

6.1 OVERVIEW

~~whose rehabilitation requires three or more substantial VR services over an extended period of time.~~

~~Priority 3 Significantly Disabled Needing Two or More Services.~~

~~Priority 3 includes eligible individuals with a significant disability whose impairment limits two functional capacities in terms of an employment outcome and whose rehabilitation requires two or more substantial VR services over an extended period of time.~~

~~Priority 4 All Other Significantly Disabled:~~

~~Priority 4 includes all other eligible individuals.~~

~~5.2 APPLYING THE ORDER OF SELECTION~~

~~5.2.1 Determining Priority Category~~

~~In determining the priority category, the consumer will be placed in the highest category for which they qualify. However, if a consumer's condition changes after being assigned a category, re-evaluation may cause a downward or upward reclassification.~~

~~The following are the steps a counselor needs to take in placing a consumer in the proper priority category.~~

- ~~• Determine if the applicant meets the requirements to be served by this agency.~~
- ~~• Determine if the applicant is eligible for VR services.~~
- ~~• If eligible, determine the number of functional limitations of the applicant.~~
- ~~• Determine the number of services an applicant will need to achieve his/her VR goal.~~
- ~~• Determine the time it will take the applicant to achieve the goal.~~
- ~~• Place in proper Order of Selection priority.~~

~~Any applicant or eligible consumer who is dissatisfied with the Order of Selection and the category assigned them, may request an administrative review for re-evaluation. Counselors will inform applicants and eligible consumers of this right.~~

~~5.3 SERVICES TO SPECIAL GROUPS OF INDIVIDUALS WITH DISABILITIES~~

~~5.3.1 Definition of Public Safety Officer~~

~~Public safety officer means a person serving the United States or a state or unit of local government, with or without compensation, in any activity pertaining to.~~

~~In keeping with federal mandates, all applicants for VR services are entitled to a preliminary diagnostic study to determine eligibility or ineligibility for services. Diagnostic services, provided in Status 02 (and sometimes Status 06) to determine eligibility and priority classification, are provided without regard to Order of Selection.~~

~~**NOTE:** Eligibility must be determined before applying the Order of Selection.~~

~~DSB consumers who were in Status 06 or 12-24 (have been determined eligible, an IPE completed, and services in place) prior to the implementation of the Order of Selection policy (October 1, 1995) will receive services as stated in their IPE.~~

~~5.1.5 Severe Disability~~

~~The Rehabilitation Act of 1973, as amended, Section 7 (21) (A), defines an individual with a significant disability as one~~

- ~~1. 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;~~
- ~~2. whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and~~
- ~~3. who has one or more physical or mental disabilities as identified in Section 7 (21) (A) of the Act, or any other disability or disabilities that cause comparable substantial functional limitation.~~

~~5.1.6 Priority Categories~~

~~The Director of DSB will establish the priority levels for expenditures based on availability of funds. The following sets forth the manner in which the Order of Selection will be applied by DSB.~~

~~Priority 1 Most Significantly Disabled.~~

~~Priority 1 includes eligible individuals with the most significant disability whose impairment limits four or more functional capacities in terms of an employment outcome and whose rehabilitation requires three or more substantial VR services over an extended period of time.~~

~~Priority 2 Significantly Disabled Needing Three or More Services.~~

~~Priority 2 includes eligible individuals with a significant disability whose impairment limits three functional capacities in terms of employment outcome and~~

~~Institutionalized~~

~~Transferred to another agency~~

~~Closed for failure to cooperate~~

~~No disabling condition~~

~~No vocational handicap~~

~~4.9.3 When is an Annual Review Required?~~

~~Any closure found ineligible because the individual is incapable of achieving an employment outcome (Code 02 Handicap too Severe) will be scheduled for an annual review.~~

~~Order of Selection – Chapter 5~~

~~5.1 OVERVIEW~~

~~5.1.1 Definition~~

~~The DSB Order of Selection is an explanation justifying the order in which eligible individuals will be served if DSB cannot provide services to all eligible individuals.~~

~~5.1.2 Purpose~~

~~The Order of Selection assures that priority is given to those individuals with the most severe disabilities in the provision of any VR services.~~

~~5.1.3 Individuals to be Served~~

~~In order to receive services from this agency, an individual must be classified in one of the following categories:~~

~~Total Blindness – Any permanent visual condition resulting in total loss of vision.~~

~~Legal Blindness – A visual acuity for distance vision in the best eye with the best correction of 20/200 or less, or the widest diameter of visual field subtending an angle of less than 20 degrees.~~

~~Visually Impaired – A progressive visual condition with a visual acuity of 20/50 in the best eye after correction which may result in total or legal blindness,~~

~~OR~~

~~there is imminent danger that the individual may become totally or legally blind as documented by a physician who is skilled in diseases of the eye.~~

~~5.1.4 Eligibility for DSB Services~~

~~4.8.3 Criteria for Closing a Case from Status 02~~

~~A case is closed from Applicant Status when~~

- ~~• one or both of the VR eligibility criteria are not met~~

~~OR~~

- ~~• circumstances are evident that an eligibility/ineligibility determination cannot be made (e.g., the applicant declines to participate in the assessment, and the VR counselor has made a reasonable number of attempts to encourage the applicant's participation).~~

~~4.8.4 Closure Narrative~~

~~If a consumer is determined ineligible, the Closure Narrative is completed and signed by the counselor and consumer. The consumer is to receive a copy of the signed document and a copy is to be placed on top of the right hand side of the case service record. If the consumer has died, or the counselor is unable to locate the consumer, the counselor should make notation of this in the closure narrative.~~

~~**NOTE:** For counselors within their first twelve months on the job, each closure must be reviewed and approved by the supervisor.~~

~~4.9 ANNUAL REVIEWS OF INELIGIBLE CASES~~

~~4.9.1 Annual Review of Cases Closed Ineligible~~

~~Individuals whose cases have been closed in any of the following statuses are to be provided an opportunity for a review of the ineligibility determination no later than 12 months after the decision is made.~~

~~Status 08 from Status 02 or 06,~~

~~Closed Rehabilitated from Statuses 14, 24, and~~

~~Closed, Other Reasons, Before IPE Initiated from Statuses 10-12~~

~~4.9.2 When is an Annual Review NOT Required?~~

~~An annual review will not be conducted when the following apply:~~

~~The individual refuses the opportunity for review~~

~~The individual is no longer present in the state or his/her whereabouts are unknown~~

~~Medical information upon which the ineligibility decision was based indicated the condition was terminal~~

~~Deceased~~

~~The Certification for Eligibility Form (DSB-1) is found in DSIS. The following steps should be followed in completing the DSB-1.~~

~~Step 1 - Enter the individual's last name, first name and middle initial~~

~~Step 2 - If individual is being certified for active services (Eligibility Status), then complete the top section as follows.~~

~~Check appropriate statements~~

~~Enter counselor signature~~

~~Enter date of certification for active services~~

~~If individual is being certified for extended evaluation (Status 06), then complete the bottom section as follows.~~

~~Enter counselor signature~~

~~Enter date of certification for extended evaluation~~

~~Step 3 - Place certification in case service record.~~

~~4.8 INELIGIBILITY FOR VR SERVICES~~

~~4.8.1 Introduction~~

~~An individual who has applied for services from this agency may not be eligible for VR services. The VR counselor must document in the case service record that one or both of the VR eligibility criteria are not met in order to show ineligibility. An applicant's case service record may not be closed prior to making an eligibility determination unless circumstances are evident which prevent this decision.~~

~~4.8.2 Reasons for Ineligibility~~

~~Any of the following reasons may constitute the basis for a determination of ineligibility.~~

- ~~• Diagnostics indicate there is NO DISABLING CONDITION~~
- ~~• There is a disabling condition, but it DOES NOT PRESENT AN IMPEDIMENT TO AN EMPLOYMENT OUTCOME~~
- ~~• The individual's DISABILITY IS TOO SEVERE TO ALLOW GAINFUL EMPLOYMENT*~~
- ~~• The individual DOES NOT REQUIRE VR SERVICES to prepare for, enter, engage in, or retain gainful employment~~

~~* A case cannot be closed due to disability too severe unless an extended evaluation has been provided or the consumer is being closed from active status.~~

~~4.6.5 Time Limits~~

~~A case should be moved out of Status 06 immediately upon making a decision that the consumer does or does not meet the criteria for active VR services. This determination must be made within a maximum of 18 months. After 18 months the case must be closed Status 08 or certified eligible and moved to Eligibility Status with the top portion of the DSB-1 completed.~~

~~4.6.6 Monitoring Requirements~~

~~A comprehensive assessment of progress must be constantly made to assure appropriate expenditure of VR funds. Progress must be documented at least every 90 days.~~

~~4.6.7 Certification of Eligibility for Extended Services~~

~~Complete the bottom portion (Certification for Extended Evaluation) of the DSB-1 to certify that the consumer has been determined eligible for extended evaluation to determine vocational potential. (See DSB-1 at the end of this section.)~~

~~**NOTE: THE TRIAL WORK EXPERIENCE HAS REPLACED THE EXTENDED EVALUATION. COUNSELORS MUST USE THE TRIAL WORK EXPERIENCE PRIOR TO AN EXTENDED EVALUATION. THE USE OF AN EXTENDED EVALUATION IS ONLY ACCEPTABLE AFTER ALL OTHER OPTIONS HAVE BEEN EXPLORED AND NO CONCLUSIONS CAN BE DRAWN.**~~

~~4.7 CERTIFICATION OF ELIGIBILITY DOCUMENT (DSB-1)~~

~~4.7.1 Purpose~~

~~The DSB-1 is used to certify that an individual has met the basic eligibility requirements for services, either in extended evaluation (Status 06) or as an active consumer (Eligibility Status).~~

~~4.7 CERTIFICATION OF ELICIBILITY DOCUMENT (DSB-1)~~

~~4.7.2 Who Completes the DSB-1?~~

~~It is the responsibility of the counselor to complete the form.~~

~~**NOTE:** For counselors within their first twelve months on the job, each Certification of Eligibility (DSB-1) must be reviewed and approved by the supervisor.~~

~~4.7.3 Directions for Completion~~

- ~~Services needed for employment are readily available without VR providing, paying for, arranging, coordinating, or otherwise enhancing the services~~
- ~~Consumer can obtain or retain employment without VR services~~
- ~~Requested services are not VR services~~

~~4.6 ELIGIBILITY FOR EXTENDED EVALUATION~~

~~4.6.1 Criteria for Extended Evaluation~~

~~There are two criteria for extended evaluation. They are the.~~

- ~~presence of a visual disability which for the individual constitutes or results in a substantial impediment to employment outcome, and~~
- ~~a need to gather evidence to clearly demonstrate that the individual can or cannot benefit from VR services in terms of an employment outcome.~~

~~4.6.2 Purpose of Extended Evaluation~~

~~The purpose of providing VR services in extended evaluation is to assess the effect of the impairment on the individual in terms of employment outcome~~

