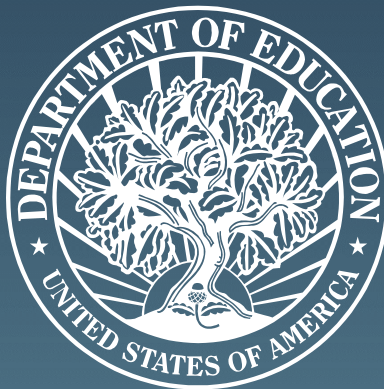


# COORDINATING TRANSITION SERVICES AND POSTSECONDARY ACCESS

GUIDANCE ON  
REQUIREMENTS UNDER THE  
IDEA AND THE REHABILITATION ACT



OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES  
OFFICE OF SPECIAL EDUCATION PROGRAMS | REHABILITATION SERVICES ADMINISTRATION

U.S. DEPARTMENT OF EDUCATION

JANUARY 2025

## INTRODUCTION

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The U.S. Department of Education (Department) is committed to ensuring that students and youth with disabilities are held to high expectations and have the resources and supports needed to expand their learning opportunities and prepare them for success in postsecondary education and competitive integrated employment (CIE). In the 2019-2020 academic year, approximately [21 percent of undergraduate students reported having a disability](#)—which is a marked increase from the six percent of undergraduate students who reported having a disability during the 1995-1996 academic year.<sup>i</sup> This guidance builds on the Department’s guidance [A Transition Guide to Postsecondary Education and Employment for Students and Youth with Disabilities](#) (August 30, 2020), as well as prior policy letters,<sup>ii</sup> and describes how State educational agencies (SEAs), local educational agencies (LEAs), and State vocational rehabilitation (VR) agencies may coordinate to assist students with disabilities, including students with intellectual disabilities, who are in high school and will be transitioning out of high school and will potentially receive services as an adult funded by programs authorized under the Rehabilitation Act of 1973 (Rehabilitation Act) and other Federal or State funding sources. The Department supports States in their work to increase postsecondary education options and opportunities for individuals with disabilities, including students and youth with intellectual disabilities, through participation in comprehensive transition programs and postsecondary education<sup>iii</sup> at institutions of higher education (IHEs).

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## SECTION A: IDEA REQUIREMENTS

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### Question A-1: What is the IDEA?

**Answer:** The cornerstone of the IDEA is the entitlement to a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet the student's<sup>iv</sup> unique needs and that prepare the student for further education, employment, and independent living. IDEA section 601(d)(1)(A). Under IDEA, FAPE must be made available to all eligible students with disabilities residing in the State ages 3 through 21 years in the State's mandated age range, with a few specific exceptions.<sup>v</sup> FAPE includes special education and related services that:

- 1) are provided at public expense, under public supervision and direction, and without charge;
- 2) meet the standards of the SEA, including the requirements of the IDEA;
- 3) include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- 4) are provided in conformity with an individualized education program (IEP) that meets the requirements of section 614(d) of IDEA. Also see IDEA section 602(9) and 34 C.F.R. § 300.17 for the definition of FAPE.

### Question A-2: What are transition services under IDEA?

**Answer:** Transition services are defined in IDEA as a coordinated set of activities for a student with a disability that:

- 1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the movement of a student with a disability from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;
- 2) Is based on the individual needs of the student with a disability, taking into account the student's strengths, preferences, and interests; and
- 3) Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and provision of a functional vocational evaluation. IDEA section 602(34); 34 C.F.R. § 300.43(a).

Transition services are identified by the student's IEP Team and included in the student's IEP, pursuant to IDEA section 614(d)(1)(A)(i)(VIII) and 34 C.F.R. § 300.320(b).

While IDEA requires transition planning to be included not later than the first IEP in place when the student turns 16,<sup>vi</sup> many IEP Teams choose to start this process much earlier. This planning can be as simple as engaging in ongoing conversations with a student of any age about their post-high school aspirations. This engagement provides families and IEP Teams the opportunity to understand the student's goals, interests, and concerns, allowing them to provide ongoing tailored individualized support, accommodations, and guidance each year, and aligning current educational plans with long-term objectives.

Additionally, the IDEA implementing regulations require LEAs to invite representatives of any participating agency, with parental consent or the consent of the student who has reached the age of majority, to participate in IEP Team meetings where transition services and postsecondary goals are discussed, if that agency is likely to be responsible for providing or paying for the transition services to be included in the student's IEP. 34 C.F.R. § 300.321(b)(3).

### Question A-3: When does IDEA require that transition services be in effect for a student with a disability?

**Answer:** For older students with disabilities, beginning not later than the first IEP in effect when the student turns 16, or younger if determined appropriate by the IEP Team, the IEP must address transition services requirements. Specifically, the IEP must include:

- 1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
- 2) the transition services (including courses of study) needed to assist the student in reaching those goals.

The IEP must be updated annually thereafter. IDEA section 614(d)(1)(A)(i)(VIII); 34 C.F.R. § 300.320(b).

### Question A-4: What role should students with disabilities play in the development of IEPs?

**Answer:** IDEA requires the IEP Team to include, whenever appropriate, the student with a disability. The LEA must invite a student with a disability to attend the IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals.

34 C.F.R. § 300.321(a)(7) and (b)(1). If the student does not attend the IEP Team meeting, the LEA must take other steps to ensure that the student's preferences and interests are considered. 34 C.F.R. § 300.321(b)(2).

Further, beginning not later than one year before the student reaches the age of majority under State law (in most States the age of majority is 18), the IEP must include a statement that the student has been informed of the student's rights under Part B of IDEA, if any, that will transfer to the student on reaching the age of majority under 34 C.F.R. §§ 300.320(c) and 300.520.<sup>vii</sup>

For some students with disabilities, IEP Teams and families may need to plan in advance and develop strategies that allow the student to meaningfully participate in the IEP Team meeting. While there is no requirement on how this should occur, it will be most effective if the planning and development of strategies build upon the communication needs of the student, informal transition discussions that have been conducted with the student over time, as well as any recent transition-related assessments that highlight the student's aspirations, preferences, interests, and strengths. The IEP Team meeting is also a time where the student may have the opportunity to meet with representatives of other agencies that may provide transition services and allow for the student to meet with individuals who have knowledge and expertise on community or VR services, as well as postsecondary education and/or training opportunities.

Similarly, IEP Teams should be aware of potential decisions regarding the transfer of rights from a parent to a student with a disability who has reached the age of majority. 34 C.F.R. § 300.520. While IEPs must, beginning not later than one year before the student reaches the age of majority under State law, include a statement regarding the transfer of rights (34 C.F.R. § 300.320(c)), IEP Teams should include, in their transition planning, any details on that transfer of rights, including the provision of prior written notice, consent, IEP development, placement decisions, and dispute resolution processes. These discussions will enable students with disabilities and their families to make informed decisions that will support the selection of the requisite transition services to achieve their desired post-school outcomes.

#### **Question A-5: Where can special education and related services be provided to students with disabilities under IDEA?**

**Answer:** IEP services can be provided in a variety of settings as determined by the group of individuals who make placement decisions, which must include the student's parent and usually the student upon reaching the age of majority in the State. 34 C.F.R. §§ 300.116, 300.327, and 300.520. To the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, must be educated with students who are nondisabled. 34 C.F.R. § 300.114(a)(2)(i). The placement must be:

- 1) Determined at least annually;
- 2) Based on the student's IEP; and
- 3) As close as possible to the student's home. 34 C.F.R. § 300.116(b).

The placement of a student with a disability could be in a wide range of locations based on the IEP, including the type of transition services specified within the IEP (see below for an example of a placement for transition services). Examples of placement for transition services could include instruction at the student's high school, job sites, adult education centers, or IHEs, or a combination thereof. The individualized nature of the IEP and transition plan services, based on the student's needs, preferences, and interests, drives the placement, rather than a pre-determined program such as those designed for individuals with disabilities based only upon the presence or type of disability.

#### Question A-6: When does an LEA's obligation to provide FAPE to students with disabilities end?

**Answer:** The obligation to make FAPE available under IDEA ends for students with disabilities when they have exceeded the age of eligibility for FAPE under State law or when they graduate from high school with a regular high school diploma. IDEA section 612(a)(1)(B) and 34 C.F.R. § 300.102(a)(1) and (3). However, if the student with a disability does not receive a regular high school diploma (e.g., if the student graduates from high school with a credential other than a regular high school diploma, such as an alternate diploma or certificate of completion), the obligation to provide FAPE to the student could last until the student's 22nd birthday, or another date depending on State law which sets the State's upper age limit for FAPE. 34 C.F.R. §§ 300.101-300.102 and 300.201. Some States may allow for the provision of special education and related services to students with disabilities beyond their 22nd birthday, but they may not use IDEA funds for students beyond their 22nd birthday. The Department compiles and posts information submitted by States about the age range for which each State ensures the availability of FAPE at <https://sites.ed.gov/idea/files/Grants-B-Year-of-Age-Cohort.pdf>

#### Question A-7: What is a regular high school diploma?

**Answer:** Under the IDEA Part B regulations, a regular high school diploma is defined as "the standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma." 34 C.F.R. § 300.102(a)(3)(iv).

**Question A-8:** Are general equivalency diplomas, diplomas aligned to alternate academic achievement standards, certificates of completion, certificates of attendance, or other recognized equivalent of a diploma the same as a regular high school diploma for purposes of FAPE eligibility under IDEA?

**Answer:** No. Under 34 C.F.R. § 300.102(a)(3)(iv), these types of diplomas or certificates are not regular high school diplomas. If an LEA awards these diplomas or certificates to a student with a disability who has not yet exceeded the age eligibility for FAPE under State law, the student remains eligible for FAPE under IDEA until they receive a regular high school diploma or reach the maximum age of eligibility for FAPE under State law, whichever occurs first.

**Question A-9:** Are there any additional requirements under IDEA that an LEA must meet when a student with a disability graduates from high school with a regular high school diploma or when they reach the maximum age of eligibility for FAPE under State law?

**Answer:** Yes. The LEA must provide the student with a summary of their academic achievement and functional performance, which must include recommendations on how to assist the student in meeting their postsecondary goals. IDEA section 614(c)(5)(B)(ii); 34 C.F.R. § 300.305(e)(3). This summary is often called a summary of performance (SOP).

**Question A-10:** What additional information might be included in a summary of performance?

**Answer:** Beyond the content required in IDEA section 614(c)(5)(B)(ii) and 34 C.F.R. § 300.305(e)(3), the IDEA and its implementing regulations do not otherwise specify the information that must be included in the SOP. Rather, State and local officials have the flexibility to determine the appropriate content to be included in a student's SOP, based on the student's individual needs and postsecondary goals. The SOP is typically generated as part of the student's IEP. The SOP can provide exiting students with important information from the IEP that they may use as they transition from school to postsecondary activities, including the State VR program. The SOP can contain meaningful information for potential employers, postsecondary education institutions, and adult service and community rehabilitation providers about the student's skills, strengths, preferences, interests, and any supports that they may need to be successful.

The SOP is typically used by the student with a disability as they move from public K-12 education programs to postsecondary education, employment, and independent living.



IEP Teams may want to discuss ways that the student could use the SOP during and after transition. For example, the SOP can be an opportunity for the student with a disability to share information about potential work or school accommodations, or the student could use the contents of the SOP to prepare for interviews.