~~4.6.3 Extended Evaluation Services~~

~~The following services may be provided while in extended evaluation.~~

- ~~Diagnostic and related services, including assessment for appropriateness for supported employment~~
- ~~Counseling and guidance~~
- ~~Rehabilitation teacher services~~
- ~~Rehabilitation technology~~
- ~~Physical restoration~~
- ~~Maintenance~~
- ~~Comprehensive evaluation at a community rehabilitation program, workshop, actual work site or other suitable facility~~
- ~~Transportation~~

~~4.6.4 Services Not Allowed~~

~~These VR services may not be provided to a person certified for extended evaluation~~

- ~~Job placement~~
- ~~Occupational tools~~
- ~~On the job training~~
- ~~Active supported employment services~~

~~from VR services. Trial work experiences must be explored prior to closing a case as "too severe."~~

~~4.5 ELIGIBILITY FOR ACTIVE VR SERVICES - CRITERION II~~

~~4.5.1 Statement of Criterion II~~

~~The individual requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.~~

~~4.5.2 What is Required?~~

~~The second eligibility criteria restated means that VR services must be required to enable the consumer to participate in employment.~~

~~The consumer requires VR services to prepare for, obtain, retain, or regain employment if one or more of the following services are needed for employment.~~

- ~~• Assessment for determining eligibility and VR needs~~
- ~~• Counseling, guidance, and work related placement services~~
- ~~• Vocational and other training services~~
- ~~• Physical and mental restoration services~~
- ~~• Maintenance~~
- ~~• Interpreter services for individuals who are deaf~~
- ~~• Reader services for those who are blind~~
- ~~• Rehabilitation teaching services and orientation and mobility services~~
- ~~• Occupational licenses, tools, equipment, and initial stocks and supplies~~
- ~~• Transportation in connection with other VR services~~
- ~~• Rehabilitation technology services~~
- ~~• Referral to other agencies~~
- ~~• Transition services that result in employment~~
- ~~• On the job or other related personal assistance services provided while the consumer is receiving other services described above~~
- ~~• Supported employment services~~
- ~~• Services to family members~~

~~These services must be provided, paid for, arranged, coordinated, or otherwise enhanced by the VR program.~~

~~4.5.3 Situations Not Requiring VR Services~~

~~Situations where the counselor determines that a consumer may not require VR services are:~~

- ~~• Consumer is already receiving the services needed for employment (e.g. physical restoration, training, etc.)~~

~~A substantial impediment to employment exists when a visual impairment significantly~~

- ~~• limits the opportunity for suitable employment,~~
- ~~• limits preparation for suitable employment,~~
- ~~• causes the individual to require special assistance in securing suitable employment or in performing job tasks, or~~
- ~~• threatens current employment.~~

~~4.4.5 Other Factors~~

~~Other medical, psychological, vocational, educational, cultural, and social factors may combine with a visual impairment to create an impediment to employment. Examples of such factors include.~~

- ~~• Lack of motivation~~
- ~~• Low educational level~~
- ~~• Community attitudes concerning the disability~~
- ~~• Employer attitudes concerning the disability~~
- ~~• Long-term unemployment~~
- ~~• Unstable work record~~
- ~~• Ethnic group~~
- ~~• Poverty environment~~
- ~~• Long history of dependency~~
- ~~• Consumer's poor attitude toward work, family and community~~
- ~~• Mental retardation~~
- ~~• Psychiatric condition~~
- ~~• Orthopedic impairment~~
- ~~• Deafness~~
- ~~• Epilepsy~~
- ~~• Other documented chronic conditions~~
- ~~• Lack of accessible transportation~~

~~4.4.6 Clear and Convincing Evidence~~

~~A consumer can be closed with a "disability too severe" only if there is clear and convincing evidence that the individual is not capable of an employment outcome. There must be evidence that establishes such a conclusion with a high degree of certainty. This determination is made only after providing services through a trial work experience. Supported employment services should also be considered.~~

~~4.4.7 Examples of Clear and Convincing Evidence~~

~~Clear and convincing evidence could be derived from the results of a thorough diagnostic study which factually proves the individual is not capable of benefiting~~

~~A student visa or a visitor's visa must accompany acceptable work eligibility documentation as described on the I-9 form. Illegal or undocumented individuals are also unable to legally accept work, and are therefore considered to be ineligible for vocational rehabilitation services.~~

~~4.3.2 Required Documents~~

~~Required documents for working in the United States may include.~~

~~Valid Social Security Card~~

~~Valid Driver's License~~

~~Valid Non Driver ID Card (issued by the Department of Motor Vehicles)~~

~~U.S. passport~~

~~Certificate of Naturalization~~

~~Certificate of Citizenship~~

~~See Section 4.3.2 above, for an individual who is not a citizen of the United States.~~

~~4.3.3 Illegal Immigrants~~

~~By definition, individuals in the United States without legal status are not eligible for VR services.~~

~~4.4 ELIGIBILITY FOR ACTIVE VR SERVICES - CRITERION I~~

~~4.4.1 Statement of Criterion I~~

~~The individual has a visual disability which is a substantial impediment to employment, and the individual can benefit from vocational rehabilitation services in terms of employment outcome.~~

~~4.4.2 What is a Visual Disability?~~

~~A visual disability exists when the functional ability of an individual is limited or may in the future be limited as a result of~~

~~• a significant visual loss or~~

~~• a potentially significant visual loss due to an eye condition being progressive in nature as documented by medical evidence.~~

~~4.4.3 Impact of a Progressive Eye Condition~~

~~A progressive eye disorder, for purposes of disability definition, is a visual condition which, if left untreated, may lead to blindness in both eyes.~~

~~4.4.4 What is a Substantial Impediment to Employment?~~

~~to the severity of the individual's disability. The required "clear and convincing evidence" must be produced through the provision of trial work experiences.~~

~~4.2.6 Residence Requirement~~

~~DSR may not impose any durational or other residence requirement that excludes any individual who is present in the state.~~

~~NOTE: The ability to work as documented by a valid social security card or valid I-9 documentation is required to receive services. See 4.3.1.~~

~~4.2.7 Rule~~

~~Certification of eligibility for active VR services must be determined prior to applying an Order of Selection for payment of services.~~

~~4.2.8 Non Discrimination~~

~~Eligibility requirements must be applied without regard to age, gender, race, color, creed, national origin, or type of disability.~~

~~4.2.9 Age Limits for Eligibility~~

~~No upper or lower age limit may be established that will, in and of itself, result in finding ineligible any individual who is otherwise eligible.~~

~~4.3 DETERMINATION OF ELIGIBILITY - IMMIGRANTS~~

~~4.3.1 Aliens~~

~~The counselor must consider for every individual/applicant whether there is a presumption that the individual can benefit from VR services and work in the United States after services are provided. An individual must have the required document(s) to work in the United States. Form I-9, page 9, Employment Eligibility Verification, Lists of Acceptable Documents to work in the United States identifies the documentation required to obtain, maintain, or regain employment in the United States. The I-9 form lists the documentation required for an individual to legally work in the United States.~~

~~List A identifies the list of documents that establish identity and employment authorization. List B identifies documents that verify identity only. List C identifies documents that verify employment authorization only. An individual can present a document from List A or one from List B and one from List C. All documentation presented must be unexpired.~~

~~The VR counselor has the responsibility for determining an individual's eligibility for VR services, eligibility for a trial work period, or ineligibility for VR services.~~

~~This responsibility cannot be delegated.~~

~~**NOTE:** For counselors within their first twelve months on the job, each Certification of Eligibility (DSB-1) must be reviewed and approved by the supervisor.~~

~~4.2.3 Eligibility Criteria for VR Services~~

~~The eligibility criteria for services from this agency are:~~

- ~~• the individual has a visual impairment which for such individual constitutes, or results in, a substantial impediment to employment and meets the DSB criteria stated in the VR Manual Chapter 4, 4.1.1, and~~
- ~~• the individual can benefit in terms of an employment outcome from vocational rehabilitation services, and~~
- ~~• the individual requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.~~

~~4.2.4 60 Day Rule~~

- ~~• Eligibility determinations for either active VR services or for a trial work period must be made within 60 days after the consumer has applied for VR services. Exceptions can only occur if the consumer is notified that exceptional and unforeseen circumstances beyond the agency's control prevent making a determination within the prescribed time (60 days) and the consumer agrees that the extension of time is necessary. The counselor must document in AWARE that the consumer has agreed and place a copy of the Eligibility Determination Extension from the AWARE case management system in the case file.~~

~~4.2.5 SSA Disability Determination~~

~~For VR purposes, all individuals that are SSDI beneficiaries and SSI recipients and meet the DSB criteria stated in the VR Manual Chapter 4, 4.1.1 are considered to meet all eligibility criteria for VR services. This is known as "presumed eligibility."~~

~~**NOTE:** Although allowed SSDI beneficiaries and SSI recipients are presumed to be eligible for VR services, the presumption of their benefit from VR services in terms of an employment outcome can be rebutted in the same manner as with any other applicant for VR services. The rebuttal of the benefit presumption must be based on clear and convincing evidence that demonstrates the individual is incapable of benefiting in terms of an employment outcome from VR services due~~

Eligibility Policy – Chapter 4

4.1 OVERVIEW

4.1.1 Individuals to be Served

The Arkansas Division of Services for the Blind is a state vocational rehabilitation agency established to serve blind and visually impaired individuals in this state. In order to receive services from this agency, an individual must be classified in one of the following categories.

- Total blindness
- Legal blindness
- Visually impaired

4.1.2 Total Blindness

Total blindness means any permanent visual condition resulting in total loss of vision.

4.1.3 Legal Blindness

Legal blindness means any visual condition resulting in:

- a visual acuity for distance vision in the best eye with the best correction of 20/200 or less,
OR
- the widest diameter of visual field subtending an angle of less than 20 degrees.

4.1.4 Visually Impaired

Visually impaired means a progressive visual condition with a visual acuity of 20/50 in the best eye after correction, which may result in total or legal blindness, **OR** there is imminent danger that the individual may become totally or legally blind as documented by a physician who is skilled in diseases of the eye.

4.2 DETERMINATION OF ELIGIBILITY

4.2.1 Introduction

The primary purpose of determining eligibility is to identify those individuals with visual disabilities who may be served with VR funds. The intent is to empower them to maximize their employment, economic self-sufficiency, independence, and inclusion and integration into society, through a comprehensive and coordinated state-of-the-art program of vocational rehabilitation.