### Question A-11: Is an LEA financially responsible for all costs associated with implementing a student's IEP?

**Answer:** The answer will vary in each State and will also be contingent on the student's eligibility for funding through other programs that support individuals with disabilities. While the LEA has an obligation under IDEA to provide FAPE to all eligible students with disabilities within its jurisdiction, which means at no cost to the student or the family, other agencies may be obligated under Federal or State law to fund services identified in a student's IEP. Under IDEA, if a noneducational public agency (typically another State agency) is obligated under Federal or State law, or assigned responsibility under State policy, to pay for services that are special education or related services (including transition services), the noneducational public agency's financial responsibility for the services must precede the LEA's financial responsibility. IDEA section 612(a)(12)(A)(i) and (a)(12)(B)(i); 34 C.F.R. § 300.154(a)(1) and (b)(1). Under 34 C.F.R. § 300.154, the State is required to ensure that an agreement or other mechanism is in effect between each applicable noneducational public agency and the SEA that includes, among other things, an identification of, or a method for defining, the financial responsibility of each agency for providing services to ensure FAPE to students with disabilities. An example of this arrangement is pre-employment transition services (pre-ETS)<sup>viii</sup> for students with disabilities who are eligible or potentially eligible for VR services. SEAs and VR agencies must have an interagency agreement that describes the collaboration between agencies at the State level and provides the basis for determining which agency pays for certain services.<sup>ix</sup> See Question and Answer B-6, below. LEA personnel, serving as the LEA representative in an IEP Team meeting where transition services and postsecondary goals are discussed, will need to be aware of the contents of these formal interagency agreements, so that confusion about responsibility for payment does not arise and, thus, hinder the student's transition planning.

## SECTION B: CONNECTING IDEA TRANSITION SERVICES WITH VR SERVICES

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**Question B-1:** When should other public agencies be included in transition planning, including attending meetings?

**Answer:** The involvement of and collaboration with other public agencies (e.g., State VR, State department of mental health, or State commission for the blind or visually impaired), as appropriate, not only is required<sup>x</sup> but also can be helpful in planning for transition and in providing resources that will help students with disabilities when they leave high school. Students with disabilities can benefit when transition services under IDEA are coordinated early in the transition process with the VR program, as well as other supports and programs, such as guidance counseling, assistance with applying to college, and career services that serve all students transitioning from school to post-school adult life.

**Question B-2:** What are some examples of transition services that can be provided to students with disabilities that can help them reach their postsecondary goals?

**Answer:** Decisions about the specific content of transition services are the responsibility of the IEP Team. The text box below provides some examples of transition services.

## EXAMPLES OF TRANSITION SERVICES

Transition services must consider the student's strengths, preferences, and interests, and may include (but are not limited to):

### **Instruction in:**

- Financial planning and management;
- Self-care (e.g., hygiene, health & wellness);
- Independent living (e.g., cooking, housekeeping, home maintenance);
- Time/organizational management;
- Self-determination (e.g., self-advocacy, problem-solving, self-monitoring);
- Social/communication skills (e.g., peer relationships);
- Leisure skills; and
- Job-specific and soft skills for employment.

### **Community Experiences:**

- Travel training to settings similar to those of their age peers (college campuses, work settings, community settings);
- Enrollment in postsecondary education programs\* (e.g., vocational-technical programs, adult basic education, college programs, apprenticeships, dual enrollment);
- Career and technical education (CTE) programs;
- Community access (e.g., accessing community services, social roles/ citizenship); and
- Peer mentoring and career mentoring.

### **The development of employment and other post-school adult living objectives:**

- Referrals and interviews with adult-serving agencies or State VR agencies;
- Participation in any or all five required pre-ETS;
- Arrangement of work-based learning experiences, work study, and paid work;
- Embedding self-care/independent living skills instruction into academic coursework and class/program procedures; and
- Supports to access other services or post-school/adult environments (e.g., completing a housing application, navigating access to adult healthcare providers (including Medicaid), opening an Achieving a Better Life Experience (ABLE) account, applying for college, scheduling an appointment with disability support services in college, obtaining Social Security Disability benefits).

\* IDEA Part B funds may be used to pay for transition services in postsecondary education settings only if certain conditions are met. See Questions and Answers B-4, B-7, C-1, and C-2 for details.

### Question B-3: Can transition services be considered special education and related services?

**Answer:** Yes. Transition services for students with disabilities may be special education, if provided as specially designed instruction, or as a related service, if required to assist a student with a disability to benefit from special education. 34 C.F.R. § 300.43. Examples of transition services that are specifically included in the definition of special education include [travel training](#) and [vocational education](#). [Rehabilitation counseling services](#) is an example of a transition service that is specifically included in the definition of a related service. 34 C.F.R. § 300.34(b)(12). These examples in the definition of special education and related services are not exhaustive and are just some of the possible transition services that may also be considered special education and related services.<sup>xi</sup>

### Question B-4: Can transition services be provided outside of a student's high school?

**Answer:** Yes. However, IDEA Part B funds may be used to pay for such services only if certain conditions are met. Under IDEA, if a student's IEP Team has determined that transition services provided outside of a student's high school are necessary to provide FAPE to the student, and those services are considered secondary school education in the State and are specifically identified in the student's IEP, IDEA Part B funds may be used to pay for those services.<sup>xii</sup> (These requirements only affect whether IDEA Part B funds may be used to defray the costs of such services; students with disabilities are not precluded from participating in dual enrollment programs solely because such courses are not explicitly detailed in a student's IEP or such services are not considered secondary school education by the State.) IDEA's definition of transition services includes multiple activities that can be provided outside a student's high school, including community experiences and the development of employment and other post-school adult living objectives. IDEA section 602(34); 34 C.F.R. § 300.43(a)(2).

Additionally, the Rehabilitation Act strengthens opportunities for coordination between VR and educational agencies to improve postschool transition outcomes through the provision of pre-ETS (e.g., job exploration counseling, work-based learning experiences, counseling on enrollment opportunities in postsecondary educational programs at IHEs, workplace readiness training, and instruction in self-advocacy). Pre-ETS must be provided in the most integrated setting appropriate to the student's needs<sup>xiii</sup> and may be provided off school grounds in the community (see additional information below in Question and Answer D-3, below, for examples).

While many transition services can be provided outside of a high school classroom setting, the IEP Team and the individuals making the placement decision may also determine transition services should be provided in the student's high school.