4.2.2 The Role of the VR Counselor

~~aptitudes, interests, mental capacities, and emotional strengths and weaknesses that impact vocational decisions.~~

~~As with other diagnostics, this information is helpful in counselor assessment as well as consumer's understanding of self. Informing the applicant or consumer of the purpose and process of the evaluation may increase their willingness to participate. If the applicant or consumer has been presented with the possible benefits of psychological testing but is unwilling to undergo such an examination, then the counselor needs to discuss other methods of gathering useful vocational information.~~

~~If a consumer requests an interpretation of the results, the consumer may contact the psychologist directly.~~

~~3.4.9 Mental Retardation or Emotionally Disturbed~~

~~A psychological evaluation with a test of intelligence must be obtained only if an applicant or consumer is mentally retarded or there is reason to believe so.~~

~~3.4.10 Where to Obtain Psychological Information~~

~~The counselor can obtain psychological information, as appropriate, from any of the following organizations:~~

- ~~• Schools~~
- ~~• Clinics~~
- ~~• Community agencies~~
- ~~• Public and private organizations~~
- ~~• Certified or licensed psychologists~~
- ~~• Vocational diagnostic units~~

~~3.4.11 Case Recording and Documentation~~

~~The counselor must document conclusions drawn from reviewing records and diagnostic studies in the record of services. The counselor should address the individual's attitude toward himself or herself, his/her disability, and the support, or lack of it, from family and friends.~~

~~3.4.12 NOTE~~

~~In cases where the counselor only plans to provide the consumer with services needed for job retention, he/she may use their own discretion as to what diagnostic services are needed.~~

~~Non-medical diagnostic studies may be provided as a part of the preliminary diagnostic study, the thorough diagnostic study, or a re-evaluation of any area that might impact the consumer's program.~~

~~3.4.3 Use for Non-Medical Diagnostic Studies~~

~~When used in conjunction with other diagnostic studies, non-medical diagnostic studies provide sufficient evaluation of an individual's assets and limitations so that the extent of the handicap can be evaluated, and an effective IPE can be developed.~~

~~3.4.4 Vocational Evaluation~~

~~A vocational evaluation provides much useful data including, but not limited to the following:~~

- ~~• A complete work history~~
- ~~• Specific skills already developed~~
- ~~• Tolerance for work~~
- ~~• Vocational aptitudes~~
- ~~• Work behaviors and attitudes~~

~~3.4.5 Vocational Records~~

~~Through reviewing employment records, the counselor can determine the types of jobs, degree of skills, and levels of performance which have been the individual's pattern of work activity~~

~~3.4.6 Other Areas of Consideration~~

~~The counselor will also consider stated vocational interests and aptitudes, general ability to work, and whether or not the visual problem will interfere with a specific interest.~~

~~3.4.7 Applicants~~

~~Counselors sometimes work with consumers who have been infrequently employed or have never worked for a living. When there is no established work history, a careful appraisal must be made to determine the individual's abilities and interests.~~

~~3.4.8 Psychological Evaluation~~

~~Psychological evaluations may be used to help determine eligibility or for development of the IPE. When an applicant or consumer has a difficult, complex vocational problem, a psychological evaluation may be obtained to determine~~

~~3.3.15 Audiological Examination~~

~~When a hearing loss is suspected, a comprehensive hearing evaluation will be obtained from a physician specializing in the diseases of the ear or from a licensed or certified audiologist.~~

~~3.3.16 Specialist Examinations~~

~~In addition to the eye exam and the general medical exam, other medical specialty exams may be needed, such as an examination by a cardiologist for an applicant who has a suspected heart problem, or an examination by an internist for an involved diabetic applicant. If the counselor feels a special exam of this type is needed, it may be provided by the agency.~~

~~3.3.17 Contents of All Diagnostic Studies~~

~~All reports received during preliminary diagnostic study should include the following.~~

- ~~• Diagnosis~~
- ~~• Prognosis~~
- ~~• Functional Limitations~~
- ~~• Recommendations~~

~~3.3.18 NOTE~~

~~Counselors should request assistance from their supervisor if difficulty exists in obtaining adequate and complete diagnostic reports.~~

~~3.4 OTHER DIAGNOSTIC STUDIES~~

~~3.4.1 Introduction~~

~~Diagnostic studies are not always medical in nature. Examples of other types of diagnostic studies might include the following:~~

- ~~• Vocational evaluations~~
- ~~• Educational evaluations~~
- ~~• Psychological evaluations~~
- ~~• Evaluations of potential benefit from rehabilitation engineering~~

~~3.4.2 When Can These Diagnostics be Provided?~~

~~When DSB is paying for a general medical examination on a consumer, the physician performing an examination must be a licensed Doctor of Medicine (M.D.) or Doctor of Osteopathy (D.O.)~~

~~3.3.9 Exceptions~~

~~If there are current specialists examinations or hospital and clinical records which can provide the information required on the physical examination or the eye examination, they may be obtained from these sources by a request from the counselor, accompanied by a Release of Information Form (DSB-8021) signed by the consumer.~~

~~3.3.10 Cases From Institutions (Hospitals, State Schools, Correctional Facilities)~~

~~Most individuals who come from an institution are given thorough physical examinations upon admission under close supervision, and monitored for any significant change in health. Therefore, the medical information supplied by the institution may be considered adequate unless the counselor thinks additional medical information is required.~~

~~3.3.11 Selection of a Physician~~

~~If an applicant has already chosen a physician, then the applicant may return to that physician for the examination. If an applicant does not have a physician, then the counselor will provide a list of physicians to the applicant~~

~~3.3.12 If a List is Provided~~

~~When providing a list of several physicians or specialists to applicants and consumers, the counselor considers the following:~~

- ~~• The amount of time the applicant will be waiting for the examination to be conducted.~~
- ~~• The timeliness of the doctor in reporting examination results to the agency.~~
- ~~• The willingness of the doctor to accept agency fees.~~

~~3.3.13 Hearing Evaluation~~

~~A hearing evaluation should be obtained on all consumers who are suspected of having a hearing loss.~~

~~3.3.14 Detection of Hearing Problems~~

~~The presence of a hearing loss may be suspected because it is indicated on the medical record by the physician, observed by the counselor during routine visits, or the consumer informs the counselor of a problem.~~

~~3.3.4 Accountability~~

~~VR counselors will be held accountable for certifying an applicant eligible for VR services and the placement of the consumer in the Order of Selection for services.~~

~~Supervisor approval of all applicants being certified as eligible is required for counselors during their first twelve months of employment.~~

~~3.3.5 Types of Eye Specialists~~

- ~~• Ophthalmologist~~

- ~~1. Is a Doctor of Medicine (M.D.)~~

- ~~2. Specializes in the diagnosis and treatment of eye diseases~~

- ~~3. Performs ophthalmic surgery when necessary~~

- ~~4. Prescribes glasses, contact lenses and low vision aids~~

- ~~• Optometrist~~

- ~~1. Performs eye examinations~~

- ~~2. Diagnoses eye diseases~~

- ~~3. Prescribes lenses and trains individuals in their use~~

~~3.3.6 Optician's Work Clarified~~

~~Confusion sometimes develops about the work performed by an optician. An optician~~

- ~~• Does...~~

- ~~1. Grind lenses~~

- ~~2. Fit spectacles and contacts~~

- ~~3. Dispense glasses and other optical aids~~

- ~~• Does not...~~

- ~~1. Diagnose or treat eye diseases~~

- ~~2. Perform surgery~~

- ~~3. Prescribe lenses~~

~~3.3.7 Selection of an Eye Specialist~~

~~If an applicant has already chosen an eye specialist, then the applicant may return to that specialist for the examination. If an applicant does not have an eye specialist, then the counselor will provide a list of specialists to the applicant.~~

~~3.3.8 General Medical Examination~~

~~tolerance, ability to acquire specific job skills, and patterns of work behavior~~
~~• Provision of additional medical and/or psychological evaluations for the~~
~~purpose of determining the nature and scope of services needed~~

~~3.2.5 Scope~~

~~Thorough diagnostic study represents the completion of all diagnostic studies~~
~~necessary to determine the nature and scope of services needed by the consumer in~~
~~order to develop the IPE.~~

~~3.2.6 Use of Comparable Services and Benefits~~

~~Although expenditure of agency funds is authorized for thorough diagnostics~~
~~regardless of the consumer's income level, the counselor will access all resources~~
~~available through comparable services and benefits programs prior to using case~~
~~service funds.~~

~~3.3 MEDICAL DIAGNOSTIC STUDIES~~

~~3.3.1 Introduction~~

~~This section provides information regarding three types of medical diagnostic~~
~~studies used by the VR counselor including the eye examination, the general~~
~~medical examination, and specialist examinations.~~

~~3.3.2 When Can These Diagnostics be Provided?~~

~~Medical diagnostic studies may be provided as a part of the preliminary diagnostic~~
~~study, the thorough diagnostic study, or a re-evaluation of any area that might~~
~~impact the consumer's reaching the long range goal.~~

~~3.3.3 Required Examinations~~

~~To determine if a consumer is eligible to receive services from this agency,~~
~~medical information consisting of an eye examination is required. A general~~
~~medical examination may be deemed necessary when there is reason to believe a~~
~~secondary disability exists that would limit the employability of the individual.~~

~~**NOTE:** The eye examination is necessary to determine if the consumer has a~~
~~visual disability which will allow the individual to receive services from DSB.~~
~~The VR counselor is allowed to use some discretion in using his own judgment~~
~~where both of these examinations are concerned. For example, if the consumer has~~
~~bilateral enucleation, the counselor can assume the obvious and needs only to~~
~~document this fact in the record. The presence of a secondary disability and the~~
~~need for, or omission of, a general medical examination should be documented in~~
~~the case service record.~~

~~All diagnostic work, for the purpose of establishing eligibility, must be completed prior to placing a consumer in active status.~~

~~3.1.5 Using the Preliminary Diagnostic Study~~

~~Following the determination of eligibility, results obtained in the preliminary diagnostic study serve as a starting point in development of the Individualized Plan for Employment (IPE).~~

~~3.1.6 Diagnostics in Eligibility Status~~

~~Diagnostic work is also done in Eligibility Status. The study is referred to as the THOROUGH DIAGNOSTIC STUDY and is discussed later in this chapter.~~

~~3.1.7 Note~~

~~After a consumer has been placed in active status, it may become necessary to provide additional diagnostic work. As long as these studies are not done to determine eligibility, these services may be provided at any time during the rehabilitation process without change of status.~~

~~3.2 THOROUGH DIAGNOSTIC STUDIES~~

~~3.2.1 Purpose of Diagnostics~~

~~The purpose of the thorough diagnostic study is to determine the vocational goal and nature and scope of services in support of that goal.~~

~~These diagnostics may also provide valuable information to the consumer regarding vocational interests and aptitudes, the marketability of the consumer's present and potential skill level, and amount of services that will increase consumer's marketability of skills, equipment needs, etc.~~

~~3.2.2 When is the Thorough Diagnostic Study Conducted?~~

~~This study is provided after the consumer has been determined eligible for vocational rehabilitation services (Eligibility Status).~~

~~3.2.3 Components of the Thorough Diagnostic Study~~

~~The study may include a comprehensive evaluation of pertinent medical, psychological, vocational, educational, and other factors which bear upon the individual's handicap to employment.~~

~~3.2.4 Examples of a Thorough Diagnostic Study~~

~~This study may include, but is not limited to the following.~~

~~• Placement of consumer in a rehabilitation facility in order to evaluate work~~

~~A transfer will be made when a consumer on a counselor's master list permanently moves into another counselor's area. Cases in employed status will only be transferred when the counselor believes that it is the best choice for the consumer.~~

~~2.19.2 Transferring A Case~~

~~When it is determined that a case should be transferred to another counselor, the following instructions should be followed.~~