**Question B-5:** Can some transition services be both special education and related services and a VR service?

**Answer:** Yes. Some special education and related services under the IDEA may be similar to VR services, including some of the required pre-ETS and transition services, provided under the VR program. For example, special education and related services may include psychological services, counseling services, including rehabilitation counseling, orientation and mobility services, medical services for diagnostic or evaluation purposes, and work experiences, many of which are also allowable VR services; some of these VR services may only be provided to eligible individuals with disabilities in accordance with an approved Individualized Plan for Employment (IPE), while others may be provided as pre-ETS to either eligible or potentially eligible students with disabilities without an IPE. Decisions about which agency will provide services is addressed in Question and Answer B-6, below.

**Question B-6:** How is fiscal responsibility determined for a service that is both special education or related service under IDEA and a service under the VR program?

**Answer:** Decisions as to which agency, the VR agency or the LEA, is responsible for providing and/or paying for services considered to be either a special education or related service or a VR service (e.g., pre-ETS) must be made at the State and local levels, as part of the collaboration among the State VR agency, SEAs, and, as appropriate, LEAs.

State VR agencies must enter into formal interagency agreements with SEAs to facilitate the transition of students with disabilities receiving special education and related services to receiving VR services without delay or disruption. These interagency agreements must include the roles and responsibilities, including financial responsibilities for each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services and pre-ETS (34 C.F.R. § 361.22). Criteria for determining financial responsibility may include considerations such as the following—

- Is the purpose of the service related to an employment outcome or education? Is the service usually considered a special education or related service, such as transition planning necessary for the provision of FAPE?

- Is the service one that the school customarily provides under Part B of IDEA? If the school ordinarily provides job exploration counseling or work experiences to its eligible students with disabilities, the mere fact that those services are now authorized under the Rehabilitation Act as pre-ETS under the VR program does not mean the school should cease providing them and refer those students to that program. However, if summer work experiences are not customarily provided by an LEA, the State VR agency and LEA may coordinate to provide summer-work-based learning experiences to students with disabilities.
- Is the student with a disability eligible for transition services under IDEA? The definition of a “student with a disability” under the Rehabilitation Act is broader than under IDEA because the definition in the Rehabilitation Act includes students who are individuals with disabilities under Section 504 of the Rehabilitation Act.<sup>xiv</sup> It is possible that students with disabilities receiving services under Section 504 do not have IEPs under IDEA because they are not eligible to receive special education and related services under IDEA. As a result, State VR agencies may provide pre-ETS under the VR program to a broader population under the VR program than LEAs are authorized to provide special education and related services under IDEA. In addition, VR agencies may provide transition services to any eligible individual with a disability under the VR program, regardless of age and whether they are participating in an education program, again meaning that the VR program may provide these services to a broader population than is possible under IDEA.

**Question B-7: Can both IDEA and VR program funds be used at the same time to support the same student with a disability in their postsecondary education?**

**Answer:** Yes, with certain limitations. First and foremost, neither the LEA nor the State VR agency can shift the burden for providing services, for which it should otherwise be responsible, to the other entity (34 C.F.R. §§ 300.324(c)(2) and 361.22(c)).

VR agencies must include transition planning in the formal interagency agreements with SEAs and participate in transition planning that facilitates the development and implementation of the IEP (34 C.F.R. § 361.22(b)(2)). The IEP should inform the development of the IPE,<sup>xv</sup> and both may be developed in coordination with the other to reflect the coordinated services and financial responsibilities of each agency.

IDEA-eligible and VR-eligible students with approved IEPs and IPEs may be supported by LEAs (with IDEA Part B funds) and VR agencies (with VR program funds), so long as: the services are

not duplicative of each other when they are in secondary education or dually enrolled in secondary and postsecondary education programs because, to do so, would be inconsistent with Federal cost principles governing allowability, reasonableness, and allocability of costs at 2 C.F.R. §§ 200.403 through 200.405; and, to be paid for with IDEA Part B funds, the student's IEP Team determines that the particular courses offered as part of the dual enrollment program are necessary to provide the student with FAPE, those courses are specifically identified in the student's IEP, and those courses are considered secondary school education in the State.<sup>xvi</sup> (These requirements only affect whether IDEA Part B funds may be used to defray the costs of such services; students with disabilities are not precluded from participating in dual enrollment programs solely because such courses are not explicitly detailed in a student's IEP or such services are not considered secondary school education by the State.) The IEP Team, including the VR representative, determines if the cost of such course work can be funded by the LEA and/or the VR agency.

Through collaboration and coordination, educational agencies and VR agencies may be able to address service needs given limited resources. For example, if an LEA is able to provide counseling services and orientation and mobility services, but not work experiences or supports, it may invite VR program representatives to participate in a transition planning meeting and coordinate the development of a student's IEP and IPE, thereby braiding the IDEA and VR program funds for the services needed by the student with a disability. The IEP may include transition services such as job exploration counseling to identify the career pathway the student would like to explore through a summer work experience and the travel training necessary to access the experience. The IPE may include workplace readiness training to prepare a student for the work experience and maintenance (i.e., necessary uniforms) in accordance with section 103(a) of the Rehabilitation Act and 34 C.F.R. § 361.48(b). If transportation is not available through the LEA and is necessary to participate in the work experience, then it may be purchased or provided by the VR agency for a VR-eligible student with an IPE (Id.).

## SECTION C: ENROLLING IN COURSES AT IHES

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**Question C-1:** What is an example of when a course offered as part of a dual enrollment program in a community college or a four-year IHE, might be considered by an IEP Team as necessary to provide FAPE to a student with a disability?

**Answer:** As an example, for a student with a disability who has a goal of attending a community college after graduating from high school, the transition services within the student's IEP, as determined by the IEP Team, could focus on meeting high school graduation requirements and enrollment requirements for the desired postsecondary program, as well as identifying accommodations and self-advocacy skills needed to be successful in that program. The student's placement could include time in the student's high school, as well as time in a dual enrolled course taught at the local high school or at the community college, if the IEP Team determines that the course offered as part of a dual enrollment program is necessary to provide the student with FAPE. Additional IEP Team members could include disability services personnel from the community college (with parental consent) and a school guidance counselor (also with parental consent) to inform the IEP Team of activities that could increase the likelihood of the student successfully attending the community college after graduation. If a State recognizes the course in the dual enrollment program as secondary school education, and the course has been determined by the IEP Team to be special education or a related service (including a transition service) necessary to provide FAPE to the student and is specifically identified in the student's IEP, then IDEA Part B funds may be used to pay for the cost of that particular course in the dual enrollment program. (See Questions and Answers B-4 and B-7.)