- ~~• Document in case narrative the reason for the transfer.~~
- ~~• Send an e-mail with the case to the receiving counselor explaining the make-up of the case thus far.~~
- ~~• An e-mail will also be sent to both supervisors involved.~~
- ~~• The case must be hand-carried or mailed certified to the receiving counselor. The case must be transferred in AWARE.~~
- ~~• Only supervisors have the authority to transfer a case. The receiving supervisor must review the case and see that it is up to date prior to accepting it.~~

~~NOTE: Cases in Post-Employment Services will not be transferred.~~

~~*Policy on Diagnosis and Evaluation – Chapter 3*~~

~~3.1 PRELIMINARY DIAGNOSTIC STUDIES~~

~~3.1.1 Purpose of Diagnostics~~

~~All diagnostics are gathered to help applicants/consumers better understand their skills, abilities, and interests and to assist the counselor in making decisions in partnership with the consumer.~~

~~3.1.2 Purpose of Preliminary Diagnostics~~

~~The purpose of the preliminary diagnostic study is to gather information to help the counselor establish whether an applicant is eligible or ineligible for services. These diagnostics also provide valuable information to the applicant regarding the applicant's strengths and weaknesses in terms of employability.~~

~~The study is performed prior to an eligibility determination.~~

~~3.1.3 Who May Participate?~~

~~All applicants are entitled to participate in the preliminary diagnostic study.~~

~~3.1.4 RULE~~

~~2.16 POST-EMPLOYMENT SERVICES~~

~~2.16.1 Definition~~

~~A consumer is placed in this status has previously been rehabilitated and the need for post-employment services has been identified and planned to maintain the individual in employment.~~

~~2.16.2 Purpose~~

~~The purpose of this status is to avoid, wherever possible, the necessity of re-opening a case in order to provide a relatively minor service.~~

~~NOTE: Cases in Post Employment Services, post employment, cannot be transferred out. No case will remain in this status over 8 months without supervisor approval.~~

~~Supervisor approval of all cases being moved to Post Employment Services is required for counselors during their first twelve months of employment.~~

~~2.17 CLOSED FROM POST EMPLOYMENT~~

~~2.17.1 Definition~~

~~A consumer closed in Closed from Post Employment is one for whom all post employment services have been completed insofar as necessary or feasible in terms of an employment outcome.~~

~~2.17.2 Purpose~~

~~The purpose of Closed from Post Employment is to furnish a means for identifying all persons who have received post employment services and are being closed from Post Employment Services.~~

~~2.17.3 When to Move Into Closed from Post-Employment~~

~~A consumer is moved into Closed from Post-Employment when services which required the need for post employment are successfully completed, or it is determined that post employment services cannot maintain the consumer in employment~~

~~Oversight: Supervisor approval of all Closed, Other Reasons, Before IPE Initiated closures is required for all counselors during their first twelve months of employment. The approval must occur before the case is actually closed~~

~~2.19 TRANSFERS~~

~~2.19.1 Introduction~~

~~2.14 CLOSED AFTER IPE INITIATED (NOT REHABILITATED)~~

~~2.14.1 Definition~~

~~A consumer closed in Closed Not Rehabilitated is one who is unable to achieve the vocational goal after having received at least one planned VR service. Cases closed not rehabilitated can only be closed from service status, job ready status, employed status, or interrupted status.~~

~~2.14.2 Purpose~~

~~The purpose of Closed Not Rehabilitated is to identify all persons not rehabilitated even though the IPE had been developed and services initiated.~~

~~2.14.3 When to Move Into Closed Not Rehabilitated~~

~~A consumer is moved into Closed Not Rehabilitated if the following criteria have been met: at least one service planned in the IPE has been initiated or circumstances prevent the consumer's attainment of a suitable occupation.~~

~~**Oversight:** Supervisor approval of all Closed Not Rehabilitated closures is required for all counselors. The approval must occur before the case is actually closed.~~

~~2.15 CLOSED, OTHER REASONS, BEFORE IPE INITIATED~~

~~2.15.1 Definition~~

~~A consumer is closed in Closed, Other Reasons, Before IPE Initiated when it is determined the individual cannot progress to a point of initiating services. A consumer is closed in this status prior to plan initiation only.~~

~~2.15.2 Purpose~~

~~The purpose of Closed, Other Reasons, Before IPE Initiated is to identify all persons closed, not rehabilitated, before actual initiation of services in an IPE.~~

~~2.15.3 When to Move Into Closed, Other Reasons, Before IPE Initiated~~

~~A consumer is moved into Closed, Other Reasons, Before IPE Initiated if no planned service has been provided, and circumstances preclude participation in a VR program of services as outlined in the IPE.~~

~~**Oversight:** Supervisor approval of all Closed, Other Reasons, Before IPE Initiated closures is required for all counselors. The approval must occur before the case is actually closed.~~

~~A consumer in Closed Rehabilitated status is one who has successfully attained their vocational goal and reached an employment outcome. With respect to an individual, an employment outcome means:~~

- ~~• entering or retaining full-time or, if appropriate, part-time (20 hours per week minimum) competitive employment in the integrated labor market,~~
- ~~• satisfying the vocational outcome of supported employment, or~~
- ~~• satisfying any other vocational outcome RSA may determine to be appropriate (including satisfying the vocational outcome of self-employment, telecommuting, or business ownership), in a manner consistent with the Rehabilitation Act.~~

~~2.13.2 Purpose~~

~~The purpose of Closed Rehabilitated is to indicate when a consumer has been successfully rehabilitated.~~

~~2.13.3 When to Move Into Closed Rehabilitated~~

~~A consumer is moved into this status when all of the following are applicable:~~

- ~~(a) *Employment outcome achieved.* The individual has achieved the employment outcome that is described in the individual's individualized plan for employment in accordance with § 361.46(a)(1) and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.~~
- ~~(b) *Employment outcome maintained.* The individual has maintained the employment outcome for an appropriate period of time, but not less than 90 days, necessary to ensure the stability of the employment outcome, and the individual no longer needs vocational rehabilitation services.~~
- ~~(c) *Satisfactory outcome.* The client and the counselor consider the employment outcome to be satisfactory and agree that the individual is performing well in the employment.~~
- ~~(d) *Post employment services.* The individual is informed through appropriate modes of communication of the availability of post employment services.~~

~~2.13.4 Bills~~

~~Before a case can be closed, all outstanding authorizations must be paid or canceled.~~

~~2.13.5 Note~~

~~A consumer will not be closed rehabilitated more than once in any fiscal year.~~

~~Oversight: Supervisor approval of all closed rehabilitated closures is required for all counselors. The approval must occur before the case is actually closed.~~

~~2.11.2 Purpose~~

~~The purpose of employment status is to provide sufficient time on the job to assure employment stability before case closure, typically 90 days.~~

~~2.11.3 When to Move Into Employment Status~~

~~Movement into Employment Status is made once a consumer is actually working and the program of rehabilitation services has been completed insofar as necessary or possible.~~

~~2.11.4 When to Move Out of Employment Status~~

~~A consumer may be moved from Employment Status to Closed Rehabilitated only after being continuously employed for at least 90 days. Movement out of Employment Status may also occur if the individual has achieved 90 days in employment, if employment is interrupted, or the case is closed not rehabilitated due to a change in circumstances.~~

~~If the individual experiences a job loss, then the case can be moved back to service status and a new plan can be written.~~

~~2.12 SERVICE INTERRUPTION~~

~~2.12.1 Definition~~

~~A consumer in Interrupted Status is one who has experienced a significant change in circumstances which interferes with the VR process and rehabilitation services are interrupted after eligibility has been determined~~

~~2.12.2 Purpose~~

~~The purpose of Interrupted Status is to put the case in a holding status until such time the individual is able to resume rehabilitation services or the case is closed.~~

~~2.12.3 When to Move Into Interrupted Status~~

~~A consumer is placed in Interrupted Status if rehabilitation services are interrupted while the consumer is in service.~~

~~2.12.4 When to Move Out of Interrupted Status~~

~~A consumer is held in Interrupted Status until the consumer returns to previously initiated services or the case is closed not rehabilitated.~~

~~2.13 CLOSED REHABILITATED~~

~~2.13.1 Definition~~

~~2.9.3 When to Provide Training as a Planned Service~~

~~A consumer requires training on an IPE when one or more of the following are going to be received.~~

- ~~• Training in a public or private school~~
- ~~• Training in a commercial or industrial establishment under employment conditions~~
- ~~• Training by an individual teacher, instructor, or by distance or online education~~
- ~~• Personal/social adjustment training~~
- ~~• Work adjustment training~~
- ~~• Rehabilitation teacher training~~

~~2.9.4 When to End the Training Service~~

~~A consumer no longer requires the training once training has been completed, interrupted, or terminated. This should be documented in the case notes.~~

~~2.10 READY FOR EMPLOYMENT/JOB READY~~

~~2.10.1 Definition~~

~~Job Ready means one who has completed preparation for employment and is ready to accept employment but has not yet been placed, or has been placed but has not begun employment.~~

~~2.10.2 When to Move Into Job Ready Status~~

~~A consumer is moved into Job Ready Status when planned services have been completed insofar as necessary or possible and when the consumer is ready for employment.~~

~~2.10.2 When to Move Out of Job Ready Status~~

~~A consumer is moved out of Job Ready Status. Once the consumer's employment actually begins, if the rehabilitation program is interrupted, if the consumer's case is closed after planned services were initiated.~~

~~2.10.4 Note~~

~~Any necessary service can be purchased in this status if it is appropriate to keeping the job, i.e., job adaptation or modifications of equipment.~~

~~2.11 IN EMPLOYMENT~~

~~2.11.1 Definition~~

~~A consumer has actually begun employment.~~

~~2.8 PHYSICAL AND MENTAL RESTORATION~~

~~2.8.1 Definition~~

~~An individual uses this service under an approved plan. Physical and mental restoration services include medical, surgical, psychiatric, or therapeutic treatment, the fitting of prosthetic appliances, hospitalization, convalescent care, and nursing services.~~

~~2.8.2 Purpose~~

~~The purpose of providing restorative services is to alleviate or diminish the effects of the disability in order to improve employability.~~

~~2.8.3 When to Add Physical and Mental Restoration as a Service~~

~~A consumer requires a plan specifying physical and mental restoration services upon initiation of planned medical treatment, psychological or psychiatric treatment, surgical treatment, or fitting of a prosthesis or aid.~~

~~2.8.4 Emergency Physical Restoration Policy~~

~~DSD should not be used as a medical insurance resource. Inform the consumer and the community that physical restoration services are one of many services offered by vocational rehabilitation, and provided to assist consumers to reach specific vocational goals.~~

~~2.8.5 Emergencies and Prevention of Blindness~~

~~Emergencies do occur which threaten an individual's vision and ability to work requiring intervention to prevent blindness. It is the VR counselor's responsibility, with the assistance of the supervisor, to determine the feasibility of emergency intervention prior to payment for any physical restoration services.~~

~~2.9 TRAINING~~

~~2.9.1 Definition~~

~~Training services.~~

- ~~• Academic~~
- ~~• Business~~
- ~~• Vocational~~
- ~~• Personal and/or vocational adjustment~~

~~2.9.2 Purpose~~

~~The purpose of providing training is to develop or restore those vocational and/or independent living skills necessary for successful employment outcomes.~~

~~1. encourage the consumer through establishing a relationship of mutual respect, where the counselor can be both supportive, yet challenging, in promoting the consumer's development of the skills needed to achieve an employment outcome.~~

~~2. facilitate informed choice throughout the entire rehabilitation process by providing information about the scope and limits of vocational rehabilitation services, and by helping the consumer obtain specific information on programs, resources and services that can assist him/her in the selection and achievement of vocational goals and an employment outcome. When there are limits on the provision or availability of vocational rehabilitation services, the counselor can assist the consumer in exploring alternatives.~~

~~3. gain a comprehensive and individualized understanding of the consumer's abilities, capabilities, interests, strengths, resources, priorities and concerns in order to identify factors that will be critical to vocational achievement.~~

~~4. facilitate the consumer's understanding of his/her strengths on which to capitalize in achieving vocational goals and plan with the consumer to find ways to work around any impediments, such as functional limitations related to visual issues, health, personal, economic (e.g. benefits, work disincentives/incentives) and social issues.~~

~~5. assist the consumer in selecting a vocational goal and developing a plan of services toward that goal.~~

~~6. involve "significant others" (with the consumer's consent) such as family members, relatives and friends in the community who can be assets to counseling; support the desired outcomes; and, at times, provide valuable resources.~~

~~2.7.4 Therapeutic Counseling Services~~

~~If based on the counselor's observations, assessments or training reports, the counselor believes that a consumer can benefit from therapeutic counseling, the counselor should strongly recommend that the consumer seek these counseling services. If the consumer agrees to participate in counseling services, the counselor should arrange for the service and revise the IPE as needed. If the consumer refuses counseling, the counselor should advise the consumer that failure to address issues may impact the consumer's ability to participate successfully in their vocational rehabilitation program.~~

~~2.7.5 Documenting~~

~~Thorough and frequent documentation in the narrative section of the case service record is necessary to show progress towards the goal and to identify what interventions have been used to overcome barriers to employment.~~

~~realistic choices about the selection of their employment goal, the vocational rehabilitation services they receive and the providers of those services.~~

~~Oversight: Supervisor approval of the IPE is required for counselors during their first twelve months of employment.~~

~~2.6.2 Purpose~~

~~Developing a plan with a consumer indicates that the consumer is ready for services that will assist him/her in the accomplishment of the vocational goal and the attainment of employment.~~

~~2.6.3 When to Move Into Service Status~~

~~Movement into Service Status occurs when the counselor and consumer have jointly developed and signed the IPE.~~

~~2.6.4 When to Move Out of Service Status~~

~~Movement out of Service Status occurs when planned VR services have been completed or the case is closed prior to the initiation of services.~~

~~2.7 VOCATIONAL COUNSELING AND GUIDANCE~~

~~2.7.1 Definition~~

~~Vocational Counseling and Guidance is provided by the counselor to:~~

~~1. promote a successful consumer/counselor partnership throughout the rehabilitation process, and~~

~~2. engage the consumer in a decision-making process in the selection, planning and achievement of an employment outcome, where the consumer is responsible for, and makes, decisions about the plan and services leading to employment.~~

~~2.7.2 When to Provide~~

~~Counseling and Guidance is a core vocational rehabilitation service that is provided throughout the consumer's entire experience with DSB. Counseling and guidance is provided by DSB counselors and is not purchased from other sources. However, other community members (e.g. services providers, family, friends) can play a crucial role in the effectiveness of counseling and guidance by supporting the achievement of vocational goals.~~

~~2.7.3 Scope of Service~~

~~Counseling and guidance may be provided to:~~

~~2.5.2 Purpose~~

~~For purposes of an assessment for determining eligibility and vocational rehabilitation needs under this part, an individual is presumed to have a goal of an employment outcome. Once a client has been determined eligible it is appropriate for the counselor to conduct a comprehensive case study in order to determine the nature and scope of services.~~

~~**NOTE.** It is critical that the counselor has a clear understanding of the client's abilities, limitations, and desires before proceeding with the development of an IPE.~~

~~2.5.3 Supervision~~

~~Supervisor approval of the Eligibility is required for counselors during their first twelve months of employment.~~

~~2.5.4 Service Status~~

~~A consumer is in Service Status when the IPE has been formulated and written. This occurs AFTER the eligibility determination is documented.~~

~~2.5.5 Ninety (90) Day Time Frame~~

~~The IPE will be developed within 90 days after Eligibility for VR services has been completed.~~

~~2.6 INDIVIDUALIZED PLAN FOR EMPLOYMENT (IPE)~~

~~2.6.1 Definition~~

~~The Individualized Plan for Employment (IPE) is a written plan that identifies: the employment outcome, also referred to as the employment goal, the services that will be provided to achieve the employment goal and the time frames for those services; and the steps that will measure progress toward the employment goal~~

~~The IPE outlines how the individual will achieve a specific employment goal that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests and informed choice. The employment goal and specific vocational rehabilitation (VR) services are determined through an assessment of the eligible individual's vocational rehabilitation needs. During the process of developing the IPE, the individual will be informed of his/her rights and responsibilities and the steps necessary to achieve an employment outcome. The counselor and the eligible individual agree on the criteria to evaluate progress toward the employment goal.~~

~~Individuals with disabilities must be active and responsible participants in their own rehabilitation programs, including making informed, yet practical and~~

~~Trial work experiences should be conducted for a period not to exceed 6 months. The counselor must review work placement, supports, services, and the individual's progress at least once every 30 days using the job readiness checklist (see policy 11.4.3).~~

~~2.4 CLOSURE FROM TRIAL WORK EXPERIENCE AT APPLICATION~~

~~2.4.1 Definition~~

~~A consumer that is closed from trial work experience is not accepted for VR services.~~

~~2.4.2 Purpose~~

~~The purpose of this status is to identify all consumers not accepted for VR services and close from either application or eligibility.~~

~~2.4.3 When to Move Into Closed from Trial Work Experiences~~

~~When an individual shows evidence over a 6 month timeframe that trial work was unsuccessful, the case should be moved to closure status. An AWARE closure form must be completed and a letter sent to the client.~~

~~2.4.4 Note~~

~~When closing a case after trial work experiences are unsuccessful, it will require clear and convincing evidence that the client can not benefit in terms of an employment outcome.~~

~~It is also necessary to cancel or pay all outstanding encumbrances prior to closure.~~

~~Oversight: Supervisor approval of all closures is required for all counselors. The approval must occur before the case is actually closed.~~

~~2.5 ELIGIBILITY~~

~~2.5.1 Requirements~~

~~a) *Eligibility requirements* (1) *Basic requirements*. Eligibility must be based only on the following requirements:~~

~~(i) A determination by a counselor that the applicant has a visual impairment that meets the DSB policy guideline for blindness, legal blindness, visual impairment, or the imminent danger criteria. (ii) A determination by a counselor that the applicant's visual impairment constitutes or results in a substantial impediment to employment for the applicant; and (iii) A determination by a counselor that the applicant requires vocational rehabilitation services to prepare for, secure, retain, advance in, or regain employment that is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interest, and informed choice.~~

~~A consumer is moved out of pre service when the agency has money to provide the needed services, or the case is closed indicating services will not be provided for whatever reason.~~

~~2.3 TRIAL WORK EXPERIENCE~~

~~2.3.1 Purpose~~

~~Trial work experience is used only to determine if an applicant with a significant disability is capable of achieving an employment outcome.~~

~~2.3.2 VR Eligibility Criteria~~

~~Prior to any determination that an individual with a disability is unable to benefit from vocational rehabilitation services in terms of an employment outcome because of the severity of that individual's disability or that the individual is ineligible for vocational rehabilitation services, the designated State unit must conduct an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations.~~

~~2.3.3 Clear and Convincing Evidence~~

~~There must be clear and convincing evidence that due to the severity of the individual's disability, the individual is incapable of benefiting from the vocational rehabilitation services in terms of an employment outcome,~~

~~2.3.4 Trial Work Experience~~

~~If the counselor has reason to doubt that the consumer can benefit from VR services, the consumer should be provided with a trial work experience of sufficient variety in a competitive integrated employment setting to the maximum extent possible, consistent with the informed choice and rehabilitation needs of the individual.~~

~~Trial work experiences include supported employment, on the job training, and other experiences using realistic integrated work settings.~~

~~Trial work experiences must be of sufficient variety and over a sufficient period of time to determine that there is sufficient evidence to conclude that the individual can benefit from the provision of vocational rehabilitation services in terms of an employment outcome.~~

~~The designated State unit must provide appropriate supports, including, but not limited to, assistive technology devices and services and personal assistance services, to accommodate the rehabilitation needs of the individual during the trial work experiences.~~

~~2.3.5 Timelines~~

~~signed form scanned and attached to the case record management system. However, in an emergency, a rehabilitation assistant may be asked to complete the application form. This can be done using a paper copy of the form. All new applicants must have a signed application in the AWARE system and in the case record.~~

~~2.1.3 Purpose~~

~~The purpose of application status is to gather diagnostic information sufficient to make a determination of one of the following:~~

- ~~• Eligibility for placement in a Trial Work Experience or Extended Evaluation~~
- ~~• Ineligibility~~
- ~~• Eligibility~~

~~2.1.4 Moving From Application~~

~~Movement out of application status occurs once a determination has been made that the applicant should be certified as:~~

- ~~• eligible for VR services,~~
- ~~• ineligible for VR services, or~~
- ~~• eligible for a Trial Work Experience or Extended Evaluation.~~

~~2.2 PRE-SERVICE~~

~~2.2.1 Definition~~

~~A consumer in Pre-Service is one who has been determined eligible for VR services, but does not meet the agency's order of selection priorities, and therefore, must wait for services to be provided. The consumer's name is placed on a waiting list for services until such time as the agency has sufficient funds to provide the needed services.~~

~~2.2.2 Purpose~~

~~The purpose of Pre-Service is to provide a holding status for consumers who are eligible for VR services, but due to limited funding must wait for the provision of needed services.~~

~~2.2.3 When to Move Into Pre-Service~~

~~A consumer is moved into Pre-Service after they have been found eligible for VR services, but due to limited funding will not move on to the planning stage.~~

~~2.2.4 When to Move Out of Pre-Service~~

Drug/Alcohol Test due to a reasonable cause or suspicious behavior they must document the client's behaviors in the AWARE system. Reasonable cause to suspect substance abuse may be established by any of the following:

- A. Observed impairment.
- B. Uncharacteristic or erratic behavior.
- C. Habitual absenteeism from work.
- D. Direct observation of drug or alcohol use or possession while engaged in a training or service program. Observation from a counselor, DSB staff member, or direct vendor of services leading to employment.
- E. Physical symptoms indicative of drug or alcohol use. For example, slurred speech, tremors, drowsiness, pupils dilated or constricted, irritability, hyperactivity, general motor impairment, disorientation, or the smell of alcohol on the breath.
- F. Any other facts or circumstances which would cause a reasonable person to believe that the client is in possession of, or under the influence of drugs or alcohol.