We also note that, consistent with 34 C.F.R. § 300.110, States must ensure that LEAs take steps to ensure that students with disabilities eligible under the IDEA have available to them the same program options that are available to nondisabled students in the area served by the LEAs. This would also apply to dual enrollment programs. Therefore, a State would be responsible for ensuring that an LEA that offered dual enrollment programs in an IHE to nondisabled students makes that option available to students with disabilities under IDEA.



**Question C-2:** If a student with a disability receives transition services through a program located on a college campus pursuant to their IEP, is the LEA obligated to provide and pay for transportation, tuition, and/or a paraprofessional to attend those classes with the student?

**Answer:** In general, IDEA requires that the special education and related services provided to a student through an IEP, be provided at public expense and at no cost to the parents. IDEA sections 602(9) and 612(a)(1)(A); 34 C.F.R. §§ 300.101 and 300.17. Determinations about the types of special education and related services needed to meet a student's unique needs for the student to receive FAPE are made by the student's IEP Team consistent with the requirements in 34 C.F.R. §§ 300.320-300.328. Therefore, if a student's IEP Team determines that a student's needs can best be met through participation in transition programs on college campuses or in community-based settings in order to receive FAPE, like the example in C-1 above, and courses in those programs are considered secondary school education under State law and are specifically identified in the student's IEP, IDEA Part B funds may be used for such courses.<sup>xvii</sup> Whether the LEA is obligated to provide and pay for other supports and related services, such as transportation, tuition, and/or a paraprofessional to attend classes with the student, is a determination that must be made on an individual basis by the student's IEP Team.

In addition to LEAs' allowable use of IDEA Part B funds in certain circumstances (see Questions and Answers B-4 and B-7), States may use their IDEA Part B funds reserved for other State-level activities to support students with disabilities through the development and implementation of transition programs. 34 C.F.R. § 300.704(b)(4)(vi). Further, there may be other funding that students may obtain to support higher education expenses. For example, under section 484(q) of the Higher Education Act (HEA) (20 U.S.C. § 1091) and [34 C.F.R. Part 668, Subpart O](#), students enrolled in a comprehensive transition and postsecondary educational program for students with intellectual disabilities<sup>xviii</sup> who are maintaining satisfactory academic progress in that program may receive Federal student financial aid under the Federal Pell Grant or Federal Supplemental Opportunity Grant, or for the Federal Work-Study programs. Students with intellectual disabilities who participate in a comprehensive transition and postsecondary educational program can include those who are or were formerly eligible for FAPE under IDEA. 20 U.S.C. § 1140(2).

## SECTION D: TRANSITION SERVICES AND PRE-ETS UNDER THE VR PROGRAM

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### Question D-1: What are pre-ETS?

**Answer:** Pre-ETS include “required activities,” “pre-employment transition coordination activities,” and “authorized activities” specified in section 113 of the Rehabilitation Act. The required activities and some coordination activities are provided to students with disabilities in need of such services who are either eligible or potentially eligible for services under the VR program. VR agencies must provide or arrange for the provision of pre-ETS for all students with disabilities in coordination with LEAs. These services must be made available statewide. Section 113(a) of the Rehabilitation Act; 34 C.F.R. § 361.48(a)(1).

### Question D-2: How are students with disabilities made aware of services under the VR program?

**Answer:** The Rehabilitation Act supports the informed choice of a student with a disability receiving services under the VR program, with respect to, among other things, participation in programs offered by postsecondary education institutions, including comprehensive transition and postsecondary programs, the benefits of which may enhance the academic, career, and independent living skills of these individuals. Section 102(b)(3)(B) of the Rehabilitation Act and 34 C.F.R. § 361.52 require that VR agencies provide participants with the opportunity to exercise informed choice throughout the VR process, including making decisions related to employment goals, services and service providers, settings for employment and service provision, and methods for procuring services.

In order for the individual with a disability to exercise meaningful informed choice, VR agencies must inform applicants and recipients of VR services, including both students with disabilities who are transitioning from programs under the responsibility of an educational agency to programs under the responsibility of the VR agency. Additionally, VR agencies must inform youth with disabilities about opportunities to exercise informed choice when considering services and options available through postsecondary education institutions, including comprehensive transition and postsecondary education programs at IHEs, consistent with the requirements of section 34 C.F.R. § 361.52. Such informed choice decisions must be reflected in the approved IPE that is signed by both the eligible individual with a disability and the VR counselor prior to the receipt of VR services (34 C.F.R. § 361.45(d)(2) and (3)).

**Question D-3:** What are examples of each of the five “required pre-ETS activities,” and how can they be provided to students with disabilities in a group or individualized setting?

**Answer:** Below are examples of the five “required activities” from 34 C.F.R. § 361.48(a)(2) and how they may be provided in either a group or individualized setting:

- Job exploration counseling may be provided in a classroom or community setting and include information regarding in-demand industry sectors and occupations, as well as non-traditional employment, labor market composition, administration of vocational interest inventories, and identification of career pathways of interest to the students. Job exploration counseling provided on an individual basis might be provided in school or the community and include discussion of the student’s vocational interest inventory results, in-demand occupations, career pathways, and local labor market information that applies to those particular interests.
- Work-based learning experiences provided in a group setting may include coordinating a school-based program of job training and informational interviews to research employers, work-site tours to learn about necessary job skills, job shadowing, or mentoring opportunities in the community. Individual work-based learning experiences could include work experiences to explore the student’s area of interest through paid and unpaid internships, apprenticeships (not including pre-apprenticeships and Registered Apprenticeships), short-term employment, fellowships, or on-the-job trainings located in the community. These work-based learning experiences, regardless of whether provided in a group setting or individually, are those that would be most beneficial to an individual in the early stages of employment exploration during the transition process from school to post-school activities, including employment. Should a student need more individualized services (e.g., transportation or rehabilitation technology), they would need to apply and be determined eligible for VR services and develop and have an approved IPE.
- Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at IHEs in a group setting may include information on course offerings, career options, the types of academic and occupational training needed to succeed in the workplace, and postsecondary opportunities associated with career fields or pathways. This information may also be provided on an individual basis and may include advising students and parents or representatives on academic curricula, college application and admissions processes, completing the Free Application for Federal Student Aid, and resources that may be used to support individual student success in education and training, which could include disability support services.