Drug or alcohol testing would be reasonable to ensure that the individual is not or no longer is engaging in the use of illegal drugs or alcohol. Drug testing will be arranged by the DSB counselor and the number of drug/alcohol tests required will be at the discretion of the Area Supervisor. Written documentation of attendance at the drug treatment program must be provided by the treatment facility. DSB will pay for drug testing. All drug/alcohol screening must be documented in the client's case file.

If a client tests positive, DSB will provide counseling assistance and discuss the need for a more comprehensive drug treatment program. The client's plan may need to be revised to include a comprehensive drug treatment program. Groups like Alcoholics Anonymous (AA) are not drug treatment programs, but support groups.

If the client refuses to participate in drug testing and a drug treatment program, the client's case must be closed.

~~*The Vocational Rehabilitation Process – Chapter 2*~~

~~*2.1 – APPLICANT*~~

~~*2.1.1 Definition*~~

~~An individual is considered an applicant when the individual or individual's representative, as appropriate, has completed and signed an agency application form.~~

~~*2.1.2 Application*~~

~~It is the responsibility of the counselor to complete the application with the client and have the client sign the application. This can be done electronically, in the AWARE system or the application in the AWARE case record management system can be printed and signed manually. The counselor then can have the~~

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~~Except for the provision requiring a twenty (20) day time limit for the Director to notify all parties of his intent to review the HHO's decision, reasonable time extensions for good cause can be granted.~~

~~1.10 CLIENT ASSISTANCE PROGRAM~~

~~1.10.1 Overview~~

~~The Client Assistance Program (CAP) is established and funded in the Rehabilitation Act. This program is designed to uphold the rights of individuals who are applying for or receiving services from DSB. CAP is operated independent of any agency which provides treatment, services or rehabilitation to individuals under the Rehabilitation Act.~~

~~1.10.2 CAP Services~~

~~When an applicant or consumer is not satisfied with services provided or denied from DSB, the Client Assistance Program can assist in resolving the problem. CAP personnel offers the following.~~

~~Provides information and referral services~~

~~Gives information on consumer rights~~

~~Advises consumers of the procedure to follow for resolving problems~~

~~Aids, if requested by the applicant or consumer, in pursuing administrative or legal action, if necessary, to ensure the consumer's rights under the~~

~~Rehabilitation Act are protected~~

~~1.10.3 Counselor Responsibility~~

~~It is the DSB counselor's responsibility to inform each applicant or consumer of the Client Assistance Program and how to access the service.~~

~~1.10.4 Number to Contact~~

~~The Client Assistance Program can be reached at one of the following numbers:~~

~~1-800-296-1775 V/TDD, or 1-800-482-1174 V/TDD~~

~~1.10.5 Applicant Information Form (DSB 8033)~~

~~ALL DSB applicants are to be given the Applicant Information Form (DSB 8033). This form explains the applicant's rights and responsibilities, and provides information on appeals and the Client Assistance Program. A copy of this form, signed by the applicant, is to be placed under the Application for Services Form in the case record.~~

~~1.11 Substance Abuse Policy~~

~~DSB may require a blood test, urinalysis or other drug/alcohol screening for eligible clients of vocational rehabilitation any time there is reasonable cause to suspect the client is actively engaged in using illegal substances or abusing prescribed substances. If a counselor orders a~~

~~the applicant or consumer is not notified within twenty (20) days of the HHO's decision by the Director of the intent to review, the decision of the HHO will become final. If the Director reviews the decision, the final action occurs when the Director sends out a decision.~~

~~Criteria on which the Director can base his decision to review the HHO's decision:~~

~~The HHO's decision is arbitrary, capricious, reflects abuse of discretion, or otherwise unreasonable.~~

~~The HHO's decision is not supported by substantial evidence, i.e., consistent with facts and applicable Federal and State policy.~~

~~In reviewing the HHO's decision, inappropriate and inadequate interpretation to such factors may be noted:~~

~~The Federal Statute and Regulations as they apply to the specific issue(s) in question~~

~~The State Plan as it applies to the specific issue(s) in question~~

~~The State Procedures Manual as it applies to the specific issue(s) in question~~

~~Key portions of conflicting testimony~~

~~State Agency options in the delivery of services if such options are permissible by regulations~~

~~Restrictions in the Federal Statute or regulations with regard to such supportive services as maintenance and transportation~~

~~Approved Federal or State Agency policy as it relates to the issue(s) in question~~

~~In those instances where one or more of these standards have been abused, the DSB Director should have grounds upon which to exercise his option for a review. That review would be limited to the findings with which the Director took issue. Consequently, the complexity of the review would be dictated by the degree to which there is a disagreement.~~

~~If the DSB Director decides to review the decision of the HHO, an opportunity must be provided all parties involved in the hearing to submit additional evidence and information that may be pertinent to the final decision.~~

~~The DSB Director must make a final decision and provide a full report in writing of the decision within thirty (30) days of providing notice of the intent to review the HHO's decision. The final decision must contain all the findings and grounds upon which the decision is based.~~

~~Copies of the decision are to be provided to the applicant or consumer or, if appropriate, the individual's parent, guardian, or other representative.~~

~~The DSB Director cannot delegate the responsibility to make the final decision to any other officer or employee of DSB.~~

1.9.12 Questions for the Record (DSB)

- ~~If records, reports, and files were requested, were they made available?~~
- ~~Are copies available for the record?~~
- ~~Are all appropriate personnel in attendance?~~
- ~~Was applicant or consumer informed in writing that he or she has the right:~~

~~to bring counsel or consumer representative,~~
~~to provide witnesses,~~
~~to examine all DSB records upon which the Agency based its decisions,~~
~~and~~
~~to request that certain DSB personnel be present at the hearing and of~~
~~their right to cross-examine the DSB witnesses?~~

~~Was the applicant or consumer informed in writing the role of the HHO which~~
~~includes.~~

~~hearing both sides,~~
~~limiting evidence that is presented at the hearing to relevant information,~~
~~making a decision in the applicant's or consumer's best interest, and~~
~~engaging in fact finding?~~

1.9.13 Questions for the Record (Applicant or Consumer)

- ~~Have you had an opportunity to examine your VR Record of Service, reports~~
~~and files regarding your rehabilitation status?~~
- ~~Have you had an opportunity for an informal administrative review by your~~
~~counselor or Program Administrator?~~
- ~~Have you had an opportunity to call witnesses?~~
- ~~Have you been assured by DSB that your rehabilitation status would not~~
~~change until all proceedings were completed?~~

1.9.14 Decision

~~The HHO will prepare the decision based on a comprehensive review of the~~
~~information presented at the hearing. The format will consist of an Introduction,~~
~~Findings of Facts, Conclusion of Law, and a Decision. The decision will be based~~
~~on the provisions of the approved State Plan, the Rehabilitation Act as amended~~
~~and applicable state laws. The decision of the HHO must be provided to the~~
~~applicant or consumer within thirty (30) days from the date the hearing was~~
~~conducted. The applicant or consumer must be advised at the time the decision is~~
~~sent that the decision will become final twenty (20) days from the date of mailing,~~
~~unless it is to be reviewed by the DSB Director.~~

1.9.15 Review of Decision of Appeals and Hearings

~~The DSB Director has the authority under 34 CFR Section 261.57 (b) (5) to review~~
~~the HHO's decision within twenty (20) days of the mailing of the HHO decision. If~~

~~The HHO's responsibility is to maintain a professional atmosphere and to ensure that the proceedings are conducted in a fair and impartial manner so that each party may present evidence and testimony.~~

~~The HHO will explain hearing procedures and swear in witnesses.~~

~~The hearing shall provide both parties with an opportunity to be heard and to present their evidence and testimony.~~

~~The applicant or consumer may be represented by an attorney or client representative who may present testimony.~~

~~An applicant or consumer or representative will be given the opportunity to present witness, advance arguments, offer additional evidence, and to question or refute evidence.~~

~~DSB will be given the opportunity to present witnesses, advance arguments, offer additional evidence, and to question or refute evidence.~~

~~All parties have the right to cross-examine witnesses.~~

~~The HHO can pose questions at anytime during the proceedings.~~

~~Questioning of all parties will be confined to the issue(s) involved.~~

~~The HHO is to ensure only relevant information is permitted to be presented.~~

~~Arkansas Rules of Evidence will serve as general guidance as to the admissibility of evidence.~~

~~The HHO shall not fraternize with either party prior to or during the hearing.~~

~~Situations may occur in which a party wishes to approach the HHO to say something privately. This is not permissible and the HHO may need to explain that all facts are to be heard by both parties and will be accepted impartially.~~

~~The HHO should provide for reasonable recesses in lengthy hearings.~~

~~1.9.10 HHO Opening Statement~~

~~HHO opening statement will include:~~

~~HHO self introduction and statement of impartiality,~~

~~function, role and authority,~~

~~confidentiality,~~

~~reason for hearing, and~~

~~citing of applicant or consumer request.~~

~~1.9.11 Opening Statement on Behalf of Both Parties~~

~~Both parties will enter their appearances by stating their name, who they represent, and their address. Only one person shall make an opening statement on behalf of a party.~~

~~The DSB opening statement will be a summary of the rehabilitation status of the applicant or consumer and the reasons for that status.~~

~~The applicant or consumer opening statement will be a summary of his/her current rehabilitation status and the reasons for requesting a hearing on his/her rehabilitation status.~~

~~scheduling letter advises the applicant or consumer of the time, date, place of hearing, and the name of the Impartial Hearing Officer (IHO) who will conduct the hearing. The IHO shall be selected on a random basis from a pool of qualified persons by DSB.~~

~~1.9.5 Place of Hearing~~

~~The hearing will normally be held in the local DSB office. It may be held in another location if requested by either party and approved by the Director.~~

~~1.9.6 Non Attendance~~

~~If either DSB or the applicant or consumer requests that the hearing be rescheduled prior to the date of the hearing, a request may be made to the Director to determine if good cause for such a request exists. If it is determined that good cause does exist, the hearing may be rescheduled. If the applicant or consumer fails to appear for the hearing and does not provide notice prior to the date of the hearing, the appeal may be dismissed at the discretion of the IHO. If an emergency arises, the applicant or consumer must justify in writing his/her reasons for non-appearance.~~

~~1.9.7 DSB Responsibilities~~

~~It is the responsibility of the Field Administrator to arrange for an office in which to conduct the hearing.~~

~~The Rehabilitation Counselor or Program Administrator will be responsible for presenting the case for DSB and answering any questions regarding the issue. The applicant or consumer and/or representative have the right to cross-examine the DSB representative.~~

~~DSB may request legal assistance in preparing for the hearing by contacting the Arkansas Attorney General.~~

~~1.9.8 Confidentiality Requirements~~

~~Arkansas Code 20-79-216 states that it is unlawful, except for purposes directly connected with the administration of DSB programs, to disclose the name or refer to the name of persons applying to receive services.~~