- Workplace readiness training may include programming to develop social skills and independent living, such as communication and interpersonal skills, financial literacy, orientation and mobility skills, job-seeking skills, understanding employer expectations for punctuality and performance, as well as other “soft” skills necessary for employment. These services may include instruction, as well as opportunities to acquire and apply knowledge. These services may be provided in a generalized manner in a classroom setting or be tailored to an individual’s needs in a training program provided in an educational or community setting.
- Instruction in self-advocacy in a group setting may include generalized classroom lessons in which students learn about their rights, responsibilities, and how to request accommodations or services and supports needed during the transition from secondary to postsecondary education and employment. During these lessons, students may share their thoughts, concerns, and needs, in order to prepare them for peer mentoring opportunities with individuals working in their area(s) of interest. Further individual opportunities may be arranged for students to conduct informational interviews or mentor with educational staff such as principals, nurses, teachers, or office staff; or they may mentor with individuals employed by or volunteering for employers, boards, associations, or organizations in integrated community settings. Students may also participate in youth leadership activities offered in educational or community settings.

**Question D-4: Can VR agencies fund postsecondary education (i.e., tuition, fees, books, and supplies) under the pre-ETS “required activity,” “counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at IHEs?”**

**Answer:** No. Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at IHEs includes sharing information related to the following: course offerings, career options, advanced training in specialized fields (e.g., science, technology, engineering, mathematics, law, medicine, or business), the types of academic and occupational training needed to succeed in the workplace, and postsecondary opportunities associated with career fields or pathways (81 FR 55630, 55695 (August 19, 2016)). However, this required activity does not include the funding of postsecondary education and related costs, which are outside the nature, scope, and purpose of pre-ETS in general and “counseling on opportunities for enrollment” at IHEs in particular. In addition, VR agencies may not spend funds reserved for pre-ETS towards the tuition and associated expenses of postsecondary education since it is not among those activities that are “required” or “authorized” under section 113 of the Rehabilitation Act and 34 C.F.R. § 361.48(a). On the other hand, VR agencies may fund postsecondary education, including advanced training, under section 103(a)(5) and

(18) of the Rehabilitation Act, using Title I VR funds to eligible individuals with disabilities according to their approved IPEs; this service is separate and distinct from any pre-ETS provided under the VR program, including counseling on opportunities for enrollment at IHEs.

**Question D-5: Can VR agencies pay for other allowable VR services using funds reserved for the provision of pre-ETS?**

**Answer:** VR agencies may use funds reserved for the provision of pre-ETS to pay for other allowable VR services (e.g., transportation) for a VR-eligible student with a disability under an approved IPE if the other VR services are necessary for the student to participate in pre-ETS.

**Question D-6: Can VR agencies provide auxiliary aids and services to students who have not applied for VR services with funds reserved for the provision of pre-ETS?**

**Answer:** Yes. VR agencies may provide auxiliary aids and services (e.g., reader and interpreter services) to potentially eligible and VR-eligible students with disabilities when those services are necessary for the student to participate in pre-ETS. In such circumstances, VR agencies may pay for these services with VR program funds reserved for the provision of pre-ETS.

**Question D-7: What transition services are available under the Rehabilitation Act through the VR program?**

**Answer:** Under the VR program, “transition services” means a coordinated set of activities for a student or youth with a disability—

- Designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, CIE, supported employment, continuing and adult education, adult services, independent living, or community participation;
- Based upon the individual student’s or youth’s needs, taking into account the student’s or youth’s preferences and interests;
- That includes instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation;
- That promotes or facilitates the achievement of the employment outcomes identified in the student’s or youth’s IPE; and

- That includes outreach to and engagement of the parents, or, as appropriate, the representative of such a student or youth with a disability. 34 C.F.R. § 361.5(c)(55).

### Question D-8: Is an IPE needed to provide transition services to students and youth with disabilities under the VR program?

**Answer:** Yes. Pursuant to section 103(a)(15) of the Rehabilitation Act and 34 C.F.R. § 361.48(b)(18), VR agencies must provide individualized transition services to eligible youth and students and youth according to approved IPEs. It is important to note that transition services are distinguishable from pre-ETS, which do not necessarily require an IPE when provided to students with disabilities as one of the earliest sets of VR services. Transition services facilitate the transition from school to postsecondary life, such as achievement of an employment outcome in CIE. (Id.). Students with disabilities who need only pre-ETS do not need to develop IPEs to receive those services because section 113(a) of the Rehabilitation Act and 34 C.F.R. § 361.48(a) do not require the development of IPEs for the provision of these services.

However, VR agencies may provide students and youth with disabilities who have not yet applied or been determined eligible for VR services with generalized transition services that are not individualized services but rather benefit a group of students or youth with disabilities (Section 103(b)(7) of the Rehabilitation Act and 34 C.F.R. § 361.49(a)(7)). Unlike the requirements governing the provision of VR services for individualized VR services that require that they be provided in accordance with an approved IPE, there is no requirement in section 103(b) of the Rehabilitation Act or 34 C.F.R. § 361.49(a) that services to groups be provided pursuant to an approved IPE; therefore, these students and youth receiving generalized transition services to groups under the VR program do not need to develop IPEs. Generalized transition services to groups may include but are not limited to group tours of universities and vocational training programs, employer or business site visits to learn about career opportunities, career fairs coordinated with workforce development and employers to facilitate mock interviews and resume writing, and other general services applicable to groups of students and youth with disabilities. Transition services are an opportunity for local school districts and VR agencies to work together, along with IEP Teams, VR counselors, and school counselors, to coordinate activities that support all middle and high school students with planning for college and career, with additional activities designed to provide pre-ETS and other transition services for eligible students with disabilities.