~~To ensure the confidentiality of a closed hearing, the IHO shall inquire if there is anyone present with whom the applicant or consumer is not familiar. Should an applicant or consumer indicate in the affirmative, the party in question will come forward, identify himself and state the reason for his presence. Should there be objection on the part of the applicant or consumer to the relevance of this person's attendance at the hearing, the IHO will have the responsibility to rule on the individual's presence.~~

~~1.9.9 Conduct of Hearing~~

~~The hearing will be conducted by the IHO.~~

~~When an applicant or consumer or his/her representative wishes to request an impartial hearing, he or she may do so by submitting a request in writing to the Director of the Division of Services for the Blind. The request must be made no later than five (5) days of the administrative review decision.~~

~~When the Division Director receives a request for a formal hearing, he will request a copy of the consumer's file from the Program Administrator. The impartial hearing will be completed no later than forty-five (45) days from the date of initial request.~~

~~The file will also contain a memorandum which summarizes the basis for the administrative review decision. It will also contain a statement of issues and a summary of all facts supporting the administrative review decision. All statements should be written in simple language. Ambiguous and technical words and phrases shall be avoided. The memorandum should be prepared in triplicate. The original memorandum is sent to the applicant or consumer with copies to the appropriate rehabilitation staff member, the Program Administrator.~~

1.9.2 Parties' Rights

~~Parties to a hearing conducted pursuant to these procedures shall be afforded the right to:~~

- ~~be represented by counsel and by individuals with special knowledge or relevant training,~~
- ~~present evidence and confront, cross examine and compel the attendance of witnesses,~~
- ~~prohibit the introduction of evidence not discussed at least five days prior to hearing,~~
- ~~have an interpreter present (in scheduling an interpreter, three [3] working days notice should be given), and~~
- ~~a written report of the findings of fact and conclusions shall be provided to all parties within thirty (30) days of the hearing.~~

1.9.3 Requests for Witnesses

~~The applicant or consumer and/or representative will be advised by a letter prepared by DSB, and sent certified mail, return receipt requested, that he or she has ten (10) days from the date of signature on the certified mail receipt to request witnesses.~~

~~The Program Administrator must advise the Director at the time the Hearing File is submitted of any witnesses he or she wishes to appear in order to document the action or to support an administrative decision.~~

1.9.4 Scheduling the Hearing

~~After the time frame for submitting applicant or consumer witnesses has expired, the hearing will be completed within forty-five (45) days of the initial request. The~~

~~45th day or the parties agree to a specific extension of time. The administrative review must be conducted and concluded within the same 45 days. Delays or continuances will not be given for the purpose of extending the provision of services. Any agreement to an extension of time must be formalized in writing and agreed upon by both parties.~~

~~1.8.5 Consumer's Participation~~

~~At a mediation session, the individual, or the individual's representative, is afforded the opportunity to present additional evidence, information, and witnesses to the Mediation Officer, be represented by counsel or another appropriate advocate (DSB cannot provide reimbursement for attorney's fees), and examine all witnesses and other relevant sources of information.~~

~~1.8.6 DSB Staff Attendance~~

~~Professional staff involved in the disputed determination will appear at the session to provide appropriate evidence and testimony. Other staff will appear as directed.~~

~~1.8.7 Order of Proceedings~~

~~The Mediation Officer will conduct the session in accordance with the State laws regarding conduct of individual proceedings before an agency, and applicable Federal laws and regulations. Generally, the mediation follows this order of proceedings:~~

~~— Presentation, arguments, and disposition of all preliminary motions~~

~~— Opening statements~~

~~— Evidence presented by DSB~~

~~— Evidence presented by the applicant or consumer~~

~~— Rebuttal by either or both sides~~

~~— Closing statements by the applicant or consumer~~

~~— Closing statements by DSB~~

~~1.8.8 Agreement~~

~~The Mediation Officer shall help negotiate an agreement that can be agreed on by both parties in the dispute. The Mediation Officer shall write a mediation agreement within ten (10) days of the final session. The written agreement should go to the applicant or consumer or their representative and a copy to the Director of DSB.~~

~~If a mediation agreement cannot be reached or the applicant or consumer disagrees with the mediation process, the applicant may request an impartial hearing.~~

~~1.9 MEDIATION AND IMPARTIAL DUE PROCESS HEARING PROCEDURES—STEP 4 – IMPARTIAL HEARING~~

~~1.9.1 Submission of Request~~

~~The Field Administrator will schedule the informal administrative review that will be conducted within ten (10) days of the initial date of request~~

~~at the time and place convenient to the applicant or consumer (usually during business hours at the DSB local office), and
by the Field Administrator, who has no direct personal knowledge of the details involved in the matter and has not participated in the decision being reviewed.~~

~~The applicant or consumer has a right to:~~

~~be represented by an attorney, client assistance, parent or guardian, friend, relative, or any other representative of his/her choice (NOTE: DSB cannot provide reimbursement for attorney fees),
reader services or interpreter services (requires a three [3] working day notice to arrange for these services),
present evidence and call witnesses in support of the case,
question Agency staff members, and
receive a decision in writing from the person conducting the administrative review within five (5) days following the review.~~

~~1.8 MEDIATION AND IMPARTIAL DUE PROCESS HEARING PROCEDURES — STEP 3 - MEDIATION SESSION~~

~~1.8.1 Mediators~~

~~The Client Assistance Program (CAP) will make available to DSB a list of individuals who are qualified mediators and knowledgeable in laws (including regulations) relating to the provision of Vocational Rehabilitation Services under this title, from which mediators shall be selected.~~

~~1.8.2 Rules~~

~~The mediation process shall:~~

~~be voluntary on the part of the parties;
not be used to deny or delay the right of an individual to a hearing under this subsection, or to deny any other right afforded under this title; and
be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.~~

~~1.8.3 Cost~~

~~DSB shall bear the cost of the mediation process (Mediator Officer and Interpreters expenses).~~

~~1.8.4 Scheduling~~

~~The mediation session must be held within 45 calendar days from the date the request for a mediation session is received, unless the issue is resolved prior to the~~

~~An informal review (informal administrative review)~~

~~A formal review (impartial hearing)~~

~~An informal review is used to clarify issues and resolve disputes at the lowest possible level. The review involves the counselor, the area supervisor, and if necessary, an informal administrative hearing. Services are provided according to the rehabilitation needs of each individual as identified in the IPE and are consistent with the individual's informed choice. If an informal review finds exemptions to policies are necessary for the rehabilitation needs of the individual to be met, then such exemptions can be made. AN INFORMAL REVIEW IS NOT INTENDED TO DELAY OR IN ANY WAY DENY ACCESS TO A FORMAL REVIEW. Any planned services will continue to be provided pending the outcome of the appeal or review.~~

~~A formal review involves a formal hearing by an impartial hearing officer. It may be requested at anytime.~~

~~1.6.7 Due Process Procedures~~

~~The grievance procedure starts the 45 day clock at the time the individual first appeals the State Agency's decision or determination. The entire appeals process, informal and formal, is a 45 day process. The appeals procedure will normally progress in the following sequence:~~

~~Step 1 The applicant or consumer should discuss with counselor and ask for a decision.~~

~~Step 2 If dissatisfied, the applicant or consumer can ask for an informal administrative review from a Program Administrator.~~

~~Step 3 If still dissatisfied, the applicant or consumer can ask for a mediation session.~~

~~Step 4 If still dissatisfied, applicant or consumer can ask for an impartial hearing.~~

~~1.7 MEDIATION AND IMPARTIAL DUE PROCESS HEARING PROCEDURES—STEPS 1 AND 2~~

~~1.7.1 Decision of the Counselor~~

~~An applicant or consumer who is dissatisfied with an action (inaction) by DSB should notify the counselor of the matter in contention. If after discussing the decision and the applicant or consumer is still dissatisfied, the applicant or consumer will be asked to complete a request for an administrative review. Counselor will advise the applicant or consumer of CAP (Client Assistance Program) assistance. This request for administrative review will be given to the Program Administrator.~~

~~1.7.2 Informal Administrative Review~~

~~The Arkansas Division of Services for the Blind is committed to ensuring that complaints are handled fairly and impartially. In order to avoid an interruption in services, it is expected that complaints will be handled expeditiously and at the lowest level possible.~~

~~Counselors are to thoroughly investigate a consumer complaint and explore all options and alternatives available within Division policy to foster consumer satisfaction.~~

~~1.6.3 Consumer Assistance~~

~~While the applicant or eligible consumer may at any time call the following numbers, it is encouraged that they first pursue this agency's informal appeal process. The numbers are:~~

~~The Division of Services for the Blind's toll free number (1-800-960-9270)~~

~~Client Assistance Program (1-800-482-1174)~~

~~1.6.4 Legal Basis~~

~~The hearing procedures available to applicants and consumers are in compliance with the Rehabilitation Act of 1973 as amended in Section 102 (c) and 504, and federal regulations (34 CFR 361.57) regarding administrative review of agency action and fair hearing.~~

~~1.6.5 Notification of Applicant and Consumer Rights and the Appeal Procedure~~

~~It is the Division of Services for the Blind's policy that applicants or consumers be informed of their rights and the Division's appeal procedures in a timely manner. The Applicant Information Form (DSB 8033) is provided to applicants and consumers:~~

- ~~• when the application is completed,~~
- ~~• at initial plan development (Individualized Plan for Employment);~~
- ~~• when the person is determined ineligible for VR;~~
- ~~• when services are reduced, suspended, or terminated; and~~
- ~~• anytime an applicant or a consumer requests a copy.~~

~~**NOTE:** Anytime the DSB 8033 or copy of the appeal procedure (found in this section) is given to the applicant or consumer, it must be documented in a case narrative.~~

~~1.6.6 Applicant or Consumer Options~~

~~An applicant or consumer may choose to request either or both of the options listed below.~~

~~1.5.20 Confidentiality of HIV Status~~

~~A medical report that includes HIV status information can be filed in the case file. However, caution must be used in safeguarding the confidentiality of the consumer's HIV status at all times and from any source. Do not share HIV status information with anyone without a signed release that makes specific reference to HIV status. If you do not have a signed release, a doctor or the consumer will have to provide HIV status information to all other parties.~~

~~Make no reference to HIV status in any case narratives.~~

~~1.5.21 Internal Procedures for Release of Personal Information~~

~~Informed written consent of the consumer for the release of personal information is required if it is determined that the information can be released. The agency form, Release of Information Form (DSB-8021), should be used for the execution of policy under this section.~~

~~If the consumer disavows intent to release the information, even after signing the form, but prior to its release, the information will not be released.~~

~~In cases where personal information must be sent to another agency, e.g., Lions World Services for the Blind or Louisiana Center for the Blind, informed written consent is not required. When the purpose is directly related to the administration of the vocational rehabilitation program, is required by Federal or State law, or to protect the safety of the consumers or others, informed written consent is not required.~~

~~1.6 MEDIATION AND IMPARTIAL DUE PROCESS HEARING PROCEDURES OVERVIEW~~

~~1.6.1 Introduction~~

~~The Arkansas Division of Services for the Blind aims, within policy and fiscal constraints, for consumer satisfaction in the provision of VR services. In situations where an issue is not resolved after discussion between the applicant or eligible consumer and the counselor, an appeal process is available to provide an applicant or eligible consumer an opportunity to remedy any dissatisfaction with respect to any of the following.~~

~~Denial of services~~

~~Change in planned services~~

~~Termination of services~~

~~Inaction~~

~~Failure to act with reasonable promptness~~

~~Any other Division action affecting the Vocational Rehabilitation Program.~~

~~1.6.2 Handling Complaints and Appeals~~

~~advised that the confidentiality of these records is protected under federal regulations 34 CFR 261.38. Use of these records without consumer consent might jeopardize the case."~~

~~Proceeds as directed by judge, judge's clerk, or attorney.~~

~~1.5.15 Same Day Response~~

~~If the subpoena must be responded to the same day it is delivered, the counselor must immediately contact the consumer and the area supervisor.~~

~~If the consumer can be contacted and has signed a specific release form (DSB-8021), then the information may be released without consideration of quashing the subpoena.~~

~~If the consumer can be contacted and has an attorney, then contact the consumer's attorney to advise the attorney of appropriate state and federal legislation regarding confidentiality of VR consumer records, and give the attorney an opportunity to quash the subpoena.~~

~~If the consumer can be contacted, but has no attorney, then the counselor must be sure the consumer has signed a specific written release prior to release of the information.~~

~~If the consumer can be contacted, but has not signed a specific release form or cannot be contacted, then proceed the same way as described in the Immediate Response (1.5.14).~~

~~1.5.16 Multiple Day Response~~

~~If the time allowed for response involves more than one day, follow the same procedure as Same Day Response.~~

~~1.5.17 Who is Authorized to Disclose Consumer Information?~~

~~Disclosure of information in accordance with directives from supervisory staff may be made only by the responsible caseload carrying person.~~

~~1.5.18 Security of Confidential Records~~

~~Consumer records of a confidential nature will be kept in a locked desk or filing cabinet when Division staff is not present to assure proper security. Additionally, it is strongly urged that all employees, in handling confidential records, make it a practice to place such records face down or otherwise protected from view, when they are not in immediate use and before they are returned to the files.~~

~~1.5.19 Rule~~

~~Consumer records are not to leave the office. The only exception to this rule is when cases are being transferred. All case folders being transferred must be sent by certified mail or hand delivered.~~

~~purposes that would significantly improve the quality of life for applicants and consumers and only if the organization, agency, or individual assures that.~~

~~The purpose of the research is directly connected with the administration of the Division's VR Program.~~

~~Satisfactory assurance is given that the information will be used only for the purpose for which it is provided.~~

~~The information will be released only to persons officially connected with the audit, evaluation, or research.~~

~~The information will not be released to the involved individual.~~

~~The information will be managed in a manner to safeguard confidentiality.~~

~~The final product of the research will not reveal any information that may serve to identify any consumer without written consent of such consumer and the Division Director.~~

~~1.5.12 Cases of Abuse~~

~~Individuals who have reasonable cause to believe a child, elderly, or disabled person is being abused, neglected or exploited shall report the information. For individuals in a facility, the incident is to be reported to the authority having responsibility for the facility. For other situations, the local office of Adult Protective Services (State Abuse Hotline 1-800-482-8049) will be notified if the individual is an adult; if the individual is a child, then Child Protective Services (Child Abuse Hotline 1-800-482-5964) will be notified.~~

~~1.5.13 Subpoena of Consumer Records~~

~~In the event a subpoena is served on a counselor or other Division employee, consumer information should not be released or testimony given except as noted below. The subpoena may specify personal appearance or specific file information. Time allowed to respond is specified in the subpoena (immediate response, same day response, or multiple day response) and dictates what action is to be taken.~~

~~The consumer or consumer's representative will determine if release of the information is detrimental to the consumer.~~

~~1.5.14 Immediate Response~~

~~In some situations no time is allowed to contact anyone (consumer, consumer's attorney or area supervisor) and records must be presented upon receipt of the subpoena. The counselor or area supervisor (if counselor is not available):~~

~~Takes a copy of the requested case record information and goes before (in order of preferred availability) the judge noted in the subpoena, judge's clerk, or attorney requesting subpoena material.~~

~~Presents the following statement.~~

~~"As a representative of the Arkansas Division of Services for the Blind, and in response to the subpoena, I am cooperating with the court. Please be~~

~~Information will not be disclosed directly or indirectly, other than in the administration of the VR Program, unless the informed consent of the consumer has been obtained in writing.~~

~~1.5.7 Conditions for Release~~

~~Release of information to any individual, agency, or organization shall be conditioned upon satisfactory assurance by such individual, agency, or organization that the information will be used only for the purpose for which it is provided, and it will not be released to any other individual, agency, or organization.~~

~~Information will not be disclosed without a written consent which includes the purpose for which the information is desired, the specific information desired, a date of expiration of the written consent, and the dated signature of the consumer, or parent or guardian as needed.~~

~~1.5.8 Release of Information to Consumer~~

~~Except as provided in paragraphs 1.5.8 and 1.5.9 of this section, if requested in writing by an applicant or consumer, DSB shall make all requested information in that individual's record of service accessible to and shall release the information to the individual or, as appropriate, parent or guardian, or other representative in a timely manner.~~

~~For purposes in connection with any proceeding or action for benefit or damages, only information that is relevant to the needs of the consumer may be released.~~

~~1.5.9 Release of Medical, Psychological, or Other Information~~

~~Medical, psychological, or other information that DSB determines may be harmful to the individual may not be released directly to the individual, but can be provided to the individual through a third party such as an advocate, a family member, or a qualified medical or mental health professional if requested in writing. When a representative has been appointed by a court to represent the individual, the information can be released to the court appointed representative.~~

~~1.5.10 Information Obtained from Another Agency~~

~~If DSB has obtained personal information from another agency or organization, it may be released only by the other agency or organization from which it originated.~~

~~1.5.11 Release of Information to Organizations Involved in Audit, Evaluation, or Research~~

~~Any request for release of information for research purposes requires approval of the DSB Director. Information may be released to an organization, agency, or individual engaged in audit, evaluation, or research only for purposes directly connected with the administration of the vocational rehabilitation program, or for~~

1.5.1 Introduction

Division of Services for the Blind has developed policies and procedures to safeguard the confidentiality of all personal information made available to DSB, its representatives, and employees. All personal information regarding applicants and consumers of vocational rehabilitation services furnished to this agency will be held confidential in accordance with the following regulations and guidelines.

1.5.2 Legal Basis

Agency policy shall be in compliance with the Rehabilitation Act of 1973 as amended (Section 361.38), Arkansas Department of Human Services Policy 1050, and Arkansas Code 20-79-216.

1.5.3 Rules

All consumer information is the property of the Division.

All vocational rehabilitation applicants, consumers and, as appropriate, those individuals' representatives, service providers, cooperating agencies, and interested persons will be informed as to the confidentiality of personal information and the conditions for accessing and release of such information.

Information containing identifiable personal information may not be shared with advisory or other bodies that do not have official responsibility for administration of the VR Program.

All employees of this agency are responsible for protecting the confidentiality of consumer records.

1.5.4 Code of Professional Ethics for Rehabilitation Counselors

DSB professional staff members are expected to adhere to the standards as set forth by the Code of Professional Ethics for Rehabilitation Counselors adopted by the Commission on Rehabilitation Counselor Certification in reference to the protection of confidentiality.

1.5.5 What is to be Held Confidential?

All information as to personal facts given or made available to employees or representatives of the Division in the course of the administration of the VR Program will be held confidential, including: lists of names and addresses, records of agency evaluation, reports of medical examination and treatment, financial information, and photographs.

1.5.6 Consumer Consent for Release

~~1.3 EXEMPTIONS~~

~~1.3.1 Allowing for Exemptions~~

~~DSB recognizes that occasionally medical emergencies, or other circumstances beyond the consumer's control, occur preventing the consumer from completing an activity within allotted timeframes or causing a need for additional services. In these situations, the consumer may request an exemption to policy limits. Depending on the policy affected, a VR Counselor, Field Supervisor or Program Administrator would review the situation and determine if reasonable extenuating circumstances existed and whether an exemption to policy limitations should be approved.~~

~~1.4 NONDISCRIMINATION POLICY~~

~~1.4.1 Policy~~

~~All persons eligible for services from the Division of Services for the Blind will receive the full range and scope of appropriate services on the basis of their visual disability and without reference to any other standards of criteria.~~

~~This policy of nondiscrimination applies to all of the Division's programs and activities~~

~~1.4.2 Title VI Compliance~~

~~The Division's Vocational Rehabilitation Program is administered in such a manner that no person in Arkansas will be denied services on the basis of race, color, sex, age, disability, or national origin.~~

~~1.4.3 Legal Basis~~

~~The above policy statement is in compliance with the following.~~

- ~~Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000D et seq.)~~
- ~~Federal Regulations (34 CFR Part 361).~~

~~1.4.4 Section 504 Compliance~~

~~The Division's Vocational Rehabilitation Program is administered in such a manner that no person in Arkansas, who is otherwise qualified, will be denied services on the basis of disability.~~

~~1.4.5 Legal Basis~~

~~The above policy statement is in compliance with the following.~~

- ~~Section 504 of the Rehabilitation Act of 1973~~
- ~~Federal Regulations (34 CFR Part 361 and 28 CFR Part 35)~~
- ~~Title II of the Americans with Disabilities Act (ADA).~~

~~1.5 CONFIDENTIALITY~~

~~Policy on the Protection of Legal Rights Chapter 1~~

~~1.1 OVERARCHING POLICY~~

~~1.1.1 Introduction~~

~~Certain principles and guidelines extend over all DSB policies. Therefore, overarching policy has been created to preface the specific program policies.~~

~~1.1.2 Overview~~

~~Consumers and potential consumers of the Arkansas Division of Services for the Blind are afforded certain rights with respect to the following principles:~~

- ~~• timeliness of services, decisions, and notifications,~~
- ~~• nondiscriminatory availability of services,~~
- ~~• confidentiality of consumer records,~~
- ~~• informed choice,~~
- ~~• allowances for exemptions to policy limitations under reasonable extenuating circumstances, and~~
- ~~• an opportunity to appeal decisions regarding their planned services or their eligibility for such services.~~

~~Additionally, it is intended that consumers of this agency receive the best and most appropriate services available within agency guidelines and funding capabilities.~~

~~1.1.3 Use~~

~~While the guidelines and procedures contained herein will serve as general policy, specific legal questions which are not addressed may be referred to the Agency Director through appropriate supervisory channels. The Office of Chief Counsel is also available to address specific legal questions.~~

~~1.1.4 When to Inform~~

~~Consumers will be notified of their rights at the initial interview and throughout the VR process as appropriate, i.e., development of IPE, Progress/Program Reviews, closure, etc.~~

~~1.2 TIMELINESS~~

~~1.2.1 Timely Action~~

~~DSB consumers have a right to timely action without unreasonable delays in regard to eligibility determination, provision of services, case decisions, notifications and other activities. VR Counselors will follow timeframes as stated in policy. When necessary, the VR Counselor and the consumer may agree to a specific extension of time needed to complete an action. Such extensions should be documented in the case record.~~