## SECTION E: POSTSECONDARY EDUCATION AND DUAL ENROLLMENT UNDER THE VR PROGRAM

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**Question E-1:** Is the VR program's support of postsecondary education limited to associate or bachelor degrees?

**Answer:** No. Students, youth, and their families, with the assistance of the VR program as appropriate, should consider the wide array of postsecondary options that are available, including, but not limited to, two- and four-year colleges and universities, masters and doctoral degrees, career and technical schools, adult education programs, and comprehensive transition and postsecondary education programs.

**Question E-2:** Does a student with a disability have to be determined eligible for the VR program and have an IPE to receive support for postsecondary education through the VR program?

**Answer:** Yes. Students and youth with disabilities who have been determined eligible for the VR program and who are interested in postsecondary education should work with their VR counselor to consider the postsecondary environment that provides the educational program and support services that will best fit their individual needs and career goals. Once the most appropriate program has been agreed to by both the student or youth and the VR counselor, such education services, as well as any other needed VR services consistent with Section 103(a) of the Rehabilitation Act, will be identified on the IPE, which is signed by both the student or youth (or their parent or legal representative) and the VR counselor. Some State VR agencies require the participation of individuals in the cost of services based on financial need (i.e., commonly called the financial need policy) (34 C.F.R. § 361.54).

**Question E-3:** Can a student still enrolled in high school receive VR services, including transition services and postsecondary education?

**Answer:** Yes. Any VR services described in section 103(a) of the Rehabilitation Act and 34 C.F.R. § 361.48(b) may be provided to a student with a disability according to an approved IPE; these services include postsecondary education, as discussed previously, pursuant to section 103(a)(5) and (18) of the Rehabilitation Act and 34 C.F.R. § 361.48(b)(6). Some students may be eligible to receive transition services through their State VR agency to participate in dual enrollment programs. See Questions and Answers B-7 and E-4 for a more detailed discussion about dual enrollment.

**Question E-4: Can State VR program funds be used for postsecondary education costs for those students who are dually enrolled in secondary and postsecondary educational programs?**

**Answer:** Yes. VR-eligible students may receive transition services through their State VR agency, pursuant to section 103(a)(15) of the Rehabilitation Act and 34 C.F.R. § 361.48(b)(18); there is no prohibition in title I of the Rehabilitation Act against providing these services as part of a dual enrollment program. If the student or youth with a disability and the VR counselor agree that the dual enrollment program is the most appropriate program, such education services, as well as any other needed VR services consistent with Section 103(a) of the Rehabilitation Act, will be identified on the IPE, which is signed by both the student or youth (or their parent or legal representative) and the VR counselor. Depending on comparable services and benefits available through the LEA and whether the State VR agency has a financial need policy, the VR agency may be able to pay a portion of the postsecondary education costs with VR program funds.

**Question E-5: Can VR program funds be used to support Comprehensive Transition Programs (CTPs)?**

**Answer:** Yes. VR program funds can be used to support VR-eligible students with disabilities who have an approved IPE and are in CTPs, as is true with any other postsecondary education program, if certain conditions are met and the training is necessary to achieve the individual's IPE goal and CIE (Section 103(a)(5) of the Rehabilitation Act and 34 C.F.R. § 361.48(b)(6)). Once the most appropriate program has been agreed to by both the student or youth and the VR counselor, such education services, as well as any other needed VR services consistent with Section 103(a) of the Rehabilitation Act, will be identified on the IPE, which is signed by both the student or youth (or their parent or legal representative) and the VR counselor. A CTP is an example of one postsecondary option for which the VR program could provide assistance to students and youth with intellectual disabilities when appropriate and agreed to on their approved IPE. It is important to note that VR agencies may not use VR program funds reserved for the provision of pre-ETS to pay the costs of students attending CTPs because they do not constitute pre-ETS, as described in section 113 of the Rehabilitation Act; funds reserved for the provision of pre-ETS must only be spent for the provision of those services pursuant to section 110(d)(1) of the Rehabilitation Act.



### Question E-6: Can the Department establish service delivery or financial responsibilities?

**Answer:** No. Although there is no statutory basis for the Department to establish service delivery or financial responsibilities for each entity beyond what is statutorily required under IDEA and the Rehabilitation Act, or their implementing regulations, the Department strongly encourages that formal interagency agreements have clearly defined parameters for collaborating and coordinating the delivery of pre-ETS and transition services and clearly defined responsibilities for each entity. Those decisions must be made at the State level while developing the formal interagency agreement and considering the population, available resources and needs of the students and youth with disabilities. Consequently, States have maximum flexibility to develop these interagency agreements in a manner that best meets the unique needs and capabilities of both the State VR agency and educational agencies.

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## ENDNOTES

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- <sup>i</sup> In the 1995-1996 National Postsecondary Student Aid Study, approximately 6 percent of undergraduate students reported having a disability. In [2019-2020, the number had increased to 21 percent](#).
- <sup>ii</sup> For purposes of clarity, this guidance replaces but retains the positions set forth in the September 17, 2019, guidance titled Increasing Postsecondary Opportunities and Success for Students and Youth with Disabilities. Since its issuance in 2019, OSERS has repeatedly received feedback on that guidance, including confusion about: 1) the inclusion of an appendix that restates some of the information in the Questions and Answers portion of the 2019 guidance, and 2) how and when IDEA funds can be used to support dual enrollment. The Department is issuing this guidance in a format that is intended to be easier to understand and addresses the requirements under IDEA and the Rehabilitation Act on transition for all students with disabilities, rather than focusing solely on dual enrollment for students with disabilities. This guidance does not change the Department's longstanding position that LEAs are permitted to use IDEA Part B funds to provide or pay for services that constitute a free appropriate public education (FAPE) in postsecondary education settings only if the education is considered secondary school education under State law. See for example, Office of Special Education Programs (OSEP) Letter to Dude (September 3, 2013) and OSEP Letter to Frank (July 9, 2008). This guidance also addresses how IDEA and VR funds can be used to support students with disabilities as they transition for services under IDEA to services under the Rehabilitation Act.
- <sup>iii</sup> For IDEA Part B funds to be used to provide or pay for services that constitute FAPE in postsecondary education settings, the education must be considered secondary school education under State law. For more information, see Questions and Answers B-4, B-7, C-1, and C-2.
- <sup>iv</sup> To increase readability, the Department uses the term "student with a disability" in this document in place of "child with a disability." For purposes of services provided under IDEA, "child with a disability," as defined in IDEA, is a child evaluated in accordance with IDEA requirements as having a disability and who, by reason thereof, needs special education and related services. IDEA section 602(3); 34 C.F.R. § 300.8. For purposes of the VR program, a "student with a disability," as defined in section 7(37) of the Rehabilitation Act and 34 C.F.R. § 361.5(c)(51), is an individual with a disability in an education program who is 14 to 21 years old (or the age range in the State for the receipt of transition services under IDEA) and who is receiving special education and related services under IDEA or services under section 504 of the Rehabilitation Act.
- <sup>v</sup> The obligation to make FAPE available does not apply to students with disabilities aged 3, 4, 5, 18, 19, 20, or 21 to the extent those ages are outside the public education age limit under State law or practice, or the order of any court. 34 C.F.R. § 300.102(a)(1). The FAPE obligation also does not apply to students with disabilities who have graduated from high school with a regular high school diploma. 34 C.F.R. § 300.102(a)(3). In addition, the FAPE obligation does not apply to certain students with disabilities in correctional facilities, as specified in 34 C.F.R. § 300.102(a)(2)(ii). See also Question and Answer A-6.
- <sup>vi</sup> IDEA section 614(d)(1)(A)(i)(VIII); 34 C.F.R. § 300.320(b).
- <sup>vii</sup> The Center for Parent Information and Resources developed a website and tip sheet titled "[Getting Ready for When Your Teen Reaches the Age of Majority: A Parent's Guide](#)." It includes external links on the age of majority in each State.
- <sup>viii</sup> Pre-employment transition services (pre-ETS) are the earliest set of VR services offered to eligible and potentially eligible students with disabilities under the VR program. There are five activities that the State must make available to all students with disabilities, and there are several other activities that are authorized as well. See sections 7(30) and 113 of the Rehabilitation Act and 34 C.F.R. §§ 361.5(c)(42) and 361.48(a). For additional information about pre-ETS in this Guide, please see Questions and Answers B-4, D-1, and D-3.
- <sup>ix</sup> Section 101(a)(11)(D) of the Rehabilitation Act.
- <sup>x</sup> 34 C.F.R. §§ 300.154 and 300.321(b)(3).

- <sup>xi</sup> Under the IDEA Part B regulations at 34 C.F.R. § 300.20, “include” means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.
- <sup>xii</sup> IDEA sections 602(9), 602(27), and 613(a)(2)(A); 34 C.F.R. §§ 300.17, 300.36, and 300.202(a); OSEP Letter to Dude (September 3, 2013); and OSEP Letter to Frank (July 9, 2008). See also Questions and Answers B-7, C-1, and C-2.
- <sup>xiii</sup> See 34 C.F.R. § 104.4(b)(2) and 28 C.F.R. § 35.130(d).
- <sup>xiv</sup> Although these Q&A discuss the Rehabilitation Act, they do not address an LEA’s or postsecondary education institution’s responsibility to comply with the nondiscrimination protections and obligations under Section 504 of the Rehabilitation Act (Section 504), 29 U.S.C. § 794; 34 C.F.R. Part 104, and under the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 *et seq.*, including Title II of the ADA, which applies to public entities, including public schools and public postsecondary education institutions. Furthermore, note that Section 504 (29 U.S.C. § 705(20)(B)) and the ADA (42 U.S.C. § 12102; 28 C.F.R. § 35.104) use the same definition of an “individual with a disability” and this definition is different than the definition of a “student with a disability” under the Rehabilitation Act, as amended by the Workforce Innovation and Opportunity Act.
- <sup>xv</sup> For the required components of an IPE see [34 C.F.R. § 361.46](#).
- <sup>xvi</sup> IDEA sections 602(9), 602(27), and 613(a)(2)(A); 34 C.F.R. §§ 300.17, 300.36, and 300.202(a); OSEP Letter to Dude (September 3, 2013) and OSEP Letter to Frank (July 9, 2008). See also Questions and Answers B-4, C-1, and C-2.
- <sup>xvii</sup> IDEA sections 602(9), 602(27), and 613(a)(2)(A); 34 C.F.R. §§ 300.17, 300.36, and 300.202(a); [OSEP Letter to Dude](#) (Sept. 3, 2013); OSEP Letter to Frank (July 9, 2008). See also Questions and Answers B-4 and B-7.
- <sup>xviii</sup> In 20 U.S.C. § 1140(1), the term “comprehensive transition and postsecondary program for students with intellectual disabilities” means a degree, certificate, or nondegree program that meets each of the following:
- (A) Is offered by an IHE.
  - (B) Is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an IHE in order to prepare for gainful employment.
  - (C) Includes an advising and curriculum structure.
  - (D) Requires students with intellectual disabilities to participate on not less than a half-time basis as determined by the institution, with such participation focusing on academic components, and occurring through 1 or more of the following activities:
    - (i) Regular enrollment in credit-bearing courses with nondisabled students offered by the institution.
    - (ii) Auditing or participating in courses with nondisabled students offered by the institution for which the student does not receive regular academic credit.
    - (iii) Enrollment in noncredit-bearing, nondegree courses with nondisabled students.
    - (iv) Participation in internships or work-based training in settings with nondisabled individuals.
  - (E) Requires students with intellectual disabilities to be socially and academically integrated with non-disabled students to the maximum extent possible.